



## 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 committsuicide 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.

[Sharma, P. **A detailed study on Dowry Death in India.** *N Y Sci J* 2023;16(3):17-20]. ISSN 1554-0200 (print); ISSN 2375-723X (online). <http://www.sciencepub.net/newyork>. 04.[doi:10.7537/marsnys160323.04](https://doi.org/10.7537/marsnys160323.04).

**Keywords:** “Dowry Deaths”, Empowerment, Education, “Dowry Act 1961”, “discrimination”, “Financial instability”, “Suicide”, “Social Programs”.

### Introduction

Dowry is an all Indian phenomenon. In 2019, India reported more than 7.1 thousand dowry deaths. In layman terms dowry can be understood as something which is given to son-in-law or to his parents on demand either in cash or in kind. “Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood”, was rightly observed by Mahatma Gandhi.

India has an alarming trend of dowry death according to which 20 women die every day as a result of Dowry related harassment – either murdered, or compelled to commit suicide. According to National Crime Records Bureau(NCRB) reports on an average, every hour a woman succumbs to dowry deaths in India with the annual figure rising upwards of 7000. Another statistical figure which shows the reality of our society and laws and also the sheer weakness of our legislative and judicial system.

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.

The dowry system in India involves a scenario in which the family of the bride gives property, both movable as well as immovable to the groom and his family as a condition for marriage. The system of dowry has been in practice in India since ancient times stemming from the then laws of succession and inheritance. Originally, dowry was given by the family of the bride to secure her financially after her marriage since back then women were not educated. However, despite the fact that times have progressed, and women nowadays are doing incredibly well in every single aspect, the social practice of taking dowry somehow still exists. The Dowry Prohibition Act, 1961 bans the giving and taking of dowry. Dowry death is the killing of the wife by the husband or his family in relation to the demand of dowry. The expression used in India to refer to this phenomenon is “dowry deaths”. Over

time, dowry death has become a cultural and ethnic offence prevalent in India and has been made an offence under Section 304-B of the Indian Penal Code but despite having such clear laws on the matter, dowry is a social evil that still persists. The principle of gender equality has been clearly enshrined in the Constitution of India. It not only promotes equality and security of women but also encourages the state to adopt positive discrimination measures for the welfare of women. However, women are still considered the weaker/inferior sex by families with regressive mindsets and this is one of the main reasons why we haven't been able to abolish dowry death. Over the years, the cases of dowry death have seen quite an escalation in number. The data collected and analysed by the National Crime Records Bureau evidently shows that female dowry deaths account for 40 to 50 per cent of all female homicides recorded annually in India, representing a stable trend over the years 1999 to 2016. As per reports, there were 7,621 "dowry deaths" in 2016. Dowry deaths rose from about 19 per day in 2001 to 21 per day in 2016. Computing carefully the number of victims of dowry death is generally found to be troublesome. Families frequently do not report a dowry death due to the fear of being involved in the offence. The poor rates of revealing such instances can be attributed to overworry for the culprit, disgrace or shame related with being an injured/affected individual, lack of confidence in the legal system, or fear of being accused for the harassment.

#### Fight against dowry

Following increasing rates of dowry and dowry related deaths, a number of various organizations came forward to raise their voice. Organizations such as 'Progressive Organisation of Women of Hyderabad', 'Stree Sangharsh', 'Mahila Dakshita Samity' and many others organized several protests against dowry, dowry harassment and dowry death. The anti-dowry campaign attempted to bring social pressure on the offenders so that they could be isolated in the community in which they live. The campaigns reveal the need for counseling, common legal aid and advice to women. Thus, legal aid and counseling centers were set up in different parts of the country. Women's organizations also succeeded in getting the dowry law changed. Dowry was abolished in 1961 with the passing of Dowry Prohibition Act but still dowry continues to be a major concern for brides and their families.

#### Law and dowry

In the year 1961, the Dowry Prohibition Act was passed which prohibits the practice of accepting and giving dowry and if found guilty shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees,

or with both. The police have the power to arrest perpetrators for domestic violence under Section 498 of CrPC. Section 304 B(2) defines the punishment for such act according to which "whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life".

#### Reasons for dowry

Dowry is the collective greed of society and their urge to show off their status, wealth and groom's worth in society thereby showing how much money or gifts the groom received. It is the patriarchal structure of the society in which women are treated as subordinate and men as superior with all powers in their hands has given rise to such a social evil. A society where women are treated as an object makes them easy prey for such patriarchy to be their victims. Along with it, the presence of gender-inequality makes the bride's family obliged to make the dowry demands met at any cost. The enormous pressure on women from society and family forces them to spend their lives within the four walls of the house without raising their voice and enduring all forms of violence at the hands of in-laws and husbands just for the protection of pride, honor and reputation of their families. The sheer ignorance and lack of sympathy from society makes it even more difficult for the victims of abuse and torture to come forward and raise their voices or put forward their opinions.

#### Tackling the solution

The problem of Dowry and associated domestic violence can be solved to an extent by educating the people. It is necessary to examine the present law against Dowry and do away with the loopholes which had made it ineffective to an extent. Awareness among women and their families is still lacking which needs to be addressed through social awareness campaigns which can definitely help in creating widespread awareness against the evil of dowry and dowry-death. At the same time it is important for parents to give their girl child better opportunities at education and motivate them to be independent. Instead of saving money for dowry, parents should invest that money in the education of their children. As rightly observed by Benjamin Franklin "An investment in knowledge pays the best interest". India as a country needs change in its existing mindsets so as to push back against the iniquitous custom of dowry. Society needs to realize and accept the fact that in today's world women are capable of doing anything that men can. At the same time women themselves need to come out of the belief that they are in any way subordinate to men and they need to depend on men to provide for them. It is the youth of this country who can help stop it by not supporting such social evils.

#### Amendments in the act

Sec 3 of act states that giving or taking of dowry is punishable with a minimum term of 5 years and a fine up to Rs 15,000 or to the extent of the value of dowry whichever is more.

Sec 4 of act states that demanding dowry is also punishable by the term ranging from six months to five years and a fine limit up to Rs 15,000. After a couple of amendments, the act tries to curb this social menace. Section 7 provides that the agencies who/which may initiate the proceedings such as (a) police (b) aggrieved person (c) parents and relatives (d) any recognised welfare institution or organisation. Section 8 makes act more stringent by adding these offences under the ambit of non-bailable and cognizable. Further Section 8-A goes on to state that the onus probandi lies on the person who is the offender or the one who denies offence.

### Landmark cases

In *Satbir Singh vs, The State of Haryana (2021)*, the apex court held that if prosecution can prove ingredients of Section 304-B of IPC are present then the burden to prove innocence completely lies on the defence. Further, the provisions under Section 304B of the Indian Penal Code are far more stringent as compared to those in Section 498A of the Indian Penal Code in the sense that offences under it are cognizable, non-bailable and can be tried by the court of Session. *Mustafa Shahadal Shaikh v. the State of Maharashtra* the ratio decidendi of the court states that language used in section 304 –B soon before death does not ascribe time frame within which death must have occurred neither under IPC nor under Section 113-B of Indian Evidence Act. Accordingly, court can take decision on the basis of each case means It is totally upon discretion of court depending upon the evidence and fact of each case. This however, imply that the interval should not be much between the cruelty or harassment concerned and the death in question. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would have no consequence.

*Kamesh Panjiyar v State of Bihar* in this case the bride family gave groom 40000 as the dowry at the time of marriage but appellant further demanded buffalo but bride family was unable to fulfil his demand due to which grooms' family started torturing and harassing the bride for the same When brides brother came to know about it, he confronted them he was insulted by them. When brother of bride on hearing of rumour of his sister's death he visited her house and found that her sister was dead and there were multiple injuries on her bodies which appellant claimed was due to rheumatic disease to be the cause of her death.

Sessions Court found appellant guilty and punished him with the imprisonment of 10 years. On appeal preferred by appellant before High Court, it was reduced to 7 years. • Although, SC upheld the decision of Sessions Court stating that under Section 304 of IPC (Punishment for culpable homicide not amounting to murder – any act is done with knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death) it was not necessary to give direct evidence of causing death. Cruelty before death is enough

*Pamiben v State of Gujarat* in this case mother-in-law burns her daughter in law and when daughter in law woke, she started crying and asking for help and her husband and relatives but she died. SC convicted her mother-in-law under Section 304B of IPC by relying on the dying declaration of the deceased in which she said that her mother-in-law put her on fire. Court held that there was no ground to believe that she had committed suicide. Court considered it as a most heinous (wrongful act) and barbaric (brutal) crime.

*Arnesh Kumar v State of Bihar* case the wife alleges that she is thrown out the house due to non-fulfilment of demand for dowry however husband even applied for anticipatory bail but was not able to receive so he approached supreme court. Court observed that the fact that Section 498A, IPC is a cognizable and non-bailable offence, it is more often than not is used as a weapon rather than shield by resentful wives. And it resulted in harassment of the husband and her relatives as it is disturbing for them to see grandparent getting arrested without evidence. Thus, the Court laid down certain guidelines which the police officer must follow while arresting under Section 498A, IPC or Section 4 of the Dowry Prohibition Act, 1961 and that such arrest must be based on a reasonable satisfaction with respect to genuineness of the allegation. Moreover, even the Magistrates must be careful enough not to authorise detention casually and mechanically.

In *Virbhan Singh v. State of U.P.*, the top court claimed that in view of death of bride this lethal crime must be enforced whenever they have proven to be merciless. The Supreme Court is concerned about the acquittal of some of the supposed guilty parties, but the State cannot bring an appeal to the apex Court.

### Conclusion

‘Social Revolution’ is what is needed to put an end to this menace. In the name of tradition dowry has come a long way but now is the time to address it and stop it. “The conscience of society needs to be fully awakened to the evils of the dowry system so that the demand for dowry itself should lead to ‘loss of face’ in society for those who demand it. We have no doubt that our ‘young and enlightened women’ would rise to the occasion to fight the evil which tends to make them

‘articles of commerce’. We also hope that our ‘educated young males’ would refuse to be ‘sold in the marriage market’ and come forward to choose their partners in life in a fair manner”, observed the Supreme Court of India.

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3/11/2023