

Interviews

“Indian domestic violence law protects only the daughter-in-law”

By Ashok Easwaran

Two laws meant to protect Indian housewives from harassment, have come in for a lot of flak because both have demonstrated an almost unlimited scope for misuse, according to Indian American activists.

Section 498 a of the Indian Penal Code was implemented with the avowed purpose of preventing dowry harassment, while the recently passed Domestic Violence Act (DV) is meant to deter domestic abuse and empower the victims.

The tragedy is, say many Indian Americans who have been at the receiving end of the misuse of these laws, both laws have demonstrated the immense scope for use as a tool for revenge and extortion.

Although many men claim to be the victims of these laws, a number of Indian American women have also been at the receiving end. “It is a great law to get even with in-laws,” said one woman,”or if you want to marry some rich guy and then get

rid of him.”

“A significant flaw in this law is that it lends itself to such easy misuse that women will find it hard to resist the temptation to ‘teach a lesson’ to their male relatives and will file frivolous and false cases,” said Avinash Gupta, “A similar trend has already been shown in the anti dowry law (489a) which is being misused to such an extent that the Supreme Court (in India) has termed it ‘legal terrorism’.”

“There are three fundamental problems with this law,” said Gupta,” it is overwhelmingly gender biased in favor of women, the potential for misuse is astounding, and the definition of domestic violence is too expansive.”

Gupta said he prefers the enactment of a ‘domestic harmony’ law instead. “This (DV) law will break families. In the west, the concept of counseling is very strong,” he said,” The DV law makes it very easy to escalate the domestic problems in daily life to such a level that it eventually leads to a breakdown in the marriage. Once a man has

been accused of domestic violence for a relatively minor offence – like a perceived insult – he will perpetually feel threatened by his partner, and that is the beginning of the end. This law will lead to more broken homes and the children will pay the ultimate price.”

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“Going by the Domestic Violence law’s definition of abuse, how many men are victims? After all, nagging wives are common enough,” said Gupta.

Some of the most vociferous opposition to the new law is from women. “ If a man cannot put up with a woman, he cannot throw a fit, that would be abuse. Under the Domestic Violence law, a woman can have it both ways. A woman who wants to stay in the marriage, or opt out of it-irrespective of the husband’s wishes-can leverage the law,”

said Uma Challa, a doctoral student.

“How do you address the fact that women are misusing this law ?” asked Challa, “What about other women who are adversely affected because of the misuse. Even that issue has not been adequately addressed.”

Given the corruption in the Indian legal system, and especially among police personnel, the outcome will not be what the lawmakers desired, said another Indian American, Dipak. “The police in India are crazy. They will use the law to harass, or enter into money making deals with either party,” he said.

“This law, in its current form, is grossly inadequate to tackle the problem of domestic violence. It imposes a responsibility on men, without giving them rights. On the other hand, it gives rights to women without requiring them to be responsible. At the very minimum, it should be made gender neutral, offering protection to both men and women. Doing so will not take away anything from women victims,” said Gupta.

Satya, a volunteer who runs the website www.498a.org said the law will create the same set of innocent victims that the anti-dowry law did. “Every year, about 200,000 families go through hell because some women misuse this (498) law,” he said.

Dipak, referred to a statement by Renuka Chowdhury, the Indian minister of state for women and child development, who asserted that the men who were harassed under these laws, were in a ‘microscopic minority’. “Even accepting her statement, should we, in the minority, not be entitled to some protection?,” he said.

“If any husband has a disagreement with his wife, and if the wife happens to be hypersensitive or excessively emotional, then he and his parents will be in custody,” said Challa, adding that an emotional woman, is not often the best witness. “As they say, never believe a crying woman,” she said.

According to one Indian American, the law goes to lengths excessive enough to be ludicrous. “Under the Domestic Violence law, if a wife decides not to cook and wishes to eat out in a restaurant every day, the husband cannot afford not to oblige her, lest he invite the provision for ‘not providing food’, for which he could be jailed,” he said.

Although the law cannot be enforced in the United States, many Indian Americans have been unsuspecting victims of the anti-dowry law, by vindictive ex-wives and ex-in laws, said Satya of www.498a.org. “For them, it is a good source of earning hundreds of thousands of dollars in return for withdrawing the case. Indian American men and women have been arrested,sometimes at the airport itself, when they have gone to India to visit an ailing parent,” he said.

With the law being a politically sensitive issue, Indian Americans see no hope of a more equitable version of the law in the near future. “The domestic violence law protects you only if you are a daughter in law. For catering to their vote banks, politicians are compartmentalizing, and dividing Indian society on the basis of gender,” said Challa.

Meanwhile, hapless Indian American men turn to blogs like ‘savemarriages’ for advice, even debating whether marrying a woman from India is a risky proposition. One advisory, apparently from an experienced practitioner, examines other options and offers this advice, “Don’t get involved with Indian women. Russian women are better looking, homely, nice and much more reasonable and logical.”



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