

# Dowry Laws in India : A Legal Discourse in Present Scenario

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## Abstract

Dowry continues to be a serious social issue in India, even though it is banned by law. Many women still face harassment, abuse, and even death due to dowry demands. This paper discusses the legal measures in place to stop dowry and how they are working in the current scenario. The main law is the Dowry Prohibition Act, 1961, which makes it illegal to give or take dowry. In addition to this, the Bharatiya Nyaya Sanhita (BNSS), 2023 includes important provisions like, Section 85 of BNSS deals with cruelty by the husband or his relatives, and Section 104 addresses dowry deaths. These laws are meant to protect women and punish those who misuse the dowry system. However, there have been concerns about the misuse of these laws, which can lead to false cases. This paper explores both the positive and negative impacts of dowry laws, along with suggestions for improvement. It also highlights the role of courts and the need for stronger implementation and public awareness to end dowry-related violence and ensure justice for women.

**Keywords:** Dowry, Women's Rights, Dowry Prohibition Act, BNSS, Legal Protection

## Research Question

*How effective are the dowry laws in India, particularly the Dowry Prohibition Act, 1961 and the provisions under BNSS, 2023, in addressing and preventing dowry-related crimes, and what are the legal and societal challenges in their implementation?*

## Hypothesis

*While India has enacted comprehensive legal frameworks to curb the menace of dowry, including the Dowry Prohibition Act and relevant provisions in the BNSS, 2023, the effectiveness of these laws is hindered by implementation gaps, societal attitudes, and instances of legal misuse.*

## Introduction

The dowry system in India, deeply rooted in traditional practices, has evolved into a major socio-legal issue. Once a benign cultural practice, dowry has morphed into a coercive demand, often leading to harassment, cruelty, and even deaths of women. In response, India introduced the Dowry Prohibition Act, 1961, followed by penal provisions such as Section 498A and Section 304B of the Indian Penal Code. With the recent recodification under the Bharatiya Nyaya Sanhita (BNSS), 2023, these sections are now included under Sections 85 and 104, respectively. This paper analyses the legal framework addressing dowry, its practical implementation, judicial responses, misuse concerns, and offers reformative suggestions.

## Literature Review

Several scholars have examined the multidimensional facets of dowry and the effectiveness of anti-dowry laws:

1. Flavia Agnes emphasized the patriarchal underpinnings of dowry violence and called for comprehensive legal reform combined with societal change.
2. Jaya Sagade critiqued the implementation mechanisms of the Dowry Prohibition Act, asserting that legal measures alone are insufficient.

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3. The 243rd Law Commission Report highlighted the misuse of Section 498A IPC, suggesting a need for procedural safeguards while protecting genuine victims.

4. Rajesh Tandon analyzed court judgements, noting inconsistent interpretations and enforcement, leading to both under-conviction and overreach.

5. Dr. Madhu Mehra, writing in the Indian Journal of Gender Studies, critiques the gender neutrality debate in criminal law and advocates for victim-centric reforms in dowry-related offences.

6. Anuja Agarwal, in her article "Dowry-Related Harassment and Legal Remedies" (2021), argues that implementation gaps arise due to lack of local accountability, under-trained enforcement agencies, and reluctance from judiciary to convict in dowry death cases without overt physical evidence.

7. Prof. B.B. Pande highlights how the framing of Section 304B has caused confusion over evidentiary standards, making convictions in dowry death cases highly dependent on circumstantial factors.

8. International Commission of Jurists published a report in 2020 emphasizing how dowry laws in South Asia, including India, fail to offer victim restitution and instead focus primarily on punitive measures.

9. UN Women's South Asia Regional Office observed that public awareness campaigns are far more successful in altering dowry practices than legislative changes alone, citing examples from Nepal and Bangladesh.

10. Ritu Menon and Kalpana Kannabiran discuss the interlinking of caste, class, and patriarchy in perpetuating dowry, and how laws are often enforced selectively depending on social status.

The introduction of BNSS, 2023 is a recent development and academic literature on its impact is currently limited. However, it reflects an intent to streamline and clarify criminal law, including dowry-related offenses.

## Legal Framework Against Dowry

### 1. The Dowry Prohibition Act, 1961

This Act criminalizes both giving and receiving of dowry and prescribes penalties including imprisonment up to 5 years and a fine of ₹15,000 or the value of the dowry, whichever is more. However, enforcement has been inconsistent, with many cases going unreported due to social stigma and fear.

### 2. Provisions under the Indian Penal Code (Pre-BNSS)

- Section 498A IPC: Addresses cruelty by husband or relatives of the husband.
- Section 304B IPC: Deals with dowry deaths occurring within 7 years of marriage.

### 3. Provisions under the Bharatiya Nyaya Sanhita (BNSS), 2023

- Section 85 BNSS: Mirrors Section 498A IPC. It criminalizes cruelty towards a woman by her husband or relatives.
- Section 104 BNSS: Substitutes Section 304B IPC, defining and punishing dowry deaths.

These provisions are designed to provide continuity with existing law while aiming to make the legal text more accessible and logically structured.

### Judicial Interpretation and Role of Courts

Indian courts have played a vital role in shaping the legal discourse on dowry:

1. In *Rajesh Sharma v. State of UP* (2017), the Supreme Court mandated preliminary inquiry before arrest in 498A cases, citing misuse.
2. In *Social Action Forum for Manav Adhikar v. Union of India* (2018), the Supreme Court modified the earlier position and emphasized a balanced approach to prevent both harassment of accused and injustice to women.
3. In *Manoj Kumar v. State of Madhya Pradesh* (2022), the High Court reaffirmed that continuous demand for dowry and associated cruelty is enough to invoke 498A.
4. In *Reena v. State of Punjab* (2023), the court stressed the evidentiary value of timely reporting in dowry death cases.
5. In *Pawan v. State (NCT of Delhi)* (2021), the proximity between dowry demand and death was emphasized for conviction under 304B.
6. In *Satbir Singh v. State of Haryana* (2021), the Court reiterated the importance of presumption under Section 113B of the Evidence Act when dowry death is established.
7. In *State of Rajasthan v. Arjun Singh* (2021), the apex court emphasized that conviction under Section 304B should not be mechanical and must rely on cogent evidence.

Judicial pronouncements reflect a cautious balancing act-protecting women while ensuring safeguards against misuse.

### Misuse and Counter arguments

One of the major criticisms of dowry laws, especially Section 498A (and now Section 85 BNSS), is their

alleged misuse:

- Some cases have involved false accusations driven by personal vendettas .
- Courts have recorded increasing instances where complaints under anti-dowry laws were later found baseless.

However, it is vital to note that:

Misuse by a few should not delegitimize genuine grievances. According to the NCRB, dowry-related deaths continue to be alarmingly high, with over 6,500 cases reported annually.

### Implementation Challenges

Despite stringent laws, dowry persists due to:

- Lack of awareness: Many victims are unaware of their rights or fear social ostracism.
- Police apathy: Reluctance to register cases, lack of gender-sensitized training.
- Delayed justice: Long pendency of dowry-related cases reduces faith in legal remedy.
- Patriarchal mindset: Societal norms continue to endorse dowry as a status symbol.

### Comparative Perspective

Dowry is not exclusive to India—it is a socio-legal issue in various South Asian, African, and Western countries. While the cultural contexts may differ, comparative legal analysis helps to assess the effectiveness of different models of regulation and enforcement.

**Nepal-** Nepal outlawed dowry under the Social Practices Reform Act, 1976 and reinforced protections with the Domestic Violence (Offense and Punishment) Act, 2009. The government emphasizes grassroots engagement, public awareness campaigns, and swift justice through community courts.

**Sri Lanka-** Sri Lanka lacks specific dowry legislation but prosecutes related abuse through general laws covering assault, harassment, and domestic violence. It takes a gender-neutral and human rights-centric approach.

**United Kingdom-** The UK addresses dowry-like exploitation through laws on coercive control under the Serious Crime Act, 2015 and Forced Marriage (Civil Protection) Act, 2007. Economic and emotional abuse within intimate relationships, even if non-violent, is recognized as criminal behavior.

**Australia-** Victoria, Australia, became the first Western jurisdiction to specifically legislate against dowry abuse, recognizing it as a form of family violence in the Family Violence Protection Act, 2008 (amended in 2019). This approach empowers victims in immigrant communities, particularly from South

Asia.

**Canada-** Canada addresses dowry-related exploitation under domestic violence statutes. The Criminal Code penalizes coercion and abuse, and courts in provinces like Ontario employ cultural sensitivity protocols when addressing dowry issues among immigrant families.

**Africa (Kenya & Nigeria)-** In Kenya, the Marriage Act, 2014 permits customary bride price traditions but mandates consent and prohibits coercion. Nigeria follows similar norms under state-level family law, focusing on voluntariness and prevention of exploitation.

### What we can consider-

**Integrated Legal Frameworks:** Nepal demonstrates the benefit of combining dowry regulation with broader gender justice laws.

**Recognition of Coercive Abuse:** The UK's and Australia's recognition of coercive control and dowry abuse in domestic contexts suggests India could broaden its definitions.

**Community Engagement:** Nepal's community courts and Bangladesh's public awareness strategies offer grassroots models for change.

**Cultural Sensitivity in Enforcement:** Canada and Kenya provide examples of how legal systems can respect cultural traditions while preventing exploitation.

### Role of Civil Society and Awareness Campaigns

Legal provisions alone cannot eliminate dowry practices. Civil society must play a critical role:

- NGOs like Jagori, SEWA, and Breakthrough work on sensitization.
- Helplines and legal aid cells should be strengthened.
- Educational institutions must incorporate gender sensitization in curriculum.

### Recommendations

**Strengthen Implementation Mechanisms-** Mandatory gender-sensitization training for police and judiciary, Set up exclusive women's cells in police departments.

**Legal Reforms-** Define "cruelty" and "dowry death" with greater clarity, Ensure faster trials with dedicated benches for gender-based violence.

**Prevent Misuse-** Establish pre-litigation mediation in non-violent cases, Mandatory counseling before FIR registration in borderline disputes.

**Enhance Public Awareness-** Nationwide campaigns involving media and influencers, Promote dowry-free

marriages through state incentives.

**Victim Support Infrastructure-** Establish crisis centers with legal, psychological, and shelter services, Ensure employment schemes for dowry victims.

## Conclusion

Despite decades of legislative action, dowry remains a deeply entrenched social evil in India. The persistence of dowry-related violence, harassment, and deaths points to the limitations of a purely legalistic approach. While the Dowry Prohibition Act, 1961 and the newly codified provisions under the Bharatiya Nyaya Sanhita, 2023 (Sections 85 and 104) provide a comprehensive legal framework, their impact is often diluted by challenges in enforcement, societal attitudes, and institutional inertia. Judicial interpretations have evolved to balance protection for women with safeguards against misuse, yet inconsistencies in application continue to hinder the credibility and effectiveness of the system.

The comparative analysis of legal systems in countries like Nepal, Bangladesh, the UK, and Australia reveals that India can benefit from

integrating legal reforms with broader societal strategies. These include awareness campaigns, community-based redress mechanisms, victim compensation, and recognition of economic and psychological abuse. A holistic strategy is essential—one that involves not only strict legal penalties but also preventive and rehabilitative measures.

Moreover, addressing the implementation challenges—such as police apathy, judicial delay, lack of victim support infrastructure, and social stigma—is crucial for bridging the gap between law and justice. Legal reform must be accompanied by structural changes in administration, public awareness, and gender sensitization at all levels.

Ultimately, dowry is not just a legal problem—it is a reflection of entrenched patriarchy, gender inequality, and societal complicity. Therefore, the fight against dowry must be multi-dimensional, involving coordinated efforts from lawmakers, courts, enforcement agencies, educators, civil society organizations, and communities themselves. Only then can India hope to transform its progressive legal framework into a tool of true gender justice and social change.

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