
ANTI-DOWRY LAWS AND THE DEBATE OF MISUSE IN INDIA: BALANCING WOMEN'S PROTECTION AND DUE PROCESS

Ananya Kumari, Amity Law School, Amity University, Patna

ABSTRACT

Despite being legally prohibited, the Dowry system continues to remain a pervasive social problem in India, leading to domestic violence, and dowry-related deaths of married women. However, concerns regarding misuse raised overtime due to false, exaggerated, or malicious complaints. This article contains the emerging debate surrounding the misuse of anti-dowry laws in India. It includes evolution of dowry, the constitutional and legislative framework governing matrimonial offences, and the judicial response to concerns of procedural abuse, arbitrary arrests and omnibus allegations. It also includes judgments of the Supreme court in order to understand the judicial approach towards balancing women's protection with procedural safeguards and constitutional fairness. This article also undertakes statistical and empirical analysis based on National Crime Records Bureau. It also identifies significant lacunae in the existing legal framework and what reformative measures can be taken to balance the women's protection with rights of accused person. The study suggests that legal reform should not results in the weaking of the anti-dowry laws but should focus on the development of balanced procedural safeguards that ensure criminal law remains both effective and just.

1. Introduction

As we all know, Dowry is considered as a social problem or evil as it treats women like property and turns marriage into a business deal which ultimately leads to deep pain, money trouble, and violence against women. Some people often pretend as it is just a nice wedding custom, but it acts as a tool which gives men more power leading to patriarchal society and divides people by wealth increasing discrimination in society. People support this custom by considering it as a collection of gifts given to help a daughter start her new life. In reality, the bride's family is forced to pay the groom's family which turns wedding in a business transaction. Dowry is defined under **the Section 2 of the Dowry Prohibition Act, 1961**¹This includes cash, jewellery, vehicles, property, expensive gifts, household items, financial demands made before, during, or after marriage. But voluntary gifts given out of affection without any demand are generally not treated as dowry. Expensive dowries to show neighbours and relatives how rich they are. It sends a clear message that the man's family is superiors and more important than the woman's family. It ensures marriages are done only in similar wealth groups leading to discrimination in society. In the mid-1900s, dowry turned from a simple tradition into a greedy business. As usual, groom's families demand expensive dowries and if the bride's family could not pay, the bride was beaten, locked up, or even killed. To stop the violence against women's just of gifts and property, the government passed **the Dowry Prohibition Act**, to put a complete ban on giving or taking money for marriage. The original 1961 act had weak enforcement and heavy loopholes. So, the government amended the law to increase penalties, restrict cash advertisements, and appoint dedicated Dowry Prohibition Officers. It is considered a major crime for a husband or his relatives to abuse a woman for money or property. Anti-Dowry laws were enacted with the objective of protecting the married women from harassment and violence, but concerns regarding the misuse of the same have increasingly become the part of judicial and public discourse. Over the years, debates over certain provisions, particularly Section 498A of the IPC ²(now Section 85 of the BNS, 2023³) increased as even if this provision or law has saved many lives, Courts have acknowledged instances of misuse of the same by making false complaints to settle personal issues or matrimonial disputes. The Supreme Court observed concerns regarding instant arrests, exaggerated allegations, implication of elderly parents and distant relatives and emphasised the

¹ The Dowry Prohibition Act, No. 28 of 1961, § 2, INDIA CODE (1961)

² Indian Penal Code, No. 45 of 1860, § 498A, INDIA CODE (1860)

³ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 85, INDIA CODE (2023)

need to balance protection of women, procedural fairness, and rights of the accused. In **Arnesh Kumar v. State of Bihar**⁴, the Supreme Court directed police authorities to follow safeguards before arrests under Section 498A. Development of safeguards against the arrests and abuse of criminal process is the result of rise in judicial concerns overtime. This study looks into the arguments that anti-dowry laws are being misused in India and examines how this issue impacts the way our legal system works. This article addresses the given research questions: Whether the misuse of anti-dowry laws undermines justice? Whether procedural safeguards are sufficient? And, How should courts balance women's protection and due process? This study focuses on Section 498A of the IPC, now Section 85 of the BNS,2023 and other related provisions regarding the misuse of anti-dowry laws in India. This article examines concerns related with false or exaggerated allegations and procedural abuse and analyse the extent to which the anti-dowry laws have protected women from cruelty. This includes the doctrinal and analytical method of legal research which is based on statutory interpretation, judicial precedents, government reports and empirical data.

2. Historical Evolution of Dowry in India

This part covers the socio-legal background of the Dowry system in India by giving the brief information about its historical evolution, transformation from voluntary gifts to demands and the social, economic, and patriarchal factors making it a permanent part of the system. It describes the gradual emergence of dowry as a form of structural social violence against women.

2.1. Ancient concept of Streedhan

In ancient time, property or gifts voluntarily given to a woman at the time of marriage is referred as "Streedhan". It was considered a form of financial security or the exclusive property of the woman. It generally includes jewellery, ornaments, clothes, movable property and gifts from parents and relatives. According to the Ancient Hindu texts, the right over the Streedhan remains with the woman. This concept was not based on coercion or demand by the groom's family. Its aim was to provide economic independence and protection to married women. Gradually, the voluntary and protective nature of Streedhan shifted to the compulsory dowry demands.

⁴ Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).

2.2. Transformation into Dowry System

Change in social and economic structures led to the transformation of Streedhan into the Dowry System due to which the marriage became the matter of financial transactions and social bargaining as the groom's families started demanding money, property, and expensive gifts pretending it as a condition for marriage. The amount of dowry is now getting linked with the social status and prestige which led to the extravagant dowry demands. The factors influencing dowry amounts includes education, government jobs, and professional status of the groom. This practice reduced women to objects of economic exchange and failure of the same often resulted in harassment, cruelty, domestic violence, and dowry deaths. During the 20th century, reports of dowry-related cruelty and deaths increased which led to the public outrage and women's rights movements demanding legal intervention. This resulted to the enactment of the Dowry Prohibition Act, 1961 and the later criminal law amendments.

2.3. Dowry as Structural Social Violence

Dowry is the form of structural and systematic violence against women leading to the discrimination based on gender and economic status. Even after the marriage women may face harassment for failure to satisfy dowry demands. This shows how cultural practices can become the tools of oppression. Feminist scholars argue that this practice is not only a private family matter but a structural social issue linked to gender injustice. The continuance of dowry despite the legal prohibitions shows the limitations in social reform and law enforcement. The introduction of stricter criminal laws and involvement of the State in matrimonial offences is due to the recognition of dowry as a serious form of violence against women.

3. Legislative Framework Governing Dowry Offences

For the protection of women from cruelty and violence, dowry offences is governed by some legal provisions given as follows:

3.1. Dowry Prohibition Act, 1961

Section 2 of the Act defines **Dowry**⁵ as “*Any property or valuable security given or agreed to*

⁵ The Dowry Prohibition Act, No. 28 of 1961, § 2, INDIA CODE (1961).

be given directly or indirectly:

- *by one party to a marriage to the other party to the marriage; or*
- *by the parents of either party 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.”*

Without any demand if any voluntary gifts are given, they are generally excluded. The law treats marriage as a sacred, lifelong bond of trust and mutual respect between two individuals and not as a business deal or a source of income.

Offences and punishments under the Act:

- **Section 3. Penalty for giving or taking dowry:** *“If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than [five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:*

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years].⁶

- **Section 4. Penalty for demanding dowry:** *“If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:*

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.]”⁷

- **Section 4A. Ban on advertisement:** *“If any person—*

⁶ The Dowry Prohibition Act, No. 28 of 1961, § 3, INDIA CODE (1961).

⁷ The Dowry Prohibition Act, No. 28 of 1961, § 4, INDIA CODE (1961).

(a) offers, through any advertisement in any newspaper, periodical, journal or through any other media, any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative,

(b) prints or publishes or circulates any advertisement referred to in clause (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.]”⁸

Both giving and taking dowry amounts to criminal liability. Due to weak implementation, the punishments were strengthened through amendments. The law intends to prevent dowry-related exploitation and violence.

3.2. Section 85 of the BNS, 2023

Section 85 held husbands or the relatives of the husband criminally liable if any cruelty is done against the married woman. “Cruelty” includes “*Any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health.*” It also includes “*Harassment with a view to coercing her or her relatives to meet unlawful demands for property or valuable security.*”⁹ Cruelty doesn’t only mean physical violence, mental trauma and emotional harassment are also included in it and also recognised as the same. It is interpreted broadly in courts depending upon the facts of each case.

3.3. Dowry Death Provisions

- **Section 80 of the BNS, 2023** covers the essentials of the dowry death. It occurs when the death of a woman is caused by burns, bodily injury or occurs otherwise than under normal circumstances; within seven years of marriage; and it is shown that she suffered cruelty or harassment, in connection with dowry demands, soon before her death.

⁸ The Dowry Prohibition Act, No. 28 of 1961, § 4A, INDIA CODE (1961).

⁹ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 85, Explanation, INDIA CODE (2023)

“Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”¹⁰

- **Section 113B of the Indian Evidence Act, 1872¹¹**, it is stated that if it is proved that a woman died under abnormal circumstances, and faced dowry-related cruelty soon before death, the Court shall presume that the accused caused the dowry death.
- This shifts the burden upon the accused. It strengthens the prosecution in dowry death cases. It was introduced due to increasing dowry deaths and evidentiary difficulties.

3.4. Procedural nature of offences

These are cognizable offence as the police may register FIR¹², investigate, and arrest without prior court permission. Immediate police intervention is enabled with the intent to provide urgent protection to victims. It is also a Non-Bailable offence as her the bail is not automatic, and the grant of bail depends upon the Court discretion. It reflects the seriousness of cruelty and dowry offences. Gravity, evidence, and the possibility of misuse is also examined by the Court. The police has the authority to arrest accused persons. These routine and automatic arrests in matrimonial disputes were criticised by the Courts as in the case of Arnesh Kumar v. State of Bihar. Supreme court directed that police must record reasons for arrest, and compliance with **section 41 CrPC**¹³ safeguards is necessary.

3.5. Constitutional Dimensions

- **Article 14 of the Constitution of India** states that *“The State shall not deny to any person equality before the law or equal protection of the laws.”*¹⁴ Operation of Anti-dowry laws must be done fairly and reasonably. Article 14 allows the protection against arbitrary arrest and issues of equal treatment and fairness arise due to the misuse concerns.
- **Article 15(3)** states that *“Nothing in this article shall prevent the State from making*

¹⁰ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 80, INDIA CODE (2023)

¹¹ Indian Evidence Act, No. 1 of 1872, § 113B, INDIA CODE (1872).

¹² Code of Criminal Procedure, No. 2 of 1974, § 154, INDIA CODE (1974).

¹³ Code of Criminal Procedure, No. 2 of 1974, § 41, INDIA CODE (1974).

¹⁴ INDIA CONST. art. 14

*any special provision for women and children.”*¹⁵

- **Article 21** states that “*No person shall be deprived of his life or personal liberty except according to procedure established by law.*”¹⁶ Both victim’s and accused person’s dignity and liberty is protected by this. Arbitrary arrest violates the personal liberty. Essential constitutional requirements include fair investigation and fair trial. It’s the duty of The Courts to balance women’s protection with due process safeguards under Article 21.

4. Purpose and Constitutional Basis of Anti-Dowry laws

There are various social and constitutional reasons behind the enactment of strong anti-dowry laws in India. The State introduced stringent legal provisions for the protection of women and promotion of gender justice.

4.1. Protection of married women

These laws were enacted to protect married women from cruelty, harassment, violence and unlawful dowry demands. The need for legal intervention created due to the increasing incidents of domestic abuse, dowry deaths, suicides, and mental torture. Social factors and economic dependence prevented many women from reporting the same. Its aim is to preserve the dignity and security of women within marriage.

4.2. State’s duty towards gender justice

According to the Constitution of India, the State has to ensure gender equality, and protection of women. It also states equality before law and equal protection of laws and allows the State to make special provisions for women and children. Similarly, Article 21 protects life, dignity, and personal liberty. Women’s fundamental rights were violated in respect to which the State enacted anti-dowry laws and also to fulfil constitutional goals of equality, social justice, and protection of vulnerable groups.

4.3. Criminal law as Social Reform

To eliminate the social evil of dowry, Criminal law was used as a tool for social reform. Social

¹⁵ INDIA CONST. art. 15, cl. 3.

¹⁶ INDIA CONST. art. 21.

awareness was considered insufficient to prevent dowry-related violence. The State introduced legal provisions to punish offenders, and social behaviour. The Dowry Prohibition Act, 1961 criminalised giving, taking and demanding dowry. Due to rising dowry deaths and cruelty, later amendments were made to introduce stricter punishments strengthening women's legal protection.

4.4. Necessity of Immediate Legal Protection

Dowry-related cruelty often involves urgent threats to the safety and life of women. Delay in legal intervention may result in severe violence, suicide, or dowry death. That's why the anti-dowry provisions were made cognizable, non-bailable and enforceable through immediate police action. To prevent further harassment and to protect victims immediate arrest powers were intended. However, concerns regarding the misuse led courts to introduce safeguards against the exercise of arrest powers.

5. The Emerging Debate on False Dowry Allegations

- Courts and legal scholars have distinguished between false, unproved, exaggerated, and malicious allegations in the context of anti-dowry laws, particularly Section 498A IPC, now Section 85 of BNS, 2023. Every release or unsuccessful prosecution can't reflect that the complaint was false. Emotional conflict, lack of evidence, settlement pressures, and conflicting versions of events are often included in matrimonial disputes. That's why, while analysing the misuse debate it is important to carefully differentiate between various categories of allegations.
- The accusations that are factually untrue and unsupported by reality are **false allegations**. In other words, false allegations are those complaints which are made despite knowing that the incident did not actually occur. Harassing the accused, seeking revenge, or obtaining favourable settlements may be the reasons for the filing of false complaints.
- Accusations that could not be established due to insufficient evidence are known as **unproved allegations** and these may or may not be true, but here they fail to meet the required legal standard of proof. Lack of evidence does not always mean fabrication of complaint. Hostile witnesses, compromise between parties, procedural delays, inadequate investigation, or absence of documentary proof may lead to the failure of

these cases. Low conviction rates should not be treated as proof of false complaints.

- Overstatement of actual incidents is referred to as **exaggerated allegations**. Some genuine disputes may be presented in dramatized manner. Severe cruelty may be portrayed even in minor matrimonial conflicts. Implications of multiple family members can be done even without clear individual roles. Emotional distress, family pressure, anger during matrimonial disputes, and legal strategy can lead to the rise of exaggeration. In *Preeti Gupta v. State of Jharkhand*, the Supreme Court observed that exaggerated versions of incidents are sometimes reflected in matrimonial complaints.
- Deliberate misuse of legal provisions is involved in **malicious prosecution**. For threatening the husband or relatives, forcing settlement, influencing divorce proceedings, or causing social humiliation complaints may be filed. These complaints reflect the abuse of criminal process. Concerns regarding the implication of elderly parents, married sisters, and distant relatives without specific allegations had been expressed by the Courts.

6. Statistical trends and empirical analysis

This includes the analysis of statistical and empirical trends relating to dowry-related offences in India. In order to understand the broader debate concerning misuse of anti-dowry laws, it examines conviction rates, acquittal patterns, arrest statistics, pendency of cases, and practical challenges within the criminal justice system.

- The **National Crime Records Bureau** ¹⁷regularly publishes statistical data relating to crimes against women and dowry harassment cases. NCRB reports shows a significant number of matrimonial cruelty cases registered on an annual basis across India. Most of the registered matrimonial cruelty case includes Section 498A of IPC.
- The data showed increasing reporting of matrimonial disputes, greater legal awareness among women, and continuity of domestic cruelty. Statistical trends also disclose regional variations, differences in conviction rates, and police investigation process variations. The nature of matrimonial cruelty offences is not altered due to the transition of IPC to BNS.
- Reports of NRCB indicate comparatively low conviction rates in Section 498A cases. Acquittal rates are high in several states. These statistics gave rise to public debate

¹⁷ NAT'L CRIME RECS. BUREAU, MINISTRY OF HOME AFFS., CRIME IN INDIA 2022 (2023)

regarding alleged misuse of anti-dowry laws. But low conviction rates do not reflect that the complaints are false. Lack of sufficient evidence, hostile witnesses compromise between parties or poor investigation can also lead to the acquittals. That's why Statistical analysis requires cautious interpretation instead of simplistic assumptions.

- Section 498A offences led to large numbers of arrests due to their cognizable and non-bailable nature. Courts expressed concern regarding routine and automatic arrests without proper investigation. These laws have created so much controversy because being caught brings many personal difficulties such as losing a job or losing one's place to live and as well as a large amount of social stigma.
- Cruelty cases also remain pending for many years before final conclusion. Accused, complainants, and the judicial system are the burdened ones due to the pendency of cases. Emotional stress, financial burden, social stigma and uncertainty for both parties are created due to the delayed trial processes. This also affects quality of evidence and witness testimony. The need for speedy investigation and disposal of matrimonial disputes are repeatedly highlighted by the Courts.
- Hostile witnesses, settlements and compromise and evidentiary issues are some empirical challenges. Witnesses can be discouraged from supporting prosecution due to family pressure and social stigma. Prosecution cases become weak due to hostile witnesses. Conviction rates are affected due to the settlement driven litigation.
- The extent of false allegations cannot be determined by the empirical data alone, as courts have observed the instances of misuse of anti-dowry laws. Social realities, evidentiary limitations, judicial safeguards and constitutional principles of fairness and protection are required for a balanced understanding.

7. Judicial Response to Misuse of Anti-Dowry Laws

I. *Arnesh Kumar v. State of Bihar*¹⁸

- In this case the issues covered was automatic arrests, misuse of arrest powers, and

¹⁸ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India)

safeguards under Section 41 CrPC.

- The Supreme Court observed:

“Arrest brings humiliation, curtails freedom and casts scars forever.”

The court further stated:

“No arrest should be made only because the offence is non-bailable and cognizable.”

- Important principles which were established includes denial of automatic arrests, arrests must satisfy requirements under section 41 CrPC, police officers are needed to record reasons for the same, and the magistrates must carefully examine necessity of detention.

II. **Preeti Gupta v. State of Jharkhand** ¹⁹

- The issues covered are exaggerated allegations, false implication of relatives, and misuse concerns.
- The Supreme Court observed:

“A serious relook of the entire provision is warranted by the legislature.”

“The tendency of over implication is also reflected in a very large number of cases.”

- It is one of the earliest strong judicial acknowledgements regarding misuse concerns. Here, exaggerated versions of incidents in matrimonial complaints were recognised by the Court.

III. **Rajesh Sharma v. State of Uttar Pradesh**

- In this case, the issues which was covered includes preventive safeguards, family welfare committees, and misuse prevention.

¹⁹ *Preeti Gupta v. State of Jharkhand*, (2010) 7 S.C.C. 667 (India)

- The Supreme Court observed:

“There is a growing tendency to misuse Section 498A as a weapon rather than shield.”²⁰

- Here, the court proposed the constitution of Family Welfare Committees, and attempt at settlement and mediation. It was necessary to reduce arrests and harassment.

IV. Social Action Forum for Manav Adhikar v. Union of India

- Issues addressed were balance between women’s protection and safeguards and validity of Rajesh Sharma guidelines.
- The Supreme court held *“The courts cannot add to or subtract from statutory provisions.”²¹*
- Modification of portions of rajesh sharma guidelines were done. It was held that Family Welfare Committees cannot obstruct statutory police powers. It restored the balance between women’s protection, procedural safeguards and statutory framework.

V. Kahkashan Kausar v. State of Bihar

- Issues addressed were omnibus allegations and false implication of relatives.
- The Supreme Court observed: *“General and omnibus allegations cannot manifest in a situation where the relatives of the complainant’s husband are forced to undergo trial.”²²*
- It was held that there is need of specific allegations against each accused person. It will be considered if just names of relatives are taken without any specific reasons. Courts have the duty to prevent abuse of criminal process.

²⁰ *Rajesh Sharma v. State of Uttar Pradesh*, (2018) 10 S.C.C. 472 (India).

²¹ *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 S.C.C. 443 (India).

²² *Kahkashan Kausar @ Sonam v. State of Bihar*, (2022) 6 S.C.C. 599 (India)

8. Societal and Legal Consequences of False Allegations

8.1. Impact on the Accused Husband

- Humiliation, loss of dignity, and social embarrassment is faced by the accused husband due to the automatic arrests.
- It may also create financial instability as it may affect professional careers and employment opportunities. They may face suspension, disciplinary proceedings, reputational damage.
- These allegations lead to social isolation and public humiliation. It can also affect the family reputation. It can also lead to stress, anxiety, depression, emotional distress. It creates psychological burden.
- Sometimes, implication of elderly parents and distant relatives happens without any specific allegations. They may face arrest, social humiliations, health complications, and emotional distress.

8.2. Burden on Judiciary

- Courts spend their judicial time in quashing petitions, anticipatory bail petitions, and prolonged matrimonial litigation.
- False complaints increase burden on police authorities, prosecutors, and courts. There are genuine cases which require urgent attention may get delayed or false complaints may divert them from the genuine ones.
- It also affects efficiency of the criminal justice system.
- Focuses on misuse narratives may demotivate women from reporting actual abuse.
- Therefore, the courts need to differentiate genuine victims from malicious prosecution.

8.3. Public confidence in Women-Protective laws

- False complaints or misuse may reduce the trust of public in anti-dowry laws. It may

endanger women genuinely facing violence it courts weaken legal protections.

- Fair investigation, balanced judicial approach, and protection against arbitrary prosecution maintains public confidence.
- To preserve legitimacy of women-protective laws effective implementation and procedural safeguards are necessary

9. Feminist perspectives and Counter arguments

9.1. Continuing Reality of Dowry Violence

- Some serious social problems in India continue to remain such as dowry harassment and dowry deaths. Still thousands of women face physical abuse, mental cruelty, economic exploitation, and violence related to dowry demands.
- NRCB data shows continuity in registration of dowry-related offences. Anti-dowry laws remain necessary to reduce gender violence.
- Many domestic violence and dowry harassment issues remain unreported because women avoid legal action due to fear of social stigma, economic dependence, pressure from family, concern for children, and lack of support systems.
- The true extent of domestic abuse can't be identified due to underreporting.

9.2. Necessity of Strong Criminal laws

- Strong criminal laws were enacted because the ordinary civil remedies were not sufficient to protect women. In serious cases of cruelty immediate police intervention is necessary.
- Nature of these provisions are cognizable and non-bailable which were intended to prevent continued violence, coercion, and dowry deaths.
- Feminist scholars argue that weakening anti-dowry laws lead to demotivate victims from seeking legal protection.

9.3. Critique of “Misuse Narrative”

- Argue of feminists include that the misuse narratives are exaggerated in public. False complaint can't be determined by the acquittal. These offences include evidentiary difficulties, private abuse, and settlement driven litigation.
- Attention from systematic violence against women may shift if excessive focus is given on misuse. Scholars also argue that misuse exists in every law and it should not justify weakening legal protections.

9.4. Balancing Competing Rights

- Feminists do not deny the possibility of misuse but lay attention on balanced legal reform. Women from violence and accused persons from arbitrary prosecution both must be protected within the same legal framework.
- Abuse must be prevented through effective safeguards without discouraging genuine complaints.
- Courts attempt to balance gender justice, procedural fairness, and constitutional rights.

10. Comparative International Perspective

10.1. United Kingdom

- Protective domestic abuse legislation and restraining order mechanisms are followed by the UK. Immediate intervention in cases involving risk of violence is valid.
- Evidentiary assessment before prosecution is required. Legal consequences under perjury or malicious prosecution laws are faced if false complaints are filed.
- Non-violent matrimonial disputes are resolved through mediation. Arrest powers are amount to proportionality and necessity principles.

10.2. United States

- Both federal and state levels involve the presence of strong domestic violence laws.

Commonly used methods include protective orders and emergency interventions.

- Constitutional due process protections are important. False allegations amount to defamation claims, perjury charges, or malicious prosecution actions.
- Mandatory or pro-arrest policies in domestic violence cases is followed by many states. Debates regarding misuse concerns and due process implications arose in courts.

10.3. Canada

- Canada focuses on victim protection and counselling mechanisms. In appropriate cases family counselling and alternative dispute resolution are encouraged.
- Evidentiary scrutiny is maintained before conviction in courts. Constitutional due process guarantees also include protection against arbitrary prosecution.
- Comparative system shows attempts to balance victim protection, procedural fairness, and safeguards against misuse.

11. Lacunae in the existing legal framework

11.1. Absence of preliminary scrutiny

- Immediate registration of FIRs without preliminary verification must be avoided.
- It may lead to unnecessary prosecution.
- Concern regarding mechanical registration and arrest have been expressed by the Courts.

11.2. Over-Implication of Relatives

- Sometimes without any specific allegations entire families are implicated.
- Unnecessary litigation is faced by elderly parents and distant relatives.
- Courts always criticised omnibus allegations.

11.3. Lack of Accountability for malicious complaints

- Limited deterrence is there against false complaints in existing framework.
- Its rare that malicious prosecution resulted in legal consequences.
- Lack of accountability may encourage abuse of process in some disputes.

11.4. Delayed investigation and Inadequate counselling and mediation mechanisms

- Cases often remain pending for years. Evidence, witness reliability, and emotional wellbeing of parties get affected by delay.
- It weakens effectiveness of Criminal justice system.
- Emotional and interpersonal conflicts are mostly involved in matrimonial disputes.
- Lack of institutional counselling mechanisms can be seen clearly.

12. Reformative Measures and Policy suggestions

- Preliminary inquiry should be mandatory to distinguish between genuine complaints from false complaints. But it should also does not lead to unnecessary delay in urgent cases.
- In non-violent matrimonial disputes, mediation may be considered. Cases involving physical violence should not be diverted from criminal process.
- Introduction of safeguards for elderly parents and dependent relatives are necessary.
- Specialised training of police officers and judicial authorities in matrimonial disputes are required.
- Electronic evidence is mostly included in modern matrimonial disputes. Investigation quality may improve through verification of messages, call records, emails, and digital communication.

- Prolonged harassment can be reduced through speedy investigation and trial. Fairness and judicial efficiency could increase due to time-bound disposal.
- Whether domestic violence laws should extend protection irrespective of gender? Some scholars advocate gender-neutral domestic cruelty provisions.

13. Conclusion

One of the most deeply rooted social evils in Indian society is dowry system, its presence led to the dowry-related cruelty, harassment, and deaths. The introduction or evolution of legal measures such as the Dowry Prohibition Act, 1961 and Section 498A IPC, now Section 85 of the *Bhartiya Nyaya Sanhita, 2023* was done with the objective to provide protection to women against domestic abuse, ensuring gender justice, and fulfilling the state's obligation under Articles 14, 15(3), and 21 of the Constitution of India.

However, the concerns regarding the misuse of Anti-dowry laws in certain matrimonial disputes were highlighted through judicial decisions and public discourse. As the Supreme Court, through landmark judgements such as *Arnesh Kumar v. State of Bihar*, *Preeti Gupta v. State of Jharkhand*, and *Kahkashan Kausar v. State of Bihar*, has observed issues related with automatic arrests, omnibus allegations, and implication of relatives. To prevent the abuse of criminal process and to protect constitutional rights of accused persons, there is the need of procedural safeguards. At the same time, excessive focus on the risks of misuse undermines the experiences of genuine victims who continue to suffer domestic violence and dowry related abuse within patriarchal social structures. Weakening anti dowry laws is not the solution, but can develop a balanced and constitutionally consistent framework to protect both women's rights and procedural fairness.

Ultimately, the present laws must remain as a tool to provide or ensure social justice. The objective of legal reform must be to ensure that criminal law remains effective in genuine dowry related violence and reduce misuse. This would help in continuity of public confidence in the justice delivery system and ensuring gender justice in India.