

**A CRITICAL STUDY OF DOWRY SYSTEM IN
INDIA WITH SPECIAL REFERENCE TO THE
DOWRY PROHIBITION ACT, 1961**

*Dissertation to be submitted in partial fulfilment for the
requirement of the Degree of*

LL.M.

Submitted by:

RADHA MOHAN PANDEY

Supervised by:

Dr. MUDASSIR NAZIR



**SCHOOL OF LAW, GALGOTIAS UNIVERSITY
GREATER NOIDA
(2023-24)**

DECLARATION

I, hereby, declare that the dissertation titled- “**A CRITICAL STUDY OF DOWRY SYSTEM IN INDIA WITH SPECIAL REFERENCE TO THE DOWRY PROHIBITION ACT, 1961**” is based on original research undertaken by me and it has not been submitted in partially or fully or otherwise in any University for any degree or diploma.

Place: Galgotias University

Signature of the student

Date:

Radha Mohan Pandey

23GSOL2040001

CERTIFICATE

This is to certify that the dissertation titled “**A CRITICAL STUDY OF DOWRY SYSTEM IN INDIA WITH SPECIAL REFERENCE TO THE DOWRY PROHIBITION ACT, 1961**” has been prepared by **RADHA MOHAN PANDEY**, pursuing LL.M. from School of Law, Galgotias University under my supervision and guidance. I recommend it for evaluation.

Place: Galgotias University

Date:

Dr. Mudassir Nazir

Assistant Professor of Law

ACKNOWLEDGEMENT

This dissertation has reached its final form with the invaluable support and guidance of my supervisor **Dr. Mudassir Nazir Sir**, Assistant Professor of Law, Galgotias University. I wish to express my sincere gratitude to sir for his unwavering assistance and advice throughout the completion of this dissertation. Sir not only provided his extensive experience but also offered scholarly guidance, for which I am truly grateful.

Special gratitude to our Respected Dean **Prof. (Dr.) Naresh Kumar Vats Sir**, Respected LL.M. Program Chair **Prof. (Dr.) Shivangi Sharma Ma'am**, and the esteemed faculty members of the School of Law, Galgotias University, who taught me and imparted their knowledge and blessings during my LL.M. studies.

Deepest gratitude to my parents, without whose support and blessings this dissertation would not have taken its present shape.

In this dissertation, every effort has been made to acknowledge credits; however, apologies in advance for any inadvertent omission.

I am thankful to the Almighty, the greatest source of wisdom, whose blessings enabled me to complete this dissertation within the required time frame.

LIST OF ABBREVIATIONS

- 1. AIR All India Reporter**
- 2. All Allahabad**
- 3. All L.J. Allahabad Law Journal**
- 4. Anr. Another**
- 5. A.P. Andhra Pradesh**
- 6. Art. Article**
- 7. B.C.E Before Common Era**
- 8. Bom. Bombay**
- 9. C.E. Common Era**
- 10. Cr.L.J. Criminal Law Journal**
- 11. DMC Divorce and Matrimonial Cases**
- 12. DP Act Dowry Prohibition Act**
- 13. E.g. Example given**
- 14. HC High Court**
- 15. Hon'ble Honourable**
- 16. ILR Indian Law Report**
- 17. IPC Indian Penal Code**
- 18. I.e. That is**
- 19. Ors. Others**
- 20. P&H Punjab and Haryana**
- 21. P. Page**
- 22. RBI Reserve Bank of India**
- 23. S. Section**
- 24. SC Supreme Court**
- 25. SCC Supreme Court Cases**
- 26. u/s Under section**
- 27. U.P. Uttar Pradesh**
- 28. v. Versus**
- 29. & And**

LIST OF CASES

1. **Air-India v. Nargesh Meerza, (1981) 4 SCC 335.**
2. **Amar Singh v. State of Rajasthan AIR 2010 SC 3391.**
3. **Anand Kumar v. State of M.P. AIR 2009 SC 2155.**
4. **Anuj Garg v. Hotel Assn. of India, (2008) SCC 1.**
5. **Anwar Ali Sarkar v. State of West Bengal AIR 1952 SC 75.**
6. **Arvind Kumar v. State of M.P. AIR 2007 SC 2674.**
7. **Bachni Devi v. State of Haryana 2011 II Cri. L.J. 1634 (S.C.).**
8. **Bhaskar Lal Sharma v. Monica, II (2009) DMC (SC).**
9. **Bhoora Singh v. State 1993 Cr LJ 2636 (All).**
10. **Binda v. Kaunsilia (1890) 13 ILR All 126**
11. **Bodhisattva Gautam v. Subhra Chakraborty (1996) 1 SCC 490.**
12. **Devinder Singh v. State of Punjab 2005 Cri.L.J. 4160 (SC).**
13. **Gaurav Jain v Union of India (1997) 8 SCC 114.**
14. **Githa Hariharan & Anr. v. Reserve Bank of India & Anr. (1999) SCC 228.**
15. **Golak Nath v. State of Punjab AIR 1967 SC 1643.**
16. **Gurditta Singh v. State of Rajasthan 1992 Cr LJ 309 (Raj).**
17. **Hari Singh v. State of Punjab, 2002 (2) CC Cases (P&H) 424.**
18. **Inder Raj Malik v. Sunita Malik, 1986 (2) Crimes 435.**
19. **Indrawati and ors. v. Union of India I (1991) DMC 117.**
20. **Jagjit Singh v. State of Punjab AIR 2018 SC 5719.**
21. **Kailash v. State of M.P. AIR 2007 SC 107.**
22. **Kamesh Panjiyar v. State of Bihar 2005 Cri. L.J. 1418 (S.C.).**
23. **Krishan Lal v. Union of India 1994 Cr LJ (P&H) (FB).**
24. **Lata singh v. State of Uttar Pradesh (2006) 5 SCC 475.**
25. **Madhu Kishwar v. state of Bihar AIR 1996 SC 1864.**
26. **Neera Mathur v. LIC (1992) 1 SCC 286.**
27. **NALSA v. Union of India (2014) 5 SCC 438.**
28. **Om Prakash v. state of Haryana 2002 (3) CC Cases 221 (P&H).**
29. **Pawan Kumar v. State of Haryana AIR 1998 SC 958.**

30. **P.B. Vijaykumar v. State of Andhra Pradesh (1995) 4 SCC 520.**
31. **Pratibha Rani v. Suraj Kumar & Anr. AIR 1985 SC 628.**
32. **Pushpa Somani v. State of Madhya Pradesh (1994)2 Crimes 200 (MP).**
33. **Rashmi Kumar v. Mahesh Kumar Bhada (1997) 2 SCC 397.**
34. **Railway Board v. Chandrima Das (2000) 1 SCC 85.**
35. **Rajinder Singh v. State of Punjab AIR 2015 SC 1359**
36. **Rani Raj Rajeswari Devi v. State of U.P. AIR 1954 All 608.**
37. **Salema v. Laxman 8 MLAJ 14.**
38. **Shanti v. State of Haryana AIR 1991 SC 1225.**
39. **State of Bombay v. F N Balsara AIR 1951 SC 318.**
40. **State of Himachal Pradesh v. Nikku AIR 1996 SC 67.**
41. **State of Maharashtra v. Indian Hotel & Restaurants Association, (2013) 8 SCC 519.**
42. **State of Tamil Nadu v. E.P. Royappa AIR 1974 SC 555.**
43. **Suchita Srivastava and Anr. v. Chandigarh Administration (2009)9 SCC 1**
44. **Toguru Sudhakar Reddy v. Govt. of Andhra Pradesh AIR 1992 AP**
45. **Vijay Lakshmi v. Punjab University AIR 2003 SC 3331.**
46. **Vishaka and Others v. State of Rajasthan and Others AIR 1997 SC 3011.**
47. **Venkatacharyulu v. Rangacharyulu (1890) 14 ILR Mad. 316.**
48. **Vinod Kumar v. State of U.P. 1986 All Lj 1438 (All. HC).**
49. **Vishnu R. v. State of Kerala & Ors., WP (C) No. 20219 of 2021.**
50. **Voluntary Health Association of Punjab v. Union of India and Ors. (2013) 4 SCC 1.**
51. **Yusuf Abdul Aziz v. State of Bombay AIR 1954 SC 321.**

TABLE OF CONTENTS

DECLARATION	ii
CERTIFICATE	iii
ACKNOWLEDGEMENT	iv
LIST OF ABBREVIATIONS	v
LIST OF CASES	vi
CHAPTER 1 INTRODUCTION	
1.1 INTRODUCTION	1
1.2 STATEMENT OF THE PROBLEM	4
1.3 REVIEW OF LITERATURE	6
1.4 RESEARCH OBJECTIVES	9
1.5 HYPOTHESES	9
1.6 RESEARCH QUESTIONS	9
1.7 SCOPE AND LIMITATIONS OF THE STUDY	10
1.8 RESEARCH METHODOLOGY	11
1.9 CHAPTERIZATION	11
CHAPTER 2 DOWRY: A BARRIER TO GENDER EQUALITY	
2.1 GENDER EQUALITY: MEANING AND ORIGIN OF THE CONCEPT	13
2.2 GENDER EQUALITY IN INDIA: HISTORICAL PERSPECTIVES	17
2.3 CONSTITUTIONAL ASPECT OF GENDER EQUALITY IN INDIA	21
2.3.1 GENDER EQUALITY AND THE PREAMBLE	23
2.3.2 FUNDAMENTAL RIGHTS AND GENDER EQUALITY	25
2.3.3 CONSTITUTION'S PART IV AND GENDER EQUALITY	34
2.3.4 FUNDAMENTAL DUTIES AND GENDER EQUALITY	36
2.3.5 73RD AND 74TH CONSTITUTIONAL AMENDMENT	38
2.4 DOWRY VIS-À-VIS GENDER EQUALITY	40

**CHAPTER 3 DOWRY SYSTEM IN INDIA: FROM ANCIENT
TIMES TILL DATE**

3.1 EVOLUTION OF THE CONCEPT OF DOWRY: FROM A TOKEN OF AFFECTION TO A MATTER OF GREED	43
3.2 JUDICIAL DECISIONS	49
3.3 ENACTMENT OF THE DOWRY PROHIBITION ACT	51
3.4 SECTION 498A IPC	53
3.5 SECTION 304B IPC	55
3.6 SECTION 113A INDIAN EVIDENCE ACT	57
3.7 SECTION 113B, INDIAN EVIDENCE ACT	59
3.8 S. 174(3), Cr.P.C, 1973	61

**CHAPTER-4 THE DOWRY PROHIBITION ACT: AN
ANALYSIS**

4.1 HISTORICAL BACKGROUND OF THE DOWRY PROHIBITION ACT, 1961	62
4.2 “DOWRY” UNDER THE DOWRY PROHIBITION ACT	64
4.3 FEATURES OF THE ACT	67
4.4 EFFECTIVENESS OF THE ACT	70

CHAPTER-5 CONCLUSIONS AND SUGGESTIONS

5.1 IDENTIFICATION OF GAPS IN THE DOWRY PROHIBITION ACT	74
5.2 CONCLUSION	77
5.3 SUGGESTIONS TO ERADICATE DOWRY SYSTEM AND TO MAKE DOWRY PROHIBITION ACT MORE EFFECTIVE	84
BIBLIOGRAPHY	92

CHAPTER-1 INTRODUCTION

1.1 INTRODUCTION

Any civilization's level of significance can be determined by looking at how well regarded and respected its women are.¹ One important social group is women. Gender justice refers to providing everyone, regardless of gender, with equal rights, treatment and opportunity in all spheres of life. Ever since women were granted the same rights as men in ancient India, the idea of gender equity has been of utmost importance.

The Indian Constitution recognizes gender equality as an essential value, signifying our commitment to provide equal rights and opportunities for all people, regardless of gender. The Constitutional perspective on gender equality contains a vision of a society free from prejudice and discrimination, where each person is treated with respect and dignity.

The Indian Constitution's guiding principles serve as the foundation for the idea of gender justice. Regardless of gender, every person is guaranteed equality, freedom from discrimination, and essential rights under our Constitution. The Part III of Indian Constitution i.e. Articles 12 to 35 guarantees fundamental rights to every individual without any discrimination. Article 14 mandates “*equality before the law and equal protection of the laws*”. Furthermore, discrimination on the basis of race, religion, caste, gender, or place of birth is prohibited under Article 15. “*Right to life and personal liberty*”, which includes the freedom from exploitation and violence, are ensured by Article 21 of our Constitution. Further, Part IV and IVA of the Constitution also provides for gender equality and justice. The foundation for combating gender based violence and discrimination and advancing gender justice in India is found in these constitutional provisions.

India, one of the most populous and culturally diverse countries, had and has many challenges along with achievements in its pursuit for gender

¹ Dr Nuzhat Parveen Khan, Textbook on Women and Child Related Laws, 93 (2020)

justice. The discussion on gender justice in India is dynamic and broad, covering historical struggles for women's rights to current discussions about rights for LGBTQ+ people. In order to build a society where every person, regardless of gender identity, enjoys equal rights, opportunities, and dignity, this study aims to examine the various facets of gender justice in India. It does this by highlighting the advancements made, the challenges encountered, and the ongoing efforts.

Women have experienced numerous injustices and inequality. One such instance is the dowry system. Dowry, or "*Dahej*" as it is commonly called, is a custom that has been around for decades in Indian society. Traditionally, it refers to the items or cash that the bride's family gives to the groom's family during marriage. The term "dowry" refers to the custom where bride's family providing presents, money, or other assets to groom's family on marriage. Deeply ingrained in the society, the dowry system continues to be a widespread social problem that affects people individually, in families, and in communities. The practice of dowry persists in spite of initiatives like the Dowry Prohibition Act 1961. Dowry sustains social inequality, economic exploitation, and violence against women. With an emphasis on the Dowry Prohibition Act, this dissertation aims to critically examine the dowry system and understand the details, challenges, and consequences of this persistent social phenomena.

Although dowry was originally meant to help couples establish their households, it eventually grew into a system of materialistic expectations and demands. In many regions of India, dowry practices exist despite being prohibited by the Dowry Prohibition Act of 1961. The practice increases gender inequality and fosters stereotypes by frequently resulting in financial hardships and exploitation against brides and their families.

Dowry has long been a problem, promoting gender inequality and contributing to various forms of violence and discrimination against women. If we go into the origins of this practice, we will see that it was intended to provide some financial assistance to the newlywed couple, specifically the bride. However, over time, it evolved into a practice of exploitation and compulsion, resulting in harassment and subjection of women. Dowry supports and strengthens inequality in society, particularly

for women, exposing them to economic exploitation. The cost of meeting dowry expectations frequently places a significant financial pressure on the bride's family, resulting in debt, poverty, and social marginalization. Furthermore, dowry-related pressures contribute to gender-based violence, mental health problems, and the continuation of patriarchal norms that restrict empowerment and autonomy of women.

The Dowry Prohibition Act of 1961, enacted at the start of the 1960s decade, was a significant step forward in this respect. It attempts to end the horrible practice of dowry and protect women from injustice and violence. This Act criminalizes giving, receiving dowry and demanding of dowry. The Act has taken a considerable step in addressing dowry issues. However, there have been several impediments to the Act's effective implementation. Various socioeconomic and other issues, such as regarding dowry as an essential ritual, the victim's or family's reluctance to disclose dowry-related offenses, social stigmas, a lack of information, and so on, have operated as impediments to effective implementation of the law. Misuse of the law is also a major source of worry. We may learn about the impact of the dowry prohibition law on gender justice in our country by looking at how it was implemented and effective.

Despite its admirable goals, the Dowry Prohibition Act faces several problems and challenges that require careful consideration. Loopholes in legislative provisions, insufficient enforcement mechanisms, a lack of awareness among stakeholders, all impede victims' access to justice for dowry-related crimes.

The researcher conducted study on the subject of dowry. The researcher specifically investigated the Act pertaining to the prohibition of dowry and attempted to assess the efficiency of the law in combating the evil of dowry. Furthermore, an attempt has been made to provide some suggestions for the appropriate and stringent application of the legislative rules while also preventing their abuse.

The present study also examines the constitutional dimensions of gender equality in India. To be more particular, it seeks to determine how India's dowry prohibition statute relates to the larger concept of gender equality.

1.2 STATEMENT OF THE PROBLEM

The current study will concentrate on the issue of dowry. The study uses a doctrinal approach to find out why the dowry system continues despite the fact that it is illegal. Although demanding, giving, and receiving dowry is prohibited under the law, the dowry system still exists today. Dowry is well known to be illegal in India, yet by our experiences, we know that it is still practiced in society with no regrets on the side of both the giver and the receiver. The researcher will attempt to examine the topic of dowry by focusing on existing policies and the legal framework. In Indian culture, marriage, also known as *Vivah*, is regarded as a religious union of two people to fulfil their spiritual commitments.

The ideal concept of marriage is for both husband and wife to have equal say in their married partnership. Dowry, on the other hand, is a severe threat to the concept of gender equality as the bride's family is required to pay money and make offerings to the bridegroom's family just because she was born female.

People who support the dowry system should understand how they are undermining gender equality and how it harms women's overall well-being and self-esteem in the long term.

It has been observed that not only males but also women members of bridegroom's family are interested in learning the quantity of dowry and the items that the bride will bring with her to the groom's house after the marriage. Even in the third decade of the twenty-first century, there have been reports of marriages being called off due to insufficient dowry payments. Furthermore, dowry death is a severe issue caused by cruelty and violence committed by the husband or his relatives in relation to dowry related concerns.

There are several reasons why this dowry system exists. Furthermore, there are differing opinions on what constitutes dowry and what does not. Furthermore, people's attitudes and mental processes provide significant challenges in eliminating such societal problems. These concerns make it difficult to apply the legislation effectively. Many additional underlying and interconnected variables have contributed to the persistence of this

issue. For example, the education system, illiteracy, poor economic conditions, unemployment, social stigmas, beliefs, lack of awareness, absence of practical strategies to eradicate the issue at its root, people's reluctance to report such issues, lack of strong enforcement, and improper implementation of legal provisions. Furthermore, one significant issue that needs to be addressed is the misuse of the dowry legislation. Owing to certain individuals misusing the legal provisions, genuine cases of offenses relating to dowries are also viewed with suspicion. All of this is a result of the dowry law's weak enforcement and the lack of decisive action against the filing of fictitious dowry cases. To truly establish "Gender Justice", it is crucial to address these dowry-related issues, namely the continuance of dowry and dowry-related offenses in society and also the fake dowry cases. Thus, the researcher has attempted to bridge the gap between legal provisions and ground reality in terms of dowry-related difficulties. Furthermore, the researcher will make some recommendations that could be useful in enhancing the execution of the dowry prohibition law and promoting gender justice.

1.3 REVIEW OF LITERATURE

(*Dr. Nuzhat Parveen Khan*)² highlights that to offset the disadvantages that women experience, the Indian Constitution guarantees gender equality and gives the State the authority to enact policies that support women. The author also emphasizes how our Constitution guarantees women's overall dignity and self-respect.

(*B. Pramila*)³ draws attention to the ways in which dowry system encourages additional crimes like as cruelty, bride burning, infanticide and female foeticide, and dowry fatalities. The author also claims that there is no evidence of the dowry system in India's earlier history. The bride's father was entitled to receive bride-price from the groom, which was distinct from the current status.

(*Suman Nalwa & Hari Dev Kohli*)⁴ highlight that what started out as a simple concept wrapped in love, the dowry, eventually became into a widespread act of cruelty that needed to be eradicated and healed. The writers go on to claim that dowries are having a greater and bigger impact on society and are driving it in the direction of total submission and dominance, yet jurists are still having difficulty comprehending its history and meaning.

(*Uma Mahadevan Dasgupta*)⁵ opines that antiquated societal customs like dowry must be abandoned. As per the author, women should adamantly refuse to provide dowry to be married, and anyone found to be taking dowries should be stigmatized. To address social ills like dowries, women must become financially independent. Furthermore, legislation should be changed to eliminate gender bias.

² *Supra* note 1.

³ B. Pramila, A Critique on Dowry Prohibition Act, 1961, Proceedings of the Indian History Congress 844 (2015)

⁴ Suman Nalwa & Hari Dev Kohli, Law Relating to Dowry, Dowry Death, Cruelty to women & Domestic Violence, 1 (2nd ed. 2013).

⁵ Uma Mahadevan Dasgupta, Why a grassroots mass movement is necessary for dowry, THE INDIAN EXPRESS (July 2, 2021), <https://indianexpress.com/columns/why-a-grassroots-mass-movement-is-necessary-to-fight-dowry-7385022/> (Last Visited on February 4, 2024).

(*M. Haralambos & R M Heald*)⁶ observed that a woman's marriage paints a different picture. They emphasized that a lot of studies on marriage reflect that women experience higher levels of stress and anxiety in marriage than do males.

(*Mamta Rao*)⁷ observed that the lack of robust enforcement mechanisms that might respond to protect dowry victims was the primary cause of the dowry law's prior failure; although the law is adequate and correct, its application is the problem.

(**Press Information Bureau**)⁸ press release shows that there was an increase in fraudulent cases under section 498A of the Indian Penal Code, 1860 between 2011 and 2013. It emphasized that, according to *National Crime Records Bureau* (NCRB) data from these three years, over 10,000 cases of mistreatment by husbands or their families were later found to be untrue.

(*Nitin Sangwan*)⁹ opines that patriarchal norms and hierarchical institutions have traditionally subjected women to a number of abuses. In India today, there is still violence and discrimination against women. Further, these discriminations exist in both latent and visible forms and are not straightforward.

(*Ram Ahuja*)¹⁰ observed that the offence committed by a spouse and his relatives under section 498-A, IPC is a serious one. Author emphasizes that even though dowry is forbidden by the *Dowry Prohibition Act*, the problem nevertheless persists. The author noted that middle-class women are mostly victims to dowry-related problems. The most of the victims, according to the author, were between the ages of twenty and twenty four. Moreover, there was hardly connection between the women's education level and dowry deaths.

⁶ M HARALAMBOS & R M HEALD, *SOCIOLOGY THEMES AND PERSPECTIVES* (37th ed. 2010).

⁷ MAMTA RAO, *LAW RELATING TO WOMEN AND CHILDREN* 4 (2nd ed. 2018).

⁸ Press Information Bureau, 'False Cases' (Press Release Press Information Bureau, March 3, 2015), <https://pib.gov.in/newsitePrintRelease.aspx?relid=116315> (Last Visited on February 4, 2024).

⁹ NITIN SANGWAN, *ESSENTIAL SOCIOLOGY* (2nd ed. 2022).

¹⁰ RAM AHUJA, *SOCIAL PROBLEMS IN INDIA* (4th ed. 2021).

(Radhika Gupta)¹¹ observes that the practice of the dowry system is still widespread in India today. The bride traditionally received a dowry as a sign of appreciation at the time of her wedding. In addition, women were not granted right to inherit, thus the dowry was seen as a stand-in for the inheritance because it gave the bride a sense of security in form of money. However, despite having good intentions at first, the dowry system eventually turned into a tool for oppression.

(Purnima Sharma)¹² emphasized that it's a tough task to distinguish between what is given voluntarily as a gift or present and what is a dowry that is required under certain circumstances. The author also notes that although section 498-A was designed to protect women, it has frequently been abused and used as a means of blackmailing.

(M.P. Praveen)¹³ observed that many women are ignorant of the dowry law. The author emphasized that a survey revealed that several women in Kerala's Kochi district were unaware that the dowry system was illegal in the country. This article demonstrates the need of educating women about their legal rights.

¹¹ RADHIKA GUPTA, DOWRY LAWS, RIGHTS OF WOMEN AND CHILDREN, <https://ebooks.inflibnet.ac.in/hrdp05/chapter/dowry-law/> (Last Visited on February 4, 2024)

¹² Purnima Sharma, The Changing Paradigms of Dowry Death in India, Indian Journal of Integrated Research in Law 7, 8 (2022).

¹³ M.P. Praveen, Many Women unaware of dowry law, finds survey, THE HINDU (July 21, 2021), <https://www.thehindu.com/news/cities/Kochi/many-women-unaware-of-dowry-law-findssurvey/article35436802.ece/amp/> (Last Visited on February 4, 2024).

1.4 RESEARCH OBJECTIVES

The study has the following objectives:

1. To study the origin and changing pattern of dowry system in Indian society.
2. To discuss the reasons for the continuance of dowry.
3. To study in detail, the background behind the enactment of the Dowry Prohibition Act
4. To analyse critically the effectiveness and impact of the Act in eliminating the social evil of dowry
5. To suggest reforms to improve the effectiveness of dowry prohibition Law.

1.5 HYPOTHESES

The following hypotheses are examined in the present study:

1. Despite the existence of dowry prohibition law, giving and taking of dowry still continues in other forms.
2. Factors such as lack of awareness, societal attitudes and loopholes in the dowry legislation undermines the efficacy of the law.

1.6 RESEARCH QUESTIONS

1. How has the dowry system evolved in India?
2. Whether the legislation on dowry prohibition has been effective in preventing dowry?
3. What are the factors responsible for the continuance of dowry?
4. What socio-legal reforms should be adopted to abolish dowry system and to improve efficacy of dowry prohibition law?

1.7 SCOPE AND LIMITATIONS OF THE STUDY

This dissertation's focus includes an examination of the dowry system and its persistence in Indian society. Further, this study also briefly analyses the concept of gender equality by looking at Indian society. The study deals with gender equity in connection to Indian society, taking into account dowry prohibition laws and historical and modern gender-related issues and concerns, particularly, dowry.

The dissertation assesses the current legislative frameworks designed to outlaw and punish dowry practices while identifying the problems and obstacles that stand in the way of their appropriate and stringent implementation.

The study is confined to examining the continuing existence of dowry practice and the efficacy of dowry prohibition laws.

Due wide range socio-cultural diversity, the findings of the study may not be applicable to all situations. Although the topic is thoroughly examined, the study is doctrinal in nature and is predicated on the examination of pre-existing materials and articles; as such, it may or may not accurately represent the current state of societal realities. For instance, the viewpoints of various writers could be subjective, or distinct from one another. In qualitative research, subjectivity and bias cannot be totally eliminated, despite best efforts being made to minimize them.

Furthermore, the study is limited to a small number of relevant literature, case laws, and textbooks due to time limits, making it impossible to study all available sources. Furthermore, while the focus of study is constitutional and socio-legal dimensions of gender equality and dowry, it may not fully address other issue like psychological or other dimensions in detail, owing to demand of the topic.

1.8 RESEARCH METHODOLOGY

The researcher has adopted a doctrinal methodology for the research.

This study examines the legal provisions, statutes, and case laws pertinent to the dowry system using primary and secondary sources. Primary sources including the Constitution, The Dowry Prohibition Act, judgments and statutes as well as the secondary sources including scholarly works, textbooks, academic journals, and articles discussing the prevalence and impact of the dowry system in India have been studied and analysed. Examining how well the legal provisions address the underlying reasons of dowry-related practices is part of the analysis, which also aims to identify problems and suggest some possible reforms or policy recommendations.

1.9 CHAPTERIZATION

The present study is divided into five chapters which are as under:

Chapter 1, titled "**Introduction**," attempts to define concepts such as dowry and gender equality. Additionally, the chapter offers an overview of the statement of problem, the research objectives, the research questions, the hypotheses, the scope and limitations of the study, and the research methodology adopted throughout this study, along with the chapter structure.

Chapter 2, titled "**Dowry: A Barrier to Gender Equality**" examines the concept of gender equality, with a specific focus on the constitutional perspective. The chapter also briefly delves into how dowry acts as a barrier to achieving gender equality, elucidating its detrimental effects on the equal treatment of genders within society.

Chapter 3 of the research, titled "**Dowry System: From Ancient Times till Date**" examines the history of the dowry system in India. It describes

the evolution of dowry as a social practice within Indian civilization since ancient times. Additionally, the chapter briefly studies the provisions of dowry prohibition in criminal law statutes.

Chapter 4, titled "**Dowry Prohibition Act, 1961: An Analysis**" examines the salient features of the Dowry Prohibition Act of 1961 and its amendments. It also studies how the Act defines the term dowry. Furthermore, an attempt has been made to examine the effectiveness of the Act, along with highlighting some of its shortcomings.

Chapter 5, titled "**Conclusions and Suggestions,**" summarizes the discussions from the preceding chapters. This chapter aims to offer not only a summary of the research findings but also recommendations and solutions to address the identified research problem.

It delves into the necessity of implementing socio-legal changes aimed at promoting gender equality in its true essence, with a specific focus on eradicating deeply entrenched social evils like the dowry system.

CHAPTER-2 DOWRY: A BARRIER TO GENDER EQUALITY

2.1 GENDER EQUALITY: MEANING AND ORIGIN OF THE CONCEPT

It is crucial to discuss as to what is gender equality prior to discussing and analyzing how well dowry prohibition laws promote gender equality.

Promoting justice and equality between all genders is the main goal of the concept of gender equality. It means that all members of society must have equal access to resources, opportunities, and rights, regardless of their gender. The understanding of the historical and current oppression and discrimination experienced by marginalized genders is the foundation of gender justice. It addresses issues of gender equality and challenges and demolishes preconceptions and discrimination based on gender.

Gender equality is a basis of modern society, representing the idea that every person should have equal access to opportunities, rights, and treatment regardless of their gender. It is a requirement for the achievement of social justice and sustainable development and is not just a question of fairness. Gender equality is essentially about making sure that no one is prevented from exercising their fundamental human rights and freedoms because of their gender. This includes rights to work, healthcare, education, and political participation. Overcoming discrimination and gender-based violence, requires promoting gender equality.

Economies flourish when women and men have equal access to financial resources, work opportunities, and education. Reducing the gender disparity in the workforce increases output. Education is an effective tool for promoting equality and eliminating gender stereotypes. Girls and boys are better able to challenge gender stereotypes and follow their dreams when they have equal access to high-quality education. Women with higher levels of education are more likely to speak up for their rights, take part in decision-making, and end the inter-generational cycle of poverty. In addition, gender inclusive education creates a respectful and understanding culture and strengthens unity in society.

Gender equality, as a phenomenon, was born out of a confluence of several factors including social and political movements that arose as result to gender-based inequality. In an effort to create a more just society, feminist movements have fought for women's rights. Gender justice acknowledges that discrimination based on gender is not exclusive to women. It recognizes that those who don't fit into stereotypical gender roles like transgender people also experience a great deal of hardship and injustice. The goal of gender justice is to remove these interlocking forms of injustice and build a society in which every person can live with equality and dignity.

Gender equality has a wider definition that covers social, economic, and cultural aspects. It entails dispelling damaging preconceptions, advocating for inclusive laws, and fostering welcoming situations where people feel free to express their gender identity. In addition, gender justice stresses tackling systemic problems such unequal access to economic, healthcare, and educational opportunities that support gender inequity.

Various facets to gender equality, such as social, political, cultural, and economic exist. It economically, promotes fair compensation for labour, equality in accessing the resources, and opportunities, irrespective of gender.

Socially, it encourages the eradication of harassment, aggression, and stereotypes and builds courteous and inclusive relationships between people of all genders. Politically, it aims to provide equal representation and opportunity for all genders, participation in leadership roles and decision-making processes. Culturally, it opposes damaging gender stereotypes, prejudices, and expectations that restrict people's options and uphold inequity. All people, regardless of gender, should have equal access to opportunities and rights in all spheres of life, including politics, the workplace, social relations, and education.

When people are treated according to their skills and attributes rather than their gender, a fair and just society is fostered by gender equality. It contributes to the eradication of prejudice, discrimination, and discrimination against people based on their gender identity or expression. Gender equality is essential for improving the health and wellbeing of

individuals and communities. It ensures equal access to healthcare, reproductive rights, and the resources required to address concerns like gender-based violence and discrimination.

One question that comes to me when we debate about gender equality is: Why are we researching and talking about this topic? The short answer to this is that discrimination and subjugation of women have existed for a very long time, everywhere in the world. Long ago, the Chinese philosopher *Confucius* asserted that women's enslavement was still a common practice in those days.¹⁴

Gender equality concept arose in reaction to the prejudice that marginalized genders had historically and still experience. It acknowledges how significant it is to treat everyone with justice, equality, and respect, regardless of their gender identification. There are social, political, and cultural facets to gender justice. Gender justice seeks to guarantee that every person can live in equality and dignity by encouraging inclusivity, dispelling myths, and tackling systemic problems.

Gender equality is a basic human right that is essential for a fair and progressive society. It includes everyone's equal rights, obligations, and opportunities, irrespective of gender identity. Nevertheless, despite notable advancements in recent years, there is still a global struggle to achieve full gender equality.

Women still face significant disparities in economic prospects and financial freedom. Wage disparities, limited access to jobs, and inadequate representation in leadership roles, all hinder their economic advancement. Furthermore, women suffer disproportionately from poverty, especially in developing nations where they lack access to resources and face challenges in entrepreneurship. Human rights are often violated by gender-based violence and discrimination, which has terrible consequences. This has serious consequences. Social norms that normalize or minimize gender-based violence contribute to its continued prevalence worldwide, even in the face of growing awareness and legal reforms.

¹⁴ MAMTA RAO, LAW RELATING TO WOMEN AND CHILDREN 1 (4th ed. 2018).

Survivors frequently experience discrimination, insufficient assistance, and obstacles while attempting to pursue justice, which feeds the cycle of violence and injustice.

A multi-sectoral strategy that includes victim support services, legal reforms, awareness-raising efforts, and community engagement is needed to combat gender-based violence.

This entails giving survivors access to counselling, legal assistance, shelters, and rehabilitation programs and holding offenders accountable through efficient law enforcement and punishment.

2.2 GENDER EQUALITY IN INDIA: HISTORICAL PERSPECTIVE

“Yatra Naryastu Pujyante, Ramante Tatra Devta

Yatrataastu Na pujayante, Sarvaastrafalaah Kriyah.”

These lines from an Indian historical text rightly depict the importance given to women in Indian culture. It highlights that treating women with dignity and respect fosters an environment conducive to positivity and growth. When women are not treated with dignity, it hampers development and reduces the effectiveness of even the most noble endeavours. For example, gender inequality is a great hurdle to achieving potential GDP, and studies show that gender equality can increase potential GDP by 26%.¹⁵ Thus, gender equality or gender justice emphasizes respecting people of all genders, especially women, treating them with dignity, and recognizing and valuing the tremendous contributions that women make in all sectors of life.

In Indian society, “gender equality” has been an evolving concept. For instance, the Rig Vedic culture (c. 1500-1000 BCE) was mostly patriarchal. Although we have reference of women holding important positions in society. Education was available to women and they could attend assembly meetings (*Vidatha*). Historical documents demonstrate that women had right of marrying whoever they chose and had an equal say in selecting their life partners. Hardly there were child marriage at the time, and no societal evils like *purdah* or *sati* were practiced. Marriage was largely monogamous, with few cases of polygamy.¹⁶ In India, gender justice was multidimensional, impacted by cultural customs, religious beliefs, and social conventions. There were instances of women's empowerment, legal safeguards, and recognition of their rights, gender roles were frequently predetermined and hierarchical.

¹⁵ NITIN SINGHANIA, INDIAN ECONOMY 1.9 (2nd ed. 2021)

¹⁶ POONAM DALAL DAHIYA, ANCIENT AND MEDIEVAL INDIA 3.11 (2nd ed. 2020).

The existence of powerful female personalities in several domains of ancient Indian civilization was a noteworthy aspect of gender justice in that society. Renowned female thinkers and philosophers included *Maitreyi* and *Gargi*. Gender inclusion was also evident in spiritual concerns, as evident by the numerous hymns authored by female sages in the Indian Scriptures, particularly the *Rig Veda*.

But things took a turn for the worst in the later Vedic era (c. 1000–500 BCE). Women's standing in the community significantly declined during this time. In contrast to the Rig Vedic culture, the Later Vedic Period, women were viewed as inferior to men in community. Additionally, they were denied entry to assemblies. Only a small percentage of women were educated at this time due to restrictions on education. Even though they were uncommon, there were instances of societal evils including child marriage, *Sati Pratha* and child marriages

Consequently, gender justice in ancient India was a concept that was influenced by various socio-religious circumstances. Despite the existence of patriarchal standards, there were instances of equality, safeguards, and social acceptance of female rights. With substantial shifts from earlier periods, a complex interaction of societal and cultural elements continued to impact gender justice during the medieval era. Feudalism and the foundation of strong kingdoms and empires characterized medieval Indian culture. New cultural influences affected gender dynamics with the advent of dynasties like Mughal Empire and the Delhi Sultanate.

Unlike the ancient times, women's status in Indian society declined during the medieval era. Socially unacceptable customs like as *sati pratha*, child weddings (*baal vivaah*), and the ban on widow remarriage also grew prevalent. Polygamy began to become commonplace.

Women's treatment seems to depend on how males treated them throughout the colonial era.¹⁷ In colonial India, variety of issues impacted their status. Women were frequently restricted to gender-roles, and had

¹⁷ *Supra* note 1 at 9.

limited access to studies. But there were also well known women who supported social reform movements and battled for their rights.

Women in that era faced numerous obstacles. They were frequently denied opportunities for education and were confined to customary duties. Many women had little control over their own life and were married at an early age. But there were also courageous women who battled for their rights and defied these expectations. They made significant contributions to social reform movements and the advancement of gender equity in India. One element was the custom of young girls being married off at a very tender age, known as "child marriage."

This stunted their chances for education and personal development and robbed them of their youth. Women's goals and objectives were frequently repressed as they were expected to put their spouses and children first. In addition, their education was restricted. It was customary for boys to have a formal education, while girls were typically taught basic domestic skills.

This lack of knowledge made gender inequality even worse and made it more difficult for women to acquire jobs and engage in civic life.

However, despite all of these difficulties, there were strong female role models who were an inspiration to everyone, particularly to other women. They bravely battled for women's rights and opposed repressive policies and colonial power. In India, these women and numerous more cleared the path for social change and women's emancipation. It is important to acknowledge the perseverance and determination of women who fought for change, despite the fact that the circumstances for women throughout the colonial era were clearly challenging. The groundwork for the current developments and breakthroughs in gender justice was established by their contributions.

Women were in the forefront of social reform initiatives to solve these critical issues. Reformers believed that women's emancipation was essential to the country's modernity, nationalism, progress, and renewal. A portion of the movement concentrated on legal remedies. The abolition of sati in 1829 and the acceptance of widow remarriage in 1856 were the

results of numerous initiatives and campaigns. A second goal was to raise a female counterpart for the new male aristocracy, one who could fit into the positions of the new society and adopt the same views as males in the home. The main tool was education, but as this problem got entangled with *purdah* and gender segregation, gender roles, both in public and private, became less significant.

Reformers who supported a broader agenda of female liberation established groups for social reforms. These groups were spearheaded by affluent urban men who questioned numerous social and ritual constraints that were imposed on women.

The fact that males initiated the first steps towards women's emancipation is a distinctive characteristic of women movement in India. Social reformers like *Raja Ram Mohun Roy* and *Swami Dayanand Saraswati*, among others, opposed the customary subjugation and supported women's education and widow remarriage. The pre-independence era was characterized by women's political participation and demands for the defining of traditional gender roles. Women became more politically aware as an outcome of wide-spread realization that the political environment of the country was strongly related to women's issues. The nationalist movement and the context of social reform coincided with establishing of the first women's organizations at that time.

2.3 CONSTITUTIONAL ASPECT OF GENDER EQUALITY IN INDIA

The Constitution of India is one of the most beautifully framed constitutions in the world. It is like a colourful mosaic that reflects the diversity and unity of our great nation. It guarantees fundamental rights to every citizen, upholds the principles of equality and justice, and ensures that the voices of people are heard. Being a significant and remarkable document that lays the foundation for a democratic and inclusive society. The beauty of the Indian Constitution lies in its ability to evolve and adapt to the changing needs of the country while staying true to its core values. Our Constitution is like a vibrant tapestry that weaves together the rights and aspirations of every citizen. It guarantees rights to the citizens of the country and ensures that every individual has a voice. The Constitutional principles promotes social justice and harmony, empowering marginalized communities and ensuring their inclusion. Thus, the principles enshrined in the Constitution of India foster a harmonious and progressive society. The Constitution of India fosters inclusive and progressive society by promoting gender justice in several ways. Firstly, it explicitly prohibits discrimination based on gender, ensuring that women have equal rights and opportunities as men. It guarantees equal access to education, employment, and public services for all citizens, regardless of their gender. The Constitution also empowers the government to take affirmative action to uplift women and address historical inequalities.

The Constitution is the *grundnorm* and the supreme law of the land through which all the other laws derive their existence. The Constitution also promotes gender justice by outlawing practices such as dowry, child marriage and female infanticide. Furthermore, our Constitution recognizes the importance of women's political representation and encourages their participation in decision-making processes. When our Constitution was being drafted, a significant role was played by women in its framing. Prominent women actively participated in Constituent Assembly, representing all the women of the country. Prominent women like *Rajkumari Amrit Kaur*, *Smt. Durgabai Deshmukh*, and *Smt. Hansa Mehta*

were women members of Constituent Assembly and contributed their expertise and perspectives to the discussions. They advocated for women's rights, gender equality, and social justice. Their contributions helped shape the provisions in the Constitution that promote gender equality and protect women's rights. Thus, women have been instrumental in shaping the foundation of our democracy.

The Indian Constitution is among the world's longest and most comprehensive written constitutions. It includes a wide range of fundamental rights, directive principles, and governance provisions for the functioning of the country.

The Indian Constitution is founded on democratic ideas and guarantees the ideals of equality, liberty and brotherhood, and ensures justice and equality to all citizens. The significance of welfare, equality, and social justice is emphasized in the Indian Constitution. It requires the state to work toward eradicating disparities, advancing socioeconomic development, healthcare, education, and protecting the weaker sections of society.

The Indian Constitution reflects a commitment to progressiveness and inclusivity, aiming to combat societal injustices and discriminatory practices. All citizens are guaranteed fundamental rights, irrespective of their gender, caste, creed, religion, or socioeconomic background.

Thus, the framers of our Constitution gave us the most beautiful Constitution which ensures rights and justice for everyone and establishes an inclusive society.

2.3.1 GENDER EQUALITY AND THE PREAMBLE

The Preamble to the Indian Constitution is a foundational declaration that expresses our collective beliefs, ideals, and goals. One of its key ideals is commitment to justice, equality, and brotherhood, which includes the ideas of gender equality.

The Preamble to the Indian Constitution starts with the words- "*We, the people of India*", thus, it reflects that the Constitution originates from the people of India- women and men, regardless of their gender, religion or race. The preamble establishes the fundamental values and ideas that the constitution is based on. Among its goals are justice, liberty, equality, and fraternity. Consequently, these ideas, in their essence, also affirm the concept of gender justice.

The Preamble reaffirms the commitment to ensuring justice for all citizens, regardless of gender. It also emphasizes how important is to guarantee status and opportunity equality. Ensuring equal involvement in all aspects of society, equal treatment under the law, and equal opportunities for men and women are all necessary components of gender justice.

The Preamble establishes equality as a fundamental value, which provides the foundation for eliminating discriminatory practices and advancing gender justice in every sphere of society.

The Preamble highlights the pursuit of justice, social, economic, and political, as a fundamental goal of State. Social justice is the removal of disparities based on gender, caste, class, religion, and other factors to make sure that all members in society have same access to resources, opportunities, and rights. By calling for social justice, the Preamble emphasizes the necessity of combating gender discrimination and empowering all people, men and women to fully participate in the nation's social, economic, and political life.

The Preamble emphasizes the value of individual freedom by guaranteeing all citizens right to free thought, speech, belief, faith, and worship. Being free from compulsion, prejudice, and violence to make decisions about one's life, body, and future is referred to as liberty. Furthermore, the Preamble recognizes the intrinsic value and worth of every human being, regardless of gender, and affirms the dignity of the individual. The

Preamble, thus emphasizes the necessity of preserving citizens' rights and liberty in all spheres of life by respecting liberty and dignity.

The preamble of our Constitution promotes equality by setting out the guiding principles and aspirations of our nation. It emphasizes justice, liberty, equality, and dignity of every individual. In *Golak Nath v. State of Punjab*¹⁸, it was observed that

“Preamble reflects the objectives that a law aims to achieve.”

Furthermore, in *re Berubari* case, it was held that Preamble explains the thoughts of the framers; it shows the general aim for which the several sections in the Constitution were written.¹⁹ Furthermore, the Preamble's emphasis on fraternity highlights the necessity of a feeling of unity and brotherhood among all citizens, irrespective of gender. This involves establishing an atmosphere in where individuals are treated with respect and dignity regardless of their gender and where discrimination is not acceptable.

Thus, its goals and principles offer a strong foundation to uphold gender equality and justice within the Indian constitutional framework.

¹⁸ *Golak Nath v. State of Punjab* AIR 1967 SC 1643.

¹⁹ *Re The Berubari Union and Exchange of Enclaves v. Union of India* AIR 1960 SC 845.

2.3.2 FUNDAMENTAL RIGHTS AND GENDER EQUALITY

The cornerstone of the Indian Constitution is the provision of fundamental rights, which upholds equality before the law and individual liberty along with other basic rights. These rights, which are protected by the Constitution's Part III, are necessary for a democratic society to operate.

These rights are fundamental to democracy and are necessary for protection and empowerment of citizens. Fundamental rights are a set of basic rights that are guaranteed to every person, regardless of colour, religion, caste, creed, or gender. They are enshrined in Part III of the Constitution. They establish a foundation for the operation of a just and equitable society and guarantee the preservation of persons' liberty and dignity.

The protection of individual liberty is one of the main functions of fundamental rights. The Constitution assures that citizens can live with dignity by ensuring rights like the right to equality, freedom of speech and expression, the right to life and personal liberty, and the freedom of religion.

Fundamental rights are essential for achieving equality and social justice. For example, the right to equality before the law prohibits discrimination based on race, religion, gender, caste, or place of birth. This provision aims to create an inclusive society where everyone is respected and treated with dignity. In the same way, the prohibition of slavery, forced labour, and human trafficking by the right to freedom from exploitation upholds the concepts of equality and human dignity.

Fundamental rights play a crucial role in advancing socio-economic progress. The Constitution aims to ensure that every citizen has an opportunity to live a life of dignity and fulfilment by protecting freedoms like the right to livelihood, education, and right to work. These rights lay the foundation for a more just society in which each person has access to the opportunities and resources required for their complete development. Our Constitution provides many fundamental rights that are crucial for ensuring gender equality. These rights include the right to equality before the law (Article 14), the prohibition of discrimination (Article 15), and

equal opportunities in public employment (Article 16). Furthermore, the Constitution prohibits human trafficking and forced labour (Article 23), thereby, protecting the rights and dignity of women, who are disproportionately affected by these activities.

Article 14 of the Indian Constitution ensures all individuals are entitled to “equal protection of the law and equality before the law.” Article 14 serves as the cornerstone for ensuring gender justice through its application in number of legal circumstances. Article 14 contains the equality principle, which is essential to gender equality. It guarantees that everyone has the same rights and opportunities, regardless of gender. Discrimination against women in any way that runs against the equality principle stated in Article 14.

Article 14 guarantees that no one shall be denied equality before law or the equal protection of the laws by the State.²⁰ This means that everyone must be treated equally under the law, regardless of gender. According to Article 14, any legislation or action that discriminates against people based on their gender is unconstitutional.

Article 14, therefore, prevents the State from treating people differently. Discrimination based on gender is also, in essence, covered under this. Article 14 would be violated by any laws or actions that treat anyone differently based only on their gender without any justification. The judiciary has upheld gender equality by interpreting Article 14 widely over time. Courts recognized the need of treating men and women equally before the law, and they have struck down laws and practices that discriminated against women. Within the framework of Article 14 of the Constitution, gender justice has been the focus of several significant case laws in India.

In ***Anwar Ali Sarkar v. State of West Bengal***²¹, it was established that discrimination between individuals and between classes of individuals is

²⁰ The Constitution of India, Art.14.

²¹ *Anwar Ali Sarkar v. State of West Bengal* AIR 1952 SC 75.

²² *State of Tamil Nadu v. E.P.Royappa* AIR 1974 SC 555.

prohibited by Article 14. This idea has been significant in the struggle against policies and laws that discriminate against women in general.

Further, in *State of Tamil Nadu v. E.P. Royappa*²² it was highlighted how Article 14 forbids arbitrariness and mandates that state conduct be based on logic. The non-arbitrary treatment principle, which is crucial for guaranteeing gender fairness, was upheld by this decision.

In *State of Bombay v. F.N. Balsara*²², it was held that both natural and juristic persons are included in Article 14's definition of the word "person," ensuring that the equality principle applies to every person, regardless of gender.

Furthermore, the 1997 case of *Vishakha v. State of Rajasthan*²³ was an important turning point in the struggle against sexual harassment at workplace. The Hon'ble Supreme Court held that sexual harassment is against fundamental rights protected by the Constitution's Articles 14, 19, and 21. Important guidelines on gender justice were established by the court to prevent sexual harassment at work place. In its ruling, the Hon'ble Supreme Court acknowledged that sexual harassment at work place is a violation of the fundamental rights protected by **Articles 14, 19, and 21 of the Constitution**. The court emphasized how important it is to protect women's dignity in the work place by recognizing sexual harassment as a breach of these fundamental rights.

The *Vishaka* Guidelines were issued by the court to combat and prevent sexual harassment in the workplace. The international conventions and regulations served as the foundation for these guidelines. The rules gave organizations a thorough framework to prevent sexual harassment, handling complaints, and making sure that women are protected in the work place.

The Hindu Minority and Guardianship Act, 1956's section 6 clause (a) was found to be valid in the case of *Githa Hariharan v. RBI*²⁴. It was held that, even when the father is still living, the mother could act as the minor's

²² State of Bombay v. F N Balsara AIR 1951 SC 318

²³ Vishaka and Others v. State of Rajasthan and Others AIR 1997 SC 3011

²⁴ Githa Hariharan & Anr. v. Reserve Bank of India & Anr. (1999) 2 SCC 228

natural guardian. Thus, in this case the court settled the law that female can also be the natural guardian of the child.

The foundation for establishing and upholding gender equality in India is, thus, essentially provided by the tenets of **Article 14**, namely equality before the law and equal protection under the law.

Furthermore, one important Article that supports gender equality is **Article 15**, which prohibits discrimination basis of the gender of an individual among other factors. Thus gender equality is promoted under Article 15.

Article 15 states that no citizen may be treated unfairly simply due to their place of birth, sex, race, faith, or caste. Article 15 identifies gender as a prohibited ground of discrimination, emphasizing how importance it is to ensure gender equality and non-discrimination against women.

The state can make specific policies for women and children under **Article 15(3)**. With the support of this provision, the government can implement affirmative action policies and initiatives to address the socioeconomic and educational disadvantages that women suffer. Financial aid, employment, education and welfare programs dedicated to women are a few examples of such policies that support gender equality and women empowerment.

The AP government's policy was examined in the case of *State of Andhra Pradesh v. PB Vijaykumar*²⁵, which determined that women were not receiving their fair share of public jobs. The Court defined the scope of Article 15(3) in this case.

In *Voluntary Health Association of Punjab v. Union of India*²⁶ the Hon'ble Supreme Court gave specific guidelines for the efficient implementation of the Diagnostic Techniques (Prohibition of Sex Selection) Act of 1994 to put an end to the evil practice of sex selective abortion. In *Yusuf Abdul Aziz v. State of Bombay*²⁷, the validity of sec. 497, IPC was challenged by the petitioner on the contention that it was against Articles 14 and 15(1). The section was upheld and it was held that classification under this provision was not merely based on sex or gender. Here, the mandate of Article 15(3) was relied upon.

²⁵ P.B. Vijaykumar v. State of Andhra Pradesh (1995) 4 SCC 520.

²⁶ Voluntary Health Association of Punjab v. Union of India and Ors. (2013) 4 SCC 1.

²⁷ Yusuf Abdul Aziz v. State of Bombay AIR 1954 SC 321.

In *Vijay Laxmi v. Punjab University*²⁸, it was held that Government can make special provisions as per clause 3 of Article 15.

Further, In *T. Sudhakar Reddy v. Govt. of A.P.*²⁹, the court upheld women's nomination in the cooperative societies to bring in their guaranteed minimum representation. Article 15 of the Indian Constitution fosters gender equality by preventing sex-based discrimination, giving authority to state to create special measures for women's advancement, and offering a legislative framework for resolving injustices and inequalities based on gender. It reflects the dedication of our Constitution to guarantee all citizens, regardless of gender, same opportunity and rights.

In *Rani Raj Rajeswari Devi v. State of U.P.*³⁰, a provision of an act which was discriminatory in nature as it discriminated on the basis of gender and thus was held to be violating Article 15.

Equal opportunity is covered in Article 16 of our Constitution when it comes to public employment. This Article has been interpreted to promote gender equality in public employment. According to Article 16(1), every person is entitled to equal opportunity for appointment or employment to any public office. This means that in public employment, the state cannot discriminate against any citizen based on their birthplace, residence, race, caste, gender, religion, or any combination of these.

As a result, the Constitution implicitly ensures women's equality of opportunity because it applies to all people, regardless of gender.

In *Dimple Singla v. Union of India*³¹, it was held that change in attitude is prerequisite for eliminating gender based discrimination. There exists gap between the rights granted by the Constitution and their application in the daily lives of woman.

The discrimination against married women in jobs was addressed in *Air India v. Nargesh Meerza*³². It dealt with Air India's policy requiring the air hostesses' retirement upon marriage or pregnancy.

²⁸ Vijay Lakshmi V. Punjab University AIR 2003 SC 3331.

²⁹ Toguru Sudhakar Reddy v. Govt. of Andhra Pradesh AIR 1992 AP 19.

³⁰ Rani Raj Rajeswari devi v. State of U.P. AIR 1954 All 608.

³¹ Dimple Singla v. Union of India, (2002) 2 SLJ 161.

³² Air India v. Nargesh Meerza, (1981) 4 SCC 335.

The key ruling in the *Air India v. Nargesh Meerza* case said that Air India's condition that air hostesses retire upon marrying or on becoming pregnant was discriminatory and was against the equality norms guaranteed by Art. 14, 15, and 16.

A significant step to maintain equality in the work place and combating discriminatory employment practices based on gender came with *Air India v. Nargesh Meerza* case. It reiterated the basic concept that all women, regardless of marital status or their current parental duties, should have equality to access employment opportunities. The case established a standard for ensuring non-discriminatory hiring practices and advancing gender-equality in India.

A significant turning point regarding gender justice in India was *C.B. Muthamma v. Union of India*³³. The issue was discriminatory rules in the Indian Foreign Service rules. The petitioner contested the discriminatory actions that had deprived her from opportunities for job progress and promotions due to her gender. The case emphasized the challenges that women experience when seeking careers and the urgency to combat gender discrimination. The Indian Constitution's fundamental principles of non-discrimination and gender-equality were upheld. The discriminatory rules were found as to be in violating women's fundamental rights provided under Articles 14 (right to equality) and 16 (equality of opportunity in areas of public employment).

In *Madhu Kishwar v. State of Bihar*³⁴, Chhotanagpur Tenancy Act, 1908 was in question. It was contended that the act denied succession rights for women from a particular caste and thus it was violative of right to livelihood. Although validity of the Act was upheld on the ground of custom of that community, in the dissenting opinion it was observed that as the law discriminated on the basis of gender, it violated Article 15, 16 & 21.

³³ C.B. Muthamma v. Union of India, (1979) 4 SCC 260.

³⁴ Madhu Kishwar V. state of Bihar AIR 1996 SC 1864

³⁶ Ashok k. Todi v. Kishwar Jahan (2011) 3 SCC 758.

In *Ashok K. Todi v. Kishwar Jahan*³⁶, right of marrying with a person of one's own choice was upheld. It was held that a major person can marry anyone of his choice and it was upheld as a right guaranteed under Article 19.

Similar observations were made in *Lata Singh v. State of UP*³⁵ where it further held that inter-caste marriage is not prohibited under the Hindu Marriage Act or any other law.

As far Right to livelihood and Freedom of Occupation is concerned, In *Anuj Garg v. Hotel Association of India*³⁶, it was held that there should focus to eliminate the unequal consequences of gender-based differences. It was also held that safe environment of work should be ensured by the State so that women can discharge their duties freely regarding requirements of their profession.

In *State of Maharashtra v. Indian Hotel & Restaurants Association*³⁷, it was held that safety of women must be ensured rather than restricting their work.

'Gender equality' becomes impractical if there's no right to live with dignity.³⁸ Article 21 of our Constitution provides for right to life & personal liberty and this right includes not merely animal existence rather right to live with dignity. *Neera Mathur v. LIC*³⁹ case highlighted the significant tenet of personal liberty is 'privacy. It was clarified that information relating to certain health conditions that would amount to violation of privacy of a person can be sought only where it is relevant, but it can't be asked for purpose of employment.

In *Bodhisattva Gautam v. Subhra Chakraborty*⁴⁰, it was held that the offence of rape seriously violates right to life of a woman to live with personal freedom and dignity.

³⁵ Lata Singh v. State of Uttar Pradesh (2006) 5 SCC 475.

³⁶ Anuj Garg v. Hotel Assn. of India, (2008) 3 SCC 1

³⁷ State of Maharashtra v. Indian Hotel & Restaurants Association, (2013) 8 SCC 519.

³⁸ MAMTA RAO, LAW RELATING TO WOMEN AND CHILDREN 78 (4th ed. 2018).

³⁹ Neera Mathur v. LIC (1992) 1 SCC 286

⁴⁰ Bodhisattva Gautam v. Subhra Chakraborty (1996) 1 SCC 490.

In **Railway Board v. Chandrima Das**⁴¹ it was held & observed that meaning of the word “life” in the UDHR has to be the same as used in Art. 21 and it can’t be narrowed down. The International instruments pertaining to human rights and Article 21 contain the word “life” and they all connote same meaning and sense as to mean a life which has meaning, is dignified one and which is worth living.

In the landmark case of **Vishaka V. State of Rajasthan**⁴² it was held that the right to a dignified workplace and protection against sexual harassment is essential requirement of gender-equality and is guaranteed by Article 14, 15, 19(1) (g) and 21 of our Constitution. And these are also recognised as basic and primary human rights universally.

In **NALSA v. Union of India**⁴³ the issue of transgender people was dealt with and it was held that right to enjoy one’s life with dignity is guaranteed by the Constitution under Art. 21 it is a right essential for human development. The word “*personal liberty*” under this Article, includes within its ambit and scope personal autonomy of expressing oneself and it includes self-determination of one’s gender.

In **Gaurav Jain v. Union of India**⁴⁴, it was held that women must be seen as victim of adverse socio-economic conditions than as offenders.

Article 21 of our Constitution embodies the principles of justice, equality, and dignity for every person. Although the right to life and personal liberty are its primary guarantees, its interpretation has led to the inclusion of other aspects of human existence, such as gender equality. As a result of significant judgements and progressive legal interpretations, Article 21 has become a powerful instrument for advancing gender equality in India.

Basically, Article 21 guarantees everyone a right to a life of dignity and liberty, irrespective of gender. This includes the freedom from violence and discrimination, two widespread problems that impact women in India. The Hon'ble Supreme Court has affirmed in multiple rulings that the right

⁴¹ Railway Board v. Chandrima Das (2000) 1 SCC 85.

⁴² *Supra* note 23.

⁴³ NALSA v. Union of India (2014) 5 SCC 438.

⁴⁴ Gaurav Jain v Union of India (1997) 8 SCC 114.

to life guaranteed by Article 21 encompasses the right to live with dignity, and that any infringement of this right resulting from discrimination on the basis of gender is unconstitutional. The right to reproductive freedom and bodily autonomy for women is one of the most important ways that Article 21 advances gender equality. In the landmark case of *Suchita Srivastava v. Chandigarh Administration*⁴⁵ it was held that a woman's reproductive rights are essential to her dignity and fall under the ambit of Article 21.

Article 21 also acts as a safeguard against discrimination and violence against women. The right to life encompasses the freedom of living in an environment free from violence and harassment. In decision like *Vishaka v. State of Rajasthan*⁴⁶, the court declared that sexual harassment at work violates an employee's right to dignity and mandated the formulation of guidelines to stop and deal with such instances.

Furthermore, Article 21 has played a significant role in eradicating beliefs and patriarchal practices that support gender inequality. The judiciary has broadened the meaning of Article 21 to include women's rights to equal opportunity in work and education through progressive interpretations. The Court has stressed the necessity of ending discriminatory practices that deprive women of their proper place in society in a number of judgments. Additionally, Article 21 has facilitated to pass laws that improve gender equality. To defend women's rights and advance their wellbeing, numerous laws and regulations have been passed, including the Maternity Benefit Act (1961), the Dowry Prohibition Act (1961) and the Protection of Women from Domestic Violence Act (2005). These measures support the values stated in Article 21 and help build a society that is more inclusive and fair.

⁴⁵ Suchita Srivastava and Anr. v. Chandigarh Administration (2009) 9 SCC 1.

⁴⁶ *Supra* note 23

2.3.3 CONSTITUTION'S PART-IV AND GENDER EQUALITY

The socioeconomic objectives that the founding fathers of our Constitution envisioned for the country are expressed in the Directive Principles of State Policy (DPSP). The directive principles act as guidelines for the government when creating policies, but they are not enforceable by courts like fundamental rights, which are justiciable.

The state is guided towards achieving social and economic fairness by the directive principles, which serve as a moral guide. They cover a broad range of ideas, such as guaranteeing fair and humane working conditions, paying an adequate salary, encouraging equal compensation for equal labour, making sure everyone has access to education, and working to improve the lives of the less privileged members of society. These principles demonstrate the Indian government's dedication to establishing a just, fair, and harmonious society.

Directive Principles of State Policy (Part IV of Constitution) establish principles for the government to follow in its policymaking. These include provisions which support gender justice, such as ensuring equal wages for equal work (Article 39(d)) and ensuring reasonable and humane working conditions and maternity leave (Article 42). Article 39(a) requires the State ensure that women and men have same access to opportunities for employment and compensation for equivalent work. By addressing gender-based socioeconomic differences, this advances gender equality. Furthermore, Article 39(e) highlights the state's responsibility to protect workers' health and strength, regardless of gender, from exploitation or abuse. It aims to prevent workers from being pushed into activities that are undesirable for their health.

Article 39(e) emphasizes the need of ensuring safe working conditions and eliminating worker exploitation. It acknowledges the vulnerability of workers, including women, and stresses the need for rules and procedures to protect their health, safety, and dignity. By addressing gender-specific needs and vulnerabilities, policies and programs aimed at their welfare such as those related to nutrition, education, and maternity and health contribute to gender justice.

The DPSP directs the state to ensure reasonable and humane working conditions and to offer maternity relief (Article 42). This fosters gender justice by guaranteeing that women have opportunity to work in secure and decent conditions and receive maternity benefits, removing barriers that prevent women's participation in the workforce.

The vision of the Indian Constitution as a transformative document with the goal of creating a just and equitable society is integral to the directive principles of state policy. Although their non-justiciable character makes them difficult to implement, they give policymakers a road map for governance.

2.3.4 FUNDAMENTAL DUTIES AND GENDER EQUALITY

Fundamental Duties were an important addition made by the 42nd Amendment to the Constitution. These duties were added to remind citizens that, while they have certain rights, they also have responsibilities towards the country and society. Article 51A, which provides the Fundamental Duties, was added by the 42nd Amendment. Unlike fundamental rights, these duties are not legally enforceable, but they nevertheless serve as a reminder of one's responsibilities to the country and society and work to instil in citizens a feeling of discipline, accountability, and patriotism.

Article 51-A (e) highlights the responsibility of citizens to foster unity and a feeling of fraternity among all Indians, irrespective of diversity in language, religion, region, or social class. It also emphasizes the duty to abstain from practices that undermine the dignity of women. This emphasizes how important it is to protect women's dignity, respect it, and to eliminate discriminatory practices against women.

Article 51A(e), thus, promotes gender equality by highlighting the duty of all citizens to abstain from actions that lower the dignity of women. Article 51A(e) emphasizes the need to end discriminatory practices that violate women's rights and dignity by emphasizing the duty to denounce acts that are degrading to women's dignity. This covers customs including child marriage, dowries, gender-based violence, and discrimination against women in a wide range of circumstances.

By asking people to reject traditions and rituals that promote gender-based discrimination, the provision promotes a societal trend towards gender equality. This is related with the overall objective of renounce practices that lead to gender inequality and stereotypes.

A culture of respect and dignity for women in society is fostered by denouncing actions that diminish the worth of women. It highlights how important it is to view women as equals who should have the same opportunities, rights, and respect as men. Article 51A(e) promotes an environment that is favorable to women's empowerment and participation

in a number of social, economic, and political spheres by opposing behaviors that marginalize women. By allowing women to express their rights and realize their potential, this provision, thus promotes gender equality.

2.3.5 73rd & 74th CONSTITUTIONAL AMENDMENT

The Indian Constitution's 73rd and 74th Amendments, which provided for local self-government institutions in both rural and urban areas, were important turning points in the fostering of gender equality. The allocation of seats for women in local authorities was significant aspect of these amendments. A specific proportion of seats reserved for women in both urban (municipalities) and rural (panchayat) local bodies. This made sure that women were represented in the grassroots, traditionally male-dominated decision-making processes.

The Constitution's Articles 243-D and 243-T require that seats be reserved for women in panchayats and municipalities, respectively. The 73rd amendment added part IX, which calls for the establishment of a three-tier *Panchayati raj system* in rural areas while 74th amendment included part IXA and required the creation of urban local bodies.

Women were better prepared for leadership roles as they involved more in local governance. This helped in removing conventional gender norms and stereotypes, empowering women, and encouraging them to take positions of leadership in all areas of public life in along with local government. This made it easier for women to directly participate in decision-making processes by imposing a minimum representation for women in local bodies. This gave them a platform to express their needs, goals, and concerns, which helped promote gender-inclusive policies and initiatives regionally. According to a study, female involvement and awareness to female policy issues increased in villages which had female leadership.⁴⁷ However, sometimes issues like proxy representation/ '*sarpanch patism*' or '*pradhan patism*' remain a big challenge.

The authority and liberty of women in leadership are compromised by proxy representation. It maintains a system in which males make decisions on behalf of women, rather than enabling women to be fully engaged and

⁴⁷ Vidhatri Rao, Sarpanch Pati: The small steps and giant leaps of women reservation, THE INDIAN EXPRESS (August 11, 2022), <https://indianexpress.com/article/political-pulse/sarpanch-pati-madhyapradesh-women-representatives-oath-reservation-8084346/> (Last Visited on April, 30, 2024).

take the lead. It's likely that proxy representatives aren't devoted to women's problems as women who are elected. They may not hold themselves to the same level of commitment when it comes to resolving women's issues and working for gender-sensitive policies. Proxy representatives might not be deeply acquainted with or aware of the difficulties that women in their surroundings face. As a result, programs and policies might be created that do not accurately represent the interests and needs of women.

The formulation and carrying out of programs and campaigns addressing gender-specific problems including healthcare, education, sanitation, and economic empowerment have been made possible by the representation of women in local governing bodies. This made sure that local development plans properly took note of the needs and demands of marginalized people and women.

At the grassroots level, the greater presence of women in leadership roles helped in doing away with stereotypes regarding women's responsibilities in governance and decision-making. As a result, women's empowerment and gender equality received support in Indian society, which in turn resulted to more wide social transformation. Thus, the 73rd and 74th Amendments were crucial in promoting gender parity because they established rules that allowed women to participate and be represented in local government, opening the door for more equitable and inclusive development at the local level.

The Indian Constitution, thus, provides a beacon of hope for promoting gender equality in the country. Its provisions promoting equal rights and opportunities for all, regardless of gender, serve as the foundation for progress. Through historic judicial decisions and legislative reforms, India has gradually progressed towards eliminating gender-based discrimination and empowering women in various aspects of life.

2.4 DOWRY VIS-À-VIS GENDER EQUALITY

Despite all positive efforts and steps taken to achieve gender equality in Indian society, social evils like dowry exist as a major impediment in creating a gender just society. In societies where dowry is practiced, the bride's family is expected to offer significant presents or payments to the groom's family. This puts a financial strain on the bride's family, often resulting in economic difficulty or debt. This perpetuates a perception that women are financial liabilities and reinforces traditional gender roles in which women are viewed as inferior or dependent. The financial strain the dowry system puts on the bride's family is its most noticeable effect. Families are expected to give sizable quantities of cash, products, or property to the groom's family as a condition of marriage in many cultures where dowries are customarily paid. The bride's family may have financial difficulties due to this, particularly if they are from low-income or underprivileged families.

When it comes to dowry items, including jewellery, clothes, equipment for the house, or cash, the expenses can add up. To satisfy dowry demands households could need to take loans or save for years, taking money away from other necessities like savings, healthcare, or education.

The bride's family may find it difficult to pay everyday bills or make investments in their children's futures because of financial burden of the dowry. This has the potential to prolong economic disparities within families and communities and create a vicious cycle of poverty. In marriages, the expectation of a dowry can lead to power imbalances. When the bride's family doesn't pay the dowry that the groom's family expects, the bride gets mistreated, harassed, or even abandoned. This imbalance of power weakens women's autonomy and control in marriage and increases gender-based violence. Women who are subjected to the dowry system frequently are ill-treated as commodities, having their value diminished to that of money. This undermines their worth. Because of unavoidable obligation to pay a dowry, many families see daughters as an economic burden, which often results in discrimination against them.

In families where dowry is common, they often prefer to spend in son's education and professional chances over daughter's'. This often limits her education and maintain gender gaps in employment and economic prospects, hence increasing gender inequality. The dowry system hinders women's economic emancipation since it perpetuates traditional gender norms and expectations. The dowry system prevents women from achieving financial independence and limits their access to economic possibilities by viewing them as financial liabilities and assigning them to the household role.

This restricts females' chances for personal and professional growth and promotes gender disparities in education. They may thus miss out important educational possibilities that could later on enable them to get higher-paying employment. The bride's family may be impacted by the financial ramifications of the dowry. For instance, it could take years for a family to pay off debt incurred for dowry, which would have an impact on the future generations' financial security and well-being.

Besides the financial implications, the bride's family's mental and emotional health may suffer because of the pressure to fulfil dowry requirements. Families may experience stress, worry, and despair for not meeting dowry obligations due to fear of social stigma or shame. Dowry-related domestic violence has an enormous effect on women's health, well-being, and overall quality of life. Victims of dowry harassment and abuse frequently suffer physical injuries, psychological trauma, and emotional discomfort, which can lead to lasting consequences like depression, anxiety, and post-traumatic stress disorder. Furthermore, dowry-related violence can cause serious injuries, disability, or even death, aggravating women's vulnerability in marital relationships. The custom of offering and receiving dowry is still prevalent and it is a complicated phenomenon with strong historical, social, cultural, and economic roots.

The dowry system is frequently based on beliefs that favour male inheritance and reinforce the notion that females are dependent on men. Dowry reinforces conventional gender roles and conventions, hindering progress toward gender equality and women's empowerment. The dowry

system hampers gender equality by promoting stereotypes, maintaining patriarchal norms, creating economic disparities, and promoting gender-based violence and discrimination. Addressing the core causes of the dowry system and enacting legal and social reforms are critical steps toward achieving gender equality.

Thus, Dowry, rooted in patriarchal norms and unequal gender dynamics, is a type of exploitation against women. The exchange of monetary assets and cash at marriage perpetuates the commodification of marriage and places women on subordinate place within the family and society. Dowry-related violence is frequently linked with other types of domestic abuse, such as physical and emotional. The pressure to fulfil dowry demands can intensify tensions within marital relationships, resulting to increasing cases of domestic violence against brides. The most severe kind of violence associated to dowry is "dowry deaths", which are often referred to as "bride burning" or "dowry killings."

The custom of paying dowry perpetuates patterns of dominance and economic exploitation in marriages. The bride's family bears heavy financial difficulties as a result of the dowry demands, which frequently result in debt, poverty, and economic instability. In addition, the expectation of a dowry upholds uneven power relations by giving husbands authority over household money and increasing the dependency and subordination of women.

The expectation of a dowry perpetuates patriarchal norms and traditional gender roles, which see women as inferior to men. Domestic violence perpetrators use violence as a way to assert authority and dominance over their partners, which is often caused by this imbalance in power. Even though dowry-related violence is illegal, it exists because of weak enforcement of dowry related provisions, less punishment for offenders, and social acceptance of gender-based violence like dowry.

CHAPTER-3 DOWRY SYSTEM IN INDIA: FROM ANCIENT TIMES TILL DATE

3.1 EVOLUTION OF THE CONCEPT OF DOWRY: FROM A TOKEN OF AFFECTION TO A MATTER OF GREED

The Oxford dictionary defines dowry as-

“Money or property that a bride brings to her husband on their marriage”⁴⁸

Similarly, the *Webster Dictionary* defines it as-

“money, goods or estate that a woman brings to her husband at marriage.”

The historical, cultural, and socioeconomic roots of the dowry system in Indian society are multifaceted. Although the exact actual origin is not an easy task to determine, studies suggest multiple key factors. Exchanging presents or money during marriages has long been a tradition in many cultures across the world, including India. Gifts were given and received by households in the past to strengthen relationships and show friendliness. This eventually developed into a more formalized system where the groom's family and relatives began to demand presents and gifts from family of the bride. Indian society has traditionally been patriarchal one, with men occupying positions of dominance in the home and community. This patriarchal nature can be seen in the dowry system, where the bride's family is subordinated to the groom's family to maintain their financial and social control.

The dowry system has economic roots as well. In rural communities where land possession and inheritance had immense importance, dowry was frequently perceived as a means of transferring wealth from the bride's family to the groom's. Social standards that forbade daughters from inheriting rights can be also cause of this. The amount and the quality of

⁴⁸ Pocket Oxford English Dictionary, 270 (11th ed., 2013).

the dowry that a bride's family is able to provide is considered as indicator of their social standing in many Indian societies. Families, thus feel compelled to give a significant amount in dowry for ensuring their daughters' marriage and find suitable partners for their daughter. The dowry system gradually got embedded in Indian society over time and was nourished by social expectations and stereotypes. Initiatives to ban dowry and give women more authority have frequently been unsuccessful in completely eradicating this social evil because of deeply rooted cultural belief and practices.

An important thing to note here is that dowry, which gradually became a tool for discriminating and harassing, did not originate as an evil practice. It originated as a pious and simple practice which was offered out of affection and not out of compulsion.

Hindu marriage is a sacrament and is considered as one of the sixteen *samsakaras* (*Shodash Samsakara*) that a person has to go through in his life as a human. Hindu marriage has several rituals like *Panigrahana* and *Kanyadan*. "*Kanyadan*" is connected to the old Vedic rituals. The *Manu Smriti* has following lines to show the sacramental union of bride and groom after Hindu Marriage- "*I am holding your hand to wish you luck so that you live long life with your husband. You were bestowed to me by the righteous creator, the learned, and the educated people.*"⁴⁹ Thus, according to Manu, marriage takes place not because one weds his partner rather a person receives the partner from the God.⁵⁰

According to the *Dharmashastras*, the "*dakshina*" to groom is a prerequisite for the holy act of *kanyadan*. *Kanyadan* came to be linked with "*Vardakshina*," or presents or money given to the groom by the bride's side. This was not given out of force or coercion, but rather as a religious ceremony and a show of affection.⁵¹

⁴⁹ Manusmriti, VIII, 227.

⁵⁰ Manu IX, 95.

⁵¹ Suman Nalwa & Hari Dev Kohli, *Law Relating to Dowry, Dowry Death, Cruelty to women & Domestic Violence*, 10,11 (2nd ed. 2013).

As far as offerings and presents to the groom and bride is concerned, it becomes important to study the concept of *Stridhana*. What is “stridhana” is defined by the *Smritis*.

Manu says-

“Adhyaanyadhyavahnik dattasch protitah striyaih,

Bhratra-matra-pitra-praptam, shad-vidham stridhana smritam.”

Manu, therefore states that the ‘six fold property of a woman’ which he refers to as “*Shad-vidham stridhanam*” is defined as “*something that was given before the marital fire (adhyagni), that was provided on the bridal ceremony (adhyavahanik), which was presented as a token of love (pritidatt), and whatever that was received from a brother, mother, or father.*”⁵²

According to *Yagyavalkya*, *Manu's* definition is merely indicative and not exhaustive, and he does not forbid *streedhana* from being greater than six. All he wanted was for it to be a minimum of six.

According to *Kautilya*, *stridhana* is the concept for livelihood or anything that can be worn on the body, such as jewellery and decorations.⁵³

Katyayan also talks about six- type of *stridhan*.⁵⁴ According to him-

“whatever is given to the bride before the nuptial fire; whatever a bride gets while is being taken to the groom’s house; what is given to her as a token of love by the parents of her husband; what is given to her by the elders while she seeks their blessings (pritidatta); what is obtained by a woman as the cost of household utensils, of milch-cattle, ornaments etc (shulka).; whatever she gets after her marriage from the family of her husband and her father’s family.”

The definition of *streedhana* is additionally clarified by the digests and commentaries. There are fourteen kinds of *streedhana* described by

⁵² Manu IX 194.

⁵³ Arthashastra of Kautilya III 2, 152.

⁵⁴ P.V. Kane, History of Dharmashastra, 774 (Vol. III)

Mitakshara. It states that it covers all types of property owned by women. The unlimited extent of *streedhana* is discussed by the *Mitakshara* School. *Vijnaneshwar* accepts that women do not have property related freedom. *Veer Mitroday* (one of the digests) goes on to say that all property owned by a woman is hers, but she has little power to alienate her *stridhana* of any type.

Vyavaharamayukh, which is the chief digest of the Maharashtra school, offers an opinion similar to that of *Mitakshara*. Furthermore, the Madras School also accepted *Mitakshara*'s point of view.

According to *Vivah Chintamani*, one of the Mithila School digests, Manu's definition is incomplete. The *Mitakshara* School likewise holds similar opinions. According to Manu's definition, a *streedhana* should have six elements, and it also covers various additional types of *streedhana*. In contrast, the unlimited extent of *streedhana* is discussed by the *Mitakshara*. According to *Dayabhaga*, *streedhana* should be meant for free assets.

Jeemutvahan disagrees with *Vijnaneshwar*'s definition. According to him, inherited property is not *streedhana*.⁵⁵

However, as time went on, the gifts that the bride's father or relatives gave her as a symbol of their love and affection at the marriage ceremony, which was seen merely a moral requirement, began to take the form of some sort of financial arrangement. Clearly, a moral decline began to take place. The gift was started being referred to as a "dowry" or "*dahej*" by society, and eventually, the offering of an endowment at the time of marriage and the encashment of the gift became an obsessive social habit. The deeply ingrained belief that the gift that a wife brings with her belongs to her husband and his family replaced the idea behind *stridhan*, which was formerly known as woman's property.⁵⁶

The concept of the dowry system in India dates back thousands of years, when the bride's family offered it to her voluntarily to help her start a new household. But as time went on, the custom turned into a coercive one that was characterized by unreasonable demands, huge payments, and the

⁵⁵ B.N. Mani Tripathi, *Hindu Law*, 428 (2014).

⁵⁶ *Supra* note 51 at 25.

abuse of brides and their families. Comprehending the past evolution of the dowry is crucial for understanding its current forms in perspective and directing reform initiatives.

Originally intended to be a voluntary gift, dowry became more of an essential payment, requested by the groom's family, frequently as a means of making up for the projected financial burden of adopting a daughter-in-law. Dowry was started being normalized through generations. It was frequently regarded as a social obligation, a symbol of the bride's family's wealth and prestige, and a means of ensuring the bride's financial security in her new household. It was and is closely related to traditional gender norms and unequal power relations in society. In a patriarchal system in which unfortunately women were given fewer rights than males, dowry was sometime considered as a key to achieve an ideal marital alliance. In addition, the patriarchal structure of society contributed significantly to the continuation of the dowry system. The dowry system became a tool for maintaining gender inequality and subjecting women to the economic and social domination of males in a society where men possessed the majority of the power over property, resources, and decision-making.

Mahatma Gandhiji was of the view that dowry is an evil and it ought to be abolished. Mahatma Gandhi ji considered dowry as a social evil. He stood for its abolition and tried to change societal perceptions against this practice. Dowry was considered by Gandhiji as a reflection of materialism, as well as a reflection of social inequalities and injustices against women. Gandhiji supported gender equality and women's rights, and he saw dowry as perpetuating discrimination against women and reinforcing patriarchal traditions. He urged people and communities to reject dowry and instead embrace principles such as non-violence, equality, and social justice.

He opined that-

*“There is no doubt the custom is heartless. The dowry system must go. Marriage must cease to be an arrangement made by parents for money.”*⁵⁷

⁵⁷ Paras Diwan, Dowry and Protection to Married Woman 311 (2nd ed.).

It was started being felt that what started as a simple ceremonial custom unfortunately transformed into a social evil.

Dowry has its roots in ancient Indian traditions, and it is frequently connected with the offering of gifts on a bride during her marriage. It was provided willingly and no pressure was used. However, over time, this practice has transformed into a coercive system in which the demand for dowry has become common, leading to exploitation, harassment, and even violence against brides and their families.

It is observed that dowry is more prevalent in rural than in urban places. The practice of dowry is one of the many practice that is frequently maintained more strongly in rural communities. The dowry system is a strongly embedded accepted custom in many rural areas, where it is seen as necessary to maintain social position and family honour. Close-knit social structures and hierarchies that greatly impact individual behaviour are characteristics of rural communities. Families may feel pressured to comply with dowry demands due to pressure from community elders and social expectations, fearing societal disapproval or stigma if they refuse.

Practices like dowry, have been brought to urban environments as a result of urbanization and migration from rural to urban areas. However, in cities, dowry frequency is somewhat reduced by factors like increased levels of education, more economic opportunities and exposure to a variety of cultural influences. Emerging forms of dowry are a reflection of changing economic conditions and societal dynamics. Emerging forms of dowry comprise a wider range of things and transactions than conventional forms, which included the exchange of cash, jewellery, and other material goods during marriage. Property and real estate assets are increasingly being included as part of dowry payments in urban areas and among wealthy households. This could involve giving the groom's family homes, apartments, or land as a requirement for marriage. With rising consumerism and desires for a wealthy lifestyle, there is a greater demand for expensive presents and luxury things as dowry. This could include designer clothing, luxury automobiles, electrical devices, and other expensive goods. Furthermore, Demands for expensive weddings with

elaborate decorations, lavish settings, and extravagant ceremonies have become a popular type of dowry. The urge to host lavish weddings frequently results in excessive spending and financial difficulty for the bride's family.

The custom of a dowry which has its roots in many different cultures has been the focus of much discussion and research. In the past, dowry was given to daughters as a sign of parental support to help them adjust to married life. It has, nevertheless, developed into a complex social issue.

In numerous cultures, the custom of dowry is deeply rooted in social norms and principles. It is frequently seen as a sign of social standing and family pride, with the family's wealth being indicated by the size of the dowry. In certain societies, exchanging items and gifts during marriage rituals is seen as normal. However, because the bride's family usually bears the responsibility of giving the dowry, this perspective reinforces gender norms and increase inequality.

3.2 JUDICIAL DECISIONS

In *Binda v. Kaunsilia*⁵⁸, the nature of Hindu marriage was discussed and it was observed that Hindu marriage leads to union of the bride and the groom.

In *Venkatacharyulu v. Rangacharyulu*⁵⁹ it was held Hindu marriage is unquestionably a religious ritual. According to all sources, it is a sacrament or *samsakara*.

In *Salema v. Laxman*⁶⁰ it was held that all schools of Hindu law hold that a gift or bequest received by a female from her parents, relatives, and other family members prior to marriage, or when she is a widow becomes her *streedhana*.

In *Pratibha Rani v. Suraj Kumar*⁶¹ it was held that the wife has full rights to the gift she got at the moment of marriage, as well as the jewellery and clothing that she received as part of the dowry.

⁵⁸ *Binda v. Kaunsilia* (1890) 13 ILR All 126.

⁵⁹ *Venkatacharyulu v. Rangacharyulu* (1890) 14 ILR Mad. 316.

⁶⁰ *Salema v. Laxman* 8 MLAJ 14.

⁶¹ *Pratibha Rani v. Suraj Kr. & Anr* AIR 1985 SC 628

In *Rashmi Kumar v. Mahesh Kumar Bhada*⁶² it was observed that the properties that a woman receives as a gift prior to, during, or after marriage are known as her streedhana properties. She has complete ownership of it and the freedom to dispose of it whenever she pleases. Husband has no rights to his wife's streedhana property. He may use it in times of need, but he also owes it to his wife morally to return it to her in the same condition. Consequently, the husband does not acquire title or independent power over the streedhana property as owner, nor does it become a joint property of the husband and wife.

⁶² *Rashmi Kumar v. Mahesh Kumar Bhada* (1997)2 SCC 397.

3.3 ENACTMENT OF DOWRY PROHIBITION ACT, 1961

In the year 1939, the provincial government of *Sindh* passed the *Sindh Deti-Leti Act, 1939* to do away the social evil of dowry. After Independence, laws prohibiting dowry were passed by a number of states in an effort to combat the societal evil and the issues it caused. These laws sought to ban the giving and receiving of dowry and to establish safeguards against offences connected to dowry. The *Bihar Dowry Restraint Act, 1950* was enacted in Bihar. Similar legislation was enacted in Andhra Pradesh by the name *Andhra Pradesh Dowry Prohibition Act, 1958*.

The Dowry Prohibition Bill was introduced in the *Lok Sabha* in April 1959. It got finally passed in 1961 and the **Dowry Prohibition Act, 1961** came into effect from 1st July 1961.

The sociological school of jurisprudence says that law originates from the society. The sociological school of jurisprudence sees law as a by-product of social dynamics and forces, emphasizing the relationship of society and the law. It holds that a society's cultural, economic, political, and social background are intricately connected with law, and that law does not exist in a vacuum. It regards law as a social phenomenon rather than a collection of abstract ideas or norms. It states that legal norms and institutions arise from the requirements, values, and problems of a society.

Dowry was a very common system which was existing in the society hence it was not easy to eradicate it so easily. So, the Dowry Prohibition Act was enacted to do away with this evil. However, the original form of Dowry Prohibition Act of 1961 proved to be ineffective, insufficient in curbing the social evil of dowry. This prompted a number of additional legislative actions in the ongoing fight against this evil.⁶³

In Indian culture, dowry has a long tradition. In traditional households, the groom's family frequently demands or expects dowry as a condition of marriage, viewing it as a right or payment for bearing the financial burden of welcoming a new member. The practice of dowry has persisted despite

⁶³ *Supra* note 1 at p. 155.

attempts by the government to put an end to it. This is due to a number of factors, including societal expectations and gender dynamics. Certain families view the exchange of dowries as a means of guaranteeing the bride's financial stability. Valuable assets like jewels, land, or other properties may occasionally be included in the dowry, providing the bride with a safety net in her new home.

In some societies, the social standing and prestige of the families involved may be closely associated with the quantity and extravagance of the dowry. They think that a large dowry can improve the standing and reputation of the families of the bride and groom in the community. In societies where arranged marriages are common, the amount of the dowry often becomes a factor in discussions among the participating families. It is important to highlight that while dowry continues in some cultures, it is increasingly being challenged and criticized because it perpetuates gender inequality and financial exploitation.

The Dowry Prohibition Act of 1961, being a significant legislation, attempted to do away with the practice of dowry. It made requesting dowry a crime and prohibited the direct or indirect giving or receiving of dowry. However, dowry-related crimes such as harassment, violence, and even death persisted in spite of these legislative measures. That is why additional provisions related to dowry were added in other statutes as well.

3.4 SECTION 498A IPC

The Indian Penal Code (IPC) addresses the crime of cruelty committed by a husband or his family members against a married woman in Section 498A. It was put in place to protect married women from harassment related to dowry. It was inserted by the **Criminal Law (Second Amendment) Act, 1983** and a new chapter was inserted in the IPC i.e. chapter XXA which contains section 498A. It came into effect on 25 December, 1983.

Section 498-A created a new offence of cruelty. It provides that if the spouse or relative of the husband of a woman, submits such woman to cruelty shall be punished with imprisonment of up to three years and a fine. The explanation attached to this section clarifies the word “*cruelty*” and provides that cruelty is any wilful behaviour that is likely to push a woman to kill herself or put her life or health, whether mental or physical, in danger. Further, it also includes harassing a woman when the goal is to force her or anyone connected to her to agree with an unlawful demand of valuable security, or property, or when the harassment is caused by the woman's failure to comply with the demand.⁶⁴

Section 498A, IPC aims to protect married women from abuse and harassment. It particularly deals with situations in which woman’s spouse or his family physically or mentally abuses a wife in to obtain a dowry or for any other marriage-related reason. This section establishes severe penalties for those found guilty of cruelty and treats it as a crime. Additionally, it is intended to promote the rights and welfare of married women in India by serving as a deterrent against such behaviour.

In *Pushpa Somani v. State of Madhya Pradesh*⁶⁵, it was held that for constituting an offence under sec.498A IPC, it needs to be proved that the act or wilful conduct of the accused was of a nature which was likely to compel the woman to end her life.

⁶⁴ The Indian Penal Code (Act 45 of 1860), s. 498A

⁶⁵ Pushpa Somani v. State of Madhya Pradesh (1994) 2 Crimes 200 (MP)

In *Krishan Lal v. Union of India*⁶⁶, it was held that Article 14 guarantees equal treatment for all individuals in similar situations. Every form of individual prejudice is detrimental to equality. Consequently, a married woman's husband and his family members constitute a class in themselves. It is fair categorization, particularly in situations where the married woman is mistreated inside her husband's home and there exist little likelihood of evidence. Thus, it was held that section 498A IPC cannot be said to be violative of Article 14.

In *Bhaskar Lal Sharma v. Monica*⁶⁷, the case discussed the constituents of section 498A IPC. Thus, the ingredients are- Firstly, to invoke section 498A, it needs to be proved that the woman was married. Secondly, that she was subjected to cruelty. Thirdly, cruelty must be such nature that would compel a woman to end her life or put her life, or health, mental or physical, in danger. To be specific, the nature of cruelty must be of the nature as given in explanations (a) and (b) of the section.

In *Ramesh Kumar v. State of Punjab*⁶⁸, the in-laws of the bride constantly demanded fridge, scooter and TV. The woman committed suicide. It was held that the conduct of the husband and his family amounted to cruelty and such a conduct was sufficient to raise a presumption under sec. 113A of Indian Evidence Act.

Constitutionality of 498A: In *Inder Raj Malik v. Sunita Raj Malik*⁶⁹ this section was held to be constitutional. Further, it was held that 498A IPC does not invoke double jeopardy with Section 4 of the Dowry Prohibition Act of 1961. Hence, an accused can be penalized under both sections 4 of the Dowry Prohibition Act and 498A of the IPC.

*The Bharatiya Nyaya Sanhita, 2023*⁷⁰ retains the provisions of 498A IPC and provides it under section 85, BNS. The explanation to Section 498A

⁶⁶ *Krishan Lal v. Union of India* 1994 Cr LJ (P&H) (FB).

⁶⁷ *Bhaskar Lal Sharma v. Monica*, II (2009) DMC (SC).

⁶⁸ *Ramesh Kumar v. State of Punjab*, 1986 Cr LJ 2087 (P&H).

⁶⁹ *Inder Raj Malik v. Sunita Malik*, 1986 (2) Crimes 435.

⁷⁰ *The Bharatiya Nyaya Sanhita, 2023* (Act. No. 45 of 2023)

IPC, has been added as a new section i.e. Section 86, BNS which provides for the definition of cruelty.

3.5 SECTION 304-B, IPC

The Indian Penal Code (IPC) addresses the offense of dowry death in Section 304-B. It was added in 1986. Even though it is prohibited the law, dowry have long been a deeply rooted practice in Indian society. The gift of parental wealth, property, or assets to the bridegroom and his family at marriage is known as dowry Even though dowry is prohibited by law in India, notably the Dowry Prohibition Act of 1961, the practice is nonetheless prevalent and it often has adverse effects on women.

Because of alarming rise in dowry-related deaths, Section 304-B IPC was introduced in 1986 to penalize the perpetrators with severe penalties. It describes what constitutes dowry death as a crime and imposes penalties on those found guilty.

Cases of dowry death are explicitly covered under IPC Section 304-B. The law states that a woman's death is considered a dowry death if it happens within the first seven years of wedding and it can be proven that her husband or his family members mistreated or harassed her in connection to the dowry demand.

However, this section has a few shortcomings. Providing such a minimum compulsory punishment (of seven years) reduces its deterrent effect.

In *Bhoora Singh v. State*⁷¹ it was held that the charge u/sections 302 & 304 may exist together.

In *Vinod Kumar v. State of UP*.⁷², the Hon'ble Allahabad High Court observed that death of a wife by husband are "*rarerst of rare*" cases. The severe sentence of death is apparently normal to have a deterrent effect on society.

In *Virbhan Singh v. State of UP*⁷³, it was held that such heinous crimes must be strictly punished, and criminals must face deterrent punishment.

⁷¹ Bhoora singh v. State 1993 Cr LJ 2636 (All).

⁷² Vinod Kumar v. State of U.P. 1986 All Lj 1438 (All. HC).

⁷³ Virbhan singh v. State of UP AIR 1983 SC 1002.

In ***Kamesh Panjiyar v. State of Bihar***⁷⁴, it was observed that-

It's said that "marriages are made in heaven." A bride hopes to find a new world full of love in her groom's home when she departs from her parents' house for her husband's residence, leaving behind happy memories there. She leaves with her gotra and maidenhood in addition to her last name. She hopes to be a daughter in law as well as a real daughter. Unfortunately, the worrying increase in reports of newlywed ladies being harassed for dowry shatter hopes."

In ***Bachni Devi v. State of Haryana***⁷⁵, it was held that Dowry demand is defined as any demand for something related to marriage. The cause or justification for such a demand is irrelevant.

In ***Devinder Singh v. State of Punjab***⁷⁶ It was claimed that the deceased killed herself as a result of being harassed by in-laws for not paying the requested dowry. The deceased's father's testimony demonstrated that the panchayat was held in relation to accused's demand. Witness, who was questioned by the accused, corroborated this statement. Additionally, around a month before the occurrence, the deceased was once more sent outside the house to bring the items that were asked for. It was held that the fact that the deceased, at the time of her death, had a 15-month-old boy and another kid in her womb proved that they had ruined her life. Consequently, it concluded that the accused's conviction was valid.

In ***Shanti v. State of Haryana***,⁷⁷ Charges under IPC sections 498A and 304B were made. The accused was found guilty on both charges by the lower court. The conviction under section 498A IPC was overturned by the High Court upon appeal. It was observed by the High court that sections 498A and 304B are mutually exclusive, and that section 304B only applies when the victim dies because of cruelty. Thus, the accused was found guilty only under section 304B. However, Hon'ble Apex Court

⁷⁴ Kamesh Panjiyar v. State of Bihar 2005 Cri. L.J. 1418 (S.C.).

⁷⁵ Bachni Devi v. State of Haryana 2011 Cri. L.J. 1634 (S.C.)

⁷⁶ Devinder Singh v. State of Punjab 2005 Cri. L.J. 4160 (S.C.)

⁷⁷ Shanti v. State of Haryana AIR 1991 SC 1225.

held that these two sections are not mutually exclusive, and because they deal with different offences, charges should be filed under both sections.

3.6 SECTION 113A, INDIAN EVIDENCE ACT, 1872

Section 113A was inserted in the Evidence Act under the Criminal Law (Second Amendment) Act, 1983 in order to curb the social evil of dowry in a more effective manner. Section 113A, creates a legal presumption against aiding and abetting a married woman's suicide. It says that if a woman kills herself within seven years of getting married and it can be proven that her husband or any of his relatives mistreated her, it may be presumed by the Court that the husband or relative abetted the suicide. This section is important because it gives the court the discretion to presume that a married woman killed herself under suspicious circumstances if proof of abuse exists. It's important to remember that this presumption is rebuttable, which means the accused has the opportunity to present evidence to refute it and demonstrate their innocence. By offering legal remedy and providing that those who commit acts of cruelty against married women, (such as harassment connected to dowry) Section 113A seeks to address the problem and hold those responsible accountable. It aims to defend the rights and welfare of married women in India while acting as a deterrence to similar crimes.

Section 113A of Indian Evidence Act of 1872 is relevant in situations involving the tragic event of a married woman's suicide. It establishes a legal presumption against assisting a married woman in committing suicide, particularly during the early years of her wedding, when she may be more vulnerable to family stress and marital depression. The rule states that if a woman dies within seven years of wedding and there is evidence that her spouse or any of his relatives caused her cruelty, the court can decide that the death was encouraged by them.

This legal assumption acts as a method to address the incidence of dowry-related harassment, domestic abuse, and other forms of cruelty targeted at married women. Section 113A seeks to serve justice by holding those who commit acts of cruelty against married women accountable, thereby discouraging such behaviour and ensuring that women's rights are

protected within marital associations. It serves as a legal shield against the vulnerability of married women who might face exploitation, abuse, or harassment in their matrimonial homes.

Furthermore, Section 113A symbolizes a social recognition of the prevalence of domestic violence and dowry-related abuses in India, with aim of providing victims and their families with recourse and restitution. It emphasizes the significance of preserving equality, respect and dignity in marriages and family relations.

In *State of Himachal Pradesh v. Nikku*⁷⁸, it was held that this section indicates that the court may presume, after considering all relevant facts, that the woman's husband or any of his relatives encouraged her suicide if she had been a victim of cruelty as defined by section 498-A IPC.

In *Hari Singh v. State of Punjab*⁷⁹ a wife ended her life within seven years of marrying. She was demanded money for construction of house. She could not fulfil the demand and was subjected to harassment. Here, the harassment was of such nature that was likely to compel the deceased to end her life. Thus, it was a case of sec. 113A.

In *Om Prakash v. state of Haryana*⁸⁰, where the deceased died seven years after marriage, presumption under sec. 113-A and 113-B was not drawn and liability on accused under these sections was not fastened.

In *Arvind Kumar v. State of M.P.*⁸¹ the accused mistreated and harassed his wife continuously for bringing an inadequate dowry and continuously demanded a number of items. The woman showered herself with kerosene, ending her own life. Despite being in the house, the accused did nothing to save her. He was held liable under section 306IPC and under section 4 of the Dowry Prohibition Act.

⁷⁸ State of Himachal Pradesh v. Nikku AIR 1996 SC 67.

⁷⁹ Hari Singh v. State of Punjab 2002 (2) CC Cases (P&H) 424.

⁸⁰ Om Prakash v. State of Haryana 2002 (3) CC Cases 221 (P&H).

⁸¹ Arvind Kumar v. State of M.P. AIR 2007 SC 2674.

3.7 SECTION 113B, INDIAN EVIDENCE ACT, 1872

Section 113B of Indian Evidence Act, 1872, is an important legislative measure intended at combating the grave crime of dowry death. Section 113B was enacted to create a legal framework for prosecuting perpetrators of dowry-related offenses. It embodies the concepts of justice, deterrence, and accountability. Dowry death, a tragic result of the dowry system that exists in many regions of India, are the intentional killing of a woman by her spouse or in-laws owing to their dissatisfaction with dowry. Dowry deaths persist despite legal restrictions and societal awareness, revealing deeply ingrained patriarchal beliefs, economic disparities, and social pressures in Indian society.

Section 113B of the Act aims to address this grave injustice by establishing a legal framework for holding perpetrators accountable for what they do. The Criminal Law (Second Amendment) Act, 1983 introduced Section 113B in the Indian Evidence Act, which establishes a presumption of dowry death in situations where a woman passes away within seven years of marriage and it is shown that she was the victim of abuse or harassment for dowry from her husband or in-laws. In the event that the accused fails to rebut the presumption, they may be convicted in accordance with Section 304B of the Indian Penal Code, which deals with dowry death.

Section 113B's presumption of dowry death marks a substantial shift from conventional evidentiary standards, which place the whole burden of proof on the prosecution. Section 113B attempts to address the evidential difficulties that victims' families encounter when attempting to prosecute dowry-related offenses by placing the burden of proof on the accused to disprove the existence of harassment or cruelty related to a dowry. This legal presumption acts as a deterrent and increases accountability. This section talks about "presumption of dowry death". In cases where a woman's death from dowry is under investigation and it is demonstrated that the woman had experienced abuse or harassment from the person in question shortly or soon before she died, either related to dowry or otherwise, the court will assume that such person was responsible for the dowry death.

When a woman dies within seven years of marriage and it is proven that her dowry-related mistreatment or harassment was the cause of her death, Section 113B comes into play. According to this section, a woman is considered to have died from "dowry death" if she died within seven years of her marriage from burns, physical harm, or from an unusual cause, and if it can be demonstrated that she had been the victim of abuse or harassment shortly before her death from her husband or his family members in relation to the dowry demand. This section covers a wide range of circumstances, such as instances of physical or psychological abuse, and financial exploitation of women for dowry purposes.

*In Baldev Singh v. State of Punjab*⁸² it was observed that the term “*soon before her death*” shows that there was not much time gap between the causing of harassment and the death. It was further ruled that the act of cruelty and the death must be connected in a direct and active manner.

In *Amar Singh v. State of Rajasthan*⁸³, it was held once it is proved that before the death of the deceased there was harassment and cruelty on her and such a cruelty was related to dowry demand, then the court will presume that the deceased ended her life by suicide.

In the instance of dowry death, the accused bears a greater burden (onus) than that in case of the presumption of abetment of suicide by a married woman.⁸⁴ The presumption of dowry death under this section is rebuttable.⁸⁵

In *Kailash v. state of M.P.*⁸⁶ where there was proof of harassing and demanding dowry along with cruelty and torture and the deceased wife died within seven from her marriage, the accused were held guilty of dowry death. It was clarified that “*soon before*” by no means implies “*immediately before*”.

⁸² Baldev Singh v. State of Punjab AIR 2009 SC 913.

⁸³ Amar Singh v. State of Rajasthan AIR 2010 SC 3391

⁸⁴ Anand Kumar v. State of M.P. AIR 2009 SC 2155.

⁸⁵ Jagjit Singh v. State of Punjab AIR 2018 SC 5719.

⁸⁶ Kailash Singh v. State of M.P. AIR 2007 SC 107.

3.8 S. 174(3), Cr.P.C., 1973

Further, Sections 174 and 176 of the Criminal Procedure Code cover the investigations and inquiries into the reasons of unnatural deaths.

Finding out whether someone died strangely or under unusual circumstances, and if that's the case what the reason of death was, is the primary goal of proceedings u/s 174.⁸⁷

The process for conducting an investigation into any reported suicide case is covered in Section 174. It was amended by amending s.174(3) under the Criminal Law (Second Amendment) Act of 1983. This amendment was passed in response to the rising number of dowry-deaths and instances of abuse against married women. The Executive Magistrates have the authority to hold inquests in all cases involving women who have committed suicide within seven years of becoming married.⁸⁸

In *K.P. Rao v. Public Prosecutor*⁸⁹, it was held that s.174(3) grants the police officer the authority to decide not to send the body for a post-mortem examination by the medical officer, only in only one situation, namely in situations where the cause of death is clear. Nonetheless, this discretion must be used wisely and fairly.

⁸⁷ K.N. Chandrashekharan Pillai, R.V. Kelkar's Criminal Procedure 199 (6th ed. 2014).

⁸⁸ The Code of Criminal Procedure, 1973, s. 174(4).

⁸⁹ *K.P. Rao v. Public Prosecutor* (1975) 2 SCC 131.

CHAPTER-4

THE DOWRY PROHIBITION ACT:AN ANALYSIS

4.1 HISTORICAL BACKGROUND OF THE DOWRY PROHIBITION ACT, 1961

It is essential to understand the historical setting in which the Dowry Prohibition Act originated to understand its relevance. Even while dowry was not a new custom, their prevalence in India by the middle of the 20th century was concerning. Originally a voluntary present given to the groom by the bride's family as a sign of goodwill, the dowry had evolved into a demand made under coercion by the groom's family, which frequently resulted in abuse, and even violence against the bride.

The problem of dowry started taking giant form. After the Independence of our country, the issue of dowry was time and again raised in the Parliament. However, until the Hindu Succession Act was passed in 1956, and under sec. 14 women was given absolute ownership over property, the issue remained pending. The problem still continued. Private member bills were introduced by members in state assemblies as well as in the Lok Sabha on this issue.

As the practice of dowry had been ingrained in cultural norms and behaviours for ages, contributing to the social fabric of several societies. Its effects on gender equality, women's rights, and society dynamics, however, raised serious concerns. India responded to these problems by passing the Dowry Prohibition Act, 1961, a landmark piece of legislation designed to empower women and end the practice of dowry. A societal evil that is prevalent throughout many countries, especially in South Asia, dowry has caused great pain for numerous women and their families. The Indian government took immediate action to solve this matter and passed the Dowry Prohibition Act in 1961. This landmark law sought to end the dowry system, which had been widely exploitative and discriminatory for women.

The Dowry Prohibition Bill was tabled in Parliament in 1959 and subsequently enacted as the Dowry Prohibition Act, 1961. This legislation sought to reduce the practice of dowry by prohibiting its giving and taking, as well as creating punishments for those who violate it. The Dowry Prohibition Bill was introduced in 1959 as a response to the pressing need to remove the injustices that the dowry system continued to create. The Dowry Prohibition Act was eventually passed as law in 1961 after considerable deliberation and revision. The goal of this legislative action was to outlaw dowry giving and receiving during marriage.

The Dowry Prohibition Act of 1961 was a key milestone in India's legal history, showing continued attempts to prevent gender-based violence, foster gender equality, and protect women's rights and dignity in society. This statute was enacted to address growing concerns about the practice of dowry and its negative consequences on women and families. It originated as a way to reduce the giving and taking of dowry, which frequently culminated in exploitation, harassment, and violence against women. The Dowry Prohibition Bill was thoroughly scrutinised and debated in both Houses of Parliament. Members of Parliament debated the bill's numerous sections, objectives, and the potential influence on society. During the joint sitting of both houses in 1961, Pt. Nehru opined that deeply ingrained issues are typically not resolved by legislation on its own. They must be approached in other manners also. Yet law is required and is crucial in order to provide the push, educational components, and legal sanctions to facilitate the shaping of public opinion.⁹⁰

The complex connection between custom, legislation, and social transformation is seen in the historical development of India's Dowry Prohibition Law. The persistence of dowry practice highlights the necessity for a holistic strategy involving social changes, education, and effective enforcement of existing laws, although legislative measures have been crucial in increasing awareness and offering legal redress against dowry-related offenses. The government and civil society can come together to address the underlying causes of dowry and build a society in

⁹⁰ Paras Diwan, *Modern Hindu Law*, 79 (24th ed., 2019).

which every person is treated with respect and dignity, regardless of gender or social standing.

4.2 ‘DOWRY’ UNDER THE DOWRY PROHIBITION ACT, 1961

One of the most important pieces of legislation that tried to stop the widespread social evil of dowry in India was the Dowry Prohibition Act of 1961. The definition of dowry in the Act is vital and is the basis for identifying and prosecuting violations associated with this detrimental practice.

Section 2 of the Act defines as to what is dowry. Any property or valuable security provided or promised to be offered, whether directly or indirectly to the other spouse by one of the married parties; or to either party in the marriage or to any other person, by the parents of either party in the marriage, or by anybody else, at any point during, prior to, or following the wedding, in connection with the wedding is dowry.

This, thus, includes any items, property, or precious assets that are directly or indirectly given in relation to a marriage prior to, during, or after wedding by either partner or their families. But it clearly does not include *mahr* or dower where the Muslim Personal Law (*Shariat*) is applicable.⁹¹ By 1984 amendment, the phrase "*in connection with the marriage of the said parties*"⁹² replaced the term "*as consideration for the marriage*" that widened the definition of dowry.

It was frequently seen that dowry demands continued long after marriage. Therefore, in 1986, the definition of dowry was amended to include the words "*or any time after the marriage*"⁹³ in order to penalize dowry demands made after marriage.

In *Rajinder Singh v. State of Punjab*,⁹⁴ the Court emphasized that a reasonable, practical, and common sense approach to interpreting the Act

⁹¹ The Dowry Prohibition Act 1961 (Act 28 of 1961), s.2

⁹² Substituted in section 2 of Dowry Prohibition Act,1961 by Act 63 of 1984 (w.e.f 02-10-1985).

⁹³ Substituted in section 2 of Dowry Prohibition Act,1961 by Act 43 of 1986 (w.e.f 19-11-1986).

⁹⁴ *Rajinder Singh v. State of Punjab* AIR 2015 SC 1359.

is required. Unless the facts of a particular case clearly and unmistakably indicate otherwise, any money, property, or valuable security demanded by any person mentioned under s.2 at any point before, during, or after the marriage and reasonably associated with the demise of a married woman will undoubtedly be in connection with marriage.

It's not always required to come to an agreement. A constant demand for a scooter or a television would be considered a dowry because these are demands connected to marriage.⁹⁵

However, the definition of dowry under the Dowry Prohibition Act has various shortcomings that restrict its usefulness in addressing the root causes of violence and exploitation related to dowry, even though it appears to be comprehensive. Several significant gaps exist, such as:

1. **Exclusion of Customary Gifts:** The Act does not clearly distinguish between customary gifts that are given and received between families as part of customary marriage ceremonies and dowry payments. This ambiguity allows people to take advantage of cultural customs in order to avoid being prosecuted under the Act.
2. It can be difficult to differentiate between presents that are freely given out of love and dowry that are required as a condition of marriage because the Act is unclear about the intentions underlying the exchange of gifts. This uncertainty frequently makes the legal process more difficult and reduces the Act's ability to effectively prosecute acts involving dowry payments.
3. The Act penalizes giving and receiving dowry, but it ignores other types of harassment related to dowries, like emotional abuse, coercion in marriage, and deaths related to dowries. The Act's limited scope makes it more challenging to address the complex issues of violence and exploitation associated with dowry. The definitional shortcomings have a significant impact on both the protection of women's rights and the execution of anti-dowry legislation. First of all, the lack of clarity in the definition of dowry leaves room for offenders to find ways around the law, which in turn keeps dowry-related crimes out of

⁹⁵ Pawan Kumar v. State of Haryana AIR 1998 SC 958

punishment. Second, the ambiguity surrounding the purpose of the gift-giving blurs the distinction between customary practices and forceful demands, leaving victims of dowry harassment with unfair outcomes. Several steps can be implemented to fill in the gaps in the Dowry Prohibition Act's definition of dowry and increase its efficacy in preventing violence and exploitation related to dowry:

Firstly, an attempt should be made to make clear the difference between dowries and customary presents given and received during marriage ceremonies. Clear distinctions between customary gifts and dowry will aid judicial processes. It would allow courts to accurately determine whether a specific transaction comes under the legal definition of dowry, ensuring fair decisions and reducing the likelihood of ambiguity or misuse.

Further, Enhancing law enforcement agencies' capacity to successfully investigate and prosecute violations relating to dowry is vital. This entails giving police officers specialized training, setting up units specifically focused on prohibiting dowries, and imposing severe penalties for anyone who violate the Act.

Moreover, public awareness should be started in order to enable women to speak up for their rights and inform communities about the negative impacts of dowry. These initiatives can contribute to the challenge of deeply ingrained gender stereotypes and the advancement of gender equality in society by cultivating an attitude that views dowry as unacceptable.

The Dowry Prohibition Act of 1961's definition of dowry is an essential tool in the fight against the social evil of dowry. But the definition's shortcomings make it less successful in addressing the underlying issues that lead to dowry-related violence and exploitation. These gaps can be closed by defining the term clearly, comprehensively and supporting enforcement measures, and increasing public awareness to create a more just and equal society where women are able to live without the burden of dowry.

4.3 FEATURES OF THE ACT

The Dowry Prohibition Act of 1961 is a set of legal provisions designed to eliminate the practice of dowry and safeguard women. The essential provisions of the Act are:

1. The Act is a collection of ten sections.
2. As per the Act, dowry is any property or valuable security which given or agreed to be given, directly or indirectly, by one party to a marriage to the other party or any other person at any point before, during, or after the marriage in connection with the marriage, according to the definition provided by the Act.
3. It is expressly forbidden by the Act to give or accept dowry. According to Section 3 of the Act, anyone being guilty of providing, receiving, or encouraging the giving or receiving of dowry faces a minimum five-year prison sentence, fine of no less than fifteen thousand rupees, or the total value of the dowry, whichever is higher. Thus, Dowry giving and taking are prohibited under Section 3 of the Act. Any person found guilty of giving or accepting dowry is liable to imprisonment and a fine.
4. The Act forbids both giving and receiving dowries and punishes anyone who demands dowry from the bride, her parents, or other family members. According to Section 4 of the Act, anyone found to have demanded a dowry, directly or indirectly, from the parents or other relatives of a bride or bridegroom in exchange for the bride's marriage faces a minimum sentence of six months, maximum sentence of two years, and a fine of ten thousand rupees.

Section 4 makes it illegal to demand dowry directly or indirectly from the bride, her parents, or other relatives. The penalty for such demanding is imprisonment and fine. These provisions intend to deter and discourage persons from engaging in dowry-related practices and to eliminate dowry harassment and protect women's dignity and liberty in marriage.

Constitutionality of Section 3&4: In *Indrawati and Ors. v. Union of India*⁹⁶, It was held that sections 3 and 4 do not violate Articles 14, 19, 21, or 22 of the Constitution.

5. The Act provides the appointment of Dowry Prohibition Officers, whose duties include monitoring adherence to the Act and preventing dowry related practices.
6. In India's legal and social landscape, the Dowry Prohibition Act, 1961, was an important turning point. It acted as a catalyst for educating people about the harmful impacts of dowries and giving women the confidence to stand up for their rights.

In *Gurditta Singh v. State of Rajasthan*⁹⁷, it was observed that the DP Act is both both punitive and restorative. That is, it provides both remedies as well as punishments.

7. The Dowry Prohibition Act has been amended several times to address developing challenges, increase enforcement procedures, to better protect women from dowry-related abuses. These revisions aimed to address loopholes, broaden the scope of the Act, and enhance penalties for violations.
8. The Dowry Prohibition Act of 1961 is an important legislative effort to fight the negative practice of dowry while also promoting gender equality and justice in marital alliances.
9. The Act forbids any offer or acceptance of dowry in any manner by way of statements, advertisements, or other forms of communication. The purpose of this provision is to discourage anyone from supporting or participating in dowry-related activities.
10. As per the Act, any agreement about providing or receiving dowry is void.
11. The Act provides that presents given without any demand or freely are not considered dowry. In *Vishnu R. v. State of Kerala*⁹⁸; it was ruled that presents provided to the bride during her marriage for her well-being are not considered as dowry.

⁹⁶ *Indrawati and ors. v. Union of India I* (1991) DMC 117.

⁹⁷ *Gurditta Singh v. State of Rajasthan* 1992 Cr LJ 309 (Raj).

⁹⁸ *Vishnu R. v. State of Kerala & Ors.* WP(C) No. 20219 of 2021.

- 12.** The Dowry Prohibition Act is thus, a notable legal attempt to combat the social evil of dowry. The Act, aims to end the dowry custom and safeguard women's rights, has a number of notable provisions that are essential to tackling this widespread social issue. The definition of dowry provided by the Act includes any property or valuable security that is presented to the other party in a marriage, either directly or indirectly. It makes it clear that presents given to the bride's and groom's families before, during, and after the marriage are included in the dowry. The Act's strict restriction on offering, receiving, or demanding dowry is one of its main features.
- 13.** The exchange of dowry associated with any marriage, whether it occurs before or after the marriage ceremony is solemnized, is expressly prohibited. The Act classifies acts relating to dowry as non-bailable highlighting the seriousness of these crimes
- 14.** Any conditions or agreement that directly or indirectly require the payment or receiving of a dowry are prohibited by the Act. It highlights the significance of voluntary consent in marriage relationships and invalidates any such conditions in marriage.
- 15.** The Act is a clear indication of the resolve to eradicate dowry and protect women by making it clear that offenses related to dowry are punishable crimes. It modifies societal attitudes and perceptions by elevating dowry from a minor social tradition to a major legal violation.

The Dowry Prohibition Act has a number of noteworthy characteristics that are crucial for combating the social evil of dowry and protecting women's rights. By means of its provisions, severe punishments, and focus on women's empowerment, the Act aims to weaken deeply ingrained gender stereotypes and establish a fairer and more just society. However, to fully realize the Act's potential and permanently eradicate dowry-related injustices, efficient implementation, enforcement, and awareness-raising initiatives are necessary.

Thus, Dowry prohibition law seeks to promote the concept of equality before the law by guaranteeing that everyone is held to the same legal

standards regardless of gender or socio-economic status. It aims to eradicate the discriminatory practices related to dowry that support gender-based disparities, by prohibiting the giving and receiving of dowry. The Act is intended to uphold people's basic human rights and dignity, especially that of women. The custom of dowry frequently results in women and their family being exploited, mistreated, and subjected to discrimination, which violates their fundamental human rights. The provisions of the Act are designed to stop these kinds of violations and give victims of offences involving dowry access to justice.

4.4 EFFECTIVENESS OF THE ACT

The practice of dowry deeply rooted in patriarchal customs, contributed to perpetuate both gender inequality and the financial exploitation of women. The Dowry Prohibition Act, inspired by the ideas of justice, equality, and human dignity, shows how society is beginning to acknowledge and tackle social injustices.

In India, the Dowry Prohibition Act of 1961 was a major legislative attempt to deal with the deeply rooted social practice of dowry. It was enacted with the admirable goal of prohibiting this negative custom and protecting women from discrimination and violence associated to dowry. But even after more than 60 years since its enactment, dowry continue to be prevalent, which calls to discuss the effectiveness of the Act.

The Act addresses the disparities that the dowry system perpetuates, so embodying the notion of social justice. It prohibits the giving, receiving, and demanding of dowry in an effort to safeguard women's rights and dignity.

The Dowry Prohibition Act reflects the social and legal conditions of the time. It recognizes the frequency of dowry-related violence and exploitation, and calls for practical legal solutions to address these injustices.

The Dowry Prohibition Act of 1961 prohibits giving or receiving dowry, impose punishments for dowry-related acts, and designate dowry prohibition officials to look after its enforcement. Later, the Act's provisions were strengthened and its scope was expanded. Despite having

a thorough foundation, the Act has had difficulty in being implemented and enforced because of a number of shortcomings, and societal perceptions.

One of the reasons why dowry remain in practice today is because of deeply ingrained societal views. The practice of dowry is still in place as a result of the growth of lavish weddings, the preference for male heirs, and the perception that girls are a financial burden. Furthermore, the correlation among dowry and social standing sustains its prevalence, rendering it a complex problem deeply entrenched in the social structure of Indian society. According to the World Bank, even though dowry has been prohibited since 1961, it nevertheless prevails. In rural India, 95% of marriages between 1960 and 2008 included dowry payments.⁹⁹

Various scholars opine that the Act ignores the socioeconomic inequalities that support dowry practices, lacks strict enforcement tools, and fails to address the underlying causes of dowry. Furthermore, its effectiveness in preventing violence and discrimination connected to dowry is compromised by its more emphasis on punishing offenders rather than empowering victims.

The Dowry Prohibition Act in 1961 was enacted in response to the growing problem of dowry-related violence and exploitation. The goals of the Act are to ban the giving and receipt of dowries and to penalize anyone found guilty of dowry-related offenses. However, in spite of the noble intentions of the Act, social attitudes supporting the dowry practice, definitional ambiguities, and the absence of severe penalties limit its effective implementation.

The effectiveness of the Act is further hampered by a lack of awareness. A lot of women don't know about the dowry law. A survey found that a

⁹⁹ Kerala has highest dowry inflation in country, says World Bank blog. Available at <https://timesofindia.indiatimes.com/city/kochi/kerala-has-highest-dowry-inflation-in-country-saysworld-bank-blog/articleshow/84077201.cms> (Last Visited on May 10, 2024).

number of women in the Kochi district of Kerala were ignorant that the dowry system had been banned in the country.¹⁰⁰

The Act initiates a cultural shift by opposing the accepted norm of dowry and raising public consciousness about this social evil. It causes the reconsideration of conventional rules and norms, fostering social solidarity and progressive development.

Misuse of the law is another big challenge. Sometimes false accusations of dowry harassment or other charges against the husbands or in-laws are made in order to pressure them into giving them money or assets. False allegations of dowry may be used as a form of retaliation or revenge against a spouse or their family members. This could happen as a result of marital disputes, infidelity, or perceived mistreatment. False dowry cases can negatively impact actual cases and undermine attempts to address and prevent discrimination and violence related to dowry.

False dowry cases undermine public trust in genuine incidents of dowry harassment or violence. When people fabricate fake allegations for personal benefit or revenge, it undermines the trustworthiness of all dowry-related complaints, leading to mistrust and disbelief. Because of false allegations, victims of actual dowry-related violence also experience increased stigma and suspicion. When someone reports dowry harassment or violence, society may view them all as opportunistic or dishonest, which makes it harder for actual victims to get support, seek justice, and seek assistance without fear of condemnation or retaliation.

False dowry cases divert resources, attention, and assistance away from real cases of dowry-related violence and discrimination. Law enforcement authorities, legal aid organizations, and support services get overloaded by the amount of cases, making it challenging to prioritize and address them efficiently. Therefore, false complaints related to dowry needs to be addressed through amendment in the Act.

Despite legislative efforts, effective implementation of the Dowry Prohibition Act remains an issue. Inadequate implementation, a lack of

¹⁰⁰ *Supra* note 13.

awareness, and societal practices all present barriers to justice delivery, demanding substantial legal reforms and public awareness efforts.

The Dowry Prohibition Act, 1961 also embodies a wider jurisprudential concepts of justice, equality, and human rights. As a symbol of societal advancement and legal reform, it highlights the intricate relationship between law, culture, and social transformation. The Act is a major start in the right direction, but its real power will come from each individual's shared commitment to upholding its ideals and realizing its novel potential to create a society that is more just and equitable.

The fact that dowry is still customarily paid in many regions, in spite of the legal provisions in existence, shows the deeply ingrained cultural norms and societal attitudes that support this gender inequality of dowry. The definition of dowry-related offenses should be expanded by the Act to include financial exploitation, psychological coercion, and emotional abuse, among other types of offences. This would guarantee that the law sufficiently addresses every facet of dowry harassment. To establish responsibility and discourage offences relating to dowry, the Act must be enforced more strictly. This can include stricter monitoring, harsher punishments for violators, and more efficient channels for reporting issues and getting complaints resolved.

It is necessary to update the Act to take into account the evolving sociocultural dynamics and emerging forms of dowry. This can entail adding sections that deal with new examples of violence, exploitation, and coercion related to dowry demands.

Regular monitoring and assessment of the Act's implementation is required to assess its impact, identify gaps and issues, and promote policy improvements. This would ensure that the Act adapts to the changing needs and reality of those affected by dowry-related offences.

CHAPTER-5 CONCLUSIONS AND SUGGESTIONS

5.1 IDENTIFICATION OF GAPS IN THE DOWRY PROHIBITION ACT

The Dowry Prohibition Act seeks to address the social evil of dowry by prohibiting its giving and receiving. It was passed with the noble goal of eliminating the societal evil of dowry. However, throughout the years, many gaps and shortcomings have been identified in its legislative framework and implementation. They are:

- 1.** The Dowry Prohibition Act's definition of dowry is unclear, which is one of its main weaknesses. Although the Act gives a broad definition of dowry, it is unclear what exactly constitutes as dowry and what does not. This vagueness makes it easier for people to misunderstand the Act and take advantage of legal loopholes, which makes it less effective at stopping offences related to dowry.
- 2.** The main goal of the Act is to prohibit the giving and receiving of dowry; however, it does not specifically address other related problems like harassment and deaths resulting from dowry.
- 3.** Although the Act specifies punishments for violating its provisions, these sometimes don't serve as a significant deterrent for violators. Under the Dowry Prohibition Act, deterrent punishments are essential for both effectively discouraging people from committing offences related to dowries and for sending a clear message that these practices will not be accepted in society. As a preventive measure, deterrent punishment discourages people from asking for or taking dowry. Potential offenders may be deterred from participating in dowry-related behaviours by the fear of facing severe punishments. Deterrent punishment works to safeguard victims of harassment and abuse related to dowry by discouraging offenders from committing similar crimes. People

who might otherwise abuse or exploit their spouses for dowry are deterred by the possibility of facing harsh consequences. By enforcing deterrent punishment, we can uphold the rule of law and guarantee that victims of offenses involving dowry receive justice. Deterrent punishment has the potential to promote societal change and increase awareness about the consequences of violations related to dowry.

4. Section 3 of the Act punishes both giving and receiving dowry and prescribes the same punishment for both actions. This unfairly places the burden of accountability on the victim also, who is usually the bride and her family. This ignores the power dynamics and compulsion that are frequently present in dowry transactions, where the bride's family may feel under pressure to provide a dowry in order to secure the marriage. Placing both parties on same footing in a lack of justice for victims.
5. Furthermore, the Act specifies a less severe punishment for asking dowry than taking or giving it. Demanding dowry should be punished more severely than providing or accepting it in order to address the root cause of the issue and to discourage dowry-related offences in the future. Stricter punishment for dowry demands will serve as a powerful deterrent to this exploitative behaviour. If potential offenders are aware that they could face harsh penalties, they would think twice about their dowry demands.

Legislative gaps in the Dowry Prohibition Act are also caused by deeply rooted socio-cultural attitudes and practices that support the dowry system. Dowry demands exist due to traditional gender norms, economic imbalances, and social influences, making them difficult to resolve alone through legislative methods. Effectively tackling dowry practice requires identifying and addressing shortcomings in the Dowry Prohibition Act. To achieve this, legislative improvements are necessary, including defining terms clearly, broadening the Act's application, strengthening enforcement procedures, addressing sociocultural issues, and

raising public awareness and education. India may go closer to achieving its goal of a society free from the negative impacts of dowry practices by addressing these gaps and adopting significant improvements. The absence of efficient implementation of the Act is one of its main shortcomings. Even though the Act exists, the practice of dowry has continued because of inadequate implementation and enforcement.

Bridging these gaps is crucial for accurately determining the frequency and impacts of the dowry system, as well as preventing this social evil.

5.2 CONCLUSION

For many years, the practice of a dowry which is ingrained in Indian society, has generated much discussion and worry. The dowry system, which started out as a cultural custom meant to give newlyweds financial stability, has developed into a vicious cycle of coercion and exploitation that perpetuates discrimination against women and gender-based violence. The practice of dowry dates back to the pre-modern Indian society, when it was used to welcome newlyweds into the marriage by giving them presents and money.

A dowry was considered a sign of social standing and family wealth, indicating the ability of the bride's family to support her in the future. But as time went on, the dowry system saw substantial changes brought about by factors like economic changes, and societal norms.

There were significant changes in the dynamics and nature of dowry. A system of forced dowry-demand developed from what was formerly a voluntary and symbolic gesture. The groom's family frequently started demanding enormous sums of money, jewels, and other personal possessions as a condition of marriage. Due to this change in viewpoint, the dowry was no longer seen as a cultural custom but rather as an instrument of control and exploitation that upheld patriarchal standards in society and gender inequality.

Dowry-related harassment, which included physical, emotional, and financial abuse, persisted in many parts of India. Women who were unable to meet dowry demands faced violence, harassment, and even death at the hands of their husbands and in-laws. Dowry promoted gender imbalance by supporting patriarchal norms that devalued women and favoured male heirs. The preference for sons, as well as the dowry burden placed on females, contributed to skewed gender ratios, sex-selective abortions, and other forms of gender discrimination. Thus, this one social evil gave birth to many other social evils. The commercialization of marriage and the expectation of costly dowry started to impose enormous burdens on families, particularly those from lower socioeconomic status. Dowry-related expenditures increased family debt, poverty, and economic instability, worsening pre-existing social disparities.

In 1961, we passed the Dowry Prohibition Act in response to growing issue of violence and exploitation associated with dowry.

The Act's goals are to prohibit dowry giving and receiving and to punish individuals convicted of acts involving dowry. Nevertheless, despite the Act's good objectives, its execution is hindered by social attitudes that support the dowry practice, as well as gaps in its definitions as well as lack of strict punishments.

However, in India, societal perceptions of dowry, gradually, have also changed over time in response to greater changes in economic conditions, legal changes, and cultural standards. There has been a noticeable shift in attitudes regarding dowry in recent decades, despite the fact that dowry practices were once deeply rooted in Indian society and commonly considered as normal. Growing awareness and education have led to a greater understanding of the detrimental effects of the dowry system.

The social acceptance of dowries has been challenged to some extent by NGOs, and activists working to increase awareness and assistance for victims. Increased education and awareness initiatives have been crucial in addressing conventional attitudes towards dowry, even though much more needs to be done. Public awareness efforts regarding legal consequences of dowry, its adverse impact on women and families, and the significance of gender equality have played a role in changing public opinion.

Furthermore, women are now more capable of rejecting dowry demands because of their increased education, access to the economy, and involvement in decision-making processes, which have all challenged traditional gender norms. Women are less likely to support dowry practices as they become more independent and self-sufficient. By making dowry practices unlawful and punishable acts, laws like the Dowry Prohibition Act of 1961 and its amendments have attempted to eradicate dowry practices. Even while strictly enforcing the law is still challenging, its existence has contributed as a deterrence to prevent dowry payments and a change in public opinion.

Moreover, economic factors such as urbanization, increasing income, and more women joining the workforce have changed the dynamics of marriage and decreased dependence on a dowry as a source of financial support. The demand and acceptance of dowry have to some extent become more stigmatized due to media campaigns, public discourse, and campaigning initiatives against violence related to dowry. Social pressure to support equality and justice values and reject dowry has played a role in shifting the views of society.

In relationships, younger generation especially educated urban youth are more inclined to value compatibility, love, and respect over worldly possessions and are rejecting dowry practices. This is a reflection of the evolving ideals and aspirations of modern Indian youth.

Rising levels of globalization and being exposed to a wide range of cultural traditions have shaped society's perceptions about a dowry. With India's increasing worldwide connectivity, social standards surrounding marriage practices are being influenced by more awareness of global ideals of gender equality and human rights.

People, particularly women, now have more capacity to stand up for their rights and seek justice for maltreatment associated with dowry because of initiatives to increase legal awareness and access to justice. Victims have benefited from public interest litigation, legal aid clinics, and helplines in accessing the legal process and holding offenders accountable.

Another reason for depreciation of this practice is a changed family structure which has resulted in the emergence of nuclear families and women gaining more independence within their own homes as well as liberal societal outlook towards education and career opportunities for females. A family that values knowledge and self-improving their kin above any items do not approve dowry. The decrease in the prevalent rate of arranged marriages has also helped eradicate dowry culture.

India's legislation on various dowry issues has been shaped to some degree by India's commitment to international treaties and agreements that promote gender equality such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Changing concepts

and ideas of gender which include the ideals of respect, equality and working together are also some factors that have been considered when it comes to rejecting dowry related practices. Furthermore, males who refuse to receive or pay a dowry are viewed as more progressive and modern, which goes against the patriarchal ideals that males should be entitled to certain things.

Taken together, all of these factors point to a complex and fluid process of social transformation that is slowly but surely altering society's attitudes towards dowry. While much remains to be done, progress has been achieved and further efforts will need to address the larger systemic injustices and practices in order to secure enduring gender justice.

The Dowry Prohibition Act is evidence of our determination to prevent gender based violence and protect women's rights. Even though dowry issue has been addressed to a great extent, considerable work needs to be done to completely remove this prevalent social evil. Society should work to create a future where all women have equal rights and opportunities and are free from the constraints of dowry. The Act was designed to address the widespread issue of dowry in India. It aims at removing the deeply ingrained patriarchy that supports gender based violence and discrimination by outlawing the giving and receiving of dowry and giving women legal protection. But the Act's silent aspects also highlight the difficulties in effectively putting it into practice, calling for a coordinated effort from every stakeholder to remove the dowry system and establish gender equality in society.

In many parts of India, the practice of dowry persists despite measures to curb it, frequently due to social and economic causes. The effective execution of dowry laws is impeded by societal pressure, poor investigation, and underreporting, which pose ongoing challenges to its enforcement. Law enforcement organizations have extra hurdles due to the rise of new kinds of dowry, such as demand of lavish organising of marriage, presents, houses, or monetary demands.

Despite its extensive provisions, the Dowry Prohibition Act faces many challenges and limitations in its effective implementation. One of the most significant issues is the underreporting of dowry-related crimes due to

societal stigma and fear of revenge. Many women are hesitant to seek legal remedy for dowry harassment, fearing rejection and more abuse from their marital families. Furthermore, victims of dowry-related violence face additional barriers to accessing justice due to a lack of information about their legal rights and remedies. Underreporting is a big issue. Just 507 cases, or 0.1% of all incidents of crime against women, were reported throughout the nation in 2021 under the Domestic Violence Act.¹⁰¹

Another difficulty is the persistence of societal practices that support dowry notwithstanding legal prohibitions. Deep-rooted patriarchal beliefs and gender disparities feed the need for dowry, making it impossible to completely remove the practice. For instance, a groom abruptly cancelled his wedding because the bride's family did not provide the extra dowry he had demanded. He wanted a specific motorbike and Rs.1 lakh in cash.¹⁰²

Another issue is the lack of awareness. Individuals, particularly women, in communities with low awareness of legal rights and safeguards, may be unaware that demanding or giving dowry is prohibited. This lack of awareness permits the practice to continue without any legal consequences. Due to a lack of understanding of the historical context and evolution of dowry practice, it is often misunderstood as an essential instead of a harmful social practice that discriminates against women and perpetuates gender violence.

Because of a lack of knowledge about support services for victims of dowry harassment or violence, individuals, particularly women, are hesitant to seek help or report abuse because of fear of social stigma, or punishment from their families or communities.

Implementing comprehensive education and awareness initiatives will be essential to change society's views and ways of thinking about dowry. These programs should focus on both children and adults and address

¹⁰¹ Accidental Deaths & Suicides in India Report 2021: NCRB, Available at https://www.drishtiiias.com/daily-updates/daily-news-analysis/accidental-deaths-suicides-in-indiareport-2021-ncrb/print_manually. (Last Visited on May 10, 2024).

¹⁰² UP groom calls off wedding after in-laws fail to meet last-minute dowry demands, booked. Available at <https://www.indiatoday.in/india/story/up-groom-calls-off-wedding-dowry-demands-case-filed2396385-2023-06-22>. (Last Visited on May 15,2024).

issues such as gender equality, women's rights, and the negative consequences of dowry.

Furthermore, Dowry violence has a significant negative influence on children in families as well as the individuals who are directly impacted. Children living in homes where dowry violence is prevalent may observe directly acts of verbal, physical, or emotional abuse directed against their mothers or other family members. Children who witness such violence may experience trauma and develop feelings of fear, and worry.

Additionally, it may establish the use of violence as a form of dispute resolution, and maintaining abusive habits within the family. Children who are subjected to emotional and psychological challenges at home may find it difficult to focus, study, and participate in school activities. Children from dowry violence-affected households may experience higher rates of absenteeism, low grades, and school dropout, which will limit their possibilities and prospects in the future.

Children who are exposed to dowry violence may experience changes in their attachment styles and interpersonal interactions as adults, which may have an impact on their attitudes and actions. Children who have been taught to equate love and affection with control and aggression may find it difficult to establish trust, closeness, and sensitivity in their relationships. In the absence of assistance and intervention, these attachment styles could last into adulthood and hinder their capacity to build wholesome and happy relationships.

The Dowry Prohibition Act is one important step in combating the widespread societal evil of dowry in India. The Act aims at removing the deeply ingrained patriarchy that supports gender based violence and discrimination by prohibiting giving and receiving of dowries, punishing offenses related to dowry, and providing legal protection to women.

But the Act's effectiveness depends on how strictly it is enforced as well as society's overall efforts to combat outdated attitudes and practices. Unless thinking of people change, law alone cannot help. Dowry is a poisonous social evil that violates the values of justice, equality, and

human dignity. It needs immediate attention and coordinated action because of its negative impact on people, families, and society at large.

In order to completely remove dowry, it is essential that gender equality be promoted, legal safeguards must be upheld, and a culture of respect, dignity, and empowerment for all people, regardless of gender, be fostered. We can imagine a time when dowry will disappear into pages of history and every person is granted the rights and privileges to which they are legally entitled only through collective efforts. The dowry system may come to an end if people set an example by refusing to accept or provide dowry in their own marriages or family events. By demonstrating that marriages can be built on love, mutual respect, and shared obligations rather than material transactions, they can inspire others to do the same.

We can only establish a society free from the constraints of dowry and oppression, one in which women are treated with equality, respect, and dignity by awareness-building, and institutional reforms.

5.3 SUGGESTIONS TO ERADICATE DOWRY SYSTEM & TO MAKE DOWRY PROHIBITION ACT MORE EFFECTIVE

To effectively combat dowry-related violence, a multifaceted approach must be taken that targets the root causes of the problem while also promoting female equality, empowerment, and social justice. Some major strategies are:

- a. **Legal Reforms:** Strengthening laws and legal processes to protect women from dowry harassment and abuse, including better implementation of current laws and rules.
- b. **Awareness and Education:** Raising awareness about the negative impacts of dowry and domestic violence through public education campaigns, community outreach, and programs in schools.
- c. **Support Services:** Providing victims of dowry-related violence with better access to support services such as homes, counselling, legal aid, and financial empowerment initiatives. When dowry victims find themselves in dangerous situations, they should have access to emergency shelters, counselling services as soon as possible. They should be provided a secure and encouraging setting where survivors can get emergency help, get emotional support, and create safety plans to keep themselves safe from violence. Due to violence and abuse in their families, many dowry victims end up homeless or abandoned. Housing aid and temporary shelters can offer survivors a secure place to live as they start over and make plans for the future.
- d. **Empowering Women:** Increasing gender equality and women's empowerment through economic opportunity, education, leadership development, and support for women's rights.

Thus, a combined effort of social, legal, and educational initiatives is needed to improve the efficacy of dowry prohibition law. The following measures could be adopted:

1. It is important to make sure that the current dowry prohibition laws are strictly implemented. This includes carrying out comprehensive investigations and urgently examining cases that have been reported.
2. Ensuring the strict implementation of existing dowry prohibition laws needs a comprehensive strategy involving various stakeholders. Within law enforcement organizations, specialised task forces or units can be created with the aim of looking into and punishing acts associated with dowry. For these units to effectively handle such cases, they should be properly trained and prepared. Law enforcement officials and other relevant stakeholders should be given regular training and capacity building programs on the laws related to the dowry prohibition, investigation procedures, and victim support services.
3. It is important to establish precise policies and procedures for managing instances involving dowry, including measures for victim protection, evidence gathering, and inquiry. Also, it is vital to make sure that these protocols are extensively circulated and uniformly adhered to at all levels of law enforcement.
4. In order to encourage victims to come forward and report offenses related to dowry, it is suggested that victim support services, such as legal aid, counselling, and shelters, be increased. Here, legal aid clinics can play a significant role. Steps should be taken to ensure victims' safety and wellbeing and to help them during the legal process. Here, role of legal aid assumes importance. Lawyers can also play an important role. They can represent the victims of dowry related offences, who are not financially strong, *Pro Bono* or free-of- cost. It is important to offer victims of dowry harassment support and sympathy. It can aid in ending the cycle of silence and stigma around dowry-related abuse by providing safe spaces where survivors can talk about their experiences and get legal assistance.
5. Furthermore, public awareness initiatives should be there to inform people about the legal implications of receiving or giving dowry and to motivate neighbours to report violations. To reach many people and sensitize them, use of social media, media, television ads, newspapers, social gatherings, *nukkad nataks* and awareness programmes in

schools, colleges and educational institutions should be conducted on regular intervals.

6. Gender justice laws like *Dowry Prohibition Act* and *Domestic Violence Act* should be made part of school curriculum compulsorily so that children are sensitized and made aware at an early stage of their life. NGOs and women organisations can play an important role in making people aware regarding the dowry prohibition law and sensitizing people about not giving or accepting dowry. This will a long way in helping in stronger implementation of dowry prohibition law. The incorporation of gender justice laws into school curriculum will be an essential step toward creating a more inclusive and equitable society. Education has a significant impact on how people see gender roles, stereotypes, and equality. By introducing gender justice laws into educational frameworks, we may raise students' awareness of gender inequality and inspire them to be constructive change makers. Education is more than just imparting knowledge. It is also about teaching values like empathy, respect, and unity. Schools may equip students to notice and respond to gender-based violence and prejudice in their communities by incorporating teachings on consent, respect and healthy relationships. Role-playing, group discussions, and real-life case studies can help students to obtain the skills and confidence they need to speak against injustice and support others affected by gender inequality. By instilling ideals of gender equality, respect, and empathy in children from a young age, education plays a preventive role. Education that is comprehensive and equal can help society raise future generations that will reject customs such as the dowry.
7. Existing laws and regulations against dowry should be regularly updated and examined to do away any gaps or shortcomings. And it should be ensured that the laws are strong and adaptable to emerging challenges. By applying these approaches in a systematic and holistic manner, dowry prohibition laws can be strengthened, and this can help prevent and decrease dowry-related abuse and violence. Further, people should be educated about the legal consequences of providing or taking dowry through large-scale awareness campaigns. These

programs ought to focus on not only potential victims, but also persons that may demand dowry. Because of the social stigma associated, people often fail to report incidents involving dowry because they are unaware of their legal rights and available support resources. Many victims suffer in silence as a result, while those who commit atrocities go unpunished.

8. Educating people about laws about dowry is essential to enable them to know their rights and also what's expected of them. Launching of targeted public awareness campaigns through a variety of platforms, including television, radio, print media, and social media. These advertisements should stress the legislative rules pertaining to dowry prohibition, the consequences of giving or receiving dowry, and how they can seek help in case of violations.
9. A large number of people, especially those living in rural regions, are still ignorant of their rights under the Dowry Prohibition Act. Victims are left open to abuse and exploitation due to a lack of knowledge and education about the Act and its provisions and available legal remedies. Comprehensive awareness efforts and education programs are crucial in order to give people the power to refuse dowry demands and ask for help when they need it.
10. To inform individuals about laws regarding dowry, workshops, seminars, and informational sessions in cooperation with local government agencies, nongovernmental organizations, and community leaders should be organized. These kinds of event provide an environment for discussing legal rights and clarifying misconceptions. It is important to include classes on human rights, gender equality, and laws relating to dowry into the academic programs of schools and colleges.

Regular interactive sessions, discussions, and awareness campaigns are necessary to keep students interested and to encourage an equal and respectful mindset from an early age. In order to challenge conventional gender stereotypes and practices that support the dowry system, gender-sensitization lectures for men and boys can also be conducted. The dowry system continues to be prevalent, which

emphasizes the urgent need for coordinated measures to raise public awareness of the issue and eliminate ingrained beliefs that support this social evil. Workshops, seminars, and other educational programs are essential for promoting conversation, increasing awareness, against dowry. Workshops and seminars provide forums for the accurate dissemination of knowledge regarding the detrimental impacts of dowries on people, families, and society. The historical, cultural, and legal aspects of the dowry system can be discussed by expert speakers, including academics, activists, and legal professionals. This will equip participants with the information they need to dispel stereotypes and misconceptions.

11. Moreover, Legal literacy campaigns should be run in cooperation between legal aid organizations and local governments to educate individuals, particularly women about their legal rights and methods for seeking justice in instances of dowry-related abuses. Channels for feedback, such as helplines, and online platforms, should be provided so that people can report instances of dowry-related violence and ask questions or get advice. It should be made sure that these routes are open to everyone, are confidential, and are responsive. Policymakers, civil society organizations, and community leaders can also spread awareness about dowry-related laws and empower people to safeguard their rights and helping prevent dowry-related violence and exploitation through executing these strategies in a proper collaborated and sustained manner.

12. There should be more and more focus on women empowerment. Strategies should be adopted to give women more economic and educational options to empower them and reduce their reliance on marriage for financial stability. Stronger and highly educated women are more likely to raise objections to dowry demand. Women's involvement in politics, governance, and leadership roles in the community at all levels of decision-making should be encouraged. Having a say in establishing laws and social norms is a key component of empowerment. It should be made sure that women and girls have access to high-quality education. Women who receive an education are

better able to stand up against discriminatory practices like domestic violence and dowry and make educated judgments because they are equipped with information, abilities, and confidence.

13. To give women financial autonomy, they should have access to money, professional opportunities, and vocational training. Generally, demands for dowry are less likely to be used as a means of economic exploitation of empowered women.
14. Further, women should have access to sufficient healthcare services, such as family planning and reproductive health, to enable them to make decisions about their health and future. Women who are well-informed and in good health are better able to withstand dowry or domestic violence pressure. It is important to set up shelters, counselling services, and legal aid for dowry harassment victims. It is vital that victims who report cases of dowry abuse feel secure and supported. Here, role of legal aid assumes importance.
15. The punishment and penalty should be increased in order to make giving, accepting or demanding dowry enough severe to deter and discourage future offenders. For instance, Section 3 of *Dowry Prohibition Act, 1961* provides penalty for taking or giving dowry. In this section, the imprisonment can be increased to at least “ten years” instead of current “five years” and also, fine of “fifteen thousand rupees” can be increased to at least “one lakh rupees”.
16. In addition, the punishment for dowry death need to be the same as the punishment for murder. Currently, the minimum sentence for dowry death is seven years in jail, with the possibility of a life sentence with no monetary punishment. On the other hand, punishment for murder is death sentence, or life imprisonment, and a fine. To make S. 304-B IPC more deterrent, it ought to be placed on the same level as S. 302 IPC. Murdering someone for dowry is a very serious crime. Therefore, causing dowry death should carry a harsh punishment and penalty.
17. ‘Giving dowry’ and ‘taking dowry’ should not be kept at same footing as giving dowry occurs only when the receiver demands, accepts or supports it. Therefore, punishments for giving and punishment for taking dowry should be separated in two different sections under the

DP Act, 1961 and accepting/taking dowry should have a greater punishment than that of giving dowry. Giving of dowry should nonetheless remain a punishable offence but taking of dowry should have a greater amount of punishment.

- 18.** Further, it is also seen that due to rise in number of fake cases of dowry, even the real and genuine cases are seen with suspicion of being fake. Hence, provisions for severe punishment and fine must also be there for filing fake dowry-related cases. Misuse of dowry related provisions should be made cognizable offence.
- 19.** Further, section 4 of the Dowry Prohibition Act, 1961, which provides punishment for demanding dowry, should also be amended. Demanding dowry is more serious than giving or taking it. The giving of dowry has the origin in the demand, therefore, greater amount of punishment and severe fine should be imposed for demanding dowry. Presently, lesser punishment is provided under the DP Act in case of demand of dowry as compared to the punishment provided for giving or taking dowry. Also, the minimum punishment prescribed under the section (i.e. 6 months) should be increased to at least 5 years. Demands for dowries reinforce patriarchal customs and norms that place emphasis on male entitlement and authority over the lives and assets of women. The bride's family feels subjugated and under control by the dowry demands, which reinforces unequal power dynamics in marriage. According to Dowry Prohibition Act 1961, demanding dowry is prohibited and involves legal penalties. People who disobey the law and demand dowry hamper the initiatives to end the dowry system and such people foster an attitude of disobedience and disregard to the rule of law.
- 20.** Many a time the groom's family demand a lavish wedding to be organised by the bride's family. This causes extra burden on bride's family. A maximum threshold amount must be prescribed that can be spent in marriages in order to stop the ongoing practice of spending lakhs of money in weddings. This will reduce financial burden on bride's family. Therefore, if a groom's family demand to arrange a grand or lavish wedding then it should be included in definition of

dowry incorporating the demand for organizing lavish weddings into the definition of dowry under the Dowry Prohibition Act would serve several vital purposes.

The definition of dowry should be expanded to include demands for extravagant weddings, which would stop people from evading the law by requesting payment in an indirect manner. Demands for luxurious weddings creates considerable financial burdens on the bride's family, aiding to perpetuate the dowry system. By expressly including such requests in the definition of dowry, the Act can assist reduce financial strains on families and keep them from overspending beyond their financial capabilities.

While the Dowry Prohibition Act bans the direct exchange of dowry, it may not sufficiently address indirect forms of dowry, such as requests for costly wedding arrangements. Including demands for extravagant weddings in the definition of dowry will widen the scope of forbidden acts,

Demands for costly weddings frequently reinforce traditional gender roles and promote patriarchal norms, with the bride's family expected to bear the majority of the wedding costs.

By acknowledging such requests as part of the dowry system, the Act can combat gender disparities and encourage greater equality in marriage partnerships.

In modern Indian society, the urge to arrange extravagant weddings is frequently linked with social expectations, peer pressure, and cultural standards. Including such demands in the concept of dowry will acknowledge the social realities that sustain the dowry system.

BIBLIOGRAPHY

A. PRIMARY SOURCES

INDIAN STATUTES

1. CONSTITUTION OF INDIA
2. THE BHARATIYA NYAYA SANHITA 2023 (Act 45 of 2023)
3. CODE OF CRIMINAL PROCEDURE, 1973 (Act 2 of 1974)
4. CRIMINAL LAW (AMENDMENT) ACT, 1983
5. THE DOWRY PROHIBITION ACT, 1961(Act 28 of 1961)
6. THE INDIAN EVIDENCE ACT, 1872 (Act 1 of 1872)
7. THE INDIAN PENAL CODE (Act 45 of 1860).
8. PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005.

INTERNATIONAL INSTRUMENTS

1. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, 1979 (CEDAW)
2. UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948.

REPORTS

1. Census of India, 2011
2. Law Commission of India, 91st Report: Dowry Deaths and law reform: Amending the Hindu Marriage Act, 1955, the Indian Penal Code, 1860 and the Indian Evidence Act, 1872. (1983)
3. National Crime Records Bureau, “Crime in India: 2021” (Ministry of Home Affairs, 2022).

B. SECONDARY SOURCES

BOOKS:

1. AVATAR SINGH, LAW OF EVIDENCE (2022)
2. BATUK LAL, THE LAW OF EVIDENCE (2020)
3. B.N. MANI TRIPATHI, HINDU LAW (2014)
4. B. PRAMILA, A CRITIQUE ON DOWRY PROHIBITION ACT,1961, PROCEEDINGS OF THE INDIAN HISTORY CONGRESS (2015)
5. DD BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA (2021)
6. DR. NUZHAT PARVEEN KHAN, TEXTBOOK ON WOMENAND CHILD RELATED LAWS (2020)
7. HARI DEV KOHLI & SUMAN NALWA, LAW RELATING TO DOWRY, DOWRY DEATH, CRUELTY TO WOMEN & DOMESTIC VIOLENCE, (2nd ed. 2013)
8. J.N. PANDEY, CONSTITUTIONAL LAW OF INDIA (2019)
9. M HARALAMBOS & R.M. HEALD, SOCIOLOGY THEMES AND PERSPECTIVES (37th ed. 2010)
10. MAMTA RAO, LAW RELATING TO WOMEN AND CHILDREN 4 (2nd ed. 2018)
11. NITIN SANGWAN, ESSENTIAL SOCIOLOGY (2nd ed. 2022)
12. NITIN SINGHANIA, INDIAN ECONOMY (2nd ed. 2021)
13. PARAS DIWAN, DOWRY AND PROTECTION TO MARRIED WOMAN (2nd ed.).
14. PARAS DIWAN, MODERN HINDU LAW (24th ed. 2019)
15. POONAM DALAL DAHIYA, ANCIENT AND MEDIEVAL INDIA (2nd ed. 2020)
16. P.V. KANE, HISTORY OF DHARMASHASTRA,774 (Vol. III)
17. RAM AHUJA, SOCIAL PROBLEMS IN INDIA (4th ed. 2021)
18. R.V. KELKAR, CRIMINAL PROCEDURE (6th ed. 2014)

19. R.V. KELKAR, LECTURES ON CRIMINAL PROCEDURE (6th ed. 2017)
20. S.N. MISHRA, INDIAN PENAL CODE (20th ed., 2016)
21. ARTHASHASTRA OF KAUTILYA III 2, 152.

DICTIONARY:

1. POCKET OXFORD ENGLISH DICTIONARY, 270 (11th ed., 2013).
2. THE WEBSTER'S DICTIONARY.

INTERNET/WEBSITES:

1. <https://pib.gov.in>
2. <https://indianexpress.com>
3. <https://www.thehindu.com>
4. <https://ebooks.inflibnet.ac.in>
5. <https://en.wikipedia.org>
6. <https://drishtias.com>
7. <https://www.indiatoday.in>
8. <https://timesofindia.indiatimes.com>
9. <https://www.un.org>
10. www.hindustantimes.com
11. <https://www.worldbank.org>
12. <https://www.cnbctv18.com>
13. <https://www.jstor.org>

ARTICLES:

1. Uma Mahadevan Dasgupta, Why a grassroots mass movement is necessary for dowry, THE INDIAN EXPRESS (July,2,2021).Available at <https://indianexpress.com/columns/why-a-grassroots-mass-movement-is-necessary-to-fight-dowry-7385022/> (Last Visited on February 4, 2024).

2. Accidental Deaths & Suicides in India Report 2021: NCRB, Available at https://www.drishtiiias.com/daily-updates/daily-news-analysis/accidentaldeaths-suicides-in-india-report-2021-ncrb/print_manually (Last Visited on May 10, 2024).
3. UP groom calls off wedding after in-laws fail to meet last-minutedowrydemands,booked.Availableat<https://www.indiatoday.in/india/story/upgroom-calls-off-wedding-dowry-demands-case-filed-2396385-2023-06-22> (Last Visited on May 15,2024).
4. 19 women were killed for dowry every day in 2020:NCRB (September,16,2021)Availableat<https://www.cnbctv18.com/india/19-women-werekilled-for-dowry-every-day-in-2020-ncrb-10758421.htm> (Last Visited on May 10,2024).
5. Prashanth Perumal J., Post the prohibition of dowry (January 4, 2022) Available at <https://www.thehindu.com/books/post-the-prohibition-ofdowry/article38105182.ece> (Last visited on May,1, 2024).

JOURNALS:

1. INDIAN JOURNAL OF INTEGRATED RESEARCH IN LAW (2022)
2. THE PROCEEDINGS OF THE INDIAN HISTORY CONGRESS (2015)

NEWS PAPERS:

1. THE HINDU
2. HINDUSTAN TIMES
3. THE INDIAN EXPRESS
4. THE TIMES OF INDIA.