

**The Concept of Agency in Feminism:
Interrogating the Constitution of Women's Subjectivity in
Marriage and Family in the Context of Domestic Violence**

*Dissertation submitted to Jawaharlal Nehru University
in partial fulfilment of the requirements
for the award of the degree of*

MASTER OF PHILOSOPHY

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DECLARATION

I declare that the dissertation entitled, **The Concept of Agency in Feminism: Interrogating the Constitution of Women's Subjectivity in Marriage and Family in the Context of Domestic Violence** submitted by me in partial fulfillment of the requirements for the award of the degree of Master of Philosophy from Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other University.

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CERTIFICATE

We recommend that the dissertation be placed before the examiners for evaluation.

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Contents

<i>Acknowledgements</i>	<i>i</i>
<i>Contents</i>	<i>iii</i>
Introduction	1
Preamble	1
Evolution of Research Problem	3
Objective and Research Questions	8
Scope and Methodology	10
Chapter Plan	14
Concluding Observations	16
1. Introduction to the Concept of Agency	17
1.1 Introduction	17
1.2 What is Agency?	19
1.3 Deepening the Liberal Idea of Self and Agency	26
1.4 Structure vs. Agency	32
1.5 Feminists and the Structure-Agency Debate	39
1.6 Post-structuralism and Feminist Interventions on the Subject and Agency	46
1.7 Exploring a Practical Theory of Feminist Agency	51

1.8 Concluding Observations	54
2. Structure and Ideology of Marriage and Family in India	55
2.1 Introduction	55
2.2 Religion, Marriage and Women’s Sexuality	57
2.3 Interaction of State and Religion and Constitution of Women’s Subjectivity	70
2.4 Structure of the Family and Material Basis of Constraints on Women	77
2.5 Love Marriages and Challenges to the Practice of Agency by Women	91
2.6 Concluding Observations	96
3. Interrogating the Agency of the Woman Subject	97
3.1 Introduction	97
3.2 Agency of Women Facilitated by Relationships as Political Practice	101
3.3 The Dynamics between Power and Agency: Inside and Outside the Family	111
3.4 Sexual Agency and Sexual Violence: Interface with Culture and Law	126
3.5 The Complex Emotion of Love and Women’s Agency in the Family	130
3.6 Concluding Observations	139
Conclusion	141
Preliminary Remarks	141
Overall Synthesis	142
Meaning of Agency	142

The Structure and the Agent	144
<i>Marital Family</i>	145
<i>Natal Family</i>	146
<i>Conjugal Relationship</i>	147
<i>Legal System and Alternate Structures</i>	148
The Idea of Self for Women	149
Relationship between Power and Agency	150
Research Contribution	151
Limitations of the Study	151
Directions for Further Research	152
Epilogue	152
Bibliography	155
<i>Appendix I</i>	A-1
<i>Interview Questions</i>	
<i>Appendix II</i>	A-3
<i>Summary Descriptions of Interviews Conducted</i>	

Introduction

Preamble

The question of agency arises when we are concerned with the larger concepts of freedom and autonomy that liberal philosophy has been treating as a core concern. The question of agency for whom, is what brings us to its locus – the subject concerned, who has agency. Liberalism has had heated debates about what constitutes freedom, but there has been an overall consensus that the liberal individual cannot be complete without a notion of autonomy and agency attached to this individual. Feminists who belong to the liberal tradition, have considered their task of differentiating the individual based on experiences as ‘men’ and ‘women’. Their burden has been to show that men and women have, due to the hegemony of what can be broadly understood as the patriarchal structure, differential access to autonomy and freedom, and thus are constituted as different subjects. Women have historically been denied the status which men enjoyed and in the modern times this is the status of the individual. The central institutions which served the purpose of furthering the goals of the structure of patriarchy are marriage and the family. Although these institutions need to be historicized as they cannot be argued to have had the same structure and similar effects on women, we are concerned here primarily with the modern institutions of marriage and family which pushed many feminists to draw similar conclusions regarding the oppressive and constraining nature of these institutions for women.

At different points in time different feminists have focused on what they considered as barriers to enjoyment of equal freedom by women. Early feminists like Mary Wollstonecraft argued for women’s equal access to education.¹ Many others wanted women to have equal rights to employment. The right to vote for women was equally a difficult fight. Inadequate access to property still remains one of the crucial causes of women’s subordination. However, in spite of the many achievements of feminism, which actively involved the intervention of the liberal state to grant equal rights to women, the overall structure of patriarchy, feminists have argued has remained intact and has redefined itself, appropriated new spaces, devised new strategies of keeping women from

¹ Wollstonecraft, Mary. A Vindication of the Rights of Women: With Strictures on Moral and Political Subjects. The Third Edition, London, Digitized by Google, 1796

experiencing themselves as equal individuals as men. The chief reason for this anomaly is the liberal state's dichotomy between the public and the private where the private is left to the realm of no-interference for respecting the freedom of the individual and thus whatever happens there, becomes consequentially depoliticised. While it was a noble thought of wanting a space for the individual with the greatest degree of freedom possible, this also meant that that early liberalism's key proponents ignored the structural impediments to freedom of some individuals. With respect to the constitution of women's subjectivity the structural impediments which disadvantaged women in the 'public' sphere stemmed from the disadvantaged condition of women in the 'private' sphere. This private sphere, i.e. the home was structured on the edifice of the institutions of marriage and family. This research proposes to concern itself with the question of agency for women within the institutions of marriage and family in the context of India.

The concept of agency has often been discussed as part of the agency-structure debate after scholarship which illuminated how subjects are constructed by larger structures that are out of their control, and they are constantly constituted within these structures that ascribe one or the other identity to them. Some of these subjects are more privileged than others in the larger structure. And the power of the structure buttressed by the ideology behind it keeps the subjects intact in their respective roles and positions by way of making subjects internalize their roles as natural and desirable. Patriarchy has been constantly upholstered by the familial ideology covered in the sanction of tradition and religion.

What does it do to women who are living under the structure of patriarchy partaking in the institutions of marriage and family? Are they subjects at all? What makes them powerless? And how can we begin to reverse this reality? In other words, how can we think and conceive of women as subjects with agency under the widespread reality of their being disempowered under the structure of patriarchy? The category of agency, the researcher believes, is central to the liberatory intentions of feminism and remains a vexed problem in the everyday lives of women who attempt to come to terms with their traditional roles and other aspirations of a different life.

The debate on freedom and agency for women, if looked at in the context of marital relations, has been a very slippery zone for feminists. In their larger analysis, feminists have brought up the structural oppression of women, which the hegemony of the institution of marriage comes to bear upon women, with marriage being a relationship between a more

privileged husband and lesser privileged wife. Norms of culture and law have played an extremely significant role to institutionalize this. The oppression of marriage has also consisted in maintaining a heteronormative ideal of sexuality which not only obliterates certain possible expressions of sexuality but actively construct the idea of what is the appropriate form of sexuality to be expressed in the ideas of masculinity and femininity. Marriage has been critiqued to be an institution, where the language of love has been brought out to structurally exploit the wife with imposition of certain kind of labouring roles on the woman. More explicitly, it has meant that the reality of experience of violence within the marital relationships has been normalised either as being part of love, or as a legitimate tool to regulate and 'discipline' women and has been made invisible by representing it to belong the home, a 'personal' space. Marriage, for a long time, till the intervention of feminists was kept out of serious political discussion under the garb of belonging to the private sphere, which meant that violence within the marriage has enjoyed a status of protection and to a large extent even naturalization. Marriage is oppressive in the sense that it remains almost compulsory for everyone, and yet it is also one of the very important institutions through which people can find fulfilment and satisfaction of emotional and sexual expression and a social support system like the family. It is in the case of women that this fulfilment and satisfaction turns into a very different experience as has been strongly argued widely in feminist literature.

The problem then remains – what are the chances for the exercise and practice of freedom for women with respect to the institution of marriage? As a choice such as choosing to enter or exit marriage as one between subjugation and liberation as has been posed by some feminists has been recognized to be really an unfree choice with no real prospects of liberation for women. The problem then really is how to understand freedom for women in the context of marital relations, where constraints comprise not just of certain recognized external constraints that are coercive, but the vocabulary of choice and consent has been quite unmindful of the relational and contextual nature of such choice and consent.

Evolution of Research Problem

Feminist theory has engaged with the question of freedom, drawing on from liberal debates on the concept while at the same time critiquing it to possibly expand the meaning and

outreach of freedom. The idea of freedom in the liberal discourse runs within two threads of ‘freedom from’ and ‘freedom to’ – the concepts of negative and positive liberty.² Criticisms have been made by feminists of such concepts not taking the relational aspect of the subject of freedom adequately into account and have accused the liberal subject to be gendered in nature.

Feminists like Diana Coole and Nancy Hirschmann have critiqued the notion of negative and positive liberty as being inadequate to capture freedom for women. Coole critiques the traditional liberal conceptions as well as the poststructural critiques of freedom as insufficient to be liberatory for women.³ Hirschmann points out that the negative liberty concept with its insistence on identifiable external impediments excludes a whole lot of structural constraints like how patriarchy as a structure operates to create an identity like woman which in turn constrains her at an everyday level. But she does see in the concept a potential to expand the ambit of external constraints to ever increasing critique of existing notions of freedom.⁴ Coole argues that the positive liberty concept, in turn, with its emphasis on a rationalist individual keeps on defining it in gendered terms and excludes women’s experiences of emotions as valid experiences of the individual.⁵ Carole Pateman has a similar critique of freedom when she is critiquing the construction of the individual in gender neutral terms in order to justify a contract between equals.⁶ All these feminists thus take issue with the liberal conception of freedom for an individual who is gendered with a claim to be gender-neutral.

While they have argued for a more democratic idea of the subject of liberal freedom, most feminists have posed very difficult problems for the question of agency of the subject, when that subject is attributed the gendered identity of woman. Kumkum Sangari has problematised women’s agency and consent under patriarchy quite eloquently –

“Patriarchies-I use the term broadly to denote systems of subordinating women-function simultaneously through coercion or the threat and practice of violence, through making a wide social consensus drawn from and dispersed over many areas of social life and through

² Berlin, Isaiah. ‘Two Concepts of Liberty’. The Liberty Reader. Ed. David Miller. Edinburgh University Press, 2006

³ Coole, Diana. ‘Constructing and Deconstructing Liberty: A Feminist and Poststructuralist Analysis’. Political Studies, (1993), XLI, pp 83-95

⁴ Hirschmann, Nancy. ‘Toward a Feminist Theory of Freedom’. The Liberty Reader. Ed. David Miller. Edinburgh University Press, 2006

⁵ Coole, Diana. 1993, pp 83-95

⁶ Pateman, Carole. The Sexual Contract. Stanford University Press, Stanford, California, 1998, p 187

obtaining in various ways, different degrees of consent from women. Women's agential capacity within so-called 'traditional' societies and accompanying discursivities may actually be one of the ways by which consensual elements in patriarchies are often made, for unless certain distributions of power are made within patriarchal arrangements it is difficult to imagine how any degree of consent from women can be obtained.”⁷

What do the above words imply? They are hinting at exercising utmost caution before ascribing agency to women. Meenakshi Thapan draws attention to Rajeshwari Sunder Rajan's viewpoint, which places emphasis on avoiding stressing the 'romantic fiction' of resistance, however well-intentioned it might be.⁸ This viewpoint argues that the very notion of women's agency is embedded within a framework of consent to patriarchal structures. The construction of the female identity by existing structures of patriarchy embeds women's scope of action not as independent agents but as 'women' with defined roles. Under such circumstances Sangari argues, “Women's consent may not always be instrumental or rational.”⁹ However such rationality and notions of it are not value-neutral concepts as we saw with Coole and Pateman – they are talking about a particular construction of the individual. So can agency be ascribed only to this individual?

Scholars like Axel Honneth, writing with respect to drawing out a social theory of recognition, have pointed out that the process of individuals drawing up claims for recognition is necessarily intersubjective in which one's attitude towards oneself emerges in one's encounter with another's attitude towards oneself.¹⁰ In the context of India, while discussing the agency-structure debate with respect to women Saraswati Raju makes a similar point when she argues that “agency exists in a form of relationality as even the most enlightened individuals cannot function in contextual isolation away from social constraints and the subjugating discourses within which they operate.”¹¹ Raju as well as Nivedita Menon in her latest work have cited Amartya Sen while talking about agency, where the central point is that individuals make choices within certain limits like the consumer makes

⁷ Sangari, Kumkum. 'Consent, Agency and the Rhetorics of Incitement'. *Economic and Political Weekly*. Vol. 28, No. 18 (May 1, 1993), pp. 867-888

⁸ Sunder Rajan cited in Thapan, Meenakshi. 'Introduction'. *Embodiment: Essays on Gender and Identity*. Ed. Thapan. Oxford University Press, Delhi, 1997, p 10

⁹ Sangari, Kumkum. 'Consent, Agency and the Rhetorics of Incitement'. *Economic and Political Weekly*. Vol. 28, No. 18 (May 1, 1993), pp. 867-888

¹⁰ Anderson, Joel. 'Translator's Introduction'. *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Axel Honneth. The MIT Press, Cambridge, Massachusetts, 1995, p xii

¹¹ Raju, Saraswati. 'Agency, Structure and Women as Situated Subjects'. *Gender Issues in Development: Concerns for the 21st Century*. Ed. Bhaswati Das & Vimal Khawas. Rawat Publications, Jaipur, 2009, p 14

the purchases with a certain budget in mind.¹² Both Raju and Menon have argued similar constraints hold true for men as well under patriarchy and the institution of family although they would be different than for women.

Thus, with respect to the institution of marriage, which feminists have critiqued as actively constructing notions of femininity and masculinity, it becomes interesting to inquire into how can we think about freedom and agency for the subject constituted as ‘woman’ in marriage. Scholars such as Kumkum Roy, V. Geetha¹³ and Meenakshi Thapan¹⁴ have worked on how constricting ideals of heteronormativity, a construction of sexuality within marital relationships legitimizes and even naturalizes violence against women, by wrapping it in the language of love. Roy’s intervention on the prescriptions of Kamasutra which she takes as one of the oldest texts defining sexuality and marital relationships in the Indian context outlines how the initiation to sexual intercourse is understood as a marital duty of the husband.¹⁵ Since such ideas have been passed on through culture it becomes difficult to identify what is consent and how consequently can women exercise agency. Such ideas, Pratiksha Baxi has argued have gone into Indian jurisprudence in the consistent opposition to a legal recognition of marital rape.¹⁶ Thus issues of consent in terms of free sexual expression and that which is violent are far from clear and are quite complex. *It calls for an interrogation with reference to the agency of women in determining for themselves what is free and what is unfree.*

According to Sangari, patriarchy then assumes the role of both horizon and the limit of women’s agency and also the various institutions and ideologies of caste, religion and family fill in the substantive content of what women practice as agency.¹⁷ From a constructivist perspective then, such agency is shown to be nothing more than work of

¹² Menon, Nivedita. Seeing Like a Feminist. Zubaan and Penguin Books, New Delhi, 2012, p 176

¹³ V. Geetha. ‘On Bodily Love and Hurt’. A Question of Silence?: The Sexual Economies of Modern India. Ed. Mary John & Janaki Nair. Kali for Women, New Delhi, 1998

¹⁴ Thapan, Meenakishi. ‘Images of the Body and Sexuality in Women’s Narratives on Oppression in the Home’. Economic and Political Weekly. Oct 28, 1995

¹⁵ Roy, Kumkum. ‘Unravelling the Kamasutra’. A Question of Silence?: The Sexual Economies of Modern India. Ed. Mary John & Janaki Nair. Kali for Women, New Delhi, 1998

¹⁶ Baxi, Pratiksha. ‘Rape, Retribution, State: On Whose Bodies?’. Economic and Political Weekly. Vol. 35, No. 14 (Apr. 1-7, 2000), pp. 1196-1200

¹⁷ Sangari, Kumkum. ‘Consent, Agency and the Rhetorics of Incitement’. Economic and Political Weekly. Vol. 28, No. 18 (May 1, 1993), pp. 867-888

hegemonic power of patriarchy to constitute women as the kind of subjects that are desirable for the continuance of patriarchy.

However, poststructuralist scholars like Judith Butler argue that the constructivist perspective is based on a premise that there is an original independent subject lying outside of the construction process which is problematic in itself and ignores the role of the subject herself in the construction process.¹⁸ She thus warns us against any universal global and homogenous concept of the identity of the subject in question as that is what most forecloses the possibility of agency for her. Nivedita Menon's reservations about what she terms as governance feminism are based upon similar apprehensions where we make an attempt to look at the subject outside of local context, we lose sight of all reality about the subject.¹⁹ *But the question of how can we interpret and understand agency in the context being discussed still remains. When do we understand as subjects we are agents and hence free and when not? Can we have any objective criterion, which can serve as a guiding principle of our evaluations about subjects and their actions as agential or not?*

This question in literature hasn't really seen a satisfactory answer and often scholars have to admit it as a problem. Thapan, for instance, accepts that the fact about agency is that the dividing line between compliance and subversion is thin and that woman's body is often the conflicting site of both giving in to, as well as resisting, dominant constructions.²⁰ It is quite evident that any judgment here of what is compliance and what is subversion will be based on what standards feminism sets itself for the emancipation of women, which is not without good intention. However, there is a deeper challenge with respect to the problem of agency for feminism at work here and it is best articulated in the following words of Nivedita Menon –

“Women make choices, but they do not make them under circumstances of their own making. Often, women choose options that go counter to normative feminist values. What we face here is the contradiction between two core beliefs of feminism. One, the belief in the autonomy of women and their ability to act as willing agents; two, the simultaneous belief in the hegemony of dominant power-laden values that constrain the ‘freedom to choose’. That is, the values we consider desirable are not the dominant ones in society and therefore, the

¹⁸ Butler, Judith. Gender Trouble: Feminism and the Subversion of Identity. Routledge, New York, 1999, pp 182-187

¹⁹ Menon, Nivedita. Seeing Like a Feminist. Zubaan and Penguin Books, New Delhi, 2012, pp 145-146

²⁰ Thapan, Meenakshi. ‘Introduction’. Embodiment: Essays on Gender and Identity. Ed. Thapan. Oxford University Press, Delhi, 1997, p 11

freedom to choose most often simply reasserts existing dominant values which, from our point of view, are deeply problematic.”²¹

It is this vexing question of the ‘freedom to choose’, which can reinforce values which feminists have argued to be the reason of the continued subordination of women which interested me most, and which I wanted to investigate. After reviewing the literature above, there were certain questions I asked myself, which led me to take the concept of agency as a central category. If as an individual I acquiesce to certain structures that cause me to inhabit roles not as powerful as the other roles in the structure, is it because I have been so constructed by structures that I am incapable of making a reflective choice? And if not, is such acquiescence an example of my agency? In other words when feminists critique certain choices as women ‘choosing’ their own subordination due to the larger influence of structure, are they enabling women’s empowerment or victimising them further? What can be a potentially more empowering and yet feminist conception of agency?

Thus, it is quite evident that the opposite side of agency is the persistence of power. *Power of larger structures delimiting and controlling lives of people. But power has also been read as invested in the subject who exercises agency.* This is the most central conundrum of agency for women which feminism faces which probed me to take up an interrogation of the conception of agency in feminism by studying real life subjects. *How to transform the experience of power in women’s lives from being subjected to power to being a subject invested with power?* This research proposes to investigate the experience of agency for women within the context of marriage and family in India with special reference to the most visible and constraining form of patriarchal power – violence against women within the family, or what is more commonly referred to as domestic violence.

Objective and Research Questions

Based on the above discussion, it is clear that agency as a form of capability of human beings is essential to the freedom of human beings. The idea that we are individuals who are able to control the chart of our lives broadly if not absolutely is to say the least empowering. It gives us a sense of not being dependent, in this atomisation there is a strange liberation. But for subjects in history who have been divorced from this luxury, this self-

²¹ Menon, Nivedita. *Seeing Like a Feminist*. Zubaan and Penguin Books, New Delhi, 2012, p 212

determination and control becomes almost like a forbidden fruit or the lack of it becomes a handicap. So while it must be stated at this stage that the value superimposed on agency is as a consequence of the historical importance attached to it²² yet we cannot deny that in some way most of us have come to aspire to be a subject possessing agency. It is something which empowers us.

Drawing from the review of literature above and the kind of questions it left me to think with respect to the issue of agency, my ***broader purpose of taking up this research study*** is to look in to the potential of subjects exercising agency in the context of identifiable power restraining their scope for agency and structural constitution of their subjectivity into accepting a certain kind of identity.

And therefore, the ***prime objective of this research*** is to investigate the possibility of exercise of agency by subjects who are ordinarily considered to be disempowered. And due to the researcher's personal academic and activist interests the subject here chosen is the *gendered subject*. The ***broad theoretical and exploratory question*** of this study is - *How can we come to an understanding of a feminist conception of agency which will be able to impart women with a sense of agency?*

To pursue this broader exploration of a feminist conception of agency with respect to subjects constituted as 'women' who are structurally disempowered, and also to delve into the relationship with power and agency we sketched at the end of the previous section our narrower ***prime research question*** which has been examined in this dissertation is as follows – *How can subjects who are structurally considered as being disempowered exercise agency in the face of naked visible power?*

To address this question therefore for women who are structured as certain subjects through the institutions of marriage and family in India we have chosen the context of domestic violence – an extreme often brute form of power which keeps women as disempowered subjects in marriage, to enquire into how can women who are being subjected to domestic violence, exercise agency if at all that is a possibility in that context. With the above central question in mind, deriving from the broader objectives of this

²² Foucault while historicizing the idea of the subject has argued that it is modernity which has constituted us as subjects possessing agency in order to obscure our own subjectification. This constitution of subjects as agents is itself a form of exercise of power.

research outlined above, the sub research questions, that structure the content of this study are as follows:

- i. Theoretically, how can we derive a feminist concept of agency which is useful not just for the purpose of philosophical speculation but can also help us to understand agency of real life subjects?
- ii. What are the limitations of the concept of agency, due to constraints of structural constitution of the subject? How can these limitations be overcome?
- iii. How can we understand the constitution of women's subjectivity in the structures of marriage and family in India?
- iv. How does the institution of marriage in India define sexuality for women?
- v. What are the various ways in which violence against women within marriage and family is normalized and even legitimized?
- vi. What makes women accept abuse/ violence in marriages?
- vii. How do such women within marriages and families perceive their own selves – as individuals or do they have a different conception of their identity (or none at all)?
- viii. Can we understand women within marriage and family facing domestic violence to be agents, and if so what are the reasons for us to impute agency to them?
- ix. Is agency a question of only different contexts, supportive structures and situations or can there be some justification for locating the source of certain actions in the actor herself, the subject under study, the woman?
- x. How can abuse and violence within marriage be prevented in a different conception of identity outside the rights-based framework?

These research questions will be examined with content divided into three main chapters by employing the methodology outlined below.

Scope and Methodology

The scope of this study with respect to the concept of agency pertains to women in marriage and family in India as has been said above. The methodology employed to interrogate the subject of this study is to first study the different debates on the concept of agency, autonomy and the self in feminist as well as other scholarship by means of a literature review in the first chapter. The scholars cited include contemporary philosophers like Akeel

Bilgrami and Charles Taylor who deal with the question of human agency very centrally. Other scholars including feminists have been used who support these two scholars and add to them by way of offering a more complicated picture of agency. The structure-agency debate has been dealt with using Marxist scholars (Althusser-Thompson) with support from some other theorists before it is examined by feminists. Poststructural debates have been included as a response which have been further critiqued before we go back to liberal feminists for deriving a holistic feminist conception of agency.

The method of studying the structure of marriage and family in India is also by conducting a literature review of relevant works. Contemporary texts by sociologists, lawyers and historians have been selected that help in developing a picture of the structure of marriage and family in India with respect to material aspects like economic structure as well as ideological aspects like religion and law. The time period covered ranges from the time texts like Manusmriti or other Hindu religious texts were written, to the colonial state to contemporary times. The scope of the argument here is mainly with respect to women who are part of families belonging to the Hindu religion, however some observations with respect to minority communities have also been included. Nonetheless, the manner of analysis attempts to make an overall general argument about the structure of marriage and family in India with special emphasis on North India.

As has been reiterated sufficiently, the purpose of this study has been to interrogate the agency of real life subjects and the subject chosen for analysis is women who are inhabiting a kind of subjectivity which has been constituted by the institutions of marriage and family. For this purpose, I conducted primary field interviews in the city of Delhi. My respondents comprised of women who are domestic violence survivors. The nature of the interviews is semi-structured qualitative interviews, where I have a pre-meditated list of questions in mind but the style of the interview is conversational and in the case of my research, the interviews emerged as narratives of women's life stories who are either still facing violence in their homes or did so in the past.

I wanted to make a broad overall argument about the structure of marriage and family in India, even though I have already added the caveat that due to constraints of time and scope of this study I could focus mainly on marriage and family in the Hindu religion. But in order to test my overall argument about the structure of marriage and family I ensured that in my sample I cover a wider scope of respondents which covers caste, religious and

class diversity. I interviewed a total of twenty-two women out of which one respondent is Christian, three respondents are Muslim, two belong to the Sikh community and the rest sixteen belong to the Hindu community. There is caste and class diversity within the fourteen women who belonged to Hindu community.

In order to contact my respondents, I first contacted women's organizations who work at the ground level with women on various women's rights issues out of which domestic violence is one of them. Out of the many organizations I contacted I was fortunate to receive help and cooperation from three organizations – Jagori, Maitri and Action India who facilitated my interaction with domestic violence survivors. I was also fortunate to have a focus-group discussion with the women and the Mahila Panchayat para-legal workers present at a Mahila Panchayat meeting, which runs under the aegis of Action India. The geographical location of the respondents whom I contacted through the organization varies from resettlement colonies like Madanpur Khadar to areas like Jahangirpuri and South Delhi.

Since I wanted to investigate the question of agency of women who are facing domestic violence I kept in mind that I need to diversify my respondents from the ones who have the support structure of women's collectives and organizations. I wanted to look at the State response to women who face domestic violence and agency of women who are bereft of supportive organizations. I tried to get permission from State authorities which are in-charge of government shelter homes for women and the Crime Against Women Cell of Delhi Police. I received a positive from the latter. I got permission for field work at the Special Cell of Delhi Police for Women and Children at Nankpura. This helped me as a researcher to further go out of my comfort zone as I did not have activists helping me to get in touch with women. I had to approach women on my own and often they were very busy with the legal procedures of their complaint and much more under duress as compared to the women I met through the organizations. I received adequate support from the staff at the Special Cell, yet going to the Special Cell and interacting with women was much more of a challenging and learning experience for me as a researcher. It also helped me to incorporate some observations about the legal response to domestic violence victims and how does that impact my overall analysis. Moreover, it helped me to expand the ambit of geographical space covered in Delhi as women coming here belonged to different parts of Delhi.

I am aware that research on such a personal matter of women in the form of detailed narratives will raise concerns of ethics of research and that is why I would like to outline the measures I have taken to ensure as far as possible my methodology is ethically sound. Before interviewing the women whether I approached them through one of the organizations or independently at the Special Cell of Delhi Police, I explained to them about what I am doing and expressed my interest in talking to them about their experience. The ones who agreed to talk to me I took their consent in the form of written permission. There were some women who agreed for the interview to be audio recorded upon my request and those who did not agree I recorded their interview in the form of field notes. To protect the identity of the women, their names as well as the names of their husbands or relatives if at all used, have been changed whenever their cases are referred to for discussion and analysis. Their caste identity is also not revealed until and unless through the course of the interview they themselves wanted to reveal it to elaborate on some of the traditions and customs which constituted their situation.

In this entire process, the one difficulty I faced with respect to especially the women I approached on my own at the Special Cell is that of limitations of me as a researcher in ameliorating their situation in any form whatsoever. I could not offer them any concrete support nonetheless, with some of the women I could establish bonds of friendship, which if nothing were some source of emotional support for them. I am still grappling with the question of research making any meaningful intervention in the lives of women who agree to share their personal experiences with a researcher and must admit that I have not found a satisfactory answer to this. There is thus here a clear relationship of inequality and hierarchy between the researcher and the respondent, which is exacerbated when I take the liberty to not only write about their experience but also comment upon it. The manner in which I have attempted to curtail the impact of such a power relationship is by understanding their experiences with a conception of agency, which takes full cognisance of their own self evaluation, the restrictive and supportive structures around them with the intention of deepening the feminist notion of agency itself.

The manner in which the interviews are analysed is that they are divided into certain broader themes and similarities that are emerging out of groups of interviews in the light of concepts and categories that emerged from the first and the second chapter, in terms of the meaning of agency and the nature of structure of marriage and family in India. The

analysis within these sub-heads talks about the similarities and differences between the cases cited there. There is also intersectional analysis between different sections as the third chapter takes its course, which illustrates how different cases provide evidence of more than one category highlighting the complexity of the agency-structure interaction.

Chapter Plan

The basic chapter plan is quite evident from the scope and methodology explained above. However before going into the chapters directly I give a brief account of what each chapter entails.

The first chapter is centrally concerned with going over agency debates in order to understand what the concept of agency actually means and how should we define a feminist conception of agency. Starting with anchoring agency as originating in liberal political theory, the chapter goes into Akeel Bilgrami's conception of agency, which helps us to have a workable idea of agency by bringing in the importance of values to the constitution of agency very centrally but restricts itself to external reasons for restraints on agency. Moving on from Bilgrami, we raise critiques of liberalism's idea of the self by bringing in communitarian critique of Charles Taylor and feminist critique of Diana Tietjens Meyers. This section pushes us to take note of internal obstacles to agency by referring to other scholars like Gary Watson which lead us to the structure-agency debate first between Althusser and Thompson. We bring in Anthony Giddens to push Thompson's case for agency despite the presence of structures and bring in Taylor to look into the aspect of cultural relativism of structures. This puts forward the gender question very centrally and we look into feminists and their understanding of agency keeping in mind the structure-agency debate. Starting with Simone de Beauvoir's views on women's subjectivity we examine the debates between dominance feminists and the sex-radicals. To enrich the picture we move into the poststructuralist critique of the idea of subject which structuralists subscribe to. We investigate feminist interaction with the poststructuralist debate with Judith Butler as a central, and then examine some critiques of these feminists before finally attempting to explore a practical theory of feminist agency drawing from feminist theorists like Marilyn Friedman and Nancy Hirschmann.

The second chapter attempts to apply the structuralist arguments of Althusser to the structure and ideology of Indian marriage and family and investigates into the constitution of women's subjectivity which takes place within these institutions. It refers to some contemporary scholars like K.M. Kapadia, Prem Chowdhry and Flavia Agnes who have gone into the question of role of religion and caste in defining the structures of marriage and sexuality by referring to one of key ancient texts in this regard, i.e., Manusmriti. The definition of sexuality for women which emerges from the structure of marriage itself is probed to unpack its implications for the question of sexual regulation of women. The Brahmanical norms of marriage such as the indissolubility of marriage, customs like child marriage, polygyny and the social reform debates on the age of consent are examined to inquire into the constitution of women's sexuality and how it impacts women even today. From a focus on religion, we move on to an interaction between the State and religion, by probing the significance of the intervention of the Colonial State before we come to the modern Indian State. Some aspects of the Hindu Marriage Act (1955) are assessed to look into how religion and law interact to constitute the subjectivity of women while also analysing the impact of codification of religious norms as law. While these aspects constitute the nature of ideology of marriage, we interrogate into the material aspects of the structure of marriage and family, which restrain women through the writing of sociologists like Patricia Uberoi, Iravati Karve and Thomas Trautmann. These include economic disempowerment of women, kinship norms such as patrilocality, exogamy and endogamy in North India, which make women strangers in their own marital homes. The issue of role-definition and behavioural norms that place restraints on women's movements, are appraised alongside the hierarchy between wife-givers and wife-takers to portray an overall picture of economic control over women. The role of women themselves in perpetuation of the structure of marriage and family is assessed by looking at the dynamics of the relationship between the daughter-in-law on the one hand and the mother-in-law and the sister-in-law on the other. Towards the end an emerging conjugal relationship and the power structure within it is explored along with aspects like love marriages to assess the legitimacy of violence against women in families emerging from a concept of 'honour'.

The third chapter comprising of analysis of the field interviews delves directly into investigating the question of practice of agency by real life subjects by applying the understanding of the concept of agency from the first chapter in the light of the structural constitution of the subject in question in marriage and family, which we study in the second

chapter. The interviews are analysed under four broad themes based on similarities and differences between them. The first section looks into the exercise of agency by women in the light of support of women's collectives to women in distress. The next section examines the inter-relationship between the concepts of power and agency in the light of our prime research question of the possibility of exercise of agency by disempowered subjects in the face of extreme power. It also looks into the aspect of women's exercise of power upon women and how does it impact the concepts of agency and power. It assesses different supportive and restrictive structures around women and the different ways in which women choose to engage with the family. Sexual violence against women in marriage emerges as a central common theme across most of the cases which is interrogated in the light of culture and law with a brief assessment of the findings from the field on sexual agency of women. The last section explores the complex emotion of love and the possible bearings it has on women's agency in the family with special focus upon the conjugal relationship. Women's actions are analysed by assessing how well do they live up to standards of procedural requirements of practice of agency by an actor and not by the substance of their choices.

The concluding chapter offers an overall synthesis of the major conclusions of the dissertation grouped under certain broad themes while also touching upon the major research contribution of this study, the limitations of the study, directions for further research and overall comments on a meaningful feminist conception of agency.

Concluding Observations

Overall, this dissertation is trying to attempt to apply theoretical concepts to qualitative field work in order to answer the research questions stated as above. Through this exercise, the hope is that we may be able to try to bridge the gap between theory and reality for the purpose of feminist scholarship, which will meaningfully try to understand experiences of women who are engaged in battles against violence and injustice within structures of marriage and family. As well as we may be able to use theory productively to impart agency to disempowered gendered subjects.

Chapter 1: Introduction to the Concept of Agency

1.1 Introduction

The concept of agency has been investigated by philosophers, historians, social and political theorists for a long time now. But at all times the concern with the idea of exercise of agency has of course been rooted in a sense of a human self-wherein such agency could be anchored. What could we mean by this seemingly obscure power which rests within human beings? And why has it been the subject of intense study for such a long time? From the very first history which most of us read, about the early attempts of ‘man’ to control nature in order to make his survival more organized, i.e. the beginnings of inventions of tools we can sense a kind of action which is self-defined, self-determined, or in other words, the cause of which is located within the architect of the action or the actor himself.

Why should it matter to us whether this process which we understand as actions by individuals are self-driven or not? The very first hint of an answer which we can get to is the idea of control. To be sure most theorists and philosophers who have written about it read agency as a capacity which is squarely anthropocentric. And thereby emerge the *Homo sapiens*, superior to all other forms of living beings existing on earth. The source of this superiority initially rested on human beings’ capacity to discover the means of using land and other natural resources to sustain their livelihood. With the process of cultivation they learned to use nature’s potentialities to their advantage. In doing so, they were charting out the manner in which their lives could be more in keeping with what they wanted. In addition, they were controlling nature and were overcoming obstacles put up by nature in this attempt to tame nature. Through centuries then came the scientific and industrial revolution all leading up to a linear idea of progress – the betterment of life of man all of which helped man better use resources on planet earth. And alongside came the intellectual revolution which wrote about this man who was exceptionally engaged in building a more fulfilling life.

To be clear therefore, all the developments in history which have seen us evolve from the basic tools of Stone Age to the present highly industrialized society driven by technology

are very clearly considered the achievements of man whom liberal philosophy articulated in thought as the individual. The source of the individual's intellect and actions was considered to be reason or rationality which allowed the individual to weigh always costs and benefits for instance of any action he may undertake. This capacity of reason was assigned to all individuals by the liberals. The political ideal of freedom which came to be most valued and cherished as modernity came alongside the industrial revolution drew upon this inner source within the individual – that of agency. It is what offered the special status to humankind of being their own masters, and possibly even the architects of history. Of course at this time individuals were a euphemism for men. And this is where feminist critique made an entry into the intellectual and political world. However, it is not feminists alone who have critiqued the idea of a rational liberal individual who is vested with this mystical power of agency which can be exercised only with the aid of the faculty of reason. There are other scholars who have critiqued the liberal ideal of agency and gone beyond it to offer their own philosophical explanation of agency and self.

But before we go into a critique of liberalism's idea of agency it is first important for us to chart out briefly what are the important components of the liberal theory of agency and look at some other scholars who will help us to elaborate upon it further for us to come to a conception of agency which we can begin to work with. Then we will go into some other scholars like communitarians and feminists who have while retaining certain liberal conceptions have enriched them to make the conception of agency closer to the human experience. This will first help us to uncover a more inclusive meaning of what should we understand as agency which will be relevant for feminist theorization and analyses of the subject. This philosophical understanding which we will take up in the first section will make it imperative for us to discuss the structure-agency debate drawing from sources of social, political and feminist theory, and what kind of subjects does it talk about. In the final section, we would be discussing the poststructuralist debate briefly and what have feminists done with it and inquire into any other theoretical sources which we could look at which will deal with all the questions theorists have raised about agency. These three sections the researcher feels are important to address first the meaning of agency and then test it against the grain of challenges of structure and power with which it is confronted.

1.2 What is Agency?

As noted above, liberal political philosophy has gifted modernity the ideal of freedom as something which we constantly aspire to and which we consider desirable. It also located this freedom in a conception of the individual. This individual was the autonomous subject, capable of use of reason, who was a product of the tradition of Enlightenment. This subject was supposed to have a consciousness which had absolute power to constitute its own world.¹ Individuals were to be free agents who could take responsibility for their own actions, and thus who should have the freedom to decide the course of their own actions. The capability of reasoning was a skill which liberals argued this individual possessed which came to be their justification for making a case for as wide a space for individual freedom as possible without the interference of others. It is because individuals are endowed with reason, which implies a skill to think through and evaluate their choices, preferences and actions in an objective manner, that we can attribute responsibility to the actions performed by them.

This individual was also unique and different from all other individuals. The distinctiveness of all individuals was a special quality, which enabled the liberals to present human beings as units in themselves who could be looked at, as social entities independently. Such an understanding led the early liberals to portray the individual as unencumbered, one who is free from restraints or encumbrances from the outside world. This imparted a sense of self control to individuals as they could conceive of themselves as self-determined, despite inhabiting an environment which could possibly influence them in different ways. The idea of the unencumbered self therefore, helps us to locate individuals as the source of their actions, who consequentially possess agency. *It can be summarised therefore, that the most important components of the liberal idea of agency are reason, control, responsibility and the idea of the unencumbered self, which is rooted within the individual.* In order to further unpack the concept of agency, we will now look at Akeel Bilgrami's philosophy about agency, which being rooted in the history of fundamental debates on agency can offer us a more practical and workable understanding of agency.

¹ Kruks, Sonia. 'Gender and Subjectivity: Simone de Beauvoir and Contemporary Feminism'. *Signs*. Vol. 18, No. 1 (Autumn, 1992), pp. 89-110

In understanding agency most of the classic theorists traditionally agreed on a broad *conceptualization of agency which can be articulated as any actions of an individual which are not the result of external coercion.*² This was a reply given by Hume to the arguments of incompatibility between freedom and causality, as quoted by Akeel Bilgrami. Bilgrami himself proposed the idea of agency to mean that we can make a difference to the world by our actions which are caused by our own selves. Our actions should pass this test in any evaluative assessment before we can be understood to possess a state of agency.³ He also hints towards a relationship between our agency and the reasons for our actions as sparking up some kind of re-orientation about the debate between internal and external reasons⁴, however from his text it is very difficult to suggest that he has given importance to the treatment of internal reasons as much as he has given to external reasons. Because as we will see he accords practices of responsibility such as punishment, reward, praise and blame etc. as valid indicators of evaluative assessment. But are these social practices really capable of taking into account internal reasons for action?

Bilgrami writing on the history of the subject postulates the traditional argument as being dichotomous in two opposing directions. One claimed that freedom was indeed an illusion, since all events, including human actions are governed by causes. The other claimed that freedom of action was a real thing, and questioned the universal sway of causality. In response to this classic argument of the incompatibilist, Hume argued that only some causes, which have the property of being coercive are a threat to freedom.⁵ Thus, this implied, so long as actions of individuals are based on their own free will, they can be said to be agents who are free.

But this raises the question of how do we draw the boundary of coercion? According to Bilgrami, Hume did not give any answer to this conundrum. Is insufficient information before performing an action, existence of some sort of coercion? Or if not illustrative of coercion, is

² The idea of external coercion can be best understood by looking at Isaiah Berlin's take on his concept of negative liberty. "Coercion implies the deliberate interference of other human beings within the area in which I could otherwise act." Berlin, Isaiah. 'Two Concepts of Liberty'. David Miller ed. The Liberty Reader. Edinburgh University Press, Edinburgh, 2006, p 34

³ Bilgrami, Akeel. Self-Knowledge and Resentment. Harvard University Press, Cambridge, Massachusetts, 2006, p xi

⁴ Ibid, p xiii

⁵ Ibid, p 49

such a situation, a situation of an action which was not free? Different kinds of answers can come to mind while one thinks of what criterion does one use to decide which causes threaten our freedom and which do not.

Bilgrami, after posing the problem which emerges from the writing of Hume on freedom and causality, draws on an essay by Strawson, entitled, 'Freedom and Resentment' which he considers seminal to the understanding of freedom to explicate further the issue of agency. Strawson argues that actions can be called coercive or non-coercive based on our evaluative responses to the actions involved. Thus freedom in this sense would be a normative concept based on values we hold important to us.⁶ The sense with which Bilgrami takes Strawson's suggestion positively is that agency is a very basic concept in itself. Anything which explains anything else must be most fundamental than the concept it is explaining.⁷

It is this proposition which makes one feel, that trying to unpack agency is a futile exercise because agency is part of our very constitution, it cannot be reducible to anything else in this sense. But scholars like Foucault who believe in historicizing the subject reduce it to just an effect of the forces of power, and thereby find the idea of a core agency of the subject (which emerged with the political writings of Kant during the historical phase of Enlightenment) to be a fiction so to speak. If agency as an attribute of the subject is a historical phenomenon, surely there must be some explanation of it.

Bilgrami tries to break out from this problem by suggesting that the explanation of agency can only be something which is internal to it in order for us to have a non-reductive picture of agency. And that explanation is the reactive attitudes which are a product of the values within us.⁸ It is thus, based on our evaluative judgments that we are able to figure out a coercive cause from a non-coercive cause of an action. To understand better what Bilgrami is suggesting let us take a moment to think about how in our own everyday lives do we differentiate between actions as coercive or free. As surely, individuals and communities make

⁶ Ibid, p 51

⁷ Ibid, p 61

⁸ Ibid, p 62

these judgments in their own everyday lives whether or not philosophers write about them. Let us take an example here.

One girl A belongs to a metropolitan city like Delhi and has had the best opportunity for education in terms of economic support of her parents. But she never got much interested in studies. She would rather enjoy hanging out with friends or spending time relaxing in other things she enjoys. Soon she met a man she fell in love with and even though she wasn't in a hurry to get married she really wanted to be with him. So upon the advice of her family she got married. Another girl B, her friend, also having the same opportunity for education wanted to however make it as an actress. She was though good at studies but wanted to follow her heart to do acting. Her parents encouraged her to finish studies and thereby get a good job but did not support her wish to act. Ultimately, not able to do what she really wanted, she gave up on everything and married where her parents suggested. Now it is clear that neither of the two girls is working/economically independent. But as an outsider if one hears of their story one would say that girl A didn't work completely out of her own choice. Girl B wanted to work but her options were restricted. So she wasn't coerced to not work, but she was coerced to not do what she really wanted to do. So we offer sympathy to girl B if she cribs about not being able to make it on her own in life and if girl A does the same thing she may not be a recipient of our sympathy. Let's ask a further question here – on what basis did we make the judgment on who is coerced and who is not?

We made it on the basis of the value that everyone should be allowed to do in life what they enjoy. Girl A had every option, but what she really enjoyed was pretty much relaxing and her falling in love with a man is not being considered here as something which restricted her. And girl B even though, she had other options like getting corporate jobs; she wanted to do something which due to lack of family support she couldn't pursue. It is the value of cherishing what we do in life which allowed us to give some leeway to Girl B in concluding that her reason for not being economically independent can be understood to be partially coerced. As even though she had options to work she really didn't want them. Had she taken up one of the other jobs her family was supportive of, she would be economically independent but our judgment would still suggest that she was coerced into taking up that job. So in the end, both girls are married. But girl A is freely married, and girl B's marriage is not a free choice.

What we are doing here is making an evaluative assessment of external causes for two actions – a) not having economic independence and b) getting married, based on a value – one should be allowed to enjoy life as they want. Going back to what Bilgrami was saying we can now say with some clarity that what he meant really was that there are values which we are constituted of which generate certain stimuli responses amongst individuals on different actions. The manner in which an action is performed, our faculty of praise or blame which constitute our reactive evaluative attitudes for that action can be used to identify whether that action is free or coerced. Bilgrami explains this idea which he draws from Strawson through an example.

“Let us take, as an example, some action of some agent that is manifestly and uncontroversially injurious to another. Now, Strawson says, if our responses to these actions harbour evaluative reactive attitudes such as resentment or indignation (for actions that are not harmful but beneficial, the relevant reactions would have to be ones like moral admiration), then it is a sign that the actions are free, and the causes that caused them are non-coercive. If our responses to it are excusing or indifferent, ignoring their obvious harmfulness, then that is a sign that the actions are unfree, perhaps brought about by coercive causes.”⁹

This example succinctly gives us a workable understanding of how exactly our reactive evaluative attitudes to others’ actions help us determine whether their actions are coerced or not. In addition he also argues, “Our agency is constituted by the fact that our doings and thoughts are the justifiable targets of our reactive evaluative attitudes.”¹⁰ Thus we are agents because the actions which we do can be open to evaluation by others. That is the only manner in which we can impute responsibility to an action of an actor or an individual which as we saw in the beginning in one of the core components of the liberal idea of agency. On the other hand, an action can be evaluated only when we expect it to be a free action. Thus as subjects it is expected of us that what we do will be self-determined. As clearly nobody can evaluate the actions of a slave. From what a slave does perhaps his/her master can be evaluated but not the slave.

Thus self-determination as we see is a crucial part of agency. This is also the basic definition of autonomy as the feminist Marilyn Friedman describes it.¹¹ Thus while Bilgrami

⁹ Ibid, p 51

¹⁰ Ibid, p 267

¹¹ Friedman, Marilyn. *Autonomy, Gender, Politics*. Oxford University Press, New York, 2003, p 4

is rooting agency in a concept of evaluation – it is an evaluation by others of our actions. Another philosopher who believes agency can be understood by the concept of interpersonal evaluation is Gary Watson who understands individuals as agents as follows – “We are agents because (and insofar as) we shape our lives by the exercise of normative intelligence; we are answerable to interpersonal norms of criticism because our lives are in part reflections of this capacity.”¹² Thereby, even in his writing one can identify a sense of importance given to the normative and to interpersonal evaluation. This can be understood therefore as one of the aspects of agency which we can take as a benchmark while studying agency empirically with respect to real life subjects. Thus agents are those whose actions can be open to evaluation. Those actions are considered to be free which are not the result of coercive causes (any or all causes as obstructing freedom are ruled out here).

When we come to how Charles Taylor understands agency, and he will go deeper into the agent’s self evaluation capacity we will see why Bilgrami’s insight is quite limited. It can be more so because Bilgrami’s reactive evaluative attitudes to action cannot take into account the internal reasons for those actions. As Diana Tietjens Meyers argues – “Individual identities are inseparable from manifestations of internalized oppression...internalized, oppressive norms, can interfere with self-determination.”¹³ Therefore, there can be various reasons involving coercion which a third party making an assessment may not even be aware of. For that matter, different third parties making an assessment may perhaps not even be aware of external reasons of coercion. Although a solution to this in an academic study of agency is possible wherein the researcher should comment upon agency only with the complete knowledge of the case. However, we still need to probe deeper into the method which Bilgrami suggests for differentiating coercion from non-coercion – that of our reactive attitudes based on our values.

If we ask Bilgrami the question why is it that values are to be anointed such a prized status, he points towards certain other specific values, which make the very faculty of evaluation and judgment as explanatory of the concept of agency in subjects. He invokes the

¹² Watson, Gary. Agency and Answerability: Selected Essays. Oxford University Press, New York, 2004, p 2

¹³ Meyers, Diana Tietjens. Being Yourself: Essays on Identity, Action and Social Life. Rowman and Littlefield Publishers, Inc., Lanham, 2004, p xiv

human capacity for appreciation of the arts in order to defend his claim to the centrality of values for the human subject. Enjoyment of a novel or a painting as an aesthetic experience cannot occur without the exercise of our evaluative reactions, nor can we have full exchanges with others that constitute as friendship with them. Political reactions such as, criticism of the government on any particular policy, is also not possible without exercise of evaluative judgments.¹⁴ Though this kind of a reasoning of values does help us to conceive of the very idea of agency and why must it be considered as constitutive of at least a modern subject, this still leaves us with other questions about agency and the values behind it. We have understood why values are important, but we are yet to answer the question, who decides what values are, and how they are constituted.

Does each subject decide these values for the self? If not, what is the basis of these values? And if they are collectively constituted, is evaluation on their basis an exercise of agency? Adding to the argument already given by Strawson that freedom can only be understood as a normative concept, Bilgrami argues here that our values which can be justified by certain specific values are based in practices integral to our responsibility such as punishment, reward, blame, and praise.¹⁵ It is these practices and the values they are embedded in which help us in evaluating a responsible individual's actions. This is what practically helps us to understand agency according to Bilgrami. Drawing from Bilgrami's own example of evaluating an action injurious to others quoted above, let us explain it further by taking the case of two murders – both of the husbands by their respective wives.

I would take one example here to be of Kiranjit Ahluwalia's life¹⁶ wherein after years of domestic violence and abuse she one day accidentally ended up murdering her husband when she went to burn his legs. Even though initially sentenced for murder, after intervention of a woman's group she was granted release after about 3 years as her case changed the definition of being provoked for women who were victims of domestic violence. Let us take another fictional case where the woman murdered her husband as she was motivated to acquire his

¹⁴ Bilgrami, Akeel. Self-Knowledge and Resentment. Harvard University Press, Cambridge, Massachusetts, 2006, p 63

¹⁵ Ibid, p 74

¹⁶ Ahluwalia, Kiranjit and Rahila Gupta. Circle of Light: The Autobiography of Kiranjit Ahluwalia. HarperCollins Publishers Ltd, 1997

personal property. In the latter case, the court awards a full sentence of life imprisonment to the convicted woman. Clearly, the practice of punishment is making an evaluative judgment here of whether the act of crime was a freely committed act or not. The circumstances in which Ahluwalia committed murder were proved to be far from a free act of a responsible agent. It is in this manner that these practices help us in the evaluation of actions which Bilgrami is talking about.

Bilgrami therefore gives us a workable understanding of the concept of agency as concerned with differentiating between coercive and non-coercive actions of individuals based on our reactive evaluative attitudes to those actions, which are rooted in values important to us, which derive from practices of responsibility such as punishment, reward, praise and blame. It is the idea of evaluation of others and a sense of according responsibility to the agent which is the most important aspect of Bilgrami's conception of agency. However it is a conception which calls for a lot more explanation with regard to the question of the self who is supposed to be free from coercion, i.e. the subject. We now go on therefore to scholars who have offered a critique of the liberal idea of self and contributing to deepening the concept of agency.

1.3 Deepening the Liberal Idea of Self and Agency

Liberals presented the story of the unencumbered individual as a very neat picture which missed out on large parts of the actual picture. A large part of what follows in this chapter would elucidate this claim. Charles Taylor offers quite a comprehensive summary of this ideal of freedom which he understood as creating subjects of a modern consciousness disengaged from the world. In his own words –

“The ideal of disengagement defines a certain – typically modern – notion of freedom, as the ability to act on one's own, without outside interference or subordination to authority. It defines its own peculiar notion of human dignity, closely connected to freedom. And these in turn, are linked to ideals of efficacy, power, unperturbability, which for all their links with earlier ideals are original with modern culture.”¹⁷

¹⁷ Taylor, Charles. Human Agency and Language: Philosophical Papers I. Cambridge University Press, Cambridge, 1985, p 5

This idea of freedom does seem very attractive however. And that can be the reason behind the continued hold of liberal theory the world over. Defining for ourselves our own sense of human dignity – what can be more empowering than that? Taylor is therefore, one of the most sophisticated critiques of this liberal conception of the disengaged self. He himself says that we have far too long been deeply imbued into this disengaged identity to completely repudiate it. What is needed is a more inclusive understanding of the self and to iron out the illusory beliefs of liberal theory.¹⁸

Following Bilgrami and Watson’s conception of agency’s primary explanation being our reactive evaluative attitudes to actions of individuals, Taylor anchors the practice of evaluation within the individual to be understood as an agent. According to him – “Being distinctively human, is the power to *evaluate* our desires, to regard some as desirable and others as undesirable... Strong evaluation is concerned with the qualitative worth of different desires.”¹⁹ According to him it is this capacity from strong evaluation which differentiates human from animals. Strong evaluation which an individual will have to make will be strongly qualitative judgment between different sets of desires such as “noble or base, integrating or fragmenting, courageous or cowardly, clairvoyant or blind and so on”.²⁰ This kind of evaluation according to Taylor will become part of the very identity of the self. In other words, our self-reflection and evaluation will throw light upon who we actually are. And this capacity is what he differentiates from weak evaluation where there are options involved but perhaps not distinctions of worth of the contrasting desires. An example would be to decide the choice of one’s desert from a pastry plate, or to decide to take a holiday in north or the south.²¹

To understand better how Taylor’s position goes beyond the disengaged individual consciousness of modernity we can turn to the writings of a scholar, David Kim, where he is trying to reinterpret agency as being in stronger connection with the religious or the spiritual. He argues that on Taylor’s view, human agency is primarily a matter of moral judgments, deliberations and conduct. The self for Taylor, is a moral self, who is constituted through taking

¹⁸ Ibid, p 7

¹⁹ Ibid, pp 15-16

²⁰ Ibid, p 19

²¹ Ibid, pp 16-17

moral positions.²² This immediately introduces a sense of relativity into the concept of agency. In the sense that agency, is not complete, according to Taylor, if it is expected to adhere to a single criterion, such as the requirement of universalizing the maxims of one's actions, or some other monological approach.²³

Taylor suggests that people draw on moral and spiritual intentions while engaging in situations of actual choice. For Taylor, the moral includes, conventional approaches, such as the commitment to justice, respect for life, well-being and dignity of others. But it also pertains to that which underlies human dignity such as what makes life meaningful, fulfilling and worthwhile. Agency then, rests in the self who engages in strong evaluative acts of judgment about what is right or wrong, better or worse and so on, and involves a strong sense in the self about what it is to live a meaningful life. The agent engages in a mode of self-reflection, interpretation and evaluation when deliberating upon courses of action by determining the worth of their own desires. It is thus an exercise of will and choice, a matter of responsibility.²⁴

What Taylor is suggesting therefore, is the capacity of evaluation by the self itself, which makes the self a human agent. In this he is going beyond Bilgrami as he is through this exposition able to account for internal obstacles to freedom. Maureen Ramsay explains this point in the following words –

“It was argued by Charles Taylor that expressed desires may not be compatible with autonomy because, to be self-determining and agent has to be free from internal obstacles to significant action. If an individual acts because of impulse, obsessions or compulsions; through domination of lower-order desires or weakness of will or if their beliefs are the result of ignorance, misunderstanding or the failure of critical rationality, then they are not acting autonomously.”²⁵

Although her summarization of Taylor's viewpoint is quite representative of what he is saying but one distinction needs to be made. Taylor is talking about internal obstacles to freedom as rendering the individual with a very impoverished sense of freedom if the

²² Kim, David Kyuman. Melancholic Freedom: Agency and the Spirit of Politics. Oxford University Press, New York, 2007, p 24

²³ Ibid, p 24

²⁴ Ibid, pp 25-28

²⁵ Ramsay, Maureen. What's Wrong With Liberalism?: A Radical Critique of Liberal Political Philosophy. Liecester University Press, 1997, p 58

individual is unable to overcome them.²⁶ However, having a sense of a higher order freedom can be distinguished with a sense of actions of the subject to whom we attribute responsibility as being agentic or not. An agent might be leading a life lacking real freedom in Taylor's understanding, but does that mean his/her actions are not autonomous? Based on the reading of Taylor, it can be possibly concluded that he might be saying so because of the heavy weight he grants to strong evaluation which make human agents. And going against what our life purpose is in the larger sense even due to internal obstacles will diminish the sense of agency he may want human beings to be identified with.

A similar point has also been made by the feminist writer Diana Tietjens Meyers who echoing what Ramsay has said above writes – “There is need for an account of the difference between doing what one wants and one *really* wants. The autonomous self is not identical with the apparent self; it is an authentic or ‘true’ self. Autonomous conduct expresses the true self.”²⁷ This kind of theorization on obstacles to autonomy talk both about psychological impediments to acting autonomously as well as political ones in so far as the individual is unable to see the real self, due to a process of construction of the self in accordance with the dominant socio-political structure. While the second issue will be dealt in detail in the next section, it is not all-together out of context to talk a little bit about the psychological impediments which are acting as internal obstacles to the real self or real autonomy.

An individual could give in to their more base desires for instance by accepting a bribe for getting a task done. She may be against bribery but at that moment the offer was too tempting to be rejected and perhaps she accepted it as she thought it could be innocuous in the long run. Now would we call such an action not autonomous as the individual was not really acting to her true self? Let's take another case, for instance, I as an M.Phil researcher really want to write a great dissertation for my personal satisfaction, but when it comes to actually writing I often end up delaying deadlines a lot or I may feel my writing is not a reflection of my best capacity. My distractions let's say are impeding me to finish what I consider significant action, i.e. writing my dissertation. So in this case am I not an autonomous agent? In my

²⁶ Taylor, Charles. Philosophy and the Human Sciences: Philosophical Papers II. Cambridge University Press, Cambridge, 1985, p 227

²⁷ Meyers, Diana Tietjens. Being Yourself: Essays on Identity, Action and Social Life. Rowman and Littlefield Publishers, Inc., Lanham, 2004, p 3

understanding, it would be too much of leniency given to the above actors if we suggest that their actions are not autonomous because the moment we reach that conclusion we are not holding the agents responsible for their actions.

Gary Watson makes this point in a much better manner where with respect to cases of weakness of the will where we fail to act as we think best, he argues that “we treat these failures as more or less free. In going against our values, we act badly, so we are not victims.”²⁸ In arguing this he also makes a distinction between a weak agent who has lack of self-control as against a compelled agent.²⁹ It can thus be concluded with the aid of the idea of self-critical evaluation which both Taylor and Watson uphold that since our actions speak louder than our intentions our failures are to our best understanding something which can be understood as agentic. However, before we run to this conclusion there needs to be thorough analysis of external and internal factors which led to the 'failed' action. If the external factors weigh heavy upon the individual it is perhaps possible that the failed action did not constitute agency but was an example of compulsion. However, this will be an issue of structural impediment to agency which again will be dealt with in the next section.

So let us summarize first then at the theoretical level what would be a broad conception of agency which can serve as a yardstick for assessment of agency of individual subjects. Maureen Ramsay offers quite a synoptic view here, “Being an autonomous agent requires intellectual and mental capacities, self-awareness, self-control, discrimination between motivations and critical appraisal of socially conditioned beliefs, circumstances and possibilities.”³⁰ This definition talks about an agent, who has capacity for what Taylor understands as strong evaluation and can be held responsible for her actions whether they be strong or weak-willed. Thus she can be held accountable for her acts even though she may be surrounded by social conditioning. The last part of Ramsay’s idea of who is an autonomous agent requires us to go into our next section which is going to dissect the idea of social structure and conditioning acting as impediments to individual agency in a much more detailed form.

²⁸ Watson, Gary. Agency and Answerability: Selected Essays. Oxford University Press, New York, 2004, p 2

²⁹ Ibid, p 3

³⁰ Ramsay, Maureen. What’s Wrong With Liberalism?: A Radical Critique of Liberal Political Philosophy. Liechester University Press, 1997, p 60

As of now it is important for our purpose to know that the understanding of agency coming from the above scholars can be reflected in recent feminist writings on autonomy as well. Meyers who has adopted a style of writing which involves realist theory about women's lives talks about what she calls *autonomy competency* which characterize an agentic subject. It is a repository of well-coordinated skills which subjects use in everyday as well as in extraordinary situations. In her own words –

“By exercising autonomy competency, agentic subjects become aware of their actual affects, desires, traits, capabilities, values, and aims, conceive realistic personal ideals, and endeavour to bring the former into alignment with the latter. Autonomy competency sets in motion a piecemeal, trial-and-error process of self-understanding and self-reconstruction that underwrites a provisional authentic identity. Autonomous actions are those that enact attributes constitutive of one's authentic identity and actions that prompt development of one's authentic identity.”³¹

Keeping in mind the earlier difficulties we spelt out the so-called authentic self which is criticised to be a liberal fiction, the rest of Meyers' understanding of autonomy competency offers us quite a practical benchmark to summarize what majorly most of the theorists we referred to above are saying. A subject who has agency is one who is going to have awareness of certain desires, motivations which ultimately condense into aims and goals in life the subject has, and who is going to engage in critical self-reflection and evaluation of them on the basis of distinctions of worth and choose to follow those desires which will help the subject reach her goals. Whether she is successful or not, the very fact that she is drawing upon a set of values in making such reflections, constitute her actions as agentic and make her to be accountable and responsible. And thereby her actions can be open to interpersonal criticism to reactive evaluative attitudes of others which together will make complete sense of her agency. It is only when actions of responsible individuals can be evaluated by others that they can be assured they are responsible in the sense of being human agents. *This self-evaluation and social evaluation thus which is rooted in some values is constitutive of what we understand as agency.* Based on this understanding which involves the meaning of agency as being constituted by the dual evaluation, we can apply this understanding to the study of real subjects.

³¹ Meyers, Diana Tietjens. Being Yourself: Essays on Identity, Action and Social Life. Rowman and Littlefield Publishers, Inc., Lanham, 2004, p xvii

Thus so far, from the discussions of these various scholars who are talking about agency of the subject in general, it is clear that an idea of agency without being rooted in norms and values is difficult to be explained because agency is one the most basic concepts to our very constitution as subjects the way we imagine ourselves to be. These values however, are constitutive of our evaluative reactive attitudes which are based on practices of responsibility whose source can be traced to larger structures around the individual and the community. And this is precisely what the next section will help us study. It is important to study the source of these values upon which our definition of agency really rests. This enquiry leads us to the structure-agency debate which will articulate a different set of limitations to agency as feminists and other scholars have theorized which are necessary to complete the practical picture of agency of real subjects which we are attempting to study.

1.4 Structure vs. Agency

The challenges to the philosophical understanding of agency expounded above come from scholars who argue for a more rooted understanding of the subject in what has come to be understood as the structure. These scholars often have come into conflict with other scholars who want to affirm human agency in the subject. It is vital to understand the kind of objections raised by structuralists to the account of the agentic subject, not necessarily to give up on idea of human agency but to offer a more realistic picture of agency of actual subjects. One of the stalwart representatives of the structuralist argument is the Marxist theorist Louis Althusser.

In his well-known conception of the Ideological State Apparatus (ISA), Althusser is understood to be making a break from the classic deterministic position in Marxist understanding where there is a logical correlation between the economic base and the legal, political and social superstructure. What Althusser outlines as the function of this ISA can be also understood to be derived from a Gramscian concept of hegemony where the dominance of the bourgeoisie through the civil society is emphasised. Althusser argues that the dominance of the ruling class is aided much more by the ISA which constitutes of both public and private (which he identifies to be nothing more than a function of the bourgeois State) and consists of such institutions like educational institutions, the Church, family, political parties, media, trade

unions etc.³² This is the structure which will teach children at school about ‘good behaviour’, will teach workers about the attitude to be adopted towards work, will outline codes of morality, civic and professional conscience.³³ Thereby, it is fairly clear that Althusser is arguing that we as human beings, our beliefs, codes of conduct, our behaviour and everything that we cherish as valuable is a product of the ISA which is a tool of class dominance in the hands of the State which is controlled by the ruling class. He gives us evidence of this, when in spite of the fact that he concedes that the ISA is diverse and its unity is not immediately visible³⁴, nonetheless, “the ideology by which they function is always in fact unified, despite its diversity and its contradictions *beneath the ruling ideology*, which is the ideology of ‘the ruling class’.”³⁵ And in the function of this ideology is where he locates the constitution of ‘subjects’ –

“The category of the subject is constitutive of all ideology, but at the same time and immediately I add that *the category of the subject is only constitutive of all ideology insofar as all ideology has the function (which defines it) of ‘constituting’ concrete individuals as subjects.... As ideology is eternal...: ideology has always-already interpellated individuals as subjects, which amounts to making it clear that individuals are always-already interpellated by ideology as subjects, which necessarily leads us to one last proposition: individuals are always-already subjects.*”³⁶

In these words, what Althusser is trying to say in his rather obfuscating language is that the prime function of ideology which is derived from the collective ISA is primarily to constitute subjects and since according to Althusser, ideology has always existed, therefore whom we refer to as individuals have always been subjects since the time of their birth. He illustrates this point by alluding to the expectation at birth, the designation of gender of a baby boy/girl, the rituals at the time of birth all of which ensure that the individual to be born is already a subject of ideology, “this familial ideological configuration is, in its uniqueness, highly structured, and that it is in this implacable and more or less ‘pathological’ structure that

³² Althusser, Louis. “Ideology and Ideological State Apparatus: Notes towards an Investigation”. Lenin and Philosophy and Other Essays. Monthly Review Press, New York and London, 1971, p 97

³³ Ibid, p 89

³⁴ Ibid, p 97

³⁵ Ibid, p 98

³⁶ Ibid, pp 116-119

the former subject-to-be will have to 'find' 'its' place, i.e. 'become' the sexual subject (boy or girl) which it already is in advance.³⁷

This understanding of the subject as argued by Althusser, is something which feminists have drawn upon in explaining the social, educational and sexual subjection of women in particular. Feminists traditionally have understood women to be subjects who have been denied the opportunities for exercise of agency on account of the impediments of legal structures, cultural identity and moral norms which have shaped the identity of women, although with variations depending upon context. Thus, for Althusser, subject is one who is all the time inside ideology, even though when the subject herself might think that she is outside of ideology. All subjects are pre-structured as per the ideological structure they have to be embedded in. So while Althusser is making this argument for all subjects and has the ideology of the ruling class in mind, feminist argument makes similar propositions about a gendered subject who has been structured with respect to the ruling ideology of patriarchy or male dominance. However, in making this proposition, effectively, Althusser reduces the subject to a reductionist picture. So how is it then that certain women within the structure of patriarchy engaged in what came to be known as feminist writing and feminist political activism emerged in the first place? Was it all a function of another ideology to constitute a new subject? Such a subject could be a liberal rights oriented citizen subject one might argue. But the question here is of change. So while Althusser's proposition that we are at all times subject to some or the other ideology, keeping in mind the ISA is defensible, however the totalising and paralysing picture of a subject which he seems to be offering is not.

And that is where the other Marxist scholar, E. P. Thompson, while writing on the history of the working class and commenting theoretically on the Marxist concept of class struggle steps in. He accuses Althusser of evicting human agency from history which then becomes a 'process without a subject'.³⁸ The larger sense of the argument of Thompson is reaffirming the locus of change through history in the actions of human beings and looking at experience as an important epistemological category to study this. He understands experience as 'the social

³⁷ Ibid, p 119

³⁸ Thompson, E.P. The Poverty of Theory and Other Essays. Merlin Press Ltd. London, 1978, p 89

being's impingement on social consciousness'.³⁹ Experience and practice for him is what determines the reproduction of the mode of production or modification within it and it is what gives life to our thought and values. The point is not that he is totally dismissive of structures. He on the contrary, is arguing that Althusser is talking about structures as *closure*, unwilling to identify the open-endedness of structured processes.⁴⁰ For instance, he writes that class formation occurs at "the intersection of determination and activity: the working class 'made itself as much as it was made'"⁴¹ Thus while recognising the role of structures Thompson is at the same time making a case for human agency. History if we go by the Thompsonian point of view would not be comprised simply of events in which human beings had practically no role to play. His idea of agency, even though is rooted in the Marxist anthropocentric perspective of 'man', is very important for our understanding –

“Economic changes impel changes in social relationships, in relations between real men and women; and these are apprehended, felt, reveal themselves in feelings of injustice, frustration, aspirations for social change; all is fought out in the human consciousness, including the moral consciousness. If this were not so, men would be – not dogs – but ants, adjusting their society to upheavals in the terrain. But men make their own history: they are part agents, part victims: it is precisely the element of agency which distinguishes them from the beasts, which is the *human* part of man, and which it is the business of our consciousness to increase.”⁴²

This kind of idea of agency which looks at individuals as part agents, part victims reminds us of Gary Watson's writing cited in the previous section and can be very useful for understanding gendered subjects. Moreover, Thompson articulates an essentialist understanding of agency with respect to human beings. Thereby, he makes a case not just for the desirability but absolute necessity of agency to the dignified existence of human beings. So even though Thompson can be indicted for being too harsh to Althusser and perhaps ignoring the possibility space of resistance within the Ideological State Apparatus he offers⁴³, his critique of Althusser is a pertinent and significant critique to be kept in mind for structuralist

³⁹ Ibid, p 4

⁴⁰ Ibid, p 98

⁴¹ Ibid, 106

⁴² Thompson, E.P. Socialist Humanism (An Epistle to the Philistines). The New Reasoner, No.1, Summer 1957, pp 105-143

⁴³ Althusser argues in his essay (Ideology and Ideological State Apparatus: Notes towards an Investigation, p 99) that the ruling classes find it more difficult to lay out their power in the ISA because it is also the site of the resistance of the exploited classes who find means and occasion to express themselves there.

positions which can ultimately lead to denial of the agency of the human subject and reduce her to an agent of structure and ideology. Thus Thompson, by no means can be argued to be talking about some kind of an unencumbered or disengaged human agent. He is very much aware of the co-constitution of structure and human experience.

Moving on from Thompson's intervention on making a case for human agency in understanding change in history to critique a structuralist like Althusser, Anthony Giddens is another important scholar whose intervention highlights the importance of looking at agency in the context of social structure. In spite of this he identified the proper unit of analysis of action as the acting self, the person.⁴⁴ Let us look at how Giddens understands agency –

“I shall define agency as the stream of actual or contemplated causal interventions of corporeal beings in the ongoing process of events-in-the-world. The notion of agency connects directly with the concept of Praxis, and when speaking of regularized types of act, I shall talk of human practices as an ongoing series of ‘practical activities’. It is analytical to the concept of agency: (1) that a person ‘could have acted otherwise’⁴⁵ and (2) that the world as constituted by a stream of events-in-process independent of the agent does not hold out a pre-determined future.”⁴⁶

From this we draw the understanding that although Giddens understands that action to be free, the causality of which is rooted in the agent herself, but the very fact that the corporeal beings are acting in the ongoing process of events of the world, explicates that agent causality involves interaction with what in other words we may understand to be external reasons, acting as causes to the action of the agent. Based on his argument it is clear that he is challenging a kind of structural determinism wherein, actions of the agents are said to be caused by certain events which are external to the control of the agents themselves. This can be further illustrated by Giddens own statement, “Action is caused by an agent's reflective monitoring of his or her intentions in relation to both wants and demands of the ‘outer’ world. . . ‘Determinism in the

⁴⁴ Giddens, Anthony. New Rules of Sociological Method, 2nd Edition._Stanford University Press, Stanford, California, 1993, p 80

⁴⁵ Critiquing this formulation Akeel Bilgrami in Self-Knowledge and Resentment (2006) has argued that the dictum of ‘could have done otherwise’, in itself does not help us in any way in understanding agency, as the assumption behind that the subject could have acted In another way is that the cause of the action was non-coercive. And in understanding and differentiating between situations where the subject could or could not have acted otherwise we at the end of the day are employing the faculty of judgment using our evaluative attitudes. (pp 69-70)

⁴⁶ Giddens, Anthony. New Rules of Sociological Method, 2nd Edition._Stanford University Press, Stanford, California, 1993, p 81

social sciences then refers to any theoretical scheme which reduces human action solely to ‘event causality’.”⁴⁷

This formulation can be said to be quite an appropriate explanation to the puzzle about agency and reasons for action. From what Giddens says one way to differentiate between coercive and non-coercive causes is to focus on the reflective monitoring of an agent’s action performed by the self. If reflective engagement by the subject is involved in making a decision or exercising a choice, it can be understood to be an action based in agency. Because there will be no action which will have no external considerations. The point is whether the individual is reflexively engaging with the external causalities or not. So can we conclusively thus argue that the values and moral positions which Bilgrami and Taylor respectively, base agency of the individual in, are coming from the social structure and individuals mediate through them in performing their actions? The following statements by Giddens will help us realize that since there is no such independent thing as structure outside human activity, the values which are constitutive of agency according to Bilgrami and Taylor may well be argued to be interwoven between the structure as well as the agent –

“Every act which contributes to the reproduction of structure, is also an act of production, a novel enterprise, and as such may initiate change by altering that structure at the same time as it reproduces it – as the meanings of words change in and through their use.”⁴⁸

This kind of dialectical relationship between the individual subject and the structure has profound implications for creating space for agency for the subject, by the very possibility of making the subject the source of construction of the structure. However even if we admit that there this two-way relationship of co-constitution going on between the subject and the structure and values cannot be separated from it, there is one more question about values which needs to be addressed which also raises a question about structure.

Are values and structures uniform across regions and cultures? Certainly, we do not need a cultural studies scholar to tell us this is not the case. This is one of the important differences between the position of Taylor and Bilgrami with respect to how they look at values. Taylor is comfortable with the relativity of values which surround the individual based on which they

⁴⁷ Ibid, pp 91-92

⁴⁸ Ibid, p 134

are undertaking judgments. Bilgrami on the other hand, does not believe in a relativistic attitude to values. Surprisingly enough making a comparison of values with the various theses which natural sciences defend, he argues that even these claims are rooted in a particular theoretical framework and hold good during that time, until such time that they are falsified. If this, does not force relativism in science, there is no need to assume that it would be so in the case of values.⁴⁹

But Taylor on the other hand, is arguing against any kind of universalism in values, in order to affirm the diversity of identity.⁵⁰ In spite of this, he is aware of the problems such a relativist position will throw up and does lament the effects of moral pluralism which diminish the power, intensity and clarity what lies behind widely held commitment to such ideals as social justice. This lack of clarity about fundamental goods results in moral tentativeness which leads to weakening of agency and the possibilities of living a good and meaningful life. However this does not lead him to be in favour of any one particular idealized representation of the good.⁵¹ This crucial difference between the two which is coming from the fact that Taylor is a communitarian⁵² really creates a puzzle about the evaluative judgments regarding coercive and non-coercive actions. If there are different conceptions of the good, there will be differing viewpoints on what is coercive and what is not. In that case, it is also possible that a cultural difference can attribute agency to one action, and the same can be understood to be a coerced action in another setting. For instance, women not going out of their homes late into the night can mean according to a certain perspective enhancing freedom of women, however

⁴⁹ Bilgrami, Akeel. Self-Knowledge and Resentment. Harvard University Press, Cambridge, Massachusetts, 2006, pp 82-83

⁵⁰ Kim, David Kyuman. Melancholic Freedom: Agency and the Spirit of Politics. OUP, New York, 2007, pp 27-28

⁵¹ Ibid, p 32

⁵² Taylor considers that though the community is also constitutive of the individual but the human being is inconceivable in the absence of the community. The self-interpretations which define the individual are drawn from interchanges with the community which should not be considered as merely an aggregation of individuals. Moreover, the language for the self-evaluations of individuals is also very much rooted in the community. (Human Agency and Language: Philosophical Papers I. Cambridge University Press, Cambridge, 1985, p 8) Thus it is reasonable to conclude that for Taylor values which play a significantly central role in determining the concept of human agency are derived from what he calls 'background distinctions of worth' which are rooted in linguistic expression as articulated within a particular community. Without this contextualisation thus, it would be impossible to study even individuals.

the same can mean for another shade of opinion violation of due equal rights between men and women.

Taylor's argument from the Sources of Self, which David Kim is citing which contextualizes agency as occurring only in shared meaning with others⁵³ is an extension of his communitarian argument which does not help us to deal with the relativity conundrum. His suspiciousness about the alienating effects of secularization push him to argue for an enhanced concern for moral values. But the very fact that these moral values which are most of the time coming from community mean that the yardsticks for evaluation will be different for men and women. A moral concern for women in most societies has often meant that they have had to compromise on their freedom. Morality of a good wife or a good daughter became the evaluative yardsticks on the basis on how their actions were judged as right or wrong. This brings us to look at the feminist debate on the interaction of structure and agency in order to unpack the gendered subject, which we are primarily concerned with in this research.

1.5 Feminists and the Structure-Agency Debate

The concept of cultural relativism in values coming from Taylor's writings drew out attention closer to the situation of the subject who has been understood as 'woman'. It is the kind of values which oblige women to conform to higher degree of moral standards coming from the structure which have led many feminists to take up the position that structural constraints have led to almost total obliteration of agency for women. While it could be argued that feminists of differing opinions and at different points of time in history have all ultimately diverted their energies to the liberation of women and thus could not have wanted anything but an increasing agency for women, the fact of the matter is, the analysis of agency within feminism is heavily rooted in an understanding of what constitutes oppression of women, and how can we understand the identity of the subject.

One of the most interesting texts to go back to in this regard is The Second Sex by Simone de Beauvoir which is considered to be the inspiration behind the Second Wave feminist

⁵³ Ibid, p 31

movement. Beauvoir though at the time she wrote The Second Sex was not explicitly a committed feminist, but her text is important as her writing was directly influenced by existentialist philosophy explicated by Sartre. Her text when looked at with Sartre's conception of autonomy offers a much more nuanced understanding by what Sonia Kruks understands to be situated subjectivity.⁵⁴ She argues that for Sartre the subject was absolutely autonomous, unconditionally free and unequal relations of power had no bearing on the autonomy of the subject.⁵⁵ As against Sartre, Beauvoir as she was writing on the lives of women could not have taken such a blindfolded view on inequality and its impact on the subject. So on the one hand while for Sartre the "slave is as free as his master" because each is equally free to choose the meaning he gives to his situation⁵⁶, for Beauvoir the very opposite is true,

"In the master-slave relation, the master does not posit the need he has for the other; he holds the power to satisfy this need and does not mediate it; the slave, on the other hand, out of dependence, hope or fear, internalizes his need for the master; however equally compelling the need may be to them both, it always plays in favour of the oppressor over the oppressed."⁵⁷

The two arguments when put next to each other are reflective of how much of an advance was Beauvoir's analysis over that of Sartre. She is clearly differentiating between social relations between equals and unequals⁵⁸ where with respect to the latter; one section undergoes subjection and is not free in the same measure as the other section of society. Beauvoir by a thorough critique of sciences like biology, disciplines like psychology and the theory of historical materialism brings out a certain constructed notion of femininity which is imposed upon all women and reaches the famous conclusion – "One is not born, but rather becomes a woman."⁵⁹ This quote changed the way feminists looked at the question of women. It helped situate women and their upbringing in circumstances which were often out of their control. Thus women's actions could not be understood independently of their situation and an abstract

⁵⁴ Kruks, Sonia. 'Gender and Subjectivity: Simone de Beauvoir and Contemporary Feminism'. Signs. Vol. 18, No. 1 (Autumn, 1992), pp. 89-110

⁵⁵ Ibid, p 96

⁵⁶ Ibid, pp 96-97

⁵⁷ Beauvoir, Simone de. The Second Sex. Translated by Constance Borde and Sheila Malovany-Chevallier. Vintage Books, London, 2011, p 9

⁵⁸ Kruks, Sonia. 'Gender and Subjectivity: Simone de Beauvoir and Contemporary Feminism'. Signs. Vol. 18, No. 1 (Autumn, 1992), pp 100-101

⁵⁹ Beauvoir, Simone de. The Second Sex. Translated by Constance Borde and Sheila Malovany-Chevallier. Vintage Books, London, 2011, p 293

universalism would not be relevant to the subjectivity of women. She gives examples of the burden of marriage, pregnancy and the responsibility of managing housework along with childcare in addition to expectations of juggling all this alongside their work life which makes women's lives much more difficult than men.⁶⁰

This does not mean however, women were not capable of freedom. Rooted as she was in existentialist philosophy, freedom was a very important ideal for Beauvoir, where every subject posits itself as transcendence concretely, through projects; it accomplishes its freedom only by perpetual surpassing towards other freedoms.⁶¹ Her philosophical orientation is thus sliding her towards a moral judgment in favour of the value of autonomy as the most important constituent which grants subjectivity to the individual. For the condition of women she posed the argument as a struggle between transcendence and immanence for the subject.

“Every time transcendence lapses into immanence, there is a degradation of existence into ‘in-itself’; this fall is a moral fault if the subject consents to it; if this fall is inflicted on the subject, it takes the form of frustration and oppression; in both cases it is an absolute evil. What singularly defines the situation of women is that being, like all humans, an autonomous freedom; she discovers and chooses herself in a world where men force her to assume herself as Other: an attempt is made to freeze her as an object and doom her to immanence.”⁶²

Thus it is a moral fault if the subject herself chooses subservience because the ultimate goal of all individuals has to be to aim to transcend their present circumstances, to keep successively moving towards a higher degree of freedom. However she admits that women “need to expend a greater moral effort from the male to choose the path of independence.”⁶³ She outlines the role temptation plays on in luring women into the bourgeois life of ease and security at the expense of her freedom and acceptance of docility and subjugation. It may be fair to recollect here what Gary Watson said about weak-willed subjects in the first section and how our failures need to be attributed to us as agentic subjects also. However, what we are trying to do here by drawing attention to works like Beauvoir is the fact that in the case of women, the temptation of giving up freedom was too structurally embedded in her life, and the training that she went through as a subject was too meagre for her to be able to see through it

⁶⁰ Ibid, p 155

⁶¹ Ibid, p 17

⁶² Ibid, p 17

⁶³ Ibid, p 158

under ordinary circumstances. Therefore the era of abstract rights she argues did not make things better for women; rather it gave the male society an excuse for blaming women for their failures, for not being able to perform *in spite of the rights* given. She described this as a sense of false emancipation – “possessing, in a world where men are still the only masters, nothing but empty freedom: she is free ‘for nothing’.”⁶⁴ What she is thus arguing is that most of the times in the case of women she is forced into immanence. It is a vicious cycle for her as the responsibility of motherhood and domestic labour have locked into repetition, “day after day it repeats itself in identical form from century to century; it produces nothing new, Man’s case is radically different.”⁶⁵ Thus the inability to act on something unique which could be an example of individualism was not available to women. Beauvoir however, it can be argued ignores the connections between the condition of the working classes and women when she makes the point about immanence and can be accused to be ignoring the case of working class women thereby to some extent. The entire public sphere is not characterised by transcendence. Beauvoir’s work thus, supposedly can be argued makes an unnecessary distinction therefore between the public and private. Nonetheless, it is useful to look at how Beauvoir understands subjectivity for women –

“Men’s economic privilege, their social value, the prestige of marriage, the usefulness of masculine support – all these encourage women to ardently want to please men. They are on the whole still in a state of serfdom. It follows that woman knows and chooses herself not as she exists for herself but as man defines her. She thus has to be described first as men dream of her since her being-for-men is one of the essential factors of her concrete condition.”⁶⁶

Thus women are not able exist as independent subjects for themselves as society privileges them and punishes them as per their relationships with men. The social exclusion of the single woman is a case in point here. However, women even though are marked out as the absolute Other, later on while discussing actual lived experiences of women, Beauvoir argues that women then begin to attempt to authenticate their existence in their present circumstances. She could try to devise ways to get her ways in her role even as the other. A nagging wife, for instance, who could try to use differing tactics to pressurize her husband to give her the due attention, is one of Beauvoir’s examples in this light. This kind of strategy is reminiscent of

⁶⁴ Ibid, p 106

⁶⁵ Ibid, p 75

⁶⁶ Ibid, p 159

James Scott's extrapolation of peasant everyday forms of resistance against landlords such as not performing to their potential in order to make the landlord suffer losses. For Beauvoir, women often begin to sometimes detach themselves from their *identity as women or more so heteronormative women* in order to reach the goal of transcendence. But that is not to suggest she has no scope for any agency. Very often the complicity of women can be explained by the fact that freedom is too great a burden to be born. "Along with the economic risk, she eludes the metaphysical risk of a freedom that must invent its goals without help."⁶⁷

Thus the above arguments of Beauvoir, not only perform the task of outlining a situated subjectivity for women, and devising a way out of the abstract autonomous individual who could be the subject of agency, they also open us to the possibility of exercise of agency in circumstances of suppression, and they also cast doubts upon the willingness of subjects to partake in exercising agency because of the great risk it exposes them to. And since Beauvoir has argued that the construction of subjectivity though an individually lived experience is constituted as well as constituting, it can be concluded that oppression of any kind affects more than its immediate victims and that liberatory struggles need to be collective.⁶⁸ Thus it is power of a collective struggle or what many feminists have termed as the desired collective resistance which can impart agency to the individual. But this does not rule out struggle at the individual level.

This however was to be questioned by the radical feminists who came to be associated with what came to be termed as dominance feminism. This intellectual current was a challenge to the assumption of a liberal autonomous subject seen even among women, quite insensitive to the challenge of constructions and structure which obstructed any room for self-directed action. This came to be a raging battle between feminists who posited themselves on opposite sides of the debate and came to be known as the feminist sex wars. The dominance theorists most centrally represented by Catharine Mackinnon and Andrea Dworkin while emphasizing a thoroughgoing social constructivism and the systematic character of women's constraint confronted the assumptions of the unimpaired agency that restricted recognition of women's

⁶⁷ Ibid, p 10

⁶⁸ Kruks, Sonia. 'Gender and Subjectivity: Simone de Beauvoir and Contemporary Feminism'. *Signs*. Vol. 18, No. 1 (Autumn, 1992), p 104

oppression. They highlighted the way choices subjectively experienced as free may reflect women's collusion in their own subordination.⁶⁹

These arguments increasingly began to build an all encompassing structure of dominance around women which constructed their sexuality into accepting and moreover even desiring a passive role. Desire therefore, lost all meaning being a product of the social structure. The scholars here had a front most priority of working towards eliminating violence against women. And violence they argued completely annihilated any space for the romantic fiction of autonomy and agency which the sex radicals often assumed. Dworkin for instance argued that being battered, or rather occupying the epistemological position of one who is battered, locates one in a space where consent is not possible. Thus female subordination erases agency.⁷⁰ This position strikingly reflects Althusser's interpellation of subjects by ideology with the only difference that due to violence being practiced one can argue that the Ideological State Apparatus of family here is being buttressed by the Repressive State Apparatus of the family, i.e. of violence against the woman.

The sex radicals, on the other hand like Carol Vance believed in emphasizing the myriad expressions of women and worked around an ideal of pleasure as emancipatory for women. They refused to acquiesce in the images of powerlessness which according to most of them sometimes had the negative function of actively constructing a passive female subject by repeatedly emphasizing the shackles under which women were trapped. Many of them, moving away from only an emphasis on pleasure, actively affirmed and utilized the existing agency of women and argued that women respond to sexual coercion with vigorous individual resistance.⁷¹ It was subordination of pleasure with an exclusive focus on danger which deprived women of a very important source of self-understanding resistance to dominant norms of code of conduct.⁷² They were articulating a subject whose agency emerges in the backdrop of sexual repression. Important examples of agency included resistance to rape as a tool of sexual

⁶⁹ Abrams, Kathryn. 'Sex Wars Redux: Agency and Coercion in Feminist Legal Theory'. *Columbia Law Review*. Vol. 95, No. 2 (Mar., 1995), pp. 304-376

⁷⁰ Grant, Judith. 'Andrea Dworkin and the Social Construction of Gender: A Retrospective'. *Signs*. Vol. 31, No. 4 (Summer 2006), pp. 967-993

⁷¹ Abrams, Kathryn. 'Sex Wars Redux: Agency and Coercion in Feminist Legal Theory'. *Columbia Law Review*. Vol. 95, No. 2 (Mar., 1995), p 330

⁷² *Ibid*, pp 311-312

oppression. Responses to a rape attempt that reject the female posture of fear, paralysis and submission may disrupt the enactment of the rape script in the individual instance and weaken its power as a social construct.⁷³ However Abrams points out that this kind of a focus on resistance often led to falling back upon women in legal discourses where the absence of resistance was taken as evidence of absence of rape⁷⁴, and which fell back into victim-blaming keeping intact the overall discourse of a free and responsible subject. Thus while on the one hand, hegemonic interpretive discourses, exerting power in society affected the lives of women in a range while at the same time, many feminists were intent on preserving a room for the subject to move within the constraints imposed by these hegemonic discourses.⁷⁵ Thus there is a relationship between the determinism of discourses and the activity of women if we were to understand women as subjects in the words of Thompson.

What we need to understand here is that actions performed by women all the time are choices they make. But the real question is how we can determine whether choices are free and a reflection of agency. How can we say that one woman wearing a hijab is free and another merely internalizing the choices of her community and her religion? Moreover, juxtaposing the criticisms of the G-string in westernized societies and the headscarf in Islamic societies raises difficult questions about women's agency and autonomy.⁷⁶ It has been well established by now that there will be overarching social structures shaping the choices of women. Within this structure however, exactly how can we differentiate women's actions as autonomous and imbued with agency or as being coerced? It will be apt here to look at some of the poststructuralist debates on the subject and agency and the intervention of feminists therein.

⁷³ Ibid, p 341

⁷⁴ Ibid, pp 342-343

⁷⁵ Bacchi, Carol. 'Discourse, Discourse Everywhere: Subject "Agency" in Feminist Discourse Methodology'. Nordic Journal of Feminist and Gender Research. Vol. 13, No. 3, December 2005, pp 198–209

⁷⁶ Gill, Rosalind. 'Critical Respect: The Difficulties and Dilemmas of Agency and 'Choice' for Feminism: A Reply to Duits and van Zoonen'. European Journal of Women's Studies. Vol. 14 (1), 2007, pp 69-80

1.6 Post-structuralism and Feminist Interventions on the Subject and Agency

Poststructuralist theory derived in large measure from the writings of Michel Foucault denies any agency to the subject, who is simply constituted by the different discourses to the extent that the language of choice is then a function of the power of discourse in ensuring a disciplined subject. In this understanding the actions of the subject therefore are witness to nothing but what in reality is to be understood to be a forced or a constructed choice. One might argue that even though Althusser is understood to be a structuralist, his arguments on interpellation and ideology are what poststructuralist scholars are building upon. The crucial difference is however, that poststructuralist scholars are aware of the different discourses which might be in operation at a point in time and the subject who is thus constituted differently in these different discourses is fragmentary rather than a humanist sense of a continuous self. The problem with poststructuralism and deconstruction in turn, Diana Coole argues that effectively in arguing for the invalidity of a claim for identity it makes progressive claims of politics on the basis of identity difficult.⁷⁷

However there are defenders of the poststructuralist methodology like Foucauldian scholars who always thoroughly historicise every such discourse which the subject is embedded in, to make the subject aware of her own multiple constitution. And as Davies argues, poststructuralist theory, quite unlike Althusser, offers the possibility of “speaking/writing subject who can use some of the understandings of the poststructuralist theory itself to regain another kind of agency.”⁷⁸ The ability to recognize the impact of discourses upon the subjectivity of the self and to move across different discourses with a self-critical approach can be a way to counteract these discourses. Therein lays the capacity for agency.

⁷⁷ Coole, Diana. ‘Constructing and Deconstructing Liberty: A Feminist and Poststructuralist Analysis’. Political Studies, (1993), XLI, pp 83-95

⁷⁸ Davies, Bronwyn. “The Concept of Agency: A Feminist Poststructuralist Analysis”. Social Analysis: The International Journal of Social and Cultural Practice, No. 30, Postmodern Critical Theorising (December, 1991), pp. 42-53 (p 46)

The writings of Judith Butler are one of the most fundamental interventions of poststructuralist theory in this quagmire between structural power of construction and agency of the subject. She attempts the issue from a fundamentally different standpoint which helps us understand the interrelationship between power and agency.–

“I have tried to understand what political agency might be, given that it cannot be isolated from the dynamics of power from which it is wrought. The iterability of performativity is a theory of agency, one that cannot disavow power as the condition of its own possibility...There is no political position purified of power, and perhaps that impurity is what produces agency as the potential interruption and reversal of regulatory regimes.”⁷⁹

This position is arguing that power instead of being looked at as completely antithetical to agency of the subject, is rather something whose pre-condition makes possible agency as the potential which creates ruptures in its exercise. Thus because there exists something which is trying to determine our actions and deeds, do we have a chance of acting in a manner otherwise. Would freedom as a value mean anything if we could not imagine a situation of its absence? The ideal of freedom thus, has been posed in opposition to something – structures of power or domination. In this sense, relationships of power are essential to an imagination of agency.

Butler has further argued that the subject can be denied agency in the constructivist framework only when there is the assumption of an original subject lying behind such construction. She argues that such perspectives are mistaking constitution for determination.⁸⁰ Gender for Butler is constituted through a series of repetition of performative acts; agency then is the possibility of variation in that repetition. *Construction thus is not opposed to agency; it is the necessary scene of that agency, the very terms in which agency is articulated and becomes culturally intelligible.*⁸¹

While Butler in the above argument while questioning the idea of a particular constructed subject is arguing for a symbiotic relationship between power and agency, another proposition one can make based on this argument is that agency is the pre-condition for the exercise of

⁷⁹ Butler, Judith. Gender Trouble: Feminism and the Subversion of Identity. Routledge, New York, 1999, pp xxiv-xxvi

⁸⁰ Ibid, p 182

⁸¹ Ibid, pp 185-187

power. Nancy Hirschmann makes a related argument with the concepts of consent and authority writing about the social contract theory of Locke. Talking about the logic of contract she argues that from this perspective, obligation necessarily arises out of free will. If I am free above all else I can only be bound by my own agency.⁸² Thus it is only through my own free will that I can be brought to agree to some obligations. A related point has been made by Beauvoir in this regard when she says that a husband would more likely prefer that a wife agree with him out of her own volition rather than him coercing her into it; “one of the problems he will seek to solve is how to make his wife both a servant and a companion.”⁸³ Thus any exercise of power in this sense by the husband over his wife as a servant, can be understood to be pre-meditated on some sense of agency of the wife as a companion. However, the interesting thing to note here should be that any exercise of agency will also involve the exercise of power as Butler is arguing because agency is simultaneously leading to construction. Therefore, both power and agency are co-dependent on each other’s exercise.

However Butler’s framework has been critiqued by other feminist scholars as being too abstract to offer any concrete answers for understanding agency of real subjects. Linda Nicholson argues that her framework does not provide any basis to distinguish between instances of performativity which generate new kinds of significations from those which are merely repetitive acts.⁸⁴ To add to Nicholson’s point one might further critique this by asking how do we know that new kinds of significations are necessarily agentic and repetitive acts are not? Or how do we differentiate between even repetitive acts which are agentic or otherwise?

A beginning to an answer to this puzzle can be made by looking at a scholar who has extensively engaged in the study of micro politics of peasants’ resistance to structures oppressing them. James Scott’s work on peasant societies and the distinguished idea of resistance he tries to explicate in peasant societies can also be usefully applied to the lives of women. Scott emphasises the import of human experience in our analysis of class relations in

⁸² Hirschmann, Nancy. ‘Freedom, Recognition and Obligation: A Feminist Approach to Political Theory’. The American Political Science Review. Vol. 83, No. 4 (Dec., 1989), pp. 1227-1244

⁸³ Beauvoir, Simone de. The Second Sex. Translated by Constance Borde and Sheila Malovany-Chevallier. Vintage Books, London, 2011, p 92

⁸⁴ Nicholson, Linda. ‘Introduction’. Feminist Contentions: A Philosophical Exchange. Seyla Benhabib, Judith Butler, Drucilla Cornell and Nancy Fraser. Routledge, New York, 1995, p 11

peasant societies. It is the individuals within an economic system who constitute it and it is through the experience of human agents will we be able to understand how the economic system influences its constituents.⁸⁵ Thus this argument is suggesting that to understand structure itself, we need to go through the route of human experience. A complete and comprehensive picture of the structure itself is drawn only through going into experience in depth. Structure thus is constitutive of experience which can only be gauged from the account of human agents themselves. There is no structure which is lying completely independent outside of agents.

Another justification which Scott gives to support his argument is the evidence of the plurality and flexibility of what can be understood as structure. Hereby, class as structure might be competing with kinship, region, religion and even language as foci of human identity and solidarity⁸⁶. The plurality of structure and the interface of human experience with it situated Scott in the poststructuralist debate. So what this does to structure agency argument is interesting in so far as there is admission of existence of structure, while at the same time considering its flexibility an ample case can be made for the mediation of human individual experience which works through these differences. However, while the category of experience can prove to be a methodologically useful tool of investigation, feminist historians like Joan Scott have warned against a de-contextualised and an authoritative use of experience as a foundation of knowledge –

“It is not individuals who have experience, but subjects who are constituted through experience. Experience in this definition then becomes not the origin of our explanation, not the authoritative (because seen or felt) evidence that grounds what is known, but rather that which we seek to explain, that about which knowledge is produced.”⁸⁷

Her writing should not be misconstrued as dismissive of the category of experience as an important subject of analysis, but effectively it is trying to say that experience and how we study it is a political exercise. It is precisely the kind of argument which Nicholson was making above against Butler by pointing out the ambiguity of the agency of repetitive acts of subjects

⁸⁵ Scott, James C. Weapons of the Weak: Everyday Forms of Peasant Resistance. Yale University Press, 1985, p 43

⁸⁶ Ibid, p 44

⁸⁷ Scott, Joan W. “Experience”. Feminists Theorize the Political. Ed. Judith Butler and Joan W. Scott. Routledge, New York, 1992, p 26

in Butler's theory of performativity. Which experience or human action is an example of a political act of agency? We need to look at construction of differences in experience in order to avoid naturalization and essentialisation of identity. "Experience is as once always already an interpretation *and* is in need of interpretation."⁸⁸ James Scott's work is talking precisely about such a rooted nature of a study of experience. He acknowledges that human behaviour can express traits which the individual himself may not even be aware of. The actions, thoughts of individuals may have influences, which they, with a limited vision may not be able to comprehend. It is then the task of the social scientist to supplement to the knowledge of the experience and provide an enriched understanding of it. For example he cites the case of peasants harbouring hatred and anger against a particular landlord who may then get together collectively to talk about their grievances. Such collective talking needs to be taken into account for if we are looking for real sources of resistance against class.⁸⁹ Similarly one might argue, comparatively, let's say women getting together and complaining about their mother-in-laws/sister-in-laws or husbands in general will after a long effort give rise to certain collective grievances. This very act of sharing the experience, which is a routine and repetitive act then is an act of agency, which is not really challenging the structure in a concrete manner, yet at the same time, it has the potential to disrupt it.

While Scott's study offers us some practical insights into how subjects can be imputed with a sense of agency in everyday acts of resistance, which do not significantly alter structures, to theoretically advance the feminist take on the poststructuralist subject we must look at Bronwyn Davies who cites the example of an advanced poststructuralist subject with a set of conditions to be fulfilled to accord the subject with agency authority. The individual according to her first needs to have access to a discursively constituted subject position.⁹⁰ Thus Butler's approach of questioning the category of the subject as the foundation of political analysis will for her not be helpful in the advancement of agency. In addition the subject needs to be author of their own multiple meanings and desires and have the ability to go beyond given

⁸⁸ Ibid, p 37

⁸⁹ Scott, James C. Weapons of the Weak: Everyday Forms of Peasant Resistance. Yale University Press, 1985, pp 45-47

⁹⁰ Davies, Bronwyn. "The Concept of Agency: A Feminist Poststructuralist Analysis". Social Analysis: The International Journal of Social and Cultural Practice, No. 30, Postmodern Critical Theorising (December, 1991), p 51

meanings of existing discourses to forge something new, exploring the possibility of what might be.⁹¹ However, it can be argued that therefore poststructuralist theory is not very helpful for real individuals who are constituted as subjects because it is demanding an extraordinarily higher level of consciousness from them than constituted subjects have access to. For instance a woman who has been married and subjected to violence in the marriage after a lot of struggle approaches the law looking for justice. Would such a woman have the capacities to think of the patriarchal ideology and the legal loopholes as discourses? It is highly unlikely, because at the most her prime concern would be respite and relief from violence. In such a case a sense of oneself with imagining what might be may not be possible for a lot of subjects. That does not imply, however, that the possibility of such a subject is a nullity. The possibility will be a rarity but it is still real.

1.7 Exploring a Practical Theory of Feminist Agency

The poststructuralist debates and the critiques examined in the section above though give us the rudiments to work towards a potentially creative idea of the subject and her agency, however we found that poststructuralist theory even though it offers a very real and complex idea of the practice of agency, it demands a very high degree of consciousness and does not offer majority of the subjects the sense of empowerment which attribution of agency to the self brings. And that is why in this last section we return to a liberal position of beginning to place the concept of agency in the self, which is a complicated self, engaged in co-constitution with structure. What kind of theoretical sources can we turn to, which can offer a more practicable and realistic account of agency for such a subject?

Marilyn Friedman has a very interesting and exhaustive understanding of autonomy which provides us a way out of this dilemma. She outlines a set of constitutive conditions for choices and actions to be understood as autonomous.

“First, they must be self-reflective in being partly caused by the actor’s reflective consideration of her own wants and values where reflective consideration may be cognitive in a narrow sense

⁹¹ Ibid, p 51

or also affective, volitional and cognitive in a broader sense. Second, it must be self-reflective in mirroring those wants and values that she has reflectively endorsed. Third, the underlying wants or values must be important to the actor. Fourth, her choice or behaviour must be relatively unimpeded by conditions, such as coercion, deception and manipulation that can prevent self-reflection from leading to behaviour that mirrors the values and commitments a person reaffirmed.⁹²

The idea of self-reflection on wants and values is reminiscent of two scholars we referred to above – Taylor and Giddens. Values are important here, but only those which matter to the individual. And Friedman is clear about the fact that the contexts of making choices are going to be affected by processes of socialization, but it is the very idea of self-reflection on what kinds of wants and values one sees around which allows individual subjects to affirm some values as more important to her than others. These are cultivated over a period of engaging in such critical self-reflective action.

But the fourth condition which Friedman places upon agency as the fact that it should be unimpeded by coercion introduces ambiguity in her conception of autonomy. What if the social obstacles are so powerful that they put an otherwise autonomous agent under excessive coercion and threat? How can one qualify agency in that sense as the ability to resist the obstacles? Does the idea of self-reflection preclude all forms of direct and indirect external coercion? Keeping in mind, that she acquiesces to the point that autonomy is socially rooted, she would not be completely antithetical to the constructivist position. This problem of placing heavy expectations on the individual subject is to an extent answered by her favouring a content-neutral conception of agency as against substantive conception of agency which favours autonomy as a value in itself. She wants to take up a point of view of autonomy which would enable us to recognize more people as having the potential of agency and accord them the due respect of an autonomous subject.⁹³

This can be understood by examples Seemanthini Niranjana offers of imputing agency to situations of women which would ordinarily be not understood as agency. She includes in this framework the silences of abducted women at the time of Partition as a way of renewing their self and separating themselves from the painful past. Next to this she juxtaposes gossip

⁹² Friedman, Marilyn. *Autonomy, Gender, Politics*. Oxford University Press, New York, 2003, p 14

⁹³ *Ibid*, pp 19-25

amongst women as a function of continuous creation of structures which regulate female sexuality but at the same time offering some possibility of performing variation in that structure, akin to what Butler has argued.⁹⁴

While from Freidman, we have a workable idea of thinking about a content-neutral conception of agency, we must look at Nancy Hirschmann in order to supplement the liberal position of locating agency in the individual to understand how in the case of women structures around them are crucial for the exercise of agency.

“A notion of agency lies at the heart of a feminist theory of freedom, but this agency is not the abstract and individualist agency of negative liberty’s state of nature any more than it is the selfless collective agency of the general will. It involves a notion of self deeply situated in relationship; it involves recognition of the ways our powers and abilities have come from and been made possible by particular relationships and contexts. We are ‘autonomous’ in the sense that we have powers and abilities as well as desires, wants, and needs, but these are ‘relational’; they come from, exist in the context of, and have meaning only in relations to others.”⁹⁵

These relationships we argue should be looked at as supportive structures which make the possibility of exercise of agency by individual women real. Thus, Hirschmann’s idea of a relational concept of feminist agency not only allows women to keep a certain sense of individual identity, but it enhances their empowerment by assigning a central role to them in augmenting agency of people who constitute different relationships in their lives while simultaneously deriving their agency from them. It is the process of a collective creation of new contexts which can over time gradually enable women “to exercise choice to affect the contexts themselves, for only then can the choices that occur within these contexts be conceived of as genuinely free.”⁹⁶ These new contexts can imply rudiments of new and alternate structures which create ruptures in the existing structures which enable rather than constrain the exercise of agency.

⁹⁴ Niranjana, Seemanthini. ‘Off the Body: Further Considerations on Women, Sexuality and Agency’. *Indian Journal of Gender Studies*. 6:1 (1999), pp 1-19

⁹⁵ Hirschmann, Nancy. ‘Toward a Feminist Theory of Freedom’. *The Liberty Reader*. Ed. David Miller. Edinburgh University Press, 2006, p 222

⁹⁶ *Ibid*, p 222

1.8 Concluding Observations

Thus so far what we can conclusively argue is the fact that there can be no agency of the individual deracinated from a social context of construction. All subjects and especially women, act in circumstances not entirely of their own choosing. The point is what is it which determines which action is free and which one is not. Looking at all the above scholars we can say that a preliminary answer to this is the self-reflective capacity of an individual which needs to be exercised in order for any act to be understood as autonomous. But to what degree are subjects able to reflect in the present structures, and what influences shape the wants and desires which they come to harbour as their own still requires study of the structures constituting the subject in question and the real experience of the subject themselves. We are going to carry out in the second chapter, the exercise of the study of the structure and ideology of marriage and family in India in order to carefully understand the different ways in which agency of the subject in question, i.e. women in marriage and family in India, can be constrained. This study is a necessary prelude for us to then interrogate in the third chapter, the question of agency of real subjects inhabiting the structures of marriage and family.

Chapter 2: Structure and Ideology of Marriage and Family in India

2.1 Introduction

The debates on agency which were articulated in the previous chapter made it sufficiently clear that whenever we are referring to an individual subject with the potential for the exercise of agency, we at the same time are mindful of the fact that such a subject is conceivable only in a social context or what we might call structure. We saw there that every individual's characteristics, behaviour, desires and possible actions are very strongly shaped by the structure that the individual is imbricated in. Even though this structuralist argument is made by Marxists who initially only focused on economic base of the mode of production as structure, later Marxists like Althusser, moved away from this simplistic position to include the effects of ideology on individuals. Drawing on thus, from the theoretical grounding which we outlined in the previous chapter, in this chapter an attempt will be made to outline the structure and ideology which shapes the subject which we understand as 'woman' in India.

This structure and ideology which will be discussed in order to reflect on the subjectivity of women for us consists of the institutions of marriage and family. Traditionally, the closest literature with regard to these social institutions comes from anthropological and sociological literature on kinship, which would provide ancillary accounts of the nature of families even though marriage was quite central to the discussion on kinship structures. However more recent literature has focused much more on the diverse types of marriage systems in India, and the varied issues which emerge from them. One objection to what is the purpose of this chapter which can be made then is that how can one talk of a homogenous structure and ideology of marriage and family across India for a homogenous subject called 'woman', given the outright diversity in marriage rules, norms, mores, patterns of inheritance, and other cultural differences emanating from religion, region, caste and tribe. Keeping this caveat in mind, this chapter while referring to inter-disciplinary literature on marriage and family in India including works by sociologists, anthropologists, historians and lawyers is endeavouring to draw out a political structure and ideology which keeps the power of exercising agency by women constrained.

It must be stated however that majorly the ideas which will be discussed on status of women are primarily deriving from Brahmanic rituals and practices. Lower castes traditionally had different practices which were not so crippling for women in certain matters such as the right to re-marriage for widows. However due to Brahmanical hegemony in the traditional Varna system which enhanced with the support granted by the Colonial State to caste Hindus, the Brahmanical practices came to be the more dominant practices slowly for majority of the population which came to be identified as Hindus by the Colonial State. This shows how marriage as an institution was first under the control of caste rules and norms which intersected with the Colonial State and soon found legal validity and legitimation which extended the reach of these norms over larger population.

An immediate lacunae which arises in this approach which is trying to uncover a political structure and ideology of marriage and family across India is that Brahmanical norms and practices are also religion specific and a focus on them will exclude the lives of women belonging to minority communities. Admittedly, considering the scope of the chapter it was not possible to draw out parallel histories of the different religious communities, but some reflection on the lives on women in marital and familial contexts is undertaken alongside mainly from the Muslim community. However, the primary focus on Brahmanical practices and their role in constitution of the subject we know as woman is maintained keeping in mind the sample of our field investigations. Majority of the real life cases of women facing domestic violence discussed in the next chapter arguably are subjects of centuries of Brahmanical norms and attitudes governing the idea of a married woman and her life.

This chapter will make an attempt to historicize how the marital relationship in the Indian context has been defined, while tracing the emergence of the modern marriage institution and its specific dimensions in India with different kinds of family in different settings. What kind of a discourse on sexuality has it led to in alliance with norms of caste institutions especially for women? How can we understand the limits to freedom and agency for women who partake in marriage and the performance of feminine sexuality? This would in addition to sexuality also discuss how specifically gender is constructed with role-definition. What kind of a subject does the ideology behind marriage and family in India envisage? While this being the primary question this chapter seeks to address, attempt will also be made to get into the question of role

of the subject into the constitution and construction of sexuality and gender to interrogate into the larger question of agency of women.

2.2 Religion, Marriage and Women's Sexuality

Prior to the coming in of modern legal system with the Colonial State, the role played by religion in combination with caste norms was practically that of community law which governed various aspects of life like what is considered appropriate deportment, marriage, land relations, norms relating to caste occupations and the like. Flavia Agnes writing on family law in India quotes Desai who outlines that,

“During the early period, there was no distinction between religion, law and morality. They were cumulatively referred to as ‘dharma’. The three sources of dharma are *shruti* (the divine revelations or utterances, primarily the Vedas), *smriti* (the memorized word – the *dharmasutras* and the *dharmashastras*) and *sadachara* (good custom).”¹

Other scholars like Kapadia argue in their study that apart from the Vedas which were undoubtedly an authoritative source of Hindu *dharma*, the Manusmriti, was also treated as the natural corollary of the Hindu concept of *dharma*.² However, this should not be misconstrued to believe that the Hindu *dharma* was immutable and etched in stone. Different sects were often led by different religious heads who even though always referred to the Vedas but could vary in its interpretation.³ Therefore, Hindu *dharma* was not static but dynamic and as Kapadia argues under the guise of interpreting the ancient texts, Hindu *dharma* was socially conditioned.⁴ This social conditioning could have been supported by customary law as pointed out by Agnes, which could be perfectly valid even though they might be going against a *smriti*.⁵

These religious texts, their interpretation and the customary law of people one might argue encompassed the overall life of the people in a holistic manner. Looking at Östör, Fruzzeti and Barnett's idea of ideology, one can argue that these laws and the morality

¹Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 11

²Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p xxiii

³Ibid, p xxiii

⁴Ibid, p xxv

⁵Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 2

associated with them constituted people as subjects of itself, "...the person is encompassed within a holistic ideology; there is no personal substance prior to and apart from placement in the whole or apart from a relational understanding of identity."⁶⁶ The idea which they are trying to propose is that institutions like kinship with its accompanying rules of marriage and family are rooted in ideology which propagates a concept of a person given a particular context which can be identified by culture. These institutions with the help of ideology which defines the code of conduct for members of the community which defines and restricts the scope of their activity is responsible for shaping of the concept of person who is holistically rooted in the ideology, as the personal substance of the person is itself derived from the composite ideology driving the social. And therefore, a person can only be placed in a relational understanding of identity entrenched in the social whole, driven by ideology. There can however be possibilities of similarities in the concept of person across different cultures which would be governed by similar ideologies. This understanding of ideology being the driving force behind the constitution of subjects is highly reminiscent of Althusser and his Ideological State Apparatus. The difference which is evident for us is that till this point in time we have not witnessed the influence of the modern State and law on the ideology whose substance at this time is determined by religion, and a sense of customary practices and law.

Our concern then is to uncover the nature of ideology hidden in the kinship and marriage structures in India and what kind of a concept of person does it envisage for the gender of 'woman'. Trying to uncover the constitution of the person of woman would also in the process even though tangentially though throw light on the concept of person of 'man' constituted in Hindu *dharma*. The ideology behind the *dharma* in marriage can only be grasped by understanding the political import of marriage to society's structural stability. Flavia Agnes argues that

"the diverse forms of marriage evolved to meet the needs of a particular society or geographical region, indicate that marriage is not merely a bond between two (or more individuals), but has

⁶⁶Östör, Ákos, Lina Fruzzetti and Steve Barnett. Concepts of Person: Kinship, Caste and Marriage in India. Oxford University Press, Delhi, 1983, pp 4-5

wider social ramifications because it affects issues fundamental to the survival of a society, such as the legitimacy and nurturing of children and inheritance of private property.”⁷

Thus the norms and rules for marriage would have to be respected by individuals living in a particular community in order to survive in the community. And the norms and rules would expect certain codes of behaviour from the members of the community. In the context of India, the majority of regions find marriage norms and rules intersecting with the caste structure. Rather as Prem Chowdhry more aptly puts it, “The institution of marriage stands at the heart of the kinship system that gives the caste system its basic structure.”⁸ Caste as we know constituted the most important axis of social cohesion and social organization since pre-colonial India across large parts of the country which only strengthened with the coming of the Colonial State and has continued to hold its sway even in modern India. Moreover, it is an institution marked by acute hierarchical structuring in order for it to survive. And when marriage lays down the foundational ground for the maintenance of the caste system it needs to be closely monitored by the upholders of the caste structure in society. Control over land relations of production makes control over reproduction imperative, and therefore as Chowdhry argues “such crucial structural linkages necessitate close surveillance of marital alliances.”⁹ Thereby it is clear marriage as an institution works in alliance with the caste structure in India and is politically significant as it is the nucleus of determining control over the distribution of property, wealth and resources.

In order for us to understand how it constructs the subject of ‘woman’ we must look into its functional ideology and structure and the codes of conduct it outlines for women. Keeping in mind the diversity of forms of marriage as mentioned above, we are going to carry out first the investigation for marriage within Hindu *dharma*. Flavia Agnes, quoting Diwan and Diwan in her comprehensive work on Family Law in India, argues how that in the Hindu *dharma* tradition marriage was understood to be a *sanskara* (religious obligation). Marriage was essential to discharge one’s debts to one’s ancestors – that of begetting offsprings, in addition to the performance of religious and spiritual duties. Thus, keeping in mind that marriage was

⁷Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 2

⁸Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 1

⁹Ibid, p 1

considered to be a sacred union, the *patni* (wife) was granted the status of *dharmapatni* along with the status of *ardhangini* (half of him) and without her, he was not complete.¹⁰ Apart from this, the marital bond was considered to be sacrosanct by the characteristic of the indissolubility of the relationship in all the rebirths of the individual, as enshrined in the Hindu philosophy of rebirth.¹¹ It is very clear from the above functional importance granted to marriage by the *smritis* which is also found in the writing of K.M. Kapadia¹², that it was a very important stage in the life of a man as well as a woman. However, there were vast distinctions in the expected codes of conduct and the status of woman in Hindu marriage can be best grasped by the norms of sexuality enshrined for women in popular culture which derive its legitimacy from texts such as Manusmriti.

Kapadia argues that the status of women enjoyed by her in the Vedic age can be postulated to be comparatively better as compared to that of the post-Vedic age. During the Vedic age, the status of *ardhangini* ensured that the husband and the wife enjoyed conjugal intimacy even though there was complete surrender on the part of the wife to the husband to which the husband responded and which he returned in full measure.¹³ Due to the importance of the wife therefore, in fulfilment of religious duties and obligations, the wife who was to be pure and chaste had a respectable standard according to the traditional view. It is however, a text like Manusmriti which took a far more rigid view of the status of women. The investiture of the sacred thread ceremony was confined to males and marriage was the only sacrament permitted for women. They were denied access to the study of the Vedas by Manu, which rendered them passive partners in religious ceremonies. And special sacrifices by the woman or *vrats* or fasts could be made only with the permission of the husband.¹⁴ This was also in keeping with the Puranic ideal of the wife as *pativratya* (an ideal which redeems women through obedience to and in the service of their husbands).¹⁵ This is an ideal which is exalted

¹⁰Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, pp 21-22

¹¹Ibid, p 22

¹²Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p 251 (The ideals of marriage were the performance of *dharm*a and the propagation of race, the fulfillment of which required communion with and co-operation from the wife.)

¹³Ibid, p 250

¹⁴Ibid, pp 251-252

¹⁵Ibid, p 256

and appreciated as a quality among good wives till date. Her status is equated with that of a *Sudra* in the *Bhagvadgita*¹⁶, and she could redeem this only by observing the ideal of *pativrata*. Her primary duty was also said to be procreation and it is only the birth of a male child which could elevate her status.¹⁷

Another injunction which came to be promoted at this time was pre-puberty or marriage of girls at a young age. Agnes argues that texts like Manusmriti in their later insertions stand against the remarriage of widows and wives and even though the dissolubility of marriage till then did not appear etched in stone as per the writings of some other religious authorities, “over time, the institution of marriage acquired a rigidity and women, who were often married off in their childhood or early teens, *felt trapped within the bondage of sexual slavery*.”¹⁸ This status of a sexual slave for the wife was camouflaged in the exhortations of Manu on the *dharma* of a *patni* through which he effectively negated any traces of personality in the woman.¹⁹

“The husband must constantly be worshipped as a God by a faithful wife (*sadhavi*), even if he be destitute of character or seeking pleasure elsewhere or devoid of good qualities. To serve and worship their husbands with respect and obedience is their only duty. By the fulfilment of that duty alone they succeed in attaining heaven.”²⁰

Thus, there are no demands of character on the husband, but there is every demand on the wife to be subservient to the husband whether he be of character or not. Her subservience moreover is touted to be her pathway to heaven. Manu uses religion to achieve a political objective. And marriage and the ideology behind it, buttressed by the legitimating thrust of religion, offer him triumph. But Manu does not stop here, “Women do not care for beauty, nor is their attention fixed on age; they give themselves to the handsome as well as to the ugly, just for the fact that he is a man.”²¹ This conclusively strips women of any agency whatsoever in choosing their partners, and are thus rendered to be what Flavia Agnes understood them to be, sexual slaves from a young age.

¹⁶Ibid, p 253

¹⁷Ibid, p 253

¹⁸Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 22 (emphasis added)

¹⁹Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p 253

²⁰Ibid, p 253 (Manu as quoted by Kapadia)

²¹Ibid, p 254 (Manu as quoted by Kapadia)

Due to the inheritance laws which emphasised on legitimacy of a male child, a very high premium was placed on the control of women's sexuality. Women were expected to be pure and virgin at the time of marriage and chaste and loyal to the husband after that.²² Women thus, paid heavily with their sexual autonomy as in order for caste lineages, and hierarchies to be maintained, control over productive and reproductive labour was critical.²³ But how could this control be achieved and justified? The rules of marriage and the codes of behaviour for the married partners especially women, as we have seen derive their legitimacy from religious texts. And these texts, especially Manusmriti contributed to the construction of a perilous form of women's sexuality which was universal, and which needed to be reined in. Manu portrayed women's sexual appetite and the consequences of their sexuality if let unrestrained to be devastating for the honour of families.

“Women must particularly be guarded against evil inclinations, however trifling they may appear to be; for if they are not guarded, they will bring sorrow on both families. Considering it the highest duty of all castes even weak husbands must strive to guard their families. . . It is the nature of women to seduce man in this world. . . Woman was created for infatuating man and hence there is nothing more heinous than woman.”²⁴

In portraying woman as the unbridled seductress, who cannot resist temptation, Manu lays down the ground for it to be legitimate for woman to be controlled in all her relationships by men, whether by the father, brother, the husband or the son. Thus effectively he engages in robbing her of sexual agency. This very idea of a woman's sexuality as evil and the need to control it for the benefit of honourable caste families, led to tradition of child brides who were sent off for co-habitation with the husband as soon as they attained puberty. The emphasis on such strict control of women's sexuality can be further explained by the notion of honour which Prem Chowdhry uses to understand why is it that only women's bodies often become the markers of the family's, the kin's and under exceptional circumstances even the community's honour. Being the physical bearers of procreation, women's bodies become more obvious representations of sexuality in comparison to men. And therefore, women's bodies and the

²²Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 3

²³Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, pp 1-2

²⁴Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, pp 253-254 (Manu as quoted by Kapadia)

manner in which they conduct themselves, becomes the repository of honour which is so dear to upper-castes mostly.²⁵Hence various rituals and kinship practices serve to restrict women under the garb of protection of this honour. One of the examples Chowdhry gives in another piece is that of the cultural centrality of the *ghunghat* (veil) and the role it plays in upholding the modesty of a woman. The veiled woman is a symbol of austerity and simple living and the custodian of culture which is vital to maintaining the eye modesty (*ankh kisharam*) for women who are not supposed to make eye contact with senior village males out of deference. Other important functions of the varying forms of the *ghunghat* include covering the face to impose seclusion and the bosom to make invisible what is understood as bringing shame for it being an obvious marker of their sexuality.²⁶

Other rituals protecting the honour of families have been discussed by scholars like Agnes, who draws attention to the religious sanction given to ritualistic co-habitation between a young bride who has just attained puberty and her husband, while discussing the social reform debates on the age of consent in the 19th Century, when revivalists in Hindu religion were against raising the age of consent from 10 years of age to 12. At that point in time the legal age of consent was 10 years of age as per the Age of Consent Act in 1861, which itself was widely flouted by the upper castes to maintain ‘ritualistic purity’. When social reformers demanded that the age be raised to 12 as 10 was too young, the Hindu revivalist intelligentsia opposed it on the grounds that it would violate scriptural dictates and *garbandhan* could not be performed as many girls were likely to attain puberty before the age of 12 in Bengal.²⁷ Tanika Sarkar, writing on these age of consent debate, brings out the stringent religious ideology behind the absolute necessity and legitimacy of this ritual of *garbandhan*.

“If the rule is violated, the womb is polluted, the bride's future sons will not be able to offer pure ritual offerings to ancestral spirits, and the sin of feticide will be visited upon her father and her

²⁵Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 19

²⁶Chowdhry, Prem. ‘Persistence of a Custom: Cultural Centrality of *Ghunghat*’. Social Scientist. Vol. 21. No. 9/11 (Sep. - Oct., 1993), pp. 91-11

²⁷Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 17

husband. In short, it would be death for the community, for it would nullify the first principle of Hindu domesticity.”²⁸

Looking at this tradition of marriage of child brides and religiously enforced co-habitation of young brides with their older husbands, it can be argued that marriage in Hindu religion and culture was based on forced sexual initiation of child brides. The ritual of *garbandhan* not taking place would as Sarkar shows above be “death for the community” as her “womb would be polluted”. Therefore, the ritual was a social affair based on social principles, which therefore could not be negated and which had the function of making the womb, or women’s sexuality, a religious trope for the community. A culture of forced sexual intercourse by men upon women, therefore, which was often violent was accepted and even had religious mandate as a fundamental part of married life. Men being mature adults and women being child brides at the time of this sexual initiation moreover ensured that the women would be sexually unaware and thereby incapable of giving consent. This particular tradition is testimony to the irrelevance of awareness and consent of women for sexual intercourse in married life amongst large sections of the upper caste Hindus.

It involved the death of a child bride named Phulmonee in 1890 who was 10 years of age as a result of violent sexual intercourse by her thirty-five year old husband (who was charged with murder but was exonerated as it was legal to have intercourse with a wife of ten years and above) for reformers to draw attention to the risk to the life and safety of Hindu wives for the Age of Consent to be raised to twelve in 1891.²⁹

What the age of consent episodes reflect is that sexual intercourse in marriage is understood to be a right of men which they can exercise upon women. Violent intercourse which can damage the progeny’s health or risk the security of Hindu women is disparaged by few social reformers. The age of consent debates in the 19th century could not even raise the issue of appropriate age for sexual awareness and the ability of women to consent. And therefore, the question of women’s consent to sexual intercourse in Hindu marriage is an irrelevant question. Marriage was a means to regulate women’s sexuality which was so out of

²⁸ Sarkar, Tanika. ‘A Prehistory of Rights: The Age of Consent Debate in Colonial Bengal’. *Feminist Studies*. Vol. 26, No. 3, Points of Departure: India and the South Asian Diaspora 2000, pp. 601-622 (p. 603)

²⁹Ibid, pp 17-18

control that it could denigrate the morality of society. And therefore, in modern India, when the issue of marital rape being unrecognized is raised by lawyers and women's rights advocates it seems like a lost cause for legislators as well as the judiciary. Consent to sex by a woman in marriage is not even implied, it is an absolute non-issue. Or rather one might say that the guardian of the girl who marries her consents to the next guardian, sexual rights upon the woman. That is what can be argued was implied in the ritual of *kanyadaan* or 'gift of a virgin' from the father of the bride to the bridegroom.

Chowdhry elaborates on this further through the ideology of guardianship of a woman. She argues that a woman whether a minor or an adult, young or old is always under the guardianship of men, first under her father, upon his death other male relatives of the family. Quoting practices of customary law of Punjab she further states that upon "her *muklawā* (entry and establishment of the wife in her husband's home when the marriage is consummated), she comes under the protection of her husband" and remains so until his death, and after that under his relatives until her remarriage.³⁰ This customary law goes far back to the scriptures as the laws of Manu as we saw above. Woman was never to be let off independent thus on her own, no age of hers was considered appropriate for that right, such were the dictates of the extreme control on her sexuality.

Religious symbolism further helped to buttress the view of sexuality expounded by the religious texts. Lynn Gatwood discusses the symbolism of two kinds of religious goddesses in Hinduism – *Devi* and the Spouse Goddess. Through her discussion one can make out how deep rooted was the religious sanction to control of women's sexuality. *Devi* is a form of control-free, unorthodox and non-Sanskritic goddess majorly worshipped by the lower castes, while Spouse Goddess is one who derives authority and existence from her Spouse, i.e. male God whom she is married to. She is valued for her calm demeanour, reverence for her husband as well as the Sanskritic marriage rituals which ensure her purity by the upper castes. Gatwood calls this process spousification, which involves "the loss of *Devi*'s marital, sexual, and ethical autonomy through her marriage to the Hindu god Shiva in various religious contexts."³¹

³⁰Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 4

³¹Gatwood, Lynn. Devi and the Spouse Goddess: Women, Sexuality and Marriage in India. Manohar Publications, New Delhi, 1985, p 1

Through the status of the goddess, she tries to reflect on the status of real women in a particular religion. According to her,

“As ideological and religious symbols themselves, goddesses reflect the ideas, beliefs, and values associated with real women. The status of a goddess thus corresponds to the dominant ideological status of women at a given time.”³²

Thus the nature of goddesses a society worships reflects their own religious values and what kind of subjects the religion envisages their women to be. What Gatwood outlines is that out of the important differences between *Devi* and the Spouse goddess, one of the more vital ones is the fact that the unlike *Devi* whose stature and power is not contingent upon marriage, and even upon marriage she is not under censure and control, it is for the Spouse goddess that she be “sacramentally married – that is, married according to *dharmic*(dutiful, caste proper, and orthodox) standards involving parental arrangement, dowry, and a prohibition upon women’s divorce and remarriage.”³³ The Spouse goddess has only two extremes – she is either benevolent, an image of perfect serenity, sacrifice or she is either consisting of danger or malevolence. The negative side is viewed as her latent nature, while “her positive or benevolent side is expressed in her normal, controlled state... And like the Spouse goddess, the high caste woman requires close control of her potentially insatiable sexual desires.”³⁴

Thereby, in Gatwood’s writing we can see the deep rooted nature of the view on women’s sexuality expressed by Manu, in Hindu religion as such. Women who were to be wives were expected to be a *pratima* (image) of these Hindu goddesses who are benign, sacrificial, motherly, always controlled and poised and beautiful when marked with marital symbols. Their identity is nullified without marriage. Marriage proper gives them a respect worthy place in society, to keep up which they need to fulfil all the expected wifely duties of them. Because if they are not kept under the wraps of the institution of marriage, it might unleash their dangerous and ominous sexuality which would wreak havoc upon caste purity, religious morality, the honour of their families and the community and thus the very foundation of society. What roles are assigned to real women as per Gatwood, who are understood as the

³²Ibid, p 3

³³Ibid, p 4

³⁴Ibid, p 5

positive and negative counterparts of the Spouse Goddess will further justify the above propositions.

“The “good” human counterpart of the Spouse Goddess is usually designated to be the faithful, self-sacrificing, high caste wife and mother. The “bad” counterparts of the Spouse Goddess-out-of-control are several: high caste widows of all ages; unmarried mothers; lazy or faithless wives; unmarried females who are past puberty or sexually active; and, low caste women in general.”³⁵

Going by the above argument which has been echoed in different ways by other scholars above, it is more than evident how unkind upper-caste Hindu society was to women who did not fulfil religiously enshrined codes of behaviour for married women and almost completely ostracized women who weren't ritualistically married, or had lost that status due to widowhood or abandonment by the husband. So while marriage is clearly a sexual relationship, women's sexuality is still surprisingly taboo and its expression in any form is to be shunned, much rather even loathed. As Gatwood argues, “Like the high caste woman, the Spouse Goddess is encumbered by ascetic, anti-sexual attitudes that glorify her abstract fertility but denigrate its concrete expression in genital sexuality, menstruation, and birth.”³⁶ Hence it is clear that religion in more than one way, was a strong stricture on the prohibition of expression of women's sexuality and it employed scriptural as well as symbolic tools to ensure the control of women's sexuality through the institution of marriage for the maintenance of ritualistic caste hierarchy and purity, which at times even meant that women had little escape from violent sexual intercourse being forced upon them in their own marriage as they were rendered defenceless owing to their vulnerable age and religion sanctioned ritualistic co-habitation with a much elder husband. Therefore, there was no question of any consent of women or sexual agency amongst the Hindu upper-castes.

However child marriage was not a practice restricted to the upper castes alone. It was widespread amongst the lower castes as well, however there were differences in other customs such as the dissolubility of marriage and the rights granted to women in comparison with the rights of upper caste women. As we saw above marriage amongst caste Hindus was an institution which played the function of maintaining caste hierarchy. That is what placed such

³⁵Ibid, p 10

³⁶Ibid, pp 5-6

a premium on control of women's sexuality. The lower castes however, already being at the bottom of the caste structure, had relatively relaxed control on women's sexuality therefore. This can be understood with the right of widows to remarry and the right of women to dissolve marriages amongst the lower castes, which were stringently denied to upper caste women. The upper castes on the other hand, did not make any substantial claims to lower castes following their practices which prized a certain bodily notion of the honour of the woman, as primarily they were not recognized as possessing any honour by the upper castes.³⁷ Moreover, the Brahmanical practices were what differentiated the upper castes as more honourable and pure as compared to the lower castes who were considered impure. Thereby, lower caste women retained some autonomy which their own caste customs granted them.

On the other hand, the lack of an exit option out of the marriage even upon the death of the husband was what rendered upper caste women even more helpless and tightened the regulation of their sexuality. One of the most barbarous forms of this control on women's sexuality was the practice of *sati* (burning of a widow on the pyre of her dead husband) which became increasingly popular during the colonial times.³⁸ Many upper caste became victim to this form of compelled devotion to their dead husbands which was at best a masqueraded form of murder. Therefore, it will not be an exaggeration to argue that Brahmanical practices dominated what has come to be understood as Hindu religion and subjected women to the most punctilious control of their sexuality through the institution of marriage.

One might even argue that this control was intensified by the acutely antithetical freedom men were permitted due to marriage being in most cases of the form of polygyny, whether the community be Hindu or Muslim. Thus men were allowed to have multiple wives as well as concubines as progeny, especially male progeny was the most valued.³⁹ Very often poor widows were also used as prostitutes. And although under Brahmanism, marriages were indissoluble, the custom of polygyny in practice implied that men could marry as many times as they wanted, which rendered the wife in a very insecure position, as there were no safeguards

³⁷Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 19

³⁸ Mani, Lata. Contentious Traditions: The Debate on Sati in Colonial India. University of California Press, 1998

³⁹Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 22

for her. Kapadia discussing its social consequences argues that the institution of polygyny “led amongst Hindus, to female infanticide, supersession of wife, economic exploitation of the wife’s parents, and mental torture and economic insecurity for the wife.”⁴⁰ Thereby, the codes of sexual purity for women, contrasted with sexual freedom for men that women whether belonging to the honourable married section, or outside it were sexually subservient to men. The hypocrisy of sexual modesty it is evident therefore, was injected into religion better to suit the needs of men and infusing women’s bodies with the notion of honour as Chowdhry showed us along with tainting them with a perverse and licentious sexuality was an ingenious way of keeping women under the control of Brahmanical patriarchy.

Polygyny was also sanctioned by Islam, and even though it has been argued that marriage in Islam was since the beginning contractual and dissoluble, with even the women having some space to exit the relationship under the provision of *khul* (or *khooda*) which denotes divorce by consent⁴¹, the institution of polygyny ensured the dominance of men over women and even tilted the divorce law in favour of men to the disadvantage of women.⁴² The Quranic right of ‘*talaqqa*’ to men means the repudiation of marriage by the husband alone.⁴³ Therefore, it is not difficult to see how polygyny amongst Muslims, placed the woman under a vulnerable situation at the mercy of her husband who was free to discard her anytime and get new wives anytime. Polygyny also meant that the woman had little or nil support from her husband and the relationship she had with him was characterised by what Flavia Agnes had termed sexual slavery. This also rendered the woman defenceless against abuse by other relatives of the husband. This custom had other structurally economically disempowering consequences for women which will be further elaborated upon shortly in another section.

⁴⁰Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p xxi

⁴¹Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 5

⁴²Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p xxi

⁴³Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 5

2.3 Interaction of State and Religion and Constitution of Women's Subjectivity

With the coming of the Colonial State, and the increasing number of Indian intellectuals who received liberal education, some of these Indians began to raise their voice against the maleficent practices which amounted to violation of human rights of child brides as wives or widows. The principles of liberalism and democracy which crept in along with the imperialist rule generated a wave of social reformers. This gave another pretext to the colonial rulers who were feeling the need to codify the innumerable customs and practices, classify the various communities in order for more effective governance and control. At this time therefore, the British categorized the pluralistic communities into various religions in order to apply to them specific 'personal' codes of law. This led to religious identities solidifying and boundaries becoming rigid with differentiated religious groups going through a gradual process of internal homogenization.⁴⁴ Therefore, it comes as no surprise that the upper caste norms slowly became common to the majority who could not be identified with any other codified religion including the lower castes, with the setting in of the process of codification of customary law into personal laws by the Colonial State. The British model led to a loss of local complexities and contexts and further their interpretation of ancient texts or scriptures came to be treated as authoritative law which was becoming more and more uniform⁴⁵ for the majority of the people whom they classified as Hindu, or Muslim etc. each with their own set of personal laws. Quoting scholars like Derrett, Agnes further argues that the need of uniformity also meant that several liberal customary practices especially those which were practices by the lower castes were discarded by the Hindu code.⁴⁶

Therefore, when social reformers led a tirade against evil practices like *sati*, the ban on widow remarriage, increasing the age of consent and invited the Colonial State to intervene with law the Colonial State intervened although a bit cautiously with laws such The Bengal Sati Regulation Act (1829), The Widow Remarriage Act (1856), The Age of Consent Acts

⁴⁴Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 5

⁴⁵Ibid, pp 6-8

⁴⁶Ibid, p 9

(1861, 1891) and The Child Marriage Restraint Act (1929). However, the force of tradition and the stature of revivalists in the upper caste society was such that even colonial power was weary of intervention due to the fear of an unmanageable backlash from the community which is why these laws came after a long struggle by the reformers. The clout of religion and tradition can also be measured by the approach of social reformers to the issues raised. Reformers like Ram Mohan Roy, Ishwar Chandra Vidyasagar and other scholars like Dayananda Saraswati aided by the British took pains to reason with people and prove that a practice like *sati* was not *shastric*⁴⁷ and widow remarriage was permitted by the Vedas and the ban on it was a modern invention.⁴⁸ This approach Kapadia argues reflected not only the influence of tradition on the people but also the limitation of legislation as an agency of social reform.⁴⁹ This was amply substantiated by the continuing evidence of the practice of *sati*, the reluctance of upper caste widows to remarry and continuation of the bane of child marriage.⁵⁰

The script of culture when intersected with law, one can argue, does get disrupted as it was not to suggest that there was no fruitful outcome out of these laws at all. But law is unable to become the culture of people it needs to be in order to fight the existing hierarchical and inhumane cultural practices. Law remains to the majority an alien force which often stands in contravention of religion and culture, and therefore, the attempt of law to constitute new subjects is obstructed by the force of already ideologically and structurally constituted subjects. For instance, it is possible that a lot of widows even after the law could not remarry due to social opposition, but in a lot of cases women themselves felt that such laws violated religious morality and reconciled to their ill fate. One must understand here the power of caste hierarchy in garnering this kind of consent from women. Kumkum Sangari has argued that patriarchy does not generate consent from women to institutionalise itself on its own. Simultaneous structures of caste and class inequity often become powerful tools for acquiescing consent of

⁴⁷Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, pp xxix-xxx

⁴⁸Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 16

⁴⁹Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, pp xxix

⁵⁰Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, pp 16-18

women⁵¹ who could be dispossessed on account of patriarchy but are presumably privileged in the caste structure.

This kind of influence of religion and culture did not mean however, that the reformers gave up the efforts to bring about legal and social transformation in Hindu society. However the most active of the anti-colonial and nationalist leaders staunchly opposed many of the proposed reforms, especially the grant of right to divorce to Hindu women. It reflected the strength of the norm of marriage as a sacrament which is indissoluble. Agnes suggests, that there was an overwhelming fear amongst the Hindu patriarchs that “the right to divorce to women would loosen the grip of strict sexual control enforced upon them through the notion of indissoluble sacramental marriages.”⁵² This ideological stronghold was nonetheless legally triumphed with the Hindu Marriage Act (1955), which rendered Hindu marriages as a contractual and dissoluble union between two consenting adults while retaining the ritualistic and sacramental aspects which made solemnization of a Hindu marriage possible, and also gave women on an equal plank with men, the right to divorce.⁵³ Agnes however goes on to assert that the Hindu Marriage Act is deceptively progressive and has actually brought together the most regressive of modern colonial law and ancient Hindu law together in order to obstruct access of women to equal rights rather than make that process more accessible. This created new sets of difficulties for women who were already burdened with Brahmanical patriarchal norms and values.

One of the most regressive aspects of English law which the law courts began to apply hereafter to Hindu marriages in independent India is the law of restitution of conjugal rights in keeping with the ancient notion of the ‘Lord and Master’. Under this concept, judicial pronouncements in the 1960s and the 1970s undermined a woman’s right to be gainfully employed against her husband’s wishes. Agnes argues, “The right was based on the plea that it was the sacred duty of a Hindu wife to reside under the care and protection of *her husband*,

⁵¹Sangari, Kumkum. ‘Consent, Agency and the Rhetorics of Incitement’. Economic and Political Weekly. Vol. 28, No. 18 (May 1, 1993), pp. 867-882

⁵²Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 6

⁵³Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 23

her lord and master.”⁵⁴In one of rulings in 1973, the Punjab and Haryana High Court (Surinder Kaur v. Gardeep Singh), held that, ‘The Hindu law imposes on the wife the duty of attendance, obedience to and veneration for the husband to live with him wherever he chooses to reside.’⁵⁵ Thus idea of formal equality was forgotten under the pretext of protecting the sacrament of Hindu marriage. What is even more important is that these were rulings against women who were economically supporting their families. The judicial pronouncements upheld a nature of subjectivity of woman who once a wife finds her identity in only being attached to her husband whom she must serve lifelong wherever he chooses to reside. The Constitutional equality granted to women was being grossly ignored here. However, judgements after 1975 began to overturn rulings in favour of women arguing that women have a right to hold on to a job away from a husband’s residence.⁵⁶

However, how the courts often acted in cases where restitution of conjugal rights was invoked by the husband, in cases for instance, if the wife staked claim to maintenance or if the wife had left the matrimonial home. Even though in some cases the judiciary discarded the concept of restitution of conjugal rights as violating Article 21 of the Indian Constitution and stated that it was a practice savage and barbaric, Agnes highlights a case which went from a lower court to the Delhi court (Harvinder Kaur v. Harminder Singh) where the court passed an obsolete and regressive judgement on the sanctity of Indian marriage. It is worth quoting to get a sense of the 1980s judicial approach towards justice within the domestic sphere.

“In the privacy of the home neither Article 21 nor Article 14 have any place. In a sensitive sphere which is most intimate and delicate, the introduction of the cold principles of constitutional law will have the effect of weakening the marriage bond... The ‘domestic community’ does not rest on contracts sealed with seals and sealing wax, nor on constitutional law. It rests on the kind of moral cement which unites and produces ‘two-in-oneship.’”⁵⁷

This shocking judgment which can at best be described as a fillip to the dominance of the husband over the wife and denial of Constitutional rights to women was further buttressed by a Supreme Court judgment (Saroj Rani v. Sudarshan Kumar Chaddha) who also overruled

⁵⁴Ibid, p 25 (emphasis added)

⁵⁵Ibid, p 24

⁵⁶ Ibid, p 25

⁵⁷Ibid, p 30

the Andhra Pradesh High Court which had rejected the concept of restitution of conjugal rights. Agnes courts what the Apex Court held,

“In India conjugal rights i.e. right of the husband or the wife to the society of the other spouse is not only a creation of the statute. Such a right is inherent in the very institution of marriage itself. There are sufficient safeguards in Section 9 to prevent it from becoming a tyranny...A decree of restitution of conjugal rights offers inducement for the husband and wife to live together. It serves a social purpose as an aid to the prevention of break-up of marriage.”⁵⁸

Even though one can argue that the Apex Court seems to be granting the right to both husband and wife to the society of each other, and is emphasising upon the husband and wife living with each other rather than making it evident as only the husband's right, yet the ruling under the garb of prevention of break-up of marriage is pretty much trying to camouflage denial of due rights to the woman, invoking the cause of sanctity of the institution of marriage, which is fundamental to the structure and purpose of society.

Another important provision of the Hindu Marriage Act which came to act as a double-sword for women was the provision which made Hindu marriages monogamous. The right to monogamy was something which women's groups had fought for during the nationalist movement and thus were happy to achieve it finally with this Act. However, as we had noted above, even though marriage in Hinduism was deemed as contractual and dissoluble, the essential Brahmanical ritualistic aspects for the solemnizing of a Hindu marriage were retained as legally necessary for validating a legal marriage under this Act. However, marriages in Hindu society did not follow strictly homogenous rituals across the length and breadth of the country and were contracted mostly with the aid of customary practices particular to a region or a caste. The legality of these marriages came to be ambiguous upon the enactment of the Hindu Marriage Act.⁵⁹ This made it very difficult for women in polygamous relationships as in the absence of a clear proof of all the required rituals the husband who would have been otherwise convicted for bigamy, could either disown responsibility towards the first or the second wife as suited his convenience. Not only this made women financially insecure and vulnerable and placed them at the mercy of the husband, but in the event the man refused to validate the marriage, it is the woman who faced humiliation and social stigma of being a

⁵⁸Ibid, p 30

⁵⁹Ibid, p 27

mistress. This modern law therefore, nullified the various customary provisions which gave some protection to women who were in polygamous marriages as per the respective caste rituals.⁶⁰ It also reflects the social disconnectedness of law and the compelling impact of tradition and custom as compared to it. A homogenous law could not mean something like marriage rituals and customs which were so diverse within Hindu society could be made uniform overnight. Moreover with the implementation of this provision, there were pleas in the court sometimes by husbands that imposition of monogamy violated their personal freedom and hindered the practice of their religion.⁶¹ Thus women who were many times unaware of the bigamous or polygamous relationships their husbands were into, lost the sanctified status of a married woman even though they may have gone through every community ritual for the same, if they could not prove it in a court of law. The women had to be therefore, answerable for their identity to not only the community but also a modern state structure – the court room, and the support that she could have got from one of the structures (the community if she was in a polygamous marriage) was nullified by the other (law which recognized only monogamous marriages) and she lost support thereby from both sections upon losing the status of a ‘married woman’. Mytheli Sreenivas in her work on the conjugal family in colonial India, while talking about a particular case of a bigamous marriage in the Tamil region, shows how the coming of the Colonial State had made the public aspects of the family very different from precolonial times, as the Colonial State and courts of law privileged and recognized only caste rituals in identifying and validating marriages, while discarding all other community ways of solemnizing marriages.⁶² She suggests that in this process the court assigned statuses to women, such as ‘wifhood’ and ‘concubinage’ which could be very different from how the couple perceived themselves to be as such.⁶³ She makes the very interesting argument that, “marriage was deemed too important to remain outside the purview of state control, subject solely to the vagaries of individual decision, family sanction or civil society. Instead, it

⁶⁰ Ibid, p 27-28

⁶¹ Ibid, p 28

⁶² Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, pp 1-4

⁶³ Ibid, p 5

provided an arena for a bureaucratic, centralized state to intervene in the intimate lives of its subjects.”⁶⁴

The above instances of the interaction of the modern state structure with religion and custom show that the modern state did not do anything substantial to make marriage relations in India democratic, yet it retained overwhelming control over the institution of marriage as that enables the State to minutely control and even constitute its subjects. Through the various kinds of judicial discourses we saw it is more than evident that the sexually subjugated and subservient wife whose very identity as a faithful married woman is her source of social acceptance and respect is still very much what characterises women’s subjectivity in the modern Indian state as well. Marriage in India is understood to imply woman as a sexual property for the man, as the question of consent to sexual co-habitation by the woman was immaterial to the court where the principles of the ‘lord and master’ and restitution of conjugal rights were being applied. Another example which Flavia Agnes gives in this regard is that of Sec 497 of the Indian Penal Code which criminalises adultery. Based on this provision, she argues that marriage in India places such a high premium on the right of the husband to sexual union that any man who establishes sexual relations with the wife of another can be punished under the law of adultery, and the husband could even seek compensation for the violation of his property rights.⁶⁵ Interestingly, the wife could not be treated as a punishable party when engaging in the adulterous relationship.⁶⁶ This reflects the continued irrelevance of woman’s consent to sexual relations and the fact that she could not be held responsible for her sexual acts outside marriage makes a statement on the manner in which law and society view’s women’s sexuality.

The extent of state’s intervention and regulation of marriage and its attendant structure including religion and caste is a reflection of the political importance of the institution of marriage. The State in alliance with caste structures plays an active role in continued construction of women’s sexuality as per the traditional norms and practices and though there have been times when modern law has aided women in claiming their rights from the husband,

⁶⁴Ibid, p 4

⁶⁵Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, p 2

⁶⁶Indian Kanoon website <http://indiankanoon.org/doc/1833006/> (Last accesses on 13/06/2014)

the overall legal and judicial discourse has further entrenched the traditional view of a married woman and her sexuality as propounded by religion and caste structures. The consequence of these structures and the ideological view of marriage they propose together plays an indomitable role of the constitution of women's as subjects within the institution of marriage and family. It will be thus appropriate to look at some of the other aspects of the structure of marriage and family as they continue to be practiced in modern India in order to further interrogate the everyday constitution of the subject we understand to be 'woman'.

2.4 Structure of the Family and Material Basis of Constraints on Women

So far we have focused primarily on marriage and how it defines sexuality for women in India; the religious constraints on marriage in regards to women and how religion in modern times has developed into rigid laws which even though, are supposed to be modern and egalitarian in their intent, many a times are not sensitive to the gender specific needs of women. It is time to tilt the focus towards the structure of the family, and kinship norms in particular to understand better the status of women which is defined by other factors such as the distribution of property within the community as well as the family, division of labour and consequent role-definition in gendered terms.

The structure of the family has followed a hierarchical pattern in different forms at different stages of history the world over as can be demonstrated by the work of noted anthropologist Henry Maine. The earliest form of family, other than the forms of group family or communal living which Engels refers to in his treatise *The Origin of the Family*⁶⁷, has been

⁶⁷ Engels, Fredrick. [The Origin of The Family, Private Property and The State](http://www.marxists.org/archive/marx/works/1884/origin-family/index.htm), 1884 <http://www.marxists.org/archive/marx/works/1884/origin-family/index.htm> (Engels argued in this text, that the monogamous family which overthrew the power of the woman was a product of emergence of individually owned property. Prior to this he suggests that women had a very high status in society as on account of communal living, it is only maternity which could be established with certainty and due to the valuable labour women performed as housekeepers and mothers, in no way it could be contended that women were slaves of men, or were in any manner inferior to them. This however, changed with the coming of the institution of private property which was individually owned, which put strict control on women's sexuality due to the importance of determination of progeny for the purpose of inheritance and thus reigned in the era of patriarchal power and control over women.)

identified by Maine in one of his most widely cited works to be what he called the ‘patriarchal family.’ Patricia Uberoi while introducing her work on Family, Kinship and Marriage in India quotes Maine on the patriarchal family,

“The patriarchal family was a group of men and women, children and slaves, of animate and inanimate property, all connected together by common subjection to the Paternal Power of the chief of the household.”⁶⁸

Uberoi interpreted this to imply that the senior most male agnate⁶⁹ exercised absolute power and control over all aspects of life and death of all the family members.⁷⁰ Interestingly this kind of structure is reminiscent of the Hindu joint family and as Uberoi observes, “the idea of the Hindu joint family was first given systematic shape in the writings of Sir Henry Maine, who believed that he had discovered in India a living example of the patriarchal family of ancient times.”⁷¹ It is important to note, as Uberoi points out, that in the patriarchal family which Maine talks about, each male is an equal co-sharer in the jointly owned property whether the property is divided or jointly managed. Therefore, even though it seems that every male is not entirely powerful enough to be independent of the family nonetheless, it is males who are to be considered as co-sharers and it is men who are to be treated as equals and brothers.⁷² There is no mention or consideration of the status of women whatsoever.

What might be the reason behind this unequal consideration of status to women with respect to the Hindu joint family? Ritualistically and materially we can find an answer to this question in the ‘*kanyadana* complex’. This is the term Thomas Trautmann uses for what he understands to be a pan-Indian culture of kinship whereby the conception of marriage implies gift of a maiden.⁷³ He contends that this culture is a Sanskrit or *shastric* ideal which is based on a theory of exchange which makes a deep-seated distinction between worldly and religious gifts. According to this theory only those gifts can be considered religious gifts which can be presumed to bear an invisibly engendered fruit, for which no visible return can be presumed.

⁶⁸ Maine as quoted in Uberoi, Patricia. ‘Introduction’ in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 9

⁶⁹ Agnate is a relative descended from the father’s or the male side only.

⁷⁰ Ibid, p 9

⁷¹ Ibid, p 31

⁷² Ibid, p 9

⁷³ Trautmann, Thomas. ‘The Study of Dravidian Kinship’ in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 88

The meritorious aspect of this religious gift is the absence of an obvious reciprocity. The reciprocity is meant to be transcendental and the benefits are not supposed to accrue to the giver until the next life. The *shastric* ideal of marriage i.e., marriage as a gift of a maiden, according to Trautmann is a product of this gift-giving theory of religious gifts.⁷⁴ It is quite noteworthy, how Trautmann explains the structural implications of what he calls the *kanyadana* complex as per the above *shastric* theory of religious gift-giving which will help us answer the question of the status of women in Indian joint families quite conclusively.

“Marriage by gift begins by presuming the superiority of the groom’s people vis-à-vis the bride’s people. It continues by injecting into the marriage ceremony a ritual of giving whereby the bride is given by her guardian (in principle, her father) into the groom’s keeping, utterly severing the connection between the bride and her family and transforming her into an extension of the groom and his family... Finally, *kanyadana* ends by perpetuating the asymmetry between the two parties to the transaction, for after marriage hospitality, gifts and deference must flow always and only from the bride’s people to the groom’s people. For the wife-givers to accept the smallest return would constitute taking visible ‘payment’ for their daughter, destroying the invisible merit of the gift and making it no better than a commercial transaction.”⁷⁵

Therefore, the *kanyadana* complex, it is quite evident through this ritualistic gift-giving theory, ensures that wife-takers are always superior to wife-givers. The gift of a virgin in marriage is understood in Hindu culture to be *punya karma* (or a divinely meritorious deed) which would benefit one in the next life. To be advantaged in the next life, one has to be disadvantaged in this life. And therefore, circuitously one might argue it is having to be the father of a daughter which in itself is disadvantageous which as a result places the daughter who becomes the bride in the new family at an ever disadvantageous and vulnerable state. Thus we can see the *kanyadana* complex ritualistically means control on women’s sexuality as we saw in the previous section as they are expected to uphold their purity by being virgins, and materially speaking it places the bride’s family, so to speak, in a lasting indebted condition to the groom’s family whom they have to serve and thank with worldly gifts as well to maintain the sanctity of their religious gift (that of the maiden girl), without any reciprocity whatsoever. Marriage is an institution thus, which places women at a palpably secondary status as it is

⁷⁴ Ibid, p 88

⁷⁵ Ibid, pp 88-89

always ‘men’ who exchange ‘women’ in marriage alliances and not the other way around.⁷⁶ But the most interesting thing to be noted about the *kanyadana* complex in Trautmann’s arguments is the fact that even though he concedes that this particular tradition being Brahmanical in its origin, has its bearings mostly on the lives of the upper castes, however “it is not limited by regional or genetic boundaries. It constitutes an Indian culture of kinship.”⁷⁷ Thus the *kanyadana* complex, based on the work of the above scholars, one can use to ascertain the explanation behind the status of women in Indian joint families, which is coming first and foremost from the fact that they have been nurtured by another family which has to accept its inferiority to the new family where their daughter is going to live, and to whom they have to pay timely respects and deference in not symbolic forms but also through concrete material gestures of regular gift-giving.

Referring to the work of Dumont, Uberoi further states that this kind of relationship between the wife-takers having a status higher than the wife-givers is moreover intergenerational, “...a man’s maternal grandfather, his mother’s brother and his wife’s brother, affines of three different generations, all appear as structurally equivalent – a class of ‘wife-givers’ in relation to the superior status ‘wife-takers’.”⁷⁸ Through this the woman is always reminded of her outsider status in her marital home and the inferior status of the original home. This structure of the form of exchange of women through marriage which is constitutive of the structure of Indian families, places them at a detrimental status in the structure of the family, ritualistically as well as economically.

However, it is quite apparent as highlighted above, that the hierarchy between the wife-givers and wife-takers also has an impact upon men responsible for women as their consanguine. Through this one can forward an argument about gendering and role-definition amongst kinship relations. We will discuss what being ‘gendered’ into the role of wife or a daughter-in-law means for women’s subjectivity shortly, but through the familiarization of

⁷⁶ Uberoi, Patricia. ‘Introduction’ in *Family, Kinship and Marriage in India*. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 41

⁷⁷ Trautmann, Thomas. ‘The Study of Dravidian Kinship’ in *Family, Kinship and Marriage in India*. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 90

⁷⁸ Uberoi, Patricia. ‘Regional Varieties: North and South’ in *Family, Kinship and Marriage in India*. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 47

kinship norms of marriage above, it can be proposed that the process of gendering impinges upon both men and women to create status and material hierarchy overall within the kinship group itself. With the kind of role-definition expected of men identified with being the side of wife-givers, there is a process of feminization at play of these men and their families in relation to the families of the wife-takers who could be apprehended as being masculinized. This is being said keeping in mind the role-expectation of a good woman in a marital household as a ceaseless and selfless giver of services without paying attention to the return she earns out of her services.

The *shastric* theory of religious gift giving places a similar burden on the families of the women to be married away. Therefore, the wife-givers are expected to serve the wife-takers without any material expectations. Therefore the father of the bride when visiting her daughter's in-laws would necessarily go with gifts but cannot even eat at her house and in some extreme cases would not even eat in the village where his daughter is married.⁷⁹ This practice of unequal gift-giving by the wife-givers to the wife-takers over a period of time, led to the sinister custom of dowry during the colonial times, which when coupled with the custom of polygyny placed a woman and her maternal household at the absolute mercy of the inmates of her marital household. The cumulative impact of these customs and the consequent feminization of the wife-givers implied that daughters came to be identified as an encumbrance upon families leading to a premium being placed for preference for the male child, which in turn further boosted the status of men higher in society. The malevolent tradition of dowry along with polygyny was harshly epitomised in Bengal amongst the Kulin Brahmins which reached its peak during the colonial times. Iravati Karve's remarkable work on kinship in India argues that some of the kulin families had made a business of getting their sons married to a large number of women and extorting money from their parents-in-law. Sometimes the number of wives was so large that if some of them were slightly poorer they were never even brought to the husband's home. They lived at their parents' home and the husband would just visit them, for which he used to demand money. Karve further observed that at one point in time a wave of suicide swept amidst the girls of poor kulin parents who chose death rather than

⁷⁹ Karve, Iravati. 'The Kinship Map of India'. South' in *Family, Kinship and Marriage in India*. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, pp 58-62

complete ruination of their parents.⁸⁰ Flavia Agnes also refers to the plight of kulin brides and the extreme violence perpetrated upon the child brides as well as the widows.⁸¹

As we saw in the previous section, with the coming of the Hindu Marriage Act, even though polygyny has been outlawed amongst the Hindus, yet it must be noted that this has not prevented the custom of dowry to survive despite the legal regulations prohibiting it in independent India as early as 1961 (Dowry Prohibition Act, 1961). The custom of dowry which continues to hold sway today which is deriving from the ritual gift-giving obligations of wife-givers to wife-takers and differential status which can be argued to be a gendering process in itself, is one of the most discernible material compulsions on women within the structure of marriage and the family. The security of her place in her marital household is many a times under jeopardy if she is unable to secure the material demands of dowry or rather gifts from her maternal home. This particular material obligation places wives and the wife-givers at a cumulative loss of status and wealth and very often becomes the root of violence inflicted upon women in different forms and at different levels. This particular custom however, works in tandem with a set of other kinship norms and mores to attach material constraints upon women in marriage and family.

One of the ways in which this was actualized was in the form of subversion of property rights of women in traditional Hindu patriarchal households. Flavia Agnes however, while historically looking at the law of property with respect to women, offers a contra-thesis coming surprisingly from the text of Manusmriti. She argues that in ancient law as stipulated by Manu and certain other writers there was high regard for a woman's property which in this context is known as *stridhana*. Alienating a woman's property from her was not something Manu considered a defensible action.⁸² The *Mitakshara* law system, which she argues during the colonial times was the most well identified form of Anglo-Hindu law laid down that, "property obtained by a woman through inheritance, purchase, partition, seizure (adverse possession), and finding is her *stridhana*."⁸³ Most of the *stridhana*, practically meant the gifts presented to

⁸⁰ Ibid, p 53

⁸¹ Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 15

⁸² Ibid, p 30

⁸³ Ibid, p 32

the woman by her relatives and parents while she grew up and especially at the time of her marriage in the form of jewellery. There seems to be a debate between scholars over whether *stridhana* could consist of immovable property or not. However the later smritis and commentaries which she argues represented the feudal patriarchal structure of the family, constrained women's right to property under the agrarian landholding economy.⁸⁴ *Stridhana* which was considered inalienable by some of the early ethics of ancient texts, slowly came to be much more under the control of the in-laws of the woman and began to be treated as limited estate, as the right of inheritance of family property through the male line of inheritance became more codified along the lines of English individual property laws. As Flavia Agnes shows, through certain judicial decisions during the colonial times, women lost the right to any inherited property whether they received it through their father or mother's line of inheritance and her in-laws extended control upon it. As a result "women lost the right to will or gift away their *stridhana*."⁸⁵

However tradition still gave the woman the right to residence and maintenance from the joint property of their marital household as even though polygyny was acceptable but marriage was still indissoluble. During the colonial times, Sreenivas argues even though women as wives were "discursively central to the assertion of male individual ownership rights, women themselves (as either wives, widows, or daughters) were excluded from individual rights to property and rendered dependent upon the joint family."⁸⁶ This dependency would consequentially imply that under the circumstances she was facing cruelty in her marriage she had no exit option prior to legal provisions given recognition under the Hindu Women's Separate Residence and Maintenance Act, 1946⁸⁷, and with her *stridhana* being limited and coming under the control of her husband or his relatives at times, rendered her in a completely hopeless situation. Legally the handicap of subversion of property rights of women in indissoluble marriages began to be rectified only with the provisions of the Hindu Marriage Act (1955) which turned Hindu marriages into dissoluble contracts and the Hindu Succession

⁸⁴ Ibid, p 31

⁸⁵ Ibid, p 32

⁸⁶ Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, p 16

⁸⁷ Agnes, Flavia. Family Law: Volume I: Family Laws and Constitutional Claims. Oxford University Press, New Delhi, 2011, p 31

Act (1956) which granted equal inheritance right to daughters in the property of their father.⁸⁸ However till today, women are fighting for a legal right to a share of property of their husband and in-laws as daughters in the country often lose out to brothers when it comes to the question of inheritance despite the legal provisions.

Another custom governing the structure of marriage can be regarded as further reinforcing this subversion of property rights of women. And that is the patrilocal nature of Indian families where women are the ones leaving their maternal home upon marriage to reside with their husband and his community rather than it being the other way round. The impact of patrilocal nature of family in India was exacerbated by the kinship norms of exogamy across North India. While the *gotra*-system which Karve talks about is Brahmanical in its origin it was copied by many other castes especially those which claimed to be Kshatriyas and Vaishyas.⁸⁹ *Gotra* is a form of social division which identifies members of one's kin or clan within which marriage was prohibited as the members of one *gotra* were considered to be each other's brothers and sisters. Almost all castes in North India have come to emulate this practice, if not in the form of *gotra* exogamy then in the form of the "rule of avoiding marriage with somebody who is removed by less than seven degrees from the father and five degrees from the mother."⁹⁰ In some parts of western and central India, she argues, local village exogamy also coincided with the *gotra* exogamy, as members of the same village even if they are of different *gotras*, do not intermarry. Certain regions believe in additional restrictions such as not marrying more than one daughter into the same family and there is even a prejudice against exchanging daughters.⁹¹

However exogamy is not the only kinship norm which needs to be complied with. While there is an inner limit to marriage prospects there is even an outer limit for the same. The span of endogamy as Karve argues is different for different castes, but the most important endogamy is the norm of caste endogamy. And caste endogamy does not solely mean endogamy as per the *Varna* system. There are several sub-castes and each sub-caste seeks to maintain caste

⁸⁸ Ibid, p 19

⁸⁹ Karve, Iravati. 'The Kinship Map of India'. South' in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 52

⁹⁰ Ibid, p 54

⁹¹ Ibid, pp 54-55

endogamy. Inter-caste marriages till date are so severely rejected by traditional caste institutions like the *khaap* panchayats that the culprits (the young couple) are punished often with death sentences, with the community moreover condoning such punishments as means of future deterrence.⁹² Endogamy is also restricted to linguistic divisions and has other considerations such as class and status. It might also be geographically restricted up to a point as if the village is too distant there is the fear that the groom or the bride's family may claim to belong to a certain caste but can be possibly inferior or may have moved upwards the caste hierarchy as a result of *Sanskritization*.⁹³ Thus the structure of marriage which is deterministic of the structure of family can be summarized succinctly in the following words of Karve,

“The consciousness of caste status keeps marriage territorially and genealogically within a group which, from old times, is established as an affinal group, while the taboos on the marriage of near kin and the prescription of local exogamy tend to spread the affinal group over a comparatively large area and to include a considerable number of families within it.”⁹⁴

Thus families in North India are constituted by a dual sided restrictive structure of marriage which can at times limit the scope of possible marriage partners. This needs to be looked at in the context of the religious importance of marriage as a sacrament as well as the kinship norm of unequal status between wife-givers and wife-takers which seen altogether contributes to the already vulnerable status of women in the family. Therefore, an unmarried woman is socially unacceptable and is a religious pariah, families in general in giving their daughters in marriage, which is patrilocal in nature, are constrained by norms of endogamy and exogamy which means that though the woman would be retained in a settling which is characterised by similar linguistic and cultural traits but the people whom she has to accept as a new family are complete strangers to her and she and her maternal family have to pay deference to her new family as a cultural norm in the form of material gifts. Read together the collective set of these ideological norms and structural requirements place, one might argue to a certain extent, invincible material constraints on women within the structure of institutions which they are to regard as their own families. The term material here refers to not just

⁹² Chowdhry, Prem. *Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India*. Oxford University Press, New Delhi, 2007

⁹³ Karve, Iravati. 'The Kinship Map of India'. South' in *Family, Kinship and Marriage in India*. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 56

⁹⁴ Ibid, p 56

economic structures defining marriage and family but include structures such as patrilocality, exogamy, endogamy and gendered hierarchy. This situation of women which largely applies mainly to North India ameliorates slightly when it comes to South India in certain communities due to the alliance system which allows exchange of daughters, in fact it even enjoins close kin marriages.⁹⁵ Therefore, even if it may not imply any other change, it still means that the harsh uprooting of the woman from her close kin with whom she would be sharing a certain comfortable disposition which takes place in North India can be avoided, and the marital home comprising of familiar kin can in some ways be more favourably disposed to the freedom of women.

The actual concrete impact of the above discussed material constraints can be unfolded by identifying the behavioural expectation and role-definition for women they lead to at an everyday level. Karve articulates the status quo for women in quite an all-inclusive manner. The patrilocal kinship norm combined with exogamy as we have already identified, have created separation of the young bride from her natal family as the most traumatic experience she has to go through as a recurring feature in most of the folk songs and oral and written narratives.⁹⁶

“The husband is a shadowy figure; the real people are the parents-in-law and from an indulgent home she has to go to strangers who are ready to find fault with her at the slightest gesture. In the husband’s home there is the ever present fear of the husband bringing another wife. Only when a girl becomes the mother of a boy does she feel completely at home in her husband’s house.”⁹⁷

There are thus, particular characteristics which the bride is supposed to live up to. From the moment she is married and whence she comes into her marital home, a woman is expected to exhibit shy and composed demeanour. She is expected to perform her duties and deliver her services being a rather mute and invisible figure as far as possible. These qualities are enforced by restrictions on the manner of dressing, on specific rules of behaviour and different set of boundaries with particular kinship relations. The role played by importance of *ghunghat* in

⁹⁵ Uberoi, Patricia. ‘Regional Varieties: North and South’ in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 46

⁹⁶ Karve, Iravati. ‘The Kinship Map of India’. South’ in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 57

⁹⁷ Ibid, p 58

lives of women across North India in controlling sexuality has already been talked about by Prem Chowdhry in the previous section, but it must be understood that as a garment it also effectively plays a role in immobilizing women, forcing them to work in a constrained manner. The prescribed behaviour patterns outlined by Karve give us a glimpse of the kind of relationship the woman shares with her in-laws especially the male relatives in the house.

“A woman must stand up and cover her head and face if she is in the same room as her parents-in-law, and the brothers and cousins of the parents-in-law, whom also she refers to as father-in-law and mother-in-law. Except on ceremonial occasions, she must never be in the same room as her father-in-law or the elder brothers and cousins of her husband. The women generally occupy the inner rooms. The mode of greeting for these relations and for her husband is for the woman to bow low to the ground and place her head on their feet... Towards the younger brother of her husband her behaviour is more free and she may joke with him... Generally a woman is so dominated by the affinal kin or by the husband that she rarely make a positive impression except as a mother. It is not rare to see women, who were nothing but meek nonentities, blossom out into positive personalities in their middle-aged widowhood, or boss over the weak old husband in the latter part of the married life.”⁹⁸

The above norms which place constraints of space and movement on women contribute to the control of their sexuality, the different aspects of which we have discussed above, but they also tell us about the fundamental impediments the very structure of kinship and family is placing on them. A matrilocal family would not be overwhelmingly inhibiting for women as a patrilocal family can be especially when combined with exogamy norms. The interesting thing to note here however is the change in personality of the woman Karve is noting in her later age, when those who are in authority above her have passed away to make space for her. This will bring us to the relationship of women with the other women in her marital home and the complex dynamics of constraints on agency and the exercise of agency these relations lead to. Again Karve’s work on kinship has thrown light on some of the most significant aspects of these relationships which for us are crucial to understanding the role of the subject herself in the constitution of the subject ‘woman’.

“Folk literature singles out certain pairs of relations as natural enemies. *Nanad-bhojai* i.e. a woman and her husband’s sister is one such pair. *Sas-bahu* i.e. a woman and her husband’s mother is another... The *nanad* has to leave the house in which she was born and finds that a complete stranger takes her place in it. *Sas* and *bahu*, though both are brides, i.e. women who have come into the family through marriage, the *sas* being the mother has established certain

⁹⁸ Ibid, p 61

rights. The *bahu* is a stranger, who is the present slave and the future mistress. The rivalry between *sas* and *bahu* is the rivalry of two generations of women between whom, in the course of time, power is transferred from the old to the young. All the girls of the husband's village watch over the 'brides' and report their smallest gesture to their mothers, who are of course the mothers-in-law of the young brides.'⁹⁹

These relationships make the issue of subjectification of women, their own participation in it and that of the exercise of agency extremely complex. It is evidence of the nature of structuration of kinship relations which first of all differentiates to a great extent between the value of consanguine and affine relations¹⁰⁰. This being the dominant cultural practice, despite all consanguine relations emerging due to the establishment of affine relations. And due to the family being patriarchal, every new bride continues to be treated as an outsider and denied the kind of freedom and rights which the original consanguine members of the household including the women often enjoy. And this is the primary reason why this chapter has tried to establish that it is marriage which is responsible for the structuration of family and leads to the constitution of a particular kind of disempowered gendered subject. The religious and cultural ideology have made the institution of marriage so indispensable however that a woman who has not gone through the sacrament of marriage is considered most unfortunate and socially treated as an outcaste. Though for men the social and economic repercussions may be of a diminished degree, however marriage remains important for them too. The difference with respect to men is that marriage does not constitute a disadvantage to men and prior to the Hindu Marriage Act (1955) law and community tradition both upheld the practice of polygyny. For women however, though there were some gains made in 1955 which had their loopholes, the structure of marriage which treated them as an outsider and compelled them to be subservient to a set of strangers early in their life, offered little room for agency. However, reaching seniority and especially the status of the mother of a boy did advance considerable authority to women in the position of the mother-in-law. This position enabled a hitherto meek and compliant woman turn into being bossy and assertive. And Chowdhry therefore, has argued this authority which gives women in the senior position power and authority over the *bahu*

⁹⁹ Ibid, pp 57-58

¹⁰⁰ Consanguine relations imply of the same lineage or having a common ancestor. Affine relations are established through marriage.

especially made these women compliant to norms of patriarchal control¹⁰¹ and ensuring the regulation of their daughters-in-law in order to implement these norms, to retain their own position of control by sabotaging any exercise of freedom by them. In this manner, not only do we notice one woman exercises agency at the cost restraining another woman's agency, but at the same time, women are themselves contributing to the constitution of the subject marriage and family makes women to be through a cycle which repeats itself every generation.

However, it can be argued that the kind of role mothers-in-law usually are seen in is the kind they are compelled to perform under compulsions of the patriarchal family where the only way for a woman to assert herself is to command the respect of a man, in this case her son. It is patriarchy which pits the *sas* and the *bahu* against each other preventing them to align together for mutual liberation. Because women's right to property has been undermined in Indian families the mother-in-law needs to exercise authority for her own survival especially if she is a widow. But after property laws in India¹⁰², have given equal inheritance rights to daughters, and made it easier for women to hold title to property, the above argument of the compulsions of patriarchy upon women exercising power over other women cannot be upheld very easily.

Nonetheless, it is not right to property alone, concern for which can prompt mothers-in-law to become undeclared enemies of their daughters-in-law. Marriage as an institution was as Chowdhry argues identified by even the British to be an 'economic necessity', crucial for both production and reproduction purposes.¹⁰³ The manner in which marriage managed these roles of production and reproduction was to engage in division of labour on the lines of gender. This led to women and men getting trapped in role-definition across dichotomies of the public and private sphere – the public relating to production and the private relating to reproduction which included for women domestic responsibilities which were not considered and still aren't, as productive by themselves. Married women were slave to this role-definition which led to

¹⁰¹ Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 5

¹⁰² The Hindu Succession Amendment Act (2005) granted equal rights to women in inheritance of ancestral property. 'Daughters get equal share'. Law Teacher: The Law Essay Professionals. <http://www.lawteacher.net/finance-law/essays/daughters-get-equal-share.php>. Last accessed 28/07/2014

¹⁰³ Ibid, p 29

extraction of labour without reciprocal returns to them. Chowdhry, through her empirical work on rural households in Haryana highlights that women had no real say in decision-making in even when it came to decisions such as consumption expenditure on items such as “food, housing, clothes, and fuel, to entertainment and expenditure on social and cultural occasions, on which 91 percent of the total domestic expenditure of the cultivating households is spent”.¹⁰⁴ Though they were responsible for domestic work, yet most of the time, “they emerge deprived and discriminated against, resulting in severe malnutrition and impaired health.”¹⁰⁵ Therefore, when women with their position as mothers-in-law got a chance to take part in decision-making and escape the labour when the daughter-in-law could be made to engage in that labour, it can be argued to be a product of the patriarchal norm of role-definition based on gender which ensures that domestic responsibilities are not shared by men.

Thus, the structure of marriage and family impaired women materially at an everyday level. There is a dual control which these institutions have imposed upon women – sexual as well as economic, and two are very much related to each other. For example, in the section where the control on sexuality was discussed above, we noted how marriage was sacramental and deemed indissoluble to primarily control women’s sexuality. This norm has a material basis to it in so far as it helps feudal families prevent division of their property and any conflict over land, in the event of a divorce. Therefore, the woman’s identity was practically merged with that of her husband.¹⁰⁶ Agnes, whose magnum opus on Family Law in India refers to the different personal law codes argues that the status of Islamic women was comparatively better than that of women in Hindu families, as they “did not lose their identity upon marriage and the legal system offered some economic safeguards to married women through the system of *mehr*. It also acknowledged the inheritance rights of women. But even here, women’s rights were not equal to that of men.”¹⁰⁷ Though Hinduism also offered the protection of *stridhana* to married women, but we have seen through the course of the above discussion how that was

¹⁰⁴ Chowdhry, Prem. ‘Ideology, Culture, and Hierarchy: Expenditure-Consumption Patterns in Rural Households’ in Political Economy of Production and Reproduction: Caste, Custom and Community in North India. Oxford University Press, New Delhi, 2011, p 221

¹⁰⁵ Ibid, p 222

¹⁰⁶ Agnes, Flavia. Family Law: Volume II: Marriage, Divorce, and Matrimonial Litigation. Oxford University Press, New Delhi, 2011, pp 2-4

¹⁰⁷ Ibid, p 4

constantly undermined. In joint families there were certain safeguards on the right to residence and maintenance, however women never had access to any independent safeguards. Their safeguards were contingent upon the role they performed within the institution of marriage. Thus, many of the religious and cultural norms such as the indissolubility of marriage, the ban on widow remarriage, undermining women's right to property, role-definition as mothers and wives with domestic responsibilities being assigned to them restricted women to domestic space and ensured control and regulation of women's sexuality as well as the continued economic dependence of women upon the institution of marriage.

2.5 Love Marriages and Challenges to the Practice of Agency by Women

The patriarchal structure of family was not restricted only to the joint family structure discussed above. Ruptures in this structure were emerging in the early twentieth century with the emergence of emphasis on conjugality relations in marriage. Writing in the context of the history of the Tamil family in colonial times, Sreenivas argues that, "the propertied men fashioned a new logic of conjugality that gave greater priority to a husband's relationship to his wife and children... Creating this conjugality depended, in part, upon the successful rearticulation of women's status."¹⁰⁸ This came in the form of leaders of the national movement giving a call for women to come out of the confines of their homes, for their nation and the stress on modern education for women. Social reformers made various attempts, some of them successful to do something about women's education and upon this work outside the home for a middle class woman became more acceptable driven of course by economic necessity, and remaining a question of social prestige and involvement in the company of men, under ordinary circumstances.¹⁰⁹ However, education and the very prospect of work outside home, was a fundamentally altering experience for middle class women in Indian families who had very little source to develop a certain sense of agency capacity. Kapadia summarizes the impact of entering into the public sphere on women quite effectively,

¹⁰⁸ Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, p 5

¹⁰⁹ Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, pp 263-265

“When women began to seek extra-domestic work, they came into association with people of different communities, people with different tastes and aptitudes and different outlooks on life. Such contacts began to make an impression on the Hindu woman and helped to mould her personality... The outlook of the Hindu woman is enlarged, her opinions find perspective, her creative energies are unfolded; also she realizes her rights and her place in society.”¹¹⁰

This was a point of time where work outside the home for married women was an alien idea but upon the spread of education, social work, came to be considered the only respectable option for upper caste women when they first began to venture out to work. Lower caste women and women belonging to the peasantry did not face this kind of a dichotomy between the home and the outside world as the upper caste women did, as due to economic compulsions facing the labouring classes they were compelled to work outside the home. However, as we have noted in the sections above the Brahmanical impact of marriage norms did not leave the lower castes untouched. Therefore, one can argue that even for the lower caste women, under the hegemony of Brahmanical norms for women, the agricultural field too came to be often seen as an extension of the home, not really requiring interaction with outsiders.

However when women starting with a certain limited section began having access to the education which the British had introduced in India it, it acted as a source of enabling women to look upon themselves as individuals in addition to wives, mothers and daughters gradually over a period of time. The impact this had on the conjugal relationship was to cement stronger emotional bonds between the husband and the wife, an independent relationship from the larger joint family.

Nevertheless, the conjugal family did not imply, the replacement of the joint family. The ‘conjugal family ideal’ according to Sreenivas meant more of centrality afforded to the husband and wife relationship who became the axis of property ownership. Individual marriage choice became embedded in the discourse which emerged around conjugality¹¹¹ and that is why one of the primary reasons for increased emphasis on conjugal relationships to be understood to mean a direct challenge to patriarchy as the idea of love and self-chosen partners was not compatible with traditional marriage. To this day especially in the larger sections of

¹¹⁰ Ibid, p 265

¹¹¹ Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, p 6

North India, marriage and love are differentiated in acceptability as per traditional standards, as Chowdhry observes in her work, “Desire, choice, and love are separated from the institution of marriage, which is about social reproduction and not about individual needs and their fulfilment. The dominant morality does not expect emotional and erotic satisfaction in marriage and regards love and sexuality with distrust and suspicion.”¹¹² Patricia Uberoi has also looked at the issue of marriage and love on similar lines.¹¹³

But why was marriage so suspicious of romantic relationships? First of all love could not have been restricted by norms of kinship and caste, endogamy and exogamy, or the boundaries of class and status. Traditionally marriage was and till date still is arranged by the parents of the spouses. This kind of an arrangement ensures the control of the elders over the young, and careful implementation of religious and caste norms. Secondly, love marriages would mean a stronger conjugal relationship which could potentially lead to contributing to weakening the control by the husband’s kin over the daughter-in-law. For these reasons, love marriages primarily inter-caste marriages, end in punishment for the young couple. The man is often accused as a criminal who thereby deserves the punishment especially in the event he is a Dalit and the woman faces the wrath of community violence as she is considered to have brought dishonour to her family, kin and caste. In an extensively documented work by Prem Chowdhry on runaway couples in Haryana, she highlights the violence and killings sanctioned by caste panchayats in rural Haryana against inter-caste marriages as having community backing.¹¹⁴ From her work, she makes a case for a symbiotic relationship between the ideology of embedding honour in women and the occurrence of violence as a structurally inherent characteristic of marriage and patriarchal family.

“Women as the repository of male honour are simultaneously exalted as well as made objects of their coercive power and violence, making both protection and violence inherent in the ideology of honour. The fear and/or perceived loss of this honour rationalizes and justifies masculine

¹¹² Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, p 2

¹¹³ Uberoi, Patricia. ‘Introduction’ in Family, Kinship and Marriage in India. Ed. Patricia Uberoi. Oxford University Press, Delhi, 1993, p 2

¹¹⁴ Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007

aggression and violence. In turn, violence is associated with masculinity and hence is normal rather than an aberration.”¹¹⁵

Thus, women being the upholders of community honour with the intense scrutiny their sexuality comes under, do not become victims of violence only in the event of an extreme resistance step. It is routinized as part of the discourse of protection of honour which can be perceived to be under threat at the slightest attempt at exercising freedom by women. And therefore, violence in homes against women is accepted and one might argue, even enjoys legitimacy under the patriarchal ideology especially when it comes to the issue of regulation and control of women’s sexuality and the consequent protection of family, community and caste honour. Keeping this ideological legitimation of violence against women in marriage we need to delve little more into the consequences of the changes in the structure of marriage which were beginning to take place with the coming up of conjugality. Sreenivas commenting on the relationship between conjugality and the challenge to patriarchy argues,

“Although the conjugal family ideal offered a language within which women and men could challenge existing patriarchal relations and structures, the “new” conjugal family was, in most cases, also a site for the production of “new” patriarchies. While empowering men differently – typically by rearranging intergenerational power and authority – the emphasis on conjugality did not overthrow the power of men within their families. Instead, in some cases the new norms even solidified their control.”¹¹⁶

In independent India, this has meant that even though, many marriages are turning into the nuclear families, instead of fundamentally democratising relationship between the husband and the wife, the husband exercises control not only over major family decisions but significantly also on the decisions of his wife. Prime control here involves of course, deciding what kind of work and where the wife is able to pursue. Kapadia’s study quoting a study carried out in 1953 points out that a majority of the educated husbands interviewed in the study, responded to the effect that work for women should take up only a few hours outside the home, if they get time out of the affairs of the household.¹¹⁷ Though quoting this study might seem a little anachronistic now, however, another recent study conducted by Shalini Grover in the

¹¹⁵ Ibid, p 17

¹¹⁶ Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, pp 6-7

¹¹⁷ Kapadia, K.M. Marriage and Family in India. Oxford University Press, Calcutta, 1966, p 264

poor urban neighbourhood of Delhi reveals that the issue of the wife working outside the home is a recurrent cause of difficulties between couples as “husbands seek to restrain their wives from taking paid work outside the boundaries of the neighbourhood as this is seen to detract from family responsibility and male honour.”¹¹⁸ The question of honour, Chowdhry argues, has surfaced in contemporary India in a big manner to thwart the economic rights and consequent empowerment it would have proffered women, by the patriarchal society.¹¹⁹ Often in the families Grover has talked about, women work only when they have to, that is when the husband due to personal shortcomings, such as alcoholism or loss of work is unable to maintain the family. And soon after the husband resumes work, very often they give it up reinforcing the male breadwinner ideology.¹²⁰ The cases cited in the previous sections where husbands have filed for restoration of conjugal rights are further evidence of the increasing sexual and economic control husbands seek to exercise over wives in the revised marriage and family. Arguably, the reformed structure of these institutions has also led to escalation in domestic violence as the moral guardian under some circumstances in joint families is reducing (even though violence as a guardian of honour associated with women has ideological legitimacy to a great degree in marriage and family) and the husband has more of a free hand and is unhindered in the exercise of power in the manner he desires to.

Now the question which arises is, if such a marriage took place after mutual consent of the husband and the wife and the woman actively exercised the choice of marrying her partner, while acquiescing to such pressures of the husband, is she consciously lending a hand to the constitution of herself as per the structural norms of patriarchal marriage and family? This answer can be better answered in the next chapter when we will go into some real cases of women from the field work conducted in Delhi, but for now a few points need to be kept in mind. Marriage as a social institution we have already noted remains necessary for women, and they are dependent upon it for their economic survival as well. Moreover, in such cases of love marriages very often the natal kin of the woman sever their ties with her, and the

¹¹⁸ Grover, Shalini. ‘Lived Experiences: Marriage, notions of love, and kinship support amongst poor women in Delhi’. *Contributions to Indian Sociology*. 2009. 43:1, p 9

¹¹⁹ Chowdhry, Prem. *Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India*. Oxford University Press, New Delhi, 2007, p 17

¹²⁰ Grover, Shalini. ‘Lived Experiences: Marriage, notions of love, and kinship support amongst poor women in Delhi’. *Contributions to Indian Sociology*. 2009. 43:1, p 10

neighbourhood in general disparages her as a promiscuous woman, for entering into love marriage essentially means women exercising agency over the expression of their sexuality¹²¹ which as we seen through the foregoing discussion is ideologically scorned upon, is considered culturally taboo. There are thus, little support systems for women especially amongst the economically lower classes for plausible exit options outside the institution of marriage. Thus the family is far from private in structure, it is in fact a publicly and socially constructed institution with cultural expectation regulating the behaviour of the members of the family to a large extent.¹²²

2.6 Concluding Observations

Therefore, to sum up, from our discussion of various aspects of the structure and ideology of marriage and family in India, it is more than evident that women in relationships of marriage are significantly disempowered sexually and economically. Moreover the various everyday norms and deportment patterns they are expected to live up to have constituted women's subjectivity into accepting such norms as natural and even desirable and accept their status in the hierarchical marriage structure. Yet, the question of extent of compliance of women and that of agency of women in contemporary times in independently chosen marriages, or nuclear families throws up interesting challenges to the dominant structure of marriage which can be better studied through real life cases and testimonies of women themselves. Because to go into this one will also have to examine a certain paradigm of political emotion which Sreenivas refers to as love, affection and pleasure, which helped women exercise a quality of emotional agency and challenge patriarchy.¹²³ The political subtext of these emotions with their implications for constitution of the subjectivity of women can be commented upon by going into real life narratives of women's experiences in marriage and family, all of which will be collectively analysed in the next chapter.

¹²¹ Ibid

¹²² Chowdhry, Prem. Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India. Oxford University Press, New Delhi, 2007, pp 17-18

¹²³ Sreenivas, Mytheli. Wives, Widows & Concubines: The Conjugal Family Ideal in Colonial India. Orient BlackSwan Pvt. Ltd. New Delhi, 2009, pp 15-17

Chapter 3: Interrogating the Agency of the Woman Subject

3.1 Introduction

The first chapter discussed in what manner the concept of agency has been understood by philosophers and scholars which can offer us a workable understanding of how to understand agency. The basic idea of attributing agency to an individual is to determine actions of the individual as coercive or as freely enacted upon. Understandably all actions at all times are governed by some or the other causes, the task of the concept of agency is simply to differentiate causes that coerce an individual to behave or perform in a certain manner and causes which cannot be alleged to have this kind of impact upon individual actions. Agency we understood, following Bilgrami, is one of the most basic concepts in understanding the subject. According to him agency could only be pinned down by a process of our reactive evaluative attitudes towards the actions performed by individuals which would then determine whether, we understood the action as coerced or not. These reactive attitudes which we understood as a course of *social evaluation* are rooted in certain values which we argued are in turn derived from the larger social and political structure around us. The idea of social evaluation is important for elucidation of the idea of agency, as real life actors or subjects can be evaluated for their actions only when they can be held accountable and responsible for the same. Therefore, the process of social evaluation of actions then becomes constitutive of explaining actions as agentic or otherwise.

However, to identify individuals as agents, qualities internal to them are equally if not more important as we saw in the works of Charles Taylor and Diana Tietjens Meyers. Taylor's idea of human agency is the self-evaluative capacity of individuals to differentiate between their own desires and choose those which are most in keeping with the values which are important to them. His philosophical underpinnings lead him to ascertain that these values though different for different individuals, come from the community. Thus for him, human beings are really free when they, one might say develop the capacity for self-actualization and have overcome all internal obstacles to freedom. The process of self-actualization was understood by Meyers as a kind of necessary capacity of individuals in order for us to understand them as agents. We saw that this capacity is what she terms to be 'autonomy competency' of individuals. It is a self-reflective process of identifying

through a trial-and-error method an authentic self. This entire idea however, of a true authentic self is derivative of an abstract liberal conception despite the fact that it is attempting to critique a thin idea of negative liberty by going beyond external constraints to freedom.

These scholars stopped short of critically dissecting these internal constraints to freedom, as a response to which we went through the structure-agency debate. And as the structure-agency debate between Marxists (Althusser-Thompson debate), feminist and poststructuralist theorists like revealed, structure and subject are not in a one way deterministic relationship with structure alone determining the subject as Althusser or the dominance feminist theorists would argue. Although scholars differing with the structuralists admitted that the subject can be constituted in a variety of ways by the structure. There is a certain co-constitutive relationship and there can be no subject imagined completely out of the context of all and every structure. Poststructuralists moreover emphasised the existence of plurality of structure to deny the existence of a harmonized constructed subject. The strong structuralist scholars and some other scholars who offered an insightful critique of the poststructuralist theory of Butler which granted a very ambiguous status to the scope of agency by the subject in the process of construction itself did nevertheless make it necessary that we undertake a thorough examination of the structure governing the subject we are concerned with in this research, i.e. women in marriage and family.

We learnt from the previous chapter which undertook this exercise of an investigation of the structure of marriage and family and how it constitutes the subjectivity of women, that the institutions of marriage and family are heavily governed by ideology rooted in religion and caste norms. Of course we outlined the limitations of the discussion in terms of the regional, caste, and religious diversity across India, yet due to the sample size of the actual subjects of this study, i.e. women who have experienced domestic violence in their marriage and family, the overall treatment of the issue was with respect to Hindu religion, marriage and family. More specifically as we noted with the coming of the colonial state the sway of Brahmanical norms of marriage which were supposed to be with respect to the caste Hindus became the homogenized norm for the Hindu community which began to include the lower castes as per the classification of the colonial state. These caste rituals already were quite powerful due to the hierarchy of the caste system but with the support

of the colonial state they came to achieve greater legitimacy in form of laws like the Hindu Marriage Act (1955). The most important impact of the structure of marriage and family over the constitution of subjectivity of women as we saw was the high premium placed on the control and regulation of sexuality of women. Sexual rights upon women of the husband were so esteemed that the issue of 'consent' of the wife to intercourse in marriage never arises in traditional marriages. The influence of traditional religious texts like Manusmriti which held up various moral injunctions for sexual propriety for women impact mores and ideas of women's sexuality to this day with continued emphasis on the virginity and chastity of women prior to marriage, which can and should be given up only through ritualistic marriage which was supposed to be indissoluble.

Various norms and practices like polygyny ensured not only sexual control but also economic control along with the *kanyadana* complex outlined by Trautmann which naturalized a hierarchy between wife-givers and wife-takers as the former made a gift of a virgin in marriage to the latter without expecting anything in return. Moreover the relationship between wife-givers and wife-takers was characterised by a continuous flow of material gifts from the wife's kin to the husband's kin. We also outlined how there has been in place a gradual process of undermining the rights of women over her *stridhana* which came to be under the control of her husband's relatives in the form of dowry. This combined with the resistance against any grant of property rights to women despite contrary legislation in modern India makes women economically dependent upon their marital homes as that is purported to be her real home as opposed to her natal home where she is often understood to be a guest. The patriarchal norms of behavioural expectations on new brides and married women in general place heavy constraints on women and ironically it is the women folk of the husband's family, primarily the mother-in-law who actively participates or much rather even leads the regulation and control of the daughter-in-law's conduct. Gender role definition pushes women inwards to the home and domestic responsibilities to this date where women working outside the home very often is considered acceptable only when it is an economic necessity. Even though coming to the contemporary times we found that love marriages are not uncommon even amongst the economically underprivileged class (which comprises of majority of our field work sample) the constraints imposed by the traditional religious and caste ideology and structure which disapproves of free expression of sexuality and choice in marriage by women (particularly inter-caste marriages) continues to mean power remains in the hands of men in marriage

along with a structural legitimation to violence in marriages against women for the sake of an abstract conception of ‘honour’ of the family and the community.

In the light of the understanding of the conception of agency which we outlined in the first chapter and the structural constraints on agency imposed upon the subject ‘woman’ in the second chapter, this chapter will dwell upon the real life experience of women who have been victims of domestic violence in their homes, in order to enquire into our central question as stated in the beginning – how can subjects who are structurally considered as being disempowered exercise agency in the face of extreme power? By extreme power we mean here the power of violence against women in their families. The analysis or what one might say drawing from Bilgrami, ‘social evaluation’ of the subjects under study, will be based on awareness of structural impediments, self-perception of the woman and an evaluation of the self-reflection by the woman in order to understand how could/could not these women make a break in the larger narrative of violence as subjects who could be considered morally and legally free selves. One might also want to recollect the interaction between human experience and structure which James Scott argued is necessary to understand human agents as well as structure. Therefore, our discussion of the experience of women here would make an attempt to understand how their experiences are influenced by the structure and how they are contributing to creation and sustenance of the structure. His ideas on the plurality of structure and their impact on human experience and vice-versa will be useful for us when we are trying to look at how other than the patriarchal structure of marriage and family how well women’s experience is interacting with new kinds of structures like modern education, legal institutions and other creative forms of structure which will be analysed through the course of the chapter.

As has been discussed in the introduction in greater detail, the research questions which we are dealing with in this chapter include – could these women understood to be agents, and if so what are the reasons for us to impute agency to them? Why are certain subjects able to challenge the structure and why can’t others do the same? Are there structural similarities in cases where we do find evidence of agency? And if not, how could we explain the differences? Is it a question of only different contexts, supportive structures and situations or can there be some justification for locating the source of certain actions in the actor herself, the subject under study, the woman? Majority of the women interviewed were victims of violence directed by their husbands. There are some cases however of

violence by in-laws. And exceptional cases also exist of violence in one's own maternal home. Again as already mentioned in the introduction to this research, the field of the interviews conducted is the city of Delhi. The details of the methodology and the nature of the sample are also charted out there. The names of all women along with their husbands or relatives wherever used have been changed to protect their privacy as already mentioned in the introduction. Even though the interviews are semi-structured in nature, the pre-meditated set of interview questions with which we began are outlined in Appendix I. The descriptions of majority of the cases can be referred to in Appendix II as this chapter focuses on analyses of the cases. By analysing these real testimonies of women in the light of the literature we have elaborated upon, we hope to contribute to sketches of a practical theory of agency. The analysis follows a structure of discussion of certain broad themes which came out from the field work. Though different cases of the women often elucidate more than one theme, attempt has been made to present them in the theme which represents the most important aspect of their case. And in other sections then repeated reference is made to complicate the picture of agency through inter-sectional analysis of the cases.

3.2 Agency of Women Facilitated by Relationships as Political Practice

In the rickety lanes of the urban village known as Madanpur Khadar, in one of the rooms in a small house one can see evidence of regular feminist praxis and engagement by women who belong to the class which can be understood as the urban poor. One might think looking at their economic situation that they would not have much time from work at home or bringing whatever income they can, to provide for their children and themselves, but one is really surprised to see what these women regularly engage in at least one afternoon every week. This room which serves as the Jagori field office at Madanpur Khadar has really changed the lives of the women who at some point or other decided to be part of the conversations and the activity inside the room. It is a space for creation of an opposite and alternate structure and ideology to that of patriarchy. The relationships they have cultivated here have educated and empowered them in ways more than they could have ever imagined.

To theorize this we can go back to Nancy Hirschmann's idea of relationships as political practice as we discussed in the first chapter.

“The realization that this inferiority is a constructed image, that it is (at least at some level) false, and that women’s activities *have* value needs the support of other women’s similar and simultaneous realization or consciousness. Relationships among women provide this different context for the sharing of these realizations and hence the creation of a political ‘feminist standpoint’. Although patriarchy has dehumanized, decentred, dismissed, and disrupted women’s relationships with one another throughout history, it has nevertheless permitted those relationships to exist, generally by default...These have often evolved as a means of survival for women, ways that women have been able to help one another cope with their oppression, but they have simultaneously provided the basis for transcending it as well.”¹

These relationships as political practice Hirschmann sees reflected in the consciousness raising groups and Jagori is one of the best examples of that. Many of the women have been victims of domestic violence in different forms, and Jagori was a space for them to speak out with their experiences hearing similar experiences of others. It was through conversations with some of these women that I could see one of the most of the interesting ways in which women in their lives are trying to overcome the legitimacy of violence in structures of marriage and family. In such a space which is a hotbed for ground level feminist training and consciousness raising of these women, what happens to the constituted subjectivity of women as determined by the structures of marriage and family?

The stories of Hiradevi, Sita and Vimla are stories of women who faced violent conjugal relationships as well as families and have through Jagori got the support to fight their way through these situations of extreme power. Hiradevi, a woman in her forties has lived with verbal and physical of her mother-in-law and her husband till about six years ago. Her experience of rape on the first night of her marriage is still shocking for her even though she had learnt to become what a wife was expected to be as a result of her mother-in-law’s incessant abuses. One of the prime reasons of her mother-in-law’s fierce control over the entire family was that she being a single child inherited all her parents’ property. The father-in-law was a weak figure in the house and the mother-in-law had taken control of most of the decisions. This demonstrates how control over economics of the household can turn around relations of power. The relationships in this household reflect the traditional structure somewhat and even in a very formidable manner goes against it. The household had a matriarch despite the presence of a patriarch. Hiradevi had no little choice but to accept this authority, however when she saw an opportunity of her husband going to

¹ Hirschmann, Nancy. ‘Toward a Feminist Theory of Freedom’. The Liberty Reader. Ed. David Miller. Edinburgh University Press, 2006, pp 218-219

be Delhi she decided to persuade him to take her along with the children to Delhi despite the resistance of her mother-in-law. Thus a woman was doing her best to make sure that another woman's happiness continues to elude her. It is this disruption of relationships between women in the structure of patriarchy which Hirschmann is referring to. We will come back to this act women trying to restrain women's agency and its implications in the next section.

Nonetheless, standing against her mother-in-law and convincing her husband to bring her to Delhi can be understood as Hiradevi's first conscious act of resistance even though she may have had her children's education at concern. She did suffer the abuses and the violence silently, but looking at an opportunity to amend her situation, she confessed that there was always a smidgen of mettle inside her which she restored to her personality in order to get what she wanted. The point to be noted here is that Hiradevi's account so far reflects that even though she acquiesced to the dominant patriarchal structure around her considerably in situations where she felt a lack of exit option and helplessness, when she saw an exit option she had the *agency capacity* within her to fight for it. It can be said to be rooted in the childhood where she was left to fend for herself when her mother passed away, or a strong desire to do something to survive on her own. Nevertheless, coming to Delhi did not alter her situation much as her husband assumed complete control over the household and she recalls her relationship with him to be that of a master-slave relationship. The violence though was intermittent it continued to bother her with periodic spells of peace on the other hand.

The intervention of Jagori, a women's collective working with women, conducting regular meetings in her neighbourhood gave her practically a whole new set of skills to develop what we saw Diana Tietjens Meyers has referred to autonomy competency and what from Taylor's account of the moral self we understood as capacity for strong evaluation of our inner desires. Initially she went for short 1-2 hour meetings where *behen* (sisters) would talk about their problems and the Jagori staff would much like sisters guide them towards finding their own solutions, offering a support system to help them in whatever solution they chose for themselves. However her increasing engagement with Jagori, was what escalated the violence by her husband to such an extent that it called for the intervention of her adolescent son to save on more than one occasion. Jagori helped her file a Domestic Violence case after this incident but other than right to live in her house,

she has found little respite from the court despite intermediate orders and court dates for the past six years.

This pattern of increase of trouble at home when the woman decides to be more outgoing disturbing the balance of inside and outside of the home, was something I noticed in another woman's story named Heena. Being also a Jagori employee Heena exhibited very similar traits to that of Hiradevi. The only difference was that unlike Hiradevi, her conjugal relationship was characterised by happiness prior to her engagement with Jagori. Though she did not face any explicit violence or even verbal abuse from her husband, her inability to give time to her husband after beginning her studies all over again while at the same time working with Jagori, is generating discord and tension in her household. Her husband who was a very supportive man for her has become a different person altogether. Instead of her it is her two children who often bear the brunt of slaps, kicks and abuse. Her training with Jagori has strengthened her enough to understand that she is not a sexual property of her husband and that relations should be established when both desire. It is this assertion of her to say no when she wants to which, she says has generated the necessity of Jagori counselling for her husband. Her most interesting assertion was that she strongly believed what she is facing is a form of violence. For her violence need not be explicit abuse in form of cuss words or beating. Not sharing household responsibilities with one's wife in order to encourage her to do what she wants is also a form of violence. Her husband's tactics of casting aspersions on her character with respect to "going out of the house" for her is also a form of violence. Thus it is evident that Heena's agency to a large extent like Hiradevi is facilitated by her political relationships she has nurtured at Jagori, but it a case which raises the question of exercise of power as a result of exercise of agency. The traditional norms in a Muslim household of women not going outside the home, have been challenged by Heena and she has to face violence as a result of that act of challenge. But what is interesting is that Heena does not want to leave her husband, she wants her own life and her family. Her case begs us to ask the question – why must women be compelled to choose between their lives and their families? A lot of cases which I will discuss through the course of this chapter will elaborate much more on the nature of choices women want to make and what it tells about their agency.

Heena decides to stay in her family and through her own and Jagori's counselling deal with the discords and the tension she is facing at home. But can women make the same

of choice of staying back when they are subjected to extreme violence in the form of consistent verbal, emotional and physical abuse? One of the older women I spoke to named Vimla, did make a choice of staying with the husband who has subjected her to slaps, insults, the trauma of adultery and physical abuse for over sixty years. Living in the village and belonging to the pandit caste Vimla was constrained and totally almost consumed by the structure of marriage in so far as she even used to hesitate telling her mother about her violence. But twelve years ago meeting with Jagori women on the streets changed her sense of self.

Vimla prior to coming into contact with Jagori is an example of a classic subject which dominance feminists like Dworkin would talk about as having practically no self and thus no agency at all. There can be two kinds of ideological structures pitted against each other here – patriarchal marital and familial ideology and modern education. Vimla was a totalised subject of the first and had no access to the second. Thus one might argue she was acutely unaware of any alternative worldview other than that of Indian marriage sermons such as being a truly faithful wife no matter what circumstances come, the husbands' home is the only home of the woman and so on. We have seen through the course of the discussion of the previous chapter how overwhelming this structure is over a woman's life and Vimla's case is a befitting example of how this structure constructs and to a large extent at times succeeds in even determining its subjects. Because she had access to only one single structure there was no way in which she could have developed what Meyers described above as autonomy competency. Exposure to the structure of modern education is a must for that. Or can such capacity be acquired in any other manner?

As we have witnessed in Hiradevi's case, here too it was Jagori who provided her with an alternative worldview and the practical feminist training needed to identify herself as an independent self who deserves to live with dignity. While the actual act of intervening by threatening her husband with police action and repeated counselling sessions is what made her husband give up being violent after literally decades, one might ask here, what were the conditions which helped Vimla gain a sense of self? A grass root level intervention by the NGO Jagori who would come in the neighbourhood where women would get together to talk, discuss and share their problems is in this case an inexplicably valuable condition which helped Vimla to acquire some degree of autonomy capacity.

But she still chooses to stay with her husband, and the idea of her staying with him cannot be explained squarely in terms of economic necessity. Society's opinion matters for her a lot, and she is still a firm believer in the institution of marriage. So can her choice to stay with her husband even after twelve years of feminist engagement, who made her suffer from abuse, insult, violence and infidelity all her life be understood an expression of agency or the reflection of a subject who is unable to break through the structure of patriarchy? One might want to take the support of Friedman's substance neutral conception of agency here which evaluate decisions as agentic or not based on a set of considerations prime among which is self-reflection with a set of values which are important to the woman.

What Vimla wanted was respect within her marriage. At this age she did not want to lead a lone and destitute life. Moreover protecting her home was important to her. And she had the support structure of a women's organization to help her. Vimla's decision here that is why must be read as an act of agency. However, upon being questioned she did acknowledge that she had no idea of what love in a marriage meant as she never had any social exposure to educate her of the same. The only exposure she had was to educate herself over the *dharma* of a righteous wife. Her Brahmanical background made sure that she internalizes this ideology. Nonetheless, it cannot be denied that through her gradual exercise of agency which may not be necessarily an ideal feminist conception of self-affirmation and self-satisfaction, she has still redefined the relationship with her husband based on her own autonomy and self-respect. Thus, even though she may not have broken away from the structure of marriage in spite of being a victim within it for years, yet after she got the opportunity she played an active part in modifying the structure to her own happiness and dignity. Thus this action can of hers derives her agency from herself and her interaction with a body which imparted her education of her rights.

So we have seen thus women can despite being victims for even such a long period of time, through the support of political relationships can act as agents within the structure of the same family. It must then be interesting to find out whether women manage this in the absence of support of such a women's collective as Jagori or not? As clearly all women who are victims of domestic violence are not going to live in a neighbourhood where Jagori sisters are going to stand by them. Geeta's story, whom also I met at the Jagori office is a different kind of agency from all the other women as she in times of need did have access to a support system like Jagori. Geeta was like Vimla, a victim of child marriage and had

to go through the trauma sexual abuse, physical violence which was even intended to be fatal at times from an acutely alcoholic husband. She used to call the police and get her husband beaten up and often leave for her natal home. Geeta's case here it is quite evident is a case of attempted agency – she knew she did not want to accept mutely the violence, used to verbally fight back as well but often found herself constrained due to society and the pressures of staying in a marital home.

She is an economically self-dependent woman and has had access to a modern ideological structure like education which instils values like rights and dignity and equality of women. However, the traditional social structure comprising of the community rooted in highly valuing the institution of marriage overwhelmed her decision to seek a divorce and finally she gave up on it. The lack of support from the legal structure had an equally pivotal role to play in shrinking up her social options. And of course even though Geeta is active with Jagori meetings now at that time, she did not have to such a support structure. So does that mean she is merely a victim of the social structure which compelled her to return with her daughter to her husband?

I would like to argue that even though from her narrative it might seem that her decision to go back to her husband was taken out of compulsion as she had lost control of her circumstances, Geeta's case, one can argue is one of partial agency as Geeta has demanded accountability from her husband when she went back to him. It is as a result of this act of Geeta that the violence of her husband has ceased to a large extent and she has learnt to adjust and be happy now. But overall, hers is an example of structural ideological impediments including the social structure as well the legal structure to the real exercise of her agency. As it is difficult to suggest that she wanted to go back to her husband and would have taken the same decision in the absence of her being socially shamed on staying with her daughter in her natal home.

But going back to interrogating agency of women facilitated by political relationships I would like to cite Sita's story, another Jagori employee, whose experience is testament to the fact that victims of sexual violence undergo perhaps a lot greater emotional and mental harassment due to the nature of violence they are experiencing. Sita faced extreme sexual violence and humiliation from her husband who was mentally challenged which led her to be even hospitalized. Even though nobody in the house really understood her problem and blamed her she stood up against the violence of her brother-in-law against her sister-in-law.

It can therefore be argued that Sita had agency capacity, she could stand up against violence, but sexual violence within marriage was something too humiliating to be shared even with her mother. She escaped to come to her parents in Delhi after her in-laws became much worse to her when her daughter was born. And it is then Jagori came in her life. She even started supporting herself with some work she found through Jagori. However circumstances made her reconsider her decision and she agreed with her mother-in-law and went back to her marital home. Seeing absolutely no change in her husband, who even attacked her daughter she escaped again.

Therefore, while Sita's decision to go back might sound an ill-advised decision, but the material condition of her natal home and the pressures of the social structure of marriage had not left her untouched. A person like her who possessed significant agency capacity which was enhanced by Jagori's intervention was also obliged to make her marriage work when the traditional ideology of marriage encumbered her too. This is testimony to social regulation of women and the ideological legitimacy of the indissolubility of marriage as an institution.

Her case when seen altogether however, is undoubtedly one of exceptionally courageous exercise of agency. But the argument that I want to make here drawing from what Butler argued is that it is the very exercise of power which impelled such a strong exercise of agency from a woman who was a victim of child marriage. Even when she was subjected to such extreme violence, that she could see no escape, she would stand up for her sister-in-laws though they would harass her for dowry. Thus, one can make a case that extreme power, or a structure which subjects individuals to such an extent that even a fiction of freedom is taken away, is the very instance in which strong agency erupts and seeks to reverse the structure. With Jagori's help she has filed a cases under the Dowry Prohibition Act and Sec 498A, however she is still unable to get divorce. The consistent education imparted by Jagori has helped her to cultivate her own desires and think about experiencing sex as pleasure despite the history of her experience with sexual encounters as only violence. She is open to her own chosen relationships now and sexual expression as she desires is another arena where she has made an attempt to experience herself as a free person. Therefore, it can be said that Sita as a subject is moving towards the kind of agency sex radicals like Carol Vance described, that of experiencing sexual pleasure as

emancipatory for women. And here access to a support structure which trained her with an alternative ideology with respect to women's sexuality has a major role to play.

Sita's legal travails remind us of Hiradevi's case, both of them with their children as their strength and support have fought their battles not just within the home but even outside. Sita doesn't consider marriage to be the most important part of a woman's life anymore. Hiradevi too is just concerned about her children's future and even though sometimes, her own children tired of the legal battles have pushed her to compromise with their father she has stood firm at not compromising on her freedom. She swore to herself that she wouldn't go back to that prison. This fierce sense of decision-making and taking charge of her life developed strongly by the intervention of Jagori, but her own sense of desiring independence with the consistent support of her children have come a long way in allowing her to exercise her agency in the face of consistent violence.

Thus looking at all these stories together, it can be strongly argued that the support and the moral strength to fight their legal battles, or counsel their own husbands to end violence in their marriage came from a certain space which allowed them to share their experiences in a language comfortable for them with women who are similar to them. Along with a platform for expression, it slowly then transforms into a space for educating themselves in a language other than patriarchy. This we can understand to be the 'feminist standpoint' as Hirschmann argues. The women learn about not only domestic violence, but also various other laws and their own rights as enshrined in the modern state structure. The language of encouraging agency within each individual woman most importantly as Friedman had argued is content neutral. Each woman decides ultimately what is best for her.

On the other hand, all of the cases suggest ample evidence of the social nature of marriage and family relations with the community, in these cases the neighbourhood and the village acting as the guardians of the traditional social structure and ideology behind marriage, which is what is the central reason why women bore with or accepted the violence for a period of time. With the exception of Geeta who comes from Calcutta, but has been settled in Delhi for a very long time all the rest of the women are from U.P. These cases paint a picture of habitual and to an extent legitimized violence by the husband against his wife in North India. We will look at more cases in the next part of this section to justify this claim but one thing which the above cases make it evident that even when the women

quietly bear the violence not for once are they happy to do so. They do it out of a sense of helplessness, a lack of choice and a resignation to how state of affairs are supposed to be. So how do they then come out of the situation which is a constant source of their dehumanization?

It is the access they got to the training and to an alternate worldview to make such a decision for themselves. And depending on prior individual training through other modern structures such as education, different women coming to these Jagori meetings exercise their individual agency differently, but at the same time, act as a support system for a similar or a different exercise of agency by another 'sister'. They share a language of sisterhood which is not rooted in affine or consanguine relationships, but on political relationships. As Hirschmann bemoans the destruction of relationships between women due to patriarchy which is reflected in the enmity between the daughter-in-law and the mother-in-law and the sisters-in-law as these cases provided accounts for, women have slowly created the space of building these alternate relationships.

And for Hirschmann the transcendence is a new feminist vocabulary of 'sexual politics'.² Being a forum which imparts not only sex education but also engages in mind-set change over the issue of women's sexuality and her identity, an organization like Jagori evidently is engaged in a feminist praxis of sexual politics. The ideas of consent and women's experience of sexual pleasure these women learnt at Jagori which enabled them to exercise a different level of agency with respect to their sexuality first mentally and then slowly as practice either in the form of open relationships with other men like in Sita's case or in the form denying their husband sexual rights upon themselves (like in Hiradevi's and Heena's cases), are nothing short of a grassroots change in the context for women. It has helped them to look at themselves as an independent subject capable of an alternative construction. Hiradevi's romanticization of what a woman can do and how she can transform her own and others' world if she be free are the little beginnings of creation of a new context with new identities which can be culled out from these voices.

² Ibid, p 219

3.3 The Dynamics between Power and Agency: Inside and Outside the Family

The cases in the previous section gave us individual instances of the exercise of agency impelled by extreme power itself. Sita's case I argued is a strikingly example of that. The other aspect of the relationship between power and agency which I briefly mentioned is the kind of exercise of power by women upon women. How does that complicate the picture of agency? And what it do to the concept of power which is understood as distinct from agency? These are the two broad questions which constitute the dynamics of power and agency which I am going to explore in this section. During the process what kind of structures and relationships inside and outside the family facilitate and restrict women's agency will help us to think about the issue of plurality of structure and the relational idea of agency which progresses from the liberal notion of agency which has already been destabilised in the previous section through our analysis of individual agency springing from cultivation of relationships as a form of political practice. The question of women choosing to stay inside the family or moving outside the family and how we understand agency in these opposite choices, an issue which we touched upon in the previous section, will be further elaborated upon in this section after looking at more cases.

Out of the many women I interviewed, one common pattern of the violence exercised upon them and the manner in which they came to experience their own agency confirms the argument which we made while we looked at Sita's case, in eight other cases (Rashi, Rupal, Mamta, Nazia, Jennifer, Kamla, Priya and Preeti). That argument states that while extreme power in the form of violence holds the potential of nullifying all space for agency of the subject with power which is invincible, yet the subject finds the source of her agency capacity in the very site of such extreme violence which threaten the existence of her very subjectivity. This is the reflective autonomy competency which Meyers considers fundamental to agency, which develops in the subject due to the interaction between power and agency. Agency capacity is developed as a form of resistance to power which threatens to weaken the very essence of the subject. It can perhaps be said to be a survival instinct at first which then leads to the realization of self-worth and dignity upon getting the space for reflection. One might think that the meaning of such an agency necessarily always comes in the complete reversal of the regime which had enabled the exercise of power being

challenged, as Butler had surmised. However, that is not how the reality of agency of women in marriage and family unfolds itself.

Out of these eight women who were subjected to extreme visible violence by their husbands and in-laws, even though all women had taken recourse to the legal structure for seeking some kind of relief, the rejection of marriage all together is a rarity. Rupal's case is the one exception where the experience of violence at the hands of her husband in the form of physical beating up by the belt, rape, forcible substance abuse and an attempt to kill her child as well has destabilized her faith in any kind of heterosexual relationship. This kind of position is reflection of the lingering effects of the power of violence she faced earlier even after separation from her abusive husband. Here, I would like to refer back to Andrea Dworkin's position on battered women which we cited in the first chapter. Dworkin had argued being in a battered position locates one in a space where consent is not possible, it erases scope for agency. Dworkin's position can be validated by the absolute inability of Rupal to resist even by shouting against the violence inflicted on her.

However it would be difficult to sustain a case that to the effect that she as a subject had been erased and could not potentially exercise agency. It is because despite the extreme violence when her husband would leave she would narrate the incidents to her mother, even though she was paralysed in the very presence of her husband she would still refuse to give him money. But the fact that Rupal is extremely afraid of any relationship with any other man as well can be argued to be evidence of the lingering effects of the all-consuming power of her violent husband over her. Another case where we can observe a clear break from the ideological indissolubility of the marriage structure is the case of Mamta. Mamta's agency is rooted in the fact that she is willing to challenge that very structure itself when she in thinking about her future is not afraid of the prospect of being a single mother despite not being economically independent. So Rupal's case can be seen as analogous to Mamta when it comes defying the traditional understanding of what a family comprises of when Rupal argues she will now make a conscious choice of not marrying anyone else, and both of them are happy to live with their child who for them constitute their family. Thus while going outside the family, yet these two women in spite of challenging its dominant structure, retain the family as a structural unit, even though with a reformed meaning, and thus yet inside the family.

Nazia's struggle to break out of her marriage however is interesting as that reflects upon the difference between the continued impact of the view of marriage in Hinduism as indissoluble, which is somewhat diminishing today and the status of marriage as contractual and dissoluble in Islamic personal law. Therefore, how the marriage structure ensnares Hindu women ideologically is different from how it impacts Islamic women due to the difference in religion. The marriage structure in Islam is not sacramentally indissoluble which makes it easier to not reflect a woman's decision to not go back to her marital household, upon her morality. Unfortunately, as we noted in the previous chapter citing Kapadia and Agnes, despite the contractual nature of the marriage the power of dissolubility in terms of religious law rests with the man. This is reflective of the kind of power men have in the Muslim community over the dissolution of a marriage. Her husband realized that he would have to pay her maintenance if he were to divorce her. More importantly divorce would mean freedom for Nazia to engage in any marital alliance with any other man. Her husband in spite of the fact that she separated from him, it can be argued is using the power he has to continue to dispossess her economically and control her sexually. Nonetheless, she is determined to get her and her daughter's due rights, for which divorce with a one-time settlement remains a priority for her, as she would like to have the freedom to marry again if she wishes to.

While these cases looking at the substance of agency exercised can be argued to be broadly making a break in the ideological and structural dominance of the marriage and family structure, other cases negotiate through this structure in ways that are more complex and which make us think more about the dichotomy between victims and agents. Rashi's case illustrates how it is equally difficult for economically independent women to deal with violence in their homes, and that it is not easy for them to walk out of such relationships. The behaviour and role expectation of a "good wife" can be argued to be a disciplinary tool which can be used to attack and blame them for anything and in this case even as a means to justify violent behaviour. The woman can do everything in her capacity to attempt to live up to this role and behaviour expectation but she will fail nonetheless as the representation of a "good wife" is nothing more than a patriarchal trap to tighten the reins of control over women. Being a working woman it was even more difficult for her as she had to go outside the house which invited different allegations from her husband. Therefore, one can see here how patriarchy reinvents itself into being progressive and modern with empowering women by letting them be employed, yet usurping the returns of their labour by asserting

rights over her income as the male authority in the household. It will fall back on traditional categories of the “good wife” to subdue a woman who has seen economic empowerment through the aid of modern structures like education and citizen rights for gender equality and opportunity in terms of employment.³ Thus patriarchy resists in letting women cultivate a sense of self with citizenship rights. Often such structural constitution can also mean that some of the most important personal relationships of women which act as a trigger for her when she finally decides to stop accepting abuse, are also the relationships which constitute the reason for acceptance of the abuse for the longest time.

Looking at Rupal’s case together with Rashi’s case, we find that even though both women were unhappy with the violence they were facing, and knew they could economically support themselves and their children, the final push for them to get out of the violent situation was when their husbands became a menace to their children. Interestingly, at least in the case of Rashi, her children for her were the prime reason why she continued to bear with the verbal, physical and even sexual abuse all these years. This reflects for us what is important for women in such relationships. The self-effacing quality which women are trained to acquire since childhood is just one part of the story. With all the critiques of motherhood as a structured idea one needs to acknowledge that children are extremely important to women and they want to protect them even in situations where they are not able to protect themselves.

Therefore, it can be argued that children even infants can in such situations for women act as an enormous moral strength for women as it is concern for them which finally enables them to self-reflect on what are the values which are most important to them. Thus Taylor’s self who is a moral self, rooted in the community can be seen to be work when Rupal and Rashi made their final decision to approach the law. Therefore personal relationships around women act as critical obstacles to as well aid to the exercise of agency by women. Could the decisions of accepting or rejecting the abuse which are made keeping the interests of another relationship in mind by women, reflect that they are not evidence of agency? I would like to propose that we must not reject agency in these cases to the

³ Research works of scholars like Chowdhry, echo the kind of situation we find Rashi to be in, as Chowdhry has found similar cases during her field work in Haryana. She argues that being employed is not immunity against abuse and violence in homes, in fact at times it may lead to exacerbation of violence against women in order to restrain them as it threatens the traditional gender roles and consequently the structural power of men. Chowdhry, Prem. ‘Inflation, Acceptance and Resistance: Containing Violence on Women in Rural Haryana’. *Economic and Political Weekly*. Vol. XLVII No. 37, 2012, pp 43-59 (p. 58)

women, as agency though begins with the individual is a concept which as we probe deeper will undermine its individualist premise and come across to be a relational concept especially in the case projecting a sense of the relational self. Moreover, children and especially daughters can become relationships for women which often act as their strength and mentors for developing agency capacity. One of the other women with whom I had interacted with at the Jagori office, talked about her daughter as one of the key motivating factors for her to come out of her isolation and go to Jagori to be able to speak out her story and learn from the other sisters. Coming from a conservative small village in Rajasthan, and facing mental torture, harassment, verbal and physical abuse by her *jethani* (husband's elder brother's wife) which had debilitated her, Jagori and the learning there was no less than revolutionary for Deepa who has now developed a sense of self-confidence and agency capacity. She says her daughter has been a great educator for her and hopes that she studies a lot and does something meaningful for herself. Therefore children are a kind of support structure for women which can either make their selves very relational, or even help them to look at their selves more individualistically.

Therefore we cannot generalize an idea of a relational self and essentialize women's identity on the basis of it. As Rashi and Rupal exited the violence for the sake of their children to then slowly realize their own rights as well, there are other women like Mamta who says categorically that she moved to her natal home, as at a point in time, she began to question herself as to her reason for accepting the constant pain, and not finding any satisfactory reason for it, she decided to get herself out of it. Thus the self as an individual does feature in women's decisions taken to exit abusive relationships.

Jennifer is a quite an interesting example of the individual self within the woman which developed also on account of the kind of violence she faced where her abusive husband tried to get her pregnant on more than one occasion. The trauma of such sexual violence moreover generated a desire to reclaim her body as belonging to herself. And her agency therefore, has other aspects to be highlighted as to the impact of relationships and structures around women upon their own agency. The natal family in most of the eight cases we are talking about acts as the most important supportive structure for women in the face of lack of support from the legal structure on account of it deriving heavily from the patriarchal ideology of marriage and family in India, is the natal family of the woman which stands by her in legal as well as non-legal battles for an abuse free home. Jennifer's case

when seen alongside the case of a young sixteen-seventeen year old girl named Samaira disproves the idea of the natal family as the safest haven and the mother as the most supportive relationship for women.

Jennifer's state can be explained as a situation where she despite her education, did not have the emotional training to stand up for herself due to lack of any interpersonal relationships which had been stable and could have helped her to build up a strong sense of self. The reason was growing up in an abusive household where she had seen her mother always accept the violence inflicted by her alcoholic father. She then did not have the kind of reflective capacity to exercise anything like autonomy or agency. Samaira's case while being quite similar in the kind of experience of growing up in a violent household with the exception that Samaira along with her sisters and brothers is also regularly subjected to not just verbal but even physical abuse, is significantly different with respect to the question of agency capacity of a woman who has grown up facing violence in the natal family. I had met Samaira when after an incident of violence from her father which had acutely disturbed she had come to the Jagori office to file a complaint carefully managing to sneak out of her house. However, there is little Jagori can do to help her as her own mother is not willing to take a stand against the violence, not for her own sake and not even for the sake of the children, believing marriage and family to be socially important. Her mother continues to harbour some notions of community respect and honour along with a totalised sense of fear which is leading her to live in denial mode, denial of the kind of impact the violence is having on her children. The reluctance of her mother to take a stand against the violence, is preventing Samaira to take a stand against it as she being tied to the family as a child is not in a position to do so. Thus she has agency capacity, she wants to exercise it but the structural conditions do not allow her the space for acting as a free agent.

Jennifer on the other hand, when she felt compelled to marry an aggressive man because she did not have the courage to say no had lost a strong sense of autonomy competency in the absence of any other supportive relationships. Samaira had the support of neighbours, some friends and Jagori, but Jennifer's situation led her to complete dependence on the man she eventually came to date. But akin to Samaira, the lack of support from her natal family is what rendered her completely at a loss and isolated her unlike most of the previous cases discussed where if no other support was there the support

of the natal family and especially the mother stood strong especially in the event the violence turned sexual.

But to go back to highlighting the individualistic aspects of Jennifer's exercise of agency in the context of extreme power, one can say that Jennifer's trajectory has been rather stupendous from having no agency capacity to developing it in the context of extreme power through attempts to reverse the regulatory regime thrust upon her. The kind of radical step Jennifer took in leaving to another country to get herself out of the situation was of course facilitated by the fact that she was finding absolutely no other option for help as the legal system of UAE is much less supportive of women even when compared to the Indian legal structure. However, as a battered subject her misery led her to go beyond the given and forge new possibilities for her. This was proposed as we saw in the first chapter by Bronwyn Davies as a characteristic of a poststructuralist subject with *agency authority*. The kind of radical step Jennifer took in creating absolutely a new context for her can be somehow said to be mirroring practically, to some extent the image of the subject Davies is talking about.

One can say so also because Jennifer today is not afraid of getting into a new relationship or even of marriage. She would be open to new people and new things as they come her way and she asserted that with the counselling she has been taking to deal with trust issues, and post-traumatic stress coming from her past, as well as with working on the issue of domestic violence with Maitri has been quite a healing process for her. Thus Jennifer is making a conscious effort to enhance her own sense of self and consequently her own agency capacity. Her case highlights for me one of the best examples of an enriched meaning of exercising agency as well structural constraints which restrict agency of women.

Having gone through a whole range of cases where we have seen stark evidence of violence acting as the very site of production of agency, it is imperative to raise the question – Is it always the case so? Does extreme power always propel the subject to act in an agentic manner? Looking at one of the exceptional cases of acceptance of abuse will suggest the argument of extreme power enabling agency is not uniformly true for all subjects. The case of Samaira's mother itself indicates this even though I would not get into making an evaluation about her case any further not having interacted with her directly to find out her exact reasons for accepting the abuse.

The case I will use to highlight the exception to the Butler thesis, is that of Sushma, a woman in her late forties who has been in an abusive marriage for over twenty-four years now. Even though after repeatedly knocking at the door of the police and consequent intervention in the form of counselling by the Special Cell of the Delhi Police, the physical abuse has stopped now after so many years, yet she continues to suffer from verbal abuse, and violent and aggressive attitude which ensures a tense atmosphere in the household and brings her back to the Special Cell for some solution which would reform her husband. She wanted someone help her make her husband end his violent behaviour by the threat and the force of law. She did not want him to be arrested. Her case highlights the fact that women often want the law to somehow turn their husbands into behaving like a good man but they do not have punishment in mind for their abusers as that does not really help them socially. But the legal system does not really have the resources to perform this task. And can husbands who have been violent for so long really be reformed by threat and force? It is this, where a subject like Sushma, seems to be in denial mode of the hopelessness of her situation.

Not being very educated and not knowing of any other prospects for women other than marriage Sushma was not really trained as a subject to think of bringing herself out of the abusive situation. It is immediately evident that Sushma's subject hood has been constructed into accepting the indissolubility of marriage irrespective of any situation. She knows she wants to get out of the abuse, but is unable to think of exiting the marriage. However it is not to suggest that she does not have supportive relationships and structures to help her exit the marriage.

Thus Sushma, is evidently choosing to stay in a violent marriage despite the presence of legal options of support for exit from the officers at the Special Cell and support from her natal family. I would like to argue thus, that Sushma's case can be interpreted as a case of a weak agent. She has support to exit the marriage but she chooses not to take that option by telling herself that she does not have a choice to avail that option. Thus she does exercise agency in order to resist the violence happening to her, and such repeated intervention has also deflected the violence and watered it down. However, in the event she is unable to further control it, she puts herself into a situation of believing she has no choice but to accept it for the sake of her daughters who are marriageable age and for *samaj* (society). What would people say to her? Why is she leaving now after all these years? These

questions in her head, lead her to believe she has no exit option. Sushma's story is case where she has consistently accepted the abuse for the sake of society and her children and continues to do so. Extreme power in this case thus, has trained the subject to be convinced of her own lack of agency capacity rather than push it into action.

However, there is another manner in which Sushma's case and her subjectivity can be interpreted. Suneetha and Nagaraj have accused most of the feminists for failing to adequately take into account women's desire to live in the family as real. They do not in most cases want a legal solution of exiting the relationship or punishing their abuser, even though that might sound a real and correct feminist standpoint.⁴ They raise the question that can women's resistance to the breakdown of marriage and attempts to reform their husbands be interpreted only as a consequence of women internalising the social responsibilities of wife and mother? They want to argue instead that this is a dichotomy we are creating of a victim and an empowered woman.⁵ These are extremely novel ideas which offer us interesting insights to look at the question of women's agency. After all, a content-neutral conception of agency as Marilyn Friedman had put forth, I had argued is a more democratic and feminist conception of agency rather than an idea of agency where we already impute judgements to certain actions as having no agency based on their substance.

Having said so, I would still propose that Sushma's case cannot be dubbed as an example of exercise of agency just by reading her actions as a desire to live in a family. She does yearn for a peaceful family but what the real constraint in her mind which is preventing from thinking of leaving the man with whom she has not been happy for past twenty-four years is what can be best understood as an internal obstacle to realization of her own peace and happiness.

Suneetha and Nagaraj however, reminded us that our evaluation and judgement on agency of these women could be highly influenced by a particular notion of agency which is coloured by particular feminist choices. However, having kept this idea in mind, I would still argue that the above cases are still examples of impediments to the exercise of agency because in the previous sections, I have discussed cases such as that of Vimla and Geeta where the women ultimately chose to continue to stay with their husbands. But the

⁴ Suneetha, A. and Vasudha Nagaraj. 'A Difficult Match: Women's Actions and Legal Institutions in the Face of Domestic Violence'. *Economic and Political Weekly*. Vol. 41, No. 41, 2006, pp. 4355-4362

⁵ *Ibid*, p 4357

difference was that Geeta could ensure a degree of accountability from her husband by living at her natal place for a considerable period of time, even though when she went back to her husband it was out of social pressure. Vimla even though could not get a loving and caring husband but through the intervention of Jagori, she developed the agency capacity to make the violent behaviour of her husband end and is happy to continue to stay in the marriage.

On the contrary, in the case of Sushma, her attempts to reform her husband have failed, she is not happy and despite her other relationships and the law willing to support her for an exit option, she continues to believe that she had no other option but to stay with her husband for the sake of society. It is a product of construction of the subjectivity of women by the ideology and structure of marriage and family in India for sure, but there is still a choice Sushma makes believing those structures are inescapable, almost refusing to look outside at the other alternative.

Sushma's case remains an exception to the relationship between extreme power and the exercise of agency as other cases continue to highlight the same pattern. Kamla, Priya and Preeti's cases being cases of attempted bride burning, mental cruelty and torture as well as intense physical abuse respectively by their marital families bring into sharper focus the aspect of women's exercise of power upon women, while also serving as cases of facilitation of agency as a result of extreme violence. This will as my analysis attempt to show how does the relationship between power and agency gets complicated and what it means for the two concepts. These cases also give us a chance to examine the supportive and restrictive structures and relationships which shape women's agency and the nature of choices women are making with respect to the family.

Despite being a victim of attempted bride burning by her mother-in-law and her sisters-in-law, losing her own parents property which was a gift to her in marriage, to her mother-in-law and her husband's violence upon her which she believes is a product of the encouragement of her mother-in-law, Kamla's intense belief in the importance of the family is coming from her upbringing where parents decide everything for children. Unlike the case of Sushma, Kamla's beliefs in wanting to have a family are coming from her value system which she is confident about. Therefore, whenever she tries to bring her husband to the Mahila Panchayat for counselling and tries to counsel him herself to change, I would argue that she is exercising agency. It is the subjectivity of her husband which is under

question here. Similar pattern of the husband being under the influence of the mother-in-law was something we observed in the very first case we discussed, that of Hiradevi. The man who is subject to being constituted in the manner her mother so desires is also an example of a weak agent who having an upbringing of control and influence has not had the opportunity of developing reflective capacity and knowing what set of values are important to him. Thus his own notion of relational self which is obstructing his agency in turn acts as power upon his wife. Unlike her husband, Kamla is well aware of her priorities. She wants a family for herself, and the security of her children, and she knows her husband is capable of change. Her value system may be affected by the social structure but she has self-reflectively adopted it as her own and not as a social limitation imposed upon women.

When she was in her marital household the kind of violence she was subjected to, rendered her to be a subject incapable of occupying any space for agency. In spite of that she got her tubes tied totally of her own accord. Therefore as an individual Kamla had the strength for agency within her. After coming back to her natal home, and being regular with Mahila Panchayat meetings for the past three years, Kamla today is articulate about what she wants in life and what she wishes as justice from the legal system.

This is a case therefore comparable to cases in the very first section where relationships as political practice as Hirshmann had proposed, develop and instil in women agency capacity. Kamla now has the support system therefore of personal relationships of her natal family as well as political relationships of women who get together to offer solidarity and also learn about women's problems. Therefore, despite having to live in fear for years, an incidence of survival from annihilation has pushed her to cultivate and nourish her support structures in order to support her own and her children's happiness.

Similar dynamics of power of the mother-in-law and sister-in-law over the husband can be observed in Priya's case. How some people would marry their sons only for extracting dowry from the woman's parents, exploit her labour and then subject her to mental cruelty and emotional harassment to drive her away if instead of a son she gives birth to a daughter is the story of Priya who is fighting against not just the injustices of the structure of marriage but also the legal structures in India.

Leaving her home and taking up a legal fight for the security of the future of her baby girl, Priya's case is quite a profound example of agency, yet again driven by extreme power.

After returning home, she joined a job which though gave her a very modest income but it further strengthened her to fight for her and her daughter's rights from the family who had cleverly usurped her father's hard earned life earning. Her acceptance of harassment and violence can also be largely attributed to the kind of insecurity pregnancy can generate in a woman, considering the hardships single mothers and children without fathers face socially as well as economically.

The legal travails of Priya and the social humiliation she is facing being a mother of a daughter staying in her natal home, are evidence of the argument that the structural disempowerment of women in marriage and family is not a private affair. It is more public than anything else and permeates the legal structure which is supposed to help women from the injustices she faces in the institution of marriage. Thus with the modern state, the ideology of marriage has found different means to overpower women under patriarchal power, despite modern notions of equality and justice. But despite all the obstacles Priya is able to fight her case due to the unstinting support of her parents and her family. The natal family thus here, as in many of the prior cases is what enabled the woman to exercise her agency acting as a support system counter to the structures disempowering her.

The violence against Preeti which led to her economic dispossession and took her daughter away from her clearly was motivated to usurp her and her husband's property. Preeti though had supportive relationships in the household, (i.e. her husband and her mother-in-law) where she was being abused since the beginning, unfortunately when she really needed them for support, she had already lost them. She received support from a women' group which met regularly like Kamla and the other women whose agency was facilitated by relationships which are cultivated as a form of political practice and her natal family. She, one can argue Preeti is an agent who is unable to find enough support from even these two structures to fight for her rights, which is why she keeps trying and hopes for alternate support from institutions like media, who should raise such issues for women in order to speed up the justice process of law.

One observation which following from the above cases which has been stated by many feminists earlier and which is fitting to the question we are dealing with in this section, i.e. the role of women in disempowering other women and upholding the traditional patriarchal structure and ideology of marriage, is that women just because they have a common gender identity does not mean they will have common interests. The interests and

actions of a subject are motivated by their location in the social structure. What privileges and expectations such a position which is structurally defined carry for them, most often determine how they act. Therefore when mothers-in-law are actively engaged in abusing their daughters-in-law even though it may have been possible that they as a daughter-in-law in their younger days may have faced such similar abuse, it is because of the social location of having a powerful and privileged position which gives them the opportunity for strengthening that power. Patriarchy as an ideology almost structures them into believing that their power is contingent upon the disempowered status of another being, in this case their daughter-in-law.

In modern times however, when economic status and rise in class status can significantly enhance one's power, women when they get the opportunity to augment their status along with the people they consider as their own family, have no reason to shy away from it. In fact it reflects them as strong subjects who can be imputed with agency. However, I would not make an argument about their agency with any degree of certainty as whether their actions are the result of self-chosen value system or the result of internalising a role-expectation which they are structurally trained to perform, it is difficult to argue. But following from the second chapter what can be argued is women who are new entrants into a marriage are considered as outsiders till the time they achieve the position of the mother of a son and the most senior woman in the house. The cases of Kamla and Priya illustrate the power of the institution of the mother-in-law amply as did the very first case we discussed in this chapter, that of Hiradevi. In their own natal homes women, sisters-in-law in the cases of Kamla and Priya have much more power than they will ever have as brides in their *sasural* and they often use the opportunity to exercise their power in alliance with their mothers. It becomes for them a manner of claiming a space which according to the ideology of marriage does not really belong to them. And domestic work which in the household is to be done squarely by women becomes a site of establishing this dominance by extraction of labour of the daughter-in-law by the mother-in-law as well as the sisters-in-law. The ultimate expression of power comes when the mothers-in-law and/or the sisters-in-law are able to control their son/brother respectively. This kind of power which the patriarchal structure enables women in certain role definitions to enjoy over men, cannot however be read simplistically as an act of agency. Because we must understand that such acts by women themselves are merely contributing to a patriarchal structure where the woman is structurally disempowered in the household she is actually supposed to

belong to, i.e., her marital household, unless and until she is old enough to exercise authority over another women. It is the role of the subject in contributing to perpetuation of the structure which disempowers them structurally, but offers certain opportunities of exercise of power in order to experience their subjectivity as agentic. But whether one can really understand these acts as acts of agency leading to the co-constitution of the subject and the structure is difficult to answer.

To complicate the picture further, I would refer to one case where the mother-in-law, spoke to me alleging mental violence by her daughter-in-law who is harassing her and her son for unfair property claims by contending in court that they have subjected her to domestic violence. This is the classic case of what one of the misuse cases of Sec 498A looks like, which the Supreme Court has warned against in their most recent judgement, which practically makes this law which is necessary for the human rights of so many women, weaker, by placing restrains on the power of the police to check the misuse of the law.⁶ While Shashi's case of being victimised falsely under 498A can be genuine, one must try to understand what is really happening here. Most of Shashi's complaints against her daughter-in-law were to the effect that she would not do the household work, would get angry at Shashi if she would try to cook for her son, and not adjust to make a home. Shashi gave her own example of having faced domestic violence from her alcoholic husband, and said that she never fought back but over the years he improved. "When you live in a house, you have to adjust to make it a home. My *bahu* (daughter-in-law) had come into the house deciding that she wouldn't stay."⁷ Now who is the victim and who is the perpetrator in this case? How does one understand Shashi's daughter-in-law's behaviour – as an act of power or as an act agency? Her behaviour clearly was not in keeping with traditional structure of the family and is an example of resistance against role-definition for daughters-in-law. However filing a false case of alleged domestic violence, in order to accrue monetary benefits. How does one understand these kinds of actions by women in a position which is structurally so disempowered? My interaction with the group of Mahila Panchayat workers from Action India, was a revelation to the effect that they told me that these false cases are actually happening at the ground level and there are women misusing Section 498A. However they were quick to acknowledge that this did not imply there were no cases of women who are genuinely abused by in-laws and need the protection of 498A. These

⁶ Editorial. 'Why Women Need 498A'. Economic and Political Weekly. Vol. XLIX No. 29, July 2014, p 7

⁷ Account narrated by Shashi, translated by researcher

actions of women which go contrary to the established structure of marriage and family, can be read as more as an act of agency which invests power in the subject to threaten the foundations of an established paradigm. Whether they are in keeping with feminist intentions is difficult to say as attempt to acquire property illegally or extort someone is not an act which can be morally or legally defensible. But it can be safely argued that these are examples of agency as it is not any particular structural constitution which is pushing these women to charge their in-laws and husbands with these false cases.

Notwithstanding the above caveat on power of daughter-in-law, we must not forget that violence against women due to the custom of dowry continues to be one of the prime reasons for displacing them from their marital homes. And so can be preference for a male child. The most crucial support system for such displaced women continues to be their natal family, other than women's local consciousness raising groups. It is noteworthy that other than in the case of Jennifer whose natal family was a troubled space as much as her marriage, and Samaira who became a victim of violence from her natal family itself, most of the other women experiencing violence have natal families which are willing to stand by them and support them. Thus the suggestion with respect to the structure and ideology of marriage and family is not that each and every family is violent against the women who come into the family through marriage. But due to structural norms such as patrilocality and the unequal relationship between wife-givers and wife-takers, married women are vulnerable to use of such violence which has the social potential to erupt and be used against her. This can be seen as analogous to the kind of threat of violence which the State has the power to use on behalf of the ruling class as part of its Repressive State Apparatus, and the everyday dominance however is maintained by ideology as a function of the Ideological State Apparatus. The two apparatuses are co-constitutive of each other, there is no institution which can run only repression without ideology and there is no ideology which can function even if secondarily and subtly so without repression.⁸ We can see evidence of both in the structure of marriage and family which legitimises itself based on ideology but that which is backed up always by the threat of violence.

The legal structure almost in all the cases discussed so far has not really helped the women to get what they want. While for Preeti and Kamla it is just the inordinate delay of

⁸ Althusser, Louis. "Ideology and Ideological State Apparatus: Notes towards an Investigation". Lenin and Philosophy and Other Essays. Monthly Review Press, New York and London, 1971, pp 97-98

the legal machinery which has made a mockery out of a law like the PWDVA, the case of Priya reflected clearly how the legal system is part of the ideology and structure of marriage and family and is often an added battle for women rather than being a solution for them, by pressurising them to compromise for the sake of their child. On earlier occasions cases like that of Sita, Nazia and to a large extent Hiradevi have reflected the injustices of the legal structure which place more constraints due to the procedural demands which are not able to take into account any context. Sushma and Mamta's cases where the Special Cell of the Delhi Police engaged in counselling of the husbands can be seen as the only evidence of a gender sensitive response to the needs of women. However, even so with all the kinds of legal options suggested to them, women often want to have families which are loving and caring and law cannot help them achieve that. And that is where paralegal bodies like Mahila panchayats and women's collectives like Jagori can make an intervention for women better than the legal system.

3.4 Sexual Agency and Sexual Violence: Interface with Culture and Law

One of the most strikingly commonalities between all the nine cases dissected in this section is the sexual violence or in some cases what is experienced as coerced sex suffered by all the woman except Mamta. I would like to discuss the issue of forced sex and sexual violence with respect to these cases in the manner they interface with how the law structures women as subjects and their sexuality in marriage. The juridical and political view on accepting something such as the presence of marital rape in India has been in a denial mode throughout all the parliamentary debates which have taken place on amendments to rape law in India. Referring to the debates of the Joint Parliamentary Committee (1982), Pratiksha Baxi illustrates the opinions of some of the most powerful and reputed lawyers and politicians who were against the idea of introducing a legal idea like marital rape by invoking Indian culture/sanskriti. It is through widespread acceptance of the idea that the very idea of rape within marital relations is logical fallacy that the Committee reached to the conclusion that intercourse by a husband with his wife without her consent, when the couple is going through separation could not be treated as rape as there was a possibility

for reconciliation.⁹ Baxi argues that this reprehensible legal principle was suggestive of the fact that women's sexuality is passive and the capacity of a woman to say no to sex within a marriage cannot be identified as a legal right, consequently blurring the distinctions between sexuality and rape for a woman.¹⁰

We discussed the question of women's sexuality and how it is structured by religion with respect to the institutions of marriage and family in India, with the conclusion following the age of consent debates that the very question of consent of women to sexual relations in a marriage is a non-issue to begin with. One might take a look at Kumkum Roy's interesting piece on the Kamasutra and how it defines sexuality for men and women in marriage to understand how deeply Brahmanical was this idea of passive sexuality of women, which legitimises violence in sexual relations by the man over the woman.¹¹ Akin to the Manusmriti, Kamasutra being a definitive text on *kama* (desire) and being codified by Brahmins, which was widely spread through oral traditions to even women, could have had a considerable influence in the development of the ideology of sexuality of men and women which has passed on through generations albeit with other possible influences modifying it over time, which Roy acknowledges. What the Kamasutra suggested as the ideal way of establishing relations between a man and his virgin wife is reflected in the accounts of Hiradevi, Sita, Vimla and Geeta. Therefore it is worth looking at it to unpack the opposition to the idea of marital rape as being contrary to Indian culture.

“Once the man had made his choice, he was expected to initiate the bride into sexual relations. The mechanisms permitted ranged from pleading to threats. The woman was expected to respond shyly to such overtures. As in the case of responses to overt male violence, women's silences or reluctance to participate in the structured patterns of behaviour could be explained away or understood as a shy response.”¹²

Thus women's reluctance was considered to be a response natural to them which had nothing to do with the possibility of denial of consent from women. Women had to be initiated into sexual relations through such coercion to develop the passive sexuality in them which would accept violence as a possibility in sexual relations as something natural to the expression of male desire which Roy argues should be rather understood as a

⁹ Baxi, Pratiksha. 'Rape, Retribution, State: On Whose Bodies?'. Economic and Political Weekly. Vol. 35, No. 14 2000, pp. 1196-1200 (p 1198)

¹⁰ Ibid, p 1198

¹¹ Roy, Kumkum. 'Unravelling the Kamasutra'. A Question of Silence?: The Sexual Economies of Modern India. Ed. Mary John & Janaki Nair. Kali for Women, New Delhi, 1998, pp 62-63

¹² Ibid, p 63

particular form of codified 'Desire'.¹³ Hiradevi, Sita, Geeta and Vimla all experienced such violence and coercion from their husbands in different forms and degrees but which point out an essential structural legitimacy of sexual rights of the man upon the woman. Kamasutra is of course one of the sources where such a view on sexuality developed and disseminated over generations but it well explains modern judicial precepts on the idea of women's sexuality and the law on rape.

Veena Das has pointed out that "women's consent to male-violence has a taken for granted character, which explains why marital rape has been most difficult to legislate in most liberal regimes."¹⁴ Talking about the issue of rape law and its implications for the issue of marital rape in India, Das argues in another article,

"Women are not seen as desiring subjects in the rape law – as wives they do not have the right to withhold consent from their husbands – although the state invests its resources in protecting them from the desires of other men."¹⁵

Consequently she proposes, "The possibility that a man could use force to have sexual intercourse with his wife is in the realm of judicial nullity."¹⁶ Looking at denial of marital rape along with other aspects of rape law such as the clause which classify the act as rape when the consent of the woman has been given under the impression she is married but the man knows he is not married to her, she argues that the task of rape law in India is not to protect the bodily integrity of woman but to regulate sexual relations as per societal norms.¹⁷

Her argument effectively explains the lack of any legal protection to the women whose stories I have discussed in this section. Particularly Rashi, Rupal and Nazia's cases are testimony to the fact that voluntary marriage also is not a license to sexual rights upon the women. Their travails reflect how women can be sexually violated even though they may have initially chosen the relationship out of their will. The legal structure thus as it evolved in modern times has continued to legitimise the traditional religious ideology of women's sexuality and the need to regulate it. In doing so, it denies being an alternative

¹³ Ibid, p 56

¹⁴ Das, Veena. 'Violence, Gender and Subjectivity'. The Annual Review of Anthropology. No. 37, 2008, pp 283-299 (p 293)

¹⁵ Das, Veena. 'Sexual Violence, Discursive Formations and the State'. Economic and Political Weekly. Vol. 31, No. 35/37, Special Number, 1996, pp.2411-2423, (p 2421)

¹⁶ Ibid, p 2415

¹⁷ Ibid, p 2412

support structure to women facing violence in conjugal relationships with regards to the most humiliating form of violence which women experience in their marriages. Law is unable to entertain the possibility of identifying marital rape in a case where marriage could have taken place without the consent of the woman. Therefore, to even fathom the notion that women who could have entered into marriages by choice, love marriages could be victims of extreme sexual violence.

However, after having spoken to these women who were facing sexual violence in combination with other kinds of verbal and physical violence, with the exception of Sita, marital rape as a segregated entity may also not be the best kind of legislation for women. Women in marriage, often experience sexual abuse in combination with other kinds of abuse, perhaps we might suggest that an admission of the possibility of coerced sex which can violate different women to different degrees within the purview of marriage in the existing legislation on domestic violence, i.e. the PWDVA can be a beginning to legally identify this form of violence in a marriage against women in order for women to develop further agency to not just fight for justice but also for women in general to be able to say no to their husbands if they so desire. Unfortunately, as the legal regime stands today the ideological dominance of sexual slavery which Flavia Agnes talked about continues to determine a gendered mind-set on sexuality leaving the overall structure of marriage intact.

Notwithstanding the constitution of sexuality of women by culture and law, from my conversations with the women I did find some intermittent evidence of restlessness in women for sexual agency. I would like to quote Nazia on some very engaging comments she made regarding sexuality of women, “Nowadays women who are fast and have relationships with many men are in advantage. What have we achieved by being so rule abiding?”¹⁸ This question shows that regardless of growing up in a conservative value system throughout her life, Nazia has begun to question society’s rules and values for women and how they disadvantage her. In the absence of any other kind of modern support structures like access to modern education, or a woman’s consciousness raising group, it is difficult to pinpoint the exact source of this kind of mind-set change on sexuality and the determination within Nazia to fight for herself. And it is here I would like to argue, that perhaps not every instance of agency can be broken down and explained by the changing situations or the context and the structure surrounding the subject. Sometimes agency can

¹⁸ Account narrated by Nazia, translated by researcher

be something internal to the individual which could have been shaped by various sources but what cannot be denied is that liberal concept of agency of an independent individual which is coming from individual judgement does find real evidence and cannot be dismissed.

Another instance of agency by Kamla can be read as a conscious assertion of reproductive sexual agency and the desire to control her own body. Her mother-in-law wanted her to give her six grandsons and when after three children Kamla wanted to tie up her tubes, her mother-in-law did her best to prevent it from happening. But Kamla managed to secretly go to the hospital and get it done. Even in an atmosphere of perennial fear, she had the strength to take such a decision as she knew she can't provide for six children. The body and women's sexuality however remain targets of social control and social constitution which more often than not deprives them of agency. This can be highlighted by looking Kamla's example of sexual agency with another example of sexuality being the source of lack of agency. The only act of agency Kamla could exercise during the intense violence she suffered was with respect to the decision she took about her reproductive sexuality, i.e. to get her tubes tied after having three children. And the one thing constraining Priya's agency the most when she was subjected to abuse was her bodily state of being pregnant which rendered her vulnerable due to fear of social repercussions for herself and her baby should the marriage actually break off. Thus the woman's body can become the source for constraints on her agency as well as the location of her agency. Yet women have begun to see through the constraints and the regulation and one can find the beginnings of a struggle to take back the control of their bodies for themselves. Heena's rejection to her husband's demands for sex as we saw earlier are coming from a feminist training on sex education and the issue of consent, which have generated within her a desire for sexual agency. Sexual agency and its connection with love, and what it does to the practice of agency by women will be analysed in the following section.

3.5 The Complex Emotion of Love and Women's Agency in the Family

Following from the brief encounter with sexual agency in the previous section, in this section, I have examined cases where an argument can be made with regards to women's agency being thwarted on account of the emotional language of love in conjugal

relationships. Love as an emotion I will argue can be characterised as a political emotion due to the different kinds of hierarchies and equalities it can create for women in families, especially the conjugal relationship. It can render the person 'in love' with diminished power in their relationship with the person whom they love. And when women become possessed by this political emotion in the context of marital relations, sometimes they can be disempowered by the combined force of the idealism of love and the ideological domination of the indissolubility of marriage. However following from the previous chapter where we highlighted Sreenivas' proposition that love is one of the languages through which women can express their emotional agency and experience pleasure, we cannot ignore the complex implications of love on the issue of agency of women in the family. In addition, the institution of marriage has been reasoned to be political throughout the course of the second chapter, with its implications on the lives of subjects as per social norms and regulations. In contemporary times when love as an emotion is acting as a foundation for marriage, which is beginning to dislocate the dominant structure of marriage, it is leading to implications which are quite political in nature. The empowerment of women through love which is a form of their sexual agency can lead to backlash from the ideological structure of marriage and family. The violence against young couples as punishment for love, to protect the honour of families, which, expression of women's sexuality in the form of a love marriage is believed to have tarnished, is a reality which needs to be reckoned with, and analysed for how it interacts with agency of women in their families.

The story of a young woman named Jhanvi coming from the lower middle class section is testimony to this dangerous powerlessness which the political emotion of love can reduce women to. Marrying by her own choice, she became a victim of frustrating her own agency capacity. Her husband subjected her to emotional agony of infidelity and was even guilty of bigamy. Despite the consistent insults, verbal abuse and often even extreme physical abuse, Jhanvi somehow kept trying to make her marriage work by adjusting herself to suit her husband's dictates. She would leave her job if he objected, join it if he wanted more money and even pander to every other demand of dowry. Yet the only thing she got in return was utter callousness and neglect.

That is why I want to argue that she was in a situation where she due to being emotionally attached to him, was unable to look at herself as a subject with dignity and

rights. It is her powerlessness of being in love combined with the ideological influence of the institution of marriage that the only thing important for her over the years was to somehow reform her husband. From her recurring question to her husband, that where would she go, whenever he would ask her to leave, one gets also a sense of social helplessness induced in Jhanvi due to the structure of marriage. She had idealised a picture of a loving and happy marriage, it was something she continuously tried to get to, and could not accept that it was a lost cause. This rendered her vulnerable to emotional, verbal and later on even physical abuse.

It was only when after her husband fled upon making a failed murder attempt upon her did she, after utter shock and grief, broke out of the idealism of love and marriage and now is fighting for her rights from the legal system. She wants him to be punished for his crime and wants a divorce with a lump sum settlement for the security of her daughter. Therefore, Jhanvi always had autonomy competency and a sense of her rights within her as a subject. She could not look at herself as such a subject in her marriage, which one can argue had distorted her sense of self which is why she was not able to exercise agency. One can argue that her attempting to make her marriage can be seen as acts of agency. However, the manner in which she was doing that, involved compromises about her own dignity and self-respect. She was not able to clearly see the important values which could give her a sense of happiness. And that is why hers is a case of obscured agency.

A second case will further validate the critique of love and the dynamics of power it introduces into relationships. It is also a commentary on the vulnerable position often love marriages land up women in. At the age of seventeen Amrita, a girl from Orissa had eloped with her lover who originally belongs to Bengal but lived in Delhi, married and came to Delhi. This can be considered to be a big step, a powerful assertion as well as expression of her sexuality by Amrita. However, this initial act of agency, distanced Amrita from her natal kin and village which left her with an absence of any supportive informal personal relationships which become the strength of women when they face trouble in their marriages as we saw based on the study of Shalini Grover in the previous chapter. Amrita's in-laws never of course accepted her willingly as she was from a different State, so other than the issue of being inter-caste this marriage was much more difficult to be socially accepted for them as it was also cutting across regional, linguistic and consequently cultural boundaries.

This pattern of the social isolation of the woman from her in-laws also happened with Rupal who had entered into a love marriage and was subjected to extreme violence by her husband. Whenever she would report her husband's violence to her mother-in-law, she would get the response that she has married out of her own will and she is herself responsible for handling her marital problems. This total lack of support system in the case of a love marriage from her affinal kin is one of the biggest challenges for women today who are free enough to exercise their choice and express their sexuality by choosing their partners. It is like suggesting to a woman who takes up a profession which requires her stay out late at night such as journalism, that if she gets sexually harassed or even raped, it is really her problem as she chose the profession out of her own free will. This comes from an ideological standpoint of normalization of violence against women. In the case of love marriage, the argument which I want to make is that just because the form of marriage is modern, does not imply that its structure has undergone some kind of fundamental democratic transformation. In fact very often, love marriage could mean even fewer sources of support for the woman.

As Amrita soon discovered that her husband was a very violent alcoholic, upon physical injuries she would often complain to the police but not with the purpose of incarcerating her husband. Suneetha and Nagaraj in their study on domestic violence, argue that majority of the women do not come to the police station with a determination to get their perpetrators punished.¹⁹ They look at police as an authority which can make their husbands or in-laws toe the line of good and responsible behaviour so that they can continue to live in their homes with peace and respect. They feel that a couple of blows from the police, or a day or two in the lock-up can achieve this for them.²⁰ That has pretty much been the objective of Amrita whenever she has gone to the police station.

However, her husband, who wanted to marry another woman tricked her into divorcing him, and as she was living prior to the divorce itself at her sister-in-law's place, who had supported her at the time of her marital troubles, she became the victim of her sister-in-law's husband's motivations upon her. Amrita's vulnerability led her sister-in-law's husband to rape her and with strong assertions of love and promises of marriage he

¹⁹ Suneetha, A. and Vasudha Nagaraj. 'Adjudicating (Un)Domestic Battles'. Economic and Political Weekly. Vol. 40, No. 38, 2005, pp. 4101-4103 (p. 4102)

²⁰ Suneetha, A. and Vasudha Nagaraj. 'A Difficult Match: Women's Actions and Legal Institutions in the Face of Domestic Violence'. Economic and Political Weekly. Vol. 41, No. 41, 2006, pp. 4355-4362 (p. 4359)

convinced Amrita to enter into an extra-marital affair with him. Her absolute lack of any other personal relationships which could have given her the strength to say no slowly led her into submission. The social humiliation she faced for being a woman who was immoral, can be said to be products of the structures of power of patriarchy around her, which renders a woman in an apparently self-chosen relationship without any support especially in the absence of any legal safeguards.

The legal response to Amrita's ambiguous case however cannot be completely criticized for the indifferent position it took, as Amrita's case is an example of what Gary Watson understood as a weak agent. We cited his position in the first chapter, with the caveat however that we must look at external and the internal factors which led to the failed action, and if the external factors overweigh the internal factors then perhaps the individual cannot be evaluated as a responsible agent at all, as there is no structural scope for agency. In Amrita's case I would like to argue that even though external reasons such as absence of alternative supportive relationships, lack of any other support like that of a woman's group, complete withdrawal of the legal structure are present, yet despite everything she continues to meet her sister-in-law's husband whenever he comes, continues to give him money and be emotionally abused by him. As even after everything she feels she can never say no to him as she is in love with him. It is these internal reasons which are what is really obstructing Amrita to even think about getting herself out of her abused situation. Perhaps she has a hope that the man can accept her also as a second wife and she can secure her respect in society again. But knowing and witnessing evidence against this hope, she continues to engage herself in the relationship. Her disempowered situation can be attributed to the emotion of love as in Jhanvi's case too. Her impediment to agency can however be also explained by her fear of facing her natal home who could have supported her.

Thus in Amrita's case, there are structural and internal impediments to her agency but she is choosing immanence over transcendence as Simone de Beauvoir had put it. The self which had taken an extreme step of leaving her natal home for marrying the man she loved, is not able to engage in self-evaluation for what would be the step which would bring her respect and happiness. Amrita has in other words become dependent on a man who sexually abused her. Yet she is choosing not to contact her parents who can perhaps act as an alternate support structure to get her out of the situation which she herself says has ruined

her. Thus I would argue that in Amrita's case her initial one act of agency of choosing love is preventing her from being an agent now. Structural and emotional impediments exist, but the obstacles to agency here have to be rooted in the individual herself. The self in this case cannot be absolved of all responsibility for her actions.

Yet another case, which offers an example of how women often end up being victims of deceit under the garb of a love marriage is the story of Jayati a young girl from U.P. whose husband abandoned her after eleven months of marriage, fleeing away with her jewellery and plastic money. His constant dates with other women would lead to Jayati objecting and fights would naturally ensue. However, when he decided to leave her, his family placed a condition upon her family to pay rupees fifteen lakhs if they wanted the girl to be taken back. When she went to her husband's village to try to contact him she was attacked in the village as well as in Delhi by the goons hired by her in-laws. Police whether in Delhi or back in the village did not take any action when she reported the attacks as well as the dowry demand by her husband and in-laws. Yet she wants that she and her husband should start their life afresh in Delhi. For her love and marriage was a question of moral and legal commitment and she does not want to accept that her husband can simply marry her and forsake her of his own accord. In this case even though Jayati is emerging as a fighter for her rights, yet her desire to stay with the same man who cheated her and used her as a means to seize valuable property, is really complicating the question of her agency. But what is clear that much like in the case of Amrita, she was tricked when she believed she was in love. The loss to Jayati was not only material loss of property but also the emotional anguish of being cheated.

Therefore from all three cases it is evident that love as an emotion has the potential of placing women in relationships where they are rendered powerless not just emotionally but even socially in case of a trick marriage and consequent abandonment. This happened with Amrita and Jayati. But love as desire of all these women to seek emotional and sexual fulfilment can be thought about as complicating their agency. What Jhanvi, Amrita and Jayati wanted was actually expression of their sexual agency. *However, the patriarchal power structures which render women weaker in a conjugal love relationship, as well socially isolated if they enter into a love marriage are the internal and external reasons of love as an emotion making women politically vulnerable to accept hierarchical conjugal relationships.* The idealism of love and the ideology of marriage is acting as internal

obstacles to self-reflection by the women and to think about an action which would accord them respect and happiness which all of them categorically wanted. It is their actions coming out of these internal obstacles which lead us to conclude that those actions to some extent cannot be read as instances of agency.

Jhanvi is now able to behave as an agent but that wasn't before her husband attempted to murder her and fled away from law. She herself in hindsight felt that she compromised way too much and always apologised to make things work, when there was perhaps no hope of change in her husband. But she could not reflect objectively at that time, as she can do now, due to being in love with her husband. Similar is the case with Amrita, but in her case she is acting as a woman seeing a married man, when she herself felt that she was victimised by another such woman which led to breakdown of her marriage. Knowing and accepting her faults, she chooses not to get out of the relationship as she feels she cannot emotionally dissociate from it. To justify her decision to herself she thinks she is not in a position to go to her natal family who in reality might actually support her to start afresh and get her out of the abusive situation if she approaches them. Jayati's case, on the other hand can perhaps be argued to be providing an example of agency because she is fighting for answerability and responsibility on the part of the man who legally married her. Aside from her desire for a happy married life, she is also concerned about her rights as a married woman which she rightfully deserves and which her husband and her family have snatched away from her.

However this powerlessness and impediments to realization of agency is only one side of what the nature of emotion love is. We reiterated Sreenivas' position in the beginning of this section that love is also a manner of expression of emotional agency for women and a means of deriving pleasure. So here we look at the conjugal relationship when the husband shares feminist concerns and engages in building a relationship based on equality. It is here when love can be understood to be an emotion empowering women within the family.

At the Jagori office listening to Rekha's experience of her conjugal relationship, provided me with testimony to the potential of love to enhance women's freedom and agency. Rekha, who belongs to Bihar, was a child bride who was sent to her marital household at a very young age when her elder husband would be away working in the city. Back home, Rekha was subjected to verbal and physical terrorization and abuse by her

mother-in-law. Whenever her husband would visit, out of fear Rekha could never speak of the abuse as being a child she didn't really share much of a relationship with her husband and would simply burst into tears at the time of his leaving as soon after that her mother-in-law would go back to her abusive ways. However after a couple of years when Rekha's mother really exhorted her husband to take her with him she came to the city. Her husband acted as a very kind friend to Rekha who taught her about adult relationships by having open conversations with her and she was very happy to be staying with him. He encouraged her to stand up against the abuse of the *jethani* and even moved out to a separate house to prevent her from being abused.

Even though, Rekha's case mirrors agency through political relationships as we saw with the other women at Jagori, but the most exceptional relationship which supported her and gave her the strength to have a voice of her own was her relationship with her husband who acted as a friend, educator and mentor to her. This case reflects how the structure of marriage and family can be radically destabilized by the force of the conjugal relationship if that is based on equality, friendship and democracy. This relationship can challenge older authority such as the mother-in-law who intends to conserve the structural hierarchies which disempower younger women and compel them to accept abuse and internalize their inferiority. Husbands are not necessarily existing to only exploit their wives body and labour but can become co-agents in fighting the structure of marriage by practicing a relationship based on love, friendship, trust and support for each other.

If the conjugal relationship however comes out in open defiance of the structure of marriage and family, what kind of politics would it lead to and what would happen to women's agency in their own families? As we have discussed in the previous chapter from Prem Chowdhry's work, men and women expressing their agency and sexuality by entering into love marriages which are inter-caste invites a backlash in the form of violence by the community and often the family, in the name of 'honour' which is supposed to be borne by women's bodies and the regulation of their sexuality. And one of the women I interviewed became a victim of precisely this kind of violence from her own family.

It is the notion of 'honour' of her family which was violated by her independent decision to marry without their consent which is what subjected her to violence from her own family and consequently separation. Thus we see Namrata is a woman who exercised her agency in entering into an inter-caste marriage. However it is an act of agency which

invited retaliatory power and violence upon her. Her case reflects a much more symbiotic relationship between power and agency which drawing from Butler we were trying to argue in the first chapter. Power can create the possibilities of agency as disruption in existing structures, and an act of agency which disrupts existing structures can invite power which can lead to nullifying the space for agency of the individual. However such a situation of power again leads to creation of space for agency in retaliation and this can be illustrated by Namrata's escape from her home and legal action against her own family for her safety and protection. It is quite evident that it was a women's support group like Maitri which facilitated this exercise of agency by her, but the more important support in Namrata's case is the conjugal relationship. Similar to Rekha's case, here in this case love acted as the emotion which was the very source of strength, support as well as sexual agency by the woman.

However the retaliation against the expression of her own sexual agency and happiness from her own family, really begs us to think about the role of the natal family in maintaining the structure of marriage and family and in acting as a supportive or as a restrictive structure to the actualization of women's agency. We have seen through the course of most of the cases of violence against women that it is the natal family more often than not which is the most consistent and strongest source of support for the woman to fight against the abuse, barring the cases of Jennifer and Samaira. It has acted as one of the informal personal relationships which under cases of violence and abuse has enabled the exercise of agency by women. Then why does the natal family object to women's exercise of agency in this case? It is because women's sexual agency runs contrary to the very structure of marriage. And the natal family is a family which is not alien to that structure, it is a family very much rooted in the norms and ideology of the structure of marriage. It is also a family entrusted with the task of protecting this structure, even if it means subjecting their own child to violence for flouting the norms of the structure. The natal family if we think about it prepares much of the groundwork for what women's status will be in their marital home as they train them for their expected roles. And in that sense, it is one of the foundations of the ideological apparatus of the structure of marriage and family, which nevertheless works with the latent threat of use of violence. Even so, for the many women facing incessant violence in their marital homes, the natal family continues to be the first and in some cases the only support system they will have access to, in order to exercise agency in the face of extreme power.

3.6 Concluding Observations

Thus we see that the exercise of agency and the constraints to agency as analysed through all the stories of the women discussed in this chapter, make us look at the question of agency of gendered subjects in institutions of marriage and family as being located in personal and political relationships. The manner of exercise of agency sometimes confirms to our ideal of a modern liberal citizen with rights, but sometimes it begs us to see the subject with a more open minded take on how the subject herself views her own identity and its interaction with structures and relationships around her. The dynamics between power and agency and the conditions both create for production of either, make us think about the meaning of these concepts for us and their significance. We will discuss the intersection between the different cases by going back to all of our research questions, and how far as this study brought us in our attempt to work out a practical theory of agency in the overall conclusion following this chapter.

Conclusion

Preliminary Remarks

The significance of the issue of agency for the modern subject who is involved in a quest for freedom amidst hierarchal relationships and different ways in which power acts upon her, as has been already stated is what has interested me for some time now, which motivated me to take up this question for the purpose of my research. Beginning with the introduction to this study, the dilemmas within feminism with respect to the question of agency of women, considering their constituted subjectivity, led to the emergence of the research problem which I have attempted to probe through the course of this dissertation. *What kind of a conception of agency will advance the feminist ambitions of the empowerment of women better?* This is the exploratory question which I have tried to theorise upon in the first chapter by examining debates on agency amongst contemporary philosophers, political theorists of different ideological orientation before critically overviewing the different extant feminist positions on agency with the objective of enhancing the possibility of scope of practice of agency for subjects who are considered to be disempowered structurally. For a feminist politics, women exemplify such a constituted subjectivity which is the product of structural construction and whose agency and the ‘freedom to choose’ therefore becomes very ambiguous.

With the objective of making my own way through this ambiguity I framed this research to be focused on women in India who are inhabiting the institutions of marriage and family, in order to interrogate the concept of agency through their experiences in the context of an extreme naked visible form of power which disempowers women within the structure of marriage and family – domestic violence. In the second chapter I delved into the details of the structure and ideology of marriage and family in India and the manner in which they influence the subjectivity of women. Finally in the third chapter I analysed the experiences of women facing domestic violence with whom I interacted to interrogate the possibilities of the exercise of agency by them, keeping in mind the conception of agency which came out from the study in the first chapter, in the light of the structural constitution of women discussed in the second chapter. This last chapter now will serve to synthesise the overall conclusions derived from this study.

Overall Synthesis

To briefly remind ourselves, the prime research question examined through the course of this study is – *How can subjects who are structurally considered as being disempowered exercise agency in the face of naked visible power?* While extreme forms of naked visible power are only one arena of the structure which disempowers subjects, I chose to narrow the scope of my study to this question in order to get preliminary answers to a broader exploration whose aim is to find out how can subjects who are structurally disempowered exercise agency? In the introduction I framed a set of sub-research questions to frame the study of my main research question. In this overall synthesis, I have attempted to answer all our research questions stated in the introduction based on the study in the chapters under different sub-heads. Though it must be stated at the outset that social science research helps us to advance new questions based on our observations and no study can satisfactory answer all research questions. Concepts which are meant to study human behaviour will anyway always be in a state of flux. Whatever broad generalizations can be made by this modest interrogation of the concept of agency, I am presenting below under the following set of sub-headings.

Meaning of Agency

The central theme of exploration in this study has no doubt been to inquire into what does the mysterious and obscure idea of agency actually mean. Let us go back to our initial question in evolution of research problem in the introduction. *Can there be any objective criteria of determining an action which is coercive from one which is not?* As we saw this abstract question has eluded as many scholars as many it has kept interested. Our focus on Bilgrami however helped us look at this question through a practical and workable definition of agency. Agency is constitutive of our reactive evaluative attitudes to the actions of others, rooted in certain values which are common to us. We used Bilgrami's formulation to study practical examples as well the real cases of women in the third chapter. Following Bilgrami and by the study of women's cases it can now be concluded that *there is no objective manner of determining whether acts are freely caused or coercively caused.* We can only look back to our values to guide us in making that judgment. However, then we saw what is the problem with this kind of position. Values may not be uniform (even

though Bilgrami asserts they are). From Taylor we saw how values are strongly embedded in community. The intervention of feminists made it clear that these values are gendered and the community will always have a different set of values for the male and the female subject. The same action will lead to different reactive evaluative attitudes for men and women, inevitably burdening women with being the bearer of morality of society.

So how can we then understand subjects, especially gendered subjects around us as agents or non-agents? From all the different hues of theorists we reviewed in the first chapter, I would like to reiterate the works of two feminist scholars – Diana Tietjens Meyers and Marilyn Friedman who have given us a useful criteria of how to evaluate, who is an agent. Excluding the elements of the liberal fiction of the authentic self and the lack of any coercive conditions which can impede what might be understood as autonomous choices, from the conceptions of autonomy of these two theorists, I retain some conditions from their formulations which can help us to weave a practical theory of feminist agency. The capacity of self-reflection by an individual on what one wants, desires, values and aims which are most dear to the individual can be understood to characterise autonomy competency. Most importantly, drawing from Friedman, I would like to understand agency as a substance-neutral concept so long as the actor fulfils the procedural requirements of agency. The presence of this autonomy competency according to Meyers sets in motion a process of self-understanding which brings one to a certain identity which is provisional and keeps going through a trail-and-error process. Drawing further from Taylor's idea of self evaluation therefore it can be said, *to act self-reflectively based on an evaluation of one's desires, wants and values, is to act autonomously. Such acts can be understood as acts of agency.* Our agency is incomplete however, if we as actors are unable to hold ourselves responsible and accountable for our actions. The very yardstick that our actions are open to evaluation by others completes a picture of our inner sense of agency. Therefore, *a process of social evaluation along with this process of self evaluation is what constitutes this faculty which we understand to be agency.*

This definition of agency can then be used as a practical theory to assess the agency of actors around us. Such an endeavour I undertook in this study with respect to women inhabiting the institutions of marriage and family facing domestic violence. From my field interaction and the analysis outlined in the third chapter I found that subjects while being evaluated as agents or not cannot be classified in a blanket manner as either possessing

agency or not. There are different degrees of agency, which reflects the complexity and the individuality of the concept of agency. Certain women like Jennifer, Heena, Rekha and Hiradevi possessed by a high degree of agency in their constitution of the self. Other women for example, Sushma and Amrita were subjects who possessed very little degree of agency capacity and their actions were therefore concluded to be as not reflecting agency. Yet other women such as Geeta, Jayati and Jhanvi exhibited what we understood as partial or obstructed agency. We drew these conclusions based on a set of yardsticks trying to understand whether the subject in question possessed the space and capacity for self-reflection in the face of evident power structures. This brings us to our next set of conclusive arguments.

The Structure and the Agent

We understood after reading structuralists such as Althusser followed by feminist theorists that subjects are possessed by certain ideological structures which constitute their very sense of self. Therefore, in this sense, the desires, wants etc. of subjects are constructed to the effect that they are made to believe they want, what they believe they want. This kind of position negates the possibility of something like agency of the individual. *Thus structural constitution is the foremost limitation on individual agency.* After a study of the process of structural constitution of women who are our subjects for study within the structure and ideology of marriage and family we found that women are constrained sexually and economically within these structures which put material restraints upon them at an everyday level. From women's consent to sexual relations being irrelevant, to the notions of the 'ideal wife' who is completely devoted to her husband, to the premium placed upon women's chastity, to marriage being a sacrament in Hinduism which is indissoluble as a result of religious ideology, we found that women's sexuality was something which belonged to men, her guardians. It first belongs to the father who upon *kanyadana* (gift of a virgin) relinquishes the rights upon her husband. The legal system only continued to uphold these caste and religious ideologies regarding women's sexuality.

The everyday material constraints on their sexuality could include carrying the *ghunghat* (veil) to being mute in one's marital home and other such restraints on her movement. Economic constraints included resistance to ownership of property by women

which continues till today despite amendments to property law, gender based labour role-definition for women which would make them responsible for domestic labour leaving them lesser opportunity for earning an income. Caste norms of endogamy and exogamy make marriage restrictive to further regulate women's sexuality. Violence within marriage and the family is often legitimized as a form of control and regulation of women's sexuality in order to defend honour of which women's bodies become the bearers. This overall ideological structure of marriage and family served to disempower women structurally and constituted them as actively desiring the roles they were meant to live up to.

However, the theorists which we studied in the first chapter like Thompson, Giddens, the poststructuralists and Scott spoke about the interaction between the agent and the structure and how they co-constitute one another. In other words the subject could not be understood to be determined by the structure as Butler argued. In addition, structures are plural and therefore, the constitution of the subject is open to different influences. Therefore the subject retains a space for agency for how she mediates through these different structures and under which circumstances with her agency capacity. From our field analysis we found the following structures as having significant impact upon the agency of women, as both restrictive and supportive of her agency. We summarise below the crux of the argument regarding each structure briefly.

Marital Family

The actual experiences of all the women confirmed the structure and ideology of marriage and family in India which we explained in detail in the second chapter. The marital family is a space which women nevertheless want to inhabit, however there is a great degree of legitimization of extreme violence against women in the marital family. Nearly eight-ten fresh cases of domestic violence, for instance, are reported every day at the Special Cell for Women and Children of Delhi Police at Nanakpura. It is reflective of the kind of extreme power which is exercised upon women in their married families. The daughter-in-law if she is subjected to violence in her marital household by either the husband or the in-laws, rarely can she expect to find support against the abuse in the other party. She is treated as an outsider who is not really the concern of the members of the household which constitute the original family.

But what is most striking about the structure of the marital family is how by shrinking up the social options of the abused woman, in terms of exit as an option which would bring economic hardship as well as social disgrace, actively constructs women into accepting the abuse making them believe that marriage is meant to be made to work and there can be no sense of a family life outside of it. This kind of acceptance of violence can be found in women before they usually have access to other alternate structures such as education which makes a citizen subject out of them or a women's collective which even in the absence of formal education can impart training of rights and citizenship to women. Various examples of the cases can be given where women were overpowered by acceptance of the violence in different ways. Sushma and Vimla are two of the most striking examples in this regard. Then there is Rupal's case who accepted violence for a long time prior to a fatal attack on her son. Many a times modern structures such as education are not going to be able to challenge the internalization of the structure and ideology of the marital family which leads women into accepting abuse. The cases of Rashi, Sita, and Jennifer are evidence of this argument. Therefore the social importance attached to marriage very often leads to constitution of women into accepting the abuse which comes within marriage.

Based on my interaction with the women present at one of the Mahila Panchayat meetings moreover, I gauged their opinion too as suggesting that women should not break away from their homes over little issues. Stepping out of marriage makes sense if something drastic has happened but not otherwise. They all felt however that it is not possible for a woman to live alone in this society as it is something which society doesn't permit women to do, even if they are economically independent. If a woman chooses to live outside of the marriage structure, she will be alone forever. Therefore the ideological dominance of marriage goes deep down and has been internalized by women.

Natal Family

The natal family though constituted by same ideology and structure of marriage in most of the cases acts as the prime pillar of support facilitating exercise of women's agency in resisting the abuse, or in encouraging to find a solution. Daughters are therefore contrary to popular perceptions it seems are quite valued by their families and even though in the initial stages the advice is to adjust, if the woman refuses to accept the violence after a point of time, the natal family acts as a support system for her survival and her struggle for justice.

We found three exceptions to this rule however. These are the cases of Jennifer, Samaira and Namrata. A reading of these cases helps us to put the role of the natal family of the woman in the larger perspective.

In the cases of Jennifer and Samaira specifically the mothers who were subject to violence were so engulfed by the structure of marriage that they could not come to the aid of their daughters facing violence in their own home. In the case of Namrata however, the natal family in the event of challenge to the structure of marriage by an act of sexual agency by the daughter in choosing to enter an inter-caste love marriage, does not hesitate in using violence in order to uphold the traditional structure of marriage. It reflects how in the larger scenario, the natal family's role in perpetuation of the structure of marriage goes much deeper by training daughters to adapt to their roles in this structure, however as per traditional caste and religious norms.

Conjugal Relationship

The conjugal relationship emerges as the site of sexual violence upon women. But it is also a space which can if altered from being hierarchical to one of equality through the love and support can act as a space for women to exercise their sexual agency. The case of Rekha is a befitting example of how the conjugal bond can develop agency capacity within women rather than merely acting as a support system. The case of Namrata shows how the conjugal bond can destabilize the dominant structure of marriage and facilitate the expression of agency for women in terms of her sexuality as well as freedom to pursue whatever she desires to.

On the other hand, the case of Heena gave us evidence of the fact that the conjugal relationship which largely is still premised upon the patriarchal structure of looking at the home as women's rightful space, can get upset if this structure of marriage goes upset. The woman's act of agency of challenging this structure brings her otherwise harmonious conjugal relationship under duress. In Hiradevi's case too it was her challenging the authority of her husband which led to the violence against her to become extreme, which until then was only intermittent. But the most devastating form of violence which the conjugal relationship holds the potential to subject women is sexual violence. The trauma of facing sexual violence within a relationship which they had entered into with their

consent upsets their sexual agency sometimes beyond the break-up of that relationship as in the case of Rupal who does not wish to be with any other man ever. Not everyone though has the same experience as we saw with Jennifer who is quite upbeat about exploring new relationships as she is still coming out of the trauma of her past.

Legal System and Alternate Structures

The field observations have pushed me to conclude for the time being, that law offers a very limited solution to battles in the home and can often just create new battles for women to fight which are equally difficult ones. This is evident from the suspicion of many of the women to take a legal recourse to the resolution of their problem unless and until it threatens their very survival as they know they are in for perhaps even a more indomitable battle. The reason is because legal structures in India are also rooted in ideological structures of marriage and family emanating from patriarchal ideology. They have not sufficiently been transformed by modern ideology of equality before law, equal rights and so on. At a field interaction with the Mahila Panchayat workers at one of their community meetings I learnt that the Domestic Violence Act, even though helped a lot of women when it was introduced, it has been made a slave to legal procedures. My making the provision of legal aid compulsory, the women's direct access to courts has been stopped. The paralegal workers having spent so much time working with women in numerous cases feel that the police, the judges and lawyers don't understand women's feelings.

However my primary observation at the Delhi Police Cell is that the Women's Cell is not entirely insensitive to the needs of the woman in the family. They first try to settle the issue through counselling and even though they have only limited legal powers they use it to first get women a respectable place in their homes. It is the family courts which are considered insensitive on the other hand from the feedback of the paralegal Mahila panchayat workers, as well as from the cases of a few women. At the mediation cell at the Dwarka court Priya was only told how it would be socially painful for her to raise a daughter in her parents' home and hence she should compromise and go back to her in-laws. Majority of the observations of the paralegal workers also suggest that all the authorities always put pressure upon the women.

Therefore, the legal structure of procedure which places the power to procure justice in the hands of State agents such as lawyers keeps justice and access to women at bay. It is entities like the village panchayat, village *pradhan*, community personal religious bodies, Mahila panchayats, and women's collectives which are beginning to serve as an alternate support structure for women's exercise of agency. However the power of law cannot be matched by any of these which can solve a matter only at a social level, and don't have legal powers. Therefore we need new creative solutions. The structure needs to be made much more flexible and control over its process needs to be simplified and democratized to enable those structures and actors which are genuinely concerned about women's agency and rights to make effective use of it.

The Idea of Self for Women

What kind of an idea of self, do women in families have? Is it a liberal individualist notion? Or is it a relational notion of agency? Majority of the women, with whom I interacted with, it can be safely concluded are embedded in a relational notion of the self and the family is an undeniable extension of their self. Most importantly it is the relationship of women with their children which significantly modifies their idea of self, but not in all cases. Children can be the reason for women wanting to identify their own identity as an extension of the family and thus ignoring persistent violence. Relevant examples here are Sushma and Rashi to a large extent, but in the case of Mamta and Rupal, the children potentially became the reason for imagining their identity in a context outside the traditional family. In the case of Geeta, her daughter's longing for a father mattered a lot for her decision to go back to husband.

Thereby for women the rights discourse of looking at identity only as a citizen subject is highly inadequate. Their notion of identity more or less is highly relational. However we must argue that this does not imply women are incapable of looking at themselves as individuals. Some women of course consciously want an individualist identity like for instance Jennifer and Mamta, there are others who don't such as Kamla and Vimla who very much want to be with the family. It is this what is agency. But continuing to fight for the relationship without any sense of self-dignity and being unhappy throughout cannot be put forward as an illustration of agency as we saw with some women like Sushma, Amrita

and Jhanvi. Sushma is an example of the constructed self who is so totalised that she is unable to see even the visible escape routes from her violence. Amrita and Jhanvi's case on the other hand is an illustration of the distorted notion of self as a result of political powerlessness of love.

But when it comes to their relationships as political practice, being a form of ideological influence, feminist training helps them to look at the dual sense of themselves as citizen subjects with rights as well as relational identities. They encourage them to think for themselves what kind of intervention do they desire – be it to remain inside the family or move outside the family, and then guide them through the course of their decision.

Relationship between Power and Agency

From our field work, one of the prime generalizations which applies to most of the women, is that it is the point of extreme violence which becomes the site of production of agency. An exercise of extreme power is what opens up the space for a manifest exercise of agency. Till such exercise of extreme power, the game of control goes on between two parties with both trying to claim their zone of influence. It is explainable why the subject constituted as woman becomes weaker herein as her actions are influenced by what kind of background culture identifies as some actions of hers as being compatible with the overall social structure and others as not. Even though in the everyday spaces sometimes (depending how developed her subject hood is) she is capable of exercising agency, but she is really pushed to constitute her subject on her own terms when extreme power wishes to completely annihilate her subject itself.

The other kind of relationship between power and agency which we looked into is the role of the subject herself in further perpetuation and bolstering the structure which exercises power. Here I argued that it is difficult to ascribe a sense of agency to mothers-in-law and sisters-in-law as the power they are exercising over the daughter-in-law is an opportunistic exercise of power which is buttressing a structure which structurally disempowers themselves. If we go on with our initial idea of a substance-neutral conception of agency and think of ascribing agency to such acts it would still be a difficult proposition as it is very difficult to suggest whether women subjecting other women to power are doing it self-reflecting and such values constitute as those values which they have realised as

important to them. It is because the mother-in-law's values on how a daughter-in-law should be treated would immediately change when her own daughter goes to her marital household. Therefore, these acts are better read as acts of power by women where patriarchy itself creates the space for such exercise of power, in order to hide from women, their own subjection.

Research Contribution

The humble contribution of this study has been to thus conceptually look at the concept of agency as it has been understood in debates between contemporary scholars and attempt to work with a practical theory of agency which can be productively applied to the experience of real agents in order to study their agency. Methodologically speaking, the attempt of studying agency directly through the experience of women in a context of extreme power helped us to look at the issue of agency of women as they see it in a potentially closer manner. Through this the hope is that we have been able to sketch out through an analysis of real life subjects what should a feminist conception of agency consist of. At a more everyday level, this interrogation of agency also aspires that through the lens of this study we may be able to investigate ourselves as agents or non-agents in different situations and contexts.

Limitations of the Study

It is important that we highlight the main limitations of this study. While I have tried to make a generalization on the question of a practical feminist conception of agency and the relationship between agency and power through the study of the experiences of the twenty-two women who spoke to me, I acknowledge that my sample size is limited in terms of size as well as region covered, as it is restricted to Delhi. The structural framework of marriage and family in India is largely based on the structure of marriage and family within the Hindu community keeping in mind constraints of time and scope as well as the composition of the sample size. I have not examined the parallel legal structure of laws and litigation on domestic violence, which may have left out certain important aspects of study. However I have tried to make up for that by including analysis and observations on the legal system

based on my field work. And lastly, this study for purposes of narrowing down the study of agency restricted itself to exercise of agency in the face of extreme violence only. The broader aspects of the question of agency in the context of the normal, the everyday, and subtle forms of power and violence has been excluded. Some tangential cases from the field in this regard throw some light on this issue, for instance, Heena's case.

Directions for Further Research

One of my initial research questions which I believe needs an independent exploration if we are to take up the issue of domestic violence and women's agency forward is – How can abuse and violence within marriage be prevented in a different conception of identity outside the rights-based framework? A separate study on this question can involve a much more detailed and focused study on the different types of alternative support structures, especially bodies like Mahila Panchayats, women's collectives and how they solve cases of violence. What are the legal bottlenecks where they are not able to help the women? How can this be rectified? One of the thoughts I used to mull over during this study is the possibility of making the women's collectives and paralegal workers of Mahila Panchayats Protection Officers under the Domestic Violence Act. Could that enable faster and more context sensitive resolution of the domestic violence cases? Such an exploration can think about how to diversify the legal system in order to make it more accessible to those women who need it and yet be sensitive to the relational nature of identity of women.

Epilogue

The point of this study has not been to overstate the romantic fiction of resistance amidst the face of patriarchal structures which feminists fear overemphasis on agency brings about. It is to study the possibilities of agency for women within these patriarchal structures, in order to come to a more realistic understanding of women's agency, which can slowly over time disrupt the constitution of the dominant structure of marriage and family. How women fight their battles against visible violence within the home is a beginning to such an exploration, before we can think about the more invisible forms of violence and how can women negotiate their agency there. When women's agency tends to break the

conventional happy family structure as women go out of their role-definition, what are the different ways in which power reverts back then? And then how do women deal with it?

To sum up the essence of the concept of agency in the light of structural constitution which I have worked with, asks the following questions – *have the subjects had a chance of critical evaluation and self-reflection within the structure? And then have they succeeded in employing their evaluation with sufficient control over their lives?* From our study we have different answers to these questions with respect to different women, as fundamentally I would like to reiterate what no matter how differently women perceive their selves to be, the difference in the nature of the experience of their agency cannot be reduced completely to their different context or supportive or restrictive structures. There is something about their agency which rests within themselves which may be too elusive to be explained but it affirms the sense of their individuality.

Women want to experience themselves as subjects who are taking control of their lives in the manner they desire. What they desire could be to choose a conventional family (modern nuclear family – none of them really want to stay in a joint family) or a different notion of family (just them and their children), the family as a unit remains important for their own fulfilment. Political relationships can add to them but they cannot replace what the family provides. They want freedom within these families and they want it now. For feminists to critique the family ad nauseam and simply suggest a notion of false consciousness to any woman who willingly accepts her labour role definition so long as the family is not the source of violence against herself is to strip women of all control over their subjectivity. Women's freedom and agency does not rest only in the most idealized notions of feminist choices to reject the patriarchal family for the restrictive and constrictive roles it is ascribing to women. Motherhood for instance, while placing women under emotional obligations also is the source of their strength. Women experience agency in their everyday lives by making choices which involves perceptions of the self as individual as well as relational. At no point however women when they choose the conventional are willingly choosing subjection, they are choosing what they feel they want for their happiness and satisfaction. A feminist conception of agency therefore, needs to draw much more from the real life experience of subjects for whom agency is more a real, desirable and palpable capacity than feminists who focus simply on construction of the individual would like to believe to be the case.

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Appendix I

Interview Questions

1. What is your and your husband's name, age, caste?
2. When and in what circumstances did you get married? At what age did you get married?
3. What was the economic situation of your maternal home?
4. Did you get the opportunity of getting yourself educated? If yes, till what level did you study?
5. Did you work before and after marriage?
6. Were you happy initially? How was your initial married life?
7. Who all were there in your marital home?
8. What work did your husband do?
9. How were your relations with your husband?
10. Who used to control your house?
11. When did you start experiencing violence? What kind of abuse was it – verbal, emotional, physical, sexual?
12. How did you feel at that time? What was the impact on your relations with your husband?
13. Why did you accept the violence? What factors influenced you?
14. At what point did you feel that this was violence and this was wrong?
15. How and why did you start feeling that you were being victimized? What factors do you think influenced you?
16. What kind of solution did you want in your life to the problem of domestic violence? Did you want to take the legal recourse? Yes/No. Why?
17. Do you think there is any demarcation between acceptable and non-acceptable violence?
18. How do you view your own identity?

Appendix II¹

Summary Descriptions of Interviews Conducted²

Case I

Hiradevi originally from U.P. lives in the Madanpur Khadar colony in New Delhi. At the age of forty she looked like she is in her early thirties. Her story made it evident that she had to deal with quite a lot of hardship in her natal home as well as her marital home. Her own mother had passed away when she was a child leaving her with an alcoholic father. Being an alcoholic, her father had at best sporadic income being a contractual labourer. It was her maternal grandparents' property which helped them to survive, though the situation was not very comfortable, yet she said, "You can say, we had enough to eat but that was about it."³

Around the time when she was sixteen years old, her father got home a step-mother who was very keen to get her married and drive her away from home as soon as possible as the two women could never get along well. So when she was married at age seventeen, she admitted that she was one of the last ones in the family to get married, it was rather considered as a late marriage. Despite belonging to the Hindi heartland of Uttar Pradesh, she was married off within her own family. So her mother-in-law was her erstwhile *buai* (father's cousin sister). Even though she was happy about the fact that she was married relatively late, she was angry about the fact that she was to be married off just so that she wouldn't continue to stay in her natal home. Moreover it was her husband's second marriage, so she said naturally it was not her own choice and she was forcibly pushed into it. She had even brought up the desire to study further with her father as she said she had studied only till about sixth or seventh standard, but her pleas were of no avail. She said, she always had a knack for stitching and knew if she learnt it she would be able to make a living but she never got the support or the resources to learn the craft properly.

¹ Seventeen of the twenty-two cases have been described here. The five cases which have been excluded are brief cases regarding which the chapter gives adequate details with analysis.

² The names of all women have been changed to protect their privacy.

³ Account narrated by Hiradevi, translated by researcher

Upon marriage, she talked about her first day in her marital home as a long day of labour with cleaning the kitchen and the household when all her husband's relatives had left. The more disturbing part of her narrative however was her first night. Sexually unaware at that time, in hindsight she understood that night's experience as that of rape. In her own words,

“I was trying to run away but he was after me. He had anyway been married earlier for seven years and knew everything. I did not have any knowledge. So a lot of fighting ensued. My bangles were broken. And my mother-in-law was listening to all the drama. Then in the morning she abused to me to no end. She passed remarks like ‘God knows what she thinks of herself’; ‘you drove away my son’. She hurled so many abuses at me that my mind came to accept that this is what happens in a marriage and it is necessary. I became quiet.”⁴

Out of acceptance of her fate she reconciled to accept what was to happen every night. When questioned whether later on the relations between her husband and herself were established out of her consent, she retorted simply,

“We did not have any idea what is consent or no consent. It was just something which had to be done as part of married life. I was like my husband's property, which he was free to use every night. He used to hardly speak to me otherwise. As far as my wishes were concerned, I could never express anything whatsoever. I was afraid, that I would be considered some other kind of woman, I did not want to be looked at in that light. Anything like that could have backfired badly... But yes at times, even I felt I had some desire but there was absolutely no space to express any of that.”⁵

Therefore, her sexual relationship with her husband far from being consensual was one characterised by her feeling obligated and responding with fear mostly of her mother-in-law. It was her mother-in-law who soon after marriage subjected her to habitual verbal abuse on the slightest of mistakes she committed while cooking or performing any other household chores. To terrorise Hiradevi, her mother-in-law had enough control over her son, to encourage him to hit her often as a form of punishment for either talking back to her or anything else which invited inappropriate behaviour including talking to any of the women in the neighbourhood or even amidst the relatives. One of the prime reasons of her mother-in-law's fierce control over the entire family was that she being a single child inherited all her parents' property. The father-in-law was a weak figure in the house and the mother-in-law had taken control of most of the decisions. Soon her mother-in-law had started encouraging Hiradevi's young children to abuse their own mother. That is when Hiradevi decided she would not take it much longer and somehow persuaded her husband to take her away with him to Delhi along with their children. Even though her mother-in-

⁴ Ibid

⁵ Ibid

law tried her best to prevent this from materialising with the threat to her son of losing dictate over his wife in a city like Delhi.

Nonetheless, situation did not change for her radically, upon coming to Delhi. Her husband, she said, was trained to behave in the exact controlling manner of her mother-in-law in her absence. She refers to her relationship with her husband when he was working as a contractual worker nearby to the house they inhabited as a 'master-slave' relationship.

“He would come to the house four times a day for his meals and tea. He was always afraid of whether I was meeting someone outside or if anyone came to visit me. From the moment he would enter the house to the moment he left, I would be under intense pressure to work according to his expectations. Once he left I would heave a sigh of relief. And if something was to go wrong, he would hardly talk, just hit me out of the blue and carry on with his business.”⁶

It was only when they shifted their home to Madanpur Khadar due to the resettlement drive in Delhi in 2006-07 that her husband being at work at a distance could not monitor her movements closely enough. The violence she faced was often sporadic and one instance of violence would be combined with 2-3 months of relative peace. So as soon as she would feel she could not accept it any longer she would be compelled to make herself compromise when there would be more peace in the household for primarily her children. Moreover she was economically very insecure as she did not have the means or the courage at that point of time to go out and work even as a domestic labourer.

The intervention of Jagori, a women's collective working with women, conducting regular meetings in her neighbourhood gave her practically a whole new set of skills. Initially she went for short 1-2 hour meetings where *behnen* (sisters) would talk about their problems and the Jagori staff would much like sisters guide them towards finding their own solutions, offering a support system to help them in whatever solution they chose for themselves. At one point however, Jagori proposed a training programme to the women of the neighbourhood. Hiradevi knew she was keen to take part in it, she really wanted to learn something new and in spite of her self-doubt on whether she can manage to stay out of the home for an entire working day, she decided to go for it and face the consequences later. Once again, this reflects Hiradevi's quality of having the agency capacity to grab an opportunity when it comes despite the obstacles in her way. However, that day when she returned home, she faced extreme violence from her husband. Fortunately for her by this

⁶ Ibid

time her children were quite grown up and her son saved her. The same routine ensued on day two of her training. After the intervention of her son again however her husband left home for some time.

Finally once after a fight when a utensil in her hand had accidentally hit her husband's head and he attempted to throttle her in response, she decided to file a case under Protection of Women Against Domestic Violence Act (PWDVA, 2005). In a legislation like the Domestic Violence Act, which was supposed to be different from all other legislations and was meant to assure speedy relief, she has spent almost six years now, going to the court, date after date. Meanwhile, after going through her training she is now engaged with Jagori as an employee conducting surveys and mobilising domestic workers. So even though the PWDVA ensured that she could not be displaced from her house and she received some irregular form of maintenance from her husband who was no longer living with her and was many a times imprisoned for flouting court orders, she argues that at the end of the day she hasn't really got what she had started fighting for six years ago. There was no lump sum amount paid to her which would completely free her from her husband, none of the original house papers or identity documents were returned to her, to get even something like electricity in the absence of those is exceedingly difficult. She critiqued the Act for being prey to the same loopholes of the legal structure such as poor victims becoming pawns in the hands of lawyers who are interested only in monetary benefits and the entire procedural requirements which can make even the most patient fighter exasperate and surrender.

There were times therefore, however when her children who stood in support of her throughout would out of botheration push her to negotiate with the father, but once Hiradevi had made the decision she stood firm. She said she wouldn't go back to the prison like relationship even for her children. As she was clear a negotiation with her husband meant most likely being thrown back into the village life, under complete dominance of her husband and her mother-in-law as he would not stay in the city and let her continue with her Jagori work. She was also concerned about her children's future and education. She still laments the fact however, that it is still unacceptable to most of the people including her own neighbourhood to see a woman staying alone with her children and says that most people remark that it is Jagori who ruined this household. They come to "break homes".

She at the moment regardless of the positive change in her life is still fighting to get out of the court cases.⁷

Case II

Vimla is a seventy-four years old, who belongs to U.P., living in the same resettled colony of Madanpur Khadar. She recounted the story of her marriage which began when she was fourteen years old. She has spent sixty years of her life trying to live and adjust with a man who never respected her, never loved her and more or less never even accepted her as his rightful wife. She was the victim of everyday swearing, insults, slaps and physical abuse by her husband. The only reason why she could continue to stay in her *sasural* (marital household) was that her parents-in-law willingly accepted her as their daughter-in-law. Nevertheless, it cannot be suggested that all other relatives in her marital home respected her. Her *bhabhis* (wives of husband's brothers) constantly asked her to leave the house. However, she never knew how to react, and for most of the years did not want to go back to her mother's household lest she becomes a burden on her mother. Being uneducated and a victim of child marriage she also had no knowledge of sexual relations between a wife and a husband and thus also became a victim of what she understood as *zabardasti* (being forced). Also, being a *pandit* (Brahmin) by caste and coming from the U.P. the sartorial expectations on daughters-in-law in the village were quite high and she had to be in *ghunghat* (veil).

She even thought that because her parents out of poverty could not give any substantial dowry that could have been an issue which may not have gone down well with her husband. On being accused by her in-laws of spending too much money, she was even morally compelled to reduce her own food intake. There was a point of time however when it became exceedingly difficult for her to sustain the violence and the village panchayat was the only institution which came up in her defence and admonished her husband for treating her in the aforementioned manner. However soon after her husband injured her badly and she finally decided to live in her natal home. After about three years, he came to fetch her when he had decided to move to Delhi. For years she lived in fear, and there were moments when she wished she would rather be dead. Today she is still living with the same man but

⁷ Her husband had filed another retaliatory criminal case against her and her son citing attempt to murder.

is not subjected to violence anymore. She gives squarely the entire credit to Jagori for training her to speak up, to handle things on her own and to end violence within her marriage. While the actual act of intervening by threatening her husband with police action and repeated counselling sessions is what made her husband give up being violent after literally decades, regular attendance to Jagori meetings helped her to gradually open up and talk about her story listening to other women share similar stories. Although this process of opening up was extremely hard for her back then, now she proudly says that she can answer back her husband if he tries to demean her in any manner, she married her daughters on her own and still is regular with Jagori meetings. However, upon being questioned she did acknowledge that she had no idea of what love in a marriage meant as she never had any social exposure to educate her of the same. The only exposure she had was to educate herself over the *dharma* of a righteous wife.

Case III

Sita a young twenty-nine year old woman, living in Madanpur Khadar, from U.P. is a very enthusiastic and arduous social activist and worker, now working with Jagori itself. Sita was sent off to her marital home at the age of seventeen and her husband was around thirteen to fourteen years elder than her. Her own natal family had seen a lot of economic hardships and one of the reasons why her kin had arranged her marriage with this family was they were apparently economically well off. However, on the very first night of the wedding to Sita's shock and despair she found her husband to be very sexually aggressive who forced himself upon her several times till she was badly physically hurt. It was difficult for her to even walk the next day. As if this torture wasn't enough, he subjected her to sexual humiliation by complaining about Sita's performance in the bedroom openly in front of the entire house. His verbal sexual abuse against Sita led her to become absolutely numb, in a pit of self-shame and despair. She later on discovered that he was mentally ill. Her in-laws added to her pain and misery by abusing her and blaming her for bringing her own illness to their home when she was hospitalized due to the constant violence inflicted on her. The worst part was Sita felt absolutely incapacitated to approach anyone.

But the extreme torture was becoming unbearable to her. Her husband did not cease to attack her sexually even when she was pregnant. Her brother-in-law also physically attacked her at this time and even wanted to sexually assault her. Even when she was going

through all this Sita used to stand against the violence of her brother-in-law against his sisters and his mother. Inside she harboured a wish constantly to get out the house. There seemed to be no clear escape however. As if all the sexual violence wasn't enough her sisters-in-law in whose defence she stood on more than one occasion on and off abused her for not bringing any dowry. Having given birth to a daughter, she invited more spiteful remarks. However, when her in-laws tried to even kill her daughter she knew she had to do something to leave. And therefore, on the pretext of wanting to visit her maternal grandparents she convinced her in-laws to drop her off at their village. When she refused to return, her in-laws harassed her and her family a lot and tried to run away with her daughter. But she somehow succeeded in reaching Delhi with her daughter and started living with her parents.

Coming to Delhi she discovered a whole new life, engaged herself with street plays organized by Jagori and started working with Jagori. But when her parents' economic situation began to get depressed she considered getting her husband treated by bringing him to Jagori. Around her, neighbours had begun to talk ill of her, castigated her as a woman who deserted her husband and was acting as a liability on her parents. Her in-laws convinced her and took her back home saying her husband has changed. Within two nights however she was forced to relive the horror of the physical wounds she had suffered on account of sexual violence. Her second escape also through her maternal grandparents' house was for Sita the final escape from the torture, as she swore to herself to never go back to it.

But her husband pursued her in Delhi for some time with even death threats. This finally pushed her to file cases under the Dowry Prohibition Act and Sec 498A against her husband but the dates kept on getting postponed. She is very clear that she wants nothing but divorce. She after taking the decision is happy to stay with her daughter who is her strength and life, but she laments over the perils she has undergone because of her ambiguous legal identity. When she came away from her in-laws the second time, she had no way of proving in the Court that she was married in order to get a divorce. She needed her husband's name for her daughter's school admission, caste certificate and faced acute troubles due to her identity in limbo. Even though her husband has had a second marriage with children she is unable to get a divorce. But Sita is very clear that she got the strength to fight from Jagori which has led to her freedom and independence today. Even though, Sita as a single mother living with her parents who support her wholeheartedly still has to face violent harassment

from her brothers who accuse her of having an interest in their property and she awaits her divorce. She is open to her own chosen relationships now and has learnt from her association with Jagori to distinguish between sexual violence and sexual pleasure and has understood the latter to be a right which all women deserve to enjoy.

Case IV

Another young woman named Geeta, twenty-nine years old, living in Madanpur Khadar from Calcutta, spoke to me about her early days of marriage when she just fourteen years old. As she recalls she was initially very happy to be married as the man she got married to was very good looking. However, her young age meant that she was unaware of what sexual relations in marriage meant. The same was not the case with her husband who was around ten years elder to her at the time of marriage. Therefore, she also came to be one of the women who could not even fathom what was happening when she was made to first engage in the sexual act. However, soon after marriage she started experiencing extreme verbal and physical abuse and complete callousness on the part of her husband to the affairs of the household. He was very irregular with work and was least bothered about a continuous maintenance which would be required to run a home. She even recalled one horrifying memory when her husband tied her to the fan with her sari. She used to leave her house and stay with her parents when the violence became unbearable, even though she was very much aware of her rights on her marital home. Once she even complained to the police and got him beaten up. But she would soon land up back with him when he used to come and ask for her forgiveness. However being a habitual alcoholic, the regular instances of violence did not cease to make her existence in her marital household dangerous even for her own health. When she was pregnant with her first child, even then he did not desist from subjecting her to harsh physical violence. Worse he never even cared to contribute to the daughter's child rearing.

One day, when matters turned extremely sour she came to stay in her parents' house with her daughter, but that was extremely difficult for her as a single woman. Soon her daughter was growing up and started missing a father in her life. The Nanakpura court authorities advised her to give her husband another chance as during the hearings her husband had denied to give her divorce. And even though by this time she was working in an NGO and was studying as well, she felt really pressurised from her parents' neighbours to go back to

her husband. After almost two years now things are much better with her husband. He is much less violent, more responsible and now with her second pregnancy her husband has supported her with medical aid and help. She says even though problems occur from time to time but she is happy to be in her married home now.

Case V

Rashi, a middle aged woman with two adolescent children, is a Private Secretary with the Central Government's Ministry of Labour, a Gazetted post which she has held for a long time. The man to whom she has been married for the past sixteen-seventeen years belongs a different caste than hers. She was a widow when she met him and found him to be a very progressive man who wanted to marry her to set a radical social example by marrying a widow. At the time of marriage therefore, Rashi was quite happy and satisfied. Being however, an inter-caste marriage, their alliance was not acceptable to the husband's family who chose to even abstain from the wedding. She recalls being happy for the initial two years. Soon after that however, the in-laws who belonged to Rajasthan who had refused to accept them as a couple, nonetheless began to visit her husband and started indoctrinating her husband in order to turn him against her. She herself heard her father-in-law subtly encouraging his son to not support his own wife, to not take care of her. In other words, there was a conscious attempt by her father-in-law to manipulate her husband against her.

She referred to them as a typically "orthodox and conservative family from Rajasthan where women have no right to speak."⁸ That is why her own mother-in-law never became a source of her abuse as she herself did not hold a respectable position in the family of the husband. The interference of her in-laws soon led to a dramatic change in the attitude and behaviour of her husband. He stopped contributing to the household financially. He pressurised her to surrender her entire income to him. He began to verbally abuse her and she was made the target of his aggression and anger frequently. There was no contribution by him in even caring for their young daughter. To her recollection when the son was born however, her husband did show signs of attachment to him, but it was purely on account of the traditional male preference ideology that her husband would shower love upon him.

⁸ Account narrated by Rashi, translated by researcher

His or her in-laws love for the son however did not translate into responsible parenting. And the physical abuse she started facing from her husband began when she would make attempts to discipline her son and her husband would castigate her for not following his orders. An enormous loss in the share market gave him a reason to vent out his frustration upon her and since then for over the past 11 years Rashi has been facing periodic instances of physical abuse,

“He would often slap me anytime, hit my head against the wall or take up any objects he could lay his hands on to hit me. I used to complain to authorities like the NCW (National Commission for Women) or Delhi Police when the situation would aggravate as he has been violent towards my daughter as well. Out of perhaps a sense of fear he would amend his ways for some time. He would inevitably however, always go back to abusing me in whatever manner he could... Even for sex he would forcibly drag me into the room in front of my children and it was really having a debilitating impact on my children. Since his abuse started all sexual relations between us were established coercively by him... Worst was when he tried to throttle me about a year ago and I was afraid for my life.”⁹

She admitted that she sustained the violence for a very long time before taking the decision of leaving with the house with her children as she always thought that perhaps he would think of the welfare of the children and change as the children used to exhort him to not behave in such a manner. She even accepted forced sex in order to somehow placate him to maintain the peace of the household. She tried to adjust as much as possible as she believed that even if she may not need a husband, children need a father. However, despite all her efforts she could never match up to his expectations of a “good wife.”

“How am I supposed to know what their definition of a good or bad wife is? He availed of facilities like government accommodation, additional income and the complete services of a housewife from me and yet always blamed me for not doing things his way. For not listening to him. He alleged that I had relationships with other men. He wanted me to blindly follow every single thing he said. He wanted me to talk with his permission, to even breathe with his permission.”¹⁰

Being a working woman it was even more difficult for her as she had to go outside the house which invited different allegations from her husband. Yet it was not the case that he was not happy with her job. The reason is the additional facilities it brought along. She made the following remarks with respect to the situation of working women and the issue of domestic violence as well as the mind-set of the legal structure by giving an example of another neighbour who is trapped in a violent relationship.

⁹ Ibid

¹⁰ Ibid

“Domestic violence happens at very high levels too, including with women who are IAS officers. Economic independence has not changed things much for women. Maybe there is an escape route, but men do not want to accept our freedom. They want to keep us subjugated. All this talk about women being empowered because of employment is utter nonsense.”¹¹

“A judge in the Saket court who is our neighbour brutally oppresses his wife and daughter. He even hits the little girl with a belt. I have seen her cry out of hopelessness. This man was the one who encouraged my husband even more to ‘be a man’ and not worry about anything. If the judges who are meant to protect the freedom of women in courts are so brutal in their personal lives, where can we expect to see justice?”¹²

What made her decide one day that she wants to surrender her government accommodation and move to her own house which she purchased with her own savings with the support of her parents along with her children? Rashi thus always knew that she will have no financial insecurity or the fear of homelessness for her children. Being economically independent in addition to owning property made her very confident of her escape therefore. Secondly she was confident that her children would willingly support her as they had grown up witnessing violence and she was the only one who took care of them. But the key trigger for her to finally decide to leave and separate from her husband was when she started feeling that the children for whom she was compromising are suffering rather than benefiting from this man. He had begun to accuse her daughter of being a ‘loose’ woman who goes out with boys. At the Special Cell she is fighting the battle to get some of the furniture and home appliances she had bought herself to at least fulfil immediately basic necessities of her children. She says that if her husband is apologetic perhaps after six months or a year she might consider accepting but with a proper legal agreement. She did not intend to divorce him.

Case VI

Rupal, a young twenty-five year old woman from U.P. comes from the economic section which can be characterised as the lower middle class. Rupal’s father serves the Indian Navy but she could not be educated beyond class VIII due to the series of accidents her father met with. Being the eldest child she felt responsible for caring for the family and brought income to the home as well as provided for her father’s medical treatment by working in a beauty parlour. Rupal met her husband at about the age of twenty. He was a cab driver for

¹¹ Ibid

¹² Ibid

a school in a small town in U.P. After being in touch with him over the phone for about a year she got married to him, “It was a love marriage which was arranged.”¹³ The marriage took place with the consent of both the families and things seemed to be absolutely blissful initially. But the sun set on her happiness soon after one month of being married. From her account, she quickly discovered traits about her husband what remained clandestine before the marriage. He was not only a raging alcoholic but engaged in relationships with women even after the marriage. The school at which he worked informed Rupal when they decided to fire him on receiving complaints of this man trying to establish relationships with young girls of classes VII and VIII. He even tried to take a chance upon Rupal’s younger sisters. Whenever she would confront him over any of the issues regarding his extra-marital relationships of his behaviour with her sisters, he to her utter shock responded with extreme violence. He just needed the slightest pretext of beating her up, it could be over her cooking which he did not appreciate or over him demanding money from her. Rupal’s account of the description of the nature of physical and sexual violence she faced is not only shocking but also disturbing,

“He would hit me hard with a belt. He would be drunk most of the time but many a times he would force me to consume alcohol or smoke cigarettes and then thrash me with the belt. He does everything forcefully. Other than the first month when I can call my relations with him consensual he has coercively used my body whenever he wanted. Whether I was unwell it did not matter to him. He used to say, ‘I have not married you for letting you sleep peacefully. I have married you to get what I want and I will get it.’ After about a year of marriage one day he severely beat me up and threw me and my little baby out of the house.”¹⁴

This kind of extreme violence had created a fear psychosis in her mind. What has been quoted above summarises the kind of violence has faced over four year (till over one year in her *sasural*, i.e, marital household and after that her husband used to come to visit her at her parents’ house in Delhi). Soon after the very first attack upon her when she discussed with her mother, she was advised that discord happens in every marriage and with time everything will be fine. She herself having entered into a love marriage had some sense of a hope that he would change. But his behaviour kept getting worse. There was nobody to support her in her *sasural* too. Her mother-in-law withdrew all support stating that she had married by her own choice and she alone needs to handle the consequences.

¹³ Account narrated by Rupal, translated by researcher

¹⁴ Ibid

Fortunately for Rupal, her parents and specially her mother who always accompanied her at the Special Cell of Delhi Police stood in support of her. After the birth of her baby boy when Rupal's expectations of change from her husband were frustrated when she was thrown out of the house, her parents supported her financially even though she herself resumed her work. Even when her husband kept visiting her parents tried to negotiate for reconciliation but her husband was only interested in inflicting the kind of physical and sexual abuse described above. The kind of trepidation this kind of violence generated in Rupal, over time constructed her into mute acceptance of the violence when it was taking place. She could not even utter a murmur in pain or ever raise a hand in resistance. However, despite the extreme violence when her husband would leave she would narrate the incidents to her mother, even though she was paralysed in the very presence of her husband she would still refuse to give him money. In the final attack she suffered in April, her husband even tried to fatally attack her child. That is what pushed her to finally complain to the police.

In the case of Rupal however, her faith from relationships with men has been shaken to an extent that she asserted strongly that she would never marry anyone ever again. She would live her life with her child, which is the most important relationship for her. When the counselling session at the Special Cell of the Delhi Police failed she asserted that she would not file for divorce herself. Her strategy is to encourage her husband to file for divorce so that she can bargain for the rights of her son from the ancestral property of her husband more strongly.

Case VII

Mamta and her husband Bajrang¹⁵ are a young couple in their twenties with a five-year old son hailing from U.P. and living in Delhi. Mamta however was a victim of child marriage as she was sixteen-seventeen years old at the time of marriage, even though she has been educated till class X. Theirs was an arranged marriage but both of them acceded to the fact that their parents made them meet and marriage was fixed with the consent of both the partners. Her husband kept repeating that he is very responsible as with whatever he earns he has managed to take a loan and is building a house for his family. He said that in the

¹⁵ In this interview I spoke to the woman along with her husband.

first year of marriage Mamta would keep quite unwell as she was under age and since then she has had a memory loss problem. He said that he is really concerned about her, loves her and just wants to forget the wrongdoings and be happy with her. Though his wife admitted to the fact that she was quite unwell in the first year and used to forget some things but she remembers all important things. She also agreed that initially her husband was very caring and used to perform most of the household activities due to her ill health.

However, when he tried to insinuate that Mamta didn't even know when she was pregnant she retaliated and consequently narrated her experience of mental, emotional and physical torture that she had undergone being with her husband. The first time he had hit her over a small dispute in the household was when she was nine months pregnant. Her stomach was in excruciating pain as he had attacked her on her stomach. Soon after that she recalled that he got into the habit of drinking with his friends and it became such a problem with him that there would hardly be anytime of the day when he was sober. And then the slightest of issue was enough to get him angry to beat her up. He would create issues if there was none and she cited some examples also of trivial incidents where she ended up getting hurt. Moreover, he had extreme suicidal tendencies. She could remember at least three incidents of attempted suicide, some of which were witnessed by neighbours, one was even witnessed by their son when Mamta with her own father saved him. This she said brought her under great mental duress. She said, "I never used to speak. I used to behave like a cow... Today I feel that woman is not weak. I can raise my child on my own."¹⁶

Consistent violence had made her retaliatory and unsympathetic to her husband when he would be unconscious due to excessive drinking. She ceased to care for her husband when he would be bedded because of the influence of alcohol. Her mental and physical energies began to wear out and one day in 2013 she realized there is no reason good enough for her to continue to bear this pain. He had not only been violent but had never even contributed any maintenance to her. Therefore she decided to abandon him and went off to her natal home along with her son.

Her husband complained about her raising her voice within a fight which would get him angry even further. He almost implied as though he would be compelled to discipline her as it is inappropriate for neighbours or anyone else to know anything regarding a dispute between husband and wife. Her husband though had admitted most of his faults and claimed

¹⁶ Account narrated by Mamta, translated by researcher

that he had reduced his drinking a lot pleading to consider that addiction cannot be quit suddenly, he did dismiss some of the instances of violence Mamta narrated as false.

Sitting in the lawyers office at the Special Cell of Delhi Police, Mamta contended that she had actually come to file a Domestic Violence case and seek divorce with maintenance for her child but because her husband is consistently asking for forgiveness she is willing to give him another chance. But she told me when he wasn't around that she doesn't have any hope of any change in his attitude. She revealed that he even used to threaten her prior to counselling sessions and the polite talk in front of police, lawyers and counsellors here is a complete smokescreen for who he really is. She recalled his constraining approach even prior to marriage but at that time she told herself that perhaps such adjustments are to be made in a married life. But now the level of exasperation she had reached made her in a way strong that life alone cannot be harder than what it is living with him and she is sure that she can live a happy life on her own with her child and is not afraid of anything.

Case VIII

A young twenty-two year old woman, dressed in a *burqa* named Nazia carrying her few months old baby-girl, was doing the rounds at the Special Cell with regards to her case. The system at the Special Cell which in her words did not have any form *dabaav* (pressure) on her husband's family has constituted another level of injustice for her as she has to travel a long distance from the outskirts of Delhi to fight for justice for her and her baby girl. While not being extremely poor, Nazia's economic situation was just about enough meetings the basic needs of her and her child. Since about one a half years ago when she was compelled to leave her marital household, she has been with living with her parents to support herself and her daughter as well her parents who have three other younger sisters to take care of. She tries to do whatever contractual embroidery work from home she can get, which of course gets her a return of a meagre Rs. 100/- a day, for the days when she is able to find work.

Looking back at the kind of treatment her husband and her in-laws meted out to her she laments the fact that relatives of her own parents got her trapped in the hands of such a wicked family. She hadn't even met her husband prior to marriage and her parents had been convinced by her father's younger brother that the man's family is economically sound, the

man earns a regular and has studied till class X. Now she regrets not having more information at that time and before she could even think she was already married. Things worked fine for about a month and a half after which she got pregnant and that is when trouble surrounded her from all sides. She used to work day and night for her parents-in-law. She did not mind working but soon after she was pregnant she started falling ill and could not work to same potential. Her parents-in-law stopped bothering. She said they were just interested in making me work, they even used to say we have got a free maid. When the maid became inefficient due to ill health their attitude became callous and brutal towards her. She had learnt in her marital household that her husband was not working and merely living off his parents. At the time of pregnancy she would feel it necessary to bring up the issue of financial security of them and their child with her husband. Soon after that she faced consistent physical violence from her husband and the in-laws as well.

Her deteriorating health had become extremely serious and one day she managed to secretly inform her mother. She was not allowed to talk to her mother, if at all it was permitted the husband or the in-laws would ensure that they monitor the entire conversation. Nor was she allowed to step out of the house. Moreover she was denied even healthy food when ill. This reflects the dehumanizing manner in which young brides are treated till today in the Muslim community, and practically they had little or no economic safeguards. Her mother came and took her to the hospital where after an operation and treatment for over 26-27 days she was discharged and was extremely weak. By this time, she had suffered not only verbal, emotional, physical and sexual abuse by her husband but also extreme deprivation in his house. Her outrage specifically against the sexual abuse of her husband made her make an angry judgement about men in general, “Every man is hungry just for flesh, they don’t care about anything else.”¹⁷

Nonetheless, when her husband came to fetch her after about fifteen days she agreed to go as she felt that once married one must try to make it work, moreover she already had a daughter who needs a home, and what if even if she were to desert this man, the next man she marries is even worse? Nazia’s concern of making her marriage work, is coming out of primarily material constraints and concern for her child.

The extreme breaking point for her came when as soon as she was brought back to her marital home she was beaten black and blue despite her health by her husband. She had

¹⁷ Account narrated by Nazia, translated by researcher

merely questioned him over the lack of facilities and wanted some responsibility and accountability on his part considering her health and her infant. The absolute brutal violence which was inflicted upon her shows that women are not expected to ask any questions. They are just expected to be mere mute beasts of burden. Her in-laws not only watched the entire episode, but even encouraged it and took part in it. Hit by objects, legs, throttled and what not, it was for her an attempt to kill her which failed. As soon as her parents found out, they informed the police, and a proper medical certificate of her condition was made when she was hospitalized.

Realizing that matters may go out of hands as the police had got involved, her husband and in-laws one last time came to ask her for her forgiveness, but this time she refused to go. She wanted to file a case and fight for her daughter's rightful share in their ancestral property. Her act of resistance to not cow down to pressure of saving the marriage was filliped by her concern for her life this time. Nazia's husband refused to give her divorce, her belongings or any kind of maintenance as long as she stayed at her parents' house. He told me, "Your entire life will pass away and you will become an old maid, but I will never give you divorce."¹⁸

She went to the panchayat for a resolution, but neither the husband nor the family even made themselves present. She spent her time, energy and money going for the process of mediation as that failed because the counsellors insisted upon her to compromise as the husband never said that he does not want to keep her. She knew however that she did not want to return to endanger her life and continued fighting. She laments that at the Special Cell she has had almost sixty-seventy dates where her husband and her in-laws have conveniently made themselves absent and no action has been taken against them.

But she is determined to fight till she gets justice, "I will not rest till I get them punished. Even though my life is a waste now but I don't want my daughter's life to be ruined."¹⁹ She was confident of articulating and still demanding that the legal system hold her husband accountable for at least his own daughter and that it was his responsibility to maintain her and her daughter as well give them the rights to a home of their own. In the end she angrily

¹⁸ Ibid

¹⁹ Ibid

remarked, “Nowadays women who are fast and have relationships with many men are in advantage. What have we achieved by being so rule abiding?”²⁰

Case IX

This is the story of a young Christian woman named Jennifer, whose family, which can be classified as upper middle class, is originally from Goa but they went to settle in UAE about two years before she was born. Being settled in UAE, she and her family continued to hold Indian citizenship. Moreover, her own family as she understood it was quite traditional and religious which had a major impact on her life.

Jennifer grew up in a home which saw regular quarrels between her parents. Both her parents were working and due to the tense atmosphere there wasn't much of a family-like structure of atmosphere to the household. Her father was a chronic alcoholic and abused her mother verbally and physically. Growing up witnessing such violence, had a really traumatic impact on Jennifer and she really did not share a strong relationship with either of her parents. Even though her mother was very economically well-off she said it was the religious mind-set which made her accept the abuse throughout the years. Jennifer recalls her mother putting up a fight in the moment of the violent act but she could never think of acting to get herself and her daughter out of an abusive situation. Her mother was a staunch believer in the traditional religious idea of marriage which looked at it as an indissoluble institution.

She looked at relationships outside her family for support and emotional enrichment specifically her friends. When Jennifer was eighteen her friends introduced her to a Christian youth leader named Jacob Mathews who started counselling and mentoring her. Initially this interaction helped Jennifer to grow out of the different kinds of problems she was dealing with due to her violent home, however soon this relationship grew much more controlling of Jennifer and different aspects of her life, all in the garb of helping her to grow out of stress and such other positive suggestions. He cut out her friends from her life, in different manipulative ways started monitoring all her interactions with other people. He wanted to court her and made her feel that because he has invested in her so much, she owed it to him to reciprocate his feelings. This entire interaction with him while Jennifer

²⁰ Ibid

was also dating Jacob lasted for about a year, when she had begun to become suspicious of him due to instances which would bring his aggression and possessive attitude to the fore when he would castigate her for differing with him in public, or in general over anything, over not obeying him on the smallest issues such as dressing in a religiously appropriate manner. She even got distanced from her family, made her discontinue her education, prohibited her from working and isolated her very shrewdly into being dependent only on him. His parents coming from a family attached to the Church leader, Jacob himself being a pastor brought up the issue of marriage and that it had to be concluded immediately.

All this while, Jennifer said while she really never loved him, nor did she really want to marry him, but her own vulnerable state, inability to think for herself and the inability to voice out what she felt was further thwarted by the intense persuasion and pressure he put her under for marrying him and stiff resistance to her any attempt to denial often with emotional threats. He put her into a position where she would be mentally compelled to blame herself for ‘making him angry’ and would always quickly make up for it by loving gestures. Jennifer admitted that her inability to understand what was happening to her, was coming from a troubled childhood where she had grown up with such aggression as everyday routine. This had made her emotionally very vulnerable and the lack of options made it more difficult for her to say no. As at the end she was to choose between staying in a family with an alcoholic father or going ahead into this marriage which seemed to be perhaps not the best choice, but she eventually gave in to pressure and married him telling herself perhaps this would be good for her.

Soon after her marriage, she realized that the aggressive behaviour and verbal abuse was something very common to Jacob and he and his family who were far more conservative and religious than her own family, being culturally different coming from South India. However, interestingly she said that as soon as she was at his home her guard came up and she started defending herself, or resisting the different methods he used to control her. Looking back she said it could be because being for the first time out of her own home, out of her comfort zone she was left to fend for herself, and became more vocal in retaliating. Over a meeting with a friend, she mooted the idea of perhaps ending the marriage and going back home. Due to common friends, when her husband found out about it, he physically abused brutally by hitting her with a belt, choking her and hurting her in any manner possible.

Since then to her recollection, he could come with any pretext to blame her and be violent with her. He and his family literally kept her under close surveillance equivalent to that of a prisoner. She tried to reach out to friends through the church meetings and her own mother. But the overall acceptance of a culture of abuse was so high that most people including her mother just advised her ways to work it out. At a point in time, he started putting her through extreme sexual violence like forcefully getting her pregnant, raping her on multiple occasions. From her account, this violation was the most extreme of all the kinds of abuses which had broken her completely after which she had even tried to end her life. Even though relations between her and her husband were never really consensual but before this she wouldn't read them as violence because she would just willingly submit out of fear. But once the violence grew extreme that was something which wasn't possible for her anymore. She even tried to seek help from her mother, which shows she wasn't afraid of coming out with the sexual abuse which was happening with her, but for Jennifer what was even more traumatic was that her own mother completely went into a denial mode and told her to rather not look at it as abuse.

Having sustained all kinds of extreme abuse, and not receiving support even from her own mother who herself was a victim of domestic violence, Jennifer mentally started preparing herself for an escape. Fortunately for her one day she got access to her passport as the family was applying for an American Visa, and she met a doctor and some other people who befriended her through the church social circle and instinctively she decided to ask them for help. And finally in 2012 they planned an escape for her getting her tickets to India as she was an Indian citizenship holder. She secretly left while Jacob was in a public meeting which she was attending as the audience. It was the most difficult and terrifying decision of her life. And after coming to India her friends had already contacted the NGO Maitri to arrange help for her.

Post coming to India, Jennifer has fought a long battle to deal with different kinds of threats which came from her husband and in-laws, disapproval of her own mother for her decision to escape and a very difficult process of trying to convince her husband and the family to give her divorce through legal aid which Maitri provided her with. She admits that it has been very hard to start a new life all on her own and deal with losing her home and her past all at the same time, but said that perhaps freedom always comes at a great price. Ironically, her father who was an abuser himself and has been going through rehabilitation for some time is quite supportive of her decision to leave unlike her mother who was the victim of

abuse who till date does not approve of her decision and initially even tried to convince her to amend her 'big mistake' and come back to work it out.

Jennifer today is not afraid of getting into a new relationship or even of marriage. She would be open to new people and new things as they come her way and she asserted that with the counselling she has been taking to deal with trust issues, and post-traumatic stress coming from her past, as well as with working on the issue of domestic violence with Maitri has been quite a healing process for her.

Case X

At the Special Cell of the Delhi Police, Sushma, a woman in her late forties, from Uttarakhand wanted someone help her make her husband end his violent behaviour by the threat and the force of law. She did not want him to be arrested. She has been in a violent marriage and has been bearing in her own words, "the torture for twenty-four years now."²¹ Their marriage had taken place with her as well as her husband's consent. Her in-laws were also always nice to her. But she discovered after marriage that her husband was a chronic alcoholic who was angry all the time and was extremely violent against her. She would get beaten up very frequently, there would be throwing around and breaking of things, and the verbal abuse was constant. Finding faults with the manner she worked at the house, was one of the most common excuses for the abuse. He would often tell her to back her bags and leave his house.

Not being very educated and not knowing of any other prospects for women other than marriage Sushma let things continue as they were and hoped that once her children would grow up, a father's responsibilities will make her husband change. However, he never cared for the children and along with her, the daughters would also get beaten up when they were young. She complained to the police a couple of times, when the physical violence would get out of her hand, but they advised her to go the Special Cell for Women for a solution to her problem. Through the counselling and mediation at the Special Cell, she agrees that she is getting regular maintenance of Rs. 10,000 per month and the physical blows have stopped but she still has to put up with a perennially angry man who with or without the influence

²¹ Account narrated by Sushma, translated by researcher

of the alcohol will verbally abuse her, break things in the house and create an atmosphere of fear and violence.

I asked her that after all these years and the continued abuse does she really want to stay with her husband. She cried saying that she can't leave now as her daughters are of marriageable age; what would society say?

“I am staying with him for the sake of *samaj* (society). People would say why is she separating now when she is supposed to marry her daughters? Had she wanted to really separate she should have done it a long time ago.”²²

She feels it is too late to separate. Her brothers, however, who work on the ancestral land of their parents in Uttarakhand tell her that she can come and stay with them, that her children's future is not going to be affected if she comes here and like everyone they too will get jobs and eventually get married. The counsellors at the Special Cell, ask her what kind of action she wants to be taken and assure her they would support her for the same. They are ready to advice for divorce procedure. But she does not seem to think that she wants to do any of that. Then they advise her to adjust as every home requires some adjustment. Dissatisfied with another visit to the Special Cell, she leaves with a sense of hopelessness.

Case XI

Thirty-one year old Kamla, who is the mother of three children living in Jahangirpuri in Delhi, comes from the societal sector where families will save all their lives to marry off their daughters as well as they can and please her in-laws with material gifts not just at the time of the marriage but also on any occasions periodically. Her father who has a small business of vegetables had given money, a two-wheeler, gold and silver ornaments to her and her in-laws at the time of marriage. She was their youngest daughter and was loved most dearly by her parents so they wanted to do the best they could for her marriage and her home.

Kamla said everything went fine in her marital home for about a month after which her mother-in-law began to show her true colours. She says that one of the biggest mistakes she did was to give away all her ornaments to be kept in the custody of her mother-in-law,

²² Ibid

due to the values she grew up with. Today she has nothing and is barely able to make ends meet with the support of her natal family and whatever her father left before he passed away. She feels that nowadays girls do not give away their belongings to anyone in their marital household, and that is the way it should be. But at that time due to the cultural traditions according that kind of authority and respect to the mother-in-law, she admitted that she was left wanting of better judgement.

Her mother-in-law and all the sisters-in-law made her do the entire work of the household like a servant. Angrily recounting the torture she went through Kamla said,

“I was like a free maid for them. But even so she would not even give me water to drink. I had to go outside the house from the back door to get water for myself. People give water even to a beggar. But the way my mother-in-law would treat me was worse than even that. She would abuse me all the time and even hit me to the extent that I would start bleeding. My little children also witnessed all this and used to cry. When my first son was born she took him away and never even let me feed him. She encouraged my little children to abuse me and never to call me mother.”²³

Thus not only Kamla’s labour was exploited, but she was even harassed all the time for more money which her mother-in-law kept demanding every now and then. She was never satisfied no matter how much her parents gave. She concedes that her biggest fault was that she never told anything about the abuse to her parents. She never raised a voice. She would go and cry alone in the bathroom but was just too afraid to tell. And just hoped that things would be become well soon. She still regrets this decision of hers, as today she feels had she started protesting earlier she would not have been devastated as she is today. She did however try to tell her husband, who never did anything to support her or take a stand for her. He was very much influenced by the mother. Even he would hit her and abuse her at times when the mother-in-law told him to do so. Other than this, Kamla said that her husband is still a nice man, it is the mother-in-law who would try to do everything to separate her from her husband.

But soon after, Kamla survived attempt to murder by her mother-in-law and sisters-in-law. In 2011, one day when she came down to the kitchen, two of her sisters-in-law held her tight and her mother-in-law began pouring kerosene on her. She screamed, shouted and pleaded with her not to do so. Her sister-in-law soon lit up a match and threw it on her. Hearing her screams, her husband ran downstairs and poured water on her. Kamla of course never went back to her *sasural* (marital household) after this horrifying incident. In

²³ Account narrated by Kamla, translated by researcher

Madhavpuri, i.e. her *sasural* the hospital authorities were paid by her mother-in-law to make a false medical report of 1% burns. She had bribed the police too and declared unabashedly in front of them, that she really regretted Kamla came out alive and if she ever enters her house again she would kill her through the means of electric current. When her parents got her back, the hospital in Jahangipuri reported that she had suffered 15% burns and the intervention of the Mahila Panchayat workers of Action India helped her file a police complaint. Though even after three years in the many court dates she has got, the judge has always been on leave and nothing has proceeded. Her son whom her mother-in-law had taken away is with her today also due to the help of the Mahila Panchayat.

She says her mother-in-law she says is a power hungry woman who wishes to establish her control and dominance on every relation she has. She had divorced her own husband and occupied his four-storeyed house. She had usurped her own husband's shop and even till today discourages him from working. She wants that he remains under her control. This is the reason that she is not only economically impoverished but is not even able to live a happy family life.

The Mahila Panchayat workers have done their best to counsel her husband and have helped her immensely. Whenever her husband stays with her he behaves fine, however when he goes back to visit her mother she incites him again to leave Kamla and sends him drunk. That is when he abuses and hits her. Even though her children also have said at times to not stay with such an abusive father, she says she scolds them when they talk ill of their father and is still hopeful that her husband will live peacefully with her. At the time of talking to her, she said that right he is staying with me and things are better. Kamla is a strong believer in the importance of family, and said that she would never divorce her husband and wants him to stay with her as her children must have a father. Her mother-in-law tried to marry her husband again as she is just interested in receiving dowry from a new girl but her husband refused. That is why she still has faith in him but laments the fact that he comes under the influence of his mother so such an extent. She wants a father not just for her children but desires her husband for herself too, but as someone will not be abusive and will contribute to run the household. Kamla today is articulate about what she wants in life and what she wishes as justice from the legal system. She wants all her belongings back, her husband to have his shop back and a share in the house of her husband which is controlled exclusively by her mother-in-law.

Case XII

Thirty-one year old Priya, from Punjab, belonging to the Sikh community is a graduate. Hers was an arranged marriage but one which was concluded with consent of both partners and both the families with items like television, cooker, stereo set, two lakh rupees cash and jewellery worth rupees four to five lakh given as dowry. The community norms of dowry compelled her father who did not have a very high income being a tailor to save up his life earnings for her daughter's marriage. Her *sasural* is in Rohini, Delhi but her husband worked in Pune so after fifteen days of marriage when she moved to Pune, she left all her jewellery with her mother-in-law as she had convinced Priya to give it to her saying Pune is a city where there is threat of theft and therefore the jewellery if kept with her would be safe. Priya was reluctant but her mother told her to obey her mother-in-law so she gave in.

When Priya got pregnant after about a month a half her sister-in-law came to take her to Delhi saying they would take care of her. However as soon as she reached Delhi, her in-laws began to harass and torture her. Her sister-in-law threatened her with divorce from her brother. Her mother-in-law would tell her to work only as per her instructions or to not work at all. Through this dictate she would come up different tactics of hurting and tormenting Priya. One of the examples Priya gave me was that she would ask her to peel boiled potatoes without cooling them with water. It would lead to burns and wounds on her hands. However, even when her mother would see her hands and question her about it, Priya could never tell her the truth and would simply say she got hurt by mistake. This way her mother-in-law kept finding faults with her work, then would admonish her by refusing to allow her to do the work, and then would blame her for staying like a guest in a hotel. Once her brother-in-law said aloud that he suspects if the baby belongs to his own brother or someone else loud enough when Priya was in the vicinity. In this manner Priya narrated that they would subject her to regular mental torture.

When she was seven months pregnant her husband had come over and her in-laws called her parents for a meeting in a nearby park. She heard her husband saying that he would give her divorce in three hearings all the while her in-laws blaming her for staying as a guest, before her parents came. Priya was petrified on hearing this, she started shivering with fear as she got extremely worried hearing about their intentions to divorce having a

baby inside her and that's why when her parents came, she just asked them to not have any conversation and just ask for forgiveness and leave.

She gave birth to a baby girl and they began to treat her in a manner even worse. For the forty days after birth when she stayed in her *sasural* they kept the baby away from her. When her parents came to visit her they didn't let them see the daughter and refused to let Priya take her away. In a fit of rage, Priya's brother called the police after which she got her daughter back. She was taken back to Pune by her husband soon after. When her parents-in-law visited her there they spoke ill of her parents in front of her and accused them of not giving enough dowry. That night they along with her husband tried to evacuate Priya out of the house with her baby by going to the police station with a false complaint. Her husband had also broken her phone to ensure she is unable to talk to her parents for help. However some of her husband's friends saw her and dropped her home.

Soon after they came back to Delhi. They continued to harass her and one day after they were cutting a particular call repeatedly, Priya gauged it was her mother calling and they refused to let her talk to her mother. So Priya tried to leave home as she really wanted to meet her parents. It is then her mother-in-law tried to throttle her. When she tried to escape she was not allowed to take anything with her, not even her slippers or the milk bottle on which her baby was feeding. Somehow she managed to reach her parents' house.

Priya's in-laws therefore subjected her to intense mental cruelty, humiliation and made her live in fear and insecurity with the repeated threat of divorce. After this instance in 2011 Priya filed a complaint at the Special Cell of Delhi police, where I met her during my fieldwork. They advised her to file Domestic Violence Act case as well a case under Section 498A.²⁴ Her case was referred for a mediation in the Dwarka court. The mediation she went through is quite an example of the ideological dominance of the indissolubility of marriage and the social isolation of a woman who think about exiting a marriage. The women police officers during the mediation just put pressure on her to compromise and go back. Priya wanted her belongings and jewellery back. However they all intimidated me by emphasising the social consequences of bringing up a daughter in her parents' house. They invested all their energies in pressurising her but did not put any pressure on her in-laws who denied that they had any belongings of her at all. Priya however firmly stuck to her

²⁴ Law with respect cruelty to woman by her husband or in-laws which are related to demands of property. Section 498A in The Indian Penal Code. Central Government Act. <http://indiankanoon.org/doc/538436/>, Last accessed 26/07/2014

stand that she would come back only if the dowry her parents gave is returned and her jewellery is given back to her custody. Her in-laws who just wanted to usurp that property would of course not agree and the mediation failed.

After returning home, she joined a job which though gave her a very modest income but it further strengthened her to fight for her and her daughter's rights from the family who had cleverly usurped her father's hard earned life earning. She is now hoping that the court case wins her a lump sum settlement which would ensure that at least the amount she lost in dowry and the jewellery would come back to the family. However, she broke down talking about the kind of mental harassment and economic loss years of doing rounds of the court is bearing upon her. She felt that the legal structure which has been built up for women, do not in reality translate into anything for women.

Moreover society does not give a woman the space to raise her daughter in her parents' house. She cried saying that neighbours and acquaintances do not let her forget her wounds by talking about it, taking rather a perverse interest. It is difficult for her to even get away from the vicious cycle even in a social party as there also inevitably someone would ask her about her case and she would have to end up crying. This social humiliation was in addition to the sadistic pleasure her in-laws were taking in harassing her and her family whenever they tried to talk about an out of court settlement.

Case XIII

A thirty-two year woman named Preeti married at the age of eighteen, who belongs to the Sikh community is an instance where the woman was happy with her husband and her mother-in-law was also nice to her, but the rest of the family were very abusive and violent against her. Her husband was a *Pradhan* (local religious leader) in Jalandhar and held a very respectable position in society with a good economic status. Her mother-in-law too cared for her but her *jeths* (husband's elder brothers) and *jethanis* used to indulge in ample verbal abuse against her and wanted her to get divorced. They could carry out this kind of abuse as the elder figure of authority, the mother-in-law who supported Preeti had passed away soon. She understood their abuse coming from the fact that they were jealous of her and her husband's social respect and wealth.

When her husband fell ill and was hospitalized in 2013, one night, the entire family, her *jeths*, *jethanis* and even their children beat her up brutally, shouting and blaming her and her husband for not giving them money and gold and took away her five-year old daughter. Her *jeths* even tore away her blouse. After this brutalization she wanted to complain to the police immediately but her husband stopped her as it would affect her honour being a *Pradhan*. However to ensure her safety he sent her to her natal home in Delhi. His health was anyway failing him and since in her absence no one took care of him, he expired within five-six months. After that his family has usurped everything which belonged to her and husband, including his home, car, the temple he had built, her jewellery and everything else inside the house.

Staying in Jahangirpuri in Delhi with the support of her parents and the Mahila Panchayat workers from Action India she filed a domestic violence case about a year ago, hoping to get a court order which gives her the right to stay in her husband's home, but there has been no hearing so far as the judges have always been on leave whenever her date came. She wants the belongings of her husband back and wants to go back and stay in Jalandhar as she is attached to the place, has social capital and respect there and would moreover be economically better able to support her daughter. Separating her daughter from her was the most severe form of pain her abusers inflicted upon her, talking about which, welled her up. But not seeing any progress in the court case she has also tried to approach the panchayat. However they told her they cannot intervene as she has filed a court case. She is therefore, very confused as to which institution should she rely upon? A community institution which would perhaps have faster and immediate decision-making with or wait further for the case in which she has already invested a lot of time. She also feels that she has been a victim of the sluggish nature of the legal system.

Case XIV

A young woman named Jhanvi, coming from the lower middle class section, married at a young age of twenty with her own consent. She lived with over seven years with a man who other than the initial few days of her marriage never really cared for her, nor did he respect or love her. He made her go through the emotional agony of infidelity even in the initial stages of marriage. Jhanvi's objections and attempts to reform her husband to be a loyal and caring husband yielded her only blame, insults and all kinds of verbal abuse, with

occasional physical abuse as well, which coupled with the dealing with the stress of her husband not bothering about her at led her into depression which even impacted her health.

Soon after the birth of her daughter which was about one year after marriage, her husband's callousness and disregard for her kept increasing. After sustained fights and emotional depression, one day her husband confessed himself that he is married to another woman. Like she did on an earlier occasion she exhorted her husband to cut off ties with the other woman through divorce. Her husband who simply did not care for her, misused all of Jhanvi's efforts to make her marriage work in order to extract her labour and even the money she earned to simply fulfil his own whims and fancies. He repeatedly asked her to leave his house and claimed on more than one occasion that he has no relations with her. Jhanvi who was very much in love with her husband and fulfilled all her responsibilities as a wife would get extremely hurt by such emotional trauma her husband subjected her to.

At the room in the Special Cell of the Delhi Police when she was narrating her story to a lawyer she recalled two incidents of fatal attacks upon her, whence the attackers both times could not be identified. In hindsight she has a reasonably calculated suspicion of her husband being behind both the attacks. She said I used to ask him, "I have married you and come here, where will I go?"²⁵ At a point of time however her husband left with his luggage to live with the other woman he had married. Jhanvi would always raise questions but never did it occur to her that she could no longer be loving a man who does not even have respect for her.

Upon an extreme incidence of physical abuse after which she was bleeding profusely her natal family supported her in filing a case. She even said that her husband used to demand additional dowry even though he was given a lot at the time of marriage. The case went into mediation where her husband agreed to leave the other woman and take Jhanvi home even though he had earlier filed a case for seeking divorce from her. Jhanvi said she compromised for the sake of her five-year old daughter and wanted really for her relationship to work out. But soon after he got her home, one day when her husband was heavily inebriated, he attacked her with a knife in an attempt to kill her and soon fled after Jhanvi made a noise and the other family member came to save her. It is only after this incidence that Jhanvi has been able to dissociate with this man emotionally.

²⁵ Account narrated by Jhanvi, translated by researcher

When asked on how she could sustain so much humiliation and abuse over the years, she answered that she always did it because she was in love with her husband. It was because of her feelings for him that she apologized to him every time even though she was never at fault. If he blamed her for ignoring him and going to work, she would apologise and leave the job, on other occasions when she had gone home after her injuries from the second attempt to murder on her, she later on apologised to him for that too. This rendered her vulnerable to emotional, verbal and later on even physical abuse. Because Jhanvi was dealing with a situation of depression due to her husband's infidelity, for her the husband refusing to establish sexual relations with him also became a source of self-degradation.

Only when after her husband fled upon making a failed murder attempt upon her did she, after utter shock and grief, she decided to fight for her rights from the legal system. She wants him to be punished for his crime and wants a divorce with a lump sum settlement for the security of her daughter. However, with the police not cooperating with her in trying to nab her absconding husband, her fight seems to go nowhere. She is still trying to get at least her rights from her in-laws who in a court of law are answerable on behalf of the husband and is determined to see him punished.

Case XV

At the age of seventeen Amrita, a girl from Orissa had eloped with her lover who originally belongs to Bengal but lived in Delhi, married and came to Delhi. Amrita's in-laws never of course accepted her willingly as she was from a different State, so other than the issue of being inter-caste this marriage was much more difficult to be socially accepted for them as it was also cutting across regional, linguistic and consequently cultural boundaries. She believed that she could live a happy life as her husband loved her. Soon however she came to know about another side of her husband who was an alcoholic and gambler. He was extremely physically violent towards her and she recounted the she even had serious injuries when her ear and nose bled after one of the beatings. He was also having an affair with another girl which whenever Amrita questioned him about he would deny and often beat her up. He had smashed her head once, and even said, "If you cry, I'll hit you even more."²⁶

²⁶ Account narrated by Amrita, translated by researcher

Amrita would retaliate with acts like calling the police whenever such an extremely violent incident would take place, but it was not for the purpose of putting her husband in jail. She continued to suffer an irresponsible husband who would neither give her any maintenance, nor take care of her when she was pregnant, who would in turn blame her for being illicit with other men.

Her husband started staying away from home for much longer, even days and then her in-laws abuse upon her escalated. “They all wanted me out of the house and blamed me for all the troubles in their home and family”²⁷, she said despondently. Finally her husband emotionally blackmailed her into giving him divorce, he said, “If you love me, leave me and go.”²⁸ Her husband was aware of Amrita’s emotions and continued to take advantage of the unequal situation. The manner in which he divorced her then was staged to be genuine which it wasn’t and he did not even give Amrita’s own daughter to her as he promised prior to the divorce.

Left completely alone and helpless, Amrita became vulnerable to any kind of supportive relationships which had come her way in the process, as she said “I can’t go back to my village, I can’t face my parents with what has happened to me.”²⁹ Amrita’s sister-in-law had accommodated and supported her when she was facing abuse from her husband for some time prior to the divorce. She was the one who had encouraged her to show her husband that even she can work and helped her get a job in her husband’s start-up company. But after the divorce even her sister-in-law could have accommodated her so having an income she rented a room of her own. When her parents-in-law and her husband and all his other relatives stood against her, her sister-in-law stood by her and helped her at least to get economically secure.

However, Amrita’s vulnerability led her sister-in-law’s husband to rape her and with strong assertions of love and promises of marriage he convinced Amrita to enter into an extra-marital affair with him. At this time, Amrita was facing such an identity crises as even though she realized that she knew she was not doing the right thing by establishing relations with the husband of a woman who had stood by her when nobody else did, she could not help but be drawn into the relationship as she fell in love with that man. Getting pregnant moreover for the second time (she had to get abortion performed upon her, the first time)

²⁷ Ibid

²⁸ Ibid

²⁹ Ibid

has confused her entire sense of self and value system. She knew how much it had hurt when her own husband married another woman and her house was broken, yet her context and her failure to self-reflect upon her value system brought her into the position of ‘the other woman.’”

The violence she faced from her sister-in-law after she came to know about the relationship, and the social humiliation she faced for being a woman who was immoral pushed her to approach the law. The officers at the Special Cell of the Delhi Police had sent her back saying they can’t help as she is at fault too. She had come to file a case against her sister-in-law’s husband. Despite everything she continues to meet her sister-in-law’s husband whenever he comes, continues to give him money and be emotionally abused by him. As even after everything she feel she can never say no to him as she is in love with him. She has a hope that the man can accept her also as a second wife and she can secure her respect in society again.

Case XVI

Rekha was a child bride from a village in Bihar who was married at the age of ten and suffered abuse and violence from her mother-in-law in her childhood years. I met Rekha at one of Jagori’s meetings and looking at her was quite surprised to know that she was aged thirty-five and had three children, as she looked so young. Rekha talked about the cultural constraints of the village she grew up in where families come under social pressure often extended by the panchayat as well to marry their daughters at a very young age. The tradition was as though as it unethical to keep a daughter at home. She was sent to her *sasural* at the age of fourteen when she still a child.

When all she was used to doing at home was playing around and doing whatever she likes with freedom, at her *sasural* she was made to work all day when she did not know how to work. And whenever she would make a mistake her mother-in-law would hit her. She also used to consistently abuse her. Rekha recalled how her hands used to be full of blisters cooking on the stove as she did not know how to operate it. The only thing she remembers from her initial years in her *sasural* that she lived in fear and would cry most of the time. Whenever her husband who was working in Delhi would come to visit her mother-in-law would become extremely caring and as soon as he left she went back to her abusive ways.

Rekha was just a child so there wasn't really much of a relationship she shared with her husband at that time, she was immature too and would just cry whenever he would leave unable to express anything else. Since the village in which she was married also had relatives of her natal family settled there who came to know about her plight they told about it to her mother who then demanded from her husband that she would send her daughter back to the *sasural* only if her husband would live with her. And that is how she came to Delhi after staying in the village for a couple of years.

Her husband acted as a very kind friend to Rekha who taught her about adult relationships by having open conversations with her and she was very happy to be staying with him. However they were staying with her husband's elder brother's family and soon her *jethani* (husband's elder brother's wife) started being violent towards her. She would throw away food cooked by Rekha and hit her for no reason at all. While narrating her past, even Rekha said she could not understand why she just hit me. She thought perhaps she wanted money from us. When her husband would return from work she would sob and tell him what happened. He was the first person who encouraged her to talk back and retaliate, "If she hits you four times, you hit her at least once. Why do you stay quiet?"³⁰ By this time her parents had also passed away and she happily told me about her husband would support by saying that she should tell him all her problems as he is her husband, her friend as well her parent. In order to take her away from the abuse Rekha said she moved to a place nearby her husband's work.

There were other supportive relationships also which Rekha was fortunate enough to cultivate. When she got her eldest daughter admission into a school, one of the teachers she met used to talk to her about her experiences and explain to her what the meaning of violence is and what had really happened with her. Rekha did not know the manner of talking in the city as she knew only her village dialect and this teacher helped Rekha to pick up city language. And when Rekha moved to Madanpur Khadar, during the resettlement drive in Delhi, she came into contact with Jagori. It was the space where she learnt about everything regarding women's issues, she learnt how to stand up for herself, how to respond to situations and do everything on her own. Post her training in Jagori, she recounted one incident when her husband had been nabbed by the police when they were constructing their homes in order to extort two thousand rupees. Her husband living in the

³⁰ Account narrated by Rekha, translated by researcher

city for so long and being educated could not think of anything else but to pay the price, however she stood up and refused.

When she and her husband went back to the village for a family wedding, over a property dispute her *devar* (husband's younger brother) hit her with a brick on her leg which hurt her badly. She retaliated by slapping him and confronting him head on. The rest of the family members were shocked at the way Rekha responded in the absence of her husband. They told her to apologize to her *devar* but she on her own stood firm that it is he who should apologize to her. Her mother-in-law continues to abuse till date and even accuses her husband of being a "*Joru ka Ghulam*" (Slave to one's wife). She from her husband's advice learnt to ignore it as she would not have to ultimately inhabit the same home with her. This however has not stopped Rekha from vociferously articulating her and her husband's right to share in the property of her deceased father-in-law. From a young little frightened bride, Rekha herself is amazed at her transformation to a bold and courageous woman. She even has big hopes for the education of her children.

Case XVII

A young twenty-seven year old woman named Namrata from NOIDA in U.P. comes from a decent middle-class family. Her father is a pharmacist and she also pursued higher education till MBA after which she started work in an MNC. She met her husband and they both decided to get married by eloping about two years ago as she is Yadav by caste and he is a Rajput. Anticipating disapproval from their families being an inter-caste marriage, they decided to face them after the marriage. However as soon as her parents came to know about her marriage they called her back home. Her brother beat up her husband who had to be hospitalized. After recovering her husband had to move to Germany for work and her contact with him was broken as she was locked up in her house by her parents. Her brother and sister used to beat her up badly, and once she was beaten up so badly that she wasn't even able to walk. Her family could not bear the fact that Namrata took such a decision all by herself. Whenever they verbally abused her she retorted back which would invite physical violence as well.

To get her out of her house, her husband meanwhile had contacted Maitri and managed to communicate with her the details of the escape he had planned for her. One day she sneaked

out of the home on her own and came to Maitri for assistance. It was Maitri then who helped her get a protection order under the Domestic Violence Act. She started working at Maitri then and was aided by them in finding accommodation nearby the office. Talking about her plight on separating from her family after facing such violence in the very home she grew up in,

“Who doesn’t miss one’s family? But I have no choice. If they can’t accept me happily then what is the point of trying? I am happy with this life now. I am doing what I like. But walking out even on the road alone at times I feel quite insecure. I love my husband and am waiting to go and be with him in Germany. I would get my Visa done as soon as he is confident of financially being able to support both of us there.”³¹

³¹ Account narrated by Namrata