

INTIMATE PUBLIC SPACES: POLICING “DOMESTIC CRUELTY” IN  
WOMEN’S CELLS, DELHI

By

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## ABSTRACT

This dissertation examines the relationship between the law and the police in the Special Protection Unit for Women and Children (Unit/Cell), Delhi. It explicates how the Unit works, post its restructuring in 2008, with the Dowry Prohibition Act (DPA), 1961, which criminalizes giving and receiving of dowry and Section 498-A of the Indian Penal Code, which criminalizes “domestic cruelty” within marriage (related or unrelated to dowry). Established in all the eleven districts of the city of Delhi in the 1980s, these special cells continue to be staffed mostly with non-uniformed women police officers. With time, the work of the Unit has come to be defined by conciliatory and mediatory practices that have to be exhausted before proceeding towards filing of a formal charge against any accused person. The Cells were always a special kind of policing institution, tied as they were to the DPA, therefore, any new interpretation in any of the laws related to the DPA directly impacts their working.

This dissertation delineates three problematic, the contours of which are examined in the space of the Unit. These are: (i) how the police marshal factious meanings of law, as laid out by courts in India, in a milieu where narratives of violence they encounter constantly challenge courts’ interpretations of domestic violence; (ii) how the police perform restorative work in a shifting context where the premise of *this* form of police work often becomes a question of police’s legitimacy and constitutionality; and (iii) how it is in this contrasting field that individual police officers bear intensely individuated forms of accountability, which is amplified by working with contractual workers of the state, who bring their own understanding to the comprehension and actualization of law,

while bearing little responsibility either towards the state or their colleagues. This dissertation explicates these emergent problematic, which are not readily present to be galvanized; rather they emerge in the intercalation between law and police work.

Working with the police allows for attention to be drawn to processes that must be exhausted as a prerequisite to prosecution. The courtroom, however, is not absent in any complaint's trajectory and pre-trial interventions do not remove the possibility of a trial; in fact, pre-trial is structured keeping in mind the eventual possibility of a courtroom trial.

Chapter one explicates the first two problematic by showing how the DPA and the adjacent laws on domestic cruelty work by perpetuating a binary between customary practices and criminality. Chapter two explains how policing work is made possible by a heightened individuation of responsibility. Chapters three, four and five delineate biographies of three complaint cases in the Unit. The choice of a case-method stemmed from an understanding that concepts are not transcendental for a still unfolding reality and they can grow out of the singularity of cases. In the conclusion, I argue that an encounter with law cannot be understood only in terms of what it ultimately facilitates or fails to facilitate. A settlement or a compromise is only an external affirmation of working with law, with little bearing on how legal reasoning works in the social with varied and, often, unanticipated effects.

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For my mother, who intrepidly negotiated the male dominated police force  
for 38 years

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## ACRONYMS

ACP	Assistant Commissioner of Police
Addl. DCP	Additional Deputy Commissioner of Police
ADR	Alternative Dispute Resolution
ASI	Assistant Sub Inspector
ASJ	Additional Sessions Judge
CAT	Central Administrative Tribunal
CAWC	Crime against Women Cell
CBI	Central Bureau of Investigation
CCL	Child Care Leave
CDA	Capital Development Authority
CIC	Central Information Commission
CISF	Central Industrial Security Force
CPIO	Central Public Information Officer
CrPc	Code of Criminal Procedure
CRPF	Central Reserve Police Force
DANIPS	Delhi, Andaman and Nicobar Islands Police
DCP	Deputy Commissioner of Police
DLSA	Delhi Legal Services Authority
D/O	Daughter of
DPA	Dowry Prohibition Act
DV Act	Domestic Violence Act
EO	Enquiry Officer
FAA	First Appellate Authority
FCD	Front/Fresh Complaints Desk
FIR	First Information Report
GO	Gazetted Officer
HC	Head Constable
HC	High Court
IAS	Indian Administrative Service
IEA	Indian Evidence Act
Insp.	Inspector
IO	Inquiry Officer/ Investigating Officer
IPC	Indian Penal Code
IPS	Indian Police Service
Jt. CP	Joint Commissioner of Police
NCRB	National Crime Records Bureau
NCT	National Capital Territory
NCW	National Commission for Women
NDOH	Next Date of Hearing
NP	Nanak Pura
NW	North West
OR	Orderly Room
PCR	Police Control Room

PHQ	Police Head Quarters
PIN	Personal Information Number
PIS	Personal Induction Serial
PI	Please
PS	Police Station
PWDVA	Protection of Women from Domestic Violence Act
RAF	Rapid Action Force
R/O	Resident of
SC	Supreme Court
SCN	Show Cause Notice
SHO	Station House Officer
SI	Sub Inspector
S/O	Son of
SPUWAC	Special Protection Unit for Women and Children
W	Woman

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## NOTE ON TRANSLATION AND TRANSLITERATION

In the writing of this dissertation, I have omitted diacritical marks and have chosen to transliterate Hindi words after the simplified conventions of contemporary Indian-English. All spellings are, therefore, phonetic. The italics within brackets are used to indicate the actual words spoken in Hindi or Hindustani. The insertion of English in Hindustani speech and writing is a perfectly natural and acceptable practice in India. The sentence structure of written English very often mimics that of written Hindi, therefore, in my translations, I have adhered to this style, especially if the speech of the person incorporated some English into the vernacular Hindustani. For instance, everyone in the Unit referred to a court as a “court” and not *kachery*, a love marriage as a “love marriage” and not *prem-vivaha*, evidence as “evidence” and not *saboot*, Indian Penal Code as “Indian Penal Code” and not as *Bhartiya Dand Sanhita*, and so on.

All names, places and dates have been fictionalized to protect the identity of persons.

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## INTRODUCTION

One summer afternoon, almost a year into my fieldwork, I had just sat down for lunch with Inspector Komal Chaudhary and Inspector (Insp.) Hira Mani. We were waiting for Insp. Uma Pandey to join us. She had recently been moved from the pre-litigation counseling unit to the Police Station, where she was now the senior-most officer and was called the Station House Officer (SHO). After becoming the SHO, she had been inundated with work and increasingly found it difficult to come by the pre-litigation side of the Unit. What intrigued me most were the number of documents and files she examined and put her signature on, as she attended to phone calls, advised staff and met with people who had their cases at various stages of trial pending in the station and the court. As she came, somewhat breathless, to the first floor of the pre-litigation counseling unit for lunch, she said to all of us that she was really frustrated with being a police officer. Complaints of frustration with police work were not new, but today she also seemed a bit indignant and shaken. She said that she had been trying to obtain a five-days pre-arrest notice from the Additional Deputy Commissioner of Police (Addl DCP), which she wanted to serve to an accused party in a case that she was handling. This prior notice allows a party to move an application in the court for obtaining anticipatory bail while also allowing the Police Station to initiate criminal proceedings. The Addl DCP had declined permission for arrest to Insp. Pandey, and this had culminated in an argument between them. The issue here was the interpretation of the law on “domestic cruelty” as defined Section 498A of the Indian Penal Code (IPC). The Addl DCP was of the opinion that only if someone was “grievously injured” could the police proceed towards making arrest. A recent judgment of the Delhi High Court had reinterpreted the law on “domestic

cruelty” within marriage and had issued new guidelines to the police on arrests in these cases. For Insp. Pandey, the evidence in the complaint was sufficient to move towards arrest, while the Addl DCP was convinced that “grievous injury” had to also be ascertainable as such. The conversation at lunch, then, became about the language of law as interpreted by courts, the demands that meanings of law put on the police, the internal organization of police ranks, and, also, the consequences of all of these factors on women who invoke the law on “domestic cruelty”. I reproduce a small segment of the conversation below:

**Insp. Pandey:** Why should a woman have to think of committing suicide when all she wants is a solution to her bad marriage? Why should this be a matter of life and death? Why must being grievously injured always be about contemplating suicide? Is suicide the only form of dying? What of women who die little (*til til marna*) deaths every day in their marriages?

**Insp. Chaudhary:** Don’t get so hyper. You have been in the force for twenty years. It is not as if you don’t know that no senior officer wants to take responsibility. All of this will be about you later. If she (Addl DCP) is not giving permission, then let the complainant speak with her directly.

**Insp. Pandey:** Then what am I the SHO for? My word must count for something or am I just a little puppet, who only gets blames and criticism (*ninda*). I am telling you, from now onwards, I am going to tell every complainant to write that she was harassed by her husband and in-laws so much that she often thought of committing suicide, that she even tried to attempt suicide.

**Insp. Chaudhary:** Don’t be silly, Uma.

**Insp. Pandey:** Madam is saying that there can’t be any arrest in this case because court orders say that we have to be careful with arrests. And what if someone does think of suicide and actually acts on it and dies? Then you will land up in God’s court and, *inshallah*, if you survive, you will still land up in court, except it will be some Delhi court (*dilli ka darbar*) trying you on criminal charges of attempting suicide. This is ridiculous. I am really going to tell all complainants to write that they thought of killing themselves. I just can’t understand how death can be a solution for crap marriage (*bakwaas shaadi*). And why should we (women) die? Let them (men) die. I am really angry today. I am also just fed up.

**Insp. Chaudhary:** If a complainant writes that thoughts of ending her life crossed her mind then also the court can say that you can’t think of ending your life for small matters (*choti-choti baatein*).



**Insp. Pandey:** What is a small matter (*choti baat*)? Courts think that women go to the police over small matters. Do Indian women have so much time? Do they even have the money for daily expenses? Not that they even get free (*fursat*) from household chores until mid-afternoon. Where is the time and resources for police and courts (*court-kacheri*)? When a woman does approach the police, we should just assume that things would have hit rock bottom for her. Rather than doing that, the courts want women to prove that they were “grievously hurt” or question the nature (*kis tarah ki chot*) of the hurt and then pronounce their own judgment on what it *actually* means to be hurt. This is nonsense, just nonsense. [translation mine]

I start with this vignette to set the tone of my dissertation, which examines the relationship between the law and the police in the Special Protection Unit for Women and Children (henceforth, Unit/Cell), Delhi.<sup>1</sup> Specifically, I will explicate how the Unit works with the various provisions of the Dowry Prohibition Act (DPA), 1961, which criminalizes giving and receiving of dowry and Section 498-A, which criminalizes “domestic cruelty” within marriage, related or unrelated to dowry. Established in all the eleven districts of the city of Delhi in the 1980s and called the Crime against Women Cells (Cell), the principal work of the Cells<sup>2</sup> was to investigate complaints related to dowry harassment and domestic cruelty. The decade saw many legislative enactments and amendments to existing laws primarily because of a thriving women’s movement that campaigned for legislative reforms and brought attention to the question of violence against women. Of these, the campaign against dowry and dowry murders was a seminal issue (see Shah and Gandhi 1992; Kumar 1993).

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<sup>1</sup> <http://spuwac.com/>, last accessed on 20<sup>th</sup> October 2016.

<sup>2</sup> Although the Unit, where I conducted my fieldwork has now been renamed the Special Protection Unit for Women and Children, the remaining Cells in Delhi continue to be addressed as such. At the Unit as well, the older abbreviation, that is, CAW Cell or just Cell is used instead of the Unit. Throughout the dissertation, therefore, I use Unit and Cell interchangeably to speak of the SPUWAC.

The Cells continue to be staffed mostly with non-uniformed women police officers. With time, the work of Cells has come to be defined by conciliatory and mediatory practices that have to be exhausted before proceeding towards filing of a formal charge against any accused person. The Cells were always a special kind of policing institution, tied as they were to the DPA, therefore, any new interpretation in any of the laws related to the DPA directly impacted their working. My fieldwork was located in the Cell headquarters, situated in the southern part of the city of Delhi and it is this headquarter that was renamed Special Protection Unit for Women and Children, following a Delhi High Court judgment in 2008. Since 2008, the Cell is also supposed to cover other “crimes against women” like kidnapping and rape and this has been enabled by the fact that it now its own police station. Many countries have institutionalized special police units for women, with Brazil taking the lead (Nelson 1996; Santos 2005). Till 2011, India had a total of 442 all women police stations, with 196 located in the southern state of Tamil Nadu alone.<sup>3</sup> Delhi continues to have only one such police unit, which is the SPUWAC, with women helpdesks in all police stations. The women’s cells in other districts work in conjunction with the police stations located in particular districts.

The vignette at the beginning demonstrates the relatedness of the Unit and the law and how they co-constitute each other. For the police this means that its own practices come to be defined by orders of the court. The courts, in turn, interpret law’s definition, in the light of narratives of violence rendered to it through criminal cases initiated by the police. This process is far from seamless, as is evident from the snippet of conversation between

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<sup>3</sup> <http://www.thehindu.com/news/national/states-not-keen-on-women-police-stations/article4232696.ece>, last accessed on 20<sup>th</sup> October 2016.

See also, Bhardwaj 1999, 1976; Natarajan 2008, 2005, 2002; Dave 2015.

the police officials, where the SHO, Insp. Uma Pandey struggles to make a complaint fall within the ambit of law, which stipulates that for “grave injury” be proved as per law’s definition, it has to be “of such a nature as is likely to drive the woman to commit suicide”. The argument with the Addl DCP, to which Insp. Pandey alluded, indicated that there was some disagreement between the two over whether grave injury had been proven in the initial investigation conducted by the police. While the Addl DCP remained dissatisfied with the findings of the police, Insp. Pandey was convinced that the police had enough evidence to advance towards an arrest.

In the conversation at lunch, which followed the denial of this permission, Insp. Pandey was not just lamenting about everyday frustrations at the workplace, but in her protestation, she was questioning the logic of the law, whose definition brings equivalence between harm and “near death” and where the nature of injury, particularly mental injury, was needed to establish suicidal thoughts. Acting on those thoughts and succeeding would mean death for the woman and surviving it would make her liable for criminal action for attempting suicide. Insp. Pandey’s words capture women’s resourcelessness, which becomes one of the many reasons they continue to live in oppressive marriages. A woman who does come to the police for help must be given unequivocal support, according to Insp. Pandey, for coming to the police could be indicative of how far gone the situation would be for a complainant. Questions about whether the harm harmed enough to contemplate suicide are demeaning to the complainant; they also bring correspondence between claims on life that become tangible *only* with a risk of dying. It was in this context that Insp. Pandey was contending that her

advise to complaints would be to state categorically that they contemplated suicide in their marriages because anything less would not make for a criminal charge under the law on domestic cruelty.

My dissertation studies the implementation of the DPA and its related provisions in the Cell, post its restructuring in the year 2008. This reorganization retained the policing work performed previously and added a police station to it to enable it to conduct its own investigations. These reforms also created a pre-litigation structure, which now includes a Mediation Cell, run by the Delhi Legal Services Authority (DLSA) and a Counseling Unit, with in-house “professional counselors”. Therefore, pre-litigation has three stages, that is, counseling by police officers, mediation by lawyers, and counseling by counselors. The Unit’s police station initiates criminal proceedings on complaints that do not get resolved through pre-litigation attempts. Since the law I study is a criminal law, my dissertation is principally about the work of the police. This is because the pre-litigation set up, too, works from the auspices of a policing unit and it is only after working with the police that the decision to move a complaint for mediation or counseling is made. I delineate three problematic, the contours of which are examined in the dissertation by locating them in the space of the Unit. These are: (i) how the police marshal factious meanings of law, as laid out by courts in India, in a milieu where narratives of violence they encounter constantly challenge courts’ interpretations of violence; (ii) how the police perform restorative work in a shifting context where the premise of this form of police work often becomes a question of police’s legitimacy and constitutionality; and (iii) how it is in this contrasting field that individual police officers

bear intensely individuated forms of accountability, which is amplified by working with contractual workers of the state, such as lawyers and “professional counselors”, who bring their own understanding to the comprehension and actualization of law, while bearing little responsibility either towards the state or their colleagues.

These problematics are emergent, in the sense that they are not readily present to be galvanized; rather, their manifestation and effects remains undetermined. For me, these problematic have emerged in the intercalation I see between law and police work, of which the opening segment is an example, and, also, in the unfolding of individual complaint cases in the Unit. Most complaints do not actually result in the filing of formal criminal charges. A significant number of these are resolved through pre-litigative methods while many are withdrawn either because they do not meet the criteria for prosecution or the complaint invoking the criminal law could be one among other civil cases that a complainant may have filed against her husband and in-laws. If a civil case bears fruition, a complainant may either choose to close the complaint in the Unit or it might be required of her to close the complaint as part of negotiations in civil cases. The courts, too, have Mediation Cells built within their premises and now encourage couples, in an on-going trial, to resolve or settle their differences through mediatory proceedings. The courts, therefore, do not form a prominent site for understanding the multifarious ways in which the meaning of criminal law are negotiated, for instance, by the police, complainants, respondents, lawyers and the counselors. Working with the police allows me to draw attention to the processes that must be exhausted as a prerequisite to prosecution as much as drawing attention to what happens to complaints when they do

not reach the courtroom. The courtroom, however, is not absent in any complaint's trajectory and pre-trial interventions do not remove the possibility of a trial; in fact, pre-trial is structured keeping in mind the eventual possibility of a courtroom trial. For instance, a complaint file is a consolidated amalgamation of documents that are collected with protocols of evidence-building in mind.<sup>4</sup> My effort here will be to both document the making of a case file as much as to explicate how the possibility or impossibility of a trial mark the nature of interaction between the Unit's officials and the complainants.

#### CRIMINAL AND CIVIL DOMESTIC VIOLENCE LAWS IN INDIA

The history of women's struggle in India, on the question particularly of domestic violence, has seen two kinds of movement. The first step had involved bringing attention, through sustained campaigns that started in the late 1970s and well into the 1980s on dowry and dowry-related deaths (Agnes 1988, 1992, 1999; Katzenstein 1989; Shah and Gandhi 1992; Kumar 1993; Agnihotri and Majumdar 1995; Oldenburg 2002). Campaigns against dowry brought into sharp relief the gruesome form that dowry-deaths took in North India. Bride-burning, as they came to be called in public discourse and media, these deaths were caused by burns, and were usually rendered by the affinal kin as kitchen accidents. Since they occurred within the private realm of the matrimonial home, it would often become difficult for the police to prove that the death was actually an act of premeditated murder. As a result, affinal kin were often successful in passing them off as "suicides" (Kishwar and Vanita 1985; Kumar 1993). The movement's slogan, "Brides are not for Burning" brought much needed focus of both the print and visual media, domestic and international, on the inhuman form that dowry-related violence took in

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urban north India.<sup>5</sup> The movement also critiqued the Indian government and the police for failing to interpret these incidents as matters of public concern and violence against women. Arguing against locating dowry-related violence as a matter internal to a family, widespread mass campaign, led by individual organizations and *Dahej Virodhi Chetna Manch*<sup>6</sup>, mounted political pressure on the government to take note of growing incidences and to enact effective legislation to criminalize the institution of dowry and also related harassment faced by women. The extensive movement against dowry and related violence led to the Indian state making a series of legislative enactments in the DPA, 1961.<sup>7</sup> These changes in the law helped in bringing explicit recognition to violence faced by women in marriages and created a new law that both recognized and criminalized “domestic cruelty” as a specific form of violence faced by women. Marriage, then, became the site for defining domestic violence, with its perpetrators being husbands and in-laws. The demand of the women’s movement and the state’s response to domestic violence took the form of criminalizing dowry and dowry-related violence because it was assumed that stringent laws would act as effective deterrents to the commission of the crime (Chapter 1).

While emphasizing the culpability of the affinal family in abetting a woman to commit suicide, my dissertation argues that when faced with repeated cycles of violence and humiliation, whether related or unrelated to dowry-demand, a woman is driven to commit suicide also because she does not get support from her natal family members, who think of her return to the native home as a stigmatizing event, tarnishing their social standing in

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<sup>5</sup> For an understanding of the practice of dowry in the colonial period, see Majumdar (2009).

<sup>6</sup> This may be translated to mean Forum for Protesting against and Creating Awareness about Dowry.

<sup>7</sup> <http://www.wcd.nic.in/act/2314>, last accessed on 20<sup>th</sup> October 2016.

their community. I trace how the domestic violence law also forces a false representation of the economy of violence and prevent an articulation that shows how a woman is trapped between the violence faced between her two families. In one of her earliest works studying the impact of legislative enactments on Indian women's lives, Flavia Agnes argued that in many cases where women had sought refuge in their natal homes, they had been sent back by their families to their matrimonial homes, where they were eventually murdered (Agnes 1992; see also, Kapur and Cossman 1996; Rajan 2003; Kannabiran 2014). Although women are entitled to inherit from their parents and can claim a share of the ancestral property, this right is often unacknowledged both by the parents of the girl and also by the girl who is socialized into believing that all property rights become available to her only through marriage. Scholars have shown that any efforts made by a woman to obtain a share in her parents' property usually comes at the cost of compromising a woman's relations, particularly with her brothers, because it is understood that her share of the inheritance was given away in dowry and any further claims are understood to be unfair and taking away from her brothers' share of property. With problems in the matrimonial home, women often do not want to take any steps that may result in alienating them from their natal family members as well (Basu 2001: 117-158; Basu 2005; Das 2007: 66). For women who are economically dependent on their husbands, lack of support from their natal families often translates into taking the decision to continue living with an abusive husband and/or his family or as the snippet above shows, to commit suicide.



Notwithstanding the importance of a criminal law against domestic violence, a need was felt for creating a civil law to tide over some of the shortcomings stemming from an appeal to a criminal law in all circumstances in which violence was experienced. These included: First, relating “domestic cruelty” to dowry-demand meant that women could raise their concerns against violence in the family only by relating it to dowry, even as law, by its own definition, allowed for violence unconnected to dowry to be criminalized as well. Second, this meant that domestic violence was squarely located in the structure of marriage and matrimonial family and not within domestic relations shared by women in their natal homes with, for instance, their brothers, uncles and fathers or in relations not institutionalized through marriage. Three, the strictness of the law worked by ensuring its opposite, that is, allowing the possibility that the charges of dowry-demands and ensuing violence were not proven beyond reasonable doubt and/or the courts were reluctant to convict in matrimonial cases, invoking arguments of social order and sanctity of the institution of marriage. Four, where conflict in marriage lead to a divorce or dissolution of marriage, women often found themselves in a state of acute economic dependency, in the absence of any legislation relating to right of women to residence in the matrimonial home or to an equitable distribution of matrimonial assets. Furthermore, this lack of economic security is exacerbated by the fact, as mentioned above that women are often not given any share in either their parents or ancestral property, even as they are entitled to both. All these considerations made it essential to conceptualize a law on domestic violence that would attempt to define domestic violence in instances not necessarily connected to dowry-demand and also provide immediate relief by combining elements of both civil and criminal laws.

The civil law called the Protection of Women from Domestic Violence Act (PWDVA) came into effect on the 26<sup>th</sup> of October 2006 and its stated objective was to provide “for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family”.<sup>8</sup> It is informed by the perception that “home” is a shared space even if there is no shared ownership.<sup>9</sup> An aggrieved woman may invoke both the DPA and the PWDVA simultaneously and, in fact, many women who approach the Unit, also fight civil cases in courts (Jaising 2014).

#### ANTHROPOLOGY OF POLICING AND POLICING WITH A RESTORATIVE IMPULSE

The anthropology of police is a relatively new field, which comes as a bit of a surprise considering that anthropological works have consistently been concerned with social control, social order and crime (Malinkowski [1926] 2013; Durkheim 1982) and contemporary state practices have elevated the institution of the police to make them the most important institution in law enforcement. Robert Reiner describes this phenomenon as “police fetishism”, where the police are considered a prerequisite of social order, even as ordering of this social is achieved sometimes with excessive violence, thereby muddying the distinction between rule of law and its unmaking (Reiner 2010: 22). My work is situated at a point where states across the world are seeking to administer governance by strengthening and reinforcing security through an increase in the armed capability of police forces, while simultaneously allowing the police to diffuse

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<sup>8</sup> <http://www.wcd.nic.in/sites/default/files/domesticviolenceact05.pdf>, last accessed on 20<sup>th</sup> October 2016.

<sup>9</sup> See Lawyer’s Collective (2007, 2013).

everywhere in the social order. This second form is exemplified, for instance, in models of community policing seen in northern America.

In the context of the Delhi Police, which is civilian unarmed police, the logo “*Shanti, Sewa, Nyaya*” (Peace, Service and Justice) has replaced the earlier “With you, for you, always”, to give credence to the community based model of policing. This community, then, becomes both the object and the subject of oversight and enforcement (Comaroff 2014: xv), within the general discourse of an ethic of care and public service. The Unit may be located within the second form that policing takes, but its actual institutionalization precedes the moment of contemporary securitization and is rendered in the context of legislative enactments of (and amendments to) laws relating to violence against women.

Not all policing is about a violent display of force even as a formidable form of law enforcement propels the movement of policing in the world today. The more daunting form of police power can be seen particularly in North America and Western Europe and the unfolding politics of spatial segregation of the most marginalized, poorest and precarious groups, which is maintained through law enforcement. India is not an exception to this development, but a spatially segregated form of urbanity has its precursor in colonial politics and is not of recent origin. The other form of policing, which is not steeped in force, finds its exemplification in the British Bobby, who was unarmed and “praised for his reassuring presence and professional commitment” (Fassin 2013: 202). Of course, between these two styles there are gaps, as Fassin points out,

between the official goal of implementing the law and the multifarious tasks that the two kinds carry out (202), but this “peace keeping” impulse has not been erased by securitization and the two exist simultaneously and symbiotically.

In his work, which, like Fassin’s, is also on French police and policing, Kevin Karpiak argues that policing is a form of sociality that is dialogically produced through practice (2013). The little vignette that I presented at the beginning of the introduction, in Karpiak’s understanding, would not sit adjacent to police work, rather, it would be constitutive of it because the definition of “police” and “work” are subject to continuous rumination within (and outside) the police itself. For Karpiak, police work can also be a form of “practical fieldwork in moral philosophy” (2013: 93), “where metaphysical and material domains come together in impossible ways”. If we go back to the conversation at the beginning, Insp. Pandey’s general mediation on the condition of women in India would speak to a metaphysical dimension about conditions that make life possible, whereas her general contemplation about telling all women to write that they harbor thoughts about committing suicide, could be placed in the “material domain” as a technical way to navigate the problematic demand of law. This demand requires that a woman negotiate thresholds of life and death, by which I mean that a woman complainant would need to state unequivocally that in *her* life she contemplated suicide, if she has to make her allegation of domestic cruelty understandable for law enforcement agencies.

My dissertation is an attempt to understand this other dimension of policing that is not entirely imbued in force or violence, rather it finds its instantiation precisely in the making of peace. I understand conciliation and mediation as practices that have to be exhausted before proceeding towards filing a formal charge as emanating from the “pact making” face of sovereignty. Drawing on a bipartite conception of sovereignty, which is as much about *force* as it is about *contract* and also on some recent works on sovereignty that work with a twin-faced conception of sovereignty, I will argue that crucial to the advance of the disciplinary and biopolitical powers of the modern state has been state intervention in the realm of the domestic (Feldman 2015; Singh 2015; Perry 2009; Fassin 2005). This expanding into the domestic has not been seamless and has, at once been invited as it has been resisted. It is replete with fear and apprehension about what it means to have state intervene in the familial domain, the form that this intervention could take and the effect that it would have on relations among members of the family, on the one hand, and the family’s relation with the state, on the other. I want to add that the state is not free of this anxiety either, that is, the state, too, treads carefully over what matters it decides to intervene in. The difference in this form of state intervention has been that unlike street-level policing or patrol-based policing, the police halts before it intervenes with force in the first instance.<sup>10</sup> It is in the interstices of halting that decisions about how to intervene are made. For instance, in my fieldwork, many officers who had performed patrolling duties said that in a significant number of calls for immediate help received by the police, what people desire is arbitration or halting the escalation of a dispute and not necessarily arrest of any persons. An argument that has consistently been made about

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<sup>10</sup> This is not to suggest that the police always take recourse to force in patrolling duties, but that in street-level policing, police is more likely to use force as a form of bringing order.

police conduct in complaints about intimate partner assault is that the police are often reluctant to both press charges and make arrests (Basu 2015a: 193, 214; see also, Basu 2015b, 2012). I do not dispute this argument, but my intention here is to suggest that there might be something at stake in trying to understand the distinction between those complaints on which the police simply do not arrest and are, therefore, in violation of stipulated procedure and the situations where they might struggle with whether to strike with force or attempt conciliation, on a continuum of reasons stemming from applicability of law to concerns about their own work-load. What I am contending here is that it is not enough to say that the police consolidate the existing hierarchies of the domestic or that police replicate a patriarchal order both because the generality of these statements do not necessarily correspond with the specificity of a complaint and, also, *a priori* skepticism about police work takes us away from understanding police work *as such* and the conditions that capacitate violence that is often associated with policing. To understand the complex of law enforcement through the police, it is important to understand how the relationship that the police have with their public (here, women) is mediated by the definition and interpretation of the laws they work with; how do certain kinds of police practices come to be and what concerns—public, judicial, executive, to name a few—propel a change in these practices; how are the police made to account for their own practices and conduct and; what are the modes of bearing responsibility within this kind of bureaucracy.

In his work on the French police, Didier Fassin, has taken up precisely this burden of delineating police work by understanding the context in which the police operate. He

argues that “the interaction between the police and the public cannot in itself provide the keys to understanding violence unless one takes into consideration the enabling conditions of this violence...” (Fassin 2013: 76). These enabling conditions of violence can only be studied through a “framework of interpretation” (143) that also allows us to understand what “image they [police] have of their own public”. Fassin worked with the anticrime squad of the France’s national police, which is in charge of patrolling the housing projects in the outer cities, known as *banlieues*, of Paris. The policing of the housing projects, which are a result of exclusionary and racial urban planning, discrimination is accentuated by the “moral economy of police work” which ties the “logic of resentment” and “the principle of justice” in a way that allows for the police to take the law into their own hands. Therefore, rather than enforcing law, the anticrime squads enforce a social order of subordination, which can easily mutate into physical violence. For Fassin, the shift from law enforcement to enforcing order stands at the interstices of a rapidly changing national politics that foreground securitization and police insularity from citizens.

Meanwhile, the public for officers at the Unit are women complainants and the relationship that is supposed to develop between the (women) officers and the complainants should be based on familiarity with the space of the domestic and women’s own position within the household. There is no policy document that expresses this, but that women ought to identify with other women’s experiences remains an unstated assumption in the Unit. Police officials at the Unit may or may not work with particular inflections of gender, so that threat to a woman’s life and property may be understood

only from within the organizing principles of the DPA and related laws, but it may also be reflective of a kindred spirit predicated on an experiential sensibility. Let me explain this with by way of an example in which the Unit lost one of its officers in an act of domestic violence.

Sub-Inspector (SI), Vipin Bala Sharma was one of the Investigating Officers (IO) posted at the Unit's police station. She was also part of Unit's women helpline that patrols the city 24x7. The night she was murdered by her husband and 16-year-old son, she had night-patrol duty, but had called the police station to let the officer on duty know that she would not be able to come because of a fight with her husband. A long-standing issue between the couple had erupted yet again and she wanted to file a complaint at the nearest police station. Her husband, too, wanted to file a counter complaint against Sharma. While no complaint was eventually filed, matters perhaps worsened once the couple reached home. It was during the night sometime that Sharma was strangled by an electric wire by her husband and the son, leading to her death. The father-son duo surrendered to the police the following morning.<sup>11</sup>

That morning, when I reached the Unit, I was informed of SI Sharma's death and the circumstances around it by one of the counselors. Everybody I spoke to that day referred to Sharma's death in one way or the other. The Unit rippled with the aftershocks of Sharma's death and all conversations that entire week were imbued by particular

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<sup>11</sup> <http://timesofindia.indiatimes.com/city/delhi/Woman-cop-murdered-by-husband-and-son/articleshow/7797419.cms>, last accessed on 20<sup>th</sup> October 2016  
<http://archive.indianexpress.com/news/si-strangled-by-husband-son/767909/>, last accessed on 20<sup>th</sup> October 2016.



renditions bad marriages, the difficulty of leaving them, women's fate and the limits of law. Sharma's husband and son were not absconding; in fact, they had surrendered and had pleaded guilty, so this was not about arrest, trial and subsequent punishment that could follow as a result of the trial. What was being given voice to here was an implicit understanding about the limits of law's transformative potential in the disordering of kinship and vulnerabilities arising from it that are disproportionately borne by women. In one such conversation, a senior officer said to me, "Pooja, if our children are not our own, then who, really, is our own?" (*Pooja, apne bacche hi apne nahi to phir kaun apna*). I read this as a lament, but that which was alive with the palpable understanding of the precariousness of a woman's relationship with her own children, where children are produced also for kin and are not just one's own; where motherhood does bestow a privileged status, but not necessarily a secure bond with the children.

While Fassin encountered "moral resentment" in the anticrime squad, which was generative of humiliation, I encountered a willingness on many officers' part to engage the life of the other (Das 2010). This was surprising for me because I had assumed that police work would be mired in a general apathy towards women complainants. I certainly do not rule out that attitudes of indifference and callousness might even be more dominant practices of the police, as they are in other bureaucracies, yet the atmosphere of willingness and perhaps sympathy revealed that many officers I worked with at the Unit attempted to find a certain decency under the pressure of their grinding, and often humiliating, work conditions, and hoped that they could be of some assistance to the complainants. This was less about life-changing heroic efforts and more about aspiring

for modest forms of dutifulness in everyday work. The sense of the social here was not necessarily couched in terms of a normative order, but in a realization of the exhausting and stupefying presence of the traffic in kinship, in which life had to be lived outside the Unit. For me, this is instructive of a very different struggle with work ethic, which cannot be, indeed must not be, rendered as an impulse that is always-already geared towards instituting a sexist gendered ideology. What I call a restorative impulse, then, does not preclude the use of force; indeed when attempts at conciliation, which means a reconciliation or separation with some kind of monetary settlement, do not work out, the Unit has to register a criminal case, but as I will continue to discuss in Chapter 1 and 2, a formal case does not preclude the possibility of a compromise between two parties to a conflict. This, however, has less to do with police work *per se* and is more about the interpretation of the laws on domestic violence in Indian courts, which, then, has implications for how the contours of what is achievable through law are re-interpreted back in the space of the Unit.

In the Indian context today, there is a very high public and mediatized visibility of violence against women and the three main responses from the state to this have been (i) the legislative enactment called the Criminal Law (Amendment) Ordinance of 2013, (ii) the initiating of programs to make the police more sensitive towards registration of complaints of violence against women<sup>12</sup> and (iii) the increasing of the number of women in the police force to about 30%.<sup>13</sup> Women presently constitute about 5.33% of the total

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<sup>12</sup> <http://indianexpress.com/article/mumbai/in-line-with-sc-order-women-police-officers-to-undergo-training-workshops-to-tackle-crime-against-women/>, last accessed on 20<sup>th</sup> October 2016

<sup>13</sup> <http://indianexpress.com/article/politics/nda-govt-gives-nod-to-33-pc-reservation-for-women-in-police-forces-in-all-uts/>, last accessed on 20<sup>th</sup> October 2016.

police force in India.<sup>14</sup> Adjacent to these measures is another kind of visibility that surfaces repeatedly and takes the form of acute skepticism towards women's motives in invoking laws against violence. In March 2015, the Indian Home Ministry announced that plans were afoot to make Section 498A of the IPC "a compoundable offence with the permission of the courts" to facilitate out of court settlements and also to curb filing of "false dowry harassment cases".<sup>15</sup> It is in the interstices and the flux emanating from the contradictory movement of greater recognition of violence against women, on the one hand, and suspicion about women's intention when they do invoke laws against violence they encounter, on the other, that police work is performed, with the responsibility in any error of judgment constituted entirely as individualistic failing.

#### POLICING, MODES OF BEARING RESPONSIBILITY, CORRUPTION AND A BUREAUCRATIC FORM

In placing my work adjacent to Fassin's ethnography on the anticrime squad in France, I had contended in the previous section that as opposed to the radical othering of their public he notices in the squads, the Unit's unstated assumption has been an essentialist form of identification between women officers and their complainants. Needless to say, both forms of politics, that is, the one that legitimizes radical othering or essentializes (women's) experiences are problematic. During my fieldwork, however, I was, struck by the fact that many officers did aspire to embody a certain ethics of working that point towards not some essentialist understanding of women, but an imagination of a "moral

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<sup>14</sup> <http://indianexpress.com/article/news-archive/latest-news/women-constitute-only-5-33-of-police-forces-in-india/>, last accessed on 20<sup>th</sup> October 2016.

<sup>15</sup> <http://indianexpress.com/article/india/india-others/government-plans-to-amend-anti-dowry-harassment-law/>, last accessed on 20<sup>th</sup> October 2016.

community”, that is, a public “with whom the officers imagine they share a common humanity” (Fassin 2013: 211). The second way in which we may understand police work according to Fassin is by attempting to delineate “the moral obligation officers feel towards their profession and the set of norms associated with it” (211). Here as well, Fassin makes a distinction between a more ethical relation to profession, where duty is predicated on a general respect for law and rights of individual and a more deontological mode, which is about “constituting the relation to the profession and...the institution”, and it is inhabiting this mode that is likely to result in an abuse of authority and power (211). This second form of police work, for my context, comprises the police bureaucracy. This bureaucracy is steeped in performing writing-work for the State and my effort in the dissertation is to delineate how writing converges with hierarchy in policing institutions and with institutional modes of bearing responsibility.

Unlike patrol squads or street-level police work, my work was located in a specialized unit of the Delhi Police. Rather than working in smaller groups, which exemplifies patrol-related work, the work at the Unit was individuated in the sense that a complaint was assigned and handled primarily by one officer. Therefore, although there exists a chain of command and technicalities around which police work related to particular complaints is negotiated, the complaint-case, *as such*, is the responsibility of one officer alone (Chapter 2). At the level of the pre-litigation part of the Unit, this officer is called an Enquiry Officer (EO) and at the level of the Police Station, the officer in-charge is called the Investigating Officer (IO).

This unique kind of identification of a complaint-case or a situation with one officer is what I call an intensely individuated form that responsibility takes in the police establishment. In this form of individuation, corporate authority is not absent, but corporate responsibility does not disguise an individual officer's responsibility. For Matthew Hull, in arriving at an understanding of bureaucratic work, it is important to bear in mind that collectivization and individualization are simultaneous functions of the same processes, where neither the agency of an individual officer nor of the organization are a given (Hull 2012: 130). As I will show in my work, the erratic and diffused forms of writing do not even partially exonerate the EOs and IOs from being the primary wielders of accountability in police work. This form of wielding responsibility sits adjacent to the general vulnerability and powerlessness that police officials express about the conditions of their work, which often creates concurrence between maintenance of discipline with that of employment. In other words, in the police department, any official infraction can almost immediately become a matter risking an official's employment. The deep suspicion, towards its own public, that Fassin notices among the anticrime squad, in my context was reversed and was cast at and inherited within the police itself. Let me explain this with two examples.

I started my fieldwork at the Unit around the time when the previous Joint Commissioner of Police (Jt. CP), Sunil Malik, had only recently been transferred to another part of Delhi. It was during Jt. CP Malik's tenure that the Unit was overhauled, creating a pre-litigation unit and also a Police Station within the premises of the erstwhile Unit. Although, he had successfully presided over this transition, he had also simultaneously

created an institution that was geared towards internal surveillance. When I began my fieldwork, what I encountered were CCTV cameras in various parts of the Unit that were gathering dust, but were still up on the walls. When I casually enquired about these cameras and their purpose in the Unit, I was told by many officials that these cameras were put in place by Jt. CP Malik to keep a check on their work and to ensure that complainants were given adequate attention by all EOs. During his tenure, many officers told me, it was impossible for them to even sit together and have a cup of tea because they could be summoned to the Jt. CP's office to explain why they were not on their respective seats. The cameras had long stopped working, but the air of suspicion hung heavy in the Unit. Given a magnified public perception of acute corruption in the police institutions, the vision behind installing CCTV cameras might have been related to ensuring greater accountability of the police towards their public, but this also ensured that a sense of intrigue and suspicion permeated official relationships. Lest I overstate my argument, I want to also contend that since the Unit is also a smaller space, these affects might have been felt more acutely, but an inwardly directed skepticism is by no means an exception in the police institutions in India (Chapter two). This brings me to my second example from the Unit.

One of the oft-repeated examples that I heard at the Unit was about receiving orders to show cause, following which departmental proceedings could be initiated against an officer for misconduct. During the tenure of Jt. CP Malik, I was told that an officer could receive a show cause notice (SCN) for the most minor infractions and in the general air of suspicion that existed among colleagues, receiving an SCN carried a form of accumulated

weight. An officer told me that when an internal enquiry was initiated against her over some matter arising from a complainant's case, she was petrified at the thought to having to report to work. Often, this anxiety led her to drive carelessly, leave her car keys in the car or leave the car itself running. She said she on some of those days, she trembled at the thought to having to be in the Unit and spent some time just sitting in her car at the parking lot.

In another case, an officer was issued an SCN and the internal enquiry found her guilty of misdemeanor, following which she was suspended from service. This officer took her case to the Central Administrative Tribunal (CAT), which adjudicates disputes between government officials.<sup>16</sup> The CAT not only directed the Unit to reinstate the officer with all service related benefits, but also admonished and faulted the Jt. CP for issuing a “wrong” SCN and following that with an inquiry on baseless and “incorrect” allegations. The court instead found fault with the Jt. CP's conduct and critiqued him for having led the inquiry only on the behest of his impressions about the officer, which were unconnected to the facts of the particular case. The officer's discharge of duty in the case, the court had maintained, was in accord with due procedure.

At various points, a number of officers said to me that the general ambience (*maahaul*) of the Unit had deteriorated in the context of a the Unit itself becoming a thoroughly surveilled place, while there were a few, who also iterated that the police needed “dictatorial” officials to both bring compliance and end corruption in the institution. Needless to say, no one in the Unit expressed that corruption only existed in the lower

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<sup>16</sup> *Inspector Asha Badola No. D/2622 v. Government of NCT of Delhi* (2011)

echelons of the police bureaucracy. It was this divided space that I encountered when I began my fieldwork at the Unit in 2011. The Unit was trying to function along the lines of the procedures that were established by the erstwhile Jt. CP, but in the absence of disciplinary protocols that were emblematic of the earlier period.

I will take a moment here to also render the place of corruption in my fieldwork since the public perception of the police in India is that it is steeped in corrupt practices. I, like most anthropologists, mostly heard insinuations about other people's corruption. In this, therefore, I encountered what Alpa Shah has called stories of corruption (Shah 2010). However, several officials did tell me their own stories of complicity in a network of "bribe taking". These renditions were not related to a particular case as such nor were they prompted by any of my questions; in fact, I did not ever ask a categorical question about corruption in the police force, but these stories were narrated in otherwise ordinary conversations, where a particular case or event acted as a trigger for their narration. I will mention two such occasions here.

In the first one, an Inspector, who was miffed about a junior official's conduct with respect to a case, alleged that this junior official had most likely accepted a bribe (*paise kha lena*) and could turn the facts of the case to favor the respondent. She said that she thought that this junior colleague's conduct was morally reprehensible because the complainant was a very poor girl. She said that she did not want to appear as if she above such practices (*dhooth ki dhuli hui*), [literally, bathed in milk, idiomatically honest] implying that she was above such corrupt practices, but that her objection stemmed from



the fact that while she accepted money if someone gave it to her of their own accord (*khushi khushi koi de to le leti hun*), she did not spoil (*kharaab*) anyone's case just because a bribe was not paid to her. She said that the junior colleague also had two daughters, as did she, and that he ought to have thought about how he would feel if someone were to play (*zindagi se khelna*) with his daughters' lives. She then added, perhaps assuming that I might ask her a question at this juncture, which I actually did not, that, "Pooja, you don't know how much money we spend from our own pockets (*apni jeb se kharcha*) doing police work and no one pays for any of it, but, still, what he (junior colleague) is doing is not good (*acchi baat nahi hai*)" because it shows no moral concern (*morality bhi kuch hoti hai*)."

In a second incident, I was having tea with a senior officer and the conversation veered towards how she was feeling after having rejoined work post 45 days of Child Care Leave (CCL). She said that she had visited her hometown on the occasion of a marriage in her husband's extended family. Incidentally, her husband, too, works in the Delhi Police and, at this point in time, was posted in a different police station in the city. She said that the marriage itself was fine, but what infuriated her were the never-ending expectations of gifts and support her affinal kin have because she and her husband are both police officers. She said, implicating her husband and herself in the story, "that it is not as if we are always serving the post of the SHO of a police station. Relatives think he (her husband) can singularly get all his sisters married, get the ancestral house repaired, routinely give gifts to brother, their wives and children, and also run his own family. They think we are making money all the time (*har waqt paise banana*)."

In her work on corruption, Veena Das reminds us that when people explicate corruption in ordinary life, they do so by drawing on a “moral economy” of norms and values that gives a simultaneous valence to “banalisation and condemnation of corruption” (2015: 323). When complicit in acts of corruption, it is not as if they “betray themselves in their acts”; rather, in both snippets of conversation that I have rendered above, there is a shifting sense of when and how it is appropriate to allow one’s own self to be corrupt. In the first example, the officer did not consider herself to be above board on transactions involving bribe taking and, yet, she was at pains to make a distinction between when it is appropriate to allow oneself to act on a less than ethical impulse that a person alone sets for herself. For her, institutional norms were important and she considered it crucial to “engage the life of the other” (Das 2010), but it was also important for her to not be guided by a voice of honesty so consistent, that it would disallow her to accept bribe as a gift from someone who was (a) willing to pay a bribe and (b) was not harmed by its giving. Harm, in this instance, is thought through the figure of one’s own daughter, who could be similarly betrayed by the person who is supposed to help her.

In the second instance, the officer implied that bribe taking was acceptable to her for it was an enabling factor in positioning oneself amongst kin, even as the kin may, then, begin to see the relationship in purely instrumental terms. The complaint here was that the kin does not always understand that every position in the institution (in the police) is not amenable to the taking of bribe. Here, position is to be understood as placement in a particular department and not an ethical position. In a different conversation about

alleged corruption of another colleague, this same officer said that, “one must make a distinction between whose money one is eating (*kiska kha rahe ho*) because not all money is digestible” (*har kisi ka paisa hazam nahi hota*). The conversation here was about making a demand for bribe from a complainant and the sense of this utterance was that money taken from a vulnerable person could not be counted upon to bring any good.

Das has consistently maintained that “everyday life...is a notoriously difficult concept to research at the empirical level for it asks us to render visible not what is hidden but what is right before our eyes” (Das 2015: 323). Concurring with this contention, Charles Hallisey has added that “the contours of the moral person are also extremely difficult to research empirically...” (Hallisey 2015: 307). What I am doing here, following Das’s and Hallisey’s arguments, is to render the shifting “contours” of a moral person within the “conditions of possibility” in the context of policing bureaucracies. In so doing, I am hoping to ensure that the institution does not diminish in view or appear ahistorical, which, Hallisey contends, tends to happen when we see a “moral person as a unit in relation to an aggregate” (308). Hence, I spent some time in explicating the contradictoriness of the laws on “domestic cruelty” and on the moment of my encounter with the Unit that works with a set of related laws. The Unit, until a few months before the start of my fieldwork, had functioned around two impulses that came to contradict each other: the first one had to do with ensuring that women complainants were properly heard, but the conditions for ensuring this rested on a comprehensive mechanism of internal surveillance. I also do not intend to mark the outer limits of how an officer might aspire to be a moral person in her relationships with colleagues and with her public.

Rather, I concur with Das's contention that ways of being moral, even in relation to the same person, are emergent and shift with being located in different contexts. I felt this in the complaint-cases that I followed, where at a particular moment, an officer moved from an initial position (say from attempting reconciliation) to occupying a different position (say separation) because something emerged in the unfolding of a case, which needed a reconsideration of the previously held position. The shift in context here was akin to the shift in the plot of a story, which necessitated a repositioning of response.

#### METHODOLOGICAL CONSIDERATIONS

Between May 2011 and May 2013, I conducted an ethnographic study of 33 complaints of domestic cruelty at the Special Protection Unit for Women and Children, Nanak Pura, Delhi. This meant starting from the time of a complaint's acceptance at the Fresh Complaints Desk (FCD), through the various pre-litigatory stages of police counseling, meeting with "professional counselors" and lawyer-mediators. Out of these 33, only 3 moved towards litigation, at which point I followed their trajectory through periodic meetings with the IO assigned to the case or a meeting with the complainant herself. Since meetings with the IO are not always set beforehand, it was difficult to track the development in these three complaints by following every meeting held between the parties and the IO. For all three, however, I collected the court records of compromise settlements, for all ended at mediatory proceedings held at the Mediation Centre in the court precincts. In all the three cases, compromise was accorded legitimacy by the court and the petition for quashing of criminal proceeding was upheld. In one of these 3 cases, the court had initially rejected the respondent's application for anticipatory bail and,

consequently, he was arrested and spent about a week in custody. His counsel was only able to obtain a bail for him in the period following the arrest. In all three, a compromise was made possible by monetary settlement and a separation deed.

The social background of the complainants whose cases I studied varied widely, in terms of their economic circumstances and religious denominations to which they belonged. The other sense in which their background was diverse had to do with the way in which their relationship with law varied. For some, the complaint at the Unit was the first time they were seeking redress for a domestic situation and for some it was not the first time that they were filing a complaint at the Unit. Still others were fighting civil cases, like the PWDVA or maintenance suits, in addition to filing a complaint at the Unit and were hoping to arrive at some kind of settlement through a combination of legal remedies. Despite this kind of variation, marriage formed the area of shared experience among them, even as differences in the forms of marriage itself were quite varied.

While my fieldwork was located in the physical space of a police unit, which could imply a certain kind of temporal exigency, time here was differently conceptualized. Here, time itself was supposed to have a certain agency in and of itself. It was *time*, made available to a couple in a discordant relationship, in the physical *space* of the Unit that was supposed to provide opportunities for mending difference *over* time and striving for a different *kind* of time for the relationship. Space, too, was not static or the opposite of time, therefore, I am not working with emphasizing spatiality over temporality (Ferguson and Gupta 2002; Gupta and Ferguson 1997), but thinking of these two as making possible

a conceptual assemblage (Dalsgaard and Nielson 2016: 9) of policing, counseling, mediating and investigating, where each had its own spatio-temporal rhythm and dynamic.

My day at the Unit usually began around 9:30 am, which was around the time that Unit's counselors arrived. We usually had tea together and, then, proceeded towards the Front Desk, which was the first room in the corridor. The officer in-charge of the FCD came in around 10 am and then began the work of calling complaints into Room 101, as the FCD was also called, hearing them, advising them about civil options available to them, the procedure of the Unit, the time it would take for their complaint to get to a point of resolution/settlement, making a note-sheet that delineates the main points of any complaint, and beginning the process of admittance (Chapter two). In the first two months, I was following close to 20 complaints, with about three hearings every day. I took some guiding notes during each session and did not participate in any discussions between the officials and parties. I wrote extended notes once the session ended and then in the evenings once I reached home. I was either introduced to the parties by the officials or was invited by them to introduce myself to them and the work that I planned to do at the Unit. My time at the Unit also overlapped with some other research work being conducted by students and researchers from other universities, so in allowing me to conduct ethnographic fieldwork, there was a sense of familiarity with the fact that conducting research meant observing work. By the end of two months, I was beginning to feel exhausted with the sensory overload of listening and in trying to get through the work at the FCD and the hearings scheduled for the day with a rhythm akin to that of a

high intensity workout, which requires penetrating focus throughout. For the most part this meant that I was always writing, but also feeling continuously anxious about not writing enough and forgetting. It was this sensory exhaustion that necessitated a different mode of inhabiting the field.

I decided then to continue working on the twenty cases that I had begun following and staggered the pace at which I picked up new cases. This gave me more time to immerse myself into the everyday sociality of the Unit and keep pace with the writing of notes. I started spending more time at the FCD to understand whether there was a pattern in the kinds of complaints that got admittance and what was lacking in those which did not get registered. I also began sitting with individual ACsP in their offices to get a sense of the work that they were required to perform on daily basis. I was allowed to sit with them during lunch and it was often in the conversations during these informal and relaxed settings, that many officers narrated their own experiences of being police officers. The difference in approach meant that I now alternated between a very focused presence that was required for a case hearing and an unfocused dwelling through the rest of the day at the Unit. Over time, this unfocused dwelling made it possible for me to become part of the daily “rhythmic intensity” of the Unit while also enabling “deep hanging out” in the field, which Inger Sjørnslev has describes as an “unfocused presence”, with its “analytical value of being there [in the field] when nothing happens” (Sjørnslev 2016: 100). Sjørnslev draws on Marilyn Strathern’s conception of figure-ground reversal (Strathern 2004b), to contend that:

only through the oscillation between unfocused presence (ground) and focused event (figure) can ethnographic depth be achieved. Hanging out is the ground

upon which events stand out as figures, and figures (events, such as ritual) may shift to ground for other figures within it (like deviance from normal regularity)...Furthermore shifts can be made between ground and figure, such as when repetitive presence enables recognition of the significance of expectation and former experiences in understanding the temporality and social rhythm...(103).

It is in the interplay between these two modes of dwelling in the Unit, which often bled into each other, that the three problematic about the partibility of law, about the changing and vexed interpretation of police work and individuated modes of bearing responsibility in the police bureaucracy emerged for me. One of the more important result of the immersion in the *ordinary* life of the police officials was that this sociality enabled me to work with a “file-self” (Harre 1983) in conjunction with working on individual complaint-cases. This enabled me in making interconnections between the law, policing practices and the bureaucratic complex of the police. This forms Part One of the dissertation.

A focus on the complaint-cases alone might have led me to inflect this dissertation to answer questions about the working of law. In a sense, my dissertation *is* about the work of law, but it is not about an assessment of law in terms of it being good, bad or lacking in what it ought to be enabling for complainants. There is also the sheer perplexity of determining whether the “outcome” of a complaint-case is a success or failure through often competing sets of expectations held by different parties to the dispute. Also, people do not remain institutionally conspicuous all the time, so that there cannot possibly be a coherent picture of the experience of law. What I have done here, therefore, is to render as complete a trajectory of 3 complaint-cases in the Unit through an explication of how



narrative and bureaucratic writing can, at once be, congruent and divergent while simultaneously indexing and supplementing movement in a case. This forms Part Two of the dissertation.

## OVERVIEW OF CHAPTERS

The dissertation comprises five chapters, an introduction and a conclusion. The thesis itself is divided into two parts. The first part lays out the three problematic of the dissertation, which are (i) how the police negotiate disparate meanings of law, as set out by courts in India, along with particular narratives of violence that continuously demand that the limits of what can count as violence in the domestic be stretched; (ii) how the police execute the law, which in practice requires attempting reconciliation before proceeding towards making a criminal charge, while navigating challenges to the constitutionality of their work by courts that are create exceptions to law all too often; (iii) how this fractured field is negotiated by individual police officials in an institution where the ethics of corporate responsibility are, at best, fragile or even, non-existent. The second part provides an illustration of these problematic, through the trajectory of three different complaint-cases, where there was variation in the form that marriage itself took for each of the complainants.

Chapter One explicates the first two problematic of the dissertation by showing how the DPA and the adjacent sections of the law on domestic cruelty, work by perpetuating a binary between customary practices and criminality. This partibility of law, the chapter argues, is not reflective of insufficient and inefficient secularization (Mahmood 2015);

rather, it is a product of a particular development in post independence India where the state still regulates and responds to issues emanating from the sphere of the domestic by simultaneously locating women within their religious communities and also as individuated rights bearing citizens. The impulse to first attempt reconciliation between discordant couples may be understood within the historical shaping of the household. What also helps us understand state intervention in the domestic realm through a mediatory impulse, even as the boundaries of how much state intervention is needed and with effect remain far from settled, I argue, is the nature of state sovereignty itself, which is defined by both forceful and contract making capabilities. The Unit may be considered as an instantiation of an attempt to institutionalize rapprochement-making initiatives and because this is a form of police practice, it is backed by force as well. The latter part of the chapter shows that this “pact-making” aspect of the criminal law through policing has not been a seamless process and courts in India have, at different points in time, both critiqued this practice and, also, given legitimacy to pact making aspects of police work. The courts have also simultaneously drawn on police practices to bring clarity to the question of law, that is, of granting legitimacy to compromises between parties in criminal cases.

Chapter Two delineates the third problematic of the dissertation, which is about a heightened individuation of responsibility in the police force. In this chapter, I draw out the organizational structure of the Unit through illustrations of a central concern that arose in each of its sub-units during the time of fieldwork. This allows me to expound on the manner in which the policing bureaucracy works *internally*. I argue that although

bureaucracies are designed for corporate action, which is accomplished through individuation of tasks, what makes the police different is the way in which individual accountability can be traced back to a particular police officer long after a matter has been sealed by bringing upon it the stamp of corporate responsibility. This is nowhere more evident than in the construction of police files and paperwork, even as it is not an exclusive feature only of the form that bureaucratic writing takes in the police. Through an analysis of official orders passed from time to time, I show how paperwork both fixes responsibility individually and can also become an important medium through which a range of social relationships among colleagues may be effected.

The concern in Part Two of the dissertation, which comprises chapters three, four and five, is with individual complaint-cases as they unfolded in the Unit. None of the three cases discussed in the chapters were exemplary in the sense of throwing up extraordinary legal concerns for the Unit and this remained true for the rest of the complaint-cases I followed in the Unit. In order to make a selection for the dissertation, then, I relied on criteria other than their ordinariness and this was about the form that marriage took for each of the three complainants. These three forms include a young woman's marriage arranged by her poor parents to a much older man, who had a child from a previous marriage and had claimed that he had obtained divorce from his previous wife (Chapter three); a self-arranged marriage in which a romantic couple married without informing or taking permission from either of their families (Chapter four); and a marriage among two Muslim paternal cross-cousins, where the marriage was also supposed to repair

previously wounded kinship ties (Chapter five). The complainants in the other two cases were Hindus.

In all three cases, the issues around which violence in the domestic is rendered is very different and in each complaint, the police official strives to bring particular experience of marriage to align with the definition of domestic cruelty. This initial section in the three chapters speak with the first problematic of the dissertation about the interpretation of the experience of violence and the definition of law. I, therefore, begin each of these chapters with a rendition of the issue—non-recognition (Chapter three), marital non-cohabitation (Chapter four), abandonment (Chapter five)—through which each complainant explicated domestic cruelty. The choice of a case-method, where I lay out the contours of an entire complaint-case, stemmed from an understanding that concepts are not transcendental for a still unfolding reality and can grow out of the singularity of cases. A complaint-case may then be rendered as fractal, through which a configuration of problematic takes form and also give life to a case.

There are also, at least, three common concerns running through these chapters and these are of narrative construction (Chapter three), evidence building (Chapter four) and location within kinship (Chapter five). I have inflected each of these chapters with one of these subjects, but that does not mean that the other two are absent. It just means that as an orienting trope and argument, I am privileging one over the other two to render the dynamic of the complaint-case. In a similar vein, my effort in these chapters is to show how individuation of responsibility runs through the entire unfolding of a case, even as

there may be moments when it is more pronounced. This is to argue that it is in the light of individuation of responsibility that officials take on certain kinds of chances, but these risks do not always lead to an exigent situation for them. In Chapter five, the EO sends nine summons to the respondent instead of the mandated three in order to locate him and keeps the complaint active for nearly ten months after the complaint was first received in the Unit. This was against the stipulated procedure of deciding on a complaint-case in three months and the officer was asked to speed up the work by her senior officer, but she still took two more months before she closed the case. Bureaucratic writing is also a form of individuation of responsibility and by working on active files and explicating an archive in the making, I have shown how file-selves, that is, both its author (EO) and the protagonist (complainant) are produced and an archive assembled after all that has been said and heard.

In Chapter three, I contend with the bind that is created by the reliance on narratives since these narratives occupy a privileged position in rendering a woman's experience of her situation. Drawing on Ricoeur on time, narrative and the character of experience, but eventually differing from him, I contend that the sequence of an unfolding is embedded within a "plot" that emerges only because the story is narrated many times in an institutionalized setting where it is, then, co-authored and fitted within a legal understanding of what happened retroactively. Through what I call a tripling of narratives, I will show how in two different settings, that is, with the police officer and with the mediator, the complainant, Mahima's case unfolds, but in order for me to explicate the whole case, there is a third narrative that comes into place, that is, the

anthropologist's emplotment of the case, which is not reducible to just Mahima's story, even as it is Mahima's case.

In Chapter four, I argue that working with the police invariably means the possibility of a formal trial and, therefore, concerns with evidencing are not absent in pre-litigation. Collection of preliminary evidence, especially if a complainant seems keen on a trial, is crucial in the pre-litigation stage. This, however, can also mean, as it did in the complainant Shefali's case, who had married her lover without informing or taking permission from her family and had continued to live with them after the marriage, that even preliminary evidence was impossible to come by. In this complaint, giving evidence against her husband, in the absence of cohabitating with him, meant having to draw on her experience of love and to bring it up for scrutiny in order to render it as being implicated in violence. In a sense love is already mired in skepticism if more proof is needed to authenticate it, but in another sense, which is the concern that this chapter pursues, I ask: is love conceptually antithetical to evidentiary stipulations? That is, to have evidence against one's own love assumes that one can both be steeped in love and be a skeptical observer of one's love(r) in the same temporal frame. Is that even a possibility? And, yet, this is precisely the demand that an intersection with law can put on love, as is often the case in love-marriages, where kin is absent and the marriage takes place without any forms of ceremonial exchange.

In Chapter five, I will elucidate the contours of Shabnam's case, whose marriage to her paternal cross cousin was supposed to rehabilitate an already failed kinship between two

families. Swinging between which law, criminal or civil, would apply better to Shabnam's situation, this complaint-case also foregrounded the difficult work of traversing the semantics of natal and affinal kinship, the burden of maintaining which falls disproportionately on women's shoulders and bodies. In this chapter, I argue that the sensitive task of suturing relations often requires a re-thinking of whether to continue participation in or to withdraw from legal process and this straddling can itself acquire on a recursive pattern. The closure of the complaint in the Unit, after almost ten months of working on it, could be read as a temporary diminution in, and not a resolute termination of, the relation Shabnam had established with the state vis-à-vis the triad ties of kinship, where there is a persistent risk of foreclosure and abandonment. In this case, foreclosure was a possibility for Shabnam's mother among affinal kin and permanent abandonment for Shabnam and her son; her father, although central to the case, was conspicuous by his absence, in both conversation and in the hearing.

In conclusion, I come back to the question of what it might mean to study an experience of law and its enforcers. I argue that an engagement with law cannot be understood only in terms of what it ultimately facilitates or fails to facilitate, for a settlement or compromise is often only an external affirmation of working with law, with little bearing on how legal reasoning works in the social and with what effects. Law is not something that can be just be briefed, as if its attributes can be transmitted as precise knowledge or learned comportment; it can also not be reduced only for effecting incarceration. I end by contending that following the after-life of a case does not necessarily equip us to understand how an engagement with law has continued to work in life because the

significance of the encounter with the law may register or reckon in another space, in varied and unexpected forms.



## CHAPTER I

### **Intimate Public Spaces: Policing and Mediating “Domestic Cruelty” in Delhi’s Special Protection Unit for Women and Children**

#### INTRODUCTION

On 27<sup>th</sup> July 2009, the Supreme Court of India, in *Bhaskar Lal Sharma and another v. Monica*, ruled that a husband and his relatives could not be prosecuted on charges of “domestic cruelty” towards wife, under Section 498-A IPC, merely because the mother-in-law had kicked the daughter-in-law or threatened her with divorce. The court held that “giving perpetual sermons” to the daughter-in-law, “poisoning the ears of the son” against the daughter-in-law and giving her used clothing would also not amount to cruelty under Section 498-A since “in order to constitute cruelty under the provision, the husband and relatives’ conduct should be such as to be likely to drive the woman to suicide or cause grave injury or danger to her life, limb, or to her mental or physical health.” The court further held in this case that:

The object of this provision is prevention of the dowry menace. But many instances have come to light where the complaints are not *bona fide* and have been filed with an oblique motive. Acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. By misusing the provision, “a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not as an assassin’s weapon...”

Challenging this judgment, the National Commission for Women (NCW) first filed a review petition in the court, but the apex court dismissed that petition. The NCW then filed a curative petition in the Supreme Court contending that the judgment could have

far reaching consequences for women's rights all over India and needed to be corrected.<sup>17</sup> In its stand, the NCW was supported by the then Solicitor-General, Mohan Parasaran, who represented Government of India in the court. Allowing this curative petition, the apex court, on 17<sup>th</sup> February 2014, recalled its 2009 judgment and held that:

While instances of physical torture can be demonstrated, mental injury is difficult to substantiate without a therapist's prescription. Having given our anxious consideration to the averments made in the complaint petition, we are of the view that the statements made in the relevant paragraphs of the complaint can be understood as containing allegations of mental cruelty to the complainant. The complaint, therefore, cannot be rejected at the threshold.<sup>18</sup>

The court further noted that it was plausible for a woman to connect all her accusation of “cruelty” with demands of dowry to bring the alleged offence within the ambit of Section 498A and that “not just physical but mental torture will also have to be accounted for whenever such a complaint is made”.

I place this judgment and its subsequent revision with two ethnographic vignettes from my fieldwork at the Women's Unit where many women narrated what may, at first, seem like ordinary household situations, but which are routinely mobilized against them to undermine and humiliate them. A counselor at the Unit once told me how a complainant

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<sup>17</sup> A Review Petition may be filed in a binding decision of the Supreme Court/ High Court. Under the Supreme Court Rules, 1966 such a petition needs to be filed within 30 days from the date of judgment or order. The Supreme Court of India, through *Rupa Ashok Hurra v. Ashok Hurra and Another* (2002), enunciated the idea of a Curative Petition, where it debated whether an aggrieved person was entitled to any relief against the final judgment/order of the Supreme Court, after the dismissal of a review petition. In this case, the Supreme Court had contended that “in order to prevent abuse of its process and to cure gross miscarriage of justice, it may reconsider its judgments in exercise of its inherent powers”. However, for a curative petition to hold ground, the petitioner has to prove that the grounds mentioned in the petition had been taken in the review petition and were dismissed by the court. See, <http://www.bhopal.com/Bhopal-Litigation-in-India/Curative%20Petition>, last accessed on 20<sup>th</sup> October 2016.

<sup>18</sup> <http://indianexpress.com/article/india/crime/kicking-daughter-in-law-cruelty-sc/>, last accessed on 20<sup>th</sup> October 2016.

felt incapacitated and stifled in living with her conjugal family because of the manner in which ordinary household chores, assembled by her mother-in-law against her, ensured that on most days she reached her work space late, thereby affecting her standing in her employer's eyes. For instance, a task as ordinary as shelling peas from pea pods, which is a task that women of the family/ neighborhood often perform together amid general banter, took on a malignant form for this woman, because her mother-in-law would ask her to shell peas, with the direction that the smaller pods (to make rice *pilaf*) be separated from the bigger pods (to make vegetable curry) just as she was about to leave for work. Was this a case of domestic cruelty? We can understand her sense of being victimized only if we pit this one act in the context of her lack of control over her life as a whole. In another instance, a complainant from a well-to-do family told me that in households such as hers, daughters-in-law were routinely taunted by their mothers-in-law about how much food they consumed. Neither of these complaints reached the stage of litigation and they were resolved through counseling and mediation at the Unit. But they raise the question of how the quotidian comes to matter in the law.

These different understandings of domestic cruelty, one in the Indian Supreme Court and the other in the Women's Unit in the city of Delhi encapsulate the central concern of this dissertation, which is to render the work of the police visible within the legal and political landscape of the state's relation to the family. Within this wider picture, the first problematic emerges at the point where the police are supposed to both consolidate the changing interpretation of law on domestic cruelty and conjoin this with the myriad ways in which experiences of violence are rendered to them. Further, the domain of the

domestic, where state may legitimately intervene, remains a contested domain, so that legal action is both sought by citizens for rearranging relationships in the private realm even as it is to be fiercely guarded particularly from state intervention. The police, therefore, are uniquely situated where they, on the one hand, interpret and enforce the law and, on the other hand, work with what could constitute the limits of law. Yet what are legitimate boundaries of the law is never quite settled.

The second problematic emerges from the nature of police work itself. Although police work is often defined through recourse to force, this is not always the dominant mode of the police's operation. Rather, a re-ordering of relations is attempted through a mediatory impulse where citizens and the police co-constitute socialities. In the context of my work in the Crime against Women Cells, renamed The Special Protection Unit for Women and Children in 2008, counseling and mediation have become established police practices that have to be exhausted before proceeding towards registration of a criminal charge of "domestic cruelty" within marriage. Indian courts have sometimes questioned the legitimacy of the work of the police in mediating domestic violence while at other times applauding the work of they perform. The police, therefore, work with divergent interpretations of the law on domestic cruelty and in a shifting context that continuously challenges the constitutionality of their own work.

The form that responsibility and accountability take within civilian police institutions in India constitutes the third problematic of this dissertation (Chapter two). The police personnel deployed for a particular case of domestic cruelty have to make choices as to

when and if to invoke a law and when to allow for an exception to it. I tie this positioning of the police to the third problematic of this dissertation, which is an intensely individuated nature of accountability that is built into police work. In the specific context of the SPUWAC, police work of counseling, mediation, collection of evidence for making a legal case, investigation, and prosecutorial work is performed by individual police officers where very little exists by way of corporate responsibility, so that there is a heightened risk of censure and punishment in even the smallest acts of discretion (see Bear and Mathur 2015; Mathur 2016).

It is within these questions that I seek to delineate the history of the SPUWAC (henceforth, Unit/Cell) and to think through the mediatory and conciliatory inclination on which their foundation was laid. Rather than offering a linear trajectory of its development, I want to think the institution through, following Foucault, “the conditions governing their integration of different social relations and force” (Rocha 2012: 211). To begin with, this means that the question of the police unit and the law are not at all separable, particularly so since the Unit is a special kind of policing institution that was created in the wake of amendments made to the Dowry Prohibition Act (DPA) and the Indian Evidence Act (IEA) in the 1980s for the purpose of implementing precisely these laws. Therefore, any (re)interpretation of these laws directly affects the working of the Unit, just as the Unit’s practices become the point through which the law itself is (re)thought. This process is far from seamless and so the Unit today is reflective of the apprehensions that inhere in the law and also in the state as it attempts to maintain order in the domestic realm through these laws.

## THE IMPULSE TOWARDS RECONCILIATION AND MEDIATION IN CRIMINAL CASES

How do we understand the conciliatory and mediatory role of the police in domestic discord? Law is not a mechanism oriented only towards prosecution; civil lawsuits, too, premised as they are on contracts and/or torts, often follow a mediatory logic. Similarly, Perry (2009) has argued that “coercion” and “persuasion” are not opposed to each other, but supplement each other, “contributing to a shared sense of propriety” (59). Didier Fassin, too, argues that repression and compassion are not antithetical, but are “profoundly linked”, as a defining feature of contemporary democracies (Fassin 2005: 381; see also, Feldman 2015). This dual aspect of sovereignty plays an important role in my argument because while the police may be seen as standing apart from the social when we focus on the repressive aspect of sovereignty, it (the police) become much more enmeshed within the social when we shift focus to the pact making or contractual aspect of sovereignty. In this context Foucault’s argument that the form power takes in the family, even in societies where disciplinary power participates in the sovereign power, becomes crucial.

In an analysis of the *lettres de cachet*, Foucault shows that in 18<sup>th</sup> century France, families could petition the king to use his authority to confine troublesome members of the family in prison. Thus, he says, “quotidian disorders” became part of state discourse, leading to the formation of a new relationship between “power, discourse, and the quotidian, an altogether different way of governing the latter and of formulating it” (Foucault 2003b: 167). In placing the *lettres de cachet* as instantiation of twin forces of

sovereignty, on the one hand, and an advance of disciplinary and biopolitical powers of the modern state, on the other, we also see how fraught the issue of intervening in the private lives of people is. Thus, seeking state intervention in the affairs of the domestic is, at once, replete with fears of what that intervention means, the form it could take, and the effects that could follow from it. Moreover, this anxiety about intervention might actually be felt by the state/police as well, which is why a *lettres de cachet* did not automatically result in incarceration, and was instead followed by “the inquiry, the report, spying, [and] the interrogation” (167).

Back home, India was beginning to come under colonial rule from at least latter half of the 18<sup>th</sup> century and this period lasted till the second half of the 20<sup>th</sup> century. While there are no direct connections between the processes analyzed by Foucault and police practices in colonial India, the nature of sovereignty, whether it was in its ill-defined period between 1770-1830 (Sen 2002: xv, xvii, xxix) or in the period of high imperialism, that is, the period after the Indian mutiny in 1857 (Dirks 2001: 149), retained its *force* and *contract* making aspects. This can be discerned quite clearly from the debates on social reform in colonial India.

The colonial period is characteristic of a constant struggle over the relationship between the state and society and this played out most combatively over the issue of social reform, at the heart of which lay the female subject (Sinha 2006: 6). In this roughhouse, the “social” and the “political” exchanged allegations over which party was an obstacle to progressive social reforms in India and were inflected by the conditions of colonialism

itself. In this inflection, it was not the sovereign individual subjects of civil society who formed the pivot of society, but a “sociology of communities” constituted by tribes, castes, races and religious groups (8; see also, Sarkar and Sarkar 2008). Women were symbolically identified with the “inner” essence of the community, while the (pre)dominant form of that community was religious. Sinha writes,

communities constructed seemingly nongendered public and collective identities by asserting the right to define “their” own women: a process that implicitly marked the default identity of the community as male...The gender norms that constituted religious communities were given institutional recognition by a dual colonial legal system. The colonial legal system consisted of uniform civil and criminal law, on the one hand, and, on the other, separate religious “personal laws (laws governing marriage, inheritance, caste, and religious institutions (8-9).

And yet, the “inner” domain, hardly a static realm by any order of things, was intervened in, with the colonial state sometimes privileging communitarian modes of identifications and at other times imposing equitable legal obligation. However, neither of these two modes were without struggle from communities that sought to “self-regulate their women” even as women’s own relationship with the state came to be negotiated through “the collective interests of communities” (9). At the helm of most of these social reforms were male revivalist and reformist spokespersons both seeking and resisting state intervention, even as the colonial state worked out its own stakes in deciding to intervene authoritatively or in more measured and partial ways (Singha 2003: 123-125).

The realm of the domestic and familial relationships, premised as they are within sexual and property relations, under colonial rule had been subject to a number of transformations (Uberoi 1993; Chatterjee 2004; Newbigin 2009, 2010, 2011, 2013) and the reformist impulse of the Indian “urban class” reflected “all the social and economic



contradictions produced by a colonial capitalist modernity” (Sinha 2006: 154; see also, Birla 2008). For instance, property and inheritance rules, protected as they were by religious personal laws, intervened with individual property rights and they continue to do so well into the contemporary times (Parasher 1992; Basu 1999; Sivrammayya, Parashar and Dhanda 2008). I do not mean to establish a seamless continuity between the colonial and the post-colonial period, but even the reforms in the post-independence period, of which the Hindu Code Bill is an example, did not privilege individual rights over religious identities of communities. In her work on the Hindu Code Bill, Eleanor Newbiggin has shown how in order to maintain high levels of state revenue, for instance, Indian tax officials upheld not only the “structures of Hindu law but also its specifically religious character” (2013: 232).

For this dissertation, the context is that of the Dowry Prohibition (Amendment) Act (DPA), 1961, (with all the amendments made to it between 1984-86)<sup>19</sup> and its subsection, Section 498-A, which criminalizes dowry-related harassment and domestic cruelty within marriage. Harassment related to demands of dowry is not necessary to make a case for domestic cruelty, which is defined as both “mental and physical”. However, this law can be availed of only by Hindu<sup>20</sup> women and not by Muslim women (or Christians), if they face harassment related to dowry. Therefore, this is a penal provision, whose borders are sealed by community identities, even as its other provision, that is, Section 498-A may be invoked by any Indian woman of any religious denomination. In other words, criminalization of dowry has not divested *this* form of

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<sup>19</sup> <http://www.wcd.nic.in/act/dowry-prohibition-act-1961>, last accessed on 20<sup>th</sup> October 2016.

<sup>20</sup> The definition of Hindu includes Buddhists, Jains and Sikhs.

exchange from being rendered in cultural or customary terms. It is this custom/crime fault line that the police encounter, where their “interpretive labor” (Graeber 2012) involves *recognizing* a crisis of kinship and responding to it through what I call a *partible* criminal law (Strathern 1988) in that women are made subjects of law only through membership of community.

The first such Unit called the Anti-dowry Cell was instituted in Delhi in 1982, under Section 19 of the Delhi Police Act and was renamed Crime against Women Cell in 1983. This was the first police response unit meant for women that was established in the country. By 1986 such Cells were instituted in all 11 districts of Delhi. The year 1987 is significant in so far as the Indian Supreme Court directed the creation of special Dowry Cells in the states of Haryana and Rajasthan in its judgment, *Joint Women’s Programme v. State of Rajasthan*.<sup>21</sup> In the year 1989, a clear mandate for the working of the Cells was established. The duties assigned to the Cell under this order were: i) Investigate all cases of murder for dowry and death of women where dowry is the motive behind the crime; ii) Investigate all cases of rape of women; iii) Monitor investigation of any other case of crime against women as cases under Sections 304<sup>22</sup>, 305<sup>23</sup>, 306<sup>24</sup>, 498A IPC and

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<sup>21</sup> In this path breaking case, the Supreme Court, through an interim order, directed the states of Rajasthan and Haryana to proceed with the investigation of two unnatural deaths and urged that the investigation be led not by an officer below the rank of the Superintendent of Police, the highest ranking police officer in any Indian state. It also urged the two states to create Special Dowry Cells to investigate dowry deaths through special investigative units and authorized the ministry dealing with social welfare to recommend two social workers to be associated with the Cells.

<sup>22</sup> Section 304 of the IPC lays down punishment for culpable homicide not amounting to murder. It reads: Whoever commits culpable homicide not amounting to murder shall be punished with [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death, <https://indiankanoon.org/doc/409589/>, last accessed on 20<sup>th</sup> October 2016.

Dowry Prohibition Act; iv) enquire into complaints received by it and, direct the local police to register and investigate cases which may arise out of such enquiries. Despite these specific instructions, the exact mandate of the Unit, however, continued to be defined by its counseling and mediatory role, that is, to say in attempting reconciliations between married couples.

#### A PARTIBLE CRIMINAL LAW: NAVIGATING THE SEMANTICS OF DOWRY AND STRIDHAN

The genesis of a special police unit to investigate cases of domestic violence came to be framed by the anti-dowry legislation because of the common understanding that the reason for violence against women was the demands laid by conjugal families for more dowry that had been escalated in recent decades because of the collapse of values under modernity. Thus, a major aspect of the work of the Unit became oriented towards investigating dowry demands and seeing that a woman was not deprived of her dowry, which includes a woman's owned property called *stridhan*, on separation from the joint family or dissolution of marriage. An important part of the Units work, from the time of

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Further, Section 304B of the IPC reads: (i) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death; (ii) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life, <https://indiankanoon.org/doc/653797/>, last accessed on 20<sup>th</sup> October 2016.

<sup>23</sup> Section 305 of the IPC deals with abetment of suicide of child or insane person and reads in the following manner: If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or [imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine. <https://indiankanoon.org/doc/255359/>, last accessed on 20<sup>th</sup> October 2016.

<sup>24</sup> Section 306 of the IPC deals with abetment of suicide and reads in the following manner: If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term, which may extend to ten years, and shall also be liable to fine. <https://indiankanoon.org/doc/92983/>, last accessed on 20<sup>th</sup> October 2016.

their inception, has been to make recovery of *stridhan* possible for an aggrieved complainant, particularly if all attempts at reconciliation fail and the complainant alleges that her *stridhan* has been misappropriated by her husband or his family members. But how are dowry and *stridhan* to be defined?

According to the Dowry Prohibition Act 1961 dowry means any property or valuable security

given or agreed to be given either directly or indirectly:

- a) by one party to a marriage to the other party to the marriage;  
or
- b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person;  
at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or *mahr* in the case of persons to whom the Muslim Personal Law (*Shariat*) applies.

Section 3 of the Act, penalizes giving or taking of dowry. It reads:

- 1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with a fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

The law stipulates that all presents given at the time of the marriage to the bride and to the groom be entered in a separate list and signed by the recipient of the gifts.<sup>25</sup> The value

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<sup>25</sup> Under the Dowry Prohibition (Maintenance of Lists of presents to the Bride and the Bridegroom Rules, 1985, a list of presents received is to be maintained in the following way: The list

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage:

(b) shall be in writing;

(c) shall contain,

(i) a brief description of each present;

(ii) the approximate value of the present;

(iii) the name of the person who has given the present; and

(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship;

of the presents, the law stipulates, should concur with the financial status of the gift giver or on whose behalf the gifts are presented to either the bride or the groom. If this procedure is duly followed, then, the penalty arising from the Dowry Prohibition Act does not follow.

Meanwhile, the concept of woman's owned property or *stridhan* finds mention in the Hindu Law and constitutes all payments made to a woman in lump sum or periodically for her maintenance, including all arrears of such maintenance. All movable or immovable properties transferred to her by way of an absolute gift in lieu of maintenance constitute her *stridhan* (Agnes 2011: 30-41). The Hindu Succession (Amendment) Act, 2005 enlarged the rights of a daughter both married and unmarried and brings her at par with a male member of a joint Hindu family governed by the Mitakshara law<sup>26</sup>. Overtime, Indian courts have attempted to define what constitutes *stridhan* within marriage and of these *Pratibha Rani v. Suraj Kumar* (1985) still remains a landmark case in which the Supreme Court defined a woman's property during coverture as consisting of gifts received by the woman on which her husband or his kin did not have any rights though the husband could use this property in times of distress with a promise to restore it to the woman who is its rightful owner.

In this landmark judgment, the Supreme Court had held that refusal by the husband to

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(d) shall be signed by both the bride and the bridegroom.

<http://www.wcd.nic.in/act/dowry-prohibition-act-1961>, last accessed on 20<sup>th</sup> October 2016.

<sup>26</sup> This new law also seeks to bring the female line of descent at the same level as the male line of descent. See, Kumar (2015) <http://www.lawctopus.com/academike/interest-of-hindu-women-in-coparcenary-property-under-hindu-succession-act-2005/>, last accessed on 20<sup>th</sup> October 2016.

return the gift items given to the wife at the time of marriage makes the husband liable for prosecution and an aggrieved wife could take recourse to filing a criminal complaint under Sections 405 and 406 IPC, if the husband or his family members criminally misappropriate property belonging to her. A criminal case, the court held, could be filed in conjunction with civil remedies available to Hindu women under Section 27 of the Hindu Succession Act. In a further clarification, in *Ashok Laxman Kale v. Ujwala Ashok Kale* (2006), the Bombay High Court held that expenses related to marriage and money given as dowry to the groom are not part of *stridhan* and cannot be claimed as such.

A reading of the definitions of dowry and *stridhan* suggests considerable overlap between the two; a strict distinction between the two is often not maintainable. Dowry may be part of *stridhan*, if it is given *only* to the bride and some *stridhan* may be a part of dowry if it was given to the bride in the context of her wedding. Further, gifts presented to the groom and his family in *connection* of marriage is dowry, but not punishable if a meticulous list, signed by the groom, is maintained for keeping accounts of things presented to him or his family members. These gifts, monetary or otherwise, although given in connection with marriage, are not *stridhan* because they are presented to people other than the bride, and therefore, the bride may not claim them as such. It is common practice in North Indian marriages to display all things presented to the bride by her natal family as part of her *stridhan*. These articles usually include, but are not limited to clothing and linens, jewellery, furniture, household appliances, electronics, kitchenware, car or even a house (if the family is well off), to name a few. Similarly, gifts presented to the bride by the groom and his family, like jewellery and clothes, is also ceremonially displayed at

different points in the marriage ceremony. Further, gifts for the groom and his family members may also be accounted for via display by the natal family or through a gift giving ceremony. The acceptable practice in North India is to create documentary evidence of these exchanges through photographs and videos and not by obtaining duly signed lists by both the bride and the groom. In North Indian affinal kinship, there is always a risk of the groom's family looking down suspiciously upon the making of such signed lists, creating an atmosphere of skepticism and distrust between the two parties at the very beginning of an extended familial relationship (see Chapter four).

A written and signed list of dowry received at the time of marriage, according to the DPA, would actually safeguard the groom and his family members from “fabricated” charges of taking dowry through coercion, but the idea, precisely, of a written and signed list militates against any protection that it may seem to offer. We know from anthropological work on *things* and Actor Network Theory (Gell 1998; Strathern 1999; Riles 2006; Latour 2010) that documents are “capable of carrying, containing, or inciting affective energies when transacted or put to use in specific webs of social relation” (Navaro-Yashin 2012: 18; 2007). Leaving a paper trail of gifts received “in connection with marriage” weighs against law's own objective of protection from “false” cases. My argument here is that demand for dowry seldom ends with the end of wedding ceremony; rather, the demand for dowry is in most cases a continuing demand, spanning over several years sometimes. More often than not, the only way to keep a record of presents and gifts given to a woman in marriage is through photographic evidence of gift giving on varying festive occasions such as ceremonial festivals or special occasions like births

of children. It is, however, impossible to keep photographic records of all gifts given to a married woman through her life for keeping records in this manner is replete with the possibility of fracturing affinal kinship.

An important part of the Cells' work involved retrieval of *stridhan*, but in most cases, no prior signed list exists, so the Unit works by requesting the complainant to create an itemized list of her property and attach proofs such as photographs and sale receipts in support of the listed items. This practice, rather than established by a statute, has evolved in the Units over the years. The list of *stridhan* is handed over to the accused, who, then, must account for the items listed, and return all the items that are held in his custody, failing which, criminal action under Sections 405 and 406 IPC for misappropriating property may be initiated against him. The negotiations between the two parties are messy, confrontational and saturated with vitriolic speech, with the presence of a police officer often being the only reason keeping physical aggression at bay, though not always successfully. In my fieldwork, I noticed that for many complainants, it was in their interaction with their EO that they first learnt about the limits of what constituted *their* property from among the many dowry items given before, at or after the wedding ceremony. In the context of depreciating value of their *stridhan* (excluding jewellery) many complainants desire monetary compensation, in addition to the return of *stridhan*, to settle the matter in the Unit. It was with regard to this issue of enabling monetary compensation for a complainant, apart from recovering her *stridhan*, and whether it was within the Unit's jurisdiction to effect such a settlement, that the Punjab-Haryana High Court, in one of the earliest such judgments in *Kiran Mandal v. Mohini Mandal* (1993)



sought to delimit the powers of the Units. The Punjab-Haryana High Court passed the judgment on a complaint received and acted upon at the Crime against Women Cell, Nanak Pura, Delhi. It held:

It is unfortunate that the Deputy Commissioner of Police/Crime (Women Cell), South Moti Bagh, New Delhi had usurped the powers of the Matrimonial Court and thought it convenient to adjudicate upon matters which were beyond his jurisdiction and compelled Sh. Kiran Mandal to pay a sum of Rs. 2,00,000/- towards articles of dowry, Istridhan, etc. He was not aware of the facts that all disputes relating to permanent alimony, Istridhan and with respect to any property presented at or about the time of marriage which belonged jointly to husband and wife has to be adjudicated upon the Matrimonial Court. If the applicant had any grouse that the articles of dowry, Istridhan, etc. had not been returned to her by her former husband the remedy lay before the Matrimonial Court and not before the Deputy Commissioner of Police/Crime (Women Cell). We are at pains to observe the manner in which the Deputy Commissioner of Police/Crime (Women Cell) has assumed jurisdiction over the matter which was within the domain of the Matrimonial Court under the Act.

While in *Kiran Mandal v. Mohini Mandal*, the court held that the Cells had no jurisdiction to initiate monetary compromises among couples or even about articles of *stridhan*, over the years it became acceptable practice at the Cells to facilitate settlements in which attempts were made at the pre-litigation stage itself to persuade a respondent/husband to return all *stridhan* back to the woman complainant. I could not find an official order that may have allowed this practice and it is possible that this came to be accepted as part of the Cell's function, without an official order ever being passed about this matter. In my conversations with many senior police women, who had worked in the Cells from their inception, I was categorically told that if a husband did not want to reconcile matters, then they always urged him to hand over the *stridhan* articles (*samaan dilwana*), failing which, recommendations were made to the local police station to file a formal case. This practice continues till today, except that now a formal case is registered

in the Police Station that is part of the Unit itself. Once a complainant receives her *stridhan* at the pre-litigation stage, she can file a civil case seeking separation or maintenance or both in a court. Further, she can also refuse to accept *stridhan* at the pre-litigation level if she felt that her property had been misappropriated or damaged in any way and continue with the process of filing a formal case under Sections 405 and 406 (for misappropriation/misuse of property) and/or 498A (domestic cruelty) if she was being harassed by her husband/in-laws for dowry. Formal orders for recovery of *stridhan* can only be made once an FIR has been filed, and a court order obtained to conduct a raid, which can include freezing of bank accounts, raiding them, and raiding the matrimonial home.

All these proceedings can take place only if a complainant has had a Hindu marriage. The DPA also extends itself to the practice of dowry only within the Hindu community, even as dowry exists in some form in non-Hindu communities as well. If a woman complainant from a non-Hindu community alleges dowry-related harassment, then the substantiation of a dowry-related demand is inconsequential, unless the complainant emphasizes on “domestic cruelty” simultaneously, in which case Section 498A may be invoked. Civil litigation has to be initiated for all matters related to misappropriation of non-Hindu women’s property. When women from non-Hindu communities come to the Unit, their complaints are admitted within these limitations set by the law and, therefore, an attempt is made to reach a settlement in these women’s cases through police counseling and mediation (Chapter 5).

It may be helpful to recapitulate the main points that I have made. I have shown that dowry deaths burst into publicity in the 1980s and creation of Women's Cells by executive orders has to be understood as a response to the political question of women's protection that defined the decade of the 1980s in India. I have contended that the partibility of criminal law, with the custom/crime binary being the defining feather of the DPA and Section 498-A, has meant that dowry continues to be treated both as a customary practice and a criminal act. Not rendering dowry unequivocally as a criminal act has meant that there is an inherent instability and indeterminacy built into the law's definition, so that the police often have to respond to domestic discord in extended kinship arising out of property relations. A recurring feature of kinship relations is that they dissolve and regenerate all the time. Thus, to occupy the place of the negotiator (read police official) means to work with a contradictory requirement: facilitate dissolution or reconstitution of relationships, although it is never completely clear where a relationship is moving (Pinto 2014: 5), and simultaneously prepare for litigation thereby beginning the process of compiling preliminary evidence. For a police official, getting paperwork in order is as much a part of making a complaint file as it is about securing her own position in a context where allegations of siding with the accused party are frequently made. I move in the next two sections to foreground how the mandate of the Women's Units has evolved in the light of incongruity entailed in the law, which the courts do not acknowledge; rather, courts in India have often displaced anxieties that actually emanate from *the* law onto the law implementing institution.

## UNITS AND THEIR MANDATE FOR ATTEMPTING RECONCILIATION IN DOMESTIC DISCORD

In my discussion of the Section 498A IPC that defines “domestic cruelty” within marriage, I have emphasized that for a charge of domestic cruelty to be made tenable, dowry-related harassment does not have to accompany other allegations made in a complaint. As we saw, though initially constituted as an investigative body over time the work of the Units has entailed conducting:

enquiry to find out the truth as to the allegations made in the complaint before registering a case...it also becomes necessary to ascertain the factum of marriage even, and also the allegations of cruelty and Stridhan.<sup>27</sup>

To enquire here means to ask questions pertaining to the matter, whereas inquiry means to conduct investigation. By the turn of the century, it seems that there was considerable disquietude in the courts over what the work of the Cells entailed. In many court orders and judgments till 2007 at least, the Delhi High Court, had held that precisely because the nature of work performed by the Women’s Cells was reconciliatory, they did not have the mandate to make any respondent’s presence obligatory. This position was held in conjunction with the stipulation that proceedings of the Cells could be summoned in a formal court during trial, with the caveat that the judge would have to exercise prudence in interpreting which bits of information from the Cell’s proceedings were relevant for the case at hand. What follows in this section, therefore, is a discussion of these orders through a closer examination of court judgments. In *Raj Kumar Khanna v. State* (NCT of Delhi), (2002), the Delhi High Court, for the first time held that:

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<sup>27</sup> *Raj Kumar Khanna v. State (NCT of Delhi)* (2002). The court quoted this section from an affidavit filed by the Deputy Commissioner of Police (Headquarters-II) in Criminal Writ No. 663/1995.

The proceedings taken up by the Crime Against Women Cell are mainly directed to bring about a reconciliation between the strained persons...It will not be out of place to mention that even the matrimonial courts, during divorce proceedings, try to bring about reconciliation between the parties. If a respondent chooses not to take part in the proceeding before the Crime Against Women Cell, well it is his sweet will. No action is taken for non-appearance. There is no compulsion for the respondent to take part in the proceedings.

In this case, the Delhi High Court had reprimanded Delhi Police for rushing through with the registration of FIR by undermining the “normal” procedure of the Cell, which entailed that the SHO of the Police Station (PS) concerned endorses a complaint before forwarding it to the Cell. Further, the court critiqued the officials of the Delhi Police for working in favor of a complainant, without following *due procedure* established by practice and police orders. In an order passed by the Delhi High Court in connection with its decision on a writ petition, *Harish Arora (Dr.) v. State of Delhi* (2007), the court held that:

CAW Cell is an agency created to make efforts for reconciliation between the families before initiation of criminal proceedings on the complaint of the wife. The petitioner is at liberty not to appear before the CAW Cell. No coercive action can be taken by the CAW Cell, compelling an unwilling person to put in appearance before it. CAW Cell can conduct proceedings only where both the parties are ready and willing to join the proceedings voluntarily. I consider that there is no reason for the Court to pass any order in respect of proceedings before the CAW Cell as these proceedings are not judicial or quasi-judicial nor proceedings in the investigation of the crime. They are only reconciliatory proceedings. The petitioner is at liberty not to join the proceedings before CAW Cell.

Further, in criminal writ petition in *Satpal Gill v. State* (2007), where the petitioner alleged that he was being threatened by the CAW Cell to make an appearance, the Delhi High Court again held:

It is made clear that CAW Cell has no authority to secure the presence of any person either by coercion or by threat. CAW Cell is only a conciliatory body

where efforts are made for conciliation with the free will of the parties. If any person is not willing to go to CAW Cell, he cannot be compelled. It is also directed that CAW Cell, in future, instead of issuing summons to the parties it shall send request letters asking them to appear for the purpose of conciliation and not for the purpose of investigation. The petitioner is at liberty not to appear before CAW Cell. No threat or coercive steps shall be taken by the CAW Cell.

In continuing to take a stand on whether a person could be compulsorily made to attend the proceedings of the Unit and whether its proceedings should be made part of formal investigation, the Delhi High Court, in a criminal writ petition filed in *Sandeep Goyal v.*

*State* (2007) held:

CAW Cell has no power to investigate the crime. It is not a police station where FIRs are registered. Investigation in any crime can be done only after registration of FIR. CAW Cell only makes reconciliatory efforts between the parties that also up to the stage of pre-registration of FIR. The investigation can also be done by CAW Unit if it is referred to it after registration of FIR.

In an earlier order, passed in 2006, in *Baldev Singh v. State of Delhi*, on the question of whether the proceedings of the CAW Cell could be presented in the court in a context where reconciliation attempts have failed and a formal case is initiated, the Delhi High Court had held that:

...the CAW Cell is the *amalgam of investigating agency which is also entrusted with the function of attempting to reconcile the parties*. The proceedings before the CAW Cell are initiated pursuant to the complaint filed by the complainant in which there may be allegations of harassment on account of demand of dowry, etc., on the basis of which complaint generally is under section 498-A/406 IPC I am therefore, of the opinion that there is no harm in summoning the record of the CAW Cell at Krishna Nagar and Nanak Pura. At the same time, while hearing arguments on the charge, the learned trial court should be prudent enough to see as to which documents contained in the record before the CAW Cell are to be considered and parties allowed to rely thereupon (my emphasis).

What I read in these judgments is a movement that aspires to be with the spirit of reconciliation, hence, the courts' insistence that no person can be forced to reconcile and that the police must send notices and not summons to respondents. Adjacent to this impulse, the courts also attempt to delineate the mandate of the Units themselves and it is here that we see contradictions, for it is not that two courts just happen to disagree over a matter of law, as they often do on many issues. Here, the disagreement about the function of the Cells, I argue, is principally tied to the contradictory inclination of the DPA itself, although the courts do not address the question of law at all. We need to amplify the point that it is the police that is being asked to reconcile in a law, where the law's definition requires that punitive action be initiated at the first instance. Therefore, whether it is through notices or summons, the fact that those would be sent by the police means that there is a potential punitive charge that may come to be placed at a later stage. Not responding to such notices is, therefore, not entirely a choice that any respondent may exercise. Further, the 2006 judgment laid out that the Cells were an amalgam of investigative and reconciliatory bodies, whose proceedings may be relied on by courts if a judge so desired. Therefore, there has been much confusion not just about the mandate of reconciliatory proceedings, but also about what may be derived from these proceedings if they do not lead to a resolution and instead a criminal case follows suit. In other words, in this period the courts in India were reluctant to explicate the relationship between reconciliatory and investigative proceedings as they might have emerged from law and the question instead became about the proper role of the Cells.

## QUESTIONING THE LEGALITY OF THE CELLS

A second set of issues emerge around the constitutionality of the Units and both the Delhi High Court and the Supreme Court of India have given their judgments, albeit not in the same voice, on the legitimacy of these state institutions. In the first of such challenges through a writ petition, which was also a Public Interest Litigation, *Dr. Janak Raj Jai v. Lt. Governor of Delhi* (2002), the petitioner argued that instead of appointing Dowry Prohibition Officers, who were to be conferred powers of police officers as stipulated by Section 8-B of the Dowry Prohibition Act, the Delhi Police set up CAW Cells, which were non-statutory bodies and had no legal authority to discharge the functions of Dowry Prohibition Officers and, therefore, they ought to be wound up. The petitioner also contended that endeavors made by the police to resolve the disputes by conciliation/counseling invariably resulted in postponement of registration of cases in police stations. In its response, the Delhi High Court pointed out that directives were underway for the appointment of Dowry Prohibition Officers, but felt that “the prayer for winding up the ‘Crime Against Women Cells’ appeared unjustified and far fetched” since:

[T]here is nothing to show that these Cells were exercising any extra-legal or constitutional power to warrant there reigning in. No foundation or basis has been laid to show how those were functioning without any authority of law. No mandamus could, therefore, be issued to close these down. On the contrary, if these were found resolving matrimonial disputes by conciliation and counseling, it should be welcomed. In any case, so long as there is nothing to show that these Units had exceeded the brief or were functioning in breach of any law or without any lawful authority, it was not possible for this court to stop them from rendering an otherwise useful service.



In another writ petition, *Jasbir Kaur v. State (NCT of Delhi)* (2006), the petitioner held that the police had not registered a formal case against the accused on her complaint invoking Section 406, 498A and 34 of the IPC. She also argued that the CAW Cells ought to be abolished and the police be directed to immediately file an FIR on receipt of a complaint of a cognizable offence as per the provisions of the Code of Criminal Procedure, 1973. This petition held that the creation of the Cells was “*ultra vires*” and violated the provisions contained in Article 15 of the Indian Constitution by compromising the clause that there cannot be any discrimination in the matter of investigation on the ground of religion, race, caste, sex, place of birth or any of them. The judge, in this petition, held:

The creation of CAW Cell for investigation of crime pertaining to women, in my opinion, does not cause any discrimination on the basis of sex for the CAW Cells have been constituted with a social purpose so that the crimes relating to women are dealt with sensitivity. CAW Cell is like any other specialized wing of the Delhi Police like Special Unit, Crime Branch, etc., where firstly an attempt is made to bring about unity between the two spouses so as to make the marriage a success. On the failure of these reconciliation attempts, the law is allowed to take its course. Thus no fault can be found with the creation of CAW Cells.

There are also judgments that speak on the matter of the implementation of DPA and Section 498A by the police officials, but do so by challenging the ability of police officials to work with the meaning of law. In a somewhat convoluted manner, the issue for a Delhi High Court judge in, *Savitri Devi v. Ramesh Chand* (2003), was the “misuse” of the law’s provision that stemmed from the ostensible inability of the “lower functionaries of the police like Sub-Inspectors and Inspectors”, to interpret the law. The police, according to him, routinely initiate arrests only at the behest of allegations made

by women and not after conducting initial inquiries. The inept and inefficient police along with women, according to this judgment, were complicit in operationalizing the law in a way that led to too many family members being arrested, on the one hand, and destruction of the institution of marriage, on the other, which was detrimental for women because they often fail to get continuing support from their natal families. The court held:

The court is constrained to comment upon the misuse of the provisions of Sections 498A/ 406 IPC to such an extent that it is hitting at the foundation of marriage itself and has proved to be not so good for the health of the society at large. To leave such a ticklish and complex aspect of proposition as to what constitutes 'marital cruelty' and 'harassment' to invoke the offences punishable under Sections 498a/ 406 IPC to lower functionaries of police like Sub Inspectors or Inspectors whereas sometimes even courts find it difficult to come to the safer conclusion is to give the tools in the hands of bad and unskilled masters....Once a complaint is lodged under Sections 498A/ 406 IPC whether there are vague, unspecific or exaggerated allegations or there is no evidence of any physical or mental harm or injury inflicted upon woman that is likely to cause grave injury or danger to life, limb or health, it comes as an easy tool in the hands of Police and agencies like Crime Against Women Unit to hound them with the threat of arrest....when one member of the family is arrested and sent to jail without any immediate reprieve of bail, the chances of salvaging or surviving the marriage recede into background and marriage for all practical purposes becomes dead. The aftermath of this is burdensome, insupportable and miserable more for the woman. Remarriage is not so easy. Once bitten is twice scared. Woman lacking in economic independence starts feeling as burden over their parents and brothers. Result is that major bulk of the marriages die in their infancy, several others in few years. The marriage ends as soon as a complaint is lodged and the cognizance is taken by the police. *It was primarily a social problem and social evil but has been allowed to be dealt with iron and heavy hand of the police...* (my emphasis)

A civil writ petition, *Sushil Kumar v. Union of India*, 2005, was filed in the Supreme Court and relied on *Savitri Devi v. Ramesh Chand* to request that Section 498-A be declared unconstitutional and *ultra vires*. The Supreme Court held that a law may not be held arbitrary or discriminatory because of a mere possibility of abuse of a provision by

the authority. It argued that:

the principle appears to be well settled that is a statutory provision is otherwise intra-vires, constitutional and valid, mere possibility of abuse of power in a given case would not make it objectionable, ultra-vires or unconstitutional. In such cases, “action” and not the “section” may be vulnerable. If it is so, the court by upholding the provision of law, may still set aside the action; order or decision and grant appropriate relief of (sic) the person aggrieved...

In this judgment, the Supreme Court also admonished the single judge’s opinion that I have taken the liberty of quoting at length above and held that such comments were best suited for a conference and not a judgment. However, the court also held that not all complaints were “bonafide” and some may be filed with “oblique motive”. In the absence of legislative reappraisal, the courts would have to take care of the situation within the existing framework, lest misuse of the provision lead to a new kind of “legal terrorism” the Supreme Court held. The issues that are supposed to be discussed through a legislative reappraisal of the DPA and Section 498A have been about making the lawailable and issuing arrest guideline so that arrests do not immediately follow the filing of a complaint; allowing compromise between parties at the stage of litigation, therefore, making cases filed under Section 498A and Section 406 (criminal breach of trust) compoundable, and to have that compromise recognized through quashing of the legal case by the particular state’s High Court. Of these issues, the provision of the law that makes it non-bailable still stands, and the others have subsequently been allowed to take place. I will take these issues up for discussion in the next section.

## OUT OF COURT SETTLEMENTS IN NON-COMPOUNDABLE OFFENCES AND QUASHING OF CRIMINAL PROCEEDINGS IN AN ONGOING TRIAL

Out of court settlements in dowry-related offences have been consistently allowed at least since August 2005, which is when Delhi set up its first Mediation Centre within the premises of Tees Hazari Court.<sup>28</sup> The persistent issue that comes up for discussion in the context of sections 406 and 498A IPC is whether courts can allow settlements arrived at between parties in non-compoundable offences and if settlements are allowed, this would mean, by extension, that criminal proceedings have to be quashed. This fraught issue pits two sections of the Criminal Procedure Code (CrPC), Section 320 and Section 428, against each other and it is only over a period that the courts in India have arrived consensus around how the provisions of both might be negotiated. Section 320 of the CrPC mentions certain offences as compoundable, certain other offences as compoundable with the permission of the Court, and the other offences as non-compoundable (320[7]).<sup>29</sup> Section 482 of the CrPC deals with the inherent powers of the High Courts of various states of which one is the power to quash the criminal proceedings.<sup>30</sup>

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<sup>28</sup> It was also around this time on 2<sup>nd</sup> August 2005 that in a judgment in, *Salem Advocate Bar Association v. Union of India*<sup>28</sup>, the Supreme Court gave its approval to the draft Civil Procedure Alternate Dispute Resolution and Mediation Rules framed by a Committee headed Chairman of the Law Commission of India, Justice M. Jagannandha Rao.

<sup>28</sup> The second Mediation Centre in Delhi was launched in the Karkardooma Court premises in May 2006.

<sup>29</sup> Section 320(7) in The Code Of Criminal Procedure, 1973 reads:

No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence, <https://indiankanoon.org/doc/1430957/>, last accessed on 20<sup>th</sup> October 2016

<sup>30</sup> Section 482 CrPc reads: Saving of inherent power of High Court.

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice, <https://indiankanoon.org/doc/1679850/>, last accessed on 20<sup>th</sup> October 2016

The last two decades have seen a number of cases filed under Sections 406 and 498A, where parties have attempted to arrive at a compromise/settlement and have, then, sought the permission of the High Courts to quash criminal proceedings. Till 2003, High Courts of various states did not really follow a pattern with respect to recognizing out of court settlements between parties. In instances when a particular state's High Court dismissed a petition, it did so on the ground that the inherent powers the High Court under Section 482 CrPC did not authorize it to validate an out of court settlement or facilitate one in non-compoundable offences listed in Section 320 of the CrPC for that would amount to exceeding their mandate.<sup>31</sup> In cases where compoundability was recognized and quashing of criminal proceedings followed, the High Courts generally upheld their inherent powers over Section 320 CrPC to contend that it was futile to continue with prosecution if two people had mutually agreed to preserve their marriage.<sup>32</sup>

In the year 2003, the Supreme Court of India in, *B.S. Joshi v. State of Haryana*, for the first time unequivocally upheld the inherent powers of the High Courts prescribed under Section 482 CrPC, above Section 320 CrPC. The court held that the state High Courts could quash criminal proceedings in order to “meet the ends of justice” and to also enable women to “settle earlier”. In making their argument, the judges of the Supreme Court also relied on one of their earlier judgment, *G.V. Rao v. L.H.V Prasad* (2002) where it was held,

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<sup>31</sup> *Harvinder Singh v. Binder Kaur* (2002); *Kamal Dhawan v. State* (2000); *Pyare Lal Gupta v. State* (1999); *Sujoy Banerjee v. State* (1999).

<sup>32</sup> *Chiman Singh v. State of Rajasthan* (2003); *Nand Lal v. State of Haryana* (1996); *Raghumunda Satya Narayana v. State of Andhra Pradesh* (2000); *Roshan v. Jai Janti* (2001).

that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case .... the parties may ponder over their defaults and terminate their disputes amicably by agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.

Re-reading its own judgment given in *B.S. Joshi*, the Supreme Court in, *Gian Singh v. State of Punjab* (2012) for the first time, clarified the manner and situations in which Section 482 may override Section 320 of the CrPC. The court contended that:

the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

While the court refused to list the kinds of cases in which quashing of criminal proceedings may be initiated arguing that that would depend on the “facts and circumstances of each case”, it, nonetheless, argued that:

...before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. *Such offences are not private in nature and have serious impact on society...* But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or *the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute*. In this category of cases, High Court may quash criminal proceedings if in its view because of the compromise between the offender and victim, the possibility of

conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether *it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law* despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding (my emphasis).

The importance of the *Gian Singh v. State of Punjab* case lies in its unequivocal support of the inherent powers of the High Courts of India over Section 320 of the CrPC in order to allow quashing of FIRs in certain non-bailable offences, of which Sections 406 and 498A IPC are just two examples. The issue that I want to flag here for discussion is the way in which the court makes a distinction between what it terms offences that have “an impact on society” and those such as matrimonial disputes related to dowry that are “private in nature and where the parties have resolved their entire dispute”. More recently, in 2014, the Supreme Court of India allowed quashing of legal proceedings in *Narinder Singh v. State of Punjab* overruling the decision of the High Court that had dismissed a prior petition for the quashing of the FIR on the basis of a settlement reached between the parties. The High Court had dismissed the petition arguing not only the non-compoundability of the offence under Section 307 (attempt to murder), but also stating that such crimes constituted “heinous crimes against society”, therefore, no compromise could technically be recognized. In this case, the Supreme Court had relied on its previous judgment in *Gian Singh v. State of Punjab* and invoked sociality and neighborliness to allow the compromise, but this was done in conjunction with

accounting for the timing of the compromise, which had taken place before the evidence was led in the Court. The court felt that although the nature of injuries sustained may be substantiated, it would be difficult to prosecute and convict since witnesses may not come forward in the wake of the compromise arrived at between the parties.

The judgments of the Indian Supreme Court, however, are not consistent. In her seminal work on rape trials in India, Pratiksha Baxi has shown that over the last two decades, the Indian Supreme Court has accepted compromise petitions, both in statutory rape trials and in cases of aggravated forms of sexual violence such as gang rape, to reduce the sentence to the period of incarceration already by taking recourse to its extraordinary powers under Article 142 (1) of the Indian Constitution precisely “for the achievement of complete justice” (Baxi 2014: 184-86). She argues that in ongoing rape trials, “the case of compromise illustrates how legality is actually perceived as disruptive of sociality” (222). Writing about alternate legal routes taken by parties to get recognition for compromises arrived at after the fact of conviction, she contends that:

[W]hen a case is compromised to acquit the accused, it is seen as a compromise of the rule of law. If affidavits are filed at the stage of sentencing after the fact of guilt has been found, it is perceived to act in the interests of the accused. It is differentiated from the practice of compromise before the testimony (189).

Compromise between two parties at an early stage of the trial or before trial, then, may not necessarily be interpreted as being in violation of the principle of rule of law. However, this does not make ideas of “harmony” and “futility” of relations between people any less problematic for compromise deeds premised on these may, nonetheless, work towards entrenching existing social hierarchies. Criminal law vindicates public and



not private interests and in stepping away from law *enforcement*, the courts have been questioned about abstaining from working for public good (Nagaraj 2008). However, as an alternative development, it is also clear that when parties find it advantageous to negotiate, indeed bargain around law, not many judges necessarily stand in the way even in criminal proceedings. How might we understand the Indian Supreme Court's position of allowing state High Courts to quash criminal proceedings? It might be helpful at this juncture to look at a context other than India to understand exceptions to criminal law proceedings.

One way the question of exception in criminal law comes up in American jurisprudence is when the prosecution declines to bring charges where there is a legally sufficient basis for doing so. Working from an understanding of sovereignty and exception as laid out in the work of Agamben, who himself draws on Carl Schmitt, Austin Sarat and Conor Clarke argue that these decisions may be interpreted as “fragments” of sovereignty as opposed to acts of mere prosecutorial discretion (Sarat and Clarke 2008: 391). In declining to prosecute, American prosecutors, they argue, “have the power to create exceptions to the reach of valid law—a power that signals the kind of lawlessness that is at the heart of sovereignty” (391). These exceptions fall into two broad categories: those that arise from conjecturing about whether litigation would be successful and those that emanate from concerns about agreeableness and suitability. While Sarat and Conor recognize that the two categories bleed into one another, they also contend that there are substantial differences between the two. In the first type, they argue, the decision not to prosecute may have to do with “sufficiency of evidence and witness problems, that is,

reasons that derive from legal norms” (391). In the second instance, which they suggest is a decision on the exception, and not derived from legal norms, a prosecutor may decline to prosecute because “she feels that a suspect is not morally culpable or because she believes that adequate alternatives to charging exist” (391). Since reasons for declining prosecution are not derived from legal norms, Sarat and Conor hold, they are akin to executive power in times of emergency or clemency. The decision not to prosecute is legally authorized, but not legally controlled and by this Sarat and Conor imply that a prosecutor’s decision to not press charges is made with many calculations in mind, therefore, it is not always possible to know how they arrive at this decision only through legal reasoning. For Sarat and Conor, the decision not to prosecute does not squarely fit the framework of sovereignty and exception that Agamben and Schmitt lay out. In being much more commonplace than Agamben’s privileged scenes of exception, prosecutorial power can be better understood as an everyday register of both sovereign action and exception without fully belonging to either.

The compromises in rape cases that Baxi’s work draws attention to, invites us to think further on the way law enforcing mechanisms participate in the social. Baxi does not suggest that the social is completely benign but in resorting to compromises, the judges sometimes give a grudging acknowledgment to the fact that time does its work on kinship relations in a way that legal rules cannot fully grasp. Rape cases may cover a variety of situations---some in which a young girl is being punished by her parents for eloping with a lover, who also bring charges of rape against the boy on the one hand, and cases in which rape may be a way to punish a lower caste woman by a powerful landlord. The

meaning of compromise will be different in each of these cases and the spaces of exceptional are where judges try to use their judgment to sort out what is going on in the social. As Eckert acknowledges:

[R]ules relate to life, and to a social conceptualization of life that is the ground for the negotiation between the state and citizens.... “life” is living in a community; citizenship is not an individual relationship of one person to the state (Eckert 2011: 313).

It is with this sense of rights that I render an alternate account of sovereignty, which is rendered as a relation between “compact” and “force”. The importance of this form of negotiation becomes apparent when we are confronted with the reality of underdeveloped tort laws and where freedom from “bad marriage” often accompanies incremental abandonment by natal kin, leaving the police to use discretion in exercising their prosecutorial power.

## CONCLUSION

I started this chapter by laying out the three problematic of the dissertation and have explicated the contours of the first two problematic by simultaneously connecting them to the delineation of the history of the Unit and the various provisions of the DPA. This chapter has argued that the question of police practices is not separable from the question of law, in that both extend and define the contours of the other, but often in contradictory and unpredictable ways. The history of state intervention in the domestic realm is itself checkered, and we get a sense of this through Foucault’s *lettres de cachet*. In the Indian context, the colonial state replaced the more discrete forms in which sovereignty was previously exercised, but even as the British worked with a centralized version of

sovereignty, intervention in the domestic remained a fraught issue throughout and was principally about the figure of the Indian woman in need of protection and uplift. At the heart of many post-independence Indian laws is the community/citizen binary, reflected both in civil and religious personal laws in the country. I have argued that this community/citizen binary permeates into criminal laws as well, of which one example is the DPA. Steeped in the duality of custom/crime, the DPA is propelled by the contradictory logic of both criminalizing dowry and making exception to it, and is, at once, a criminal and Hindu law. It is also the only criminal law that penalizes domestic cruelty in marriage.

I bring this chapter to a close by arguing that that while Women's Cells were always a special kind of police unit, in their restructuring post 2008 through a Delhi High Court judgment, *Chander Bhan and Another v. State*, we see how the court have addressed the questions about the legality of conciliatory and mediatory practices in DPA (and related laws) by advancing the process of court mandated mediation to the pre-trial level. The extension of the institutionalization of a restorative impulse, by bringing formal mediation to the pre-trial level, has clearly drawn on the prior existence of Women's Cells as a special police unit. The practice of mediation, derived from principles of equity justice, now sits adjacent to reconciliation and counseling work performed by police officials. In its new avatar, the Unit also has a Police Station, and is fully equipped to carry out investigation on complaints that do not get resolved through settlements arrived at the pre-litigation stage. The three problematic, however, remain. In so far as the courts give credence to the argument of "misuse" of law by women, it means that the police are

being asked to be skeptical of women's testimonies even as they are being implicated in making this "misuse" possible. Two, the courts continue to justify reconciliation not as a form of judicious working with law, but by invoking the sanctity of the institution of marriage. This means that when the police do make arrests, they can be castigated for having harassed the respondents and, in effect, having compromised the possibility of any settlement at all. Three, in this entire assemblage of mediatory practices, police official still bear intense individual responsibilities. Errors in judgment, for instance, about the timing of filing charges or that of arrest, are interpreted as individual failings and abuse of power, as they indeed are sometimes, but none of this shifts the contours of the debate to thinking about how fraught and disjunctive fields of legality and policing are navigated on a daily basis.

## CHAPTER II

### **Policing in India, Functioning of the Unit and an Intense Individuation of Responsibility in the Police**

#### INTRODUCTION

On 12<sup>th</sup> May, 2015, a news report of a Delhi traffic policeman hurling a stone at a woman on a two-wheeler was doing rounds on all television channels. A video clip of the altercation, taken by a third person on this mobile phone, had gone viral on the social networking site, YouTube.<sup>33</sup> The clip's owner intended to reveal how the argument between the policeman, later identified as head constable Satish Chandra, and the woman aggravated into a physical altercation. It escalated to a situation where the woman threw a stone at the policeman's bike and Chandra, then retorted by hurling a stone at the woman. Widely circulated across all national news channels and cited as an example of increasing police brutality, the emerging narrative couched the woman as the righteous and the brave one, for although she jumped the red light, did not carry her driver's license that was demanded by the policeman after he stopped her for jumping the light, got into an argument with the policeman, threw the stone at the cop, and gave contradictory statements to various news channels, she was still hailed as someone who stood her ground and refused to pay the Rs 200 bribe that Chandra had ostensible demanded of her for letting her go.

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<sup>33</sup> <http://www.thehindu.com/news/cities/Delhi/woman-assaulted-by-delhi-traffic-cop-high-court-appoints-amicus-curiae/article7201214.ece?ref=relatedNews>, last accessed on 20<sup>th</sup> October 2016.

It was Chandra's retaliation that was at the forefront of all news channels. With the matter currently being sub-judice, I want to foreground that following the appearance of this video clip on all major TV channels, without an adequate inquiry, or forensic examination of mobile phone video recording itself, Chandra was first suspended and then dismissed from service with immediate effect. He was also arrested, and a case was registered against him at New Delhi's Tughlak Road Police Station under Section 323 (punishment for voluntarily causing hurt), Section 341 (punishment for wrongful restraint) and Section 427 (mischief causing damage to the amount of fifty rupees) of IPC and Section 7 (public servant taking gratification other than legal remuneration in respect of an official act) of Prevention of Corruption Act.<sup>34</sup> Head Constable Satish Chandra had served in the Delhi Police for nearly twenty-seven years and in taking the decision to dismiss him from service, the police department did not follow its routine due process<sup>35</sup>, which might have necessitated suspension, but not outright dismissal considering that video clips require forensic examination and an investigation about the conditions that made production of such a clip possible, to begin the process of establishing Chandra's misdemeanor.

Meanwhile, the Delhi High Court took *suo motu* cognizance of the matter on 13<sup>th</sup> May 2015 "not for the reason of finding the police authorities wanting in any respect with respect to the incident but being concerned with the larger implications/picture which has

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<sup>34</sup> <http://www.tkbsen.in/2015/05/brick-attack-on-woman-accused-head-constable-gets-bail/>, last accessed on 20<sup>th</sup> October 2016.

<http://timesofindia.indiatimes.com/city/delhi/After-CM-pat-Ramanjeet-gets-HC-rap/articleshow/47275878.cms>, last accessed on 20<sup>th</sup> October 2016.

<sup>35</sup> It is not my argument here that police personnel cannot be dismissed without an inquiry, but the reasons for taking recourse to emergency powers for outright dismissal must also be explained, which the Police Commissioner of Delhi did not do.

acquired alarming proportions.”<sup>36</sup> Speaking about “road rage” in Delhi, the court argued that in this incident it was a city cop who displayed rage on the road, but not without also adding that people of the city had no faith in or respect for the police either. The court order also demanded that counseling and training sessions be held for Delhi Police personnel and Delhi Police submit a report on what steps it would put in place to deal with increasing violence on Delhi’s roads.<sup>37</sup>

The overnight dismissal of a police officer, without an internal or external inquiry, was expected to restore the credibility of the police department in the public eye, and to serve as police’s accountability to a mediatized public and to secure the legitimacy of *the* police per se.<sup>38</sup> Writing about police’s disempowerment and delegitimation in India, Beatrice Jauregui (2013a) argues that:

[The] social facts of situational hyper-empowerment and the widespread decadence of police do much to explain their poor image and performance, but these explanations do not account for the fact that police in India are also structurally disempowered by cultural-political and legal-institutional claims to multiple and conflicting forms of authority that challenge and often overwhelm the authority of police. This structural disempowerment and its performances in everyday interactions between the police and the public constitute an ongoing social process of delegitimation of police authority in contemporary India (643-44).

While I agree with Jauregui’s argument, what remains unexplained in her work is the form in which responsibility is *ordinarily* attributed in the police bureaucracy. I argue

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<sup>36</sup> *Court on its own motion v. Union of India and Others*

<sup>37</sup> In response to this demand made by the Delhi High Court, the Delhi Police, in partnership with a leading radio channel, started a program to spread awareness about increasing road rage on Delhi’s roads.

<sup>38</sup> In a turn of events, on 2<sup>nd</sup> November 2016, a newspaper article reported that an FIR has been registered against the woman who threw the brick at head constable Satish Chandra. A fresh probe has been ordered in the case in which “IPC sections of assaulting and deterring a public servant from duty have been invoked”. Chandra, however, has not been reinstated in the force. See, <http://timesofindia.indiatimes.com/city/delhi/A-year-on-woman-booked-for-assaulting-policeman/articleshow/55191206.cms>, last accessed on 2<sup>nd</sup> November 2016.



that interference in regular police work, transfers of officers and meting out exemplary forms of (public) punishments besides telling us about the general crisis of legitimation within policing institution, also provides a window into the working of police bureaucracy, where responsibility is intensely individuated. Chandra's case becomes an extreme example of this form of working, but even in more routinized forms of police work like patrolling and crime investigation, responsibility and accountability is located in the person of an individual officer. I will delineate this argument with an analysis of forms of police writings like file work that precisely index individual authorship and any form of obscurity is dealt with official orders mandating that individual police officer be both named and held accountable for *her* action/s, even if a file bears other signatures of approval.

I have divided this chapter into two sections. The first section delineates the organization of the SPUWAC, but differently from a mere enumeration of its sub-units. I will draw out the organizational structure of the SPUWAC by indexing a central concern arising out of each of its sub-units during the time I conducted my fieldwork there. In so doing, I will explicate both the work of sub-units that comprise the SPUWAC and the manner in which the policing bureaucracy works internally. The second section, which is where I develop the third problematic of the dissertation, I will argue that although bureaucracies are devised for cumulative action, which is accomplished precisely through individuation of tasks, what renders the institution of police different is the manner in which individual accountability can be traced back to particular police officer long after a matter has been

sealed by bringing upon it the stamp of corporate responsibility. This is nowhere more evident than in the construction of police files and paperwork.

## POLICE ORGANIZATION IN DELHI AND THE SPUWAC

In contrast to the extensive literature on policing that is found in the United States and other western countries, research on police is sparse in India. Besides the reports of the National and State Police Commissions (1904 and 1978), memoirs by serving or retired police officers (Alexander 2002; Belur 2010), the literature on contemporary Indian policing is largely about the excesses of para military police and not of the ordinary functions of civilian and unarmed police in society.<sup>39</sup> Civilian police in India is a particular state's subject, so there can be variations in how these bureaucracies work internally, even as the overall structure of the police remains the same in the country.

The policing structure in India, and by extension in Delhi, is organized around three grades and within them, it is possible to distinguish categorical class divisions. The first tier is that of officers belonging to the Indian Police Service (IPS), the middle level consists of the investigating ranks of inspectors, sub-inspectors (SI) and assistant sub-inspectors (ASI), also called the non-gazetted<sup>40</sup> tier, and the third level of the

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<sup>39</sup> It is not my argument that there is insufficient literature on police excesses in India; rather my argument is that there are fewer studies of institutional spaces of police work in India. On police excesses, see Jyoti Belur 2010 and K.S. Subramanian 2007. Also see, Atul Kohli (1990) for an exposition on the growing crisis of governability in India.

<sup>40</sup> A Gazetted Officer is an employee of the Government of India. The name Gazetted Officer comes from the Gazette of India, which is published on a regular basis by the Directorate of Printing, Department of Publication, Ministry of Urban Development, Government of India. It is an official Central Government or State Government publication, which publishes the appointments or promotions of certain government officials. An officer or public servant, who is appointed under the seal of the Governor State or by the President of India at the national level (and in the Union Territories), requires being listed in the Indian Gazette or State Government Gazette and is considered to be a Gazetted Officer. If a person's name is

constabulary consists of the head constables and constables. The IPS officers, selected through the centralized and elite civil services form a tiny minority of the police force, but they enjoy all powers and privileges that come with being part of state bureaucracy and are also classified as gazetted officers. The middle ranks roughly constitute around 19-20% of the personnel (Verma 2005: 203. See also Verma and K.S. Subramanian 2009), while the constabulary comprises the largest section of the force. The middle-level officers, with at least an undergraduate degree, undertake all work concomitant with investigation, police inquiries, collection of evidence and intelligence and following up cases in the courts. It is this tier that performs bulk of the policing, but their voice counts for little in the institution, with the power to effect any significant change in the force lying with the IPS officers. The constabulary performs sentry duties, beat patrolling and guard duties, thereby making the police visible to the public.

At the level of its formal organization, Delhi Police is divided into twelve branches headed by a Commissioner of Delhi Police. The four main branches, each with their Special Commissioner of Police (SCP) are Special C.P. Administration; Special C.P. Training; Special C.P. Security and Armed Police and Special C.P. Intelligence. These SCsP are assisted by Joint Commissioners of Police (Jt CP), who in turn control Additional Commissioners (Addl CP), Deputy Commissioners of Police (DCP) and the Additional Deputy Commissioners of Police (Addl DCP). The lowest rank within the first tier of the Delhi Police is that of Assistant Commissioner of Police (ACP) and this officer

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published in the Gazette, he/she is called Gazetted. Among powers bestowed upon Gazetted Officers are the powers to verify the documents for academic, administrative, immigration and other purposes. They derive their authority to issue an official stamp from the President of India or the Governors of States and are considered *dejure* representatives and delegates of the Indian State and the President. See, [www.egazette.nic.in](http://www.egazette.nic.in), last accessed on 20<sup>th</sup> October 2016.

may or may not belong to the IPS cadre. I will discuss this rank in some detail below, but before I do that let me also tabulate the ranks in Delhi Police

Commissioner of Police (IPS)  
Special Commissioner of Police (IPS)  
Joint and/or Additional Commissioner of Police (IPS)  
Deputy Commissioner of Police (IPS)  
Assistant Commissioner of Police (DANIPS Cadre/ Gazetted Officer)  
Inspector (Delhi Police)  
Sub-Inspector (Delhi Police)  
Assistant Sub-Inspector (Delhi Police)  
Head-Constable (Delhi Police)  
Constable (Delhi Police)

**Table 1: Official Ranks in the Delhi Police**

The class divisions between the three tiers of the police organization as Verma has argued, are unascendable (214-16). However, there is one exception to this, at least in the Delhi Police. The civil services cadre of the Delhi, Andaman and Nicobar Islands Police (DANIPS) is regularly augmented by promotion of non-gazetted officers from the Delhi Police. In recent years, there has been an increase in the number of Delhi Police Inspectors being promoted to the rank of Assistant Commissioner of Police (ACP). At this level, officials largely perform supervisory, magisterial or administrative roles and not investigative duties. As far as the matters related to actual case work are concerned, an IPS officer is generally in a position to direct the manner in which investigation may proceed, but s/he is never identified with a case nor is s/he held directly responsible for erroneous investigation. Most work related to case-work and actual investigation is performed by the personnel of the second tier, that is, the non- gazetted officers. With fewer avenues for promotion or recognition—one or two in a career spanning over three

decades assuming s/he joins service in mid twenties—these officers are at the forefront of policing most complaints and are, by extension, also at the receiving end of an increasingly politicized police in India (209-11).

Politicization of the policing institutions in India is most markedly characterized by routinization of political interference in how a case develops (Mahalingam and Swami 1998), routine large scale and arbitrary transfers and postings of all ranks of officers, castigation of police chiefs by politicians, and the inability of the police leadership to discipline officers who have made networks with local politicians (Verma 2005). In her work on the Uttar Pradesh Police, Beatrice Jauregui argues that there is a concurrence in the processes of politicization and depoliticization, not just of policing institutions, but of police personnel, which at once creates a “subaltern” and a “little kingpin” in the figure of the police officer (Jauregui 2010: 26, 2013b).

The middle level non-gazetted officers are particularly affected by the politicization of policing since they are identified with particular cases/investigations, are constantly denounced—very often publically—by their superiors, and are endlessly working caught in the precarious situation of managing police work with extra legal demands made on them. Their work is often the most stressful and humiliating in the organization since, on the one hand, being in the public eye means they are regularly monitored and, on the other hand, at work, they jostle with intrusion in their work, the source of which often remains unidentified. Often, it is the SHO of a Police Station and the ACP to whom the SHO reports who are made scapegoats of institutional inefficiency and are punished

through suspensions or transfers from their current postings. This is particularly the case if an incident catches the public eye and gets mediatized.

The ACsP I interacted with dryly remarked that they were shock absorbers for the “reigning” IPS officers. They lamented that while a promotion to DANIPS had given them a certain class status, some entitlements, like the getting the bi-annual dearness allowance and an extra month’s salary, get taken away. Though proud of the fact that they are given access to a 24/7 official vehicle with a driver, along with being gazetted officers of the State, I frequently heard them complain that when it came to shouldering departmental responsibilities, no IPS officer took active responsibility nor were IPS officers suspended because the IPS officers are supposed to have a strong lobby with the central government as opposed to the Delhi Police officials who, both lack a collective body to represent their interests and are central government employees working within the administrative structure of the Delhi state. In the Delhi Police it is each officer to his own, often exemplified in routinized comments like “there is no point to be proven by taking on more responsibility; one can’t risk one’s job” ( *jyada responsibility lekar kya point prove karna hai? Naukri kharab thodi na karni hai*). In fact, in his analysis of the Indian police Baxi (1982) had argued that “[T]he concept of maintenance of ‘discipline’ requires that the *subordinate police* must identify at all times maintenance of discipline with the maintenance of *employment*...” (Baxi 1982: 100, emphasis in the original). A typical IPS officer remains somewhat insulated, particularly if he/she has also been able to cultivate some political patronage that would protect him/her in the context of a police

related problem. It must be noted that Police Forces (Restriction of Rights) Act of 1966<sup>41</sup> explicitly prohibits any kind of political organization by the police for collective bargaining like other public service groups.

During the time I conducted my fieldwork in the Unit, there was one Jt CP who was the (nominal) head of the institution, an Addl DCP, who was both assisted the Jt CP and was the second (real) head of the institution, and four ACsP whose duties were divided into ACP internal administration and juvenile unit; ACP police station; ACP counseling (1) and ACP counseling (2). There were 7 women inspectors, who constituted the EOs and it is among these officers that all the complaints were distributed. During the period of my fieldwork, this number kept shifting from 7 to about 11, but stabilized around 7 officers. In this entire period, two male inspectors were also transferred to the Unit and complaint files were assigned to them for some time. Eventually, one of them got a transfer out of the Unit and the other was made the over all in charge of the Right to Information unit.

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<sup>41</sup> The Police Forces (Restriction of Rights) Act of 1966 lays down the following restrictions and punishments.

(1) No member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority,

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any other society, institution, association or organization that is not recognised as part of the force of which he is a member or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bona fide discharge of his duties or is of a purely literary, artistic, scientific character or is of a prescribed nature. Explanation. —If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government, thereon, shall be final.

(2) No member of a police-force shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

4. Penalty: Any person who contravenes the provisions of section 3 shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

<http://indiankanoon.org/doc/1139373/>, last accessed on 20<sup>th</sup> October 2016.

With this, I now move to discussing the formal organization and functioning of the SPUW&C and the trajectory of complaints through the various sub-units of the Unit.

## FUNCTIONING OF THE SPUWAC AND A COMPLAINT'S TRAJECTORY THROUGH ITS SUB-UNITS

Citing *Chander Bhan and another v. State* (2008) (Chapter 1) as the context against which the Crime Against Women Cell was being remodeled, the Standing Order 281<sup>42</sup> of the Delhi Police laid the foundations of the SPUWAC. The order reads:

The **Special Police Unit for Women and Children** has been providing counselling to the victims of domestic violence in addition to offering a single window redressal for the women victim. In case of domestic violence, counselling of families became an essential part of the functioning of these Cells. Counselling is the first response of the Crimes against Women Cell in domestic matters. Many families in India still continue to live as joint families and counselling often involves other members of the family besides the immediate protagonists. The aim of counselling continues to be to remove irritants in the marriage, to prevent abuse or to ensure that there is no further abuse, and to secure the position of the woman in the marriage. Although this was informal at first, and resented by many as not a police role, it is now sanctioned activity with staff being trained for the purpose and receiving support from social workers and recognized nongovernmental agencies. As a result of this, in many cases a compromise/settlements could be arrived at between the families thus helping the women in continuing with her life without violence and threats. It is recognized here that when a women (sic) seeks help in CAW Cell, it is not always to criminalize the behaviour of abuser but to renegotiate the relationship without violence. The women Cells then act as mediators in this endeavour by creating a supportive environ (sic). The Crimes Against Women Cell also provides non-police services to women complainants. Through liaison with psychological and legal counselling services they are in a position to provide counselling and free legal advice to needy complainants with the help of reputed NGOs.

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<sup>42</sup> Standing Order No. 281, <http://spuwac.com/standing-orders-circulars/>, last accessed on 20<sup>th</sup> October 2016.



Given this mission statement, the SPUWAC since 2008, in addition to the (re)conciliatory work performed by EO<sup>43</sup>, most of whom are Inspectors, now has the following sub-units: Right to Information (RTI) unit; Counseling by “professional” counselors; Mediation Cell; Juvenile Cell; a Police Station; Self Defense Unit; and Women Helpline Patrolling Unit. In addition to these smaller units, there is a small administrative department that is responsible for performing clerical services and computerization of file records. The Unit also has a record room, which is a small, dusty room, located in a *barsati* (similar to an attic) on the Unit’s terrace. This small room is the responsibility of the lower level police official and during my fieldwork period, a constable was responsible for its general upkeep.

#### *A Complaint File is Not a Case File*

In the context of police work in India as also in the case of the Unit, it is important to understand the difference between a complaint and a case. A complaint is a duly signed document submitted to the police by an individual to either inform the police of a potential threat to life and property or an actual incident of harm to a person or her property. Submitting a complaint to the police does not necessarily mean that a formal criminal case would be registered on it. In the specific case of the Unit, till a complaint is being worked upon in the pre-litigation stage, that is counseling by EOs, counseling by “professional” counselors, mediation by lawyers, a complaint is just that—a complaint.

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<sup>43</sup> Enquiry Officers are senior level Inspectors, mostly in their late 30s-early 50s, who are responsible for pre-litigatory case-work. Exceptionally, they may also be asked to perform investigative work at the unit’s Police Station. Investigative/Inquiry Officers (IO) are mostly lower-subordinates of Assistant Sub-Inspector or Sub-Inspector ranks who are responsible for conducting investigation on complaints on which a formal case is registered. These officers are posted in the unit’s Police Station and work under a Station House Officer.

Any complaint that is either deemed resolved through these procedures and results in a “reunion” of the estranged couple, or an amicable settlement is reached between them, or is closed by the complainant before any “resolution” could be reached, inhabits the space of pre-litigation, where no charges are framed against any of the respondents and no criminal proceeding is initiated.

It is only when a complainant decides on filing a criminal case against her husband and/or in-laws that a complaint begins to take on the aura of a case. The EO, who dealt with the complaint at the pre-litigation stage, writes her final comments, explaining that all efforts at reconciliation or settlement have failed and the complainant wants to file a criminal case against the opposed party. She, then, “puts up” the parties before the ACP concerned, who attests to the fact that a “compromise” or a “full and final settlement” could not be reached in the said complaint, and therefore, it is being forwarded for registration of an First Information Report (FIR)—the beginning of criminal proceedings. The EO writes her concluding comments in the file, asks her assistant to paginate it and then sends the file through the assistant to the computer section, where the officer prepares a soft copy file of notings and strikes out the file from the account of the EO who was handling the case in the pre-litigation stage. This file is, then, marked for the Police Station and sent there with the ACP Police Station’s permission. The police station is part of the premises of SPUWAC, but is separated from the main building by a small wall of about 5 feet in height, with a metre wide opening in the middle, from the area where pre-litigation procedures take place. Once in the Police Station, the file is marked

to an IO, usually an Assistant Sub-Inspector or Sub-Inspector, who, then onwards, is responsible for initiating a formal case on the complaint.

Once in the police station and assigned to an IO, the complaint file becomes a case file. The IO begins work by conducting some primary investigation in order to bring charges against the respondents and make a charge sheet. At this point, the IO is supposed to maintain two more adjacent files. The first of this is called a Case Diary, in which she is supposed to enter details of all investigation conducted by her on a case. The second file is called a Guard File, which is used by the SHO of the police station to write her comments/instructions on a particular case to direct investigation in any particular case.

Once initial investigation on a case begins, the IO simultaneously tries to convince the parties to settle the matter out of court with a “full and final payment”. The IO often explains that court cases take exceedingly long to resolve, with the courts now mandating that a couple try to settle matters through the mediation unit located within the court premises. IOs usually advise the respondents to agree to a monetary settlement with their wives since fighting a court case also involves a lot of expenditure, sometimes more than the amount claimed by the wife. In a case that I was working on, an IO once explained to the respondent, “the money that you will not give to your wife will anyway be spent on the lawyer you will hire and for procurement of bail. The lawyer will charge you for every date of the hearing. After all, his household runs because of you” (see also, Mody 2008).

While IO leads the negotiations between parties at the police station, a case file is an incomplete file since it takes months to prepare a charge sheet. Until then, it inhabits a zone of liminality, where pre-litigation is supposed to have failed, but the legal proceedings in a court of law are yet to start. If a resolution is reached, the file remains the property of the Unit, but if a chargesheet is filed in a court of law, it becomes a formal case file and property of the court, which is where it is deposited upon settlement of the matter, notwithstanding whether a settlement is reached inside or outside the court.

### *Trajectory of a Complaint*

In order to delineate the career of a complaint in the Unit, I will use two slides from a presentation made by the SPUWAC on its working in 2010. Working in collaboration with the National Commission for Women and the Tata Institute of Social Sciences, Mumbai, this presentation assessed the performance of the Unit between 2008-10. The first level of entry at the Unit is at its reception that keeps records of both complainants and respondents. The reception is taken care of mostly by officials from the constabulary. The reception ensures that complainants have their complaints written out and that they have a photocopy of their complaint, which, if their complaint is accepted at the Unit, is duly returned to them bearing the date of admittance and seal of the Unit.

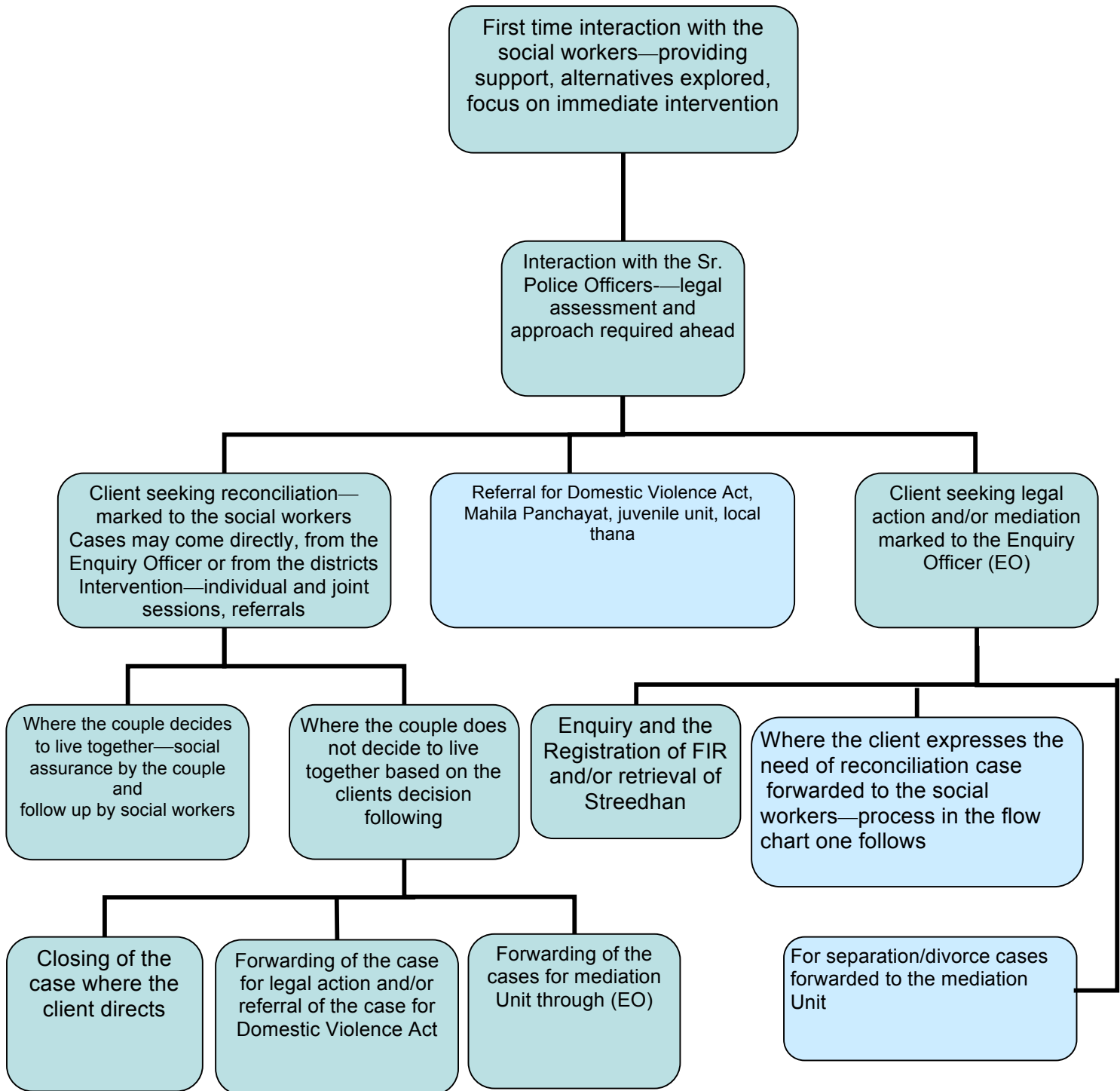
The second level is called the fresh complaints room or front desk (FCD), which is where a complainant meets with an officer and counselor for the first time. The room 101, as it is usually referred to, is the first place where a complainant is required to talk about her experience of domestic violence. The presence of a counselor is supposed to ensure that a

complainant feels safe and supported. It is the officer at the front desk who explains the working of the Unit to any complainant, makes judgments about whether a complainant falls within the jurisdiction of Delhi state, checks documents to ascertain whether a marriage was legally held, and gives advice on whether a complainant should consider filing her case under DV Act. From time to time, there are official orders to also convince complainants to take their complaints to district level Units that might be closer to their place of residence.

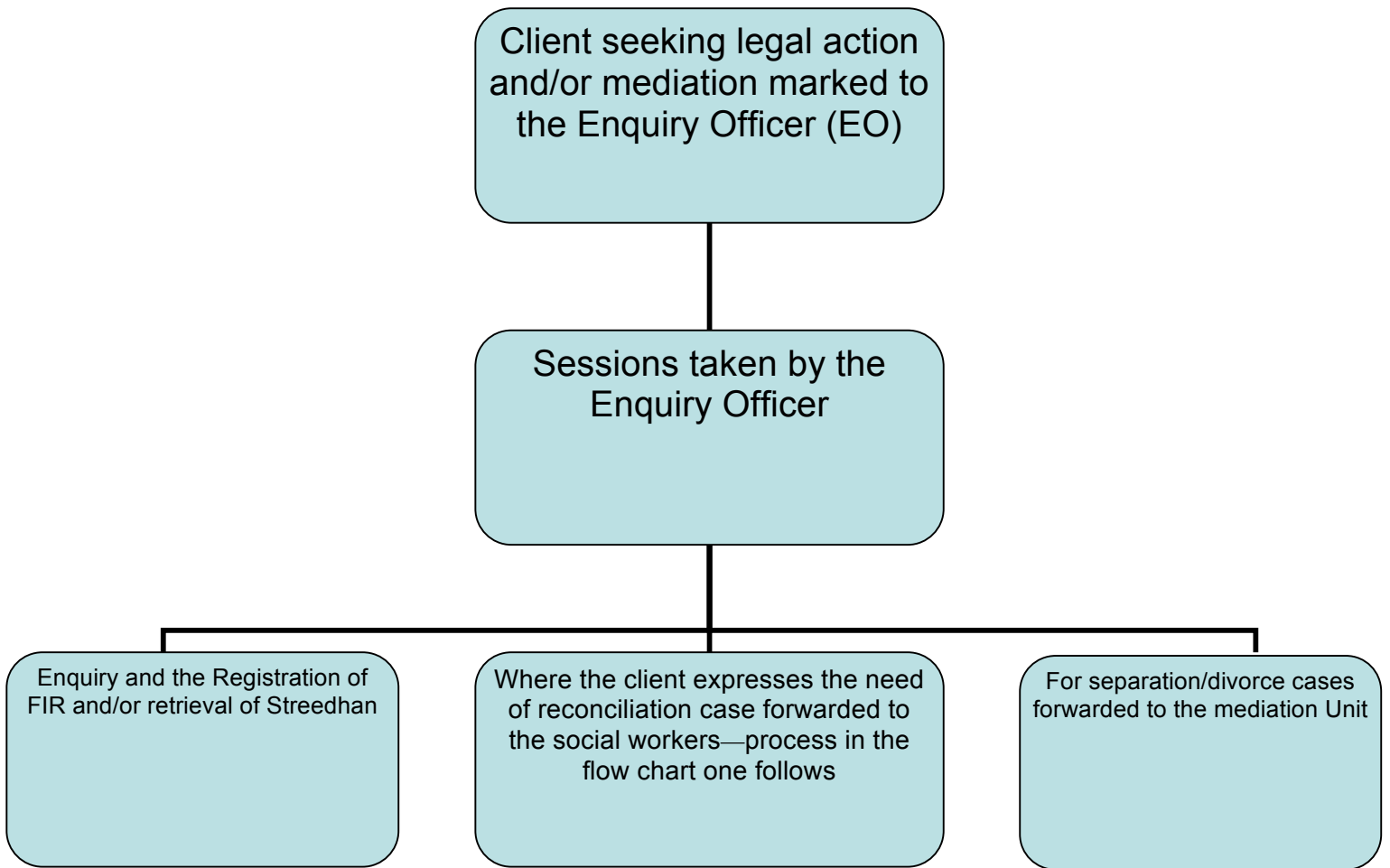
The most important paper document that is produced at the front desk and in the writing of case trajectories is the green notesheet. It is on this sheet that the officer at the FCD writes names, addresses and telephone numbers of both the complainant and the respondent (who would be summoned later by the EO), summary of the relevant facts of the case, the date of marriage, place where marriage was held, religious customs according to which the ceremony was performed, details of children, date of abandonment (if applicable), form in which dowry was demanded, “mental and physical torture”, and what kind of action the complainant wants taken against the respondent. It is part of this officer’s work to check that a complaint is written in proper format, with dates and incidents spelled out correctly and clearly and to, then, assign the complaint to an EO who handles complaints from the district in which the complainant resides. In other words, it is the complainant’s place of residence in the city that decides the EO assigned to her, however, exceptions are often made, particularly if a complainant comes from a politically networked family and there is pressure on the DCP to assign or not assign a particular EO. Often, the effect of mistakes made by the officer at FCD are borne by the

EO to whom a complaint is assigned, who must also read and verify basic facts of the complaint in any case. I show in Chapter 5 how a mistake in the date of marriage that was neither noticed by the officer at FCD nor the EO could have been instrumental in changing the trajectory of the complaint.

The second important data entry that is made at the front desk is in the daily records register, in which details of every complainant, whether her complaint is admitted in the unit or not, are noted along with her address and phone number. If a complainant's complaint is not admitted, the front desk officer is supposed to write a reason for not accepting a complaint. These issues could be related to jurisdiction, complaint not written in correct format, a complainant could have advised to take her complaint to a district level Unit and that she could have been advised to consider DV Act, if her matter did not fall within the ambit of criminal law. This is not an exhaustive list at all and sometimes entries in this register have tended to be about the timing of the complaint and a complainant's health. For instance, during my fieldwork, many women in advanced stages of pregnancy were advised to file their complaint after their respective deliveries to save them the stress of having to negotiate the pragmatics of a complaint in the Unit. To delineate the general trajectory of a complaint, I am using two slides from a presentation made by the SPUWAC about its functioning in 2010.



**A Presentation on Special Unit for Women and Children, New Delhi: A Joint Project of Delhi Police, National Commission for Women and Tata Institute for Social Science, Mumbai, 15<sup>th</sup> June 2010, slide 17.**



**A Presentation on Special Unit for Women and Children, New Delhi: A Joint Project of Delhi Police, National Commission for Women and Tata Institute for Social Science, Mumbai, 15<sup>th</sup> June 2010, slide 18.**



*Writing Police Work and the Place of Discretion Within it*

Recent works in anthropology, on the subject of paper and signature, have shown how techniques of bureaucratic writing can at once demonstrate a unique way of understanding the enunciation of law and the manner in which this articulation sits with formal law procedures (Latour 2010; Gupta 2012; Hull 2012; Raman 2012; Verdery 2014). These works have studied the micro-practices of writing in *files*, where files become the “variables that control the formalization and differentiation of the law” (Raman 2012: 3). Following these works, I have foregrounded the manner in which police officers in the Unit undertake micro-technical practices of writing trajectories of complaints, producing certain kinds of juridical truth on paper that deviate from the spoken words that make most decisions possible. I do concede that the file is actually a product of a number of people using a variety of linguistic conventions and are hardly homophonic as both Hull (2012) and Verdery (2014) remind us in their works. Where I disagree with most works on bureaucratic file writing is not on the question of collective authorship, but whether corporate responsibility erases individual responsibility. I take that argument forward here to think specifically about the *form* that writing takes in a file and the place of discretion in the writing of it.

I argue that there is no easy accord between spoken language and script, particularly when the spoken language is different from the language of the (official) script. I agree with Raman who writes that “[C]ontinuous writing and discretion do not negate each other. They are better considered to be contradictions inherent to the moral claim of paper procedure...” (Raman 2012:18). What I add to this argument is that in addition to

enormous discretion that accompanies bureaucratic writing, we must also make space for the fact that bureaucratic writing is an acquired skill that is learnt in the absence of writing guidelines. The similarity across Unit in the official case writing showcases aptitude acquired through copying and repetition; this tendency also substantiates itself in the many mistakes that are repeated ad-nauseum in file after file. For instance, a common mistake repeated in police files is around indexing whether a complainant has children or not. The typical way in which this would be written is “there is X number of children born out of this wedlock”, referring actually to the number of children born in the marriage. From time to time when I pointed mistakes in the notesheets to any officer with whom I was working, the correction was welcomed with an explanation around how everyone understood the meaning of the text despite the syntactical error. Many officers also generally lamented about how their “weak English” was to be blamed for these mistakes. Overtime, I felt that terms and explanations such as “awkward prose”, “babu English”<sup>44</sup> (Raman 2012: 55) and “English of many of the diarists is so poor that they have difficulty determining subject” (Hull 2012: 121) does only partial justice to the actual difficulties faced by officers in moving across different registers of languages, that is, from affectively charged Hindi to a more fact conveying English. This does not, however, mean that it is easy to move registers from spoken Hindi to official Hindi, which is Sanskritized Hindi. Let me cite examples from my fieldwork to explain this further.

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<sup>44</sup> We can think of babu English as form of genre or register of writing, not spoken English. Babu English is a highly formal variety of contemporary Indian English with roots in the English spoken by clerks in Bengal in the nineteenth century. It is now used in most of north India (see Brij B. Kachru 1992).

Early in my fieldwork, when I began sitting with officers in at the FCD, I was asked by many officers to help them in writing the notesheet in proper English. This meant that they wanted me to read a complaint, written either in Hindi or English, and write a summary of charges that a complainant had levied against her husband and/or in-laws. Initially, this request took me by surprise and I did write a few notesheets that were read by the officer in-charge after which she would put her signature where the noting finished. Of course, the officers had been writing notesheets, of one kind or another, throughout their careers in the Delhi Police, but there was *dullness* in their writing, like one officer said to me, which they wanted me to undo in my writing of their notesheets. To be sure, over time I learnt that some officers just did not want to write and used me as their personal scribe to do their writing work and I had to gradually learn to express my inability to do their work citing reasons of research protocol. One officer also expressly told me to write brief notesheets. According to her I wrote too much detail, instead of just enumerating “relevant facts”, and this often meant that they (referring to herself in the plural) could be made responsible for verifying all allegations written (by me) in the notings, hinting again at individuation of responsibility.

Meanwhile, I asked many officers why they preferred writing in English to writing in Hindi since Hindi was both their first language and the language of their formal education. I was told by many that writing in Hindi was far more difficult than it was in English because they could acquire the skill to navigate English with repetition and copying, something that was almost an impossibility in Hindi since only low ranking police officials wrote in Hindi (*English to dekh dekh ke seekh jaate hain*). Many officers

also said that following the language of law in English was easier than it was in Hindi. For instance, one Inspector told me that she preferred writing, “X was mentally harassed and physically assaulted by her husband’ instead of rendering the same in Hindi “*X ko uske pati ne maansik roop se sataya aur us par sharirik atyachaar kiya* since no one spoke Hindi in this manner.” The professed incompetence around languages, which cuts across the use of both Hindi and English and can be explained by the language teaching policies of the Indian state throughout the country<sup>45</sup>, has resulted in the creation of a standardized template, exemplified in the manner in which a case history is written in the Unit. This unofficial template, then, becomes the screen around which individual indifference or laxity may be covered as much as it provides a uniformity or a generality to writing in a context where “precise specification of authorship” (Hull: 127) is a source of great apprehension.

My work does not end with merely explicating the surplus that does not get mapped onto the file notings. The materiality of the file certifies not just the reality of the person produced through it, as both Verdery and Hull have argued, but that the writing and assembling of the file can also become an extension of the person that an officer is in her *own* life. For instance, Insp. Uma Pandey’s (Chapter 3) files were as messy and chaotic as she herself was supposed to be while the files of a newly transferred officer from the Central Bureau of Investigation (CBI) were neat, precise and organized, quite like she herself was in her “outlook towards life”, a senior officer once told me when I asked whose files she liked best. Therefore, there are “social effects”, to use Verdery here

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<sup>45</sup> See Braj B. Kachru, Yamuna Kachru and S.N. Sridhar (2008). .

again, that flow out of the materiality of files, which provide a reflection on the relations that mark an organization internally (62).

*Obtaining a Copy of the Complaint: A Respondent's Right Under the Right to Information Act*

A significant part of counseling procedure followed by the EOs of the Unit, prior to its restructuring in 2008, was to withhold information about the actual contents of a complaint rather than revealing them to a respondent. The logic of this protocol stemmed from a particular interpretation of the definition of the law on domestic cruelty itself, which understood only dowry demands and related harassment and/or violence as constitutive of domestic violence, although provisions of Section 498-A do make it possible to criminalize violence unrelated to dowry. Given this general (mis)understanding, before the 2005 DV Act came into existence, married women had to depend on 498-A to file complaints of domestic violence, but in order to get a complaint registered successfully, they often had to invoke dowry as the frame around which experiences of violence were narrated. This still holds true, except that the DV Act exists as an alternative to enable a different form of articulation of the experience of domestic violence as well as to seek another form of legal remedy.

Not revealing the actual allegations made in the complaint during a hearing is advised in order to allow a couple to chart out their differences and, then, move towards the possibility of reconciliation. Most EO at the Unit do not actively reveals the contents of a complaint to any respondent, but if they are asked about the specificity of allegations made, EOs direct them to obtain a copy by making a request via an application filed

under the Right to Information Act, 2005. At least since 2009, it is possible to gauge from the cases filed in the Central Information Commission (CIC), the nodal body responsible for adjudicating disputes arising out of matters related to information being sought by an applicant, that the Unit initially turned down requests made by respondents to obtain complaint copies and the CIC, too, ruled in the Unit's favour for not complying with the requests of the respondents. In turning down requests seeking copies of complaints, the Unit initially relied on the exemption provision of Section 8 (1)(g) read with Section 11 of the RTI Act.<sup>46</sup> Citing these two sections of the Act as forming a basis for exemption, the Unit initially resisted making copies of complaints available to respondents and/or their representatives. For instance, in *Shri Ranbir Singh v. O/O (Office of) The Deputy Commissioner of Police* on 30<sup>th</sup> September 2009, the representatives of the DCP office argued that:

the complaint of the Appellant's wife had not been disclosed as the enquiry was on and the Unit was hopeful of bringing about a compromise between the husband and the wife and the disclosure of the complaint at that stage would have adversely affected that process by exposing the complainant, in this case, the wife of the Appellant.

The CIC, on its part, contended that

While there is some substance in this argument, now that the matter is nearly 2 years old and the enquiry by the Unit is over and the matter stands transferred to the regular police for further action, a copy of the complaint could easily be given. We, therefore, direct the CPIO<sup>47</sup> to provide to the Appellant within five working days of the receipt of this order a copy of the said complaint along with a short statement on the action taken on that complaint till date.

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<sup>46</sup> Both these sections list conditions under which a public authority may deny information being sought by an applicant. Section 8(1) (g) of the RTI Act stipulates that if disclosure of information could endanger any person or identify the source of information or assistance given in confidence for law enforcement or security purposes, it may be denied to an applicant. Section 11(1) of the Act treats certain information as personal, which can only be provided if permission is obtained from the person about whom information is being sought, <https://indiankanoon.org/doc/839514/>. Last accessed on 20<sup>th</sup> October 2016.

<sup>47</sup> CPIO stands for Central Public Information Officer and this officer is the first officer in any public organization that is responsible for providing information sought for under the RTI Act.

In *Mr Sundesh Singh v. Ministry Of Home Affairs*, 27 June 2011, where the SPUWAC had declined to give the complainant's copy to a respondent, the CIC concurred with SPUWAC's justification, which was that, "[T]he complaint was closed on the request of complainant, i.e., appellant's wife and no action has been taken against the appellant... there has been no action taken on the complaint of appellant's wife...". Therefore, Unit officials argued, the complaint copy was not provided to the respondent. In contrast to this, in *Dr. Gaurav Paul v. Delhi Police*, March 2012, SPUWAC declined to give the complaint copy to the respondent invoking Section 8 (1) (e)<sup>48</sup> since the complainant had not consented to part with the document. The CIC in this case argued in the opposite manner and held that since the complainant had closed her case in the Unit, the respondent could be given a copy of the complaint.

In yet another case, *Mr. Nitin Bajaj v. Ministry of Home Affairs*, 28<sup>th</sup> September 2011, a copy of the complaint was sought by the husband, Nitin Bajaj from one of the district level Women's Cell of Delhi, but was denied the same by the Unit CPIO by invoking the exemption from disclosure of information section 8 (1) (j)<sup>49</sup> and Section 11 of the RTI Act. The information sought, in this case the complaint copy and other documents, was

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<sup>48</sup> Section 8 (1) (e) of the RTI Act lays down that: (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information, <https://indiankanoon.org/doc/1494553/>, last accessed on 20<sup>th</sup> October 2016.

<sup>49</sup> Section 8 (1) (j) of the RTI Act lays down the following grounds for exemption from disclosure of information. It reads in the following manner: "(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, (j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person", <https://indiankanoon.org/doc/223928/>, last accessed on 20<sup>th</sup> October 2016.

deemed to be “personal in nature” and the complainant had not consented to the copy being provided to the husband. Nitin Bajaj had, then, filed an appeal with the First Appellate Authority (FAA) of the Unit to look into the matter, but here, too, his appeal was rejected. In his second appeal, now made to the CIC, the CIC held that the an exemption of on account of both Sections 8 (1) (j) and 11 of the RTI act was untenable because,

Once a complaint has been filed by an individual before the concerned authority who is competent to act upon the said complaint, then such complaint or the contents thereof can no more be termed as personal information of the person filing the complaint.

In rejecting Nitin Bajaj’s first appeal that FAA had also argued that the copy of the complaint could not be provided to him because an attempt was being made through counseling to achieve some kind of reconciliation among the couple and providing a copy of the complaint could render “the whole counseling process futile and waste”. The CIC contended that this reasoning did not provide sufficient ground for denying information under the RTI Act. Interestingly, in this case, the CIC, in expanding its position on the rights of the respondent/husband in matrimonial cases, also, obliquely, commented on the sanctuary taken by complainants under exemption clauses of the RTI Act. It held,

it is often seen that one of the spouses may lodge a complaint against the other before the competent authority and thereafter, enter counseling with the spouse against whom the complaint was filed. As a matter of principle, a person cannot blow hot and cold at the same time. Where the complaint has been filed by one spouse specifically against the other spouse, then clearly as a matter of principle, the other spouse has a right to obtain a copy of that complaint irrespective of whether counseling has been initiated on the basis of that complaint. However, since these are sensitive matters involving complex matrimonial issues, such complaint cannot be provided as information under the RTI Act to any such person against whom the complaint has not been lodged. The contents of a complaint may contain several references to various persons and different incidents but that does not mean that every person whose name appears in the



complaint has a right to a copy thereof. It is only such spouse, against whom the complaint has been specifically filed by the other spouse, who has a right to obtain a copy thereof. Such right of the accused spouse is not affected by the mere fact that counseling between the him/her and the other spouse has been initiated pursuant to the said complaint.

The cases discussed above illustrate how changes in the routine practices of the Unit, in this case of divulging the nature of allegations made against the respondent only upon the registration of an FIR, have steadily been accomplished by bringing provisions of the RTI Act to bear upon them. While for the respondents this means a step towards making the procedure of the Unit more congenial, for complainants, this has meant that they often have to attend adjacent legal proceedings, not initiated by them.

*At the Annual Mercy of the National Commission for Women: Counselors, the Contract Laborers of the Unit*

An order passed in the Unit by the Addl DCP's office in October 2012 urged the EOs to continue their work of counseling couples to bring reconciliation among them and to not burden the existing "professional counselors", of whom there were only two remaining, with extra caseload. This order also informed the EOs that all efforts made towards the appointment of more counselors in the Unit through the National Commission for Women had "failed". When I began fieldwork, there were four counselors working in the Unit. Of these, the two younger counselors held post graduate degrees in Social Work. The older counselor Archana Kohli, had worked in the Ministry of Social Welfare for many years and was also responsible for bringing the second one, Arunima Negi, to the Unit. A meeting with the Jt CP in 2008 had ensured that Negi got a position as a counselor at the Unit. On the very first day of my fieldwork at the Unit, Kohli had told

me that there was a “big difference between the young and the old counselors”. When I enquired what she meant by this big difference, young can sometimes be ambitious, and not clued into the ways of the world. There was a silent, but a very noticeable friction between these two groups of counselors which stemmed, said Kohli, from the “over-confidence of degrees” that the younger counselors held. The younger counselors eventually left the Unit for better career options.

Well into 2016, the mandate of the counseling unit continues to be precarious because of its dependence on the National Commission for Women (NCW) which, given its own budgetary considerations, re-approves the unit’s continuation at the beginning of a new financial year in the month of March. As a result, counselors go through moments of extreme stress and anxiety towards the end of February, not quite sure about whether their tenure. Meanwhile, senior police officials regularly meet with senior bureaucrats at the NCW to convince them to regularize the unit and to bring some security to the work of the counselors. Working as contractual labor, the counselors receive extremely low salaries, payment of which is often delayed, with absolutely no social security benefits in the form of pension, leave, bonuses and insurance.

In the initial stages of my fieldwork, my entire day was packed with going from one hearing to another, sometimes listening to a complaint and at other times to a joint hearing of both the parties. The many gaps and interruptions provided much relief and an opportunity to write quick notes. In these months, I was always in a tearing hurry and felt restless with the possibility of missing a session. As it turned out, I did miss a few

sessions of some complaints that I had begun following and for that reason I had to discontinue working on them, but what also dawned on me was the realization that with fewer complaints to work on each day, I wrote better notes and did not feel exhausted with the sheer labor that had to be put in continuously having my ears engaged in listening in the hope of rendering fantastically perfect “legible representations of aural experience” (Gitelman 1999: 15). The sensory exhaustion of these initial months was overwhelming and I could only establish a comfortable pace after about two months of having been in the field, with the growing realization that my rendering of any account of any complaint would be an act of remediation anyway.

For the two counselors of the Unit, however, there was no reprieve. The counselors’ patient and “structured listening” stood in contrast to the more “economical listening” of the EOs, which meant that while a certain form of discipline around counseling sessions with the counselors was institutionally enabled, the one with EOs saw incessant and unapologetic interruptions, often leading to a more distracted and wavering form of listening (Szendy 2008: 105-10). Although the previous Jt CP had created counseling rooms to be used by the EOs, they seldom left their desks for these rooms to hear the parties. For the EOs, moving back and forth from these counseling rooms to their own desks was itself tiring since they constantly needed to attend to other official matters, like taking phone calls and organizing paperwork. As more EOs got posted at the Unit, these rooms were allotted to them and, while the only unassigned room was used as a waiting room by parties. When counseling fails to reconcile a couple, the counselor sends the parties back to the EO for taking further action. In addition to this, she writes a short

report about the case in her own register and submits one to the EO, for it to be attached to the complaint file.

*Settling Matters, Mediating Disputes: The Mediation Cell of the SPUWAC*

Everyone watching the power-point presentation on the benefits of settling disputes through mediation complained both about its length. It was mandatory for everyone who had been advised to “go in for mediation” to watch this presentation, following which, couples were assigned mediators and given dates to meet with them in the subsequent. During my fieldwork, there were seven mediators working at the Unit, and each one was first assigned two days in a week, but this was subsequently brought down to one day in a week.<sup>50</sup> A 40-hour-training module is stipulated by the Delhi High Court for a lawyer, with at least 10 years standing at the bar, if she wishes to train as a mediator. All mediators, except one, were women. A weekly visit to the Unit earned each mediator Rs 1000 and for every successful mediation, they earned Rs 2500. In addition to this, if a mediated settlement led to the withdrawal of other civil cases that a complainant may have been pursuing at the time, then for every case withdrawn from a civil court, the mediator earned Rs 500. Most of the mediators at the Unit perform the same work in other legal settings like the district level courts in Delhi.

The mediation procedure involves meeting with the parties both individually and collectively to understand whether a couple wants to move towards reconciliation or towards what is called “a full and final settlement”, which usually means that a mutually

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<sup>50</sup> General rules governing the procedure of Mediation are listed on <http://www.delhimediaioncentre.gov.in/MediationConciliation.htm>, last accessed on 20<sup>th</sup> October 2016.

negotiated amount is agreed to be paid to the complainant, with a simultaneous move by the complainant towards withdrawal of any pending cases against the respondent. In Mediation, no party can be forced into agreeing upon terms that are not acceptable to them. The overriding principle that guides mediation, I was told by many mediators, is to not focus on the conflict, but on what might be the way out of it. No written record of the mediation procedure is maintained by the mediator and any writing, if at all, takes place only to draft a settlement/compromise deed. If a couple is unable to arrive at any form of settlement, the mediation is considered having “failed” and the mediator writes this on a form, which is sent to the EO. If mediation is successful, then a copy of the settlement is sent to the EO and the settlement becomes part of the complaint file.

There are two important points emanating from mediation procedures that need to be made further. First, many EOs complained informally about a particular mediator, Rekha Khattar and said that the settlement deeds created by her were difficult to enforce. In Chapter 3, I will show how a compromise settlement mediated by her reflected the language of marriage vows, which were impossible to enforce through law. The second point, which ties into my argument about individuated responsibility wielded by EOs, is that when a settlement is reached between parties following counseling by an EO, the official settlement paper bears the signature of a mediator and not the EO. This practice has evolved to give a complainant security that comes with having a signed agreement that is admissible in courts and to protect EOs from accusations of coercing a complainant to settle for a compromise. The mediators do not object to this practice since they also get paid for every settlement on which they put their signature.

In addition to the mediators, the Unit also had two lawyers, one from the Delhi Legal Services Authority (DLSA) and another from Lawyers Collective, who came once every week to give legal advise to women, particularly if their complaints were not received at the Unit and they were advised by their EOs to seek civil remedies for their concerns. Lawyers Collective stopped sending their representative to the Unit soon after I began fieldwork, but the reasons for this were never spelt out to me. It was rumoured that their representative often asked for a payment for filing a case on a complainant's behalf, but there is no way in which I can verify this claim.

#### A CASE OF INTENSE INDIVIDUATION OF RESPONSIBILITY IN THE POLICE

It is unusual for any government department to make figures of how many departmental inquiries it held in any given year and the number of officials it suspended and/or dismissed available to the public. In its effort to be accountable to *its* public, Delhi Police, in recent years has either issued press statements or released figures of crime statistics in the city and the actions initiated on them by the department.<sup>51</sup> To add to these figures, the department, in its effort to both combat corruption internally and to inform the public about its disciplining of “rogue” cops, has also released figures of how many intra-

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<sup>51</sup> [http://59.180.234.21:8787/Press\\_Release\\_Details\\_iframe.aspx?cid=mUBXqr/rxb8=](http://59.180.234.21:8787/Press_Release_Details_iframe.aspx?cid=mUBXqr/rxb8=), last accessed on 20<sup>th</sup> October 2016.

<http://indianexpress.com/article/cities/delhi/36-corruption-cases-registered-against-74-officers-police-tell-l-g/>, last accessed on 20<sup>th</sup> October 2016.

<http://www.dailymail.co.uk/indiahome/indianews/article-2894786/Delhi-Police-statistics-reveal-five-women-raped-molested-national-Capital-day.html>, last accessed on 20<sup>th</sup> October 2016.

departmental inquiries were held, along with the number of suspensions and/or dismissal of officers according to ranks. According to one such recent release<sup>52</sup>, in 2015:

The vigilance department of the Delhi Police had conducted 55% more inquiries against its men after which disciplinary action was taken against the guilty cops. An independent survey by Delhi Police found 34% of the cops to be corrupt in 2015 as against 66% in 2014.

The department registered 88 cases under the Prevention of Corruption Act against 77 policemen. Of the 490 cops suspended in 2015, 10 were inspectors, 90 sub-inspectors, 46 ASIs and the rest constables and home guards. Departmental inquiries were ordered against 1,017 officers and 90 policemen were dismissed from service following complaints.

Vigilance inquiries were conducted against 838 policemen out of which charges were proved against an ACP, 12 inspectors, 18 sub-inspectors, two ASIs, five head-constables and 15 constables. The department received 1.09 lakh complaints on its anti-corruption helpline number....

A 24x7 flying squad was formed to attend to complaints lodged by citizens regarding acts of corruption. A team led by an ACP attended 1,341 calls in 2014, which included calls pertained to allegations of harassment, inaction or corruption.

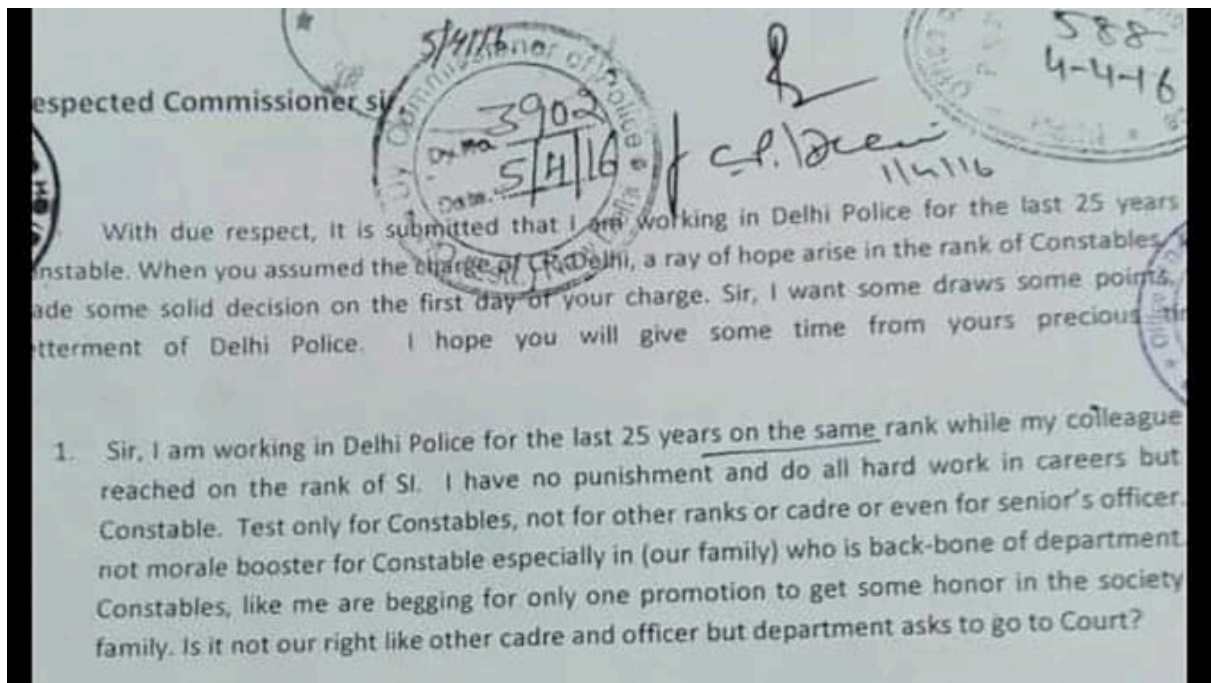
A mobile application for quick registration of complaints was launched as well. In 2014, 582 cops were placed on the list of “doubtful integrity”.

In the absence of any systematic institutional reform of policing institutions in India, as I have already mentioned in the previous section, induction of more people within the force (to increase people’s sense of security) and punishing individual cops for indiscretions (to creating a favorable public image), become the only ways of resolving problems besetting policing institutions. Both are highly individuated means of approaching the political problem of citizen’s insecurity and systemic politicization and corruption. It must be noticed that in the figures provided by the Delhi Police, no IPS officer was found guilty of any form of misdemeanor and if any officer was, then, those figures have not

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<sup>52</sup> <http://timesofindia.indiatimes.com/city/delhi/12-cops-held-in-April-but-no-effort-to-rein-in-the-rogues/articleshow/52058987.cms?cfmid=2000000>  
<http://indianexpress.com/article/cities/delhi/36-corruption-cases-registered-against-74-officers-police-tell-l-g/>

been made public. I place this opening vignette in contrast to a letter anonymously written by a Delhi Police constable in April 2016, to the new Commissioner of Police, Alok Verma, who took charge of the policing in the city in March 2016.<sup>53</sup>



**An Excerpt from the Letter Written Anonymously to the Delhi Police Commissioner, Alok Verma in April 2016<sup>54</sup>**

To begin with, the anonymity of the letter writer itself attests, again, to the manner in which responsibility is attributed in the department and the risks entailed in even writing a rather humbling letter to the Commissioner of Police entails. The one page letter, a news website mentioned, brings attention to poor working conditions, strenuous working

<sup>53</sup> <http://www.sundayguardianlive.com/news/4379-constable-writes-new-delhi-cp-about-police-s-woes>  
<http://www.thequint.com/india/2016/04/23/constable-writes-letter-to-delhi-police-commissioner-about-work-hours-corruption>, last accessed on 20<sup>th</sup> October 2016.

<sup>54</sup> Excerpt published on <http://www.thequint.com/india/2016/04/23/constable-writes-letter-to-delhi-police-commissioner-about-work-hours-corruption>, last accessed on 20<sup>th</sup> October 2016.



hours, lack of promotions, and the “ill treatment” meted out to subordinates at the hands of the SHOs. The same news website writes,

Pointing to the disenchantment the work culture is creating among the new generations of police constables, he appeals to Verma to “fix something; 8 hours, 10, 12 hours, 24 hours...fix something.” Alleging that the SHO manipulates and terrifies the lower ranks in the name of long working hours, he, on behalf of his colleagues, refuse to “work as a puppet in the hands of [the] SHO.”

Further,

The constable explains how he has been serving the Delhi Police with honesty and no “punishment” on the same post for over 25 years; while his colleagues in other cadres have risen (sic) the ranks to Sub-Inspectors (SI). He further asks if it is not their right to ask for these promotions; if yes, then why does the “department ask to go to the court?”...The ages to apply for higher posts like Head Constable (HC) and SI has been reduced to 30 from 40, as well, the constable notes. This, without the age relaxation available in other cadres in the country, begs the question why the seniors are “against the lower subordinates”.

In addition to these two vignettes from recent times, I also want to draw attention to a petition filed by a Delhi Police constable, Babu Lal Mitharwal, in the Central Administrative Tribunal (CAT) in 2012. In *Babu Lal Mitharwal v. Union of India*, constable Mitharwal had invoked Article 21<sup>55</sup> of the Indian constitution to show how there was a discrepancy in the pay scales of constables of the Chandigarh Police and Delhi Police.<sup>56</sup> Both cities are similarly located, that is, they are capital cities where the police are accountable to the central government and while there was a reform in the pay structure of constables of Chandigarh police, there were no such reforms in Delhi Police.

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<sup>55</sup> Article 21 of the Indian Constitution reads: “No person shall be deprived of his life and personal liberty except according to procedure established by law”, see Basu (2015).

<sup>56</sup> <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/cat-seeks-centres-reply-on-delhi-cops-pay-hike-plea/article3499337.ece>, last accessed on 20<sup>th</sup> October 2016.

Not only did Mitharwal argue that the treatment was discriminatory<sup>57</sup>, but he also challenged the validity of Section 22 of the Colonial Police Act, 1861<sup>58</sup> and Section 24 of the Delhi Police Act, 1978<sup>59</sup>, which binds police personnel to be available for duty 24/7. The issues raised by this petition are yet to be tested by the Delhi High Court.

I use these three examples from recent times to frame my argument about the way officials of the police establishment are required to wield responsibility. I have built my argument, however, not with an analysis of “street level bureaucracy” (Lipsky 2010 [1980]), but responsibility as it becomes legible through the writing work performed for the state. I do this because the police unit I worked with did not perform routine patrolling work, but was engaged in extensive production of filing and paperwork, although my argument can unreservedly be extended to street-level work, which explains the use of street-level scenes at the beginning of this section.

Police in India does not have civilian bureaucracy; it is its own bureaucracy. The Indian police, with its antecedents in the colonial policing organized around military rank and file, unlike the Indian armed forces, does not have a dedicated cadre of professionals like educationists, engineers, doctors, nurses, lab technicians etc.; rather, each police official

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<sup>57</sup> <http://www.dailymail.co.uk/indiahome/indianews/article-3536385/COURT-MARSHAL-Round-clock-policing-achievable-without-exploitation.html>, last accessed on 20<sup>th</sup> October 2016.

<sup>58</sup> Section 22 of the Police Act 1861 reads: Police- officers always on duty and may be employed in any part of district—Every police- officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police- officer in any part of the general police- district, <https://indiankanoon.org/doc/1721388/>, last accessed on 20<sup>th</sup> October 2016.

<sup>59</sup> Section 24 of the Delhi Police Act, 1978 reads: Police officers to be deemed to be always on duty and to be liable to employment in any part of Delhi—Every police officer not on leave or under suspension shall for all purposes of this Act be deemed to be always on duty and any police officer or any number or body of police officers allocated for duty in any part of Delhi may, if the Commissioner of Police so directs. at any time, be employed on police duty in any other part of Delhi for so long as the services of the police officer or number or body of police officers may be required in such other part of Delhi. <https://indiankanoon.org/doc/1629452/>, last accessed on 20<sup>th</sup> October 2016.

can be made to serve in the police bureaucracy as much as she can be posted out in the field to perform *policing* duties. In this context, the officer who admits complaints (Fresh Complaints Officer or Front Desk Officer) to the Unit may be seen as performing a bureaucratic duty, with no real stake or responsibility towards any particular complainant's file, while Enquiry Officers and Inquiry Officers may be seen as performing *policing* duties, being directly responsible for a particular complainant's trajectory. This is not to suggest that the officer at Fresh Complaints cannot be held responsible for anything at all. For instance, this officer can be asked to provide explanation for falling short in her interpretation of law in denying admittance to a complainant's complaint. In fact, in my analysis of internal orders passed within the unit, a show cause notice was served to a fresh complaints officer by the DCP's office precisely because she had summoned a complainant, whose complaint had been received by the unit through the Police Headquarters post, heard her and unilaterally disposed of the complaint, without assigning it to an EO or making any entries in the Master register.

Working on bureaucratic writings in the Capital Development Authority (CDA) offices in Islamabad at the end of 1990's, Matthew Hull argues:

Bureaucratic organization is a social form designed for collective action, a social technology for aligning the efforts of a large number of people so that they can act as one. And yet, the mechanism by which this is done is the precise individuation of action—defining appropriate actions for individuals and identifying them with particular acts—to a degree not known in any other kind of social organization (2012:129).

In the context of the Unit, the argument of generating collective authorship through the dispersion of responsibility and accountability across multiple “graphic artifacts” (14)

and signatories works only half way, that is, only if we concentrate on the homogeneity of file notings, made first by the officer at the FCD, then by the EO and finally by the ACP (who allows for file closure at the pre-litigation stage), across various complaint files. Hull's argument is somewhat inadequate if we take into account that in the context of the Unit, no amount of collectivization of responsibility through "the dialogic discursive and circulatory constructions of writings" (130) even partially exonerates the EOs in the pre-litigatory and IOs in the litigatory stages, who remain the primary composers of the file. Case files are intensely personalized in the police and are as much about the complainant as they are about the officer dealing with the complaint. In my fieldwork, it was not unusual for EOs and IOs to mark ownership to the files under their investigation as "my case, my file" (*mera case, meri file*). The official data maintained in the Unit's computers, too, lists files with the name of the EOs and IOs and not of the ACP's, who are routinely transferred internally in the Unit. In addition to these naming practices, the orders passed from time to time within the Unit specify that proper information of the EOs/IOs be made available to establish correlation between the case files/documents and the officers. Let me explain this with two examples. The first is an order passed by the Addl DCP and is meant for all EOs, while the second one is censure order directed against one particular EO.<sup>60</sup>

My first example is a general order passed, during my fieldwork period, by the Additional Deputy Commissioner of Police, SPUWAC. This was meant for all EOs in the Unit and read:

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<sup>60</sup> In order to protect the identities of the officers, I am choosing not to divulge the dates and other identifying information for these two official orders. Therefore, these orders have not been referenced in the dissertation's bibliography.

SHO/PS CWC<sup>61</sup> has informed that enquiry officers do not put down their full name, Range<sup>62</sup> & PIS<sup>63</sup> Number under their signature on the final report which creates great inconvenience to the investigating officers while they prepare charge sheet.

Hence-forth (*sic*), all the enquiry officers will take down their full name, Range and PIS number under their signature on final report. ACsP/Counselling<sup>64</sup> will ensure it while they forward final report to the undersigned.

Non-compliance will be viewed seriously.

The order stipulated that copies of this order be marked to DCP/SPUWAC for information, to ACsP/Counseling, to ACP and SHO/PS CWC and to all enquiry officers SPUWAC “for strict compliance”.

My second example is an order passed by Additional Deputy Commissioner of Police, SPUWAC to a particular EO as a measure of censure for breach in performance of duty. The Order<sup>65</sup> stated,

A show cause notice for censure was issued to W/Insp.<sup>66</sup> XXX, No. D-XX, by DCP/SPUW&C, Nanak Pura vide no. XXXXXXHAP/SPUWC dated XX/XX/XX on the allegation that a complaint was made by Ms. XX vide No.

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<sup>61</sup> SHO/PS CWC stands for Station House Officer/Police Station, Crime Women’s Cell.

<sup>62</sup> Range is a form of geographical mapping of the city of Delhi. Delhi is divided 6 Ranges and 11 districts. These ranges are: South Eastern Range, South Western Range, New Delhi Range, Eastern Range, Northern Range and Central Range. A range is a larger geographical that encompasses Districts, Sub Divisions and Police Stations. For instance, the South- Eastern Range encompasses both the South and the South East Districts. The South District has 5 Sub-Divisions (Defence Colony, Hauz Khas, Mehrauli, Vasant Vihar and Safdarjung Enclave) and 16 Police Stations divided among these sub-divisions. The South East District has 5 sub-divisions (New Friends Colony, Lajpat Nagar, Kalkaji, Sarita Vihar and Ambedkar nagar) and 17 Police Stations divided amongst these sub-divisions. Together they make up the South-Eastern Range. It is part of every Delhi Police personnel to also have an ID based on the range in which she is posted, apart from other forms of unique identification numbers like the Belt Number. For more information see, <http://www.delhipolice.nic.in/home/rti/manual-1.htm>, last accessed on 20<sup>th</sup> October 2016.

<sup>63</sup> PIS number refers to Personal Induction Serial, which is a unique ID that holds key to all vital information about an official like year of entry into the force, education details and seniority number. This number is preceded by the letter D. For instance, a number a PIS number could be D-22014.

<sup>64</sup> ACsP is plural for Assistant Commissioner of Police.

<sup>65</sup> I have removed all identifying information like names, dates and numbers from this order and rendered them as XX.

<sup>66</sup> W refers to woman.

XXXXXX/NW<sup>67</sup>/SPUWC dated XX/XX/XX. After completion of enquiry by the Enquiry Officer, Inspr. XXX, No. D-XX, the same was referred to PS/CWC for registration of case with the approval of DCP/SPUWC. On XX/XX/XX during parties meeting it revealed that an order was passed by the Honble (sic) Court of Sh. XXX, ASJ<sup>68</sup>, XXX Court, New Delhi in the anticipatory bail matter State vs XX that the Police shall give five clear days notice in writing before registration of the case. EO/Inspr XXX, No. D-XX neither placed the said order in the complaint file nor lodged any information in the final report.

In response to SCN<sup>69</sup> dated XX/XX/XX, W/Inspr. XXX, No. D-XX has submitted her written reply stating therein that respondent XX moved in application for anticipatory bail in the Hon'ble Court of Sh. XXX, ASI<sup>70</sup> (sic), XXX. Being a responsible officer she was present in the court to answer the queries in the court. The Hon'able court disposed off the said bail application with the remarks that 5 days clear notice to be given to the respondent *before registration of case* (my emphasis). Usually in such cases the court used to give directions to give certain days notice to the respondent *before arrest* (my emphasis). Inadvertently she believed that as usual 5 days pre arrest notice is to be given to the respondent. However, the copy of the court order was not given *dasti*<sup>71</sup> to the W/Inspr. She was also heard in OR<sup>72</sup> on XX/XX/XX where she narrated the same statement which she had already submitted in her written reply and requested to file the show cause notice.

I have carefully gone through the written reply of W/Inspr. XXX, No. D-XX and other relevant record placed on file. The reply is not found satisfactory. However taking a lenient view, W/Inspr. XXX, No. D-XX is issued a written warning to be more careful in future and any such lapses in future will be viewed seriously and SCN is filed.

This order stipulated that it be marked to “ACP/Enquiry/SPUWC with one spare copy for delivering one copy to W/Inspr. XYZ, No. D-XX against her proper receipt which may be returned to this office for record” and another copy to the “P.A. to DCP/SPUWAC for information.”

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<sup>67</sup> NW means North West.

<sup>68</sup> ASJ stands for Additional Sessions Judge.

<sup>69</sup> SCN stands for Show Cause Notice.

<sup>70</sup> This should have been ASJ and not ASI.

<sup>71</sup> *Dasti* is a Persian word, which means “by hand”. *Dast* Notice means that a notice or a court order is presented by hand and not by regular mail. *Dasti* is a procedural device that assists in minimizing delay.

<sup>72</sup> OR stands for Orderly Room, the official space where an officer, who has been issued a SCN, may come and offer explanation to her senior officers. This is not a designated space, and can also be a senior officer's room.

In the above examples, the first order required that all EOs put all markers of their identity as police officers on complaint files assigned to them, for proper functioning of the Unit and for correlating a pre-litigatory file with an officer. So, although a case file is principally the responsibility of the IO, it is equally important to mark the author of the pre-litigatory file. Filing of official chargesheet requires precision of authorship of the complaint file as well in case a testimony or any other kind of explanation is required of an EO.

I use the second order as an example of how an individual officer was admonished for making a mistake in interpreting an order of the court which stipulated that the respondent, in a particular case, be issued a five days notice before the registration of a criminal case against him. If an arrest warrant is issued against a respondent, the procedures of the court require that a five days pre-arrest notice be issued to him in order to allow him to file an application for anticipatory bail. The courts generally do not stipulate that a similar allowance has to be made in the advent of a criminal case being filed. In her statement following the show cause notice served to her, the officer maintained that since the court order was not given to her by hand (*dasti*), she could not peruse it or attach the order in the complaint file and assumed all along that the court referred to five days pre-arrest notice. In this order, every reference to the Inspector precisely indexes her identity as a woman (W/Inspr) and her D-XX number.

I have used these two examples to place my argument adjacent to that of Hull's about circulation of documents enabling construction of written texts as corporately authored.

In the context of the Unit, circulation of case files in no way inhibits individual responsibility of the EOs and IOs, whose identities are exaggeratedly indexed with any case that they might be working on regardless of whether, on the one hand, the complaint is in pre-litigatory or litigatory stages, and on the other hand, the officer having been transferred out of the Unit to a different posting. Therefore, there is no dissolution of individual responsibility for the EOs and IOs at any stage even though case files are signed at every step by senior officers, like the ACP/Counselling or the DCP. The mark left by every agent on a document clearly signals their participation in collective production, but it does not necessarily bind everyone to any kind of legal responsibility and even if it did, the responsibility can easily be deflected onto the EOs and IOs. The head of the institution, like the DCP, does not take responsibility for legal errors committed by officers at the Unit. In fact, the rank and file organization in the police ensures that responsibility, whether or not it is fixed accurately, is definitely established absolutely.

This feature of the policing organization tells us something about the way control is exerted over personnel and how it stands in sharp contrast to CDA's bureaucracy where high-ranking officers feel somewhat obligated to sign files or they risk losing solidarity of their colleagues. For instance, one of Hull's informant, who is also a high ranking officer at the CDA, explains while signing what he thinks is a suspicious file, that he was doing so because he was impelled by his "paternalist desire to protect one of his own and above all by his solidarity with the officers who had signed the note on its way to him" (154). The space of the unit, on the other hand is marked by a distinct skepticism and



suspicion that is directed both towards the complainants, exemplified in the way doubts could be cast over their stories of domestic violence, and how the same inheres amongst the police personnel themselves who anecdotally suspect all friendships among colleagues and call all inter-personal frictions dangerous. These sarcastic gibes like “Neither friendship nor enmity is good with police people” or “Police officers can’t be relied on for kindred spirit” (*Police walon ki na dosti acchi aur na dushmani* or *Policewale kisi ke dost nahi hote or Policewale kisi ke sage nahi hote*) were meant as much for people outside the department as they were meant for existing relationships among colleagues. However, between outright enmity and friendship, lies a range of social relationships, like Hull argues, that are mired in indeterminacy effected through the mediation of documents, but which are not necessarily exhausted through them entirely.

## CONCLUSION

By delineating the organization and the working of the SPUWAC, Delhi, within the general structure of police institutions in India, I have made a two-pronged argument. I have shown how contemporary policing practices at once direct governance by an augmentation in the armed capacity of the police forces, while concurrently letting police power diffuse everywhere into the social order, where the police is designated as a supportive and accessible public service. Inducting more women in the police constabulary, creating all women help desks, running a mobile helpline for women, setting up downloadable electronic applications for immediate police help, putting together a telephone hotline exclusively for women, and introducing a short course on

gender sensitization for police officials working in the city's police stations exhaust the list of recent measures put in place by Delhi Police to ensure security and protection of women in the city.

Within the working of the SPUWAC, I have shown that creation of a fully-functioning organization remains an incomplete matter; first because scope of what an institution is supposed to achieve remains an ever shifting goal exemplified, for instance, in the ambiguous working of the juvenile cell in the Unit and, second, institutions constantly shift shape in their every day practices depending both on vision of the head of the institution and its accomplishment or elision in the everyday discretions exercised by officials within the institution. Discretion, in a sense, operates between accomplishments and elisions for both require interpretation of what constitutes *lawfulness*; in this way discretion is intimately connected to police powers and accountability.

In taking the argument of politicization and delegitimization of the police in India forward, I have shown that one response of the state to the issues of extra-constitutional exercise of police power and their accountability has been through overt developments like putting strict guidelines for arrest in place. The other, lesser known, but more frequently followed protocol has tended to be of individualizing endemic corruption by booking "errant" police officials. This individuation of responsibility, I have shown, is coterminous with how responsibility is generally wielded within the police establishment; with solitariness and singularity, rather than a collectively authored accountability, being the defining feature of civilian (un-armed) policing institutions in India (see also,

Jauregui 2014). This explains why the police do not act when the public explicitly wants them to take action in a particularly hostile situation. For instance, there was public outcry in Delhi recently when the police did not intervene to protect a student leader and his supporters from a mob of lawyers that attacked them within the premises of a court. The unarmed policemen both fear for their lives and also would not have, on their own, wanted to take responsibility publically in a situation where they may have been unofficially ordered not to intervene.<sup>73</sup> Rather than explaining away police inaction, in this chapter, I have proposed, as Didier Fassin (2013), has said about his ethnography on the police in France, a “framework of interpretation” (76), which may be delineated through individuation of responsibility. This might be more helpful in understanding why police officials can simultaneously feel powerful and vulnerable, as did my informants, when they spoke about their experiences of being in the police department.

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<sup>73</sup> <http://indianexpress.com/article/india/india-news-india/jnu-delhi-police-kanhaiya-kumar-patiala-house-court-india-news/>, last accessed on 20<sup>th</sup> October 2016.

# **PART TWO**

## CHAPTER III

### **“I do not want to live with my husband at all”: Narrative Tripling, Meaning-Making, Two Senses of Justice and a Settlement**

#### INTRODUCTION

When Mahima first came to the Unit with her year-old son, Sonu, the officer on duty admitting fresh complaints was Inspector Uma Pandey. Mahima's was one of the first complaint cases I took up for study when I began fieldwork in 2011. Since the previous Jt CP's transfer, no permanent officer had been appointed to the front desk . This meant that in addition to hearing their own parties, all EOs were also required to take charge of the front desk on a weekly basis. Mahima, whose name we did not yet know, was inadequately dressed for a fading winter and carried Sonu in her arms. Once inside, Insp. Pandey asked her for a copy of the complaint. Mahima said she did not have a written complaint and had come to the Unit on a neighbor's advice, hoping that someone here would be able to help her. Insp. Pandey asked her if there was something that she immediately needed assistance with. Mahima said she was unsure about the kind of help she really wanted, but knew that matters in her marriage, perhaps, necessitated some kind of legal solution. She then told Insp. Pandey about the circumstances in which she got married to her husband, Sudershan. The story came out in snippets as Sonu continuously demanded Mahima's attention. In the twenty minutes or so that she was in the room, he got down on the floor, started playing with the trash can, ran out of the room, climbed up on the chairs, fiddled with the landline on Insp. Pandey's desk and took turns squealing and crying for more attention. In the midst of this utter confusion that appeared to harass

Mahima further, Insp. Pandey played with the child, egged Mahima to go on talking, and did not show any irritation at all. This is how it would be for Mahima for all the subsequent times she would come to the Unit. Her complaint-case was active in the Unit for about three months.

The story that emerged from this first encounter was of Mahima's marriage to Sudershan, who worked as a driver at one of Delhi's five star hotels. Mahima and Sudershan had been married for the last three years and Mahima said that she was also his second wife. The first wife, Geeta, from whom Sudershan claimed to have separated, lived near their house and, in fact, the house that they had rented belonged to Geeta. Mahima said she felt cheated and humiliated by Sudershan, who continued to "maintain relations" with Geeta. Mahima also said that Sudershan had not divorced his first wife, which made her marriage with Sudershan potentially illegal". Sudershan also had a 15-year-old son from the first marriage. Mahima emphasized that Sudershan did not give her and their son any time and she felt disrespected and unwanted in the relationship. We repeatedly heard her say, "I don't mean anything to him, so why should I stay with him?" It bothered her that none of the official papers of identity (*pehchaan patra*) that Sudershan possessed carried her name as his legally-wedded wife. Instead, his papers mentioned Geeta as his wife. Mahima neither had a voter's identity card nor a joint account in a bank with Sudershan, each of which could establish and secure her position as the legally wedded wife. To her consternation, Sudershan refused to open a joint account and this had become a source of constant fights between them, she said. Constantly being reminded of her inferior position as the second wife, she had now decided to take matters in her own hands and

wanted nothing less than an end to the legal uncertainty about her marriage. The solution to this, she had decided, was in seeking a separation from Sudershan.

What Mahima did not tell Insp. Pandey in this first encounter was that her two sisters and a brother-in-law (sister's husband) also lived on a different floor of the same building in which she lived and paid rent to Geeta. We also did not know what had happened in the immediate past that had made Mahima come to the Unit. As we would find out later, Mahima came to the Unit in the aftermath of a fight with Sudershan that had taken place the previous day, in the context of a religious ceremony at Sudershan's brother's residence. Although Sudershan went for the ceremony, he did not want to stay at his brother's place the whole time because he had not slept in two days. He left in the middle to go back home and sleep and came back in the evening to pick Mahima and Sonu up. When he returned smelling of alcohol, Mahima concluded that Sudershan had not gone back home to sleep, but to drink. On their way back, the couple also had to drop Sudershan's older son, Gaurav, at Geeta's house. What sparked an argument between the couple at Geeta's house was Sudershan's insistence that he desperately needed to sleep. Mahima urged him to hold off till they reached their own home, which was just a little way off from Geeta's house. Sudershan gave into sleep and Mahima had to wait for over an hour and a half at Geeta's house with Sonu. When Sudershan woke up, the issue escalated because Mahima told him that he was selfish and cared little for her or Sonu's health. In the heat of the argument, and in their tiredness, Sudershan hit Mahima and she hit him back. A crowd gathered to pacify the couple, and at some point they came back

home. The next morning, that is, on this day, Mahima took an auto-rickshaw and came to the Unit because she had decided to a “legal” separation from Sudershan.

Following routine procedure at the Unit, Insp. Pandey asked Mahima to give her a copy of the written complaint, but Mahima said she did know that a complaint had to first be written and then submitted. Insp. Pandey asked Mahima if she was carrying any other papers with her, which could establish the fact of her marriage to Sudershan. From a pink polythene bag, Mahima pulled out a tattered copy of an agreement signed on a non-judicial Stamp Paper between her and Sudershan. This was her proof of marriage to Sudershan. Mahima also informed Pandey that the agreement on the stamp paper was in addition to the ceremonies that had been performed at her place; the stamp paper agreement was written down to assure Mahima’s family that Sudershan had no relations with Geeta. A need for obtaining such an agreement had been felt since Sudershan had been unable to show a copy of the divorce decree to Mahima’s parents, who had arranged her marriage to a much older Sudershan.

Insp. Pandey inspected the contents of the notarized stamp paper and realized that she would need additional documents such as a wedding card, or photographic evidence showing *saptapadi* (seven steps), or a marriage certificate issued by a temple or a court, to substantiate the legitimacy of Mahima’s marriage to Sudershan.<sup>74</sup> Experience spanning

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<sup>74</sup> A complaint’s admittance at the Unit is contingent on the fact that the complaint is an original copy in ink and not a photocopy; the complaint is written in first person singular and not on behalf of the complainant; the complaint clearly establishes that it falls within the jurisdiction of Delhi by (a) proving that the marriage was performed in Delhi (this would need further substantiation later through other documentation like a wedding album); (b) the girl’s matrimonial home (*sasural*) is in Delhi, where she has or continues to live with her husband or in-laws or both, (c) if a complainant, who is otherwise not a resident of Delhi, faced an incident of marital/domestic violence in Delhi, against which she had registered



over two decades had taught her to suspect any document offered as an alternative to the one officially required for filing a complaint. In this case, Insp. Pandey might not have suspected Mahima for furnishing inadequate documents, but Sudershan for having duped Mahima and her parents by making a Stamp Paper declaration stand in for official papers of separation from his first wife. Insp. Pandey handed the stamp paper to me and asked me to read it. Apart from their individual photographs, the stamp paper bore many signatures (of the notary, the witnesses and of the parties themselves), additional stamps, and addresses of both the parties. The stamp paper made three points:

- (i) that Sudershan, first party, had left his first wife because they were incompatible as a couple and that he has a son from this marriage,
- (ii) that Mahima, second party, was a consenting adult and had known Sudershan for three years and was in love with him. Her parents also knew Sudershan and had given their consent to the marriage;
- (iii) Mahima would be Sudershan's second wife and would be accorded equal share in all forms of property; and
- (iv) that the two were of sane mind and had decided to get married to each other without any fear, greed or anyone's pressure.

In Insp. Pandey's understanding it was probable that Sudershan had not married Geeta and, therefore, when he separated from her, no divorce was required. However, even in such a scenario, Insp. Pandey iterated, should the first wife stake a claim, she would be recognized as Sudershan's wife, never mind the correctness of the wedding ceremony between Mahima and Sudershan. Insp. Pandey did not think it was necessary for her to

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a police complaint by calling the Police Control Room on 100 or had submitted a written complaint to the local Police Station.

seek her senior's opinion on the position of the second wife. While Mahima was still in the room with us, Insp. Pandey decided to admit her complaint. Mahima's residence fell under South-West district of Delhi, and, luckily, this was one of the districts assigned to Insp. Pandey, who decided to mark Mahima's complaint to herself, even as there was no written complaint yet.

Up till now, conditions had been nothing less than serendipitous for Mahima. For instance, the officials on duty at the Unit's reception could have insisted that Mahima write her complaint before she could be allowed to enter the Unit's premises. She may or may not have been able to write the complaint on that day, particularly with Sonu frustrating her attempts to sit in one place for long. The fact that she was allowed to enter the Unit without a written complaint was probably made possible because the officer on duty allowed her to take an opinion from the Inspector on duty and also took a sympathetic view of the fact that she was carrying a small child.<sup>75</sup>

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<sup>75</sup> At the Fresh Complaints desk, an officer, other than Pandey, could have easily offered one or more of the following explanations, as I had often seen them do, for not admitting Mahima's complaint.

- 1) Stamp paper is not a valid proof of marriage, so come back tomorrow with another proof like wedding photographs. Also, get your complaint in writing.
- 2) Why have you come so far with such a small child? There is a women's Unit in every district and the nearest one to your place would be located at XXX. With a small child, that Unit would be more accessible to you, and you will spend less time and money in going there. If a case is registered on your complaint, you will have to travel a lot because the court where we file the case is in Dwarka, which is very far away from your house. Write up your complaint and go to the nearest district Unit tomorrow. The same work is done there as well. Delhi Police officers, like us, sit there as well.
- 3) Police cannot help you get maintenance from your husband any more than it can get you a separation from him. This power lies with the courts. If you want, you can file a case for divorce along with maintenance at XXX court. And if you want maintenance, by staying in the marriage, then, you can file your case under Domestic Violence Act (DV Act), which is a new law. We have a visiting lawyer from DLSA, who will help you file a case for free. But this can only happen if you decide to stay in the marriage. Think about it, whether you want maintenance with divorce or maintenance within marriage, under DV Act. Come next week on Wednesday, after 2 pm, with a written complaint.

Once Insp. Pandey had decided to admit Mahima's complaint, the first thing that needed to be done was to execute the complaint on paper. She asked Mahima to sit in an adjacent room and write the complaint, but seeing that Sonu was barely letting her talk, she asked me if someone could be found in the corridor to help Mahima write her complaint. When no one could be found, Insp. Pandey asked me to write the complaint. When I said that I did not know how or what to write the complaint about, she decided to quickly assemble all that Mahima had told us in order to formulate a complaint. While Insp. Pandey dictated the complaint to me, she categorically told Mahima that in order for a complaint to be admitted in the Unit, it must contain some reference to dowry and harassment related to this demand. This, notwithstanding the fact that the law does make provision for criminalizing cruelty in marriage not arising from demands for dowry. Further, Mahima also maintained that Sudershan had never made any such demand of her or her family. Insp. Pandey heard Mahima and then said,

“Darling, if you have come here, then, you will have to lie a little bit, otherwise *we (hum)* will not be able to take your complaint. You will have to write at least this much that he demanded money either from you or from your parents and that he beats you up. This is a dowry Unit, so if *we* do not write like this, *we* will not be able to take your complaint. Don't worry, *we* will not show your complaint to your husband and since I have to mark this complaint to an officer, I will mark it to myself. Come again on XX/XX/XXXX and meet me in room number XXX.

I noticed that Insp. Pandey had moved from first person singular to plural and at that moment I remember feeling that the change from “I” to “we” signified both the

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institution as in the Unit and also Pandey and I, who had together assembled an admissible complaint for Mahima. I wrote the complaint, as dictated to me, in Hindi by Insp. Pandey. The text of the complaint read:

Humble submission is this way that I, Mahima Singh, daughter of Mr. XXX, address XXX, Delhi, want to get a complaint registered against my husband. My marriage to Mr. Sudershan Singh, son Mr. XXX, address XXX, Delhi, was held on XX/XX/XX in XX, district XX, Village XX, with the consent of both the families and in their presence, where my husband wrote in writing that his relations with his first wife and their child had severed owing to mutual incompatibility. Immediately after our wedding, my husband took me to my matrimonial home in Delhi. Early on after the wedding, my husband, after consuming alcohol, began beating me up and abusing me verbally, asks me over and over again (*sic*) and compels me to get money, and says that you get money from anywhere, you do anything, either demand it of your mother-father, or else I will not keep you with me.

My husband neither stocks the house with essential groceries on time, nor does he take care of any other needs. My child was born on XX/XX/XX, and for him as well, my husband does not spend even a penny. My younger sister, XXX, helps me in financial form. Whenever I try to explain things to my husband, my husband says that I should get money from my father, then only will he keep me with him. To buy his own car, he often puts pressure on me to get money. My husband, currently, works as a driver at the XX Hotel. I am tired of the daily fights and beatings that is why I do not want to live with my husband. I want maintenance for myself and my child from my husband.

After I finished writing the complaint, Insp. Pandey made the notesheet and wrote:

The complainant alleged that she got married with Mr. Sudershan Singh above mentioned on XX.XX.XX in XX in her native place with the mutual consent of both the parties. Photocopy of written agreement is enclosed. Soon after marriage she was shifted in her matrimonial house in Delhi. At the time of wedding her husband told him (*sic*) that he has no concerned with her ex-wife and child. He is totally wrong. He always meet with her (*sic*) ex-wife and child. She continuously physically and mentally tortured by her husband till today. Her husband demanded money from her. He doesn't give her money for domestic purposes. She doesn't want to live with him. She wants maintenance for herself and her son.

Insp. Pandey put her initials under this write up and wrote, “marked to Insp. Pandey for further action”.

I have started this chapter where the Mahima’s complaint found its first expression in the Unit, that is, at the front desk, with Insp. Pandey. The pre-trial procedures, which consist of (i) interpretation of stories of violence by various officials—police women, counselors and mediators, and (ii) building of complaint files, are performed with the expectancy of a formal criminal trial. Courtroom, then, is present in all interactions as the “agency that structures” (Mulla 2014: 8) all manners of negotiations at the pre-trial level and becomes “one of the many actants breathing life into the form that suffering, healing, and justice may take” (8). Precisely because most complaints do not reach the level of litigation, it is important to explicate what and how “meaning-making” (see also, Pinto 2014) of law is made possible in settings like the Unit. For officials, this involves interpreting domestic situations and for complainants it means acquiring an understanding of the proceedings that lie ahead. For complainants, this preliminary stage is where they also get a working sense of their experiences of cruelty that can then be drawn upon in varying legal scenarios, for instance, in child custody related cases. I use the words “working sense” to move away from implying true experience, which I think is grounded in a kind of ontological authenticity, even interiority, to which I do not claim to have any access on anyone’s behalf. Experience, like many anthropologists have argued, is “unruly” (Clifford 1983), a “flux” (Bauman 1986: 5) quoting Mink 1978), “difficult to decipher” and “difficult to decode or even make available through language” (Mattingly and Garro 2000). Drawing on Ricoeur on time, narrative and the character of experience (1984),

but ultimately differing from him, I contend that the sequence of an unfolding is embedded within a “plot” that emerges only because the story is narrated many times in an institutionalized setting where it is, then, co-authored and fitted within a legal understanding of what happened retroactively. Through what I call a tripling of narratives, I will show how Mahima’s case unfolds in two different settings, that is, with the police officer and with the mediator. However, in order for me to explicate the whole case, there is a third narrative that comes into place, that is, the anthropologist’s emplotment of the case, which is not reducible to just Mahima’s story, even as it is Mahima’s case.

The processes of intervention are steeped in talk, collection of preliminary evidentiary material and official writing. They sit adjacent to juridical processes and intersect with narratives of complainants, finding their material being in the making of the complaint file. I will explicate how the officials who co-plan the narrative with the complainant, often in words not defined by law, are both absent and present in *the* file; absent since their expressions, forming the surplus, finds no place in the final document (or the archive) and present because they remain the authors of that file and the file is quintessentially attached to their names for all times to come. My use of the plural suggests co-authorship, for instance of the police woman and mediator, but I continue to maintain the while a file may be co-authored, it is principally identified with the police officer and not the non-permanent and informal employees of the state.

In examining the micro-technical processes that Mahima's complaint undergoes, I will show how the manner in which law is present in the Unit is different from the adversarial system of the courts. In the Unit, practices around collection of evidentiary protocols work simultaneously with principles of equity justice, therefore, there is a constant interplay between when to make a case legally stand up and when to respond to an appeal for justice, especially when evidence is scant and/or could work towards diluting a complainant's case. This can be seen particularly in the way Insp. Pandey exercises her discretion to give a written form to Mahima's complaint in order to admit it into the Unit knowing well that she had fabricated some part of the complaint and were the complaint to end in prosecution, she could be held accountable for any or all errors arising out of the complaint file. In Insp. Pandey's exercise of discretion, I also read a working of tacit knowledge (Gascoigne and Thornton 2014) that made her assume that the complaint was unlikely to end in litigation.

What I call two senses of justice in the title of the chapter adduces to Insp. Pandey's motivation to help Mahima and an intercalation of this with how she attempts to re-order her domestic relations. The second invocation of the idea of justice emanates from principles of individuated forms of equity justice, premised on bringing equivalence between two parties, that the mediator in Mahima's complaint works with and through which she accomplishes a settlement between the couple. At every step of laying out the case, I will also track the building and writing of the file, with its eventual ripening that is achieved by erasing all traces of intimate and surplus conversations among officials and

the parties, so that were we to only read the file, it would give us little clue about how the settlement was arrived at between Mahima and Sudershan.

#### CRUELTY AS NONRECOGNITION IN MARRIAGE

On the first day of the hearing, the scene between Insp. Pandey and Mahima, was set by their frustration with their own situations. Insp. Pandey was admonishing herself for keeping her file cabinet in a permanent state of dishevelment, which made it difficult to find anything on time. Meanwhile, Mahima was struggling to pacify Sonu, who could have been hungry, irritable, unwell or just frustrated like the two women were. Insp. Pandey began with an air of familiarity with Mahima and just casually said to her, “if so much anger comes to you, then eat more food, Mahima, She, then, broke into an unexpected laughter.

**Pandey:** How many calories do you burn when you get angry, do you know? You should think that all the harm you are causing myself by getting angry. Say to yourself that I must undo my anger (*gussa utaarna*) by eating, because I want to live for my husband. And let me tell you one more thing, *these* husband are also not *our* support, *our* biggest support is *our* body. Never feel lazy for your own self, never-ever punish yourself. You are young now so, try to change yourself. Okay? And happiness and pain come and go in life. There is no need to cry a lot. If you feel like you do not want to live together, then, in my opinion, rather than crying your whole life, you should separate.

**Mahima:** Madam, I also want that.

**Pandey:** Because rather than becoming a mental patient and being frustrated your whole life, it is better to separate. This is my life’s lesson. There is nothing left; children also get used to it

**Mahima:** If I think of getting some work, he says that what work will you be able to do.

**Pandey:** Hmm...he demoralizes you. (*Tujhe demoralize karta hai*)

**Mahima:** Yes, ma’am. I also want to live very far from him. He always says to me that he has separated from the first one. I want to show him what it means to be separate. A wife, whom you have left, she made you leave the house, why don’t you let her take care of her child and her responsibilities? If she faces any



difficulties, we are there, no? I have never stopped him from meeting his child, or going to her house, but I what I really feel...(Pandey interrupts).

**Pandey:** You call the first wife good, but she calls your husband at her place. I am not saying that you term her wrong, but it is you who is getting used, you are being taken advantage of.

**Mahima:** Meaning, from both sides...(interruption). (*Dono taraf se, matlab*) (Interruption)

**Pandey:** He is having his fun (*mazze*). From there, he is staying with her, and from here, he is living with you.

**Mahima:** Where does my desire (*icchaian*) go? I should also have the right to speak. I should also be understood as something.

**Pandey:** Doesn't matter. Why live with a man like this?

**Mahima:** He tells me that my family members come and live with us in our house. My family members live upstairs and we live downstairs. It has been 18-19 years since they have been living in Delhi. My brother lives here. My father has a good job back in XX, but he has sent two of my brothers to Delhi so that they can get some work and also see the world. He tells me that my family members instigate me.

I felt a bit bewildered at Insp. Pandey's initial laughter, which seemed somewhat incongruous. I think she might have laughed becoming aware of how she and Mahima were struggling to cope with their own situation. This was the starting point of her counseling and what opened up was a space that illustrated the inventiveness of language despite the objective limits and code that govern it, revealing the diversity and promise of language for a complainant struggling to give a litigiously coherent account of her experiences of violence. A proximate violent incident, forming an *event* (Humphery: 2008) and acting almost as a prime mover, can become the immediate for filing a complaint at the Unit, but, often, it takes many rounds of talks for the complainant to understand her social experiences of marriage as violence. Therefore, it takes particular communicative acts to organize life experiences in legally consequential forms of knowledge. Insp. Pandey's words, in urging Mahima to take care of her body and eating well, particularly when she gets angry, can be interpreted to mean that she was asking

Mahima to overturn the possible self-imposed denial of food that can follow a fight (*ladai-jhagda*) at home. She began by urging Mahima to (re)claim control of the situation by focusing on her health both, to live *for* her husband, and, also, because a healthy body would enable best defense in a strained relationship. The hearing had started somewhat suddenly, with no initial conversation setting its tone. It took me a few minutes to realize that I was in the middle of it and not in a general conversation preceding the hearing. As she spoke to Mahima, Insp. Pandey leaned forward from across her table, in an attempt to bridge the gap between her and Mahima. The shift to ‘we’, invoked intimacy and gestured towards a shared sociality among women, where *some* meanings could be assumed to be mutually understood.

In his work on “footing”, Irving Goffman’s (1979) notes how shifts in pronoun can work to alter the social role in which the speaker is active or the aspect of self-given voice at a particular moment. This can be exemplified in examples of shifting between “I” and “we” to mark a switch between modes of talking for oneself or on behalf of an organization or group. Also, if personal narratives are collaboratively constructed with other interlocutors and the act of narration allows tellers to bring experiences into moral focus, then, the work of listening correspondingly makes an ethical demand on the listener to pay attention as well. I want to argue that what is most morally significant about narrative interactions is not their evaluative aspect in the making of a moral subject, but rather the very act of speaking with another or what Veena Das has explicated through an engagement with the life of the other (Das 2010). With constant shifts in pronouns, Insp. Pandey was making it possible for Mahima’s voice to be heard by *Mahima* herself,

particularly those instances from her story, which she did not identify as violence at this point. For instance, when Mahima tells Insp. Pandey that her husband questions her credibility to do any work at all, her immediate response is, “Hmm...he demoralizes you”.

I am not sure if Mahima understood the meaning of “demoralize”, but Insp. Pandey’s tone might have indicated to Mahima that she was being understood. What I want to foreground in this initial conversation is Insp. Pandey’s attention towards making Mahima’s suffering recognizable in a language that law uses. She gives credence to Mahima’s feelings in rendering that it was she was being taken advantage of by Sudershan and in his relationship with Geeta. This was an important step because a clearly defined allegation is needed for a complaint to become a case. If Mahima eventually decided to continue living with her husband, Insp. Pandey might have hoped that she would at least go back with the understanding that she was indeed wronged by her husband, and might be able to negotiate her domestic situation better. In this sense, Mahima’s first session started on a pedagogic note, with Insp. Pandey performing the emotionally saturated “interpretive labor” (Graeber 2012) of bringing coherence to Mahima’s experience of domesticity and rendering it as violence, even as Mahima struggled with the violent desolation and loneliness that had intruded her daily life. I am inclined to think that this is what Bruno Latour means by a “the close knitting of legal reasoning” (2010). He writes, *the essence of law* “does not lie in a definition but in a practice, a situated material practice that ties a whole range of heterogeneous phenomena in a certain specific way” (x, emphasis in the original).

## SPEAKING WITH THE RESPONDENT: CONFRONTING IDEAS ABOUT MASCULINITY AND AN ATTEMPT AT RECASTING CONDUCT

Counseling work performed by police officers does not fit the description of therapeutic intervention, and particularly not so for respondents. However, it is possible to understand these forms of interventions as propelled by a certain imagination of how domestic relations might be recast by engaging the abusive partner in a manner that moves them towards acquiring self-governance, to learn to regulate their feelings, and to rethink the costs and benefits of violence against intimates. In what Merry has called post-industrial subjectivity, in these techniques, the “subject is encouraged to understand why he feels and acts as he does and brought to see that he could make different choices that would be better for him and his family” (Merry 2001: 19). I use the idea of self-governance here in an effort to explicate Insp. Pandey’s interaction with Sudershan. Insp. Pandey urges Sudershan to examine the circumstances that forced Mahima to file a complaint against him in the Unit, but without diluting the central problematic of the complaint: the fact that he lied to Mahima about his continuing relationship with his first wife, which had caused immense mental agony to Mahima.

In the first session, after Insp. Pandey had spoken with Mahima, she asked her to call Sudershan into the room. He was a short, portly man, who looked well into his forties. His eyes were swollen, as if from lack of sleep or being drunk or both and when he came and sat on the chair in front of Insp. Pandey, he appeared absolutely disinterested and un-alert. This was very different from the kind of comportment I saw most respondents inhabit, who seemed hyper alert and also anxious to present their side of the story. When

Insp. Pandey asks him what problems were threatening his marriage with Mahima, the first thing he said was that Mahima did not obey him and was only happy if things went her way. Insp. Pandey asked him to explain with an example to which Sudershan says that Mahima's kin live with them and they probably provoke (*bhadkana*) her to pick up fights with him. He also said that Mahima mouths filthy abuses (*gaali*) when she gets angry and does so in front of children. Insp. Pandey picked on this and began to discuss this further:

**Pandey:** Do you not curse? My experience in the police is that it is only when men use expletives that women also begin to using them. What are your major frustrations? I can tell you that all women take their anger out on children. No woman abuses of her own volition. You already have a wife, then, why did you marry her?

**Sudershan:** Ma'am, *we* are not concerned with them.

**Pandey:** No, no, but of course, you are concerned with them. The cause of all her frustration is this issue. Have you not divorced her (first wife) legally? Do you maintain relations with her? You visit her frequently; is that okay? Do you still like her? I understand that Mahima's parents are poor they gave away their daughter because they had no choice, but what about you? What circumstances compelled you to marry another woman when you already had a wife and son? You didn't even have a daughter, but a son, so what were your reasons? So, you can now get a third or a fourth woman if you feel like it, and India has enough needy people who will marry their daughters off to you.

**Sudershan:** No, ma'am, my son lives with the first one.

**Pandey:** Millions of people in the world have had divorces and they stay separately and you go there everyday.

**Sudershan:** No ma'am, we have also lived separately for 11-12 years. I don't go there every day. The house we live in belongs to her. We pay her rent. She also helps us sometimes in illness and bad times.

**Pandey:** If you love your son so much, then, why did you separate from the first one? You want to live on the first one's favors. You are living in her house, fulfilling responsibilities towards her son, taking care of her household, then, I fail to understand how you have separated from her?

No one spoke for what seemed like a very long minute.

**Pandey:** Okay, let's leave all this. You have lived too much of your life with one foot in one boat and one in another, now give Mahima the divorce she wants. Also, Mahima (looking at her), you are not his legal wife. Whether or not he married Geeta is of no consequence because she will be considered the first

wife. Her child is older than yours, and she will be considered the real wife. You have no identity or rights.

Sudershan continued to complain about Mahima and said that his mother, when visiting them, preferred staying with Geeta and that his friends had stopped coming home because Mahima did not talk to them. He, then, insisted that Insp. Pandey examine Mahima's arm for signs of self-harm and diagnose her with a problem because a local doctor told him that she suffered from "psychological" problems. Hearing this, Insp. Pandey got extremely infuriated and said,

Okay, a panel can sit to pronounce her mad, but should nothing happen with you? Should we not probe what you have done? You have written in the affidavit that you have no relations with your first wife, and that you have no idea about where she now lives. What you have done is called cheating (*dhoka-dhadi*). I am not trying to scare you, but if she does not want to stay with you, then, you have to pay maintenance (*muawaza*) for her and her child. In the first instance, you still have a wife. You are worried about your older son. You should not have left your wife and your child, but you want to keep sweets in both your hands. You are greedy about the house and you are getting all the benefits of children. You are actually using two women and pitting them against each other. Are you trying to fool us? You have kept two wives. This is why she is so frustrated. Do you even understand what FRUSTRATION means? Mental patient. If a mother-in-law favors one daughter-in-law over another, the one who is neglected gets into a depressive mode. With what face (*kis muuh se*) can Mahima even treat your mother as her own if your mother only sings praises of your first wife?

Sudershan continued to complain about how much Mahima cursed and, with added emphasis, said that he could just not bear her mouthing abuses anymore. Pandey listened to him and said,

Why should she bear with your other wife and her kid if you can't even bear her speaking her mind? You are really ruining your wife and your child's life. It seems to me that you are also extremely stubborn. Men tend to be stubborn.

And, of course, she is going to yell, shout and create a ruckus. What other option does she have? She expresses her anger (*rosh prakat karti hai*) in this manner and there is really no other way.

**Sudershan:** She wants to show people that she is sad (*dukhi*) and unhappy. These are small things.

**Pandey:** You bet, she *is* sad and these are not small matters, mister. She feels that she has been cheated and you need to understand that.

In speaking with Sudershan, Insp. Pandey attempts to recast Sudershan's behavior towards Mahima, but does so without challenging his position as the male head of the family, for it is this position that would have to be mobilized to seek monetary settlement for Mahima, had she separated from Sudershan. The rendering of the experience of domestic violence takes place within a broader social framework, which includes living conditions like poverty and disease, and it takes a keen listener to accommodate these experiences in making a case of domestic violence. From this position, it is possible to understand why Insp. Pandey may have moved towards attempting a resolution between the couple, but not without also holding Sudershan singularly responsible for creating the situation that led to discord between him and Mahima and exacerbated her illness.

#### NOW A POLICEWOMAN, NOW A WHAT?

When I first contemplated a research question on the figure of the policewoman, I was working with the assumption that it would be possible to envisage a comprehensible and a categorical distinction between the many roles that women perform in the police. Since women police officers are expected to bring their own experiences of domesticity to the counseling table, I was interested in mapping how they would achieve this. In thinking back, I have realized that the question should be re-worked to also ask: what work does

the bringing of stories from personal life into the space of counseling achieve for policewomen? It would be insufficient to say that the way policewomen's personal stories permeate the counseling process is illustrative of how they simultaneously occupy the position of kin(s)-women. It was not often that I heard police officials recount stories from their own lives in their dealing with complainants, but can the act of telling stories provide momentary respite to their tellers from their own oppressive domestic situations? Or that there might be some pleasure in confessing that they themselves faced problems in setting up their domesticities thereby setting examples for complainants to follow, while feeling good about their private successes in having overcome their problems. In saying this, I am treading dangerously towards sounding tautological, but I do hope not to err on that side. Insp. Pandey was not the only policewoman I heard implicating her domestic situation into that of a complainant, but since we are looking at *a* case, I am going to take it forward by foregrounding moments where she was at pains to make Mahima, and sometimes Sudershan, understand the stakes in a marriage, through examples drawn from her own life.

For this section, then, I have put two segments of talk to foreground Insp. Pandey's stories from her own life and her career in the police. While the tone of the previous section was directed towards urging Sudershan to reform his behavior, in this section we see a growing intimacy between Insp. Pandey and Mahima. I think what might have triggered this move was Sudershan's assertion of Mahima's history of self-harm of slitting her wrists and arms. Insp. Pandey demanded to see her wrists and when Mahima told her that this history preceded her marriage with Sudershan, Insp. Pandey might have



felt the need to counsel Mahima more. This was an uncanny moment, for earlier in the hearing, Insp. Pandey had told Mahima that there was no point in continuing to live with a man who tortured her mentally, and that staying in the marriage could take the form of her becoming a mental patient (*mansik rogi*). Realizing now that there was a real situation at hand where there was considerable risk to Mahima's life because of her "suicidal tendencies", Insp. Pandey began to argue the opposite, that is, she tried to convince Mahima that although there were real problems in the marriage, they were not about to go away without both the partners "reforming" their own selves, and without Mahima seeking help for her own condition. Since Mahima confessed that a large part of her anger towards Sudershan was projected onto her child, Insp. Pandey might have felt the need to factor in the impact of a separation on the safety of the child. Towards the latter half of the session, Mahima spoke less and less and it is Insp. Pandey who did most of the talking (*samjhana*).

During this part of the session, Sudershan was made in-charge of taking care of Sonu so that Insp. Pandey could continue speaking with Mahima. When he did come into the room, he remained standing, but again said that Mahima argues too much (*behas bohot karti hai*). Mahima retorted, but addressed Insp. Pandey and said she had always been outspoken (*muuhphat*). She recounted that when Sudershan had first come to her house to meet with her parents and talk about marriage, she had said to him, "I am what I am, I will remain the way I am. I said in a loud voice, and not in a shy voice. I said, I will be like this so don't say later that I have spoilt your life (*zindagi barbaad kar di*)."

was surprised; she laughed and blurted out, “You really said that? Didn’t you live in a village?” She, then said,

Women talking like this is not considered good. Men don’t like it. **You are nothing right now, we are in fact even working, but even then, when we say something, our husbands do not appreciate it. When women talk in public like this, it is considered very bad** (*aurat ka bolna bura maana jaata hai*). **We are misfit, no?** You get very angry, and then you are ready to get into a physical fight. This is a problem you have.<sup>76</sup>

**Mahima:** When I get angry, I cause hurt only to myself (*apne aap ko chot pahunchati hun*), and not to anyone else. I hit my arm.

**Sudershan:** No, no, she hits also.

**Mahima:** I have started hitting now, ever since he lifted his hand on me. My fingers hurt because of how much I hit myself, sometimes against the wall, other times at the bed’s corner, I hit myself like this.

**Pandey:** This is frustration. Hit him (Sudershan), but don’t hit him (pointing towards Sonu).

**Mahima:** My mother had come to visit me some time ago and she hit me because I hit my son (breaks down inconsolably).

**Pandey:** Don’t hit him, child. He will start hating you. Everybody’s kids bother their parents, everybody’s. Did your mother ever hit you?

**Mahima:** Never. My mother has never hit me.

Sudershan took a cranky and sleepy Sonu out for a walk. Insp. Pandey continued talking, but urged Mahima to shut the door.

**Pandey:** See, he goes in the morning and comes back in the evening. You should make food, no? A driver’s job is horrible. See, both of you need to contribute equally. He also has expectations, even if they are wrong, whether he is nice or not. See, he will spend 50 rupees in eating outside. If you even make a modest meal that will be fine for him. I know you are young, and you must feel very sleepy. At your age, 24-25-26, body feels the need to sleep a lot, I know that. Try not to watch TV till late night. He works a 24-hour shift. Try and form rules and sleep by 10pm and the make the baby sleep as well.

**Mahima:** He (Sonu) does not let me sleep. He sleeps at his own will; I have no control over his sleep patterns.

**Pandey:** He also follows your habits. As he grows up, he will start sleeping at night. Wake him up when you wake up in the morning. When he leaves for work, you begin your household work. As soon as Sonu falls asleep, whether

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<sup>76</sup> For this section, I have highlighted parts where Pandey refers to her own stories of domesticity to illustrate how a working stability in a marriage has to be continuously negotiated.

your work is over or not, you also sleep. See, we have to find a middle path. All these fights, opposing each other, this is no way. After so much fighting (*ladai-jhagda*), and beating each other up, slitting your wrists, everything is the way it always was. Circumstances have not changed at all. You have to change your circumstances... **If my husband leaves home without eating, then I feel very guilty. I feel guilty; don't know if you ever do. When we fight, I also feel don't feel like making food, but then I feel, oh man, he will eat from outside. I don't stay peaceful and neither does he. Then there is no benefit for anyone, no? Either he goes away and I continue to sleep peacefully, but, then, I lose sleep and can't get back to bed again. Then, what is the point of creating such misery?** See if it is possible for you to give him (Sudershan) another chance. He also has to change himself. He also has to leave his laziness. In our Police Station, people do not go home for 3 days in a row. They work in the Police Station for three days continuously. They never get enough sleep. Police personnel remain sleep deprived their whole lives... I can understand how Sudershan must feel about sleep and why he feels lazy when he is at home. It is a difficult job...

**Pandey: I also end up fighting sometimes; he doesn't touch a thing or do any work in the house. Earlier, he used to just extend his arm, with an empty glass of water in his hand towards me, to it keep away. And my job is that of a policewoman, with no timings. Now, he at least does *some* work, touchwood. I used to work till 11-12 in the night. I used to be so tired. But if I had only fought, then, that would have affected the lives of my children. If we think of our thing, our pain as the biggest thing, then, you will not be able to see any other way. Sometimes it takes 2 years, and sometimes 4. Sometimes it even takes 8 to 10 years. In 8-10 years, my domestic life had stabilized (*8-10 saal mein meri gaadi chal gayi thi*). It takes time.**

**Mahima:** Yeah.

**Pandey: It is easy to break a relationship. Sometimes I also feel like I want to leave everything here and go away, but it takes so much time to build it (relationship).** We all want everything smooth; this is human tendency. He (Sudershan) wants everything in life without hard work, but is that possible? If that happens, would life be any good?

**Mahima:** hmmm

**Pandey:** Don't cry, and after today, tell yourself that I will not hurt my child. Take pity (*taras*) on yourself. Tell yourself that I am trying and everything will be all right. And tell your heart that if everything is not fine after some time, I will leave him. Staying hungry, torturing yourself, you are causing more pain to yourself than he is. If you don't feel like going to that woman's house, tell him straightaway. Tell him that I don't want to go there because it is torturous for me. I feel inferior. **I also told my husband that only if I feel like going for family gatherings, will I go, otherwise not. I have made a rule now that those people who hurt me, I should maintain distance from them. It's all our feeling.** Actually, no one can be the source of pain or happiness for anyone. **Our mind gets upset because of these (husbands) people; we get depressed.**

Tell him, if you want to go, then go. I don't want to go. Let him loose completely.

**Mahima:** I have left him loose, ma'am.

**Pandey:** What is yours, will come back to you, and if he does not come back, then, why cry for the fucker who is leaving. You are only 25% tortured by him, 55% you are tortured by yourself. Here, have water and I will order tea for us both.

The session came to a close and with Pandey examining Mahima's file again. The first note that she made in the file was the following:

Today complainant was present. Respondent husband was also present. Both heard and counselled (*sic*) properly. Complainant doesn't want to live with her husband. She wants divorce and settlement. NDOH (Next date of hearing) is fixed on XX.XX.11 at 12 noon.

Just before Mahima and Sudershan left, Insp. Pandey again sat with Sudershan and explained to him that he should control his temper, and when Mahima was busy with household chores he could take Sonu out to a nearby park. Meanwhile, to Mahima, she gave a phone number from her diary. The number was of *Ibhaas*, an organization that works on providing mental health services at subsidized rates in Delhi. Incidentally, it was located near Mahima's home, and Insp. Pandey was easily able to convince her to meet with a doctor to talk about her history of self-harm. She then gave Mahima the next date, which was just four days later.

While she was packing up for the day, and I was helping her put her files back into the cupboard, I asked Pandey why she felt the need to recount stories from her life to a complainant.

**Me:** Why do you tell stories from your life? What is that you want to convey to them through your life stories? Do you think it helps them?

**Pandey:** Yeah, sometimes when I look at these young girls, I feel that they still have to see so much more in their lives. What do they know about life and the many compromises women have to make in their respective domesticities? It's not as if these things do not affect us. I am often so frustrated with XXXX (her husband) that I wonder why anybody would want to marry. He doesn't speak with children properly, he humiliates me, there is constant bickering in the house, my children also do not like all this at all.

**Me:** Hmm. What purpose does it serve to tell stories from your own life to a complainant who wants you to listen to her and not necessarily to *your* stories.

**Pandey:** I don't know. *When one starts talking, many things come out.* But you are right, this will only harm me, I should not do this. I become weak in front of the complainant. She probably thinks that I have so many problems in my marriage and questions my ability to help her. You are right, I will not do this again, but sometimes these things just happen.

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*Second Hearing four days later*

When Mahima came for the second hearing with Insp. Pandey, she was even more insistent on seeking separation from Sudershan. The previous hearing had had no impact on him whatsoever, she said. On this day, Insp. Pandey, too, was inundated with administrative work, and was also handling complaints for another colleague. Unlike Mahima's previous hearing, which was the last hearing for the day, the second one was in the middle of the day, which is the busiest part of the day for most officers. Insp. Pandey was warm, but a bit distant and I understood this not as inconsistency on her part, but merely how no two days at work are really alike. There were three more parties to be met before lunchtime, and when Mahima came in, Insp. Pandey asked her if she was ready to meet with the counselor. Mahima, however, insisted that she still wanted separation. Insp. Pandey took Mahima to meet with the ACP Counseling to get her permission to send the case to the Mediation Cell. The second hearing's file in the files reads:

Today both were present. Heard and counseled. Mediation form duly filled by both the parties. They were ready to join mediation at SPUWC Nanakpura. Both appeared before ACP/SPUWC. It is therefore requested matter be sent to mediation cell SPUWC/Nanakpura. If approved.

“When you start talking, many things come out”, is what Insp. Pandey had said to me when I had asked her why she narrated stories from her own life to Mahima. Through this sentence, I want to index the ephemerality and uncertainty of language and what it brings forth in a tornado of narratives, of which some hold up, some lock horns, some are illusive in their evaluation of the situation at hand, some rather trenchant in critique and some are just forms of indulgence. Together they form a complainant’s case; they also *form* the policewoman’s work. The policewoman is routinely invoked as a particular “kind” of official, who is, then, mobilized in various ways to secure women in the city. By referring to women-police as a “kind” of figure, I am borrowing from Ian Hacking, who has shown how objects and ideas interact, that is,

Ways of classifying human beings interact with the human beings who are classified. There are all sorts of reasons for this. People think of themselves, as of a kind, perhaps, or reject the classification. All our acts are under descriptions, and the acts that are open to us depend, in a purely formal way, on the descriptions available to us. Moreover, classifications do not exist only in the empty space of language but in institutions, practices, material interactions with things and other people...*But I do not want to overemphasize the awareness of an individual* (Hacking 1999: 31-32, my emphasis).

There is a subtle suggestion in Insp. Pandey’s words above that part of counseling can involve a form of immersion that makes steering of one’s own narrative in a controlled manner an impossibility. It is also difficult to comprehend whether counseling complainants, in what can seem like folk models of counseling, leave women police officers unaffected. My quest here is not about finding out and ascribing definitive

meanings to the real subjective position of a police officer, if indeed there is such a subjective *thing* to which the anthropologist can have unmitigated access; rather it is to render, following Marilyn Strathern on a post-plural conception of the world in which infinity replicates itself in every scale, a figure with all its “incompatibilities”, where in being a kin-woman and a police officer, “both or all are necessary and true” and while neither is accessible as one or the other at any point in time (Strathern citing Haraway 2004a: xvi), “each extends the other, but only from the other’s position” to arrive at an “expanded or realized capacity” (38).

#### THE SWEETNESS OF A MEDIATED SETTLEMENT

##### *First Hearing with the Mediator Rekha Khattar*

Mediator Rekha Khattar was sitting in her lucky room, the one in which, she said, her mediations had a good successful rate, with another lady, who appeared to be in her mid 50s. This lady stayed in the room for the entire duration of Mahima’s first hearing in the Mediation Cell. Initially I assumed that she was another mediator, but I later found out that this lady was a friend of Khattar’s and was just visiting her. By this time, I was also used to Sonu’s presence in every session and today as well he clung to Mahima and wanted all her attention. Khattar, who had had no prior engagement with Mahima, asked in clinically precise tone about what was ailing her. I got the impression that Mahima was not sure about what she had to tell Khattar; in a minute or so she quickly told Khattar that her husband maintained relations with his first wife, that she felt cheated and disrespected in the relationship and was tired (*pareshan*) of his general behavior (*bartaav*) towards her. She quickly added that she wanted to separate from Sudershan. Both Mahima and

Sudershan had no idea about whether Khattar knew anything about their case, and Khattar, too, seemed to be somewhat confused. Since mediation proceedings are unwritten, I did not take notes then, but wrote particular words in Hindi, which worked as clues leading from one part of the conversation to another to reconstruct the story later. This allowed me to concentrate on mediation better and organize the conversation somewhat sequentially, but the uncertainties of transcription and the losses thereof remain.

The initial part of the conversation between Khattar and Mahima was about Khattar trying to understand Mahima's predicament, without really being keen on listening to her. Mahima, on the other hand, might have felt exhausted and pained from the repetition of telling and she burst out crying. Struggling to keep her composure she said, "they (Sudershan and Geeta) have been living separately for the last ten years. We got married, these people came home, the regular ceremonies followed and then I came here only to find out that I am not the real wife. So, when I think about this, it really hurts me that when I am not the real wife, then, why should I live with him. I want to live with him like his wife, I don't want to live like someone's second wife.

**RK:** But she does not come to your house, does she?

**Mahima:** No, ma'am, I have no problems with her. No, she does not come.

**RK:** See, you shouldn't think like this because she (the first wife) has no objection to your marriage. You are *the* wife; your child is with him. See, it is people who make mistakes. In life, it is humans who make mistakes. One will make mistakes and then attempt to rectify them and then only will God be happy with you. If you leave him just like that, then, God will also be unhappy with you. You must give him a chance, no? He will give you Rs. 2500 and he will keep the rest.



I am unsure about how Khattar arrived at this figure of Rs. 2500 (38\$) in her mind. Perhaps, this was an amount that she thought would be sufficient for a woman of Mahima's economic class and was making assumptions about how much Sudershan could earn. Sudershan said, "ma'am, I have no objection in giving any money to her. She can run the house, but her family members live on the floor above our house."

**Mahima:** My sister lives upstairs, but they earn their own living and pay their own rent.

**RK:** Oh, so, there must be interference?

**Mahima:** No, they never interfere in my family's affairs.

**Sudershan:** There's her elder sister and her husband and another sister and brother. If we get into a fight, they don't come down and ask what has happened; they straightaway start fighting with me. All the groceries that I put in the house, I can never find them when I need them. Everything finishes before time. Why won't I get angry then, tell me?

**RK:** Why don't you move to another house?

**Sudershan:** No, we can't do that because that house is ours.

**RK:** Okay, then, ask them to move to another place.

**Sudershan:** She won't agree to that.

**Mahima:** That house belongs to his first wife.

This knowledge that the house in which Mahima and Sudershan currently lived belonged to Sudershan's first wife made Rekha Khattar take note of the complexity of Mahima's case for the first time. I also noticed that it was with this information that she warmed up a little bit towards Mahima and realized the problem around setting up of an alternative matrilineal residence in a culture that is predicated on patrilineality. Perhaps, Khattar also realized that in a sense both Mahima and Sudershan were complaining about incongruous intimacies: Sudershan about Mahima's intimacy with her natal family and Mahima complaining about Sudershan's proximity with his first wife. She said,

Oh, so he has a free house to live in. Now, see, both of you have got a free house to live in, both of you have to dutifully take care of your house. Now I realize why he goes to his first wife. See, (to Mahima) your family lives there. Let them live, eat and stay there. See, if you give a bowl of flour to them, you must take it back because yours is one family unit and theirs is another. There is a limit to everything. See, a child who sees his father everyday, he stays healthy. It is your (Sudershan's) duty to make your own house. Your child is so beautiful. If something needs to be done in the house, talk about it. See, it is a sin (*paap*) to make your wife get angry. It is because of her that the Son of God has come to your house (*Narayan*). He is going to carry the family name forward.

Sonu had been restless all this while, so Khattar asked Sudershan to take him out of the room for a few minutes. As Sudershan tried lift Sonu up from the floor, the little boy got drawn towards the electricity socket. Seeing this, Sudershan began complaining about how he did similar things at home, including switching on and off the water pump. Rekha, who had been getting a phone call, which she could not receive because of Sudershan's complaining, screamed at him and said,

Do you have any idea how many things a woman has to do when taking care of a small child? Can you see the way your child clings to your wife? All he wants to do is hang by her arm. All you can say is that she should do all the work. Who are you? Are you a police officer or her boss? You have to do these things because these things are your responsibility. I can see that the child does not let go of her at all. She is also human, let her live too. Only if the mother is healthy, will the child also be healthy. You come here for small and rather trivial things. The child's security, all outside work, filling grocery in the house is your job and in addition to this, you must give her Rs. 1000 per month.

**Sudershan:** If I give her money, she will finish that in 2-3 days.

**RK:** See, child (*bacche*), you need to understand that you have to set your own house up. The people who live upstairs are related to you, and they are your natal family...In every home, there comes an opportunity to fight. You see, husband-wife are not related by blood and their relationship is that of adjustment. Don't think that in this adjustment you will be the beneficiary, your child will benefit and so will your parents who will know that you are living happily. If you fight every day, they will think that you create a scene every day. So, child, learn to take care of your life, it is an art, you should learn this art. See, if your brother and sisters want something from you, you can't say no, but you must tell them that your husband gets angry. You and your husband are one. You have to be very alert. See, he is a good man and I can see that. If you go to the Police Station, you will offend him. He comes with you to the Unit, he

listens to us, but if he gets angry tomorrow, he will ask you to leave. You also have a child and he takes care of the child as well.

In their work analyzing the legal *process* of mediation, Conley and O’Barr (1998) argue that mediation is supposed to be a conciliatory process in which “the parties talk to each other in an effort to compromise, rather than presenting competing evidence, as they would in a formal trial” (39). Keeping their focus particularly on the language of mediation, they argue that “[M]ediators are supposed to structure the substance of the talk so as to promote the overriding goal of the mediation center: reaching an agreement that the parties can promise to follow. What this means in practice is that the mediators will help the parties separate the issues that seems amenable to some sort of resolution from those on which they seem hopelessly deadlocked” (44). The deadlock in Mahima’s case, even as it was never categorically articulated as such, was around the residential arrangement: Sudershan lived in his ex-wife’s house, where rent was negotiable. He used this arrangement to maintain some kind of relationship with his ex-wife, although he explained this continuity through his desire to also with his first son, Gaurav. Given their financial situation, Mahima and Sudershan were not in a position to move out of the house to take another place on rent. Mahima’s kin came to Delhi in search of work after Mahima’s wedding, and also lived on rent in the same building. What followed was an *inappropriate* economy of exchange of labor, goods and intimacy: between Sudershan and his ex-wife, on the one hand, and Mahima and her kin, on the other. As a seasoned mediator, Rekha Khattar saw this central predicament, but chose not to address this upfront. She concentrated, instead, on (re)organizing the everyday division of labor between Sudershan and Mahima. Her general approach towards Sudershan was to instill

in him the responsibility of an intelligent male head of the household. She continuously reinforced this by conflating his age and experience as a driver; both according to her should have given him some wisdom about how the world worked. At one point she said to Sudershan,

See, if there is any trouble (*dikkat*) at home, you should take interest in it. I can see that most of the problems are because your child is really small, naughty, and does not let either of you sit. You should look after Mahima's needs. She is not an engineer; she is *not* very intelligent also. Understood? You have seen the world, you are a driver, and a driver never ever forgets a road he travels on. A driver is very smart, eagle eyed and with an acute memory. You should think that if God has brought heaven (*swarg*) into your house, then you should maintain it. Give her your attention and see what she wants to say. You are intelligent, and I do not need to say more.

While Khattar was trying to make Sudershan understand that he ought to be a perceptive spouse, Mahima continuously reiterated that she did not want to live with him, his family members and even her own family members. She said that she wanted to live peacefully, all by herself...Khattar's friend, who had come visiting her and was quiet all this while, spoke out at this point.

**X:** You are wearing a very nice *salwar kameez*. Where did you buy it?

**Mahima:** (looking confused and perhaps a bit bewildered at this interruption and interjection) I am wearing my sister's clothes. This works between us sisters. We wear each other's clothes. He (Sudershan) buys all my clothes and often tells me that I should neither give my clothes to them nor take their clothes to wear.

**Sudershan:** I really dislike this.

**X and RK:** One should not wear anyone else's clothes.

**Mahima:** I know one should not wear anyone else's clothes, but they don't have clothes, so when they ask me for clothes, I let them borrow from me.

**RK:** No, now listen to me. You are really being adamant (*ziddi*) now. Listen to your husband. He is many years older, he also runs the house and is also more intelligent. If you were running the house, you could have lent all the money you wanted to your sisters. He runs the house. You have kin staying on the other

floor, so you have to be careful. You tell them that you will buy them a pair of clothing, but you will not lend them your clothes.

Mahima scolded Sonu, who was just not letting her speak.

**RK:** If you show so much anger, it will hit your brain. Your brain will explode. And listen to me, Sudershan, if you love her, her anger will come down.

**Mahima:** I get so angry that twice I attempted suicide. I get so frustrated.

**RK:** Oh, my God, this is also a criminal act, do you know that? Listen to me, anger will only harm *you* and no one else. Whenever you get angry, have a glass of water and remember your deity (*isht devta*). Whenever I get angry, I think of my deity. It is because you do not pray that so much anger comes to you.

**Sudershan:** Ma'am she does not cook on time at all. Tomatoes kept in the fridge have rotted. She had kept soaked kidney beans in the fridge for the last ten days; they have rotted as well. She neither cooks properly, nor does she throw things out on time. She wastes so much. I once came back home at 1:30 am. She must have cooked in the morning and did not bother to keep anything in the fridge. When I sat down to eat, all the food, lentils and chutney, had gone bad. I cooked at 2 am, ate and slept. I was really very angry with her. The clothes are not washed for days. In fact, her dirty panties lie about the bathroom and worms begin to collect around her clothes. She is filthy. How can I not get angry?

**RK:** (to Mahima) Yuck, you are disgusting!! You can at least make tomato puree out of tomatoes. I just did that with the tomatoes I bought yesterday.

**X to Sudershan;** You don't give her any attention, so she does this to get your attention. These things are interrelated.

**RK:** Yeah. Sudershan, if you appreciate her, she will not do any of this. And, Mahima, you must also remember that one does not need appreciation from one's own family. My husband has not once said to me that I cook well, but he eats everything I make, and that is my proof.

**X:** My husband has never said, "Darling, I love you".

**Mahima:** I don't do any work for him. I don't even sleep with him. I don't feel like doing any work for him. There were no tomatoes in the house when I soaked the kidney beans, so I put them in the fridge. I forgot all about them afterwards. I can't remember anything. I don't like doing any household chores. I just lay about in bed all day like a mad woman. I lock myself in my room and don't go out at all. I barely ever speak with anyone. I don't even take my child out for playing. I neither take care of myself, nor of my child.

**RK:** She is clearly in control of some ghostly spirit (*bhoot savaar ho gaya hai isko*). Take her to some temple. You see, these things happen some times. Go for some pilgrimage. Take her out for a vacation. You have such a beautiful child, and then also you are in such a foul mood, Mahima. Slowly, this child will also go insane because of you. Sudershan, you should show some affection towards her, take her out of the house. She has not got any love in her life.

**Sudershan:** I get very angry with her.

**RK:** No, you are the mature one, you are also the older one. You must look after the child, and treat her with care. Take her out for eating savories; keep her happy in her heart. Go see a film like *Band, Baaja, Baraat* and have dinner outside.

Sudershan went out of the room with the child, while Mahima stayed back saying she wanted two minutes with Khattar all by herself.

**Mahima:** Ma'am, I do not want to live with him

**RK:** You want to leave him him? (*chutkara chahati ho?*)

**Mahima:** Yes, ma'am.

**RK:** Listen to me, now that he has gone outside. You are saying you don't want this or that; that you don't do a thing in the house and just keep lying in bed the whole day. He is listening to you right now and is even coming with you here. You will be left alone and for this display of anger, another man will start hitting you.

**Mahima:** No ma'am, if I don't live with him, I won't live with anyone.

**RK:** Where will you live then? Delhi is a horrible city and no man will leave you just like that. Delhi is a horrible city for women.

**Mahima:** No, I will go back to my parents.

**X:** Why don't you just go and visit your parents anyway.

**Mahima:** No, I will not go like that. Last time I went there, he didn't even give me a penny.

**RK:** Okay, I will ask him to give you Rs. 3000 and then you can take a trip to your village.

**Mahima:** No, I don't want to live with him and I don't need any money.

**RK:** Okay, then, I will now meet with you on XX/XX/XXXX. We will talk then.

Towards the middle of the hearing, mediator Khattar's approach towards Sudershan became about placating his position as the more intelligent partner. While it is possible that she did this to make Sudershan take more responsibility towards his own familial unit, she attempted this by constantly humiliating Mahima and giving credence to Sudershan's complaints against her. Unlike Insp. Pandey, who had suggested that Mahima consult a therapist, Khattar construes Mahima's mental illness itself as a pathological condition in need of divine intervention, and not therapy. She shamed her for draining the household of precarious resources like, food, clothes, and money and

failing as a wife by being inefficient, unorganized, slovenly and an unhealthy housewife and mother. Khattar also called her obstinate, implying that she was difficult to deal with, and established this against Sudershan's goodness and cooperative disposition since not only did he not beat her, which some other man given Mahima's pathology would have, but that he was also coming for counseling showed that he wanted *this* marriage to work.

In her seminal essay, "The Mediation Alternative: Process Dangers for Women", Trina Grillo (1991) argued against mediation in divorce cases and in other family matters involving women. She contends that contrary to the common understanding of mediation as a "process, which allows participants to express their emotions" certain forms of expression are often not welcomed at all. She argues that in mediation proceedings about family matters,

expressions of anger are frequently overtly discouraged. This discouragement of anger sends a message that anger is unacceptable, terrifying and dangerous. For a person who has only recently found her anger, this can be a perilous message indeed...Women have been socialized not to express anger, and have often had their anger labeled "bad"...As her early, undifferentiated, and sometimes inchoate expressions of anger emerge, the anger may seem as overwhelming to her as to persons outside of it. And yet this anger may turn out to be the source of her energy, strength, and growth in the months and years ahead. An injunction from a person in power to suppress that anger because it is not sufficiently modulated may amount to nothing less than an act of violence (1573-74)...(and) maintains rather than challenges the status quo" (1575).

Unlike Insp. Pandey, who was at pains to bring Mahima's experiences within a legal definition of "mental cruelty", mediator Rekha Khattar paid only tangential attention to the crux of Mahima's complaint: the lie that she felt her marriage was with Sudershan, exacerbated by his continuing relationship with his ex-wife, whom he may or may not have actually divorced. Grillo argues that mediation can work by creating a sense of

“disentitlement”, particularly when a mediator works by bringing equivalence between the complainant and the respondent (1568). She says that “context” is destroyed by a commitment to “fairness” that is operationalized as formal equality or equity justice since it undermines “institutionalized forms of societal inequality” (see also, Cobb and Rifkin 1991; Cobb 1997). Khattar worked with Mahima by maintaining the focus on the *excessive* and *immediate* intimacy that Mahima ostensibly shared with her kin as one the primary reasons for continuing fights between the couple. Her solution to Mahima’s sense of outrage was to persuade her husband to spend more “quality” time with her and their child, which could, then, work towards bringing much needed distance with Mahima and her kin. She further mobilized Mahima’s anger against her by suggesting, not just that it would destroy her, but also how she posed a danger to her child’s health as well. Khattar’s mediatory politics brought forth a tearful, self-critical, self-loathing, pathological and a guilt-ridden Mahima, who was unable to assert herself as an effective fighter, and desired only isolation from everyone related to her. Mahima’s anger, which was anyway internalized, was further directed against her when Khattar warned her that her temper would invariably provoke any man to beat her up. As she left the room, perhaps feeling even more humiliated, Khattar proceeded towards catching up with an old friend, while I took her leave and went looking for Mahima. I was unable to find her; I sat in the hallway to write my notes and I could not help but notice a twinge of anger that I felt against Rekha Khattar.

#### *Second Hearing with Mediator Rekha Khattar*

I did not have any other case to attend on the day Mahima’s second hearing was scheduled with mediator Rekha Khattar and was eagerly waiting for Mahima to turn up



on time. The Mediation Cell corridor does not get any sun at all, and no lights are turned on during the day. I was sitting on the seats kept at the far end of the corridor and could barely see Mahima as she walked down towards me. I immediately noticed that she had taken great care to dress well. She was wearing a green sleeveless *kurta-churidar* and had painted her nails green. The unmistakable vermilion (*sindur*) on her forehead, a quintessential Hindu marker of matrimony, convinced me immediately that something new had taken place in the days following the last hearing. As we exchanged pleasantries, she said that the previous week had been better. She had visited *Ibhaas*, the mental health centre that Insp. Pandey had advised her to visit for therapy, and the medicines they had given her had helped her enormously. She said she had been able to sleep on time and was feeling better as opposed to the self-destructive feelings she had earlier. She immediately brought Sudershan into the conversation and said that it is not as if she wants him to do all the housework, but she did want him to spend time with her. The doctor at *Ibhaas* had her asked to maintain a journal, she said, in response to my compliment on her dress.

**Mahima:** I used to write a diary earlier. I used to write stories and poems as well. I was also good at sewing and embroidery. Slowly, my brain just began shutting down and I felt like I had fallen in a dark well from which it was impossible to come out. I was suicidal and also thought of killing my child because if my child does not get recognition, then I will not find peace even after death. After coming here and talking to you people, there has been a change in him. He was begun helping me with housework and also looks after Sonu. He dresses Sonu up in the morning. These are the only things that one has to do in the house and this allows me to get the household chores out of the way. Earlier, he used to say that he does not have the strength to even do this much. Won't I get angry on hearing this?

**Me:** Did Sudershan make a visit to the other house last week?

**Mahima:** No, he told me he is not going there. I have never stopped him from going there; I only expect him to tell me when he does go there. I tell him that if he is taking care of those responsibilities, then, he should not forget those of this house. In fact, first of all, he should take care of my house, because our future is

tied together. I have told him that I want us to take an identity card (*pehchaan patra*) as well as a bank account. If I have a bank account, I will keep the money I save in the bank. Anyway, I am not a spender, and I do not really spend a lot on clothes and such other things...

**Me:** You are wearing *sindur* today. I have not seen you wear *sindur* before.

**Mahima:** Yeah, I wore it yesterday as well. In the past, whenever I'd put *sindur*, we would end up fighting, so I stopped wearing it altogether. I stopped doing every little thing I liked. I noticed that post delivery, I used to get very angry. I used to be in bed, and he used to refuse to even give me a glass of water. Instead, he used to say that I wasn't the first woman in the world to have given birth to a child. I understand that he has a child, but I was becoming a mother for the first time. As time went by, I stopped feeling anything. If I had a wish or desire, I used to always be disappointed (breaks down).

**Me:** Don't cry, Mahima. You have taken a decision about your life today. Let's just wait for us to be called in.

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Seconds after we went inside Rekha Khattar's lucky room, Mahima said that she had thought about her marriage and had decided to give Sudershan a second chance.

**RK:** Very good, I am very happy. I had told you last time that you should give him a chance and see if things improve over three months. If he bothers you again, come back after three months and your case will be re-opened. I don't have a lot of time today; I have to meet with someone for lunch. Let's quickly make a settlement for you now.

**Mahima:** His salary is Rs. 7000 and I want Rs. 3000 for monthly expenditure. I want Rs. 500 in addition to this Rs. 3000

**RK:** No, no, Rs. 3000 is final.

As Khattar scribbled away, I also begin taking notes on the terms of the settlement.

**RK:** Are you ready for what she is saying?

**Sudershan:** Okay, that's fine.

**RK:** The two of you will respect each other, okay?

**Mahima:** Yes, Ma'am

**RK:** And you will also love each other. You will also watch films and will go out together. Sudershan will buy you clothes. You, Mahima, will wash his clothes. You will speak properly to him and not talk back. Do not sit too much with your people who live upstairs (*uparwale rishtedar*). Take care of your house. Your relationship with your husband is more important than that with your own kin. Okay? If he is happy, you are happy because, then, your souls will meet (*aatma ka rishta ho jata hai*)

**Mahima:** Tell him that he will get an ID (*pehchaan patra*) made for the three of us with our photograph on the card. He should also open a joint bank account. I have been telling him this for the last three years.

**RK:** Yeah, yeah, of course. Come on, Sudershan, you have such a nice wife and such a beautiful child. Come on now, get an account opened and get an ID made as well. She will save some money and put it in the bank.

**Mahima:** He tells me that if I separate from him, he will not give me maintenance, but if in the next three months, I have any problems, he should just separate from me and will give maintenance for Sonu and I.

**RK** (ignoring what Mahima just said): Yeah, but the Rs. 3000 he is giving you will be your maintenance.

**Sudershan:** But when I come home, she does not even open the door.

**RK:** Okay, see, he will give you money, but you must open the door. What if both of you were sick (*tum dono ko bhi bimari ho sakti hai na kabhi*)?

**Mahima:** Of course he is sick. He can never remember anything. He must also go and see a doctor like I am.

**RK:** Okay, I really have to go for lunch now, let me quickly go and type the agreement. Make changes in the draft if you wish to revise or add something.

When she came back, Rekha asked me to read the draft “compromise” to both Sudershan and Mahima. Since it was written in English, I also translated it while reading it out to them. Khattar left for lunch after handing over the document to me. I read the draft of the settlement to Mahima and Sudershan.

- 1) It is agreed between the parties that they will love and respect each other.
- 2) Both Mahima and Sudershan will respect each other’s parents and relatives.
- 3) It is agreed between the parties that Mahima can ring up her parents and can also go and meet them.
- 4) It is agreed between the parties that Mahima will also perform household work along with her mother in law. This was subsequently changed to “It is agreed between the parties that Mahima shall perform the household affairs and Sudershan will help in caring for their child”.
- 5) It is agreed between the parties that Sudershan will not beat or abuse Mahima at any point in time (Sudershan objects to this point and wants it removed from the final draft, but Khattar decided to keep this point in the final version).
- 6) Sudershan shall provide clothing and other personal needs of Mahima, as and when required.
- 7) It is agreed between the parties that Sudershan will provide ration and vegetables.
- 8) It is agreed between the parties that Mahima and Sudershan will live peacefully and happily and shall report to the Mediation Centre after three

months. If Sudershan does not behave well with Mahima, then the case will be opened back in the Unit.

**9)** It is agreed between the parties that Sudershan will open a bank account of Mahima and make a voter ID for the (*sic*) Mahima.

**10)** It is agreed between the parties that Sudershan will give Rs. 3000 per month to Mahima for household and general expenses.

After hearing me read out the contents of the compromise, Mahima said to me, “all this is fine, ma’am, but if after three months, I still think there is a problem, then I will come back here and just take divorce instead of getting counseled again.” I told her that she could file another complaint at the Unit whenever she wanted to.

We waited for almost two hours before Khattar came back from her lunch appointment. As per the official protocol, she made five copies of the final settlement and asked Mahima and Sudershan to sign the document. After congratulating them on a successful settlement, she asked them to get sweets (*mithai khilao*) to celebrate their compromise. This sudden demand for sweets really caught both Mahima and Sudershan off guard. They signed the document and thanked Khattar before leaving the Unit, only to come back with a box of sweets. Mahima offered sweets to everyone in the Mediation Cell and then said to Sudershan, somewhat loudly, “the sweetness of these sweets should at least last for the next three months”. Everybody in the room laughed out as they all congratulated the couple. Mahima laughed as well and I noticed that it was the first time in three months that I had seen her laugh. We exchanged phone numbers and she said she would keep in touch with me. I wished both of them well and walked her to the exit of the Unit. Sudershan walked in front of us, with Sonu in his arms.

The *settlement*, would be the second paper document through which Mahima had sought to re(organize) the terms around which she wanted to live her life with Sudershan. The first one had been the stamp paper that she had signed with Sudershan at the time of the wedding. The terms of the settlement did not address the core of Mahima's complaint about Sudershan's relations with Geeta; in fact, mediation brought complete equivalence between her and Sudershan, with its terms reading more like a re-invocation of marriage vows, but premised on a sexual division of labor. As Mahima left the Unit, I wondered how the terms of this document were supposed to work back into her life. Meanwhile, I misplaced her phone number, and could not keep in touch with her. She neither called nor came back to the Unit. I did not necessarily assume that some of what she had hoped for had been achieved by coming to the Unit, not just because I could not be sure of what that *something* was, but also because ways of living and being do not necessarily map on to the "security of narrative" (Pinto 2014: 34). I did find her phone number almost a year later and, then, we decided to meet up. I will come to this meeting in the dissertation's conclusion. For now, after the signing of settlement agreement, the *mediated* file was sent back to Insp. Pandey, who made the final noting on the note-sheet. It read:

Today I received report of Mediator Khattar. As per the report of Mediation matter settled amicably. Both are residing together with some terms and condition. Mediation file is enclosed with main file. Total three hearing were taken by Mediator. It is therefore requested that as matter reconciled so file may be closed, if approved.

Right below this noting was Insp. Pandey's signature and later the ACP, too, put her signature, granting permission to Insp. Pandey to move towards closing the complaint file. The important task of pagination begins after the complaint is closed; Mahima's file contains 18 pages.

## SETTING A COMPLAINT AGAINST ITS RESOLUTION

In the beginning of the chapter, I had invoked Ricoeur's understanding of a narrative plot and its connections with human action as a way to organize this case. For Ricoeur, what is important for narrative, like it is for metaphor, is the idea of *mimesis* in the sense of representing human reality in some way and the kind of reality that narrative is mimetic of is human *action*. In thinking about the organization of human life, what is crucial is to render how "time becomes human time to the extent that it is organized after the manner of a narrative" and it is life organized and developed as a narrative that leads to self-understanding (1984: 3). Further, "the world unfolded by every narrative work is always a temporal world..., narrative, in turn, is meaningful to the extent that it portrays the features of temporal experience" (3). And yet, I argue, that it is not clear what meanings we can suffuse the word experience with over here. For one, Mahima's experiences, even as they took on narrativized forms in the institutional setting of the Unit, were still unfolding. That is to say, Mahima was in the midst of the story she was recounting and she was following her own story, as were we, from one week to another. In other words, here it was not as if narrative was the way of organizing experience after it had happened. Rather, narratives—Mahima's narrative, co-authoring of narratives by Insp. Pandey and mediator Khattar—emerge from the undiscerning complexity of the present as stories unfold and other's accounts are added to the prime narrator's story. This unfolding in the present continuous suggest the uncertainty of future since the future can have varying hypothetical "endings", which would, then, make many readings of the past and the present possible. There is, however, Ricoeur's emplotting happening at each of the stages, if by emplotment we mean to also desire a certainty of outcome. For instance,

both Insp. Pandey and mediator Khattar interpret Mahima's condition in relation to the logic of the law and a "local explanatory logic" (Good and Good 1994: 837) to negotiate a compact between Mahima and Sudershan, but it is not clear what enables Mahima to arrive the a point where she moves from seeking separation to remaining in the marriage with Sudershan. We do not know, and there is indeed no way of knowing, for example, what part was played by the medication that Mahima had begun taking on the advice of the mental health doctor she had visited at *Ibhaas* or whether she even continued taking those medicines.

In a different vein, the entire complaint-case could not have unfolded the way it did were it not for the presence of Mahima and Sudershan's son, Sonu. His presence, as a conventionally beautiful, but a poor child, his tantrums, crying, squealing, laughter, playfulness, touching the electric switch board and his ceaseless clinging to Mahima's body, crucially shaped the narrative of the case, in that he made possible the interconnections between the folding in of quotidian incidents from the lives of Insp. Pandey and mediator Khattar with those of Mahima's. Therefore, the working with law here is not saturated only with a "compendium of strategies" (Obarrio 2010: 165), but what gives meaning to law here are also other actants like sounds of a child or even scar tissues of self inflicted injury.

Can or should a complaint be set against its resolution? My inclination here is to answer in the negative because in doing so, we set up a teleology of how things must emerge or "end"; quite like the way it would be to hold the entire story of a marriage against the

vows taken at the time of marriage. The important thing here would be to ask if the terms of the compact, which was not a contract, could be made compliable. The material aspects of the compact like the opening of a bank account and obtaining official identity card are time bound *things* that can be secured, but the other stipulations like love and respect could just as easily become empty signifiers. In his work on domestic cruelty meted out to Bengali widows, Dipesh Chakrabarty argues that the

The entitlement to affection/ protection is, however, not in the nature of a general claim; it is not an entitlement to just anybody's affection or care. Whether such a general claim can be sustained anywhere is debatable, but it is clear that the Bengali widow's testimony does not evince a desire for the kind of treatment that, say, either the state of the market can accord. The entitlement to affection is claimed from a particular, and in that sense irreplaceable, source—the late husband's family...Can theory that justifies the law-state combine ever provide us with a form with which to intervene in the politics of affection/cruelty? (Chakrabarty 2002: 107-08).

Therefore, rather than holding the complaint against its eventual compromise deed, the task that I have set myself up for here is to elucidate the process of meaning-production and I do so by what I have called a tripling of narratives (Good and Good 1994). To be sure, compromises do work, as I will show in the next chapter, particularly when they take the form of a contractual obligation between two citizens, but even there, we see a collision between law, evidence and love.



## CHAPTER IV

### ***“I used to regularly withdraw money from the ATM for him, but my receipts don’t show that truth or my love for him”*: Emotional Scripts of Betrayal, Evidentiary Protocols and the Fate of Love Itself**

#### INTRODUCTION

“Love is the ultimate indiscretion” and is constituted through the twin process of mutual exposure between lovers combined with concealment from everyone else, argued Alfred Gell in his classic piece, “On Love” (Gell 2011). For Gell, to bring love up for discussion amounts to negating the essence of love, for yielding secrets to the public ineluctably devalues them. Therefore, for him there is no such thing as knowing about love because the “process of coming to know about love, from the third-party standpoint, annihilates the every entity about which we seek to know” (2011). And, yet, lovers routinely make their love the object of others’ knowledge and scrutiny (Koen 1998).

In this chapter, I explicate how love is replicated in the legal meaning of marriage through a case in which a “love-marriage” had gone awry. The complainant in this case wanted compensation from her lover-husband for refusing to cohabit with her, allegedly because of her inability of fulfill demands of dowry that did not exist at the time of marriage, but were made soon after as a condition for co-residing. In approaching the Unit to seek compensation for her lover-husband’s behavior towards her, it was their intimacy itself that became the object of legal knowledge, thereby creating an intersection of love, sex, and marriage with evidentiary protocols. In other words, everything that this

complainant claimed to know about her love(r)—its very nature, its forms, and her experience of the relationship—had to be defended by appeal to some evidence, which most crucially entailed putting her own experience of love in doubt. An experiential narrative here had to be supplemented by a coherent account of what went wrong and *how* in order to incriminate the partner against whom allegations were being leveled.

The complainant, Shefali Kathuria, filed her case twice in the Unit and on both occasions failed to substantiate allegations of cruelty within marriage. This happened primarily because the marriage was held secretly in an Arya Samaj temple in Delhi, without the permission and participation of any family members in the ceremony. Her marriage to Sanjay Kumar was dowry-less, with no exchange of gifts having taken place at the temple. This made it difficult for Shefali to sustain or substantiate the allegations of dowry that she was making against Sanjay and his family. In the material absence of dowry, Shefali ended up bringing love-secrets and intimacy she once shared with her husband, Sanjay, to stand in for evidence against him. In so doing she, inadvertently, opened space where many other love-secrets were spilled out by her husband, leading the EO in-charge of the complaint to loudly wonder if the intimacy shared between the two could, at all, be called *love*. The lovers from the “love-marriage” had given love itself a “bad name” for they were now casting doubt on what they might earlier have experienced as love. In a sense love is already mired in skepticism if more proof is needed to substantiate it, but in another sense, which is the concern that this chapter pursues, I ask: is love conceptually antithetical to evidentiary protocols? That is, to have evidence

against one's own love assumes that one can both be in love and be a suspicious observer of one's love(r) in the same temporal frame. Is that even a possibility?

Romantic love becomes part of legal discourse in India when a romantic couple decides to get married to each other. The act of getting married means coming within the ambit of traditional, religious, patriarchal and customary meanings of matrimony even as the partners might hope to create a more egalitarian setting for themselves in their own marriage. My point here is that notwithstanding the form that marriage eventually takes, the act of marriage brings a romantic couple squarely within well-defined state laws and normative expectations (Orsini 2006; Mody 2008, 2013; Pinto 2011; Baxi 2015). And, yet, some marriages, like Shefali's, are not accepted by kin, in which case the couple has to take on the burden of establishing their familial unit without the support of their families. It is in the move from getting married to domesticating the relationship that some love-marriages go awry and in Shefali's case, the contention was that her own family had tried to facilitate her acceptance into the affinal kin, but in order to accept her as their daughter-in-law, the affinal kin had demanded dowry. Shefali no longer wanted to be in the marriage, but rather than moving towards seeking separation through civil proceedings, she wanted to approach it through a criminal complaint under the DPA. She may have arrived at this option because a woman seeking separation from her love-marriage husband carries the burden of having to face her family and larger kin, who often make her acutely aware of their collective disappointment in her, along with implying that a marriage unblessed by them was always-already destined to end in failure. Notwithstanding the nature of allegations made in a complaint, tied to the

invocation of criminal law like 498A are also anxieties around the terms on which a woman is accepted back into the folds of kinship. Filing a criminal case against the husband sometimes also works towards reducing the burden on the woman of having taken the decision to marry in a reckless act of individuation by locating the loci of the problem in the behavior of the partner. Given that it is extremely difficult for women in India to find a secure place for themselves in their natal families once they get married, by locating in their lover-husband's problematic forms of behavior, which might very well be the case, they hope to secure re-entry into the folds of their family and extended kinship. Demands of dowry, however, remain the central problematic around which the entire complaint is rendered in the Unit. Particularly if the complainant is keen on a formal case, evidentiary protocols come into play from the very beginning for an EO, who, then, has to make a complaint file legally stand and make it amenable for the eventual filing of the FIR.

In the first part of the chapter, I explore how invocation of criminal law, to seek redress for cruelty in love-marriage, is tied around anxieties of how one *appears* before law after the *fact* of marriage solemnization. This often means that there is a constant interplay between assuming victimhood, in order to obscure erstwhile agential action of taking the decision to marry entirely on one's own, while also retaining enough efficacy to push one's claims through in a legal setting. Beginning with the complaint itself, Shefali attempted to disavow her love as a measure of demoting agency. In being situated at the decisive points of the twin regimes of law and kinship, both of which demand adherence

to rules, Shefali made love act as counter foil, against which she sought admission into the legal order and kinship relations.

In part two of the chapter, I will discuss the burden of proof as laid out in the DPA in conjunction with the particularity of Shefali's case. Although the DPA shifts the burden of proof onto the respondent, the complainant still has to provide preliminary evidence for the prosecution to enable a criminal trial. Shefali was not unsure about the legal route that she wanted to take, but since she was alleging dowry related harassment, she needed to give evidence to her EO, which became a fraught issue between the two. I argue that in this complaint-case, the pre-litigation stage, in which the *possibility* of an actual trial provides a structural frame, mimicked a trial. The hearing with the EO became extremely unpleasant and confrontational, with an acrimonious exchange between the couple, on the one hand, and between the EO and Shefali, on the other. Amid mounting allegations, the evidentiary protocols launched by the EO, I argue, took on a form where disavowal of love by Shefali worked towards undermining her capability to love at all. This disavowal of love eventually also brought doubt over Shefali's allegations of non-cohabitation, demands of dowry, sexual abuse and harassment that she said she was continuing to face in her relationship with Sanjay.

Part three of the chapter focuses on the two mediation hearings held in Shefali's case and here I will delineate how mediatory practices in India, premised as they are on blurry ideals of equity and individuated justice, turn upon the parties themselves and, on women more than men. A long-standing critique of mediation in family matters has been that the

confidentiality of these proceedings masks the inequality between parties and the conditions under which compromises are reached between couples. What I want to add to this debate is that settlement deeds are often enabled by emphasizing individual failings of parties to the dispute to the point of making them feel somewhat lacking in some essential human quality. In Shefali's case, love and intimacy had long since been put under scanner, but what also emerged in the mediation proceedings was the way in which the mediator repeatedly emphasized that they were not "good enough" lovers, and this stood adjacent to also implying that they were not "good enough" persons either. This is a judgment that is reserved only for lovers in a failed-love marriage and not for husbands and wives in "arranged marriages" because there is dispersion of responsibility among kin in those marriages.

#### MARITAL NON-COHABITATION AS CRUELTY IN MARRIAGE

The day Shefali came to the Unit and met with the officer in charge at the FCD, she insisted that her younger brother be present with her since this was the second time she had come to the Unit to get her complaint registered. She said that her earlier EO, Insp. Rachna Bali, had put pressure on her to close the complaint because she thought evidence was insufficient to make cases of domestic cruelty and dowry. Insp. Bali had advised Shefali to pursue civil litigation instead.

ASI Kamla, the fresh complaints officer, asked for a copy of the complaint, which was seven pages long and typed in English. Since she was not conversant in English, she asked me to read it and urged Shefali to briefly explain the "facts" of her complaint to

her. Shefali explained that she and her husband, Sanjay Kumar, met more than a year ago; they were colleagues in the same government office, where Shefali was a permanent employee, and Sanjay a temporary one. They fell in love and wanted to get married, but since Shefali's father was ailing with a medical condition she was unable to discuss the issue with her parents. Meanwhile, her father passed away, and the responsibility of taking care of her family—her widowed mother, a younger brother and a younger sister—fell on her shoulders. Shefali's family was in mourning, and she was now the sole breadwinner for the family. Meanwhile, Sanjay kept insisting that they get married, but Shefali expressed her reluctance to do so, given her circumstances. She said that Sanjay finally persuaded her to get married to him by convincing her that his family was ready for the “alliance” and in fact desired a “dowry-less” wedding for their son. He also assured that he would support her in taking care of her family. Accordingly, they devised a plan and without telling Shefali's family, got married in an Arya Samaj temple. Shefali said that problems started when her parents-in-law refused to let her enter the matrimonial house and made dowry demands. Sanjay, then, convinced Shefali to continue living with her natal family, while he said he would work on persuading his parents to let them both stay in their home. Shefali disclosed the news about the marriage to her family a month later after the marriage. Her family, she said, was not happy with the news, but with time, came around to accepting her decision. What followed in the next eleven months were five visits by Shefali's kin to Sanjay's house to facilitate her move to the matrimonial house. Shefali alleged that in each of these meetings, her in-laws demanded dowry amounting to Rs.10 Lakhs (\$15K) and when her family refused to make the payment, they were humiliated, threatened with “dire consequences” and asked to

leave the house. Meanwhile, to keep some semblance of a relationship going, Shefali and Sanjay rented rooms in local motels, but these, too, became torturous for her because now Sanjay insisted that he alone, and not her natal family, had rights over her salary and categorically asked her to transfer her car, a gift from her late father, in his name. On other occasions, Shefali elaborated, Sanjay visited her at work and misbehaved with her. In particular, he cast aspersions on her character and suspected her of having an extra-marital relationship with a senior colleague. He, allegedly, also slapped her on two occasions outside her work place, and regularly put pressure on her to resign from her job. Two months before she filed her first complaint at the Unit, Sanjay had visited Shefali and her family at their home and threatened to malign their reputation in their neighborhood. This episode was followed by one more round of talk between the two families at Sanjay's place which, Shefali said, proved to be disastrous because not only did her in-laws demanded Rs. 10 lakhs again, but they also "threatened", "abused" and "humiliated" her mother, brother and other relatives. It was then that she decided to file a complaint at the Unit to seek some resolution to her predicament and she was now convinced of her decision to separate from Sanjay.

Less than a week after her first complaint was closed at the Unit, Shefali received threatening phone calls from Sanjay and this time, she called the police. Sanjay was called to the Police Station and warned not to "harass" Shefali. But Shefali had had enough and through the second complaint, she hoped to bring criminal charges against Sanjay and his parents. In order to make the notesheet, ASI Kamla asked Shefali what in particular she wanted the Unit to help her with.



**Kamla:** Since this is the second time you have come to the Unit and are familiar with the way in which complaints are pursued here, what do you want to do now with your situation?

**Shefali:** On the basis of the contents of my complaint, you may pursue whatever course of action as you deem fit.

**Kamla:** No case can be made on your complaint. If you want to live in the matrimonial home, file a case under the civil law on Domestic Violence. Now tell me, do you want to live with your husband or do you want to move towards separation?

**Shefali:** No, that is a different matter and I will look into it later. He has tortured and tormented (*pareshan*) me so much, is there nothing you can do about the harassment he caused me? I will decide on the divorce later.

**Kamla:** You do not understand, do you want to pursue legal action against your husband or would you like to move towards reconciliation?

**Shefali:** That is a matter I will look into later.

**Kamla:** Since you have come here for the second time, you would have given some thought to what you want to do. Do you want to seek counseling so that we can help you with a reconciliation, or do you want to separate, or do you want some kind of settlement, or do you want to pursue legal case against your Sanjay? What will make you happy—making this marriage work or not being in it at all? I need to explain to you that there was no exchange of gifts or dowry (*kuch lena-dena nahi hua*) in your marriage, no one participated in your wedding, No dowry case can be made in this matter because the marriage took place in a temple and was a “dowry-less” marriage.

**Shefali:** There was no demand at the time of marriage, but they are making demands now. They get physical and threaten my family that they will get them killed.

**Kamla:** I am not discounting your experiences, just trying to explain the three ways in which the Unit works. Also, when they threatened you, why did you not call the police? You would at least have had some proof; this now seems like hearsay (*kahi-suni baat*). If you face immediate threats, you must call the police.

**Shefali's brother:** Ma'am, she has come here for justice (*insaaf*). She was beaten up. When we lodged a complaint in the Police Station, Sanjay came and signed a document promising that she would not call her again, but he calls her even now, roams around our house, and continues to be a nuisance in our lives. What if he attacks her someday?

**Kamla:** If things are as bad as you are saying they are, then, you must file an FIR in your local police station immediately. At this Unit, it can take up to three months for an FIR to be filed because this is not a regular Police Station and works on dowry-related cases.

**Shefali's Brother:** I know that you people do not get divorces done, you can only do what your work is, but isn't it your job to take action against people who have been unjust towards a lady?

**Kamla:** See, what you want is immediate action against Sanjay and for that you will have to file a complaint in your local police station. I will take the complaint, but it will not be followed by immediate registration of an FIR. The Unit works on the principle of pre-litigation and it takes times for legal action to be initiated against anyone. You can do both; file a complaint here, but you must file a complaint at your local Police Station.

**Shefali's Brother:** We called the local police and they said they'd come in half an hour. They never came.

**Kamla:** If local police does is not supporting you, you must call Police Control Room on 100.

**Brother:** I am telling you that no one comes. Why would we lie to you?

**Kamla:** (exasperated and irritated) So, no one is helping you, not Local police, PCR or Insp. Rachna Bali. You are accusing everyone of either not turning up or not helping you. I find this hard to believe. Show me a complaint that you tried filing in the local police station.

**Shefali's Brother:** Why don't you talk to our lawyer?

**Kamla:** (curtly) I will not speak to anyone.

ASI Kamla proceeded to write the note sheet, while I filled out the biographical information sheet. The notesheet read:

Complainant got married according to Hindu rites on XX/XX/11 and the marriage is a love marriage. There is no *stridhan* or exchange of gifts (*lena-dena*). *Complainant does not want to live with her husband.*<sup>77</sup>

From the very beginning, Shefali was warned that there was no concrete evidence that could prove that any cruelty had, in fact, been committed upon her by her husband or in-laws. This was, of course, a presumption for no formal enquiry had been conducted to prove anything about families' meetings. Insufficient evidence, nonetheless, became the frame around which her complaint was interpreted at every stage of its movement—from the Front Desk to the Police Officer to the Counselor to the Mediator—in the Unit. In two years of my fieldwork, this was the first time that I had documented a case in which a complainant was being categorically told that neither the court nor the law could

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<sup>77</sup> ASI Kamla wrote about separation without Shefali asking for it to be written or implying that this was the course she wanted her complaint to eventually take in the Unit.

accommodate her particular experience of domestic cruelty. Yet, because this was the second time Shefali had put her complaint in the Unit, the front desk officer had briefly wanted to know the “facts” as enumerated in the complaint. Shefali had all along stated that it was Sanjay who had failed her for not securing a place where they could begin to live together as a couple and that this refusal had to do with demands of dowry. She had not yet made up her mind about whether she wanted to live with him or wanted to leave him, but she wanted the Unit officials to take notice of that *fact* that Sanjay’s refusal to cohabit with her, along with demands of dowry constituted an offense in the way she understood dowry law and for this she wanted the police to take action against Sanjay on the basis of allegations made by her in the complaint. The reason ASI Kamla wrote, “the complainant does not want to live with her husband”, might have stemmed from her understanding that since Shefali wanted to take legal action against her husband, she was probably not keen on living with him at all. On other occasions, when a complainant was not sure about compromise or separation, but still wanted to pursue legal action against their husbands, officers at front desk wrote exactly that—that the complainant wants legal action against her husband. In her noting, ASI Kamla missed the allegation that Shefali was actually making, what was her husband’s refusal to co-reside with her and the accompanying demands of dowry that he and his family were making. The notesheet briefly enumerates the allegations made in a complaint and the course of action that the complainant wants to pursue in the Unit. A poorly written notesheet ordinarily does not have any implications for the front desk officer and she can be just advised by a senior official, like the ACP to whom she reports, to write them in a particular format. For the purpose of this dissertation, it does explicate the gap between what is written in the

complaint and what it interpreted from it and given a form in a particular mode of official writing.

#### BURDENS OF PROOF: RECORDING DATES IN NOT EVIDENCING INCIDENTS

I have discussed in the introduction of the dissertation that the importance of Section 498-A IPC lies in the fact that domestic cruelty does not have to be related to demands of dowry. However, when cruelty is unconnected to dowry, then, too, “grave injury or danger to life, limb or health (mental or physical)” has to be proven beyond all reasonable doubt. The accompanying changes that were made to the Indian Evidence Act (IEA) in the year 1983 and 1986 respectively are related to dowry murders and suicides committed by women because they were harassed for not fulfilling dowry demands. These amendments made it possible for the burden of proof to shift onto the accused party once the prosecution established the basic facts of the case.<sup>78</sup> Shifting of the burden of proof does not mean that the prosecution does not have to prove anything at all or that the

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<sup>78</sup> The 1983 amendment to the Indian Evidence Act (IEA), 1862, created a new Section 113-A. This section allows a court to infer from the facts of suicide during the first seven years of a woman’s marriage and the infliction of cruelty upon the wife by her husband or in-laws, that the suicide was abetted by the husband, or by a member of his family, within the meaning of Indian Penal Code Section 306, which deals with abetment of suicide. See, <https://indiankanoon.org/doc/294349/>, last accessed on 20<sup>th</sup> October 2016

In 1986, a new Section 113-B was added to the IEA and this is supposed to be invoked in case of suspected dowry death. It is important that we understand what presumptions in Section 113-A and Section 113-B mean. Section 113-A of the IEA *may be* raised when prosecuting for abetment of suicide under IPC Section 306, once the prosecution establishes that the suicide occurred during the first seven years of marriage and that, prior to her suicide, the victim's husband or his relatives had subjected her to cruelty within the meaning of IPC Section 498A. The presumption contained in Section 113-B is different and is applied in cases charged under the Dowry Death Act, where the prosecution has to prove: (1) the death; (2) by burns, bodily injury, or other unnatural causes; (3) of a woman during her first seven years of marriage; and (4) the subjection of the woman to cruelty or harassment for, or in connection with, a demand for dowry; (5) soon before her death. Once these facts are proven by the prosecution beyond all reasonable doubt, a legal presumption *is* raised, and the burden of persuasion shifts to the defendant to prove, by the weight of the evidence, that he or she did not cause the victim's death. With respect to the Dowry Death Act, placing the burden of proof on the defendant is justified by the enormous problems encountered by the prosecutors in proving evidence of guilt because these crimes often occur in the privacy of the matrimonial home. See, <https://indiankanoon.org/doc/1906/>, last accessed on 20<sup>th</sup> October 2016.

entire burden of proving all allegations false lies with the accused party. Many complainants, like Shefali, take time to understand that the allegations they make have to be substantiated with evidence by the prosecution beyond all reasonable doubt. And yet, building evidence is not the trope followed in every complaint, even as necessary documents like the wedding card, list of dowry items, photographs, etc. that *may* form evidence are assembled by EOs as they go further in all their complaint cases. With Shefali, who was attempting to get her complaint registered for the second time and was alleging misdemeanor on the part of her previous EO, the new EO, Insp. Suman Verma, would have wanted to be absolutely sure about the specificity of the allegations made by Shefali in her complaint.

When I went to Insp. Verma's room on the day of the first hearing, she had already read the complaint and was waiting for Shefali to come back to the room. Shefali, she said, was speaking on the telephone with her lawyer. While she was outside, I asked Insp. Verma about the specific allegation that Shefali had made against her previous EO and what possible consequences that might have for Insp. Rachna Bali. Insp. Verma told me that since it was not a formal complaint against the EO, there was nothing to be done about those allegations. She also said that Shefali's lawyer would have "tutored" her into writing those allegations as a way of warning or putting pressure on the police to work in her favor. Before I go any further, however, let me lay out Shefali's complaint. I have already delineated aspects of her complaint in the previous section and because the complaint itself is rather long, here I will present an edited version of the complaint. The complaint reads:

I got married to Sanjay Kumar S/o XX Kumar on XX Jan, 2010 in Arya Samaj Mandir, XXX, New Delhi: 1100XX.

I and my husband were known to each other prior to our marriage as we both were working in the same office XXX...Before my marriage, my husband approached me and showed his liking towards me. He proposed me that he wanted to have dowry less marriage because of his liking towards me. I refused for the same with the fear of families...July 2009 my father got expired and the whole responsibility to look after my sibling came upon me, due to the sudden demise of my father. I was not ready for the marriage but anyhow, Mr. Sanjay make me convince that he will get married to me and told me that you can spend much time with your family meantime he will convince his family and he will take me to the matrimonial home. I was not ready for the marriage with apprehensions of the family...

After great persuasion and assurance, I got married to him on XX Jan 2010. My in-law also gave their consent for the marriage. After our marriage I met his parents and went to his house. My in-laws refused to allow me to live in the matrimonial house as they did not give recognition to my marriage to my husband. By saying that I have not brought any dowry for them. Later on, my husband told that I have to live with my parents until unless his parents are not agreed for our marriage and whenever, his parents will get agree he will take me to my matrimonial home.

In the month of February 2010, I informed my mother and brother regarding the said marriage, My mother and brother were very annoyed with the marriage but after my great persuasion they got agreed... they went to my in-laws house and requested my in-laws to allow me to live in the matrimonial house but my in-laws completely refused for the same. My mother-in-law clearly told my mother... to arrange for 10 lacs Rupees for the dowry only then they will allow me to live in the matrimonial house...

On XX April 2010, we booked a room near XXX bus stand and stayed in the said room for 3 to 4 hours and thereafter we went shopping...my husband clearly told me that now he wants my entire income as he has the right on my income and to transfer my car in his name which my father gifted me. I took it very lightly but the said incidence caused me great mental pain and agony....

We used to meet at different places in spite of our marriage but my husband was not in a mood to take any decision and neither he was taking a separate home to keep me with him or neither my in-laws were allowing me to keep me in matrimonial home...I was continuously approaching my in-laws to keep me with them...

March 2010 my brother and mother and few of our relatives visited to my in-laws house to take a decision as they all wanted to send me to the matrimonial house... The entire family was insulted and abused by them. My brother was threatened that if he ever came to my matrimonial house he will face dire consequences.

I, requested my husband to take me to the matrimonial house or keep me separate as his wife by my husband avoided the same on one and other reason...I again requested my husband to take the decision. My husband instead of taking a decision stated threatening and abusing me for one or the other reason...My husband instead of taking me to the matrimonial house was blackmailing abusing and sexually using me. My life was made hell and he was maligning my image saying that I have extra marital relationship with other person. I was tortured, harassed and abused every day by my husband with connivance of his parents.

On XX July 2010, we again booked the room near XXX bus stand and stayed there for 4-5 hours....

On XX August 2010...he came to pick me from the office and was waiting downstairs. I came late from the office due to some official work. He slapped me publically and told me that “*Main Kiskey Sath So Rahi thi*” (who was I sleeping with? [my translation]) thereafter, he checked my mobile and called all my friends and colleagues and instructed them not to talk to me otherwise they will face dire consequences.... In, the month of September 2010, he again abused me and slapped me when he came to take me from my office. He told me not to talk to my boss without his instruction. My life was completely made terrible and threatened me that if I did not followed his instructions he will beat me with belt and shoes. I was always under threat and pressure...

On dated XX October 2010 I visited my in-laws... but the entire family... abused me and caused tremendous physical and mental torture by saying me “characterless girl” ... or start giving the entire salary to them if I wanted to live in the said house...

On XX January 2011 I went to join investigation to the CAW Unit for my complaint given to CAW Unit on date XX December 2010. I join the investigation but my husband and in laws did not came there. I was compelled by Investigation Officer Rachna Bali to close down the complaint by telling me to approach the court. The EO thereafter closed my complaint by taking a stereo type statement...

On dated XX January 2011, I was again called by IO Rachna Bali on my mobile phone at around 10:30 am by saying that my husband has come to CAW Unit... Rachna Bali told me on the phone she cannot act upon my complaint because she believes the version of my husband is more truthful reason best known to

her. Thereafter, on dated XX Jan 2011 my husband called me number of time on my phone... I called the PCR<sup>79</sup> ...Thereafter, my husband was called by the police official and he was directed not to harass me in future but the harassment of my husband and family are still continuing. My husband and in-laws are liable for action.

I would like to inform you that I, do not want to close my complaint and same be reopened and necessary action be taken against my in-laws and husband for spoiling my life. I hereby request you to take legal action against my husband and in-laws and register a case under appropriate section of law.<sup>80</sup>

From the very beginning of Shefali's complaint, it is noticeable that she tries to distance herself from admitting to being in a romantic relationship with Sanjay and asserts that he and his family were liable for criminal action. It was Sanjay, Shefali writes, who pursued her continuously, while she exercised great caution before taking the decision to get married to Sanjay. Shefali maintains that while Sanjay "proposed" to her, she did not reciprocate "with the fear of families", that Sanjay tried to "convince" her to get married in a dowry-less marriage, but she was "not ready for the marriage with apprehensions of the family" and that Sanjay "put his heart and soul to convince me to take my consent" following which "after great persuasion and assurance, I got married to him."

As the hearing began, the first question that Insp. Suman Verma asked Shefali and Sanjay was about the nature of the marriage, that is, whether their marriage was a love-marriage. While Sanjay said that it was a love-marriage, Shefali maintained that she got married to him because he pursued her relentlessly. This set the tone of the conversation, for the next question that Insp. Verma asked Shefali was if she had married Sanjay out of her

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<sup>79</sup> PCR stands for Police Control Room.

<sup>80</sup> Although all dates and names of persons and places are fictitious, in giving fictional dates, I have maintained the period between any two dates as was given in the original complaint. This complaint was also written in English. I have reproduced all the grammatical errors that existed the in the original complaint.



own choice or whether she was forced into it. Shefali said that she was not forced into the marriage, but that Sanjay had convinced her that his parents were ready for a dowry-less marriage. Insp. Verma said, “if his parents were ready for the marriage, then, why did you not wait for them to approach your family (*rishta maangna*)?”

**Shefali:** My father had died six months ago and my family was in mourning. It would have looked bad if I had tried to bring up the issue of my marriage at that time because I was also the only earning member of the family.

**Verma:** Okay, you, too, were in mourning then. Why could you have not waited to get married? What was the hurry to get married in this manner?

**Shefali:** Sanjay was forcing me to get married. He said that his parents were ready for a dowry-less marriage. He also said that I could live with my family until the mourning period passes.

**Verma:** I still do not understand why you agreed to get married to him and now you are implying that you almost felt compelled by him.

**Shefali:** I thought everything would be all right later on.

Insp. Verma also asked Sanjay why it was important for him to solemnize the marriage at the time when Shefali’s family was in mourning and if his parents were, indeed, ready for the marriage, why did they not come for the marriage ceremony. Sanjay’s answers seemed rehearsed, for all he said by way of explanation was that the decision to get married was not his alone and was taken by the two of them together. What he added to this was that he did not want to separate from Shefali and was quite willing to take up a house on rent to live with her. Further, Shefali’s family, he said, was keen on a separation now because they needed her to take care of household expenses. Insp. Verma asked Shefali if she had not violated a moral code and brought more anguish upon her mother by prioritizing her own marriage at the time when her mother had lost her husband. Finding no plausible explanation for the circumstances in which Shefali agreed to the marriage, Insp. Verma moved the discussion on to what Shefali wanted from the

proceedings at the Unit. She did not ask her anything about her earlier hearing with Insp. Rachna Bali.

Perhaps it was her prior experience at the Unit of having felt let down by Insp. Rachna Bali that framed the manner in which Shefali approached Insp. Verma. She seemed edgy and was confrontational from the beginning. So, when Insp. Verma asked her what she wanted the Unit to do for her, a routine question that is asked by all EOs, Shefali immediately replied that the contents of her complaint were in front of the officer and she should, therefore, do what ought to be done on her complaint. Insp. Verma asked her what was written in the complaint and to elaborate on the contents of the complaint. This was also a usual query to get a complainant to begin a conversation with the EO. Shefali remained tensed and said that she had expected the officer to have at least read her complaint. For the time being, nothing seemed to be going right in this hearing. The conversation felt as if it was suffused with doubt on both sides, with Insp. Verma not taking kindly to what seemed like an attack on her integrity as a police officer. She said,

Your file is with me and let me tell you what your complaint says. It says that you were not ready for this marriage, but somehow, your husband convinced you to get married to him. He said that that his parents were ready for a dowry-less marriage, but they did not turn up for the wedding itself. Both of you took the decision to get married, but for some reason hoped that you would be welcomed into the matrimonial home. You say that after the marriage, your in-laws demanded dowry in cash payments and in the many meetings held between the two families, your family members were both threatened and humiliated. This continued for months and on one occasion your brother was nearly assaulted. And yet, given these demands of dowry, threats and humiliations, there is not a single police complaint that was filed by you in all these months. Am I right? The only time you filed police complaint was when Sanjay came to your house and created a scene in the neighborhood after the closure of your first complaint here. The second time you called the PCR on him, he was called to the police station and warned not to bother you. For a dowry case to be registered, you have to prove that dowry was demanded. You have written at

least 5 dates on which the families met. Is there any way in which you can prove that these meetings took place? Photographs, perhaps? Police complaints, if your family members were threatened? Unless you prove allegations, nothing can be done about these meetings for we do not know if they, in fact, took place. Whether I believe you or not is not the point, you have to give evidence of the fact that dowry was demanded of you or your family members in some context. Furnish these proofs and we will go ahead and register a case. Meanwhile, you have also submitted a copy of a signed affidavit on a stamp paper that says no dowry was given in this marriage.

**Rajesh:** Our families have not met even once. She is lying.

**Shefali:** But he has caused me so much agony. What evidence do I give of my family meeting his parents? He has ruined my life. He has given me so much grief. How can you say that there is nothing to be done.

**Verma:** I am not saying that there is nothing to be done. I am saying that you have to prove all your allegations. Since this was a dowry-less marriage and families did not participate, I need to know how demands of dowry were made. For this you need to prove that your family met his family. What proof do you have that these meetings took place? You need to understand that for a case to be registered, basic facts must be demonstrated unambiguously. Your basic facts attest to a dowry less marriage. Your husband is saying that he wants to live with you and is willing to take up a house on rent.

**Shefali:** I do not want to live with him at all. He has really harassed me.

**Verma:** Do you want to separate from him then?

**Shefali:** No, that I will decide on later. First, I want compensation for all the harassment I have gone through.

**Verma:** What proof are you submitting for harassment?

**Shefali:** I had called police a few months ago and even he was called to the police station.

**Verma:** But, how is that related to dowry? And that is a matter the local police will look into since it falls under their jurisdiction.

**Shefali:** But he took advantage of me. He used me sexually.

**Verma:** But you have never co-resided together and you say in your complaint that you spent a few hours with him in hotel rooms that you rented of your own volition. Your complaint does not say he coerced you into spending those hours with him.

**Shefali:** Are you saying nothing can be done to help a victim like me?

**Verma:** No, I am saying that you need to prove your allegations for the court to take any action.

**Shefali:** I don't have any proofs of our families meeting.

**Verma:** That's why it is a good idea for you to consider divorce by mutual settlement. Sanjay, would you consider divorce through mutual settlement?

**Sanjay:** I want to live with her, but if she is fine with a divorce settlement, then I am fine with it too.

**Verma:** Your lawyer has taught you a few lines and you will basically just keep parroting those lines. So, you want to live with her, but are also fine with divorcing her provided she initiates the divorce. You are such an obedient client

of your lawyer!! Not a word out of the lawyer's script for you then. What kind of a lover are you then?

Sanjay kept quiet as Insp. Verma castigated him for his compliance with everything that, she thought, his lawyer had taught him for the session. Meanwhile, Insp. Verma asked both Shefali and Sanjay to write a statement saying that they were ready to separate from each other through a mutually negotiated settlement of divorce. As they began writing the statement, Shefali said that she wanted to go out of the room to write the statement. As Shefali went outside and began speaking on the phone, presumably with her lawyer, Sanjay, too, went outside to write the statement. He was also speaking on the phone with his lawyer, for we could hear him inside the room.

Shefali came back to the room after fifteen minutes or so with a blank sheet of paper. Insp. Verma asked her for a written statement, which we could see had not been written at all. As Shefali sat down, she told Insp. Verma that she was ready for a divorce, but wanted Rs. 20 lakhs (roughly \$30,000) as compensation for all the harassment that she and her family had undergone because of Sanjay and his family. Insp. Verma, who now seemed upset, told Shefali again that the police was not responsible for awarding compensations, but that Shefali could use mediation to arrive at something like a settlement. Shefali kept insisting that nothing less than Rupees 20 lakhs would do since that was the amount Sanjay's family had allegedly asked from her as dowry payment.<sup>81</sup> Already upset with Shefali, Insp. Verma lashed out at her and said that she was free to take her case to a court of law, but warned her that it would highly unlikely for it to

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<sup>81</sup> The complaint mentions Rs. 10 lakhs as the amount asked of Shefali and her family, but here Shefali moved to saying that the amount asked for was Rs. 20 lakhs.

muster past even preliminary investigations.<sup>82</sup> She then added that she would like to come to the court herself to see what compensation Shefali would receive from any court in the Delhi. Meanwhile, Sanjay came back to the room with a shoddily written statement in his hand. Insp. Verma informed him that Shefali was no longer amenable to a divorce by mutual consent and wanted Rs. 20 lakhs as compensation for all the harassment that she had faced at his hands. A bitter fight broke out between Shefali and Sanjay at this juncture, with Shefali yelling at Sanjay at the top of her voice about how Sanjay had ruined her life. Sanjay, too, kept up with her decibel level.

It is impossible for me to write, with any sense of coherence, about the ferocity of a couple's fight that takes place publically. Insp. Verma and I were both implicated in the altercation that ensued since many things were actually addressed to an audience and sought some kind of acknowledgement, while other things referred to a not so distant past between Shefali and Sanjay. Insp. Verma did not intervene between the couple and just sat there, letting the fight dissipate on its own. I felt a bit stupefied, all along also wondering what my role was in a context such as this. There was much that I could not retain and make sense of for there were truths between Shefali and Sanjay that now became public, in the sense that an intimate fight became a public matter on which I could have an opinion, but the actual contents simply slipped away from sense-making. In another sense, secrets are not just *things* shared between a couple; they are also about *how* we are in our intimate relationships and this is not necessarily or willfully displayed

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<sup>82</sup> For an understanding of how evidence and statements are constantly shuffled in a trial, see Berti (2010, 2015).

in public.<sup>83</sup> By giving us access to their intimate and angry selves, Shefali and Sanjay gave away the issues that had plagued their relationship. Although Shefali and Sanjay were married, they had not lived with each other at all; the fight between them was different from the kind between married couples, where many issues are mediated in public through bitter and acrimonious exchanges.

In my notes, I did not write down a conversation, for there was no conversation, but a series of insinuations and insults that were traded between the two. I am unable to account for the flow of this altercation and, at best, can only indicate at the opprobrious language exchanged between Shefali and Sanjay. However, this, too, is inadequate since Hindi has singular, plural and honorary personal pronouns, and translation into English loses the inflection involved in the usage of these pronouns. For instance, the personal pronoun *tu* is indicative both of intimacy and insult. So, while a mother-child relation might be mediated using *tu*, the same is generally avoided between a father and a child. The paternal figure is usually addressed by the honorary personal pronoun *aap*. Between Sanjay and Shefali, the use of *tu* signified both intimacy and insult, and it is this inflection that English does not capture in what I am rendering below. At one point Sanjay said to Shefali, “your mother (*teri maa*) did not let you settle down (*nahi basne diya*).”

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<sup>83</sup> I am mindful that a private fight between a couple can take place in public, where the public becomes an audience whose acknowledgement in the matter is implicitly or explicitly sought and also that public bleeds into the private, if we keep class or a rural/urban divide in mind. These are, however, generalized distinctions. For instance, drawing a curtain signifies privacy even as a fight between two partners might be perfectly audible to people on the other side of the curtain.

**Shefali:** Your mother is not exactly bathed in milk (*dhooth se dhuli hui nahi hai*). She has a big enough mouth to ask for money with.

**Sanjay:** Your mother wants to now live off the daughter's money.

**Shefali:** And you don't? You don't want my money? You wanted me to transfer my car into your name. You are not even capable of buying one for yourself.

**Sanjay:** Madam (addressing Insp. Verma), when she asked for a pair of shoes, I used to buy her three from Lajpat Nagar. I really used to pamper her.

**Shefali:** And I also used to give you gifts. I gave you shirts and other presents too. I used to give you my salary. I used to withdraw money from my account for you. You had the gall to slap me in my office. You have ruined my life.

**Sanjay:** Look at this phone, I bought her this Nokia E-72 for 17000 Rupees.

**Shefali:** And I bought that watch that you are wearing.

**Sanjay:** You can't settle down, now you have to bring up your mother and brother. You are your mother's lottery.

**Shefali:** I have responsibilities and at least my family thinks of me as responsible. What about you? No one values you in your own family. I have a permanent job and look at you. You wanted to be with me because I was well settled.

**Sanjay:** I have a job and I don't need anything from you.

**Shefali:** Then why were your parents asking for money?

**Sanjay:** No one had ever asked for anything and no one from my family has even met you.

**Shefali:** What a big liar you are.

**Sanjay:** You are the biggest liar I have ever known.

**Shefali:** I want my watch back.

**Sanjay:** I want my phone back.

**Shefali:** You have ruined my life, who will return that back to me?

**Sanjay:** You have ruined your life on your own and your mum will pay for it.

**Shefali:** You said we should take the hotel room on rent.

**Sanjay:** Not that you were opposed to it. You went shopping with me after that.

**Shefali:** You have exploited me.

**Sanjay:** You have also exploited me. I have loved you and you have only rejected me.

**Shefali:** I am being harassed. Why can't you (addressing Insp. Verma) help me? I am really suffering. This man and his family are so greedy. He took so much money from me and now they want dowry.

**Sanjay:** You are such a cunning (*tez*) liar.

At a certain point, Shefali, who had stood up to continue fighting with Sanjay, sat down on the chair and said to Insp. Verma that she wanted a solution to the problem. Perhaps seizing on the moment, Insp. Verma said that a mutually agreed upon divorce seemed to be the only solution to the problem since dates alone do not constitute evidence. Then,

she suggested, that since no dowry exchange had taken place, perhaps the divorce settlement could take place with the mutual return of the Nokia E-72 handset and the men's watch between the couple. I could not understand if she meant this in all seriousness, but her expression was somewhat deadpan, as if to indicate her tiredness with the hearing. Not reading any nuance in the statement, Sanjay agreed to this immediately, while Shefali just kept quiet. It was Insp. Verma who spoke again and said that she did not think it was possible for her to counsel them as Shefali seemed neither keen on a compromise nor on settling matters. She told Shefali that she would be taking the two to the ACP in order to get her signature to forward the case for mediation for any kind of resolution. Only a mediator could settle their case because no formal case could be made on her complaint at all, she said to Shefali once again. She immediately got up and urged the two to follow her to the ACP's room to take necessary permissions.

Once we were back in Insp. Verma's room, she made a file noting and handed out a counseling form to be filled out by Shefali and Sanjay. While Shefali and Sanjay went downstairs to the counselor to take a date from her, Insp. Verma and I sat in the room waiting for them. Insp. Verma told me that she had worked on "complaints like these" where "nothing really happens". What she meant was there was truly nothing that the police could do in the absence of evidence. She conceded that Sanjay's family would definitely have made demands of dowry as a pre-condition for allowing the couple to live in the matrimonial home. It was also possible that given the turn of events in Shefali's life and the many responsibilities that she must have to shoulder, having a husband who wanted her salary would have caused immense tension between the couple and also



between Shefali and her natal kin. In her assessment, Sanjay stood out as a cowardly man, who had got lucky with a well-settled girl like Shefali. “Men like Sanjay,” she said, “would not rent a house and live with the woman they marry because that would mean having to give up on the possibility of inheriting parental property.” Sanjay, in her opinion, was the kind of man who would “live off his parents as well as his wife”. Only love could have blinded Shefali to fall for a man such as Sanjay, who, she said, was a man with “no personality”. In going over the contents of Shefali’s complaint again, Insp. Verma paused at the place where Shefali alleges that she was harassed and slapped by Sanjay at her place of work. She said that this could have made for some evidence, but it did not look like “anyone saw this happening and when it comes to a fight between a couple, it is difficult to judge if anyone would really support Shefali’s allegation.” Insp. Verma pointed out that it was Shefali who had a permanent job and perhaps earned more than Sanjay. This meant that she would also not be entitled to getting maintenance, were she to file a civil case against Sanjay. Insp. Verma conjectured that Shefali’s complaint was really about her having taken a hasty decision to get married to Sanjay and perhaps her father’s illness made her vulnerable to Sanjay’s insistence that once they got married, he would help her in taking care of her mother and siblings. All of these assurances, said Insp. Verma, would have changed after her marriage to Sanjay and Shefali would slowly have realized that, in addition to taking care of her natal family, she would also have to support her husband since he did not have the security of a permanent government job. Insp. Verma, then, reiterated that Shefali should really consider divorce by mutual consent and move on otherwise “she would just find herself going from one place to another, while her lawyer would continue to make money at her expense.” With an

understanding of Shefali's predicament in place, Insp. Verma was nonetheless upset with the exchange of abuses and accusations between the couple, the way in which they ridiculed each other, and also the way they undermined her authority by excusing themselves, no less than four times, from the middle of the session to speak with their respective lawyers. They were "bad-lovers, completely capable of stripping each other off dignity for the price of a mere wristwatch and cell phone" and since Shefali was not respectful in her conduct with her EO, Insp. Verma did not insist upon counseling her any further and seemed rather relieved to move the complaint towards mediation. The day's noting made by Insp. Verma in the file reads:

Complainant and respondent both are present. Both are heard in detail. If approved both may be referred to Professional Counsellor for Counselling.

The ACP's signature below allowed for the couple to be sent for counseling immediately. When I met with the counselor, Preeti, later in the day, she told me that Shefali had explicitly told her that she was not keen on counseling, and would like the procedure to be exhausted as soon as possible. The counselor, again, as part of protocol, had given her a date for hearing. Unfortunately, I was not able to attend the session with the counselor, but in my meeting with her following Shefali's session, she told me that Shefali did not want to live with Sanjay and did not want counseling. Therefore, she was sending her report to Insp. Verma, with a note saying that the couple refused counseling since they do not want to live with each other. This note is part of Shefali's file. The subsequent note written by Insp. Verma reads:

Complainant and respondent both are present. Complainant does not want to continue in counseling. Both have been advised to settle amicably through

Mediation Cell Nanak Pura. Both have agreed for the same and if approved both may be referred to Mediation Cell Nanak Pura.

The ACP allowed this request and her signature forms the mark of attestation to Insp. Verma's note. Insp. Verma also kept the statement that Sanjay wrote in the hearing, in which he agreed to divorce by mutual consent<sup>84</sup> in the file.

In the previous chapter, Insp. Pandey worked with Mahima to help her see domestic violence in her situation. In Shefali's case, the hearing with Insp. Verma almost served as a sounding board to confront one's own fears of not being loved by the lover-husband and, also, that little could be done legally to address the loss of love between them. Moreover, since Shefali's allegations of domestic cruelty were also tied to dowry, this meant that domestic cruelty remained focused on exchange, but of a different kind. Here,

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<sup>84</sup> The note that Sanjay had written during the hearing is also part of the file. It is shoddily written in English, with many over writings. It reads:

I, Sanjay Kumar, S/O XXX, R/O XXX got married on XXXX to Ms. Shefali Kathuria D/O XXX.

I am ready to take her to my house. But she is not willing to come with me with my repeted (sic) request. She says she that she has family liabilities as her father has dies (sic) in XXX and there is no other earning family member to look after her ageded (sic) mother, younger brother & younger sister. She is insisting and wants for mutual divorce, at her own will and without any pressure from my quater (sic). Therefore, I am also willing for mutual divorce at my own will and will have contacts with her. She should withdraw all complaint against me and family member if any. She should not complaint (sic) to any other office/institution/govt (sic)/ NGO etc.

The other documents that made Shefali's file were photocopies of the marriage certificate issued by the Arya Samaj temple, the stamp paper affidavit signed by the couple, their identity documents like the voters ID and driver's license, Shefali's school leaving certificate, her statement to the counselor, Preeti, saying that she did not want counseling services, her statement giving consent for initiating mediation, a copy of the mediated settlement, and a duplicate copy of the summons sent to Sanjay by Insp. Verma. Shefali's previous file was not a part of this currently active file, but was attached to it. That file contained Shefali's complaint copy, a copy of the summons sent to Sanjay and Shefali's statement saying that she wants to close her complaint in the Unit and pursue civil litigation. There were no photographs from the wedding day itself or copies of complaints that Shefali said she had made to the police by calling the PCR on #100.

to substantiate cruelty, Shefali drew on intimacy she previously shared with Sanjay and re-narrativized her experience of love to present it as violence. I am not suggesting that there is no place for violence in love; rather my aim here is to substantiate what can happen to love, when an allegation of dowry to prove domestic cruelty remains unsubstantiated. In this sense, love can sit opposed to evidentiary protocols, for bringing love within the realm of law, to address its disorders, only works by undermining what *love is* or *had been* between two people.

There is a way, however, in which cheating in a romantic relationship may be prosecuted in India. A woman in a romantic relationship can file an FIR under rape laws, Section 375 IPC, if her partner, on a “false” promise of marriage, coaxes her into maintaining sexual relations. Although Shefali’s complaint was different in the sense that her relationship with Sanjay did materialize into a marriage, but did not eventually get “domesticated”, there is, nonetheless, a connection to be drawn here if we see that Indian law understands betrayal in love only by maintaining an implicit connection between love, marriage and a woman’s chastity. The possibility of invoking a criminal charge of rape, if the promise of marriage at a future date is broken, can only work in a social context that places emphasis on a woman’s chastity and virginity in matrimonial alliances. A woman has to necessarily understand herself as being in a proprietorial relationship with her partner, whom she might currently be having sex with and wishes to marry at a future date, if the charge of rape has to be made tenable in cases of “false promises of marriage”. She cannot just be a person in love, having consensual sex for pleasure in a social milieu that encourages sexual pleasure to be reserved within marriage

and ties it to procreation. Property, therefore, becomes the central organizing concept that enables deception in love to enter the realms of legality. The use of the word “property” here signifies a woman chastity, understood as a good, the soiling of which may lead to mental injury.<sup>85</sup> This is the reason, why both in her complaint and in the hearing, Shefali insists that something must be done for her because *her life has been spoiled*, when the loss could also be about other things like the sacrifice of a dream of a partnership in helping her family and of building a home together.

The redress to this abandonment could not be divorce by mutual consent since that would put the onus back onto Shefali to decide on the next course of action. Her deferral over the decision to go ahead with divorce proceedings can be understood to be stemming from her expectation that the Unit ought to have first addressed the ordeal that she had had to endure in trying to make her marriage work. She reiterated many times that she felt tormented (*mujhe isne itna pareshaan kiya hai*) by her husband’s unscrupulous behavior, for which she had no evidence since she trusted and loved him. “Why would I build evidence against someone I loved so dearly and how would I have known that he would betray me”, Shefali said many times during the course of her complaint in the Unit. She was repeatedly told that the couple itself was responsible for their “self-arranged” (Singh and Uberoi 1994: 101) marriage gone wrong. The resolution now only lay in either making this marriage work, since Rajesh contended in the Unit that he was willing to co-reside with Shefali, or taking a divorce by mutual consent, since no

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<sup>85</sup> Two recent case judgments of the Delhi High Court, *Rohit Chauhan v. State National Capital Territory (NCT) of Delhi* and *Abhishek Jain v. State NCT of Delhi*<sup>85</sup>, passed less than a month apart in May-June 2013, are indicative of a debate within the judiciary on the issue of “broken promise” in love. In these cases, whether a woman had been wronged in love depended quite crucially on what the particular judge thought of her character.

exchange took place in marriage. The possibility of only these two “solutions” embittered Shefali even more for neither could placate the hurt caused by her lover-husband, Sanjay.

In her work, Perveez Mody (2008) contends that in “non-community” based love-marriages, the state of “undoing” the community, by the act of exercising choice in seeking a partner, constitutes only a “brief interlude” before they (love-marriage couples) manage to be re-socialized into their communities and families. For Shefali, however, the absorption into the social fold of her in-law’s community was, allegedly, dependent on furnishing dowry worth Rs. 10 (or 20) lakhs. Marriage, with co-residence in the matrimonial home (*sasural*), remained a crucial end-point that Shefali aspired for in the period after the love-marriage was solemnized. It was her hope that she and her partner, Sanjay, would negotiate and balance their “love” against other senses of familial obligation, which included taking care of Shefali’s family members as well. Mody points out that in love-marriages, the “validation of the relationship lies in domesticating a relationship seen to be based on love, desire and sexuality into a ritually blessed and socially sanctioned love-cum-arranged marriage. The greater emphasis here is not on sexualization or consummation, but rather on the social significance of establishing moral relations between kinship groups” (Mody 2008: 214; see also Chowdhury 2004; Chakravarti 2005). It is here that Sanjay had betrayed Shefali; by booking rooms in cheap motels for 3-4 hours every now and then, he had focused on sexualization and deferred domesticating his relationship. For this, Shefali wanted the Unit to punish Rajesh, even as she no longer wanted to live with him. Could the Unit understand Shefali’s suffering and

her particular form of insistence of not wanting to separate yet, but hoping that her lover/husband would be punished for being unethical in the relationship?

In her work on battered women syndrome, Nan Seuffert (1999) argues that “common law’s repression of jurisdiction over matters of love, its lack of precedent within which to interpret women’s statements of love, and its focus on relationships as functions of property” has meant that in trials, if women speak of love for their abusive partners, they are either believed to be lying and, therefore, the implication is that the abuse did not take place or they are understood to be pathological and masochistic subjects, who lack the rationality to differentiate between violence and intimacy (212). In either case, their testimony is rendered suspect, thereby casting aspersions on the credibility to be accurate witnesses of their own abuse. Seuffert also argues that women’s narratives of love are steeped within dominant discourses of romantic love that invariably integrate domestic violence as part of love. Although the context, about which I am writing, is neither that of battered women syndrome nor of a trial at a courtroom, nonetheless, Seuffert’s argument is instructive in throwing light on why Shefali’s suffering continuously failed to strike a chord with Insp. Verma. Shefali came across to Insp. Verma as a hyperrational complainant whose caustic protestations and bitterness, towards the Unit/police and her husband, unsettled the aesthetic balance that the comportment of an earnest suffering subject is supposed to reflect. In appealing to a police officer to respond to her suffering, Shefali continuously transgressed by *telling* Verma *how* she must invoke the law. Therefore, when talks of resolution moved from the exchange of Nokia E-72 cell phone and the watch and became about compensatory damages amounting to Rs. 20 lakhs,

Shefali lost all credibility in Verma's eyes, making herself a false victim of abuse, who was equally capable of "extorting" money from Sanjay. This diluted any claim of love she might have felt for Sanjay. Eventually for Insp. Verma, provoked as she felt by Shefali's challenges to her authority, Shefali became a complaint "quite worthy of her time".

#### "USELESS LOVE" THAT SETTLED FOR THE PRICE OF A GOLD CHAIN

In her critique of heterosexual love and marriage Eva Illouz argues that even as love remains connected to ideas of modernity and partners' hopes of egalitarian re-workings of patriarchal relationships, in its actual working out, it also continues to be a source of utter misery (2012: 5). This is primarily because of "institutional arrangements", like marriage, market and property, which surround love. Love advances in "the marketplace of unequal competing actors" where mostly men are able to "command a greater capacity to define the terms in which they are loved by others" (6). Adjacent to Illouz's argument, Marilyn Friedman contends that the central problem of love arises from its rather long association with the idea of merger. In love, merger can also work by reinstating hierarchies between lovers. She writes,

Lovers may be very different from each other in their resources, capacities, and commitments they bring to their love. These differences can create imbalances of power, authority, and status within a romantic relationship. When two lovers become one, the one they become may very well be more than the other. Or the merger might take place within one lover alone, so to speak (1998: 178; see also Smart 2007).

When Shefali's complaint came up for hearing in the Mediation Cell, the mediator, Lina Kashyap, also telescoped on the lack of evidence in her complaint, but here the argument of evidence's paucity transversely joined another one, which suggested that problems in



Shefali's marriage sprang from the problem in *her* love itself. This problem emanated from Shefali's irrationality and weakness that allowed *her* to fall in love with a man who desired a merger with her primarily for her stability and to get access to her resources. In an inversion of Freedman's argument here, it was Shefali who brought more to the relationship than Sanjay, but the stability of her career contrasted with her vulnerability vis-à-vis her widowed mother and siblings, on the one hand, and her love for Sanjay, on the other hand. Both these sets of relationships demanded a large share from her income. Shefali's vulnerability, intensified with her father's death, was understandable to the mediator as was her bad judgment with regard to falling in love with a man who had "nothing going for him" (*isme kya dkiha isse?*). What Kashyap was unwilling to ignore was Shefali's "selfish" decision to get married to Sanjay secretly in the period of mourning. In the only mediation hearing held on Shefali's complaint, that lasted close to an hour and a half, the mediator expressed that she could understand that Sanjay would put pressure on Shefali to get married in the period of mourning for he had an eye on her resources, but what she could not understand was how Shefali could be so blinded in love for a "useless boy" so as to do something as "disrespectful" as getting married in secret when her father had just passed away. This was similar to what Insp. Verma had initially said to Shefali, but this was also the point that saw a departure between Insp. Verma's and mediator Kashyap's approaches to Shefali.

Shefali's hearing saw more individuated segments of talk in the same session than in most cases I studied at the Mediation Cell, therefore, I will delineate this hearing largely through these segments. In the first part of the hearing, mediator Lina Kashyap spoke

with both Shefali and Sanjay. Shefali summarized the problems she was facing with Sanjay after their marriage: that his family was demanding dowry for allowing her to live in the matrimonial home and that now she no longer wanted to be in the marriage. She also said that she wanted to move for divorce by mutual consent and wanted compensation for the treatment meted out to her by both Sanjay and his family. On his part, Sanjay continued to maintain that the two families had never met, that Shefali, too, had not met any of his family members, that he wanted to live with her, but she wanted to move towards separation because her mother wanted her to take care of her and younger siblings. Kashyap also asked questions around the nature of the marriage itself, that is, how the marriage itself took place, where it took place, who attended the marriage and exchange of gifts (*lena-dena*) during the ceremony, the events as they unfolded after the marriage itself and the circumstances that led to the filing of the complaint at the Unit. Once she had gathered this information, she asked Shefali on what basis she was claiming compensation because it was she who wanted a divorce and the marriage itself was dowry-less. Like Insp. Verma, Kashyap also told Shefali that since she had a stable job, she was also not entitled to maintenance. The conversation so far was familiar to me and almost as if on cue it moved from this point to Shefali aggressively demanding that justice be given to her (*mujhe insaaf chahiye*) while Kashyap moved towards apprising Shefali that if she wanted justice, then, her allegations must also be provable. Just as I was beginning to think that I was going to revisit the scene of altercation between the two partners, Kashyap actually decided to halt the proceedings and asked Sanjay to leave the room, while she has a conversation with Shefali alone.

Once Sanjay was out of the room, Kashyap turned to Shefali and, with a sudden change in voice, castigated Shefali for raising her voice needlessly rather than listening to what was being said to her. She, then, went on to ask Shefali about the specifics of her complaint, on which she was seeking compensation. Kashyap explained to Shefali, yet again, that monetary settlements usually took place when there was conflict over dowry given and evidence that could lead to framing justiciable criminal charges against respondents. Surprisingly, Shefali agreed to a divorce by mutual settlement, but said she wanted to speak with her lawyer.

When Shefali came back after speaking with her lawyer on the phone, she told Kashyap that she was ready for divorce by mutual consent, but she wanted to know what the terms of the settlement would look like. Kashyap also called Sanjay back into the room, and with the two of them together now, she spoke to them about the technicalities of the settlement, explaining that the divorce requires two legal motions and within six months, both the parties would have a divorce deed. Kashyap was only just beginning to tell about the settlement to be drafted in the mediation cell when, all of a sudden, Shefali said that she wanted something (*kuch to dega*) from Sanjay for all the harassment that she had undergone. It was at this point that she said to Kashyap that she had forgotten the number of times she had withdrawn money from her ATM account for Sanjay. Sanjay vehemently denied this allegation and said that he was a generous lover and when Shefali wanted a pair of shoes, he always bought her two. The conversation proceeded and Shefali said, “is he not going to give me anything? Is she just going to walk away scot free like this?”

**Kashyap:** What do you want?

**Shefali:** I want that something should happen to with him (*iske saath kuch to hona chahiye*). He made my life miserable. He harassed me throughout. He exploited me.

**Sanjay:** I am ready to keep her with me, I have not harassed her. She lies so much. She wants to give divorce, but I want to live with her.

**Shefali:** I used to regularly withdraw money from my ATM for him.

**Kashyap:** Is there any proof that you gave the money to him?

**Shefali:** Yeah, I have bank account receipts of withdrawal.

**Kashyap:** But, how would they prove that you gave the money to him?

**Shefali:** But I gave the money to him, he knows that.

**Kashyap:** If there were electronic transfers, you could have proven this, but ATM withdrawal slips are no proof against him.

**Shefali:** How would I have known that I would need proof against him. I trusted him. He wanted my car, my money, everything. I can't just let him go without paying for what he has made me go through.

Perhaps sensing that an argument might ensue between Shefali and Sanjay, Kashyap again asked Sanjay to go out of the room. Thereafter, she spoke with Shefali in a tone that seemed a bit more compassionate. She said, “look, I understand that he took money from you, but you also need to understand that ATM receipts do not demonstrate that you gave the money to him.”

**Shefali:** How do I now prove that I gave him money? I used to regularly withdraw money from the ATM for him, but my receipts don't show that truth or my love for him. This man has really tormented me. He put so much pressure on me to get married when my father had just passed away.

**Kashyap:** Look at yourself (*apne aap ko dekho*), you are such a fine young girl. How could you have fallen for a boy like him? Compare your personality with him. You are such a beautiful, young lady, what were you doing with a boy like him? He is not your equal in any way. You are so pretty, such pretty *salwar-kameez* you are wearing, nicely polished nails, long, thin fingers, you are so beautiful and you fell for him? When you first came in, I could not believe it at all. Then I thought that this boy would have trapped you (*phansa liya hoga*) with all this useless love and because your father was unwell, and you had to shoulder all responsibilities towards your family, you would also have liked someone giving you attention. He saw someone like you and must have thought that you are so beautiful, in a perfectly stable job, and if he could get someone like you, then, that will be the best thing that ever happened to him (*uski to kismat chamak gayi*). You fell for his silly charms (*chakkar mein aa gayi*). A

crow got hold of a swan is how I would put it (*kauuve ko hansni mil gayi*). You will get better suitors and you must get out of this situation. He does not deserve you. He is not about to give you anything. How will he? If he took money from you, I am sure he takes money from his parents as well. He is such a good for nothing, in fact, I will say that your love itself was good for nothing, which is why you are where you are today. But you have a better life ahead of you and you don't want to waste your time on this matter because you have other responsibilities. Your lawyer is making it difficult for you to settle because he thinks he can get a cut if you get some money from this boy, but let me tell you, this boy is not about to give you anything and you have no evidence against him anyway. Think about this for a few minutes. If it was true love between you two, then you would not be fighting like this today because it is not as if your parents of in-laws are not letting the two of you settle down. Your problems are yours alone and are a result of this silly good-for-nothing love of yours. You can do much better because you are such a nice girl.

**Shefali:** But I want him to pay for something (taking out a small paper from her handbag).

**Kashyap:** What is this?

**Shefali:** This is a receipt of a gold chain?

**Kashyap:** What gold chain?

**Shefali:** It was a chain that my mother bought for him.

**Kashyap:** Show me the receipt.

**Shefali:** Here it is.

**Kashyap:** This receipt is not in his name, it just says one gold gents watch.

**Shefali:** Yeah, so we bought it for him and he took it as well.

**Kashyap:** Hmm, let me think about it.

**Shefali:** I want him to pay me for this chain.

**Kashyap:** I am not sure he will because again there is no proof for this chain.

**Shefali:** But it says gents gold chain.

**Kashyap:** Yeah, but that does not mean you gave the chain to him. But let me see what I can do. Why don't you wait outside and send him in now. How much did this chain cost?

**Shefali:** Thirty Thousand Rupees (Rs. 30,000). It says in the bill.

With Sanjay in the room now, mediator Kashyap asked him what he was thinking. He said he was willing to give divorce to Shefali if she agreed to it by mutual consent. Kashyap said, "you seem to be too much under your lawyer's guidance. Let me tell you that you can have a police case against you for exploiting a girl like this. She is your wife after all and the court will ask why you were not living with her."

**Sanjay:** I have tried living with her, but she does not want to leave her mother's house. She says she has to take care of her mother, brother and sister.

**Kashyap:** You think I am stupid? These responsibilities are not new for her. She need not have married you if all she wanted to do was to live with them. You must have pressurized her into getting married while her father was unwell. If you really wanted to live with her, then, did you visit her family with your parents? Why were there no family meetings from your end? You think this is a joke? You think marriage is something that you can just play around with? There are two police complaints made against you and that can lead to trouble for you. So, you need to think about what you want to do now.

**Sanjay:** I am ready to give her divorce.

**Kashyap:** You say you want to live with her, but you are also ready to give her divorce (*divorce ke liye utawale ho rahe ho*). Do you have any honesty (*deen-imaan*) in you at all?

**Sanjay:** Ma'am, I don't know what she has said to you, but she also did not want this marriage to work and she now just wants to separate. She lies so much, I can't even begin to tell you how much she lies.

**Kashyap:** Ya, well, she is angry as she should be.

**Sanjay:** Ma'am, you tell me what I should do now.

**Kashyap:** See, I can see that she is also a very aggressive person. She gets very angry and emotional and she is acting according to the way in which her lawyer is guiding her. So, if he tells her to file a case, then a case can be filed because there are two police complaints against you.

**Sanjay:** Hmm.

**Kashyap:** She wants you to pay her for a gold chain that her family bought for you.

**Sanjay:** What gold chain? I have never been given any gold chain. This is a complete lie. I will not give her any money.

**Kashyap:** You should also think a bit more carefully because if there is an FIR, then, you will be shelling out in lakhs. I don't think you two had compatibility problems. You are not equal in any respect. She is the one with a permanent job, she is more stable, she is better educated, she is better looking. You got lucky with her, I think, but she can make you pay because she is sharp (*tez*). Your marriage might not have worked at all anyway. The girl who earns is not going to serve (*sewa karna*) in-laws, she will order them around because she knows that her husband does not earn as much as she does. You are probably better off without her because then you might have fought on routine basis (*roz kalesh hota*) and you would have had an inferiority complex about having such a beautiful and working wife. You hardly act like a lover at all because you are willing to give up on her at the first instance. This is no love at all and she can also see this. It is better for you to settle this matter now. Look how aggressive she can become. She would have always dominated you and made you feel less about yourself (*neecha dikhati*). This is not love at all, this is rubbish (*bakwaas*). You got married to her, but you did not settle down. This is not done at all. You are really very irresponsible. You should consider yourself lucky that she is willing to settle for 30,000 rupees otherwise you will pay in lakhs in the police

station. Gold chain, or no gold chain, this is the amount that she is willing to settle for, so now you see whether you want to do this or now. It is not as if your families were threatening both of you from living together after marriage, but you two basically also wanted to outsmart your families with your cleverness. This is not love and whatever you two had was good for nothing. Now get done with it and settle for your own sake. I have more parties waiting outside. If you don't settle, I will forward this to the EO and then she can register a case.

The end of this "fleeting love and marriage" took shape through the settlement that read:

The said case was referred to the mediation centre by the women Unit on XXX. While heard the parties on XXX separately and jointly proposals were put up to resolve their dispute. Finally the case is settled amicably by their agreeing to dissolve the marriage by mutual consent and in considerations of payment of Rs. 30,000/- (Rs. Thirty Thousand Only) in full and final payment, the terms and conditions of the said agreement are as follows:

1. It is agreed that the counsel of Shefali shall prepare the application XXX of HM act on or before XXX and shall put up before the appropriate court for further proceedings. Both the parties shall co-operate with each other to their satisfaction in signing the petition and recording their statements. Sanjay Kumar will pay Rs. 15,000 (Fifteen Thousand) in the form of DD in the name of Shefali at the time of recording of first motion.
2. The counsel for Shefali shall prepare the petition XXX HM Act in the prescribed period according to court of law and both the parties shall co-operate in signing the petition and recording her statement in the court. Sanjay Kumar will pay Rs. 15000/- (Fifteen thousand only) in the form of DD in the name of Shefali at the time of at the time of (sic) recording of their statements in the court at the time of grant of mutual divorce XXX HM Act.
3. It is agreed between the parties that none of the parties shall defame each other in public.
4. It is agreed that no claim in any form of maintenance, permanent alimony, istridhan or any right in property of Sanjay Kumar shall be payable to Shefali after the grant of divorce
5. It is agreed that none of the parties shall make any criminal complaint and any civil suit against each other regarding the above said subject after signing the said agreement.
6. If any of the party does not comply with the terms of the agreement, an appropriate legal action shall be taken against the defaulter.

The case is settled at our end and case file may be returned to the concerned IO (sic).

Shefali's last statement for the closure of her complaint in the Unit reads:

My case came to mediation cell on XXX. Both of us have agreed on a mutual settlement and we have also signed the document. Now, we will file first motion in my case can now be closed in the CAW Cell. But, if my husband, Sanjay Kumar, again harasses me while these proceedings are going on, then, I should be permitted to get my case re-opened (attested by the Insp. Verma's signature).

The last noting written by Insp. Verma in the complaint files reads:

Complainant and respondent both present. She informed that both have agreed on a mutual settlement for mutual divorce and Rs. 30000 at Mediation Unit. Both will move for divorce petition in the court. She has requested to close her complaint. Report from mediation Unit is attached to the file and if approves the complaint may be closed. (signed and attested by Insp. Verma and ACP)

#### THE FATE OF LOVE ITSELF

Beginning with the text of Shefali's complaint to its final settlement, there was a consistent movement away from admitting to having being in love and to suggesting that Sanjay had led her on to marrying him. A re-thinking of one's own experience of being in love, in the context of non-domestication of self-arranged marriage, may be understood as a necessary precondition for a woman desiring re-insertion into the folds of natal kinship. In Shefali's case, a re-induction into the mores of kinship was to be attained by working from within the ambit of law. This required distancing from love and rendering problems in the love-relationship as concerns of law. As aspects of marriage, while trust and confidence are routinely negotiated within the space opened up by DPA and Section 498-A, their loss in a recently solemnized dowry-less love-marriage means that for allegations of domestic cruelty to be made tenable, love can be made to face trial.



In this complaint, the EO, distanced herself from Shefali's concerns of betrayal in love-marriage, just as Shefali moved away from standing up to having been in love. In the absence of tort laws on matters emanating from marriage, there was no way in which Shefali could be compensated for the harassment she most likely would have faced at Sanjay's hands. It did not help at all that Shefali kept seeking advice from her lawyer in the middle of her hearing with Insp. Verma and shifted her position thereafter. These shifting positions made her come across as a devious and irresponsible person to Insp. Verma. Shefali had moved from agreeing to settle for a wrist-watch and to demanding Rs. 20 Lakhs in a span of about an hour. Sanjay, too, was a person of questionable character for Insp. Verma, and this was exemplified in his calibrated stance of not initiating divorce, for then he would have to make a payment for settlement. He was, nonetheless, willing to separate if that came with no riders attached. The self-interested ways in which both the partners acted only made Insp. Verma step away from the couple and have someone else take over. Shefali's unreasonableness and bitterness was difficult to contend with, and it could be turned at her, given that Shefali had complained about her previous EO. Needless to say, we will never know whether the evidence for litigation would have proven sufficient since the complaint did not proceed towards trial at all, but the lack of evidence became the swivel that marked Shefali's relationship with functionaries of law as much as it made possible the terms on which she finally settled with her Sanjay. For Insp. Verma, Shefali's complaint of betrayal (*dhokha*) could not be assimilated into a reality that rested on legal criteria even as she conceded that Shefali would have faced harassment at Sanjay and his family's hands. In this, I see Insp. Verma acknowledging the limits of the law itself.

The mediator, Lina Kashyap, worked differently with Shefali, even as she, too, arrived at the point of lack of evidence. Faced with a confrontational complainant, Kashyap also emphasized juridical criteria to counter Shefali's demands for compensation. This insistence on evidence continued to tense the face-to-face relations between Shefali and Kashyap, leading ultimately to Kashyap modifying the form of talk with both the parties. In rendering their love "good for nothing", Kashyap questioned the truth of (any) love shared between Shefali and Sanjay. The experience of love, in her opinion, had failed to inscribe itself on the either of them and this was demonstrated by the gap between the disproportionate amount of monetary compensation Shefali first sought and the price that she ultimately settled for, which was a mere 1.25% of the amount initially quoted by her. Kashyap did not think highly of Sanjay either. At a point in the mediation hearing, she questioned his calibrated stance of maintaining that he wanted to live with Shefali, while simultaneously also willing to separate from her. In breaking up the mediation hearing into individuated segments, Kashyap actually built on their mutual distrust by telescoping their misgivings and anxieties about each other. To enable a settlement, Kashyap worked by amplifying conflicting feelings that Shefali and Sanjay might have had for each other. This settlement did not fix anything and left what had been fractured undone and a love that only incompleting itself. And, yet, it was a successful settlement in that it enabled separation between the two lovers.

## CHAPTER V

### ***“I don’t want to go to court; I only want to work with you, madam”:* Personal Motivation, use of Discretion and a Complaint that Failed**

#### INTRODUCTION

Inspector Komal Chaudhary sent nine summonses in her attempt to get in touch with Shabnam’s husband, Rehman Ali, and his family in the Indian state of Gujarat. She had not anticipated that would become difficult to locate Ali since this was a marriage between cross-cousins; Shabnam was married to her paternal aunt’s son. The first five summonses were returned to the Unit and a note on them cited incorrect address as the reason for non-delivery. Someone received the sixth summons, but no one turned up for the subsequent hearing. Insp. Chaudhary, then, took it upon herself to finance Shabnam’s mother’s travel to Gujarat, in order to locate Rehman Ali and his correct address. The seventh and the eighth summons were sent on Rehman Ali’s correct address, but no one again came for hearings. The ninth summons was directed through the office of the district’s Superintendent of Police’s (SSP) office in Gujarat, and it was this summons that brought finally Rehman Ali and his family to the Unit for hearing. Meanwhile, many months had passed and Insp. Chaudhary had already exhausted the stipulated period of three months that is given to work on a complaint in pre-litigation.

In this chapter, I will examine the career of Shabnam’s complaint, which was all along accompanied by a shadowy presence of the DV Act that she chose to invoke only towards the end of her complaint in the Unit. The complaint was active in the Unit for

about nine months. Shabnam's reluctance to work with the civil law, however, did not stop Insp. Chaudhary from working on her complaint. Since the Unit is also a pre-litigatory body, the grammar and the semantics of the complaint *seemed* to matter little; it was Chaudhary's hope that the complaint would get resolved at any of the various pre-litigatory levels, that is, through her own counseling or that of the counselors or with the advise of the lawyers at the mediation centre. This assumption flowed from the fact that Shabnam wanted to live with her husband and was not seeking separation from him. What emerged in this situation was a repetition of talk around *which* law, criminal or civil, could address Shabnam's predicament better.

Despite Insp. Chaudhary's personal motivation to help Shabnam, eventually there was an enfeebling of trust between the two because of two reasons; one, some "facts" around Shabnam's story did not hang together and two, there were technical oversights in the reading of Shabnam's complaint by the front desk officer, which Insp. Chaudhary should have spotted in her reading of the complaint. Both a mistake in the complaint and a twist in Shabnam's story were revealed in the only hearing held in this case. The missing fragment needed to be delineated and explicated in more hearings, but the work on the complaint came to a virtual stop since Rehman Ali stopped coming to the Unit after submitting a statement. Later, Shabnam maintained that a DV case had been filed in a district court. Her file does not have any proof of the filing of the civil case and her complaint was closed in the Unit when she submitted a written request for its closure in the Unit. We do not know for sure if a civil case was actually filed.

Shabnam's complaint ran the longest innings in the Unit during my fieldwork period. It was also unprecedented to send 9 summonses to any respondent. The actual number of the summonses was 12, of which 3 were sent to Shabnam herself. There were 19 dates given for hearing and the file has 21 notings, making it the maximum that I witnessed during my fieldwork. In this chapter, I will elucidate how the motivation to perform one's sense of duty routinely intersects with situations that necessitate taking discretionary calls, where discretion is understood not just "as the decision not to enforce the law where it might be justifiably applied" (Goldstein 1960). Rather, discretion also comes into play when a full enforcement of law would violate generally accepted benchmark of justice. In this case, we see an officer struggle with making a case legally stand up, but in order to do so, she makes personal interventions outside the calls of her official duty. Here, Insp. Chaudhary's use of discretion is marked by trust, and yet it is detached if we compare it, for instance, with Insp. Pandey's immersion in an effusive gushing forth of her stories with Mahima in Chapter 3. This working trust is not mired in suspicion of the kind we see in police patrols or frisking exercises, nonetheless, it carries risks and has to be compatible with job security. With individuated responsibility in the police force, any trust between an EO and a complainant, ultimately remains tenuous. Following this, I argue that discretion is not a capacity that just inheres in police work and to which an official can take recourse at any point in time. Instead, discretion straddles the arc of skepticism-suspicion-trust and we learn more about police officials and police work if we represent it as a shifting practice that takes shape as a case unfold. The burden of this chapter, in a sense, is to develop this argument throughout the unfolding of this case and is, therefore, developed in all section of the chapter.

We know that a complaint may or may not end in litigation<sup>86</sup> and the possibility of working with an alternative law exists for every complainant. When Insp. Chaudhary suggests to Shabnam that she consider filing a civil case under the DV Act, Shabnam remains vehement about working only with Insp. Chaudhary. I probe this decision by reading it along with the historical literature on the development of policing institutions in India. Shabnam's decision to work only with the police, I argue, stemmed from the police forming the most familiar form of state power that she routinely encountered in her life because Delhi's temporary shanty settlements, where she lived, are spaces frequented by the police. It is not that the general police could be unambiguously trusted; rather she chose to work with Insp. Chaudhary because of the trust she came to have in her and in spite of the police excesses, which she would have witnessed in her locality. It might have been Shabnam's hope, however naïve or misplaced, that the same *force*, housed in a women's Unit meant for *protecting* women, could be mobilized to secure a normative familial order for her, through Insp. Chaudhary's work on her complaint.

In Shabnam's indecision about pursuing formal litigation, civil or criminal, we come face-to-face with the difficult task of traversing consanguineal and affinal kinship and also with the disproportionate burden of maintaining it, which falls squarely on women's shoulders. The closure of the complaint, I argue lastly, could be read as a temporary diminution in, and not a resolute termination of, the relation Shabnam had established

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<sup>86</sup> By litigation I mean criminal proceedings and not formalization of a settlement arrived at the Unit in a court of law. For instance, in the previous chapter, Shefali and Sanjay would have needed to approach a civil court to initiate divorce proceedings, in the light of agreement arrived between them at the Unit. In Mahima case, on the other hand, since there was no formal change in the status of her marriage, the settlement did not need any further intervention, with the assumption being that the two partners would work on their compromise entirely on their own.

with the state vis-à-vis the triad ties of kinship, where there is a persistent risk of foreclosure and abandonment.

#### ABANDONMENT AS CRUELTY IN MARRIAGE

The day Shabnam came to the Unit, the officer-in-charge of fresh complaints was Insp. Shireen Singh. By the time I was into second year of fieldwork, the instability around the fresh FCD had been resolved and Insp. Shireen Singh now permanently handled this desk. This change was welcomed by all Inspectors, who earlier had to juggle their own complaint hearings along with admitting fresh complaints in the week that required them to sit on the FCD. However, there was one point of contention with Insp. Singh being positioned at the FCD. Since the Unit only had about 7-8 EOs, her initiation into the actual work of the EO would have worked towards reducing workload for every officer. Her inexperience, many officers complained, reflected in not reading a complaint carefully and verifying basic facts in a complaint to see whether it was suited to DPA related laws or civil laws like DV Act. In Shabnam's first hearing with her EO, Insp. Komal Chaudhary told me that Shabnam was exactly the kind of complainant for whom DV Act would have been more suited because it seeks to provide immediate relief (within 60 days of filing a case) and Shabnam wanted maintenance and the right to reside in the matrimonial home, neither of which were covered by criminal law.

The cold was beginning to pick up when Shabnam came to the Unit with her two-and-a-half months old son. Easily evoking sympathy from everyone who met her, she carried her son, who had not yet been named, somewhat awkwardly, probably because she was a

new mother and still looked weak from childbirth. The mother and son were both scantily clad and Shabnam struggled to keep the child warm under her shawl. Although the child was sleeping, Shabnam kept feeling the need to gently rock him and she did so while sitting on the chair. Insp. Shireen Singh did question her much on what had gone awry in her marriage. Shabnam also only recounted what was written in her complaint. Insp. Singh simply took the original copy of the complaint from Shabnam, glanced through it and began writing the notesheet. Meanwhile, I took the duplicate copy of the complaint from Shabnam and read through what was actually a very neatly written two-page complaint. I asked Shabnam if she had written the complaint herself and she answered in the negative saying that someone had helped her in writing the complaint because she was not literate. The text of the complaint, which I have translated from Hindi, read:

My wedding was held according to Muslim customs in Delhi at XXX Camp XX, near XXXX. I was married to Rehman Ali on XX/01/2010<sup>87</sup>. I was happy in my marriage for about a month. After a few days, my husband began harassing me and made dowry demands. He also did not tell me about his previous marriage. He killed his first wife by burning her and she had two kids. There is a report in a Gujarat police station about this matter. I went to my parents' house after the wedding and this is when my husband called me and demanded that I get Rs. 200,000. I told him on the phone that my parents can't give Rs. 200000. Upon hearing this, my husband got very angry and since then has not come to see me or our child. Earlier he had asked me to get the child aborted and to adopt his previous wife's children as my own. I did not want this. When I told my mother-in-law about this matter, she too supported her son. My three brothers-in-law (husband's younger brothers) also beat me up. I got to know I was pregnant after about a month of being married. I came back to my parents' house then. All expenses related to the child's delivery, which amounted to around Rs. 50000 were borne by my parents. I want that my husband should be called here (*bulayaa jaaye*), that he should keep both me and my child, that he should not physically assault (*maar-peet na kare*) me and that he should provide maintenance (*kharcha-pani de*) as well.

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<sup>87</sup> Although I am using fictitious dates here, I am being faithful to maintaining period between any two dates. Dates are important in all complaints, so I cannot work with their erasure if I have to delineate a trajectory of events.



Before she wrote the last line in the notesheet, Insp. Singh looked up and asked Shabnam, “what do you want? Do you want to live with your husband or do you want to leave him?” Shabnam said that she obviously wanted to live with her husband, who had abandoned her for the past eleven months. The text of the notesheet prepared by Insp. Shireen reads:

Shabnam got married to Rehman Ali on XX/1/2010 according to Muslim rites and rituals in Delhi at the above mentioned address. There is a son born out of this wedlock (sic). Her matrimonial home is in Gujarat at the above mentioned address. Complainant alleges that the respondent got married to her by fraudulent means since he already has two children from a previous marriage. The details of this previous marriage were concealed from the respondent<sup>88</sup> (sic). Shabnam also alleges that her husband used to harass her mentally and physically. He used to force her to get an abortion when she got pregnant in 2010. She is now living at her mother’s house in Delhi. The complainant wants reconciliation with her husband.

It was December 2011; Shabnam had both said to Insp. Shireen Singh and had written in her complaint that she got pregnant within the first month of getting married to Rehman Ali and after she came back to her natal family, Rehman Ali had refused to have anything to do with her as well as the baby’s health. Her reading of Shabnam’s complaint ought to have alerted Insp. Singh of the fact that the date of marriage, written in the complaint, was off by a year. The date should have been January 2011 and not January 2010. The officer at the FCD is supposed to verify date, validity of marriage and the place where marriage was held to establish Delhi state’s jurisdiction over a complaint, but Insp. Singh (and I) had failed to notice this mistake. Insp. Shireen also did not notice that although Shabnam was making allegations of violence against her in-laws, no names were spelt out in the complaint. It always works to the advantage of a complainant if allegations are

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<sup>88</sup> The correct word here should be complainant.

properly spelled out and it was part of Insp. Shireen's work to advise Shabnam about the proper writing of the complaint. After the filling out of the bio-information form, Shabnam was sent, with the notesheet and her complaint of abandonment attached to it, to Insp. Komal Chaudhary, her assigned EO, to get a date for the first hearing.

#### MARKING PRESENCES AND ABSENCES: WHY WORK WITH THE POLICE AT ALL

On her first hearing with Insp. Komal Chaudhary on XX/12/11, Shabnam did not take much time in apprising her about the "basic facts" concerning her marriage to Rehman Ali and her subsequent abandonment at his hands. Staying with the contents of her complaint, she told Insp. Chaudhary that she wanted to live with her husband. Insp. Chaudhary listened to her quite attentively and told her that since Rehman Ali was not a resident of Delhi, it might take some time before proceedings begin. She also said that she would route the summons through the office of the Senior Superintendent of Police (SSP), the highest-ranking district-level police officer in any Indian state, to get Rehman Ali to come to Delhi. Noticing that Shabnam wore *bindi*, (a decorative dot worn in the middle of the forehead mostly by Hindu women), Chaudhary casually remarked that it looked nice on her. "You people don't wear *bindi*, do you?" she said, referring to the fact that Shabnam was Muslim, while also giving her the next date, which was a fortnight away. She also told Shabnam that she could consider filing a civil case under the DV Act, to obtain maintenance from her husband, while her complaint was being dealt with in the Unit. Shabnam seemed reluctant and replied that she did not want to approach the court. This would be the first, but not the last time that Shabnam said to Insp. Chaudhary that

she only wanted to work with her and not take on the burden of a case. Her reasons for saying this might not have been the same each time, however.

After Shabnam left, Chaudhary said to me that she was not sure how long it would take to get Rehman Ali to Delhi. On a premonitory note, she also said, “in their community (referring again to her being Muslim), men can marry more than once, and if her husband has married again, then, I am not sure what I will be able to do for her, but let’s see”, and she wrote the following on the notesheet:

**(1<sup>st</sup> date)** Complainant is present, respondent did not turn up. Heard in detail. Complainant wants to live with her husband and has a two month male baby. NDOH is fixed for XX/01/2012 at 3 PM. Request be sent for respondent for the same.<sup>89</sup>

When Shabnam came for the second hearing, Insp. Komal Chaudhary had gone on 45 days Child Care Leave (CCL), so she met with Insp. Chaudhary’s link officer, Sub-Inspector (SI) Sarita, who was responsible for Insp. Chaudhary’s complainants when she was on leave. Shabnam had to wait for a while since SI Sarita was also meeting with her own parties at the same time. Shabnam seemed more hassled than her usual self on this day and it became clear to me a little later why that was the case. Her baby boy had sustained burn injuries on his stomach and the wound was irritating him under the woolens he was wearing. At one point, Shabnam just took off his top layer of clothing and covered him with her shawl. Her own dress had sequins on it and perhaps that, too, was bothering the child. Nearly everyone who walked into the room, which was shared by three EOs, encountered Shabnam and her wounded baby; they gasped out in horror at

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<sup>89</sup> Since Shabnam’s case ran in the Unit for over nine months, I am marking dates to make it easier to follow the trajectory of the complaint.

the sight of the child's injury and offered their two cents of advice to Shabnam. I felt that even as Shabnam tried to engage with everyone's advice, it must have left her tired. She was a new mother, who needed care and rest, but here she was in the Unit, hoping that the police would help her in meeting with her estranged husband. In my notes for the day, I have written, "the mother and the son together made for gruesome figures of abjection". I think I stand by this rendition; the only difference is that having had a baby myself has made me acutely aware of the havoc that comes with loss of control over body, constant lack of sleep, post-partum depression, many forms that bodily pain takes and the daily surprises that motherhood throws at new mothers. To add to this, Shabnam had been abandoned and she also came from a very poor family.

In the hearing with SI Sarita, Shabnam narrated her story and, again, adhered to the "facts" written in her complaint. What she added was that her mother-in-law (paternal aunt) had made two visits to her family in Delhi before fixing her marriage with her son, Rehman Ali, and knew that her father (who was also the aunt's brother) was a person with meager means. Her paternal aunt, therefore, knew about Shabnam's poverty. I did not know how this segment fitted into the larger story just yet and SI Sarita also did not ask Shabnam for any further explanation. Since no one from her matrimonial family had reported to the Unit, SI Sarita also gave Shabnam another date, corresponding to the time when Insp. Chaudhary would have reported back on duty. SI Sarita was the only EO I met, who wrote her file notings in a mix of Hindi and English. The second noting in the file read:

(2<sup>nd</sup> date) Complainant is present (*haazir hai*). Respondent absence (sic). Complainant (*shikayatkarta*) has been given (*batlai gayi*) the next date at

XX/03/2012 at 1PM. Respondent (*vipaksha*) has been sent a summons to Gujarat.

Before Shabnam left, SI Sarita said to her,

By the way (*waise*), DV Act might be more suitable for your condition since you want to live with your husband in the matrimonial house. If you are not seeking separation, then DV Act is the best remedy for you.

Shabnam again reiterated that she did not want to file a case because it would be difficult to navigate the intertwining circuits of legality in a court (*court kachheri ke chakkar*) about which she knew nothing. She also said that she liked the Unit and also her EO Insp. Chaudhary and wanted to work with the police because the police seemed familiar to her (*police to hamari dekhi hui hai*). After Shabnam left SI Sarita's desk, she said to me,

For people them, DV Act is the best solution because court summons carry weight, but police summons do not" (*in logon ke liye DV best rehta hai kyunki court ke summons ka dabka hota hai, police ka nahin*).

When I asked her what she meant by "people like them", SI Sarita said,

The localities in which people like Shabnam live see a lot of police presence (*police ka aana jaana laga rehta hai*) and, therefore, people are not scared of getting summoned by the police at all. Her in-laws will get scared if they get summons from the court.

Hearing this from SI Sarita was interesting because while waiting to be heard by her, I was chatting with Shabnam and was generally asking her about how her son got those burns. At one point I had asked her if she had seen anyone from her matrimonial home in the Unit's reception to ascertain if anyone had indeed turned up for hearing. When she said there was no one from her in-laws' house at the reception, I had asked her if she

would consider filing a case like Insp. Komal Chaudhary had advised her in the last hearing. She had said,

I have neither seen a court nor would I be able to find my way there. Police action can be seen (*dikhayi padta hai*) and that is why people get scared of them. The police keep coming (*aati jaati rehti hai*) to our locality often enough and that is why I want to take police action against my in-laws (*sasural walon ke khilaaf*).

I will take SI Sarita's comments about "people like them", referring to Shabnam's obvious state of impoverishment, and my conversation with Shabnam to think about why a poor person like Shabnam would continue working with the police, which is even conversationally understood to be one of the more corrupt institution of the state. But before I do that, let me reproduce the file notings from the 3<sup>rd</sup> to the 7<sup>th</sup> hearing to account for what happened in the meanwhile.

**(3<sup>rd</sup> date)** Complainant present. Respondent husband absent. Complainant given NDOH XX/04/12 at 2PM. R/L<sup>90</sup> is being issued through SSP for Respondent husband for NDOH XX/04/12 at 2 PM.

**(4<sup>th</sup> date)** Complainant is present, respondent absent. Complainant wants to live with husband. But he never come, so she has advised for DV Act and advised her that she will come tomorrow for filing a DV Act through Free Legal Aid.

**(5<sup>th</sup> date)** Complainant is present. She has meet with mediator Sh. Manchanda for filing DV Act case. NDOH XX/4/12. Last opportunity request be issued for same to respondent.

**(6<sup>th</sup> date)** Both parties did not turn up. NDOH XX/5/12 and request issued for complainant for same.

**(7<sup>th</sup> date)** Complainant is present with mother. She has not proper address of her husband. She is advised for proper address. So she will go to Gujarat for proper address.

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<sup>90</sup> R/L means a registered letter. In this type of postal delivery, a signature is obtained from the receiver of the letter.

On the date of the 7th hearing Shabnam had come to the Unit, but, again, no one from her matrimonial home had arrived. 6 summonses had already been sent to Rehman Ali, but none had got delivered on the address given by Shabnam. For the 7<sup>th</sup> hearing, Shabnam's mother had accompanied her to the Unit and while she was meeting Insp. Chaudhary, her mother was waiting for Shabnam at the reception with the baby. Insp. Chaudhary asked Shabnam to get her mother from the reception so that she could meet with her. In her meeting with the mother, Insp. Chaudhary asked her why her sister-in-law (Rehman Ali's mother) was not keeping in touch with Shabnam considering that the baby was also a male baby. Shabnam's mother told Insp. Chaudhary that her husband had two sisters, both of whom lived in Gujarat. At some point, a family fight (*ladai-jhagda*) had escalated into a big issue (*bada masla*), following which the older of the two sisters (Rehman Ali's mother) had stopped talking to her brother (Shabnam's father) altogether. Shabnam's mother also said that this sister-in-law was also relatively well off and did not really need (*zaroorat*) to maintain relations with a brother steeped in poverty. This brother, as is usually the case in north Indian kinships, did not fit the role of the avuncular nor could the two sisters rely upon him in times of distress. Shabnam's mother said that it was her younger sister-in-law who had made the suggestion about marriage, in the hope that it would suture relationship among kin. However, after Shabnam came back to her natal home, contact with both the sisters-in-law had only diminished and as things stood, neither of the two was reachable. Insp. Chaudhary asked Shabnam's mother to make a visit to Gujarat and get the right address so that a summons could again be sent to Rehman Ali. To this Shabnam's mother replied that she did not have the wherewithal to bear the expenses that such a visit would entail. After thinking for a little while, Insp.

Chaudhary looked for her bag and took some money out it. Asking if the amount would be sufficient for a train journey, Insp. Chaudhary asked her to go to Gujarat and get Rehman Ali's correct address.

It took 3 more summonses and 5 more dates before Rehman Ali finally made an appearance in the Unit with his parents. Unfortunately, the first time he came, Shabnam did not turn up for the hearing, so it was only on the second date given to Rehman Ali, which was actually the 14<sup>th</sup> for the case, that the couple met each other after a period of about a year. What finally brought Rehman Ali to the Unit was the 9<sup>th</sup> summons that Insp. Chaudhary had sent, routing it through the SSP's office in Gujarat, on the correct address provided by Shabnam's mother.<sup>91</sup> I will discuss this hearing in the next part of the chapter, but with this trajectory in place, I now want to go back to the issue I raised earlier about understanding Shabnam's insistence on working with the police, even as she was being advised by officers at the Unit to consider filing a civil suit under DV Act.

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In the second hearing that was presided over by SI Sarita, she had commented that for "people like them", locating Shabnam and her matrimonial family squarely within a low

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<sup>91</sup> The 8<sup>th</sup> to the 13<sup>th</sup> notings read:

**(8<sup>th</sup> date):** "Today Complainant's mother is present and she states that she will go to Gujarat on XX/5/12 and she will take proper address for her daughter's legal action."

**(9<sup>th</sup> date):** "Today complainant's mother rang me up by phone and gave me proper address of respondent's mother's district. Issue notice to respondent and his mother. Informed the complainant of the same."

**(10<sup>th</sup> date):** "Complainant's mother is present. Respondent did not turn up. NDOH 21/6. Request be issued for husband, FIL (Faher –in-law) and MIL (Mother-in-law) for same."

**(11<sup>th</sup> date):** "Complainant is present, respondent is not present. NDOH and request be issued to respondent through SSP for the same."

**(12<sup>th</sup> date):** "Complainant is present, respondent is not present. NDOH and request be issued to respondent through SSP for the same."

**(13<sup>th</sup> date):** "Complainant is absent. Respondent and his mother and father is also present. I personally tried contact her but her mob off. NDOH XX/8/12 and request complainant."



economic class, receiving court summons carried more weight than those sent by the police since “these” people were both familiar and, consequently, unafraid of the police. Meanwhile, Shabnam continued to insist that she only wanted to work with the police because she was familiar with “police action”. SI Sarita’s comments alluded to the fact that Shabnam lived in a slum called Saraswati Camp<sup>92</sup>. The word Camp indexes the temporary status of urban slums, which are unauthorized structures built on illegally occupied state land, and forever face the threat of demolition by municipality squads<sup>93</sup>. However, many residents in these localities would have resided there for decades, creating a situation that Veena Das aptly describes as “temporary permanence” (2011: 324). Beat constables patrol most of these urban slums and are known for trading in a network of petty bribe taking from residents, particularly when residents attempt to make improve their shanties by making additions to the structure of the shanty.

In this understanding of the slum dwellers and the presence of police, the police and the residents come to depend upon each other. This dependence does not making them allies; rather it creates an enduring network of petty corruption in which the perpetual presence of the police can only be managed by a (temporary) blunting of its force. Therefore, people who live in slums do not fear the *force* of the police because they are familiar with its limits, in an informal economy of rent-seeking by the police and the municipality that sustains everyday life in these areas. The two views of the police, which make it intermittently forceful, but mostly benign, exist side by side. For SI Sarita, people who live in slums do not fear the *force* of the police and this is why in her opinion Shabnam

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<sup>92</sup> This is a fictitious address, but I have used the word “Camp” as it is used in the original address.

<sup>93</sup> For more on urban slums see Eckert (2006); Kothari (2002); Roma Chatterji (2005).

should have filed a case under DV Act in a court of law. She assumed that Shabnam's in-laws, too, were impoverished, lived in slums and their familiarity with the police would have made them unafraid of the police in general.

In SI Sarita's comment, echoes the theoretically ambitious, and for that reason no less problematic, approach developed by the historian Partha Chatterjee (2004) who makes a distinction between civil society and "political society", where civil society is an arena inhabited by ruling elites, who are more intimately linked with or operate within the institutions of the state. Political society, on the other hand, largely constitutes "various deprived population groups that must struggle to make their claims to governmental care", but can achieve this only through "criminality or violence" and not through the language of rights. This form of popular politics, a domain of transactions and mediations, emanating from political society is built around the moral economy of "community", and operates *outside* the framework of law and the ambit of civil society. An essential part of what defines activities in this domain is "illegality", like in urban slums, where the state itself places the law in suspension in order to recognize the claims of the governed. Chatterjee argues that encroachment on government land cannot be made possible through the language of "rights", but is, nevertheless, allowed by the governments in recognition of some kind of moral claim of the poor (non-citizens) on the state and society.<sup>94</sup> If we were to read SI Sarita's comment again, it would seem likely that she meant that as members belonging to political society Shabnam and her in-laws must be inured to various forms of illegalities and everyday transactions with the police

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<sup>94</sup> For a critique of Partha Chatterjee's formulation of "Political Society", see Aditya Nigam (2008, 2011, 2012); Ajay Gudavarthy (2012).

in their squatter settlements and, therefore, only the formal domain of the court, where one must approach as a citizen of the state, could make her in-laws recognize the seriousness of Shabnam's allegations of violence against them.

In my conversation with Shabnam, she too, invoked the presence of the police, but unlike SI Sarita, argued the opposite to suggest that it was she who was afraid of filing a civil case because she found the entire exercise unfamiliar and daunting. For Shabnam, the routine presence of the police was a fact saturated with the possibility of *action*, illegal or otherwise, and in approaching the police she hoped that the police's action could be galvanized to take necessary action against her in-laws. There was, thus, a conflation between police action and police violence in Shabnam's rendition. For Shabnam, police action did not necessarily mean registration of a criminal case. She also did not come with a legal understanding of the difference between a criminal and a civil case, hence, her reluctance to file a civil case did not stem from her fear of expenses or efforts that would have to be made to file a civil case as much as with unfamiliarity of court procedures. The summonses sent by the police carried weight for her, as did her decision to persevere working with the police. In her rendition, I read both that the police needed to be feared even as it was possible to develop some tenuous familiarity with them.

This part of my argument finds support in the writings of modern Indian historians working on colonial policing practices. These works have a bearing on the manner in which policing as an institution and its practices have developed in post independence India (Arnold 1986, 1985; Yang 1985; Singha 1993, 1998, 2000; Das and Verma 1998;

D.M. Anderson and D. Killingray (eds) 1991; Freitag 1991; Gooptu 2001; Chandavarkar 2007; Kidambi 2007). Work on contemporary policing practices have taken as their focus the problematic of police excesses, and these works, too, rely on those of historians to explain the current malaise gripping policing institutions in India (Bayley 1969; 1983; Desai 1986; Singh 1998; Verma 1999, 2005). Raj Chandavarkar, for instance, argues that “habits and customs of governance” ought to be seen in a longer historical perspective and when we do so it becomes clear that unlike Chatterjee’s argument,

criminality and violence were by no means the prerogative of the deprived...the distinction between a domain of localism, criminality and violence, inhabited by the deprived, and a domain governed by the formal conventions and characterized by legality, and occupied by the privileged (was and continues to be) untenable (2007: 447).

Formalizing their approach to public order initially in the practice of “salutary neglect”, by which Chandavarkar means abandoning the problem of public order to the “disciplinary mechanisms of local structures of power”, paved way in the late 19<sup>th</sup> century for a creation of a uniform system of policing, where police work was colored by their military antecedents and tended to comprehend crime principally in terms of “rebellion and disorder” rather than breaking of law and infringement of property or endangering life. He argues,

Not only were the police, at least in the town, the only significant agency of the colonial state to come extensively into close and direct contact with the working classes and the urban poor, but they also operated on the thin line which divided the arbitrary exercise of power from the rule of law, and in doing so, they mapped the contours of both (449).

Chandavarkar’s (1998) and, also, Prashant Kidambi’s (2007) works on the city of Bombay have shown that since the beginning of the twentieth century there had been an

enhancement in the powers of the police and a simultaneous criminalization of many activities in public sites. The police's newly fortified powers, then, worked towards entangling and also implicating them directly in all manners of neighborhood fracas and disputes thereby also augmenting the fallouts of such arbitrations (Chandavarkar 2007: 452). However, this increase in police power was not absolute in the sense that there were real material constraints upon the police, which, along with the fact that the neighborhood itself saw shifting alliances, tempered the blatant autocracy of the of the colonial rule, but not without making space for arenas where there could be a significant exercise of arbitrary powers to secure a social order. The post-colonial policing institutions continue to work with at least some variation of this "salutary neglect" of people's rights.

With a consolidation and entrenchment of arbitrary exercise of power of both the police and local power wielders, it is the agrarian and urban poor, Dalits, women and children, who have had to live in a relatively lawless context, with the police often treating violence against women as a domestic matter confined to the private sphere of the family and outside the purview of the state (458; see also, Samaddar 2008). The Units in Delhi are not an exception to this form of arbitrary functioning and this can be seen in the work of many officers who try to instill in women the virtues of heterosexual matrimony. Yet, women like Shabnam attempt to brave it all, both in their local contexts where "police comes and goes" all too frequently, and in the Unit where they wait patiently in the hope to be heard by a sympathetic police official. They work with the police because it is a form of state power with which they are most familiar and not because the police can be unambiguously trusted. They work with the police inspite of the police excesses they might have witnessed in their respective localities, in the hope, however naïve or

misplaced, that the same *force*, housed in a women's Unit meant exclusively for protecting them, may be used to take action for them, against their abusers. Coming back to Shabnam then—while SI Sarita attempts to debase Shabnam by enclosing her in a *type* of people, Shabnam acts as an individuated citizen of the state and decides to work with Insp. Chaudhary. Meanwhile, Shabnam's husband and in-laws were constantly changing homes, as we would later find out, precisely because one summons had in fact been received by a relative on their behalf and they knew the gravity of the situation that came in the form of the police summoning them.

#### DATING MARRIAGE, MENSTRUATION AND MEMORY: A STORY THAT FAILED TO HOLD TOGETHER

It was the on the 14<sup>th</sup> hearing, six months after the complaint had been filed in the Unit, that Shabnam met with her husband and her in-laws for the first time after the birth of the baby. The state's paper trail had finally tracked Rehman Ali and his family down, but this had been made possible by Insp. Chaudhary's motivation and intervention at a personal level. For the hearing, Rehman Ali, had come with his parents and an aunt. In the counseling room, Shabnam, her baby and her mother, represented the complainant's side and Rehman Ali, his parents and his aunt represented the respondent's side. Together with Insp. Chaudhary and me, there were nine people in this bigger counseling room. I had walked into the room after everyone had already made themselves comfortable so it was Insp. Chaudhary who introduced me to everyone. This made sense in retrospect, because I was beginning to wonder if Rehman Ali had come at all. I made this mistake because the difference in the social stature of Rehman Ali's family was very evident; his family's health and prosperity showed even more starkly against Shabnam, her mother

and son's acute destitution. Perhaps, what took me by surprise was not just his class, but how his wellness and good health contrasted with Shabnam's gaunt and malnourished body. It was here, again retrospectively, that it occurred to me that Shabnam had told SI Sharada that her aunt knew that she was marrying her son into a very poor family and the possibility, for instance, of dowry did not exist. During the course of the hearing, not even once did Rehman Ali look at *his* boy, whose resemblance with the father was actually quite unmistakable.

What followed was almost a two hours-long session, and the turn of events took both Insp. Chaudhary and me a bit by surprise. I took notes only intermittently, jotting down words and lines that would later help me construct the conversation. Over time, I had learned to also focus attention on verbal abuses that were exchanged between parties; they helped me in creating the conversation later. As always, I wrote in either in Hindi or Hindi written in the English script. The session saw many interruptions as tempers flew high and at least twice, Insp. Chaudhary, too, screamed at the parties, demanding that they maintain decorum. What I reproduce here is a conversation that I transcribed from my notes immediately after the session got over. I continued to work on these notes the following evening and the next morning to enable me to write a fuller account of what transpired in the session, but amid fight between kin and the general pandemonium, there is much that my ear simply could not have coped with so I write about this hearing mindful of the pitfalls of hearing (Hirschkind 2006: 14). If in Mahima's story, I have worked with at least a tripling of narratives, in this chapter I bring weight to bear upon

that contention by hoping to show the imprecision, disparateness and contingency that saturate the moment of a complaint's closure.

As the session began, Insp. Chaudhary enquired about the summons that she had earlier sent to Rehman Ali. He denied receiving any. Somewhat unflinchingly, he told Insp. Chaudhary that he had remarried and would not be able to take Shabnam back with him to Gujarat. He did not mention the baby, nor did he show any interest towards him. In what was a tense and precarious situation, Shabnam, with the baby in her arms, reacted with depreciated self-control and screamed at Rehman Ali, but avoided looking him. She called him a horrible person (*ganda aadmi*) and her in-laws shameless (*besharam*). I was not sure if this news was to be expected and whether Shabnam and her mother knew about Rehman's remarriage after Shabnam's mother's return from Gujarat. Shabnam neither addressed her husband nor her in-laws directly, but directed all her accusations at them by addressing Insp. Chaudhary. She said, looking at Insp. Chaudhary, that these people had abandoned (*chhod diya*) her and her baby and that she felt deceived by everyone present there. Shabnam's mother also began to scream, directing her rage particularly at her sister-in-law. Amid this cacophony of sound, incomprehensible slurry of vitriol and utter commotion, many people came out of their rooms to see what was happening. For a few moments, the two sisters-in-law and Shabnam were engaged in a bitter exchange of abuses; the accusations from Shabnam's mother side were about abandonment while Shabnam's mother-in-law said that Shabnam could not be trusted (*bharose ke laayak nahi hai ladki tumhari*). While I watched this unleashing of a wave of uncontrollable resentment with some horror, half wondering what I would do if the verbal



abuses turned into a physical fight between the two sisters-in-law, Insp. Chaudhary lost all her even temperedness, stood up and directed everyone to calm down or else, she threatened, she would walk out of the room. There was no threat of the use of force just yet, but only of walking out from the session. She then told everyone to maintain decorum and talk only when spoken to. I saw Shabnam brimming with anger in one corner of the room, still standing with her baby boy in her arms.

Rather than addressing the new situation of Rehman Ali's remarriage, Insp. Chaudhary asked Shabnam to speak to her husband and in-laws, now that they were finally facing each other. Perhaps, she knew that starting with this newly declared status of Rehman Ali's remarriage would again stall all conversation. She probably did this to give some direction to a session that already seemed precariously placed. The news of Rehman Ali's remarriage had already proved her worst fears about this complaint to be true and she needed to take this information in her stride as she tried to lead the rest of the session. Further, before she could come to any understanding of Rehman Ali's remarriage, he still had to be made accountable for what was Shabnam's complaint against him, which was a story of abandonment. But the session had only just begun. Insp Chaudhary said, "Okay, let's leave everything aside for now. Shabnam, why don't you tell us what you want to say now that your in-laws are here. You were coming here all these months and now these people are also here. Tell us what problems you have with your husband and in-laws."

**Shabnam:** Yes, madam, the first thing is that this, my mother in law, speaks with me in an uncouth manner. She insults me by calling me scum and says that I belong to the sewage pit (*Meri saas ke har shabd mein gaali hai; mujhe gandi*

*naali ka keeda bolti hai*). My mother in law's tongue drips venom (*zehir*) and abuse (*gaali*) (she says, still seething with anger).

**KC:** Your mother-in-law is your real aunt (*bua*), isn't she?

**Mother in Law (MIL)** (interrupting **KC**): Madam, why don't we just let her speak. I also want to hear what she (Shabnam) has to say about us.

**Shabnam:** She (referring to her MIL) never speaks in a straightforward (*seedhe muuh*) manner with anyone. She thinks that other people's daughter (referring to herself) is supposed to be a slave (*gulam*) for their comfort. You know what she says to me? She says that I am a dirty, filthy worm whose place is in the sewage (*gandi naali ka keeda*). When worms from the sewage are brought on the ground, they still try to swim because they do not know how to walk. She once told me that even her little finger would not go where I live.

**KC:** Did you know that your aunt was like this before you got married to her son?

**Shabnam:** Yes, I knew, but I didn't know that she would inflict all her rage (*garmi*) onto me.

**KC:** For how long after the wedding did you live with your in-laws?

**Shabnam:** I lived with them for about a month and a half. I then found out that I was carrying a baby, so then I came back to my parents' house.

**KC:** In this short period you spent with them, your in-laws began beating you up?

**Shabnam:** Yes, madam, my husband slapped me and my mother-in-law also supported him.

**KC:** Who arranged your marriage with Rehman Ali?

**Shabnam:** My Mother. We were otherwise enemies (*dushmani hai*), but my mother went to their house because my other aunt (Shabnam's second paternal sister) urged her to do so. After that, all was okay. They then decided that I should get married to my aunt's (*bua ka ladka*) son.

**KC:** I see. Why don't you now respond to what Shabnam has said so far (she says looking towards the mother-in-law).

**MIL:** (Shabnam's MIL takes over and says) Okay madam, she is speaking so much against us, saying that we have left her, that we did not go to see the baby and that we beat her up mercilessly. Why don't you ask her when their marriage was held?

This felt like a strange stray comment, out of context, in the middle of what was an acutely restive situation. Insp. Chaudhary now asked Shabnam about the details of her marriage to Rehman Ali and said, "when did you get married to Rehman, Shabnam?"

**Shabnam:** We got married in 2010 February.

**MIL:** (Laughs out and says) See madam, she does not even know when she got married. She is lying in your presence. The wedding was held in February 2011 (At his point, MIL showed a copy of Shabnam's complaint to Insp. Chaudhary.

It was obvious that they had obtained the copy through RTI, for that copy had the RTI office's stamp. What this did reveal was that Shabnam's in-laws had been working on obtaining this copy for a while).

This new information was a bit of a shock and I remember feeling a bit at unease. Insp. Chaudhary looked at Shabnam's complaint again and saw that the date of marriage was XX/2/2010, whereas her in-laws were disputing this to say it was XX/2/2011. When I later asked Insp. Chaudhary what she felt about the mistake in the date, she said that she, too, was taken aback on hearing this, but it was obviously a mistake for although both Shabnam and her mother had the wrong year in mind, they maintained that the marriage had taken place only a year and a half ago. I asked her if she should have noticed it or whether she felt liable at that moment for not having taken note about this matter. She said that the date of the marriage is not something that people actually get wrong when they write their complaint. She was convinced that it was an oversight and not something that anyone was likely to have noticed at all. However, as part of case building protocol, Insp. Chaudhary should already have asked for proofs of marriage from Shabnam. Meanwhile, Shabnam's mother-in-law was using this mistake in the complaint as an opportunity to malign the mother-daughter duo and also to discredit everything that they had to say them having ill-treated Shabnam and her baby. When Insp. Chaudhary asked Shabnam about who wrote the complaint for her, she said that both she and her mother were illiterate and had asked someone to write it for them. They, too, looked confused, with what could have felt like a turn of events. Attempting to take control of the situation, Insp. Chaudhary said, "see, this is obviously a mistake in the application and nothing more. They had the wrong year in mind and that can happen when one is not literate (*padhe-likhe*) and I am sure Shabnam knows that falsifying the date of marriage would

discredit her. This is not something any complainant can lie about because we invariably ask for proofs.”

**MIL:** (not giving up, continues) Yeah, but, then, they can get anything written against us. How would we know that this is a mistake or has been done deliberately?

Shabnam and her mother did not dispute that they might have been wrong about the year in which Shabnam got married. Insp. Chaudhary helped them align their calculation of months with the year and both Shabnam and her mother were able to see that they had made a mistake in accounting for Shabnam’s marriage date. Surprisingly, Rehman Ali himself did not furnish any proof of his wedding date to Insp. Chaudhary, but he did make an intervention here. In his second intervention, which he indicated was clarificatory, he said that he did not beat up Shabnam; that he had only slapped her once in a fight that had involved the whole family. Meanwhile, Shabnam kept quiet and just continued to adjust the baby’s clothing as if she had not heard Rehman Ali at all.

It was Shabnam’s mother-in-law, who now addressed Chaudhary and said that she should ask Shabnam when she got her period after getting married to Rehman Ali. Insp. Chaudhary was not amused by this bawdy interruption and told Shabnam’s mother-in-law to remain within her limits (*aap apni hadd mein rahain*). Shabnam’s mother-in-law, on the other hand, insisted that her menstrual cycle was important to the way things changed between the couple after the first month of marriage. The mother-in-law maintained that Shabnam had complained of being unwell and was taken to a local ob-gyn by her and Rehman Ali. To their surprise, she said, the doctor told them that Shabnam was at least a month and a half pregnant. Somewhat bewildered by this news,

she told the doctor that the two had only been married for a month. Insp. Chaudhary asked her if the doctor was a licensed medical practitioner and whether any tests were subsequently performed, such as a dating ultrasound, to determine the age of the fetus. Shabnam's mother-in-law said that they did not think that was necessary because the doctor had examined Shabnam (*doctor ne jaanch ki thi*). Insp. Chaudhary then told Shabnam's mother-in-law that if there was indeed room for clarification, then the same should have been done at the doctor's clinic and through further tests and not via a hypothesis about Shabnam's last menstrual cycle. When confronted in this manner by Insp. Chaudhary, the mother-in-law just kept quiet.

Meanwhile, Shabnam's mother could barely keep her temper in control with this casting of aspersions on her daughter's character and burst into a fit of rage. She both hollered abuses at Shabnam's father-in-law, who had been quiet all this while, and beseeched him for stopping his wife from speaking ill about her daughter and his daughter-in-law. "How can you just sit there like a deaf and dumb (*goonge-behre ki tarah*) person", she said to him, who said something to his wife, but no one else heard what he said. Again, a rancorous fight broke out between the two sisters-in-law and Shabnam, while both Insp. Chaudhary and I tried to bring things under control. I also lost out on this time and my field notes for this part of the hearing speak only of noise and commotion between the wailing of a baby and women viciously slurring at each other, while the father and son kept quiet. What I heard distinctly was Shabnam's mother's cries about how she had given them her daughter and felt utterly cheated she felt by her own sister-in-law (*nanad*

*hokar dhoka diya*). As Insp. Chaudhary sat down again, but not quite having regained her composure, she rebuked Shabnam's mother and said,

When you people were bitter enemies (*pakki dushmani*), why did *you* marry your daughter into *this* family? When you knew that these people lie (*jhooth bolne wale log*), why did you marry your daughter (*tumne ladki kyun di?*) to your sister-in-law's son? Are you not going to take any responsibility about this matter at all (*tum koi zimmewari nahi logi kya is masle mein?*)

Insp. Chaudhary turned to me and asked if I had any questions for anyone. I had been left too shaken by the fight and had not quite settled down. At that moment, I did not have well formulated questions; I found myself saying that it was possible be a month and a half pregnant after being married for only a month. Shabnam's mother-in-law asked me how that was possible so I explained to her that pregnancy is counted from the date of the last period, which could have been before the date of marriage. But at this point Shabnam interrupted me and said that she got her period on the day of the wedding itself. Her mother, too conceded that Shabnam was menstruating at the time of her marriage. This made the situation rather strange because this meant that Shabnam got pregnant after her wedding and also that she could not have been six weeks pregnant at the time of her check-up at the ob-gyn's. The doctor might have made a mistake, I told Shabnam's mother-in-law, but she was in no mood to listen to my explanation. "How can the doctor be wrong", she said to me. "But the doctor could be wrong if there was no dating ultrasound", I said to her. All these accusations would have amounted to something if an ultrasound had been performed, otherwise the doctor would be wrong, I asserted again. Insp. Chaudhary, then, said to the mother-in-law, "can you not see that the baby resembles the father so much and you are creating a fuss over nothing?"

The unrelenting mother-in-law said that the mother-daughter duo had been lying all along, first about marriage date, then, about the date of menstruation and now about this child, who, she was convinced, was born out of wedlock. At this point, it was also Rehman Ali who said that Shabnam went back home after the first month precisely because this became a contentious issue in the family. He said that in this fight, Shabnam's mother and her brother were present and they decided to take Shabnam back to Delhi because the issue had become too contentious. In adding another twist to the story, Rehman Ali said that a month before the complaint was filed in the Unit, Shabnam (along with the baby), her mother and her brother had again visited Gujarat. On this occasion, when the baby was just one month old, their intention was to attempt reconciliation between the two families; rather a fight had again ensued between them and this time it ended with a divorce decree signed on a Rs. 20 Stamp Paper between Rehman Ali and Shabnam. His second marriage, he contended, was held after the signing of the divorce papers. When Insp. Chaudhary asked him if he was carrying these papers with him, he declined and said that he would mail these papers to her once he was back in Gujarat. Shabnam, on the other hand, said that her in-laws demanded money and that she came back to her parents' house because she felt harassed by her in-laws. She did not oppose that she had in fact visited her matrimonial home just a month before she filed her complaint in the Unit.

The manner in which this session was unfolding must have really upset Insp. Chaudhary for she looked straight at Shabnam and asked her why she had not been informed about these matters in all the months gone by. Shabnam merely said that she wanted to tell her

about these matters when Rehman Ali and her in-laws were present. Although, Insp. Chaudhary did not confront Shabnam any further, she looked somewhat exasperated now. Meanwhile, Rehman Ali again said that he had re-married, which was allowed to in his religion, but both Shabnam and her mother interjected and said that a second marriage could only take place with the consent of the first wife. Both the son and the mother expressed their unwillingness to take Shabnam back with them and besides denying paternity, also asked that a DNA test be conducted to verify paternity. This again enraged Shabnam, and she loudly said that she would not undergo any tests, and since it was Rehman Ali who was doubtful, he ought to be the one getting tests done and pay for them too. The doubt (*shaq*) was his, she said again and again while also maintaining that she was not about to give divorce to her husband (*main nahi chodungi inko*).

The exchange of wounding words continued between the two sisters-in-law for some time, and the now exasperated Insp. Chaudhary admonished them and said that she had had enough, that the two women were creating a fish market in the Unit with all their screaming. She threatened to put them both in a lock up (*band karwa dungi*) if they did not maintain decorum. This brought in some silence temporarily. Meanwhile, Insp. Chaudhary had begun winding up for the day since it was already beyond office hours. It was almost 6:30 pm so she asked Rehman Ali and his family to come on another date the week after, both with the proof his marriage and divorce papers. She also asked Shabnam to get her *nikahnama* or an equivalent proof from the *qazi* who presided over her marriage with Rehman Ali. The matter, she said, could not be decided in a day, and in so far as Shabnam was still his legally wedded wife, Rehman Ali could not just wash his



hands off her and their child. At this point, Insp. Chaudhary did not address the “fact” of the divorce to which Rehman Ali was alluding all this time. DNA tests, she said, were conducted at the behest of court orders, for which a case would have to be filed and perhaps that would be the direction in which this complaint would now move, she asserted. Shabnam also said that she would get a copy of the *nikahnaama* from the *maulvi* who presided over their wedding and someone who could translate it into Hindi.

In these last minutes, Shabnam kept alternating between muttering under her breath, her face flushed red with anger and also shouting at her in-laws for ruining her life. “You people have made my life hell” (*tum logon ne meri zindagi narak bana di*), she repeated many times. The day’s noting in Insp. Chaudhary’s file is the longest one for this case. It reads:

(14<sup>th</sup> date) Complainant and Respondent are present with their parents and family. Meeting has been done but all in vain. Complainant states that her marriage was solemnized on XX/XX/2010 and respondent states marriage solemnized on XX/XX/11, and there is a great different between them. Complainant has a 9-month-old son out of this wedlock (sic). Complainant has been advised to bring *nikahnama* and Urdu translator on XX/6/12 and informed both parties accordingly.

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I next spoke to Insp. Chaudhary only 2-3 days after this session and when I enquired about Shabnam’s case she said that the possibility of a formal legal case might have alarmed Rehman Ali, who had called her and said that he would take Shabnam back provided she withdrew the complaint from the Unit. These were routine “tactics” deployed by respondents when they face the possibility of a formal case. But what was

not clear, she said, was the status of Shabnam's marriage because if a divorce had indeed been given, then, there was little she could do. The matter had been conducive for a DV case, but if Shabnam had consented to being divorces, there was not much that even civil law could do for her, she said. I think this could have been a conjecture on Insp. Chaudhary's part for family courts, for instance, routinely award maintenance after the fact of the divorce, particularly when a baby is involved in the situation. Also, a maintenance case can be filed on behalf of a child in a family court in India.

Meanwhile, there were two developments, one connected to office work and one connected to the case itself in the next fifteen days. In a periodic inspection, in which EOs are supposed to submit details about pendency of complaint files with them to their assigned ACsP, Insp. Chaudhary was specifically asked by the ACP to "decide the complaint within the next 10 days". There is a noting on the file with the ACP's signature with this direction given in bold. Insp. Chaudhary, however, would take two more months to close Shabnam's file.

A few days later, Insp. Chaudhary also received an envelope, through internal mail service of the Unit, from Rehman Ali, which consisted of a statement from him as well as a photocopy of the Rs. 20 stamp paper on which was written a statement of divorce. Rehman Ali's statement, although not required by Insp. Chaudhary at this stage, mentioned the date of his marriage to Shabnam; that the marriage was held among kin, with details of family members and how they were related; the entire sequence of Shabnam being found a month and a half pregnant fifteen days after the wedding; the

first fight between the families that led to Shabnam leaving the matrimonial home for Delhi; her return to Gujarat a month after the baby's delivery; the signing of the stamp paper that was endorsed by kin elders; and finally that Shabnam was now trying to register a false case against him and his family members. The stamp paper, too, listed the circumstances in which a divorce was being given and ends with the phrasing of what is called the unilateral *triple talaq*, that is, saying the phrase "I divorce you" three times, either in a single sitting or over three sittings. The document was signed both by Rehman Ali and Shabnam and there are two signatures of witnesses, but they were not notarized.<sup>95</sup>

The matter of Shabnam and Rehman Ali's divorce fell outside the jurisdiction of Insp. Chaudhary for she was working with criminal law. Further, Rehman Ali and his family did not come for the subsequent hearing, leaving little space to move further on this complaint through criminal law. In this hearing Shabnam again told Insp. Chaudhary that she wanted to live with her husband, but this time Insp. Chaudhary was categorical that movement towards any kind of "solution" could only be made possible either through customary law or through DV Act. There is a note in the file, which was written by Insp. Chaudhary's assistant on Shabnam's behalf, but was signed by Shabnam. It reads:

I, Shabnam, D/O XXX, R/O XXX, want to live with my husband and I want to settle down with him (*ghar basana chahati hun*). For that I will put a DV case for which I will come to the women's Unit on XX/7/12 at 2pm.

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<sup>95</sup> The practice of *triple talaq* (divorce) is a contentious issue in India and several organizations have been working on reforming customary Muslim laws on divorce that allow a man to unilaterally divorce his wife or to get the Indian state to put a complete ban on this practice. *Triple talaq* becomes extremely problematic as an issue of reform because many religious seminaries endorse this practice, even as reformists argue that the practice is "un-Quranic". Please see <http://www.aljazeera.com/indepth/opinion/2016/06/india-ready-abolish-triple-talaq-160621083847343.html> ; <http://scroll.in/article/810678/triple-talaq-silent-reform-in-courtrooms-isnt-enough-to-end-the-patriarchal-stranglehold-on-islam> ; <http://scroll.in/article/810020/this-muslim-organisations-campaign-for-a-ban-on-triple-talaq-is-commendable-but-blinkered>. All sites last accessed on 3<sup>rd</sup> November 2016.

Insp. Chaudhary's noting for the same day reads:

**(15<sup>th</sup> date)** Complainant is present, respondent is not present. Complainant wants to live with Husband. So she is advised for DV Act. NDOH XX/7/12 for filing DV case in Nanak Pura Women Cell.

Shabnam came to the Unit the next day, met with the DLSA lawyer and told Insp. Chaudhry that she would be filing a DV case in the district court in which she lived and would also inform her EO upon the filing of the case. Shabnam called Insp. Chaudhry in the next three days and said that she had indeed filed a DV case at the district court that she had last mentioned. Thereafter, Shabnam went missing and could not be traced for the next month and a half. This next set of notings made by Insp. Chaudhary in Shabnam's file read:

**(16<sup>th</sup> date)** Today Complainant is present and she meets with DLCA lawyer. She will file DV Act in Rohini court and she has advised that she will file DV Act after [which] she will inform the EO. (16<sup>th</sup> date)

Today complainant informed the EO by phone. She has filed a DV Act in Rohini and will come to Nanak Pura Women Unit XX/08/12. **(note made about telephonic conversation with Shabnam)**

**(17<sup>th</sup> date)** Complainant did not turn up. NDOH XX/08/12 and request complainant for the same.

**(18<sup>th</sup> date)** Complainant did not turn up. Informed telephonically.

I have mentioned before that in this complaint a total of 12 summonses were sent. Of these, 9 were sent to Rehman Ali. Insp. Chaudhary sent the last three summons to Shabnam in the period between the 17<sup>th</sup> and the 19<sup>th</sup> date; the last one, written in red ink, was also an ultimatum and specified that if she did not come to meet with her EO, her

complaint at the Unit would be closed. When she did turn up at the Unit, a month and a half after she had last met with Insp. Chaudhary informing her that she intended to file a DV case in the nearest District court, she told Insp. Chaudhary that she had not filed the case in that court, but had filed one at the district court of South Delhi. When Insp. Chaudhary asked her to show papers of civil litigation, Shabnam said that she was not carrying them with her. Insp. Chaudhary did not ask for any further clarifications and just indicated to her that her case at the Unit needed to close since there was “nothing further” that could be done on her complaint in the Unit. Shabnam agreed to her complaint’s closure following which a note was written by Insp. Chaudhary’s assistant and signed by Shabnam after it was read out to her. This note and Insp. Chaudhary’s noting for the day read:

(Shabnam’s note) I Shabnam D/O XXX want to live with my husband and want maintenance for myself and my child. That is why I have put a DV case. That is why my file should be closed as Nanak Pura Women Unit.

**(19<sup>th</sup> Date)** Complainant is present. She has filed a DV Act case in XX Court. She wants herself and child maintenance and she has given a written statement to close her file in NP. Therefore it is requested that the complaint may be closed please, if approved.

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For Insp. Chaudhary to have let Shabnam’s marriage date go unchecked amounted to a gross error in her enquiry. However, since the complaint was still at the stage of pre-litigation, this was a correctable mistake, which is what she tried to do by asking Shabnam to furnish a certificate signed by the *maulvi*, who presided over Shabnam and Rehman Ali’s marriage. I am making a conjecture here that the correction in the date would have worked if the complaint had continued to be at pre-litigation stage. However,

in the eventuality of a legal case against Rehman Ali, this correction would have been of little help since the complaint forms the primary document on the basis of which a case is registered. This error would have had to be corrected then by obtaining a supplementary statement from Shabnam under Section 161 of the Criminal Procedure Code (CrPC)<sup>96</sup> by the Inquiry Officer (IO) at the Unit's police station. If no compromise was reached between the parties in the preliminary stages of the complaint's transfer to the police station, then, the IO would have prepared a chargesheet on the basis of the original complaint (with mistakes) as well as the supplementary statement. However, the date of the marriage was not the only mistake in the original complaint. For instance, Shabnam's complaint was lacking in establishing a clear trajectory of events and did not mention the date of her return to her parents' house, the day her child was born or names of persons who she said were responsible for harassing her. This is not to argue that a listing of dates alone would make it easier to file an FIR; if anything, in the previous chapter, Shefali's complaint is replete with dates and events, and yet she could provide no proof of families meeting together. A clear trajectory of events would, nonetheless, have been helpful in bringing order to Shabnam's complaint, something that now could only be done through

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<sup>96</sup> Section 161 of the Criminal Procedure Code (CrPC) deals with examination of witnesses by the police. It is described in the following manner:

Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records. Statement made under this sub-section may also be recorded by audio-video electronic means.

See, <https://indiankanoon.org/doc/447673/>. Last accessed on 3<sup>rd</sup> November 2016.

a supplementary statement. Supplementary statements from the complainant are taken when some crucial information is found to be missing in the original complaint, and not with the objective of re-writing the entire body of the complaint. However, there is no legal order prohibiting taking supplementary statements in a manner that actually recasts the original complaint in a different format, provided the basic facts of the original complaint are not tampered with.

This explanation, like I have mentioned in the previous paragraph, is conjectural and is based on a general conversation I had with the then SHO of the Unit, who also reiterated that the IO in the Police Station has to perform double the work when a badly written complaint is forwarded from pre-litigation to the police station, bringing the blame back to the officer at the front desk, whose work it is to carefully screen through complaints and suggest re-writing if the charges made are not clear. “Anything can happen in the court”, she said, “since the defense lawyer would use a lengthy supplementary statement, taken from the complainant herself, as a opportunity to cast doubt on the contents of the statement in the hope to render it an *afterthought*, and in some cases, also to discredit the IO, for having lead a complainant on to filing *fake* charges against her husband and in-laws.” Meanwhile, Shabnam’s complaint did not enter the stage of litigation; it, in fact, did not even exhaust pre-litigatory procedures of counseling and mediation. Although Shabnam assured Insp. Chaudhary that she had filed a DV case, in the absence of documentary evidence, this could also be a claim that Shabnam was making to close the complaint in the Unit. Insp. Chaudhary, too, did not ask for any evidence and in this decision I read not her reluctance to trust Shabnam as much as reaching a stage where she

felt that she had done all she could have to make law work for Shabnam. She had even worked against the warning she had received from her ACP to “reach a decision” as soon as possible and had worked on the complaint for two additional months.

This case was unique in my ethnographic sample because the couple, Shabnam and Rehman Ali, was related consanguinely and affinely. They were cross cousins; kinship became the additional grammar that permeated the only hearing held in this case. In her grammar of kinship, Shabnam’s mother both deplored bad kinship even as she, in the name of blood, hoped that her daughter would not be abandoned forever. Meanwhile, Rehman Ali’s mother, too, invoked blood, but differently from Shabnam’s mother. For her, the issue was contamination of blood and it found expression in casting aspersions on Shabnam’s character and also on her mother for deliberately trying to spoil lineage. Kinship was depicted here as both a continuation of a complicated, but unknown past (for us) as well as a version of ongoing relations in the present (Pinto 2014: 74). There were multiple pasts that could be glimpsed in the present here. There was the past between the two sisters-in-law, the past between Rehman Ali and Shabnam, the past between Shabnam and her in-laws, the past around the status of the baby, who was then a fetus and the past between Insp. Chaudhary and Shabnam. I use the word glimpse here to attend to impossibility of knowing the entire story and, yet, there is something like a working truth that has to be captured to continue the work of case building. In the written complaint Shabnam’s allegation was that Rehman Ali’s family did not divulge the details of his previous marriage and that he had killed his first wife. Neither of these two “facts” came up for discussion in the hearing; in fact, what came up in the hearing was neither



written in the complaint nor was it ever mentioned to Insp. Chaudhary by Shabnam. In this story of infidelity, betrayal and abandonment, there were other stories that were either rendered unknowable (about the first wife's death and the past enmity between the two families) or they came out too distorted for the EO to make sense of them in that moment (confusion over when pregnancy occurred). Amid all this, it became Insp. Chaudhary's task to invoke criminal law and, also, exercise jurisdiction over kinship in the hope of re-ordering the familial unit that comprised of Rehman Ali, Shabnam and their child. Therefore, I ask: In what spirit is the criminal law being invoked here?

In the first chapter I have shown that the courts in Delhi have disallowed the police from mandating anyone's presence in the Unit. Counseling is supposed to be voluntary and no one can be forced to participate in the process. The police are also not allowed to send summons to respondents, and can only send notices. Yet, the document that is sent to a respondent is actually a summons. It is unlikely that on the receipt of a summons from the police, a person would casually dismiss it, therefore, not participating in counseling can also be used as an instantiation of a person's unwillingness to respond to his wife's allegations against him. Most file notings attest to Shabnam's presence and her husband's absence for hearings. The long wait of nine months meant that there was both a delay in arbitration and justice for Shabnam, but it was her decision to work with the police and not pursue a civil suit on her own. There was also little space for improvisation for Insp. Chaudhary, since Shabnam wanted to live with her husband and filing an FIR would have worked against reconciliatory measures. It is here that Insp. Chaudhary decided to step adjacent to legal options available to her and pay for Shabnam's mother's travel to

Gujarat. It was not a lot of money, but her gesture gave a certain direction to this complaint.

I am inclined on thinking that in their articulation, both justice and law remain like open-ended negotiations. In this case, a marriage was supposed to re-create an already failed kinship between two families, but it only led to its further erosion with accusations, counter accusations, recriminations and damnations, all intersecting with certain memories of how things stood in the near past between the couple, and in the distant past among kin. To this, we have to add the strategies of bearing truth and telling it in the actual hearing. Attempts by Shabnam's husband and in-laws to malign her character reeked of familiar strategies employed by defense lawyers in cases, for instance, of sexual assault<sup>97</sup> and Insp. Chaudhary did not capitulate to these slandering attacks. She was, however, upset with Shabnam for not having told her the entire story in all the months that she had come to the Unit. It is possible that Insp. Chaudhary might even have felt let down by Shabnam for hiding the fact the real issue that drove a wedge between the couple was around the conception of the baby. Perhaps, if she had known about this matter, she would have prepared herself differently for what turned out to be the only meeting between the parties.

In the third chapter, where I discussed Mahima's complaint, I have shown how both the EO Insp. Uma Pandey and the mediator Rekha Khattar, drew on stories from their marriages in an effort to make a familial order possible for Mahima and Sudershan. In so doing they recast state as a relation that extends well into the structures of the family

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<sup>97</sup> See, Baxi (2014).

(Pinto 2014: 186). On the other hand, in Shabnam's case, which was steeped in bad kinship, it was noticeable that Insp. Chaudhary did not invoke or rely on kinship and familial codes to facilitate negotiation between the two families. With Shabnam herself, Insp. Chaudhary's engagement was not devoid of a relation; rather, it was a detached form of engagement (Candea et.al 2015), with a range of cadences—now giving shape to her own personal motivation, now enabling her to come to terms with information withheld from her by Shabnam, now assisting her to confront her own mistakes, now guiding her to adhere with the spirit of the law by obscuring kinship and keeping the focus squarely on Shabnam and her child's abandonment, now convincing Shabnam to work on a legal alternative, now ensuring as much as she could that a DV case was filed, now allowing herself to close the complaint and now containing her own sense of duty against official orders. There, is therefore, no stable position that a police officer occupies in her engagement with a stable complainant; both shift in their relation with each other and the relation itself shifts in its intonation as the materiality of the case unfolds. The “now's”, therefore, do not signal a displacement, but a constant readjustment that has to be made in complaint-cases.

In this shifting, I want to iterate that Insp. Chaudhary adheres to the spirit of law by keeping the focus on Shabnam's claims. To begin with, she urges Shabnam to explain the nature of the problems she faced with her in-laws to her in-laws. She does not address Shabnam's in-laws as kin relatives, thereby keeping the focus on the marriage. The complaint that began as a story of abandonment gradually became about the figure of the child and his position in the family. The child's body increasingly seemed like it would

become a subject of juridical matter, with its legitimacy being questioned in an acrimonious debate over its parents' intimacy, bodily fluids, sexuality, pregnancy, and DNA. Finding herself in the midst of a situation where she was being called upon to *rule* over biological life, Insp. Chaudhary seemed to have done what was the right thing to do at that moment, that is, remind Rehman Ali that notwithstanding his re-marriage, Shabnam was still his legally wedded wife and under no circumstance could he be allowed to abrogate his responsibilities towards *his* wife and *his* son. The question about the performance of a DNA test was a decision that could only be taken by a court of law and perhaps that is where this complaint was now headed. As far as DNA testing and questions about paternity are concerned, when a husband seeks DNA testing, Indian courts usually render such requests as “roving” or “fishing” enquiries and deny testing. In these cases, the partner disputing paternity carries the burden of proving non-access to the other partner (see Agnes 2011a and 2011b). This is where things stood at the end of the only hearing in which the two parties confronted each other. The story of the complaint did not hold together for there were “truths” about which the complaint did not speak at all. Rehman Ali's mail to Insp. Chaudhary brought in components of customary law that intersected with criminal law and made it even more difficult to invoke it. What I mean by this is that given the validity of the *triple talaq*, a case of interpreting abandonment as cruelty in marriage could not be pursued under 498A because the marriage had already dissolved at the time of the complaint's registration in the Unit. For many Muslim women, working with 498A carries the risk of being divorced through the *triple talaq*. This means that for them 498A can really only be pursued along with civil litigation. In a sense, then, 498A continues to be a law that is used predominantly by Hindu women.

Although under official directions to close the file, Insp. Chaudhary kept the complaint file active for two more months and waited for Shabnam to file a case for maintenance under DV Act. With workload hovering between 70-90 complaint files, one less complaint to deal with was Insp. Chaudhary's way of managing her own workload in a context where she had already exceeded the time given to work on a complaint. If anything, observing Insp. Chaudhary's work over two years, I realized that she did strive for finding her own kind of balance between remaining detached from the stories of complainants, but, nonetheless, hoping to perform her duties towards them. Being motivated, however, is different from making sure that every complaint finds a point of fruition at the Unit. We cannot assume that every complainant has something like a case in mind when she approaches the Unit or at the point where her complaint reaches closure in the Unit. It is possible that for Shabnam, meeting with her husband and in-laws in the presence of a police officer was a way of assessing how things stood between them after some time had passed and that she did not necessarily want to be in the midst of litigation from the very beginning.

Meanwhile, a story can find itself in a maze of legal and personal entanglements, being worked and re-worked every time it confronts a newer authority and in the process creating newer networks. I have to make peace with not being able to follow every network and have to "cut the network" (Strathern 1996) with the way a complainant finds closure at the Unit, for that point defines the end point of in a complaint's career in the Unit. As for Insp. Chaudhary, she once said to me in a different context: "a complaint, after all, is *just that*—and not a mission."

## CONCLUSION

It was almost by chance one day that I found Mahima's phone number as I was flipping through some papers.<sup>98</sup> It had already been a year since I had begun my fieldwork at the Unit and this was the December of 2012. Early on, I had decided that I did not want to pursue the afterlife of a case,<sup>99</sup> but if a complainant wanted to keep in touch with me, I had decided that I would respond by either meeting with her or speaking with her on the phone. Mahima was the only complainant I called on my own when I found the number. The number still worked; she told me that she, too, had misplaced my number and had, in fact, thought of speaking with me on several occasions. I asked her if she would be amenable to meeting with me and she agreed readily. She said she would like me to come to her place, and so we met at her place on a cold winter evening. The living arrangement had changed since she had filed her complaint at the Unit. Mahima and Sudershan had now rented a room in a different building while her two sisters and a brother-in-law had taken the room adjacent to theirs on rent.

In the conversation, Mahima said that following an altercation with Sudershan, she had been living with her sisters for the past several days. What linked the two families together was a kitchenette that they had created under the staircase. Mahima's family depended on Sudhershan as the gas connection was in his name. A common kitchen, at least, in North Indian kinship is a signifier of a common patrilineal familial unit, so sharing the kitchen with Mahima's kin would have a been a source of constant tensions

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<sup>98</sup> Mahima's case forms chapter 3 of the dissertation.

<sup>99</sup> I explain why I chose to concentrate on the life of a case as opposed to life of a complainant later in the conclusion.

between the couple, and the fallout of the latest fight between the couple was that Sudershan had forbidden Mahima's kin from using the kitchen.

I asked Mahima if anything had changed in her relationship with Sudershan since the signing of the settlement between the two. She said that the compromise paper had just blown away with the wind (*hawa ke saath udd gaya*), that she still did not have a bank account or identity papers that would confirm her status as the first wife, but she had finally found out that Sudershan and Geeta had not married each other, so there was no need for a divorce between them. Little else she said had changed in her life with Sudershan, who was in the same job, but now drank heavily. I asked her if she had kept up with the therapy that she had started at *Ibhaas*, the mental health clinic and she said that she had continued for a few months, but, then, had found an alternative to those medicines at the nearest grocery shop. I wondered what it was that the local grocery shop was selling, so I asked her to explain. She said that she had found, *Bhola*, a chewable digestive that made her feel better—just like the psychotropic drugs had when she was taking medicines recommended by the doctor at *Ibhaas*. Every once in a while when she felt depressed, she said, she consumed *Bhola*. I was curious and asked her if she could get *Bhola* for me from the shop. It took her less than ten minutes to come back with what were little orange-blue sachets. I looked at it carefully and realized that the little ball inside the packet was actually a cannabis pill and in an act of inversion, Mahima had replaced psychotropic drugs with these pills. She said she knew these were *bhaang golis*, a common word for cannabis in Hindi and these, she said, had the same effect of calming her down like drugs given to her by *Ibhaas*.

Mahima conceded that she knew *bhaang golis* were not medicines, so over a period of time, she has reduced their intake. When I met her, she was enrolled in a neighbourhood institute run by the state that trained people in acquiring basic computer skills and also in a distance education program to give class tenth exams. Sonu needed to be sent to some kind of pre-school and she wanted to focus on his future. She also worked as a cook in two households. I asked her if coming to the Unit had been worth her while. She said that life is lived elsewhere and not in a police Unit, but it was helpful to have been told that her complaints were legitimate. Beyond that, she said, it was up to her to decide about continuing to be in a marriage with Sudershan, but this was not a decision she wanted to take on just yet. We again exchanged phone numbers, spoke to each other a few times, but gradually lost touch altogether.

The aftermath of Mahima's complaint-case is a reminder for me that our attempts to disentangle the stories that account for the lives of women will always remain partial. It is a reminder of the fact that women may choose a form of healing that sits opposed to clinical practices of cure and muddy the distinction between cure and healing (Meyers 2013: 9-14). Similarly, the effects of working with law may not always register onto neat formats of settlement/compromise/separation; rather their effects might be registered elsewhere and in a form that only mimics legal reasoning in acts of resignification. In *States of Injury*, Wendy Brown writes,

[F]reedom is a project suffused not just with ambivalence but with anxiety, because it is flanked by the problem of power on all sides: the powers against which it arrays itself as well as the power it must claim to enact itself...freedom



emerges as that which is never achieved; instead, it is a permanent struggle against what will otherwise be done to and for us” (Brown 1995: 25).

In this sense, Mahima’s and Shabnam’s case, did not become end points from where new beginnings started; rather engagement with law can quite often be rendered as a testing of waters about what *other* possibilities could be opened up in life.

In this dissertation, I have refrained from biographical studies of complainants outside the specificity of their individual cases in the Unit. This was not a problem of logistics or an attempt at reining in the boundaries of the project itself; rather this stemmed from my understanding that a focus on the emergent assemblage of the three problematic of this dissertation, which are about the definitions of law, law enforcement, and wielding of responsibility, did not necessitate following a complainant’s life outside of her case. At any point in time, there were at least two outsides—(i) life as it continued for a complainant outside the Unit during the unfolding of her case and (ii) life as it continued for a complainant, with all its ebbs and flows, once the case at the Unit came to an end. The end of a case is not necessarily a point of closure for complainants. Todd Meyers sums this thought beautifully in his work on the afterlife of de-addiction pharmacotherapy.<sup>100</sup> He writes:

Making the claim of success seems to tempt fate, begging things to careen wildly off track in the future. On the other hand, claiming failure seems to evacuate all possibility of hope. The problem, however, is even more difficult. Again, to echo the final sentences of Georges Canguilhem’s essay on the pedagogy of healing, he reminds us that hope rests perilously close to failure: “To learn to heal is to learn the contradiction between today’s hope and the defeat that comes at the end—without saying no to today’s hope” (113).

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<sup>100</sup> I do not mean to bring equivalence between pharmacotherapy and law, but I do want to point to the convergence of law and medicine, as has been shown by Sarah Pinto (2014) in how women accumulate distress emanating from their marriages in the deep recesses of their minds and bodies.

For the three complainants, Mahima, Shefali and Shabnam, uniformity of protocol actually generated variation in the trajectories of their cases and what they hoped to realize for themselves through the legal encounter. To begin with, it was not enough that they were just married, but the form that their marriages took became absolutely consequential to the manner in which domestic cruelty was rendered in the Unit. This is not to argue that their marriages provide us with instances of what afflicts arranged, love and cross-cousin marriages generally in India. Rather, it is to contend that the form that marriage takes *could* have a bearing on the manner in which violence, whether or not related to dowry, is experienced in a marriage (see also, Miles, Mody and Probert 2015).

We see an intercalation of the restorative (*pact*) and punitive (*force*) impulses of the State in the figure of the police officer, who is supposed to perform the double-role of expressing concern for complainants and gathering preliminary evidence in preparing of a potential trial. In so doing, even as she works with other contractual employees of the State like mediator-lawyers and counselors, it is she (the police officer) who bears responsibility for the outcome of any case. For instance, in the *Consultation Paper-cum-Questionnaire Regarding Section 498-A IPC*, circulated by the Ministry of Law and Justice, Department of Legal Affairs in March 2011, the Addl DCP was required to answer several questions, of which one was:

How to ensure that officers in charge of police stations can easily identify and contact those who are well suited to conciliate or mediate, especially having regard to the fact that professional and competent counselors may not be available at all places and any delay in initiating the process will lead to further complications?<sup>101</sup>

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<sup>101</sup> *Consultation Paper-cum-Questionnaire regarding Section 498-A of Indian Penal Code*, Question 6.

The Addl DCP's categorical answer to this was:

In such situations, answerability should be fix (sic) officers In-Charge of Police Station.<sup>102</sup>

Rather than using the site of the courtroom to study law, I reversed this trajectory to start from the Unit, where preparations are made for a potential trial. Potentiality of a trial here is not to be understood as an anticipation of trial. The courtroom structures the work of the EO and IO because it they who are held accountable for *their* cases even by the court. This structuring is reflected in the form that bureaucratic writing takes in file notings and the assembling of the file. File-notings can also be interpreted to understand that there is a real struggle to transact writing work of law, which is usually in English, when the spoken language is actually Hindi.

In this dissertation, I have also shown the various ways in which experience and expertise are linked to a struggle with control over one's own feelings. The three EOs and the two mediators worked very differently and it was work on individual cases that allowed me to bring out the diversity in their work styles. For instance, Insp. Pandey's work ethic did not stop her from contributing vignettes from her own life as illustrations for Mahima, even as the other two officers did not allow for their personal lives to spill over into their case dealings. What was common in their work ethic was an aspiration to remain aligned with what could be made possible (or not possible) through law. Insp. Pandey and Insp. Chaudhary went a step further in trying to steer the trajectories of Mahima and Shabnam's complaints' to ultimately make a legal conversation possible.

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<sup>102</sup> Reply to Consultation Paper-cum-Questionnaire regarding Section 498-A IPC, Answer 6.

Given preliminary evidence building and investigative work, however, most complaints are never prosecuted. Although this dissertation has not concentrated on what compiled statistical figures look like, this is an appropriate juncture when I can use some data that I did collect, to establish the point about prosecution.

Year	Complaints received	Case registered	Reconciled
2008	177	134	33
2009	256	174	78
2010	226	182	44
2011	202	137	64
2012	273	171	49
2013	309	206	103
2014	146	138	8
2015	162	159	2

**Table II: Details of Total Complaints Received at PS CAWC, Nanak Pura, New Delhi since 31.03.08 to 31.12.15**

If we see the figures in the table, anywhere from 10% to 50% of the complaints received at the Unit's Police Station are reconciled before the trial even begins.<sup>103</sup> This table does not show figures of cases in which a settlement is reached after trial begins, but before testimonies are taken. These percentages would then be around 30-70%, as the SHO of the police station informed me when I questioned her about this matter. Data is important for it enables us to build something like a general picture of bureaucratic functioning and, perhaps, even of limitations. Mary Poovey has already enlightened us with her argument that "the numbers are interpretive, for they embody theoretical assumptions about what should be counted and how one should understand material reality and how quantification

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<sup>103</sup> I am discounting the figures for the year 2014 and 2015 because I had made a request for these figures to be released in the mid 2015. Figures for the year 2014 had not been compiled by this period.

contributes to systematic knowledge of the world” (Poovey 1998: vii; see also Daston 1988; Hacking; 1991, 1999; Cole 2000; Burton 2005). And, yet, attending only to statistical data takes us way from explicating the issues upon which struggle over its interpretation comes to rest. I will explain this with an example.

In January 2013, the start of new year when data for the previous year are compiled, there was an argument between one of the counselors and the ACP of the Police Station to whom the counselor reported about how cases pending with the counselors were to be accounted for, that is, if x number of cases were still with counselors, were they to be shown as being carried over into 2013 or because work on them had been initiated in 2012, they were to be shown as part of 2012 data, with no carry-overs into 2013. In the end, and after many attempts at arriving at a common point of understanding, it was the ACP’s word that prevailed and, therefore, no carry-overs of 2012, from the counseling unit were shown in the figures of 2013. I want to relate this incident to much of what I have been doing in this dissertation, that is, to examine how a particular understanding (of representing data in instance) of *what* counts as data—statistics, files, harm, grievous injury, *stridhan*, dowry, domestic cruelty—takes shape. Neither the counselor nor the ACP was trying to fabricate data and the problem could not necessarily be overcome with having a formulary about representation of data in place. The argument between the two officials was about how each official understood the logic of representation and, in the end; it was the ACP’s word that prevailed. It would, however, be an error on my part to render this entirely in terms of power struggle between a senior and permanent official of the state and a junior and temporary official of the state for that would miss the emergent

and, perhaps, even ad hoc transactions that are often found at the heart of many generalizations. In a sense, then, there is equivalence between data, numbers, file-making, and writing work for the state and my effort has directed towards delineating the contours of an active archive and its making.

The principal area of concern that emerged for me in this project has to do with the bifurcation with which pre-litigation works in the Unit. This bifurcation has to do with work of the State's permanent employees, that is, the police officers and its contractual employees, that is, the mediators and counselors. While there is intense scrutiny of police work, the ethic of "confidentiality" has worked to ensure that we have smaller avenues for knowing what actually transpires in mediation and counseling. This is not a new critique of mediation, but mediation/ADR institutionalized by courts, as a way of resolving disputes, is new in India. My dissertation is ethnography of the Indian State through the institutional officials whose work entails intervention into complaints of domestic violence, but it is not entirely clear what form accountability contractual employees must have towards state work, particularly if the State is unable to extend the benefits of full employment to these workers. For instance, in Mahima's case, mediator Rekha Khattar's approach eventually turned against Mahima and became about assuaging Sudershan's position as the more intelligent partner. I do concede in the chapter that she might have resorted to this approach by hoping to make Sudershan take more responsibility in the household, but this could have been done without insulting Mahima and giving credence to Sudershan's complaints against her. This is emblematic of how

principles of equity justice, given the assurance of confidentiality in ADR system, can also re-instill and reactivate hierarchies between parties.

And what about the law itself?

Let me answer this question through two new developments in the Indian context. The first concerns an arrest of a woman, the first of its kind in India, for allegedly filing a false complaint of dowry harassment. In September 2014, a court of Judicial Magistrate of First Class, Mangalore, Karnataka, issued a non-bailable warrant against Dr Ranjeetha Shenoy and her parents for filing a false case of dowry against her husband and in-laws. In this ongoing trial, Dr Shenoy and her parents now face criminal charges of perjury and defamation and if the charges are proved, a two-year sentence awaits them. I have already pointed out that with the idea of women “extortionists” and “fake dowry cases” gaining ground, both the Indian judiciary and the Parliament have conceded that amendments be made to Section 498-A to make it compoundable, with the permission of the Courts. The issue of the compoundability in the criminal offense under Section 498-A, then, gets tied to a perverse and derogatory conception of women being devious persons.

The second development relates to the debate about conceptualizing marital rape as a separate crime under the IPC. In her reply to the Rajya Sabha on the question of whether the Bhartiya Janata Party led government was planning to criminalize marital rape, Women and Child Development Minister, Maneka Gandhi, in March 2016, held that marital rape could not be “suitably applied in the Indian context” due to factors such as

poverty, illiteracy and religious beliefs.<sup>104</sup> This was a complete reversal from the stand that she took in June 2015, in which she had forcefully asserted, “violence against women shouldn’t be limited to violence by strangers. Very often a marital rape is not always (*sic*) about a man’s need for sex; it is only about his need for power and subjugation. In such case, it should be treated with seriousness”.<sup>105</sup> Her recent position was also in consonance with the one propounded by the Union Minister of State for Home Affairs Haribhai Chaudhary in April 2015 in which he had held that since marriage is “perceived to as a sacred union”, marital rape could not be brought within the purview of the law on rape. In India, political activists, who support criminalization of marital rape, want the exemption granted to husbands under Section 375 of the IPC, which lays down the definition of rape, to be deleted.<sup>106</sup>

Apart from the fact that Hindu and Muslim marriages are not regarded as sacramental, the questions that could be posed here are whether the existing legal provisions of the DPA and PWDVA are inadequate to deal with sexual assault within marriage and whether existence of a separate category of marital rape will necessarily mean that women would be able to use its provisions to press criminal charges. Alternatively, how and whether a provision of the law would be used is not something that can be decided *apriori* to its constitution. Recognizing the conceptual category of marital rape within

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<sup>104</sup> [http://www.huffingtonpost.in/2016/03/10/india-maritalrape\\_n\\_9435470.html?1457673125&utm\\_hp\\_ref=india](http://www.huffingtonpost.in/2016/03/10/india-maritalrape_n_9435470.html?1457673125&utm_hp_ref=india), last accessed on 20<sup>th</sup> October 2016.

<sup>105</sup> <http://indiatoday.intoday.in/story/maneka-gandhi-marital-rape-violence-against-women-india/1/446799.html>, last accessed on 20<sup>th</sup> October 2016.

<sup>106</sup> <http://indiankanoon.org/doc/623254/>, last accessed on 20<sup>th</sup> October 2016.



marriage is itself a kind of legal reform that takes away the *right* from the husbands to force non-consensual sex upon their wives.

The idea that women “misuse” law is inextricably tied to a right-wing anxiety about some essential space that marriage occupies in the ordering of Indian society, which is threatened when women invoke law and of which men (husbands) becomes victims. Abstracted from its context, the Indian state’s reluctance to privilege women first as citizens could easily be rendered as a case of inefficient and insufficient secularization, and yet, as I have delineated in the introduction and the first chapter, there is a longer history of this conception of individual rights and community identities. Therefore, the possibilities inhering in this political moment seem to me somewhat ambiguous. Let me explain this through recent developments in the country.

On 24<sup>th</sup> October 2016, the Indian Prime Minister, Narendra Modi, in a speech given in the poll-bound state of Uttar Pradesh, iterated that the practice of *triple talaq* was deleterious for the health of Muslim women in India and should, therefore, be banned.<sup>107</sup> Since Narendra Modi represents a right-wing political party, this concern for the health and fate of Muslim women was understood to be an attack on the internal matters of the Muslim community, following which the All India Muslim Personal Law Board has now initiated a countrywide drive to collect signatures of people to “to save and protect Shariat Laws” related to marriage, divorce and inheritance.<sup>108</sup> Meanwhile, All India

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<sup>107</sup> <http://www.thehindu.com/news/national/other-states/cant-allow-lives-of-muslim-women-to-be-ruined-by-triple-talaq-pm-says-at-bundelkhand/article9261504.ece>, last accessed on 26<sup>th</sup> October 2016.

<sup>108</sup> <http://www.hindustantimes.com/india-news/for-or-against-triple-talaq-signature-war-erupts-in-muslim-community/story-XHIeCNlbdiqnVQInpwngUK.html>, last accessed on 26<sup>th</sup> October 2016.

Muslim Women Personal Law Board and *Bhartiya Muslim Mahila Andolan* (Indian Muslim Women's Movement, my translation) have started a counter signature drive to move for the banning *triple talaq*.<sup>109</sup> In an increasingly communalized context and skepticism directed against Indian women's intention to harm Indian men and communities, the real victims, in these discourses, become Indian men and religious communities. In this deeply contested, fraught and bewildering field of political possibilities, in which Indian women can be deemed as oppressors of Indian men, I offer this ethnography as an account of *how* and *what* transactions with law are made possible for women at the point of convergence between many occlusions of law, varying interpretation of its enforcement, and policing practices that endeavour to make sense of this disjunctive field, while, also, bearing individuated responsibility for much of law's failures.

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<sup>109</sup> <http://www.hindustantimes.com/india-news/for-or-against-triple-talaq-signature-war-erupts-in-muslim-community/story-XHIeCNlbdiqnVQInpwngUK.html>, last accessed on 26<sup>th</sup> October 2016. See also, <http://www.muslimwomenpersonallaw.com/index.html>, last accessed on 26<sup>th</sup> October 2016.

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## CURRICULUM VITAE

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### Academic Qualifications

- **2016 November:** PhD Anthropology  
Dissertation Title: '*Intimate Public Spaces: Policing "Domestic Cruelty" in Women's Cells, Delhi*', Department of Anthropology, Johns Hopkins University, Baltimore, MD.
- **2010:** M.A., Anthropology, Department of Anthropology, Johns Hopkins University, Baltimore, MD.
- **2004:** M. Phil titled *Planning for Women: The Discourse of the Indian State*, Centre for Political Studies, Jawaharlal Nehru University, New Delhi.  
Grade: A- (7.41/9 CGPA); Dissertation Grade: A
- **2001:** M.A., Political Science, Centre for Political Studies, Jawaharlal Nehru University, New Delhi  
Grade: A- (6.87/9 CGPA).
- **1999:** B.A. Political Science (Honours) from Lady Shri Ram College, Delhi University.  
Overall percentage: 55 %

### Professional Employment

- **2005 onwards:** Assistant Professor, Department of Political Science, Lady Shri Ram College, University of Delhi (Permanent).
- **2004-2005** Temporary Lecturer, Departments of Political Science and B.A Programme, Lady Shri Ram College, University of Delhi.
- **2003-2004:** Adjunct Lecturer, Department of Political Science and B.A. Programme, Lady Shri Ram College, University of Delhi.
- **1999-2003:** News Editor, Central Monitoring Services, All India Radio, Delhi.

### Teaching Experience

At Johns Hopkins University, Department of Anthropology

- **2008 Fall:** *Logic of Anthropological Inquiry* (Graduate Teaching Assistant with Prof. Veena Das)
- **2008 Spring:** *Anthropology of Personhood* (Graduate Teaching Assistant with Prof. Anand Pandian)
- **2007 Fall:** *Logic of Anthropological Inquiry* (Graduate Teaching Assistant with Prof. Veena Das)

At Lady Shri Ram College, University of Delhi

*Political Science Department*

- **2016:** *Modern Political Philosophy*
- **2013:** *Modern Political Philosophy*
- **2013:** *Development Processes and Social Movements in Contemporary India*
- **2012-13:** *Western Political Thought* (Annual Course)
- **2011-12:** *Indian Government and Politics* (Annual Course)
- **2003-04 and 2004-05:** *International Politics and Global Relations* (Annual Course)
- **2005-06 and 2006-07:** *Comparative Government and Politics* (Annual Course)

*In Other Departments*

- **2005-06, 2006-07, 2011, 2012, 2013:** *Citizenship in A Globalising World* (Annual and Semester)
- **2003-04, 2004-05 and 2005-06:** *Indian Government and Politics* (Annual)
- **2003-04, 2004-05, 2005-06, 2006-07, 2011-12, 2011-12:** *Political Theory and Thought* (Annual and Semester)
- **2011:** *Indian Government and Democratic Polity* (semester)

**Scholarships, Prizes and Awards**

- **2010-11:** International Scholar, American Association of University Women
- **2008:** Women, Gender and Sexuality research grant, Johns Hopkins University
- **2008:** Institute of Global Studies research grant, Johns Hopkins University
- **2008:** Department of Anthropology research grant, Johns Hopkins University

**Forthcoming Publications**

- “Domestic Violence” in *Women’s Empowerment: A Critical Survey*, ed. Sunalini Kumar, New Delhi: Orient Blackswan (Expected date of Publication- July 2017)
- Book Review, *Police Encounters: Security and Surveillance in Gaza under Egyptian Rule* by Ilana Feldman (Stanford University Press 2015) in *Social Anthropology*. (February 2017).
- Book Review, *Time and Field* by Steffen Dalsgaard and Morten Nielson (eds.) (Berghahn 2016) in *Social Anthropology* (Expected August 2017).

## Other Publications

- Book review *Durkheim in Dialogue. A Centenary Celebration of “The Elementary Forms of Religious Life”*, Sondra Hausner (ed.), (Berghahn Press 2013) in *Social Anthropology*, August 2016.
- Book review of *Exploring Gender Equations: Colonial and Post-Colonial India* by Shakti Kak and Biswamoy Pati (eds.), (Nehru Memorial Museum and Library 2005), in *Frontline*, 2005, Volume 22, Issue 18, Aug 27-Sep 09.

## Papers presentation at Conferences

### *Working Papers*

- December 2016: “*Of course, he used my love for money also; I used to regularly withdraw money from the ATM for him, but my receipts don’t show that truth and my love for him*”: Emotional scripts of betrayal, evidentiary protocols and the fate of love itself”, LASSNET Conference, Jawaharlal Nehru University, New Delhi

### *Papers Presented*

- August 2010: ‘Policing Social Order: Women Police in Delhi’s Cells’, American Association of University Women, Washington DC.
- 2009: ‘*Policing Women: Police Women and the State in Delhi*, Program for the Women, Gender and Sexuality, Johns Hopkins University, Baltimore, MD.
- 2009: ‘Formations of “Domestic Cruelty” in the Women Cells, Delhi’, Institute of Global Studies, Johns Hopkins University, Baltimore, MD.

## Languages

Hindi (native); English (native)