

Family Court in Varanasi

A Case Study



**National Institute of
Public Cooperation and Child Development**

FAMILY COURT IN VARANASI A CASE STUDY



National Institute of Public Cooperation and Child Development
5, Siri Institutional Area, Hauz Khas, New Delhi - 16

No. of Copies : 500

Year of Printing : 2007

PREFACE

Family disputes are as old as the institution of marriage itself. In rural and semi-urban areas, it was the village council or local leaders who came as succour. Then, till recently it was court of law with special cells or otherwise which served as an arbiter of family disputes. In modern legal lexicon, the mechanism of "Alternate Dispute Resolution" has gained acceptance and is a much sought after route to resolve even ticklish disputes speedily and at reasonable cost. Many Law Universities offer special courses in this green area of legal industry and litigants are encouraged to resort to the novel channel for getting justice speedily and at low cost.

Few would however recall that setting up of Family Courts was one of the early attempts at putting in place an alternate dispute resolution system to bring justice within easy reach of the people. Set up to resolve family disputes, mainly among married couple, the structure put in place was without frills and without excessive legalese. The system allowed both parties to pursue their case without the presence of lawyers with judges playing the role of benign arbitrator. Proceedings mainly aimed at reconciliation and in ensuring the well being of innocent children caught in the cross fire of family feud.

However, even after three decades, the Family Courts have not impacted the legal system the way it was expected. Reasons are multifarious. Legal profession saw loss of employment and legal fees and therefore showed little enthusiasm to send disputants to Family Court. On the other hand, litigants still had to master the legal system to present their case. Present day disputants have little patience to go through the painful process of reconciliation and instead opt to approach divorce courts. Heavy backlog of cases in regular courts meant low priority being accorded to posting of judges to Family Courts.

There can be no doubt that in some states, Family Courts have offered affordable and accessible legal service to poor and indigent litigants and has worked reasonably well with support services well knit into the system. But general perception has been one of disappointment. The reasons attributed to the unsatisfactory functioning of Family Courts

include over-expectations of the people in general, inadequate training to the personnel of support services, insufficient manpower and lack of coordination between courts and support services. The Institute in tandem with Centre for Women Studies and Development, Banaras Hindu University (BHU), Varanasi took up a study on “Integration of Support Services in Varanasi with Family Court: An Action Research”. This document, “Family Court in Varanasi: A Case Study”, is an attempt to highlight the issues of functioning of Family Courts for policy interventions. The case study clearly brings to the fore that Family Court as alternate dispute resolution route for women is effective. At the same time, it needs infusion of better infrastructure, more judges and involvement of non-government organisations to a greater extent to promote para-legal assistance.

We appreciate the inputs of Prof. Chandra Kala Padia, the Coordinator and her team of BHU, who have extensively worked to complete the main study. I would like to place on record my appreciation for the contribution and guidance given by Shri K.K. Singh, Former Additional Director of the Institute. I appreciate the efforts of Dr. Sandhya Gupta, Assistant Director, who has contributed in preparing this Case Study. My special thanks to Dr. Sulochana Vasudevan, Joint Director of this Institute for fine tuning the Case Study and bringing it out as a publication. I also extend my deep gratitude to Ms. Jehanara Wasi for carrying out extensive editing and Shri A.J. Kaul, Publication Officer for layout and design of the report.


(A.K. Gopal)
Director

CONTENTS

Chapters

1	Introduction	1
2	Methodology and Design	8
3	Infrastructure of Family Courts and Profile of Cases	12
4	Assessment of Support Services in Varanasi	40
5	Conclusion and Recommendations	44

Annexures

I	Family Court Act, 1984	53
II	Family Courts Functionary in Different States	57
III	List of References	58
IV	NGOs Working for the Development of Women and Children in Varanasi	59
V	Samples of Cases Interviewed	61
VI	Programmes Organised by the Centre Related to the Project	66

CHAPTER 1

Introduction

The family is universally regarded as the primary unit of society. When the stability, faith and confidence of the members of the family are threatened by a dispute, the law is invoked. In India, an impetus was given to the movement of Family Courts by the recommendation of the Law Commission in its 59th report. Family Courts in India are based on the Family Courts Act, 1984, on the premise that disputes within the family should be solved differently from the generally adopted traditional courts. **(Annexure I)**

The objective of Family Courts is to promote reconciliation and secure speedy settlements of disputes relating to marriage and family affairs. The underlying idea is to provide an amicable atmosphere for settlement. Family Courts function under the administrative control and superintendence of the State Government or Union Territory Administration along with the relevant High Court. These Family Courts are specialised civil courts, which deal exclusively with dissolution of marriage; declaration of the matrimonial status of any person; declaration of ownership of properties of the parties concerned; interim order of injunction arising out of marital relationships; declaration of legitimacy of any person, or guardianship of a person, or the custody of or access to any minor; and suits or proceeding for maintenance.

About the Family Court

The Family Court is a special court, which is mainly concerned with resolving family disputes. The Government of India established Family Courts with the objectives that family disputes be dealt with separately from general criminal cases so that they are handled with a humanitarian view and to enable women to approach the court easily without having to appear with general criminals.

Types of Cases Dealt with in the Family Court

Cases related to family and marriage disputes are resolved in the Family Court. The following types of cases are handled in Family Courts:

1. Dissolution of marriage, i.e. divorce-related suits

2. Suits related to restitution of conjugal rights
3. Suits related to declaration of a marriage as null and void
4. Suits regarding legality or validity of marriages
5. Suits regarding property of married couples
6. Suits related to maintenance and alimony
7. Suits related to the custody and guardianship of children.

All these cases are resolved in Family Courts. It is necessary that one should have all the relevant information regarding the case before registering it in the Family Court. These laws are applicable to all Indian citizens and the cases are handled according to the personal law of their religion. For example, the Hindu Marriage Act, 1955 is applied to Hindus, the Muslim Personal Law to Muslims, the Indian Divorce Act to Christians, the Parsi Personal Law to Parsis, etc.

Laws for Dissolution of Marriage or Divorce

According to the Hindu Marriage Act (Article 13) all cases related to dissolution of marriage or divorce are solved in the Family Court. An affected person can legally apply for divorce on the following grounds:

1. A married woman could apply for divorce if her husband has an illegal physical relationship with another woman. Even if the husband married that woman the marriage would be illegal because a married individual cannot have another spouse while the spouse of the first marriage is still alive.
2. If a husband leaves his wife without any reason and does not have any relations with her for two years then a wife can seek a divorce from her husband.
3. Divorce could be sought on the basis of cruelty. If a husband tortures his wife physically or mentally (for example, physical assault or applying mental pressure, tension, allegations of being

characterless, dowry demands, use of abusive language/words, etc.) a wife could seek a divorce from him.

4. A wife could apply for a divorce from her husband if he suffers from a chronic physical or mental disease, which is incurable.
5. If a husband is missing for seven years or more, and his relatives and friends have no idea of his whereabouts then his wife can seek a divorce from her husband.
6. If a husband is found guilty of rape or any other such action after marriage, then a wife has the right to seek a divorce from her husband.
7. If a husband and wife are living separately for a year and they mutually agree that they cannot live together any longer, they could apply for a divorce by mutual understanding on the condition that there is no pressure on either party for the divorce petition.
8. Under the Muslim Marriage Dissolution Act, 1939, Muslim women could seek a divorce based on the above mentioned grounds.
9. Under Section 10 of the Indian Divorce Act, 1869, a Christian woman could present a petition to dissolve her marriage if she can prove that her husband is guilty of: adultery coupled with desertion for two years; rape; sodomy; change of religion; adultery coupled with cruelty; insanity; or impotency.

How can a Family Court Help the Parties in the Restitution of their Conjugal Rights

Both husband and wife have certain responsibilities and duties towards each other after their marriage. If the husband or wife does not discharge his or her duties properly then the affected spouse has the right to move court for the protection of his or her rights. If a husband does not live with his wife or does not agree to keep her with him then the wife has the right to move the Family Court for the restitution of her conjugal rights under Section 8 of the Hindu Marriage Act. If the applicant's marriage is legally valid then the Family Court could help her in the restitution of her conjugal rights.

What does the Family Court do in Case of a Maintenance Suit?

In Indian society most women are dependent on their father's income before marriage and on their husband's after marriage. However at times it is observed that some married men desert their wives and children and they do not provide money for the maintenance of their families. In such a helpless situation, women can claim for maintenance under Section 125 of the Criminal Procedure Code (CrPC), 1973. According to this Act, a divorced woman has the right to maintenance for her entire life or till she remarries for the second time.

Even while the divorce case is in process, a wife has the right to get maintenance during the interim period.

Women are entitled to get maintenance from their husbands under the following categories:

1. Women who are not getting maintenance
2. Women whose marriages are legally valid
3. Women who do not have any source of income
4. Women who do not have any property in their names
5. Women whose children are under their custody. (Unmarried daughters and minor sons have the right of maintenance.)

Role of the Family Court in a Suit for Custody of Children

When a husband and wife start living separately after divorce, they have to decide with whom the minor children will live. This becomes a matter of great concern. When the case is referred to a Family Court, the court makes the decision after taking cognisance of all the existing conditions. The court also tries to discover the preferences of the child. If a child is below five years then the mother has the right to legal custody. When a child is over five, the court decides with whom the child should live by keeping in mind the well-being of the child. If the child's interests and well-being are protected by the mother, the court decides to give the mother the custody of the child.

The Wife's Property Rights

Women have the following legal rights to property:

1. Property purchased from their own earnings
2. Properties received by them, like jewellery, cash, landed property, etc., given to her by her father or mother or other relatives on the occasion of her marriage
3. Gifts received from her father, mother, relatives or friends.

Women also have the right to spend their earnings, buy property, and sell property owned by them.

Steps Followed while Registering Suits in a Family Court

If a man or a woman wants to register a suit in a Family Court then he or she should describe clearly the details of all problems in the marriage. This should be typed on a plain watermark paper and submitted along with a court fee stamp of Rs. 37.50 plus Rs. 5 *talwan* as court fees and a passport-size photograph of the petitioner. Along with this suit paper, a petitioner should also submit a declaration on Rs. 10 stamp paper in which he or she declares that whatever facts have been written in the suit are correct.

The petitioner should explain the nature of the problem in detail in the suit paper. For example: under which Section the petitioner wants to register his or her suit; what the problem is; the duration of the problem; what type of intervention or cooperation the petitioner wants from the Family Court; against whom the case is fought; their addresses for communication; etc. All these should be mentioned clearly in the suit paper. The Suit paper with all this information is submitted to the *Mushrim* in the Family Court. (The Family Court of Varanasi is situated in the Office of the District Magistrate.) The *Mushrim* checks and verifies all the relevant papers/ information and if found correct and complete it is placed with other files for new registrations.

These files are presented to the Principal Judge of the Family Court before the pre-lunch session on the same day. After verification of each file and hearing the petitioners, the Principal Judge decides whether the suit is fit for

registration. If he decides that it is, he gives the orders for its registration. After the registration of a suit, the applicant has to fill in a Summons Form in which she/he has to give the address and names of the opposite party.

The applicant then gets a date for the next hearing. In the case of maintenance suits the court fee is only Rs. 7.50. Non-compliance of a court order in maintenance suits are regarded as criminal cases, hence these cases are tried speedily and the court orders Rs. 1,500/- per month as the maximum amount to be paid by the husband.

Family Courts are designed and were created to help women present their own cases before the judge. Therefore women should do this boldly and use lawyers' assistance only in unavoidable conditions.

Structure and Functions of the Family Court, Varanasi

- *Establishment of the Family Court in Varanasi:* As on August 31, 2003, there were 123 Family Courts established in India. Details of Family Courts functioning in different states are given in **Annexure II**. The Family Court in Varanasi was established in 1995. Mr B. D. S. Srivastava was the first Principal Judge and he served from May 22, 1995 to June 4, 1998. Mr R. S. Varma was the second Principal Judge whose tenure was from September 24, 1998 to June 6, 2001. Mr S. K. Srivastava joined as the Principal Judge on August 25, 2001 and served till May 31, 2005. From June 1, 2005 till the project report was prepared the post of Principal Judge of the Family Court, Varanasi was lying vacant and cases are still pending.
- *Geographical Location of the Family Court:* The Family Court, Varanasi is situated within the premises of the District Magistrate's Court and Office. The Court is seven kilometres away from the main city and is situated at Kachehari. The Family Court, Varanasi is conveniently accessible from all corners of the city. Conveyance facilities like auto-rickshaws and rickshaws are easily available at affordable rates. The Family Court, Varanasi is surrounded by important offices like the Commissioner's Office, the District

Magistrate's Office, the Additional District Magistrate's Office and Courts, the Civil Court, the Office of the Senior Superintendent of Police, the Office of the Superintendent of Police, Circuit House, Vikas Bhavan, which is the District Administration Office, residential quarters of all the district administrators, the State Bank of India Regional Office and the Rifle Club.

However, it is disheartening to note that Family Courts in India still continue to suffer from uncertainties and gaps that are yet to be bridged. Even 21 years after the Family Court Act having come into operation, women and children of the rural areas are deprived of its benefits because of financial constraints and their inability to reach the courts, which are situated at the district level. Also, practically speaking, the Act is of no help to the majority of suffering women inhabiting the rural areas, who by virtue of their ignorance and illiteracy, do not have adequate means to ascertain their husbands' incomes or investments, which can be of great help to the judge in deciding the case. Moreover, it is very difficult for a battered woman to collect and procure supporting documents like medical certificates, photographs of injuries, X-rays and witnesses to prove the truth of her statements. The situation becomes more complex for an impecunious wife.

CHAPTER 2

Methodology and Design

This **Case Study** is a **collaborative study** of the Centre for Women's Studies and Development (CWSD), Banaras Hindu University (BHU), Varanasi, with the National Institute of Public Cooperation and Child Development, New Delhi, which is an autonomous body under the Department of Women and Child Development, Government of India, Ministry of Human Resource Development.

Importance of the Case Study

The efficacy of any Family Court depends on the speedy disposal of cases by providing justice to the aggrieved parties, especially victimised women. However, its decisions mostly reflect the quality of support services it gets. Hence, it was felt that the support services in Varanasi should be integrated to make the Family Court, Varanasi more effective and meaningful.

Aims of the Case

1. To study the typologies of cases dealt within the Family Court
2. To discover the actual reasons behind disputes within the family
3. To find the total number of pending cases in the court
4. To determine the reasons for delay
5. To find out the number of cases disposed of during the period 1999-2003
6. To highlight the functioning of support services, if available, in the Family Court, Varanasi.

Field and Period of Study

The Family Court, Varanasi was taken up as the field of study. Intensive study of 150 cases tried in the court from 1999 to 2003 was the period of study.

Samples

The samples were chosen through the Probability Purposive Sampling Method. Observation, Interviews and Questionnaire Methods were adopted for data collection as the primary source. Scanning of records, files and registers was done to understand the details of the proceedings, facts presented in the cases and the manner in which the cases were handled. Care was taken to collect maximum information about the respondents within the limited time available, by keeping in view the difficulty in obtaining data from the court and the practical problems faced while interviewing illiterate women, already traumatised in their marital lives. Moreover, the researchers had to be cautious in selecting only those victims who came under the purview of the study period. The format followed in the interview schedules and questionnaire schedules are attached in **Annexure V**.

In the course of the study an intensive review of 150 cases from 1999 to 2003 were taken up in the Family Court, Varanasi. For this purpose, cases were randomly selected and **scanning of records, registers and case diaries** of the Court were carried out.

Tools and Techniques

To obtain comprehensive data, it was felt that no single technique was adequate. Accordingly, varied tools and techniques were used keeping in view the objectives of the study.

- *Interview of women victims*: To discover the problems they faced in their marriages and the harassment rendered by the police, court officials, members of their family, their in-laws and society.
- *Interview of Family Court Judge*: To find out the problems he faced in implementing the Family Court Act, 1984.
- *Observation*: Of the court proceedings.

- *Visit to NGOs:* Who are actively involved in women's development in Varanasi as also to discuss the various problems they faced while helping women victims in the resolution of disputes with their families.
- *Secondary Source of Data Collection:* Scanning of records, registers and case studies for in-depth analysis of the cases.

Secondary Source of Information

The selected cases comprised the following categories:

1. Dissolution of Marriage
2. Restitution of Conjugal Rights
3. Maintenance (Section 125 of the CrPC)
4. Custody of Children
5. Null and Void Marriages
6. Property Rights.

Of the 150 cases, 75 were studied by scanning court records and registers. Details studied included: who filed the case; the problem in the marriage; duration of the case; allegations levelled against the partner; reply given by the partner; number of hearings held; and the reason for pending of cases.

The researchers developed interview schedules and prepared a booklet in Hindi and English for educating women about the Family Court and people in general.

The questionnaire, interviews and focus group discussions were not exclusive categories – they were inclusive. Therefore, information required about a number of respondents who were contacted through questionnaires and interviews exclusively is difficult to pinpoint. Observation is the method of qualitative study, which, in this case included: detailed discussions with the respondents; non-participant observation

of the cases in court; utilisation of photographs of marriage and related ceremonies; group meeting; etc., apart from the study of records from the register and discussions.

It may be mentioned that research done to date on this topic is virtually non-existent. A workshop by NIPCCD on 'Integrating Support Services' was organised to document some information related to Family Courts. The other secondary source of references are listed in **Annexure III**.

CHAPTER 3

Infrastructure of Family Courts and Profile of Cases

Infrastructure of Family Court, Varanasi

The present Family Court building functions within the campus of the District Magistrate's Court. There are four rooms provided for the Court. The proceedings are held in a small room, approximately 16 x 20 ft in size. The room is divided into two portions. One half is occupied by the Judge where he conducts the proceedings. The other half is occupied by clients, their family members, and lawyers. The clients also stand in front of the corridor and veranda where the proceedings are held. There is no provision for clients to sit while awaiting their turn. The entire proceedings are conducted under tungsten bulbs and the room is gloomy, dark and without sufficient light and air. The clients' family members stand outside and the entire room gets crowded and congested during the proceedings. There is another small room, approximately 6 x 8 ft in size, which is the Judge's Chamber, where there is one chair, one table, a three-piece sofa set and an attached toilet.

Adjacent to the room where the court proceedings are held, is a new Counselling Centre, inaugurated on December 5, 2004. It is approximately 16 x 20 ft in size and has two tables and eight chairs. The Family Court, Varanasi, appointed four part-time counsellors, Ms Arpana, Ms Suchi Srivastava, Dr P. N. Shukla (general physician) and Dr J. P. Barnawal (retired Professor of the Vidyapith's Social Works Department) to the Counselling Centre.

Additionally, there is one office room, which functions in the old building of the District Magistrate's Office, built during the British period, in 1889. The office room, approximately 12 x 16 ft in size, has 11 cupboards and eight tables. There are 12 people who sit within that limited space in an extremely congested manner. If one person wants to leave his seat, then several others have to move out to give way. There is no space for clients to even stand and clarify their doubts with the court staff.

The staircase leading to the office room is very small, narrow and steep. Adjacent to the office room is the men's toilet, which is in an unhygienic condition and rarely cleaned. The entire area stinks and it is very difficult for visitors to even stand near the place.

Cases Registered in the Family Court, Varanasi during 1999-2003

During the years 1999 to 2003 a total of 5,033 cases were registered in the Family Court, Varanasi under different categories. **Table 1** shows that the highest number of cases, numbering 2,655, were registered under Dissolution of Marriage.

Table 1: Cases Registered during 1999-2003

Type of Case	Cases Pending at the Beginning of the Year	Cases Added during the Year	Total No. of Cases for the Year
Dissolution of Marriage	1,383	1,272	2,655
Conjugal Rights	1,053	986	2,039
Custody of Child	141	21	162
Null and Void	42	29	71
Property Rights	40	20	60
Judicial Separation	28	18	46
Total	2,687	2,346	5,033

The second highest number of cases at 2,039 were filed for Restitution of Conjugal Rights; the third highest at 162 were filed for Custody of Children and the fourth comprising 71 cases were to prove their marriages were Null and Void. There were 60 cases fought for claiming Property Rights and 46 cases seeking Judicial Separation.

Disposal of Cases

Of the 5,033 cases registered, **Table 2** shows that the total number of cases disposed of during 1999 to 2003 were 1,924 under the following categories: 1,025 cases were disposed under Dissolution of Marriage of which 781 cases were for restoration of Conjugal Rights; 53 cases for Custody of Child; 33 cases for Null and Void Marriages; 16 cases were dissolved for Property Rights; and 16 were settled for Judicial Separation.

Table 2: Disposal of Cases

Type of Cases	Cases Disposed of	Cases Pending after Disposal
Dissolution of Marriage	1,025	1,630
Conjugal Rights	781	1,258
Custody of Children	53	109
Null and Void	33	38
Property Rights	16	44
Judicial Separation	16	30
Total	1,924	3,109

Pending Cases

From Table 2 it is clear that as on December 31, 2003, the highest number of cases pending at 1,630, were for Dissolution of Marriage. The second highest were 1,258 cases filed for Conjugal Rights. The third highest were 109 cases for Custody of Children. The fourth was 38 cases to be declared Null and Void Marriages. There were 44 cases pending for Property Rights and 30 cases under Judicial Separation.

Table 3 shows the types of cases studied during 1999-2003. It shows that the highest number of cases, i.e. 45 per cent were filed for Maintenance under Section 125 of the CrPC. The second highest at 31 per cent were registered for Dissolution of Marriage under Section 13 of the Hindu Marriage Act, 1955.

Table 3: Types of Cases

Type	Frequency	%
125 CrPC – Maintenance	69	45
Sec. 13 – Dissolution of Marriage	46	31
Sec. 09 – Restitution of Conjugal Rights	29	19
Sec. 07 – Custody of Children	4	3
Null & Void Marriages	1	1
Property Rights	1	1
Total	150	100

The third highest at 19 per cent, were fought for Restitution of Conjugal Rights under Section 9 of the Hindu Marriage Act. The fourth type, 3 per cent were filed for Custody of Children under Section 7 of the Hindu Marriage Act. The fifth and sixth types of cases, i.e. 1 per cent each, were both registered for Null and Void Marriages and Property Rights.

It is clear from **Chart 1** that the maximum number of cases filed in the Family Court, Varanasi were for claiming maintenance. As most married women in Varanasi were housewives, they were unemployed and hence claimed for maintenance. It was shocking to discover that of the 150 cases studied, there was not a single client who could be interviewed nor could any case be studied from the files for Judicial Separation. Therefore it can be said that there are very few cases registered for Judicial Separation in the Family Court, Varanasi.

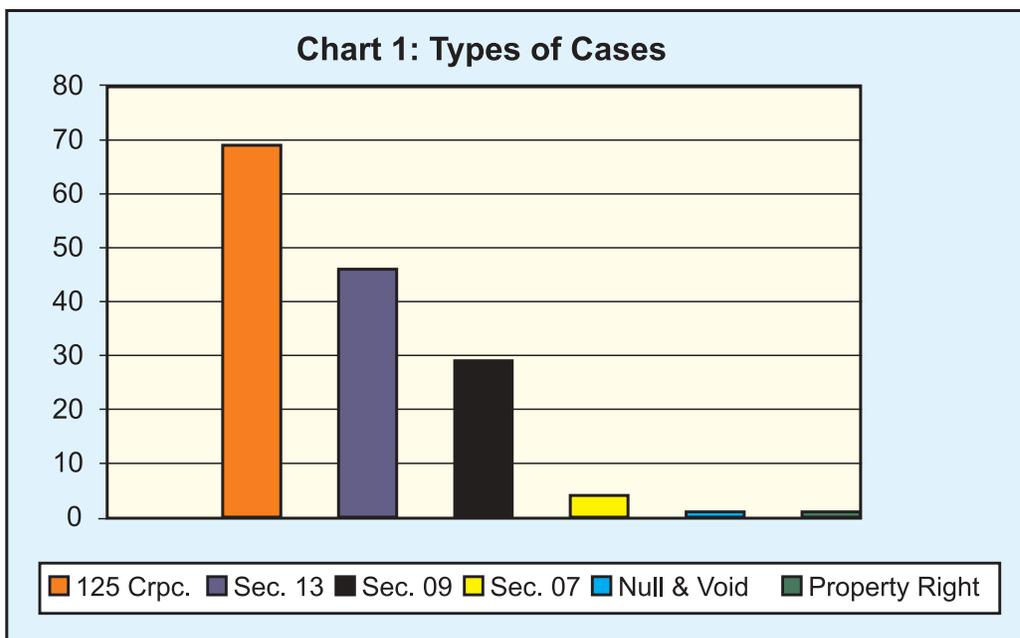
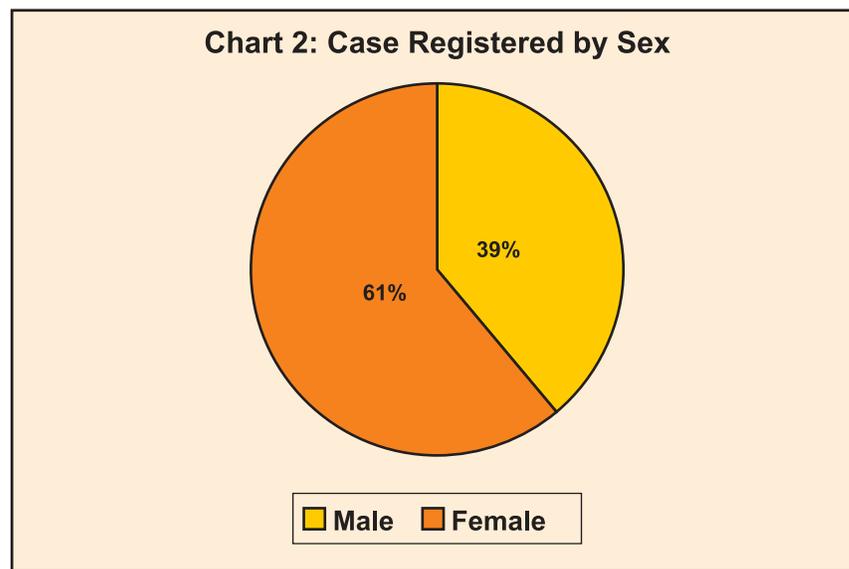


Table 4 presents the number of cases registered by women victims and their partners. Of the 150 cases, 91 were filed by female clients and 59 by males.

Chart 2 presents the percentage details of the cases registered by women victims and their partners. While 61 per cent of the cases were filed by women, mainly for maintenance under Section 125 of the CrPC, 39 per cent were registered by men under different types of cases.

Table 4: Case Registered by Sex

Gender	Frequency	%
Male	59	39
Female	91	61
Total	150	100



Growing social awareness, social services designed to support and assist women victims and several social legislations in support of women have all encouraged battered wives to report their victimisation. A decade ago, the police were refusing to arrest the abusers, and prosecutors were refusing to prosecute those they did arrest. But now police departments are implementing arrest policies and women are bringing their own cases to court. Even though things are changing there is still a long way to go before women are provided for and offenders are punished.

Table 5 shows the age-wise distribution of women victims. As 15 clients did not reveal their ages, the percentage was calculated for 135 clients. It was found from the study that 55 per cent of women victims belonged to the age group of 18 to 28 years and their marriages were already wrecked. Whereas 25 per cent of the victims were 29 to 39 years old, 9 per cent

Table 5: Age of Women Victims

Age Group	Frequency	%
18 and Under	2	1
18-28	82	55
29-39	38	25
40 and Over	13	9
NA	15	10
Total	150	100

belonged to the 40-and-over age group and only 1 per cent were below the legal marriageable age of 18.

Table 6 presents the age-wise distribution of women victims' husbands. Of the 150 cases 17 male clients did not mention their ages. So, the ages of 133 male clients were used for the analysis. It was found that 46 per cent of victims' husbands belonged to the 21 to 31 age group, 31 per cent to the 32 to 42 age group, 11 per cent were 43 years and over and only 1 per cent were under the legal marriageable age of 21 years. Thus, from Tables 5 and 6 it is obvious that child marriage is still prevalent in Varanasi and that it was mainly young couples who had problems in their marriages and approached the Family Court to settle their problems.

Table 6: Age of Women Victims' Husbands

Age Group	Frequency	%
21 and under	1	1
21-31	69	46
32-42	46	31
43 and Over	17	11
NA	17	11
Total	150	100

Table 7 shows the occupation of women victims and it is clear that the majority, i.e. 88 per cent were housewives. Only 4 per cent were in private

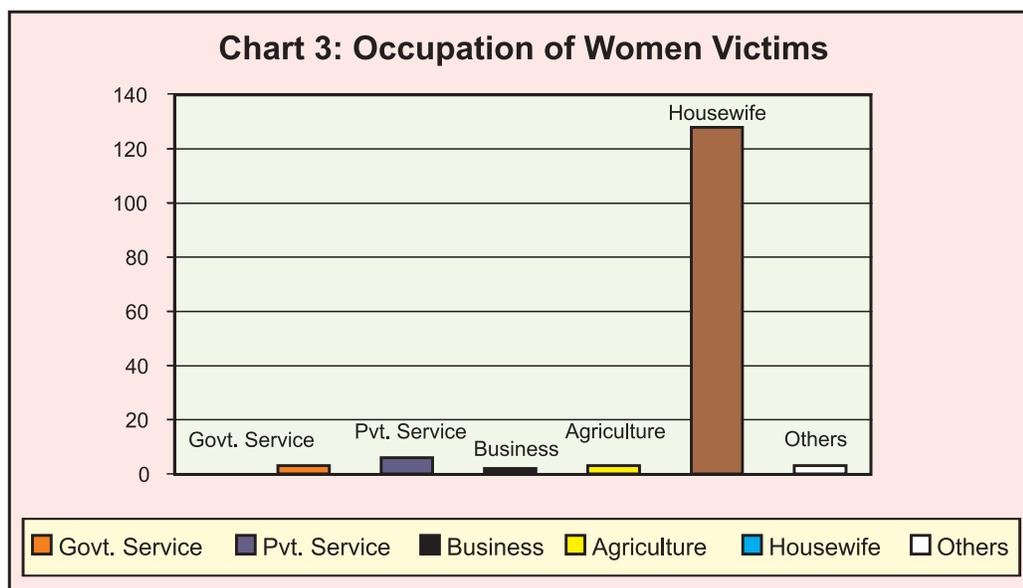
services and 2 per cent each in government, business, agriculture and other categories.

Table 7: Occupation of Women Victims

Occupation	Frequency	%
Government Service	3	2
Private Service	6	4
Business	2	2
Agriculture	3	2
Housewife	133	88
Others	3	2
Total	150	100

Chart 3 shows that most of the women victims in Varanasi were housewives and did not take up jobs after marriage. The reason behind this is illiteracy, backwardness of the district and also because of the conservative nature of the men in the district who did not want their wives to work outside the home.

Table 8 shows the occupation details of the women victims' husbands. It was found that 29 per cent were involved in business and 20 per cent were in



government service. While 19 per cent of the victims' partners were labourers, 15 per cent held private jobs, 14 per cent were agriculturalists and 3 per cent were unemployed.

Table 8: Occupation of Women Victims' Husband

Occupation	Frequency	%
Government. Service	30	20
Private Service	22	15
Business	44	29
Agriculture	21	14
Unemployed	5	3
Labourers	28	19
Total	150	100

Chart 4 depicts the various kinds of jobs women victims' husbands were holding.

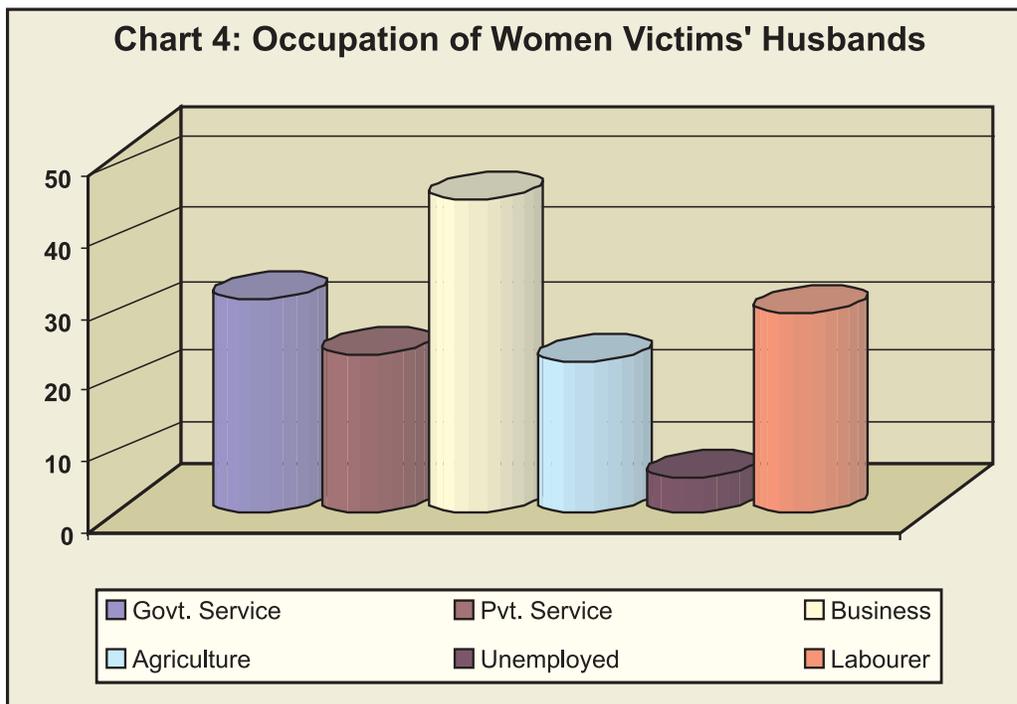


Table 9 presents the income distribution of women victims and it shows that 90 per cent of the victims did not have an income of their own. The reason for this was that 88 per cent were housewives.

Table 9: Monthly Income of Women Victims

Monthly Income (Rs.)	Frequency	%
Less than 2,000	5	4
2,001 to 4,000	4	3
4,001 to 6,000	3	2
6,001 to 8,000	0	0
8,001 and over	2	1
Nil	136	90
Total	150	100

Socio-Economic Background of Women Clients

Most of the women victims did not even have basic primary education and were generally illiterate. Many did not know their own ages. Contrary to the Family Court Act, their cases were presented by their lawyers and the women were not willing to reveal any information. Gradually, after winning their confidence, the researchers were able to interview the women.

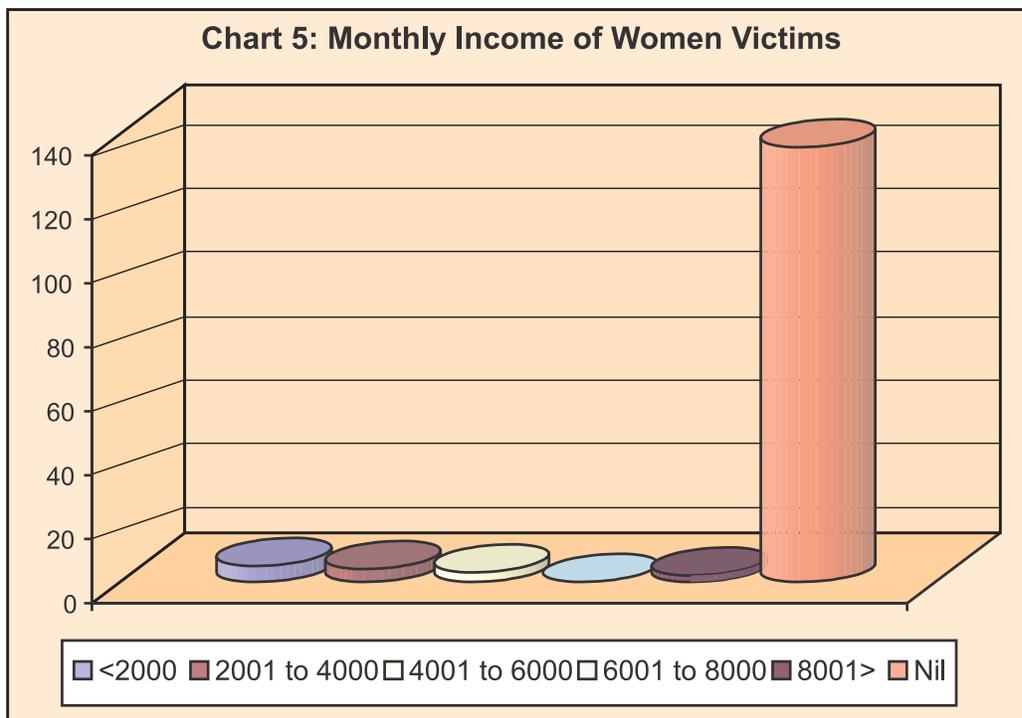
Reasons for Dispute

One common cause of dispute was early marriage. The girls were married very early, almost immediately after they attained puberty between the ages of 14 to 15 years and went back to their parents' homes after marriage. When the girls were 18 years old they were sent to their husbands' houses. When they returned to their husbands' houses, 4 to 5 years after their marriage, they were tortured and harassed by their parents-in-law and their husbands. Most of the women stated that they were thrown out of their husbands' houses after removing all their jewellery, clothes and other belongings. After that they stayed with their parents. When these women discovered their marital rights through neighbours and friends, they approached lawyers to file petitions for claiming maintenance under Section 125 of the CrPC.

The maximum number of cases registered in the Family Court, Varanasi was under Section 13 of the Hindu Marriage Act for dissolution of marriage, Section 125 of the CrPC for maintenance, and Section 9 of the Hindu Marriage Act for Conjugal Rights.

Other reasons for marital discord were incompatibility, negligence of marital obligations owing to alcoholism, and other vices like domestic violence. These were the common complaints posing a serious threat to family welfare and social order.

As **Chart 5** show, 4 per cent of the victims were earning less than Rs. 2,000 per month, while 3 per cent were earning between Rs. 2,001 and Rs. 4,000. Approximately 2 per cent earned Rs. 4,001 to Rs. 6,000. Only 1 per cent



were earning about Rs. 8,000 per month. The rapid growth of Self-Help Groups and the involvement of Non-Governmental Organisations (NGOs) in the upliftment of women helped the few women who had become economically independent. However, the government has to take steps to make women fully empowered and financially independent from the current state of backwardness.

Table 10 presents the monthly income distribution of women victims' husbands. It is interesting to note that the victim's partners worked in all categories of jobs and an average income group ranging from Rs. 2,000 to Rs. 6,000 per month, with 28 per cent earning between Rs. 4,001 and Rs. 6,000, and 25 per cent between Rs. 2,001 and Rs. 4,000. While 21 per cent earned over Rs. 8,001, 14 per cent earned Rs. 6,001 to Rs. 8,000 and 9 per cent less than Rs. 2,000 per month. The unemployed consisted of 3 per cent who had no income.

Table 10: Monthly Income of Women Victims' Husbands

Monthly Income (Rs.)	Frequency	%
Less than 2,000	14	9
2,001 to 4,000	38	25
4,001 to 6,000	40	28
6,001 to 8,000	21	14
8,001 and over	32	21
Nil	5	3
Total	150	100

Table 11 presents the women victims' ages at the time of marriage. It was found that 47 per cent of them were married between the ages of 18 to 28 years. But it is shocking that about 39 per cent of the women victims were married below the legal age of 18 years. As many as 10 per cent of the victims did not know their age at marriage. Only 3 per cent were between 29 to 39 years old and 1 per cent were married at over 40 years of age.

Table 11: Women Victims' Age at Marriage

Age Group	Frequency	%
Under 18	58	39
18 to 28	71	47
29 to 39	5	3
40 and over	1	1
NA	15	10
Total	150	100

From **Chart 6** it is abundantly apparent that early marriage is still prevalent in UP.

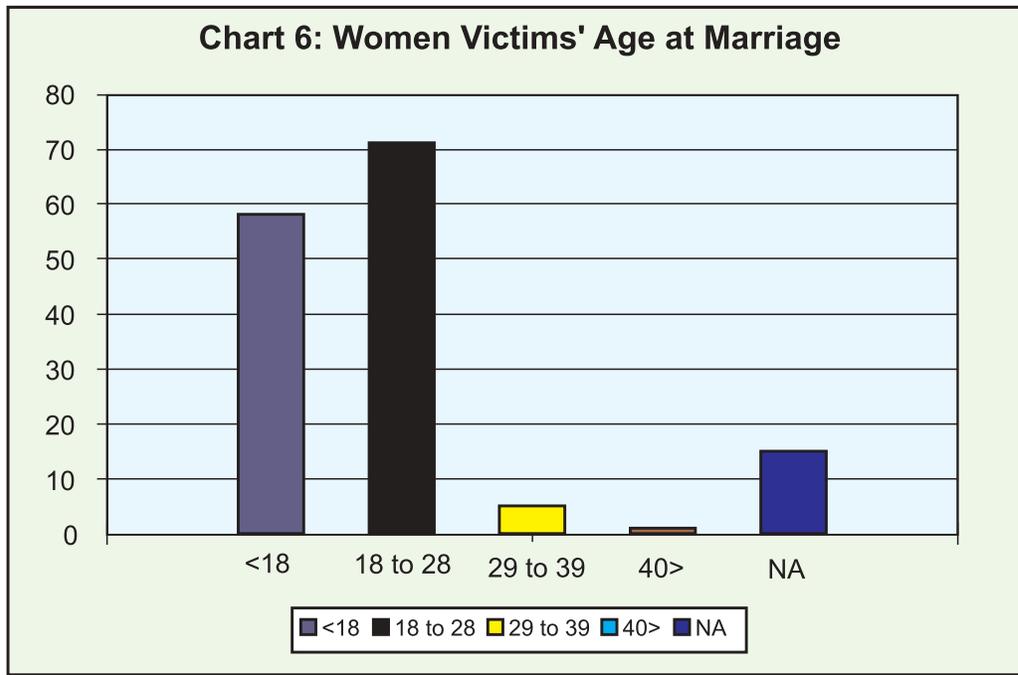


Table 12 shows the women victims' husbands' ages at marriages. It shows that 56 per cent of them got married between the ages of 21 to 31 years and about 29 per cent were below the legal age limit of 21 years.

Table 12: Women Victims Husbands' Age at Marriage

Age Group	Frequency	%
Under 21	43	29
21 to 31	85	56
32 to 42	4	3
43 and over	3	2
NA	15	10
Total	150	100

Like girls, even the boys married early in UP which was one of the reasons why there was incompatibility between the couples. Neither the boys nor the girls were mentally mature enough to handle marital disputes and family members' interference complicated issues.

Details of 10 per cent of the victims' husbands' age at marriage were unknown. However, 3 per cent belonged to the age group 32 to 42 years and 2 per cent were over 43 years when they got married.

It is clear from **Chart 7** that men in Varanasi were generally in the age group of 21 to 31 years at marriage. There were several boys who were married when they were below 21 years.

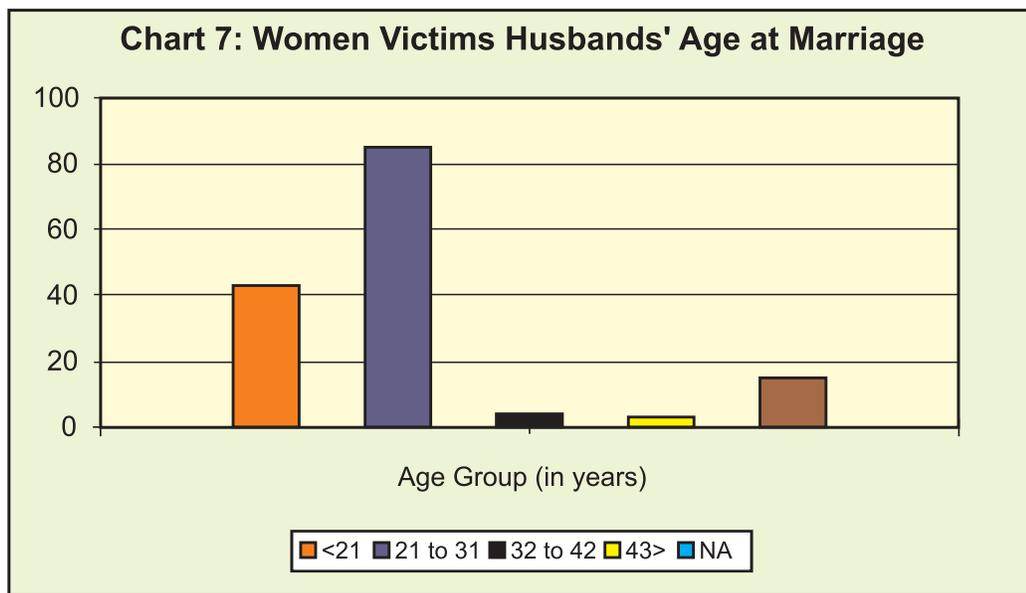


Table 13 shows the duration of the marriages of the clients in the Family Court, Varanasi. It can be observed from the table that a maximum number, nearly 42 per cent of the couples sought the help of the Family Court after 11 years of married life. The main cause was once again child marriages, which was the general tradition in Purvanchal and the neighbouring districts in UP.

Table 13: Duration of Marriage of the Couples

Duration (in Years)	Frequency	%
Less than 2	3	2
2 to 4	27	18
5 to 7	30	20
8 to 10	27	18
More than 11	63	42
Total	150	100

Chart 8 shows that 20 per cent of the couples had already completed five to seven years of married life and still had problems. They took the help of the Family Court to resolve their disputes. While 18 per cent of the couples had problems even after eight to 10 years of married life another 18 per cent had completed two to four years and 2 per cent of the couples were married for less than two years. Chart 8 shows that as the duration of marriage increased the problems also increased.

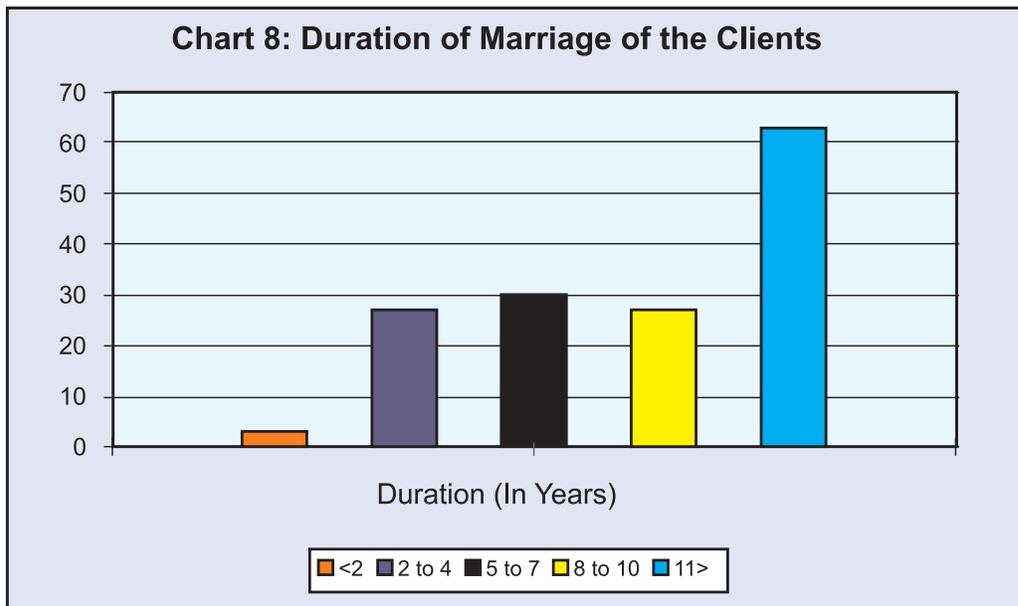


Table 14 gives details of the number of children the women victims had. It is clear from the table that 47 per cent had one to two children and 43 per cent did not have any because they were thrown out of their husbands' houses in

Table 14: Number of Children of Women Victims

Number of Children	Frequency	%
None	64	43
1 to 2	71	47
3 to 4	13	8
5 to 6	1	1
NA	1	1
Total	150	100

the early days of marriage. While 8 per cent had three to four children and 1 per cent had five to six children, 1 per cent did not provide details about their children.

From **Chart 9** it can be seen that the maximum number of clients adopted the Government's Family Planning Policy as they had two children in each family. Only a negligible number of couples had more than two children.

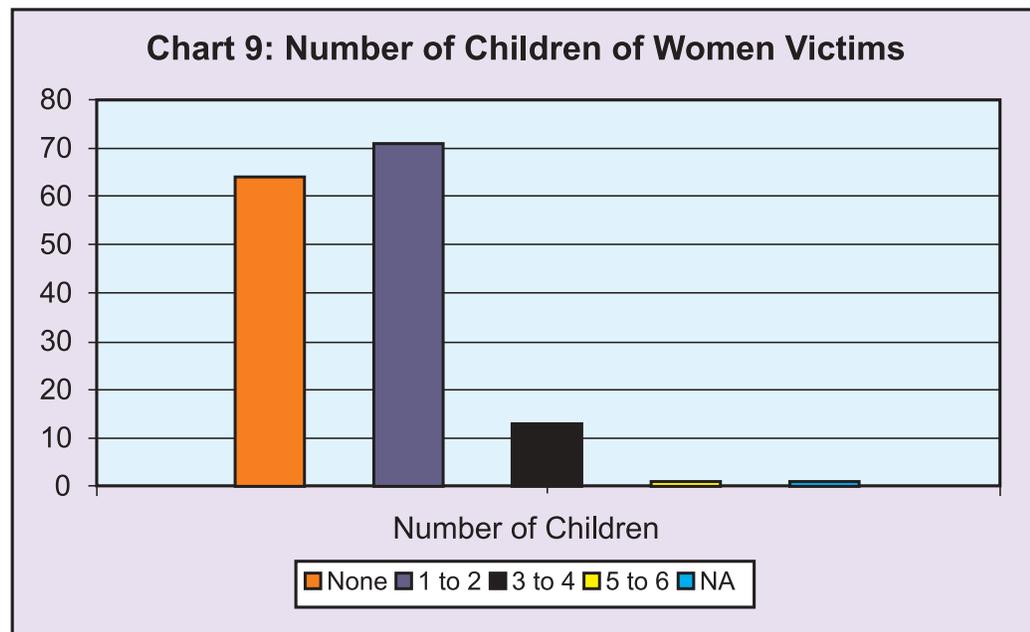


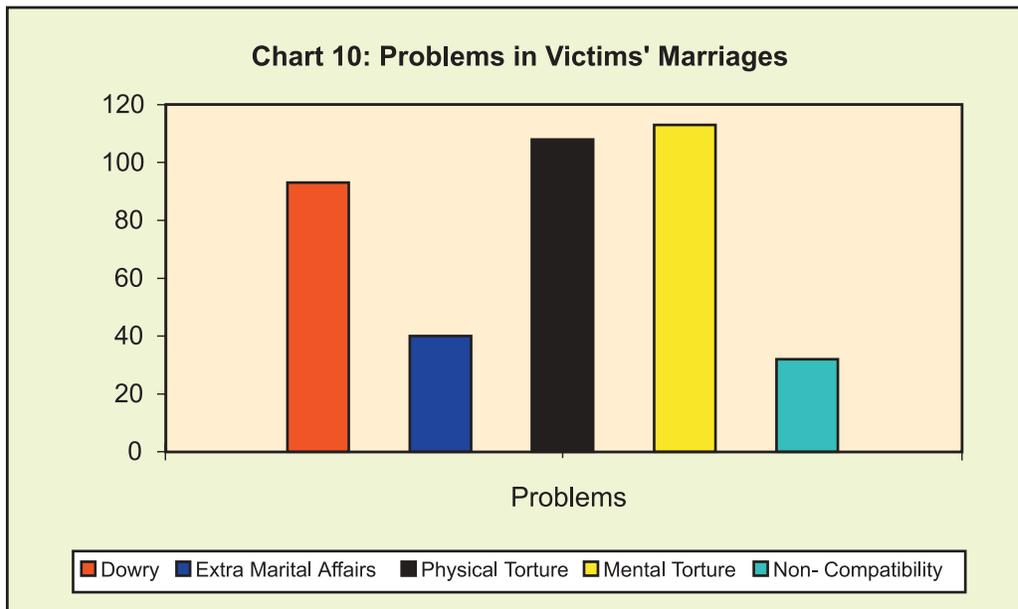
Table 15 displays the multiple responses to problems faced by women victims in their marriages. A crime that was hidden behind closed doors – wife abuse – has now come out into the open. Women have been the victims of violence at the hands of their mates. Nearly 75 per cent of the victims claimed that they

Table 15: Problems in Victims' Marriages

Problem	Frequency	%
Dowry	93	62
Extra Marital Affairs	40	27
Physical Torture	108	72
Mental Torture	113	75
Incompatibility	32	21

had undergone mental torture while 72 per cent suffered physical torture and 62 per cent complained that they suffered due to dowry harassment. While 27 per cent said that their partners had extra marital affairs, 21 per cent felt that their partners were incompatible with them.

Chart 10 shows the various problems faced by women victims. When the girl bride returned, her *gauna* (her first visit to her in-laws' house after marriage), the boy's family started complaining about dowry and harassed the girl.



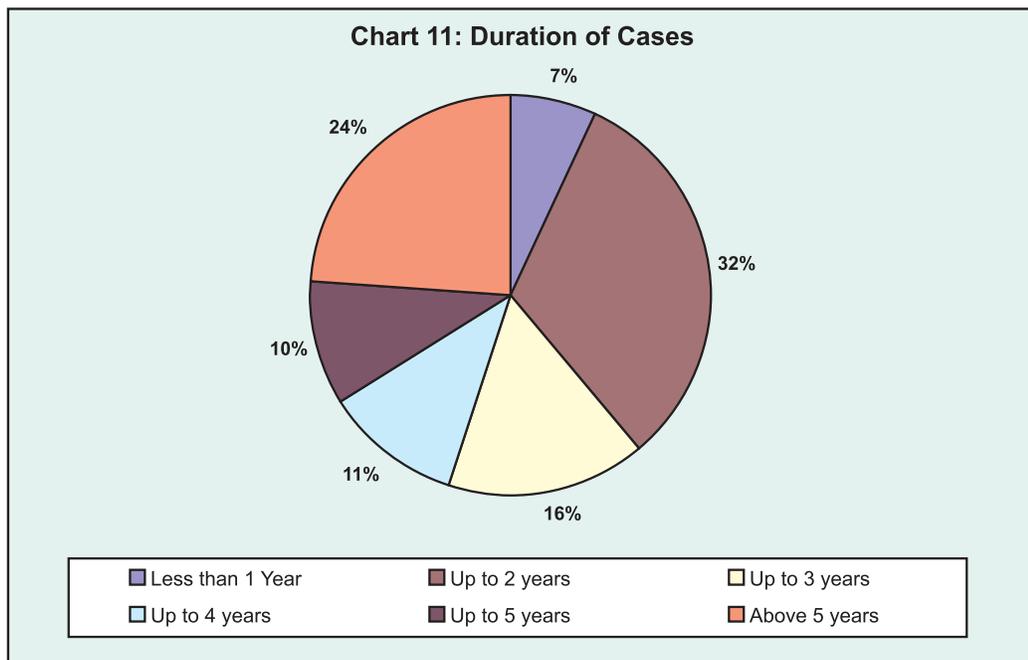
Interference from family members aggravated problems. Some couples gradually resolved their differences but those who could not, filed cases in the Family Court.

Table 16 shows that the duration in court in 32 per cent of the cases was less than two years. About 24 per cent of the cases were pending in court for over five years while 16 per cent were pending for three years, 11 per cent for about four years, 10 per cent for nearly five years and 7 per cent were in progress for about one year.

We can see from **Chart 11** that except for the newly registered cases, almost all of them were pending for over two years and there were several cases, which have been in court for more than five years. Most of the women victims complained that they had to spend a lot of money on conveyance charges to visit the court and had problems carrying their young children with them. They

Table 16: Duration of Cases in Court

Duration	Frequency	%
Less than 1 Year	10	7
Up to 2 years	48	32
Up to 3 years	25	16
Up to 4 years	16	11
Up to 5 years	15	10
Above 5 years	36	24
Total	150	100



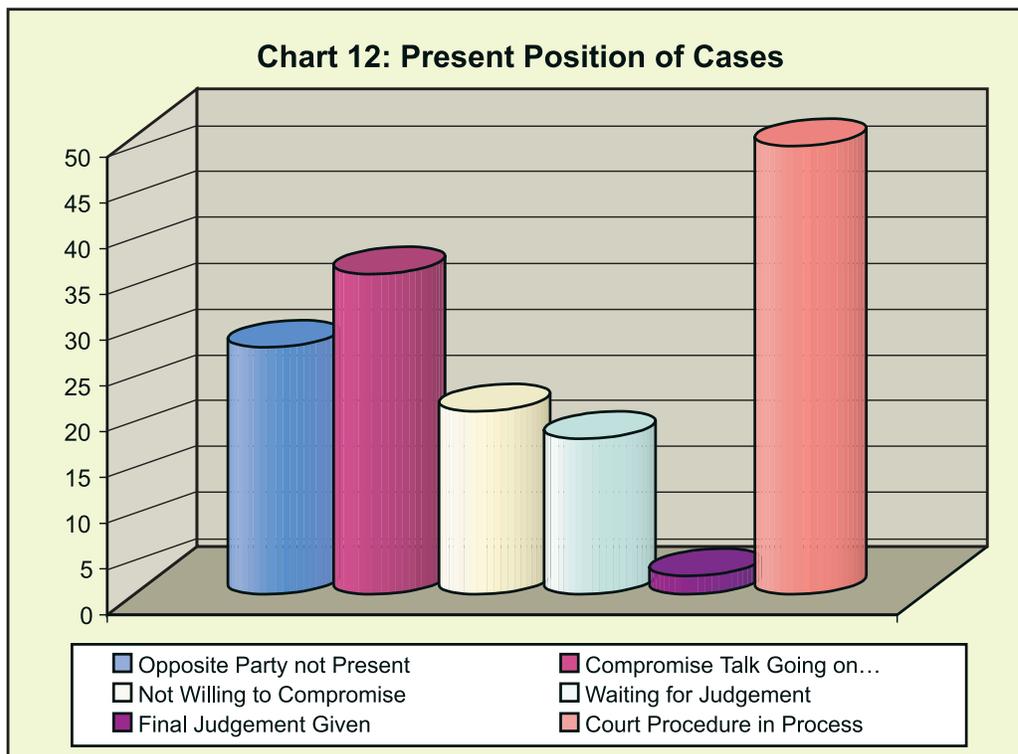
said that they were threatened and even beaten up by their partners for filing cases against them in the court.

Table 17 provides the present position of the cases. The victims complained that their cases were consistently being delayed and they did not get justice even in the Family Court. In 33 per cent of the cases, court proceedings were in progress and in 24 per cent, compromise talks were going on. Victims in 18 per cent of the cases maintained that the opposite party did not present

Table 17: Present Position of Cases

Position of Cases	Frequency	%
Opposite Party Not Present	27	18
Compromise Talks Going On	35	24
Not Willing to Compromise	20	13
Waiting for Judgement	17	11
Final Judgement Given	2	1
Court Procedure in Process	49	33
Total	150	100

themselves in the court and hence their cases were delayed. About 13 per cent said that they were not willing to compromise with their partners. Only 11 per cent were waiting for judgement and 1 per cent had received the final judgement. **Chart 12** shows the details of the present position of cases handled in the Family Court, Varanasi.



The reasons for the cases kept pending are depicted in **Table 18**. As the saying goes ‘justice delayed is justice denied’, the study also revealed that 49 per cent of the cases were delayed owing to the court’s bureaucratic procedures. The procedures followed in the Family Court are as lengthy as in any other civil court. Right from the start of filing cases, the parties have to wait to find out whether the Judge is convinced to register their cases or not.

Table 18: Reasons for Pending Cases

Reasons	Frequency	%
Delay from the Man’s Side	55	37
Delay from the Woman’s Side	21	14
Delay due to Court Proceedings	74	49
Total	150	100

If the case is fit for registering, then they have to wait for the court officials to process their papers. After collecting the necessary documents to send a summons to the opposite parties, the applicants have to wait for a reply from the opposite parties. In most cases the opposite parties do not receive the summons and even if they do, they do not respond with the sole purpose of delaying the case. When they do not respond, the Judge orders the applicants to advertise in the local dailies to inform the opposite parties that they should appear in court, failing which, a one-sided hearing would be ordered.

From **Table 18** it is clear that in 37 per cent of the cases there was a delay from the man’s side. The victim’s husband did not appear in court and the case was unnecessarily delayed. When the judge ordered a one-sided hearing, the partners engaged lawyers and got their cases stayed, causing further delays in the proceedings.

In 14 per cent of the cases there was delay from the women’s side. The reasons given were that they could not leave their young children and appear for the hearing. They needed someone to accompany them and they had to spend money on conveyance, which they could not afford.

Moreover there was a social stigma attached to women visiting courts and police stations – they were not considered to be women of good character.

Table 19 presents the details of maintenance sanctioned for women victims by their husbands in the Family Court, Varanasi. As discussed earlier, the maximum number of cases registered were for claiming maintenance because the women victims were housewives and did not have any source of income.

Table 19: Maintenance Sanctioned for Women Victims

Position	Frequency	%
Sanctioned	56	37
Not Yet Sanctioned	58	39
Not Applicable	36	24
Total	150	100

Chart 13 shows that for 39 per cent of the victims, maintenance was not sanctioned while it was for 37 per cent. For 24 per cent of the cases maintenance was not applicable because the cases were filed under other categories.

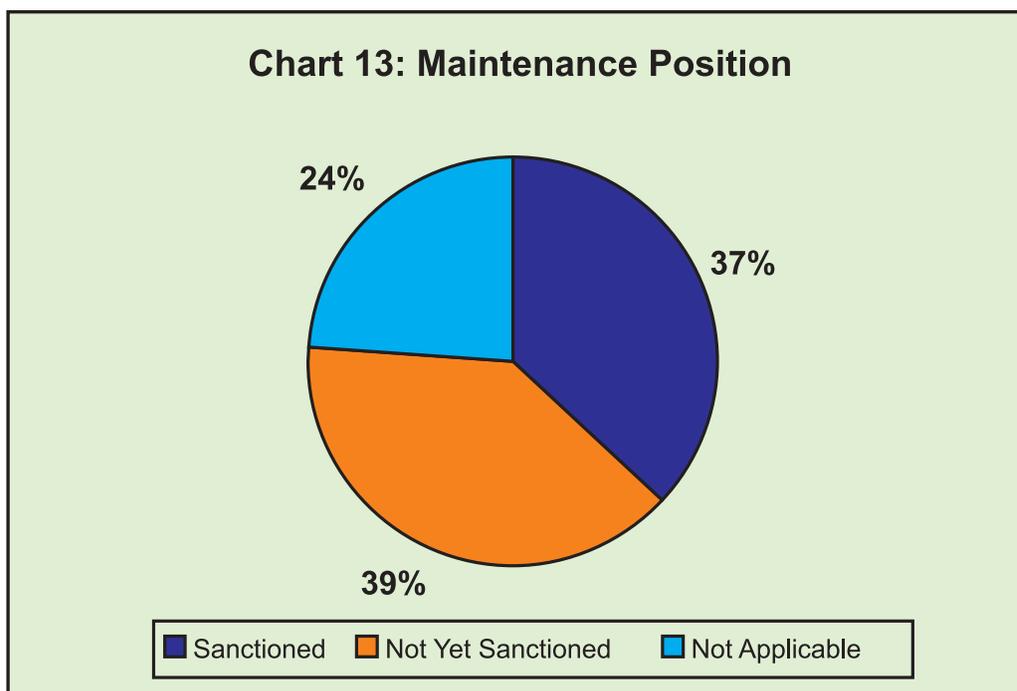


Table 20 confirms that 75 per cent of the victims did not receive their maintenance regularly. Even though the Family Court Judge ordered maintenance for the women victims, he was not successful in enforcing regular payments.

Table 20: Maintenance Payment Pattern

Payment	Frequency	%
Regular Payers	9	16
Irregular Payers	42	75
Case Stayed	5	9
Total	56	100

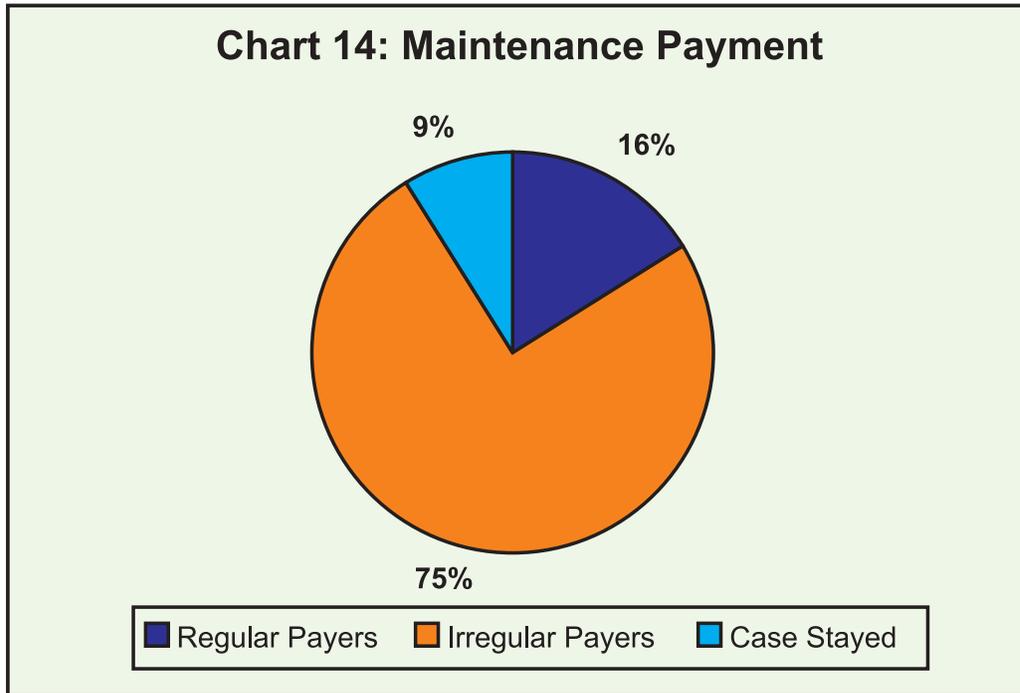
When the Judge ordered the victims' husbands to pay maintenance, they stayed their cases through their lawyers. They concealed their sources of income stating that it was too little and they were not in a position to pay.

It was very difficult for the women victims who were already harassed and humiliated to collect information about their partners' sources of income because most of them were illiterate and did not have enough knowledge about the details of their partners' jobs and properties.

Secondly, as they were already mentally traumatised, they were not in a position to answer the Judge's questions. They did not want to speak against them and even preferred to suffer rather than reveal their partners' details.

While 16 per cent of the women victims received maintenance money regularly, it was unbelievable to discover that the sanctioned amount was only Rs. 200 if they were single and Rs 400 if they had one child. Many times the sanctioned money was paid only before a hearing. As the Family Court Act has a provision that maintenance money could be given half-yearly, the victims' partners harassed them by delaying payments.

It is seen from **Chart 14** that 9 per cent of the cases were stayed to avoid making maintenance payments. The victims stated that their partners had already remarried illegally and even had children by their second wives, but were unable to provide evidence that was necessary for the case to be decided



in their favour. However, their partners were successful in getting a favourable verdict passed because of their money and muscle power.

Tables 21, 22 and 23 project the views presented by the women who were interviewed.

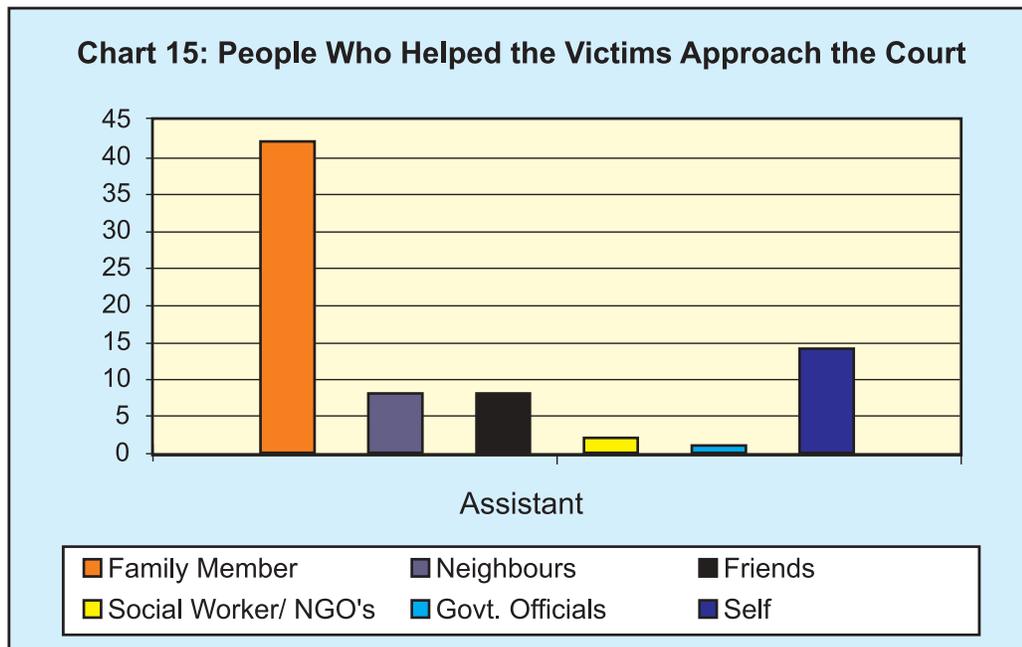
Table 21 sets forth details of those who helped the women victims to approach court. Family members helped 56 per cent of them and 18 per cent approached the court on their own. Neighbours helped 11 per cent and friends helped

Table 21: People Helped the Victims Approach the Court

Helped by	Frequency	%
Family Member	42	56
Neighbours	8	11
Friends	8	11
Social Worker/ NGOs	2	3
Government Official	1	1
Self	14	18
Total	75	100

another 11 per cent. Just 3 per cent of the victims got help from NGOs and social workers and 1 per cent sought the help of government officials.

As **Chart 15** depicts, it was the family members who helped the maximum number of women to approach the court to resolve their marital disputes.



The multiple problems faced by women victims during their cases are displayed in **Table 22**. The study revealed that about 85 per cent faced financial problems and did not have enough money to fight their cases. They had to depend on their parents' income.

Table 22: Problems Faced during the Case

Problems	Frequency	%
Non-Cooperation of Family Members	11	15
Social Ostracism	43	57
Neglected at Workplace	4	5
Financial Problems	64	85
Mental Problems	53	71
Harassment by Court Officials	12	16

Nearly 71 per cent of the clients underwent mental problems. Their psychological traumas were immeasurable because Indian society looks down on women who seek divorce and decide to live apart from their husbands.

As many as 57 per cent of women victims suffered from social ostracism. Those women who did not receive support from their family members were ostracised because neither their neighbours nor their family members supported them. Nearly 16 per cent of them complained that they were harassed by court officials who did not register their cases immediately. The Judge postponed their hearing dates frequently and unnecessarily delayed the proceedings. He asked unwarranted evidence of the physical and mental torture experienced by them. As many as 15 per cent of the victims suffered due to non-cooperation of family members and 5 per cent felt that they were shunned even at their workplaces.

Table 23 displays details of average hearings held in the Family Court, Varanasi. The 75 cases that were studied from court records revealed that 77 per cent of the clients had hearings every month, 15 per cent after more than a month and 8 per cent after two months. **Chart 16** makes it apparent that the majority of the cases had hearings almost every month.

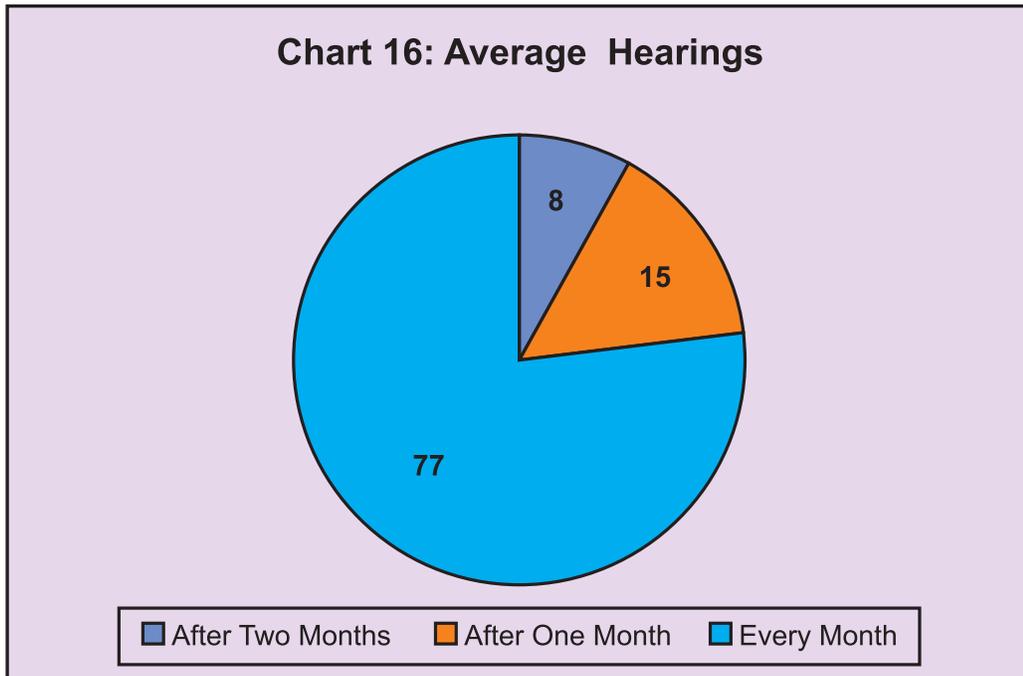
The Existing Conditions at the Family Court, Varanasi

The maximum number of cases were pending for Dissolution of Marriage under section 13 of the Hindu Marriage Act. It is surprising to note that even in Kashi, which is the holiest place of pilgrimage, especially for

Table 23: Average Hearings

Hearings	Frequency	%
Over Two Months	6	8
Over One Month	11	15
Every Month	58	77
Total	75	100

Chart 16: Average Hearings



Hindus, the divorce boom has split wide open and divorce petitions are filed every day.

Even though the Family Court was established to help women resolve their marital discords easily, it was usually men who first filed cases for Dissolution of Marriage. Looking at the situation today, marriage does not seem to be about lifelong togetherness any more. An increasing number of younger couples head for divorce perhaps due to the non-adjustment mentality.

In most cases the men's allegation was that their wives did not fulfill their duties as wives. Moreover they claimed that they were mentally tortured as their wives left them to live in their parents' homes. They even complained that their wives had taken away all the jewellery, clothes and money which they had presented to their wives at the time of their marriages. But now because their wives were not willing to live with them they wanted their marriages dissolved. Thus it was the men who were first to apply for conjugal rights, complaining that their wives had deserted them and hence they claimed restitution.

The women denied these allegations, saying that they were beaten and tortured physically and mentally by their husbands and their husbands' families

and stated exactly the opposite of what the men said. There were very few women who opted to go back to their husbands' houses.

Several women felt that their lives were in danger and it was not safe to stay in their husbands' houses and preferred staying away from them. They said that they would return to their husbands' houses, only if they were assured of the safety of their lives, food, clothing and shelter. Obviously, the relationship equation between the genders is changing. Togetherness and the institution of marriage and family are now slowly losing their position. With more and more women becoming independent, it is easier to drift apart. There is a serious lack of commitment between couples.

Women wanted to get maintenance first under Section 125 of the CrPC and some preferred dissolution of their marriages. It was found that almost all the women clients were keen on getting their maintenance under the Section 125 of the CrPC because most of them were illiterate and were not working. Despite the fact that they were illiterate they found out about their rights through their neighbours or their lawyers.

As the Family Court Act is read along with the Personal Laws of the different communities, the Family Court enacts personal laws that are applicable to the parties concerned.

Among all the personal laws, Muslim law gives minimum privileges to women and married women are at the mercy of their husbands. Muslim men are legally permitted to have more than one wife – up to four wives simultaneously. If a man pronounces the word *talaaq* three times it means he has officially divorced his wife. The *maulvis*, the Muslim elders, grant divorce certificates to the men and women have no say in divorce. As soon as the men divorce their wives, they claim that they are not obliged to pay maintenance. Hence Muslim women approach the Family Court for maintenance cases only. However, the recent *Nikahnama* formulated by Muslim elders suggests a reduction in the privileges of Muslim husbands who are now required to get signatures of witnesses when they pronounce *talaaq*. They are expected to give a time gap between each pronouncement of *talaaq* and cannot pronounce it three times at one go any longer. This is considered as a step forward in bringing about reforms in the status of Indian Muslim women.

Perception of Women Victims

Several women victims complained that they found it very difficult to visit the court from their homes, which was situated very far away. They were not in a position to pay the fares as they did not earn any money and were dependent on their illiterate, poor parents for their livelihoods.

They stated that in spite of paying lawyers' fees they were denied justice because their cases were delayed unreasonably and in any case, they did not understand what was actually happening in their cases. They were not willing to speak much as they were afraid that their cases would be wrongly interpreted.

There were even some old women still claiming maintenance. They wanted addresses of Short Stay Homes or Helpline services in Varanasi City where they could live. They observed that they did not have a place to reside, had no belongings, and could not work because of poor health due to old age. They were tired of waiting for justice.

Legal Representations

The Family Court Act states that advocates are not allowed to present cases in the Family Court and aggrieved parties are required to present their own cases. However, in the Family Court, Varanasi all the cases are presented only by lawyers. The women victims are hardly aware of the status of their cases. The lawyers charge fees for every hearing that they appear for in court. Therefore cases are delayed as in any other civil court. The purpose of having a Family Court is not entirely fulfilled. Hence it is suggested that lawyers should be strictly prohibited and the affected victims must present their cases directly. The State Government could introduce a law making it mandatory for advocates to provide free legal advice to economically weak parties and help all clients in complicated cases by providing them technical advice.

Role of Counsellors

The Counselling Centre at the Family Court, Varanasi was inaugurated only on December 5, 2004. Earlier there was a Family Counselling Centre that

was funded by the Central Welfare Board, but it was closed down as a result of some unavoidable problems two years earlier. Now the newly-recruited counsellors counsel the parties to a considerable extent by explaining and encouraging the couples to understand each other better. They are also advising couples to reduce their differences and pave the way for a reconciliation. This counselling takes place in the chamber of the Counselling Centre and advocates are requested to remain outside while the counselling takes place. The parties are advised to think over the proposal for reconciliation and if the couple responds positively, the counsellors inform the in-laws, relatives and legal advisors.

Once the parties agree to a solution for reconciliation, the counsellors ask each of them to write down the terms of reconciliation. Both parties sign the terms and the counsellor countersigns. The matter is then referred back to the Court.

The Judge, after acquainting himself with the terms of the reconciliation, advises the parties to start living together and gives them time and opportunity to do so. During that period if the parties are able to live together peacefully, then on the next date of hearing the matter is disposed of. If even after persuasion, the parties do not reconcile, then the counsellor tries to find out whether matters such as maintenance, residence, custody of the child/children, returning of ornaments, articles, clothes, etc. can be settled between the parties and whether the parties are agreeable to a divorce by mutual consent. The terms are prepared accordingly and the parties are directed to file consent terms for a divorce by mutual consent.

There is no Short Stay Home facility available in the Family Court, Varanasi and it is a drawback for settling matters between the parties. There are no crèches for the women to leave their children while they are required to wait in the Court. There are no toilets for women to use during their visits to the Family Court, Varanasi. There are no drinking water or canteen facilities where the parties could have refreshments during their visits to the Court.

CHAPTER 4

Assessment of Support Services in Varanasi

Relationship of the Family Court with Supportive Services

The relationship of supportive services like NGOs, *Mahila Thanas* (Women's Police Stations), Counselling Centres, Short Stay Homes, Crèches, etc. with the Family Court, Varanasi is not good. Service Centres like the Family Counselling Centre (FCCs), Women's Police Station and Women's Cell etc. that are formed to assist the Family Court are not fully utilised, and there is no coordination between these centres and the Family Court, Varanasi.

The Women's Police Station in Varanasi functions like any other ordinary police station and their services are not being used by the Court. The *Mahila Thana* in Varanasi does not have any provision to keep the women victims under their custody. These police stations have not been instructed to follow up a case once it has been referred from their police station to any other police station or to the Court.

There is only one Short Stay Home, about 5 kilometres away from the Family Court, at Pandeypur. As there is no proper understanding between the Family Court and the Short Stay Home in Varanasi, the women victims are not in a position to utilise the services provided by the Home.

There are 17 active NGOs working in Varanasi and some are directly involved with women's problems and the upliftment of women and children. A few NGOs are even directly involved in resolving the problems of women who approach them to seek their assistance. There are some NGOs who help indirectly and serve women by referring their cases to other NGOs who are involved in counselling and request them to help the victims.

Some NGOs have formed *mahila* panchayats in the villages where they work and they refer matters to them or to the existing panchayats of the villages where the women victims reside. If the issue is not resolved, they refer the matter to the police and if it is still not settled, they approached the Court for legal action.

However, the Court does not take the help of these NGOs in counselling. The NGOs claim that their experiences with the Court were not good. So they stay away from the Court and send their lawyers to fight the cases. There are also a few lawyers who help the victims and plead their cases without accepting fees.

As there was no proper coordination between the Court and NGOs, the services of the NGOs were not being utilised. Hence the efficacy of the Court was also reduced.

Role of Non-Governmental Organisations (NGOs) in Varanasi

Seventeen NGOs working actively in Varanasi were identified. The researchers visited all of them and interviewed their secretaries and staff. The names of NGOs working actively for the development of women and children in Varanasi are given in **Annexure IV**.

The NGOs were asked whether they were involved in women's upliftment and were interested in working for the welfare of women and children. When they replied affirmatively, they were asked as to how they solved the problems of villagers who had marital disputes in the villages where they worked. It was found that the women social workers tried to solve the issues by counselling the victims and if required they referred the matter to the *mahila* panchayats. However, they followed up the cases and supported the women victims psychologically and financially wherever possible. In most cases the couples were encouraged to resolve their differences themselves. In a few cases where the women were tortured, the NGOs referred the matter to the nearest police station and if the victim's husband did not stop harassing his wife, they took the matter to court.

The NGOs mentioned that the police and court officials harassed them when they represented women victims' cases. They were asked irrelevant questions and discouraged from pursuing the cases. They were even advised that it was a sensitive issue concerning husband and wife and were pressurised to drop the matter. When the NGOs insisted on following up cases they were harassed by being called to the police station or court unnecessarily several

times. The victims were even accused and blamed by the police and court officials for complicating their own problems.

Mahila Thana, Varanasi

There is only one *Mahila Thana* for the whole of Varanasi district, and is situated at Kotwali Campus, Maidagin. There are about 89 staff working in the Women's Police Station, of which 87 are women police and two are male constables, one of whom has a constable's grade and is called Constable *Moharir* and the other is a Head Constable. The *Mahila Thana* has one Station Officer, one Sub-Inspector and 85 women constables. There are eight rooms in the police station. The first two rooms are used for office work, the third is occupied by the Station Officer and the fourth by the Sub-Inspector. There is one storeroom and the other rooms are used as barracks. There is no proper road access to the Police Station and the surrounding environment appears very dirty.

Procedure for Filing a Case at the *Mahila Thana*

Before filing a case the victim was first asked to submit a written application addressed to the Station Officer. After the application was received, if the victim insisted on registering the case, then the First Information Report (FIR) was filed. If the victim did not want legal action to be taken against her partner and preferred another solution to her problem, then both the parties were invited to the Police Station and the police officials tried to make them come to a compromise within the Station.

If required, they sought the assistance of the leaders of the panchayat or elders of the village concerned and tried to make the couple come to a compromise. If the matter was solved at that stage they were requested to submit a compromise letter to the Station Officer. If a problem arose after the compromise, the *Mahila Thana* took action against the offenders.

In all cases, the first step was always to try and make the couple come to a compromise. There were two methods that were adopted while registering cases. In the first category, those women victims who approached the *Mahila*

Thana directly to file their cases were asked to submit a written application giving full details of their problem.

In the second category the cases forwarded by the Senior Superintendent's Police Office, or the Women's Police Cell were also registered. The *Mahila Thana* does not have any provision at the police station to retain women victims who are thrown out of their houses. So they try to contact the victims' parents and inform them. They even help the victims come to a compromise regarding their problems or help them to take legal action if required against the offenders.

Relationship of the *Mahila Thana* with the Family Court

To date, neither has the Family Court referred any case to the *Mahila Thana* nor has the *Mahila Thana* sent any cases directly to the Family Court, Varanasi.

Relationship of *Mahila Thana* with NGOs

The researchers interviewed the Inspector of the *Mahila Thana*, Varanasi and found that the NGOs approached them only to inquire about the cases of the women associated with their organisations. Other than that they did not have any relationship with the NGOs. However, the *Mahila Thana* was interested in using the services of the NGOs if they were willing to assist the police in bringing about a compromise between the parties.

CHAPTER 5

Conclusion and Recommendations

Conclusion

The Family Court, Varanasi was established in 1995. It is presently situated within the premises of the Office of the District Magistrate's Court in Katcheri. The Family Court, Varanasi handles various types of cases like: Dissolution of Marriage; Restitution of Conjugal Rights; Custody of Children; Property Rights; Null and Void Marriages; Judicial Separations; and Maintenance.

Only four rooms have been provided to the Court. The office room is extremely small and is situated in a very old building constructed during the British period in 1889. There is hardly any space for clients to stand and clarify their doubts. The staircase leading to the office room is very small, steep and narrow. The office is located in an unhygienic place adjacent to a men's toilet that stinks and it is very difficult for clients and visitors to even come near the room. All the rooms are dark and gloomy without sufficient light and air. They have low-voltage tungsten bulbs and fans, which rarely operate due to frequent power cuts. As there is no seating provision for clients and visitors, the entire corridor and veranda is overcrowded and congested. Therefore, it is suggested that the State Government of Uttar Pradesh should take necessary action to shift the premises of the Family Court to a decent, healthy environment to enable clients, especially women, to approach the Court easily and use its services to resolve their marital disputes. The separate Counselling Centre of the Family Court, Varanasi started functioning only from December 5, 2004. Four part-time Counsellors are appointed to assist the Judge in counselling the clients to reconcile and settle their disputes. One of these is a male general physician. Another person is a male retired Professor from the Mahatma Gandhi Kashi Vidyapith University's Social Work Department and two others are women counsellors. As they are part-time counsellors they do not devote their time fully during the Court working hours. Hence, it is suggested that full-time counsellors be appointed to devote their time fully in counselling affected couples.

There are several active NGOs who are willing to spare their time to assist the Family Court in Counselling. It is suggested that the Government of India takes immediate steps to instruct the State Government to take necessary action to appoint full-time counsellors to the Family Court, Varanasi and also use the services of NGOs, academicians and volunteers from the universities in Varanasi to improve the efficiency and functioning of the Family Court.

It was found from the study that most of the women clients were illiterate, had not even received primary education, were from the economically backward strata of society and were between 18 and 28 years. More than 50 per cent were married when they were below 18 years and 30 per cent of their partners were below 21 at the time of marriage. Many did not know their own ages. About 85 per cent of the women clients were housewives and did not have any source of income. Their partners' average income ranged between Rs. 2,000 to Rs. 6,000 per month. Most of the cases filed by women were for maintenance.

It is obvious that the system of child marriage is still prevalent in Uttar Pradesh which is the second most backward state in India, next only to Bihar. Girls were given in marriage very early – around the age of 12-14 years – and they stayed in their parents' houses for four to five years after marriage. When they were 18 years old they were sent to their husbands' houses. The problems started when the couples started living together. The boys' families would demand dowry from the girl at the *gavana* (girls' first visit to their husbands' houses) which was the tradition followed in Uttar Pradesh. If the girls' parents were unable to meet the demands, the girls were not allowed to live peacefully with their husbands. They were continuously tortured and harassed by their in-laws.

The study proved that there were several reasons behind the marital disputes. Physical and mental torture, dowry harassment, wife abuse, extramarital affairs of their partners, incompatibility with their partners owing to various reasons like interference of their in-laws, irresponsible husbands who were unwilling to provide food and clothing for the victims and their children, alcoholism, drug addiction, etc. prevented them from living with their partners.

Even though the Family Court Act provides that cruelty – physical or mental – is grounds for Dissolution of Marriage, it was difficult for the illiterate women to gather evidence to prove cruelty. As they underwent physical and mental trauma they were unable to collect the necessary information required to substantiate their cases.

Moreover, ignorance was the major cause of their inability to furnish the required proof. They needed the help of their relatives and neighbours to take care of their children when they went to the Court and to help them get medical certificates. They also had financial constraints for commuting from their villages to the Court, to pay their own fares and of those who accompanied them. Hence, it is recommended that the Government of India amend the Family Laws and relax the rules that insist on evidence after taking into consideration the practical difficulties of women clients.

It was surprising to discover that the Family Court, which is basically formed to help women approach the court easily to present their own cases, was not functioning in that manner. Instead, all the cases were presented only by lawyers and it was functioning like any other ordinary civil court which took its own time to pass decrees. Women had to pay their advocates fees for every hearing. To avoid interference by lawyers it is suggested that clients can use them for preparing the applications for registration of the cases. Lawyers should provide assistance only for technical matters after getting prior permission from the Judge and not get involved in all the cases.

Women clients observed that they had to appear at the Court whenever they had their hearings. It was very difficult for them to leave their children and appear at court, because on the average, the Court held a hearing once a month. Hence, it is suggested that it would help women clients if crèches are provided within the Court premises. The cases extended for a minimum of two years and there were some that extended to over five years. Non-appearance of parties at Court for hearings was emphasised as the main reason for the delay in passing decrees. There were numerous instances of delays by the men, especially in maintenance cases, to avoid paying the maintenance. In several instances, the men stayed their cases, which delayed the judgement further.

Women clients complained that they were humiliated because the court procedures delayed providing them justice. Hence, it is suggested that the Principal Judge of the Family Court should use his discretion to decide cases after hearing both the parties and provide judicious judgements at the earliest. Maintenance cases must be decided immediately, by ordering an interim maintenance and the final decision must also be declared as early as possible to help the traumatised women victims to get justice. If the men do not appear for more than two consecutive hearings, the Judge should order a one-sided hearing.

It is also suggested that Family Courts appoint women judges along with male ones to avoid biased judgements. Corruption must be strictly prohibited and a Vigilance Cell must be created to check corruption. Officials involved in malpractices must be punished and severe action taken against officials who harass women by asking unwarranted questions and failing to help them. Grievance cells must be set up within the Family Court premises where clients can lodge their complaints. Counters to provide information about the details of the cases should be opened to enable women clients to find out about the status of their cases.

Short Stay Homes must be provided within the Court premises, which will help the couples to stay together and avoid the interference of their in-laws and family members who usually complicate issues between couples.

The Court should also make use of the services of Women Police Stations, SSPs' Offices and Local Police Stations to enforce orders passed by the Court, especially maintenance orders. Cases related to Restitution of Conjugal Rights must be attended to immediately to help couples reunite and live peacefully. For this purpose, ***integrating all the support services together is the need of the hour.***

It is clear from the findings of our research that several active NGOs in Varanasi are willing to assist the Court. The *Mahila Thana*, Varanasi is also ready to render their services whenever required by the Court. The project researchers took the help of the PG students of the BHU, Department of Social Work, to create awareness of women's rights and to guide the women by giving them the addresses of various NGOs working in Varanasi.

Recommendations

The following recommendations for implementation emerged out of the study to enhance the efficacy of Family Courts:

- **Shifting the Family Court Premises**

The immediate need of the hour is to shift the Court to a peaceful environment away from the premises of the ordinary civil courts to enable the affected couples to resolve their disputes and minimise societal stigmatisation.

- **Legal Representation**

The interference of lawyers in the case must be strictly prohibited and only the affected victims should be permitted to present their cases directly. The State Government should introduce a law making it mandatory for advocates to provide free legal advice to the illiterate and economically weaker parties.

- **Pre-Litigation Legal Aid and Counselling**

A congenial setup must be provided for the Judge and the Counsellors to help the couples discuss and resolve their disputes smoothly. It is suggested that the State Government should officially appoint full-time legal counsellors and also provide a budget for the NGOs and other support services to be involved in counselling on a part-time basis at the pre-litigation stage itself before problems get more complicated. This system would facilitate the speedy disposal of cases.

- **Short Stay Homes**

Provision of Short Stay Homes for the Family Court will help the aggrieved couples to discuss their differences and give them a chance to stay together and settle their disputes amicably. It would avoid the interference of in-laws and others in the marital life of the couples. NGOs must be asked to meet the couples and counsel them from time to time.

- **Counselling Centres**

Incorporation of Counselling Centres within the Family Court premises is recommended. Full-time, trained counsellors must be appointed. Retired judges, NGOs and social workers must be encouraged to serve as arbitrators and facilitate the smooth functioning of the Family Courts.

- **Procedure for Filing Cases**

The procedure for filing cases must be made easier with simplified application forms, avoiding technicalities, so that the illiterate masses can approach the Court easily and enable the parties to come together and sort out their issues.

- **Involving Academic Institutions**

Students from academic institutions must be encouraged to get involved in counselling and creating awareness about: the legal rights of women and children; the procedure for approaching the Court; and the procedure for seeking the help of police stations, especially in the rural areas, etc. Government and funding agencies must support academicians to conduct more research. Recommendations made in research reports must be noted and considered by policy makers while formulating policies.

- **Provision of Proper Infrastructure**

The existing infrastructure of the Court is not well planned. The working environment for the Court staff must be improved. A greater number of rooms must be provided for the office staff to work in a congenial atmosphere. Good drinking water facilities, clean and hygienic toilets, both for men and women, must be provided. To avoid over-congestion in the Court, proper arrangements must be made for visitors and clients to be able to sit.

Hygienic restaurants must be allowed to operate within the premises of the Court where clients and visitors can partake of

some refreshments. There is an urgent need to provide proper infrastructure, good lighting and ventilation facilities to help the Judge make quick decisions and dispose of the cases.

- **Speedy Disposal of Cases**

There is an immediate need to frame a law prescribing a minimum time limit to pass the verdict to avoid unnecessary delays in the disposal of cases. Bearing in mind the current increasing prices, the minimum maintenance amount should be fixed as Rs. 500 per month, especially for women victims. The maintenance money should be provided immediately without any delay to help women victims especially those who have minor children. The system of permitting the men to make part payments for maintenance should be stopped immediately as this is one reason for the delay in the disposal of cases.

- **Incorporation of Women Judges in the Family Court**

To avoid gender bias it is suggested that all the Family Courts must appoint at least one woman judge along with the male judges. It would not only help in speedy disposal of cases but also have a humane approach in deciding them. The judges must also be made accountable for their judgements and they should clearly specify the basis on which judgements are given.

- **Redressal Cells to be Created**

Every Family Court should have a Redressal Cell within its premises. The general public must have easy access to those cells where they can express their grievances, obtain information about the status of their cases, clarifications regarding the judgement passed, etc.

- **Vigilance Cell to be Incorporated**

A Vigilance cell must be incorporated in all Family Courts. Measures to check corruption in the Court must be taken. If it is detected that any court official is involved in corruption, immediate

action must be taken against the person and he or she must be dismissed from service.

- **Amendment of Family Court Act:** The loopholes of the Family Court Act must be rectified immediately to enable effective implementation of the Family Court Act, 1984.

Difficulties Faced while Conducting the Study

- Non-cooperation of the victims while conducting the interviews was a major problem faced by the researchers. The researchers had to first explain the purpose of the research to the victims and answer all their queries. They were willing to answer questions only when they were convinced. It took nearly 30 minutes to complete an interview with each victim. Illiteracy, ignorance and lack of understanding were the reasons behind their non-cooperation.

Further, the educated victims were reluctant to speak to the researchers. Some of them even tried to hide the fact that their cases were being tried in the Court. They went to the extent of lying, saying that they were simply visiting the Court, as they were ashamed to reveal their personal problems. In both educated and uneducated victims, the common reason for unwillingness to disclose their problems was the fear that their cases would be misinterpreted and the case might turn against them.

- Non-cooperation of the judges in permitting the researchers to go through the records, files and registers of the Court halfway through the study was another problem faced by the researchers. They had to complete the study by interviewing the victims directly. They were unable to crosscheck what the victims said in their interviews with the facts and evidence presented in Court, the way the cases were handled by the judges, the number of hearings undertaken before deciding cases, the reasons for delays and pending of cases, the manner in which judgements were given, etc.
- Owing to the rigid rules of the University, processing of all the bills produced by the researchers were always delayed which in turn

affected the researchers getting their salaries and travelling allowances at every stage of the research. The researchers found it difficult to spend money on conveyance while travelling for data collection. Therefore it is suggested that the funding agency should make some provisions with the University so that it can provide researchers certain amounts as TA advances, which would help them while conducting the research, instead of reimbursement of expenses.

- Lack of drinking water facilities at the Court premises was another problem faced by the researchers. They had to carry water with them. There were no toilets for women within the Court premises. There was no provision made for the victims and visitors to sit. The researchers had to stand continuously for long hours while conducting the interviews.

Other Limitations of the Study

- One major limitation was the non-cooperation of the respondents on account of ignorance, lack of understanding and illiteracy.
- The Judge of the Family Court, Varanasi was not willing to provide the files, registers and records of the court and was uncooperative.
- The time factor limited the scope of the study and prevented it from being exhaustive.

Family Court Act, 1984

Establishment of Family Courts

The Family Court Act stipulates the establishment of Family Courts by State Governments in every city or town with a population exceeding one million.

The **Act** addresses itself to two types of remedies to family disputes, namely:

- a. Employment of Family Therapy in order to effect reconciliation or a settlement between the parties to a family dispute, thereby maintaining the 'Family' as a cohesive unit.
- b. Speedier adjudication of cases where differences between the parties are irreconcilable by not adopting simplified rules of evidence and procedure but also seeking the assistance of professional experts, social welfare organisations or even individuals with expertise in the field of family welfare as provided.

The jurisprudence of Family Courts revolves around three broad objectives, namely:

- a. To conserve and not disrupt the family life
- b. To be helpful and not harmful to individual parents and their children and
- c. To be preservative rather than punitive to family and marriage.

Jurisdiction

Section 7(1) of the Family Court Act, states that the Family Court may adjudicate on the following matters:

- a. A suit or proceeding between parties to a marriage for a decree of **nullity of marriage** in declaring the marriage to be **Null and Void or Restitution of Conjugal Rights, Judicial Separation and Dissolution of Marriage**.

- b. A suit or proceeding for a declaration to the **validity of a marriage** or as to the matrimonial status of any person.
- c. A suit or proceeding between the parties to a marriage with respect to the **property of the parties** of either of them.
- d. A suit or proceeding for an **injunction** in circumstances arising out of a marital relationship.
- e. A suit or proceeding for a declaration as to the **legitimacy** of any person.
- f. A suit or proceeding of **maintenance** under Section 125 of the CrPC.
- g. A suit or proceeding in relation to the **guardianship** of a person or the custody of or access to any minor.

Exclusion of Jurisdiction

Once a Family Court is established for an area, its jurisdiction in regard to the matters specified is exclusive. Neither the District Court nor Subordinate Civil Court or Magistrate can have jurisdiction on these matters. Even pending matters have to be transferred from the other courts to the Family Courts.

No person is exempt from the jurisdiction of the Family Court. If the dispute relates to the matters enumerated in Section 7(1), Explanation, Family Courts Act, then the Family Court automatically gets jurisdiction, whatever be the religious denomination to which the parties belong. The law administered by the Family Court will be the personal law as applicable to the parties.

The Family Court has no jurisdiction to try offences under the Dowry Prohibition Act, 1961. However, by Section 7(2), (b) of the Family Courts Act, the competent legislature can expand the jurisdiction of the Family Courts Act and confer on it power to deal with controversies not enumerated in Section 7(1), Explanation.

Association of Social Welfare Agencies

The State Government may in consultation with the High Court, provide rules, for the association, with a Family Court and:

- a. Institutions or organisations engaged in social welfare, or their representatives
- b. Persons professionally engaged in promoting the welfare of the family
- c. Persons working in the field of social welfare and
- d. Any other persons whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

Counsellors, Officers and Other Employees of Family Courts

The State Government in consultation with the High Court determines the number and categories of counsellors, officers and other employees required to assist a Family Court.

Efforts of the Court for Settlement

The Family Court is required to make an effort in the first instance consistent with the nature and circumstances of the case to '*assist and persuade*' the parties in arriving at a settlement in respect of the subject matter of the suit or proceeding.

The Family Court, for the purpose of effecting settlement, is empowered by Section 9(1) of the Family Courts Act 'to follow such procedure as it may deem fit.' But this is subject to rules that may be made by the High Court under Section 21(1), (c) of the Act.

Authorities by Whom Rules can be Made

The Family Court Act gives power to three authorities:

- a. The Central Government (Section 22)
- b. The High Court (Section 21)
- c. The State Government after consultation with the High Court (Section 23).

The power of the *Central Government* is limited to making rules on *qualifications of judges of Family Courts*.

By Section 21 of the Family Courts Act, the *High Court may make such rules* as it may deem necessary '*for carrying out the purposes of this Act*'.

This includes rules as to hours and places of sittings of Family Courts and procedures for making efforts at statement.

The *State Government, after consulting the High Court*, can also make rules under Section 23(1) of the Family Court Act for carrying out the purpose of this Act. These include rules as to *salary of Judges, Officers and Counsellors of Family Courts, and fees and expenses of experts whose services are used by the Family Court*.

Family Courts Functioning in Different States

S. No.	Name of the State	Number of Family Courts
1.	Maharashtra	16
2.	Delhi	15
3.	Uttar Pradesh	14
4.	Karnataka	10
5.	Kerala	9
6.	Andhra Pradesh	8
7.	Madhya Pradesh	7
8.	Gujarat	7
9.	Rajasthan	6
10.	Tamil Nadu	6
11.	Uttarakhand	5
12.	Jarkhand	4
13.	West Bengal	3
14.	Bihar	3
15.	Orissa	2
16.	Manipur	2
17.	Tripura	1
18.	Sikkim	1
19.	Pondicherry	1
20.	Jammu and Kashmir	1
21.	Chattisgarh	1
22.	Assam	1
	Total	123

List of References

1. Alka Singh, *Women in Muslim Personal Law*, New Delhi, Rawat Publications, 1992.
2. Anjani Kant, *Women and the Law*, New Delhi, A.P.H. Publishing Corporation, 1997.
3. Archana Parashar, *Women and Family Law Reform in India*, New Delhi, Sage Publications, 1992.
4. Gooroodas Banerjee, *The Hindu Law of Marriage and Stridhana*, Delhi, Mittal Publications, 1984.
5. Imtiaz Ahmad, *Family, Kinship and Marriage Among Muslims in India*, New Delhi, Manohar Book Service, 1976.
6. Laura L. Crites and Winifred L. Hepperle (ed.), *Women, the Court and Equality*, New Delhi, Sage Publications India Pvt. Ltd., 1987.
7. Madhu Shastri, *Status of Hindu Women*, Jaipur, RBSA Publishers, 1990.
8. Namita Aggarwal, *Women and Law in India*, New Delhi, New Century Publications, 2002.
9. P. Rathanswamy, *Marriage, Divorce and Morality*, New Delhi, Deep & Deep Publications, 1995.
10. Prakash Rao V. V. and Nandini Rao V., *Marriage, The Family and Women in India*, New Delhi, Heritage Publishers, 1985.
11. Preeti Sharma, *Hindu Women's Right to Maintenance*, New Delhi, Deep and Deep Publications, 1990.
12. Tanika Sarkar and Urvashi Butalia, *Women and the Hindu Right*, New Delhi, Kali for Women, 1995.

Besides these the following works were studied.

India Law Institute, Bangalore conducted a case study on secondary sources on functioning of Family Court in Jaipur and in a few cities of India.

Workshop on Family Court organised by the National Commission for Women.

Articles that appeared in different journals which mainly describe Family Court, its functioning and drawbacks.

The NIPCCD is the first agency, which tried to undertake a task on integrating support services which formed a major part of the success of smooth delivery of justice.

Annexure IV

NGOs Working Actively for the Development of Women and Children in Varanasi

Father Dilraj

Asmita

B-5/197, Shivala

Varanasi 221 001

Ph: 2277473

Email: dilasmita@satyam.net.in

Phone: 2587664

Dr Dharamendra Rai

Friends

27, Sheel Nagar Extension

Mahmoorganj

Varanasi 221 010

Phone: 2360461

Ms Ranjana Gaur

**Social Action and
Research Centre**

147-Bidhyavasini Colony, Orderly
Bazaar

Varanasi 221 002

Phone: 2509584

Mob: 9415225665

Ms Rolee Singh & Mr Rajiv Kr. Singh

**Dr Shambhunath Singh Research
Foundation**

C-14/160, B-2, Sonia

Varanasi 221 010

Phone: 2350756, 2356052

Mob: 9415204049

Ms Bharati Bhattacharya

World Literacy of Canada

Ganga Mahal. B 2/1. Bhadaini

Varanasi 221 001

Phone: 2314507

Ms Kanchana Singh

Parivartan - CSR

S A 15/133-2, Mawaiyan

Sarnath, Varanasi

Phone: 2586816

Mr Jagat Narayan Singh

Manav Sewa Kendra

Opposite Sagra Stadium

C 33/45 C-27, Chhitapur, Sagra

Varanasi

Phone: 2221238

Nitibhai / Lily Behan

Lok Chetna Samiti

Opp. of Chaukhandi Stupa,

Ashapur Road, P.O. Saranath

Varanasi 221 007

Phone: 2587664

Dr Lenin
**Manavadhikar Jan
Nigarani Samiti**
S- 4/2 A, Daulatpur,
Varanasi 221 002
Phone: 2585580 (R), 2586676 (O)
Mob: 9415300426

Mr Ajit Singh
President **GURIA**
Voluntary Organisation
5-8/395 Khajuri Colony
Varanasi
Phone: 2504253

Mr H. J. Khan
Disha
(The Direction of Success)
Psychological Testing and Guidance
Centre
B-20/37, Second Floor, Near Jain
Mandir, Bhelupur, Varanasi
Phone: 9839325774

Mr J. S. Nathan
Divyajyoti Das
B 1/122, Dumraon Kothi, Dumraon
Bagh Colony, Assi,
Varanasi 221 005
Mob: 9839057774

Dr Vatti Sambasiva
Secretary
Grece Mission Charitable Trust
78, Balaji Nagar Colony, Samne Ghat,
Lanka, Varanasi
Mob: 9335478087

Dr Tarun Kumar Dwivedi
**Society for Social Action
& Research**
M. M. 2, Phase –2, Pandeypur
Varanasi
Phone: 2586012

Dr Ajay Tiwari
Director
Nai Subah
Psychotherapy & Counselling Centre
Kabirnagar, Durgakund, Varanasi
Mob: 9415302922, 9839165006

Rev. Ben K. John
Executive Director
Sampurn Development India
12, Bungalow, Cantt.
Varanasi 221 002
Ph: 0542 2509323
E-mail: sdindia@sify.com

Mr R. K. Singh
Smriti Samajik Kalyan Sanstha
N 7/242-A, Ashok Bhawan,
Near B.H.U. Sunderpur, Varanasi
Mob: 9415290140, 9415290139

Mr Rajesh Kr. Srivastava
(Station Incharge)
Helpage India
C/o Sri Triveni Sahai
D-59/314, A-4, Shivpurwa
Mahmoorganj, Varanasi 221 010
Mob: 9335319142

Case II

1. (i) **Name:** Mrs Nita Vishwakarma
(ii) **Address:** Dhanapur Chandauli
(iii) **Age:** 18 years
(iv) **Occupation:** Housewife
(v) **Income:** Nil
2. **Date of Marriage:** July 2002
3. **Age at the time of marriage:**
Victim's Age: 16 years
Husband's Age: 21 years
4. **Number of Children:** One daughter
Names of Children:

Names of Children:	Age	Sex (M/F)
Menu	1	F
5. **Nature of problem in the victim's marriage:** Even before marriage she faced bad behaviour from the husband. He misbehaved with her and she was warned that her marriage was going to be under pressure.
6. **Who helped the victim in approaching the Court?** Family Members
7. **Problems the victim faced:** The court delayed filing her case and delayed her for a further 2 years even after filing the case.
8. **Any harassment by Police/Court Officials?** She did not face any harassment by police/court officials
9. **Whether she received any help from any NGO/Counsellor or Advocate?** She did not know about any such NGO and did not take the help of any NGO.
10. **Case No:** 570/04
11. **Date of filing the case:** June 8, 2004
12. **Duration of case:** 2 years
13. **Present situation of case:** Waiting for the final judgement
14. **Reason(s) for pending case:** Financial Problem
15. (i) **Name of Perpetrator:** Promod Vishwakarma
(ii) **Address:** Paura Sakaldhia
(iii) **Age:** 23 years
(iv) **Occupation:** Mechanic
(v) **Income:** Rs. 5,000 per month
16. **Any Other Remarks:** The victim remarked that no one should be involved in court affairs.

Case III

1. (i) **Name:** Dr Usha Kiran Rai
(ii) **Address:** L-17, Tulsidas Colony, Banaras Hindu University
(iii) **Age:** 51 years
(iv) **Occupation:** Teaching in University
(v) **Income:** Rs. 2.75 Lakhs per annum (approx)
2. **Date of Marriage:** April 22, 1984
3. **Age at the time of marriage:**
Victim's Age: 30 years
Husband's Age: 31 years
4. **Number of Children:** Not Applicable
Names of Children:

Age	Sex (M/F)
5. **Nature of problem in the victim's marriage:** Husband married another woman after 15 years of marriage after fraudulently getting a divorce decree (which was shown as mutual consent).
6. **Who helped the victim in approaching the Court?** Father
7. **Problems the victim faced:** The system is so slow that even after five years the case has hardly moved and the lawyers are playing a game by getting dates on small/non-issues. The entire judicial system has become perverted and the sufferers are people who are straightforward.
8. **Any harassment by Police/Court Officials?** The Court is continuously allowing dates. It is 5.5 years since I have filed the case and things have hardly moved further.
9. **Whether she received any help from any NGO/Counsellor or Advocate?** Not from NGOs. Advocates are pleading the case.
10. **Case No:** 105/99
11. **Date of filing the case:** July 22, 1999
12. **Duration of case:** 6 years
13. **Present situation of case:** My husband is no longer alive. I have made the other lady a party who has appealed in the High Court against the order.
14. **Reason(s) for pending case:** Since July 2004 because the other lady has appealed in the High Court, every week the case appears on the list but is not heard by the Court.
15. (i) **Name of Perpetrator:** Dr Umesh Chandra Rai, (Now Dr Chandrakala Rai)
(ii) **Address:** Reader, Faculty of Education, BHU
(iii) **Age:** At that time 48 years
(iv) **Occupation:** Professor
(v) **Income:** Rs. 35,000 per month (approx)
16. **Any Other Remarks:** Each day some new problem crops up. Some loophole is left by the lawyers to ensnare the clients. I just do not know how to get justice in spite of having been victimised. Now my husband is dead and I have not been able to prove that I was wronged.

Case IV

1. (i) **Name:** Mrs Deepa Rani
(ii) **Address:** K 18/43, Nepali Koti, P.S. Kotwali, Varanasi
(iii) **Age:** 24 years
(iv) **Occupation:** Housewife
(v) **Income:** Nil
2. **Date of Marriage:** April 7, 2003
3. **Age at the time of marriage:**
Victim's Age: 23 years
Husband's Age: 31 years
4. **Number of Children:** Not applicable
Names of Children:

Age	Sex (M/F)
5. **Nature of problem in the victim's marriage:** Dowry harassment – beating, scolding by in-laws and husband in spite of taking Rs. 80,000 worth of items like a TV, cooler, fridge, bed, fan, chair, anklets, ring, watch, etc.
6. **Who helped the victim in approaching the Court?** Neighbours encouraged her to go to the court as her husbands family were anti-social elements and did not listen to anyone.
7. **Problems the victim faced:** Her mother-in-law harassed her, did not give food to eat, beat her, locked her in the house for 25 days and was planning to sell her in Mumbai. She lived for 36 days in her-in-laws' house.
8. **Any harassment by Police/Court Officials?** They have spent Rs. 4,000 already. The police did not register her case and the FIR. They kept scolding her and said that they could not help her in any way. They went two to three times and finally the SSP helped her. The Station In-Charge refused to file the FIR. The Court officials are only giving a date for the hearing.
9. **Whether she received any help from any NGO/Counsellor or Advocate?** No. The lawyer has filed on their behalf.
10. **Case No:** 424/2003
11. **Date of filing the case:** November 4, 2003
12. **Duration of case:** One year
13. **Present situation of case:** Opposite party has not yet appeared
14. **Reason(s) for pending case:** Opposite party has not yet appeared
15. (i) **Name of Perpetrator:** Mr Sanjay Varma
(ii) **Address:** CK 2/19, Pathani Tola Ramghat
(iii) **Age:** 32 years
(iv) **Occupation:** Business
(v) **Income:** Rs. 15,000 per month
16. **Any Other Remarks:**

Case V

1. (i) **Name:** Mrs Sunitha
(ii) **Address:** Harpalpur Kanniahi Sarayan, Latha, Varanasi
(iii) **Age:** 22 years
(iv) **Occupation:** Housewife
(v) **Income:** Nil
2. **Date of Marriage:** February 1998
3. **Age at the time of marriage:**
Victim's Age: 18 years
Husband's Age: 23 years
4. **Number of Children:** One son

Names of Children:	Age	Sex (M/F)
Raju	1	M
5. **Nature of problem in the victim's marriage:** Dowry harassment. All her in-laws beat her. She stayed for one month after marriage with her in-laws. She was beaten daily and so she returned to her parents place. She is there. She approached the panchayat but her husband was not willing to listen hence she approached the court.
6. **Who helped the victim in approaching the Court?** All the villagers advised her to go to the court.
7. **Problems the victim faced:** he came through her lawyer. But after the case was registered no action has been taken to date. Every month she comes to the court. The lawyer who filed the case on her behalf has left. Now another lawyer is fighting her case.
8. **Any harassment by Police/Court Officials?** No harassment by police or court officials
9. **Whether she received any help from any NGO/Counsellor or Advocate?**
Not received any help from NGOs or counsellor.
10. **Case No:** 66/2001
11. **Date of filing the case:** February 9, 2001
12. **Duration of case:** 4 years
13. **Present situation of case:** The girl has demanded Rs. 500 as maintenance. The court has not yet finalised the amount
14. **Reason(s) for pending case:** The boy was not prepared to pay maintenance. As the girl filed another case for dowry harassment, the boy and his family members (four) were imprisoned. So the boy's mother said that unless the dowry case was removed they would not pay maintenance.
15. (i) **Name of Perpetrator:** Chandra Shekhar
(ii) **Address:** Bharloi, Shivpur, Varanasi
(iii) **Age:** 28 years
(iv) **Occupation:** Carpenter
(v) **Income:** 1500 per month
16. **Any Other Remarks:**

Programmes Organised by the Centre Related to the Project

NGOs Meet Held at CWSD

The NGOs who were interested in helping the Family Court as Counsellors were invited at CWSD on December 27, 2004. Twenty-six representatives of different NGOs participated in the programme and the session was held between 1:30 p.m. and 5:30 p.m.

Mr S. K. Srivastava, the Principal Judge of the Family Court, Varanasi, and Mrs Vijaya Laxmi, the Principal Judge of the Family Court, Allahabad, were also invited for the programme. Both judges were requested to answer the NGOs' queries regarding the legal procedure, for the easy resolution of disputes between the affected parties.

The NGOs agreed to work jointly and form a network to serve society effectively. They decided to have easy helpline numbers for women victims to dial when they were in need of counselling.

The Principal Judge of the Family Court, Varanasi, requested the NGOs to submit those helpline numbers to the Family Court, Varanasi. He said that the NGOs could help the Court by counselling the victims right from the pre-litigation stage to the post-litigation stage. He mentioned that he had written several letters to the Government of Uttar Pradesh to sanction the posts of counsellors for the Court but the Government had not yet done so. However, with the help of other agencies he was able to recruit four part-time counsellors who were of great help to him. He emphasised that a serene atmosphere with proper infrastructure, lighting, spacious rooms, drinking water, toilets, Short Stay Homes, etc. were required in the Court premises to work effectively.

The NGOs stated that they would seek each other's help in serving the victims better. As the NGOs had different objectives for their own organisations, they felt that they could refer matters to those NGOs who were working on resolving marital issues. The NGOs decided to form a network by which the victims could approach the nearest NGOs, who in turn would assist them through



NGO Member's Actively Participating at the Meet

counselling, help them to resolve their problems and provide assistance whenever they needed their guidance. All the NGOs decided to work as effective Pressure Groups in Varanasi and ensure that the welfare schemes of the Government were fulfilled and reached the beneficiaries effectively.

Involvement of University Students in the Project

Postgraduate students of the Social Work Department, Banaras Hindu University were encouraged to involve themselves in this project for two reasons. Firstly, to provide them with an opportunity to understand the problems of women victims at the Family Court, Varanasi and to have practical exposure of the functioning of the Family Court, Varanasi. Secondly, to enable the students to personally interview the women victims after winning their confidence in order to discover the realities of their marital disputes, the problems they faced during their cases at the Family Court and to counsel the women victims to resolve their disputes with their partners.

During the research it was found that the students involved were enthusiastic in counselling the women victims and simultaneously provided the addresses of NGOs who could help them in their cases. The students stated that they had learnt a lot after being involved in the project, which helped them to interact

with the women victims and understand the functioning of the Family Court. They were also willing to help in assisting the Counselling Centre of the Family Court, Varanasi.

Hence it is suggested that the universities in Varanasi City should contribute in the extension activities by permitting postgraduate students from the faculties of Sociology, Psychology, Law, and Social Work to assist in counselling the clients of the Family Court as part of their curriculum, as it would help in improving the efficacy of the court.

Awareness Programme on Rights of Women

The Centre for Women's Studies and Development, Faculty of Social Sciences, BHU organised 'Awareness Programme on Rights of Women' for the NGOs of Varanasi on July 30, 2005 at 2:30 p.m. in the Library Hall under the project activity.



NGO Members Participating in the Meet

More than 30 representatives from different NGOs of Varanasi such as World Literacy of Canada, Friends, Asmita, Social Action and Research Centre, Helpage India, Disha, Sampurn Development India, Manav Sewa Kendra, Nai Subah, Sadbhavna Samiti, Smriti Samajik Kalyan Sanstha, Parivartan,

Lok Chetna Samiti, Subhita Vikash Aur Siksha Samiti, etc. participated in the meet and discussed the various issues related to the cases in the Family Courts with the panelists.

Prof. P. K. Bhargava, Dean, Faculty of Social Sciences, BHU, in his welcome address emphasised the active role an NGO could play in solving cases by acting as a bridge between the suitors and the Family Court.

While introducing the project theme, Prof. Chandrakala Padia, Coordinator, Centre for Women's Studies and Development, BHU, stated that the functioning of the Family Court was so complicated and time-consuming that women suitors grow old by the time they get justice. She also pointed out the lack of crèches in the town and suggested that to solve these problems we should develop support systems with the help of NGOs.

As a panelist, Shri K. K. Singh, Ex Joint-Director, National Institute of Public Cooperation and Child Development, New Delhi, recommended time flexibility regarding the working hours of Family Courts, a congenial environment in Family Courts, the development of supportive staffs, the appointment of female judges, less interference by lawyers in Family Court cases, consideration of oral evidence, etc. for the effective functioning of Family Courts. Emphasising the important role of NGOs he said that they could act as mediators, counsellors, watchdogs, dispute resolving authorities, etc. for speedier trials of cases in Family Courts.

Dr Akhilendra Pandey, Reader, Faculty of Law, BHU, elaborated on the deplorable conditions of Family Courts in his lecture and suggested that for the effective and speedy trial of cases, the judges of Family Courts should work with a spirit of humanism, without gender bias and should try to minimise the usage of Powers of Attorney.

Dr Vibha Tripathi, Faculty of Law, BHU recommended active involvement of NGOs as mediators, counsellors and as morale boosters for women suitors.

All the NGOs agreed to form a **Joint Action Group** as a socio-legal support and to help in the proper functioning of the Family Court. The researchers presented the findings of the study and distributed Information Booklets prepared by them about the Family Court to the participants.

One-day Workshop for Postgraduate Students

A one-day workshop on **How to Provide Counselling to Women Suffering from Familial and Marital Problems** for the postgraduate students of the



Prof. S. S. Kaushik delivering her lecture. On her right is Prof. C. Padia

Social Work, Sociology, Psychology and Home Sciences faculties was organised by the Centre for Women's Studies and Development on August 27, 2005 as a part of the project activity. Students from these disciplines participated in this workshop. In her welcome address, Prof. Chandrakala Padia said that Family Counselling is emerging as one of the main areas all over the world. It is the lawyers who charge heavy fees and make the position of the victims more difficult and pathetic. Free counselling services is still a remote dream.

In the first session of the workshop, Prof. Sandhya Singh Kaushik gave an enlightening lecture on the theoretical aspects of counselling and defined counselling as systematic and scientific advice based on empirical evidences. She said that a counsellor should be more committed and knowledgeable about societal changes; should be aware of the variety of family arrangements and be open to the new methods and techniques available today. A counsellor should take down the detailed history of each client, categorise her/his

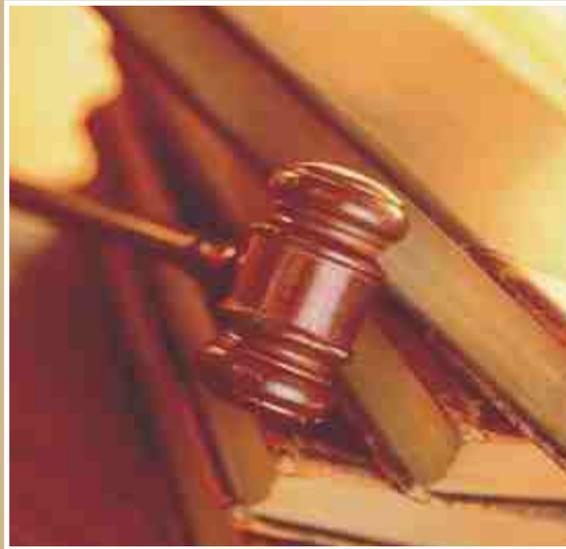


Participants Listening Very Attentively to Prof. S. S. Kaushik's Lecture

problems, should be non-verbal, attentive and observant of the client's problems, should try to avoid using the word 'why' while discussions with the client and should be empathetic. A helping spirit is a counsellor's most important quality. She also emphasised the aims and objectives of counselling, i.e. reduction of the client's emotional stress, to enable the client to face new experiences objectively, strengthen the weak ego and increase the self-worth, self-esteem and energy of the client. Since each case is complex and separate, a counsellor should take into consideration the cultural context, origin of issues, traditional family role, functions, etc. In dealing with a client, a counsellor should use certain techniques such as 'Reframing', i.e. attributing differing meanings to behaviour which brings instant reduction of tension, 'empty chair' i.e. less tension-provoking gestures, family rituals and behavioural analysis or assessment, i.e. antecedents and consequences of an event should be taken into account. We should always incorporate the spiritual dimension. Finally, she spoke at length about the importance of counselling as it has a definite distress-relieving value, has no side effects and provides calmness and future directions.

In the second session of the workshop, Mrs Rollee Singh, President, Child Welfare Committee, Varanasi and Vindh Mandal explained in detail about

the qualities of a counsellor and the need for counselling suffering women. A counsellor should possess a firm willpower and patience while dealing with suffering women. A counsellor should maintain complete secrecy of the client's problem, i.e. she should not publicise it. She also said that we just could not fix the indicator of a counsellor and a counsellor should not compromise with adverse situations and pressures and should talk to both parties separately. On the part of the client, she suggested that a client should have complete faith in the counsellor. Finally, she noted that the aim of a counsellor should always be to provide a positive solution and any move to the Court should be a last resort.



National Institute of Public Cooperation and Child Development

5, Siri Institutional Area, Hauz Khas, New Delhi - 110 016