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A CRITICAL STUDY OF DOWRY DEATH AND DOWRY SYSTEM IN INDIA

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ABSTRACT

Dowry, which is also known as Dahej, refers to any property or other valuable security that one party in a marriage gives or agrees to give to another party in the marriage. It is one of the ingrained social problems that has become a major problem to women's daily lives as well as society. The dowry system is the pernicious thing that has killed and rendered countless vulnerable women helpless, driving some of them to commit suicide. The dowry is the oldest social ailment in the Indian subcontinent. It has developed into a severe societal disorder that is entrenched deeply inside people. Many people see dowry as a sign of social status and self-recognition.

One of India's most horrifying or terrible pressing issues is Dowry Death. There have been laws passed and incorporated into the country's legal system, as well as campaigns and awareness programmes launched by governmental and non-governmental organisations against dowry deaths and the dowry system in India, but despite the existence of such initiatives, the statistics on dowry-related deaths in the nation have only risen.

Keywords: Dowry, dahej, social problem, women, dowry death.

INTRODUCTION

Marriage is recognised as a social institution that represents a civilised social order in which two individuals who are capable of entering into a union have sworn allegiance to the institution's norms and values and promised to have a bond that will last throughout the duration of the marriage. It serves as a support system for the survival of humans. Despite all the promises made during various marriage ceremony occasion, specific circumstances occurs where the husbands and his families demand dowry which if not fulfilled, sometimes results in a dangerous turn which even leads to the death of wives.

Over the years, the practise of dowry has become so ingrained in Indian society that it has become a social hazard that reformers and legislators cannot effectively address. Whilst the efforts for the eradication of the dowry practise stretch back to more than a century, it has likely become the most serious social issue during the last two decades or so as indicated by the escalating violence against women emerging from matters pertaining to dowry. It is generally accepted that dowry, in its original form, was not founded on greed and extortion, as is the case now, but rather was a present that showed the husband that the bride's family loved and respected him. The unfortunate developments in our society of bride burning, murder-suicide, and dower death are burning symptoms of an eccentric social ailment. Given that almost every segment of society practises the dowry system, regardless of the religion, caste, or creed to which they belong, India has recently seen the dark evils of the system in a more acute form in almost all regions of the country. Not only are married women tortured, humiliated, abused, driven to commit suicide, and mistreated on a daily basis, but thousands of them are even burned to death as a result of parents who cannot afford the dowry demands.¹

¹ Snehasis Behera, (2022, may 24), *Evils of Dowry and Cruelty in Inida: A Legal Analysis*.
<https://lawessential.com/miscellaneous/f/evils-of-dowry-and-cruelty-in-india-a-legal-analysis>

Despite the rapid rise of middle-class society and the youth population, steps towards modernization, enormous privileged economic development, better education system, etc., there are still some areas where the growth is still lacking. One of these problems is the pervasive Dowry System and associated Deaths, which are on the rise over time. The Dowry Prohibition Act, the first national legislation to address the social ill of dowry, was passed in the year 1961. This law forbids the giving and receiving of dowries. Many preventive and disciplinary elements are included in the act, but as may be expected, the goals have not been met. Along with the Dowry Prohibition Act of 1961 many additional laws have been passed to lessen the practise of dowry and the deaths that are associated with it. Sections 304 B (dowry death) and 498 A (cruelty by husband or his relatives) have been incorporated into the Indian Penal Code (I.P.C.), and Section 113 B (presumption as to dowry death) has been added to the Indian Evidence Act (I.E.A) in order to reduce the cases related with dowry and dowry deaths. Despite the fact that modifications in Indian criminal law reflect substantial legislative efforts to prevent dowry-related crimes, and that they have been in existence for many years, they have been widely criticised as unsuccessful. Yet while laws grant enormous power, neither the police nor the courts are able to properly enforce them. Due to the fact that women and their families are unable to establish guilt beyond a reasonable doubt, it often takes a long time for a case to be listed in court and the husbands and his families are exonerated, even in murder cases. There is a concern of dowry related legislation in India being routinely overused, specifically section 498-A of IPC because of mechanical arrest by the police. In the case of Preeti Gupta and others v. State of Jharkhand and others, Section 498-A was challenged, and the Supreme Court expressed sadness about the likely misuse of anti-dowry laws and recommended a thorough investigation.

BACKGROUND

There is no explicit proof of dowry in Indian history. According to historical eyewitnesses, dowry was negligible in ancient India, and daughters held the right of inheritance. Later in the twentieth century, evidence suggests that bride pricing occurred, resulting in poor men being bachelors. The Manu Law permitted dowry and bride wealth, but it was mostly linked with the upper castes, such as Brahmins (Priestly).

But, as part of the conjugal estate, marriage required the reciprocation of gifts. Vedic literature, such as the Vedas, demonstrates the absence of such behaviours during that time. It appears that a woman in ancient India possessed ownership rights over the property owned by her father. Even Hindu legal records like the Smritis attest to the fact that dowries were absent or infrequently occurring enough to escape notice.²

The practise of dowry in India dates back to the Middle Ages, when a woman would receive a gift—often money—or another kind—such as farmland, jewellery, animals, etc.—in order to maintain her freedom after marriage. The British made the tradition of dowry necessary throughout the colonial era, and marriage was rendered legally valid.

India still observes traces of bride-price haggling Dowry despite the Dowry Prohibition Act of 1961 making the practise illegal.

STATISTICS RELATED TO DOWRY DEATH

In regard to dowry-related deaths or abuse by husbands or in-laws, India by far has the highest number. According to the National Crime Record Bureau (NCRB), a total of 8,233 deaths due by dowry lust were reported in 2012, which essentially implies that every 90 minutes a bride was burned.

² Snehasis Behera, (2022, may 24), *Evils of Dowry and Cruelty in Inida: A Legal Analysis*. <https://lawessential.com/miscellaneous/f/evils-of-dowry-and-cruelty-in-india-a-legal-analysis>

In 1996, Indian police estimated that they received over 2,500 reports of bride-burning each year. Over time, there has been an increase in death tolls. Every day in 2019-20, a total of 20 brides die, for what reason? Dowry is the answer to it.³

The severity of such offences is not limited to rural areas; educated families like mine and yours living in large centres like Mumbai and Delhi are also offenders.

A new pattern in crime emerged in the year 2020. Days of lockdown saw a rise in crimes against women. Lockdown forced the criminals to lock up with their victims. As a result, crime rate increased while the number of cases filed decreased. Ninety dowry killing incidents were reported in the state of Haryana in the month of April immediately following the lockdown in March.⁴

IMPACT OF DOWRY SYSTEM

- **Gender discrimination:** As a result of the dowry system, it has frequently been seen that women are treated less favourably than men, whether in terms of education or other treats.
- **Influencing Women's Careers:** The greater background for dowry is women's low labour-force participation and, as a result, their lack of financial independence. The poorer sectors of society who send their daughters to work and earn money to assist them save for her dowry. Even when they send their girls to school, parents from middle and upper class backgrounds don't highlight the importance of employment possibilities.
- **Many Women End Up Unmarried:** Despite being educated and professionally capable, an uncountable number of females in the country remain single indefinitely because their parents cannot meet the demand for pre-marriage dowry.
- **Objectification of Women:** Nowadays, dowries are more like investments made by the bride's family to gain access to influential contacts and lucrative business prospects. This reduces women to becoming nothing more than commodities.
- **Crime against Women:** The dowry system can occasionally result in crimes against women, including physical and emotional harm as well as fatalities.

LEGISLATIVE ENACTMENTS

Dowry prohibition act, 1961

In May 1961, the Dowry Prohibition Act became operative. Although though the act has strict prohibitions and was the first legal legislation to outlaw this cruel practise, dowry continues to be the main focus of all Indian marriages, leading to the deaths of many women. The primary goal of this act is to prohibit the improper practise of paying or receiving dowry.

The Dowry Prohibition Act of 1961 was deemed ill-conceived and badly executed in the latter half of the 1970s. A Parliamentary Committee was formed by the government to investigate the act's flaws. As a result, a number of adjustments were made to the working of the Act to address the concerns of various social groups and women's welfare organisations to prevent inhuman treatment of women in the name of dowry; yet it was thought that the current or reformed regulations were insufficient.

³ Fizana Ashraf Malik, Huma Akhtar Malik, "Dowry System as a Social Evil: A Study of India", Vol. 2(1) American Journal of Multidisciplinary Research in Africa (January, 2022).

⁴ Fizana Ashraf Malik, Huma Akhtar Malik, "Dowry System as a Social Evil: A Study of India", Vol. 2(1) American Journal of Multidisciplinary Research in Africa (January 2022).

The legislature's efforts to reduce dowry fatalities resulted in amendments to the Act in 1984 and 1986. Dowry death was added to the Indian Penal Code in 1986. The Indian Penal Code now includes a new section 304-B. Laws against dowry demands and dowry-related harassment have been significantly reinforced over time. Giving or taking dowry is a cognizable offence that carries a minimum sentence of seven years in jail and, in some circumstances, a maximum sentence of life in prison. Every untimely death of a woman within the first seven years of her marriage must be investigated, according to the Dowry Prohibition Act (Amendment) of 1986.⁵

The Indian penal code, 1890

Section 304B: If a woman dies as a result of burns, bodily harm, or other conditions within seven years and it is done by her husband or in-laws for dowry, the husband or relative is deemed to have caused her death and is punished with imprisonment for a term not less than seven years but which may extend to life imprisonment.⁶

Criminal Procedure Code

Section 198A explains the prosecution of offences against marriage.

The Evidence Act, 1872

Section 113A deals with presumption as to abetment of suicide by a married woman. And 113B deals with presumption as to dowry death.

The Protection of Women From Domestic Violence Act, 2005

The Domestic Violence Act came into force by the Indian government and was enacted to protect women exclusively.⁷

MEASURES FOR PREVENTING DOWRY DEATH AND CRUELTY

Just introducing statutes and changing sections to address a societal issue is never adequate. This needs the harsh and violent application of such laws. That aspect has plenty of space for improvement. Even though the authorities take such charges very seriously, a lack of competent investigative procedures frequently leads to the accused being released. The government must enact a zero-tolerance policy for such offenders and make institutional changes to guarantee that the law is upheld.

The key is to be socially conscious. Initiatives to raise social awareness can also help with public education and the eradication of the dowry culture. As a result of improved awareness, people have begun to conduct simple marriages without taking/giving dowry, and dowry is a social taboo that may be eradicated with all our contributions and more understanding. Because it is in our blood, clean-up will take longer. We will never be able to fully satiate our cravings with other people's money or belongings.

Education is required not just to choose one's purpose in life, but also to open one's eyes and ears to a world beyond what one can see right now. In order to address pervasive social issues like dowry, it is imperative that we all concentrate on educating girls. If they are aware of their rights, they will be able to speak out against the practise of dowry and ongoing marginalisation. Also, they will be able to strive for independence rather than viewing marriage as their only option.

⁵ Shashwat Pratyush, (2019, August 16), *Dowry Death in India: A legal Study*. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>

⁶ Shashwat Pratyush, (2019, August 16), *Dowry Death in India: A legal Study*. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>

⁷ Shashwat Pratyush, (2019, August 16), *Dowry Death in India: A legal Study*. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>

CONCLUSION

When a woman is abused, she loses her dignity. Saying that marital conflict need not result in suicide is one thing; however, suggesting that one or two assaults on women are acceptable is another, and does an injustice to society. Judges must recognise the difficulties that women face. It's a tragedy that, despite numerous protests and educated citizens, this lethal dowry practise persists. There have been anti-dowry legislation aiming at banning the giving and receiving of dowry, but it appears that the offender is immune. Dowry is still a necessity for accepting marriage offers in many parts of the world. The situation has advanced to the point that dowry conflicts could result in violence against women. Men will always be viewed as superior to women due to dowries, which will serve as a magnet for injustice. This is destabilising society and fostering negativity. Also, it has turned into a nightmare for families who cannot afford it.