

SOCIO-LEGAL ASPECTS OF DOWRY SYSTEM IN INDIA

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*(Government law college, Tiruchirapalli)*Best Citation - Veena Nirudhiya, *Socio-Legal Aspects of Dowry System in India*, 2 (2) LIU & 50 (2021)**ABSTRACT**

The paper is concentrated on examining the concept of the Dowry system and the impact created due to the cases related to dowry. Dowry is the transfer of any property or money from one party of the marriage to another party of the marriage. Demanding dowry in the name of 'gifts' has become prominent nowadays. Young women are forced to provide their valuable security to their spouses and his family. The Dowry Prohibition Act was introduced to provide proper security to women. Although the act was introduced, the act of demand for dowry is still in persistence. Indian Criminal statutes had made strict provisions to eradicate the unhealthy repercussions of this system. On a side, women are struggling to overcome this issue, men are also affected by the false accusations made. As the provisions are stricter, it is taking more time for the innocent men to prove their stand. This is a crucial and complex issue that should get proper attention from society to eradicate the toxic dowry demanding system which is even causing the death of a person and improper usage of the powerful provisions made for the security of women.

KEYWORDS: Dowry system, Demand for dowry, Dowry death, Dowry Prohibition Act, Indian Penal Code, Women, Men, Society.

I. INTRODUCTION

"Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood"- Mahatma Gandhi. India is the country that gives a significant position to the customs and cultural values in marriage. Dowry is considered a part of marriages even in

this 21st century. Although Legislation has made immense efforts to control this crime, paying and accepting dowry is still in prevalence due to the rare enforcement of such provisions. Women are subjected to harassment due to the demand for dowry, which ends in numerous dowry death cases across the country. There are anti-dowry laws, campaigns, and movements, but this social evil is still not completely eradicated. The impact created by this system had affected the growth and development of the social status of women. The issue of Dowry is often unnoticed meanwhile certain issues affect the society of men enormously in this kind of crucial dispute. Women, being the victim of this social evil for many years are now making attempts to overcome it, on the other side men are becoming prey to false accusations due to improper usage of the rights by certain women nowadays. These two disputes are not getting enough attention in our society.

II. OBJECTIVES OF THE RESEARCH

The specific objectives of the study are,

- To study the concept of the dowry system in India.
- To analyze how the Act attempts to eradicate the dowry system.
- To analyze how the practice of demanding dowry increases the rate of dowry death.
- To know how dowry cases cause a negative impact on both men and women.

III. RESEARCH METHODOLOGY

The methodology of this research paper is descriptive and based on non-doctrinal research. The paper broadly used an exploratory research method from journals, reports from Government authorities, some case references and websites, and academic literature on the dowry system and dowry death cases in India. The secondary data is relied upon for the research of this paper.

IV. LITERATE REVIEW

1. The Comparative study on the concept of the Dowry system (Nomik Uddin, Marzana Akter Hamna, Ehsan Talukde, Rayhan Ahmed) is seen as the concept that causes gender imbalance and financial burden to the family of weaker sections. They focus on the comparative study of the concept in various countries and religions, reasons, effects of the system, and how other countries take action against this crime under this system. [1]
2. Leila Ateffakar sees the 'Practice of dowry poses a heavy threat to the lives of women. The Dowry system in India focused on historical background, laws relating to dowry, and the relation between cruelty and dowry death. [2]
3. Sadia Gondal in The Dowry system in India- Problem of Dowry deaths says 'Dowry Prohibition Act of 1961 proved to be a failure, focusing on the question of whether the practice of dowry is bliss or a burden.[3]
4. Mrs. Deepa Muduli, 'One of the means of victimization is demand for dowry and killing for dowry this talk is true in case of dowry' about the dowry system. The research focused on legal protective measures for women. [4]
5. In Dowry deaths: a neglected public health issue in India by Gopalan Rethesh Babu and Bontha Veerraju Babu, explains demographic and socio-economic factors for the increased rate of dowry death in the country. [5]
6. In the paper on The Dowry system, Arshadeep Bali considers the advantage of dowry practice, "Dowry serves as an inducement for luring a suitable bridegroom for the marriage of an unattractive, uneducated, and aged girl. A huge amount of dowry acts as an effective and useful method for alluring a suitable bridegroom for the bride".[6]
7. In the paper of Persistence of practice of dowry in rural Bengal, Bhiswajit Ghosh states that, without

a doubt, one of the major reasons behind the persistence of dowry is the overlooking of the harmful consequences of the act by a large section of the society. [7]

8. Raj Kumar and M.L.Sharma, in Impact of Dowry Prohibition Legislation in the rural society of Haryana emphasize that it is important to create awareness to the rural people about the harmful effects of dowry by educating people about the philosophy and the provisions of the Act through proper utilization of the existing sources of mass media. [8]
9. Violence against men and their families by women is not a new phenomenon. Men have been victims of physical violence; domestic violence; intimidation; hurtful, controlling words and behaviors, workplace harassment; and financial extortion. (Anant Kumar) [9]
10. In extreme cases, these dowry disputes escalate to murders. When a wife dies, her husband becomes free to remarry and receive a dowry from a new wife's family. (Sheetal Sekhri and Adam Storeygard) [10]

V. ISSUES IN THE DOWRY SYSTEM

A. *Existence of Dowry System in India*

Dowry means any valuable security given by most prominently the bride's side to the groom's side as the condition of the marriage. Generally, the demand for dowry takes place in the name of gifts. There is a huge difference between Dowry and Gifts. Due to certain people's evil and greedy intent, this social curse is persisting in India in various forms.

B. *Effort of Legislation*

The Dowry Prohibition Act introduced in 1961 had been introduced to control the crime and deaths regarding the demand for dowry. It

punishes the people who demand, give and pay dowry with imprisonment and fine.

C. Role of Indian Criminal Statutes to eradicate dowry system

Indian Criminal Statutes like Indian Penal Code, Criminal Procedural Code, and Indian Evidence Act had taken immense efforts to eradicate the crimes and deaths due to demand for dowry.

D. The impact created in the society

Due to this social evil, there is an existence of gender inequality in some of the cases, where women are treated as property and giving them no right to speak against injustice. Economically weaker sections are comparatively the most affected people regarding this dispute.

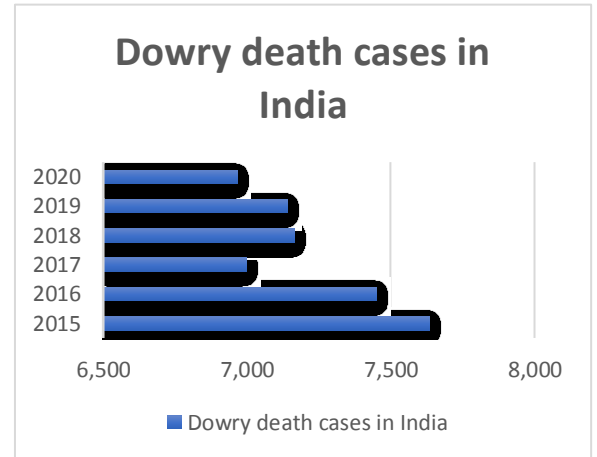
E. Men are also victims of this system

Due to this social evil, demanding dowry had been normalized to the extent that it had even become part of marriage, resulting in unimaginable tortures to women and even the death of the concerned person. On the other hand, men are also affected due to the false accusations and complaints lodged by disgruntled women. Consequently, the aggrieved persons due to this system are both innocent men and women.

VI. STATISTICAL ANALYSIS OF DOWRY SYSTEM AND DOWRY DEATH

The purpose of the following table is for a better understanding of the rate of dowry death in the last few years. The following Table 1 is based on the reports of the National Crime Report Bureau, the dowry death rate in India from the year 2015 to 2020, Chart 1 is on dowry death rates in various states of India in 2020. The table is all about the rate of false accusations made regarding dowry cases.

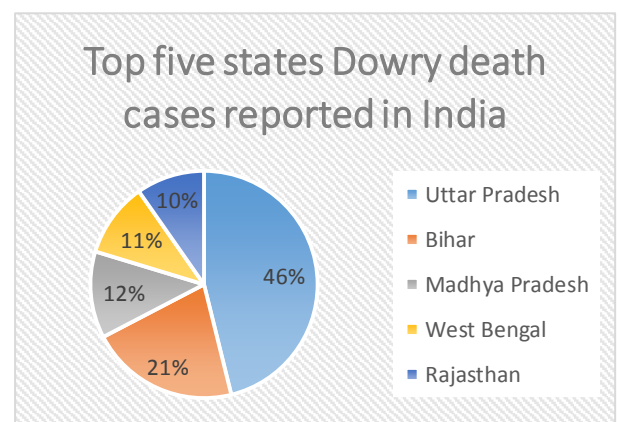
A. DOWRY DEATH CASES IN INDIA



*Chart 1- Dowry death cases in India (2015- 2020).

From Chart 1, it can be understood that the rate of dowry death is undergoing fluctuation changes, but in last year, the rate was fortunately decreased from the regular ratio. It was reported 7,634 cases in 2015, 7,452 cases in 2016, 7,000 cases in 2017, 7,167 cases in 2018, 7,141 cases in 2019 and 6,966 cases in 2020 by NCRB.

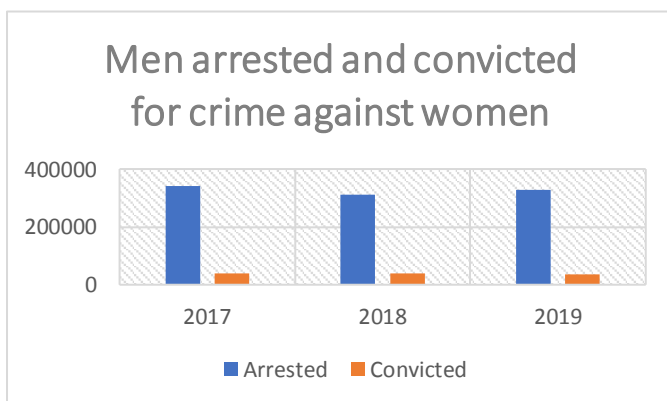
B. TOP FIVE STATES DOWRY DEATH CASES REPORTED IN INDIA



*Chart 2- Top five states where Dowry death cases were reported in India in 2020.

From this Chart 1, it can be concluded that Uttar Pradesh is the state where the highest number of cases was registered in the 2020 report. It was registered about 2,274 cases which occupy 46% of the dowry death cases. This was followed by Bihar, where the number of cases reported was about 1,046 cases which occupy 21% of the reported cases. Madhya Pradesh has reported about 608 cases which occupy 12% of the total number of cases reported, followed by West Bengal with cases about 522 in number occupying 11% of the total cases and Rajasthan about 479 cases occupying 10% of the total number of cases.

C. **MEN ARRESTED AND CONVICTED FOR CRIMES AGAINST WOMEN**



**Chart 3- Men arrested and convicted for Crime against women from 2017-2019*

The purpose of this chart is to show the difference between the number of arrests and convictions made related to the crime against women. When the arrested and convicted rate is compared, it is easy to identify the number of cases made falsely on men without any proper cause. The rate of arrest is visibly higher compared to that of the convicted one. According to the National Crime Report Bureau reports, The number of men arrested in 2017 is 3,42,197 whereas the number of convicted men is 39,529. In 2018, the number of men arrested is about 3,10,999 whereas the number of convicted

men are 38,923. In 2019, the number of men arrested is about 3,28,467 whereas the number of convicted men is 35,202.

VII. **DISCUSSION**

A. **DOWRY SYSTEM IN INDIA**

Dowry means any property or valuable security given or agreed to be given by either the groom or bride or by any other person [11] as a condition of the marriage [12]. The transfer involves any kind of property, money, ornaments, and consumable materials like household electronic appliances, vehicles, etc. The concept of dowry goes back many centuries and is still in prevalence from the ancient period. There are no evident findings regarding the time when the concept of dowry was established. But the concept had been rooted deep in the ancient past of our country. Dowry is about lowering the self-dignity of women by demanding dowry and goes to the extent where it involves mental and physical cruel treatment by the groom and his family to get it. Dowry causes a financial burden to the family. Although there is a huge difference between dowry and marriage gifts, dowry is demanded in the name of the gift to protect from showing the true colors of evil intents. It is also not necessary that there should be the demand of a specific term to make a dowry demand [13]. A marriage gift, given by the bride or the bridegroom without any demand, only out of willingness, love, and affection is considered a valid gift. If contrary, such property, money, or any other valuables is not under the category of gift, and such act of compelling is permitted under the Dowry Prohibition Act, 1961. The term 'Gift' instead of demanding dowry in the very name, is popular among both urban and rural societies. It is often confused that demanding money from either spouse to meet the regular needs of the family is considered as dowry demand. Demanding dowry from Bride's family is common practice even today. In Hindu Culture, giving Stridhan to the bride is a prominent and acceptable practice. The bride receives certain property from her parents during the marriage, including money, valuable property given

without coercion or condition for the marriage. Such kind of gifts are known as customary gifts and does not amount to dowry. Marriage gifts are not enveloped within the ambit of dowry [14]. Dowry is serving as a kind of enticement to the grooms, as a larger dowry could make a family's daughter of valuables brought by her to the groom's family. Another major issue is the misconception of the concept of Stridhan. According to Hindu law, Stridhan is the voluntary gift obtained by her from her parents during her marriage. But both in urban and rural areas, stridhan, instead of considering it as a bride's property, was misunderstood as the property which can be used by any person belonging to the groom's family without prior knowledge to the bride itself. This practice is even normalized in the way that the family of the groom can even use and restrict the bride from the usage of her property. If she resists doing so, it had become common to harass to acquire such property from her. [15]

B. DOWRY PROHIBITION ACT, 1961

The Dowry Prohibition Act came into force on 1st July 1961. Dowry means any property or valuable security given or agreed to give by any parties to the marriage [16]. This Act does not include dower or meher in the case of the persons to whom the Muslim Law applies. A dower is either a sum of money or property which the wife is entitled to receive in the consideration of marriage from the husband [17]. This Act excludes the presents which are given by the Bride or Bridegroom before or after or at the time of marriage without any demands. The person who gives or takes dowry will be subjected to imprisonment of a term not less than 5 years and fine not less than 15 thousand rupees [18]. The person who demands dowry will be subjected to imprisonment not less than 6 months and fine not less than 10 thousand rupees [19]. The main objectives for establishing this Act are to promote marital harmony among the families and to create awareness among the people about, how this system is harming society in the

name of tradition. This Act plays a vital role in fighting against the abuse of married women.

C. ROLE OF INDIAN CRIMINAL STATUTES TO ERADICATE DOWRY SYSTEM

The dispute of inhumane tortures on women is on a side, not receiving reasonable attention in society, on the other side, men are also getting affected due to unreasonable allegations on them. Criminal statutes of our country, Code of Criminal Procedure, 1973, Indian Penal Code, 1860, and Indian Evidence Act, 1872 attempt in the best way to protect women in various ways [20]. The Indian criminal laws were comprehensively amended to include dowry as a punishable offence [21]. Section 304B of the Indian Penal Code speaks about Dowry death and punishment regarding such willful conduct. Section 302 of IPC also allows the Hon'ble Courts to impose the death penalty on the perpetrators of the offence. Section 498A IPC [22] was included to protect women from cruelty and harassment and for the prosecution of offences under this section is dealt in the Dowry Prohibition Act, 1961 in which after receiving a report of facts from the police being made by the family of the victim, the Hon'ble Courts can take cognizance regarding the case [23].

D. DOWRY DEATH

Indian Penal Code [24] provides about dowry death in section 304B [25] if the death of the woman is caused by burns or bodily injury or occurs in any other suspicious circumstances within 7 years of her marriage and when there is crucial evidence to show that soon before her death the woman was subjected to cruelty and harassment by her husband and in-laws due to dowry demand. It shall be concluded from that her husband or his relatives deemed to have caused her death. The person who commits dowry death shall be punished with imprisonment not less than seven years but which may extend to imprisonment for life.

1. DEMAND FOR DOWRY

Dowry can be demanded in three different stages- (1) before marriage (2) at the time of the marriage (3) after marriage [26]. The demand for dowry is not only about demanding for any new property by the family of the groom to the bride's family to buy but also demanding the Stridhan property given by the bride's family as security to her [27] and demand for wife's share in the estate of her parents [28] are also considered as demand for dowry but demanding money to meet the urgent domestic and necessary expenses cannot be termed as a demand for dowry [29]. In Section 304B, there is no explanation given for the term cruelty. These sections are not mutually exclusive [30], however, section 498A explains only what amounts to cruelty. A woman is said to have been subjected to cruelty only when she had sustained bodily injuries, harassment, and driven by her husband or any of his relatives willfully to commit suicide [31].

2. SOON BEFORE DEATH

The words mentioned in section 304B "soon before" her death emphasize the importance of the establishment of cruelty and harassment. No fixed period was there for this term as the proximity may be different from one case to another [32], hence determined by the Hon'ble Courts to decide according to the issues of the case. Existence of proximity between the effect of cruelty based on dowry demand and the concerned death [33]. If the alleged incident of cruelty and harassment is not proximate and remote in time with the concerned death, it would be contradictory to these words [34]. When a woman has died within a few years of the marriage by sustaining bodily injuries, the entire period of the years mentioned will be considered under the curb of "soon before death" [35]. These two expressions appear to be synonymous but when they are keenly observed, the presence of the expression "soon before her death" is to emphasize that the death of the married woman is the consequence of the cruelty and harassment [36] while

"immediately before" does not mean "at any time before", usage of such term is to refer cruelty or harassment, which was resulted in deciding the proximity to death [37].

3. PRESUMPTION OF DOWRY DEATH

The concept of presumption is introduced to fill the lacuna of not getting direct evidence in the cases of Dowry death and to maintain peace in matrimonial relations. According to Section 113B of the Indian Evidence Act, 1872, when there is a question arose whether a person had committed the dowry death of a woman and when it is shown that the woman was subjected to cruelty and harassment soon before her death, due to demand for dowry, then it shall be presumed by the Hon'ble Court that such person had caused such dowry death. The initial burden for proving the presence of essential ingredients of section 304B lies on the prosecution [38]. Along with these, it shall also be proved by the prosecution that she had been subjected to cruelty and harassment by the accused person(s) due to demand for dowry. The accused person must prove beyond a reasonable doubt whether she had sustained burns or any other bodily injury [39]. Once the prosecution proves its stand, it is for the accused to rebut the presumption by showing that the death of the deceased did not result from cruelty or harassment by demanding dowry [40]. If the accused fails to prove he/she is innocent, the Hon'ble Court is bound to act upon it [41].

VIII. THE UNHEALTHY IMPACT CREATED BY THE SYSTEM

Due to this system, women are often considered as a liability to their parents and chattel to their in-laws. The Dowry system is still in prevalence due to the poor participation of women in the workforce and lack of strong financial management. The poorer sections of the society often send their daughters to jobs not only to meet their daily needs but majorly to save up for dowry. Many women both in urban and rural areas are not ready to get married as they were unable to fulfill their regular needs. In some cases, a woman with a strong financial background is also subjected to

harassment by her spouse in the continuous demand of dowry [42]. In certain cases, a woman will be married to a person with a bright financial background so that the bride's parents will benefit from financially powerful connections and many other money-making opportunities. In many cases, lower, lower-middle, and middle-class families are affected due to this kind of system. Families which are financially strong are capable of meeting any kind of monetary problems [43] but the people who are in the economically weaker sections, will not have enough money to meet this kind of issue. The people in these sections have meagre savings and hence arrange the marriage of their daughters by borrowing money, selling their old property, mortgaging their crucial properties like land, ornaments, or any other valuable articles belonging to their property. As a result, the issues of that family are the ones to face serious repercussions, subsequently resulting in improper financial management in the family. The Dowry system paves way for the unimaginable torture, harassment, and violence in the family. The family of the groom without thinking about the consequences, torture the bride mentally and physically [44]. In many cases, the money earned by the married woman cannot be kept for her usage, her spouse and his family will also take that money from her opposing her independence. Several men threaten their spouses, if she fails to satisfy the demands of his family, he will marry some other woman to get more money. [45]

IX. MEN ARE ALSO VICTIMS

From the old ages, women are the ones who were considered as the victims in all cases even when they have committed the crime [46]. Some women use the provisions in improper ways, making their rights lose their true essence. Most of the criticisms have been carried by section 498A which is speaking about Cruelty in the Indian Penal Code, as this is the section that is often misused by most of the evil-minded women in society. While most women are fighting for freedom and justice from the heinous people who demand dowry, the provisions introduced to act as a remedy but unfortunately became worse than the previous issues [47]. Most of the men and their families are alleged falsely using

provision section 498A. During such conditions, this issue of misusing the provisions has become a malignant issue. Nearly 200,000 people were arrested under the legislation but only 14.4% of the accused are convicted where the rest are acquitted. Apart from dowry cases, men are falsely accused of many major crimes like rape [48], harassment, cruelty [49], and much more. The true intent of the legislation is to stop the victims to suffer silently and raise their voices against this kind of social evil. But often these provisions are wrongly used by the evil-minded women by knowing that these laws are non-compoundable and non-bailable to seek revenge for trivial issues [50]. The amendments which are introduced in the penal code are with the laudable object to eradicate the social evil of Dowry, such provisions cannot be allowed to be misused by any person. The harsh reality cannot be ignored that the unfair trend of false implications in view to harass an innocent spouse and his relatives [51]. There is also a provision in the Indian Penal Code that has the object to prevent the dowry menace. Section 211 of the Indian Penal Code protects the people who are subjected to false allegations on any grounds like domestic violence, kidnapping, and abduction, or any sexual harassment cases. If any person who has the intent to cause injury to any person with no lawful grounds shall be punished with imprisonment for two years or with a fine or with both [52]. If any case is instituted on a false charge of an offence punishable with death, such person will be punished with imprisonment of about seven years or upwards or with a fine. This provision is seen as a helping hand for the people subjected to false accusations of domestic violence [53] and dowry demand.

X. SUGGESTION AND CONCLUSION

There are certain suggestions to eradicate the dowry system and dowry killing in our society from the above discussion.

- ❖ There should be a change in the mindset of the people and should welcome the acts of Legislation to eradicate this kind of heinous crime. The State can take the steps

to control the crimes, it is in the hands of the people to understand the steps taken to prohibit the crimes.

- ❖ Both men and women communities should neither accept nor give dowry under any kind of circumstances. They should also be aware of the laws against the dowry system.
- ❖ It is necessary to teach both men and women about gender inequality, men should be educated that women are not unequal to them, demanding money for marriage is not correct morally.
- ❖ Women are always encouraged to stand independent and to have their careers. If they face any kind of mental or physical abuse, it is their right to expose the facts about the cruel happening.
- ❖ Amendments should be carried out in existing codified laws, in the very way not affecting both the communities of the society. Although there are serious repercussions when dowry is demanded, the Act introduced should get more magnum to eradicate this crime.
- ❖ On the other hand, stricter laws are just for the protection of women. If any women misuse the provisions which are introduced for their welfare, the punishment provided for the false accusations must be made stricter to control these accusations. There should be an amendment regarding this to prevent innocent people from greedy ones.

In our evolving society, we must protect every soul from any kind of internal or external disturbances. The forms of crimes are mutating from one for to another. In this modern era, we should act responsibly to stop these crimes and treat everyone equally in all circumstances. We should be taught that everyone should be independent and no one is inferior to us. This type of old and evil customs fetches nothing but dangerous problematic consequences to society.

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