

To
The Deputy Chief Minister
Government of Maharashtra
Mumbai

Subject: Proposal to amend Section 498(A) of the Indian Penal Code to make it compoundable

Dear Sir

1. We the undersigned women's organisations and social groups, based in different districts of Maharashtra, are writing to you to express our strong opposition to the move to amend S.498(A) IPC by the Government of Maharashtra. We have learnt that the Government has sent a letter to the Central Government, dated 21.2.08 seeking permission to make the offenses under S. 498(A) compoundable.
2. S 498(A) IPC was introduced in 1983, and came into effect in 1985 after a long campaign by the women's movement to highlight the rising incidences of matrimonial violence and dowry harassment and dowry-deaths. Neither the incidence of violence against women nor the dowry demands or harassment have decreased in our society since then. According to data from police stations available, the total number of Sec 498A complaints registered in Maharashtra was 5646 in the year 2004, 6233 in the year 2005, 6738 in the year 2006 and 7256 in year 2007.
3. To support its proposal, the government claims that 'most' cases lodged under S 498(A) are 'subsequently compromised'. This statement is not backed by facts. As per 2006 data, out of a total of 48,164 cases of 498A in the courts (both pending and new), 508 were 'compounded or withdrawn. That amounts to a 1.05% rate, which cannot be considered as "most cases" or even as a high percentage of cases.
4. There have been voices raised about how women are 'misusing' Sec 498A. But we have seen that the police discourage women from registering complaints, or register non-cognizable (NC) complaints instead of FIRs under the IPC. In Mumbai, instructions have been issued whereby it is only after a series of NCs with a police station over a period of time, and only after receiving permission from the ACP that a case of S 498(A) can be registered.
5. Compoundability will only create further scope for the role of police in pressurising women to reach 'compromises' and withdraw complaints and thus make more room for louder accusations about the misuse of all laws meant to protect women and girls against domestic violence. Most importantly, the number of cases pending in courts is huge, posing a major obstacle to giving justice to women.
6. The Police have a crucial role to play in the use of sec. 498A. They should focus on the investigations and marshal convincing evidence that will stand in a court of law and

not act mainly as a mediation agency. The conviction rate in Maharashtra for this offence at 3.7% (2006) is the lowest for all states in the country.

7. Instead of measures to loosen the provisions of the law, the Government needs to institute procedures to ensure effective application of this section in order to deter and punish widespread domestic violence against women. For this, it is imperative to ensure that the criminal provision under the IPC is maintained and at the same time to effectively implement the Prevention of Domestic Violence Act, 2005 in the state of Maharashtra.

8. Our attempts to acquire data on sec 498A in Maharashtra brought home to us the fact that there is no separation of cases depending on whether the victim of extreme marital violence was already dead at the time of applying sec 498A or not. We have noticed a great change in the manner in which the police is required to report on Sec 498A since 1992, when such detailed information was available.

Surely, it is crucial to know if sec 498A was applied on the complaint of a woman who was still alive or when she was already dead. It is crucial for the evaluation of the hue and cry by some "Men's groups" about misuse of sec 498A by women, in the media and to the Central Government ministries and departments. The Crime branch in Mumbai, which did make 498A data available to us, were not able to report this distinction.

A copy of the data provided by Mumbai police to women's groups in 1992 provides a classification of 498A cases into (a) those filed with sections 302 (murder), 304 and 307 as dowry deaths, (b) those filed with 302 and 306 (abetment to suicide) as death due to harassment, those filed with harassment for dowry under the Dowry Prohibition Act, and those filed with 406 for misappropriation of Stridhan of a married woman. That today none of these heads are available is illustrative of the scant attention governments pay to serious crimes against women.

In your capacity as the Home Minister of Maharashtra, we request you to facilitate a more transparent and useful reporting system on sec. 498A by the police agencies in Maharashtra.

9. We are seriously concerned that the Government of Maharashtra chose to go ahead with the proposal to amend S 498(A) without any consultation with women's organizations, or bodies set up to monitor women's rights and welfare in the state, such as the Maharashtra State Women's Commission or the Women's Committee of the State Legislature. Any move to change legal and other rights for women must be preceded by consultation and discussion with women's groups.

10. Sir, Sec 498A IPC is the only criminal provision available in India, in desperate situations of prolonged cases of marital harassment, including suicides and dowry murders. The step to make it compoundable will:

- a. Send a message to society that the State takes this offence less seriously now

b. Increase the scope to pressurise women in extreme circumstances to 'compromise'

Sir, we call upon you to unconditionally withdraw the proposal to amend S 498(A) immediately.

- We also ask you to raise the issue at a cabinet meeting, since it was passed at a cabinet meeting and to write to the Central govt withdrawing this proposal and suggesting that any such amendment made by any other state be countermanded.
- We also request you to strengthen the implementation of PWPDA act
- To ensure more and more transparent documentation of cases under violence against women

We thank you for giving us a hearing on this matter and hope that you will act expeditiously in support of women's right to live and to live with dignity.

sincerely yours,