
THE CHANGING PARADIGMS OF DOWRY DEATH IN INDIA

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ABSTRACT

Marriage is a sacred institution in which a man and a woman form a sacred connection. Marriage is a sacred and unbreakable tie. The woman is always her husband's better half, and the relationship survives on both sides' honesty, love, sacrifices, and changes. Marriage, as pure as it is, has a nasty side known as "Dowry." The custom of taking dowry is still practiced in many families. However, if the requested item is not obtained, things may become tense.

Many families have lost their daughters in dowry practice. The system is so entrenched that many marriages are called off because of a lack of dowry at the time of the wedding, leaving the woman and her family devastated. As a result, the state has taken steps to combat this evil by enacting the Anti-Dowry legislation, also known as the Dowry Prohibition Act of 1961.

However, it is human nature to abuse anything that is powerful. Furthermore, the law itself is riddled with defects and disadvantages. Despite various rules prohibiting dowry, many women continue to be victims of dowry violence, and loopholes in the legislation are a major reason for this. Moreover, women are hesitant to disclose dowry-related violence due to the complexities of the legal system, their lack of knowledge of the laws, and the social shame associated with it, all of which contribute to an increase in the number of dowry deaths.

Keywords: Dowry, The Dowry Prohibition Act, 1961, Misuse of laws, Complexity in legal system

I. INTRODUCTION

“Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood”-Mahatma Gandhi

Dowry is one of the severe problems faced by women across the country despite laws prohibiting it. It disrupts the entire social setup demeaning the women and has a more substantial effect than any other social evil. Dowry did not start as a hindrance to a girl's marriage in recent times until the medieval period when the status of women was considered lower than the men; the purdah system became rigid, polygamy was at its peak, thereby treating women as a burden. In the 19th century, to put a fullstop to this evil practice, "The Dowry prohibition Act, 1961" came into place¹. In the present times, there are a lot of initiatives taken by the state like "Beti Bachao- Beti Padhao", "Mahila-E-haat", but there doesn't seem to have created a big difference considering the number of dowry deaths in recent years. In 2018, there were 7,167 dowry deaths, followed by 7,141 in 2019 and 6,966 in 2020. ²Dowry death is when a bride is murdered by her husband, in-laws or suicides due to the incapacity or refusal to pay the dowry amount. The dowry death across the nation is increasing, and almost more than half of cases go unreported; the negotiations for a good dowry amount have also become pretty direct and open. The necessary initiatives and the root cause of the dowry deaths, the effectiveness of the dowry laws, and its misrepresentation would be focused on throughout the research.

II. LITERATURE REVIEW

1. Muhammadullah Khalili Qasmi, “Dowry: A Heinous Social Crime”

ABOUT THE ARTICLE

This article highlights the negative impacts of the dowry system and how it's still prevalent in India despite strict laws and awareness amongst people. It compares the dowry system prevailing in ancient and modern times, its changes and improvement made by dowry laws. The fact that the educated ones practise the dowry system raises a big question on the failure

¹ Asha Rohilla, Dowry a 'social evil': Breaking the chain

<https://timesofindia.indiatimes.com/readersblog/echo/dowry-a-social-evil-breaking-the-chain-36724> /last visited december 29th, 2021

² Total number of reported dowry death cases in India from 2005 to 2020

<https://www.statista.com/statistics/632553/reported-dowry-death-cases-india/> last visited december 29th, 2021

of proper implementation of dowry laws and education. For a second, it can be considered if the uneducated ones practise it for they are not aware of it. However, such practice by educated people is unacceptable and poses a significant threat to our nation's progress. The article also discusses the dowry practice in other religions like Islams or Muslims and measures to stop this practice.

This article covers the various aspects of dowry death. The paper's primary focus is to figure out different aspects of dowry deaths and possible suggestions/solutions to them. My research also focuses on dowry and the consequences of improper implementation of the laws prohibiting it. Moreover, the article emphasizes religion and its contribution to the increase or decrease in dowry.

2. Sonia Dalmia and Pareena G. Lawrence , “The Institution of Dowry in India: Why It Continues to Prevail”

ABOUT THE ARTICLE

The article talks about the various factors, including women's role in the inheritance system or production, social stratification behind the continuing practice of the dowry system. This article examines dowries in India and provides an institutional and economic rationale for the existence and continued prevalence of the system. The article also highlights that the gender ratio of marriageable women to men does not affect the incidence of dowry.

This article would help me understand the role of patriarchy and social stratification behind the non-declining ratio of dowry in India. This article will provide me with the socio-economic reasons for dowry death. From this, I would be able to relate the various causes and women's status contributing to the problem and how it can be improved or made better.

3. Namratha S. Ravikant, “ Dowry Deaths: Proposing a Standard for Implementation of Domestic Legislation in Accordance with Human Rights Obligations”

ABOUT THE ARTICLE

This Article highlights the government's responsibilities and measures to implement dowry death legislation following its Human Rights Obligations. The paper criticizes the country's failure to follow the International Human Rights obligations that have contributed to the nation's increasing number of dowry deaths. The paper covers various international obligations

that India fails to maintain under the Universal Declaration of Human Rights, the International Covenant on Social, Economic, and Cultural Rights, the International Covenant on Civil and Political Rights. This Article would help me include points from an overall view and understand the nation's failure to oblige with the International obligations. This Article has briefly explained the reasons for such failures and their contribution to dowry deaths. It has made a thorough study of how the country could have developed more if it had correctly implemented International conventions, making us think that it's the time for our country to actively follow such rules that helps control the dowry deaths in India.

4. Harshika Mehta ,“The legal scenario of Dowry Death and bride burning in India”

ABOUT THE ARTICLE

This article explains the patriarchal structure that exists in India and contributes to the increasing number of dowry deaths. It explains the notion of women being considered a burden to their families as dowry prevails in most families. It also compares data and figures provided by the National Crime Records Bureau to check the rise or decrease of the same. The paper critically analyses the consequences of these long years of practice and how women's death due to dowry impacts the nation's overall growth.

This article will help me analyze the lacunas of the Dowry Prohibition Act, 1961. It also has various data that will help compare the situation in the past and understand the high number of cases in urban areas where we find educated people at a higher rate than the rural areas. It will also help me analyse the reason behind the family's silence when their daughters get tortured for not paying dowry and what the government and civil societies could do to reduce this.

III. RESEARCH OBJECTIVES

1. To analyze the failure of dowry laws to eliminate the dowry system from our society
2. To evaluate the existing legal measures and to assess the impact of Dowry Prohibition Act, 1961.
3. To study the reason behind women's hesitation of reporting dowry related violence
4. To draw conclusions and to put forward suggestions in order to eradicate the menace of dowry deaths.

IV. RESEARCH METHODOLOGY

In this research paper, the doctrinal method of study has been used. The main sources are taken from government websites, articles, journals, and books. This research paper used the International conventions and legislation, comparative analysis papers from many countries relating to the subject would be emphasized. Proper citation and format will be followed throughout the research paper.

V. NOTION OF DOWRY DEATH

Dowry death can be understood as the “death of the bride caused by violence inflicted upon her by the groom’s family for a dispute caused over dowry”.

India is one of the countries with large religious and cultural diversity where people have been following many rituals for a long period of time and those rituals have with time changed into social evils and dowry is one of them. Dowry is one of the oldest social disease in India where number of women die due to the unbearable torture and violence caused by her in-laws.

As per the data of National Crime Records Bureau, in the year 2020 dowry violence took 19 lives of women every day and a total of 6,966 cases of dowry deaths were reported.³ This is the reported cases that we have in hand; numerous cases go unreported and mostly in rural areas where women are not aware of the laws and help they can take to save themselves from such heinous incidents.

The Dowry Prohibition Act, 1961 aims at preventing the practice of giving and receiving the dowry. However, the legislation has failed somewhere and the need for more specific law to tackle this issue still remains. The main problem that arises is the implementation of laws on ground level and its effectiveness and proper applicability. To prohibit dowry, certain sections, i.e. Section 304B, 498A were inserted in the Indian Penal Code which was also recommended by the 21st Law Commission report⁴.

The dowry related violence is very painful in nature. It is not confined to a specific sphere and includes all forms of emotional and physical torture that a women go through for not fulfilling

³ 19 women were killed for dowry every day in 2020: NCRB, <https://www.cnbctv18.com/india/19-women-were-killed-for-dowry-every-day-in-2020-ncrb-10758421.htm>, last visited december 29th, 2021

⁴ Dave A. Strategic alliance, a way forward for violence against women: a case for the Special Cells, India. *Violence Against Women*. 2013 Oct;19(10):1203-23. doi: 10.1177/1077801213506284. Epub 2013 Oct 16. PMID: 24132601.

the demands of her in-laws. This has impacted women's life to an extent that she feels under confident, dependent and her role is often being seen as incapable of earning on her own. Such kind of mental and physical trauma results in the victim committing suicide to get rid of all the pains.

VI. WHY ARE THE DOWRY LAWS INCAPABLE OF ELIMINATING DOWRY SYSTEM FROM OUR SOCIETY

The Dowry Prohibition Act (originally passed in 1961 and amended three times in the 1980s) defines dowry as "any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage, by the parents of either party to a marriage, or by any other person, to either party to the marriage or to any other personator before[or at any other time after the marriage]in connection with the marriage."

⁵Dowry is prohibited under this law, however gifts are permitted. The anti-dowry law cannot be used to prevent the giving of gifts to the bride at the time of the wedding without any demand being made, as long as the gifts are recorded in a list kept in line with the anti-dowry Act's requirements. Gifts presented to the groom are also excluded, as long as there is no demand and they are recorded in a list. Dowry giving and receiving became a criminal offense when two amendments were passed in 1984 and 1986.⁶ This also empowered the police to begin procedures on its own knowledge without the offended party filing a complaint or report. This is often interpreted as an indication of bad implementation. However, the law has so many problems that it is nearly difficult to apply it honestly. These laws, in reality, have caused more issues than they have solved. You can't fight a crime that's as ill-defined as our anti-dowry law's concept of dowry. Nonetheless, in the 1980s, women's organizations worked tirelessly to ensure that the punishment for a vague and poorly defined anti-dowry statute became harsh, replacing the modest sanctions imposed in 1961.⁷

The Dowry Prohibition Act of 1961 was a half-hearted attempt to regulate the dowry system that failed due to little popular support. It uses a fairly broad definition of the term "dowry" and only imposes minor penalties for infractions. The dowry will benefit the wife or her heirs, and

⁵ How gifts beyond 'reasonable expenditure' constitute dowry <https://blog.ipleaders.in/how-gifts-beyond-reasonable-expenditure-constitute-dowry-an-overview/> last visited Jan 3rd, 2022

⁶ How gifts beyond 'reasonable expenditure' constitute dowry <https://blog.ipleaders.in/how-gifts-beyond-reasonable-expenditure-constitute-dowry-an-overview/> last visited Jan 3rd, 2022

⁷ Madhu Purnima Kishwar, Violence against women : Good practices in combating and eliminating violence against women, <https://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> last visited Jan 3rd, 2022

Section 6 obliges the bride and groom to keep a list of presents. This practice legitimizes the dowry system. The appointment and performance of Dowry Prohibition Officers under Section 8-B is likewise lacking. Some states have designated social workers as Dowry Prohibition Officers, while others have designated SDMs as Dowry Prohibition Officers. People are unaware of their existence, and most officers are unaware of their duties, which are vaguely defined by law. To combat the threat of dowry-related cruelty and dowry deaths, our legislators added Section 498A 'Cruelty against Married Women' to the IPC in 1983 and Section 304-B (Dowry Deaths) in 1986 to the IPC. All of these laws are aimed at the criminals, yet they provide no assistance to the victims. Thankfully, the 'Protection of Women Against Domestic Violence Act' was passed in 2005, which gives immediate assistance to victims in the form of support, residency, restraining orders, child custody, and so on.

Moreover, there are other flaws in the laws like

It is difficult to decide what constitutes a voluntarily offered present and what is given in response to a demand. In most circumstances, a girl's parents will declare or at least pretend that whatever they are giving is out of love for their daughter at the time of marriage. When the marriage reaches a breaking point and the girl's family decides to pursue legal action, the same "gifts of love" are referred to as dowry items and are given in response to demands from the groom's family. Even though marital problems are unrelated to dowry disputes, women's families frequently file cases under the anti-dowry statute when the marriage is on the verge of disintegration. Moreover only 1 to 2 percent of people declare their income and it is difficult to determine what is "excessive" in terms of gift income in India and to assess a family's tax-paying status is also not easy when the majority of their assets are in black money. The bride's parents rarely report the exact worth of items presented since they, too, put their daughter's dowry together with blackmoney and don't want it mentioned. Even though it is against the law to give dowry, the bride's family is rarely penalized for doing so. The belief is that only "takers" are guilty, while "givers" are helpless animals who succumb to greed and call us the groom's family's demands.

VII. MISUSE OF ANTI DOWRY LAWS

Let's have a look at the new provisions to see how they help with this: During the 1980s, the Indian Penal Code was revised twice, the first in 1983 and the second in 1986, to designate distinct categories of offenses including domestic violence and abuse. The police would refuse

to record charges under 498A for years after the new law was enacted unless specific allegations of dowry harassment were presented. However, relentless action on the part of some women's organizations ensured that this clause was used in all cases of cruelty and violence, not only dowry-related crimes. However, in regions where there are no vigilante organizations taking up such cases, police officers and lawyers are sometimes seen pushing complainants to blame brutality on dowry demands. This has given the false impression that all domestic violence in India is caused by a growing need for larger dowries, making the crime appear particularly Indian.⁸

A high proportion of cases filed under 498A are later withdrawn, albeit this isn't always because they were bogus. The complexities of women's life, especially in abusive marriages, frequently force them to make distasteful decisions. A husband's conviction and jail may not be the greatest solution to a victimized wife's concerns. Her restricted options and limited conditions make it difficult for her to pursue criminal cases. Many women are forced to work out a settlement because the provision does not safeguard a woman's entitlement to the marriage home or provide her with shelter throughout the procedures. She must retract the complaint at this stage, as most spouses make it a condition of any negotiations. If she wants a divorce and her husband is open to a settlement and a mutual consent divorce, withdrawing the complaint is once again made a condition of such a settlement.

Section 498A aims to protect women from harassment by their husband and in-laws. However, there have been a number of incidents wherein this section has been used primarily as a tool of blackmail. If a woman complains under this section, the police have the power to arrest anyone who is a perpetrator in her complaint, as a result it is exploited and used as a tool to take revenge⁹. Moreover, cruelty in a marriage is a non-bailable offense and bail in such cases is refused. This in itself is unfair because in such cases the accused is detained without due process and before trial begins. Although a preliminary investigation is required after the filing of an F.I.R., in practice, such complaints are filed regardless of whether the charges are proven to be true or not, and an arrest warrant is issued without determining whether the family in question is actually abusive or has been falsely implicated. Various provisions and statutes

⁸ Kishwar, Madhu. "Laws against Domestic Violence: Underused or Abused? From Manushi, 'A Journal about Women and Society,' No. 120, September-October 2000, 17-24, New Delhi, India." *NWSA Journal*, vol. 15, no. 2, The Johns Hopkins University Press, 2003, pp. 111–22, <http://www.jstor.org/stable/4316975>.

⁹ Are Men subjected to Domestic Violence? - Law Insider India. <https://www.lawinsider.in/columns/are-men-subjected-to-domestic-violence> last visited december 30th, 2021

relating to dowry were enacted in order to protect women from the social evil of dowry in society, but it has been observed that there have been numerous and countless instances of women abusing the laws in order to or with the intent of falsely convicting their male counterpart and his family members for an offense that they never committed. There have even been cases where women have falsely accused males in order to slander them and their families. Some of the case laws dealing with the misuse of section 498A of the Indian Penal Code are as follows:

The Honourable Court declared unequivocally in *Savitri Devi v. Ramesh Chandra & Ors.*¹⁰ that "there has been a major misuse of the rules to the point where it was striking the foundation of marriage itself and the same was held to be 'Not Good' for the society at large." "It is well known that an estranged woman will go to any length to enlist as many relatives of the husband as feasible in a desperate endeavor to preserve whatever remains of an estranged marriage," the Punjab and Haryana High Court stated in *Jasbir Kaur v.State of Haryana*¹¹

VIII. WHY ARE WOMEN LESS LIKELY TO REPORT DOWRY RELATED VIOLENCE?

According to the National Crime Records Bureau, 12826, 13307, and 10366 cases were filed under the Dowry Prohibition Act of 1961 in 2018, 2019, and 2020, respectively.

Furthermore, there were 7167, 7141, and 6966 cases registered under Dowry Deaths during these years.¹² However, these are only the recorded incidents; many more go unreported, making the situation even worse. One of the main reasons for this is that women in rural areas are frequently unaware of their legal rights, including whether or not they have the right to seek protection and how to do so. Most women in rural regions do not consider their daily problems from a rights-based perspective. They also have a lower sense of self-worth as claimants of rights and resources. As a result, individuals frequently overlook the opportunity of submitting a complaint with a tribunal. Female seclusion is another practice that makes it difficult for rural women to assert their rights. In many rural communities, socio-cultural norms imply that women are seen as second-class citizens in both the public and private spheres.

¹⁰ *Savitri Devi v. Ramesh Chandra & Ors.* (2003) DMC 328

¹¹ *Jasbir Kaur v.State of Haryana* 2010 (4) RCR (Civil) 321

¹² Press Information Bureau, <https://pib.gov.in/PressReleasePage.aspx?PRID=1780110>, last visited december 30th, 2021

These conventions apply to all aspects of women's lives, including labor and employment, and have a significant impact on them. When a dispute involves legal action against male members of her community, for example, rural women attempting to protect their rights may face pressure from their families and communities, leading to domestic abuse or social exclusion.

IX. COMPLEXITY OF LEGAL SYSTEM

Legal pluralism, or the existence of multiple types of legal systems (statutory, customary, religious, or a combination) that apply to the same region, is one of the major issues in the administration of justice in nations where it exists. In some circumstances, they exist independently of and unrelated to one another, while in others, relationships between different legal systems are regulated and managed by specific norms. Existing legal plurality results in complicated legal frameworks with overlapping rights, different and conflicting levels of authority including state, non state/customary, and hybrid institutions, and frequently contradicting rules. Navigating the various systems can be particularly tough for women. When a conflict arises, women frequently prefer to seek protection for their rights through traditional court institutions.

Customary justice processes are frequently less expensive than formal legal systems, and they may be easier for women to access. Furthermore, they are more inclined to provide women more room for conflict resolution that is acceptable to both men and the general public.

Customary institutions' regulations, on the other hand, do not always adhere to equality and non-discrimination criteria. This is especially essential in rural areas, where traditional legal systems hold a higher significance. On the other hand, formal courts and other alternative formal dispute resolution bodies (human rights commissions, ombudspersons, and other) are frequently located outside of rural areas, and women's access to these institutions may be limited due to a lack of childcare support facilities or prevailing social practices. Furthermore, the court procedure can be lengthy and costly, and rural women frequently encounter challenges in obtaining legal counsel and sustaining their claims, in addition to their time and financial constraints. Therefore, judges may be hesitant to impose legislative rules that contradict a country's traditions and customs.

X. SOCIAL STIGMA

Dowry is considered a status symbol by both the groom's and bride's families, who take delight

in lavishly spending on their daughter's wedding. They are unwilling to invest in her great education, to give up a piece of the land that is rightfully hers, and to invest in her job, yet they are eager to borrow money for her wedding. Is it a hidden affection for a daughter's well-being that emerges at the time of her marriage, or is it one's social standing and the promise of forming an alliance with a well-to-do family? Even if girls complain about dowry demands after their marriages, their parents accept it as usual and advise them to adjust in the hopes that things will improve over time or with events such as childbirth. The sensation of having discharged their responsibilities towards their daughter is one factor, and the return of a separated or divorced daughter is vilified by society is another. The girl's well-being is completely ignored in this strategy. The groom's family expects a premium for having a boy, and the payment is higher if the kid is well-positioned or earns well. Boys are an asset that should generate income for their parents, whereas girls are a liability. As a result of such offensive reasoning, son preference and disgusting practices like female feticide emerge. The Kanyadan (gifting away of a daughter) notion, which is currently popular in many Indian communities, entails the bride's parents effectively relinquishing their rights and duties. Instead, we need public commitments from the grooms and bride's parents that they will assist the pair in developing a mutually respectful and equal relationship. Furthermore, the groom's family should make a written commitment to safeguard the bride's safety and well-being. A contract is also included in registered weddings. Even so, this is insufficiently based on mutuality principles. We need a model secular marriage contract that people from all communities can use, even if their marriages are solemnized according to their specific caste or religious ceremonies.

XI. CONCLUSION

Dowry is a form of social oppression. Anti-Dowry Laws were enacted by the state to combat this scourge. Because the laws are non-bailable and non-compoundable, they are exceptionally tough and rigorous. Women use these pro-women legislation as a cloak to carry out their nefarious plans. They torment their husband and his family, and the police, based only on their complaint and without any proof to back it up, throw the husband and his relatives in jail. As a result, men suffer from severe emotional anguish. Every time a wife files a complaint against her husband on the grounds of cruelty in dowry demand, the fundamental essence of the Fundamental right to equality, which states that no citizen cannot be prejudiced on the basis of sex, is simply disregarded. Before a group or series of groups demands that a legislation be passed outlawing any customer social behavior, they need to show that the legal reform they

propose is feasible by demonstrating that they have laid the groundwork for it in their own community, neighborhood, and city. Those who want dowry giving to be made a crime, for example, should be required to submit at least 500 oaths from their own relatives, friends, and neighbors promising to enforce the anti-dowry law as well as laws against domestic violence in their own community by reporting each violation to the police regardless of whether the victim complains or not. Because this commitment would be made freely rather than as a result of a legislative mandate, social reformers would have to engage in discourse and discussion with concerned members of their society in order to persuade them to sign an athina publically. Throughout the process, each reformer will receive direct feedback, as well as suggestions for improving the proposed policy. Moreover, one of the most potent and precious gifts that parents can provide to their daughters is education and independence. This will enable her to be financially stable and a contributing part of the family, earning her respect and proper family standing. As a result, the finest dowry any parent can provide their daughter is a good education and encouragement to pursue a career of her choice.¹³

¹³ Poonam Deepak Kumar Doshi DOWRY SYSTEM, <https://aishwaryasandeep.com/2021/10/06/dowry-system-5/> last visited Jan 3rd, 2022