

DOWRY A PRIDE OR PROBLEM IN INDIA

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ABSTRACT:

Dowry is considered to be gift which is taken by bride to her husband's house. Dowry may be in the form of cash or property or some other assets which is taken to the husband's house after the marriage. The main reason for such an act is the gender discrimination. Men's thing they are stronger than the women and the men's are only the gender who should dominate women's and order them to do the works. This makes the women's suffer a lot and if they don't give dowry during the marriage, the husband and his family subject the women to cruelty. To prohibit all those things and protect the women's and their family much legislation has been enacted. This study also emphasis on the laws enacted to prevent and protect the giving and taking of the dowry. The dowry being an evil in the society the laws are needed to be effective in the implementation. The implementation is not that much effective which encourages the exchange of dowry. The system of the dowry is surely a problem to the family of the bride and may be the benefit and advantage of the bridegroom's family. This paper focus on the dowry system prevails

in India and the measures which will eradicate the dowry system. The international conventions have also been enacted for many countries in the world, among that India is being a signatory to the convention which helps the women from the discrimination as well as protection from all kinds of crimes against the women. This paper also determines about the provisions under Indian Penal Code and the legislations with regard to dowry.

KEYWORDS: *Dowry, Dowry Death, Cruelty, Crimes, Indian Penal Code, Dowry Prohibition Act.*

INTRODUCTION:

Marriage is considered to be integral part of society, a supply of joy and festivities moreover as of recent beginnings. Yet, one in all the longest standing evils related to wedding from women's purpose of read within the Indian society is that the dower system. The basis of a bunch of social atrocities against ladies, the custom of presenting dowry is that the crudest expression of the male-dominance within the society. It's most frequently the obligatory custom of a girl's oldsters having to supply a substantial quantity of money, gold within the sort of jewellery, equipment, movable or stabile properties, to the groom and his family, at the time of the wedding. The origin of the custom lies with oldsters attempting to assure money stability for his or her daughters, in current perspective it's translated into oldsters paying up for the peace of mind of well-being of their daughters.

The jewellery and money that a bride brings together with her from her from her parents' home is usually observed as "streedhan" and in theory is that the property of lady, however truly it's usually treated as their rightful due by the groom's family. The addition paid as dower has no set customary; the yardstick greatly depends on the groom's skilled or social standing and is often perceived as a result of the groom's family as a result of the compensation of the efforts they have created to show their boys. ([Bose 1881](#))

In an exceedingly a lot of delicate perspective, one could outline this tradition because the undisputed concept that the girl's family is inferior in standing with the boy's family, in spite of what her qualities area unit. So they have to air their best behavior and provide lavish "gifts" to please the boy's family. This ideal is therefore implanted within the psyche of an over sized variety of Indians, they either much ruin themselves financially so as to get the acceptable worth of the chosen groom, or create a bid to eradicate the prospect of this money burden by selective

gender-biased abortion or feminine infanticide. This exploitive system that has turned the custom of giving gifts and well needs into a mandatory demand for cash, respect and subjugation, is that the one in all the foremost causative factors obstructive the expansion of the Indian society wherever being a lady continues to be viewed synonymous to being a burden. The aim of this study is to know about to the origin and evils caused by the dowry system in India.

OBJECTIVES OF THE STUDY:

- To know about the origin of dowry system and what causes practice of dowry in India.
- To educate the society to eradicate dowry death in India.
- To analyse the provisions enshrined under Indian Penal Code.

MATERIALS AND METHODS:

The methodology of this research paper is doctrinal. All the detail contains in this paper are secondary data. Secondary data are the data's and details are collected from the books, reviews from other articles and bare acts for some needed provisions. Some information's are also gathered from certain websites which are very much useful for the preparation of this research paper.

REVIEW OF LITRATURE:

According to **Nalini Singh**, From the earliest days people thing that the young women surrenders her total being to the bride and this is said to be the bride's assumption. And the parents of both bride and bridegroom think that the young women are going to be under the care of the bride so the parents of the women decide to give unlimited dowry to her as compensation.

According to **Gupta (2003)**, the dowry system was established in India throughout in thirteenth and fourteenth centuries which are started as a bias between the bride and the bridegroom. That continues as a custom from the initial stage. The method during which the dowry is practiced nowadays could be a fashionable custom. The gift is usually associated with the Hindu faith; however it finished up crossing the spiritual barriers and expanding into different spiritual communities, despite having been banned in 1961.

According to **Becker (1991)**, for a classical economist, an efficient quantity or "price" given to the potential husband/wife are often found in contexts wherever 2 individuals mix totally different attributes and roles. The aim is to look for the partner that permits him/her to maximise his/her utility. Obstacles to an efficient value arise once the gains ensuing from the marriage can't be straightaway divided or once one in every of the spouses holds a lot of power

than the opposite. Bride-prices, dowries, divorce agreements and alternative styles of capital transfer exist to beat these obstacles. The gifts are often paid, as an example, when the bride encompasses a superior socio-economic standing to the groom. Once the reverse happens, the dowry is paid. ([Chib et al. 2015](#))

ANALYSIS:

MEANING OF DOWRY:

Dowry refers to the property, cash and alternative assets brought by the bride to her husband's home on their wedding.

Dowry system refers to the custumal or cultural observe that involves freely giving of an outsized total of money, property and alternative valuables at the time of wedding by the oldsters of the bride to the family of the groom.

“Gods reside there wherever ladies area unit worshiped”. Although we all know from one ancient culture and quote the on top of quotation, however things area unit quote completely different in our society.

ORIGIN OF DOWRY:

The starting point of this social sick can be followed back to the custom or convention of offering blessings to women in marriage and this arrangement of endowments was an intentional framework which had its authorize in our religious convictions that the father of a young lady has an obligation to give a piece of his property to his little girl in her marriage as after marriage she would go to another home and the child would get whatever remains of the property of the father. So it was considered as an ethical obligation of father to blessing a part of his profit or property to his little girl moreover. Be that as it may, in prior circumstances this framework was not an exploitative framework where particular requests would be made by the group of groom, it was a deliberate framework and family of women would make blessings as indicated by their ability. ([Gott et al. 2018](#))

Be that as it may, in course of time the arrangement of making endowments got changed over and changed into an exploitative arrangement of obligatory requests made by the group of prep. What's more, the framework took the state of endowment framework. As a societal fiendishness it debases the establishment of marriage as well as damages and reduces the poise of the women.

CAUSES OF DOWRY SYSTEM:

The main cause of demanding of dowry is due to *greed expectations*. While the wedding talks are initiated, a prime zone of the society holds the thought that it is the event for felonious act of extorting money from the bride's family. Numerous reasons are referred that the dowry is being demanded to compensate the expenses of the groom's education and liability. Considerably, the fact that the women are asserts for the family, not a legal responsibility, is overlooked extensively. The essential reason behind such determined measures can be absolved through the greed aspect. Owing to hopes of material gains from the women's family, dowry is forcefully demanded for, and sometimes, when the needs are't met, either the wedding is known as off, or the bride is misleading to domestic violence.

The secondary cause of demanding dowry during marriage is due to *illiteracy*. India is a country with literacy rate of 74.04%, so this shall be considered as a primary cause of many social evils. Due to that there is no knowledge about the laws and legislations in India that leads to face many atrocities in demanding and exchange dowry. The bride's families have no option other than to meet the demands of the bride groom's family, when they not meet such demand it leads to exploitation of women and her family. ([Korson and Henry Korson 1968](#))

CRIMINAL STATUS OF DOWRY:

In India, certain laws has been enacted to control the taking and giving of dowry. But after all these enactment the people of the society continues to do so and that results in criminal offences. Some of the legislations under Indian Penal code are as follows:

Dowry death: (section 304B)

“Wherever the death of a girl is caused by any burns or bodily injury or happens otherwise than below traditional circumstances at intervals seven years of her wedding and it's shown that shortly before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in reference to, any demand for dowry, such death shall be referred to as “dowry death”, and that husband or relative of the husband shall be deemed to own caused her death.”

Punishment: Any person committing the offence of dowry death, he shall be punished with imprisonment for not less than seven years but which may extend to imprisonment for life.

To make an offence under the purview of “dowry death” of Section 304B, the following ingredients has to be proved by the prosecution:

- (a) death of a lady should be caused by any burns or bodily injury or her death should have occurred otherwise than below traditional circumstances;
- (b) such death should have occurred within seven years of her marriage;
- (c) before long before her death, she should be subjected to cruelty or harassment by her husband or any relative of her husband;
- (d) Such cruelty or harassment should be in reference to the demand for dowry.

Husband or relative of husband of a woman subjecting her to cruelty (section 498A):

Whenever the woman's or his relative treats the woman with cruelty, they shall be punished under Indian Penal Code. Such persons shall be punished with imprisonment for a term of 3 years and also liable for fine. Section 498A is Indian law within which a husband and his family are unit summarily in remission with no investigation once a criticism is lodged by the woman or any of relative claiming that the husband or his relatives treated that woman cruelly. Once the complaint is lodged the husband and his family are unit likely guilty and it's up to them to prove that they're innocent in an exceedingly court of law.

This law has been beneath abundant difference as a result of its increasing misuse resulting in breakdown of families. It doesn't value something to file a case relating to 498A, and there's no penalty (or even fine) for filing a frivolous dowry related complaints, that has contributed to a quick rise or increase in cases within the range of section 498A in courts nowadays. ([Taylor 2012](#))

Case Analysis

Uday Chakraborty and Ors. v State of West Bengal (AIR 2010 SC 3506)

In this case, the **trial court** convicted the five accused (that is the husband and relatives) for an offence punishable under section 498A/304B of IPC and punished with 7 years rigorous imprisonment. The Court has awarded sentence under section 304B of IPC, so no separate sentence was awarded under section 498A.

The appeal was made to the **appellate court**; the court dismissed the appeal and held that the prosecution has proved beyond reasonable doubt that offence under section 304B has been read with section 498A of Indian Penal Code.

Reason: The court observed that performance of the “chuktiparta” itself proves that is a clear intention to take dowry as a consideration for marriage by the appellants. Appellants got some gifts at the time of marriage and some items were agreed to be given after the marriage. This itself would be enough fact to be taken into consideration and it is proved that the cause of unnatural death of the deceased due to cruelty and harassment in relation to demand of dowry.

In a recent case, *Vimla Bai vs State Of Chhattisgarh*, two accused were sentenced for murdering their daughter in law for dowry.

Facts: Nirmal Rathore is the son of Satya Narayan Rathore and Vimla Bai. Rathore was married with Sangitha on March 2013. After the solemnisation of marriage, both mother and father of Nirmal started to harass their daughter in law and treated her cruelly and demanded dowry from her. Suddenly on 10th April 2015, they poured kerosene oil on Sangitha and set fire on her. As a consequence she was died on 14th April 2015. After that, they both were arrested by police of Dabhara for the offence under section 302, 304B, 498A of Indian Penal Code, 1860 under crime no: 101/2015.

Held: Session’s court convicted both Sathya Narayan and Vimala Bai for murdering their daughter in law for dowry. And they were sentenced with rigorous imprisonment for 10 years and also liable to pay fine of Rs.1000.

The accused applied for bail and bail application was filed under section 439 in high court of Chhattisgarh but the bail application was rejected.

LAWS AGAINST DOWRY SYSTEM IN REPUBLIC OF INDIA:

The dowry Prohibition Act, 1961:

The dowry Prohibition Act of 1961 was one in all the foremost vital try for the uplift of women’s standing within the society and therefore the abatement of dowry system. This legislation marked the origination of associate degree evolution resulting in development of a legal infrastructure that effectively monitored the exchange and facilitation of exchange of dowry. It imposes a penalty in section three just in case of exchange or demand for dowry.

The minimum term for the lay-off was five years and a minimum fine of agency 50,000 or the number of dowry, relying upon whichever is higher.

Just in case a requirement for dowry was created, it had been equally punishable within the legislation. Well, if an on the spot or indirect demand was created, it'd invoke an imprisonment term of 6 months at the brink with a fine of agency 10,000. ([Gregg 1994](#))

Protection of Women from domestic violence Act, 2005:

Women are one in all the foremost vital assets of the society associate degree active contributors in an all spherical development of the state. However, attributable to the male dominated setup in our society, they suffer each physically and mentally. Well, their ordeal isn't restricted to the society as a full. However, due to the male dominated setup in our society, they suffer each physically and mentally. Well, their ordeal isn't restricted to the society as a full. Rather, many cases reveal that force continues to be a major deterrent against the uplift of the woman's standing within the society.

COMPARISON OF DOWRY DEATH RATE IN INDIA TERRITORY (2012, 2013 and 2014):

According to National Crime Records Bureau (NCRB), the total number of cases filed and registered under Dowry Prohibition Act, 1961 during 2012 is 9038, 2013 is 10,709 and 2014 is 10,050 respectively. Likewise, total numbers of cases registered under section 304B of Indian penal code for dowry death were 8233 in 2012, 8083 in 2013 and 8455 in 2014 respectively.

According to the NCRB report, highest number of dowry death was recorded in *Uttar Pradesh* followed by *Bihar*. In *Uttar Pradesh* dowry death (under section 304B of IPC) rates were recorded in 2012 is 2,244, 2013 is 2,335, 2014 is 2,469. *Bihar* is the second state in India with highest dowry deaths in 3 consecutive years. Number of dowry death in 2012 is 1,275, 2013 is 1,182 and in 2014 is 1,373 respectively³.

In these three consecutive years, states of *Andhra Pradesh*, *Rajasthan*, *West Bengal* and *Orissa* were the states which have registered highest number of cases under section 498A of IPC for cruelty by husband or his relatives.

ABUSE OF DOWRY LAWS:

³ *National Crime Records Bureau*

Many laws have been enacted in India to protect the giving and taking of dowry but many people started misusing the laws of dowry. According to the survey conducted by the national crime records bureau, it is noted that more than 2, 00,000 cases have been filed and among them 15% of the accused were convicted. Many of the cases were recorded under section 498A of Indian Penal Code, 1860. This was discussed in many cases by the judiciary.

In *Arnesh Kumar v. State of Bihar & Another*⁴, two bench judges of Supreme Court have instructed certain steps which should be followed during the arrest under section 498A of IPC and no one should be convicted for an offence under section 498A without any valuable evidence.

INTERNATIONAL CONVENTION:

India is a party to various international instruments which render theory-based rectifies the dowry problems. Among those instruments one of the conventions is “CEDAW”. *Convention on the Elimination of all forms of Discrimination against Women* codifies the rights of the women with related to the dowry and dowry related violence. ([Hellum and Aasen 2013](#))

RECOMMENDATIONS:

To recommend the society should be educated about the defects and evils in dowry system. Illiteracy is the streams way were the system of dowry begins. It is to be noted that it not possible to eradicate the dowry system without educating the people in India. One of the ways which can be recommended to eradicate dowry system is to make women themselves self-dependent. The women should be provided with the equal opportunity in workplace as well as in all circumstances. All among this the government has to take initiatives to protect women and their family from exchange of dowry. There are many enactment of national and international frameworks which protect the women’s from dowry system but implementation of such enactments are the major problem. Implementation of laws should be made effective to control the evil of exchange of dowry. Among all the above the important thing is each and every person as a individual should take an initiative not to give and take dowry.

CONCLUSION:

⁴ AIR 2014 SC 2756

The rich people may be having enough property or cash or ornaments to give as dowry for their daughter's marriage and they also consider giving dowry as a prestige. But the poor and the lower class people suffer a lot due to this dowry system. The educated people should use their own knowledge and think how stupid it is to demand a wealthy dowry for marriage and taking the hand of a bride. They should know that taking dowry is immoral and wicked to demand dowry and the sake of sanctum marriage. At the time they decide for demanding dowry they should think of his/her own family members such as their own unmarried sisters and future daughters so that they will spare from this irritating demand. They should know that till now dowry has never changed any financial condition of anyone in this society. If they don't realize these complex truths, girls should coordinate themselves to such a range that no girl will marry a man who wants or demands a wealthy dowry for her hand.

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