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# **DOWRY SYSTEM AND DOWRY** **DEATH IN INDIA**

AUTHORED BY - JOHNCY JOHNSON

## **Abstract**

A woman entering into marriage does so with a lot of expectations and hope. She would want a happy life along with her husband and family and live in the society with dignity. All these expectations are destroyed due to the cruelty faced by them regarding dowry. According to Section 2 of [The Dowry Prohibition Act, 1961](#), “dowry” means any property or valuable security given or agreed to be given either directly or indirectly a) by one party to marriage to another party to the marriage, or b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person, at or before or any time after the marriage of the said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.<sup>1</sup>

The state is responsible for protecting women from this societal scourge. For this purpose, the government has implemented many laws against dowry, such as the Dowry Prohibition Act of 1961. Certain penal provisions were also included on the proposal of the 21st Law Commission report. Many educational and awareness programs were implemented by the government and non-governmental organizations in order to reduce the prevalence of dowry deaths. To address this heinous societal evil, sections 304B (Dowry death)<sup>2</sup>, 498A (Cruelty by Husband or in-laws, i.e., domestic abuse)<sup>3</sup>, and 113B (Presumption as to dowry death)<sup>4</sup> were inserted into the Indian Legislations around 1986. In this paper the researcher would further look into the various causes for the increase in dowry deaths along with the effectiveness of the laws enacted to prevent dowry death and harassment.

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<sup>1</sup> [The Dowry Prohibition Act, 1961](#), § 2, No. 28, Acts of Parliament, 1961 (India)

<sup>2</sup> The [Indian Penal Code](#), § 304B, No. 45, Acts of Parliament, 1860 (India)

<sup>3</sup> The [Indian Penal Code](#), § 498A, No. 45, Acts of Parliament, 1860 (India)

<sup>4</sup> The Evidence Act, § 498A, No. 1, Acts of Parliament, 1872 (India)

## Introduction

Throughout India, the Dowry system has persisted in every community, affecting the livelihood of individuals involved in marriage as well as those around them. The Dowry practice has lately grown in popularity to the point that every husband felt proud and showy about the quantity of objects, volume of precious metals, and sum of cash he got. Dowry is a societal scourge that has resulted in unbelievable tortures and atrocities against women and has ruined the Indian marriage system. Dowry is a monetary or in-kind payment paid to a bride's in-laws at the time of her marriage.

The Dowry Prohibition Act, which went into effect on May 1, 1961, prohibited the gifting or acceptance of dowry. Dowry is described as land, assets, or cash contributed by any partner in the marriage, the parents of any such party, or others who are connected in any way with the married couple under the Dowry Prohibition Act. In India, the Dowry Prohibition Act extends to people of all faiths. The initial version of the Dowry Prohibition Act was largely seen as inadequate in preventing dowry related practices. Furthermore, particular types of violence against women were still related to failing to satisfy dowry demands. As a result, the Act was amended later on. It was altered in 1984, to allow gifts given to the married couple at the occasion of the marriage. The law, on the other hand, mandated the keeping of a record that identified each present, its worth, the name of the individual contributing it, and his or her relationship to whichever party to the wedding. To safeguard female victims of dowry-related violence, the act and pertinent provisions of the Indian Penal Code were changed further. The Protection of Women from Domestic Violence Act of 2005 added another layer of legal protection.

The initial Dowry Prohibition Act was revised to include both minimal and optimum dowry penalties, as well as a sanction for seeking dowry or soliciting proposals of cash or assets in relation with a wedding. The Indian Penal Code was further updated in 1983 to add specified offences of dowry-related abuse, murder, and aiding and facilitating suicides. When dowry claims or dowry abuse could be proven, these laws criminalized abuse towards women by their spouses or family. Although these developments, dowry and dowry-related abuse continue to exist in differing extents in various Indian populations and socioeconomic classes.

## Research Objectives

1. To analyze the causes for increase in dowry deaths in India
2. To determine the effectiveness of the Dowry Prohibition Act in curbing dowry deaths.
3. To assess the role of Law Implementing Machinery

## Research Methodology

Research undertaken is purely doctrinal and the data collected is primary source which includes statutes, legislations, case-Laws etc. and secondary source which includes books, journals, articles etc.

## Research Question

1. What are the causes for increase in the dowry cases in India and the reason for the conviction rate reported very less?
2. Whether the laws enacted to protect women from being exploited and harassed is effective?

## Research Problem

The Dowry Prohibition Act was passed in the year 1961 in India to prevent abuse against women in their households and their deaths. However even after the legislation was passed, the deaths related to dowry still continue to prevail all over the country. According to the NCRB Report, the number of recorded dowry killing cases in India was almost seven thousand which was reduced compared to 2014 when the amount was approximately eight thousand five hundred. In India, over twenty women are killed every day as a consequence of dowry harassment. This harassment gradually leads to murder or compels the victims to commit suicide. Dowry is demanded almost in every Indian household even now directly or indirectly and has become like a tradition over the years which requires to be looked into seriously.

## Origin of Dowry

The Vedic Ages include evidence of the dowry system in India. Dowry and bride wealth were both permitted under the Manu smriti in early period in India, however dowry was considered highly

dignified sort and was linked with the Brahminic (priestly) group. Dowries began as love presents for upper caste persons' marriages, but throughout the mediaeval period, dowry demands became a prelude for marriage. Dowry demand extended to the lower castes and became a prestige problem, with the system becoming strict and costly. It is claimed that in medieval era, it was a monetary or in-kind gift provided to a new wife by her parents in exchange for her freedom after getting married.

It became the sole legal mode of marriage throughout the colonial era, again with British declaring dowry compulsory. Dowry became more prominent after the country gained independence in 1947. Although dowry seeking has been illegal in India since 1961, it has been difficult to implement such laws. Dowry has become an integral aspect of marriage in recent decades, particularly in some regions of northern India. This predatory structure has converted the ceremony of offering presents and good greetings into a mandatory requirement for cash, honor, and submission, inhibiting Indian society's progress and perceiving women as a liability on the household.

## **Causes for increase in Dowry Deaths**

- Greed

Dowry is expected to be provided at the event of a man and woman getting engaged to accommodate for the husband's degree, profession, and money. The bride's education, work, and riches are entirely ignored because she is not accorded the same societal position as a male. As a result, dowry expectations might be justified by the effect of hunger for material and monetary rewards. If the expectations are not satisfied, the wedding is dissolved or the wife is subjected to dowry-related abuse.

- Illiteracy

Being from a group of people who are not well educated, it is reasonable to believe that a lack of knowledge is a contributing factor to this heinous phenomenon. The bride's family, uninformed of the rules and regulations, is faced with unreasonable financial ultimatums that, if not satisfied, result in the abuse of their daughters. This arrangement may not have continued if

households recognized that women had the same position as males and should not be regarded as a liability.

- Social framework

The dowry system is majorly an expression of the Indian community which is male dominant, in which women are regarded as a liability on the household and dowry is one form of reward for shifting that burden. However, men are regarded as heads of households and earners, so families claim dowry for them.

- Traditions and customs

The major portion of dowry-related cases in India are committed in order to uphold Indian society's conventions and traditions. The society prefers to continue what is carried on throughout time and adhere to those conventions even though it brings them distress.

- Fear of mistreatment

Many Indian families pay dowry to alleviate their fear of their daughters being abused by their in-laws. There is a common idea that offering dowry would guarantee the safety and well treatment of their daughter post the wedding.

- Social pressures

Many times, giving dowry becomes a question of prestige. Within the Indian community, measuring an individual's position by the sum of gold or money spent on the female member's wedding has become a prevalent practise. Similarly, the higher the dowry, the more educated and well-off the groom's family is. As a result, the stress on both sides increases: on the wife's family to provide their best, and on the husband's family to claim maximum as possible. As a result, regardless of their financial situation, people seek to provide excellent presents because their social standing is revealed through these notable donations.

- Social limitations

The pressure to marry inside one's caste or tribe exacerbates the situation. Such constraints reduce the choice of men qualified for marriage, resulting in a shortage of acceptable possibilities, which ends up in an advantage for those men to claim more.

- Inadequate Enforcement of Anti-Dowry Laws

Several legislations have been drafted by the Indian government over many decades to restrict and fight the dowry system. The Dowry Prohibition Act of 1961 and the Protection of Women from Domestic Violence Act of 2005 are two examples. However, due to widespread participation in this social vice, the application of such regulations is ineffectual. Indians ignore anti-dowry laws and utilize the dowry systems prevailing in the society to get materialistic and financial gifts under the pretext of a wedding. As a result, the requests are placed incorrectly and the woman's parents pay the price.

## **Laws Enacted**

- The Dowry Prohibition Act, 1961

Dowry is prohibited in India under this Act. The Act also makes it a crime in India to take or gift dowry. Negotiating for a lower dowry from the groom's side when the bride's side is unable to meet the true demand/real deal' and forcing the bride's family to meet requests as recompense for marrying their daughter after the wedding are all illegal. The penalty for breaking the anti-dowry law is up to 5 years in jail and a fine of Rs. 15,000 or the value of the dowry provided, whichever is greater.

- The Indian Penal Code (IPC) sections

Section 304B addresses dowry death. It specifies that dowry death occurs if a woman dies within seven years of marriage as a result of burns or physical harm, or if it is proved that before to her marriage, she was subjected to cruelty or harassment by her husband or any other family of the husband in connection with dowry demand.

Section 498A addresses cruelty. It specifies that if a spouse or any of his relatives commits mental or bodily injury to a lady, they are guilty under this clause.

- Indian Evidence Act, 1872

Section 113B addresses the dowry death assumption. It stipulates that if a woman dies as a result of dowry demand and it is shown that she was exposed to harassment or cruelty by any individual shortly before her death. The court will then hold such a person accountable for her death.

## Misuse of the Law and Conviction

Section 498A of the Indian Penal Code (IPC) has been a widely contested section, particularly in light of repeated Supreme Court judgements. Between 2006 and 2015, the conviction rate for cases under this section fell steadily. The conviction rate is one of the lowest of any IPC offence. Following the Supreme Court's judgement in 2014 to prohibit automatic arrests in Statute 498A cases, it has offered key guidance in dealing with cases lodged under the section.

One explanation for low conviction rates is a lack of needed evidence. In society, the police are supposed to operate as a shield for the general public, but in fact, they induce dread in the minds of the general population by an act of police. The police are also accused of attitudes, behaviors, and perceptions that limit the chance of successful law enforcement in the current situation. The most common complaints levelled against police are: arriving at a crime scene too late, twisting the events in recording the First Information Report, always preferring dowry deaths as suicide, and conducting the inquiry in a less proper and sluggish manner. The police regard violence against women as a family matter and are always reluctant to record a case.<sup>5</sup> Various of the police gaps may be noticed in some Supreme Court decisions. Cases such as Bhagwant Singh v. Commr. of Police Delhi<sup>6</sup> show that the rate of unnatural deaths is far greater than police say. Police diaries are not kept correctly and are not submitted in front of a magistrate. The investigating officer repeatedly changed, which hampered the probe. Corruption is blamed for several of the police's failures. The police have their own explanation for the current state of affairs. First, there is

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<sup>5</sup> Paras Chug, Dowry Deaths in India, Legal Vidhiya (Oct. 25, 2022, 6.45 PM), <https://legalvidhiya.com/dowry-deaths-in-india/>

<sup>6</sup> Bhagwant Singh v. Commr. of Police Delhi, 1985 SCC (2) 537

insufficient proof owing to independent witnesses. The deathbed declaration, which is a significant piece of evidence, invariably contradicts a statement made by a linked individual. Forensic evidence is also typically useful; it would be preferable if specialists were delivered to the victim at the scene of the incident.

While many women have utilized the legislation to seek justice and release from abusive marriages, India's Supreme Court stated in July 2017 that the statute is increasingly being "misused by certain dissatisfied wives" to frame their husbands and his family. According to the National Crime Records Bureau (NCRB), approximately 200,000 persons were detained for dowry offences in 2012, yet only 14.4% of those arrested were convicted. To that end, the Supreme Court of India directed that a family welfare committee be formed in each district to investigate the truth of complaints made under Section 498A. The courts directed police to "not automatically arrest" an accused person, but rather to go through a "nine-point checklist" to "satisfy themselves regarding the necessity for arrest." In addition, the court stated that in circumstances when arrests are made, a magistrate must authorize extended custody of the accused. According to the judgement, the current NCRB numbers show that, despite the number of cases registered under Section 498A is growing each year, the conviction rate is decreasing.

Between 2006 and 2016, for every case that ended in a conviction, five other cases resulted in an acquittal, and one case was dropped, resulting in just one out of every seven cases being convicted- National Crime Records Bureau. According to the statistics, the number of outstanding cases at the end of 2016 was more than double that of the end of 2006. At the end of 2006, there were 206000 outstanding cases, which had climbed to 5,15,000 by the end of 2016, a more than 150% increase in 11 years.

However, the Supreme Court partially reversed some of these guidelines earlier this year, calling for balancing the interests of both parties in dowry harassment cases. The Supreme Court modified its own 2017 decision, removing the necessity for a family welfare committee and restoring police powers to act on accusations of dowry harassment under Section 498A.<sup>7</sup> "There should be gender

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<sup>7</sup> SBS Punjabi, <https://www.sbs.com.au/language/punjabi/en/article/80-per-cent-of-all-dowry-cases-in-india-end-in-acquittal/aets82803> (last visited Oct. 20, 2022)

justice for women since dowry has a chilling impact on marriage on the one hand, and on the other side, there is the right to life and personal liberty of the male," the bench stated in September 2018 while reserving the judgement. Despite acknowledging that the abuse of the clause is causing "social instability," the court stated that the Court cannot rectify legislative voids.

## Relevant Case Laws

### 1) **Bachni Devi v. State of Haryana** <sup>8</sup>

Facts in brief

Kanta Devi, married the accused in May 1990. Two months after her marriage, her mother-in-law approached her father and requested a motorbike for her son for his milk vending company. However, her father was unable to meet the requirement. Following that, her husband and mother-in-law began abusing her and telling her father that if he did not provide a motorbike, they would not allow her to reside in the marital house. Later she started reporting the abuse to her father. Her dead body was found in her room in her in-law's house in an unnatural situation, and hence her father filed a case.

Court decision and Judgment

The Trial Court found her mother-in-law and husband guilty of violating Section 304B of the Indian Penal Code. They were sentenced to seven years of imprisonment. An appeal was filed in the High Court, but the High Court had to dismiss it. Later an appeal was filed to the Supreme Court, which was also dismissed.

### 2) **Kamesh Panjiyar v. State of Bihar** <sup>9</sup>

Facts in brief

Jaikali Devi, the deceased, married the appellant in 1988. Dowry of Rs 40,000 was paid during the marriage. Her husband and in-laws desired and demanded more dowry but did not receive it.

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<sup>8</sup> **Bachni Devi v. State of Haryana**, (2011) 4 SCC 427

<sup>9</sup> **Kamesh Panjiyar v. State of Bihar**, (2005) 2 SCC 388

Later, she started complaining to her parents about the mistreatment and abuse faced in her in-law's house. On 28 November 1989, her body was found on the verandah of her in-law's house, and marks of torture were found.

### Court decision and Judgment

The Sessions Court was satisfied that her death was not a natural death and convicted the husband. He was sentenced to ten years of imprisonment. He later appealed to the High Court. The High Court also upheld the conviction of the Sessions Court but reduced the sentence to seven years. Later on, he appealed once again to the Supreme Court. The Supreme Court upheld the decision of the High Court.

## Conclusion

Dowry death is a social plague that is often discussed in Indian community. Women's protection organisations, policemen, public authorities, and the government have taken a coordinated approach by enforcing deterrent penalties on those guilty of dowry deaths. It is clear that the Indian legislature, in cooperation with the Indian courts, is developing helpful and supportive legislation to safeguard women's rights and honor, as well as to provide more support for survivors of abuse or mistreatment by spouses and their household. Educational structure improvements have enhanced female educational position and will minimise dowry deaths. Several necessary changes must be adopted to eliminate or at least lessen the societal evil of dowry death, but most importantly, a societal will and desire to refuse the selfish greed for dowry claims is essential.

## Suggestions

Some suggestions that the researcher would like to give are that there should be proper implementation of anti-dowry laws. Furthermore, the exploitation of such legislation must be addressed. Women must be supported for becoming dependent on oneself and not others, and steps should be taken to guarantee that every female receives an education. Efforts should be made to raise awareness about dowry and dowry-related violence, and women's rights should be promoted. Along with this, school and community awareness programs should be organized. Individuals must be urged never to embrace these harmful customs, but instead to respect women on an equal

basis alongside their male partners and aid them in leading a respectable life. Coupling only inside one's caste or class must be prohibited so that women have more alternatives and are not pressured to choose somebody with dowry demands.

In addition, in order to reduce the number of dowry killings, harassment, and cruelty, further female inspectors should be employed and assigned to cases concerning unusual death of women. For the purpose of appropriate examination and fairness, the examination should not be performed below the level of assistant commissioner. The penalty for assisting suicide should be increased to up to seven years in prison. A logical and realistic solution to the aforementioned issue would undoubtedly be beneficial.

