

Unveiling the Dark Side: The Misuse of the Dowry Prohibition Act 2018 in Bangladesh

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ABSTRACT

This study had tried to investigate the misuse of the Dowry Prohibition Act 2018 in Bangladesh, a legislation designed to combat dowry-related abuses and promote gender equality. Through a thorough analysis of legal cases and socio-cultural data, it reveals the alarming trend of individuals exploiting the Act for personal gain. The law that was created to protect women from the oppression of the dowry system is now being used by some women to rule over males. This research, based on the misuse of dowry legislation in Bangladesh in 2018, will shed light on the causes of the rise in fake dowry cases in the Bangladesh. Second, a thorough comprehension of how to handle all bogus dowry case concerns gained through fieldwork Third, a thorough examination of the issue of defending and shedding light on the challenges faced by both victims and the accused.

INTRODUCTION

The giving and receiving of dowry are prohibited in Bangladesh under the Dowry Prohibition Act of 2018.¹ According to the law, dowry refers to “money or any additional asset “which a party demands as a payment for marriage. In situations where the parties are subject to Muslim Personal Law (Sharia), it fails to include a dower or mahr nor it doesn't even pertain to wedding favors.² Although the Dowry Prohibition Act is an important tool in the battle against dowry violence, misuse of the law is possible. Some individuals exploit the law to intimidate and coerce money out of their in-laws, even in situations when there is no evidence of dowry abuse. This can have detrimental effects on families, particularly those belonging to marginalized communities. When the Dowry Prohibition Act is abused, men might become socially isolated. For instance, a man's family and acquaintances might avoid him if he is suspected of abusing the dowry. In addition, he can struggle to get married or obtain employment. Depression and social isolation may result from this. The Dowry Prohibition Act abuse is a grave issue that can have disastrous effects on both men and women. It is important to be aware of the potential for misuse of the law and to take steps to protect yourself from false accusations.

OBJECTIVES OF THE RESEARCH

The objectives of the research are-

- To understand the extent of misuse of the Act.
- To identify the factors that contribute to the misuse of the Act.
- To assess the impact of the misuse of the Act on the accused and their families.
- To develop recommendations to reduce the misuse of the Act.

OPERATIONAL DEFINITION

Cumilla: A district of Bangladesh under Chattogram division.

Keywords: Dowry, dowry Act, misuse of dowry Act,

Dowry: According to the section 2(b) of The Dowry Prohibition Act “dowry” means monetary-articles or any other property as a consideration of marriage given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage at the time of marriage or before it or during existence marital relations as condition precedent for the continuance of the marriage, but does not include dower or mehr in the case of persons to whom the Muslim Personal Law (Shariat) applies or presents made at the time of a marriage by relatives, friends or well-wishers of any party to the marriage.

Dowry Act: The dowry Act is a legal restriction on the provision or receipt of dowries throughout marriage. When a couple gets married, the bride's family gives the groom's family dowry, which is a monetary or material gift. As dowry can result in financial hardship, violence, and even death, dowry acts are intended to protect women from exploitation and abuse.

Misuse of Dowry Act: The dowry Act is a legal restriction on the provision or receipt of dowries throughout marriage. When a couple gets married, the bride's family gives the groom's family dowry, which is a monetary or material gift. As dowry can result in financial hardship, violence, and even death, dowry acts are intended to protect women from exploitation and abuse.

RESEARCH METHODOLOGY

The study used a doctrinal and non-doctrinal research method to investigate the efficacy of the misuse of the Dowry Prohibition Act 2018. The data was collected on October 20, 2023, in Cumilla District Court. For the best methodology for studying the misuse of the Dowry Prohibition Act of 2018 in Bangladesh, we used a mixed-methods approach. The data collection methods involve in-depth interviews with key informants and a brief survey of litigation, which are typical methods used in qualitative research. Additionally, we have supplemented the primary data with secondary sources to gain a more comprehensive understanding of the topic.

LIMITATIONS OF THE RESEARCH

A few limitations of this research are given below:

1. **Lack of data:** There is a lack of reliable data on the misuse of the Dowry Prohibition Act in Bangladesh. This is because most cases of misuse are not reported to the authorities.
2. **Difficult to distinguish between genuine and false cases:** It is difficult to distinguish between genuine and false cases of dowry abuse. This is because the act does not require the complainant to provide any evidence to support their allegations.
3. **Lack of awareness:** There is a lack of awareness about the problem of dowry abuse and the misuse of the Dowry Prohibition Act. This makes it difficult to find people who are willing to talk about their experiences.
4. **Stigma:** There is a stigma associated with dowry abuse and the misuse of the Dowry Prohibition Act. This makes it difficult for victims to come forward and report their experiences.
5. **Fear of retaliation:** Victims of dowry abuse and those who have been falsely accused of dowry crimes are afraid of retaliation. This can make them reluctant to talk about their experiences or to participate in research studies

Legal frame work in Bangladesh

THE PENAL CODE OF 1860: The Penal Code contains a number of provisions that can be used to punish people who make false accusations or who engage in malicious prosecution. For example, Section 211 of the Penal Code makes it an offence to file a false complaint with the police.³ Section 503 of the Penal Code makes it an offence to make a threat of injury to reputation or to property with the intent to extort.⁴

THE CODE OF CRIMINAL PROCEDURE OF 1898

Another law that can be used to protect people from misuse of the Dowry Prohibition Act is the Code of Criminal Procedure of 1898. The Code of Criminal Procedure contains a number of provisions that can be used to ensure that people are treated fairly during criminal proceedings. For example, Section 24 of the Code of Criminal Procedure requires the police to investigate all complaints before making an arrest.⁵ Section 167 of the Code of Criminal Procedure requires the police to produce a charge sheet before a magistrate if they believe that there is sufficient evidence to support the charges.⁶ In addition to the Penal Code and the Code of Criminal Procedure, there are a number of other laws that can be used to protect people from misuse of the Dowry Prohibition Act. For example, the Domestic Violence (Prevention and Protection) Act of 2010 provides protection to victims of domestic violence, including economic abuse. The Information and Communication Technology Act of 2006 also provides protection to victims of cyberbullying and online harassment.

The Dowry Prohibition Act 2018: A Beacon of Hope

The Dowry Prohibition Act 2018 was heralded as a progressive piece of legislation designed to safeguard the rights of women in Bangladesh. The Act explicitly prohibits the giving, taking, or demanding of dowry, be it in cash, valuables, or property. For which the wrongdoer will penalize with imprisonment for a term not exceeding 5 (five) years, but not less than 1 (one) year, or with a fine not exceeding 50,000 (fifty thousand) Taka, or with both.⁷ It empowers women by criminalizing these practices and provides stringent punishments for offenders, including imprisonment and fines.

In an attempt to limit the number of false cases and harassment of an innocent party, Section 6 of the Act is enshrined in the dowry prohibition Act. On 7th May 2018, the Cabinet chaired by Prime Minister Sheikh Hasina of Bangladesh brought about an amendment to the Dowry Prohibition Act, 1980 of Bangladesh. As per the new provision (Section 6) of the proposed draft law, the punishment for filing any false case will be maximum five years' imprisonment or maximum Taka 50,000 as fine or both.⁸

It should also be noted that there are additional remedies available in Bangladesh for dowry-related violence, including the "Nari-O-Shishu-Nirjatan-Daman-Ain, 2000" law, which provides severe penalties for any dowry-related offense which causes hurt, grievous hurt or death, and the Protection of Women from Domestic Violence Act, 2005, which defines "domestic violence" as any conduct which harasses, harms, injures, or endangers an aggrieved person, including any act done with a purpose to coerce an aggrieved person to meet any unlawful demand for a dowry.⁹

The Rising Concern: Misuse of the Act

While the Act was intended to protect women from the scourge of dowry-related abuse, its misuse has emerged as a growing concern. Some unscrupulous individuals have been leveraging the Act for personal gain, manipulating its provisions to settle personal scores or extract money and property from innocent

individuals and families. According to various Research, it's found that almost 80 percent of the cases filed under the dowry prohibition Act and the Prevention of violence against women and Children Act are false where the law is being used as a tool to discipline opponents.⁹

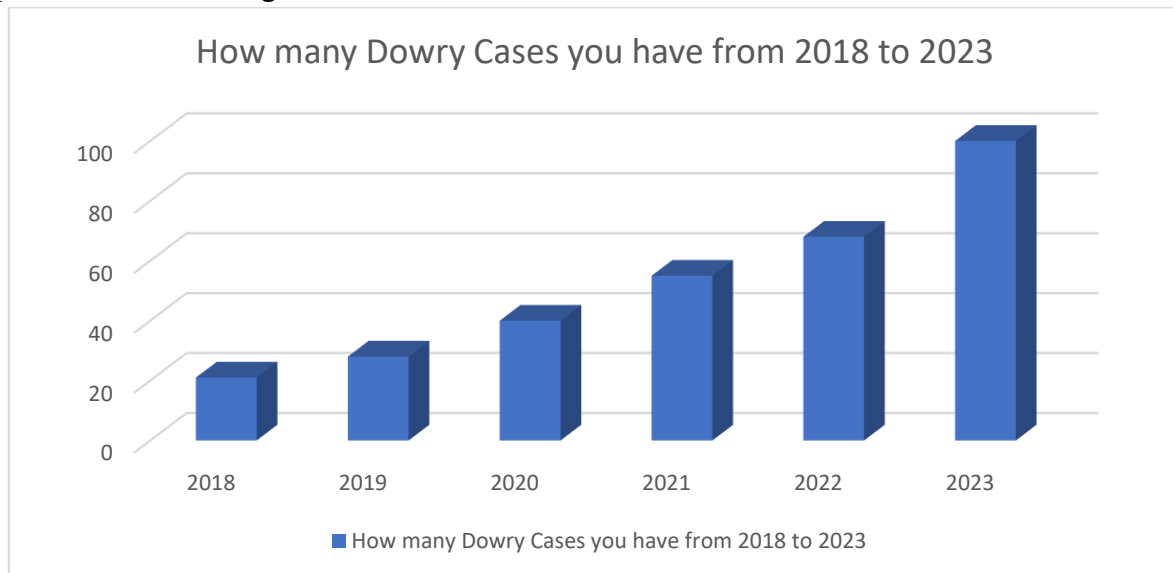
In this paper, we are trying to show how women and their families misuse the dowry prohibition act 2018 which is endangering our family life, society & country.

FINDINGS:

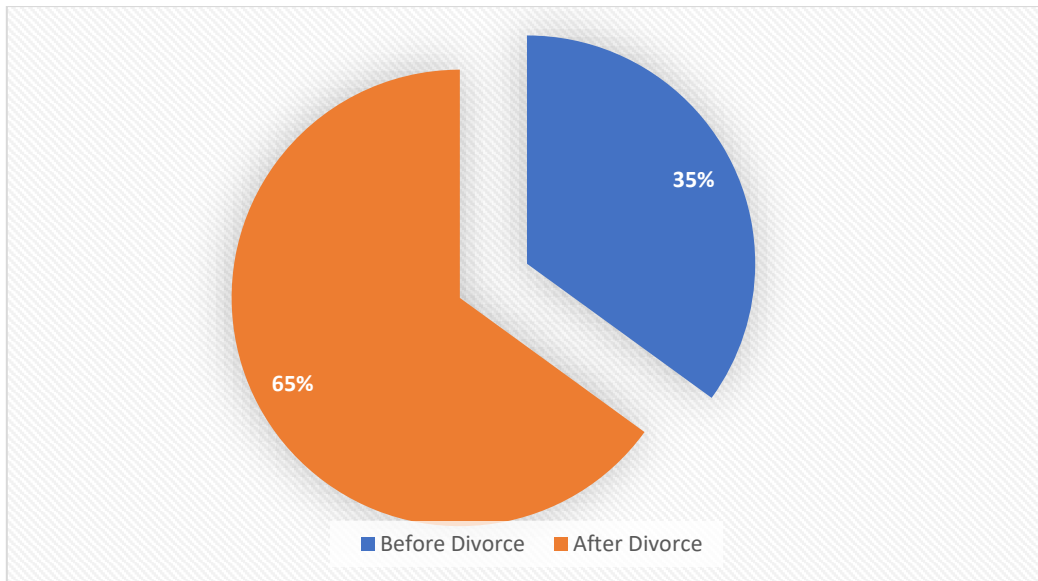
Analytical Research of Dowry Case in Cumilla district (Bangladesh)(2018-2023)

A survey was conducted to find the real scenario of Dowry Prohibition Act. The Survey participants were Advocates of Judge Court Cumilla. More than 100 advocates took part in this survey and the survey has shown an interesting result. Advocates were asked several questions via Google form and their responses are shown in a graphical manner.

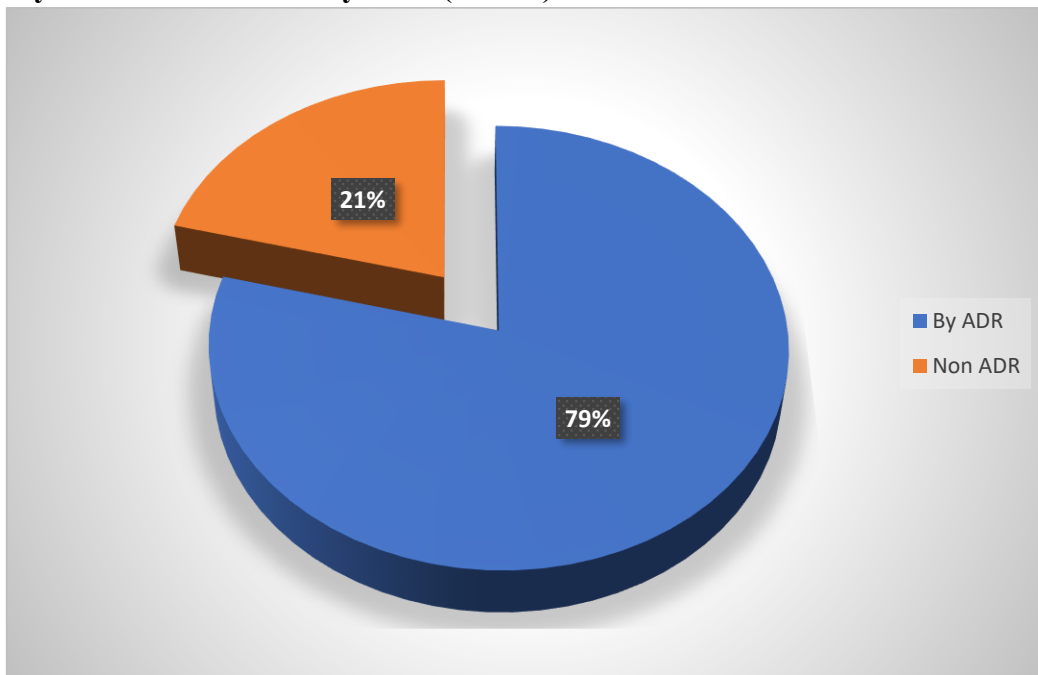
- How many Dowry Cases you have from 2018 to 2023?
 - If we look at the answers, we have found that the number of the cases filed from 2018 to 2023 it represents an increasing manner.



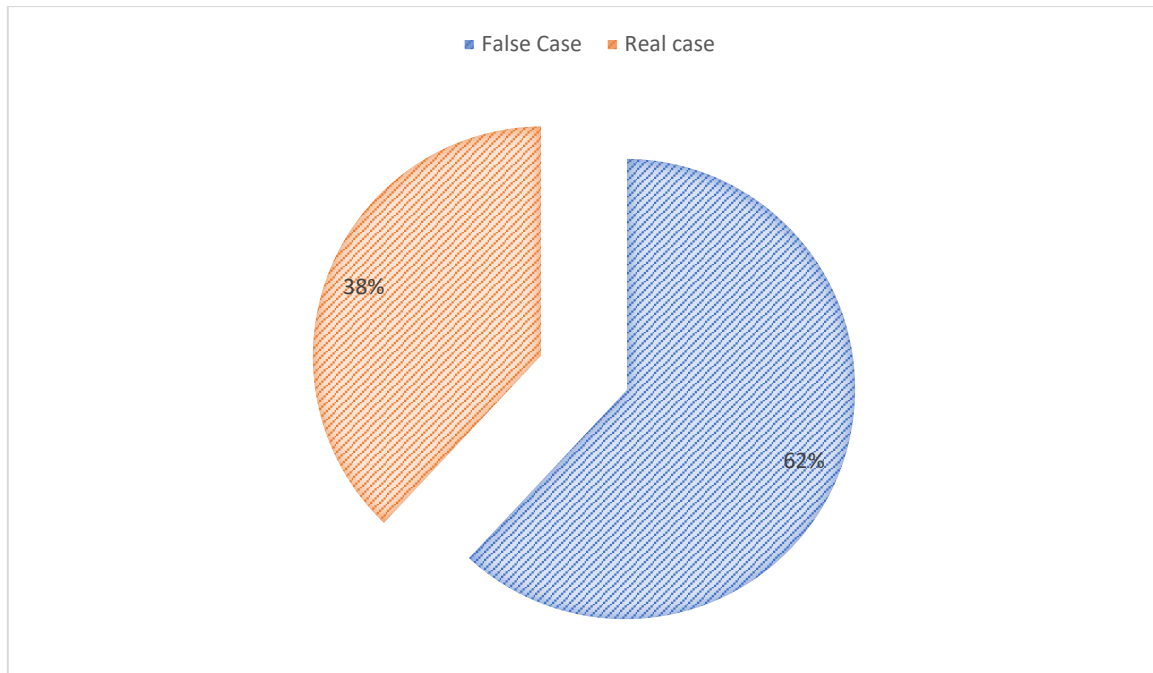
- **How many of them are After Divorce?**



- **How many of them are Settled by ADR (Before)?**



- **How many of them are False dowry Cases?**



CASE REFERENCE

Taslina Akter vs Ali Ullah (Cr case no- 744/2022)

In this case, the complainant's husband captures her for adultery. The complainant at one point demanded a dower from the accused, but he denied giving it. For this reason, the complainant filed a case against the accused under Section 3 of the Dowry Prohibition Act and a suit for dower in the Family Court. At one point, the family court decides that the accused should provide dower to the complainant, and on condition of receiving dower, the complainant should withdraw the dowry case against the accused.

So from the above case, it can be understood that the complainant filed a dowry prohibition act only to collect her dower and take revenge against the accused.

Afroja mahamud salma vs Md. Shipon (2020) (11 (c) /30 of Nari o shishu Nirjaton Daman Ain 2000

The complainant filed a case under Section 3(c) of the Nari O Shishu Nirjaton Daman Ain 2000 for heart for dowry. But the main fact was that the complainant and her family tried to keep the accused under their control. But the defendant did not agree with them. At one point, the accused proved that he did not torture the complainant for dowry and that he wanted to keep relations with the complainant. The complainant claimed a dower. The accused paid one installment of dower to the complainant. Later on, the complainant did not appear at the court to receive the dower. The accused got an acquittal from the court.

Kamrun Nahar Kajol vs Kaji Md. Faruq (Cr case 305 /2020)

In this case, the complainant claimed that the accused tortured her for a dowry of 2 lacs taka and evacuated from the house. But the main fact was that the complainant had an extramarital relationship. She filed a case with the senior judicial magistrate court, Cumilla. The court makes a decision on behalf of the complainant. The accused appealed to the session judge court. But the court also rejected the appeal. Subsequently, the accused goes for revision to the high court division. The complainant did not appear in the high court, and it was proved that the complaint was false. The accused was not convicted in the case.

Tania begum vs Md Arman (Cr case no- 86/2023)

In this case, the complainant divorced from the accused. After divorce, she filed a case under Section 3 of the Dowry Prohibition Act and claimed for dower. The accused proved that the complainant filed the

dowry case after divorce. At last, the complainant collected the dower from the accused, and the case was solved by the ADR process.

Tanjila vs Sheikh Habibur Rahman case

Sheikh Habibur Rahman. Home in Gopalganj Sadar Upazila. In 2007, Habibur got married to Tanjila Haque Urmi of the same upazila. Habibur Tanjila's family was going well for a long time. However, when Habibur Rahman went to Saudi Arabia in search of livelihood, his wife Tanjila's behavior changed. With this, distance is created between the two. Because of this, their married life did not progress as there was no relationship between the two.

Habibur divorced his wife Tanjila through the court on February 3, 2019. After the divorce, Habibur also paid dowry, alimony and child support according to the court order. Still there was no escape. Habibur Rahman was not spared from the case. A year and a half after the divorce, this expatriate and his family are living a miserable life due to the dowry and torture case filed by the ex-wife under section 11(c) of The Nari O Shishu Nirjatan Daman Ain 2000 . Case No. 20/35. The case is not leaving behind them.¹⁰

So from the above cases it is clear that though dowry prohibition Act is for protection of women right but most of the times they misusing this the application of this Act by filling false case.

In fact, no one comes to get justice, as the case is nonbailable offence, the 3 months of arrest is used as revenge if there is a case. The abuse of this section is increasing as there is an opportunity to arrest before the complaint.

Assistant Attorney General Abdullah Mahmud Bashar said, "In this law, the process of arrest before investigation or trial is not logical."¹¹

COMPARISON WITH OTHER COUNTRIES: INDIA

Naresh Gundyal v. State 2023, decided on 18-04-2023] 2023 SCC OnLine Kar 20,

*Order written by Justice S. Rachaiah

Karnataka High Court: While deciding the instant petitions invoking the Court's inherent power under S. 482 CrPC to quash complaints against the petitioners under the provisions of Penal Code, 1860 and Dowry Prohibition Act, 1961, the Bench of S. Rachaiah, J. held that criminal case filed by a wife against her husband and in-laws with regards to cruelty and dowry harassment, loses its importance when such complaints are made after receiving a divorce notice from the husband.

The Rising Concern regarding false dowry case in Bangladesh:

1. Misuse of the Act

While the Act was intended to protect women from the scourge of dowry-related abuse, its misuse has emerged as a growing concern. Some unscrupulous individuals have been leveraging the Act for personal gain, manipulating its provisions to settle personal scores or extract money and property from innocent individuals and families. According to various Research, it's found that almost 80 percent of the cases filed under the dowry prohibition Act and the Prevention of violence against women and Children Act are false where the law is being used as a tool to discipline opponents.¹²

2. False Accusations and Blackmail:

One of the primary ways the Act is misused is through false dowry-related accusations and blackmail. According to the advocates, judges of different courts, and researchers, it's found that by taking shelter of the dowry prohibition act most of the time some women come to the court not getting justice but to subdue their husbands and in-laws' family members (where no dowry was demanded) by arresting him/ them with 3 months jail without any adjudication.¹³

In some instances, disgruntled spouses or their families have weaponized the Act to exact revenge or extort money from their counterparts. This misuse not only undermines the spirit of the Act but also leads to the harassment and suffering of innocent individuals. Though in Section 5 of the Act, there is a provision of punishment for filing false cases with 5 years' imprisonment and a maximum 50000/ taka fine. But before the cases can go to the end, the cases are ended through a compromise where the provision for false cases is useless. According to the calculation of the PBI till the June of 2023, they received 567 cases for investigation, of which 681 cases including earlier cases have been investigated and final reports have been completed. The final reported cases were 302 proved, 287 disproved, and 92 settled by compromise.¹³

Unfair Harassment of Innocent Families:

The Act's misuse often results in the wrongful harassment of innocent families, even those who have not demanded or given any dowry. As the offense is a nonbailable and compoundable offense so after throwing jail women are demanded a large amount to compromise or withdraw the criminal case. And this is the weapon of women by which they take revenge against innocent men and their families. As a result- most of the time innocent mans separated from their family lives, become frustrated and sometimes commit suicide.

Negligence of Advocates in this regard:

We intended to speak with numerous advocates about this during the research, but none of them were able to provide us with any information because, of course, no one will admit to their own responsibility. But during this research, we found some information through newspapers and journals about this matter. Sadly, some proponents have been careless in this area. Before filing a complaint under the Act, several attorneys neglected to fully investigate the accusations made against their clients. Others have neglected to offer their clients competent court representation. As a result, innocent people have been detained and accused of violating the Act, and those who have been harmed by its abuse have not received the justice they deserve. In situations involving the abuse of the Dowry Prohibition Act, advocates may disregard their obligations for a variety of reasons.

Negligence of the doctor

Sometimes doctors provide false medical report in lieu of money. Where women can take shelter of false dowry prohibition case.¹⁴

Impacts on the society for misuse of the Act:

The burden on the Legal System

The misuse of the Dowry Prohibition Act has led to a significant burden on the already overburdened legal system of Bangladesh. False dowry cases clog the courts, delaying justice for genuine victims and hampering the pursuit of justice for other critical matters. In 2022, 1,613 cases were given to PBI for investigation by the courts. PBI has got the responsibility of investigating 567 cases in 5 months of this year. The result of the investigation shows false case information. Moreover, 20 percent of the cases are settled by the plaintiff-defendant. PBI said that these types of false cases are a burden for the legal system of Bangladesh.¹⁵

Impact on Marital Relationships

The misuse of the Act has also had adverse effects on marital relationships. The climate of suspicion and fear surrounding dowry allegations can destroy trust between spouses, further exacerbating tensions and leading to the breakdown of marriages.

Impact on Child and society:

Due to the breakdown of the relationship between the husband and wife, the most suffering person is their child. Divorce and cases create a bad psychological impact on their children, as a result, our society is day by day getting broken down.

RECOMMENDATION

To curb the misuse of the Dowry Prohibition Act 2018, it is essential to undertake comprehensive reforms. The following measures can help strike a balance between protecting genuine victims and preventing abuse:

- 1. Stringent Penalties for False Accusations:** To discourage false dowry-related accusations, the law should impose severe penalties on those found guilty of misusing the Act.
- 2. Responsibility of magistrate:** Before giving an order of arrest magistrate must have to investigate three matters-
 - Whether the case is filed after the divorce or not?
 - Whether the husband or his family demands any dowry from the wife or her family?
 - Whether the case is filed for harassment?
- 3. Mediation and Counseling:** Encouraging mediation and counseling during dowry-related disputes can help resolve conflicts without resorting to legal action, fostering a more amicable atmosphere.
- 4. Awareness Campaigns:** The government and non-governmental organizations must run awareness campaigns to educate people about the Act's correct application and the consequences of its misuse.
- 5. Fast-Track Courts:** Establishing fast-track courts specifically for dowry-related cases can expedite the resolution of genuine cases and reduce the burden on the judiciary.
- 6. Making it more difficult to file false dowry cases:** This could be done by requiring women to provide more evidence before their cases are registered. For example, women could be required to provide a written complaint from their families or from a local government official. The magistrate will attempt to confirm the validity of the marriage and its legitimacy by calling both parties after receiving a complaint.
- 7. Raising awareness of the misuse of the Dowry Prohibition Act 2018:** This could be done through public education campaigns and through training for law enforcement officers and judges. Public education campaigns could raise awareness of the consequences of filing a false dowry case and encourage people to report false dowry cases to the authorities. Training for law enforcement officers and judges could help them identify and investigate false dowry cases.
- 8. Providing support to victims of dowry-related violence:** This could be done by establishing shelters for victims of dowry-related violence and by providing them with access to legal and counseling services. Providing support to victims of dowry-related violence can help them cope with the trauma they have experienced and rebuild their lives.
- 9. Time limitation:** Provision should be made here through which women will be given time up to a certain period to file the case.
- 10. Alternative Dispute Resolution:** Mandatory provision should be made to try to settle the case through ADR initially after filing the case.

In addition to these specific recommendations, it is also important to address the root causes of dowry-related violence. This includes addressing gender inequality and economic insecurity. By addressing the root causes of dowry-related violence, we can reduce the number of dowry-related cases, both genuine and false.

Time for ‘Men’s Rights’

It's a pity on the groom's side in Bangladesh that whenever things do not go smooth after a boy's marriage, there are plenty of laws for married women's rights in Bangladesh which can be her weapon to harass them. Failure of a marriage does not only mean that the groom and his family are at fault. Even if we particularly talk about dowry, if the groom's side demanding gifts from the bride's side is wrong, girls deciding the groom based on his salary/ family wealth should not be celebrated as well. Misuse of provisions like domestic violence and dowry harassment has become a wife's legal package to harass the husband and his family, and draw a lot of money from them. It's high time that lawmakers look into it and bring some neutrality in such matters assuming that men can also be victims in a marriage.

CONCLUSION:

The Dowry Prohibition Act 2018 was enacted with the best intentions, aiming to protect women and promote gender equality. However, its misuse has revealed the need for careful implementation and reforms. By addressing the issue of misuse, Bangladesh can better fulfill the Act's objectives and foster a society that respects and safeguards the rights of women, without compromising justice for innocent individuals. Only then we can truly create a fair and equitable society that upholds the spirit of the Dowry Prohibition Act.

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