

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 3**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Anti-Dowry Laws in India: The Unceasing Controversy

---

SRIRANJANI<sup>1</sup>

## ABSTRACT

*The system of dowry is a prevalent practice, most commonly taking place in nations with patrilineal laws. The term 'dowry' can refer to any goods, money, or property that a bride brings to her husband and his family as a condition upon marriage. While the subject has always been appealing to me, a recent incident piqued my interest to study about this issue.*

*A woman in my town had been a victim of domestic violence by her husband, due to the non-fulfilment of the decided amount of dowry. While she had been silent for months, it was when she got severely injured and had to be hospitalized, that the issue came forward. When she filed an FIR with the local police, her husband was arrested. This was followed by the woman being harassed by several families, forcing her to withdraw the complaint. What was astonishing to me was the kind of comments that the people were making with regards to this; while some people tried to convince her by stating that him being arrested would get him fired from his job, some other said "these things happen all the time, no need to make this an issue" and "women these days do not know how to compromise". What was worse is that all of these people, including the victim and the accused, are highly educated people. When under pressure she finally withdrew her complaint, the same people said "She did it only to make a scene. If there was really a problem, why did she stop pursuing the case?"*

*Witnessing such an incident made me realize how institutionalized the system is, and how cases arising from this are often stigmatized. For the same, I have tried to look into and analyse in this paper, the underlying controversy.*

**Keywords:** Dowry, Domestic Violence, False Cases.

The practice of Dowry has been a major issue in the Indian society for generations now. While the giving and receiving of dowry was made illegal in India in 1961, the practice of dowry, along with the violence against women stemming from it, prevails in various parts of the country to this day.

---

<sup>1</sup> Author is a student at NALSAR University of Law, Hyderabad, India.

The Dowry Prohibition Act<sup>2</sup> was enacted in 1961, in order to curb the practice of dowry. The Act was considered to be highly ineffective, owing to certain problems arising out of the text of the Act, particularly the definition of the term “dowry”<sup>3</sup> itself. Although the Act underwent few amendments, it still fell short, resulting in the introduction of Section 498A<sup>4</sup> of the India Penal Code (hereinafter referred to as the Code) in 1983, which criminalises cruelty by the husband and/or his relatives. The Protection of Women from Domestic Violence Act of 2005<sup>5</sup> was also enacted, which consists of provisions dealing with the crime of domestic violence arising from the issue of dowry. Other legal provisions in this matter have also been made, such as Section 304B<sup>6</sup> of the Code, which deals with dowry death, and Section 113B of the Indian Evidence Act<sup>7</sup>, which deals with presumption as to dowry death.

Among these laws, Section 498A of the Code has been the most controversial one, with a popular opinion among people, who were resentful of the law providing immediate arrest of the accused upon filing of the complaint, being that it is ‘misused’ by some women. This was made clear by the Indian Supreme Court’s judgment in the case of “Rajesh Sharma vs State of Uttar Pradesh”<sup>8</sup>, which in turn cited several other cases<sup>9</sup>, acknowledging the misuse of this provision.

One of the most important cases in this regard, was the case of “Arnesh Kumar vs State of Bihar”<sup>10</sup>, which hit the headlines because of the contentious remarks it made, stating that Section 498A is being used ‘as a weapon by disgruntled wives’<sup>11</sup>. The ratio of the case substantially relied upon the National Crime Records Bureau (NCRB) data<sup>12</sup> of 2017, according to which, the conviction rate of cases filed under Section 498A of the Code was a meagre 15.6%. The only issue here was not the court’s reliance upon a single source to reach the inference, but also the fact that the calculated conviction rate itself does not provide a fair view of the reality.

The high rate of acquittal can be attributed to several factors; firstly, domestic violence in any form is a particularly difficult act to prove due to lack of witnesses, since more often than not,

---

<sup>2</sup> Dowry Prohibition Act (1961).

<sup>3</sup> Dowry Prohibition Act § 2 (1961).

<sup>4</sup> Indian Penal Code § 498A (1860).

<sup>5</sup> Protection of Women from Domestic Violence Act § 2(h), § 3(b), § 31(3) (2005).

<sup>6</sup> Indian Penal Code § 304B (1860).

<sup>7</sup> Indian Evidence Act § 113B (1872).

<sup>8</sup> Rajesh Sharma vs. State of Uttar Pradesh (2018) 10 SCC 472.

<sup>9</sup> Sushil Kumar Sharma vs. Union of India (2005) 6 SCC 281; Supreme Court Bar Association vs. Union of India (1998) 4 SCC 409; Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1.

<sup>10</sup> Arnesh Kumar vs. State of Bihar, (2014) 8 SCC 273.

<sup>11</sup> *Id.*

<sup>12</sup> *Supra* Note8.

no third party is privy to it. In addition to that, though Section 498A of the Code is compoundable in nature, courts have ruled that parties that are able to resolve their dispute by coming to an 'amicable' agreement, shall be allowed to settle.<sup>13</sup> While the first factor results in acquittal of the accused due to insufficient evidence, the second one results in discontinuation of the cases filed by being settled outside of court, thereby lowering the conviction rate. Moreover, some cases get settled at the initial stage itself through Crimes Against Women Cell<sup>14</sup>. Also, it is of common knowledge that complainants often face pressure from their families to withdraw such cases, further decreasing the number of cases that actually go forward.

Taking account of all these factors, the conviction rate does not portray the ground reality, and thus, it would be unjust to assume that the low conviction rate of cases under Section 498A of the Code is due to the filing of 'false' cases.

Even with anti-dowry laws in place, practice of dowry is still prevalent in India due to its institutionalized nature. And to add to that, several deterrents are present when it comes to taking the legal recourse. For most Indian women, filing an FIR is a massive step, as it not only involves going against the ideal of the institution of marriage, but is also coupled with stigmatization. There have also been instances of counselling being forced upon the women while they simply try to file a complaint with the police.<sup>15</sup> So, it is quite challenging to simply file an FIR for women even under normal circumstances. And now with such judgements, women would restrain themselves more from actually filing a complaint and moving forward with it.

The fact that even after the implementation of such strict laws, the practice of dowry is still very much prevalent, is quite worrisome. Additionally, generalizing women to suggest that they use the law to settle scores with their husbands and in-laws, not only dilutes the issue, but also acts as a discouragement to raise their voice against injustice. At present, it is quite imperative to encourage victims to come forward with their problems and voice their concerns, instead of instilling fear within them, which would only make them suffer in silence.

It most certainly cannot be denied that the said Section, like many other laws, has been misused in the past, and does present a scope of being put to the wrong use. While it is the responsibility of the Courts to redress and rectify the laws accordingly, to imply that wives file such cases

---

<sup>13</sup> Amit Rod & Ors. Vs. State of Uttarakhand & Ors. MANU/UC/0773/2018.

<sup>14</sup> Report No. 243 On Section 498A IPC, <https://indiankanoon.org/doc/174997460/?type=print>.

<sup>15</sup> Aarefa Johari, "Forced counselling, moralising: The difficulties of filing dowry harassment cases under Section 498A", <https://scroll.in/article/827094/forced-counselling-moralising-the-difficulties-of-filing-dowry-harassment-cases-under-section-498a>

out of spite as “getting the husband arrested is the simplest way to harass”<sup>16</sup>, sends a very injudicious message. Since the comments made by a judge set a bar, especially when it comes to the Apex Court of the country, it is necessary to judiciously think about the impediments that the comments may pose to the victims, who the laws are meant to serve in the first place.

\*\*\*\*\*

---

<sup>16</sup> *Supra* Note10.