
The Silent tears of a shattered family

The reality of Dowry Law - IPC - 498a

www.498a.org



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EXECUTIVE SUMMARY

The Supreme Court of India says, **“But by misuse of the provision (IPC 498a - Dowry and Cruelty Law) a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin’s weapon”**. Laws originally meant to protect from the dowry menace are being misused by urban ill-educated, unscrupulous women and their families as “an assassin’s weapon”.

There is a rapidly accelerating social evil in Indian families, namely the misuse of the Dowry and Cruelty laws (Criminal Laws), which were originally meant to act “as a shield” for the protection of harassed women. Nowadays, the educated urban Indian women have turned the tables. They have discovered several loopholes in the existing Indian judicial system and are using the dowry laws to harass all or most of the husband’s family that includes mothers, sisters, sisters-in-law, elderly grandparents, disabled individuals and even very young children.

We are not talking about the dowry deaths or physical injury cases but about dowry harassment cases that require no evidence and can be filed just based on a single-sentence complaint by the wife. With an estimated 40,000 such accusations per year and an average of 5 members of the husband’s family implicated in each of these 498a cases, about 200,000 people are directly affected by these false accusations. The number of such cases is increasing by about 20% every year as there is a lot of money to be made by the divorce industry. This poorly formulated law is inviting unscrupulous people to file false cases, and causing the imprisonment of innocent people without investigation. These innocent people undergo stigmatization and hardship even before a trial in the court of law which leads to emotional, physical and financial strain. Some of the falsely accused have committed suicide after being jailed, unable to bear the social consequences.

Despite the recommendations of the Supreme Court of India and Justice Malimath Committee that the legislative arm should modify the laws such that the innocent are protected, the suggested amendment to the law has been largely ignored. Unconstrained, this social evil is threatening the foundation of the Indian Family system.

We are a large group of several thousand families unwilling to succumb to Legal Terrorism, with a belief that **truth shall prevail**.

2. INTRODUCTION

What is Section 498a of the IPC (Indian Penal Code)?

Section 498a of the IPC is a criminal law in which the wife and her parental family can charge any or all of the husband's family of physical or mental cruelty. This law is unique to India, it not only discriminates based on gender (man Vs. woman), but also discriminates against women based on their relationship with the husband. Typically, the charged family members in these cases include:

- Mostly women of all ages (unmarried, married and pregnant sisters of the husband, his mother and sisters-in-law, elderly grandmothers and aunts)
- Other maternal and paternal relatives and even young children in the family.



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IPC-498a is

- **Cognizable** – The accused can be arrested and jailed without warrant or investigation
- **Non-Compoundable** – The complaint cannot be withdrawn by the petitioner
- **Non-Bailable** – The accused must appear in the court to request bail

The accused are presumed guilty, and the burden is on the accused to prove innocence in the courts. The FIR is typically a 10-plus page imaginary story, with absolutely no supporting evidence. It typically takes about 5 to 7 years for the accused to prove their innocence in the courts. The conviction rate in these cases is close to zero. The delay in the provision of justice amounts to the denial of justice.

There is no penalty for the misuse of IPC 498a, and after acquittal of the accused, the courts are reluctant to entertain defamation and perjury cases against the falsely testifying witnesses.

Why do people misuse IPC 498a?

- **Legal Extortion** – Get-rich-quick-scheme to extort large amounts of money
- **Prior Relationship** – Wife has a prior relationship, and cannot get out of it. She marries to satisfy her parents, and then misuses the 498a law in order to obtain a divorce
- **Adultery** – Women who indulge in adultery use 498a as a bargaining tool
- **Domination** – Wife wants the husband to abandon his parents and siblings, and have total control over his finances and social behavior, including his life-style
- **Custody** - Deny the father and his family access to their child(ren).
- **Fraudulent Marriages** - in which the bride (and her

family) hides her education level or mental health; and when is justifiably asked to free the person who has gone into marriage without knowing the full facts; she files a false 498a case

What do the courts, governments and Non-Government Organizations (NGO) say?

- The Supreme Court and High Courts have acknowledged this 'misuse' as a growing menace in the society and have recommended the legislature to amend the law
- Justice Malimath committee recommended that IPC 498a be made bailable and compoundable.
- The US State Department has issued a travel warning regarding the misuse of dowry laws in India, and highlighted the fact that Indian courts require large sums of money to settle such cases
- The Canadian Government has issued a similar warning
- Several women's organizations have acknowledged the misuse of these laws and have recommended similar protection for men

What does 498a do to society?

- **Abuse of the Criminal Judicial System**
- **Elder Abuse** – Most senior citizens who have never been to the police stations or courts in their lifetime are dragged into jail without investigation and then into court cases that span several years
- **Women Abuse** – Many women in the husband's family are abused by the process
- **Abuse of entire extended family** – Many in the husband's family lose their jobs/earnings
- **Cruelty towards Children** – Separation of parents from children, including infants results in trauma
- **Unequal rights (not only women vs. men but also woman vs. women)** – The wife/daughter-in-law can file charges against all the women in the husband's family even if they are innocent but the female relatives of a husband do not have similar legal provisions to sue a daughter-in-law or sister-in-law even in cases where she is abusive

3. “SPARE A THOUGHT FOR DOWRY LAW ABUSE” - CURRENT STATE

Please take a moment to read through what a lot of newspapers, judiciary and media are saying about IPC-498a (commonly known as Indian dowry law).

“Nowadays lots of men are experiencing pre-wedding jitters. The reason: They are terrified of misuse of the anti-dowry law.” - Vijay Times, Bangalore, Thursday 07 April, 2005

“The police should realize that it is not a matter between two individuals, not even between two families, but several families, such as in-laws” - The Hindu, September 17th, 2004

“Its time that the law is changed and punishment for these false accusations be made the same as that meted out to those who are really guilty of such acts.”

“The anti dowry law has number of loopholes and it is high time that our society wakes up and takes a strong note to amend these one sided laws which are eventually breaking up our Indian marriage system”
- www.hindustan.net, July 27th, 2005

“The abuse of anti-dowry laws has become serious enough that the United States Department of state has published a travel warning about “Dowry/Visa Demands” for travelers to India” - Lisa Tsering, India West, December 30th, 2004

“In urban area, marital problems are sometimes compounded by the confrontationist advice given to distressed women by aggressive NGOs”.
“I also feel that the addition of “emotional” to verbal and physical abuse as a ground for seeking legal protection

is liable to rampant misuse.” - Chandan Mitra, The Pioneer (http://www.dailypioneer.com/columnist1.asp?main_variable=Columnist&file_name=mitra%2Fmitra132.txt&writer=mitra)

The judicial authorities of India, in number of landmark judgments, have taken a serious view of the growing tendency to falsely implicate innocent members of the husband’s family in dowry cases. Describing misuse of IPC-498a law as “legal terrorism”, the Supreme Court said no one could be allowed to unleash frivolous proceedings on this count as the provisions of Section 498a “is intended to be used a shield not as an assassin’s weapon.”

“The stringent dowry laws, meant to deter dowry-seekers, are being increasingly misused by the very people they are meant to protect. The last three years have seen a steep rise in the number of cases of harassment for dowry”. (Ref: <http://cities.expressindia.com/fullstory.php?newsid=170603>).



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Ajaib Singh, head of the Women and Child Support Unit, says 70 percent of the 1,000-odd cases that they receive every year pertain to dowry, but only 20 percent of these are genuine. “It is unfortunate that more and more people are misusing the stringent provisions of the law out of sheer spite.”

“People generally use this law to facilitate a divorce. And often, it’s the lawyers who advise the women to implicate their in-laws under the provisions of this Act,” says Shantosh Singh, chairperson of Women Welfare Counseling Cell. Often, the number of items given in dowry is inflated to claim a high settlement amount. “There are only 10 per cent cases based on truth, and people usually come to us and ask specifically to

mention the element of dowry in their divorce petitions," says Amrikh Singh Kalra, advocate at Punjab and Haryana High Court.

Mahila Thana Station (Lucknow) Officer Vijay Laxmi Pandey says, "in most cases, it begins with an ego problem which finally leads to a threat of dowry complaint. We try our best to solve these cases by providing a non-police station like atmosphere to counsel the couples." "Cases of dowry harassment in love marriages are also on the rise. Growing differences between couples after few years of marriage is the reason in most cases and evidences provided against the husband are often found to be very flimsy during investigation," says Pandey. The Lucknow Mahila Thana gets at least three cases every week and those filing the complaints are the harassed husbands of women who threaten to use the Dowry Protection Act to their convenience. However, there is no provision under the law to convert such a complaint, made by a husband, into FIR and book the wife. According to lawyer Rohit Kant, "The Section 498a (3/4) Dowry Protection Act and 406 of Indian Penal Code are the two Sections which come handy in filing complaints against husbands. The vice-a-versa doesn't work." (Reference: <http://cities.expressindia.com/fullstory.php?newsid=169738>).

A study by Professor K. Nagaraj, senior economist at the Madras Institute of Development Studies (MIDS) shows that the distribution of suicides by marital status reveals some shocking patterns. The rates do not vary much between the sexes for the never married. Among those currently married, while the rate for males is about 17 per 100,000 persons, the rate for females is 11.4 per 100,000. Among those widowed, while the rate for males is 21 per 100,000 persons, the rate for females is also significantly lower, at 6.6 per 100,000. However, among divorced males the suicide rate is 164 per 100,000 persons, but even in this class, among females the rate is only 63 per 100,000. While the suicide rate for separated men is about 167, for females it is 41 per 100,000 persons. (<http://www.hinduonnet.com/fline/fl1821/18210960.htm>)

While dowry death and dowry related harassment cases have been widely discussed, debated and analyzed, often becoming the headlines of the leading dailies, the gross and growing misuse of anti-dowry laws has been ignored by the media and the government.

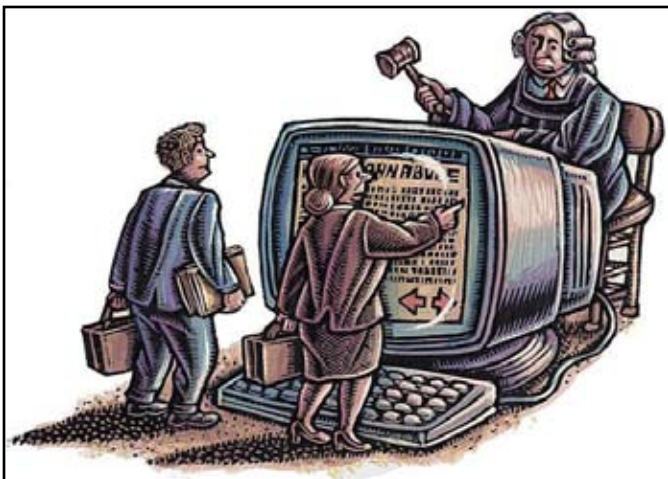
The number of innocent families victimized by the misuse of 498a is alarmingly increasing. These innocent families are looked upon as culprits by the neighbours, the society and the law enforcement authorities when police visit their home and arrest them. Some of them, have committed suicide because of the ignominy they had to suffer. "There have been instances where mother or father have died of shock or committed suicide because the humiliation of a false criminal case was too much to bear," writes Kusum, a prolific writer on gender issue, in her thought provoking book "Harassed Husband". "If this trend continues it is not unlikely that women themselves might suffer as they would lose credibility and sympathy of the society. Innocent, simple girls are more likely to suffer because of malicious complaints by clever and unscrupulous women", Kusum warns. Many men have also committed suicide rather than face humiliation.

A man immolated himself on 22 March, 1992 in New Delhi. The reason being complaint of 'dowry demand' by the estranged wife which led him to jail twice. In a note left behind, he held half a dozen persons responsible including his father-in-law and sister-in-law for driving him to suicide.

Another man, a bank employee hanged himself on 12 June, 1990 in his flat in Maya Puri, Delhi. The wife often used to stay with her parents. He did not like this.. His efforts to persuade his wife to return to his home only resulted in his wife filing a false dowry complaint against him.

These few instances illustrate the terror that has been created by anti-dowry laws in the minds of a large number of husbands who feel captive in the hands of their own wives. While some hapless men, unable to live a harassed and humiliated married life, prefer to die, many others live their married lives under constant fear of being falsely implicated under section 498a. They are forced to meet unreasonable demands, tolerating unruly behavior of their wives only for family's *izzat*.

Another instance of mass suicide involving three members of a family was reported a few years ago in Ballabgarh, Haryana. In this case, the persons that committed suicide were not the daughters-in-law. Instead, the husband himself, his young sister and their hapless mother consumed poison and ended their lives because of the growing unreasonable demand of the daughter-in-law and the continuous harassment inflicted by her family. No chests were beaten, no tears shed over these self-killings by a well-to-do family. The case failed to stir the general conscience of media and masses,



“There have been sporadic cases where the woman left her matrimonial house within few days of marriage and filed a long list of ‘dowry’ in the complaint filed against the husband”

perhaps because these dowry deaths were different from the commonly heard examples.

The Dowry Prohibition Act passed in 1961 proscribed giving or taking of any valuable security or property in “consideration of marriage”. To plug the loopholes in the law, the definition of dowry was widened by amendments in 1984 and 1986, to include any property or valuable security given or agreed to be given at, or before, or at any time after the marriage. To further check this deep-rooted social evil, sections 113A and 113B were introduced in the Indian Evidence Act and section 406 and 498a in the Indian Penal Code (IPC). The sole object was to give legal protection to the married women against victimization by the dowry greedy in-laws. But, these laws have now become a handy weapon for many women to blackmail, harass, humiliate and falsely implicate the innocent members of the in-laws family in ‘dowry-demand cases’ and extract money from them before finally settling the marital discord or dispute. The cause of dispute may be something else like sexual dissatisfaction, drinking or smoking by the husband, lack of privacy, financial constraints, husband’s ‘extra leaning’ towards his parents or brothers and sisters, or even wife’s own leaning towards her own family or some other man which may not be liked by the husband. In such cases ‘demand of dowry’ becomes an

easy excuse for many women with two advantages in mind—getting rid of the man and extraction of *Moti Rakam* (hefty amount) to bring the panicked husband and his family to terms.

According to a newspaper report, in 90 per cent of the cases coming to the Crime Against Women Cell (CAWC), Nanakpura, Delhi, the lists of dowry, filed by the women are exaggerated. These contain, among other things such as, items, which either were never given in dowry or were already in possession of the woman. While request for retrieval of stridhan (jewelry) tops the lists submitted by women to CAWC, ‘demand of money by in-laws’ figures next, the report says. The newspaper report also discloses that between 20 to 30 per cent of the cases reaching the CAWC are such that although the *stridhan* was actually in possession of the women, they still lodged complaint against their husbands.

This tendency to harass the in-laws is more common among those women who do not want to compromise with their husbands or intend to remarry. Their intention is to extract as much money and material as possible from the first marriage. There have been sporadic cases where the woman left her matrimonial house within few days of marriage and filed a long list of ‘dowry’ in the complaint filed against the husband. Women tend to implicate a large number of members of the husband’s family due to the simple reason that the greater the number of accused, the higher the chances of extracting hefty amount of money as settlement. Taking a serious note of this growing tendency, the Supreme Court of India has held that for the fault of the husband, the in-laws or other relatives cannot, in all cases, be held to be involved in dowry death. “In cases where such accusations are made, the overt acts attributed to persons other than the husband are required to be proved beyond reasonable doubt. By mere conjecture and implications such relations cannot be held guilty of the offence relating to dowry deaths,” the court observed while allowing an appeal against a verdict of the Punjab & Haryana High Court in a dowry death case. Earlier, the Joint Director of the Crime Branch of Mumbai Police had issued an order on 26 October, 1992 to the effect that the matter should be thoroughly investigated before registering a case under section 498a.

Today every husband is perceived as a virtual torturer and the mother-in-law as a demon. A fair amount of blame for this rests on the media which, with a view to sensationalize

the 'story' blows the news of 'harassment' or 'torture' of married women out of proportions, without properly investigating the veracity of the things. The news of alleged 'torture, harassment, and misappropriation of stridhan' of wife by 'A' was published prominently in two columns by a leading city newspaper, accusing several members of his family torturing her. The concerned reporter never bothered to verify the allegations with the husband of 'A'. As the news carried his full name and those of his relatives, designation and the organization where he was working, it caused irreparable damage to the entire family's image and hard-earned reputation in almost every circle they moved. Queries started pouring in following this news. Depressed as he was, 'A' immediately registered his protest with the editor. The newspaper did publish his rejoinder, but after a long time gap and without any apology for publishing an unverified report.

One wonders where this growing tendency of misusing the useful laws by unscrupulous parties is leading the society. Harassing and victimizing women for dowry is condemnable. We all have sisters, and daughters, and undoubtedly they require legal protection from all forms of harassment and cruelty but what if the legal loopholes of this very law are misused by women to harass their husbands and in-laws?

Though smaller in number, these harassed families also need equal legal protection..

How long will their sufferings remain unnoticed and cries unheard?

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"Today every husband is perceived a virtual torturer and the mother-in-law a demon"

"One wonders where this growing tendency of misusing the useful laws by unscrupulous parties is leading the society"

4. WHAT DO INDIAN COURTS SAY ABOUT IPC-498A ?

Is IPC-498a (dowry law) a balanced law?

Right to life and liberty of every citizen is guaranteed under Article 21 of the Constitution of India. But this life and liberty can be curtailed if they hinder others' life and liberty. For that due process of law is necessary. While civil law determines what is right and what is wrong, the criminal law imposes penalty to deter.

Section 498A was inserted in the Indian Penal Code in 1984 with a view to protect women against dowry harassment. From the very beginning of this law there is reaction from the society including legal luminaries that this law could be misused and there would be severe deleterious effect in the society. But before going to its deleterious effect let us consider if the volume of complaints have gone down as may be seen in The Crime in India statistics. The volume is continuously going up which means that there is no deterrence effect of section 498A of IPC. This is now 2006. This very fact itself needs that the law is to be amended to curb the rising graph.

Coming to the judicial observations and remarks we find that continuously their lordships are showing anguish over the law. Here are some recent judicial observations.

Way back in 1990 Punjab and Haryana High court observed in Jasbir Kaur vs. State of Haryana, (1990)2 Rec Cri R 243 case as:

"It is known that an estranged wife will go to any extent to rope in as many relatives of the husband as possible in a desperate effort to salvage whatever remains of an estranged marriage."

In Kanaraj vs. State of Punjab, 2000 CriLJ 2993 the apex court observed as:

"for the fault of the husband the in-laws or other relatives cannot in all cases be held to be involved. The acts attributed to such persons have to be proved beyond reasonable doubt and they cannot be held responsible by mere conjectures and implications. The tendency to rope in relatives of the husband as accused has to be curbed"

Karnataka High Court, in the case of State Vs. Srikanth, 2002 CriLJ 3605 observed as:

"Roping in of the whole of the family including brothers and sisters-in-law has to be depreciated unless there is a specific material against these persons, it is down right on the part of the police to include the whole of the family as accused"

Supreme Court, In Mohd. Hoshan vs. State of A.P. 2002 CriLJ 4124 case, observed as:

"Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impact of complaints, accusation or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of the sensitivity, degree of courage and endurance to withstand such cruelty. Each case has to be decided on its own facts whether mental cruelty is made out"

Delhi high Court, in Savitri Devi vs. Ramesh Chand, 2003 CriLJ 2759 case observed as:

"These provisions were though made with good intentions but the implementation has left a very bad taste and the move has been counter productive. There is a growing tendency amongst the women which is further perpetuated by their parents and relatives to rope in each and every relative including minors and even school going kids nearer or distant relatives and in some cases against every person of the family of the husband whether living away or in other town or abroad and married, unmarried sisters, sisters-in-law, unmarried brothers, married uncles and in some cases grand parents or as many as 10 or 15 or even more relatives of the husband."

Punjab and Haryana High Court, in Bhupinder Kaur and others vs. State of Punjab and others, 2003 CriLJ 3394 case observed as:

"From the reading of the FIR, it is evident that there is no

specific allegation of any act against petitioners Nos.2 and 3, which constitute offence under s.498-A I.P.C. I am satisfied that these two persons have been falsely implicated in the present case, who were minors at the time of marriage and even at the time of lodging the present FIR. Neither of these two persons was alleged to have been entrusted with any dowry article nor they alleged to have ever demanded any dowry article. No specific allegation of demand of dowry, harassment and beating given to the complainant by the two accused has been made. The allegations made are vague and general. Moreover, it cannot be ignored that every member of the family of the husband has been implicated in the case. The initiation of criminal proceedings against them in the present case is clearly an abuse of the process of law"

Jharkhand High Court in Arjun Ram Vs. State of Jharkhand and another, 2004 CriLJ 2989 case observed as:

"In the instant case, it appears that the criminal case has been filed, which is manifestly intended with mala fide and ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. In this connection reliance may be placed upon AIR 1992 SC 604: (1992CriLJ 527)"

Supreme Court, in a relatively recent case, Sushil Kumar Sharma vs. Union of India and others, JT 2005(6) 266 observed as:

"The object of the provision is prevention of the dowry menace. But as has been rightly contented by the petitioner **that many instances have come to light where the complaints are not bonafide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignomy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery.** The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. **Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with.** Till then the Courts have to take care of the situation within the existing frame work. As noted above the object is to strike at the roots of dowry menace. **But by misuse of the provision a new legal terrorism**

can be unleashed. The provision is intended to be used a shield and not an assassin's weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are rebuttable. **It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations.** It is equally undisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view."

Justice Malimath Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003 observed the following and gave the recommendation to amend the law immediately:

"16.4.4 In less tolerant impulsive woman may lodge an FIR even on a trivial act. The result is that the husband and his family may be immediately arrested and there may be a suspension or loss of job. The offence alleged being non-bailable, innocent persons languish in custody. There may be a claim for maintenance adding fuel to fire, if the husband cannot pay. She may change her mind and get into the mood to forget and forgive. The husband may realize the mistakes committed and come forward to turn a new leaf for a loving and cordial relationship. The woman may like to seek reconciliation. But this may not be possible due to the legal obstacles. Even if she wishes to make amends by withdrawing the complaint, she can not do so as the offence is non compoundable. The doors for returning to family life stand closed. She is thus left at the mercy of her natal family. 16.4.5 This section, therefore, helps neither the wife nor the husband. The offence being non-bailable and non-

compoundable makes an innocent person undergo stigmatization and hardship. **Heartless provisions that make the offence non-bailable and non-compoundable operate against reconciliations. It is therefore necessary to make this offence (a) bailable and (b) compoundable to give a chance to the spouses to come together.**

(118) The Code may be suitably amended to make the offence under Section 498 A of the I.P.Code, bailable and compoundable."

These are only a few observations of their lordships from scores which conclusively prove that:

1. A woman (not necessarily every woman) can be much more cruel than a man (not necessarily every man).
2. While intending to protect the life of a person, s.498A of IPC jeopardizes around a dozen innocent persons whether they are children or old. Hence, the provision is discriminatory and in violation to the Article 14 of the Constitution of India.
3. Instead of restoring equilibrium, the provision aggravates disequilibria. Hence, it is not only imbalanced but also there is a failure of guarantee of right to life under Article 21 of the Constitution of India.
4. For the reasons stated under conclusions 3 and 4 above the provision is not only imbalanced but also ultravires.

Because of these maladies the provision needs to be amended at the earliest to protect the life and liberty of millions of innocent people including children and old. Prior to that the learned and honorable courts may consider imposition of heavy penalty as done in case of vexatious PILs. Such PILs are only vexatious but in the matter of the cases may be false, malafide, malicious and revengeful.

5. WHAT ABOUT OTHER SIDE OF THE 498A REALITY?

"Am I a coward? My knees have circular scars from being scrubbed with footpad. I have a sambar burn on my face. I have two stitches on my thigh. Yet I had to face the threat of being in jail as an aggressor. People either laugh or sympathize but nobody says I should get justice only because I happen to be a male! I care two hoots for laughter, I do not need sympathy but I want justice.

Will I get it?" Says Bhargav, who not only had to face domestic violence but also the threat of a false 498a case by his wife. While such stories of male harassment are becoming very common, the society still finds it hard to empathize with a man's plight. It hardly takes any effort to convince people if the same story were narrated by a woman.

Divesh, another harassed husband says, "I do not defy anyone labeling my narration as 'my side of the story' ... but my question is why this is not asked when a girl goes to register a complaint or even during gossips where they are accompanied by the unlimited stocks of crocodile tears. They are taken on face value ... Is it that females speak only truth?"

It might be hard to imagine the reasons why a woman might want to harm her husband and his family and ruin her own life by filing a false 498a case.

Nakul, a victim explains: "Why do some unscrupulous wives misuse IPC 498a? Firstly to harass the husband, and maybe for monetary gains..."

It is true that many women are making false accusations of mental cruelty and harassment on their husbands and in-laws either of their own accord or at the behest of their family members. There are many cases where the main issue is incompatibility between the husband and wife. There are other cases where the husband

discovers that the wife and her family misrepresented themselves and took advantage of his trust. In other cases, the domineering influence and greed of a woman and her family results in marital discord. Whatever the case may be, the husband and his family are in for a roller-coaster ride for the next several years if the wife so desires.

Some people might ask, "How can a lot of wives misuse the law when it's a fact that misusing wives will lose cases anyway?"

Nakul says, "The Indian legal process is a punishment in itself, especially when it lingers on aimlessly for 5-10 years after the harsh period of police investigations (institutionalized blackmail to be frank). Since there are no legal repercussions if the wife is found to be fabricating a false 498a charge, wives use this almost by default even if they want a divorce for reasons other than dowry harassment and cruelty on the part of the husband. Even if they (complainants) lose the case, there's nothing for them to actually lose, as the wife gets a lawyer from the state (public prosecutor), she doesn't

have to appear other than for her statements during the trial (2-3 court sessions as opposed to the innumerable sessions which the accused husband and family have to attend throughout the duration of the case). This no-lose situation is what makes the law-misusing wife confident of inflicting damages to her husband without any harm to her whatsoever."

Nakul also points out that "in this particular criminal section of 498a, the accused is considered guilty right from the start until proven innocent (i.e. the onus of proof is on the accused), while in all other criminal cases (including murder) the accused is considered innocent until proven guilty."

There are many heart-rending



"Since there are no legal repercussions if the wife is found to be fabricating a false 498a charge, wives use this almost by default even if they want a divorce for reasons other than dowry harassment and cruelty on the part of the husband"

stories of innocent families being arrested without investigation and put in judicial custody. While IPC 498a is supposed to be a law to protect women, ironically it harms many more women. For every male accused of IPC 498a, there is at least one woman (his mother or sister) who is implicated in a crime that never occurred. If there are more women in the family they too are accused irrespective of their age, health condition, marital status or their physical proximity to the complainant. The entire family is ruthlessly arrested without investigation and there are no words to describe the financial hardship and emotional trauma that they have to endure. Children suffer whether they are jailed along with their mothers or are separated from them during that time. **If this is not harassment, then what is?**

Every innocent person facing a threat or charged with a crime under section 498a is extremely angry (and justifiably so) at how the Indian police and judicial systems operate in these cases. Shishir, a victim, says, "How would you feel when somebody accuses you of a crime you have never committed, the law asks you to prove your innocence and the police punish you even before you are convicted?"

Another striking feature of these victim stories is that the complainants, in collaboration with the police make sure that the **arrests are strategically planned to harass and demoralize the accused, to make them succumb to the fear of being imprisoned** and to extract huge amounts of money thereafter. Shivani, a US citizen who had gone to India to attend her mother-in-law's funeral, was arrested under section 498a (filed by her sister-in-law), during a time when lawyers were on strike in Chennai. **Shivani had to spend seven gruesome days in prison away from her two little children (one of whom was sick).** Another female victim, **Usha, who had traveled to India to see her dying father, was arrested along with her brother while their father was still in hospital. They lost their father while they were in police custody.**

Divesh notes that "most of the arrests that have been purposely made are on Friday evening. The reason is that the next two days being weekend off ensures that the husbands and his parents and relatives spend at least that many days in jail till the court opens on Monday. And if that day happens to be a government holiday then the proceedings are in suspension for a further while. The other popular days are days before holidays especially if the holiday is on Friday, then Thursday is apt for arrest as the proceedings are halted for three days minimum and the husbands and his innocent

family members are in jail. I would rate these cases from past trends as more than 90%."

What are the social consequences of misuse of 498a?

Once a family has been tortured using the 498a weapon, the



"Once a family has been tortured using the 498a weapon, the chances of reconciliation between the husband and wife is nil"

chances of reconciliation between the husband and wife is nil. The divorce that ensues is another mode of harassment for the already impoverished husband because he is forced to pay a hefty alimony/maintenance demanded by his wife. As Mihir notes, "An interesting ruling of the Allahabad High Court, where the wife was made to pay maintenance to her husband after divorce seemed to be a light of hope for those aggrieved and deprived husbands. But all the women had voted against this ruling criticizing the judgment as biased."

Shishir asks, "Why are they calling it as biased? Do they despise providing any kind of financial support to their husband? Or do they feel that providing financial support is only a man's domain and responsibility and not that of women? It is evident from the momentum of these women's

rights campaigns that they not only want to assert their own 'rights' in the society but also they want to dictate men's 'duties.'" Many feel that this kind of attitude on the part of women defeats any attempts of achieving gender equality.

Voicing the agony of all victimized men, Nakul says, "We are trying to see courts as our 'parks' and litigation as 'small talk', so that we ourselves do not fall into the self-destructive vortex as the wasteful trials and adjournments and other self-defeating legal processes stretch out, without any sign of closure while life is kept in abeyance (can't restart a family, can't relocate easily, can't be free from time spent, etc.)"

Sharat, another victim states, "According to an estimate, there are around 25,000-30,000 false 498a cases filed every year in India. This creates multi-dimensional problems to the families and society:

- 1) Lot of productive time, energy and money of the family are spent in proving themselves innocent.
- 2) Law implementers and judiciary have to spend countless number of hours presiding over a 'civil' matter (false in more than 90% cases) while the judiciary already has 20 million civil and criminal case backlogs.
- 3) Tax-payer money is spent on the government lawyer appointed to the daughter-in-law and letting her fight her vicious lie.
- 4) Families who have never spent a single minute with lawyers, courts and police, are forced to run frantically from pillar to post to defend an alleged crime they never committed and they are bound to get depressed with the judiciary and police system.
- 5) Eventually, the institution of marriage might become more like a business transaction in which a man and wife will have to document every agreement in writing in front of lawyers."

When victims and activists protest against misuse of 498a and other dowry-related laws, they face large-scale denunciation by groups claiming to be women's rights activists. But is their criticism justified? As one female victim questions, "Why do we need unfair laws which will 'benefit' a woman if she is a daughter-in-law or wife but harm her if she is a sister-in-law or mother-in-law? When it is natural for a woman to simultaneously play all these roles how can a heavily misused law such as IPC 498a be beneficial to women in its current form?"

Shishir notes, "498a law, which was enacted to protect women from any unlawful dowry or related harassment, is now **become a multi-million racket in our society.**

The woman who files a false case, the lawyer who guides the woman on how to file a false case and the police who make the arrest, all seek unjust monetary gains from the situation. **Why do we have to keep quiet when it is our right to fight against injustice?** Such draconian laws are not yet criticized by many women's organizations which are campaigning for women's rights and protection. The Government too has not provided any remedial measures to curb such a malicious practice, which was termed "Legal Terrorism" by Supreme Court of India.

The appeals and suggestions of 498a victims to amend section 498a have been grossly misunderstood and misrepresented by some women's organizations (lobbying for strengthening 498a and other dowry related laws) as anti-women strategies. In response, here is what victims who seek nothing but justice and freedom from these unfair laws and long-drawn criminal procedures have to say:

"I do not want 498a to be eradicated. All I want is that the husband and his family are not arrested without proper investigation. In addition, if the law is misused then the wife and her family should be booked and sent to jail." - Rahul

"Do not change 498a. But argue for heavy punishment to women who file false cases and for lie detection and brain-mapping test on the accused (cost being paid by accused). Simple is it not?" - Anamika

Divesh, who has been enduring harassment from his wife and in-laws for two years cries, "Arey kanoon banane wale, aap ke ghar mein baap, bhai ya bete hai ke nahi? (Makers of such laws, don't you have fathers, brothers or sons in your homes?)"

Lawmakers, are you listening?

6. TYPICAL TRAITS OF COMPLAINANT AND ACCUSED

Note: The following are scenarios in which false IPC 498A (498a) cases have been documented over the last few years. Therefore, if a husband or his family observes any or a combination of the following behaviors, he might want to watch out for a possible 498a case against him.

Typical Complainant is a woman:

- Who is suffering from pre-existing mental problems such as Borderline Personality Disorder, Bipolar Disorder, Schizophrenia, etc.,
- Whose family is nouveau riche and likes ostentatious display of wealth, possessions as well as social and political connections
- Who is used to living beyond her means
- Whose father is hen-pecked and whose mother dominates all family situations
- Who listens to and acts in accordance with her parents' wishes at all times, exhibiting a lack of individuality and discretion in dealing with her married life
- Who pushes for quick involvement during the establishment of a marriage alliance, pressing the man and his family for an instantaneous commitment
- Who is excessively possessive and suspicious
- Who is self-centered and feels the need to dominate the relationship and every aspect of decision-making
- Who tries to alienate her husband from his family and friends
- Who is hypersensitive and therefore easily insulted
- Who indulges in verbal abuse and constant criticism of her husband and in-laws
- Who uses blackmail (emotional or otherwise) and threats to get her unreasonable demands fulfilled by her husband and in-laws
- Who walks out on her husband following an argument and stays away from her husband indefinitely without any effort towards reconciliation

Typical Accused is man and his family:

- Who are wealthy and have a lot to lose under threat of arrest and extortion
- Who are generally law-abiding citizens with no connection or experience with police and courts
- Who are busy professionals or Non-Resident Indians and do not have the time and ability to fight long-drawn cases in Indian courts and therefore stand out as soft targets for blackmails and threats
- Who are living in a joint family and do not yield to wife's demand to setup a nuclear family
- Who are individualistic and refuse to submit to the controlling nature of the wife and in-laws
- Who serve the Indian Government, and whose employment would be at stake if they were arrested or imprisoned
- Who are unwilling or unable to meet the monetary demands of the wife and her family

7. THOUGHT PROVOKING QUESTIONS ABOUT 498A

Registration of FIR, arrest and court proceedings:

- When an FIR under IPC section 498A (498a) is registered, the accused are automatically arrested and jailed without investigation. The Supreme Court of India has ruled several times that arrest should be an exception, and not a compulsory. Why is there no penalty for disobeying the Supreme Court's orders? Is it not mental cruelty to subject a person to arrest without investigation or reasonable cause?
- Why is there no provision in the criminal law that can serve to deter false and exaggerated claims?
- Why does not the judicial system use its power to deter frivolous complaints made by unscrupulous individuals and prosecutions by corrupt law and order personnel for wasting the honorable courts' precious time and imposing the financial burden on the public exchequer?
- Why is there no provision by which the costs relating to false 498a cases can be recorded and recovered from the complainants to compensate the falsely accused?
- Why is there no penalty for the complainant who does not appear to the court proceedings?

Equality of laws:

- According to established research, the frequency of husbands committing suicide is three times that of wives committing suicide. When a wife commits suicide it is automatically deemed to be dowry death, under IPC section 304B. Why do we have no such protection for husbands? [ref: <http://www.flonnet.com/fl1821/18210960.htm>]
- The existing laws protect a woman from cruelty and harassment by her husband and in-laws. Why does the law not provide protection to a man against cruelty and harassment by his wife and in-laws?
- The Dowry Prohibition Act clearly states that the dowry giver is also punishable under the said Act. Why do the police and judicial authorities not take any action against those who admit that they gave dowry?
- Dowry laws were made to protect women from harassment. What legal protection is available to a woman who is being harassed by a daughter-in-law or sister-in-law? What legal remedies are available to a woman whose daughter-in-law or sister-in-law has booked a false dowry case against her?

8. STEPS AND SUGGESTIONS

1. Role of Women NGOs: These organizations should investigate complaint properly without any bias towards the woman keeping in mind that the law is being misused to largely to harass more women in husband's family. They should not encourage woman to file any criminal case against in-laws for trivial matters.

Foreign Women Organizations should also take responsibility of not allowing false complaint to be registered against NRI's just to harass and extort huge amount of money from them. These organizations should also conduct survey/research on the misuse of the act and should educate people about its consequences.

If these organizations are found to be assisting filing false complaint these organizations should be liable for prosecution in the country where they are functioning.

2. Family Counseling Centers: Numerous cases of men being harassed by wife or/and in-laws have come to light from different parts of the country. As of now there is no organization, which can really help these harassed men and his family members, to listen their side of the story and put their point of view in front of the government. Need of the hour is to create family counseling centers across the country to help those aggrieved families.

3. Civil Law: Most of 498a sections have already been covered in other sections of criminal laws. The only thing that doesn't come under any IPC is cruelty. After removing other parts of this section, 498a should come under Civil Law.

4. Definition of Mental Cruelty: Mental cruelty has been vaguely defined in the act, which leaves scope of misuse.

This should be clearly elaborated to remove loopholes in the law. There should be provision for men also to file a case for mental cruelty by his wife.



"Honourable Supreme Court of India has asked the government to ammend IPC-498a to plug the many loopholes it has".

It's high time government acts on these suggestions

5. Investigation by Civil

authorities: The investigation into these offences be carried out by civil authorities and only after his/her finding as to the commission of the offence, cognizance should be taken. The government should create awareness among officers about its misuse.

6. Bailable: The main reason of 498a being misused to harass innocent is its non-bailable nature. This section should be made bailable to prevent innocent old parents, pregnant sisters, and school going children from languishing in custody for weeks without any fault of them.

7. Compoundable: Once FIR has been registered it becomes impossible to withdraw the case even if wife realized that she has done a blunder and wants to come back to her matrimonial home she cannot do so. To save institution of marriage this should be made compoundable. Moreover, in the scenario where both decided to end

the marriage by mutual divorce, continuation of criminal proceedings hamper their life.

8. Arrest Warrants: Arrest warrant should be issued only against the main accused and only after cognizance has been taken. Husband family members should not be arrested.

9. Penalty for making false accusation: Whenever any court comes to the conclusion that the allegations made

regarding commission of offence under section 498a IPC are unfound, stringent action should be taken against persons making the allegations. This would discourage persons from coming to courts with unclean hands and ulterior motives. Criminal charges should be brought against all authorities that are collaborating with falsely accusing women and their parental families.

10. Court Proceedings: Physical appearance of the accused on hearing should be waved or kept low to avoid hassles in appearing to the court. The court should not ask to surrender passport of the husband and his family which could cost job of the husband and his family members.

11. Right to Equality: Everyone should have equal rights and responsibilities. It will not work if a particular wife has all the rights but wants no responsibility (for its actions). There should be similar law to protect harassed husband and his family members.

9. MEDIA REPORTS

"If there is a marital discord, man is considered the culprit. Everybody sympathizes with the woman. The law was made stringent to protect women but instead it has become a tool of blackmail".

"90 percent of dowry harassment complaints are false."

- **Arun Murthy, Founder of Sangyabalya quoted in "498a gives men pre-wedding jitters". Vijay Times. Bangalore. Thursday 07 April, 2005.**

"Today, most women end up using the anti-dowry law to book husbands for maltreatment even if dowry is not the cause of marital breakdown. Thus anti-dowry law has not curbed the giving and taking of dowry. It has only provided a strong weapon for revenge in the hands of wives against their husbands and in-laws, whether or not their conflict is over dowry. Lawyers and even police routinely advise families to list 'dowry demands' as the primary cause of marital violence, even if in actual fact this is not at all the case, or is only a relatively minor factor in marital conflict"

- **Madhu Purnima Kishwar. Manushi, Issue 148. (Published July 2005 in India Together)**

"For women there are many laws to deal with such problems and many bodies like the Women's Commission and the women's grievance cell, while there is no facility for men who face problems from their wives"

- **Aruna Mukherjee. Pirito Purush Poti Parishad (Forum of oppressed husbands). "Battered husbands join hands to take on 'better' halves." Express India. Thursday, June 16, 2005.**

"Matrimonial offences where a woman is not physically assaulted should be compoundable and bailable."

"There is a growing tendency among women, which is further perpetuated by their parents and relatives, to rope in each and every relative, including minors and even school going children of distant relatives"

- **Justice J D Kapoor, Delhi high court. "Check dowry law misuse by women: HC." Times News Network, Thursday, May 22, 2003.**



"Anti-dowry law has not curbed the "giving and taking of dowry. It has only provided a strong weapon for revenge in the hands of wives against their husbands and in-laws, whether or not their conflict is over dowry" - **Madhu Purnima Kishwar.**

"It is unfortunate that more and more people are misusing the stringent provisions of the law out of sheer spite," says Ajaib Singh, head of the Women and Child Support Unit.

"People generally make use this law to facilitate a divorce. And often, it's the lawyers who advise the women to implicate their in-laws under the provisions of this Act," says Shantosh Singh, chairperson of Women Welfare Counseling Cell at Sector 17.

Lawyers also admit that the stringent laws against the dowry are misused to a great extent," There are only 10 per cent cases based on truth, and people

usually come to us and ask specifically to mention the element of dowry in their divorce petitions," says Amrikh Singh Kalra, advocate at Punjab and Haryana High Court.

"Most of the cases are fabricated and the element of dowry is exaggerated in them. Basically women want to have a quick solution to their problems and the laws against dowry provide the easiest way out," says advocate Amarjit Singh Jattana.

There are many who feel that legal luminaries should find

out ways to prevent the misuse of this Act. "With so many people filing cases under this Act, there may come a time when we begin to suspect even a genuine case," says Ajai Singh.

- **Nazir Ahmad Rather.** "To do(wry) or not to do(wry), that is the Act." Chandigarh Newsline. <http://cities.expressindia.com>. Monday, February 20, 2006.

The chairperson of state woman commission (Orissa) says cases of husbands being tortured and harassed are on the rise, especially in urban areas of the state. Over the last five years 519 cases of torture against husbands have been registered.

"It's high time that there should be forums where these victimized husbands can seek justice and law should also be made to deal specifically such situation," says lawyer and Lok Sabha MP, Brahmananda Panda.

- **Jajati Karan.** CNN-IBN news. "Victimized husbands an ugly reality." Thursday, February 16, 2006.

In several complaints, the husband states that the wife has threatened by saying that all laws are in their favor and they can do anything. Pandey says in most of the cases the husband blames his in-laws accusing the wife of acting at their behest. They complain that the in-laws want to interfere in their life. They want the husband to listen and follow their advice, she added.

- **Manish Sahu.** "Complaining hubbies turn to Mahila thana for solace." Lucknow Newsline. <http://cities.expressindia.com>. Tuesday, February 14, 2006.

Counselors at the Maharashtra Commission for Women, setup to help women harassed by men, are having a tough time these days. Besides women, they have men queuing up with complaints against their partners, wives, girlfriends and even mothers-in-law. And of the complaints filed by women, many are turning out to be false.

"In quite a few cases, women are filing complaints which are not only motivated but quite misleading — just to harass

men deliberately," said the MCW Member Secretary Sudha Bhawe.

- **Aditya Ghosh.** "Men seek help. Is women's panel listening?" DNA Mumbai, Monday, February 13, 2006.

The Supreme Court today warned that misuse of anti-dowry laws could unleash a "new legal terrorism". A division bench of Justices Arijit Pasayat and H.K. Sema said provisions in the laws are often being misused to settle personal scores.

"that does not give a license to unscrupulous persons to wreck personal vendetta or unleash harassment," the bench said.

The judges said "it may become necessary for the legislature" to find "appropriate" ways to deal with people behind "frivolous complaints or allegations", as the laws do not give any directions in this regard.

"The object of the provision is prevention of the dowry menace. But many instances have come to light where the complaints are not bonafide and have been filed with an oblique motive. In such cases, acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Some times, adverse media coverage adds to the misery," the judges said.

- **R. Venkataraman.** "Dowry law no licence to settle scores: SC." The Telegraph. Friday, July 22, 2005.

"The fact that we issued a warning should be an indication of how widespread the problem is," says John Peters, the US State department's citizen services specialist for India.

- **Lisa Tsering.** "Indian Husbands from U.S. Fall Victim to Dowry-Immigration Fraud in India." IndiaWest, December 30th, 2004.

Referring to the provision of arrest, the Court said it has been much abused and exploited by the police in offences related to section 498a/406 (cruelty by husband for dowry/criminal breach of trust) of IPC where all relatives including husband and even old or minors are arrested.

Emphasising that unless the allegations are of "very serious nature" and "highest magnitude", the arrest should always

be avoided”, the Court observed “arrest of a person for less serious or such kinds of offence or offences which can be investigated without arrest by the police cannot be brooked by any civilized society”.

“Power to arrest is altogether different than the need for arrest,” the Court observed and added “no authority howsoever powerful or mighty can be allowed to deny a person his liberty as it hits at the very foundation of democratic structure”

- **“Arrest should be avoided until very necessary”:** High Court. <http://www.dailyexcelsior.com> November 26, 2005

“About 80 percent of total cases of alleged dowry deaths in Vaishali district are lodged by so-called victims’ relatives for blackmailing the in-laws,” says the Vaishali SP Shobha Ohatker.

Talking to TNN here recently, the SP said that there is a trend of levelling allegations of demand of money as dowry in most of the cases. Married women often do this under the pressure of their “greedy” parents, she added.

- **“Majority of dowry cases are false”: SP. The Times of India. Cities: Patna. Tuesday, August 19, 2003.**

In some cases lawyers have been appalled to find elderly relatives of the husband and even visiting relatives of the husband implicated in the case. In some cases the husband and his family are virtually being blackmailed into coughing up money and reach an out-of-court settlement.

Eminent lawyer Bishnu Charan Ghosh says, “As a lawyer I have never come across such gross abuse of any of the provisions of any Act as I am experiencing in 498a IPC cases”

- **Rahul: “Some brides are ‘villains’, not victims: lawyers”. The Times of India. Cities: Kolkata. Wednesday, May 01, 2002.**

Sociologist Bula Bhadra believes that domestic violence against men is yet to become a public issue. “If we go by the numbers, it’s still a private issue. I believe anyone can be abusive. We need to look at the bigger picture. We have to take into account the power relations — whoever is in

the dominant position in a family structure, be it a man or a woman, will tend to use his or her power to inflict hurt on the other. But as women are gaining more power today, we can see a ‘fear psyche’ working among men.”

Aruna Mukherjee, a senior advocate at the Calcutta High Court says, “I have been practising law for many years. I have seen innumerable cases where women misuse Section 498 A. I always felt that there should be a forum for men... Women do cause great harm to men and contribute significantly to the breakdown of marriages.”

- **Anirban Das Mahapatra. “Help! My wife beats me” The Telegraph. Tuesday, December 13, 2005.**

To know more facts about 498a, search the Internet for:

- **“498a”**
- **“Misuse Dowry laws”**
- **“Elder abuse India”**
- **“Misuse of 498a”**

10. 498A STATISTICS

Domestic Violence Act has been drafted in absolute pro-woman and anti-men consideration, assuming that only women are battered. However it is important to recognize that men and women are equally capable of abuse and every gender has different ways to inflict the abuse on the family member. The female abuse is usually physical and economical. The male abuse mainly comes from emotional and legal abuse and sometimes even physical abuse by woman, in collusion with her natal family and friends.

Objective of Domestic Violence Act must be to restore Domestic Harmony, by promotion of dialogue and rational solution to problems by preventing abuse by either gender in any capacity through so far as possible rational means, so as to restore the happiness of family. A misplaced objective of protecting women's rights will put an entire section of society at disadvantage and prone to abuse, due to implicit legal permission given to abuse men.

It is important to look at the following statistics of gender abuse in India.

Source: <http://ncrb.nic.in/ADSI-03.pdf>

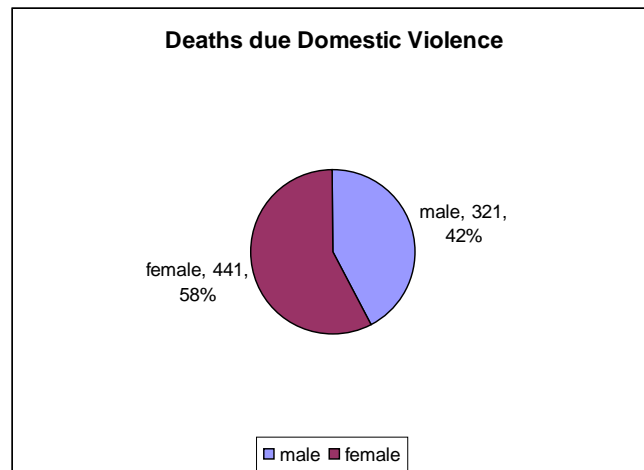
Nearly 44.7% of the suicide victims were married males while only 25% were married females.

The ratio of Male : Female victims of suicide was 63 : 37

Please note that even if statistics of male abuse is lower than women abuse, ignoring an abused man because he is a man would be an irrational justice. Please follow through the overwhelming data, Mrs. Renuka Choudhary and parliamentarians need to think about male abuse.

Look at the following statistics reported by Ministry of Home Affairs.

No. suicides due to marital dispute in year 2004
(These are men and women who died in discord akin to domestic violence)



Due to stringency of dowry laws, 53 men committed suicide in year 2004 and 13 men committed suicide in year 2006 (data for 2005 is not available). Men usually commit suicide due to humiliation suffered in the initial stages of dowry complaint as the complaint (true or false) usually means few days of arrest, which results in automatic loss of job, humiliation in society and anguish for causing arrest to elders and youngsters of husband's family, which usually means loss of life for elders and loss of dignified career for the implicated children. Laws like S498a and Domestic Violence Act also have number of provisions to intimidate man and his family and jeopardize his freedom, in the initial stages of investigation, when the complaint is not known to be true or false. These effects of dowry complaint and Domestic Violence Act is unjustified power in the hands of woman for negotiation in domestic tiff, which irreparably damages the life of man and his relatives and sometimes also cause their death.

The statistics of damage to men and his families is evident from the following statistics. In year 2004

No. of dowry cases registered	58319	100
No. of dowry cases not charge-sheeted because of frivolous grounds	10491	18%
No. of dowry cases charge sheeted	47828	82%
Convicted	5739	9.8%
Acquitted (due to innocence faulty investigation, false complaint, bad prosecution etc.	24127	41%
No. of undecided cases	17962	31%

In year 2004 alone, 134757 people underwent arrest for 58319 complaints under 498a & b and Dowry Prohibition Act.

Below 18 years	358	0.2%
Between 18-60 years	129655	3.5%
Above 60 years	4744	96%

It is shocking to realize that 358 children and 4744 senior citizens were accused, whose age guarantee their innocence. On average 2.3 people were arrested in every complaint of woman. Out of 134757 cases, approximately 18% were not chargesheeted, which means 24256 arrests of innocent people were caused only because these acts are non-bailable and cognizable. The no. of people who were acquitted because of innocence or false complaint can not be calculated, however as it is widely reported, many chargesheeted complaints are also false, which will easily take the no. of false arrests in the bracket of 50,000.

The statistic clearly demonstrates vicious and cruel use of these laws against men and his families.

World Health Organization reports Lebanon and India first ranking countries for legal abuse of elders in its report.

(Document no. WHO/NMH/VIP/02.1, WHO/NMH/NPH/02.2 Title Missing Voices. <http://www.498a.org/legalTorture.htm>)

Extract from WHO report

D) Legal and financial abuse

"Legal abuse was named as a particular type of abuse in both India and Lebanon, although each country has its own specific version of this. The Indian expression of legal abuse is through abuse of the dowry laws by daughters-in-law:"

"In India, there is a law that is intended to protect daughters-in-law from abusive in-laws. A daughter-in-law can go to the police station and lay a complaint that she is being abused by her in-laws, and the in-laws are arrested on her word alone. However, the focus group participants reported that some daughters-in-law are using this law as a form of elder abuse, by making false police reports. In general, participants stressed that the lack of a caring attitude by daughters-in-law was a major problem. (India)"

In India, men do not have legal recourse in the event of abuse. The abuse by wife is often in collusion with her relatives. The laws have grave impact on the life of man and his family, in the event of allegation before finding the truth. The legal system only adds another dimension of "legal torture" to men, by making them helpless in the event of abuse. The feeble recourses of "Restitution of Conjugal Rights" or "Divorce" make men even more miserable in actual

domestic tiff. In such situation having left no legal recourse to get out of abusive relationships, men usually tend to undertake unlawful means.

The society and women have changed drastically over the years, it is important to provide legal protection to men also against the abuse by women and her relatives. The laws must be changed; it is not only in the interest of gross national happiness, but also in the interest of our future generation and women themselves. We must learn from the histories of family laws in other countries. The UK had similar legal system for women 30 years back. Today, the youngsters of UK, do not want to marry. Attempt to enforce morality in family system by such fear of law, will only cause destruction of this delicate system. (<http://www.scotland.gov.uk/Publications/2005/07/28102739/27419>)

(Source of this information is response to RTI application with reference no. 24013/20/2006-SC/ST-W, reported by Public information officer Sumita Mukherjee, Ministry of Home Affairs, New Delhi)

11. TRUE STORIES OF 498A VICTIMS

498a.org came into existence on Dec 2005. Since then, it has helped thousands of victims who look for comfort and solace when they are hit by a false 498a case. 498a.org received more than 200,000 hits in October 2006 alone. Hits are increasing almost 30% each month. Every single day, 5-10 new families seek advice from our volunteers. The victims, who visit the site, share their predicament, present their cases, browse resources online and seek guidance. All cases are different but still have one thing in common – They are all victims of the legal system in which they are presumed guilty without even been given a chance to present their side of the story.

See how innocent men and women are victimized by the draconian 498a law. See for yourself how easy it is for a wife to use this case to destroy an innocent man and his complete family. Look at how distressed people are when they contact us (some even considering suicide). Look at failed relationships, failed marriages and how kids just become pawns in the hands of unscrupulous women. Look at all the injustice that has been meted out to these families and see how some of them were betrayed by someone they considered their own. Feel their pain and the sting of the stab if you can.

WIFE USES NRI HUSBAND FOR IMMIGRATION VISA AND 498A's HIM – HUSBAND'S MOTHER HOSPITALIZED

A Victim from Singapore

I am an NRI. I would like to draw your kind attention to the extreme abuse of anti-dowry Section 498a of IPC with my case. I am among many of the hundreds of thousands person whose whole innocent family is tortured just on a false complain if the wife is unable to adjust with her husband. The sufferers have to go under harassment and extreme stress after being held in police lockup and jail without any ground of proof and these people are assumed guilty by law. Is this justice to innocent senior citizen of India? Please go through my what happened to my innocent parents and brother after 14 months of my separation with my wife. I hope - 25 -

necessary actions are taken to prevent the misuse of any law. These incidents are now very common and many people are suffering because of such blind laws.

I am working as IT professional in Australia since last seven years. I completed my education (MCA) in India and have been in good job since then. I am currently in Sydney. My parents are living in Faridabad. I got arranged marriage in India Oct 2001 and sponsored my wife, PS, to come over to Australia (on permanent residency visa) to live with me. We stayed together for eight months and during that period I found her to be extremely dishonest, unloyal, unfaithful, a big liar and greedy for money and it was obvious her intention to marry was just to come over to Australia and for the money. She had been asking me to sponsor her brother to Australia as well and to bear all his expenses on his education and living. There was no love, commitment though I tried my best to compromise with the situation and have excused her on all occasions assuming it may take time for her to adjust.

We went to India in Oct 2002 and there she tried a lot of trouble by creating misunderstanding between brothers, their wives and started stealing jewellery and cash from home to take it to her mothers place. Have been talking vulgar about my mother and brother. Then she was involved in a horrifying crime by secretly stealing and then destroying the passports of my younger brother and his wife. They are living in USA and where also on holidays there. My brother is working as software engineer in Chicago. She did it just two days before their departure and my brothers whole career was in danger as he could not go to USA. It is a long process to get the new passport issued and then get visa processing again. It was a mental torture for all of us. It was not known where the passport have gone until three days when the time came for me and my wife to come to back to Sydney. Our luggage was packed it was just five hours before our departure when we were getting ready and I found a trace of torn passport photo inside the toilet. It took me no time to understand by her activities that it was her act. I had to postpone our

return to Sydney. I called my father-in-law and sent her back (Nov 2002). I have all the proofs with me that she has damaged the passport. She has tried to torture everyone in the family by her cruel and criminal acts. I then came back alone to Sydney in extreme stress. I regretted a lot for marrying and loving such a stupid girl. She contacted me many times after that and asked me to call her back to Sydney. But her intentions were still clear. I can not live whole life with her. I am Australian citizen and by the Australian laws (validated by Indian law as well) I applied for divorce at the earliest possible date and had sent her notice on 16 Dec 2003 in Gujarat where she lives. The notice was received by her. Later suddenly on 14th Jan 2004, police and lawyer from Indore came and arrested my aged parents and my youngest brother who lives in Faridabad and within few hours took them to Indore. They have to get me as well but since I am in Australia, they can't arrest me. My wife had filed a false case of torture in dowry case under section 498A in Indore (Though her residence is in Unjha, Gujarat). She put a false allegation that I and my parents and have beaten her many times and even have tried to burn her for demand of dowry. I or my parents or any family member have never ever touched her with any bad intentions. She has accused this allegation after 14 moths of separation upon receipt of divorce notice. She didn't even mention the fact, the real reason for what she was sent back to her fathers place. Rather she said that she came back herself. Though I have enough proofs for my claims. When my wife had spend just about initial month or two in whole of our married life with my parents. Also she had been separated and staying away for more than a year.

I was extremely shocked. I do not have nor my parents or brother have even touched her anytime with any intention of beating or burning. We are from respectable family. My father is retired engineer from Dept of Atomic Energy. My brothers are well settled and are earning extremely well.

She did such criminal act, still being decent we sent her back respectfully with her father when we separated. If we would have been strict, we could even have got her arrested for destroying passports. But still we respected her being a woman.

It was a brutal torture to my innocent retired aged parents and my innocent brother. Without any notice they had to travel from Faridabad to Indore in police custody for three days a distance of about 900km in police vehicle. My mother is heart patient and is under treatment. She was extremely exhausted; it was a big risk for her. How can police just come and arrest and torture anyone just on someone's fraudulent and false allegation. Later my elder brother had to go from Rajasthan to get them released on bail on 16th Jan after spending one night in lockup and three days in police custody.

My parents have lived a very clean and respectful life but now have to see such a days. It is big slap on Indian judiciary that they can just destroy anyone's dignity and can prosecute without trial. There is no respect for senior citizens who have served the country for the whole life. At the same time the legal system have a blind faith on crook, cunning young married women and her parents. I am feeling dismay. My aged parents and brother have to suffer who have nothing to do with my wife. My crook wife and her greedy parents aim is to get me and extract a lot of money forms me.

As a figure in India, almost 90% of such cases are dismissed by the court after find the case as malicious, but there is no punishment of making false allegations. Almost all the divorce ends up in 498A, where the reality is that dowry is not practiced and hardly any women are harassed in educated well earning family in urban area. And of 90% cases the police get a good excuse to harass any respectable person and then to discharge them after harassing. Lawyers and police are making a big money by trapping innocent citizens.

She was successful to get the complaint lodged at Indore and the police from other state came and arrested my parents and brother without permission of local police in Faridabad. Also a copy of FIR is still not been handed over to us.

In the ongoing crises my aged mother in India was admitted in hospital with severe cardiac pain and abnormal blood pressure on 22nd Jan'04 while they have to arrange lawyers and plan the visit to attend the next date 29th Jan with a notice of just 7 working days to be attend in Indore 900km far from our place.

My mother's health is so severe that she is going to be operated today on 23rd Jan. Not attending will weaken our case. Who is going to look after my mothers and aged father health?

As I am also the accused in my wife's complaint, I can't go there in India as the police will arrest me. I am just helpless. As such there is no fair judicial or law system in India. It's against the basic right to live with respect.

WIFE KILLED CHILD FOR EXTORTING MONEY

A Victim from Pune

Following has happened with me and my family till date.

1. Married in Feb 2003 according to Hindu rituals. This was arranged marriage.
2. Within the first month itself she ran away from my house AFTER MIDNIGHT FOR NO REASON and came back after 3-4 hours.
3. I tried to enquire the reason, she said, this marriage was against her will and she wanted to marry someone else.
4. When my parents tried to sort the matter out, she kicked my father. Aggrieved by such abusive behaviour, my father (and other family members) disconnected relations from me.
5. My father in law demanded 15 Lakhs, saying that we want to remarry our daughter to someone else. So, give us this much amount OR we will implicate you in false dowry harassment cases.
6. As my wife was pregnant at that time, she threatened to pay her Rs. 15 Lakhs and divorce otherwise she will kill the child.
7. I filed a police complaint regarding this, requesting police to save the unborn child. But Police didn't take any action. So, I tried to put my request in the court, there too a LONG date was given. MEANWHILE, the delivery time came and she was at her parent's house. THEY REALLY KILLED THE CHILD, as I was not ready for divorce and not in a position to pay that much amount.
8. After doing all this things, no department/officer is paying attention to my request. My in-laws are still making their unlawful demands. Case is in the court and 'Date after Date' is going on. Till date I am feeling

depressed because of all this. I wonder what was the fault of the new born, who was killed by them at the time of birth. It was a baby girl.

9. Currently I am running from pillar to post in hope of justice. As they are politically very sound, so no one is paying attention to my case.

10. At last I can conclude that due to this blackmailing tool in the form of 'false dowry harassment complaint + arresting of all accused without enquiry' (as no one in our family history been to police stations or Jail), I have lost my relations with three generations i.e. My Parents (and in-laws) + My brother (and brother in laws) + My daughter (Already killed). In future too I don't think that they will understand the importance of "Family Harmony".

HARRASED HUSBAND TRIES TO COMMIT SUICIDE – WIFE 498A's HIM

A Victim from Hyderabad

I got married in February 1998. I am from Andhra and she is from Maharashtra. Immediately after my marriage I went to Malaysia because of my job. She joined my after few months. We got a child and now he is around 5 yrs old. When she was with me in Malaysia she always used to take lot of money and used to send to her parents without my knowledge. My uncle had taken a loan of around 3 lakhs from me in various occasions when she was with me. But I have only few receipts of around 1.5lakh as it happened few years back.

My wife always used to suspect me and made several insults in front of my colleagues and friends. Whenever I come to India for few days also she always used to insist to take either separate house or stay outside for staying rather than at my home. She used to insult my parents and my sisters when they met me or I was with them. One time when I came to India and I forcibly brought her my home to stay for few days, her parents came to my house and created lot of fuss, shouted at my parents & me and insulted in front of my relatives & friends. I couldn't bear this and tried to commit suicide. Somehow I got survived and I came to home. As soon I reached home they started shouting

again and took her daughter along with them. This incident happened in October 2003. I tried to mediate with them through some elders of my community but they refused to send their daughter and they insulted the elders whom we sent to them.

got fed up all this and then applied for divorce on mentally cruelty grounds in Oct 2003 itself and left India. As their place is near to Mumbai (not Mumbai, a small town 100 km away from Mumbai) they applied for change of court in Supreme Court. In the mean they filed a petition for maintenance at their place, but I didn't challenge it. The Supreme Court gave the order to change case to Thane, Maharashtra family court. This happened in early 2004. Since the case came to Thane court nothing progressed. Since I applied for divorce I had been trying through mediators to settle the issue and get the divorce mutually. But they never cooperated and everything went vain of all my efforts.

In Nov 2004, my sister (unmarried) passed away because of some health problem. By seeing this mother went to coma. I then came to India immediately and admitted her in hospital on the same night without attending my sister's funeral. My mother went on coma for 3 days. I was in hospital for 14 days with my mother. While in the hospital none from their side came (my uncle is my mother's own brother and they got to know the news on the same day it happened). I even tried one time for negotiation with the through mediators while I was in hospital. But again I was failed. Immediately after my mother discharged (the next day it self), I left India. In the early 2005 I have got Australian Permanent Resident and I moved to Australia. Since then I kept on sending the maintenance allowance to her from Australia. But they refused to take. In the mean I applied for divorce from Australia itself and I have got divorce from Australian Court in November 2005. By seeing my divorce petition my wife file a false case, 498A against me and my parents in Nov 2005.

The Maharashtra Police came in the mid of the night and arrested my father. They tried to arrest my mother but seeing her health condition (she is quite old and can't even walk properly). My father spent one week in the police station. In the one-week the Police again to my place (from Maharashtra to Andhra) brought my

father to my home one more time for taking their things from my home (They took lots of things even I bought for my home also like TV, fridge, Washing Machine, etc.). The Police even tried to took the money from my NRI account and locker (my wife knows well about my savings in my NRI account and locker). But the bank Manager refused to handover to Police as they didn't have court orders. I engaged one lawyer who resides in Mumbai (took lot of money but did nothing much, as we don't know any body in Mumbai/Maharashtra). After a week my father came out on bail. I engaged one more local lawyer again there it self as my lawyer couldn't show much interest again (I feel he might have joined with them). Since then my father attended one time for hearing. We again started negotiating with them again. This time they sent a mediator to us and told a huge amount for mutual agreement. I spent most of my savings for my family, their family and to Lawyers. Now the amount they asked which I simply can't give as it is impossible for me.

Yester day I heard from my lawyer that they filed a petition in Maharashtra court to Passport Office, Hyderabad to cancel my Passport, so that I can come to India. Now I want to seek help/guide from you all in this matter. Ever since I married and even I got the divorce from Australian Court also I am still mentally getting tortured. So my dear friends pls help me in this regard as I am very frustrated now. I need your advice, suggestions. I can't trust anyone in India except you all as you are like me.

AMERICAN WOMAN MARRIED TO INDIAN DUMBOUNDED BY INDIAN LAW

Victim from USA

I am writing to you because I have reached a desperate level and I have nowhere else to turn. I am an American married to an NRI. I have only traveled to India once, and that for less than 2 weeks. This trip was a happy occasion, one that allowed me to meet my husband's family and to get to know them and vise-versa. Since my departure from India my life has been a nightmare. My family and I have become victims of the rampant misuse of the 498A laws in India. My brother-in-law's wife and her family have falsely accused my family of some sort of abuse and are demanding obscene amounts of

money to settle this fraudulent case. My 54-year-old mother-in-law has been imprisoned for over two weeks now and I have been told that she will remain there indefinitely. She is a diabetic widow whose health is failing. I must be quite frank with you, she is dying. I have been informed that the only way to get her out of prison is to settle with my brother-in-laws wife and her family. I have been told that if I do not do this, my mother-in-law could spend up to 3 years in prison for a crime she did not commit. She has been arrested and imprisoned based solely on the statements of a deceptive young woman who is looking only for financial gain at my personal expense. There has been no investigation of any kind. No evidence to substantiate her fraudulent claims. It is simply her word. I ask you, what should I do? I have an attorney in New Delhi working on this case but I feel he may not be the best in this area because he seems to be continually blindsided by the other side. In the United States this type of activity is called extortion and I would be able to bail my mother-in-law out of prison while the charges were being investigated. I have been informed that in India people accused of 498A charges are "guilty until proven innocent". Do you have any suggestions on what steps should I take in this unfortunate situation?

HOPE AT LAST – ADULTEROUS WIFE TAKEN TO TASK

- Victim from Jharkhand

I had caught my wife living in adultery with my friends in Dubai on 23rd April, 2005. Have letters and mobile recording of her. My daughter is eye-witness to her unbecoming behaviour. She accepted her fault, and I told her that I shall now seek divorce. Brought whole family from Abu Dhabi on 28th April, 2005. She was left at Her parent's house. I took my children with me. Two days later, she was to meet at Family court to discuss mutual consent divorce to save the face of her family. After 4 days, I was summoned by Police of her area as she has filed CR106/2005 under IPC498a on 4th May\2005. My lawyer told me to proceed to my work. I was arrested like a terrorist at Mumbai airport at Immigration on 7th May, 2005. I surrendered. Was brought at Police Station, and put behind bar along with hard-core criminals. My relatives came, including lawyer. My children/cousins sang bhajans/prayed outside the jail. It was there I learnt what IPC-498a is, and what devastating blows it can land on one's life!! but I got bail.

Next day, I hired a local lawyer thru the help of same police station, paid hefty amount only to apply for return of passport. Again, God's hand was seen - Judge heard my prayer which I myself narrated, and granted me permission to go back to work abroad with conditions to retain my children in India. I obeyed the order.

I got my children admitted in residential school outside Mumbai. Filed Divorce under cruelty/adultery on 15th June\05. Attended 498a charge-sheet filing on 16th June\2005. My Wife later filed children custody and maintenance petitions in family court. Later, She applied 3 Interim applications. I attended family court on 1st Dec\05. She later went to High Court, and managed thru wrong means a stay order on my NRI-SBI Bonds. I attended 498a trial on 23rd Jan\2006. It was usual drama of attendance with long date after 6 months!

I attended family court on 24th Jan\2006 along with my two children. Again attended family court on 13th Feb.\2006 along with children. I was made to bring children to court on both occasions! Returned her passport, and disclosed whereabouts of children to her before court. I challenged her Stay Order in Appeal Court on 15th feb\06 and exposed her lawyer's fraud of getting Stay-order to frustrate me! HC accepted the appeal and fired/warned her lawyer. HC asked us not to come to HC again, and to rely on family court verdicts. Main trial has yet to begin.

I guess, mentally I am in strong position - for the reasons that I still have my jobs, my children are studying well, healthy, happy and are on my side. Today, my children hate their biological mother, and hardly miss their mother. My daug. Is 13-1/2 yrs and son is 10yrs. Now the ball is in her court. Unless she quashes 498a in HC, no settlement is possible from my side. I am ready to prove her fault.

I suggest all victims not to give up, never think of suicide etc. Truth always wins, though it has to traverse thru troubled waters. Have firm faith in god, and proceed with right action, and 'chaankya neeti'.



The Honorable Minister of Overseas Indian Affairs

The Hyatt Century Plaza, Los Angeles (Meeting in person)

June 29, 2006

Subject: MOIA Officials repeatedly ignore NRI Interests, works Exclusively with NCW to unleash anti-NRI laws, brings out an NRI-Hating Booklet on NRI Marriages.

Dear Sir,

Thanks for taking time to meet with us. We would like to also thank Consul General of India at San Francisco, Mr. B. S. Prakash for arranging this meeting.

As the Indian legal system considers all complaints filed by a wife as genuine by default, laws made to protect women from dowry harassment are rampantly being misused as a weapon to blackmail, extort money and seek revenge on NRI husbands and their India-based families. This is taking a huge toll on the personal and professional lives of Overseas Indians. Overseas Indians who unwittingly land in India for various reasons have been arrested, ill treated and exploited in the name of dowry laws. The economic and emotional damage resulting from this "legal terrorism" is creating a fear psychosis among Overseas Indian men when it comes to marrying women of Indian origin.

Is MOIA interested in this wholesale social division between resident and non-resident Indians?

MOIA Booklet on Marriages to Overseas Indians

As if this trauma is not enough, the Ministry of Overseas Indian Affairs has recently released a booklet on marriages with Overseas Indians. The booklet, published after an obstinate and rude disregards for all suggestions made by NRI organizations representing the husbands' point of view, are literally an example of MOIA's hatred for Overseas Indians projecting them all as fraudulent, violent and abusive towards women. While there are instances of abuse and violence in marriages with Overseas Indians (just like those in marriages with Resident Indians, some acts of violence, including well-publicized murders, directed at men), the booklet, primarily led by the MOIA official Ms. Sandhya Shukla, is causing deep and widespread resentment among Overseas Indians. Does Ms. Shukla's definition of Social Services include only targeting Overseas Indian Men and their families?

The MOIA booklet makes the following blatant generalizations against Overseas Indians:

1. Only NRI husbands and their families are responsible for failed and fraudulent marriages to Indian women.
2. NRI husbands physically and financially harass their wives frequently.
3. NRI husbands get married for dowry and abandon/divorce their wives after a short honeymoon.
4. NRI husbands and their family hide/lie about their marital status, job, visa status etc.
5. There are countless cases Indian wives of NRI husbands harassed by NRI families

MOIA has ignored suggestions made by "Pariwarik Suraksha Sanstha (PSS) and Rakshak members" to balance out the MOIA booklet on marriage to overseas Indians. Following suggestions were made to Ms. Sandhya Shukla and the committee over viewing the booklet contents on 14th February and 18th February. Some of the important points are:

1. Fraudulent marriages are prevalent from both bride and bridegroom, not only from NRI bridegroom.
2. The Booklet should be gender neutral and should not only address or talk about harassed people.
3. 'Wife' should be replaced by 'Spouse'. Ms. Shukla agreed to this, but we have not seen any change in the booklet yet.
4. It should specify do and don't to NRI while marrying an Indian bride.
5. It must mention that dowry case in India can be legally started by the Indian bride against the NRI's extended family without any proof.

Disregard for the Exploitation of NRI Husbands

Overseas Indians trapped in false criminal cases are expending their valuable time, effort and money to fight their cases that drag on for several years due to the inefficient Indian police and judicial systems. Their extended family go through enormous torture. This trend is impeding the progress of extremely talented, intelligent and resourceful young Indians in India and abroad.



Pariwarik Suraksha Sanstha (PSS)

8/21, Third Floor, Near Birbal Park, Jangpura Extn., New Delhi-110014.

MOIA officials have blatantly ignored several attempts by Overseas Indians to draw their attention to this exploitation through the misuse of anti-dowry laws:

1. On April 18th, 2006, a memorandum was sent to the Indian Ambassador in Washington D.C. with copies to all Consuls General in the US, Officials in the MOIA and The President of India. We did not hear any response from Mr. Sen.
2. On May 15th, 2006, Mr. Prabhat Kumar Singh, San Francisco Consul, forwarded the concerns to Mr. Malay Mishra, Joint Secretary, MOIA, about the misuse of 498A against Overseas Indians. We did not hear any response from Mr. Mishra.
3. On Feb 18th, 2006, representatives of "Pariwarik Suraksha Sanstha (PSS)" had attended a meeting at MOIA when they reviewed the draft of the "Marriage to Overseas Indians" booklet and had presented their concerns (<http://moia.gov.in/showinfo1.asp?linkid=245>). We have not seen any cognizance of their suggestions to the review committee until now.
4. On Feb 14th, representatives of "Pariwarik Suraksha Sanstha" had attended a meeting with Ms. Sandhya Shukla about the contents of the booklet and voiced their opinion, no action/cognizance has been taken on their suggestions.
5. Before Pravasiya Bhartiya Divas in January our members sent several e-mails to MOIA officials to take cognizance of crime against NRI husbands/families and to include this in their seminar chaired by Mrs. Girija Vyas (Chairman, NCW). This plea was also ignored.

Whose affairs the MOIA is Looking After? Only undermining NRIs through vile characterization to be plum targets for criminal exploitation?

MOIA About to Unleash Anti-NRI Laws in Cahoots with NCW

Representatives of "Pariwarik Suraksha Sanstha, (PSS)" met NCW and MOIA officials and have raised their concern over the MOIA booklet. Still neither MOIA officials nor NCW in their statements to the public/press state the problems NRI families face, including elderly people.

Just as we were waiting for a response on the booklet, the MOIA organized a two-day meet on June 21st and 22nd, 2006 entirely to NCW's script, proposing to unleash the latest draconian laws against NRI husbands. The meet was organized without giving any voice to NRI husbands but exploited by MOIA officials to generate a huge anti-NRI propaganda in Indian newspapers, even the Times of India projecting in it's editorial all NRI husbands as evil wife abusers. We came to know about the meet only through the newspapers. It wasn't even announced on www.overseasindian.in or <http://moia.gov.in>. Typical NCW accusations are "Lying, cheating, false promises, unreasonable dowry demands are just some of the things unfortunate NRI brides have to put up with, not to mention divorce, desertion and abduction of children."

Will the MOIA stand up for Overseas Indians' Interests?

All of our efforts to get MOIA/MEA to acknowledge/act/understand our concerns for past several months have been unanswered. We fail to understand what is the agenda and role of MOIA and MEA for overseas Indians. All Counsel Generals in USA (except San Francisco every other consul Generals ignored over repeated requests.

We would like to know an easy and fast way to reach to -

- Indian Government officials at MOIA.
- Indian Ambassador and Indian Consulate Generals at the 4 consulates in United States.
- How to ensure that our concerns are not overlooked by MOIA when discussing the issues relating to overseas Indians.

Thanking you and with regards,
Rakshak Team

CC:

Dr. A.P.J Abdul Kalam, President of India

Ambassador Ronen Sen, 2107 Massachusetts Avenue, N.W., Washington D.C., USA - 20008

B.S. Prakash, Consulate General of India in San Francisco, 540 Arguello Boulevard San Francisco, CA 94118

Neelam Deo, Consulate General of India in New York, 3 East, 64th Street, New York, NY 10021

Arun Kumar, Consulate General of India in Chicago, 455, North City Front Plaza Drive, Suite 850, Chicago, IL 60611

Consulate General of India in Houston, 1990 Post Oak Blvd. # 600 3 Post Oak Central Houston, TX 77056

Shri Vayalar Ravi, Minister, MOIA, 9th Floor, Akbar Bhawan, Chanakya Puri, New Delhi - 110021, Shri R. Narayanaswami, Secretary, MOIA Shri Malay Mishra [Diaspora Services Division], MOIA Dr. R.K.Verma [National Informatics Center], MOIA Ms. Sandhya Shukla [Social Services Unit], MOIA



310, Carmelita Place, Fremont, CA 94539 , e-mail: help.rakshak@gmail.com
Phone: 510.490.2657, <http://www.rakshak.info>

Honorable Justice Cyriac Joseph and Justice panel
US District Court for Northern District of California
280 S. First Street, San Jose, CA 95113

Date: June 28th, 2006

Subject: Follow-up on the Meeting of IPC 498A affected Overseas Indians

Honorable Justices:

We are grateful to you for the opportunity to be heard today. We thank Consul General of India at San Francisco Shri B.S.Prakash to arrange for this meeting.

The Indian legal system considers all complaints filed by wives to be genuine and immediately actionable by jailing the husband as well as his immediate and extended family requiring neither a prima facie investigation nor presentation of probable cause to the magistrate.

Consequently, laws made to protect women from dowry harassment have become a weapon to blackmail, extort money, coerce terms of marital settlement or seek revenge on Overseas Indians and their India-based families, all under the cover of legal sanction of the police, prosecution and judiciary. This rampant abuse has been inflicting legal wrongs upon Overseas Indians and their families without recourse to restitution or legal action against malicious prosecution.

We submitted the following prayers for the consideration of the Indian judiciary:

- That the Investigating Officer be required to state in court the basis or evidence for their reasonable belief that a crime has been committed; that the accuser be required to state her allegations on oath or an affirmation under penalty of perjury before an entire innocent family is subjected to indefinite and non-bailable custody;
- That the Judiciary may guide us how, when and by whom perjury charges for a false 498A report can be brought about;
- That, in order to minimize pre-trial extortion under duress, upon bail the accused NRI be allowed to return to his livelihood overseas until the trial begins; if necessary by requiring him to report to the nearest Indian consulate;
- That the accused NRI be allowed to make preliminary court appearances over a videoconference to spare several, short trips half way around the world.

For your perusal, press clippings, individual stories and information booklets are enclosed.

Our heartfelt thanks and warmest regards,

Rakshak Team

CC:

Ambassador Ronen Sen, 2107 Massachusetts Avenue, N.W., Washington D.C., USA - 20008

B.S. Prakash, Consulate General of India in San Francisco, 540 Arguello Boulevard San Francisco, CA 94118

Neelam Deo, Consulate General of India in New York, 3 East, 64th Street, New York, NY 10021

Arun Kumar, Consulate General of India in Chicago, 455, North City Front Plaza Drive, Suite 850, Chicago, IL 60611

Consulate General of India in Houston, 1990 Post Oak Blvd. # 600 3 Post Oak Central Houston, TX 77056

Shri Vayalar Ravi, Minister, MOIA, 9th Floor, Akbar Bhawan, Chanakya Puri, New Delhi – 110021, Shri R. Narayanaswami, Secretary, MOIA Shri Malay Mishra [Diaspora Services Division], MOIA Dr. R.K.Verma [National Informatics Center], MOIA Ms. Sandhya Shukla [Social Services Unit], MOIA



ashakiran

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Pariwarik Suraksha Sanstha

8/21, Third Floor, Near Birbal Park, Jangpura Extn., New Delhi-110014.

Ambassador Ronen Sen

2107 Massachusetts Avenue, N.W.,
Washington D.C., USA - 20008

Date: April 18th, 2006

Sub: Memorandum to Indian Government officials about large scale misuse of dowry law against NRIs (Overseas Indians) and gender biased view of MOIA (in the marriage booklet published recently) against overseas Indian husbands and their families.

Dear Sir,

The large-scale abuse of the Indian dowry laws (predominantly section 498a of the Indian Penal Code), by some unscrupulous women and their families, has been taking a huge toll on the personal and professional lives of Overseas Indians. Since the Indian legal system considers all complaints filed by women to be genuine by default, laws that have been made to protect women from dowry harassment are now being increasingly used as a weapon to blackmail, extort money from or seek revenge on Overseas Indians and their families in India. Overseas Indians who unwittingly land in India for various reasons have been arrested, ill-treated and exploited in the name of dowry laws. This kind of "legal terrorism" has caused so much economic and emotional damage that marrying a woman of Indian origin has become a source of intense fear among Overseas Indian men.

As if the trauma of being implicated in false dowry cases is not enough, the Ministry of Overseas Indian Affairs (MOIA) has recently released their booklet on marriages with Overseas Indians, which presents an extremely biased picture projecting all Overseas Indians as fraudulent, violent and abusive towards women, with no reliable statistics to support their claims. While there are instances of abuse and violence in marriages with Overseas Indians (just like those in marriages with Resident Indians), the booklet exaggerated a one-sided story and has caused deep disappointment among Overseas Indians.

The abuse of Indian dowry laws has hampered the progress of hundreds of Overseas Indians whose intellectual abilities and professional skills are highly valued all over the world. Many Overseas Indians trapped in false criminal cases are expending their valuable time, effort and money to fight their cases which drag on for several years due to the inefficient Indian police and judicial systems. If this trend continues it will not only impede the progress of extremely talented, intelligent and resourceful Indians in India and abroad but will also hinder the progress of the countries that depend on their valuable services.

Several unsuccessful attempts have been made by Overseas Indians to approach the Ministry of Overseas Indian Affairs and the offices of the Consulate General of India to draw their attention to the blatant exploitation of Overseas Indians through misuse of Indian dowry laws. The attached information booklets have been prepared by a team of concerned Overseas Indians to spread awareness among fellow citizens and the government authorities of various countries regarding the widespread injustice done in the name of Indian dowry laws. These booklets are intended to highlight the urgent need to address this issue and to safeguard the rights of Overseas Indians.

Thanking you and with regards,

Satya (for) **Bhavani Mahadevan (Co-ordinator, Rakshak)**

CC:

Dr. A.P.J. Abdul Kalam, President of India

B.S. Prakash, Consulate General of India in San Francisco, 540 Arguello Boulevard San Francisco, CA 94118

Neelam Deo, Consulate General of India in New York, 3 East, 64th Street, New York, NY 10021

Arun Kumar, Consulate General of India in Chicago, 455, North City Front Plaza Drive, Suite 850, Chicago, IL 60611

Consulate General of India in Houston, 1990 Post Oak Blvd. # 600 3 Post Oak Central Houston, TX 77056

Shri Vayalar Ravi, Minister, MOIA, 9th Floor, Akbar Bhawan, Chanakya Puri, New Delhi - 110021

Shri R. Narayanaswami, Secretary, MOIA

Shri Malay Mishra [Diaspora Services Division], MOIA

Dr. R.K.Verma [National Informatics Center], MOIA

Ms. Sandhya Shukla [Social Services Unit], MOIA

Encl: MOIAbooklet.pdf, 498abooklet.pdf

Dear Shri Kumar,

I am attaching the letter I had sent to you and other officials of MOIA on 12th November'2005. I have not received any response from the ministry on this regard.

As a person of Indian origin, working in the US, I am very much concerned about the approach Ministry is taking in creating the awareness about the "Failed and Fraudulent Marriages" among prospective brides in India. The booklet prepared by the joint effort of ministry, NCW and NHRC (<http://moia.gov.in/shared/linkimages/46.%2003-251005>) suggests that the NRI men are responsible for the breakdown of marriages. The booklet fails to mention anything about how many thousands of innocent men and their families are duped by greedy and motivated women and their families. There have been a lot of incidents in the recent times where NRI husbands and their families were harassed by the wife and her family. Media everywhere (India and around the world) has highlighted the issues in various forms (articles, documentary and letters, internet) but Ministry has not taken the cognizance of any of that.

If you do not have data about problems faced by NRI men and their families, I can provide you with the same (the data is readily available on the internet).

Following are few of the links which may be eye opener for you.

- **India West Article (Leading Newspaper in USA)**
http://www.498a.org/contents/Publicity/IndiaWestArticle_498aMisuse.pdf
http://news.ncmonline.com/news/view_article.html?article_id=768649893bc5975ce97b6bff5354c210
http://expo.ncmonline.com/news/view_article.html?article_id=4341a52dbd42b1562e77d1b7f499890f (Lisa Tsering got the Best in-depth Investigative Journalist award for exposing this widespread problem):
- **India Abroad (Leading Newspaper in USA)**
http://www.498a.org/contents/Publicity/IndiaAbroad_MinistryBiasedAgainstNRIHusbands.pdf
http://www.498a.org/contents/Publicity/IndiaAbroad_NotAllHusbandsAreGuilty.pdf
- **Channel 7: Documentary about gross misuse of Dowry laws and NRIs**(aired in Feb'2006)
- **Governments in USA and Canada have issued travel warning** (against the misuse of dowry laws) for the people traveling to India. Please see the contents at:
http://communitydispatch.com/artman/publish/article_1754.shtm

Men also suffer a lot in any broken relationship and it is not easy for men to find sympathetic shoulder. I am not saying that the kind of issues ministry is trying to highlight and warn the people against do not happen. Following are few of my questions to the ministry:

- Can ministry provide the data for each of the atrocities (booklet lists 10 of those) that is included in the list?
- Has the ministry done some statistical analysis about what is the kind/class of people responsible for the atrocities on women (like taxi driver, janitors, daily wages people, gas station workers, low income group people)?
- In how many cases the husband and/or his family were doctors, engineers, researchers, diplomats, businessman and highly educated person?

- Does the ministry find the fraudulent cases much more in PIO/Overseas India marriages (in percentage) than what is prevalent in rest of the Indian marriages?
- Has ministry tried to find the other face of the coin? How many husband and their family members suffering?
- Has the ministry invited any organization like {Asha Kiran (Bangalore), SangaBalya (Bangalore), PSS (Delhi), Pirito Purush Pati Parishad (Kolkata)} to present the other side of the picture?
- Everywhere in Media and Pravasi Bhartiya Divas'2006 MOIA has talked about the complaints it received from women PIO (Person of Indian Origin), but MOIA conveniently failed to mention the problems reported by PIO male members.

I wrote comments to your website, but nothing happened. I suggest you at least look at the various comments listed on your website and consider acting on them before finalizing the contents of the booklet on 18th Feb.

A half baked solution is worse than a no solution at all. I would urge you to look into all aspects of failed and fraudulent marriages and then suggest a solution or warning.

I am copying Ambassador of India to the US, Counselor General of India at Chicago/Houston/San Francisco/New York on this mail. They may have something to add to the "Immigration fraud" by the wife and her family?

I hope you are able to take a balanced and "gender-neutral" approach while discussing not only the contents of the booklet but while approaching this complex issue.

Thanking you and with regards,

- Satya
(San Jose, California, USA)

Cc: Indian Ambassador to USA
Minister, MOIA
Secretary, MOIA
Officials at MOIA
Consul General of India, San Francisco
Consul General of India, Houston
Consul General of India, Chicago
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