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Where is the Data on the 'Misuse' of 498-A?

By: Ruchira Goswami

The popular discourse around the notion that laws enacted to protect women are being 'grossly misused' seems to have reached a fever pitch. The Supreme Court, itself, in the past has called it "legal terrorism". But where are the statistics to remotely establish any such conclusion?

The tragic death by suicide of a 34 year old software engineer in Bengaluru in December 2024 once more catapulted the concern over the misuse of Section 498A of the [Indian Penal Code \(IPC\)](#), now Section 85 under [Bharatiya Nyaya Sanhita \(BNS\)](#) which addresses cruelty of women in their matrimonial homes. Calls for justice on social media for Atul Subhash who left detailed notes of the circumstances leading to his suicide, demands to sack his wife from her workplace, sensational media reports of his tragic death, and testimonies of men suffering similar circumstances where their wives have filed false cruelty cases against them for ulterior motives, have successfully convinced a significant proportion of the Indian populace, and especially the urban middle class, that not only is Section 498A grossly misused, but also that laws in India are pro-women and biased against men.

A close reading of judgements reveals the terse tone and perpetuates the notion that this section is widely and indiscriminately misused by women.

The allegation of misuse is not new. The Committee on Reforms of the Criminal Justice System headed by Justice V.S. Malimath (2003) stated that the non bailable and non-compoundable nature of Section 498A of IPC does a disservice to both the estranged husband and wife since it forecloses any possibility of reconciliation. It also states that “less tolerant impulsive woman [sic] 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 243rd Law Commission Report (2012) reiterates this and cites other cases on misuse of the section. It refers to [Sushil Kumar v. Union of India](#) (2005) where Supreme Court critiqued that several instances of 498A were filed based on personal vendetta and it was imperative for the legislature to investigate how frivolous complaints or allegations can appropriately be dealt with. The misuse of the section was labelled as a new kind of “legal terrorism”.

The Supreme Court and High Courts have responded subsequently sternly to the ‘misuse’ of this provision. A close reading of judgements reveals the terse tone and perpetuates the notion that this section is widely and indiscriminately misused by women. The judgements establish that courts are critical of the wide overreach of the provision that implicates elderly and ailing in-laws, relatives not residing in the matrimonial home where the alleged incidents of abuse occurred and inclusion of non relatives, like cases being filed against the lover of the husband with whom he was in an adulterous relationship. The role of the police who might not have conducted preliminary enquiry into the allegations of cruelty and that of lawyers who advice on including incidents of mental cruelty which are often not backed up by adequate evidence and inclusion of legal provisions like dowry demands where such claims cannot be adequately proved in court are brought into question by the courts.

Courts have also noted the vague and overarching nature of allegations without specifics as deeply problematic. They have noted that the filing of frivolous and false complaints by women to take advantage of laws intended to protect them from cruelty, does disservice to genuine cases of cruelty and therefore such complaints have to be dealt with a strong hand.

Multiple studies on domestic violence show that women hesitate from filing police complaints and seeking legal advice and going to court is usually an act of last resort.

Phrases like “trivial complaints” and “legal terrorism” are deeply problematic and smacks of patriarchal bias. What makes a complaint ‘trivial’?

Women do not go to courts on an impulse or over ‘trivial’ matrimonial quarrels. Multiple studies [on domestic violence](#) show that women hesitate from filing police complaints and seeking legal advice and going to court is usually [an act of last resort](#). The

benchmark of legal evidence is such that while physical assault may still serve as evidence if there are medical reports and bruises and other marks on the body, mental cruelty often falls short of serving as evidence. Patriarchal family structures and ideology do not recognize quotidian experiences of psychological pressure and harassment as abuse unless it is extremely severe and long term.

Economic and psychological control and sexual violence within marriage are recognized as domestic violence under the [Protection of Women from Domestic Violence Act, 2005](#), a civil law that protects women in shared households from domestic violence. But studies [reveal](#) that women hardly raise complaints only for mental and/or economic violence and hesitate to talk about sexual violence and marital rape (which is not an offence in India).

In this context, who are these women who apparently misuse the law?

Faulty reading of judgements, reading them out of context, sensationalization of cases on mass and social media contribute to the notion of misuse. While this is gaining wide traction, it is interesting that till date there is no data on the widespread misuse. While there cannot be official data on misuse since there is no provision under criminal laws for men to register complaints regarding matrimonial disputes, qualitative and/or quantitative empirical research is still not available.

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If misuse is so widespread, how do we explain the complete lack of scientific data either through quantitative and/or qualitative research over at least two decades since the 2003 Malimath Committee report's publication?

Robust empirical research with scientific methodology is an imperative for discussion, debates, amendments of legal provisions and initiating social policies. Cases of misuse remain primarily anecdotal and in the recent past, some cases have received widespread media attention. Even if we assume that there are 'false' complaints in courts, we need to dissect the claim in terms of proportion of such trivial and false complaints vis-a-vis all cases of domestic violence filed under 498A.

Going back to the claim of widespread misuse by women who are arm twisting the law to negotiate divorce, extort the husband and his parents for financial benefit and claim hefty maintenance – who are these women?

It seems that all the media and legal attention is due to the class dimension of the issue. Persons misusing the law have to be in a position of power and privilege to access the portals of legal justice. Fighting protracted legal battles requires time, energy, economic and social resources, family backing and a diehard determination to fight the case till the end.

How many women have this privilege?

More importantly, engaging in a protracted, uncertain legal battle, risking their social prestige, dealing with social stigma, dwindling family support, psychological burn out and incurring huge legal costs in full knowledge that her claims of domestic violence are false, only to harass her husband and in-laws, to settle scores or derive economic benefits is a risk that few women would undertake. This narrows the ambit of such petitioners to largely urban, middle/upper middle-class women with all the privileges mentioned above. This constitutes a miniscule percentage among all those fighting for legal justice in domestic violence cases. By logical extension, it means that this claim of widespread misuse is a misnomer.

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Increased reporting and accessing of the portals of justice indicate that women are perhaps less hesitant than before to use the law and therefore there are cases where the standards of legal evidence are not being met, leading to acquittal. Surely acquittal and low conviction in domestic violence cases do not mean that they are patently false, it only means the inability to prove the offence. Within this wide spectrum, there may be some that may be false, done only with ulterior motives but that is a miniscule percentage. To bust this myth of widespread misuse, disaggregated data of such cases in all courts have to be listed year wise with details of backgrounds of the complainants and the defendants along with facts of the case. Such qualitative and quantitative data will reveal the true dimension of the issue. Coupled with this is the urgent requirement of gender sensitization of law enforcement officials, lawyers, the judiciary and other associated personnel. On a last note, we need to ask ourselves the reason for alleging misuse primarily of laws that empower the disenfranchised and marginalised - women in 498A, children under POCSO and Dalits in the [Scheduled Castes and](#)

Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It seems that these are the only laws that are misused, every other law is implemented as intended and legal justice is being ensured to those seeking it.

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