



**MSB-INTERNATIONAL JOURNAL OF  
INTERDISCIPLINARY RESEARCH**

Associating Researchers; Nourishing Innovation

Peer Reviewed

Vol. 2, Issue 3, March 2024-July 2024

325-343, MSB-IJIR

**A Critical Analysis of the Dowry Related Legislations in India**

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**Abstract**

*Dowry is commonly defined in Indian culture as the transfer of wealth, possessions, or gifts from the bride's family to the groom's family as part of the marriage agreement. Dowry's actual beginnings are complex and multidimensional, spanning centuries of tradition and societal conventions, yet it is still prevalent throughout various regions, faiths, and socioeconomic strata of Indian culture. Furthermore, dowry frequently intersects with additional societal concerns like poverty, patriarchal structures, and imbalances of power within familial and communal settings. The objectification of brides, familial pressures to meet dowry expectations, and the reinforcement of dowry as a symbol of social standing worsen its adverse effects, sustaining a cycle of oppression and injustice. This research paper aims to examine the historical foundations, current expressions, and socio-cultural ramifications of dowry in India in order to gain a clearer understanding of its complexity. Through an analysis of the diverse aspects of dowry, ranging from its financial foundations to its influence on women's rights and social conventions, our goal is to enhance our comprehension of this widespread occurrence and promote significant changes that will lead to a fairer and more just society. The researcher's approach to the research is dogmatic and non-empirical. The researcher has looked to magazines, newspapers, law journals, and pertinent law books for assistance.*

**Keywords:** Dowry, India, Society, Marriage, Husband, Wife, Dowry Prohibition, Criminal, Saptapadi, Jewellery, Bride, Offences, Cruelt

## Introduction

The dowry has been considered an important part of Indian culture for many years. This ritual stems back to the Vedic era, when the groom's family would normally take the bride into their home by receiving certain presents or financial contributions from the bride's family. Any present that the bride or her family gives to the groom's family is fundamentally included in the term "dowry." The term 'Dowry' was derived from Anglo-Norman French word 'douarie' and from the Medieval Latin word 'dōtārium' both of which denoted a widow's life interest in her husband's estate. Nowadays, the meaning of the term 'Dowry' has changed drastically.

Some of the recent definitions of the term 'Dowry' have been listed below –

- The Cambridge Dictionary defines 'Dowry' as *“in some societies, an amount of money or property that a woman's parents give to the man she marries”*
- The Collins Dictionary defines 'Dowry' as *“the money or property brought by a woman to her husband at marriage”*.
- The Merriam-Webster Dictionary defines 'Dowry' as *“the money, goods, or estate that a woman brings to her husband in marriage”*.
- The Dictionary.com defines 'dowry' as *“Also dower. the money, goods, or estate that a wife brings to her husband at marriage”*.

Dowry is referred to as 'Dahej' in Hindi, 'Jehaz' in Urdu and Arabic, 'Joutuk' in Bengali, 'Jiazhuang' in Mandarin, 'Ceyiz' in Turkish, 'Dot' in French, "Daijo" in Nepali, and various other terms in different cultural contexts. In the ritual of "Kanyadaan," the father of the bride traditionally offers gold, assets, coins, and other valuables to the father of the groom. Conversely, during "Sridhan," the bride typically receives gifts and adornments from her relatives at the time of her marriage.

Dowry refers to the assets, money, or attire that a woman presents to her husband upon their marriage. It constitutes a sum of cash or a range of gifts bestowed upon the groom's family alongside the bride. Typically, this includes coins, jewellery, electrical appliances, furnishings, kitchenware, utensils, and other household items that aid in establishing the newlyweds' home. This age-old tradition has transformed from posing a social risk to an expression of affection for the daughter over time.

## Concept of Dowry

The term 'Dowry' is generally used for what a woman brings or takes with her into the new home. These forms of property may be given by her parents and/or family though she may have earned it herself. This form of dowry may cause its own problems because of inflation and high expectations, but this property

is of such nature that, in normal circumstances, it belongs to the woman and is owned by her absolutely with the intention to help her build up her status as a married woman in the new marital home.

In a wider sense, dowry also refers to the costs borne by the woman's family for the feasts and marriage celebrations, as well as the custom of giving gifts to the groom's entire family, which is a common practice in many groups and religions around the nation. These costs, which include those for food, venue rental, clothing, jewelry, and other luxuries requested by the groom's family, like vehicles and wedding-day entertainment, are frequently non-recoverable. At the edge of this tradition, giving and receiving (Lenden) and other exchange systems might incorporate a number of complex customs and rituals related to this economic transaction.

It also includes the gifts received from the family of the bride which is then termed as the recipient family. Thus, the social elements of Dowry are also positive elements of social exchange between the two families. In this context, it is very difficult to determine what precisely is “Dowry” and what is not.

### **Causes**

- Religious factor - Religious constraints imposed via the society on marriage customs, mainly suitability of groom has a contributing thing towards the dowry problem.
- Greed -The expectation that a dowry will be paid to compensate for the groom's education, career, and money at the time of the bride and groom's engagement.
- Society Structure – the dowry machine is essentially the manifestation of the patriarchal nature of the Indian society in which guys are considered advanced to ladies in aspects of physical and mental abilities.
- Social Status of Women – the inferior social status of girls in Indian society is so deep-rooted inside the psyche of the nation.

### **History of Dowry**

Due to a common misconception, the two Hindu marital practices known as "Kanyadaan" and "Varadakshina" (dowry) are where the modern dowry practice originated. In Vedic period marriage ceremonies, "Kanyadaan," an ancient rite of giving away the bride, is very important. According to Hindu customs, the last ceremonies of "Saptapadi" and "Vivah-homa" were performed to formally sanctify the union. “Stridhan” has been the separate property of a woman from time immemorial. This was generally speaking her own property in the marital household. It included her jewellery, gifts and also the Dowry articles. It had been the ancient and traditional representation of the wealth of the parents. It first occurred amongst the Smritis in the “Dharma Sutras” of Gautama. The “Vyavaramukha” following the Nitakshama’s law distinguish between technical and non-technical Stridhan for the purpose of inheritance. This also included the woman’s self-acquired property.

This was supposed to be her own property absolutely and would devolve upon her heirs absolutely and legally. This fact is denoted in the specific kind of property enumerated in the “Smritis”, according to the modern Hindu Law.

During the ‘Vedic period’, the “wife”, the “son” and the “slave” had no rights to alienation of the property. They could only own the property in their name and have the enjoyment rights including all the rights of the owner of the title except alienation rights as explained by Manu’s commentators. This view also received support from Gautama. “Apaspamba” says that the share of the wife consisted of her ornaments and wealth received from her relatives and near and dear ones.

Stridhan has been classified into various categories in the ‘Smritis’:

- Adhyagni (What was given before the nuptial fire)
- Adhyavahanika (What was given at the bridal procession)
- Pritidatta or affectionate present, (according to Katyayana, is “whatever has been given to a woman in true love and affection by her in-laws at the time bowing at the feet of all the elders in the house”.)
- Pritidatta or Bharatirudya.
- Gifts made by father, mother or brother.
- Anvadheyaka or gifts subsequent.
- Adhivedanika (compensation given to a superseded wife)
- Banthuvatta.
- Sulka described:
  - As the gratuity for the receipt of which a girl is given in marriage,
  - As being the special present to the bride to induce her to go to the house of the lord cheerfully,
  - As the receiving of the price of the household furniture, conveyance, milch-cattle and ornaments.

Later on the twin fold aspects of gifts in natural love and affection and financial security both got entangled in each other and assumed the name Dowry, which at present is the most threatening social evil gulping the society in its brutal whole. For the obtainance of which, compulsion and coercion occasionally began to be used and ultimately most Hindu marriages converted from a religious sacrament to a profiteering trade in which the ones with a son won the deal against parents of daughters.

This sacrosanct union of two souls later on came to be seen as an evil which was spreading its shadows on to other communities as well. Traditionally non-dowry taking communities also included. The brutality

is evident when brides who are unable to bring the promised or expected Dowry are beaten up, locked up in dingy rooms, tortured physically and mentally, strangled or burned alive, or forced to commit suicide in order to relieve the family's loss and allow them to profit from other means, such as remarrying the boy. The above-mentioned physical abuse against the bride was reminiscent of the grave crime of dowry death, as outlined in Section 304-B of the Indian Penal Code.

## **Indian Legal Framework Regarding Dowry**

### **Dowry Prohibition Act,1961**

As the social problem of dowry and related offences became more widespread, India's legislative authorities felt compelled to pass legislation to stop these injustices. In an effort to control and regulate all dowry-related offences, they passed laws to eliminate the social custom of dowry in response to the urgent necessity to handle this dangerous issue.

The Dowry Prohibition Act, 1961, was brought into force on July 1, 1961. The definition of "Dowry" is given or agreed to be given either directly or indirectly –

By one party to a marriage to the other party to the marriage; or

By the parent 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 in connection with the marriage of the said parties, but does not include 'Dowar' or 'Mehtar' in the case of persons to whom the Muslim personal law (Shariat) applies.

In *State of H.P. v Nikku Ram and Others* the Hon'ble Supreme Court observed that "*the meaning of Dowry amended by amendment act of 1984 and the 1986 act replaced the phrase 'as consideration of marriage' with 'in connection with marriage' "*. The Hon'ble Supreme Court while further applying the 'Mischief Rule of Interpretation' to the definition of dowry observed that "*despite the unamended definition of dowry having stated that the property or valuable security given or agreed to be given has to be as 'consideration for marriage'*". **Objective of Dowry Prohibition Act,1961-**

- To protect Indian families' integrity and the well-being of their children.
- To protect the rights of the elderly and their social standing, and to deter elder abuse by enacting legislation pertaining to dowries.
- To encourage disincentives against unfounded allegations and arbitrary detentions.
- To dissuade nefarious prosecutions in circumstances of matrimony.
- to encourage unity in marriage and the family.
- To efficiently strive towards establishing a society devoid of dowries.
- To establish a foundation for combating the misuse of dowry regulations.

- To raise awareness of the harmful consequences that current laws pertaining to harassment, dowries, and cruelty have on families.
- To offer emotional, legal, and social assistance to innocent individuals impacted by the retaliatory consequences of dowry laws.
- to offer legal assistance to the community's most vulnerable and destitute members.

### **Scope Of the Dowry Prohibition Act, 1961**

The purpose of this legislation was to dissuade both the giving and taking of dowry. The reprehensible practice of "dowry" was officially banned in 1961 through the enactment of the Dowry Prohibition Act. The nation's progress towards prosperity began with the implementation of various laws, which offered the genuine and specific legal framework required during challenging periods. The Scope of this Act was made clear by the Statement of Object and Reasons of this Act which is mention below-

*“The object of this Bill is to prohibit the evil practice of giving and taking of dowry. This question has been engaging the attention of the Government for some time past, and one of the methods by which this problem, which is essentially a social one, was sought to be tackled was by the conferment of improved property rights on women by the Hindu Succession Act, 1956. It is, however, felt that a law which makes the practice punishable and at the same time ensures that any dowry, if given does ensure for the benefit of the wife will go a long way to educating public opinion and to the eradication of this evil. There has also been a persistent demand for such a law both in and outside Parliament. Hence, the present Bill. It, however, takes care to exclude presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof does not exceed Rupee 2,000. Such a provision appears to be necessary to make the law workable.”*

### **List Of Dowry Related Offences**

In Hindu culture, newly married women are particularly vulnerable to violence associated with dowry due to their social and financial connections with their new spouse. At times, dowry is exploited as a form of coercion, reminiscent of a hostage scenario, to extract further assets from the bride's family. This vulnerability is most evident among newlyweds. In instances where violence is threatened or enacted in dowry-related crimes, the bride's family may be compelled to offer additional financial contributions to safeguard their daughter. Regions in northern and eastern India exhibit higher rates of dowry-related violence. Dowry is commonly linked to the documented abuse of women in India. This tradition is associated with a number of abuses, such as physical abuse, psychological misery, and even the premarital murder of young girls and brides. Among the most common types of crimes connected to dowries include acts of cruelty (torture and harassment), homicide and bride burning, domestic violence (physical, emotional, and sexual abuse), and cooperation in suicide.

**Fraud-**

The documentary "Runaway Grooms," produced in Canada in 2005, shed light on the exploitation of the dowry system by some Indo-Canadian men. After obtaining the dowry, these individuals would feign interest in seeking additional wives in India. However, upon returning to Canada, they would abandon the women they married.

**Abetment to suicide-**

If a woman endures persistent abuse and threats from her spouse and his family, suicide becomes a potential outcome. In certain scenarios, dowry-related offenses extend to abetment of suicide, which involves any deliberate actions or encouragement to assist someone in taking their own life. A woman left vulnerable and distressed due to dowry-related pressures may suffer emotional torment and mistreatment. The psychological anguish stemming from dowry-related abuse often leads to depression and, tragically, suicide. The gravity of aiding and abetting suicide lies in the fact that, while not always the case, the accused commonly argue that the victim chose to end her own life.

**Cruelty-**

Dowry crimes include any form of cruelty directed at a woman, such as torture or harassment, with the intention of getting her to comply with a demand for expensive security or property. To coerce the lady or her family into complying with dowry demands, the abuse may take the kind of verbal abuse, physical assault, or other forms of intimidation. The anti-dowry laws in India have made it illegal for cruelty to compel a woman to commit suicide, which is what happens in many cases.

**Domestic violence –**

Various forms of domestic violence encompass a spectrum of abusive and intimidating actions, including coercion, isolation, and physical, emotional, and sexual abuse. Legislation such as the Protection of Women from Domestic Violence Act of 2005 serves to safeguard women's rights and mitigate instances of domestic violence.

**Dowry murder-**

Dowry killings and dowry deaths refer to the killing or suicide of a bride by her husband and his family shortly after the marriage as a result of their displeasure with the dowry. Usually, it is the last in a line of earlier atrocities committed against the wife by her family. The majority of dowry killings happen when the young lady kills herself by hanging or taking poison because she can no longer stand the harassment and torture.

Bride burning, in which the husband or his family douses the bride in kerosene and sets her ablaze, is another type of dowry death. The bride may occasionally wind up burning herself on fire as a result of their encouragement to take their own life.

Bride burnings frequently pass for mishaps or failed suicide attempts. For a variety of factors, including the poor survival rate, the cheap cost of kerosene, and the lack of solid evidence following the murder, bride burnings are the most prevalent types of dowry deaths. In addition to bride burning, the groom's family has killed brides in cases of poisoning, strangling, acid attacks, and other similar incidents.

According to the Indian National Crime Record Bureau, India has the greatest number of dowry-related deaths worldwide due to its large population. 8,083 dowry fatalities were reported in India in 2013 compared to 8,233 incidents reported in 2012. This indicates that one woman dies in India due to dowry-related crimes every ninety minutes, or 1.4 fatalities annually per 100,000 women.

### **Statutory Approach to Offences Related to Dowry**

#### **THE INDIAN PENAL CODE, 1860-**

This provision was inserted vide Amendment Act of 1986.

**Section 304-B** defines Dowry death and provides punishment for it. The following are the essential elements of dowry death: -

- The death of a woman should be caused by burns or fatal injury or otherwise than under normal circumstances.
- Death should have occurred within seven years of her marriage.
- She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
- Such cruelty or harassment should be for in connection with demand for dowry.
- The punishment for this offence is imprisonment of seven years, which may extend to 10 years or even life imprisonment.

In *Mustafa Shahadal Shaikh v. State of Maharashtra* (Criminal Appeal No. 1406 of 2008), SC held that the language used under Section 304-B “Soon before death” means no definite period has been mentioned under the Penal Code as well as under Section 113-B of Indian Evidence Act. In the case of *Girish Singh v. State of Uttarakhand, 2019* “Supreme Court held that conviction under Section 304-B can be made only if the woman was subjected to cruelty or harassment by her husband or his relatives which must be for or in connection with any demand for dowry, soon before her death.” In the case of *State of Karnataka v. Maniappa & Ors* – It was held by the Courts that with regard to appreciation of evidence of interested witnesses it was found that the testimony is convincing, trustworthy and reliable and inspires confidence in the court to accept the same and there is a ring of truth in what the witnesses have deposed in the course of their evidence. No infirmity was found in the prosecution case as a result the appeal was dismissed and the accused were convicted for offences under Section 304-B and 498-A of I.P.C accordingly.



In the case of *State of Karnataka v B. Ramesh*— However, in this case due to lack of efficient services on behalf of the Investigation Office, proofs could not be collected and direct guilt of the accused could not be established, as a result of which the order of acquittal was upheld. The accused was tried under Section 498-A, 302, and 304-B I.P.C. He was alleged to have set fire to the deceased, however, the police officer who recorded the dying declaration did not examine the Dying Declaration, the doctor before whom the statement was recorded as to FIR also did not examine the dying declaration. No effort was made by the police officers that conducted an investigation and even spot mahazar did not mention anything about the presence of either stove or broken pieces of stove to indicate that there was a stove burst at the relevant time. Thus because of these lapses on part of the prosecution order for acquittal was upheld: “*Judgments and relying upon large number of cases, the Court held that whether the offences are made out is a matter of trial. The High Court was not justified in summarily rejecting the application for grant of leave. It has a duty to indicate reasons when it refuses to grant leave. Any casual or summary disposal would not be proper (see State of Punjab v Bhag Singh) In the circumstances, we set aside the impugned order of the High Court and remit the matter back to the High Court for hearing the matter on merits, as according to us points involved require adjudication before the High Court. The appeal is allowed to the extent indicated.*”

#### **Section 498-A (Cruelty by husband or relatives of husband) –**

“Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. —For this section, “cruelty” means—

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

The offence under Section 498-A is a continuing offence and on each occasion on which the respondent which was subjected to cruelty, she would have a new starting point of limitation.

In the case of *Wazir Chand v State of Haryana* – The evidence of the Investigation Office was that when he went to the house of the accused for the first time for Investigation, the stove was lying on the slab. However, the evidence of the photographer who went along with him was that he saw the stove lying on the floor. In view of this contradiction, it is not possible to hold that the stove was placed on the slab when Veena was preparing tea for the family; hence the plea of accident is highly improbable.

### **Section 306 (Abetment to Suicide)-**

"Anyone who aids in the commission of suicide will be punished with either type of imprisonment for a term that may extend to ten years, in addition to being subject to a fine."

In the case of *Rajesh v. State of Haryana, (2019) 6 SCC 368* Supreme Court held that conviction under Section 306 of Indian Penal Code is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide.

**Indukumari Kothari's case**, she had argued with her husband Naresh and killed herself at home in Nerul in February 2013 (41). In addition to her husband, brother-in-law Hitesh (34), father-in-law Sukanraj (65), and mother-in-law Muniyaben (60), her brother Mohanlal Salesha had also filed a case against them. Naresh, a jeweller by trade, wed Indukumari in 2000. The complainant claims that after a year of marriage, her sister experienced harassment related to the dowry.

Public prosecutor Vasha Chandane said the couple had three children, and all of them were witnesses. "The second child, a boy, who was in Class I then, had witnessed the incident and his statement proved important in conviction. He told the court that he had just come back from school and saw that his parents were quarrelling following which his father assaulted his mother and dragged her into the room. Later, his father came out of the room." Ms. Chandane said, "After around 15 minutes, the three noticed that the room was locked from inside and their mother was not opening the door. The father then asked the boy to get a hammer, using which they broke open the door and found their mother hanging from the ceiling fan."

The four defendants were found guilty of crimes covered by Sections 3 and 4 of the Dowry Prohibition Act, as well as Sections 498A (husband or relative of a woman subjecting her to cruelty) and 306 (abetment to suicide) of the Indian Penal Code (IPC). The four were sentenced to simple imprisonment of one month with a fine of ₹500 each. The accused were found guilty of offences punishable under Sections 3 and 4 of the Dowry Prohibition Act. The court also sentenced the accused to rigorous imprisonment for two years with a fine of ₹5,000 each under Section 498A and five years with a fine of ₹5,000 each under Section 306 of the IPC. The sentences will flow one after the other.

### **Section 174(3) (Police to enquire and report on suicide, etc)**"When-

- the case involves suicide by a woman within seven years of her marriage; or
- the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

- there is any doubt regarding the cause of death; or
- the police officer for any other reason considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.”

Section 174 of the Code of Criminal Procedure outlines the procedures to be followed by the police and magistrate in cases of suicide and unnatural death. Sub clause (3) of this section specifically mandates additional responsibilities for police officers in cases of dowry death, which refers to the death of a woman due to dowry demands within seven years of marriage. Consequently, this section pertains exclusively to cases of dowry-related deaths.

### **The Indian Evidence Act, 1872**

#### **Section 113-B (Presumption as dowry death)**

It was inserted by Dowry Prohibition (Amendment) Act, 1986.

“When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

According to Section 113-B, if someone is suspected of causing someone else's death and it can be demonstrated that they subjected the deceased to abuse and harassment in response to a demand for dower, it will be assumed that they are the cause of her death.

In the case of *Kans Raj v State of Punjab & Ors*– In this case one Sunita Kumari married on 9.7.1985 was found dead on 23.10.1988 at the residence of her in-laws at Batala in Punjab. The death was found to have occurred not under ordinary circumstances but was the result of asphyxia. To seek a conviction against a person for the offence of Dowry death, the prosecution is obliged to prove that –

- The death of a woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances;
- Such death should have occurred within 7 years of her marriage;
- The deceased was subjected to cruelty or harassment by her husband or by any relative of her husband;
- Such cruelty or harassment should be for or in connection with the demand and

To such cruelty or harassment, the deceased should have been subjected soon before her death.

Once the aforementioned conditions are confirmed, an assumption of dowry death will be made against the accused according to Section 113-B of the Evidence Act. This presumption, as outlined in Section 113-B, is a legal presumption.

In case *State of H.P. v Desh Raj*– It was held by the Court that only brought probabilities of the case, the deciding the fact of the evidence and infirmities, if any, emanating from the records or to be taken into account to arrive at the conclusion. No roving enquiry into the alleged facts and weighing the material on records as if the conclusion is to be recorded after recording of evidence are required. “In case the Judge arrives at the conclusion that the allegations are frivolous and there is no material prima-facie, supporting the allegations constituting the offence, the accused has to be discharged but if the material on record probable the allegations and even if creates grave suspicion a charge will have to be framed against the accused”.

### **The protection of women from domestic violence act, 2005**

This Act was passed in 2005 and took effect in October 2006. Section 3 of the Act broadens the definition of domestic violence to include the following kinds of abuses:

- Physical abuse,
- Sexual abuse
- Verbal and emotional abuse and
- Economic abuse

The Act broadens the definition of domestic relationships by including mothers, wives, sister-in-laws, daughters, and daughter-in-laws. Beneficiaries under the Act are:

- Women,
- Children and
- Respondent

The 2005 Protection of Women from Domestic Violence Act mandates that the state defend women against domestic abuse and acknowledges their right to live free from fear and violence. In addition to shielding women from harassment and exploitation by family members or relatives, the Protection of Women from Domestic Abuse Act of 2005 works to stop domestic abuse in all of its manifestations.

The first and most direct outcome of a woman filing a complaint about domestic abuse is dispossession, which entails kicking the mother out of the house and assuming parental responsibility for her kids. Women are allowed to request immediate maintenance and compensation under the Protection of Women from Domestic Violence Act of 2005.

Right granted to women under the Act:

- Right to reside in a shared household
- Right to issuance of Orders
- Protection Orders
- Residence Orders
- Monetary relief
- Custody orders
- Compensation orders
- Interim and Ex parte Orders
- Right to obtain relief granted by other suits and legal proceedings.

**Liabilities and Restrictions imposed upon the Respondent –**

- The individual may face restrictions outlined in their Protection and Residence order.
- The respondent can be held liable to give monetary relief to the aggrieved person and her children, as well as paying compensation damages as instructed by the Compensation order.
- The aggrieved person must obey the court-ordered custody arrangements for their child or children.
- The Act prohibits female relatives of husbands or male partners from filing complaints against their wives or female partners.

**Procedure of filing complaint and the Court's Duty (Sections 12-29) –**

- The aggrieved person or any other witness of the offence can approach a Police officer, Protection Officers or Service Provider or Magistrate.
- The Magistrate shall give a notice of the date of hearing to the Protection officers within a maximum period of 2 days or such further reasonable time as allowed by the Magistrate.
- The court is required to dispose of the case within 60 days of the first hearing.
- Upon finding the complaint to be genuine, the Magistrate may direct the respondent or the aggrieved person, either singly or jointly, to undergo counseling.

- Direct that the women shall not be evicted or excluded from the household or any part of it.
- Pass a protection order, providing protection to the women which shall remain in force till the aggrieved person applies for discharge.
- Grant monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person due to domestic violence.
- Grant custody orders of any child or children of the aggrieved person.
- Compensation/damages for the injuries including mental torture and emotional distress caused by domestic violence. If upon receipt of an application from the aggrieved person, the Magistrate is satisfied that the circumstances so require, he may alter, modify or revoke an order after recording the reasons in writing.
- A complaint can also be filed under Section 498-A of the Indian Penal Code.

## **Critical appraisal of anti-dowry laws**

### **Criticism By Judiciary-**

The Supreme Court of India and various High Courts have noted gross misuse of I.P.C Section 498-A in various judgments. The Supreme Court of India also declared Section 498-A as “*Legal Terrorism*” while giving the judgement.

In the case of *Sushil Kumar Sharma v Union of India*– The Supreme Court has recognized that the Dowry Act and the Domestic Violence Act is “*Legal Terrorism*”, which many unscrupulous women use to threaten the husbands and their families using the Draconian provisions. CJI Balakrishnan acknowledged abusing dowry laws. The Times of India, a daily newspaper, published his statement, which dealt a blow to advocates for women's rights who have been steadfastly upholding the Indian Penal Code's Section 498A. The Punjab and Haryana High Court, in *Bhupinder Kaur and Anr v State of Punjab and Others*, held that, “*From the reading of the FIR, it is evident that there is no specific allegation of any act against petitioners Nos.2 and 3, which constitute offence under Section 498-A I.P.C. I am satisfied that these two persons have been falsely implicated in the present cases, who were minors at the time of marriage and even at the time of/ lodging the present FIR. Neither of these two persons was alleged to have been entrusted with any dowry article nor are they alleged to have ever demanded any Dowry article. No specific allegation of demand of Dowry, harassment and beating given to the complainant by the two accused has been made. The allegations made are vague and general. Moreover, it cannot be ignored that every member of the family of the husband has been implicated in the case. The initiation of criminal proceedings against them in the present case is clearly an abuse of the process of law.*”

### **Criticism By Men’s Right Movements –**

## **Victims of false cases –**

A number of men committed suicide as a result of the wife's and her family's money-mongering, and some victims of false charges formed associations and voiced concerns about the suspected husband's detention, as well as the arrest of his family members and even distant cousins, without conducting a thorough investigation.

According to the men's right movements the laws suffer from the following shortcomings: -

Gender Bias

Vague definitions of Dowry and Stridhan

Presumption of guilt; Burden of Proof on the husband

Duplication of existing laws; he so called additional laws instead reforming shift the burden of proof on the husband Corruption; no investigation before arrests Human rights violation; NRI's passports are impounded and they are unable to travel. No penalties, in practice, for false complaints or perjury. This is specific case that was mentioned in press and got the privilege of a media hype but here are other examples of a similar nature where the misuse of 498-A has reached its saturation point. World Health Organization (WHO) report published an article titled "Abuse on elders". This article mentioned that the daughter-in-laws in India were abusing the Dowry laws when they failed to separate their husbands from his parents and as a result old in-laws are being harassed and tortured by the police. WHO in its 'missing voices' report mentions: *"In India there is a law that it is intended to protect the daughter-in-law from abusive in-laws. A daughter-in-law can go to the police station and lay a complaint that she is being abused by her in-laws, and the in-laws are arrested by her word alone. However, the focus group participants reported that some daughter-in-laws are using this law as a form of elder abuse, by making false police reports. In general, participants stressed that the lack of caring attitude by daughter-in-law in India"*.

## **Conclusion**

It can be inferred that the issue of dowry-related deaths persists as a social malady within our society. The societal perpetuation of gender disparities in the context of marriage contributes to the sustenance of the dowry system. It is disheartening that in our society, females are often viewed as burdens or liabilities by their families. When a girl is born in a family, parents start saving for their daughter's marriage. This reflects her low status right from birth. She is considered as the weaker section of the society, a 'bharya' or an equal participator with her husband in all sacrifices and 'yagnas' has become a worst target of social and economic exploitation. When examining the origins of the practice of 'dowry', historical records indicate its absence during the ancient period, specifically in the Pre-Vedic era. It was during the Vedic period that women enjoyed a revered status, often referred to as a Golden period. Marriage held paramount importance for girls during this time. The ritual of "Kanya-dana" was integral to marriages, where gifts such as gold coins and cash were presented to the groom, symbolizing love and affection. Additionally,

among the 'Shudras', a practice akin to 'Bride-Price' existed, involving the exchange of presents, either monetary or in kind, to the bride's family in exchange for their daughter.

The "Manu Smritis" and later the "Smritis" depicted women as inferior to men after the Vedic period. After her entitlement to an education was denied, she was seen as a burden. The ideas of "Varadakshina" and "Kanyadan" were entwined and took on the form of dowry.

Later, as Islamite's' pressure on India increased, women's status continued to decline. Their home would be in "pariah." Her whole set of rights was taken away. All she kept was her "stridhan" right.

Subsequently, with the arrival of the British in India, the imposition of heavy taxes compelled the bride's family to demand escalating dowries from the groom's family. During this period, the status of women had significantly declined, prompting prominent reformers such as Raja Ram Mohan Roy and Mahatma Gandhi to advocate for change.

Only after the 19th century did the struggle for women's freedom and solidarity gain traction. Legislators fought hard to adopt the Dowry Prohibition Act in 1961. It was changed again in 1984 and 1986 to make it more effective and deterrent. In addition, Section 498-A of the Indian Penal Code, which addresses cruelty against married women, was added in 1983. Later, in 1986, the Indian Penal Code 1860 was amended to include Section 304-B, which is explicitly related to dowry-death. In addition to being escorted out of the marital residence while still wearing their clothing in order to get their dowry, married women today endure brutal abuse. Crimes related to the dowry have increased over time along with it. Pretty or intelligent girls are made to commit suicide in order to pay the dowry. A girl may decide to live alone if her parents are unable to pay the required dowry. As a result, parents who are unhappy are compelled to commit suicide. The mother sold all of her jewellery to finance her daughter's marriage, and the father liquidated his possessions. Once the dowry is received, the act resumes. After marriage, their lust and greed compel the bride's in-laws to look for more money under different pretences. Some parents see the dowry as a way to reward their son for going to school; in reality, many educated young people still favour the dowry today. They beat, taunt, and torture the young bride. The boy gets ready for another marriage with the hope of getting an even bigger dowry again, and if the objective is not achieved, they kill her.

In addition to dowry-related deaths, there exist various other offenses associated with dowry practices. These may encompass breaches of the Dowry Prohibition Act, instances of spousal and familial abuse, dowry-related murders, suicides, and acts of violence. Typically, in cases of dowry-related murders, the victim is often doused with kerosene oil and set on fire by her in-laws. Alternatively, the bride may be subjected to strangulation or drowning before being burned. This is often done with the intention of eliminating all traces of evidence. On occasion, a bride may tragically end her own life to escape the emotional torment and suffering inflicted upon her by her spouse or family members. Such offenses are frequently perpetrated through means such as strangulation, burning, drowning, poisoning, and the like.

## **THE RESPONSIBILITY OF THE UPPER CLASS**



The elite and well-educated members of society have a significant part to play in encouraging this evil. Because 90% of the educated elite is perpetuating it through personal practice, Dowry does not disappear from society. The poor without the means bear the cost of the elites' pomp and circumstance, albeit they are unaware of it. They plan extravagant weddings, try to spend a large portion of their wealth, and give a lot of dower. When the populace witnesses these actions, they fail to recognise the negative effects because they believe that the wealthy and powerful engage in dower with great zeal. The largest and most recent was the "Sahara Wedding," which happened on April 24, 2010, in Lucknow. It was a grand event for which crores were both donated and spent on dower. In summary, this study has offered a critical analysis of Indian dowry-related laws, illuminating the complex facets of this deeply embedded social problem. It is clear from a study of legislative frameworks, social conventions, and cultural attitudes that the dowry system in India still presents serious obstacles to social justice, women's rights, and gender equality. The continuance of dowry killings and associated horrors highlights the critical need for comprehensive change and coordinated social initiatives, even in the face of legislative attempts to address dowry-related violence and prejudice. Going forward, eliminating this detrimental practice and promoting a more just and equitable society in India would require tackling the underlying reasons of dowry demands, confronting long-standing gender stereotypes, and empowering women both socially and economically.

### **Suggestions**

Now, let's consider a few "suggestions" that may be able to lessen the threat of dower-

Accordingly, to Mrs. Tara Ali Baig, Social Worker, *"The phenomenon of burning young girls for Dowry does not exist anywhere in the world. India must examine the cruelty inherent in the long and unquestioned tradition, pertaining to conjugal relations. As more Indian joins the new middle class, more family will enter the confusing border line between the feudal and the modern. Young middle calls couples may adore their homes with colour .V and VC.Rs. but they are still thrown together as strangers and the women are told to accommodate their emotions to the often-brutalizing climate of the traditional home. A major shift from the patriarchal system is highly desirable"*.

- Dowry offenders should publicly exposed.
- Conduct a persistent campaign using communication platforms like radio and television.
- The Dowry Prohibition Act should be properly enforced and loopholes should be addressed.
- A shift in educational practices is necessary. Films, plays, and essays should all be written with this in mind.
- Women's organizations should support victims of unsatisfactory marriages, particularly those where dowry is a major source of harassment.
- Inter caste and love marriages should be encouraged.

- Parents should instill self-esteem in their children, especially daughters. Boys and girls should have equal opportunities, and both should receive the same treatment at home.
- The young men and women of tomorrow should be trained to face life as partners and not as superiors and inferiors.
- The Court must take into consideration that “young woman of education, intelligence and character do not set fire of embraced death unless compelled or provoked to that desperate step by intolerable misery”.
- Lavish expenditure and show of wealthy at weddings should be criticized.
- Educated individuals should understand that exchanging money or products in their name is a personal affront to their true worth.
- It is critical that whenever heinous crimes of this sort are discovered and brought home to the accused, the court deal with the perpetrator harshly and impose deterrent punishment. Certain activities must be regarded offences in order for society to maintain order and stability, and every citizen has the right to initiate the criminal law machinery in order to bring the offender to justice.

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