



Misuse of Section 498A of IPC and Domestic Violence Act 2005

For Prelims: [Supreme Court](#), [Section 498A Indian Penal Code](#), [Domestic Violence Act 2005](#), Section 84 of [Bhartiya Nyaya Sanhita, 2023 \(BNS\)](#), [cognizable and non-bailable](#),

For Mains: Misuse of Domestic Laws and related issues, Need of Gender Just Law.

[Source: ET](#)

Why in News?

Recently, [the Supreme Court](#) observed that [Section 498A Indian Penal Code](#) (now [Bharatiya Nyaya Sanhita](#)) and [Domestic Violence Act 2005](#) are among the most abused laws.

What is Section 498A Indian Penal Code?

- **Section 498A of the Indian Penal Code (IPC)** deals with the criminal offence of cruelty against a married woman by her husband or his relatives. The section was introduced in 1983.
 - **Section 84 of [Bhartiya Nyaya Sanhita, 2023 \(BNS\)](#)** deals with the same provision.
- **Punishment:**
 - The offender can face up to **three years in jail** and may also be **liable to pay a fine**.
- **Definition of cruelty:**
 - **Cruelty** is defined as any willful conduct that is likely to **cause grave injury or danger to the woman's life, limb, or health, or drive her to commit suicide**.
- **Filing a complaint:**
 - **A complaint can be filed by the aggrieved woman**, or by any person related to her by blood, marriage, or adoption. If there are no such relatives, a public servant notified by the state government can file the complaint.
- **Time limit:** A complaint must be filed **within three years of the alleged incident**.
- **Cognizability and non-bailability:** The offence is [cognizable and non-bailable](#), which means that **immediate custody of the accused is possible**.

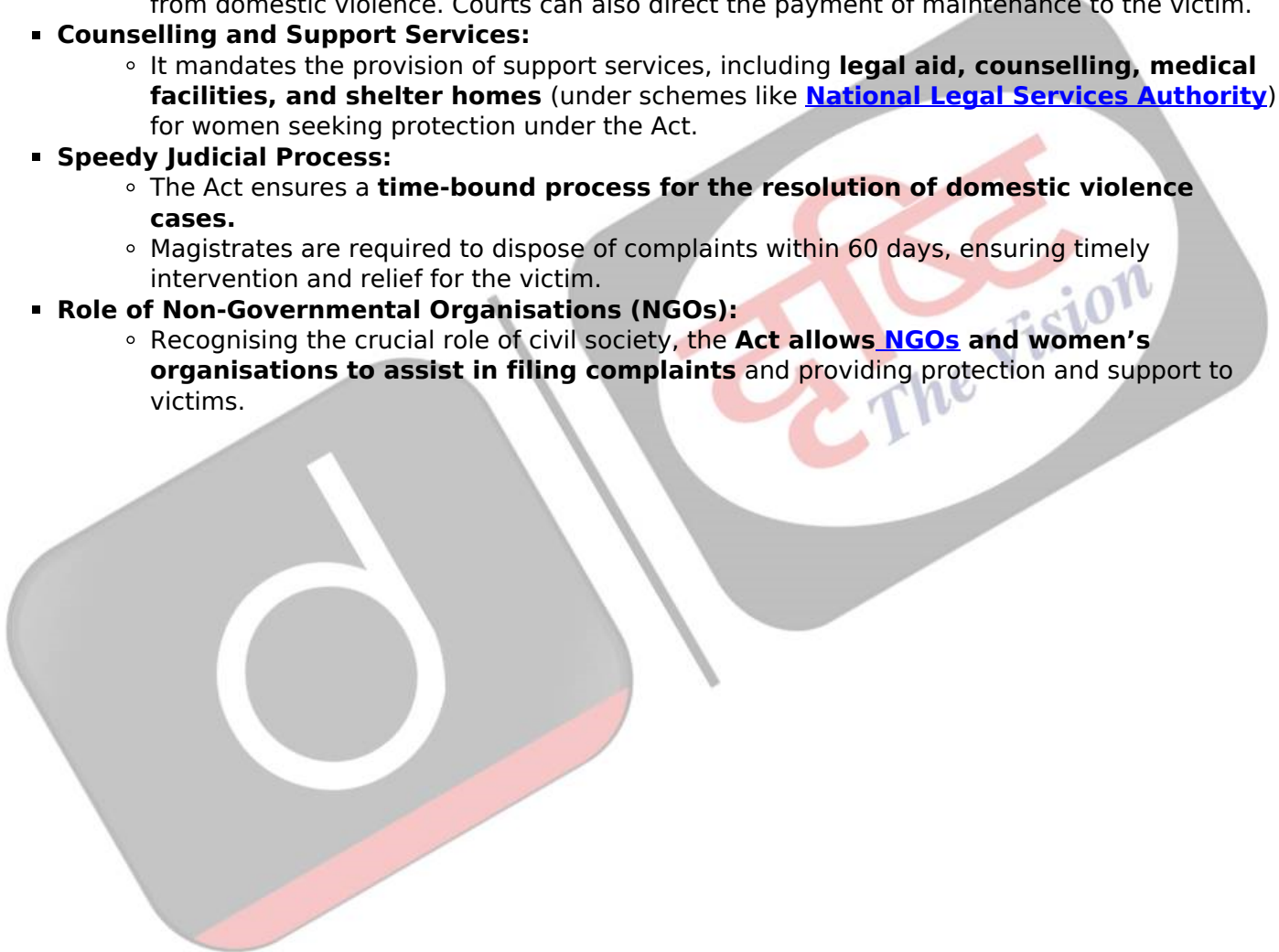
What is the Domestic Violence Act 2005?

- **Objective:**
 - The Protection of Women from Domestic Violence Act, 2005, was enacted to **provide a comprehensive legal framework for the protection of women against domestic violence**, recognizing violence in both physical and psychological forms within familial settings.
- **Definition of Domestic Violence:**
 - The Act broadly defines domestic violence to include **physical, emotional, sexual, verbal, and economic abuse**.
 - It covers any **harm or injury to the well-being of a woman** or threat thereof, including

coercion, harassment, and denial of resources or entitlements.

- **Scope and Coverage:**
 - It covers all women in domestic relationships, including wives, mothers, sisters, daughters, and live-in partners.
 - It protects women from violence by husbands, male partners, relatives, or other members of the household.
- **Right to Residence:**
 - The Act provides women the right to **reside in the shared household**, regardless of their legal ownership or title to the property.
- **Protection Orders:**
 - Victims of domestic violence can approach the court for protection orders, which **prevent the abuser from committing further acts of violence**, entering the victim's place of work or residence, or engaging in any form of communication or contact with the victim.
- **Monetary Relief and Compensation:**
 - The Act enables women to claim **financial compensation for the injuries suffered**, including medical expenses, loss of earnings, or any other financial loss resulting from domestic violence. Courts can also direct the payment of maintenance to the victim.
- **Counselling and Support Services:**
 - It mandates the provision of support services, including **legal aid, counselling, medical facilities, and shelter homes** (under schemes like [National Legal Services Authority](#)) for women seeking protection under the Act.
- **Speedy Judicial Process:**
 - The Act ensures a **time-bound process for the resolution of domestic violence cases**.
 - Magistrates are required to dispose of complaints within 60 days, ensuring timely intervention and relief for the victim.
- **Role of Non-Governmental Organisations (NGOs):**
 - Recognising the crucial role of civil society, the **Act allows NGOs and women's organisations to assist in filing complaints** and providing protection and support to victims.

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Domestic Violence Against Women

Domestic violence refers to any form of abuse, whether physical, emotional, sexual, or economic, within the confines of the home, family or domestic unit.



National Family Health Survey-5 (NFHS), 2019-2021

- ↳ 29.3% of married women experienced domestic/sexual violence
- ↳ 3.1% of pregnant women suffered physical violence during pregnancy
- ↳ 87% of married women who are victims of marital violence do not seek help

Legal Frameworks in India

Protection of Women from Domestic Violence Act, 2005 (PWDVA)	<ul style="list-style-type: none"> ■ Covers physical, emotional, sexual, and economic abuse ■ Provides various orders for protection, residence, and relief
Indian Penal Code, 1860	<ul style="list-style-type: none"> ■ Section 498A deals with cruelty by a husband or his relatives ■ Criminalises acts of cruelty, harassment, or torture
Dowry Prohibition Act, 1961	<ul style="list-style-type: none"> ■ Makes giving or receiving dowry a crime
Criminal Law (Amendment) Act, 2013	<ul style="list-style-type: none"> ■ Section 354A amended the IPC to include new offenses related to sexual harassment in cases of domestic violence
National Commission for Women Act, 1990	<ul style="list-style-type: none"> ■ Safeguards women's rights and plays a key role in addressing domestic violence
The Prohibition of Child Marriage Act, 2006	<ul style="list-style-type: none"> ■ Prevent child marriages and prohibit domestic violence against child brides.

Global Initiatives

- ↳ **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):** Adopted in 1979 by the UN General Assembly
 - ➔ Eliminating discrimination against women in all areas of life
- ↳ **UN Declaration on the Elimination of Violence against Women (DEVAW):** First international instrument explicitly addressing violence against women
 - ➔ Provides a framework for national and international action
- ↳ **Safe Cities and Safe Public Spaces:** Flagship program by UN Women
 - ➔ Preventing and responding to sexual harassment and other forms of violence in public spaces
- ↳ **Beijing Platform for Action (1995):** Identifies specific actions for governments to take to prevent and respond to violence
- ↳ **SDG 5 (Gender Equality):** End all forms of discrimination against all women and girls everywhere



Drishti IAS

What are the Factors Contributing to Domestic Violence?

- **Patriarchal Social Structure:** Deep-rooted **patriarchal norms perpetuate gender inequality**, reinforcing male dominance and control over women. This leads to the **normalisation**

of violence as a means to assert authority within households.

- **Cultural and Societal Norms:** In many societies, **domestic violence is tacitly accepted or overlooked**, particularly when it occurs in private spaces.
 - **Cultural beliefs often discourage women from speaking out** or seeking help, reinforcing the cycle of abuse.
- **Economic Dependency:** Financial dependency on male family members often forces women to endure domestic violence. The **lack of economic autonomy** limits their ability to leave abusive relationships or seek legal recourse.
- **Substance Abuse:** Alcohol and drug abuse are significant contributors to domestic violence.
 - **Intoxicated individuals may display aggressive behaviour, leading to physical or emotional abuse within families.**
- **Lack of Education and Awareness:** Limited education and awareness about legal rights and support mechanisms contribute to the perpetuation of domestic violence.
- **Psychological Factors:** Issues such as **anger management problems, low self-esteem, or unresolved trauma** may cause individuals to engage in **violent behaviour** against their family members. Abusers may also justify their actions through distorted perceptions of control and entitlement.
- **Dowry and Marital Disputes:** Dowry-related violence remains a significant factor in domestic abuse. Disputes over **dowry demands or dissatisfaction with the marriage** often lead to emotional or physical violence against women.
- **Intergenerational Transmission of Violence:** Children who witness domestic violence in their households are more likely to **replicate abusive behaviours in their own relationships** as adults, perpetuating a cycle of violence across generations.
- **Weak Law Enforcement and Judicial Delays:** Ineffective law enforcement, delayed justice, and lack of stringent penalties for perpetrators contribute to the recurrence of domestic violence.
- Victims may feel discouraged from seeking legal protection due to fear of retaliation or mistrust in the system.

How are these Legal Measures Misused?

- **False Allegations for Personal Gain:** Both the Domestic Violence Act, 2005, and Section 498A are sometimes misused by **filing false complaints to harass husbands and their families.**
 - These provisions are exploited as **tools for personal vendetta or to gain leverage in matrimonial disputes**, including property settlements, maintenance claims, or custody battles.
- **Coercion for Financial Settlements:** In several instances, false cases are used to coerce husbands and their relatives into making large financial settlements or paying alimony.
 - The **fear of arrest or prolonged legal battles often compels the accused to concede to unreasonable demands.**
- **Immediate Arrest and Lack of Preliminary Investigation:** Section 498A is a non-bailable and cognizable offence, **leading to immediate arrests without the need for prior investigation.**
 - This provision has been exploited to pressurize the accused, resulting in wrongful detentions and damaging reputations before guilt is even established.
- **Social and Psychological Damage to the Accused:** The stigma associated with domestic violence allegations can cause **irreparable harm to the social standing, mental health, and professional life of the accused.**
 - Even if acquitted, the accused may suffer long-term consequences due to the negative perception attached to the charges.
- **Judicial Observations on Misuse:** Courts in various judgments have acknowledged the misuse of Section 498A and the Domestic Violence Act.
 - In response, the **judiciary has called for reforms**, including the need for proper investigation before arrests and imposing penalties for filing frivolous or malicious cases.

Way Forward

- There is a **need to establish clear distinctions between bailable and non-cognizable offenses** within the law. Thorough investigations should be conducted prior to making any arrests.

- The **principle of proportionality should be applied** when arresting family members, considering the extent of harm caused to women.
- Individuals should be held **accountable for false and misleading complaints**.
- **India must implement gender-just laws** (recognising domestic violence against men as well) that **promote equality** and protect the rights of every individual, regardless of gender.
- Establishing legal frameworks that tackle discrimination, violence, and economic disparities is vital for creating an **inclusive society**.

Drishti Mains Question:

Discuss the potential benefits and challenges associated with implementing Gender neutral laws in the context of achieving gender equality.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Mains

Q. We are witnessing increasing instances of sexual violence against women in the country. Despite existing legal provisions against it, the number of such incidences is on the rise. Suggest some innovative measures to tackle this menace. **(2014)**

Q. 'Women's movement in India has not addressed the issues of women of lower social strata.' Substantiate your view. **(2018)**

PDF Reference URL: <https://www.drishtias.com/printpdf/misuse-of-section-498a-of-ipc-and-domestic-violence-act-2005>