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## A Critique of the Dowry Prohibition Act, 1961

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*A dowry is a significant financial present that is offered by the bride or the groom to their future spouse upon marriage. It is a long-standing custom that has been followed across countries, faith, and eras. Although its origin is undetermined, it is still used in wedding rituals today. In ancient India, there was no notice of the presence of a Dowry. As a matter of fact, during those days it was the bridegroom who used the bride price<sup>1</sup> to the girl's father for availing her services, and at that time it was believed that it is dishonourable for the bride's family to give her in marriage in vain. In the Legendary time frame, it was said that Kaikai, Gandhari, and Madri were paid heavy bride-price. The Supreme Court stated while the Dowry Prohibition Act 1961 was being challenged, "the curse of Dowry has been raising its ugly head from time to time, but the evil has been blossoming beyond imagination." Even after fifty years have gone by, nothing has changed. There are numerous other laws in the IPC and Evidence Act in addition to the Dowry Prohibition Act. The Government of India passed the Dowry Prohibition Act in 1961 to end this practice, and the IPC Sections 304B and 498A also address dowry-related offences. Social initiatives, training programs, and awareness camps are being held at every level in addition to these legislative measures. It is frightening to notice that this technique is still popular today and that the number of instances registered by the National Crime Records Bureau (NCRB) is rising despite laws and the enormous efforts made by politicians and social activists. In this article, an initiative has been made to discuss the dowry system, the execution, and the effect of authoritative measures, and it also analysis the scenario at the national level.*

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<sup>1</sup> Siwan Anderson, 'The Economics of Dowry and Bride price' (2004) 21(4) The Journal of Economic & Finance  
<<http://www.jstor.org/stable/30033756>> accessed 25 November 2022

*This article is mainly based on primary sources like journals, published literature on the subject, and reports from the National Crime Rate Bureau (NCRB).*

**Keywords:** *dowry, dowry prohibition, ncrb, education, harassment, violence.*

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## INTRODUCTION

This paper starts with some basic facts about the prevalence and extent of marriage amount. It then discusses how these patterns vary with economic conditions, social structures, institutions, and countries' family characteristics. Over time, this payment method has also evolved within society. For example, such payments have increased dramatically during certain periods. Under certain circumstances, Payment has been transferred from the groom's side to the bride's side and vice versa. Ownership of such payments also sometimes transfers between spouses and generations of parents.

The cultural practice of dowry in India leads to significant violence against women. Inter-family harassment is used to obtain further payments of commodities and cash, and it can lead to the bride's murder or suicide. Through law and education, this mistreatment of women is sought to be stopped. The Dowry Prohibition Act<sup>2</sup>, which was the main tool for preventing these abuses, is widely viewed as having failed. Based on a comparison of dowry distribution, dowry abuses, attitudes about dowry and dowry violence, and cross-cultural theories of dowry, this analysis demonstrates that the Dowry Prohibition Act<sup>3</sup> won't be successful in lowering what are known as dowry fatalities in India. Making a gender-neutral body would be a more successful strategy.

Hindu women's legal inheritance rights have been curtailed since the beginning of Indian culture. In the historic text *Manu smriti*. *Manu* claims: "When she is little, her father looks out for her. Her boys guard her as she ages, just as her spouse did when she was younger; Women are never ready to be independent "Women, however, were not always prohibited from inheriting real estate, whether it is moveable or immovable both biological and marital

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<sup>2</sup> Dowry Prohibition Act 1961

<sup>3</sup> *Ibid*

households. However, their percentage of share Compared to their male peers, they had much less property.

There was a notice of Stridhana (Stree-lady, Dhana-riches), which was given as a badge of fondness with practically no demand from the groom's family. Here, the lady receives gifts including adornments, and cash only for the bride, on which the bride had outright right and the husband could not take or arrange without the permission of her wife. Subsequently, the arrangement of the endowment was not common during the old-time frame in India. It was exclusively during the Ancient Time frame, that the Rajputs began rehearsing the framework. Indeed, among them, just the Illustrious and highborn families followed the training to show their pride. Today, the endowment is made out of material gifts including the results of the most recent innovations, gems, and money paid to the lucky man. In principle, the exchange is made for the sake of the lady, yet in actuality, the groom and his family are appreciating it. The most awful thing is that it doesn't stop preceding the marriage, or with the marriage, be that as it may, it proceeds even after marriage on different events in the favour of the bridegroom of India with the principal object of destroying So, to destroy this malicious arrangement of sharing, the Dowry Prohibition Bill<sup>4</sup> 1959 was introduced in the Lok Sabha by the Government this dowry system. After conversations, the Bill alluded to a Cooperative Board of trustees of both Places of Parliament in September 1959. At the sitting of both the Places of Parliament, held on 6 and 9 working closely together in May 1961, the Endowment Disallowance Act,<sup>5</sup> 1961 was passed, and it came into force on 1 July 1961.

## CRITIQUE<sup>6</sup>

The depraved practice of dowry could not be stopped despite the Central Government Act, as well as the amending laws passed by the State governments and considerable efforts made by the governments, both at the Central and State levels. Despite societal laws, dowry remains a highly institutionalized practice, and the rise in the number of cases related to it. The severity of

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<sup>4</sup> Dowry Prohibition Bill 1959

<sup>5</sup> Endowment Disallowance Act 1961

<sup>6</sup> B. Pramila, 'A CRITIQUE ON DOWRY PROHIBITION ACT, 1961' (2015) 75 Proceedings of the Indian History Congress <<http://www.jstor.org/stable/44156653>> accessed 25 November 2022

the issue is demonstrated by incidents related to dowries, such as dowry killings, dowry harassment, abuse of the husband and his family, and suicides. The table below covers dowry-related crimes in India according to 2010 until 2020.

**Table**

*Cases involving dowry at the national level are numerous*

<b>Year</b>	<b>Dowry Deaths</b>
2010	8391
2011 <sup>7</sup>	8618
2012	8233
2013	8083
2014	8455
2015	7634
2016	7621
2017	7466
2018	7167
2019	7141
2020	6966

*Source: National Crime Rate Bureau Reports*

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<sup>7</sup> John Van Willigen & V C Channa, 'Law, Custom, and Crimes against Women: The Problem of Dowry Death in India' (1991) 50(4) Human Organization <<http://www.jstor.org/stable/44126922>> accessed 25 November 2022

Unfortunately, 24,771 dowry killings have been reported throughout the nation during the past three years, with 7,048 of those deaths occurring in Uttar Pradesh. Women and Child Development Minister Mrs. Maenka Gandhi stated in a written response to the Lok Sabha that 8233, 8083, and 8455 cases of Dowry Death were reported in the nation in 2012, 2013, and 2014, respectively, under Section 304B of the Indian Penal Code. Bihar and Madhya Pradesh come in second and third, respectively, with 3830 and 2252 fatalities within the same period. According to data from the National Crime Records Bureau, the nation has documented 3.48 lakh cases of cruelty committed by a husband or a family, with West Bengal topping the list with 61,259 such cases over the previous three years. Rajasthan (44,311) and Andhra Pradesh (34835) are next in line.

To eradicate this social ill, the Dowry Prohibition Act, of 1961, was enacted. However, one of the main factors in the failure to accomplish the purpose is the Act's and its Amendments' flaws. The present in the form of money, jewellery, clothing, or other items is not to be given as dowry, unless it is given in exchange for the marriage, according to Section 2<sup>8</sup>. This Section invalidates the actual purpose for which the Act was passed. Because no one will accept that they have given the dowry in the interest of women and then it is impossible to demonstrate that the presents were given as payment for the marriage to the girl.

Second, Section 7(A)<sup>9</sup> prohibits the court from recognizing any crime unless a complaint is filed within a year. Again, the girl's parents would be hesitant to do so out of concern for how it would impact the girl's life. The State has extended legitimacy to the practice of dowry by granting the wife the right to full control over the stridhana, the property in the form of gifts, presents, jewellery, etc. The Act restricts the time to seven years within the marriage and excludes situations when women die as a result of domestic violence for reasons other than dowry.

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<sup>8</sup> Dowry Prohibition Act 1961, s 2

<sup>9</sup> Dowry Prohibition Act 1961, s 7A

## SOME SUGGESTIONS FOR CHANGE

The best way to foil opportunistic in-laws' plans to restrict their access to the home without the wife's consent and provide her with a reliable way to do so on demand, and by removing the husband and in-laws' right to inherit the land from the death of the wife as an event. While such provisions would go some way toward improving the situation of the bride who brings an amount of dowry that is deemed appropriate, it is crucial that the provisions regarding demanding dowry unequivocally include and cover demands made after marriage and that the law favours the wife by raising a presumption that any demand for property made is justified to protect women whose dowry is (for whatever reason) considered insufficient and unsatisfactory.

At this point, it is also important to take note of the addition that lists cruelty to the wife by the husband as a specific offence punishable by a fine and/or prison sentence. For the new section, "cruelty" is defined as harassing a woman when the harassment is done to pressure her or any person associated with her to comply with an unlawful demand for any property or valuable security or when the harassment is done because the woman or any person associated with her failure to comply with the demand. The relevance of this clause is that "harassment" is all that is required for the crime to be committed; physical abuse of the wife is not required. An "unlawful demand for property or valued security" is defined as, nevertheless, what?

The statement is certainly intended to refer to dowry demands, so the courts will undoubtedly resort to the Dowry Prohibition Act to define the offence. However, as previously mentioned, they have determined that a demand for "property or valuable security" made following the wedding without a pre-nuptial agreement to transfer the relevant property is not a demand for dowry. If the Act isn't changed to specifically include and label as "illegal" a demand for dowry made for this newly added clause of the code, while well-intentioned, is likely to be useless the first time after marriage.

## CONCLUSION

Consequently, it is a social issue, and the most effective way to a crucial component in eliminating this horrible habit. Regarding the laws concerning, the Dowry Prohibition Act should be strengthened and enforced more strictly and adjustments should be made periodically to the circumstances. All properties should be made the wife's own as well as presents that were given to her at the wedding as well as the registration of those goods.

Ought to be mandated. It's also necessary to make changes to laws that equal parental and matrimonial property <sup>10</sup>rights for women. Women should be aware of their equal rights and legal remedies both at once they ought to refrain from abusing the law. The government, social activists, Non-Governmental Organizations, and the general public should work together to spread awareness of the harmful effects of this practice among individuals through camps and cultural programs since one must recognize the painful reality that it cannot be easily eradicated. It is challenging for the girl's family to spend excessive money while waiting for lengthy justice because everyone knows that the legal process is time-consuming and expensive. Therefore, it is crucial that the courts immediately register the case and issue the judgment. Justice denied is also true when it is delayed. Legislative action, education, and socioeconomic standing alone cannot eradicate this horrible behaviour, which is the main reason so many people in society discriminate against women. Legislative action, education, and socioeconomic standing alone cannot eradicate this horrible behaviour, which is the main reason so many people in society discriminate against women. The end of the patriarchal system's supremacy and a shift in people's attitudes are what could help to reduce crime and eventually put an end to this inhumane societal evil.

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<sup>10</sup> Debarati Halder & K. Jaishankar, 'Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India' (2008) 24(2) Journal of Law and Religion  
<<http://www.jstor.org/stable/25654333>> accessed 25 November 2022