

# **Examining Legal Provisions for Women's Empowerment: An Insight into Dowry Prohibition Act**

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**"A happy marriage is a harbor in the tempest of life, an unhappy marriage is a tempest in the harbor of life"**

## **ABSTRACT**

In India, "women" is often associated with roles such as mother, wife, and daughter. Consequently, laws concerning women rarely recognize them as independent individuals but instead, frame their rights and protections in relation to men or society at large. This perspective problematically casts women's issues as secondary and limits the concept of equality as primarily male-centric. While the Indian Constitution affirms gender equality and empowers the State to implement positive discrimination measures favoring women, social practices frequently contradict these constitutional principles. This paper addresses a pervasive issue affecting women across all sections of society: dowry. Defined as the property, products, or money exchanged by either party, their families, or others in connection with marriage, dowry practices place a heavy burden predominantly on the bride's side and affect people across different faiths in India. This analysis examines the historical context of dowry, related legislation, and other provisions aimed at women's empowerment, alongside a discussion of dowry-related deaths. It concludes by assessing the efficacy of these laws in protecting women and shaping societal attitudes. Significant research has also been conducted on the amendments and gaps within these laws, leading to key recommendations for improving the status of women within a patriarchal society.

## **RESEARCH METHODOLOGY**

The research is exploratory, descriptive, evaluative, and analytical, with an empirical examination of how dowry has affected rural and marginalized society compared to urban middle-class people. It has three major sections, The first argues about the origin of dowry and how its meaning has changed over the years leading to dowry harassment, domestic violence, and deaths in India. The second section throws light on how the notion of women's empowerment has been affected by the Dowry Prohibition Act, of 1961, and how the various other provisions made for gender equality have been a major turning point in changing the discourse on dowry. The aspect of education has also been discussed to show how it affects dowry demands. The last part reveals the reality and current scenario of misuse of dowry law and evaluates whether laws for women have been elevating or demoralizing them. Through this research, an effort has been made to understand the provisions for women's empowerment and delink the notion of dowry with marriage. Secondary data like reports, research papers, articles, news, and surveys have been used for descriptive analysis. The limitations and loopholes have also been identified, and suggestions have been made to improve the implementation and impact of the act.

## **INTRODUCTION**

Dowry refers to all of the gifts and valuables that a woman brings to her husband's home once their marriage is legally recognized. The dowry system is not just prominent in India, but it also manifests

itself in many ways in other nations such as Africa and China, where the groom pays a bride price for the completion of marriage. In 1961, the Indian Parliament approved the Dowry Prohibition Act, as an attempt to make dowry illegal and therefore boost women's positions, regardless of religion. Despite several amendments to the statute and various provisions for women, the dowry system and many cases of dowry harassment, domestic violence, and dowry deaths associated with it endure. Another recent difficulty has been the act's inadequacies, which have increased the number of false lawsuits filed by women against their husbands and in-laws for malevolent motives. There is a dire need to eradicate this evil from our society and achieve gender equality in the community.

The paper will begin by tracing the evolution of the term "dowry," and then examine case studies related to dowry, linking it to the status of women in patriarchal society, proceeding to a comparative study of how rural and urban regions are culturally rigid and differ in reinforcing dowry demands. It goes on to explore the effects of women's laws and anti-dowry legislation in Indian households and how will the positive influence of NGOs, IPC revisions, awareness campaigns, and education help reduce dowry cases. Before recommending a course of action, the restrictions of the act have been outlined. Finally, it depicts the transition from marriage being viewed as a fantasy full of delight to reality becoming a burden devoid of happiness.

## LITERATURE REVIEW

The article *"It's not all about money, Honey: The dowry Dilemma # A personal Experience"* (Astitwa, 2012) helped the researcher to gain insights into the real experience of dowry, further aggravated by the impact of the song *"Mujhe kya bechega Rupaiya"* in realizing how women are emotional beings and not commodities to be sold. B. Agarwal in his book *"Women and Property: reducing domestic violence"* described women's rights and the rights of men in women's property which helped in understanding the issue properly. Jane Austen's novel *"Pride and Prejudice"* stressed the presence of dowry or money for marriage in literature. The essay *"The Dowry"* by Guy De Maupassant also throws light on this sensitive issue. Analyzing from a sociological perspective, the book *"Gender Violence: A Cultural Perspective"* by Sally Engle Merry helped to discover the illegal cultural practices like female genital cutting, and dowry deaths and how it has increased gender violence. *"Exploring symbolic violence in the everyday: misrecognition, condescension, consent and complicity"* (Thapar, 2016) discusses Pierre Bourdieu's concepts and how domination and violence are reproduced in everyday interactions, social practices, institutional processes, and dispositions. Dowry is seen as symbolic violence, which removes the victim's agency and voice, and is impervious, insidious, and invisible while simultaneously legitimizing and sustaining other forms of violence. The book *"Nine Degrees of Justice: New Perspectives on Violence against Women in India"* by Bishakha Datta focuses on how justice needs to be redefined, the struggles of women against violence (dowry, rape) taken into account while formulating laws for women's rights. She also examines how the reforms in women's laws have broadened the social justice system and made it more accessible to women who could not previously identify with it. She recognizes the fine line between pragmatic decisions and decisions based on principles. Analysing *"Gender Justice and Women Empowerment"* by R.C. Agarwal, provided a comprehensive overview of constitutional and

legal provisions related to women's rights, sexual harassment, and gender justice in India. Prof. Nomita Aggarwal's book *Women and the Law* laid the groundwork for understanding legal provisions specific to women in India, covering marriage, inheritance, and employment rights while offering a critique of existing laws and suggesting reforms.

Satish Sharma's book, "*Empowering Women in India: Human Rights, Law, and Public Policy*" throws light on the intersection of legislation, human rights, and public policy in empowering women and shaping legal reforms. "*Violence Against Women and Law*" by S.C. Tripathi and Vibha Arora, critically examined laws related to violence against women, dowry deaths, and sexual harassment, also discussing the challenges that persist in seeking justice.

Flavia Agnes's work "*Gender Law and Policy in India*", focuses on family law, property rights, and the criminal justice system for understanding the socio-legal landscape affecting women's rights in India. Jyoti G. Singh's work, "*Women, Law, and Public Opinion*", provided insights into societal attitudes towards laws and their impact on women's lives. "*The Law of Domestic Violence*" authored by Manjula Batra, helped in understanding domestic violence laws and their impact on women's empowerment in India, highlighting the gaps between law and practice.

## **EVOLUTION OF THE DOWRY SYSTEM AS A SOCIAL EVIL**

Dowry is a centuries-old tradition rooted in the concept of *kanyadan*, which originated from ancient Vedic marital practices. According to *Dharamshastra*, the act of *kanyadan*, i.e., the giving of a daughter in marriage is considered incomplete unless accompanied by a *dakshina*, a gift in kind or money, presented to the bridegroom upon the bride's transfer to him. This customary gift, known as *varadakshina*, thus became closely associated with *kanyadan*. Over time, *varadakshina* evolved into the practice now known as dowry, where monetary or in-kind gifts are given to the bridegroom by the bride's family.

The *varadakshina* was initially a voluntary ritual believed to foster and deepen unity. Dowry's voluntary component has increasingly been supplanted by a coercive component, which has been deeply established over time. The distinction between dowry and 'stridhan' has been removed because the latter is a gift given voluntarily to women, whereas the former involves the element of "demand, undue influence, or coercion."

There has been a protracted struggle to end numerous social problems such as female infanticide, oppression, domestic violence, and the dowry system. Even before India's independence, legislation such as the "*Sind Deti Leti Act, 1939*," enacted to combat the problems of the dowry system failed to have the desired effect. To eliminate this evil from society, the "*Bihar Dowry Restraint Act, 1950*" and "*Andhra Pradesh Dowry Prohibition Act, 1958*" were passed, however, they too were ineffective.

The proposal to prohibit dowry was introduced in the Lok Sabha during its very first session, but the Cabinet decided that it would be put on hold until the *Hindu Succession Act* was passed. After the Act was passed in 1956, it was felt that additional legislation to abolish dowry was not necessary. Due to the political and social pressure, the government finally agreed to process the law as the

dowry crisis worsened. The *Dowry Prohibition Act, 1961* (28 of 1961) was finally passed and obtained the President's assent on May 20, 1961. Except for the state of Jammu & Kashmir, it covered the entire country of India.

The Act defined "dowry" as any property or valuable asset that is given or agreed to be given, directly or indirectly, by one party in a marriage to the other, or by the parent of either party. Although it is not mentioned in the law that the bride is required to pay the dowry, it has long been customary on the female side to do so.

The dowry system has recently reached an acute form in practically all sections of the country, and this statute did little to abolish dowry and other forms of violence against women. To combat this heinous societal evil, the Dowry Prohibition Act was revised in 1984 and 1986 to strengthen the penalties for dowry negotiations, and sections 304 B, 498A, and 113 B were inserted into Indian penal laws.

## **TRAJECTORY OF LAWS IMPLEMENTED FOR WOMEN'S EMPOWERMENT**

Historically, women in India have been subjected to subjugation, violence, and disrespect, reinforced by deep-rooted social norms. The pursuit of gender equality has been challenging, even with significant social movements and legislative advancements. Dowry, a deeply entrenched issue within Indian society, has been targeted by the Dowry Prohibition Act alongside various other laws and amendments designed to curb its detrimental effects and progressively eliminate the practice.

A range of legislative measures has been introduced to enhance women's safety, economic independence, and societal dignity. The Equal Remuneration Act, 1976, mandated equal pay for men and women for identical work, thereby aiming to reduce workplace discrimination and improve women's financial autonomy. The Criminal Law (Amendment) Act, 1983, strengthened legal protections for women by amending the Indian Penal Code, the Evidence Act, and the Code of Criminal Procedure, with a particular focus on stringent penalties for crimes against women, such as rape. The Indecent Representation of Women (Prohibition) Act, 1986, was enacted to safeguard women from objectification in media and advertisements. Further institutionalizing these protections, the National Commission for Women was established under the National Commission for Women Act, 1990, with the mandate to review and uphold legal safeguards addressing gender-based exploitation and inequality.

In the 21st century, India introduced additional policies aimed at empowering women in diverse spheres. The National Policy for the Empowerment of Women (2001) promoted equal access to opportunities, eradicated discrimination, and encouraged active participation by women across sectors. To safeguard female victims from harassment and violence, **the Protection of Women from Domestic Violence Act, 2005 was introduced as another level of legal protection.** This act is beneficial in dowry situations because an unpaid dowry is frequently the source of domestic violence. This legislation is a civil law, which means it is not intended to criminalize or penalize individuals but rather to *protect women* from domestic abuse perpetrated by their spouses or in-laws. Some stringent

penal provisions like Sections 3 & 4 make the act of giving and taking of dowry punishable with a minimum imprisonment of 5 years and a fine of Rs 15,000 or the value of the dowry whichever is more. Though the act lays down several preventive and punitive provisions, the objectives have not yet been achieved. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, further created structured mechanisms for handling workplace harassment complaints. Additionally, the Criminal Law (Amendment) Act, 2013, or the Nirbhaya Act, expanded the legal definition of sexual offenses to include stalking, voyeurism, and acid attacks. The Muslim Women (Protection of Rights on Marriage) Act, 2019, abolished the practice of instant triple talaq, reflecting a progressive step towards gender equality.

While these legislative measures have established crucial frameworks and led to incremental improvements in legal recourse and women's safety, data underscore the need for comprehensive enforcement, societal reform, and expanded support systems. Achieving the full impact of these policies will require greater government funding, judicial efficiency, corporate compliance, and cultural shifts to support gender equality across all segments of Indian society. For instance, the Equal Remuneration Act, 1976, aimed to close the wage gap; however, the Global Gender Gap Report 2022 ranks India at 135 out of 146 countries, with women earning only 62% percent of what men earn on average, suggesting persistent gender biases in the workplace and informal sectors hinder full wage parity. The Ministry of Women and Child Development's 2021 report, stated women's workforce involvement reached merely 23% in 2021, quite lower than the global average of 47%, while enrolment in education has improved, transforming this into sustained economic participation for women requires additional support. The 2005 Act has made it possible for millions of women to report abuse, with over 5.5 million cases recorded between 2005 and 2022. However, NCRB data indicate a conviction rate of just 32% in domestic violence cases, highlighting limitations in both judicial efficiency and societal support systems. Additionally, a 2019 study by the National Family Health Survey (NFHS) found that only one in four women experiencing violence seeks help, and fewer than ten percent approach law enforcement, underscoring the stigma and fear surrounding legal recourse for domestic abuse victims.

Despite protections under the Indecent Representation of Women (Prohibition) Act, 1986, and the establishment of the National Commission for Women in 1990, the Advertising Standards Council of India (ASCI) reports an 85% percent increase in complaints related to indecent representation and objectification between 2015 and 2021. The National Commission for Women itself has handled over 130,000 complaints in the last decade, yet it operates with a limited budget and faces backlogs.

NCRB data shows an eighty-five percent increase in reported workplace harassment cases from 2014 to 2022. However, a 2021 survey by the Indian Ministry of Women and Child Development revealed that only 35% of organizations in the formal sector have an Internal Complaints Committee (ICC) as mandated by the 2013 Act, indicating gaps in corporate compliance. In the informal sector, which employs 90% of Indian women, access to reporting mechanisms is even more limited, leaving many workers vulnerable to harassment without recourse.

The Nirbhaya Act of 2013 strengthened protections against sexual violence, and by 2022, India saw a

62% increase in convictions for crimes against women compared to pre-2013 levels, according to NCRB. Yet, the overall crime rate against women rose by twenty percent from 2013 to 2022, suggesting that underlying social attitudes and preventive measures need further enhancement. Furthermore, the Muslim Women (Protection of Rights on Marriage) Act, 2019, which criminalized instant triple talaq, has led to a decrease in reported cases of talaq-e-biddat by nearly fifty percent by 2021, reflecting some success in legal deterrence and community awareness.

These legislative efforts are complemented by government initiatives such as *Beti Bachao Beti Padhao*, with the child sex ratio in specific districts improving by about seven percent from 2015 to 2021, according to the Ministry of Health and Family Welfare. This underscores India's ongoing commitment to creating a safe and supportive environment for women, addressing issues of dowry, and discrimination, thereby promoting economic and social empowerment.

## **MAJOR CASES WHICH TURNED THE DISCOURSE and AMENDMENTS RELATED TO DOWRY HARASSMENT AND DEATHS**

According to *Sanjay Kumar Jain v. State of Delhi*<sup>1</sup>, the dowry system is a stain on our society, democracy, and country. It is incomprehensible how such unfortunate and condemnable dowry deaths occur so frequently in our society. All efforts must be made to combat and reduce the growing threat of dowry mortality. To address this tragic fact of our culture and the growing threat of dowry killings, the legislature adopted the Dowry Prohibition Act in 1961.

Dowry death cases have been prevalent in India for a long, this evil practice has strong roots in tradition and has affected women across borders also. Another case study involves Mandeep Kaur, a 30-year-old Indian woman residing in New York, who died by suicide on 3 August 2022 after enduring nearly eight years of dowry-related torture and abuse by her husband. She faced mental harassment due to having two daughters and the battle for justice in her case continues. This tragedy has once again highlighted the pervasive issue of the dowry system.

Due to the failure of dowry legislation and an increase in the rate of dowry death, the Indian Penal Code, 1860 was amended in 1983 and 1986 by adding sections 304-B and 498-A. Because the offense is not bailable under the IPC, the accused spouse or family member cannot be released on bail.

**Dowry Death-Section 304-B IPC:-** It includes death caused by burns or bodily injury under abnormal circumstances. Death should have occurred within seven years of her marriage. Women must be victims of cruelty or harassment in connection with dowry demands by husbands or his relatives soon before death.

**Mustafa Shahadal Shaikh v. State of Maharashtra**<sup>2</sup> states that the terminology used under section 304-B "Soon before death" specifies no definite period and it will be determined by Courts

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<sup>1</sup> AIR 2011 SC (CRIMINAL) 281

<sup>2</sup> AIR 2012 SC (CRI) 1852

depending upon the facts & circumstances of the case. However, it would imply that the interval between the cruelty or harassment concerned and the death in question should be short.

**Cruelty on woman by Husband or Relatives-Section 498A, IPC:** –Cruelty or harassment by her husband or his family member has been made punishable with imprisonment up to 3 years. Cruelty comprises mental and physical torture as a result of an illegitimate dowry demand. *Inder Raj Malik v. Sunita Malik*<sup>3</sup>, the court ruled that a person convicted under the Dowry Prohibition Act and section 498A of the Indian Penal Code *does not face double jeopardy* under Indian Constitution article 20(2). In the former, cruelty is not required for punishment, whereas in the latter, cruelty is required. In the matter at hand, the Delhi High Court took a pragmatic approach, stating that the term "cruelty" is properly defined.

**Intentional Death of Women –Section 302 IPC:** - If a person knowingly kills a woman (dowry murder) then he/she is punishable under this section

**Abetment of Suicide of Woman- Section 306 IPC:** - Section 306 applies if the husband and his relatives create a circumstance that leads to the suicide of a woman within seven years of marriage.

**Code of Criminal Procedure, 1973-** Sections 174 and 176, respectively, deal with police and magistrate investigations and inquiries into the causes of unnatural deaths and suicides by women occurring within 7 years of marriage or any doubtful situation.

**Indian Evidence Act, 1872-** The burden of proof in dowry death has been formed by Section 113B, which states that the court must presume that dowry death was caused by the person who is proved to have subjected the woman to cruelty or harassment shortly before her death. *State of W.B v. Orilal Jaiswal*<sup>4</sup> stated despite the assumption, the requirements of proof and defense will stay the same.

## IMPACT OF EDUCATION

The dowry system, deeply rooted in Indian society, has been a persistent issue leading to gender discrimination, financial strain, and social injustice. However, education is emerging as a powerful tool in addressing and potentially eradicating this practice. By fostering awareness, changing perceptions of gender roles, and promoting economic independence, education plays a transformative role in weakening the dowry system and its adverse effects.

### 1. Shifting Gender Perceptions and Norms

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<sup>3</sup> 1986(2)CRIMES435

<sup>4</sup> AIR1994SC1418



Education helps reshape societal views by challenging long-standing norms that equate a woman's value with her marriageability and dowry. Educated individuals, particularly women, are more likely to question patriarchal practices like dowry and reject the traditional roles assigned by such customs. With increased awareness of gender equality and legal rights, education enables people to recognize dowry as an outdated and harmful social practice. Educated families tend to place greater value on a woman's personal achievements and potential, viewing marriage as a partnership rather than a transaction.

2. **Economic Independence and Empowerment**

Education equips women with the skills, knowledge, and qualifications necessary to enter the workforce, leading to economic independence. Financially self-sufficient women have greater agency in life decisions, including marriage, and can resist dowry-related pressures. When women contribute economically, families tend to place less emphasis on dowry as a compensatory means for "supporting" them. Additionally, educated families may prefer alliances based on compatibility rather than financial exchanges, as economic independence reduces the need for dowry as a source of financial security.

3. **Awareness of Legal Rights and Protections**

Education spreads awareness of the legal measures designed to combat dowry. Laws like the Dowry Prohibition Act, the Protection of Women from Domestic Violence Act, and other legal provisions offer protection against dowry demands and related abuse. Educated individuals are more likely to understand and assert these rights, report offenses, and pursue legal recourse. Increased awareness of these protections has contributed to a slow yet observable decrease in dowry-related incidents in educated communities.

4. **Reducing Dowry as a Determinant of Marriage Value**

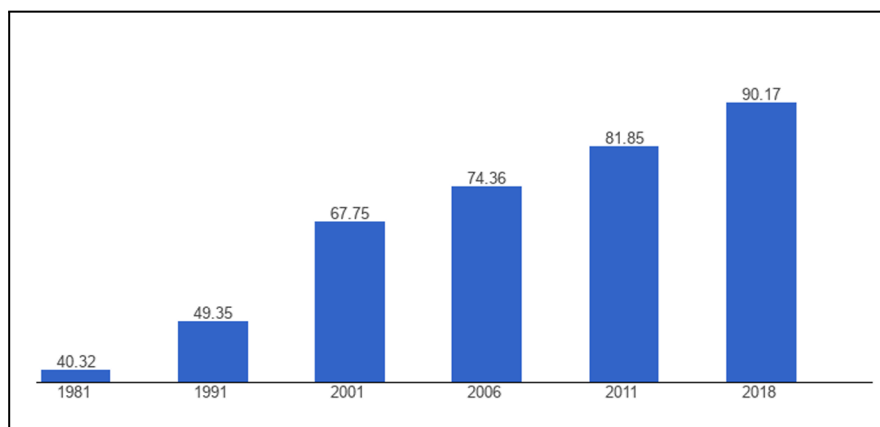
Education alters how both men and women view marriage. With higher educational qualifications, families often prioritize qualities like mutual respect, values, and life goals over dowry in marriage arrangements. In more educated communities, families increasingly seek educated brides and grooms who share a commitment to personal and professional growth, diminishing the importance of dowry as a determinant of marriage value.

5. **Encouraging Social Mobility and Reducing Gender Discrimination**

Education promotes social mobility and reduces the economic disparities that fuel the dowry system. As women enter diverse fields, their roles expand beyond traditional domestic spheres, elevating their societal status. This shift weakens the dowry system by reducing discrimination based on gender, as educated women are recognized for their professional and social contributions rather than merely as "dependents" requiring financial support through dowry.

However, a persistent concern that haunts and affects Indian society is the negative impact of education on dowry, the interplay between women's rising educational achievements and dowry demands has yielded a complicated effect, where higher educational levels can inadvertently increase dowry expectations. A more educated bride, ironically, often faces higher dowry demands, as her education and employment prospects can make her more "desirable" in the marriage market, where families may perceive her as an asset worth a higher bride price. Data from the National Family

Health Survey (NFHS) and report of the National Crime Records Bureau (NCRB) shows an alarming number of dowry-related crimes, with 10,366 cases under the Dowry Prohibition Act and 6,966 cases of dowry deaths reported in 2020 alone. Studies by sociologists and economists show that education while empowering for women, may also complicate marriage negotiations by increasing familial expectations of the bride's financial worth.



SOURCE- Global Economy- Female literacy rate, ages 15-24

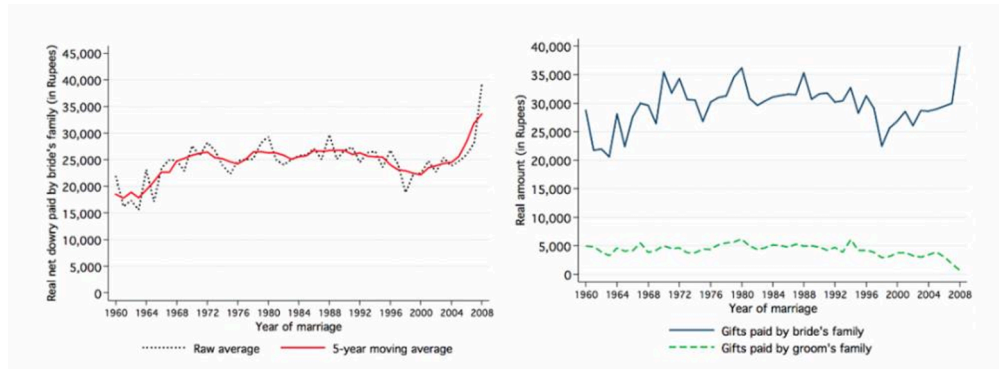
## COMPARATIVE ANALYSIS BETWEEN RURAL AND URBAN INDIA

Since we see education is higher in urban India, an evaluation has been made by comparing surveys and data about dowry cases in rural and urban areas to conclude the effectiveness of the Dowry Prohibition Act, 1961 and whether it has impacted women positively.

According to the Rural Economic and Demographic Survey (REDS), dowry was paid in 95% of weddings between 1960 and 2008, putting women in rural India at risk. Dowry frequently places a significant financial burden on the families of girls, resulting in significant economic and social transformation. The question of whether India has experienced dowry inflation has sparked heated debate in both popular and scholarly circles. Using data from marriages, this research examines how dowry payments have changed over time and among states, castes, and religions in rural India.

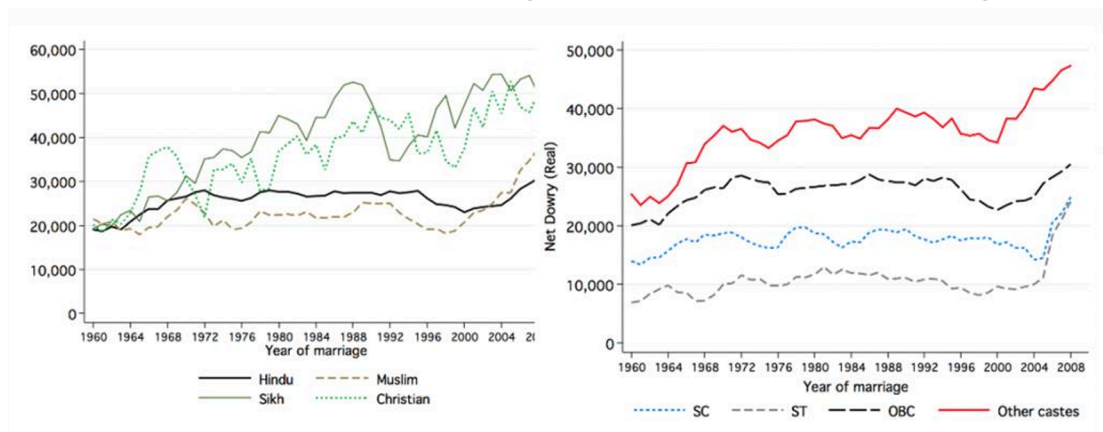
The research is based on the 2006 REDS dowry statistics for India, which covers 17 major states and contains approximately 96% of India's population. Net Dowry is the difference between the value of gifts given by the bride's family to the groom and the value of presents given by the groom's family to the bride's family. The figure below shows that the average net dowry has been remarkably stable over time with some inflation. The flow of payments in the opposite direction, that is, from the groom to the bride, is also positive throughout, but smaller. As per capita incomes have risen in India, these stable trends imply that dowry as a share of household income has gradually declined at the national level.

### Trends in Real Net and Gross Dowry by Year of Marriage



Dowry is common in India's major religious groupings. Because Hinduism is the majority religion in India, the trend for Hindus is identical to the national trend. However, it is crucial to note that the average net dowry in Muslim weddings is only slightly lower than among Hindus and has remained consistent during the study period. Christians and Sikhs, on the other hand, had a significant increase in dowry over the same time period, resulting in higher average dowries than Hindus and Muslims.

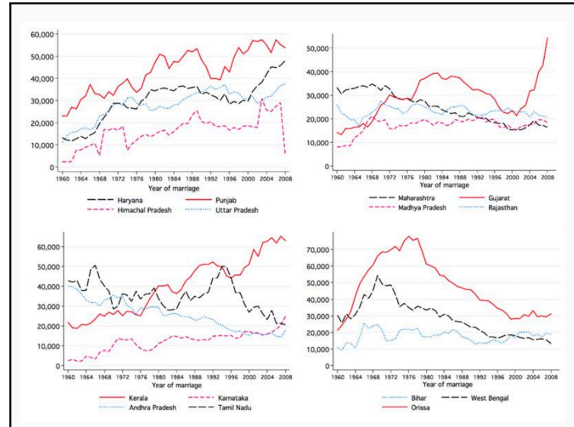
### Trends in Real Net Dowry, by Religion, Caste, and Year of Marriage



Dowry is directly proportional to higher caste status and the caste hierarchy of dowry payments has not changed over time. Upper-caste marriages have the highest dowries, followed by Other Backward Classes (OBCs), Scheduled Castes (SCs), and Scheduled Tribes (STs). **“Caste and Gender: Understanding Dynamics of Power and Violence”** by V. Kannabiran explains how increasing violence against women and dowry harassment enforces the maintenance of 'order' in social -relations of caste and gender based on the use of power.

Significant variations across states can be observed throughout time. Kerala has experienced severe and ongoing dowry inflation since 1970. Inflation patterns are also visible in Haryana, Punjab, and Gujarat. Given Kerala's religious composition (26% Muslims, 18% Christians, and 55% Hindus), this pattern is consistent with the previously observed religious differences. In contrast, the average dowry in Odisha, West Bengal, Tamil Nadu, and Maharashtra fell.

### Trends in Real Net Dowry, by State and Year of Marriage

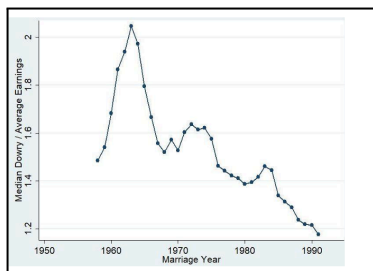


The study of Urban Areas reveals that though there has been a decline in dowry cases due to an increase in awareness and education data shows it has simultaneously negatively impacted women by creating demands on them to be financially independent so they are more capable of providing dowry. The study concluded that dowry is best explained by the 'returns' to marrying a specific groom. Dowry has been shown to induce sex-selective behavior (Borker, 2017), instigate violence against wives in the hopes of extracting additional dowry payments (Bloch, 2002), and change household investment decisions (Vogl, 2013; Anukriti, 2019). *Varieties of Patriarchy and Violence Against Women: Resurrecting "Patriarchy" as a Theoretical Tool*. (Hunnicut, 2009) can also assist explain how dowry death is caused by patriarchy, which leads to gender disparities, criminality, and victimization. Understanding the underlying causes of dowry aids in the development of effective policy responses.

Indian Human Development Survey (IHDS); and National Family Health Surveys (NFHS) were primary datasets used for information on marriage practices and dowry payments. Most weddings in metropolitan areas are planned, although couples now have some influence over who their spouse is; 80% of ladies marry grooms from comparable backgrounds, increasing dowry across India.

Sociological publications have offered anecdotal or anthropological evidence that dowry is more frequent than in past times (Caldwell 1983, Srinivas 1984). The average size of dowry payments increased with more economic growth in urban India initially, but it decreased after 2008 due to wealthier households being aware of gender rights and the severe consequences associated with dowry.

**Dowry as a fraction of annual household income**



**Theories on the evolution of dowry in Rural and Urban India:**

*“Sanskritisation”*(Srinivas (1984)- The theory proposes that dowry was always practiced among the upper castes, and spread as lower castes began to emulate the upper castes to increase their social status.

*Sex ratios and dowry:* Dowry changes as a result of changes in sex ratios due to population growth (Rao 1993, Sautmann 2011). Men tend to marry at an older age than women, so as the population grows, there will be more women than men of marriageable age. This resulting “marriage squeeze” could intensify competition for a limited number of eligible grooms, potentially causing dowry demands to increase.

*Modernization, economic growth, and dowry:* Anderson (2003) associates dowry inflation with changes in income distribution throughout modernization, as well as cross-caste competition for grooms. However, there is no evidence of this form of cross-caste competition, because households prefer to marry within their own caste group rather than with those of higher caste position (Banerjee, 2013).

*Dowry and groom ‘quality’:* More educated or wealthy grooms may command higher dowries since those attributes are valued in the marriage market. However, as the pool of educated grooms in an area grows, the dowry premium that more educated grooms receive falls.

This comparison shows how rural and urban India still face problems of dowry in changed contexts even after so many years of enactment Dowry Prohibition Act and how it has impacted the position of women leading not to her empowerment but subjugation under marriage.

## **IMPACT OF DOWRY HARASSMENT ON WOMEN**

According to women’s real-life experiences, the causes of dowry harassment include societal expectations, cultural beliefs, economic dependency, and the perceived need for financial support in marriage. The Indian National Crime Records Bureau (NCRB) reported that over 6,750 cases of dowry-related deaths were registered in 2022 alone, accounting for nearly twenty-one fatalities per day. This highlights the deeply entrenched nature of dowry demands, especially in rural and semi-urban regions where societal norms weigh heavily on families.

The adverse consequences of dowry harassment are multi-dimensional, studies by the Ministry of Women and Child Development indicate that approximately 45% of married women in India experience some form of dowry-related abuse, including physical violence, emotional trauma, and financial exploitation. This abuse often leads to severe psychological trauma, reduced self-worth, and degrading social status. According to the 2020-2021 National Family Health Survey (NFHS-5), 27% of women in India between ages twenty and forty-nine reported facing spousal violence, with dowry demands as a primary trigger in 30% of these cases. Additionally, women who experience dowry harassment are nearly fifty percent less likely to access healthcare or pursue educational and vocational opportunities, reinforcing gender inequality. The researcher herself noted generational differences in dowry perceptions. Her mother and grandmother regarded dowry as a form of ‘gifts’, while her

housekeepers, who belonged to economically weaker sections, believed that “\*Bina dahej ki toh shaadi hi nahi hogi\*” (Without dowry, there can be no marriage). This sentiment echoes findings from a 2018 survey by the Centre for the Study of Developing Societies (CSDS), which found that 70% of low-income respondents felt pressured to give dowry, and 90% believed dowry was essential for marriage within their communities.

While interviewing a female street vendor who faced years of dowry harassment from her husband shared how a local Mahila Panchayat (women’s council) helped her become financially independent and support her two children after her husband left. The NCRB data indicate that women who access local women’s support groups report a 75% improvement in emotional well-being and financial independence. In another instance, a woman from a middle socio-economic background reported a dowry-free marriage, attributing her contentment to equality within the partnership. Such cases show that dowry-free marriages, though rare, can foster happier and more equal relationships. These statistics reveal a significant urban-rural disparity in dowry-related harassment, as urban women tend to experience less post-marriage dowry pressure. According to NFHS-5, women in urban areas are twice as likely as rural women to report dowry harassment cases. Additionally, 35% of urban women have access to financial services and legal aid, compared to only 12% of rural women. Further, the NFHS-5 data showed that only 4% of dowry harassment cases were legally pursued in rural areas, compared to 18% in urban areas, reflecting limited legal recourse for rural women.

## **MISUSE OF THE DOWRY ACT (cite cases)**

The darker side reveals how women have misused anti-dowry law due to personal grudges and greed. The Nisha Sharma Dowry Case<sup>5</sup> in India was a fraudulent anti-dowry lawsuit that demonstrated how the IPC 498A law may be abused. Nisha Sharma accused her prospective groom, Munish Dalal, of demanding money in 2003. Nisha was unhappy with her marriage and desired to marry another guy, so she falsely accused Munish of dowry and abuse. The case received extensive news in both Indian and foreign media. The lawsuit was settled in 2012 after the court determined that Nisha had concocted the dowry claims to avoid the wedding.

There is a criticism that dowry-related provisions in India are often misused, particularly section 498-A of IPC because of mechanical arrest by the police. In the case of **Preeti Gupta V. State of Jharkhand (2010)**<sup>6</sup> Section 498-A was challenged, and the Supreme Court regretted the possible misuse of anti-dowry laws and recommended a detailed investigation.

## **REASONS FOR MISUSE**

1. *Victim-biased laws*- The principle of ‘*innocent until proven guilty*’ gets reversed in dowry-related cases to ‘*guilty until proven innocent*’.
2. *Monetary benefit*- Many false complaints have been filed to pressure the accused to give a

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<sup>5</sup> Bhartiya Foundation. ((2021, August 7) *The Nisha Sharma dowry case*. Bhartiya Foundation.

<https://www.bhartiyafoundation.com/judgement/the-nisha-sharma-dowry-case/>

<sup>6</sup> AIR 2010 SUPREME COURT 3363

share of their properties and extract hefty amounts maliciously from innocent people.

3. *Strict nature of laws*- The criteria established in anti-dowry laws are so rigorous that they are non-bailable and non-compoundable, leaving little room for reconciliation. Because of the strict nature of these rules, women have recently begun to widely abuse them in order to annoy and exert excessive control over their partners.

## CONSEQUENT INJUSTICE

1. *Police Harassment*- A simple complaint by the bride, allows the police to arrest the accused *without any warrant*.
2. *Social Stigma*- When a dowry-related case is reported to the police, society begins to perceive the accused family as criminals. Because of the resulting societal stigma, they experience harassment, mental trauma, and humiliation.
3. *Financial loss*- The accusation negatively affects their financial stability and brings a permanent stain on their career; families are left without any support.

In *Rajesh Sharma v. State of U.P*<sup>7</sup> Supreme Court laid down some directions which included the constitution of a family welfare committee; and an investigating officer and stated that bail cannot be denied easily. The *243rd Report by the Law Commission* recommended important measures to minimize the misuse of Section 498 of the IPC

- The power of arrest should be used very diligently.
- The police should first try to resolve the matter through other mechanisms like conciliation, mediation, and counseling.
- The Court should not mandate the deposit of the passport as a condition for granting bail in all circumstances since it will create irrevocable harm to the accused by exposing him to the possibility of losing his employment and having his visa revoked.

## LIMITATIONS AND LOOPHOLES

Many cases of dowry death have recently been reported in Kanpur, Uttar Pradesh, indicating a resurgence of this significant issue and the need to highlight the act's flaws, and the law's invisibility and amend it. The limitations of the research were that recent data was not available and vague statutory language created a problem. The Act of 1961 allows for "gifts" to be given to a bride at the time of marriage and thus, the families who might demand a dowry, now simply do so by calling them "gifts". One of the major blunders that have been observed is the non-enforcement of existing laws due to police corruption and ignorance by the judiciary, along with the reinforcement of social factors and cultural attitudes toward women. Due to the piling of pending cases, the focus is on temporary settlement and not permanent solution (Justice delayed is justice denied), which is further aggravated by the economic discrimination against women and the normalization of dowry without realizing its long-term repercussions.

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<sup>7</sup> AIR 2017 SUPREME COURT 3869

## SUGGESTIONS

- To curb the practice of dowry there is an urgent need to appoint dedicated Dowry Prohibition Officers (DPOs) to specifically handle dowry-related cases and assess the validity of claims to prevent harassment by either party. These officers should be continuously trained on handling dowry cases sensitively and efficiently, emphasizing the importance of investigating each case impartially.
- A multi-stakeholder approach, along with strengthening of judiciary and legislature should be adopted to address the prejudices and achieve gender equality.
- A centralized database can help authorities identify cases where a complainant may have a history of filing dowry harassment cases against multiple individuals. This can be used to assess patterns and prevent potential misuse.
- The government should encourage community programs that celebrate dowry-free marriages and highlight the legal rights and responsibilities of all parties. This can gradually shift cultural perception, lead to gender parity, and reduce the incidence of dowry-related disputes.
- The positive influence of International NGOs like Amnesty International, UNHRC, NGOs like SIFF advocacy group against dowry harassment and Shakti Shalini NGO defines the oppression and violence in marriage which can help women in confronting the problems of dowry. Awareness campaigns and support services by the Ministry of Women and Child Development also address these systemic issues and protect women.
- Clarifying "Dowry" vs. "Gifts": Amend the Dowry Prohibition Act to include a clearer definition of what constitutes dowry versus gifts exchanged willingly during a marriage. This can prevent the misuse of the law in cases where genuine gifts are misconstrued as dowry demands.
- Education and financial literacy programs for girls and the expansion of employment opportunities for women are likely to enhance women's bargaining power, making them independent and leading to a reduction in dowry cases. Gender-sensitive media regulations can further abolish this social evil and raise consciousness among the population.
- The establishment of a review committee for the periodical assessment of the Dowry Prohibition Act, taking into account societal changes and misuse trends will ensure that the law remains relevant and effective. It will also support women's groups to fight dowry-related injustices and strengthen these systems to ensure accountability and protection of victims.
- Incorporation of Public Feedback Mechanisms will allow citizens, especially women's groups, legal experts, and civil society organizations, to provide input on the law's effectiveness. This feedback can then be used to adjust the law to strike a better balance between protection and preventing misuse.
- A voluntary dowry-free certification program where couples and families publicly pledge against dowry during marriage should be implemented. Certified couples from low-income households would be eligible for government incentives.
- Businesses and Corporations should adopt anti-dowry commitments as part of their



corporate social responsibility (CSR) through awareness campaigns and offering financial assistance for dowry-free weddings.

- To address the issue of dowry and promote women's empowerment, it is essential to shift the worldview and place women's human rights as a primary entitlement. Men should be encouraged to be allies in the fight against dowry and gender discrimination to create a foundation for equality and justice.

**ROLE OF STATE AND CENTRAL GOVT-** It is the duty of the state and central government to play an important role in the regulation of society to eliminate immoral and redundant practices such as dowry. If stricter laws are implemented properly, they can assist in restricting the practices of dowry in households, and help the women to empower themselves.

## CONCLUSION

*As Mahatma Gandhi has rightly said "Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood"*

Dowry is a complex societal ill and through the lens of women, it can be concluded that even the introduction of the Dowry Prohibition Act, of 1961 has failed to achieve its goal of eliminating this repressive institution, reducing gender discrimination, and empowering women. Dowry dehumanizes women by treating them as commodities to be traded rather than as individuals. As a result, every dowry paid perpetuates the notion that women are less important than men. If women are to be protected from the hazards of dowry, this concept must be altered. The poor implementation is the main culprit for promoting bestial masculinity. The powerful influence of gender norms and systems of inequality needs to be eradicated. Effective women-focused initiatives will strengthen resilience against violence by combining economic empowerment, relationship skills, and greater awareness of women's rights. Even though we have numerous anti-dowry legislation, the dowry system continues to exist in our culture, which leads to criminality and abuse against women. After completing research and learning about dowry harassment, it is clear that it has harmed both women and their families. As a result, it is critical to promote women's empowerment in order to abolish the evil of dowry and treat women with respect and reverence. In India, everyone speaks up for women's rights and exclaims, "Beti Bachao, Beti Padhao," but a girl can't escape the shackles of dowry even after she has accomplished everything in her life. Despite the existence of numerous regulations aimed at strengthening women, they continue to endure the weight of patriarchy and discrimination. It is high time for lawmakers to pay heed to and review these laws in the public interest to check the growing misuse of these laws to ensure impartial justice and to protect women. India's image in the 21st-century world as an emerging, formidable economic power continues to be tainted by cultural practices such as the dowry system.

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## **APPENDIX 1**

(The interview was open-ended and spontaneous based on the answers)

SAMPLE SIZE- 10-15 (including rural and urban)

Questions asked to the interviewees for the survey-

1. How long have you been married?
2. Do you know what is dowry or dahej?
3. Did your parents face the burden of giving dowry?
4. Did you face any acceptance problems?
5. Have you faced dowry harassment or domestic violence?
6. Are you aware of your rights under the Dowry Prohibition Act/Protection from Domestic Violence Act or other co-existing laws for women?

LIMITATION- Vague and manipulated responses, were not open to sharing their real experiences, recording of responses/photos was not permitted or restricted, and respondents were apprehensive to disclose their names, caste, and age.