

MISUSE OF DOWRY LAWS

Dowry, as a traditional Indian cultural practice, has long been a source of exploitation, oppression, and violence against women. Recognizing the harmful effects of this social scourge, the Indian Parliament enacted the Dowry Prohibition Act, 1961, to prevent, prohibit, and abolish the gifting and receiving of dowry and its associated coercive acts. The objective was to protect women from harassment, injury, and even death due to unfulfilled dowry demands, and to promote equal gender relations in marital relationships.

Yet in recent decades, there have been concerns that anti-dowry laws are being abused. Laws such as Section 85 of the Bharatiya Nyaya Sanhita, 2023, meant to protect women from cruelty and dowry-related harassment, have been misused to even the score with someone, to harass in-laws, or to gain the upper hand in disputes relating to marriage. This tension — a law that is both a shield and, some say, a sword — has spurred spirited legal, social, and academic debate.

This article analyses the effectiveness and abuse of the Dowry Prohibition Act, 1961, along with the amended legislations and the trends growing through judicial interpretations. It attempts to consider if the law has evolved to strike a fair balance between protecting the bona fide victims of dowry harassment and preventing its misuse. The research will consider modern amendments under the Bhartiya Nyaya Sanhita, 2023, and the Bhartiya Sakshya Adhiniyam, 2023 that have preserved and re-shaped the relevant provisions dealing with dowry.

The Historical Background and Socio-Economic Context of Dowry in India

The institution of dowry reflects the inherent culture and traditions of Indian society. In ancient times, it was conceived of as Stridhan (property of a woman), which was a gift of free will to the bride and part of the inheritance which otherwise devolved upon the bride. But somehow, over time, this good culture factor has turned into a social evil that has to be obliterated because, under this social custom, the bride's family has to meet or fulfill the unbearable monetary and other exorbitant demands. The transformation results from multiple sources, including patriarchy and economic gaps, alongside social norms for family name preservation throughout arranged marriages.

A widespread pattern of violence and abuse has emerged in modern society because of dowry practices, which frequently lead to extreme physical harm and death. The country started focusing on this systemic problem after gaining independence, which led to new laws that aimed to stop the practice of exploiting dowry customs.

The Dowry Prohibition Act of 1961¹ presents a broad perspective of its provisions. The legislation from 1961 established the first central legal framework that made dowry a criminal offense.

Definition of Dowry (Section 2): This Act authorizes the definition of dowry to include all property or valuable security which one marriage party gives to the other party and their parents.

Punitive Measures for Involved Parties in Dowry Transactions (Section 3)²: This section states that anyone who participates in dowry transactions after the law goes into effect will face a minimum five-year prison sentence along with a financial penalty of ₹15,000 or the dowry value, whichever is greater.

The law considers all dowry participants as equal offenders regardless of their purpose or the specific situation. The law acknowledges that both individuals play roles in perpetuating the dowry culture. The legal system demonstrates its severity by implementing the minimum required penalty for this specific violation. The law provides an exception for gifts that are given to the bride or groom without any request when such gifts are recorded in an official list.

Creates Penalties for Demanding Dowry (Section 4)³: Any individual who seeks dowry either through direct or indirect methods from the bride or groom's parents or relatives will face imprisonment ranging from six months to two years, along with a maximum fine of ₹10,000.

The law enforcers' sanctions for requesting dowry, whether through spoken words or written documentation, even when no money changes hands. The legal framework includes various forms of demands which may be verbal or indirect, or implied through requesting cars, cash, or property. The law exists to protect families from both psychological and financial coercion, which results from dowry demands. The punishment under Section 3 stands as more severe than the current one because it deals with cases where no actual exchange has occurred.

Distribution of Dowries (Section 6): States that the wife or her heirs should receive these funds. According to the law, every dowry that a woman does not receive upon marriage must be delivered to her within a three-month period. Failure to deliver the dowry within the specified period leads to a prison sentence lasting between six months and two years and a financial penalty of ₹10,000.

In traditional Indian law requires husbands are required to provide their wives with legally binding dowry ownership.

The practice of giving dowry works to stop married couples from using valuable assets because in-laws and husbands want to take advantage of the situation. After the wife's death, the dowry automatically goes to her children or other heirs instead of her in-laws.

¹ Dowry Prohibition Act, No. 28 of 1961, India Code (1961).

² Dowry Prohibition Act, No. 28 of 1961, § 3, India Code (1961).

³ Dowry Prohibition Act, No. 28 of 1961, § 4, India Code (1961).

The legal system grants the wife the ability to use legal procedures to obtain her lost property.

Appointment of Dowry Prohibition Officers (Section 8B)⁴: The government has the authority to designate Dowry Prohibition Officers (DPOs) who will enforce the Act and prevent dowry practices as well as fulfil their obligations under the Act and its regulations. The Act uses DPOs as its main enforcement tool.

DPOs have the following duties:

- Complaint inspections,
- Dowry transaction prevention,
- Public educational activities,
- Dowry case assistance for police and the judiciary.

States can establish their own rules, which grant DPOs search and inquiry authority and the power to seize property.

Penal and Evidentiary Laws Serve as the Mechanism for Expanding Penalties

The Dowry Prohibition Act of 1961 establishes the basic framework for stopping dowry payments, but the true power of dowry-related law enforcement operations rests within the penal and evidentiary systems.

Husband's or Relative's Cruelty (Section 85 BNS)⁵: The term "Cruelty" defines the following: Any deliberate behaviour that could lead a woman to suicide or cause major injuries.

The act of demanding dowry through threats or violence constitutes harassment.

Punishment: The law specifies a three-year prison term and a financial penalty. The particular regulation serves as the primary legal tool that women utilize to report dowry-related harassment, along with physical and mental abuse.

Dowry Death (Section 80, BNS)⁶: –

The criminal code denotes "dowry death" as an offense that occurs under the following conditions. A woman passes away in unexplained or suspicious ways, through burns or bodily injuries, or from unexpected causes within seven years of her wedding.

Provided evidence establishes that she received cruel or harassing treatment from her spouse or his family members because of dowry demands. If these elements are present, the law presumes that it is a dowry death, and the accused may be punished with imprisonment of at least 7 years, which may extend to life.

Presumption as to Dowry Death (Section 118, BSA)⁷: This section contains the following provisions:

⁴ Dowry Prohibition Act, No. 28 of 1961, § 8B, India Code (1961)

⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 85, India Code (2023).

⁶ Bharatiya Nyaya Sanhita, 2023, § 80, No. 45 of 2023, India Code (2023).

⁷ Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 118, India Code (2023).

The court will consider a person responsible for dowry death when the woman suffered harassment from that person regarding dowry just before the woman's demise. Therefore, the court will assume that the person must have caused the dowry death.

The prosecution needs to establish three specific requirements for the presumption:

- A woman's death qualifies as "dowry death" under Section 80 of BNS.
- The death occurred within 7 years of marriage;
- The accused person inflicted cruelty or harassment on the woman.
- The cruelty was related to a demand for dowry.

The prosecution can activate the presumption when they establish all four conditions.

Changes in the Dowry Prohibition Act from 1961

This Act fights the social issue of dowry payments in marriages. Multiple amendments combined with judicial reforms enhanced the legal framework because the original design had insufficient power and enforcement resources. Section 2 expanded the Definition of Dowry. The new definition covers all property or valuable security exchanges that occur before, during, or after the marriage.

The minimum prison sentence for Section 3 was enhanced: The court will sentence the defendant to a minimum prison term of five years, along with a fine of either ₹15,000 or the dowry value, unless the court writes down exceptional reasons.

Police gained the ability to arrest suspects without warrants due to the newly established cognizability of dowry-related offences.

Reason for Amendment: The 1961 Act had an inadequate implementation process. The high frequency of dowry deaths alongside widespread cases of domestic cruelty needed a stronger deterrent system. The modified definition provided a solution to handle situations where dowry demands occurred after marriage or through indirect actions.

Dowry Prohibition (Amendment) Act, 1986

Dowry Prohibition Officers (Section 8B): Dowry Prohibition Officers are responsible for stopping dowry practices. The officers will acquire evidence and provide support for legal proceedings.

Dowry to be for the Benefit of the Wife or her Heirs (Section 6): Funds that women receive need to be given back within three months, or they will face

criminal charges. The State Government received increased authority to develop rules and supervise implementation activities.

Reason for Amendment: The 1984 amendment failed to improve the actual implementation of the law. There were no systems in place to execute the law at the operational level. The introduction of DPOs served to fulfil dual roles as both watchdogs and mediators.

The investigation focuses on determining whether abusive applications of anti-dowry legislation represent actual occurrences or only exist as theoretical concepts. Anti-dowry laws emerged to protect women against domestic abuse and harassment, but current discussions investigate possible misapplications.

Case Laws

Inder Mohan Goswami v. State of Uttaranchal, (2007)⁸

SC issued key directives on the issuance of Non-Bailable Warrants, while making it clear that such coercive methods should not be resorted to casually or mechanically. The matter at hand has emanated from the criminal case in which the issuance of NBWs was not only premature, but the dispute between the parties is essentially a civil dispute. The right to personal liberty guaranteed under Article 21 of the Constitution calls for a summons to be first issued by the courts to secure the presence of an accused, held the Court. If summons do not lead to appearance, bailable warrants are to be followed, and only as a measure of last resort, when the court is satisfied based on credible material that there is a likelihood of absconding or evasion of the process of law, should a non-bailable warrant be issued. The judgment emphasized that the criminal justice system cannot be allowed to be a convenient tool for harassment, and due process must be followed to avoid unnecessary misery to people. This ruling bolstered the rule that judicial discretion should be used carefully and with circumspection.

Preeti Gupta v. State of Jharkhand (2010)⁹

The Supreme Court tried to put in check the abuse of Section 498A of the Indian Penal Code, i.e., the cruelty to a married woman by her husband or his relatives. Most of the applications in the proceedings under this section were found to have been moved with an ulterior motive and often caused uncalled-for harassment to the accused. It highlighted that the police and courts should follow a careful and cautious approach, and the allegations under Section 498A should be properly verified and validated so that the same are not misused. The ruling further urged the legislature to examine the clause to guarantee it fulfils its intended aim, free of misapplication. This case emphasized the need to strike a balance between

⁸ Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 S.C.C. 1 (India).

⁹ Preeti Gupta v. State of Jharkhand, (2010) 7 S.C.C. 667 (India)

protecting real victims and protecting people from phony or exaggerated allegations.

Arnesh Kumar v. State of Bihar (2014)¹⁰

The landmark judgment of *Arnesh Kumar v. State of Bihar (2014)* represented a crucial legal remedy against anti-dowry law misapplications, which primarily target Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The Supreme Court found that Section 498A functioned as a method to abuse the husband and his relatives through baseless imprisonment because authorities routinely ignored proper investigations before making arrests. The Court established specific rules for officers and judges to follow when handling such cases because they interfered with personal freedom. According to the Court, before police officers could make arrests in cases with up to seven-year imprisonment terms, they needed to explain their decisions and meet requirements specified under Section 41(1)(b) of the Criminal Procedure Code (CrPC). Additionally, the Court made it mandatory for magistrates to confirm police adherence to these rules before permitting detention. The court ruling stressed that violations of the regulations would lead to disciplinary measures as well as contempt proceedings. The court decision transformed the arrest protocols for matrimonial cases by establishing safeguards for actual victims alongside protections for accused individuals from unfair arrests and legal intimidation.

Rajesh Sharma v. State of U.P., (2017)¹¹

The Supreme Court delivered its verdict in *Rajesh Sharma v. State of U.P. (2017)* to resolve the rising problems associated with the incorrect application of Section 498A of the Indian Penal Code. The court found that many Section 498A complaints showed apparent falsification because they primarily functioned to resolve private disputes, which eventually resulted in arrests and extended legal proceedings. The court recommended various protective measures to stop the provision's abuse while preserving fair treatment for all parties involved.

Social Action Forum for Manav Adhikar v. Union of India, (2018)¹²

The Supreme Court had already invalidated the guidelines in the case of *Rajesh Sharma v. State of U.P. (2017)*, which compelled the setting up of Family Welfare Committees to look into complaints under s. 498A IPC before making an arrest. The Court ruled that it would not be legally sound of them to give the directions to the methodology as it would be subverting the statutory rules, and also there would be an instance of judicial overreach and the criminal processes, which are

¹⁰ Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).

¹¹ Rajesh Sharma v. State of Uttar Pradesh, 2017 SCC OnLine SC 821 (India).

¹² Social Action Forum for Manav Adhikar v. Union of India, (2018) 10 S.C.C. 443 (India).

defined by the Code of the Criminal Procedure (CrPC), would be in violation of the law. It held that courts cannot invent non-legal mechanisms that trample on police powers. But the Court did uphold the procedural safeguards prescribed in Arnesh Kumar (2014) that are contained in Section 41 of the Cr.P.C., stating that arrests must be carried out according to due process and not in a mechanical manner.

Suman Mishra v. State of Uttar Pradesh, (2025)¹³

Setting aside the FIR lodged against husband and his family members under Sections 498A, 504, 506 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, the Court held that the allegations were general in nature and seemed to be filed after the husband had filed for divorce and were unsustainable.

The Court noted that the FIR did not contain the specific offences in respect of the accusations and the gravest of charge of rape under Section 376 IPC was removed during the inquiry for lack of evidence. Additionally, the complainant did not even file a protest petition in respect of dropping of the charge of rape as such there is complete nothing to infer that he wants to proceed with rape charge. While highlighting the importance of not allowing criminal law to be abused in matrimonial tussles, the SC ruled that the FIR and the eventual charge sheet were an abuse of the process of the law and ought to be quashed. It is an endorsement that, though safeguarding real victims should be the priority, the system also has to protect itself from misuse in the settling of scores.

CONCLUSION

The dowry practice, which has roots in social and economic customs, has over time become a legal issue due to large-scale abuse of the system and the damage it causes. In response to this issue, we see the introduction of the Dowry Prohibition Act of 1961 and elements of the Indian Penal Code, which put forth what is, at its base, a very fine ideal of protecting women from harassment, cruelty, and dowry-related violence. What we also see play out over time is that some of the legal elements within these laws, which are non-bailable and cognizable, have, in some cases, been misused, leading to false charges and, in turn, the issue of men and their families being harassed. This misuse is against the intent of the laws put in place to achieve justice and creates a legal imbalance in matters of matrimony.

In recent times, we have seen an increase in cases that have seen men have taken to very great measures, including suicide, out of what is reported to be misuse of the dowry laws, which in turn calls for urgent and balanced reform. While we still press for the protection of women against domestic abuse, which is very much an

¹³ Suman Mishra v. State of Uttar Pradesh, 2025 INSC 203 (India)

issue, also very much so is the need to prevent our legal structures from being used for personal revenge. Thus, reform must put in place speedier justice systems, which also put in check false reports, and which also take a gender neutral stand in the resolution of such issues. We must see the institution of legal mechanisms like preliminary inquiries, family counseling, and mental health support, which in turn will reduce adversarial litigation. In the end, the goal of reforming the dowry laws is not to water down women's protection but to bring about fairness, to prevent their misuse, and to promote justice for all individuals regardless of gender.

Indeed, the aim of dowry law reform should not be to weaken women's protection, but to enhance gender neutrality, discourage perversion, and promote justice for everyone, regardless of their gender. A balanced legal system is essential to gain the trust and confidence of women in matrimonial laws, ensuring that genuine victims have a fair opportunity to be heard without any bias.