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A CRITICAL ANALYSIS OF THE DOWRY PROHIBITION ACT IN INDIA

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"Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood." - Mahatma Gandhi

ABSTRACT
In 1961, India implemented the Dowry Prohibition Act in an effort to eradicate the long-standing social evil of dowries. Despite legal prohibitions, dower-related offenses continue to occur, bringing to light intricate social, institutional, and economic problems. This critical study demonstrates the limited effectiveness of the Dowry Prohibition Act in addressing the intricate nature of dowry intimidation and violence. Using historical context, legal frameworks, and current instances, this study investigates the factors that lead to dowries, including as gender inequality, economic pressures, and institutional flaws. Education hasn't made dowries less common, and crimes like cruelty (section 498A, IPC) and dowry murders (section 304B) are becoming more common. Based on the difficulties encountered during the Act's implementation and the suggestions made by the National Women Commission, this research paper provides remedies. In order to eradicate dowries and preserve women's dignity in India, this research emphasizes the necessity of comprehensive remedies that include societal activities, legal reforms, and victim support networks. The law defines 'DOWRY' and criminalizes any behavior associated with it. The National Women's Commission suggested in 2009 that the dowry word be changed and that protection officers are appointed through the Domestic Violence Act to perform the duties of dowry prevention officers. The bill is currently being evaluated for more consideration after the suggested adjustment was met with resistance.
KEYWORDS; *Dowry, Legislation, Women, Prohibition, Punishment*

INTRODUCTION

A social ill that is ingrained in our culture is dowers. Particularly damaging to women are offenses relating to dowers, such as death, suicide, homicide, and order violations. Women have a vital role in maintaining human experiences and historical social norms. It is extremely difficult for women to earn respect from individuals throughout their life. Discrimination starts the moment a woman is born. Women are God's greatest gift to humanity. She is able to distinguish between good and bad. In addition to cooking, cleaning, and edging, women are in charge of childbearing and parenting. They have no authority and are in charge of a man's welfare, which makes them unfit for positions of authority. The battle for criminal equality has been a top priority for women's movements across the world. Because of their bulging lower backs, Indian women were considered a broken part of society for many decades. There is a major conflict about independence at one point in the territory. There is a major conflict about independence at one point in the territory. Gandhiji declared his unflinching support for the liberation of women and argued for women's freedom.

Reputation is not influenced by physical appearance or gender. The Indian government tried to eradicate the centuries-old social evil of dowries in 1961 with the passage of the Dowry Prohibition Act. Despite its admirable intentions, the Act has faced criticism and challenges over time. This article examines the Dowry Prohibition Act's benefits, drawbacks, and ongoing debate on its applicability.

Dowry as a Social Evil in Historical Context

India's centuries-old custom of dower has important social and cultural ramifications. Prior to marriage, the bride's family gives the groom's side a gift or money. Brides who are unable to meet dowry demands may face threats, violence, or even death as a result of the pervasive and exploitative practice of dowry.

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Concept of Dowry

In Indian weddings, the term "dowry" (Dahej) refers to both the bride's freely offered gift, known as Kanyadaan, and the cost paid by the members of the wedding party to the bridegroom's network of contacts. An essential component of Hindu marriage rituals is kanyadanam. The Dana technique is included in the name "Kanya," which also refers to a daughter.

The money, goods, or estate which a woman gives to her husband during marriage is referred to as dower, or trousseau. It stands in contrast to the bride's parents as well as dower, which are assets created by the groom throughout the marriage, are valued at the bride's bridal worth. The same lifestyle may result from dower and bride rates. The custom of dower has a lengthy history and may have existed before written history.

At the bride-giving ritual (Kanyadana), the bride's family members give the groom's family members dowry (Dahej/Hunda). It might be monetary or in-kind. An essential ritual in Hindu weddings is kanyadana. Dana = gift, Kanya = daughter. The country's dower tool one may call marriages the "economic aspect of the wedding." Dowry has spread throughout the world. A woman acquires every piece of domestic equipment required to start her own family.

Due of its Vedic duration, dower gadgets were more and more popular in India. Gifts from families, brothers, and other family members were regarded as women's property throughout the Epic period and were called stridhan. The problem has extended to the southern & eastern areas of India in addition to a few states in the north.

All sectors, classes, groups of people, societies, and locales are impacted, which is the basic problem. Both the Muslim community and tribal communities with longstanding traditions of gender equality and egalitarianism support it. The general social acceptability of this unlawful activity has hampered attempts to address it in spite of strict laws and restrictions.

General Law (Bharatiya Nyaya Sanhita, 2023)

Bharatiya Nyaya Sanhita, 2023 mention about the Dowry Death under section 80[1]

S. 80 Dowry death

When a woman dies within seven years of marriage due to burns, physical harm, or other causes other than those caused by normal circumstances, and it can be shown that she was subjected to abuse or prejudice by her husband and his family members for, or in connection with, a required dowry, this is known as "dowry death," and the husband or family member is considered to have caused the woman's death.

Explanation: For the intention of this sub-section, "dowry" has the same definition as in section 2 of the Dowry Prohibition Act of 1961.[2]

Whoever conducts the death by dowry shall be imprisoned for at least seven years and up to life.

74 of BNS using violence against women to violate their modesty[3]

Anyone who assaults a woman and uses illegal force against her with the intention of offending her modesty as well as knowing that they is likely to do so faces a minimum sentence of one year and a maximum sentence of five years in jail, as well as a fine.

Sections 85 and 86 of the Bharatiya Nyaya Sanhita (BNS)[4]

The Bharatiya Nyaya Sanhita (BNS) aims to integrate and modernize India's many legal statutes. The BNS's Sections 85 and 86 are noteworthy because they resemble Section 498A of IPC, which addresses cruelty committed by spouses or family members against married women. The legal protections provided to women are strengthened and continuity is ensured by this replication. Let's examine these sections in further detail, contrast them, and understand the implications.

Section 498A of the IPC was enacted in 1983 to protect married women against violence perpetrated by their husbands or the husband's family.

[1] *Bharatiya Nyaya Sanhita, 2023 section 80*
[2] *Dowry Prohibition Act of 1961 section 2*
[3] *Bharatiya Nyaya Sanhita, 2023 section 74*
[4] *Bharatiya Nyaya Sanhita, 2023 section 85 & 86*

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Definition of Section 498A IPC
"498A spouse or a family member of a woman who abuses her anybody who, as a husband or family member of a woman, abuses a woman faces a maximum of three years in jail and a fine."[5]

The criteria of Section 498A of the IPC are replicated in Sections 85 and 86 of the BNS. This ensures that the new legal framework maintains the vital safeguards against misuse and intimidation.

Section 498-A of the Indian Penal Code provides a definition of cruelty that is open to interpretation and offers a straightforward opportunity. The burden of proof is with the side, and only certain situations are acceptable. Consider for bailable & cognizable cases to be consolidated with court consent in order to solve the issue of ineffectiveness. Those who misuse this space ought to be held accountable.

The 237th Law Commission Report[6] suggested amending Section 320 CrPC to include sub-section (2A). The future condition makes sure that the wife is not mistreated after the offer to escalate the offense and that the offer is made voluntarily and without pressure. Furthermore, Section 498-A mandates that the Court actively consider compounding the violation.

The Dowry Prohibition ACT, 1961
The act was a key piece of legislation that stopped the dowry custom. Dowry was outlawed and punished by the law. The Act imposed severe punishments, including as fines and jail, on anyone found guilty of dowry-related offenses.

Features of the Act

A. "Dowry" is defined as any property or valued security that is provided or promised to be provided, either directly or through an intermediary, under Section 2 of the Act of 1961. (a) By one spouse to the other spouse, or (b) By the parents of both spouses to either spouse, at any point before to or following the marriage, in connection with the marriage of the aforementioned parties.[7]
B. Paying or receiving dowries during marriage is intended to be abolished under the Dowry Prohibition Act. The Act's Section 3 prohibits both giving and receiving dowries.[8]
C. Violations of the Act carry severe penalties. Penalties for dowry violations include up to Rs. 15,000 including the dowry's value, whichever is higher, and a maximum sentence of five years in prison.
D. The Act mandates that the newlyweds' legal guardian abide by the dowry ban. They have to inform the authorities in writing if there was no dowry given or obtained during the marriage.
E. Anyone with information about dowries should notify a magistrate and police officer in accordance with Section 8 of the Act. Failure to do so is punishable by law.[9]
F. Deaths caused by dowries are likewise covered by the Act. Section 304B, which deals with dowry fatalities, was added to the Indian Penal Code (IPC) in 1986. It is considered a dowry death if a lady passes away within seven years of marriage as a result of being harassed or assaulted in return for the dowry. Those implicated may be imprisoned for a minimum of seven years and a maximum of life,[10] but now in section 85 of BNS.
G. The Act offers protections for victims of dowry harassment. The statute gives judges the authority to issue injunctions and protection orders to stop victims from being assaulted or harassed in the future.
H. The burden of proof rests with the accused in crimes involving dowries. Rather than the victim establishing the wrongdoing, the guilty must demonstrate their innocence.

Advantages of the ACT

1. **Legislative Framework:** The Act offers victims of dowry-related offenses a legal structure for pursuing justice.
2. **Awareness:** The Act's passage contributed to a greater understanding of the dowry system and its negative social impacts.

[5] *Indian Penal Code 1860 section 498A*
[6] *237 Law commission report: Compounding of (IPC) Offences (2011)*
[7] *Dowry Prohibition Act 1961 section 2*
[8] *Dowry Prohibition Act 1961 section 3*
[9] *Dowry Prohibition Act 1961 section 8*
[10] *Indian Penal Code 1860 section 304B*

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3. **Punitive Measures:** The imposition of fines for both dowries giving and receiving sends a clear message that the custom is unacceptable.

Limitations and Critiques

1. **Enforcement Issues:** One of the primary grievances about the Act is its lenient enforcement. Even with the legal limitations, dowry-related offenses are nevertheless rather common, mostly because to the lax enforcement of the law.
2. **Social Norms:** Dower is difficult to eradicate through the legal system alone because it is so embedded in cultural norms and conventions. Cultural views and traditions around marriage & dowries usually take precedence over legal deterrents.
3. **Insufficient Support Systems:** Many victims of dowry harassment face challenges while attempting to access support systems and legal redress. The lack of adequate processes for reporting and handling dowry-related offenses further undermines the Act's efficacy.
4. **Changing Types of Dowry:** Dower practices have evolved over time, taking on new forms like as "gift-giving" and "dowry disguised as presents," which may not be adequately covered by current regulations, even though the Act primarily deals with traditional sorts of dowries.
5. **Legal loopholes:** Due to legal loopholes, offenders can often escape punishment even in the face of the Dowry Prohibition Act. Delays in justice for victims might arise from protracted and challenging judicial proceedings. Furthermore, it is challenging to convict perpetrators since victims carry a disproportionate share of the burden of proof.
6. **Role of Law Regulation:** The effectiveness of the Dowry Prohibition Act depends on the commitment and competence of law enforcement agencies. However, the efficient execution of the law is regularly hampered by cases of law enforcement officers being corrupt, biased, or uninterested. Additionally, if society perceives dowry-related violence as common or trivial, victims could be discouraged from seeking help from the authorities.
7. **Holistic Solutions Are Needed:** Beyond taking legal action, a complete plan is needed to resolve the dowry issue. Initiatives to promote gender equality, offer women greater monetary and political power, as challenge patriarchal norms must all be part of any comprehensive strategy to abolish dowries. Community-based activities, educational initiatives, and awareness-raising campaigns can also significantly contribute in changing cultural norms and perspectives around dowries.

Judicial Interpretation

Numerous noteworthy cases have impacted the interpretation and implementation of the Dowry Prohibition Act in India. Here are a few notable examples:

One of the first cases in which the Supreme Court of India addressed the problem of dowry-related offenses was *State of Bihar v. Ramesh Singh*[11], which was heard in 1977. The court ruled that the Dowry Prohibition Act prohibited providing or receiving dowries and emphasized the need for strict enforcement of the law.

State of Punjab v. Satvir Singh[12]: In this landmark 2001 ruling, the Supreme Court clarified the legal definition of "dowry" under the Dowry Prohibition Act. According to the Act, the court determined that any valuable security or property given directly or indirectly at, before, or following the marriage as compensation for the union would be regarded as dowry.

State of Maharashtra v. Appasaheb & Ors[13]: Known as the "Bhanwari Devi Case," this case garnered a lot of attention due to its focus on the issue of dowry-related violence and the way the state responds to such acts. The case, which was heard by India's highest court in 2006, involved the gang rape of Bhanwari Devi, a social worker who was attempting to prevent a child marriage due to dowry demands. The court's ruling emphasized the importance of properly enforcing laws and the need for stringent steps to stop dowry-related violence.

State of Bihar v. Arnesh Kumar[14]: In this historic 2014 ruling, the Supreme Court addressed the misuse of Section 498A of the IPC, addressing marital harassment, cruelty, and related crimes. The court issued guidelines to safeguard victims of dowry harassment and prevent the arbitrary arrest and incarceration of individuals under Section 498A.

[11] *1977) 4 SCC 39*
[12] *001 SC Appeal (crl.) 1319*
[13] *2007 (Appeal (crl.) 1613*
[14] *AIR 2014 SC 2756*

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Allegedly Murdered over Dowry[15]: In December 2021, a Hyderabad woman was allegedly killed by her spouse and in-laws due to demands for dowry.
According to the victim's relatives, she has been harassed and abused for dowry ever since she got married.

Delhi Dowry Death Case[16]: The family of a Delhi lady who died in November 2021 under suspicious circumstances says she was killed in return for a dowry. The woman claimed that in return for a dowry, her husband & in-laws had tormented and physically assaulted her.

Kerala Dowry assault Case[17]: In September 2021, a Keralan woman claimed her husband & in-laws of harassing and mistreating her throughout the dowry procedure. The woman said that she was physically assaulted and threatened because she refused to pay their demands for her dowry.

CONCLUSION

In conclusion, one notable piece of legislation that aims to address the pervasive societal issue of dowries in India is the Dowry Prohibition Act. Nevertheless, despite its noble objectives and the application of harsh punishments, the Act's effectiveness is still constrained by a number of problems.

According to Hindu mythology, marriages are created in heaven, but dowry lust is making more and more respectable people—such as husbands, sisters-in-law, and mothers-in-law—fear that the marriage would end. Dower deaths, suicide, murder, and bride burning are all regrettable consequences of our society system and are signs of strange social issues. At some time in the previous few decades, India has witnessed the dark sins of the inheritance failing system in a more dramatic form in virtually every region of the United States, given that it is practiced by almost every sector of society. Almost every day, unproductive married woman are harassed, humiliated, overwhelmed, and forced to leave their spouses, commit suicide, and so on. Due to their parents' or their husbands' inability to provide the dowry requirements stipulated by law, many of them endure torture, cruel treatment, and even burns to death.

The traditional Hindu view that children are the "assets" of their parents is the source of this kind of treatment. Because of this, the bride of the groom is also considered a family asset, along with the son. The dowry she gives is used in compliance with the law as well as in the worst situations, to marry their daughter, leaving the bride completely at the mercy of the husband as well as his race. Many people believe that the dowry is more significant than the woman. Her capacity to bear children, which appears to have been the exclusive basis of marriage, is given a limited notion. She is becoming more and more recognized as a practical tool for making steady money and wealth.

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3. *Criminal Procedure Code, 1973*
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6. *https://www.thehindu.com*
7. *237th Law commission report: Compounding of (IPC) Offences (2011).*

[15] *https://www.thehindu.com article31003172*
[16] *ibid.*
[17] *ibid.*