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Legislative Aspect Relating to Dowry Death and Role of Judiciary in India-A Study

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ABSTRACT

Dowry deaths are become the stigma for Indian societies, where dowry become the serious type of crime, which represent a Spartan and persistent societal issue in India, reflecting the deep-rooted enlightening practice of dowry and its lethal consequences for women. The present research employs a multidisciplinary approach, incorporating outlooks from sociology, law, and gender studies to provide an all-inclusive understanding of the issue. By identifying the gaps in the present legal and social frameworks, the research offers recommendations for enhancing the efficacy of legal measures against dowry deaths. The present paper deals with the meaning, definitions, legislative aspect, judicial attitude and lastly deals with the conclusion and suggestions relating to the dowry deaths in the detail.

Keywords: Dowry Deaths, Socio-Cultural Dynamics, Gift, Gender Justice, Valuable Security etc.

Introduction

The evil of dowry is not new in the society, it is prevalent way before the colonial period but the only difference is its meaning then vs now. Earlier people use to give dowry to their daughter with their own will but now they are mostly compelled by the groom or his relative to give dowry. The groom and his parents or relatives compel the bride to bring dowry for them and in many cases where she refuses to do so she is either treated with cruelty or she is killed by her in-laws. We overhear on daily basis about the brutal cases of dowry death every now and then in the newspaper or on news channels. It has become so common in Indian society to beat the bride for not bringing sufficient dowry that we all know about someone or the other who is the victim of this thing. To stop this evil various laws and provisions in law have been made. Due to which this crime has been reduced but is definitely not abolished. We will discuss these provisions of law in detail below with the relevant case laws. The dowry system is the pernicious thing that has killed and rendered countless vulnerable women helpless, driving some of them to commit suicide.

There have been laws passed and incorporated into the country's legal system, as well as campaigns and awareness programs launched by governmental and non-governmental organizations against dowry deaths and the dowry system in India, but despite the existence of such initiatives, the statistics on dowry-related deaths in the nation have only risen.

Meaning of Word Dowry

Dowry is one of the heinous crimes of our times. The evil of dowry is essentially a social one having relation with property rights of women. According to Webster's New International Dictionary, "Dowry is the money good or estate which a woman brings to her husband in marriage." Dowry death is a grave social issue prevalent in

several parts of South Asia, particularly in India. It refers to the death of a woman caused by harassment or violence by her husband or in-laws over disputes related to dowry—the money, goods, or property that a bride brings to her husband's family at the time of marriage.

Legally, a dowry death is defined under Section 304B of the Indian Penal Code, which stipulates that if a woman dies under unnatural circumstances within seven years of marriage and it is shown that she was harassed for dowry, it is considered a dowry death. Such cases reflect the tragic consequences of gender inequality, greed, and societal pressure, undermining the dignity and rights of women. Tackling dowry deaths requires stronger enforcement of laws, greater public awareness, and a cultural shift toward gender equity and respect for women's autonomy.

According to Section 2 of the Dowry Prohibition Act (DPA) 1961, 'dowry' means any movable or immovable property or appreciated security given or agreed to be given either by one party to the other party at the marriage at, before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of Muslims. Here the word 'valuable security' means as provided under Sec. 30 of the Indian Penal Code .

Historical Background

In ancient times dowry was given to the women to make her financially stable and independent. But gradually with the passage of time this menace of dowry took ugly turn with the deterioration of the position of women in the society. In British era the women's right to property was taken away. Due to which all the property of the women came into the hands of men. Gradually the groom and his family became greedier and start coercing and forcing the bride's family to give dowry and more property to the bride. In India the concept of dowry customs traced back from the Vedic Era, when it was only meant for marriage. In early times, dowry (streedhana) began as a voluntary gift meant to support the bride and her children in widowhood or separation it was seen as a form of security and affection. However, over centuries, dowry transformed into a transactional demand. By the medieval and colonial eras, it became more exploitative, leading to significant financial burdens on brides' families.

As dowry demands intensified spurred by socioeconomic and patriarchal pressures instances of harassment, physical abuse, and murder became alarmingly common. A distinctive and horrifying manifestation was "bride burning", where brides were set ablaze and their deaths recorded as accidents or suicides. Such cases, although widespread by the late 20th century, were rarely classed as homicide initially.

In 1961 Dowry Prohibition Act, Criminalized dowry demands, though early penalties were minimal and enforcement weak. In 1980–1986 Legislative Overhaul

Mandatory investigations/post-mortems for suspicious deaths of women within seven years of marriage. Criminal Code Amendments, section 498A IPC (1983) against cruelty for dowry harassment. section 304B IPC (1986) labelled dowry deaths as a standalone criminal offense (7 years to life imprisonment) Evidence Act Sections 113A & 113B created presumptions of abetment in suicides and dowry deaths. The late 1970s and 1980s saw mass protests most notably by Steer Sangharsh following high-profile bride-burning cases. These movements were pivotal in pushing for legal reforms. Devoted activists like Satya Rani Chadha galvanized civil society efforts and founded NGOs to support victims and demand justice. Despite evolving laws, dowry deaths remain rampant.

CAUSES OF DOWRY

There are various causes that leads to dowry practice in India some of which are: -

Sr.n	Causes of dowry	Explanations
1	Financial Causes	The bride's parents give dowry to help the newly wedded couple to establish their new household and to make them financially stable in the case where the groom is not financially well off. Due to lack of economic freedom and education to girls, dowry system prevails in society.
2	Demand by the Groom	Dowry is prevalent in the society due to the demands which the groom and his family put forward to the bride and her family either before or after marriage. It is like the condition precedent which has to be fulfilled in order to marry the groom that the bride's family has to fulfil in order to marry their daughter and for her happy married life.
3	Presumption of Happiness of Bride	It is presumed that the in laws of the bride will keep her happy if they give them a lot of dowries. So, one of the causes that dowry system is still prevalent in India is that bride's parent think that their daughter will live happily after her marriage if they give her a lot of gifts for her in laws so that they will treat her well.

Legislative Aspect Relating to Dowry Death

There are various law's provisions related to dowry death in India to stop this

menace. A special law is also made to prevent this evil, that is, The Dowry Prohibition Act, 1961. The different law provisions in different statutes are discussed in detail below.

14 Section 113B of The Indian Evidence Act, 1872 deals with the presumption as to dowry death. It specifically mentioned that if a person commits any crime related to dowry or harassment related to dowry, it will be treated as a dowry death under Provisions of the Indian Evidence Act, 1872

Some of the relevant points were discussed under the Section 113 b, which were explained in the case of *Kaliya Peru Mal v. State of Tamil Nadu*, that were-

- a) whether the accused has committed the dowry death of a female?
- b) Whether she was subjected to cruelty or harassment?
- c) Such cruelty or harassment was relation to any demand for dowry?
- d) Whether it was soon before her death?

17 Provision Under the Indian Penal Code, Section 304B of the Indian Penal Code, 1860 now replaced by Section 80 of Bharatiya Nyaya Sanhita, 2023 specifically deals with the dowry death. Now it is a cognizable and non-bailable offence under the same. 12 Section 498A of IPC is related to the husband or relative of husband of a woman subjecting her to cruelty. It can be cruelty done in relation to dowry or otherwise.

13 Section 80 of Bharatiya Nyaya Sanhita, 2023 also deals with the Dowry Death where the death of a woman is caused any incident of dowry then, the accused will be liable for the offence under the provisions of BNS, 2023.

Judicial Attitude in the matter of Dowry Deaths

In the case of *G.V. Sidda Ramesh v. State of Karnataka*, it was held by the apex court that there must be evidence to show that soon before the death of female, such female was subjected to ill treatment for or in connection with call of dowry, then only an assumption can be drawn that a husband has committed the offence.

8 In another relevant case i.e. *Bajinath & Others v. State of Madhya Pradesh*, apex Court explicated that, "One of the essential ingredients of dowry death under Section 304B of the Penal Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the court will presume that the accused has committed the offence of dowry death under Section 113B of the Indian Evidence Act". In the matter of *Joginder Singh v. State of Punjab*, it was held that once all these ingredients of the offence punishable under Section 304-B Indian Penal Code are established, the presumption under Section 113-B of the Indian Evidence Act, 1872 is also attracted to establish that the appellant has caused the dowry death.

In addition, female was compressed and beleaguered by the accused personalities since she didn't provide enough wedding gift. The accused had pushed the female to take her own life. It was the same that was stated in the case of Baldev Singh v. State of Punjab plus it was also said that the spell gap should not be much between the unkindness and annoyance and the death of the woman. Abetting suicide under section 306, Indian Penal Code as because of his treatment the wife had committed suicide. In the case of B.S. Joshi v. State of Haryana, it was observed by Supreme court that the motive of S. 498-A of Indian Penal code was to prevent suffering to a Female by her in-laws family in connection with the dowry.

The aims of the dowry laws is to protect a woman who is being harassed by her in-laws family. The act of torture would amount to offence for the purpose of this law. It is as under section 498A- Husband or relative of husband of a woman subjecting her to cruelty now replaced by Section 85 of Bharatiya Nyaya Sanhita, 2023- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Penalty for giving or taking dowry -section 3, If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years. In the case of Momi Iqbal v. State, both the lower court and the higher court failed to escalate that the demand, if at all made by the appellant on the departed for purchasing a computer to start a business 6 months after the matrimonial, was not in connection with the marriage and was not really a dowry demand within the meaning of section 2 of the Dowry Prohibition Act, 1961. It has been held in the case of Sakhi Mandalani v. State of Bihar, that once the main part of case under section 304 B was not proved, it was not possible to record persuasion under section 3 and 4 of the Dowry Prohibition Act, 1961.

In the case of Krishnoji Rao Keserekar v. State of Karnataka, the accused was 74 years of age and have filed for reduction of sentence. In this case accused was convicted under Dowry Prohibition Act and sentenced to 1 year which is the minimum sentence produced under the act. The request for reduction of sentence was rejected.

Conclusion and Suggestions

The Indian government has taken steps to reduce this menace by implementing laws relating to dowry, dowry death and cruelty on woman. Punishment is prescribed in various statutes regarding demand of dowry and dowry deaths. It can be concluded that the evil of dowry is not a new problem in the society. It prevailed in the society from the time immemorial but the meaning of dowry has

changed. The government should make strict laws and rules to eradicate this evil so that the daughters and wives can live their married life happily and free from any sort of cruelty. females are now commonly the targets of severe meanness and manipulation in this context. There are legislations, but they only exist in printed form. Some of suggestions are as under-

- There must be more strict law enforcement agencies.
- Separate courts should be established for it.
- Investigation in the case of dowery deaths must be improved.
- More assessable support system should be established at the ground level.
- Lastly, we must value and aware our daughters regarding it.

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