

THE POOR IMPLEMENTATION OF DOWRY RULES IN INDIA

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ABSTRACT

When a daughter marries, she receives a dowry, which is a transfer of parental property, gifts, or income.^[1] While bride price or [bride service](#) is a payment by the [groom](#), or his family, to the bride, or her family, dowry is the wealth transferred from the bride, or her family, to the groom, or his family.^[2]

Dowry laws have been in effect in India since decades, however, they are highly criticised for being ineffective. Due to the weak enforcement of dowry laws, dowry deaths and murders continue to take place in various communities. In India, the dowry system refers to the practice of gifting of durable goods, cash, and real or movable property that the bride's family gives to the groom, his parents, and relatives as a reason for marriage.

In this paper, the author will be dealing with the effectiveness of dowry rules in India and judge for ourselves how poorly the rules are implemented. This paper begins by focusing on the prevalence of dowry from ancient times and the magnitude of marriage payment or dowry in India. The author will closely scrutinise the Dowry Prohibition Act, 1961 for a detailed analysis on this topic. The author will also be covering dowry deaths in a descriptive manner. Further, this paper will contain suggestions for proper implementation of the dowry rules.

INTRODUCTION

Despite many laws to govern it, disparity between men and women still exists in society. Women are suppressed by their counterparts either in their homes or workplace due to lack of proper awareness, illiteracy, backward customs and practices which are being followed for decades now. The true potential of women in our society is dimmed as they suffer various kinds of violence, which is one of the many challenges India faces today. Rapes, sexual harassment, killing of brides for dowry, domestic violence - are few examples of the kind of violence women still have to face.

It is an ancient or age old custom, which is being followed in India for a bride's family to

give dowry to the family of the groom and the groom himself.^[1] As Hindu law entitles women to fewer property rights than men, the practice of giving dowry was one of the attempts to redress inequity by providing women with a share of the family, but the attitude of society towards this practice is neither uniform nor consistent as this practice still prevails.^[1]

In India, the dowry system refers to the durable goods, cash, and real or movable property provided by the bride's family to the groom, his parents, and his relatives as a cause of marriage.^[1] Dowry is, in simple words, a cash payment or a gift given to the groom's family in addition to the bride, and it includes cash, jewellery, electrical appliances, furniture, bedding, crockery, utensils, cars, and other household items that assist the newlyweds in setting up their home.^[1] In Arabic, dowry is referred to as 'Jahez' and as 'Aaunnpot' in the eastern parts of India.

Dowry means any property or valuable protection provided or agreed to be given either directly or indirectly - (a) by one party in marriage to the other party in marriage ; or (b) by the parents of either party to a marriage or by any other person to either party to a marriage or to any other person as compensation for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom Muslim Personal Law applies.^[1]

Dowry laws have been in place in India for decades, but they have been widely criticised as ineffective. Due to the weak enforcement of dowry laws, murders, rapes and dowry deaths continue to occur in several parts of India. Furthermore, many women are hesitant to accuse their husbands of dowry fraud because Indian culture is seen as conditioning women to anticipate or predict violence and, in some ways, to tolerate it.^[1]

The government has attempted to tackle murder and deaths of innocent women by enacting various laws. The Dowry Prohibition Act of 1961 was the first step. To ensure and increase the act's effectiveness , the government amended it twice, once in 1984 and in 1986.

ANCIENT HISTORY

As per Stanley J. Tambiah, dowry and bridewealth were permitted by the ancient Code of Manu in ancient India (typically in Rohtak) and particularly in Kadia families, but dowry was the most prestigious type and connected to the Brahmanic caste. The lower castes were not permitted to offer dowry, so bridewealth was limited to them. He uses evidence

from two early twentieth-century studies to show that the trend of dowry in upper castes and bridewealth in lower castes continued in the first half of the twentieth century. Michael Witzel, on the contrary, claims that dowry practises were unimportant during the Vedic period, based on ancient Indian literature.^[11] He also concluded that in ancient India, women had estate inheritance rights only via appointment or if they lacked brothers.

“Any young man who makes dowry a condition of marriage discredits his education and his country, and dishonours womanhood,” writes Mahatma Gandhi.^[10]

The dowry system has been prevalent in India since before the British Rule. This system caused a financial burden for the bride’s family and is a cause of marital conflict, fake dowry harassments, emotional stress and so on. The British had no rule for their own women to inherit property, so it was obvious they wouldn’t have the rules for Indian women. This meant all the property that a wife possessed then, now belonged to the husband. This posed a social threat, as the groom and his family began to see the bride and her family as a source of income and inheritance.

Payment of dowry was done for around 40% of marriages prior to 1940. Between 1940 and 1975, dowry became widely accepted in India, and by 1975, dowry was paid in nearly 90% of marriages.^[11] As dowry became more prevalent, the average size of dowry payments simultaneously increased. The median dowry payment tripled in real terms between 1940 and 1970, increasing from about Rs. 5,000 to over Rs. 15,000 (as valued in 2010 rupees). In real terms, the median dowry payment has been relatively constant since 1970, despite common perceptions of widespread dowry growth.^[12]

DOWRY PROHIBITION ACT, 1961

The Dowry Prohibition Bill was passed in the Joint Sittings of both Houses of Parliament and became an Act - The Dowry Prohibition Act, 1961 - after receiving the President's signature on May 20, 1961. The act applies to people of all faiths who live in India. Dowry, according to the Dowry Prohibition Act, involves money, land, or goods provided by either party to the marriage, by either party's parents, or by any other person in connection with the marriage.

The objective of instituting this act was to put a stop to the evil custom of dowry; however, it was counterproductive and widely ridiculed as crimes and homicides continued to occur. As a result, the legislation underwent subsequent [amendment](#) not once, but twice. There are also several state level amendments to the Dowry Prohibition Act.^[13]

The original Dowry Prohibition Act was amended to provide minimum and maximum penalties for giving and receiving dowry, as well as a penalty for demanding dowry or advertising offers of money or property in connection with a marriage.^[14] It was amended in 1984, for example, to state that gifts given to a bride or groom during the wedding are permitted. The rule demanded that a list be kept that described each gift, its meaning, the identity of the person giving it, and the person's relationship to either party to the marriage.

To protect female victims from dowry-related abuse, this act and many similar parts of the Indian Penal Code were amended further. The Protection of Women from Domestic Violence Act of 2005 added another layer of legal protection.^[15]

Section 4 of the Dowry Prohibition Act, 1961 specifies that if a person demands dowry directly or indirectly from the groom or the bridegroom, or his/her family or relatives, he will be punished with imprisonment for a period of at least six months, which may extend to two years along with a fine which can be up to ten thousand rupees. However, for adequate and special reasons to be stated in the judgement, the Court may impose a sentence of imprisonment for a term of less than six months.

Article 3 of the Dowry Prohibition Act of 1961, states that the punishment for receiving or accepting dowry does not extend to presents given to the bride or groom during marriage when no demand for them has been made.^[16]

While the laws give great powers, they are not effectively enforced by the police or by courts. It may take up to ten years for a lawsuit to reach court, and then once there, husbands and in-laws also get away with extortion or murder because the women and their relatives are unable to prove "beyond reasonable doubt" that they were the victims of such crimes because there are rarely any outside witnesses.^[17] Furthermore, women in Indian communities are afraid to suggest that their husbands have committed dowry crimes because society has conditioned them to expect or anticipate violence and, in some cases, to tolerate it.

Dowry is also regarded as a criminal offence and the Indian laws have been amended to conclude the same. The Indian Penal Code, 1860, was amended to include Section 304B, which declares dowry death an offence punishable by a minimum sentence of 7 years in prison and a maximum sentence of life in prison. It stated that if a woman dies as a result of burns or physical harm, or in suspicious circumstances, during seven years of her marriage, and there is proof that she was subjected to violence or coercion by her husband or his relative regarding the demand for dowry before her demise, the husband or relative

would be considered to have induced her death.^[18]

Furthermore, when it is proved that the woman was subjected to cruelty because of dowry demand before her death, section 113B of the Evidence Act, 1872, establishes an additional presumption of dowry death. Many people who were previously not caught by the Dowry Prohibition Act of 1961 have been convicted, under the umbrella of Section 304B IPC and Section 113B of the Evidence Act.^[19]

In spite of numerous laws and regulations, around 21 women get killed everyday due to dowry related violence. Dowry appeals are given such low priority that it can be almost a year before the court decides to allow a trial. Moreover, courts are often suppressed of certain crucial evidence, such as suicide notes and dying declarations, on technical grounds. This proves how loosely these laws are implemented and what its consequences can be if left unchecked.

DOWRY DEATHS

Dowry deaths have become a great concern for courts, police, families, legislators and for the society. It is a curse for society and not a single day passes where we do not get to read about horrific cases of dowry deaths in the newspapers. Innocent women are tortured, killed or driven to commit suicide resulting from dowry pressure and yet most of the accused remain unpunished. Although the Dowry Prohibition Act, 1961 has banned and criminalised the practise of dowry, in reality, all what law does is to recognise the issue. It is virtually unheard of in-laws or the husband of the bride to be sued for demanding dowry. In reality, the demand for dowry, as well as dowry deaths and murders, have increased over the years.

India has by far the highest number of dowry-related deaths in the world according to Indian National Crime Record Bureau. About 70 percent victims belong to 21-24 years age groups, that is they are mature not just physically but emotionally and socially. India had the highest overall number of dowry deaths, with 8,391 recorded in 2010, resulting in 1.4 deaths per 100,000 women. Female dowry deaths account for 40 to 50 percent of all female homicides reported in India each year, representing a consistent pattern from 1999 to 2016.^[20]

Section 113B of the Indian Evidence Act, 1872, added a new clause regarding the presumption of proof in dowry death, requiring courts to conclude that a dowry death was induced by the individual who is shown to have subjected the woman to cruelty or abuse shortly before her death. A woman can avoid dowry harassment by contacting a domestic violence security officer under the Protection of Women from Domestic Violence Act 2005

(PWDVA). However, the effectiveness of these laws has been called into question.^[21]

Essential Ingredients for dowry deaths :

1. Death should occur as a result of burns, physical harm, or some other condition.
2. Death must occur within the seven years of marriage.
3. It must be revealed that she was subjected to cruelty or threats by her husband or some other relative shortly before her marriage.
4. The brutality or abuse directed at her should be related to the dowry demand.^[22]

The government needs to make strict laws that are effectively implemented, the judiciary and the police should see that these laws are better enforced. Emphasis should be made on the education and employment of women. The society should make a collective commitment to shun away the social menace and greed for dowry. In cases to curb the rate of dowry deaths, harassment or cruelty more female police personnel should be inducted so available in a situation relating to unnatural deaths of women. In the interest of proper investigation and justice, the investigation should not be handled by someone under the rank of assistant commissioner. Punishment for abetment of suicide must be raised to up to seven years.

REASONS FOR POOR IMPLEMENTATION OF DOWRY LAWS

Smooth implementation of the dowry laws becomes an issue for various reasons. A few of them are stated below :

Lack of proper education for women : Women dwelling in underdeveloped areas do not get access to quality education. They are married off very young and they have no awareness or knowledge of laws and rules that can actually protect them from the evil menace of dowry.

Statutory language : The statutory language is too vague in order to stop the dowry demand. As originally construed by the courts, dowry included only money and property given at the wedding ceremony. Consequently, the Act did not prohibit gifts demanded after the wedding. To prevent families from evading the Act's prohibition on dowry, the Act's concept of what constitutes dowry should be extended.

Lack of awareness : There is lack of awareness in rural areas about the evils of dowry. Most people in the villages might not even know that this practice is illegal. They have less knowledge about their rights and are often exploited.

Backward customs and orthodox culture : Social mores dictate that a woman must never speak out against her husband, and a broken marriage is viewed as a disgrace both to the woman's family and to her own honor. As a result, Indian women seldom file for divorce or accuse their husbands or in-laws of abuse. Instead, they are subjected to toxic violence in secrecy. Women would not complain about their husbands' violence or even murder attempts, refusing to implicate them even on their deathbeds. As a result of these cultural attitudes, parents and neighbours are unlikely to provide assistance to the new bride. And when a bride musters the courage to seek assistance, her parents almost always refuse to allow her to return home for fear of public embarrassment. Therefore, the bride, who has nowhere to turn for help, is put at high risk of dowry-related death..^[23]

Judiciary and Police : The judiciary takes years to resolve and pass a judgement instead of a speedy disposal. Similarly, the police take a considerable amount of time to solve a case. Not to forget , few officers are corrupt and often bribed by culprits to escape punishment.

Economic discrimination against women : Instead, the only way women can inherit their father's or husband's personal property is through testation. Although in theory the Hindu Succession Act gives Hindu women equal inheritance, "in practice, married daughters are seldom given a share in parental property." Similarly, Islamic personal law protects the inheritance rights of sons and daughters, but it dictates that the daughter's share to be one half of the son's since sons are responsible for caring for their elderly parents..^[24]

SUGGESTIONS FOR BETTER IMPLEMENTATION OF DOWRY LAWS

Equal opportunities for women in the society as their counterparts should be made. Laws made for women should empower and make them feel protected. The laws should not have exceptions for men to escape the punishment. Proper awareness programs should be conducted all over the country. Not just in urban areas but in rural areas, emphasis should be made for awareness programs so that women from all backgrounds are well versed with the laws. More women police officers should be recruited to manage dowry cases as they will better understand the circumstances and have both a practical as well as an emotional point of view.

The judiciary should act faster and enforce speedy disposal of dowry cases as it can sometimes be a matter of life and death. Cases related to dowry deaths should be investigated better to ensure there is no partiality or bias associated with it. Regular meetings should be held exclusively for women in all districts, especially in the country's rural and underdeveloped areas. Advocacy groups should host these gatherings. Advocates

should brief them on women's laws at these sessions, and those ladies with complaints should be assisted by advocates in filing cases.

Special efforts are to be made by every institution to motivate people to act for the effective implementation of legislative measures to combat the menace of the dowry system from our society. As a result, non-legislative steps are also needed to end the dowry system.^[25] Modern media like television , radio, movies, papers and internet should make propaganda against dowry practice by launching various anti dowry practices by launching various anti dowry programs to convince people that dowry is not only illegal but also unethical. Social consciousness about the ill effects of the dowry system needs to be aroused.^[26]

Youth are the only ray of hope for successfully combating the dowry scheme. They must be educated on moral values in order to open their minds and broaden their outlook. They must be inspired to take the initiative toward its abolition by refusing to pay dowry for marriage. Furthermore, women must be provided vocational education in order to perpetuate gender discrimination. They should make a promise to boycott any boys who ask for a dowry in order to marry them.^[27]

CONCLUSION

Surprisingly even educated women have to suffer abuse , harassment and are exploited if they fail to offer dowry and the proof appears in the news headlines very frequently. A 39-year-old New Delhi woman died in an apparent suicide in 2018, which police later investigated as a case of dowry death. A woman, a Lufthansa flight attendant, got hitched to her husband in 2016, but her husband allegedly began abusing her shortly after they married. The bride's family claimed that the husband has been tormenting her mentally and physically in order to force her to give him more dowry.^[28]

In *Akula Ravinder v. State of A.P.* a sort of relief came against the possible misuse of section 304-B IPC when it was concluded that death must be proved to be one out of the course of nature and the mere fact that the deceased was young and death was not accidental is not sufficient to establish that death must have occurred otherwise than under normal circumstances. Thus, there are still many inconsistencies in law related to dowry, which should be corrected to ensure its effective and fair implementation.^[29]

While dowry is illegal and punishable under Indian law, many Indians continue to practise it in the name of maintaining traditions and customs. Although it is not false that anti-

dowry laws exist to provide victims with justice, many cases remain unreported and unchecked. Laws should be better implemented to completely erase this evil custom from society. Along with that proper awareness programs and education should be made available to all women especially women residing in urban areas. Working together to fight the social menace of dowry is the only way to eliminate it completely for the greater good of women as well as the society.

REFERENCES

1. Goody & Jack, *Production and Reproduction : A Comparative Study of the Domestic Domain*, Cambridge 6(Cambridge University Press,1976). [↑](#)
2. Goody & Jack, *Production and Reproduction: A Comparative Study of the Domestic Domain*, Cambridge 8 (Cambridge University Press,1976). [↑](#)
3. Anderson & Siwan, *The Economics of Dowry and Brideprice*, 21, 151-174 (2007). [↑](#)
4. Indian Penal Code, 1860, No. 304, 1860 (India). [↑](#)
5. Rani Jethmalani & P.K. Dey, *Dowry Deaths and Access to Justice in Kali's Yug: Empowerment, Law and Dowry Deaths* 36-38 (1995). [↑](#)
6. Paras Diwan & Peeyushi Diwan, *Law Relating to Dowry, Dowry Deaths, Bride Burning, Rape, and Related Offences* 10 (Delhi: Universal Law Pub. Co. ,1997). [↑](#)
7. Rao & C.N. Shankar, *Indian Social Problems*, 238 (S.Chand , 2019). [↑](#)
8. Bumiller & Elisabeth, *May You Be the Mother of a Hundred Sons: A Journey Among the Women of India* 59(Ballantine Book, 1991). [↑](#)
9. Witzel & Michael, *Little Dowry, No Sati: The Lot of Women in the Vedic Period*, 4 *Journal of South Asia Women Studies* 2, (1996). [↑](#)
10. Abhishek Kumar, *Dowry System In India : A Critical Analysis*, TheBlawg (Nov. 15, 2020) <https://theblawg.in/dowry-system-in-india-a-critical-analysis>. [↑](#)
11. Anderson & Siwan, *Why Dowry Payments Declined with Modernization in Europe but are Rising in India* *Journal of Pol Eco*, 111, 269-310 (2003). [↑](#)
12. Anderson & Siwan, *The Economics of Dowry and Brideprice*, 21 (4), *Journal of Economic Perspectives*, 151-174 (2003). [↑](#)
13. B.P. Beri & Gooroodass Banerjee, *Commentaries on the Dowry Prohibition Act* (Lucknow : Eastern Book Co., 1961). [↑](#)
14. Sharmila Lodhia, *Dowry Prohibition Act India* (1961), <https://www.britannica.com/event/Dowry-Prohibition-Act>. [↑](#)
15. Sharmila Lodhia, *Dowry Prohibition Act India* (1961) ,<https://www.britannica.com/event/Dowry-Prohibition-Act>. [↑](#)
16. *The Dowry Prohibition Act, 1961*, (Indi). [↑](#)

17. Kishwar Madhu, [India's New Abuse Laws Still Miss the Mark](#), Hinduism Today (May 18, 2015)
<https://www.hinduismtoday.com/modules/smartsection/item.php?itemid=4095>. [↑](#)
18. Suman Nalwa & Hari Dev. Kohli, Law Relating to Dowry, Dowry Death, Cruelty to Women & Domestic Violence 211 (New Delhi: Universal Law Pub. Co. , 2011). [↑](#)
19. Nangia Anshu, *The Tragedy of Bride Burning in India: How Should the Law Address It*, 22 *Brook. J. Int'l L.* 637, 676 (1997). [↑](#)
20. *Dowry Deaths Make Significant Share Of Female Killings In India : Report*, NDTV, Mar., 8, 2019. [↑](#)
21. Shalu Nigam, *Women and Domestic Violence Laws in India: A Quest for Justice*, (2019). [↑](#)
22. [Subodh Asthana](#), *Dowry Death under Section 304b of IPC & 113b of Evidence Act*, https://blog.ipleaders.in/dowry-death/#Essential_Ingredients. [↑](#)
23. Prashanti, *Dowry laws: Loopholes and Possibilities of misuse*, <http://www.legalservicesindia.com/article/2034/Dowry-laws:-Loopholes-and-Possibilities-of-misuse.html>. [↑](#)
24. Prashanti *Dowry laws: Loopholes and Possibilities of misuse*, <http://www.legalservicesindia.com/article/2034/Dowry-laws:-Loopholes-and-Possibilities-of-misuse.html>. [↑](#)
25. Shauni, *How to Prevent Dowry in India? (6suggestions)*, <https://www.yourarticlelibrary.com/society/dowry/how-to-prevent-dowry-in-india-6-suggestions/47643>. [↑](#)
26. Shauni, *How to Prevent Dowry in India? (6suggestions)*, <https://www.yourarticlelibrary.com/society/dowry/how-to-prevent-dowry-in-india-6-suggestions/47643>. [↑](#)
27. Shauni, *How to Prevent Dowry in India? (6suggestions)*, <https://www.yourarticlelibrary.com/society/dowry/how-to-prevent-dowry-in-india-6-suggestions/47643>. [↑](#)
28. Aditi Sharma, *What Are India's Anti-Dowry Laws And Are They Effective?* (Dec. 17, 2020), <https://www.bingedaily.in/article/a-frantic-search-for-remdesivir-and-here-s-the-crucial-part>. [↑](#)
29. Prashanti, *Dowry laws: Loopholes and Possibilities of misuse*, <http://www.legalservicesindia.com/article/2034/Dowry-laws:-Loopholes-and-Possibilities-of-misuse.html>. [↑](#)

