

Life is full of joys, smiles, sorrows, with joys and sorrows predominating and that is reality.

— George Bernard Shaw

TIMES are changing. Never before was so much concern displayed about human rights in the form of freedom of mind, body, thought, expression, belief, faith and worship. But what about societal duties? After all, should everything be taken as absolute and unconditional? Then again, when it comes to women's rights, evidence points to a lack of respect that provokes protests that emanate from the heart.

Calcutta High Court advocate Shekhar Basu says impatience, intolerance, arrogance and the effects of globalisation have contributed largely to a change of attitude. "Some of the existing laws need to be amend-

ing her or any other person related to her into meeting any unlawful demand for property or valuable security or is on account of failure by her or any person related to her to meet such demand.

According to Chittotosh Mukerjee, the section shouldn't be made bailable and compoundable because women are still considered "weaker" by society. "But," says this former chief justice of Bombay High Court and once commissioner of the Human Rights Commission, "we must also judge things in a wider context."

So what are the ground realities in a city like Kolkata? Here are "realities" why some women, supported by relatives and parents, filed cases under Section 498A:

■ A 26-year-old woman from a middle-class family lets it be known, soon after her marriage, that she isn't much good at household chores. Not

transferred to her husband and that her sister-in-law should never visit her house since the latter causes her discomfort. While the first demand is met, in-laws and husband reject the second, making it clear that the "sister-in-law" in question will visit and stay with them as and when she wished.

But soon after the property and savings are transferred, the woman begins to insist that the second demand also be met. Things come to a head when the husband put his foot down. What follows is a walkout by the woman who decides to live with her parents. The matter doesn't end there. She and her parents begin threatening the husband and his family with filing a case under Section 498A.

■ Within of 11 days of marriage, a woman files a case under Section 498A and demands Rs 7 lakh as com-

plaint. "The Section should be made compoundable. Making it non-bailable is like sending a soldier to the battlefield with both his hands cuffed off."

Calcutta High Court advocate Joydutta Bagchi backs his view. "Prior notice of arrest with justifiable reason as to why such a measure is necessary must be issued to the police to the defendant. Such action will help ascertain genuine cases of torture on women."

8TH DAY

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GENDER BENDER

Section 498A was framed to protect women's rights. But if women showed a little more tolerance and respect for others' emotions and rights they'd be a lot happier, says **Aparna Banerjee Seal**



Illustration: CHAMEERAS BHATTACHARYA

ments to Section 498A". Referring to the latest crime chart, he says there have been fewer reports of such crimes.

There is no arguing that women are still considered weak, so there must be laws to protect them. But if we're looking for long-term change, this must evolve from society itself — a collective realisation from within that women are no less human than men.

"Laws alone cannot change a society," says Joydutta Bagchi. "The change must come from the socio-economic levels." She's right.

Marriage is a long-term alliance that is sustained by mutual trust and respect. That's why it's very important why a woman, while choosing a partner, must carefully consider the following:

- Her own financial and other material requirements;
- Her own habits, likes and dislikes and how these might affect others;
- Make a dispassionate self-assessment — whether she's the emotional kind, whether she's ready to care and share or be a self-seeker, whether she wants control of everything, and whether she desires complete or partial freedom in her in-laws' home;
- The promises made by both sides on practical grounds during the period of negotiation;
- A deep understanding that her sister-in-laws has as much legal right as she has to her in-laws' property. To be sure, both daughter-in-law and sister-in-law must respect each other's rights; and
- The need for medical check-ups.

While filing a case under Section 498A, a woman must also consider the following:

- Whether the promises made earlier have really been broken;
- If it is some in-law adjustment that she might construe as mental torture;
- Whether she respects her in-laws as much as she expects her husband to respect her parents;
- Whether her's isn't a matter of sheer jealousy, selfishness, inconsideration and impatience;
- Whether "torture" springs from a momentary explosion of emotions or amounts to pre-meditated action;
- Whether her eagerness to find happiness or establish her rights in her in-laws' home isn't costing others their rights; and
- If her problems aren't the result of differences of opinions and petty quarrels instead of actual criminal intent.

Obviously, the onus is equally on women to ensure that Section 498A isn't abused. It is very important for a woman to realise that if her in-laws are thrown into crisis and trauma, she can't escape the effects. Nor can she afford to be whimsical or irresponsible and must engage in self-inspection before taking the extreme step. Marriage is, after all, a two-way street with more than two persons lining the sidewalks!

These days, more and more young men are "scared" of marrying. Why? Because they fear "domestic violence", that marriage will force them to "dump our parents", that their "freedom will be curbed", that marriage will result in a "gloomy existence".

It's equally true that many women these days are seen as trouble-makers. Selfishness does lend the lie to individuality. Breaking away from a big family to form a nuclear unit is no big deal provided the move is stamped with the guarantee that the nest stays intact.

Demanding rights and getting them is all very well, but hurting others creates a chaos that's apt to leave one on the brink. However well deserved, though, there's no stunner to cry on.

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ed. It is time Section 498A was made bailable and compoundable," he says by way of defending his argument that it robs men of means to defend themselves.

Section 498A became part of the Criminal Law Act on 25 December 1983, the Supreme Court saying its inclusion was in response to the needs of society. The cruelty a number of married women were being subjected to in India had to be stopped. An amendment to the Evidence Act was effected, shifting the burden of proof of innocence to the accused, much against normal criminal jurisprudence.

Section 498A determines that if a husband or his relatives subject a woman to cruelty, they face imprisonment for a term extendible to three years and are also liable to being fined. More significantly, the (so-called) "offence" is non-bailable and non-compoundable.

Law defines cruelty on women thus:

- Willful conduct that is of such nature as is likely to drive her to commit suicide or cause grievous injury or danger to life, limb or health (whether mental or physical); or
- Harassment with a view to coer-

Sex	Section 498A should be bailable	Should be compoundable	Both	Do not know	No change is required
Male	14	11	21	2	8
Female	10	17	19	-	12
Financial Background					
Lower Class	7	9	11	2	4
Middle Class	6	7	15	1	1
Upper Class	7	8	19	1	-
Cultural Background					
Believing in Western Culture	5	14	8	8	2
Indian Culture	8	11	14	4	1
Both	11	8	16	7	3
Family Type					
Nuclear	12	8	7	12	15
Joint Marital	14	7	28	3	1

is the interested in any. She claims she never learnt how to even peel a mango. But she is very much demanding when it comes to "the services and comforts" her in-laws and husband are "supposed to provide" her.

With the marriage barely two years old, the wife demands that all property and savings the family has be

persation.

■ A 15-year-old girl, described as being easily given to emotion, commits suicide only six months after her marriage.

These are examples enough to show how marriages could have survived had the women displayed a little patience, tolerance and sensitivity. Says West Bengal law minister

ery," he says.

His colleague, Milan Mukerjee, says, "It's high time the Section was made compoundable and bailable. In most cases, it is used with a motive to harass husbands and their families."

The Supreme Court has also spoken in favour of an amendment. In *Hanraj v the State of Haryana*, the apex court observed that Section 498A should be amended to make the "offence" bailable to reduce the number of false cases. It also spoke of the need for both husband and wife being counselled.

The Malimath Committee in its report observed that on many occasions Section 498A acted against the wife's interests. Since any offence under the Section was non-bailable and non-compoundable, the accused husband and/or members of his family could be arrested and jailed. As a result, the accused could lose his job. And later on, even if the wife was willing to forget and forgive, returning to her husband's home became impossible. Such an overcautiousness could be avoided only by making the offence bailable and compoundable.

Sujay Chakraborty, who retired as Kolkata's Police Commissioner a few days ago, also wants "certain amend-