FROM STATUTE TO SHADOW: IMPLEMENTATION CHALLENGES OF THE DOWRY PROHIBITION ACT, 1961

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"Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonours womanhood." — Mahatma Gandhi[1]

INTRODUCTION

The system of dowry, also known as **'Dahej'** in India is a social evil that converts the sacred institution of marriage into a commercial transaction. It has deeply ingrained into the Indian cultural practices which traces its origin back to ancient times. Initially it has different meaning, it was a parental wealth given to daughters as an inheritance to ensure their financial security after marriage. But later on, what became a voluntary gesture turned into a social obligation and a coercive demand. The term "dowry" means any property or valuable security 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 dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.[2]

The issue of dowry occupies a significant place in the legal and sociological discourse of India. Although legally prohibited, dowry continues to persist in many forms, reflecting deep-rooted patriarchal values, social customs, and economic pressures. The Dowry Prohibition Act, 1961 was enacted to combat this social evil and to protect women from coercion, harassment, and violence linked to marriage related demands. However, the effectiveness of the Act depends not only on the text of the law but also on the conceptual understanding of dowry as a social practice and the theoretical foundations that explain why such laws are necessary and why implementation remains difficult.

[1] M.K. Gandhi, Women and Social Injustice (Navajivan Publishing House, Ahmedabad, 1945)
[2] Section 2 of Dowry Prohibition Act, 1961

DOWRY AS COERCION AND NOT MERE GIFT

The Dowry Prohibition Act, 1961 defines and criminalizes the giving, taking, and demanding of dowry.[3] The law recognizes that dowry is not merely a gift exchanged in marriage but often a form of coercion rooted in gender inequality and social expectations. Traditionally, dowry has been justified as part of marriage customs, but in practice it frequently functions as a burden imposed on the bride's family. It can lead to financial distress, discrimination against daughters, domestic violence, and even deaths in extreme cases. Therefore, the legal prohibition of dowry must be understood within a larger framework of gender justice and constitutional equality.

Legally, the distinction between dowry and gift or stridhan is crucial. Dowry is understood as demand-driven transfer embedded in bargaining and power, whereas stridhan refers to property given to the woman as her own, often for her protection and security. Feminist scholars argue that stridhan, though framed as empowering, often functions within the same patriarchal logic that legitimises dowry, because it is used to compensate for women's exclusion from ancestral property.[4]

Case-law has repeatedly emphasised that voluntariness, custom, or social usage cannot justify dowry if the transfer is made "in connection with the marriage" and is linked to expectation or demand. In ***State of Bihar* v *Ramesh Singh*,**[5] the Hon'ble Supreme Court held that the Act penalises both giving and taking dowry, and the mere fact that the bride's family gives dowry willingly does not negate the offence. Such jurisprudence conceptualises dowry not as a benign cultural practice but as structured economic coercion tied to the marital transaction.

The theoretical framework of Anti Dowry laws has got three overlapping lenses:

- **Feminist legal theory / gender-justice theory**: Feminist legal theory provides a powerful lens for understanding dowry as a manifestation of gendered power relations and institutional patriarchy. Feminist scholars argue that the law must be read not only for its formal text but for its material consequences for women. In the context of the Dowry Prohibition Act and Section 498A IPC, feminist analysis highlights the gender-

[3] Section 3 of the Dowry Prohibition Act, 1961
[4] Suparna Soni, "Institution of Dowry in India: A Theoretical Inquiry", (2020) 14(1) Societies Without Borders 10.
[5] *State of Bihar* v *Ramesh Singh*, 1977 AIR 2018

asymmetry in enforcement: husbands and in-laws are often the primary targets, while structural forces that shape female vulnerability are less addressed.[6]

- **Deterrence and punitive theory of criminal law** : This perspective views that the Dowry Prohibition Act, 1961 and related penal provisions as instruments of deterrence. By imposing strict penalties, voiding dowry agreements, and creating statutory presumptions (such as Section 113-B of the Evidence Act, now BNSS-linked rules), the law seeks to raise the social and legal cost of demanding or accepting dowry. The presumption of dowry death when a woman dies under abnormal circumstances after being subjected to cruelty or harassment for dowry exemplifies this deterrence-oriented evidentiary strategy.

- Social-reform and anti-custom theory: This theory underpins the state's justification for overriding socially entrenched customs simply because they are called "tradition." The law explicitly delegitimises dowry as a legitimate marriage practice and seeks to encourage alternative norms based on consent, economic autonomy, and gender-neutral bargaining. It also recognises that deeply institutionalised practices tend to persist unless challenged by sustained legal and social intervention.[7]

Additionally, the framework incorporates insights from institutional-path-dependence theory, which helps explain why dowry has continued to operate as a self-reinforcing institution even after decades of legal prohibition. This perspective highlights the need for persistent, stringent, and sensitively implemented legal responses, rather than one-time prohibitions, to alter entrenched behavioural patterns.

LEGAL FRAMEWORK GOVERNING DOWRY LAWS

The legal framework governing dowry laws in India is a multi-layered, cross-statutory regime designed to prohibit dowry as a social-economic transaction, criminalise associated coercion and violence, and protect women from dowry-driven harassment and death. At its core, the framework reflects a gender-protective, deterrence-oriented vision of criminal law, combining a special anti-dowry statute (Dowry Prohibition Act, 1961) with penal-protective provisions in

[6] Martha C. Nussbaum, "Feminist Jurisprudence and the Material Consequences of Law," Stanford Encyclopedia of Philosophy, ed. E. N. Zalta, Stanford Univ., 2025, at 12–15 (entry on feminist philosophy of law)
[7] Soni, Suparna. 2020. "Institution of Dowry in India: A Theoretical Inquiry." Societies Without Borders 14 (1).

the Bharatiya Nyaya Sanhita, 2023 (earlier known as Indian Penal Code, 1860), an evidentiary presumption in the Bharatiya Sakshya Adhiniyam, 2023 (earlier known as Evidence Act) and supporting procedural and welfare-oriented laws. This chapter outlines the structure, scope, and functional logic of this framework in a systematic manner.

The Dowry Prohibition Act, 1961: The Core Statutory Pillar

The Dowry Prohibition Act, 1961 is the foundational statute targeting dowry in India. It departs from treating dowry as a mere "custom" or "gift" and instead construes it as a socially harmful, gender-discriminatory practice that undermines equality and welfare. The Act applies across communities and is not limited to any particular personal law, thereby giving it a secular, pan-Indian character.

Definition of dowry: **Section 2** defines "dowry" broadly as any property or valuable security given or agreed to be given in connection with the marriage of the bride or the bridegroom, by one party to the marriage, the parents of either party, or any other person. This expansive definition covers not only overt demands before or at the time of marriage, but also deferred or conditional transfers of property linked to the marital relationship. By casting the net wide, the law seeks to prevent the practice from migrating into disguised forms.

Criminalisation of giving, taking, and abetting dowry : Section 3 of the Act makes it an offence to give, take, or abet the giving or taking of dowry. The prescribed punishment is imprisonment for not less than five years and a fine of not less than ₹15,000 or the value of the dowry, whichever is higher. This strict penalty reflects the legislature's intent to treat dowry not as a private transaction but as a public-law offence impacting gender equality and social order. The Act also declares dowry agreements as void, so that even if parties voluntarily enter into such arrangements, such contracts are not enforceable in law.

Section 4: Criminalisation of demanding dowry: Section 4 criminalises demanding dowry from the parents, relatives, or guardians of the bride or bridegroom, either directly or indirectly. The punishment is imprisonment for up to two years and a fine of up to ₹10,000. This provision targets the demand-side of the dowry economy, recognising that the obligation to pay often lies not with the woman herself but with her family, which is compelled to "fulfil" expectations under social pressure.

Section 5: Exception for "gifts": Section 5 carves out an exception for "gifts" given to the bride or bridegroom without any demand and at the time of marriage, provided such gifts are not given as a consideration for the marriage and are listed in a prescribed manner. While this clause attempts to distinguish genuine gifts from dowry-like transactions, in practice courts have often treated transfers made under social pressure or in the context of heavy expectations as falling within the scope of dowry.

Section 8: Procedural and procedural-safeguard features: Section 8 of the Act declares that offences under Section 3 and Section 4 are cognizable and non-bailable, and they are non-compoundable, meaning they cannot be settled privately between parties. This design reinforces the public-interest nature of dowry offences and seeks to prevent the matter from being "smoothed over" through family-mediated compromises that may silence victims. The Act also empowers the state to monitor and regulate dowry-linked practices, placing an indirect responsibility on parents and guardians to avoid participating in such arrangements.

Criminal-Protection Provisions under Bharatiya Nyaya Sanhita, 2023 (earlier IPC, 1860)

While the Dowry Prohibition Act, 1961 targets the transaction itself, the Bharatiya Nyaya Sanhita, 2023 (and its precursor, the Indian Penal Code, 1860) tackles the consequences of dowry demands, especially in the form of cruelty, harassment, and death. These provisions are crucial to the overall framework, as they link dowry-driven behaviour to concrete criminal liability.

Section 85 of BNS (analogous provision in IPC): Cruelty for dowry Section 85 of BNS criminalises cruelty and harassment by the husband or his relatives for, or in connection with, any dowry demand. "Cruelty" includes any wilful conduct that is likely to drive the woman to suicide or to cause grave injury or danger to life, limb, or health (mental or physical). The provision is framed in gender-specific terms, focusing on married women, and reflects the reality that dowry-related abuse most often targets them. The offence is cognizable, non-bailable, and non-compoundable, signalling the state's strong protective stance. In practice, courts have repeatedly emphasised that Section 85 must be applied purposively to protect genuine victims, while also cautioning against automatic arrests and misuse.

Section 80 of BNS (analogous dowry-death provision in IPC): Dowry death Section 80 creates a special offence of "dowry death". It applies when a woman dies within seven years

of her marriage under unnatural, non-normal circumstances (such as burns, poisoning, or other forms of violence), and it is shown that she had been subjected before her death to cruelty or harassment by her husband or his relatives for, or in connection with, any demand for dowry. The punishment ranges from imprisonment for at least seven years up to life imprisonment, underscoring the gravity with which the law views dowry-linked fatalities. By treating such deaths as a distinct category, the provision acknowledges the cumulative, slow-burn nature of dowry-driven abuse that often culminates in suicide or homicide. These penal provisions are designed to deter families and husbands from using dowry demands as a tool of coercion and to sanction those who cross the line into violence and death. They also reflect a feminist-deterrence orientation, where the law explicitly recognises the gendered power imbalance in many marital relationships.

Kerala Dowry Prohibition Rules, 2004

The Kerala Dowry Prohibition Rules were enacted by the State Government under the powers conferred by Section 10 of the central Dowry Prohibition Act, 1961. They provide the administrative and procedural backbone for implementing anti-dowry legislation within the state. They establish a robust framework for filing complaints, maintaining gift registers, and appointing dedicated officers to prevent the giving, taking, or demanding of dowry.[8]

The Kerala Dowry Prohibition Rules, 2004 were framed to strengthen the enforcement of anti-dowry law in the State by creating a clearer administrative structure and by introducing preventive reporting requirements. They replaced the earlier 1992 Rules and were designed to make the law more operational at the district level.

The 2004 Rules were intended to move beyond a purely penal approach and create a preventive and remedial enforcement system. The idea was to identify dowry practices early, monitor compliance, and enable complaints before the practice resulted in grave harm. In this way, the Rules tried to make the Dowry Prohibition Act workable in everyday marriage settings in Kerala.

Mandatory Government Declarations: Under these rules, every male government employee must submit a declaration to their Head of Department immediately after marriage stating that no dowry was accepted. This declaration must be countersigned by his wife, his father, and his

[8] https://wcd.kerala.gov.in/service-info.php?service_category_sl=MTE= accessed on 14-05-2026

father-in-law.

Gift Lists Maintenance: The rules require that lists of all presents given at the time of the wedding be maintained by both the bride and the bridegroom. These lists must include the value of the presents, a description of the relationship of the person giving them, and the signatures of both the bride and bridegroom.

Complaint Filing Procedure: Any aggrieved individual, their parents, or relatives can directly submit dowry harassment or demand complaints to the designated authorities.

Officer Enforcements: The Director of the Women and Child Development Department acts as the Chief Dowry Prohibition Officer for the state. Investigations, inquiries, and reconciliations are handled at the district level by District Dowry Prohibition Officers and Women Protection Officers.

Kerala Dowry Prohibition (Amendment) Rules, 2021

The Kerala Dowry Prohibition (Amendment) Rules, 2021 were introduced to update the 2004 Rules and strengthen the administrative machinery for anti-dowry enforcement in the State. Their main effect was to replace the older expression "Regional Dowry Prohibition Officer" with "District Dowry Prohibition Officer," and to place implementation at the district level through the District Women and Child Development Officer.

The 2021 amendment was meant to make the enforcement structure more practical and district-centered. It linked anti-dowry administration directly to the Women and Child Development Department, so that the district officer would function as the Dowry Prohibition Officer for that district. This helped clarify responsibility and reduce ambiguity in the chain of implementation.

The amendment changed the officer designation from "Regional" to "District" Dowry Prohibition Officer. It also specified that the District Women and Child Development Officer would act in that capacity, using the staff attached to the office. The jurisdiction of the officer was tied to the respective revenue district. This amendment is important because it shows a shift from a broader regional structure to a more localized district-based model. That kind of decentralization can improve monitoring, reporting, and coordination with local institutions.

JUDICIAL TRENDS AND ENFORMCEMENT CHALLENGES

The legal framework governing dowry laws in India is only as effective as its implementation and adjudication. Over the past four decades, the Supreme Court and High Courts have developed a nuanced, often contradictory, jurisprudence on dowry-related offences, oscillating between pro-victim protection and anti-misuse caution. At the same time, enforcement on the ground remains hampered by under-reporting, weak investigation, low conviction, and institutional overload. This chapter analyses the judicial trends in dowry-linked cases and the structural and operational challenges that limit the real-world impact of anti-dowry laws in India.

Certain judgments have sought to clarify the time within which a demand for gift s/property/money etc. constitutes a demand for 'dowry'. In ***S. Gopal Reddy* v. *State of Andhra Pradesh***[9], the Supreme Court was of the opinion that the phrase demand for 'dowry' was to be flexibly interpreted. In this case, this meant that any 'demand' of money, property or valuable security made from the bride or her parents or other relatives by the bridegroom or his parents or other relatives or vice-versa would fall within the ambit of 'dowry' under the Act, even where the demand is not properly referable to any legally recognised claim and is in consideration of marriage. Marriage in this context included a proposed marriage and, more particularly, where the non-fulfilment of the demand of dowry leads to the marriage not taking place at all.

Several other cases have sought to confirm the kinds of gifts/property/ money that when demanded will constitute demands for 'dowry'. In ***Bachni Devi & Anr.* v. *State of Haryana, Through Secretary, Home Department***[10], the Supreme Court held that the appellants' demand for a motorcycle for use for the second appellant's business was a demand for dowry. It was particularly important to the Court in deciding this case that the victim, who died by committing suicide, had been harassed and ill-treated once the demand for the motorcycle was not met. Further, in ***Ashok** Kumar* v. ***State of Haryana***[11], the Supreme Court confirmed that where a husband has demanded a specific sum from his father-in-law and on it not being given, has tortured and harassed his wife, this will qualify as a demand for 'dowry'.

[9] *S. Gopal Reddy* v. *State of Andhra Pradesh*, 1996 SCC (4) 596
[10] *Bachni Devi & Anr.* v. *State of Haryana, Through Secretary, Home Department* (2011) 4 SCC 427
[11] *Ashok Kumar* v. *State of Haryana* AIR 2010 SC 2839

The Court has also indicated what will not be considered as a demand for dowry in the following cases. In ***Baldev Singh* v. *State of Punjab***[12], the Court held obiter that a husband's demand for the victim's share in her ancestral property would not constitute a 'demand for dowry'. Similarly, in ***Kamesh Panjiyar @ Kamlesh Panjiya*r v. *State of Bihar***[13] and ***Anil Kumar Gupta* v. *State of U.P***.[14], demands for gift s/money aft er the birth of a male child was held distinct from a demand for 'dowry'. Further, in ***Appasaheb and Anr.* v. *State of Maharashtra***[15] the Court held that because the appellants' demands for money were motivated by 'financial stringency' and the need to meet 'some urgent domestic expenses', their demands could not be termed 'demands for dowry'.

Enforcement Challenges: From FIR to Final Disposal

While the judiciary refines its doctrinal approach, the enforcement machinery— police, prosecution, and trial courts—faces a range of structural and operational challenges that dilute the effectiveness of dowry-related laws.

Under-Reporting and Social Stigma: The first and most persistent challenge is under-reporting. Many dowry-related incidents never reach the formal justice system because of:

Social pressure and family stigma: Dowry is often treated as a private family affair, and women may be discouraged from filing complaints by elders, relatives, or community leaders.

Economic dependence: Married women, especially in rural and semi-urban settings, often depend on their husbands and in-laws for shelter, livelihood, and social status, making them reluctant to invoke the law.

Fear of retaliation: There is a legitimate fear that bringing dowry-related allegations to court may escalate domestic violence, lead to social ostracism, or result in the breakdown of the marriage without access to alternative support.[16] These social-norm factors convert potential dowry-related crimes into invisible violations, thereby limiting the pool of cases that courts can meaningfully address. These social-norm factors convert potential dowry-related crimes into

[12] *Baldev Singh* v. *State of Punjab* (2008) 13 SCC 233
[13] *Kamesh Panjiyar @ Kamlesh Panjiyar* v. *State of Bihar* (2005) 2 SCC 388
[14] *Anil Kumar Gupta* v. *State of U.P* .2011 (11) SCC 24
[15] *Appasaheb and Anr.* v. *State of Maharashtra* (2007) 9 SCC 721
[16] Dr. Rajeev Kumar Singh & Sameeksha Tripathi, From Legislation To Reality: A Critical Examination Of Dowry Law Enforcement Using NCRB Data, (2025) 13(4) International Journal of Creative Research Thoughts (IJCRT) 105–110.

invisible violations, thereby limiting the pool of cases that courts can meaningfully address.

Inadequate Investigation and Slow Response

Even when cases are reported, the quality of investigation often falls short of the standards required for dowry-related offences.

Delayed or superficial investigations: National Crime Records Bureau (NCRB) data and recent policy-oriented analyses indicate that only around 4,500 of roughly 7,000 reported dowry deaths result in charge-sheets; the rest remain in investigation or are downgraded to lesser offences. More than two-thirds of dowry-death investigations in 2022 were reported to be pending for over six months, reflecting delays, lack of forensic capacity, and weak monitoring.

Poor evidence-collection: Many investigations fail to preserve medical and forensic evidence (e.g., burn-patterns, poisoning, or injury-related indicators) in a timely manner. They also fail to record detailed, contemporaneous statements of neighbors, relatives, and witnesses, also lacks to gather documentary proof of dowry demands (emails, messages, letters, bank-traces).[17]

As a result, courts are often forced to acquit on the ground of insufficient evidence, even though the factual matrix suggests a credible allegation of dowry-linked cruelty.

Low Conviction and High Pendency

The combination of under-reporting and weak investigation feeds into low conviction rates and high pendency of dowry-related cases.

Section 498-A effectiveness: Section 498-A of the Indian Penal Code (IPC) introduced in 1983 to penalize matrimonial cruelty occupies a highly polarized space in India's criminal justice discourse. Statistically, while the police charge-sheeting rate for Section 498-A is remarkably high, often exceeding 85% to 90% (NCRB, 2024)[18], the final judicial conviction rate consistently languishes between 13% and 15%. This extreme disparity between state interventions and judicial outcome is frequently mischaracterized by critics as absolute proof

[17] SPENCE, Samantha & SURESH, Naveen, Dowry Practices in Kerala: Trends, Implications and Socio-Legal Perspectives, (2024) 4(1) Indian Journal of Integrated Research in Law 1049–1070

[18] National Crime Records Bureau, "Crime in India 2024: Statistics Volume I" (Ministry of Home Affairs, Government of India, 2026), available at: https://ncrb.gov.in (last visited on June 8, 2026).

of widespread "false implications." However, socio-legal research and statutory analyses reveal that this drop-off is heavily driven by structural bottlenecks, institutional delays, and what researchers term "the compromise trap."

Genuine misuse: There are documented cases where Section 498-A and related provisions have been weaponised in matrimonial disputes, sometimes leading to false or exaggerated allegations, unwarranted arrests, and prolonged, financially burdensome litigation. This misuse has generated a backlash narrative in media and certain sections of the judiciary, portraying anti-dowry laws as tools of "extortion" or "gender-based vigilantism." In the case of ***Rajesh Chaddha* v. *State of U.P***.[19] In this judgment, the Hon'ble Supreme Court bench led by Justice B.V Nagarathna and Justice Satish Chandra Sharma allowed the appeal and acquitted the appellant husband of all charges under Section 498A (cruelty) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The Court observed that the prosecution's allegations were vague, omnibus, and lacked specific dates or corroborating medical evidence. The court's observation was that "498A is very, very draconian and misused." The Court also highlighted the tendency to misuse such penal provisions and ruled that continuing the prosecution after the dissolution of the marriage amounted to an abuse of the legal process.

Risk of over-correction: While misuses must be addressed, an over-emphasis on the misuse narrative has led to:

a. Reluctance among police to register FIRs in borderline cases;

b. Premature bail-granting in serious dowry-death matters;

c. A general chilling effect on genuine complainants, who fear being labelled as "gold-diggers" or "false accusers." Women's rights organizations argue that the response to misuse must be targeted (e.g., penalties for false complaints) rather than blanket skepticism toward every dowry-related allegation.

CONCLUSION

The dowry system remains a deep-rooted social evil, and while strong legal measures like the Dowry Prohibition Act, 1961 and penal provisions such as Section 498A and Section 304B of

[19] *Rajesh Chaddha* v. *State of U.P.* 2025 SCC OnLine SC 1094

the Indian Penal Code (and corresponding sections under the Bharatiya Nyaya Sanhita) strictly outlaw the practice, the law alone has not completely eradicated it. Tackling the dowry system demands action across every level of society. Families must reject social pressure by placing women's education, dignity, and equality above transactional expectations. At the community level, there should be a collective effort to champion simple, transparent weddings over extravagant displays of wealth. On the legal front, governments must rigorously enforce legislation like the Dowry Prohibition Act, punish perpetrators of harassment, and ensure accessible support for victims. Meanwhile, schools and colleges need to embed gender equality and legal rights into their curricula to drive long-term cultural change. Crucially, fostering women's financial independence through career opportunities and skill development dismantles financial dependence and balances power within relationships.

Ultimately, while patriarchal tradition and social rivalry perpetuate the dowry system, it remains neither inevitable nor tolerable. Replacing material exchange with mutual respect, shared dignity, and strict legal accountability is vital to building fair partnerships. Eradicating dowry is far more than a statutory requirement—it is a fundamental moral and social prerequisite for a progressive society.