FROM PENAL PROVISIONS TO POLICY FAILURE: RETHINKING ANTI-DOWRY JURISPRUDENCE IN INDIA

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I. INTRODUCTION

In a country where marriage is a sacred institution, the continued prevalence of dowry as a coercive, transactional institution continues to haunt the country's legal and moral conscience. Despite the country having laws criminalizing payment and receiving of dowry, women from all sections of society are harassed, beaten up, and even murdered. The law exists, but its existence has not yet reached the level of its performance. This paper adopts as its starting point the proposition that the real issue is not legislative intent, but the discrepancy between what the law promises and works on the ground. In charting the discrepancy, the following chapters attempt to speak about how India's anti-dowry legal system can be strengthened both in jurisprudence and practice.

A. Dowry as a Lived and Legal Crisis

Indian dowry is not so much a time-honoured tradition but a contemporary tool of structural violence. Something that centuries ago started as a voluntary gift or security for the bride has now been turned into a practice driven by coercion, consumerism, and social pressure. While technically criminalised under the Dowry Prohibition Act, 1961 and penal provisions like sections 498A and 304B of the Indian Penal Code, the bitter reality is that dowry is very much with us often concealed in the guise of tradition, "gifts," or even wedding negotiations.

Essentially, dowry is not so much a private wedding arrangement, it is an arrangement which articulates structural inequality and economic exploitation, often followed by mental or psychological cruelty, economic exploitation, and sometimes death, in extreme cases. The problem is not just one of individual conduct, but also of a society that has gone along in silence with such conduct, and of a legal system which cannot respond.

B. Legal Promise and Ground Reality

The Indian state has adopted several legislative steps to criminalise and deter abuse of dowry over the years. The 1961 Act was the foundation, and the introduction of sections 498A (cruelty) in 1983 and 304B (dowry death) in 1986 were significant. In theory, the system appears to be sound. Yet, what is written has a tendency not to translate into actual protection for the victims.

The judiciary, the agencies of enforcement, and the administrative staff such as Dowry Prohibition Officers are insufficient not due to the law being impotent, but due to the lack of will in enforcement.[1] Courts are more likely to be suspicious than empathetic, and procedural delays contribute to a victim's trauma. As the new *Bharatiya Nyaya Sanhita*, 2023, comes into

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[1] Reva B. S., *et.al.*, "Dowry Deaths: An Overview of Sociological and Legal Perspectives" 26(3) *Indian Journal of Law and Human Behavior* 147 (2019).

force, we are witnessing the dynamism of criminal code nomenclature, but the question is: has anything changed?

C. Jurisprudential Essence

The issue of dowry is at the intersection of criminal law, constitutional dignity, and gender justice. Its aspect is two-fold, *i.e.*, it requests the criminal justice system to expand its capacity to perceive coercion beyond physical violence. It also compels us to consider article 21 of the Constitution not just as a right to life, but as the right to live with dignity, free from economic subordination in marriage. This article calls upon feminist legal theory, transformative constitutionalism, and the demand that law must be protective as well as enabling. Anti-dowry legislation's failure is not simply an instance of implementation failure; it is a jurisprudential silence on how law is reacting to economic and cyber modalities of domestic violence. This write-up tries to engage critically with India's anti-dowry legislations not merely from the statutory point of view, but from the lived experiences of survivors, the limits of judicial interpretivism, and the breakdown of the state machinery.

II. SOCIO-CULTURAL AND ECONOMIC EMBEDDEDNESS OF DOWRY

To understand the reason of failure of anti-dowry law, we must take a step back and look at what exactly is the problem that the law is trying to solve. Law does not happen in a vacuum. Law traverses a gendered world century[2] in the making, underpinned by asymmetrical economic relations and deeply internalized cultural rules. Dowry is not so much a breach of the law it is a social fact.[3] This chapter analyses the institutions which render dowry sticky, a "sticky" norm that resists legal transformation.[4]

A. Distorted Origins: From Custom to Coercion

What we now know as dowry is a distorted form of practices like *kanyadaan* and *Stridhan*. The practices, at least in their original form, were meant to provide a woman with economic security in marriage.[5] Over time, though, the practice was turned on its head into a demand, a market-like transaction that exerted pressure on the bride's family to give money to the groom's family in the name of tradition. The purpose was lost, and coercion was left behind. As dowry became institutionalized, it also became riskier.

B. Patriarchy and the Fiscal Logic of Marriage

Patriarchy is the ground in which dowry grows. It views the woman not as a person in control of her own life, but as a commodity to be exchanged between father and husband along with a dowry payment. Dowry in this context is the "price" paid to compensate for the loss of an earning woman. This ideology shapes the manner in which families spend on their daughters. Education costs are usually discretionary, whereas dowry savings are perceived as necessary to her survival and honour in her in-laws' household.

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[2] Kalpana Kannabiran, "The Legal Grammar of Marriage" in *Tools of Justice: Non-Discrimination and the Indian Constitution* 244-248 (Routledge, 2012).
[3] *Ibid*.
[4] Veena Talwar Oldenburg, *Dowry Murder: The Imperial Origins of a Cultural Crime* 48-52 (Oxford University Press, 2002).
[5] Nitya Rao, "Gender Equality and Educational Aspirations in India: Women's Empowerment and Female Education" 43 *Contemporary Education Dialogue* 59 (2012).

C. Hypergamy and the Dowry Marketplace

Hypergamy is the desire to marry up into a better economic or social class which raises more dowry expectations. Marriage is a commodity exchange, and the groom's qualifications are price tags. A better salary, an urban residence, or foreign schooling can all inflate dowry expectations. This reasoning turns marriage into a social advancement, where the bride's family has to "pay" to upgrade. It deforms the institution of marriage into a haggle over status and cash, rather than companionship or equality.[6]

D. Commercialisation of Marriage: New Face of Dowry

Economic growth would otherwise have destroyed conventional customs. Liberalisation and growing consumerism, however, gave dowry a new face. With growing material aspirations, dowry demands are not just for property or jewellery they are now for money for consumer durables, or to pay for the groom's foreign education or enterprise. The wedding ceremony is a means for the groom's family to get money and upgrade on the economic scale. Sociologists have correctly described it as the commercialisation of marriage.

E. Data and the Everyday Reality of Dowry Violence

The National Crime Records Bureau recorded 6,450 dowry deaths in 2022. But the numbers are half the story. Spousal violence goes unreported because it is feared, because it is shameful, and because institutions fail. The National Family Health Survey-5 says that over 35% of married women in Assam (the context of this study) have experienced spousal violence against them multiple times higher than the national average of 29.3%. While not all of this can be directly linked to dowry, the intersection is certain. The home is still a site of danger, especially for women whose families will not or cannot pay dowry.

In this chapter, it is clear that dowry is not a straightforward cultural hangover. It is a system, underpinned by economic ambitions, unequal gender roles, and social compulsion. The law is attempting to address symptoms and not the roots. Unless the social construction of marriage, gender roles, and family honour is rethought, the law will always fall short of its potential.

III. THE LEGISLATIVE FRAMEWORK AND ITS RE-CODIFICATION

The main anti-dowry laws in India work together as a legislative triad, with the penal code, procedural law, and evidence law all working together. This architecture was meant to be a strong deterrent. The recent switch to a new set of criminal codes shows that the law is still the same, not a big change. This means that anyone who wants to really understand how well they work and what their limits are needs to know both the old and new codes.

A. Following the Legal Architecture: A Three-Tier System

India's anti-dowry legal regime developed not under a single act but under a triad of legislation intended to function in concert the Dowry Prohibition Act, the Indian Evidence Act,

[6] Ministry of Health and Family Welfare, "National Family Health Survey (NFHS-5), *India Fact Sheet: Assam, 2019-2*", *available at*: http://rchiips.org/nfhs/NFHS-5_FCTS/Assam.pdf (last visited on Aug. 02, 2025).

and the Indian Penal Code. Collectively, the acts were intended to create a complex of protection against dowry cruelty, harassment, and death, but their efficacy has always been limited by their context. With the implementation of new criminal codes in 2024, that regime was effectively transformed. But as this chapter illustrates, that transformation was more a function of window dressing than substance.[7] The new codes address the old problems without engaging the more fundamental doctrinal imprecision or system failure.

i) The Dowry Prohibition Act, 1961: A Faulty Start

The first law to directly address the issue of dowry was the Dowry Prohibition Act, enacted in 1961. It gave a very wide definition to dowry, including any valuable security exchanged before, during, or after marriage as consideration. Although it was a ground-breaking in intent, the act was not fully effective. Offences were not bailable and cognisable. Prosecution had to be preceded by permission, making it inaccessible to large numbers of women.[8] The amendments of 1984 and 1986 attempted to make the act more functional by increasing punishments and making some offences cognisable.[9] But the nature of the law being dependent on the complainant to initiate proceedings in a highly patriarchal society made it ineffective in safeguarding women as well. The pattern remained reactive, not preventive.

ii) Criminal Law Interventions: The Shift from Transaction to Harassment

Purportedly encouraged by the partial successes of the Dowry Prohibition Act, legislators turned to the Indian Penal Code in the 1980s. The aim was to criminalize dowry violence as a criminal offense subject to state action, as opposed to a civil wrong or social evil.[10]

a. Section 498A (Cruelty) was enacted in 1983 as a revolutionary piece of legislation. It not only legalised physical cruelty but also mental cruelty and economic harassment due to dowry demands. The legal breakthrough here was dramatic, it redirected attention away from the act of dowry exchange per se towards its consequences for women, especially the coercion and abuse they experienced in its aftermath.
b. Section 304B (Dowry Death was introduced in 1986, to tackle the stark increase in dowry death, usually disguised as a kitchen accident or suicide. The Act compulsorily prosecuted the husband and in-laws for dowry death in case a woman died under suspicious circumstances after seven years of marriage, and had been subjected to cruelty in terms of dowry shortly before death. It was a change from causality to proximity, a sophisticated but effective legal instrument to bring the offenders to court.

iii) The Evidence Act: Enhancing the Presumption

To make these provisions more effective in court, the Indian Evidence Act was amended to include section 113B, which provided for a rebuttable presumption of guilt in cases of dowry

[7] Law Commission of India, "243rd Report on Section 498A IPC - Suggestions for Ameliorating the Misuse" (Aug. 2012), *available at*: https://lawcommissionofindia.nic.in/reports/report243.pdf (last visited on Aug. 02, 2025).
[8] Parliamentary Standing Committee on Home Affairs, "213th Report on the Bharatiya Nyaya Sanhita, 2023" (Rajya Sabha Secretariat, 2023), para 5.2.
[9] Ministry of Home Affairs, "Committee on Reforms of Criminal Laws: Consultation Document on Offences Against Women", vol. 2 (2020) 19-21.
[10] Ratna Kapur, "Too Hot to Handle: The Cultural Politics of 'Human Rights' in India" 28(2) *Feminist Legal Studies* 129-145 (2006).

death. Once the woman's death in unnatural circumstances within seven years of marriage and harassment for dowry is established, the court is bound to presume the guilt of the accused unless they establish otherwise. This turned the burden of proof on its head, placing prosecutors at an advantageous place to begin with. Besides it, section 113A provided a similar presumption in cases of suicide. These were valuable additions to balance a process long favourable to accused parties because domestic abuse behind closed doors was difficult to establish.

iv) The Bharatiya Criminal Law Codes, 2023: New Labels, Old Lapses

With the enactment of the *Bharatiya Nyaya Sanhita*, the *Bharatiya Nagarik Suraksha Sanhita*, and the *Bharatiya Sakshya Adhiniyam*, the criminal justice system was to be reformed by the government. But in the matter of dowry laws, the reform seems to be semantic and not real.

Under the new regime:

a. Sections 85 and 86 of the *Bharatiya Nyaya Sanhita* replace the former section 498A of the IPC. The provisions were not changed.
b. Section 80 substitutes section 304B once again without defining the ambiguous word "soon before her death".
c. The presumption of fact as per section 113B of the Indian Evidence Act is currently located under section 113 of the *Bharatiya Sakshya Adhiniyam*.

What is also noteworthy is the addition of protection of procedure in the form of the Bharatiya Nagarik Suraksha Sanhita, i.e., the codification of restrictions on arrest in cases of dowry. These protections, judicially evolved through precedent like *Arnesh Kumar* v. *State of Bihar*[11], are now codified. This may help prevent abuse but adds new hurdles to real victims who need prompt protection.

v) A Missed Jurisprudential Opportunity

The re-codification was an opportunity to rectify the doctrinal uncertainty that had persisted for decades and to strengthen the law in addressing contemporary reality. It did not, however, complete gaps that persisted. The term "soon before" remains undefined, and there has been uneven judicial interpretation. The concept of "cruelty" was not expanded to encompass economic coercion, cyber abuse, or other contemporary forms of domination. Even decades afterwards, these lacunae remain. Instead of pushing the limits of transformative constitutionalism, the new codes only reinforce the status quo. Judges will continue to refer to previous jurisprudence under the IPC and Evidence Act, so the pre-existing interpretative burdens and inconsistencies persist in the present.

The legislative structure against dowry has actually changed. But each reform, as excellent as it has been, has failed to go far enough in challenging the social structures that underpin the practice. If re-codification has altered the face, it has failed to alter the substance. Law still perceives dowry as a legal offence, while society surrounding it regards it as a desirable custom. Until this tension is resolved, enforcement will continue to be spasmodic, and justice will remain elusive.

IV. DOCTRINAL CHALLENGES AND JUDICIAL INTERPRETATION

[11] (2014) 8 SCC 273.

The struggle between law on paper and lived reality reflects on the success of a legal system cannot be judged by its enactment itself. It must be examined the way the courts interpret and apply it in everyday life. India's anti-dowry laws have faced intense judicial scrutiny, with a vast and often contradictory body of case law in its wake. Courts have to navigate the balance repeatedly on one hand, enforcing the pro-victim intent behind these protective provisions, and on the other, responding to increasing concerns regarding procedural justice and allegations of abuse. This chapter examines the doctrinal ambiguities and interpretative biases that determine the way the law is played out on the ground, particularly when it clashes with the nuanced realities of gender, power, and kinship.

A. The Myth of 'Voluntary Gifts': Consent, Power, and the Fiduciary Lens

The oldest defence in cases of dowry is the characterization of financial transfers or property as "voluntary gifts" given out of love and cultural magnanimity, and not coercion. The tale does not hold up, however, to a doctrinal and ethical scrutiny. Indian law on contracts acknowledges that for any contract to be enforceable, consent must be free. In a very gendered and patriarchal society, the very notion of free consent in marriage arrangements is suspect. The family of the bride is under tremendous pressure social and emotional and may feel obliged to contribute material things in an effort to secure the future of their daughter.

Section 14 of the Indian Contract Act, 1872, declares that consent obtained by fraud, coercion, or undue influence[12] is not valid. Dowry demands in any form, either open or masquerading as so-called traditional expectations, place the transaction on unequal footing. To treat these as voluntary gifts given freely would be deceptive when the nature of the transaction is compliance under compulsion. The maxim *ex dolo malo non oritur actio* (a right of action cannot arise out of fraud or illegality) can be applied on a transaction founded in fraud or illegality cannot give rise to legal rights.

The Supreme Court has time and again rejected the "gift" defence in cases like *Rajinder Singh* v. *State of Punjab*[13], where it was held categorically that any transfer given "in consideration of marriage" falls within the definition of dowry. Courts have persisted in elucidating that the timing with which the demand takes place pre-marital, marital, or post-marital is immaterial so long as there is a clear nexus with the marriage transaction. The Kerala High Court, in *Alfonsa Joseph @ Shincy* v. *State of Kerala*[14], was frank in closing the semantic loophole, declaring with unvarnished bluntness that the fiction of gifting is generally a fig leaf for illegal demands.

A more innovative and victim-focused approach would be to analyse such cases through the lens of unconscionable bargains and fiduciary relationships. Marriage negotiations are not arm's-length bargains or equal bargains. They are often fiduciary relationships involving trust, good faith, and duty. A dowry demand, dressed up as tradition, betrays that trust. If the courts start analysing such relations with more intensity, the onus could shift from the bride's family to the groom's family to explain that the transaction was equitable, non-coercive, and bereft of exploitative undertones.

B. The 'Misuse' Narrative: Between Safeguards and Silencing

[12] The Indian Contract Act, 1872 (Act 9 of 1872), s. 14.
[13] (2015) 6 SCC 477.
[14] 2023 SCC OnLine Ker 275.

Section 498A was passed for the protection of women from cruelty in marriage, especially dowry cruelty. A dominant counter-narrative has developed over the years, however, which portrays the provision as one that is grossly abused. This has gained traction in popular discourse as well as even in judicial decisions, even overriding the structural violence which prompted the legislation in the beginning.

The phenomenon of "*omnibus allegations*" where an entire family is accused in vague and sweeping statements has been one of concern. In *Kahkashan Kausar @ Sonam* v. *State of Bihar*[15], the Supreme Court warned in such a situation where FIRs mentioned extended family members with general as opposed to specific allegations. High Courts have uniformly followed this ruling in an effort to quash FIRs at the stage of investigation, requiring some level of detail which may be impossible for a traumatized complainant to provide. In *Mamta Rani & Ors.* v. *State of Haryana*[16], the FIR was quashed since it was generic in nature, although the underlying complaint indicated a pattern of harassment.

This raised threshold has a chilling effect. Survivors, already under social pressure and emotional duress, are now being compelled to give detailed, prosecution-ready testimonies from the outset. The law, intended to be a safeguard, begins to turn into a burden. What makes it more disturbing is the fact that the story of abuse has taken precedence over empirical data. Figures from the NCRB continue to record huge numbers of dowry deaths and cruelty cases. The Parliamentary Standing Committee, 2023 on Home Affairs, in deliberating the proposed criminal law amendments, acknowledged the fear of false cases but ultimately decided to retain section 498A, citing the widespread and ongoing abuse of wives in marriages.

By addressing abuse as a systemic norm instead of a controllable exception, courts can undermine the fundamental purpose of the law. We do not need to abandon the law but procedural nuance ensuring justice for the accused without disempowering the complainant.

C. The 'Soon Before' Puzzle: Temporal Vagueness and Legal Uncertainty

The use of the term "soon before her death" under the dowry death clause (now section 80 of the *Bharatiya Nyaya Sanhita*) has long been a puzzle for courts. While the legislation assumes a causal connection between cruelty in dowry and an unnatural death within seven years of marriage, it uses the indeterminate time term "soon before" to assume that connection. That indeterminacy has led to unequal judicial interpretation.

In *Satbir Singh & Anr.* v. *State of Haryana*[17], the Supreme Court clarified that "*soon before*" is not equivalent to "immediately before." Instead, the prosecution must establish a "proximate and live link" between harassment of dowry and death of the woman. Trial Courts and High Courts, however, applied this test with huge inconsistency. In certain cases, harassment a few weeks before death was considered proximate. In others, even shorter periods were considered too long to satisfy the test.

This doctrinal vagueness is problematic. The same facts could have different effects depending on the judge who construes the term. For prosecutors and families of victims, this is yet one more hurdle in an already frustrating process. One solution is to adopt the

[15] (2022) 6 SCC 599.
[16] 2023 SCC OnLine P&H 4568.
[17] (2021) 6 SCC 1.

"*cumulative effect*" doctrine, which looks at the cumulative history of cruelty and not a terminal act. Dowry abuse is not an act, but a process that unfolds over time, as an extended campaign of humiliation, control, and violence. Law cannot be blind to this lived experience but instead must be attuned to it rather than mired in a technical causation interpretation.[18]

Judicial interpretation has a revolutionary function of breathing life into written law. But formalist interpretation threatens to re-entrench the very hierarchies the law has attempted to overthrow. And the difficulty is not merely to balance the accused's rights against the interests of the victim, but to interpret law in a manner that is attuned to the asymmetrical power relations within which it occurs. Dowry legislations, interpreted literally, will always seem vague or open to exploitation. But interpreted in the light of context, structure, and purpose, they disclose their real intent functioning as instruments of resistance against a culture in which gender dis-parity continues to masquerade as custom.

V. Reconceptualizing Dowry as Economic Coercion in the Age of the Internet

Dowry in the present is not limited to traditional symbols of subordination like jewellery, money, or household items. Instead, it has evolved into a more sinister and contemporary phenomenon, as per the socio-economic needs of modern-day living. The dowry of the 21st century is not only marked by physical extortions but by insidious, long-term economic coercion loan demands, online blackmailing, coercion into managing a woman's income, and lifestyle extortions.[19] All these abuses are under-diagnosed in police and court terminology, but they fall squarely within the doctrine where there is a right, there must be a remedy. The evolving dowry patterns are discussed in this chapter and legal stakeholders are invited to reinterpret existing laws in the light of new realities.[20]

A. Redefining "Valuable Security": Expanding the Definition of Dowry

Whereas the legal definition of dowry in section 2 of the Dowry Prohibition Act, 1961, includes "any property or valuable security," the very wide ambit of the definition is not used to its full extent. Section 30 of the Indian Penal Code and its equivalent in the *Bharatiya Nyaya Sanhita* defines valuable security very broadly as any document which creates or implies a legal right. In the context of the building, modern forms of economic coercion can be recognized as dowry demands.

i *Loans and Financial Burdens*: Disguised as Tradition: In certain cases, families are coerced into funding cars, houses, or even foreign education for the groom in the guise of traditional marriage requirements. These are not dowries, these are debts, typically entered into in the form of EMIs or personal loans[21]. The burden usually falls on the bride or her family, and the impact is material and psychological. This guarantees a lifetime of economic servitude, which is a form of cruelty under section 85 of the BNS.

ii *Appropriation of Women's Salaries*: In two-income families, a new type of dowry arises one in which the husband's family regularly takes the woman's earnings as their own.

[18] Parliamentary Standing Committee on Home Affairs, "243rd Report on Criminal Law Reforms" (2023).
[19] Naila Kabeer, "Gender Equality and Women's Empowerment: A Critical Analysis of the Third Millennium Development Goal" 13(1) *Gender and Development* 13 (2005).
[20] UN Women, "Technology-Facilitated Gender-Based Violence: A Global Report" (2021).
[21] Vibhuti Patel, "Commercialization of Marriage and Rise of Dowry in India" *Economic and Political Weekly* 44 (2005).

What seems at first like the sharing of family resources is actually a more profound economic reliance and loss of autonomy. Such appropriation needs to be recognized as harassment for valuable security and defined as economic violence.

Courts are now recognizing such nuances. In *State of Telangana* v. *Mohd*[22], the High Court interpreted a husband's repeated demands for money to start a business as a direct form of dowry harassment. Whether the nature of the demand is secondary to its connection to the marriage, *i.e.*, whether it stems from the marital relationship, then it is dowry is the test.

B. Dowry in the Digital Era: Sextortion and the Rise of Electronic Evidence

Technological progress has made it possible for dowry harassment to take root on the web. Internet traces, web shopping, and social networking websites have become instruments of abuse as well as potential proof.

i *UPI Transfers and WhatsApp Trails*: Contrary to the past decades, dowry payments nowadays can usually be traced electronically. A request for money can be discovered in a WhatsApp trail, followed by an electronic transfer of money from the bride's father[23] to the groom's account. Such trails increase the evidence value of allegations. The *Bharatiya Sakshya Adhiniyam*, 2023 now includes the express admissibility of such electronic records, and courts now have a solid foundation on which to identify and act against digital dowry.

ii *Sextortion as Sexual and Economic Violence*: Married life photographs or videos shared consensually are sometimes weaponized later. Husbands or in-laws threaten to put this content on the internet if more financial demands are not met. It is not only an invasion of privacy, but also a new trend towards dowry violence which requires a policy and policing shift at the earliest.

Law enforcers must evolve to address such modern forms of abuse. Police officers must be equipped with financial tracing, cyber forensic, and trauma-informed interview skills. Prosecutors must be able to charge with a focus on highlighting the form of economic abuse, and courts must increasingly broaden their definition of "dowry" and "cruelty" to encompass the evolving faces of harm.

VI. LAW IN ACTION VS. LAW IN THE BOOKS

Laws are only as good as they are enforced. Most women in India live a different reality compared to the seemingly robust legislative framework to regulate dowry. This chapter delves into the various facets of this enforcement gap ranging from front-line actors like police and doctors, to institutional barriers in prosecution, to the structural silences that suffocate justice daily.

A. Police Response: Discretion, Delay, and Derailment

They are likely to be met by the police in a dowry crisis situation. But their approach is likely to be reluctant, indifferent, or even hostile.[24]

[22] (2023) 9 SCC 468.
[23] Payal Chawla, "Crypto, Gold and Google Pay: Digital Dowry in Urban India" *The Quint* (2022).
[24] Amita Dhanda, "Trapped by the Law: A Discourse on Women, Violence and the Law" in Amita Dhanda and Archana Parashar (eds.), *Engendering Law: Essays in Honour of Lotika Sarkar* (Eastern Book Company, 2000).

i *Culture of Compromise and Pressure of Reconciliation*: The victims are typically told to "go back and adjust," especially in complaints against influential or middle-class families. Instead of reporting to an FIR straight under section 154 CrPC or its equivalent in the BNSS, the police like to summon both families to "counselling." This procedure is an obstacle to justice and victimizes the woman again.

ii *Failure to Preserve Evidence*: In cases of dowry death, when the woman's body is cremated hastily, crucial forensic evidence is destroyed[25]. Police occasionally lose electronic evidence like WhatsApp chat screenshots or transactions and do not preserve them, which could be used to support prosecution.

iii *Non-compliance with Arnesh Kumar Guidelines*: Supreme Court had issued guidelines to prevent arbitrariness of arrests in cases under section 498A. These are, however, being misused regularly not to prevent arbitrariness but to create an alibi for inaction. The intent of such protection was never to dilute the offence but to prevent procedure that is unjust. Instead, they have become an *alibi* for inaction.

B. Medical and Forensic Apathy: The Missing Link in Prosecution

The Medical evidence is vital in cases of cruelty or unnatural death in dowry. But physicians and hospitals do not do or do their job in a way helpful to justice. Medical reports tend to be evasive regarding the type of injury whether they corroborate a woman's allegation of cruelty or indicate repeated beating which reflects the shortage of detailed reports of injury. Post-mortem reports are very significant in cases of suspected dowry deaths. Reports are evasive or delayed, weakening the chain of causation under section 304B IPC (now section 80 BNS).

C. Prosecutorial Weakness: Burden Without Support

The prosecution must be the bridge between the evidence of the victim and the court's judgment. In dowry cases, however, the burden falls on the woman and her family, with little to no burden from the prosecution.[26]

i *Case Dilution and Under-preparation*: Prosecutors rely greatly on the FIR and do not help victims to collate their evidence or prepare themselves for tough cross-examinations. This results in low conviction rates and long trials, which deter follow-up victims from coming forward into the legal system.

ii *No Victim-Centric Infrastructure*: There is no legal aid service that is gender-based violence trained. Victim-witness protection either comes in short supply or not at all, especially in rural and semi-urban settings, leaving complainants open to intimidation or worse.

D. Structural Silencing: Social and Economic Barriers

The largest barrier to justice is more than likely the cultural phenomenon of silencing women. The law may offer protection, but if the cost of resorting to the law is social isolation, economic ruin, or psychological disintegration, most women choose silence.

[25] Vrinda Grover, "Gender, Law and the Politics of Protection" 46(43) *Economic and Political Weekly* 123 (2011).
[26] Common Cause & Lokniti-CSDS, "Status of the Indian Judiciary Report" (2022).

i *Economic Dependence*: Most women are economically dependent on the very same families they want to complain about. Legal procedures most often involve a decision between modest survival and moral justice.
ii *Reputational Harm and Family Pressure*: The danger of stigmatization especially in the event of a second marriage or children, is one of the factors causing women to drop cases. The family, who should be sources of support, are utilized as pressure tools.

The gap between law and reality is not a matter of administration alone it is a failure of organisation. In the absence of systemic accountability, increased gender-sensitisation of the officials, and victim-centricity, the best laws can only remain underutilised. This gap can no longer be discretionary it is a call of the times.

VII. Reform Fatigue and the Silence of the State: Policy Paralysis

The continuance of dowry violence despite decades of law-making indicates not only failure of law or implementation but lack of enthusiasm in policymaking and unwillingness to address the issue with the seriousness it warrants. The collusive role of the state, tokenism of reforms, and glaring loopholes in preventive and rehabilitative policy schemes are discussed in this chapter.[27]

A. The Absence of a National Policy on Dowry Violence

Dowry violence continues to be addressed primarily as a criminal issue and not as an issue of a socio-legal nature. There is no independent or holistic national policy on removing dowry that integrates education, awareness, legal assistance, rehabilitation of survivors, and gender sensitisation.

i *The Policy-Execution Disconnect*: There are sporadic schemes in the Ministry of Women and Child Development and gender cells at the state level, but they operate in a silo by themselves and are typically underfunded or poorly advertised. [28]For instance, despite the existence of numerous helplines, shelters, or one-stop crisis centres, survivors have been known to complain of not knowing about them or of being turned away on the grounds of lacking the capacity.
ii *Failure to Utilize Preventive Mechanisms*: While the law like the Dowry Prohibition Act attempts to punish the act, very little is done to prevent it. School and college curricula barely ever include modules on gender justice or dowry as a social evil, and mass campaigns have been intermittent and old-fashioned.

B. Rehabilitative Gaps: Survivors Left Without Support

Even if a woman is able to escape a dowry-stained abusive marriage, there is no policy framework to integrate her again into society financially, emotionally, or legally.

i *Shortage of Shelter Homes and Financial Support*: Shelters that exist are overcrowded with inadequate funding and not well-equipped to rehabilitate for the long term. Neither is there the wholesale provision of financial support or livelihood programs for such survivors.

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[27] *Supra* note 7.
[28] Flavia Agnes, *Marriage, Divorce and Inheritance in India: Reform of Hindu Personal Laws* (Routledge, 2011).

ii *No Long-Term Psychosocial Support*: The majority of policy responses cease once the case is reported or the woman has fled the marital home.[29] There is seldom long-term counselling for mental health or legal follow-up, especially where the accused has been acquitted or is on the run.

C. Legislative Reform without Grassroots Consultation

But yet another reason for policy failure is that few reforms have been preceded by extended consultation with grass-root stakeholders' survivors, social workers, women's commissions, or legal aid professionals rather than media outrage or intervention by the Supreme Court. Such amendments as to section 498A were hurriedly brought in under popular pressure, but their functional impact was never complemented with any effect studies or policy audits. The same can be said of the recent re-codification under the BNS, BNSS, and BSA, which retained existing flaws without doing away with definitional and procedural flaws.

Feminist legal thinkers and NGOs have consistently emphasized the necessity to transcend punishment to repair, community intervention, and transforming the socio-cultural terrain. These voices are, however, seldom heard when policy tables are being laid. The result of this fragmented, unequal, and sometimes indifferent policy reaction is a cycle of failure. Survivors are trapped in the cracks, the system is better designed to manage crisis than to prevent it, and social causes of dowry remain unchallenged.[30] A law that punishes without a policy that prevents or heals, is a law half asleep.

VIII. CONCLUSION: TOWARDS A JUSTICE BEYOND THE PENAL CODE

The dowry system, legally banned for over six decades, is very much alive and kicking not only in covert negotiations but in broad daylight, woven into Indian wedding life's social and economic fabric. This essay has traced the path of how the anti-dowry legal machinery, though well-intentioned[31], never quite managed to provide satisfactory justice. The very nature of the legislation, from the Dowry Prohibition Act to the latest BNS, is one of reactive criminalisation and not one of an innovative strategy of social change.

At each level legislative drafting, judicial interpretation, and policy implementation the issue has stayed cantered on apprehending and punishing the 'event' of dowry harassment or murder, but not the cultural, relational, and economic relations that make it possible. The law has conceptualized dowry within a narrow evidence and culpability framework, rather than addressing it as a structural practice of coercion in the name of tradition.

Judicial decisions, although sometimes enlightened, have also been responsible for doctrinal confusion and procedural degradation. Doctrines like "soon before" or the section 113B presumption have been used arbitrarily, and the "misuse" myth has also paralyzed the courts. Instead of rebalancing the justice system to better serve the survivor, the fear of false allegation has unduly shifted the burden of proof to the victim.

Most trembling and one that still lingers on is the silence of the state when it is needed most: prevention and rehabilitation. That there is no policy on dowry at the national level, there

[29] Swati Mehta, "Gender-Just Mediation: Challenges and Possibilities" *NUJS Law Review* (2022).
[30] National Commission for Women, "Annual Report 2022–2023" (NCW India, 2023).
[31] Ruth Bader Ginsburg, "Women belong in all places where decisions are being made" *The New York Times*, Mar. 15, 2015.

are no survivor-oriented mechanisms of care, and there is the policy vacuum on mental health and reintegration in the long term all indicate a state that punishes but does not safeguard.[32]

To rethink anti-dowry jurisprudence is not to merely call for tougher laws or faster trials. It is to call for a shift in the way we think about justice not as an act of revenge, but as transformation. Justice must be about not tolerating coercion as legacy. Justice must be about giving voice to survivors not just by law, but by dignity, care, and sustained social transformation.

The key to the future of anti-dowry reform is not only courts and codes, but classrooms, communities, and policies that unwillingly accept dowry as tradition and instead identify it for what it is; structural violence that needs to be named, confronted, and uprooted together. To sum up, we would like to quote the observation[33] made by Justice Gita Mittal:

> *"Dignity is not a favour bestowed on women; it is a constitutional promise. The law must protect, not pacify."*

[32] UN Women India, "Gender Equality and Women's Rights in India: Status and Recommendations", (Policy Report 2022).
[33] Justice Gita Mittal, *Address at Women's Day Celebration*, Delhi High Court (Mar. 08, 2018).