

# The Draconian Laws of India

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There are 45 draconian laws in India against men and against their families. Most of these laws hold you guilty prior to trial and bring you in jail which is sometimes recognized as judicial-custody or police-custody that can last anywhere from three days to three months to years before even the trial has started.

## The Draconian Laws of India

Most of the times you would have heard cases of rape, molestation and oppression of women in India. The country seems so unsafe for women that many times when I travelled you Europe or abroad, people shot me in my heart with questions like how the women in India are handled and from men I heard comments like, lucky you from India, must be having last say at home as you are an Indian man. I tried to justify in order to bring some clarity about rights of women in my homeland, but mostly people with mind filled with news that only tells about atrocities on Indian woman immediately labeled be as another male chauvinist. It isn't that women feel India as heaven but if women are (mis)handled as third class citizens in Indian society then men in India belong to forth class, if it exists. When crime is committed against a woman the whole state, local police, laws and judiciary are with her but what about men and especially when the crime has been committed against him by a woman.

With this article I don't target to change someone's view about situation of women in India, but do spread some knowledge regarding anti-human and anti-men laws in the country.

### Section 497:

Consensual sex between a man and a woman if the man knew or believed to know that the woman was married is adultery in the eyes of law. The man is punishable for a term extending up to 5 years. The last line of this section reads "In such case the wife shall not be punishable as an abettor." So the act of adultery is applicable only to a man while the woman walks away.

Adultery is considered as cruelty to a wife if the husband sleeps with another woman. She can file divorce, bring the man to jail, will have right to maintenance from him but guess what, if your own wife sleeps in your bedroom with her boyfriend, you are helpless. Even if you know that the kids born after the marriage are not yours, you will still have to pay maintenance of those and of wife if the she files divorce due to any reason. Getting DNA test of children is almost impossible. You may have to move to Supreme Court (SC) of India, which may take years and extract all money for moving from lower to district to high court to SC. And then the test can't be done without the permission of the mother.

### Section 498a:

This is the most notorious and most abused section of IPC. The definition says: 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. The word cruelty is defined as mental or physical which opens the door for its misuse to the extent that Supreme Court in India has termed 498a as "Legal Terrorism" and the section mostly used by "disgruntled wives".

The wife can simply go to a police station, file a trivial complaint like the husband or ex-husband asked me to take medicine prescribed by the doctor or harassed me to bring dowry 10 years ago. Now you see the full action of police. Just after the complaint everyone named in the complaint will be arrested and sent to police-custody till they get bail from magistrate. 498a is Cognizable (police can take cognizance) and the

police are duty bound to register and investigate the offence It is non-bailable and non-compoundable (can't be withdrawn by the petitioner). In order to make bail granted by magistrate more and more difficult, the wife will add more and more sections to the complaint because she knows that she can't be punished for filing a false complaint.

In year 2012, this single section caused arrest of ca. 150,000 men (husband, his male siblings or relatives), 48,000 women (sisters and mothers of husband) including 4500 aged persons (grandparents usually). The section has not spared minors (ca. 450) and even infants. The youngest infant arrested under 498a was 2 months old. There have been cases where a dog's names have been put in the complaint. This lone paragraph has caused arrest of 1.35 million arrests of innocent people in 10 years. Names of minors in the family are also included in the complaint. The distant relative living thousands of kilometers away or even in another country are not spared. How someone can do cruelty to drive another to suicide while living thousands of kilometers away? From 1998 to 2002 shockingly 10,000 minors have been arrested under this act.

Usually heavy demand of money comes from wife's family followed by the threat of 498a. Many husbands pay that money because once the case goes to court, it can't be taken back. The conviction rate is mere 2%. 98% of cases are either false or someday down the line husband gives up during years long fight and pay money to the wife's family. 3 husbands made accused under 498a commit suicide every week in India. The married suicide rate in India is ca. 90,000 men per year with increase in 2.4% from 2012 to 2013 while during the same period ca. 44,000 women committed suicide with decrease by 6%. India is number one when it comes to suicidal rate of married men. In 2013 ca. 64,000 (1% increase from 2012) married men and ca. 29,000 (8% decrease) married women committed suicide. Suicide is a solution to come out of 498a but due to non-compoundable nature and that the relatives can also be named, it's not a sure-shot idea.

Now seriously who needs more protection? Most suicide by men in India occurs due to family problems before they go to police or after wife's complaint reach police.

3 things are making the life under 498a a hell for husband. One is that the onus of proving innocence is on accused. Number 2, alleged persons are guilty as soon as complaint is lodged (presumption of guilt). Number 3, there is no provision of punishment for filing a false case. The judge just gets a charge sheet from police which is like a check-list and one-by-one husband has to prove innocence on each point.

Meanwhile there are gangs and families who will marry an NRI (non-residence India) or a guy with good financial status and within days will file 498a complaint against whole family including rape/sexual molestation by relatives or husband being impotent or had un-natural sex with the wife. The passport of a NRI is cancelled if he doesn't come to attend the court dates and the moment he comes to attend the court, his passport is kept with the court as security for the bail till the case is resolved. And a case can take anything from 3 to 5 to 7 to 10 years. So losing job and livelihood is unpreventable and now the husband is ordered to pay maintenance after having lost his job. There are NRIs stranded in the USA and Europe who don't visit India for years after 498a has been filed and even miss cremation of their parents in case of their deaths. People who fight, do come out of it but what's the use of fight after you lose everything you got and can't even punish the person who is responsible for all this. Canada and the USA have added misuse of this law in their travel advisory (USA has removed it meanwhile).

The section just ruins life and career of most husbands. Since the wife can file case from anywhere in India, usually the cases are filed where the wife's parents are living and husband including dozens of accused travel for each and every court-date for period of 5-7 years. Moreover a person working as Government employee in India loses job immediately if she/he spends more than 46 hours in custody and guess what, police usually make arrest on Fridays to ensure that you live at least for a weekend in custody. Before even the case has gone to the court, many lose their job with immediate effect.

Section 304B: Another notorious section 304B. If wife dies of unnatural death within 7 years of marriage, it is automatically considered as dowry death (murder by husband due to demand of money by husband which she could not fulfil and hence killed by him and his family). So if wife dies of road accident within 7 years it's considered as murder unless proved by him that it was an accident. Actual number of such deaths is much lesser because after proved that it was an accident, the NCRB on crime against women is not corrected. Had there been some differences between the couple or between the in-laws and the husband, the things end up very ugly for the husband. Charged with murder, the only way to come out of it is to fulfil demand of money made by the in-laws so that they go to police and give statement that there were no differences between both.

There are NGOs and online forum that are giving free consultancy and running suicide hotlines in India. The most famous forum (<http://www.498a.org/forum/>) is banned by many Indian telecom operators.

Section 376: Exist all over world to punish a rapist, but what is rape in India? Consensual sex on pretext/promise of marriage or doing some favor is also rape. So my girl-friend can go to police-station, give a complaint that I am not marrying her. Guess what!! I become a rapist. But with the same definition if my girl-friend denies marrying me, ok I can say she doesn't have good taste but that's it! It isn't rape. Quite recently in December 2014 a man was sentenced to rigorous punishment for breaking his engagement.

Just like 498a, here too the woman gets public prosecutor and state's machinery and her statement is the universe. The conviction rate in 2012 was 24.2%. Mumbai police says that 90% of rape cases are consensual. Here again, career gone, job gone, family carries social stigma whole life. The misuse of this act is rampant. A woman who filed 100 rape complaints in few years was caught by the court during another rape case of her against her brother-in-law mixed with 498a and domestic violence act. She even gave up in court of making false complaints.

There are villages that are using 376 on opposite gangs in order to take revenge. Similarly, there are organized gangs catching prey and extorting money. A number of gang-rape complaints have been later proven hoax in last few years in India.

Section 354: Law against sexual molestation. I don't know how many of you followed the story of "Rohtak Sisters" in India. 2 sisters beat 2 guys black and blue with leather belt in a bus, go to police, submit video and file case under 354. Guys got immediately arrested, lose their job with army, sisters are honored by woman commission of not only Rohtak but of another state too. Finally, after watching that clip 24x7 on TV the passengers travelling that day on bus come forward and tell a completely different story. An argument for seat turned ugly when 2 sisters started beating men. Knowing law men in India usually take back seat. Another video of sisters beating a different guy in a park comes up. Just like first video, molestation can't be

seen anywhere. But everything is useless because the case has been registered (police is bound to) and arrest has happened prior to investigation. According to people in their village the sisters are serial molestation case filers. In India the word settlement in such cases have become so common that people don't even think twice the merit of the case because everyone knows that today or tomorrow the money will get from man to the woman, so from very first day many start to prevent the complaint reaching to the police just after they received the threat. Just recently in December, a case of sexual assault has been filed against a 5 years old boy by police in Mumbai based on a complaint filed by his classmate.

#### IrBM: Irreversible breakdown of Marriage

The bill has been tabled in Parliament for Winter Session of 2014 and if passed this will break all records of maintenance laws which exist in the world. According to new law the woman on divorce will have her share in husband's acquired property (before or after marriage), his at least 40% of salary, his parent's property (before or after marriage) and ancestral property inherited or inheritable. Husband can file divorce, wife can oppose it, but if wife files divorce then husband can't oppose it. All the assets are transferred irrespective of whose fault it really was? So actually the law tells Indian men not to take any money from wife during wedding but give her your assets when she walks away by filing divorce.

#### Section 125 (quasi criminal)

The law is meant to provide maintenance to wife no matter whether the marriage lasted for one minute or one day. In case not provided, the husband lands in jail. A wife living separately can file case under this section. All she has to do is to mix it with 498a, so she can tell the court that she was forced to do so due to cruel husband. Now have fun with Indian judiciary which is slower than a snail (thanks to all such laws). Before the trial can start, she files interim maintenance and later final maintenance. But the time period between 2 steps is years. So once interim is granted, wives as advised by lawyers, don't appear on each date. She isn't afraid that her 498a is fake because she can't be punished for filing false case. If the wife can maintain herself (working somewhere), the onus of proving that she is working is upon husband. Court doesn't help to find this out. You end up giving a good part of your salary for a marriage that lasted few days and 50% of your property even acquired before marriage. Such short lived marriages are becoming more and more common. Many families of women in India are misusing this law. The similar law in China was called off in 2011 due to exactly the same reason. Man and woman stay together for a month and then wife files divorce.

#### HMA24/Alimony

No one in India understands the mix of east and west when it comes to laws. On one hand taking gifts or dowry during marriage by the husband from wife is banned and illegal but taking maintenance and alimony by wife is legal. That too when she is financially better off than the husband. India is still a country where mostly arrange marriages happen which means parents and children (to be married) are very particular in finding a match. The financial status of both families in such cases are usually similar. But after divorce it's husband who pays for wife monthly expenses and alimony.

## Child Custody

Shared-parenting concept doesn't exist in India. Sole custody of the child is given to the mother. Husband may file visitation rights but it's upto the mother whether she lets the father to see the children. Every year new case is filed by the husband for getting child custody. Passing 2-4 years without having seen the child by the husband is normal whereby the husband must pay maintenance for children monthly.

Normally a bundle of cases are filed against husband when marriage becomes sour. These are 498a accompanied with a number of sections like 406, 506, 354 (against relatives) to 376 (against close relatives) along with DV (domestic violence) act, along with 125 or HMA24 and that too not at place of matrimonial house because law provides provision to file case from any place where she lives temporarily. In worst case husband, his aged parents, nephews, niece, siblings living within India or abroad ends up in travelling from one part of India to another to attend a single date in court. Indians living abroad are most vulnerable target because once the case is filed against such a husband, Indian Government is bound to bring back the NRI. They had issued thousands of red-corner notice to Interpol. Meanwhile, seeing the non-seriousness of complaint Interpol has stopped taking such arrest warrants but due to strong diplomatic relationship we never know when the horror will start again that a husband in matrimonial dispute will be treated as NRI against whom international arrest warrant will be issued.

## Domestic Violence (DV) Act of 2005

As if 498a was not enough, the Indian Government introduced another tool to claim maintenance and compensation under DV. Multiple cases to claim money from are not only common but a "must" to follow strategy in matrimonial disputes. All complaints filed under 125, HMA 24, 498a and DV are exactly the same. Many NGOs have suggested Government even if they aren't willing to do anything to save Indian men then at least stop the practice of multiple cases that could be filed based on same complaint. The data collected by home ministry of India reveals that 99.87% of such complaints are false.

## Sexual Harassment at Workplace Law

- The law is only applicable to women and women only.
- The Act provides the option of a settlement between the aggrieved woman and the responded through conciliation but only on the request of the woman.
- Includes any one or more of the following unwelcome acts or behavior:
  - o Physical contact or advances
  - o A demand or request for sexual favors
  - o Making sexually colored remarks
  - o Showing pornography Any other unwelcome physical
  - o verbal or non-verbal conduct of sexual nature
  - o Implied or explicit promise of preferential treatment in employment
  - o Implied or explicit threat of detrimental treatment in employment
  - o Implied or explicit threat about her present or future employment status
  - o Interferes with work or creates an intimidating/hostile/offensive work environment
  - o Humiliating treatment likely to affect her health and safety

Now a male boss who affects (knowingly or unknowingly) safety and health of a man is a bad boss but if the employee is a woman then he is sexually harassing her? Interfering in work of a woman is sexual harassment. If someone does somehow agree to that all written above leads to sexual harassment then isn't a female boss capable of doing the same with male employee?

The law only provides another instrument of misuse. If I start taking above points that lead to sexual harassment then I can spend another hour filling pages after another. Recent case that I remember was a judge suspended from his job due to his inappropriate behavior after her woman employee complained that he used to stare at her quite often in an offensive manner.

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<http://www.abplive.in/india/2014/10/13/article418967.ece/Meerut-%E2%80%98love-jihad%E2%80%99-case-Meerut-girl-takes-U-turn-says-she-ran-out-on-her-own-will>

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Famous Bhatinda false gang-rape: <http://www.dayandnightnews.com/2013/01/bathinda-police-case-of-rape-turns-false/>

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Woman alleges that dead father was giving her money demanded by her husband (money demand by husband is considered cruelty in India) to file 498a

<https://capitalch.wordpress.com/2013/02/01/498a/>

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**2 Months old baby arrested due to complaint by father's ex-wife:** <http://archive.mid-day.com/news/2009/jun/210609-Zoya-two-month-old-girl-anticipatory-bail-dowry-harrasment-case-youngest-accused-Mumbai-news.htm>

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New Sexual harassment at workplace law. Give compensation to victim to buy peace. Guilty if charged just like

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he used to torture her for dowry. And he was charged with murder. <http://daily.bhaskar.com/news/DEL-suhaib-ilyasi-from-the-host-of-indias-most-wanted-to-most-wanted-man-after-his-w-4330374-PHO.html>

Rohtak Sisters: They beat 2 men on bus alleging sexual harassment and make video. Men lose job, arrested immediately, sisters get reward and cash from women commission and state. Story took twist when another video where sisters beating another different boy was surfaced and people travelling on bus came forward.

<https://www.youtube.com/watch?v=ZopUkgU7CSw>

<https://www.youtube.com/watch?v=d1vxVLhg02Y>

[https://www.youtube.com/watch?v=VWzWsql94\\_Q](https://www.youtube.com/watch?v=VWzWsql94_Q) (English undertitel)

There are 2 types of imprisonment in India. Rigorous and Simple. Under rigorous imprisonment, the person does hard labour work. Usually such imprisonment is assigned in to terrorists

A man got 5 years of rigorous imprisonment for breaking his engagement:

<http://vinayak.wordpress.com/2014/12/03/forget-arrest-after-marriage-now-you-can-get-5-years-r-i-just-after-engagement/>

Famous case of Nisha Sharma. She called off her wedding saying that future-husband asking for dowry(money). Whole family of husband including him were arrested. She was termed as brave girl. Her name was entered in school-text books with monster Indian male's name (man who was about to marry her).

12 years that man fought against the whole system, state, police and judiciary. After 12 years judgement comes: The story was fabricated. Enough proof that girl had a boy-friend and she was already married to him.



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Tihar (one of the worst jails in capital of India) overflowing with dowry cases

<http://www.dailymail.co.uk/indiahome/indianews/article-2682604/Tihar-overflowing-dowry-cases-How-infamous-Delhi-jail-crammed-bursting-women-accused-harassment.html>

Tihar has special cell for mother and sisters of husbands accused in dowry cases

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Travel Advisory by Canada

<http://travel.gc.ca/destinations/india> (see laws and culture)

Travel Advisory USA (earlier text)

A number of U.S.-citizen men who have come to India to marry Indian nationals have been arrested and charged with crimes related to dowry extraction. Many of the charges stem from the U.S. citizen's inability to provide an immigrant visa for his prospective spouse to travel immediately to the United States. The courts sometimes order the U.S. citizen to pay large sums of money to his spouse in exchange for the dismissal of charges. The courts normally confiscate the American's passport, and he must remain in India until the case has been settled. There are also cases of U.S.-citizen women of Indian descent whose families force them against their will into marriages to Indian nationals.