

MISUSE OF DOWRY PROHIBITION ACT 1961

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ABSTRACT

One of the most enduring social problems in Indian society is dowry, which has its roots in customs and culture. The Dowry Prohibition Act of 1961 is the most important piece of law in this area. In addition to preventing exploitation and tyranny, a legal system must provide justice for all parties. There is a reason why dowry rules, especially those found in the Indian Penal Code, 1860, like Section 498A, are abused. Dowry law abuse may also be influenced by social and familial influences.

INTRODUCTION

Due to its strong cultural and historic roots, dowry is one of the most enduring social problems in Indian society. The Dowry Prohibition Act of 1961, which forbids the giving and receiving of dowries, is the most important piece of legislation in this area. Additionally, clauses like Section 498A and Section 304B of the Indian Penal Code, 1860. Examining the legislative framework governing dowries, analyzing the type and scope of abuse, assessing judicial actions, and proposing revisions to ensure fairness are the goals of this study. Dowry law abuse may also be influenced by familial and social factors. In certain situations, family members or neighbors may support the filing of complaints in order to uphold family honor or address perceived unfairness.

LEGAL FRAMEWORK FOR DOWRY PROHIBITION ACT 1961

International laws to dowry prohibition Act 1961:

- Universal Declaration of Human Rights (UDHR):

The fundamental tenet that every person is equal before the law and entitled to a fair trial is established by the Universal Declaration of Human Rights, protecting against capricious or malevolent legal action. In a same vein, the International Covenant on Civil and Political Rights places a strong emphasis on the presumption of innocence, due process, and protection from arbitrary arrest and detention—all of which are crucial in stopping the improper implementation of laws pertaining to dowries.

- 243RD REPORT BY LAW COMMISSION, 2012:

The Law Commission listed crucial recommendations and actions for law enforcement and courts to lessen the misuse of Section 498A of the Indian Penal Code in its 243rd report. Extreme caution should be used while using the authority to detain. Until a complaint's legitimacy and reliability are reasonably assured, no warrantless arrests should take place. The police should try to settle the dispute through alternative means, like conciliation, mediation, and counseling, before making an arrest.

➤ Constitutional provisions

Article 14 – All people are guaranteed equal protection under the law and equality before the law under Article 14 of the Indian Constitution. It guarantees impartial treatment of both the accused and the complainant in the context of dowry laws. It serves as a safeguard against the arbitrary application or abuse of law requirements, particularly when fabricated or inflated complaints are made.

Article 21 – Every person's right to life and personal liberty, including the right to live with dignity and reputation, is safeguarded by the Indian Constitution. This right may be violated by the misuse of dowry laws, especially when false accusations or needless arrests are made. As a result, this clause guarantees that no one can be deprived of their freedom without following the proper legal procedures.

Article 22 – The Indian Constitution's Protection Against Arrest article protects people against arbitrary detention and arrest. It guarantees that an individual is aware of the reasons for their arrest and has the opportunity to speak with and be represented by a lawyer. This is particularly important in preventing misuse of dowry laws through unjustified arrests.

Article 20(3) – Article 20(3) of the Indian Constitution provides protection from self-incrimination, stating that no one who is accused of a crime may be forced to testify against himself. This clause protects the accused from pressure or coerced confession and guarantees justice in the investigation and trial of dowry-related offenses.

Article 32 & 226 – Right to Constitutional Remedies (Indian Constitution): Articles 32 and 226 of the Indian Constitution grant the right to petition the Supreme Court and High Courts, respectively, for the protection of basic rights. These clauses enable people to seek redress against infractions such as improper arrest, harassment, or abuse of the legal system when dowry laws are abused.

CRITICAL ANALYSIS OF EXISTING LAWS

➤ Critical Analysis of the Dowry Prohibition Act

An important legislative attempt to end the deeply ingrained social ill of dowries in India is the Dowry Prohibition Act, 1961. It addresses both the supply and demand aspects of the practice by making the giving, receiving, and demanding of dowries illegal. It has been reinforced over time by relevant Indian Penal Code sections like Section 498A (cruelty) and Section 304B (dowry death), as well as supporting evidence from the Indian Evidence Act, 1872.

➤ Enforcement Mechanism

The police, courts, and designated Dowry Prohibition Officers are among the entities involved in enforcing the Dowry Prohibition Act, 1961. The person who feels wronged, her family, or even reputable welfare organizations may make a complaint. The police are in charge of conducting an investigation and starting legal actions after a complaint is filed. Additionally, the Act allows for the employment of Dowry Prohibition Officers, whose duties include helping victims, gathering evidence, and stopping dowry abuses.

JUDICIAL RESPONSE TO DOWRY PROHIBITION ACT 1961

There are some cases that are important for dowry prohibition act:

➤ Sushil Kumar Sharma v. Union of India

In this case, the Supreme Court upheld the constitutional validity of Section 498A of the Indian Penal Code. The Court observed that the provision was enacted to protect women from cruelty and dowry harassment. However, it also acknowledged that misuse of the law is possible in certain cases. The Court described such misuse as "legal terrorism" when the law is used for harassment. Despite this concern, the Court refused to strike down the provision and emphasized careful application.

➤ Arnesh Kumar v. State of Bihar

The Supreme Court in this case addressed the issue of unnecessary arrests under Section 498A of the Indian Penal Code. It held that arrests should not be automatic and must follow the procedure laid down under Section 41 of the CrPC. The Court directed police officers to justify the necessity of arrest before taking action. It also required magistrates to ensure compliance with these guidelines. This judgment aimed to prevent harassment of innocent individuals.

➤ *Rajesh Sharma v. State of Uttar Pradesh*

In this case, the Supreme Court recognized the growing misuse of Section 498A of the Indian Penal Code. The Court introduced measures such as the formation of Family Welfare Committees to examine complaints before arrests. It aimed to ensure that innocent family members were not unnecessarily implicated. The judgment focused on balancing protection of women with safeguards against misuse. However, certain directions were later modified to limit judicial overreach.

➤ *State of Haryana v. Bhajan Lal*

This landmark judgment laid down guidelines for quashing FIRs under the Code of Criminal Procedure. The Supreme Court identified specific categories where criminal proceedings can be set aside, including cases of mala fide or false allegations. It emphasized that the legal process should not be used for harassment. The ruling serves as a safeguard against abuse of criminal law. It continues to guide courts in preventing misuse of legal provisions.

CONCLUSION

One of India's biggest social and legal problems is still the dowry issue. The issue still exists in many forms even after progressive laws like the Dowry Prohibition Act of 1961 and the strict provisions of the Indian Penal Code of 1860 were passed. Harassment, abuse, and deaths tied to dowries continue to happen, indicating that the societal evil has not been totally eliminated.

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