

# MISUSE OF DOWRY PROHOBITON ACT 1961

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## ABSTRACT

Dower, which has its origins in customs and culture, is one of the most persistent social issues in Indian society. The most significant legislation in this field is the Dowry Prohibition Act of 1961. A legal system must not only prohibit dictatorship and exploitation but also ensure that all parties receive justice. Dowry regulations, particularly those included in the Indian Penal Code, 1860, such as Section 498A, are abused for a purpose. Social and familial factors may also have an impact on dower law abuse.

## INTRODUCTION

Dower is one of the most persistent social issues in Indian society because of its deep cultural and historical roots. The most significant piece of law in this field is the Dowry Prohibition Act of 1961, which prohibits the giving and receiving of dowries. Furthermore, the Indian Penal Code, 1860's Sections 498A and 304B. The objectives of this study are to examine the legal framework governing dowries, analyze the kind and extent of misuse, evaluate court actions, and suggest changes to ensure fairness. Social and familial issues may also have an impact on dower law abuse. In some circumstances, neighbors or family members may encourage the filing of complaints to protect family honor or correct perceived injustice.

## LEGAL FRAMEWORK FOR DOWRY PROHOBITON ACT 1961

International laws to dowry prohibition Act 1961:

- Universal Declaration of Human Rights (UDHR) :

The Universal Declaration of Human Rights establishes the fundamental principle that everyone is equal before the law and entitled to a fair trial, safeguarding against arbitrary or malicious judicial action. Similar to this, the International Covenant on Civil and Political Rights strongly emphasizes due process, the presumption of innocence, and protection against arbitrary arrest and detention—all of which are essential in preventing the incorrect application of dowry-related legislation.

- 243RD REPORT BY LAW COMMISSION, 2012:

In its 243rd report, the Law Commission outlined important suggestions and steps for courts and law enforcement to reduce the abuse of Section 498A of the Indian Penal Code. When exercising the power to detain someone, extreme caution should be exercised. No warrantless arrests should occur until the validity and dependability of a complaint are adequately guaranteed. Before initiating an arrest, the police should attempt to resolve the conflict through other channels, such as conciliation, mediation, and counseling.

➤ Constitutional provisions

Article 14: The Indian Constitution guarantees everyone equality before the law and equal protection under the law. In the context of dowry laws, it ensures that both the accused and the complainant are treated fairly. It protects against the capricious implementation or misuse of legal requirements, especially when false or exaggerated complaints are filed.

Article 21: The Indian Constitution protects everyone's right to life and personal freedom, including the right to live with honor and dignity. Misuse of dowry laws may violate this right, particularly if false allegations or unnecessary arrests are made. Therefore, this article ensures that no one can be deprived of their freedom without according to the correct legal procedures.

Article 22: Citizens are protected from arbitrary arrest and detention by the Protection Against Arrest Article of the Indian Constitution. It guarantees that an individual is made aware of the reasons for their arrest and is given the opportunity to speak with and be represented by a lawyer. Stopping the abuse of dowry laws through unjustified detentions is very important, incrimination, which prohibits forcing someone who is charged with a crime to testify against themselves. This provision ensures fairness in the investigation and trial of dowry-related offenses and shields the accused from coercion or pressure to confess.

Article 32 & 226: Right to Constitutional Remedies (Indian Constitution): The right to petition the Supreme Court and High Courts, respectively, for the protection of fundamental rights is granted under Articles 32 and 226 of the Indian Constitution. When dowry rules are violated, these clauses allow persons to seek compensation for violations including wrongful arrest, harassment, or misuse of the legal system.

### CRITICAL ANALYSIS OF EXISTING LAWS

➤ Examining the Dowry Prohibition Act Critically

The Dowry Prohibition Act of 1961 is a significant legislative attempt to eradicate the deeply embedded social evil of dowries in India. By outlawing the giving, receiving, and demanding of dowries, it tackles both the supply and demand components of the practice. Over time, it has been strengthened by pertinent provisions of the Indian Penal Code, such as Section 498A (cruelty) and Section 304B (dowry death), as well as corroborating evidence from the Indian Evidence Act, 1872.

➤ Mechanism of Enforcement

The Dowry Prohibition Act of 1961 is enforced by a number of organizations, including the police, courts, and designated Dowry Prohibition Officers. A complaint may be filed by the victim, her family, or even respectable welfare organizations. Following the filing of a complaint, the police are responsible for conducting an investigation and initiating legal proceedings. The Act also permits the hiring of Dowry Prohibition Officers, whose responsibilities include assisting victims, obtaining proof, and preventing 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

Guidelines for quashing FIRs under the Code of Criminal Procedure were established by this historic ruling. Mala fide or false allegations are among the particular conditions in which criminal proceedings might be thrown aside, according to the Supreme Court. It underlined that harassment should not take place through the legal system. The decision acts as a barrier against criminal law abuse. It still serves as a guidance for judges in preventing the abuse of legal provisions.

**CONCLUSION**

The dowry issue continues to be one of India's most significant social and legal issues. Even after progressive laws like the Dowry Prohibition Act of 1961 and the stringent provisions of the Indian Penal Code of 1860 were passed, the problem persists in various ways. The persistence of dowry-related harassment, abuse, and fatalities shows that the social evil has not been completely eradicated.

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