

## **Policy Brief**

### **Combating the Institutionalized Dowry in India**

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**Abstract:** The parents of young daughters are often forced to make a large payment to the groom's family to get their daughter married. As a marriage gift from the bride's family to the bride on her marriage, dowry's voluntary practice hardened into a compulsion, which also causes women suppression and the 'dowry death' of girls. Despite the Dowry Prohibition Act, 1961, the National Crime Records Bureau (NCRB) of India records several thousand of dowry deaths each year, which indicates the lack of effectiveness and enforcement of the existing law that narrowly finds the legal solutions for a social problem without understanding the culturally imbedded and institutionalized practice. The existing literature also often reifies the marriage market's cultural bias in which dowry practice is nested, which omits women's value. This article follows up on the research, "Institution of Dowry in India: A Theoretical Inquiry," by Soni (2020) and provides some policy recommendations. The aspects of subjective belief, cultural context, and legitimization critically contribute to the dowry's enduring phenomenon. Accordingly, policy measures should be geared towards declining

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institutional efficacy while altering the broader context in which actors behave. Alternate non-punitive policy measures, such as — recognizing and positively incentivizing the non-dowry marriage— should reduce the culturally embedded practice of dowry and dowry deaths. The non-punitive measures to combat culturally embedded social evils have more widespread policy implications within and outside India.

#### **Context of the Problem**

The dowry practice's voluntary aspect hardened into a compulsion for young daughters' parents to make a large payment to the groom's family to get their daughter married, which resulted in several detrimental consequences from female infanticide to dowry death. Research (Srinivas & Bedi, 2007; Bloch & Rao, 2002) has shown that dowry leads to increased wife-beating and physical and mental assault of women because of their in-laws' aspirations and greed to obtain more dowry from the brides' family. Domestic violence against women is systematically used as a bargaining means to extract additional transfers (Bloch & Rao, 2002). As social stigma is attached to separated and divorced women, women continue to stay in abusive marriages due to their conscience or family pressure. The NCRB<sup>4</sup> records a rising number of dowry deaths every year; in 1995, the recorded dowry death cases were 4668, which rose to 7634 in 2015.

Thus, despite the policy to curb the crime of dowry deaths, the practice of dowry and crime against women continues. The contemporary situation indicates the existing punitive legal policy's inefficacy to combating dowry and dowry death crime. Accordingly, the policy measures are required to recognize the cultural

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<sup>4</sup> <https://ncrb.gov.in/>

context of dowry in which actors behave and interact. Although the existing literature provides partial explanations, they often reify the marriage market's cultural bias in which dowry practice is nested, which omits women's value. Regardless of being educated or employed, women substantially contribute to a family's economic well-being as a child-bearer and homemaker (Oxfam 2019; Singh & Morey, 1987). Nevertheless, in general, the societies either do not count or take these contributions for granted, reflecting the marriage market's cultural bias that embraces dowry. Ironically, theories explaining the phenomenon of dowry as an outcome of the marriage market equilibrium also implicitly accept and conform to the marriage market's cultural bias. Hence, theories that often accept this culturally biased marriage market remain limited in explaining the dowry's enduring practice.

Correspondingly, the policy measures also appear to disregard subjective belief, cultural context, and legitimization, which critically contribute to the dowry's enduring phenomenon. As a result, the punitive legal approach proved ineffectual in restraining the dowry and crime of dowry deaths. Institutions often exhibit "enduring" and "resilient" phenomena (March & Olslen, 2006, p. 4). The dowry institution is culturally embedded and socially embraced by society; therefore, the social and cultural aspects of dowry's institutionalization need to be recognized in policy measures.

### Existing Policy and Policy Alternatives

The Dowry Prohibition Act, 1961, amended and revised several times, legally prohibits dowry. According to the Act, dowry is defined as:

"Any property or valuable security is given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage, or by the parents of either party to a marriage or by any other person to either party to the marriage or any other person; at or before or any time after the marriage in connection with the marriage of said parties."

The Dowry Prohibition Act, 1961, aimed to control women's ill-treatment by their husbands or in-laws by including Section 498A in the IPC (Indian Penal Code) in 1983, which recognizes cruelty against a married woman by her husband and in-laws as a crime for which it lays down the punishment of imprisonment extendable up to three years and/or fine. However, the statistics (NCRB) indicate an alarming increase in women's suspicious death in matrimonial homes. Hence, the lawmakers inserted two more provisions – Section 304B in the IPC and Section 113B in the Indian Evidence Act, 1986. The policy was meant to restrain the rising incidences of Dowry Deaths by making special provisions for prosecuting those accused of killing women for dowry. Section 304B deals with both the homicidal and suicidal death of a woman. According to the law-

"The death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage, and it is shown that soon before her death she was subjected to cruelty or harassment by her

husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death," and such husband or relative shall be deemed to have caused her death."

Similarly, section 113B of the Indian Evidence Act, 1972, deals with the presumption, if soon before a woman's death, she has been subjected by her husband and in-laws to harassment or cruelty, then it is to presume that such person had caused the dowry death. Despite the special legal provisions, dowry is practiced, and dowry related crimes are increasing. According to the latest data, India loses 21 lives to dowry every day; however, data suggest that out of the total number of cases registered, 93% of the accused were charge-sheeted, but only one third resulted in a conviction<sup>5</sup>.

Actors' subjective belief coupled with cultural context creates self-reinforcing path-dependent sequences for the enduring phenomenon of dowry practice. Actors' beliefs tied with cultural context create a self-reinforcing path-dependent mechanism, contributing to dowry's enduring phenomenon. According to insights drawn from the path-dependent analysis, essential measures should be identified to combat dowry. Change is possible when the values or subjective beliefs of actors change. Such changes in actors' subjective perception could be triggered by the decline in institutional efficacy or new ideas by the social or political leaders (Meyer & Rowan, 1977). However, the cultural account suggests that change is not possible by merely changing the belief system. It would require changing how

people behave toward one another while influencing the institutional externalities, which possibly can undermine existing institutions. Thus, by combining these arguments, change is possible through altering the belief system and changing the cultural context in which actors interact and treat one another.

### Policy Recommendations

Drawing from the theoretical analysis, the following policy recommendations are listed to combat the institutionalized dowry:

1. The dowry institution should not be seen in isolation, as actors behave in one context depending on other current contexts. Likewise, actors "respond to incentives or disincentives not on an institution-by-institution basis, but with an eye on the broader context" (Bednar & Page, 2006, p. 10). Hence, policy measures should be geared towards declining institutional efficacy while altering the broader context in which actors interact. For instance, positives incentives and recognition such as certificate, scholarship, a tax benefit for non-dowry marriages, inter-caste marriages (that skips dowry), and low-cost weddings could be considered. Marriages without dowry are neither valued nor appreciated socially, which often demotivates actors in practicing such events. A supportive structure that will reinforce society's value and preference for "dowryless marriages" (Saini, 1983, p. 1) could alter the cultural context that approves dowry. While these tangible or intangible incentives will encourage people to skip dowry, it could also alter the cultural externalities in which actors interact or treat each other.

<sup>5</sup> <https://www.indiastat.com/>.

2. Informal rewards (such as praise in public, letter of recognition, and other social incentives) should be useful in securing compliance (Braithwaite, 2002). The state capacity to monitor and punish noncompliance with the Dowry Prohibition Act is often limited, especially when society embraces it. Therefore, the policy should focus on voluntary compliance rather than coercion (Tyler, 1997). Informal rewards will create a favorable cultural context for securing voluntary compliance.
3. Specific measures should be considered to recognize the economic and social value of women. The introduction of new ideas by the social or political leaders, such as gender sensitivity workshops at school, and college level, could help create awareness for women's value for their contributions in formal or informal sectors. Recognition for women's contribution should eventually help to delegitimize the institution of dowry practice by altering the cultural context that approves dowry.
4. The dowry's primary stakeholders, including young boys and girls, should be engaged in the change process. It is crucial to sensitize and mobilize the stakeholders to root-out sex-based prejudice and discrimination. Moreover, the scattered and sporadic consensus against dowry should be organized at a common platform for effective social reform.
5. The public and NGO practitioners should consider altering the strategic environment in which actors behave through non-punitive measures. For instance, street-level bureaucrats and local NGOs can be instrumental in recognizing women's economic and social value by offering

positives incentives such as praise in public, letter of recognition and certificate for non-dowry marriages. NGOs can also be instrumental in organizing the scattered and sporadic consensus against dowry.

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