

**A BRIEF REPORT ON JOINT AND  
CONTESTED PETITIONS FROM THE  
CLOSED FILES OF THE HIGH  
COURT OF PENANG  
(1995-1999)**

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## SUMMARY

This research covers 1175 Joint Petitions (JP) and 357 Contested Petitions (CP) from the closed files of the High Court of Penang, taken over a five year period (1995-1999). Most of the individuals involved in these petitions were Chinese in origin, generally ranging between 25 to 45 years of age. Analysis into claims showed five basic categories: maintenance of spouse, maintenance of child, maintenance of spouse and child, property and lump sum claims.

Analysis of the claims show the following.

- More women than men made claims during these petitions. However the number of women making any form of claims was surprisingly low. Less than a third of the women made any form of claim in either JP or CP.
- The majority of claims made by women were to do with child maintenance in both JP and CP whereas the majority of claims by men were to do with property in JP and child maintenance in CP.
- With regards to custody of children, more mothers than fathers requested custody of their children. It was interesting to note that 31.7% of fathers requested custody in JP but this figure almost halved in CP.
- Approximately half of the mothers claiming custody in JP and a third of mothers claiming custody in CP made child maintenance claims. The majority of these claims were low, ranging between RM 50 – RM 300 per child.
- Very few women claimed for maintenance for themselves, 27 of 1175 (2.3%) women in JP and 7 of 357 (1.9%) women in CP. Amounts claimed for maintenance of spouse were low, generally ranging between RM 100 - RM 300 in JP and between RM 300 - RM 600 in CP.

- In terms of court orders, on average, the court granted more of the women's claims than men's claims in JP. In CP, similar amounts of claims were granted, with women having slightly more of their claims granted. Analysis of the court orders show that court orders were equal to claims in more of the men's claims than the women's claims for both JP and CP.
- Analysis of court orders made also showed court orders being granted when no initial claims were made in the file. These could have been either direct court interventions or further negotiations between the parties to which the court has agreed. Direct court interventions (or further negotiations) were seen in more of the women's claims than men's claims.



## INTRODUCTION

### *Why we embarked on this project*

Decisions made in the courts on family matters ranging from divorce, maintenance, access and custody to criminal matters like domestic violence and rape, invariably have a strong impact on women's lives. The Women's Crisis Centre, Penang (WCC), through its work over the past 15 years with women and children in crisis, has given women legal advice and often seen them through their court proceedings for interim protection orders, divorce, maintenance and custody of their children.

Given the feedback from our clients and from our own experience with legal proceedings, WCC felt a need to obtain a clearer picture on claims and court orders in divorce cases in Penang. Hence WCC undertook to research divorce cases between the period of 1995-1999. The main emphasis of the research has been to look at the type of claims being made as well as the court orders that were granted.

The data is specific to the High Court of Penang, gleaned from the joint (1175 cases) and contested (357 cases) petitions. The data was compiled from closed files and covers only non-Muslim divorces.

We omitted making any comments on the applications made in the Magistrates' Courts by wives and children as the numbers were too few (less than 5 a year in most cases) to be of significance, save and except that perhaps this mode of proceedings should be made use of more often.

## SECTION 1 ANALYSIS OF JOINT PETITIONS (1995-1999)

The data on 1175 joint petitions is summarized as follows.

### 1.1 Age And Ethnicity of Couples

The majority of the husbands were between the ages of 25–45 years of age while the majority of the wives were in a younger category of less than 25 years to 35 years of age. With regards to ethnicity, as the data only involves non-Muslim divorces, the majority of men seeking divorce were either Chinese (87.2%) or Indian (12.1%). The majority of women seeking divorce also followed similar ratios, Chinese (86.5%) and Indian (12.1%).

### 1.2 Joint Petition Outcome

Divorce was granted in 99.8% of the Joint Petitions (JP).

### 1.3 Children Involved in JP

Of the 1175 JP cases, 665 cases (56.6%) involved children. Of these 665 cases, 82% involved either one or two children (44.1% had 1 child and 37.9% had 2 children). 12.9% involved 3 children. There were fewer JP from couples with more than 3 children.

### 1.4 Custody Claims and Orders

Custody was granted to mothers in 52.8% of the cases and to fathers in 31.7% of the custody claims. Court orders basically matched custody claims (Table 1).

**Table 1: JP Custody Claims and Orders**

Custody Claimants	Freq	% of Claim (665)	Court Order
Mother	344	51.7	52.8
Father	212	31.9	31.7
Joint	68	10.2	9.3
*Other	37	5.6	5.3

\* Other arrangements with immediate or extended family members.

## 1.5 Claims Made By JP Petitioners

Claims made by both the wives and husbands have been combined in Table 2 below.

**Table 2: Claims Made By JP Petitioners**

Claims by <b>WIFE</b>	Number of Cases	% of Total Cases (1175)	% of Total Claims (328)
M of Wife ++	27	2.29	8.23
M of Child ++	181	52.61*	55.18
M of Wife and Child ++	37	10.76*	11.23
Property ++	88	7.48	26.82
Lump sum ++	75	6.38	22.86
Claims by <b>HUSBAND</b>	Number of Cases	% of Total Cases (1175)	% of Total Claims (39)
M of Husband and Child	2	0.94**	5.13
Property ++	34	2.89	87.20
Lump Sum ++	3	0.25	7.69

M = Maintenance

++ category alone or in combination with maintenance, lump sum and/or property.

\*% of cases where mothers claimed custody 344

\*\* % of cases where fathers claimed custody 212

Of the 1175 cases analysed, very few claims were made. Wives made a total of 328 claims (28%) while husbands made a total of 39 claims (3.4%). Of the total claims made by the wives, 66.41% were related to maintenance for the children while the majority of the husbands claims were related to property (87.2%).

### 1.51 Maintenance For Wives

Analysis for maintenance for wives involves this category alone (M of W) or in combination with lump sum (LS) and/or property (P). The following analysis excludes maintenance of wife and child (M of W+C) which is dealt with as a separate category.

**Table 3: JP Claims for Maintenance of Wives**

Claim	No of Cases	% of total cases (1175)	% of Total Claims(328)
M of W	19	1.6	5.8
M of W+P	6	0.5	1.8
M of W + LS	1	0.1	0.3
M of W + LS +P	1	0.1	0.3
Total	27	2.3	8.23

NB:\*\*

M of W+C	++	37	3.2	11.3
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It is interesting to note that out of 1175 JP cases, only 27 (2.3%) of the women claimed for maintenance either alone or in combination with lump sum and/or property. Analyses of the financial amounts claimed are shown in Table 4. Amounts claimed range from RM 100 - RM 3000 with the largest category of claims (40.7%) being in the RM 100 - RM 300 range.

**Table 4: Amounts Claimed For Maintenance of Wife in JP**

Amounts Claimed	Frequency	Court Orders
RM100 - RM300	11	13
RM301 – RM500	8	7
RM1000 - RM3000	7	8
Unknown	1	
	27	28

WCC has observed, and it is our experience that the reasons why so few women claim for maintenance and why the amounts being claimed are low are as follows :

- Women generally do not claim if the marriage lasts for only a short time (1-3 years), and where there are no children.
- When a woman is financially independent or if the husband is unable to provide maintenance, they feel there was no point in requesting for maintenance.

- Some women have said that by not asking for maintenance, the process of negotiation goes quicker and the divorce is obtained sooner rather than later, and with less acrimony.
- Where husbands are self-employed, the women face problems of proving how much the husbands earn – husbands generally claim to earn very little, and the women cannot rebut the evidence.
- Many women feel that the enforcement proceedings take a long time to come to fruition, and they incur additional expenses. This is especially true where the husbands are self employed.
- The whole process of applying for maintenance hampers the women’s efforts in obtaining a just amount of maintenance for themselves and their children.

Of the 27 claims for maintenance made, 88.9% were granted. Analyses of the 28 court orders (see Table 5) show that 85.7% of the orders were the same amount of the claims made.

**Table 5: JP Court Orders For Maintenance of Wife**

Court Order	Frequency	% of Total Court Orders
= claim	24	85.7
*Extra	4	14.3
Total	28	100.0

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered ‘extra’. This could have resulted from a direct court intervention or further negotiations between the parties involved to which the court has agreed.

None of the husbands made any claims for maintenance.

## **1.52 Child Maintenance**

Of the 1175 cases analysed, 665 involved children (56.6%). Of the 665 cases involving children, mothers made custody claims in 344 cases (51.73%). There were only 181

claims made by mothers for child maintenance alone or in combination with lump sum and or property. There were no child maintenance claims by the fathers.

Table 6 shows known claims per child, excluding insurance (11 cases) and unknown amounts (7 cases). The majority of claims are less than or equal to RM 300 per child. Whilst these amounts were agreed upon by the parties, it is questionable whether the amounts were adequate. 97.2% of the claims were granted.

**Table 6: Amounts Claimed Per Child in JP**

Amount per Child	Frequency	% of Total Cases
<= RM 100	27	16.6
<= RM 200	39	23.9
<= RM 300	43	26.4
<= RM 400	16	9.8
<= RM 500	17	10.4
> RM 500	21	12.9
	163	100.0

Analyses of the 192 court orders made for child maintenance (Table 7) show that 86.5% of the orders were the same amount of the claims made.

**Table 7: JP Court Orders For Child Maintenance**

Court Order	Frequency	% of Court Order
= claim	166	86.5
< claim	3	1.6
> claim	1	0.5
Extra	16	3.1
Amount Unknown	6	8.3
Total	192	100.0

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered 'extra'. This could have resulted from a direct court intervention or further negotiation between the parties involved to which the court has agreed. Amount Unknown: Court order has been given but the amount is not stated in the file.

### **1.53 Maintenance For Spouse and Child**

Of the 1175 cases analysed, there were 37 claims for maintenance of wife and child (10.7% of mothers claiming custody) and 2 claims for maintenance of husband and child (0.9% of fathers claiming custody). Amounts claimed by the women for maintenance of wife and child are shown below in Table 8.

**Table 8: JP Claims For Maintenance of Wife and Child**

Amounts Claimed	No of Claims	Court Orders
<=RM500	11	11
RM501 – RM1000	8	8
RM1001 – RM2000	11	11
RM2500- RM 5500	3	3
Other/unknown	4	6
	37	39

The majority of the claims (51.4%) are less than or equal to RM 1000. Of the 37 claims made 100.0% were granted.

**Table 9: JP Court Orders for Maintenance of Wife and Child**

Court Order	Frequency	% Of Court Order
= claim	33	84.6
Extra	2	5.1
Amount Unknown	4	10.3
	39	100.0

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered 'extra' . This could have resulted from a direct court intervention or further negotiation between the parties involved to which the court has agreed.

Amount Unknown: Court order has been given but the amount is not stated in the file.

Of the 39 orders granted, 84.6% were the same as the original amount claimed.

The 2 claims made by husbands for maintenance of husband and child (RM1200 and RM 2000) were not granted. Both these claimants had 2 children.

### 1.54 Claims for Lump Sums

There were 75 claims (6.4% of total cases) for lump sums by wives as shown below in Table 10. The majority of the claims (57.3%) were between RM 1000 – RM 20 000.

**Table 10: JP Lump Sum Claims**

Amounts claimed	Frequency	Court Order
RM400 -RM 1000	3	3
RM1001 - RM10 000	28	29
RM10 001 - RM20 000	15	14
RM20 001- RM30 000	7	7
RM30 001 - RM50 000	4	4
RM50 001 - RM70 000	5	5
RM70 001 - RM 100 000	2	2
RM100 001 – RM 200 000	4	3
RM 200 001 – RM 300 000	3	3
RM1 200 000	1	1
Amount unknown	3	1
	75	72

Amount Unknown: Court order has been given but the amount is not stated in the file.

94.7% of these claims were granted.

**Table 11: JP Court Orders For Lump Sum Claims**

Court Order	Frequency	% of Court Order
= claim	68	94.4
< claim	2	2.8
Extra	1	1.4
Amount Unknown	1	1.4
	72	100.0

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered 'extra'. This could have resulted from a direct court intervention or further negotiation between the parties involved to which the court has agreed. Amount Unknown: Court order has been given but the amount is not stated in the file.



Of the 72 court orders for lump sum, 94.4% of the orders were the same as the original claim.

The 3 lump sum claims by the husbands (RM 8370, RM 12 000 and RM 23 000) were granted at the same amount as originally requested.

### 1.55 Claims for Property

Wives made 88 claims (7.5% of total cases) on property of which 94.3% were granted. Of the 83 orders for property for the wives, 98.8% of the orders were the same as original request. Husbands made 34 claims (3.0% of total cases) on property of which 97% were granted. Of the 33 orders for property for the husbands, 100.0% were at the original amount.

**Table 12: JP Court Orders for Property Claims**

Property Granted	% Of Court Orders For Wife (83)	% Court Orders For Husband (33)
=claim	98.8	100.0
Amount Unknown	1.2	-
Total	100.0	100.0

Amount Unknown: Not stated in file.

### 1.6 Analysis of Court Orders

Further analysis on percentages of claims granted, the percentages of court orders being equal to (=), less than (<) or more than (>) the original claim and whether or not there has been court interventions (extra) are shown in Table 13.

**Table 13: Analysis of JP Claims and Orders for Wives**

Wives Claims	Claims Made	Claims Granted	Total Orders	Order = Claim	Order > Claim	Order < Claim	Extra
M of Wife ++	27	24	28	24	-	-	4
M of Child ++	181	176	192	166	1	3	16

M of Wife and Child ++	37	37	39	33	-	-	2
Lump Sum ++	75	71	72	68	-	2	1
Property ++	88	83	83	82	-	-	-
Total	408	391	414	373	1	5	23

++ alone or in combination with maintenance, lump sum and/or property. Amounts were not known in 12 court orders.

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered 'extra'. This could have resulted from a direct court intervention or further negotiation between the parties involved to which the court has agreed.

Of the claims made by women, 95.8% (391/408) were granted. 90.1% (373/414) of the court orders were equal to the original amount made in the claim, 0.24% were greater than the original claim and 1.2% were less than the original claim. Court interventions or further negotiations were seen in 5.6% (23/414) of the orders.

**Table 14: Analysis of JP Claims and Orders for Husbands**

Husband's Claims	Claims Made	Claims Granted	Total Orders	Order = Claim	Order > Claim	Order < Claim	Extra
M of Husband ++	-	-	-	-	-	-	-
M of Child ++	-	-	-	-	-	-	-
M of Husband and Child ++	2	0	0	0	-	-	-
Lump Sum ++	3	3	3	3	-	-	-
Property ++	34	33	33	33	-	-	-
Total	39	36	36	36	-	-	-

++ alone or in combination with maintenance, lump sum and/or property.

Extra: When there is no initial claim made in the files but a court order is granted then these orders are considered 'extra'. This could have resulted from a direct court intervention or further negotiation between the parties involved to which the court has agreed.

Of the claims made by men, 92.3% (36/39) were granted. 100.0% of the court orders were equal to the original amount made in the claim. No court interventions or further negotiations were seen.

## 1.7 Summary of JP Analysis

- Cases were mainly Chinese in origin between the ages of 25-45 for men and <25- 35 for women.
- More mothers (51.7%) claimed for custody of children than fathers (31.7%).
- While women (28%) made more claims than men (3.4%), these claims were few and low in amounts.
- Claims are divided into 5 groups
  - Maintenance of Spouse
  - Maintenance of Child
  - Maintenance of Spouse and Child
  - Lump Sum
  - Property

### *Maintenance of Spouse*

Only 27 women (2.3% of total cases) requested maintenance and the amounts ranged between RM 100- RM 300. No men made maintenance claims.

### *Maintenance of Child*

Only 181 mothers (52.6% of mothers seeking custody) made maintenance claims, the majority (66.9%) of which were between RM 50 – RM 300. No fathers made child maintenance claims.

### *Maintenance of Spouse and Child*

Only 37 women (10.7% of mothers claiming custody) requested maintenance and the amounts ranged between RM 400- RM 5500. 2 men (0.9% of fathers claiming custody) requested such maintenance.

### *Lump Sum*

75 women (6.4% of total cases) requested lump sums, the majority of requests were between RM 10 000 – RM 20 000. 3 men requested lump sums (0.4% of total cases).

### *Property*

88 women (7.5% of total cases) and 34 men (2.9% of total cases) made requests for property.

### *Court Orders*

- The court granted on average 95.8% of women's claims and 92.3% of men's claims in JP applications.
- Court orders granted were equal to original claims on average in 90.1% of women's claims and 100.0% of men's claims.

Court interventions or further negotiations were seen on average in 5.6% of the orders granted for women's claims.

## SECTION 2 ANALYSIS OF CONTESTED PETITIONS 1995-1999

The data on 357 cases is summarized as follows.

### 2.1 Age and Ethnicity of Couples

The majority of husbands and wives were between the ages of 25-45 years (Table 15).

**Table 15: Age Distribution of CP Spouses**

Age Group	Spouse	% of Total Cases (357)
25-35 years	Husbands	40.3
	Wives	48.7
35-45 years	Husbands	35.3
	Wives	22.1

With regards to ethnicity, the most of men seeking divorce were either Chinese (67.2%) or Indian (30.8%). The women seeking divorce followed a similar trend, Chinese (67.2%) or Indian (30.3%).

### 2.2 Proof of Breakdown

Proof of breakdown of the marriage is classified under one of the following sections: adultery (A), unreasonable behavior (UB), separation (S), desertion (D), conversion to Islam (I) or combinations of the above. 30.5% of the petitioners were male (i.e., husbands) while 69.5% of the petitioners were female (i.e., wives).

**Table 16: Proof of Marital Breakdown in CP**

Proof Of Breakdown	Frequency	% of Total Cases (357)
S	113	31.7
UB	63	17.6
S + UB	55	15.4
S + D	24	6.7
D	20	5.6
UB +S+D	19	5.3
UB + D	14	3.9
UB + A	14	3.9
A	4	1.1
I	1	0.3
Combinations	24	6.8
*Unknown	6	1.7
	357	100.0

\* Not stated in file.

The most commonly stated proof of the breakdown of marriage is separation. It has been WCC’s experience that a common reason a woman files for divorce is her husband’s unreasonable behavior for example domestic violence. In 65% of CP, separation or/and unreasonable behavior was cited as proof of breakdown of the marriage.

### **2.3 Children Involved in Contested Petitions**

Of the 357 Contested Petitions (CP) , 243 (68.1%) involved children. Of these 243 cases, 80.6% involved either 1 (43.6%) or 2 (37.0%) children. 12.8% had 3 children.

### **2.4 Custody Claims and Court Orders:**

Custody was granted to mothers in 69.2% of the cases and to fathers in 16.5% of the custody claims. Court orders basically matched custody claims (Table 17).

**Table 17: CP Custody Claims and Orders**

Custodians	% of Claim	Court Claim
Mother	69.2	69.2
Father	17.7	16.5
Joint	8.2	8.2
*Others	3.7	4.9

\* Other arrangements with immediate or extended family members.

## 2.5 Claims Made in CP

Claims made by both the wives and husbands have been combined in Table 18.

**Table 18: Claims Made by CP Petitioners and Respondents**

Claims By <b>WIFE</b>	Number of Cases	% of Total Cases (357)	% of Total Claims (106)
M of Wife ++	7	1.96	6.60
M of Child ++	59	35.11*	55.66
M of Wife + Child ++	20	11.90*	18.86
Property ++	29	8.12	27.35
Lump Sum ++	13	3.64	12.26

Claims By <b>HUSBAND</b>	Number of Cases	% of Total Cases (357)	% of Total Claims (38)
M of Husband ++	6	1.68	15.78
M of Child ++	21	48.33**	55.26
M of Husband + Child ++	4	9.30**	10.52
Property ++	11	3.08	28.94
Lump Sum ++	10	2.80	26.31

M = Maintenance

++ category alone or in combination with maintenance, lump sum and/or property.

\* % of mothers claiming child custody (168)

\*\* % of fathers claiming child custody (43)

Of the 357 cases analysed, very few claims were made. Wives made a total of 106 claims (29.7%) and husbands made a total of 38 claims (10.9%). The majority of claims made by both wives (55.6%) and husbands (55.3%) are related to maintenance for the child. The next largest claim for both husbands and wives are to do with property, 28.9% and 27.3 % respectively.

## 2.51 Maintenance for Spouse

### WIVES

Analysis for the maintenance of wives involves this category alone (M of W) or in combination with lump sum (LS) and /or property (P) (Table 19). The following analysis excludes the category of Maintenance of Wife and Child which will be dealt with separately.

**Table 19: CP Claims for Maintenance of Wife**

Claim	No Of Cases	% of Total Cases (357)	% of Total Claims (106)
M of W	4	1.1	3.8
M of W + P	3	0.8	2.8
Total	7	1.9	6.6

It is interesting to note that out of 357 CP, only 7 women (1.9%) asked for maintenance either alone or in combination with property. The amounts claimed and subsequent court orders are shown in Table 20.

**Table 20: Amounts Claimed for Maintenance of Wife in CP**

Claim	Frequency	Court Order
RM300	1	6
RM500	2	1
RM600	1	1
RM 1800	-	1
Unknown	3	-
Total	7	9

With regard to why so few women claimed for maintenance and why the amounts being claimed are low, the following are the observations and experience of WCC :

- Women generally do not claim if the marriage lasts for only a short time (1-3 years), and where there are no children.



- When a woman is financially independent or if the husband is unable to provide maintenance, they feel there was no point in requesting for maintenance.
- Some women have said that by not asking for maintenance, the process of negotiation goes quicker and the divorce is obtained sooner rather than later, and with less acrimony.
- Where husbands are self-employed, the women face problems of proving how much the husbands earn – husbands generally claim to earn very little, and the women cannot rebut the evidence.
- Many women feel that the enforcement proceedings take a long time to come to fruition, and they incur additional expenses. This is especially true where the husbands are self employed.
- The whole process of applying for maintenance hampers the women’s efforts in obtaining a just amount of maintenance for themselves and their children.

42.9% of the claims made by women were granted. Analysis of the 9 court orders for maintenance of wives show that 11.1% of the orders were the same amount as the claims made (Table 21).

**Table 21: CP Court Orders for Maintenance of Wife**

Court Order	Frequency	% of Total Court Orders
= claim	1	11.1
< claim	2	22.2
*Extra	6	66.7
Total	9	100.0

\*Extra: When there is no initial claim made in the files but a court order is granted than these orders are considered as ‘extra’. This could have resulted from a direct court intervention or from further negotiation between the parties involved to which the court agreed.

## **HUSBANDS**

Analysis for the maintenance of husband (Table 22) involves this category alone (M of H) or in combination with lump sum (LS) and /or property (P). The following analysis excludes the category of Maintenance of Husband and Child which will be dealt with separately. It is noted that while in JP husbands did not make any maintenance claims, in CP there were 6 claims for maintenance for husbands (1.8%).

**Table 22: CP Claims for Maintenance of Husband**

Claim	No Of Cases	% Of Total Cases (357)	% Of Total Claims (38)
M of H	1	0.3	2.6
M of H + P	1	0.3	2.6
M of H + LS	2	0.6	5.3
M of H + LS + P	2	0.6	5.3
	6	1.8	15.8

The amounts claimed and subsequent court orders are shown below in Table 23.

**Table 23: Amounts Claimed for Maintenance of Husband in CP.**

Amount	Claim	Order
RM150	1	-
RM700	1	-
RM1000	2	1
Unknown	2	-
Total	6	1

The Court granted one of the six claims (16.7%) at the original amount stated. Few cases of maintenance by Husbands were made, as pursuant to Section 77(2) of the Law Reform (Marriage and Divorce) Act 1976, a woman may be ordered to pay maintenance to the husband or former husband only if he is incapacitated, wholly or partially, from earning a livelihood by reason of mental or physical injury or ill health, and that having regard to the woman's means, it is reasonable for the Court to so order.

## 2.52 Child Maintenance

Of the 357 CP cases analysed, 243 cases involved children. Of these cases, claims for child maintenance (alone or in combination with lump sum and property) were made by only 24.3% of the mothers (59 claims) and 8.6% of fathers (21 claims) despite custody claims by 69.2% of mothers and 17.7% of fathers. Table 24 shows the amounts claimed per child in CP.

**Table 24: Amounts Claimed Per Child in CP**

Amount Claimed Per Child	% of Mothers Total Claims (54)	% of Fathers Total Claims (21)
<= RM 100	7.4	57.8
<= RM200	35.2	21.0
<= RM 300	25.9	5.3
<= RM 400	11.1	5.3
<= RM 500	13.0	5.3
>RM 500	7.4	5.3
Total	100.0	100.0

The table compiles known maintenance amounts requested per child by both mothers and fathers. The majority of child maintenance claims by mothers are in the RM 30 – RM 300 range, while the majority of fathers child maintenance claims are within the RM 20 - RM 200 range.

The amounts asked for are generally low. It is thought that apart from the spouses not being able to afford to pay the maintenance, perhaps requests for lesser sums might hasten the completion of negotiations. Women also worry about the costs involved in enforcing the orders, in terms of time and money, in the event their husbands fail to pay the higher sum they were ordered. Another issue to consider is whether there is a general lack of awareness of the cost of bringing up a child.

While 100.0% of child maintenance claims by fathers were granted only 79.7% of child maintenance claims by mothers were granted. However 29.0% of the court orders for

mothers were the result of court intervention or further negotiation as there were no initial claims in these cases. Analyses of court orders are given below.

**Table 25: CP Court Orders For Child Maintenance**

Amount Granted	% of Court Orders For Mothers (76)	% of Court Orders for Fathers (21)
= claim	43.4	61.9
< claim	17.1	4.8
> claim	1.3	23.8
*Extra	29.0	-
*Amount Unknown	-	9.5
Total	100.0	100.0

\*Extra: When there is no initial claim made in the files but a court order is granted than these orders are considered as 'extra'. This could have resulted from a direct court intervention or from further negotiation between the parties involved to which the court agreed.

\*Amount Unknown : Not stated in the files.

### 2.53 Maintenance For Spouse and Child

Of the 357 CP cases analysed there were 20 claims for maintenance for wife and child (11.9% of mothers seeking custody) and 4 claims of maintenance for husband and child (9.3% of fathers seeking custody), either alone or in combination with lump sum and property.

**Table 26: CP Claims For Maintenance of Spouse and Child**

Amount Claimed	For Wife And Child	For Husband And Child
RM 100 – RM 300	2	-
RM 301- RM 500	4	-
RM 600 – RM 900	6	2
RM 1000 – RM 2 000	6	1
RM 3000	1	-
Unknown	1	1
Total	20	4

\*Amount Unknown : Not stated in the files.

In terms of court orders for maintenance of spouse and child, 100.0% of husbands claims were granted while 80.0% of wives claims were granted. Table 27 shows a breakdown of court orders.

**Table 27: CP Court Orders For Maintenance of Spouse and Child**

Amount granted	% of Court Orders For Wife (17)	% Of Court Orders For Husband (4)
= claim	29.4	25.0
< claim	64.7	25.0
> claim	-	25.0
*Extra	5.9	-
*Unknown	-	25.0
Total	100.0	100.0

\*Extra: When there is no initial claim made in the files but a court order is granted than these orders are considered as 'extra'. This could have resulted from a direct court intervention or from further negotiation between the parties involved to which the court agreed.

\*Amount Unknown : Not stated in the files.

## 2.54 Claims for Lump Sums

Of the 357 CP analysed, there were 13 claims for lump sums by wives (3.8% of total cases) and 10 claims for lump sums by husbands (3.0% of total cases). Table 28 shows the amounts claimed.

**Table 28: CP Lump Sum Claims**

Lump Sum Amounts	Claims By Wife	Claims by Husband
<= RM10 000	4	-
>RM10 000 – RM20 000	4	-
RM20 001- RM 50 000	4	3
RM50 001 – RM 100 000	1	1
RM 200 000	-	1
	13	5

61.5% of the wives claims and 50.0 % of husbands claims for lump sums were granted. Analysis of the court orders are shown below in Table 29.

**Table 29: CP Court Orders For Lump Sum Claims**

Amount Granted	% of Court Orders for Wife (17)	% of Court Orders for Husband (5)
= claim	23.5	80.0
< claim	17.6	-
> claim	5.9	-
Extra	53.0	-
Unknown	-	20.0
Total	100.0	100.0

\*Extra: When there is no initial claim made in the files but a court order is granted than these orders are considered as 'extra'. This could have resulted from a direct court intervention or from further negotiation between the parties involved to which the court agreed.

\*Amount Unknown : Not stated in the files.

### 2.55 Claims for property

Wives made 29 claims (8.1% of total claims) on property of which 82.8% of the claims were granted. Husbands made 10 claims (3.2% of total cases) on property of which 63.6% were granted. Analysis of court orders is shown in Table 30.

**Table 30: CP Court Orders For Property Claims**

Property granted	% of Court Orders For Wife ( 26)	% of Court Orders For Husband (9)
= claim	65.4	66.7
< claim	23.1	-
> claim	3.8	11.1
Extra	7.7	22.2
Total	100.0	100.0

\*Extra: When there is no initial claim made in the files but a court order is granted than these orders are considered as 'extra'. This could have resulted from a direct court intervention or from further negotiation between the parties involved to which the court agreed.

### 2.6 Analysis of Court Orders

Further analysis on percentages of claims granted, the percentages of court orders being equal to (=), less than (<) or more than (>) the original claim and whether or not there has been court interventions (extra) are shown in Table 31.

**Table 31: Analysis of CP Claims and Court Orders for Wives**

Women's Claims	Claims Made	Claims Granted	Total Orders	Order = Claim	Order > Claim	Order < Claim	Extra
M of Wife ++	7	3	9	1	-	2	6
M of Child ++	59	47	76	33	1	13	29
M of Wife and Child ++	20	16	17	5	-	11	1
Lump Sum ++	13	8	17	4	1	3	9
Property ++	29	24	26	17	1	6	2
Total	128	98	145	60	3	35	47

++ alone or in combination with maintenance, lump sum and/or property.

Of the claims made by women, 76.6% (98/128) were granted. 41.4% (60/145) of the court orders were equal to the original amount made in the claim, 2.1% were greater than the original claim and 24.1% were less than the original claim. Court interventions or further negotiations were seen in 32.4% (47/145) of the orders.

**Table 32: Analysis of CP Claims and Court Orders for Husbands**

Husband's Claims	Claims Made	Claims Granted	Total Orders	Order = Claim	Order > Claim	Order < Claim	Extra
M of Husband ++	6	1	1	1	-	-	-
M of Child ++	21	21	21	13	5	1	-
M of Husband and Child ++	4	4	4	1	1	1	-
Lump Sum ++	10	5	5	4	-	-	-
Property ++	11	7	9	6	1	-	2
Total	52	38	40	25	7	2	2

++ alone or in combination with maintenance, lump sum and/or property. Amounts were not known in 4 court orders.

Of the claims made by men, 73.1% (38/52) were granted. 62.5% (25/40) of the court orders were equal to the original amount made in the claim, 17.5% were more than original claims and 5.0% were less than the original claims. Court interventions or further negotiations were seen in 5.0% (2/40) of the cases.

## 2.7 Summary of CP Analysis

- Cases were mainly Chinese in origin (67.2%) between the ages of 25-45.
- More women (69.2%) claimed for custody of children than men (17.7%).
- While women (29.7%) made more claims than men (10.9%), these claims were few and low in amounts.
- Claims are divided into 5 groups:
  - Maintenance of Spouse
  - Maintenance of Child
  - Maintenance of Spouse and Child
  - Lump Sum
  - Property

### *Maintenance of Spouse*

Only 7 women (1.9% of total cases) requested maintenance and the amounts ranged between RM 300 - RM 600. 6 men made maintenance claims ranging from RM 150 – RM 1000.

### *Maintenance of Child*

Only 59 mothers (35.1% of mothers seeking custody) made maintenance claims, the majority (68.5%) of which were between RM 50 – RM 300. 21 fathers (48.8% of fathers seeking custody) made child maintenance claims ranging from RM 20 - RM 200.

### *Maintenance of Spouse and Child*

Only 20 women (11.9% of mothers seeking custody) requested maintenance and the amounts ranged between RM 100 - RM 3000. 4 men (9.3% of fathers seeking custody) requested such maintenance claims ranging from RM 600 - RM 1450.



### *Lump Sum*

13 women (3.8% of total cases) requested lump sums, the majority of requests were < RM50 000. 10 men requested lump sums (3.0% of total cases) ranging between RM 25 000 – RM 200 000.

### *Property*

29 women (8.1% of total cases) and 10 men (3.2 % of total cases) made requests for property.

### *Court Orders*

- The court granted on average 76.6% of women's claims and 73.1% of men's claims in CP applications.
- Court orders granted were equal to original claims on average in 41.4% of women's claims and 62.5% of men's claims.

Court interventions or further negotiations were seen on average in 32.4% of the orders granted for women's claims and in 5.0% of orders granted for men's claims.

**SECTION 3 COMPARISON BETWEEN JOINT PETITIONS AND CONTESTED PETITIONS (1995-1999)**

A comparison between JP and CP data was made. The following table combines the data from both JP and CP.

**Table 33: Comparisons between JP and CP**

		<b>JP</b>	<b>CP</b>
1. Number of Cases		1175	357
2. Ethnicity	Chinese	87.0%	67.0%
	Indian	12.0%	30.0%
3. Age Group	Husbands	77.6% 25-45 years	75.6% 25-45 years
	Wives	72.6% <25-35 years	70.8% 25-45 years
4. Percentage of Claims Made	Women	28.0% (328)	29.7% (106)
	Men	3.4% (39)	10.9% (38)
5. Majority of Claims	Women	Child Maintenance	Child Maintenance
	Men	Property	Child Maintenance
6. Custody Claims*	Mothers	51.7% (344/665)	69.2% (168/243)
	Fathers	31.9% (212/665)	17.7% (43/243)
7. Maintenance of Spouse	Women	2.3% (27)	1.9% (7)
	Men	0.0% (0)	1.8% (6)
8. Maintenance of Child	Women	(181/344)	(59/68)
	Men	0.0% (0)	5.9% (6)
9. Parents claiming CM* (% of parents)	Mothers	52.6% (181/344)	35.1% (59/168)
	Fathers	0.0% (0/212)	48.8% (21/43)
10. Maintenance of Spouse + Child (% of parents)	Mothers	10.7% (37/344)	11.9% (20/168)
	Fathers	0.9% (2/212)	9.3% (4/43)
11. Property	Women	7.5% (88)	8.1% (29)
	Men	2.9% (34)	3.2% (11)
12. Lump Sum	Women	6.5% (75)	3.6% (13)
	Men	0.3% (3)	3.0% (10)
13. Claims Granted (on average)	Women	95.8% (391/408)	76.6% (98/128)
	Men	92.3% (36/39)	73.1% (38/52)
14. Claims = Court Orders (on average)	Women	90.1% (373/414)	41.4% (60/145)
	Men	100.0% (36/36)	62.5% (25/40)
15. Possible interventions (on average)	Women	5.6% (23/414)	32.4% (47/145)
	Men	0.0% (0/36)	5.0% (2/40)

Figures in brackets give the actual numbers. Claims made are for that category alone or in combination with lump sum, property and/or maintenance. % shown are calculated from the total number of cases (JP=1175 or CP=357) unless stated otherwise. \* 665 parents in JP and 243 parents in CP.

### 3.1 Summary of Comparison between JP and CP

- There are **more JP than CP** between 1995-1999.
- While the **majority of the cases** seen are of Chinese origin, the Chinese : Indian ratio is less in CP (2.2:1) than in JP (7.3:1).
- The **age group** of people seeking divorce are generally between 25-45 with a few women being less than 25 years.
- Very **few claims** were made in either JP or CP. Of these women made more claims than men. While the percentage of claims by women were similar in both JP and CP, the percentage of men making claims in CP increased 3 fold when compared to JP.
- The **majority of the claims** made by women were to do with child maintenance in both JP and CP. With men however the majority of claims were to do with property in JP and with child maintenance in CP .
- The majority of **custody claims** were made by mothers in both JP and CP. However when comparing custody claims between CP and JP, fathers' claims for custody almost doubled in JP.
- Very few women claimed for **maintenance of spouse** in either JP or CP. A few men claimed for maintenance in CP compared to none in JP cases.
- Of the 665 JP and 234 CP involving children, mothers claimed for custody in more than half the cases. However only approximately half these mothers in JP and a third of these mothers in CP made claims for child maintenance. Approximately half the

fathers seeking custody in CP made child maintenance claims. There were no child maintenance claims by fathers in JPs.

- More women than men made claims for **maintenance for spouse and child** in both JP and CP.
- More women than men made **property claims**. The percentage of claims were similar in both JP and CP for both men and women.
- More women than men made **lump sum claims**. However women made more lump sum claims in JP than in CP while men were more lump sum claims in CP than in JP.
- **On average the court granted** more of the women's claims than men's in JP but in CP, a similar amount were granted to both men and women, with women having slightly more of their claims granted.
- **On average, court orders were equal to claims** in more of the men's claims than the women's claims for both JP and CP.
- **Court interventions or further negotiations** were seen only in women's claims in JP. In CP, interventions or further negotiations were seen more in women's claims than in men's claims.

## Appendix

## Claims Made In Joint Petitions

### a) Claims Made By Wives

Claims by Wife (JP)	Number	% Of Total Cases (1175)	% Of Total Claims (328)
Nil	847	72.1	Not applicable
Maintenance for wife	19	1.6	5.8
Maintenance for child	134	11.4	40.9
Maintenance for wife and child	24	2.0	7.3
Property	35	3.0	10.7
Property and maintenance of wife	6	0.5	1.8
Property and maintenance of child	25	2.1	7.6
Property and maintenance of wife and child	10	0.9	3.1
Lump sum	43	3.7	13.1
Lump sum and property	5	0.4	1.5
Lump sum and maintenance for wife	1	0.1	0.3
Lump sum and maintenance for child	16	1.4	4.9
Lump sum and maintenance for wife and child	3	0.3	0.9
Lump sum and property and maintenance for wife	1	0.1	0.3
Lump sum and property and maintenance for child	6	0.5	1.8
<b>Total</b>	<b>328</b>	<b>100</b>	<b>100</b>

**b) Claims Made By Husbands**

<b>Claims By Husbands (JP)</b>	<b>Number</b>	<b>% Of Total Cases (1175)</b>	<b>% Of Total Claims (40)</b>
No claims	1136	96.7	N/a
Maintenance for husband and child	2	0.1	5.1
Property	34	3.0	87.2
Lump sum	3	0.2	7.7
Total	39	100.0	100.0

## Claims Made in Contested Petitions

### a) Claims Made By Wives

Claims By Wives (CP)	Number	% Of Total Cases (357)	% Of Total Claims (106)
Nil	251	70.3	N/a
Maintenance for wife	4	1.1	3.8
Maintenance for child	51	14.3	48.1
Maintenance for wife and child	15	4.2	14.2
Property	13	3.6	12.3
Property and maintenance for wife	3	0.8	2.8
Property and maintenance for child	4	1.1	3.8
Property and maintenance for wife and child	3	0.8	2.8
Lump sum	6	1.7	5.7
Lump sum and property	1	0.3	0.9
Lump sum and maintenance for child	1	0.3	0.9
Lump sum and property and maintenance for child	3	0.9	2.8
Lump sum and property and maintenance for wife and child	2	0.6	1.9
Total	357	100.0	29.7

**b) Claims Made By Husbands**

<b>Claims By Husbands (CP)</b>	<b>Number</b>	<b>% Of Total Cases (357)</b>	<b>% Of Total Claims (38)</b>
No claims	319	89.3	N/a
Maintenance for husband	1	0.3	2.6
Maintenance for child	18	5.0	47.4
Maintenance for husband and child	1	0.3	2.6
Property	4	1.1	10.5
Property and maintenance of husband	1	0.3	2.6
Property and maintenance of child	1	0.3	2.6
Property and maintenance of husband and child	2	0.6	5.3
Lump sum	2	0.6	5.3
Lump sum and property	1	0.3	2.6
Lump sum and maintenance of husband	2	0.6	5.3
Lump sum and maintenance of child	2	0.6	5.3
Lump sum and maintenance of husband and child	1	0.3	2.6
Lump sum and property and maintenance for husband	2	0.6	5.3
<b>Total</b>	<b>357</b>	<b>100.0</b>	<b>10.6</b>