



## Dowry and Indian Law System

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### ABSTRACT

Dowry is deeply embedded in the social fabric of India. It is strongly embedded in society's patriarchal mindset. Women became a commodity as consumerism increased. Dowry is encouraged due to women's disempowerment, male domination, and financial dependency on males. The first stage in the campaign to abolish this social scourge should be to raise social consciousness among the population. In this instance, the media can be proactive. Several legislation, notably the Dowry Prohibition Act of 1961, have undoubtedly been adopted, but action on the enforcement front is required. Furthermore, the government should take note of the severe enforcement of such dowry regulations. Many women can be spared from this tragedy if they are removed from the source of abuse in a timely manner and the perpetrators are punished fairly. After their daughters marry, parents must be on the lookout for any suspicious injuries or bruises. If parents notice any signs of depression in her daughter's behaviour, they must pay close attention. : Dowry, also known as Dahej, is one of the deep-rooted societal ills that has become an obstacle to women's regular lives. Dowry has become a societal norm, which is a major issue for both society and women. The dowry system is the evil that has murdered and disabled countless vulnerable women, forcing some to commit suicide. Dowry is the oldest social malady or sickness on the Indian subcontinent. It has become a terrible social disorder that is profoundly established in people's blood. Many individuals regard dowry as a symbol of social standing and self-recognition. As Mahatma Gandhi has rightly said "Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonours womanhood". The main goal is to investigate the ills of the Dowry system and its repercussions in India. So to stop this system India law system needs for took step forward.

**Key word:** dowry Indian law system and social evil

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### INTRODUCTION:

Dowry is a social evil in society that has caused unimaginable tortures and crimes towards women and polluted the Indian marital system. Dowry is payment made in cash or kind to a bride's in-laws at the time of her marriage. Today the government has come up with many laws ([The Dowry Prohibition Act 1961](#)) and reforms, not only to eradicate the dowry system, but also to uplift the status of the girl child by bringing in many schemes. However, owing to the social nature of this problem, the legislation has failed to produce the desired results in our society. In order to get rid of this problem, appealing to the social and moral consciousness of the people, providing education and economic independence for women, and effective enforcement of legislation against the dowry system, can help.

#### Objectives of the Study

- 1) To study the present scenario of dowry system in India.
- 2) To identify the reasons of dowry system in India.
- 3) To find out the Indian law provisions for exterminate the dowry system.

#### Methodology of the Study

The methodology of this whole work is based on secondary sources and primary sources. Secondary sources like books, journals, newspapers, research papers, thesis, some case references, website and already existing customs.

The dowry system, like other societal ills such as child marriage, sati-pratha, and the pardah system, needs to be eradicated from society. In India, women are compelled to marry not only because they are forced, but also because their parents are forced to pay the price and suffer all of the expenses of the marriage. Though marriage is regarded as a sacrament in India, we can observe that now it is treated more like a transaction.

#### What Is Dowry?

When a marriage takes place in Indian subcontinent, the transfer of family property, gifts, property, or money to the groom's family is called dowry. In societal terms, dowry refers to all of the expensive, valuable items provided by the bride's family to the groom's family. The dowry has rooted its origin since ancient times. Dowry is an old custom with no records of when or where it began. Dowry was practised in ancient Babylon, ancient Greece, the

Roman era, and practically every corner of the world throughout history. It is, however, still widely practised throughout South Asia, the Middle East, and North Africa. However, the dowry customs of the past and present are vastly different.

## IMPACT OF DOWRY SYSTEM

♣ **Gender Discrimination:** Due to the dowry system, many a times it has been seen that women are seen as a liability and are often subjected to subjugation and are given second hand treatment may it be in education or other amenities.

♣ **Affecting Career of Women:** The larger context for the practice of dowry is the poor presence of women in the workforce, and their consequent lack of financial independence.

o The Poorer sections of society who send their daughters out to work and earn some money, to help them save up for her dowry.

o The regular middle and upper class backgrounds do send their daughters to school, but don't emphasize career options.

♣ **Many Women End Up Being Unmarried:** An uncountable number of girls in the country, despite being educated and professionally competent remain endlessly unmarried because their parents cannot fulfil the demand for pre-marriage dowry.

♣ **Objectification of Women:** Contemporary dowry is more like an investment by the bride's family for plugging into powerful connections and money making opportunities. o This renders women as merely articles of commerce.

♣ **Crime Against Women:** In some cases, the dowry system leads to crime against women, ranging from emotional abuse and injury to even deaths.

♣ **Consequences of dowry-** One of the worst part of the dowry system is that if a girl brings less dowry she is harassed in her in-law's family. Sometimes she is burnt too. Many commit suicide. Three girls in Kanpur and three in Delhi hanged themselves for this very reason. There is an average of dowry death a day in Delhi alone. Such deaths in a rural area are never reported. Another worst part of this custom is that many honest people become corrupt to earn money to money their daughters. They take a bribe, do tuitions and practise unfair means in business. Taxes are not paid on this extra income. It's unacquainted creates inflation in the country. It is said that 50% of the black money in the north is because of dowry.

♣ **Great evil-** The dowry system is a great evil in society. The girl's birth in the family is sad news. It is all because of the dowry system. The girl has to be married off. Every parent wishes for the happy married life of his or her daughter. But the better is the boys family, the higher is the dowry.

♣ **The problem of marriage-** To settle the girl's marriage is another problem. The girl's father has to face all kinds of insults. He is asked to spend more and more. He has been saving paisa by paisa. since his daughter's birth. Yet the marriage market is higher. He may have to take loans or sell his land and house. Such are the sufferings of a girl's parent. Very often the girl has to suffer if the boy's demands are not fulfilled. The girl's father wants to save his skin. But the boy's father likes to rob him. Sometimes the girl is beaten. Sometimes she is murdered for dowry. We have to rob out this evil. We need to reform our society. Let our young boys and girls come forward and accept the challenge. If not we are suffering today, our children will suffer.

### Laws Pertaining to Dowry

The Dowry Prohibition Act, 1961 This is the first national regulation dealing with dowry. The legislation establishes a variety of preventive and punitive actions. Section 2 of the Act establishes the above-mentioned definition of dowry (Goody, 1973; Leslie, 2008). The word "valuable security," which has been used to define dowry, is defined under Section 30 of the IPC. According to Section 3 of the Act, giving and receiving dowry is punished by imprisonment for a term of not less than 5 years and a fine of Rs 15,000 or the amount of dowry, whichever is greater. Bhat & Halli (1999) found that demanding dowry is criminal under Section 4 of the Act, which makes the offender subject to imprisonment for a minimum of six months and a maximum of two years, as well as a fine of up to Rs 10,000 Section 5 makes invalid any agreement for the offering or receiving of dowry. It is normal tradition for gifts and ornaments presented to the bride to be promptly taken by her husband and his family, in light of which Section 6 lays forth penalty processes. Section 8 proposes to make the act more severe by adding dowry offences to the list of cognizable, non-bailable, and non-compoundable offences (Bhat & Halli, 1999; Chandra, 1986).

### Indian Penal Code, 1860 Dowry-

Dowry related violence is a criminal offence. Due to an increase in dowry fatalities and the failure of dowry legislation, criminal changes were made in 1983 and 1986 by adding Sections 304-B and 498-A to the IPC, respectively (Devika & Praveena, 2001; Panda, 2004). Section 304- B lays down four conditions for dowry death where the death of the woman is: caused due to bodily burns or bodily injury or otherwise than under normal circumstances. Caused within seven years of her marriage. Caused due to subjection to cruelty by her husband or his relatives, and caused due to cruelty or harassment which is in relation to demand of dowry and soon before death? Anyone who commits dowry death faces a minimum of seven years in jail, with the possibility of life imprisonment (Sharma, 1997; Udai, 2004). The offences are non-bailable and cognizable. Section 498 A of the IPC addresses cruelty to women by spouses or relatives. When a woman is exposed to abuse or harassment by her husband or family, the culprit faces up to three years in jail as well as a fine. The term "cruelty" encompasses both mental and physical torment. It consists of: any act intended to drive the woman to commit suicide or to cause danger to her own life, limb or health (both mental and physical included). Harassment to coerce her or anyone related to her for meeting the demand of dowry. "When a person deliberately causes the death of a woman, he is penalised under Section 302 of the IPC. If the husband and his family create a condition in which the wife commits herself within seven years of her marriage, they would be punished under Section 306 of the IPC"

### Indian Evidence Act, 1872

This act taking into account the nature of dowry offences, which are frequently perpetrated covertly in private residential dwellings and within the four walls of the house, unambiguous and direct evidence, which is required for conviction, is difficult to obtain (Sharma, 1997; Udai, 2004). Keeping this in mind, Section 113B of the Evidence Act, 1872 was included by the 43rd Amendment Act of 1986 to strengthen the prosecution's hands by raising a presumption if certain essential facts are shown or established and the woman dies within 7 years of marriage. If it is proven that the woman was exposed to abuse or harassment by a person in connection with dowry demand shortly before her death, the court would conclude that such person caused the dowry death (Sharma, 1997; Udai, 2004).

### **Code of Criminal Procedure, 1973**

Under this act the Sections 174 and 176 of the CrPC provide the processes for police and judicial investigations and enquiries into the reasons of unnatural deaths (Goody, 1973; Leslie, 2008). The 1983 amendment requires the police to send the body of a deceased woman for post-mortem investigation if the death happened within seven years after marriage to determine if it was the result of suicide or any other questionable cause. It authorises an executive magistrate to investigate the death of a woman under identical circumstances.

### **Protection of Women from Domestic Violence Act, 2005**

The Protection of Women from Domestic Violence Act, 2005 ("Domestic Violence Act") was passed in order to provide a civil law remedy for the protection of women from domestic violence in India. The Domestic Violence Act encompasses all forms of physical, verbal, emotional, economic and sexual abuse and forms a subset of the anti-dowry laws to the extent it is one of the reasons for domestic violence. Section 3 of the Domestic Violence Act specifically incorporates all forms of harassment, injury and harms inflicted to coerce a woman to meet an unlawful demand for dowry. Some of the common remedies under the Domestic Violence Act include:

- protection orders – prohibiting a person from committing domestic violence;
- residence orders – dispossessing such person from a shared household;
- custody orders – granting custody of a child; and
- compensation orders – directing payment of compensation.

### **International conventions**

India is a party to several international human rights instruments which provide theoretical remedies to the dowry problems. These international conventions include the Universal Declaration of Human Rights ("UDHR"), International Covenant on Civil and Political Rights ("ICCPR"), the International Covenant on Economic, Social, and Cultural Rights ("ICESCR"), the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW"), and the Convention on the Rights of the Child ("CRC"). CEDAW codifies the rights most relevant to the discussion of dowry-related violence: the rights of women. However, there are issues of non-intervention and cultural relativism which impede the use of international law to combat dowry deaths.

### **Way Forward**

- **Recognizing Limitations of Political Solution to Social Problem:** No law can be enforced without the wholehearted cooperation of the people.
  - Enacting a law no doubt sets a pattern of behaviour, activates social conscience and renders some assistance towards the efforts of social reformers in getting it abolished.
  - However, social evil like dowry cannot eradicate itself unless the people carry the philosophy behind the law much further.
- **Educating Girls:** Education and independence is one powerful and valuable gift that parents can give to their daughter.
  - This will in turn help her to be financially sound and be a contributing member of the family, giving her respect and right status in the family.
  - So providing the daughters with a solid education, and encouraging her to pursue a career of her choice is the best dowry any parent can ever give their daughter.
- **Creating Social Stigma Around Dowry:** Accepting dowry should be made a social stigma, and all generations should be addressed. For this, social consciousness about the ill effects of the dowry system needs to be aroused. In this context:
  - The Union and State governments must take effective steps for stepping up 'anti-dowry literacy' among people through Lok Adalats, radio broadcasts, television and newspapers on a 'continuing' basis.
  - Youths are the only ray of hope to effectively combat the menace of the dowry system. They must be given moral value based education to broaden their minds and widen their outlook.
- **Multi Stakeholder Approach:** Dowry is not a standalone problem, thus society should take every step to bring gender parity. In this context,

- States should look at gender-disaggregated data across the life cycle – birth, early childhood, education, nutrition, livelihood, access to healthcare, etc – to address gender inequality.
- There is a need to expand childcare and safe public transport, reduce discrimination in hiring, and create affirming workplace environments.
- At home, men should share domestic work and care responsibilities.

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## CONCLUSION:

Though there are several statutes and rules in place to prevent crimes against women, the sheer existence of such tough and strict acts and laws will not be successful unless they are implemented and enforced. Dowry is becoming more widely accepted in society. Despite efforts to strengthen the law by inserting/substituting certain provisions, such as the 1984 and 1986 amendments, dowry continues to climb constantly. Despite the fact that the laws give vast powers, neither the police nor the courts are capable of implementing them. It can take up to ten years for a case to reach court, and even once there, husbands and in-laws often get away with extortion or murder because the women and their families are unable to prove "beyond reasonable doubt" that they were the victims of such crimes because there are rarely any outside witnesses.

"Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonours womanhood" as quoted by Mahatma Gandhi. These laws have been widely criticised, yet citizens, particularly those who have been victims of such crimes, are unwilling to follow the rules and stand up to the offenders. The Indian judiciary gives citizens ample power to stand up to these crimes against women and struggle until justice is served. If every bride's father refused to provide dowry and every groom's father refused to take dowry, there would be no dowry violence, harassment, or deaths in the country.

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