



A Detailed Study on Dowry Death in India

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Abstract: In India dowry refers to a property or any valuable security that is given or agreed to be given by one party within a marriage to another party. In India, the part who agreed to give dowry is mainly the parents of a girl to the groom's family. Taking dowry is itself a crime and prohibited as per the "Dowry act 1961". However, as per this research, it has been found that the act, which is imposed in this country for the prohibition of dowry, was failed due to various limitations within it. Dowry death is a major social issue, where a bride commits suicide or being killed by their husbands due to their intolerable demand and abusive behaviour. The main aim of this research is to analyse the current state of the dowry system in India and determine the effectiveness of existing legislation in preventing dowry death. As per the literature findings, the major reason behind the dowry death issues within India is the lack of awareness regarding the legislation associated with girls' education and job opportunities. As per the literature, decreasing rate of dowry deaths in India is mainly caused by regular amendment of legislative structure to seek proper justice. A secondary thematic analysis has been endured in this research to identify various effects of the dowry system, main causes as well as gaps in legislative structure. As per the findings, it can be stated that proper education and empowerment in India can reduce the tendency of dowry deaths and make women confident to protest.

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Introduction

Marriages are believed to be formed in heaven, but in this day and age, I believe they are formed by the devil himself. After leaving behind her father's house and her mother's affection, the last thing a bride wants is for her in-laws to turn into monsters. Dowry desire leads to dowry killing and brutality by husbands and in-laws. Dowry death, murder-suicide, and bride burning are indicators of a specific social disease and an undesirable evolution of our social structure.

This is a distinctively Indian occurrence, a black Plague brought about by the dowry system. Since it is practised by practically every sector of society, regardless of religion, caste, or creed, India has experienced the dark ills of the dowry system in a more intense form in almost all sections of the nation over the last few decades. Not only are married women tormented, humiliated, beaten and pushed to commit suicide, abandon spouses, etc., tortured and ill-treated on a daily basis, but hundreds are even burned to death because parents are unable to satisfy the dowry demands of in-laws or their husbands.

Dowry deaths refer to a situation in which brides commit suicide or their husbands kill them after their marriage due to their dissatisfaction caused by the failure of the brides' families in paying dowries. Despite enviable modernisation of this country and expanding rate of middle class families, dowry-deaths

kept on rising in this country due to poor societal and ineffective legislative structure in past few decades. However, the figure 1 has reflected a different phenomena though a news article published by "Indian Express" in 2020. The number of death cases in 2020, has decreased slightly with amendments in Dowry-death Prohibition-acts. In 2020, there were 17 cases of dowry-deaths; whereas in 2019, the number was 52. Amendments were made in some of the terms of Indian dowry-death related legislations, which resulted in an improvement in curbing this issue.

In India, the dowry system puts a great financial burden on the bride's family. The law-makers, taking the note of seriousness and consequence of the problem legislative measures to plug the loopholes in the law as well as to enact new provisions so as to make the law rational and effective. The Dowry Prohibition Act, the first national legislation to deal with the social evil of dowry, was passed in 1961. The object of this act is to prohibit giving and taking of dowry. The act lays down a number of preventive and punitive provisions but, as could be foreshadowing, the objectives have not been achieved. Though the dowry problem as such may not be the appropriate target of criminal law, the violence connected with a dowry, sometimes fatal, is certainly within the functional domain of criminal law. As a result of speedy rate of dowry-related deaths and failure of

dowry legislation, which results in certain substantial and procedural changes in law criminal law as Criminal Law Amendment Acts, 1983 and 1986. In Indian Penal Code, two new offences have been created under section 304-B and 498-A. The offence under section 304-B called as the Dowry death whereas section 498-A called as Husband or relative of husband of a woman subjecting her to cruelty, Code of Criminal Procedure includes section 174 and 176 deals with the investigations and inquiries into the causes of unnatural deaths by police and magistrate respectively and in Indian Evidence act new section 113-B called as presumption in cases of dowry death that the person who is shown to have subjected the woman to cruelty or harassment soon before her death .

In terms of rural areas, there exists a high level of income inequalities, orthodox societal structure and gender inequalities, which are impeding process of establishing a healthy societal structure by alleviating dowry systems from India and preventing dowry-death cases. Thus, it is essential to reinforce legislation in these areas by enhancing awareness. Present study has provided a critical understanding of factors influencing dowry-deaths in India and ways proper measures and legislations can reduce this issue.

Background

Dowry means the transfer of parental property at the marriage of a daughter. Dowry is a payment of cash or gifts from the bride's family to the groom's family upon marriage. It may include cash, jewellery, electrical appliances, furniture, crockery, utensils, car and other household items that help the newly married couple to start their life journey. Dowry is an ancient custom, and its existence may well anticipate records of it. Dowries continue to be expected in many parts of the world and are sometimes used as a condition of the contract that if not accepted then the wedlock came to an end, particularly in parts of Asia and North Africa. The custom of dowry is deep-rooted in Indian society over the years, it has turned into a social peril, too entrenched and devilish to be tackled by reformers and law-makers. Though the efforts for the eradication of the dowry practise go back to more than a century, it has perhaps become the most alarming social issue during the last two decades or so as manifested by the growing violence against women emerging from matters relating to dowry. It is generally understood that dowry, in its original form, was not based on greed and extortion as it quite often the case today but present a token of love and regard for the bridegroom. The term Varadakshina, mentioned in the Hindu Shastras, was a Dakshina of a purely voluntary nature without which the meritorious act of Kanyadaan would not be complete. The role of the bride's parents

was to provide security and compensation for inheritance rights to the daughter in order to enable her to lead a dignified and harmonious relationship with her husband and his family.

There is no clear proof of dowry in India's ancient history. According to historical eyewitnesses, dowry was negligible in ancient India, and daughters held the right of inheritance. Evidence suggests that there were cases of bride pricing later in the twentieth century, which resulted in impoverished men being bachelors. The Manu Code sanctioned dowry and bride riches, although it was mostly linked with the aristocratic castes such as Brahmins (Priestly). However, as part of the conjugal estate, marriage required the reciprocation of gifts. Ancient literature, such as the Vedas, demonstrates that such behaviours did not exist throughout the Vedic period. A woman in ancient India clearly possessed property rights in her father's property. Dowry was neither present or uncommon enough to be observed, according to Hindu legal literature such as Smritis.

Dowry Practice in India has its origins in the mediaeval period, when a bride was given a gift in cash or in other forms such as lands, jewellery, animals, and so on to retain her independence after marriage. During the Colonial period, Britishers made the practise of dowry mandatory, and marriage became legally sanctioned.

Although the Dowry Prohibition Act of 1961 made demanding dowry illegal, India still exhibits signs of bride-price negotiation Dowry.

Emergence of Dowry Death Cases

Dowry was supposed to be a present for the bride and her in-laws, but who knew a simple gift would become a pawn for expectations, or should I say incorrect expectations? Greed, not money, is said to be the source of all evil. This is precisely how dowry death became as the most heinous of offences. The requirement for a present evolved into dowry rather than a simple gift. Its rise is due to the hope of receiving fancy automobiles, cash, and jewellery. When a parent cannot afford such obligations, he frequently fails to meet them. The failing of a poor parent cost him a life, his own daughter's life.

Essentials of dowry death:

A careful analysis of section 304B, IPC shows that the section has the following essentials:

1. A woman's death should be caused by burns, bodily harm, or anything else other than typical conditions.
- Her death should have happened within seven years of her marriage.

- The lady must have been subjected to cruelty or harassment by her husband or any of her husband's relatives.
- Cruelty or harassment should be motivated by or related to the desire for dowry.
- Cruelty or harassment should have been inflicted on the lady before to her death.

The Dowry prohibition act, 1961

The first national legislation related to dowry was enacted as the Dowry Prohibition Act, 1961. The act lays down a certain number of preventive and punitive provisions but, as could be anticipated, the objectives have not been achieved. The failure is not primarily due to a few defects in law but on the part of government also regarding its enforcement but because of the fact that the dowry practise is too well-entrenched among all the cross-sections of the society. The lack of enforcement of government officials is that no action is taken on registered cases as well as people are not aware of the legislation. Though the legislation and judiciary provide continue support still the situation not changed.

In the year 1961 dowry prohibition act was amended twice to widen the meaning of term "dowry" and enhancement of punishment for the various violations of the provisions of the act. Section 2 of the act states that any property or valuable security from one side to another either given or agreed to be given in future directly or indirectly in connection of marriage amounts to dowry. The expression used in the original Act was "as consideration for the marriage of such parties" was interpreted by the court to give a narrow meaning of the term "dowry". In **Inder Sain v. State**[3], it was held that "consideration" was restricted to motive or reason, compensation or reward to marriage and would not, therefore, include any property demanded or given subsequent to marriage. The expression "any time after the marriage" has been brought to replace "after marriage" to eliminate a restricted interpretation of the statute. The concepts of gift in Indian marriages are only allowed which are customary in nature, which does not create a financial burden on a family. A list of such presents, along with value and description, is to be prepared and must be signed by the bride and bridegroom.

In case of **Sanjay Kumar Jain v. State of Delhi**[4] it was said that "The dowry system is a big slur and curse on our society, democracy and the country. It is incomprehensible how such unfortunate and condemnable instances of dowry deaths are frequently occurring in our society. All efforts must be made to combat and curb the increasing menace of dowry death. The legislature was seriously concerned about this unfortunate reality of our society and to curb combat the increasing menace of dowry deaths with a

firm hand the Dowry Prohibition Act, 1961 was enacted.

Some stringent penal provisions have been enacted or amended from time to time to stop from taking and demanding dowry. Under section 3 of the act giving and taking of dowry is punishable with a minimum term of 5 years and a fine of Rs 15,000 or value of dowry whichever more. Similarly demanding of dowry is also punishable under section 4 for the term of six months to five years and fine up to Rs 15,000. After a couple of amendment the act tries to curb this social menace. Section 7 provides persons and agencies who may initiate the proceedings (a) police (b) aggrieved person (c) parents and relatives (d) any recognised welfare institution or organisation Section 8 tries to make act harsher by adding offences under the purview of non-bailable and cognizable. Further section 8-A states that burden of proof lies on person who denies offence.

A common rehearse in marriages are that articles and ornaments of bride are immediately taken into possession by husband or his family can transferred to woman or her heirs by virtue of section 6 with period of three months failing of such act will amount to imprisonment from six months to two years and fine from five to ten thousand rupees. Supreme Court in case of **Pratibha Rani v. Suraj Kumar**[5] held that taking possession of bride articles will amount to criminal breach of trust punishable under section 405 of penal code.

A joint parliamentary committee examining the working of the act in 1982 and gave two reasons for abject failure of act is defective definition of dowry and lack of enforcement instrumentality. Though, definition of dowry has been amended and enforcement provision has been actively worked after the committee's report of 1982.

Indian Penal Code, 1860

The appropriate target of criminal law not only limited to dowry problems but the violence connected with dowry also comes under the purview of criminal law. Failure of dowry legislation and increase in rate of dowry death led to the Criminal amendment in the year 1983 and 1986 by adding section 304-B and 498-A. In brief, we can say that there are four situations where married woman is subjected to cruelty and harassment leading to the commission of an offence. **Firstly, Dowry Death-Section 304-B IPC:-** The offence under section 304-B defines "Dowry Death" is the death caused to woman by burns or bodily injury, or under unnatural circumstances within seven years of her marriage, where it is shown that she was harassed or put to cruelty by husband or his relatives in relation of dowry the punishable with a term of seven years to life imprisonment. The period of seven years would be considered as cut period for reason that seven steps

taken by bride and bride groom of the sacred nuptial fire for completion of marriage where one step is considered as one year. Supreme Court in the case of **state of Punjab v. Iqbal Singh**[6] explained the period of seven years as it is considered to be turbulent one after which the legislature assumed that the couple would have settled down in life.

The term dowry has not been defined in the Indian Penal Code, whereas section 304-B explanation affirmed that dowry shall have the same meaning as defined in section 2(1) of the Dowry Prohibition Act, 1961.

Social Factors

Administration of justice in criminal cases is itself a challenging job and it becomes more difficult when minimum social support is not there in society. Generally, there are no witnesses to transaction leading to domestic cruelty or harassment and unnatural death except the family members, some of whom might accomplice and some might not support due to family pressure. More often than not, the neighbours, who might be having some clues or evidence against culprits and unwilling to testify something because of the fear of spoiling the neighbourly relation. They hassles apprehend regarding the police and court proceedings. Worse than the indifferent attitude is the partisan attitude of neighbours favouring the culprits.

Many young women can be saved from cruelty, harassment and unnatural deaths if they are insulated from the source of violence in proper time. Such recourse cannot be done or not possible due to traditional constraints. Despite the ill-treatment, some parents advice their daughters to keep staying with husband and his relatives which sometimes result to the avoidable tragedy.

Police and Law Enforcement

In society, the work of the police is to act as a shield for general mass but in reality, they create fear in mind of the public at large by an act of police. The police are also accused of attitudes, practices and perception which reduces the likelihood of the successful implementation of laws in the present context. The usual allegations which public made at police are: reaches too late on a crime scene, distorting the events in recording the First Information Report, always try to prefer dowry deaths as suicide and carrying the investigation in less proper manner and leisurely fashion. The police treat violence against women as a family affair and always unwilling to register case itself. Some of the lacunas of police can be seen in some Supreme Court Cases like in case of **Bhagwant Singh v. Commr. of Police Delhi**[13] it is supported by Apex Court that incidence of unnatural deaths is much higher than indicated by police. Police diaries are not kept properly and produced before a

magistrate. The investigating officer changed frequently which badly affect the investigation. Se of the shortcomings of the police is attributed to corruption.

Police have their own explanation that there is an unsatisfactory state of affairs. Firstly, inadequate evidence due to independent witnesses. The dying declaration which is a substantial piece of evidence always contradicts with a statement of connected persons. Forensic evidence is also generally helpful it would be better if experts are brought to the victim at sight of occurrence. Inordinate delay in medical reports.

The Judiciary

Usually, on a number of occasions, the Supreme Court expressed anguish and shocking view regarding deaths of young brides. In **Virbhan Singh v. State of U.P** apex Court said in view of increasing deaths of brides, such dastardly crimes whenever detected and proved then ruthless action and deterrent punishment must be imposed. Supreme Court concern about the acquittal of some alleged culprits but the state cannot approach apex Court in appeal. In **Samunder Singh v. State of Rajasthan** the court opined that anticipatory bail cannot be given in cases of bride burning and dowry deaths. Some dissatisfaction occurred at trial level itself by the certain assumption of courts like a person with 100% burn not fit for dying declaration. If on behalf of harassment victim some other reported matter the matter not reported which creates a lacuna in Indian legal system.

Conclusion

Dowry death is a societal curse that is a hot topic in Indian society. Organized approach by women's welfare groups, police, public officials, and the judiciary by imposing deterrent penalty on those responsible for dowry fatalities. It can be seen that the Indian government, in collaboration with the Indian judiciary, develops cooperative and supporting laws to protect women's lives and dignity, as well as to offer further justice to victims of harassment or cruelty by husbands and his family. Changes in the school system have improved female education status, and door-to-door job services will reduce dowry fatalities. Still, some corrective measures must be implemented in order to eliminate or at least reduce the societal scourge of dowry death, but most crucially, a public will and determination to reject the materialistic hunger of dowry demands is required.

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