Appendices
Appendix- I

QUESTIONNAIRE

(Target group: Social & Women Activists / Legal Experts / Police officers)

It is appealed to please give the replies to the following questions with the object of finding the feelings and views of general public, regarding available legal protection to women and their effectiveness in prevention of atrocities against them. The information obtained through questionnaire will be kept confidential and will be used only for study purpose.

Ankush G. Jhanvijay, LL.M. IPS
Spl. Inspector General of Police,
Nashik Range, Nashik.

(1) Name: ________________________________

Address: ________________________________

Occupation: ______________________________

Are you working for any N.G.O.s.? If yes, it’s name.

· (A) On provisions dealing with ill-treatment to women u/s 498 (A) IPC:

(1) Being social/women activists, do you think that the legal provision for dealing with ill-treatment to women v/s 498 (A) IPC is sufficiently strong enough to protect women?

(i) Yes / No ______________________________

(ii) If No, what measures would you like to suggest?

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(2) Do you consider that these provisions are used effectively?

(i) Yes / No ______________________________

(ii) If No, then what would you suggest to make them more effective?

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(3) Do you consider that these provisions are being used correctly?

Yes / No ________________________________
(4) Do you consider that these provisions are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?

Yes / No

If yes, then by whom?
(i) Police.
(ii) Close relatives (Father, mother, brother of a married woman)

(5) Do you think that the general public are well aware of these provisions?

(i) Yes / No

(ii) If No, then what measures would you suggest to make the general public well aware of these provisions?

(6) Do you consider that the cases u/s 498 (A) IPC should be brought under the perview of summary disposal through “Lok-Adalat”, the effective way of disposal of cases with the consent of both parties with the basic object of reconciliation / uniting them together again?

(i) Yes / No

Please comment on justification of your reply.

(7) Do you consider that reconciliation should be tried first through Social Security Cell /Women N.G.Os. prior to registration of offence u/s 498 (A) IPC?

Yes / No

(i) If yes, do you think that the reconciliation should be recognized legally by the Judiciary?

Yes / No

(ii) Do you suggest any amendment in law to recognize the reconciliation prior to registration of F.I.R.; u/s 498 (A) IPC as no such provision exists in the law.

Yes / No
(B) On provisions dealing with suicidal death due to ill-treatment (u/s 498 A r/w 306 IPC)

(1) Do you consider the legal provisions for dealing with suicidal death due to ill-treatment (u/s 498 A r/w 306 IPC) are sufficiently strong enough to prevent suicidal deaths of young married women?

(i) Yes / No ____________________________

(ii) If No, what would you like to suggest ?

(2) Do you consider that these provisions are used effectively ?

(i) Yes / No ____________________________

(ii) If No, then what would you suggest to make them more effective ?

(3) Do you consider that these provisions are being used correctly?

(i) Yes / No ____________________________

(4) Do you consider that these provisions are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband ?

(i) Yes / No ____________________________

If yes, then by whom?

(i) Police ____________________________

(ii) Close relatives (Father, mother, brother of a married woman) ____________________________

(5) Do you think that the general public are well aware of these provisions?

(i) Yes / No ____________________________

(ii) If no, then what measures would you suggest to make the general public well aware of these provisions?

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(C) On provisions, dealing with Dowry Death u/s 304 (B) IPC

(1) Do you consider the legal provisions for dealing with Dowry Death u/s 304 (B) IPC are sufficiently strong enough to prevent dowry deaths of young married women?

(i) Yes / No

(ii) If No, what would you like to suggest?

(2) Do you consider that these provisions are used effectively?

(i) Yes / No

(ii) If No, then what would you suggest to make them more effective?

(3) Do you consider that these provisions are being used correctly?

(i) Yes / No

(4) Do you consider that these provisions are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?

(i) Yes / No

(ii) If yes, then by whom?

(iii) Police

(iv) Close relatives (Father, mother, brother of a married woman)

(5) Do you think that the general public are well aware of these provisions?

(i) Yes / No

(ii) If no, then what measures would you suggest to make the general public well aware of these provisions?
(D) On the provisions dealing with prohibition of dowry (giving, taking and demanding of dowry) u/s 3 & 4 of Dowry Prohibition Act., 1961.

(1) Do you consider the legal provision for dealing with prohibition of dowry (taking, giving and demanding) u/s 3 & 4 of the Prohibition of Dowry Act., 1961 are sufficiently strong enough to prohibit taking, giving and demanding of dowry?

(i) Yes / No________________________

(ii) If No, what measures would you like to suggest?

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________________________________________________________________________

(2) Do you consider that these provisions are used effectively?

(i) Yes / No________________________

(ii) If No, then what would you suggest to make them more effective?

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(3) Do you consider that these provisions are being used correctly?

(i) Yes / No________________________

(4) Do you consider that these provisions are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?

(i) Yes / No________________________

If yes, then by whom?

(i) Police.

(ii) Close relatives (Father, mother, brother of a married woman)

(5) Do you think that the general public are well aware of these provisions?

(i) Yes / No________________________

(ii) If No, then what measures would you suggest to make the general public well aware of these provisions?

________________________________________________________________________

________________________________________________________________________
(6) Do you consider that the cases u/s 3 / 4 of Prohibition of Dowry Act should be brought under the perview of summary disposal through “Lok-Adalat”, the effective way of disposal of cases with the consent of both parties with the basic object of reconciliation / uniting them together again.

(i) Yes / No

Please comment on justification of your reply.

(ii) Yes / No

(7) Do you consider that reconciliation should be tried first through Social Security Cell/Women N.G.Os. prior to registration of offence u/s 3 / 4 of Prohibition of Dowry Act.

Yes / No

(i) If yes, then do you think that the reconciliation should be recognized legally by the Judiciary?

Yes / No

(ii) Do you suggest any amendment in law to recognize the reconciliation prior to registration of F.I.R. u/s 3 & 4 of Prohibition of Dowry Act, as no such provision exists in the law presently.

Yes / No

(8) Do you think that demanding, taking and giving dowry at the time of marriage is still going on freely without any deterrent effect of Prohibition of Dowry Act, 1961 due to customary recognition of this dowry practice by Society?

Yes / No

(i) If yes, then what measures would you like to suggest to eradicate this evil practice of dowry besides implementation of Prohibition of Dowry Act 1961.

(ii) Yes / No

(9) Do you agree that a complaint for demanding or accepting dowry is rarely lodged with Police, resulting into non-implementation of Prohibition of Dowry Act?

Yes / No

(i) If yes, then what measures would you like to suggest for the implementation of Prohibition of Dowry Act 1961.

Yes / No
(10) What could be the reasons for non-implementation of Prohibition of Dowry Act effectively? 
(Please give 2/3 grounds.)

(E) **On the provisions dealing with Rape and Custodial Rape**

(1) Do you consider the legal provisions for dealing with Rape and Custodial Rape are sufficiently strong enough to prevent the offences of Rape and Custodial Rape?

(i) Yes / No

(ii) If No, what would you like to suggest?

(2) Do you consider that these provisions are used effectively?

(i) Yes / No

(ii) If No, then what measures would you suggest to make them more effective?

(3) Do you think that the general public are well aware of these provisions?

(i) Yes / No

(ii) If no, then what measures would you like to suggest to make the general public well aware of these provisions?

(4) Do you consider that the cases of rape should be tried only by Women Judges?

Yes / No
(5) Due to different nature of the rape cases, do you suggest any changes in Evidence Act? (Presently in camera trial is essential as per legal provision)

(i) Yes / No

(ii) If yes, then what changes you would you like suggest.

(6) Do you consider that the victim of rape cases be given compensation by the State which will be recoverable from the property of the accused?

Yes / No

(7) Views on "death penalty" to accused on conviction of rape u/s 376(1) IPC (except custodial & Gang rape.)

Do you consider that the punishment of death should be inflicted on the accused of rape (except custodial & gang rape) when an offence of rape has been proved against the accused u/s 376(1) IPC

(i) Yes / No

(ii) Please give justification for your reply

(8) Views on "Death Penalty" to accused on conviction of rape u/s 376(1) IPC on the girl below 10 years of age as most heinous crimes of rape on the child of even 5 to 10 yrs. of age have been noticed.

Do you consider that the punishment of death should be inflicted on the accused of rape when an offence of rape on the girl-child below 10 yrs. of age has been proved against the accused u/s 376(1) IPC

(i) Yes / No

(ii) Please give justification for your reply

(9) Views on Death penalty to accused on conviction of gang rape and custodial rape u/s 376(2) IPC.

Do you consider that the punishment of death should be inflicted on the accused of custodial & gang rape when an offence of custodial and gang rape has been proved against the accused u/s 376(2) IPC

(i) Yes / No

(ii) Please give justification for your reply
(F) Do you consider that the cases of (i) ill-treatment u/s 498 (A), (ii) suicide due to ill-treatment u/s 498 (A) r/w 306 IPC, (iii) dowry death u/s 304 (B) IPC, (iv) murder for dowry (302 / 304 B IPC), (v) cases under Dowry Prohibition Act, and (vi) rape cases u/s 376 (1) & (2) IPC should be tried by women judges?

(i) Yes / No

(ii) Your suggestions, regarding trial of these cases, if any.

(G) Pertaining to other offences of sexual intercourse u/s 376 B, 376 C & 376 D IPC when sexual intercourse due to consent does not amount to rape u/s 376 (1) IPC:

(i) Are you aware that there is a provision of sexual offences, though with consent, being committed on the woman serving as public servant or in Jail / Remand Home or in Hospital by taking advantage of official position as public servant, or as Supdt. of Jail / Remand Home or by any member of management or staff of a hospital under above sections of IPC?

Yes / No

(ii) Have you noticed any such offence of aforesaid nature?

Yes / No

(iii) Do you think that the people are aware of these type of particular offences?

Yes / No

(iv) Have you come across any woman who is the victim of such offence but has not lodged the complaint to Police or has lodged the complaint but no cognisance has been taken by the Police?

(i) Yes / No

(ii) If yes, please mention brief facts about case, which you have noticed, without mentioning the name of the victim and the accused (but narrate the facts.)

(iii) What would you suggest to make these offences known to public at large and specifically to working women as no such offences are generally registered inspite of sexual harassment to working women by their controlling Authorities / Officers?
(H) Do you consider that these legal provisions could bring the changes in the mental attitude of male-dominated society to treat the women with respect and dignity?

(i) Yes / No

(ii) If no, then what measures would you like to suggest.

(I) On basic principals of our legal “Accusatorial System vis-à-vis Inquisitorial System.”

Being Social & Women Activists, you are well aware of the basic principle of our legal accusatorial system that the “accused is presumed to be innocent until he is proved guilty” which is derived from British legal system. It is otherwise stated by saying that an accused is entitled to the benefit of reasonable doubt. This system is basically based on a maxim of English Law that ten guilty men should escape rather than one innocent man should suffer which was finally declared by Halroyd J in R. V. Hopson case in 1823. In this system, the judge is dispassionate and tends to assist the accused rather than the prosecution. However, little deviation has been considered essential by the Indian Legislators, hence mandatory presumption has been provided subsequently in Evidence Act in respect of “Dowry death” and custodial / gang rape u/s 376 (2) IPC which is slight deviation from accusatorial system. Contrary to the above system, in France and in some continental countries, the “inquisitorial system” is being followed which provides that “an accused is presumed to be guilty until he is proved to be innocent.”

As mentioned above, though mandatory presumption in cases of “dowry death” and custodial / gang rape u/s 376 (2) IPC is provided, still the rate of conviction of these cases is negligible and many accused are acquitted on the grounds of benefit of doubt due to one reason or the other.

Considering the above scenario, do you suggest to adopt the “inquisitorial system” (which is in force in France and some continental countries and provides that the accused is presumed to be guilty until he is proved innocent) in cases of “dowry death” u/s 304 B IPC and custodial & gang rape cases u/s 376 (2) IPC so as to be more deterrent to the persons, involving in such offences?

(i) Yes / No

Please comment about your justification in support of your reply:


Place :
Date :

Signature
Appendix- II

Selected Bibliography

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## Appendix- III

### Table of selected cases.


34. Noor Saba Khatoon v. Moud Quasim (AIR 1997 SC 3280).


37. Keshav Chandra Panda (1995 Cri LJ 174 (Ori.).


41. Ravindra Pyarelal Bidlan (1993 Cri. LJ 309 (Bom.).

42. Sarojakshan Shankaran Nayar (1995 Cri LJ 340 (Bom.).


44. State v. Vasant Shankar Mhasane (1993 Cri LJ 1134(Bom).


51. State v. Srinivasa Iyengar (H.S. 1996 Cri LJ 3103(Karn.).


53. Sushil Kumar Sharma v. Union of India (AIR 2005 Supreme Court 3100)


62. State V. Siddaraju (2000 Cri LJ 4220 (Kar.).

63. Dayanand Reddy (S.T.2000 Cri LJ 2064 (Kar.).

64. Ashok Kumar (:997 Cri. LJ 1377 (P&H).

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128. Vinod Kumar (1987 Cri. LJ 1541 (MP)


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158.) Gorakh Daji Ghadge v. State of Maharashtra (1980 Cri LJ 1380 (Bom)
159.) Gain Chand (2001) 6 SCC 71
160.) Narayananamma (1994) 5 SCC 728 : 1994 SCC (Cri.) 1573
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162.) Suresh chand (1976 Cri LJ 452 (Fun.)
163.) Emperor v. Shahu Mehanab (AIR 1917 Sind 42(1)
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171.) State of Madhya Pradesh V. Sunder Lal (1992 Cr. LJ 2519 (SC)
175.) Ganannath Jena case (1996 Cri LJ 229 (Ori)
176.) Fagnu Bhoi Cri LJ 1808 (Ori)
178.) The Public Prosecutor, AP High Court v. Lingisetty Sreenu (1997 Cri LJ 4003 (AP)
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Mohd Chaman (2001) 2 SCC 28,

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Delhi Domestic working women’s Forum v. Union of India (1995) 1 SCC 14:1995 SCC (Cri) 7)

Rathinam (1994 SCC (Cri) 1153) and


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Appendix- IV

Suggestions / Specific views from Respondents through Questionnaires.
(Appendix - IV enclosed separately)
Being summary, it is not enclosed herewith.