**Domestic violence on women**

Domestic violence can’t be subjected to just physical violence alone. Any habit or behaviour whose aim is to gain power and control over a spouse, partner, girl/boyfriend or intimate family member is termed as domestic violence. Abuse is learned as behaviour; it is not something which is caused by anger, mental problems, drugs or alcohol, or other common excuses.

**Types of Domestic Violence**

Whenever public thinks about domestic violence is done, they have a stereotype thinking that if physical assault results in visible injuries to the victim only that is domestic violence. This is only one type of domestic violence. There are many types of abusive behaviour that results into brutal and grave consequences. Such as:

* **Control -** To maintain dominance over the victim usually batterers use controlling behaviour. They have a mind state and the belief that they are justified in the controlling behaviour and the consequence of this behaviour is the main issue of domestic violence.
* **Physical Abuse –** Any behaviour which is physically aggressive, subscribing with physical needs, doing indirect physically harmful behaviour, or any kind of threat of domestic violence is termed as physical abuse
* **Sexual Abuse -** Using sex in an exploitative manner or forcing other person to have sex is sexual abuse. Even if the person has consented to have sex in the past doesn’t indicate the current consent. Both verbal and physical behaviour can be called as sexual abuse.
* **Emotional Abuse & Intimidation -** Any behaviour that exploits anther’s vulnerability, insecurity, or character is known as Emotional abuse. Continuous degradation, intimidation, manipulation, brainwashing can be included in such kind of emotional abuse behaviour.

**Section 498A of the Indian Penal Code explains the Crime of Domestic Violence. Section 498A states that:**

**498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be pun­ished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—**

[**(a)**](https://indiankanoon.org/doc/1776697/)**any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or**

[**(b)**](https://indiankanoon.org/doc/1824991/)**harassment of the woman where such harassment is 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.**

**Necessity for Section 498A**

Cases of cruelty, brutal injuries and sexual abuse by relatives of the husband or the husband were resulting into suicide or murder of innocent helpless and dependent women although there were only a small and less cases in which cruelty was involved but the fraction was gruelling. Need arose to address the matter in an effective way as the suicide’s, murder’s and even dowry death were increasing in India. The government was pressurised and urged by the Organizations and media across the country to provide legislative protection to women against domestic violence and dowry. The main objective to of the government while making section 498A was to allow the state to intervene rapidly and prevent the murders of young girls who were unable to meet the dowry demands of their in-laws. The Government of India amended the Indian Penal Code, 1860 (IPC) by way of the Criminal Law (Second Amendment) Act, 1983 and inserted a new section 498 (A) under Chapter XX-A, of cruelty by husband or his relatives on 26th December, 1983. The amendment focuses not only on dowry deaths but also cases of cruelty to married women by their in-laws and most of all Domestic Violence.

The nature of the offence under Section 498A is:

* **Cognizable**: By law, the police are duty bound to register and investigate a cognizable offence. 498A is a cognizable offence.
* **Non-bailable**: 498A is non bailable offence. This means that the magistrate has the power to refuse bail and remand a person to judicial or police custody.
* **Non-Compoundable**: 498A is a non-compoundable offence. A non-compoundable offence cannot be withdrawn by the petitioner. The exception is in the state of Andhra Pradesh, where 498A was made compoundable.

According to a survey, 35% of women (1 in 3) worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.

In the case of ***Krishna Bhatacharjee v******s. Sarathi Choudhury and Another,***the Apex Court while elucidating on the duty of courts while deciding complaints under the domestic violence stated that:

It is the duty of the Court to scrutinise the facts from all angles whether a plea advanced by the respondent to nullify the grievance of the aggrieved person is really legally sound and correct. The principle “justice to the cause is equivalent to the salt of ocean” should be kept in mind. The Court of Law is bound to uphold the truth which sparkles when justice is done. Before throwing a petition at the threshold, it is obligatory to see that the person aggrieved under such a legislation is not faced with a situation of non-adjudication, for the 2005 Act as we have stated is a beneficial as well as assertively affirmative enactment for the realisation of the constitutional rights of women and to ensure that they do not become victims of any kind of domestic violence.

In the case of ***V.D. Bhanot Vs. Savita Bhanot*** which upheld the Delhi High Courts view, it was held by the court that, even a wife who had shared a household before the [Domestic Violence Act](https://www.vakilno1.com/bareacts/domestic-violence/domestic-violence-act-2005.html) came into force would be entitled to the protection of the [Domestic Violence Act](https://www.vakilno1.com/bareacts/domestic-violence/domestic-violence-act-2005.html). Hence, the [Domestic Violence Act](https://www.vakilno1.com/bareacts/domestic-violence/domestic-violence-act-2005.html) entitles the aggrieved person to file an Application under the Act even for the acts which have been committed prior to the commencement of the [Domestic Violence Act](https://www.vakilno1.com/bareacts/domestic-violence/domestic-violence-act-2005.html).

**Through this article we would like to help those women who are in urgent and actual need of help and wants to file complaint against domestic violence. Women must not be scared to report the case to the police and must not tolerate the domestic violence by her husband or his relatives.**