

# Issues and challenges on dowry death in present scenario: Socio legal study

Chetna Shrama<sup>1</sup>, Dr. Shiv Pratap Singh Raghav<sup>2</sup>

<sup>1</sup>Research scholar Jiwaji University, Gwalior, Madhya Pradesh

<sup>1</sup> Principal, Mahatma Gandhi College of law, Jiwaji University, Gwalior, Madhya Pradesh

**Abstract:** Current era of “Diversified Mechanics of Legal Agencies” have really prevented and promoted entire masses of “Women” from “Gruesomeness” towards ‘Bright Ray of Justice’. Under this Article, a Researcher has strongly endeavored towards mentioning about the very concept of dowry, its historical background and issues related to it. Also under this Article, the Researcher has mentioned about the ‘Active Legal Statute’ for curbing such Activity- cum-offence in form of ‘Dowry Death’ which is being effectively handled by Substantial Laws such as Dowry Prohibition Act, 1961; IPC, 1860; Cr.P.C., 1973, etc. Undoubtedly, this Social Menace has shattered millions of dignified life pattern of women, which now the real time has come to combat against such heinous thinking and mentality.

**Keywords:** Marriage, Bride, Husband, Dowry, Domestic Violence, Death, Legislation.

## Introduction

Generally speaking, marriage is a socially and legally recognized partnership between a man and a woman that is governed by laws, conventions, beliefs, and attitudes that specify the partners' rights and responsibilities and confer social status on their generation. In India, marriage is bloated in deep-rooted cultural beliefs and in traditions. However, one custom that obstinately resists change: ‘The Dowry System’. The Dowry System in India has been running for a very long time. This tradition of giving the groom money so that he can take care of his bride dates back to ancient times and was used to honour both sides of the families. However, as society evolves through time, dowry continues to exist, while its importance shifts with time. For our society dowry is a social evil and has caused unthinkable tortures and crime towards women and polluted the Indian Marital System. Dowry system is becoming burden for bride’s family. Dowry death occurs when a married woman is harassed and tortured to the point of suicide or is murdered for dowry by her husband and in-laws, making a woman's house the most dangerous place for her to be. Dowry death, like eve teasing, rape, female genital mutilation, bride burning, and acid throwing, is one of several types of violence perpetrated against women. The dowry paid at the time of marriage may be large, but the husband's and in-laws' greed can grow even after the wedding, leading to physical, emotional, and sexual violence against the bride.

## Dowry Means

The DPA, 1961 specifies dowry as any estate or precious security given or consented to be given to another in connection with marriage by any party or party's parent, which means it is a consideration given by the bridesmaid's side, her guardians or close family members to the new husband or new husband's parents or legal guardian as a contract to get him marry the bride-to-be. Dowry was once a monetary payment or a gift given to the bridegroom and his families, as well as the bride, and consisted of cash, electrical appliances, jewellery, furniture, silverware, a vehicle, and other household things that helped the new couple set up their home.

## Evolution of Dowry System

The Dowry System is based on the ancient Hindu ritual of 'Kanyadaan,' in which the bride's parents or relatives lavished her with precious gifts, jewellery, and land. The wife, not the husband or her in-laws, remained to own the dowry extravagance. This was originally a traditional practice intended to be done voluntarily out of affection and dowry was served as apparatus of financial independence for the bride even after marriage. However, following British rule, which prevented women from owning property, this practise exploded, and all of the luxury that a woman received from her parents was instead held by her husband. As a result of this system of a husband owning his wife's luxury, the traditional dowry system was turned into a risk, resulting in an institution of agreement that resisted, persecuted, and suppressed women. After this families started seeming at the incoming bride as a source of wealth. Marriage started becoming more of business deal. In case if the desired wealth was not brought by the bride then she is been tortured in various ways and this result of various crimes like murder, suicide, mental abuse, etc.

## Causes of Dowry

### *Greed Expectation:*

When marriage conversations begin, the majority of the population believes that marriage is an opportunity to extract money from the bride's parents. The bridesmaid's side claims that the dowry is being requested to cover the expense of groom's education, career, liability, and riches, among other things. The education, income, and career of the bride are completely ignored. The greed factor, which could be greed for marital and monetary gains, is the driving force behind such extreme tactics.

<sup>1</sup>Research scholar Jiwaji University, Gwalior, Madhya Pradesh

<sup>2</sup> Principal, Mahatma Gandhi College of law, Jiwaji University, Gwalior, Madhya Pradesh

*Social Status:*

People in Ancient India were a little more flexible when it came to gift exchange during marriages, although this was entirely dependent on the financial position of the families. However, the current dowry amount and the exchange of in-kind presents has resulted in a decrease in the position of women in society. The groom's family is now unconcerned about the bride's family's financial situation. The bride's family tries to make amends because losing a marriage proposal would jeopardise their social standing.

*Religious Dictates:*

Religious restrictions are imposed on marital practices by society. The groom's inadequacy is a major contributor to the dowry problem. These restrictions allow weddings between religious sects as well as interfaith marriages, and a prospective husband must come from the same religious background as the bride. The number of suitable marital partners is limited as a result of such restrictions. Boys of marriageable age with commendable qualifications, wealth, income, and position have suddenly become a prize, encouraging the practice of the catch being caught by the highest bidder.

*Social Constraints:*

Other limitations are enforced based on social rank and caste. When repairing a marriage match, practices like as clan exogamy and caste endogamy must be considered. A perfect match for marriage must be from the same caste, clan, and have the same or higher social status. Again, such restrictions substantially reduce the pool of marriageable men, resulting in comparable dowry demands.

*Social Status of Women:*

It is clear that women's positions in society are not equal, despite the fact that both men and women have contributed to the construction of society's infrastructure. However, it is disregarded, and women in such circumstances suffer the most. In addition to the families, the women themselves also consent to being treated like commodities.

*Lack of Willingness to adhere to laws:*

To combat the dowry system, the Indian government developed many pieces of law. Despite the fact that such rules have been drafted for decades, the social evil of dowry persists in our society. The main cause for this failure appears to be a lack of widespread engagement. People break the norms and utilise the dowry system to get material incentives while seeming to be engaged in a wedding proposal. As a result of the groom's misunderstanding of anti-dowry legislation, the bridal party suffers at the hands of the bridegroom and his parents.

**Effects of Dowry System:***Violence against Woman:*

Dowry is not an upfront payment. Dowry turns into a form of violence against women if the bride's family cannot comply. To offer material or monetary incentives, the bride's family is contacted. Furthermore, such actions add to the much debated problem of domestic violence.

*Injustice towards girls;*

The bride's family has a heavy financial burden due to dowry. As a result, girls are treated unfairly and women's rights are denied because a girl child is seen as a potential source of financial pressure for the family.

*Gender Inequality:*

Practicing dowry separates men and women. In the nation, it is a generally held concept that a girl is responsible and must eventually get married and pay dowry. Young girls are therefore kept out of school and primarily taught housework so that they are not deterred from working. Their views are repressed; they are unappreciated and unconsidered. The same cognitive and physiological restrictions applied to girls.

*Prestige of Woman:*

Whenever time apparently a girl child is born, the entire social structure is upended for that individual. That, girl's birth, as well as the fact that she was born, is no longer joyful or an occasion. Her fundamental liberties have been violated. Dowry hinders women from raising their social position and is a social ill. Women receive different treatment in India.

*Loss of Self-esteem in Woman:*

In a culture where women have historically been treated with less respect, it can be challenging for women to maintain high levels of self-esteem. When a bride's family is asked for dowry, the bride loses her sense of self-worth and thinks her parents are better off without her, endangering her right to a better life and mental peace. The invisible bond of dowry has encroached into the freedom and self-respect of women.

*Economic Burden:*

Due of the direct or indirect dowry expectations of the groom's family, the cost of having an Indian woman married is comparable to a sizeable quantity of money. Even to satisfy the dowry bride's family's demands, hefty mortgage loans are taken out, which has a significant negative impact on the economy.

**Right to Liberty, Life , Security and The Right to Freedom from Torture, Inhuman And its Violation by Dowry Death**

The right to life and the right to live free from suffering are classified as derogated liberties in Art 4.2 of the ICCPR, whereas Art 6.1 of the International Covenant on civil and Political Rights specifies that nobody should be devoid of their intrinsic right to life without due process of law. "Deprivation of Life," according to one critic, alludes to homicide. The number of states agreed that a government should be responsible for defending individuals from deprivation of liberty via private actors or government officials when drafting Art 6. Dowry Death is a sort of life deprivation in which the spouse and in-laws commit homicide. Bride price death is now deemed an unjustified deprivation of liberty in violation of the ICCPR's Art 6.1.

According to Art. 5of the Universal declaration on Human Rights and Art.7 of the International Covenant on civil and political Rights , no one should be subjected to torture, cruel or inhumane treatment, or retribution. The Commission On Human Rights

deems violent threats or bodily injuries to be torture there under International Covenant on civil and political Rights , notwithstanding the fact that neither the UDHR nor the ICCPR define torture. The United Nations Human Rights Council considers dowry death to be murder and torture.

Dowry death infringes on these rights in that if the bride's husband and in-laws are unhappy with her dowry, they kill her on purpose. Dowry death victims suffer both mentally and physically, such as being battered or burned alive before dying, and this physical pain is compounded by mental anguish. Husband tortures wife for not bringing enough dowry and threatens her family to bring additional payment. The failure of the Indian police, prosecution, and court to investigate and prosecute these offenses renders India culpable in the dowry death, which is one of the grounds for this violation of rights. In India, these offenses go unsolved and unprosecuted, rendering dowry death torture and a violation of Art. 7 of the ICCPR and Art. 5 of the UDHR.

### **The Right to Equality and Freedom from Discrimination in Marriage and its violation by Dowry Death**

Although India is a party to the Universal Declaration of Human Rights, the International Convention on Political and Civil Rights, and the International Covenant of Financial, Society and Heritage Rights, it has failed to guarantee its citizens' right to a fair trial. India, regardless of colour or ethnicity, lacks to grant fundamental rights to all citizens. India fails to ensure that men and women have equal access to the rights mentioned in equal agreements and declarations when it comes to gender equality. Gender equality in matrimony is an element of the right of freedom of discrimination based on gender. As a result, India fails to protect female's equal legal rights in marriage, either during or after marriage.

Dowry Death infringes on these rights in the same way that the Convention on the Elimination of All Forms of Discrimination Against Women defines any exclusion, distinction, or prohibits discrimination on the basis of gender that hinders or negates the enjoyment, acknowledgement, or practise of any basic human right by women. Gender-based violence is a form of distinction against women because the violence is more destructive to women than to men. Gender-based abuse in the community or at home, which the government ignores due to its participation, inculcates fear and paranoia in a woman. CEDAW, different declarations and platforms, and the US State Department have all recognised dowry violence as a kind of gender-based abuse that obstructs women's opportunity to enjoy, perform, or appreciate their individual rights on an equal footing with men.

### **Legislative Measures to Combat Dowry**

#### *1. Dowry Prohibition Act, 1961:*

##### (a) Penalties for giving or accepting dowry:

Under sec. 3 of this Act, anybody who gives, takes, or aids in the giving or taking of dowry is punishable by a minimum of five years in jail and a fine of rupees 15,000 or the cost of bride price, whichever is larger.

##### (b) Penalties for depending dowry:

According to sec.4 of this Act, anyone who explicitly or implicitly demands dowry from the bride's or bridegroom's parents, relatives, will be sentenced to a minimum of six months in prison and a fine of up to ten thousand rupees.

##### (c) As per sec.5 of this Act, any agreement of giving and accepting of dowry should be void.

#### *2. Protection of Women from Domestic Violence Act, 2005:*

The Indian government created this law to give a civil law relief for the protection of women from all forms of violence against women, including mental, physical, verbal, economic, sexual, and emotional abuse. All sorts of harm, harm, and harassment done on women in order to scare them into seeking dowry are covered by Sec. 3 of this Act.

#### *3. Indian Penal Code, 1860:*

According to sec. 304-B of this Act, dowry death occurs when a woman dies within 7 years of her marriage as a result of bodily damage, burns, or other unusual circumstances, and it is also proven that she was subjected to harassment or cruelty by her hubby or any relatives for demanding dowry. Dowry death is a non-bailable and cognizable offence punishable by a minimum of seven years in prison and a maximum of life in prison.

Cruelty is defined as any purposeful conduct that causes a woman to commit herself or causes severe mental or physical injury or threat to her life, or harassment of a woman with the intent to incite her for dowry, as defined under sec. 498-A of this Act. Whoever subjects a woman to abuse, whether it is a husband or a relative, is punishable by jail for up to three years and a fine.

#### *4. Code of Criminal Procedure, 1973:*

The police officer would submit the body for examination to the nearby medical officer appointed by the state government, as per Section 174(3) of this Act. When a case involves a woman committing suicide within seven years of her wedding in any circumstances raising a reasonable belief that someone else committed the offence against her, or when a case involves a woman committing suicide within seven years of her wedding and any of her relatives has filed an appeal in her behalf, or when there is any doubt about the reason of her death.

Section-176(1) of this Act provides inquisition by the magistrate.

#### *5. Indian Evidence Act, 1872:*

As per section- 113-A of this Act, when a woman committed suicide then the question arise whether it has been assisted by her husband or any of his relative and it's entrenched that the her suicide occurred within seven years of her wedding and she had been exposed to abuse by her hubby and his family, the court may infer that her hubby and his family members were complicit in her suicide.

When an individual or person is charged with causing the death of a woman for dowry and it is established that she was maltreated by such individual and exposed to cruelty and harassed for dowry shortly before her death, the court will assume that such individual caused the death.

### Case Laws

#### *Soni Devrajbhai Babubhai vs. State of Gujarat and others*

The petition was denied by the Supreme Court, which held that the clause of IPC 304-B was presumptive in nature and hence could not be applied in this case. Also, because there was no symptomatic injury to petitioner as a result of this decision, no contemplation was necessary, and no determined evidence was supplied to bring the matter under section 304-B.

#### *Hiralal vs. State (Government of NCT) Delhi*

The court determined that a dowry demand should have been made soon after her marriage ended. The phrase "short before death" suggests that any period before her death would be sufficient to establish that cruelty was perpetrated against her as the cause of her death. If there is sufficient time between the act of cruelty and the victim's death, it is reasonable to assume that cruelty was not the cause of her death, and section 304-B of the IPC cannot be applied in that circumstance.

#### *Reema Aggarwal vs. Anupam and Others*

Because it was both parties' second marriage, the case was heard in session court. As a result, all respondents were fired. While his first wife was still alive, the respondent married the appellant. In this case, the SC ruled that the provision was interpreted incorrectly. Husband refers to a person who has entered into a married relationship and has been directed for flexible explication.

#### *Appasaheb And Another vs. State of Maharashtra*

In this instance, the session court sentenced all of the defendants to seven years in prison under sections 304-B and 34 of the IPC. The appellant filed an appeal at the Maharashtra HC, which was dismissed. The supreme court then went on to say that dowry demand is required under section 304-B, and that an urgent need for money for something cannot be classified as dowry demand. Because the prosecution was unable to prove its case in court, the ruling of the session court and the High Court of Maharashtra was set aside and an order in favour of the appellant was issued.

#### *Baldev Singh vs. State of Punjab*

Under this case, the session court ruled that the appellant and his mother were guilty under sec. 304-B of the IPC, but that the appellant's sister was exempt. The accused then brought the matter to the Punjab and Haryana High Court, where the defence claimed that the dead committed suicide because she was not allowed a portion in the ancestral property. After reviewing all of the data, the High Court ruled against the appellant, and he was sentenced to seven years in jail.

#### *Thathamsetty Suresh vs. State of Andhra Pradesh*

In this decision, the Supreme Court mentions some cases that demonstrate the view that such heinous or evil acts against women cannot be dealt with lightly, and that substantial punishment is required to defend women's interests. The court also stated that a decision could be made based on circumstantial evidence.

#### *Satbir Singh v. State of Haryana*

The Supreme Court upheld the Trial Court's and High Court's decisions, convicting the appellants under sec.304-B of the IPC because there is insufficient evidence to show the basic ingredients that the deceased committed suicide, and stepping down the part of the conviction under sec. 306 of the IPC

### Suggestions

#### *Education:*

Primary incentive for growth of any nation is education. Illiterateness usher to reckless decisions leading to exploitation of marriage relation. Social evil such as dowry has its genesis from crudeness and illiteracy. To exterminate this social evil from society education is very foremost. Legislation alone aren't enough to bring a revolution.

#### *Making women self-dependent:*

For the evolution of home, society and nation as whole women are equal active contributor. Women's empowerment is required to increase production and ascend to the throne of progress. In contemplation to fight extensive social evil such as dowry it is essential for us to spotlight on educating girls. Literacy about basic rights will enable girls to speak up against social evils done to them like dowry and also they would be able to endeavor for self-dependent.

#### *Gender Equality:*

Patriarchy is the primary reason for the continuation of dowry system. Gender equality is one of the crucial step for removing the dowry system from our system's nerves. Equally educating both girls and boys about downsides of dowry system and teaching them with spirit to boycott such social evil to drill it out from our society. This will be the best solution for this issue. Only providing equal rights and granting equal employment to both genders would not be enough. It's to make them realize that girls are not a liability indeed an entity.

#### *Government Initiatives:*

Government is an institution of people that manages a state or a country. The government is in charge of its development. A number of laws have been passed to restrict the practice of dowry and to punish those who offer or accept it. Although, it has turned out to be ineffective. Government should make proper or harsh actions to ensure that people follow laws. It is past time for the government to take concrete actions to ensure that no dowry exchanges take place.

#### *Social Awareness Campaigns:*

Awareness and revolution cannot be brought about by the government or the legislation alone. Every individual makes up the society so we should only step first to bring out the change. Governments can only make rules and laws; whether or not people follow them is up to them. As a result, raising social awareness is critical in eliminating the dowry system from the country. To aware people specially women about the legal provision against dowry.

**Conclusion**

Dowry system is the social curse of today era. This evil of dowry system has reached deep in the society. Dowry system should be eliminated with the amplification of dowry related laws. This social evil can't be tackle by government alone so there is need for government to recruit with other organization such as NGO/Civil Societies. Over and above equal education and equal job opportunities should also be provided to girls. Since dowry system has been running for very long time. Dowry is a social evil in society that has caused unimaginable tortures and crime towards women and polluted the Indian partial system, therefore it should be eliminated from our society.

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