



498A – a promise of protection against violence

Savita from Katihar village of Bihar married Mani Poddar of Kishanganj on April 25, 2013. Mani Poddar worked in a private bank in Siliguri. Savita's brother Amit Poddar also had a grocery shop in Siliguri. Amit sold off his land (property) and took a loan for his sister's marriage. But according to Amit, soon after marriage Savita was pressurised/harassed for more dowry. Savita called him up several times to tell him about the harassments. Shortly after marriage, Savita's in-laws demanded a car as dowry and harassed her. Earlier, they had also demanded a motorcycle which Amit had given. "We somehow managed to fulfil that demand of theirs," said Amit. "On January 4, Savita's neighbours informed me that she has got burnt. She was taken to the Siliguri hospital where she succumbed to the burn injuries." Amit alleges that Savita was burnt to death at her in-laws place and when the incident took place, everyone was at home. "Her in-laws did not even inform me about it. Their neighbours informed me." Savita was only 20 when she died.

- Based on news published in *Hindustan*

Married at the age of 18 and dead by 20! From this news report, one can assume how Savita's three years of married life were. The last three years of her life were as follows:

- Her brother sells off land and takes a loan for the wedding.
- Dowry is given during marriage.
- Despite dowry being given, her in-laws family ask for more dowry after marriage.
- She is harassed a lot and when she is no more able to endure, she speaks about it to her brother. Please give a thought: when do girls share about their problems with their parental family?
- In the meantime, a motorcycle is demanded and her brother somehow manages to fulfil the demand.
- But Savita's difficulties do not end there.

- When she is unable to bear the harassment anymore, she calls up her brother frequently and tells him about her plight.
- And all of a sudden one fine day, a neighbour calls up
- Amit and informs him that his sister has got burnt.
- She survives for a day or two with the burn wounds and finally succumbs to the injuries.
- A 20-year old life has a difficult end.
- Savita's brother files a case against her in-laws family.
- This case of dowry harassment and death will now continue for years.
- But Savita is not alive to give any evidence or to know the consequences.
- How long would have Savita survived/tolerated when she was being harassed so much for dowry?

Now let us hear the story of another woman.

"For the first time when he said he will beat me, I thought he was joking. No one had ever uttered these words to me. I was deeply shaken, when for the first time he hit me with his hands. The very next time, he hit me with a wooden hanger. I was not ready to believe that it was happening with me and it was a reality. The third time he used a belt to beat me. The buckle hit my nose and broke the nasal bone. I was stunned, more by depression than pain. No one had ever told me about this; that this was also another feature of a married life.

This woman is none other than the well-known feminist Flavia Agnes. This is a fact of her life. But when this was happening with Flavia, there was no law that would have protected her. There was no law on domestic violence in our country. Forget discussions, violence within the confines of a woman's home and by the husband was not even given a thought. Till the 1980s,

the phrase domestic violence was not even uttered during deliberations.

In the 1980s, violence against women had become a big issue. Then, there was no law to protect women and especially married women from domestic violence. Subsequently, it was believed that dowry was one of the main reasons for violence against women. Hence the focus of the deliberations was also dowry, and violence like dowry deaths. Then many voices were raised against dowry deaths.

In this backdrop, under the pressure of women's movements, a law was made to protect women from domestic violence. This law is known as '498A' under the Indian Penal Code (IPC). It can be said that this was the first law made to save women from domestic violence. Although only married women came under its ambit, the objective of the law was to save women from the cruelty of the husband and his relatives.

Section 498A of IPC is a law to save a woman from the cruelty of her husband and his relatives.

Be it anyone, the woman's husband or other relatives from the in-laws side, if they treat her cruelly they will have to undergo three of years of imprisonment and pay a fine.

This law defines cruelty as:

1. Any wilful conduct:
 - Which is of such a nature as is likely to drive the woman to commit suicide
 - To cause grave injury
 - Or danger to life
 - Or danger to any part of her body
 - Or danger to her mental or physical health
2. Harassing a woman:
 - With a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security
 - Or is on account of failure by her or any person related to her to meet such demand

However, despite the law, dowry harassment and unnatural deaths of married women did not stop. So once again, it became necessary to look at such unnatural deaths from a different angle. And thus a new segment was added to the law. It also includes married woman under its ambit and deaths caused due to dowry.

The law in Section 304B of Indian Penal Code states:

When a woman dies because of burnt injuries or other physical injury, or if she dies within seven years of marriage and it is proved that her in-laws had demanded dowry, the law will consider it as dowry death. It is a cognizable and non-bailable crime under Section 304 B of IPC. A person convicted of the offence is given imprisonment for at least seven years and it can also extend to life imprisonment.

Both the laws 498A and 304B should be seen together. If we look at the laws separately, we will not be able to understand the complexities in a woman's life nor will be able to give her justice and a violence free life.

Albeit, certain verdicts pronounced by the High Court and Supreme Court in the recent past have increased our concerns about these laws. The verdicts indicate that women are misusing the laws made to save them from violence. This has been clearly stated in some cases while it has been indicated in some others. The Central Government is also trying to make the laws meaningless. Like saying that the offence should not be cognizable. And even in cases of such violence, emphasis is laid on a settlement--that the case need not be lodged immediately and that there are no arrests made right away. Rather an initiative should be made to reach an agreement/accord between the parties.

The first question in this context is: the agreement should be with whom and under what circumstances? How can you guarantee that it will give a violence free life to women? Second, as we know the way our police system works, under such circumstances, how would a woman solve the case? Many organisations and workers working on women's issues have time and again expressed their concerns on these issues.

On the other hand, after much hue and cry, a civil law has been made for protection of women from domestic violence. It is known as Protection of Women from Domestic Violence Act 2005 and has been implemented as a law since October 2006. However, the expectations from this law are far from being fulfilled. The Association for Advocacy and Legal Initiative (AALI) helps women who are victims of domestic violence. From her experience in Uttar Pradesh, Renu Mishra, the acting Director of AALI states: "This civil law has been made to provide immediate help to women who are victims of domestic violence, but those women are not getting any help." To know how this law is being implemented, AALI conducted a study three years ago and made two important recommendations. First, there should be provision for a separate budget to implement this law. Second, protection officers are appointed independently for this law. Both of these are highly required for effective implementation of the law but none have been implemented yet.

When Flavia Agnes was a victim of cruelty and violence, there was no law to protect her. But Savita lived in today's time when there were several laws to save her. The violence she faced came under Section 498A, but she could not take the help of the law. It is because of the advice (of tolerance) given in Indian families to women and girls in order to steer life's journey. But what was the result? She could not use 498A and came under the purview of Section 304B.

The truth behind the misuse of Section 498A

Much noise is being created about the misuse of 498A. The affect of the attack can be seen in society as well as in the courts. The question is: which law is not being misused in this country? Is the law on murder not misused? Are the poor and dalits not victimised? So why are voices not being raised for those laws? Why is there no demand to end those laws? Why the attack is only on 498A? Is it because this law gives women the strength to fight? The masculine society is making much noise so that the law which gives legal strength to women itself comes under apprehension and is taken away from them. But it ought not to happen that men misuse laws in their favour and for their benefit and there is no discussion on those laws. As far as the women's movement is concerned, there is no doubt among them that action should be taken against all those who misuse the law. But action should also be taken against people misusing other laws.

This brings out to wonder if the law is being very misused since so much of noise is being made about it. Statistics present a different story. Replying to a question in the Rajya Sabha, Minister of State for Home Affairs Haribhai Parthibhai had said that nine per cent of the cases of cruelty and violence against women are wrong or are not up to mark according to law. However, he stated clearly that there is no other proof or study that shows Section 498A is the most misused in the state. Under section 498A, 1,18,866 cases were filed in 2013; 1,06,527 in 2012; and 99,135 in 2011. According to the Minister of State, on conducting police investigation it was found that 10,193 cases in 2011; 10,235 in 2012; and 10,864 in 2013 were either false or there were some mistakes in the data or these cases did not fit into the purview of the law.

We all know how police investigation is carried out in our country. And if the case is associated with women, don't we know how the case is investigated. It is also not hidden from us all how society looks at a woman who files a case of cruelty against her husband or his relatives. Still government statistics state that 91 per cent of the cases of cruelty against husbands and his relatives are correct. The figure is not small. Compared to 10,864, isn't the figure of 1,08,002 much bigger? Therefore, the noise about its misuse is actually an attempt to look away from the harassments faced by women. It is an effort to continue the cycle of violence that women remain entangled in. Men and a masculine society want the cycle of violence to continue so that they can keep exercising their authority and oppressing women.

Section 498A in the Cyber World

If you search on the internet, there are not one but many websites which have been created against this law. These websites make fun of 498A and women. Some speak about the "poor husband", while other of male rights. Some compare it with terror while others describe it as a weapon used to blackmail men. All these portray women in this country as being very strong; fooling men and harassing them. But is this the true picture of Indian men at home, in families and in society? If we accept even the government statistics of one lakh eight thousand cases in a year in which cruelty towards a woman by her husband or relatives have been proved, are these the statistics of women blackmailers?

These figures present a glimpse of the violence faced by women in the 'sacred relationship' of 'marriage'. These are the statistics of only those cases which have been registered. The painful stories of people like Savita and many others do not figure in this.

Year	Cruelty by Husband and his Relatives	Dowry Deaths
2004	58,121	7,026
2009	89,546	8,383
2010	94,041	8,391
2011	99,135	8,618
2012	1,06,527	8,233
2013	1,18,866	8,083
2014	1,22,877	8,455

Source: NCRB 2014

These figures state that:

- From 2009-2013, there were an average of 8,342 dowry deaths annually.
- It shows that in our country at least 23 girls are being killed every day for dowry.
- Meaning on an average, every hour, somewhere or other in

the country, a girl is being killed for dowry.

- In the last 10 years, there has been an increase of 20.3 per cent in dowry deaths.
- Between 2009-2013, there were 1,01,623 incidents/cases of cruelty by husbands or their relatives.
- Meaning everyday around 275 girls are taking the help of law to protect themselves from the cruelty of the husband or his relatives.
- In the last ten years, there has been an increase of 111.4 per cent in the number of incidents of cruelty by husband and his relatives. Between 2013 and 2014, there has been a rise of 3.4 per cent in the number of such cases.
- Are girls dying so that they can misuse the law?
- Or are they misusing the law after/by dying?

Now the question is should we wait for girls like Savita to die? Will we then believe that man and his relatives exercise violence? Or should we seriously deliberate on it and do not let the rule of law become pointless so that we can ensure that a 20-year-old girl like Savita lives a long and happy life. Here we have to make a choice.

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