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Dowry Death in India

REHA BHARGAV¹ AND ARYAN MALIK²

ABSTRACT

Dowry has existed from the beginning of time. This idea has been discussed throughout history and is an old one. Despite being a long-standing tradition, dowries are still required and anticipated in order to accept a legitimate proposal during a wedding. In regions of Asia and Northern Africa, it is frequently observed. Many dowry-related conflicts result in violence against women, including acid assaults and murders, and these fatalities are referred to as "dowry deaths."

Dowry is a kind of amount which is given by the parents of girl i.e., bride to the parents of boy i.e. groom, which might take the form of property or cash. At the wedding, the groom's family receives this cash. Most bride's families offer a dowry to keep their daughter content with the in-laws, but they are unaware that this practise can affect their offspring as well. Conservation of young females from the communal immoral is the duty of the government. For this purpose the state government has established various restrictions related to forbidding of the dowry such as 'Dowry Prohibition Act, 1961' and many more. There are various penal provisions inserted under act of 1961. There were many awareness and educational programme was run by government for reducing the rate related to dowry death.

Keywords: Dowry, Dowry Death, Dowry Death in India, Dowry Act.

I. INTRODUCTION

Marriage is socially acknowledge and sometimes legally ratified union between an adult male and female. It is regulated by rules, customs, beliefs and attitudes which determines the rights and duties of the partners and accords status in the respective society. It is approved by the society whereby they are allowed to establish their family. It is a kind of contract for the production and maintenance of children. Marriage is a word which describes the social relationship of husband and wife and also conduct the ceremony of uniting martial partners. Marriage performs various social and personal functions such as sexual gratification and regulation, division of labour, economic production and consumption, satisfaction of personal need for status and affection. Its main function is to procreation, care of children their education, welfare and socialization. Marriages have evolved greatly throughout history.

¹ Author is a student at B.S. Anangpuria Institute of Law, India.

² Author is a student at HIMT Group of Institutions, India.

Dowry is one of the heinous crime in the society. It is a kind of transfer of property from one family to another family. It is the amount given by the girl's family to the boy's family in form through cash and gifts at the duration of wedding ceremony. Dowry includes various things such as cash, jewellery, furniture, car, utensils, electronic items, gadgets, etc. it is matter of very serious concern to everyone as it is ever increasing and disturbing topic. Dowry is very old concept from the very ancient time and perform as a custom. Dowry is denotes as the parents of bride family is compelled to give it as a price for marriage and for happiness for their daughter. If they fails to pay then their daughter i.e. bride has to suffer and not treated well in their respected in-laws family. The custom of dowry is very deep rooted context which is considered from very ancient period. Due to this dowry system the status of women gets lowered, female child are unwanted and undesirable from the society. And even because of dowry female feticide took place the female child is ill-treated and even murdered. It increases the violence against the women. Dowry known as the token of love and regard for the couple. Many matrimonial relations are getting effect and even damaged due to this dowry system.

Though efforts to end the practise of dowry, they have similarly intensified in last 20 years or as viewed through rise in discriminations among women that arises through dowry matters. It is generally accepted that dowry was not intended to be used in its original form and also not motivated by extortion and greed, as is frequently the case today, but rather by love and respect for the bridegroom. In order for the daughter of the bride to live a dignified life and maintain good ties with her partner i.e. husband & whole family.

II. HISTORICAL BACKGROUND

The very first state legislation related to the dowry was established as the "Dowry Prohibition Act, 1961." Although this Act contains a various no. of obstructive as well as penal elements yet, it can never be achieved their imperial. As the dowry system is too well-established among all sub-parts of the community/society. The lack of enforcement government officials is that there is no action taken by the government on the registered cases as well as the people are unaware about the legislation. There the legislation and judiciary have to give continue support till the situation gets vanished from the society.

In India Marriage is considered as a tradition and cultural beliefs. Dowry system is not today's trend, it is a very old concept and it is very difficult task to eradicate the dowry system from the society. Dowry is considered from the medieval period where a gift or in cash was given by the bride family to bride for maintaining her independence and protection after marriage. As per the Colonial era, it becomes the legalize manner to get married, the practice of dowry becomes

mandatory at the time of Britisher's. In India it becomes the trend to booming the economy, and is now becoming the raise in bride prices from all socio-economic strategy. And it creates an increase in domestic violence against women.

Violence regarding to dowry is created by the husband or his family in order to obtain more dowry from the family of bride. Dowry is paid at the same time of marriage, and day by day it becomes the greed of husbands and his family after marriage. It will translates into physical, mental, sexual, violence against the bride.

It will affect the bride and that violence may cause death of bride by burning her alive by pouring kerosene oil on her.

In various cases, women were driven to suicide. Rather demanding dowry is illegal in India since 1961, this has been challenged several time. In 1986 an amendment to law mandated that any death of violence within first seven years of marriage tried is related as dowry. The acts of violence can include burning her alive by pouring kerosene on her or slicing her genitalia or breasts with razors.

III. CAUSES OF DOWRY DEATH

- **Old Customs and Traditions** - In India, cases related to dowry are predominately occur in order to uphold the traditions and customs of the local community. People have a tendency to stick with traditions that have been practised for a long time, even if it makes them uncomfortable. People used to follow the custom which has been followed through the past years and still follow the same customs even if causes the offence.
- **Social structure** – The Indian society is mainly patriarchal and the dowry system is largely the manifestation of the patriarchal nature of the Indian society where women are being considered as a burden on the family and giving dowry is one kind of compensation for transferring its burden whereas male offspring's are considered to be superior and breadwinners thus making families demand dowry for them.
- **Behaviour of mistreatment** - In India, most of the family's pay dowries to allay their fears that their daughters will be mistreated by their future husbands. The belief is that paying the demanded money will guarantee the security of their daughter and provides equality.
- **Social pressure** - Giving dowry frequently becomes a status issue. In India, it becomes very common fact to determine one's status by the amount of money which he used to expand on their daughter's marriage. Therefore the educated groom family amounts the

dowry at very high level. The pressure here increases on both sides, on the bride side to pay high, on the groom side to demand high.

- **Oppression by society** – Most of the time, dowry becomes matter of status. In India, it becomes very common fact to determine one's status by the amount of money which he used to expand on their daughter's marriage. Therefore the educated groom family amounts the dowry at very high level. The pressure here increases on both sides, on the bride's side to pay high, on the groom's side to demand high.
- **Societal restraints** - The problem is made worse by social pressure to marry within one's caste or kin. Due to a scarcity of desirable options caused by these restrictions, the desirable side is able to demand higher prices.
- **Illiteracy** - People who are uneducated and unaware tend to demand and provide dowries. This arrangement might not have persisted If the people were aware about the equal status of women as men and women are not treated as the burden.

IV. EFFECTS OF DOWRY DEATH

1. Gender discrimination — According to the current trend, the bride's family must bear one of the larger financial burdens associated with the dowry, which enhances the inequalities among females the instant of their conception. They frequently die before or after the birth {foeticide and infanticide} & all are uneducated or treated as unequally to their male counterparts.

- As per the “United Nations Population Fund's (UNFPA)” state of world Population 2020 report, India is responsible for ‘45.8 million’ of the 142.6 million "missing females" who have been missing from the population over the past 50 years because of increasing outcome of prenatal and postnatal gender determination.
- According to data, every year between 2013 & 2017 over 460,000 Indian females were reported missing at birth. As per the to the paper, post-birth girls death rates for around 1/3rd of all missing girls, while gender-biased sex selection accounts for nearly 2/3rd.

2. Savagery against women - Despite the bride's parents paying the dowry, the groom's relatives have a history of demanding more, which finally results in discrimination among women. Many females were slaughtered & burned, or others are subjected to physical and mental abuse. Suicide is a common option for tortured women.

- Dowry fatalities grow outside of roughly 19 per day in 2001 to 21 per day in 2016, according to NCRB record.
- More than 7.1 thousands dowry death incidents was registered in India in 2019.

- Roughly per hour, a female dies from dowry -related violence, as per the data from IPC cases collected by the National Crime Records Bureau (NCRB) in 2019.

3. Imbalance Gender – As the number of incidents of brutality averse to adult female and marriage settlement death increases, the spite of gender selection prior to nativity, girl child miscarriage, and including murdering an infant, effect the sex ratio at very high level, which is proved as the imbalances among genders, and it will leads for the further reverberation.

- Indian's gender ratios at birth rate and among children have remained substantially lower than optimal levels, in large part because many regions of the nation prefer to have boys as children.
- In 2015 and 2016, there were 833 adult females for every 1,000 males in Haryana. State like Uttarakand perform badly when it comes to the sex ratio metrics.

4. Women's declining social status and self-esteem - In comparison to men their age, women have lower self-esteem since they experience such prejudice from an early period. This is led to determine that they are unwelcome and a thrust to their families. Hence there standing is frequently viewed as inferior.

V. LEGAL FRAMEWORK IN “INDIA”

“The Dowry Prohibition Act, 1961”

- ‘Dowry’ is prohibited in India as per this Act. The Act also makes it illegal to give or receive dowry in India.
- The act of demanding the bride's family to comply with demands as payment for marrying their daughter after the wedding, as well as talks for a lower dowry agreement from the groom's side when the bride's side is unable to meet the genuine demand/real deal, are all prohibited by law.
- A violation of the contra-dowry law is punishable through up to five years in prison and a fine of Rs. 15,000 or the amount of dowry given, whichever is greater.

“The Indian Penal Code (IPC) sections”

- In India, dowry death is addressed in ‘Section 304B’. According to the law, “a woman's death will be regarded as a dowry death if it can be proven that she was subjected to cruelty or harassment by her husband or any other relative of the husband prior to marriage in connection with the demand for dowry, or if she passes away within seven years of marriage due to burns or other physical

injuries.”

- Section 498A addresses cruelty. According to the law, a husband or any of his relatives will be held accountable under this clause if they injure a woman physically or mentally.

“Section 113B of the Indian Evidence Act, 1872”

- The dowry death brazenness is covered in section 113B. It indicates such where a female dies in conclusion of a dowry demand and it can be proven that she was harassed or treated cruelly by someone just before she passed away. The court will then presume that this person is accountable for her passing.

VI. JUDICIAL CASES

The unpleasant scenario in which dowry victims are put has yet again been left unrepaired by the wealthy Indian legal system. Almost all of the variables involved in putting laws into effect have faults and flaws, including community outlook, policemen perspectives & attitudes, & flaws in the way the legal, medical, & judiciary systems work.

Although the policemen plays an important role in community is to protect the general populace, their actions really instill dread in the minds of the people as a whole. The policemen are also accused of having attitudes, behaviors, and perceptions that make it less likely for laws to be successfully implemented in the current environment. The most common complaints that the public makes to the police are that they arrive at the site of the crime too late, embellish the events when recording the First Information Report, consistently try to pass off dowry deaths as suicides, and conduct their investigations in an unprofessional and slow manner. The police never want to report a case of abuse against women because they see it as a family matter.

In some Supreme Court cases, such as “**Bhagwant Singh v. Commr. of Police Delhi,**” it was state that “some of the police's shortcomings can be seen. In this case, the Apex Court affirmed that the rate of unnatural deaths is significantly higher than what the police reported. Police diaries are not properly maintained and are not presented to a magistrate. The investigation was negatively impacted by the numerous changes in the investigating officer. Corruption is allocated because of the police's fragility.”

Police have their own justification for the bad situation. First, there is insufficient proof because of unbiased witnesses. A statement made by a dying person that is a significant piece of evidence always conflicts with a statement made by someone connected to them. In general, forensic evidence is beneficial, but it would be best if professionals were brought to the victim

very away. Excessively long delays in medical reports.

Typically, the Supreme Court has expressed shock and agony over the deaths of young brides on a number of times. In “**Virbhan Singh v. State of U.P.**,” the Supreme Court stated that “because to the rising number of bride deaths, such heinous crimes must be prosecuted with ruthlessness and punished severely to serve as a deterrent. Although the state is unable to file an appeal, the Supreme Court is concerned about the acquittal of some suspected offenders.”

In **Samunder Singh v. State of Rajasthan**, the court held that “the instances involving bride burning and dowry deaths are ineligible for anticipatory bail. A particular assumption made by courts, such as the pronouncement that a person with a 100% burn is not competent to die, caused some unhappiness at the trial level itself. If on behalf of harassment victim any other reported matter the matter not reported which creates a hole in Indian legal system.”

In the case of **Shanti vs. state of Haryana**, it was held that “a female died within 7 years of marriage; her in-laws hastily cremated her after failing to notify her parents of the death. The prosecution was successful in showing that the victim was treated cruelly. The presumption under S. 113B of the Evidence Act was drawn because it was impossible to claim that the death was natural.”

In the cases of **State of W.B v. Orilal Jaiswal** it was included that “in spite of presumptions the standards of proof and defence will remain the same.”

As per the ruling in the **Inder Sain v. State**, it was held that, “consideration” which is related to the inspiration, gift, or price for marriage and doesn’t, here, consist any property that is asked or provided after marriage. For avoid a narrow interpretation of the law, the phrase “any time after the marriage” has been introduced in place of “after marriage.” Only conventional gift concepts that do not place an undue financial strain on a family are permitted at Indian marriages. The bride and groom must sign a list of all such gifts, which must include their value and descriptions.

- This system of dowry was a biggest defamation & evil for the society, representative government and the whole state,” it was stated in the case of **Sanjay Kumar Jain v. State of Delhi**. How dowry deaths, which are so regrettable and unacceptable, continue to plague our culture is inexplicable. The growing threat of dowry death must be combated and subdued using all possible means. The Dowry Prohibition Act, 1961 were passes as the result of legislature’s genuine concerns regarding this unpleasant reality of our society and its growing threat.

VII. CONCLUSION

- Marriage is regarded as an institution which is socially and that represents a modern societal order in which 2 adults who are able to go into a merger which is committed to upholding institution's morals & have honored by one another for powerful link that will enable them to fulfil their marriage's obligations. It functions similar a foundation for existence of the human life. Rather other commitments creates during various stages of the wedding decorum which personal inconsistency & philosophical contrast between unchangeable ord deny for changeable shall abolish, some situations arises where groom family demanding dowry, if it was unsatisfied then occasionally a perverted type of requital taken place.

Dowry death is a social ill & a major problem in Indian society. a coordinated effort on the part of women's welfare organizations, the police, government employees, and the judiciary to punish dowry killing offenders with deterrent penalty. This evident the government of India, along the Indian judiciary, creates appropriate & supporting rules and regulations to safe female's rights to life & value or to moreover render equality to those who have been subjected to abuse or harassment by their husbands and his family members. Day by day employment services will decreases dowry fatalities and increase the educational standing of women as a result of the education system change. To abolish the least contain social danger of dowry death, however, a number of corrective measures must be implemented. But perhaps most crucially, there must be a public will and willingness to reject the materialistic hunger of dowry demands. More female police officers should be hired so they are provided among various situations including the suddenly death of females in order via reduce rate of dower deaths, intimidation, or inhumanity. Here investigation could not be taken beyond the assistant commissioner rank for the favor of a thorough probe and equality. The maximum sentence for aiding homicide shall increase for 7 years. The logical & realistic approach is for mentioned issue shall undoubtedly beneficial.

(A) Suggestion

1. **The 1961 Dowry Prohibition Act** - Hindu dowry customs led to a number of issues with daughter marriages in society. Therefore, on May 20, 1961, the Government passed the Dowry Prohibition Act in an effort to outlaw the practice of dowry. All of India is covered by this law, with the exception of Jammu & Kashmir. Since July 1st, 1961, the provisions of this Act have been in effect. This acts enables gifts in form of jewelry, clothing, or any alternative items worth up to Rs. 2000. In other words, only to that

extent is it legalized. This law included all other communities in its scope while exempting all Muslims from its requirements. The Act's punishment for the perpetrator is either six months in prison or a fine of up to 5000 rupees, or both. The act's infractions are not cognizable. But unless a complaint is filed within a year after the offense, the courts are unable to recognize any Act-related wrongdoing. In June 1986, the Act underwent revisions that made it stricter. This Act mandates that anyone who gets a dowry for the benefit of their spouse or her heirs must transfer such dowry to their spouse. If the person in question fails to comply, he could face a 6 month jail sentence and a 5000 rupee fine.

2. **Non-legislative methods to end the dowry system:** Every institution must make extra efforts to inspire people to take action in support of legislation many legislative methods have been done to eliminate the dangers of dowry system from society. Therefore, more non-legal efforts were required to terminate the dowry process. Here, certain non-legislative actions are addressed.
3. **Publicity and propaganda against dowry-** Modern media, such as television, radio, movies, newspapers, and the internet, should publicize and propagandize against the practise of dowry by starting many contra-dowry programmes for persuade humans about it was seldom wrong and too unethical. That is very important to upgrade human knowledge about the wrong repercussions of the issues related to dowry.
4. **A call to youth idealism** - Youth are the sole hope for effectively combating the dowry system's threat. To help them develop their minds and broaden their perspectives, they need to get moral values-based education. They need to be motivated to take action to actually abolish it through refusal to pay dowry to marry. Additionally, women should also get a good education in respect to maintain the gender gap. Girls ought to swear off any boys who approach them about paying a dowry.
5. **The function of non-profit organizations** – The importance of nonprofit organisations in this context cannot be overstated. They ought to step forward and try to end the dowry system. They ought to spread the word about the negative effects of dowries. The members of these organisations should aid dowry harassment victims and help them obtain justice. Through advertising, these organisations should let the public know where they are located so that victims can contact them for assistance in obtaining justice.
6. **Promotion of interreligious and inter-caste relations** - Marriage between people of

different castes and religions ought to be supported in our culture. so that young people would have a large variety while looking for a compatible partner for marriage. For girls, it is the simplest way to escape the dowry system's endless cycles. The practise of do waging is utterly unethical and lacking in moral principles. The marriage system in India has been tainted by it. A few young ladies have been forced to remain single as a result. It needs to end now more than ever. But it's not a simple task. As we march towards the new millennium, we as Indian citizens should work to put an end to this immoral practise.

7. **People's social and moral awareness** - women's education and economic independence, promotion of inter-caste and inter-religious marriages, efficient enforcement of laws against the dowry system, and the tireless efforts of many. Some of the actions taken to stop this practise include voluntary associations, civil unions, and the creation of youth movements. A better and more wholesome society will result from the elimination of the dowry system.

VIII. REFERENCES

1. <https://pulitzercenter.org/projects/dowry-system-india-trend-changing>
2. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>
3. <https://unacademy.com/content/kerala-psc/study-material/sociology/dowry-deaths/>
4. <https://www.iasexpress.net/article-dowry-in-india-upsc/>.
5. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>.
6. <https://blog.ipleaders.in/dowry-death-cruelty-indian-law-suggested-reforms/>
7. <https://www.yourarticlelibrary.com/society/dowry/how-to-prevent-dowry-in-india-6-suggestions/47643>
8. <https://vikaspedia.in/social-welfare/social-awareness/dowry>
9. Pratyush, S., 2019, August 16, Dowry Deaths in India: A Legal Study, <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>
10. Kundalini, K., 2020, January 21, Dowry Death under Section 304b of IPC & 113b of Evidence Act, <https://blog.ipleaders.in/dowry-death/>
11. Prashanti, Dowry laws: Loopholes and Possibilities of misuse, <http://www.legalservicesindia.com/article/2034/Dowry-laws:-Loopholes-and-Possibilities-of-misuse.html>
