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AN CRITICAL ANALYSIS DOWRY IN LEGAL FRAMEWORK

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Introduction

A dowry is a transfer of parental property, gifts, property or money upon the marriage of a daughter (bride)⁴. Dowry contrasts with the related concepts of bride price and dower. Bride price, bride wealth⁵ or bride token is money, property, or other form of wealth paid by a groom or his family to the woman or the family of the woman he will be married to or is just about to marry. Dower is the gift given by the groom to the bride and specifically intended for the maintenance of the widow. So dowry is different from Bride price or dower.

A dowry can be termed as a conjugal fund. It provides an element of financial security in widowhood or against a negligent husband and provides a means of livelihood for her children in case husband absents himself from his duties. Locally Dowry is called Varadhachanai in Tamil, Dahej in Hindi, Daaj in Punjabi, Jehaz in Urdu and Arabic, Joutuk in Bengali, Jiazhuang in Mandarin, ceyiz in Turkish, Dot in French, Daijo in Nepali, Miraz in Serbo-Croatian and in various parts of Asia as Serotwana, Idana, Saduquat, or Mugtaf. In Ancient Period Dowry system existed in India, Babylon, Ancient Greece, Roman Empire, China, Europe, England, Russia, United States of America and Brazil.

Definition of Dowry:

According to Section 2 of Dowry Prohibition Act 1961, Dowry is defined as “dowry” means any property or valuable security given or agreed to be given either directly or indirectly— (a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either

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⁴ A dowry is a transfer of parental property, gifts, property or money upon the marriage of a daughter (bride)

⁵ Dalton, George (1966). "Brief Communications: "Bridewealth" vs. "Brideprice"". *American Anthropologist*. 68 (3): 732–737

party to a marriage or by any other person, to either party to the marriage or to any other person; at or before⁶ [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. Explanation II.-The expression 'valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

Section 30 of I.P.C.:

“The words “valuable security” denote a document which is, or purports to be, a document where by any legal right is created, extended, transferred, restricted, extinguished or released, or where by any person acknowledges that he lies under legal liability or has not a certain legal right”.

Meaning of the term “Dowry” - As after the amendment the term dowry means any property or valuable security given either directly or indirectly by the parents of either party to a marriage to either party to the marriage or any other person at or before every time after marriage in connection with the marriage of the said parties. Thus, this definition of dowry now after the amendment nowhere contemplated that the property or valuable security must be given in consideration for the marriage before it can attract the definition of dowry.

In the view of the present Act the term dowry means, any property given by the parents of the girl to the bridegroom from his family members at or before every time after the marriage in connection with the marriage of the said parties shall be covered by the term dowry as given in the Dowry Prohibition act, 1961. In the view of amendment the provision contained in Section 2 of the Dowry Prohibition Act, 1961, it has widened the scope of dowry by providing that any property or valuable security given or agreed to be given either directly even before or at any time after the marriage in connection with the marriage of the said parties would amount to dowry.

In Venuri Venkateswar Rao v. State of A.P⁷ , it has been held that the lands to be given come within the definition of dowry. The Andhra Pradesh High Court observed in the present case that the definition of dowry was wide enough to include all sort of properties, valuable securities etc. given or agreed to be given directly or indirectly. Therefore, the amount of

⁶ Subs. by Act 43 of 1986, s. 2, for “or after the marriage” (w.e.f. 19-11-1986).

⁷ Venuri Venkateswar Rao v. State of A. P., 1992 (1) crimes 287 AP

Rs.20,000 and 1-1/2 acres of land agreed to be given at the time of marriage was nothing but dowry.

Some of the Dowry Laws in various countries:

In India, dowry was banned in 1961 under the Dowry Prohibition Act. Pakistan has passed five separate laws making dowry illegal. The first one was implemented in 1964 and the most recent one in 2008. Nepal made it illegal in 2009, with the Social Customs and Practices Act which outlawed dowry. Kenya's Marriage Bill, implemented in 2012, prohibits any dowry payments. In 1983, Greece amended its family laws to abolish dowry. In May this year, Australian MPs tabled a petition in Parliament to have dowry banned as part of the country's Family Violence Protection Act. In Sri Lanka, no law or sanctions currently exist, but women's campaigners have been vocal in pushing for a ban. But sadly dowry is prevalent in all the above countries at present.

Is Ancient Indian Society oppressive of its women:

No, it is not oppressive of its women. In Ancient periods, the only term used in Hindu marriage traditions is Swayamvar where it was the bride who decided whom to marry. For eg. In Ramayana, In the swayamvar of Sita, Rama had to lift Shiva's bow to prove that he was eligible to marry Sita. In Mahabharatha, Arjuna had to hit the eye of the fish rotating above by only looking at the fish's reflection in a pool. In Samskritham texts, there is a concept called Gandharva marriage which closely means a love marriage and a live in relationship.

From the above it is very clear that dowry system did not originate in ancient period. But the parents of the Bride, even her kith and kin, all gave wealth to her in the form of valuable gifts. It was just like how parents used to give a part of wealth to their sons, so did they give it to their daughters too during the daughter's marriage. The valuables or the wealth was given to the bride, and not to the groom or his family. In other words, the dowry wealth continued to be owned by the wife and not by the husband or his family. This gave the required financial independence to women who would even manage the income from their agricultural land, etc. So in the original system of dowry prevalent in India, women were gifted wealth from their parents during marriage and this served as a tool of financial independence for the bride even after marriage.

When the French came to India, they praised India women for having a say in the state of

affairs, they also developed great fondness for Ahalya Bai as she was a great administrator of the society.

Colonial Era Dowry – Imperial Crime:

The wrong turn in Dowry took place during the Colonial Era. It all started with the Permanent Settlement of Bengal in 1793 by the British under Lord Cornwallis. This enabled private ownership of land which was unknown in India till then. The land always belonged to government and people only settled in the government's land. If there was a flood in one place, people used to move to another place in the kingdom. By introducing the permanent settlement, the British enabled the private ownership of land in India. All modern day real estate related violence in the country could hence be traced back to this act by the British.

People there after started fighting over the land. It was this system which also created the system of Zamindars or landlords in India. Very few realize that the Zamindari system of landlords who ill treated peasants was created by the British rule. Till then, the Zamindars were not landlords, but only tax collectors, collectors of land revenue who used to collect it from the farmers and hand it over to the local government. The Britishers converted these tax collectors into zamindars giving them the ownership of that land, and using them as a means to loot the farmers in the name of more tax. The Zamindar or the land lord now owned the land, and it was hereditary ie the children of the landlords became the inheritors of the land. The peasants on the other hand, suffered from this Permanent Settlement. They were left entirely at the mercy of their landlords, who also had a share in the production and which were not fixed.

In the Pre-British system, kingdoms collected tax only during the times of surplus or sufficient growth, and the tax was used for the betterment of the society. But in the British rule, tax was collected irrespective of whether there was a famine or a flood, and tax rates were extremely high. It was looting the day light.

Property Rights Prohibited for Women:

The move which affected the status of the women in the Indian society was the rule imposed by the British which prohibited the women from owning any property at all. And this was that created the menace of dowry system in India. In the existing system, parents used to give wealth and valuable gifts to their daughters during marriage, And the bride continued to own this wealth even after her marriage and it provided the wife financial independence and there was

usually no need for a wife to depend on her husband for her financial needs. In fact, the situation in 1870's was that dowry is a collection of voluntary gifts comprising clothes, jewellery, household goods and cash bestowed on the bride by family and friends at the time of Girl's wedding.

Nowhere was it described as the prerogative of the groom to make demands on the girl's family. But the British at that time had not granted their own property rights, so it was highly unlikely they would do so for Indian women. But once the British prohibited women from having any property rights, it meant that a woman got from her parents would be owned by her husband instead. And the moment, this system of husband owning the wealth of his wife was created the traditional dowry got converted into a menace creating an institution of greed that oppressed victimized and suppressed women. The greed that kicked in created a system where husband and his family started looking at the incoming bride as a source of property and wealth, the male dominated society became greedy, husband and in-laws started demanding more dowry from the bride and her parents. The social harmony and the bonding created by the institution of marriage were gone.

Marriage became just another business deal, where making wealth was easier. Male child became an additional source of income and female child became a financial burden on the family. This led to the creation of social problems like female feticide and an imbalance in male-female ratio in the society, which further led to more crimes on women. After the British Prohibited women the right to own or inherit property, until 1956 the women in India did not have the right to inherit property from their parents. It was only in 1956 that the Hindu Personal laws were amended giving the right to women to inherit ancestral property.

DOWRY AND SOCIAL TRANSFORMATION:

In the latter half of the 1900s in India there was an alarming rise in Dowry related crimes. Crimes like murder of the bride by hanging, burning, poisoning etc., compelling the brides to commit suicide, verbal and mental abuse, inflicting of bodily injuries to name a few. The society was completely in the grip of a dark phase where greed and lust were the primary factors where marriage was concerned. It was seldom taken as a sacred union. The basic sacredness of the institution of marriage was long lost. The victims of Dowry crimes increased and so the need for a reform.

Though the Dowry Prohibition Act, 1961 was prevalent but the rate of Dowry crimes increased at an alarming rate. There were no proper checks and investigations were improper. The earliest of the protest against Dowry system were made by Progressive Organization of women in Hyderabad in 1975, there were almost 2000 people who came on street to protest against the increase of Dowry system in India.⁸ In the year 1979, an organized protest landed on the streets of Delhi against Dowry because one Tarvinder Kaur was burned to death by her Mother and sister in law as they were denied their desired Dowry. Right after the Tarvinder Kaur Murder case, another case showed up in the Malviya Nagar area in delhi, where a complaint was brought by the brother of one Kanchan Chopra, but unfortunately the police denied the registration of the complaint as they considered it to be a personal and matrimonial issue. The very next day Kanchan was found dead. Delhi saw the highest number of Dowry crimes in the 1970s and 80s. There were protests all over including in the states of Punjab, Maharashtra, Karnataka, Gujarat, West Bengal etc. There was country wide movement against Dowry and one famous face was of Satyarani Chadha, she came to be known as the face of Anti- Dowry Movement. After the enactment of the Dowry Prohibition Act, 1961 and after series of various protects against the alarming increase of Dowry crimes, women activists started various awareness programme to educate women about their rights and that dowry was a prohibited act and is against law. The fact that dowry is a crime was unknown to various rural women and they accepted that if they had to get their daughters married off to a good man they must have adequate dowry, which is an absolute false fact. But the system was so deep rooted in the social structure that dowry crimes increased and so did its victims. The huge account of protests and country wide movement proved their metal and the law makers were compelled to make various other amendments to match the want of the existing situation.

ANALYSIS OF INDIAN ANTI DOWRY LAWS:

Anti-dowry laws have been enacted to curb the menace of women suffering from atrocities and domestic violence – physical, sexual, verbal, emotional and mental – at the hands of their husband or in-laws.

The first national legislation related to dowry was enacted as the **Dowry Prohibition Act, 1961**. The act lays down a certain number of preventive and punitive provisions but, as could be anticipated, the objectives have not been achieved. The failure is not primarily due to a few

⁸ NagpalHimanshi., _The Historical journey of Anti-Dowry laws'; (2017), www.feminismofindia.com

defects in law but on the part of government also regarding its enforcement but because of the fact that the dowry practise is too well-entrenched among all the cross-sections of the society. The lack of enforcement of government officials is that no action is taken on registered cases as well as people are not aware of the legislation. Though the legislation and judiciary provide continue support still the situation not changed.

In the year 1961 dowry prohibition act was amended twice to widen the meaning of term “dowry” and enhancement of punishment for the various violations of the provisions of the act. Section 2 of the act states that any property or valuable security from one side to another either given or agreed to be given in future directly or indirectly in connection of marriage amounts to dowry. The expression used in the original Act was “as consideration for the marriage of such parties” was interpreted by the court to give a narrow meaning of the term “dowry”. In *Inder Sain v. State*⁹, it was held that “consideration” was restricted to motive or reason, compensation or reward to marriage and would not, therefore, include any property demanded or given subsequent to marriage. The expression “any time after the marriage” has been brought to replace “after marriage” to eliminate a restricted interpretation of the statute. The concepts of gift in Indian marriages are only allowed which are customary in nature, which does not create a financial burden on a family. A list of such presents, along with value and description, is to be prepared and must be signed by the bride and bridegroom.

In case of *Sanjay Kumar Jain v. State of Delhi*¹⁰ it was said that “The dowry system is a big slur and curse on our society, democracy and the country. It is incomprehensible how such unfortunate and condemnable instances of dowry deaths are frequently occurring in our society. All efforts must be made to combat and curb the increasing menace of dowry death. The legislature was seriously concerned about this unfortunate reality of our society and to curb combat the increasing menace of dowry deaths with a firm hand the Dowry Prohibition Act, 1961 was enacted. Some stringent penal provisions have been enacted or amended from time to time to stop from taking and demanding dowry. Under section 3 of the act giving and taking of dowry is punishable with a minimum term of 5 years and a fine of Rs 15,000 or value of dowry whichever more. Similarly demanding of dowry is also punishable under section 4 for the term of six months to five years and fine up to Rs 15,000. After a couple of amendment the act tries to curb this social menace. Section 7 provides persons and agencies who may initiate

⁹ 1981CriLJ 1116(Del)

¹⁰ (2011) 11 SCC 733

the proceedings (a) police (b) aggrieved person (c) parents and relatives (d) any recognised welfare institution or organisation Section 8 tries to make act harsher by adding offences under the purview of non bailable and cognizable. Further section 8-A states that burden of proof lies on person who denies offence.

A common rehearse in marriages are that articles and ornaments of bride are immediately taken into possession by husband or his family can transferred to woman or her heirs by virtue of section 6 with period of three months failing of such act will amount to imprisonment from six months to two years and fine from five to ten thousand rupees. Supreme Court in case of **Pratibha Rani v. Suraj Kumar**¹¹ held that taking possession of bride articles will amount to criminal breach of trust punishable under section 405 of penal code.

INDIAN PENAL CODE AMENDMENTS IN 1983 AND 1986:

The appropriate target of criminal law not only limited to dowry problems but the violence connected with dowry also comes under the purview of criminal law. Failure of dowry legislation and increase in rate of dowry death led to the Criminal amendment in the year 1983 and 1986 by adding section 304-B and 498-A.

Dowry Death-Section 304-B IPC:-

The offence under section 304-B defines “Dowry Death” is the death caused to woman by burns or bodily injury, or under unnatural circumstances within seven years of her marriage, where it is shown that she was harassed or put to cruelty by husband or his relatives in relation of dowry the punishable with a term of seven years to life imprisonment. The period of seven years would be considered as cut period for reason that seven steps taken by bride and bride groom of the sacred nuptial fire for completion of marriage where one step is considered as one year. Supreme Court in the case of state of Punjab v. Iqbal Singh(1991) explained the period of seven years as it is considered to be turbulent one after which the legislature assumed that the couple would have settled down in life.

In case of **Satbir Singh v. State of Haryana** (2005) the Apex Court held that the prosecution is able to establish the ingredients of section 304-B, IPC the burden of proof of innocence shifts on defence. The provisions under section 304B, IPC are more stringent than that provided under

¹¹ AIR 1985,2 SCC 370

section 498A of the Penal Code. The offence is cognizable, non-bailable and triable by a court of Sessions.

In case of **Mustafa Shahadal Shaikh v. State of Maharashtra** states that the language used under section 304-B “Soon before death” means no definite period has been mentioned under the Penal Code as well as under section 113-B of Indian Evidence Act. Accordingly, term “Soon before death” determined by Courts depending upon the facts & circumstances of case. However it would imply that interval should not be much between the cruelty or harassment concerned and death in question. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.

To curb the practice of dowry death there is an urgent need to take punitive and preventive measures with iron hands. At the same time law must be made more effective and police should be more watchful with respect to these offences. Supreme Court always try to take a note of dowry abuse which results in dowry death. So, in the case of **Rajbir v. State of Haryana (2011)** apex court directed to registrar generals of all high courts to circulate to all trial courts add section 302, IPC to charge of section 304B IPC so that death sentences could be imposed on heinous and barbaric crimes and stated that dowry death cases to be charged both under section 302 and 304B of IPC. After the Apex Court decision, a person convicted of dowry death would be charged under section 302 as well as section 304-B of IPC.

Cruelty on woman by Husband or Relatives-Section 498A, IPC:

When her husband or his family member subjects the woman to cruelty or harassment. Cruelty by his husband or relatives has been made punishable with imprisonment up to three years and fine u/s 498-A. The word cruelty means both mental and physical torture. It consists of any wilful conduct likely to drive the woman to commit suicide or to cause danger to her life, limb or health, mental or physical or harassment to coerce her or any other person by making an unlawful demand for dowries such as property or any goods.

Section 498A, IPC and Section 4 of the Dowry Prohibition Act do not attract double jeopardy. In case of **Inder Raj Malik v. Sunita Malik**, the Delhi High Court held that a person convicted both under section 4 of Dowry Prohibition Act and section 498A of Indian Penal code does not come under the ambit of double jeopardy under article 20(2) of Indian Constitution. The

prohibition of Dowry Prohibition act and Indian Penal Code distinguishes from each other as in earlier enactment on demand of dowry is punishable, cruelty is not necessary where in later enactment presence of cruelty is a necessary element for section 498A of Indian Penal Code. The Delhi High Court has taken a pragmatic approach in the impugned case and said that the word 'cruelty' is well defined.

Intentional Death of women –Section 302 IPC: – If a person intentionally causes woman death then punishable under section 302 IPC.

Fourthly, Abetment of Suicide of Woman- Section 306 IPC:- If husband and his relatives create a situation which led to the suicide of woman within seven years of marriage fall within the ambit of section 306.

CODE OF CRIMINAL PROCEDURE, 1973 AMENDMENT IN 1983:

Section 174 and 176 deals with the investigation and enquiries related to the causes of unnatural deaths by police and magistrate respectively. The amendment act of 1983 makes mandatory for police to send the body for post-mortem examination if the death of woman occurred within seven years of marriage in a matter of suicide or any dubious matter. It also empowers executive magistrate to inquiry into the death of a woman in similar circumstances.

INDIAN EVIDENCE ACT, 1872 AMENDMENT IN 1986:

A new provision, section 113B has been created regarding the burden of proof in dowry death according to which court has to presume that a dowry death was caused by the person who is shown to have subjected the woman to cruelty or harassment soon before her death. This provision is inserted in order to strengthen the prosecution hands by permitting a certain presumption to be raised if certain fundamental facts are established and the unfortunate incident of death has taken place within seven years of marriage.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:

It is enacted to protect women from domestic violence. The definition of domestic violence includes not only physical violence but also other forms of violence such as emotional, verbal, sexual and economic abuse. It is primarily meant to provide protection to the wife or female live-in partner at the hands of husband or male live-in partner or his relatives.

HINDU SUCCESSION AMENDMENT ACT 2005: This Act was enacted to remove gender discriminatory provisions in the Hindu Succession Act 1956. It enables the daughter to have the same rights in the ancestral property as that of a son.

LACUNAS OR IMPEDIMENTS IN IMPLEMENTATION OF LAW: Once again the rich Indian legal system has failed to make any appreciable repair in the unfortunate situation in which dowry victims are placed. The fault and infirmities are detectable in almost all the factors involved in the implementation of laws: Social aspects, Police perceptions and attitude and infirmities inherent in the functioning of the medico-legal and judicial system.

Social Factors: In dowry cases, there are no witnesses to transaction leading to domestic cruelty or harassment and unnatural death except the family members, some of whom might accomplice and some might not support due to family pressure. More often than not, the neighbours, who might be having some clues or evidence against culprits and unwilling to testify something because of the fear of spoiling the neighborly relation. Despite the ill-treatment, some parents advice their daughters to keep staying with husband and his relatives which sometimes result to the avoidable tragedy.

Police Law and Enforcement:

The usual allegations which public made at police are: reaches too late on a crime scene, distorting the events in recording the First Information Report, always try to prefer dowry deaths as suicide and carrying the investigation in less proper manner and leisurely fashion. The police treat violence against women as a family affair and always unwilling to register case itself. Some of the lacunas of police can be seen in some Supreme Court Cases like in case of Bhagwant Singh v. Commr. of Police Delhi (1983) it is supported by Apex Court that incidence of unnatural deaths is much higher than indicated by police. Police diaries are not kept properly and produced before a magistrate. The investigating officer changed frequently which badly affect the investigation. Se of the shortcomings of the police is attributed to corruption.

The Judiciary:

Usually, on a number of occasions, the Supreme Court expressed anguish and shocking view regarding deaths of young brides.

In *Samunder Singh v. State of Rajasthan*¹² the court opined that anticipatory bail cannot be given in cases of bride burning and dowry deaths. Some dissatisfaction occurred at trial level itself by the certain assumption of courts like a person with 100% burn not fit for dying declaration. If on behalf of Victim harassment, the matter not reported creates a lacuna in Indian legal system.

Misuse of Anti Dowry Laws by Unscrupulous Bride and Bride Families:

These dowry laws are used by Dishonest brides and their families to quench their thirst of vengeance against the bride groom and his family members. The Nisha Sharma dowry case was an anti-dowry lawsuit in India that represented how IPC 498A law can be misused. It began in 2003 when Nisha Sharma accused her prospective groom, Munish Dalal, of demanding dowry.¹³ The case got much coverage from Indian and international media. Nisha Sharma was portrayed as a youth icon and a role model for other women. The case ended in 2012, after the court acquitted all accused. The court found that she had fabricated the dowry charges to wriggle out of the wedding.

Defense Lawyer Defend Someone Who's Guilty:

Our Constitution assures every citizen the right to legal counsel. Lawyers are bound to deliver this legal right to their clients. Article 22 of Indian Constitution states that a person who is arrested shall have the right to consult, and be defended by a legal practitioner of his/her choice. So even a guilty person has a right to defend himself with the help of lawyer. Rules on the professional standards that an advocate needs to maintain are mentioned in Chapter II, Part VI of the Bar Council of India Rules. These rules have been placed there under section 49(1)(c) of the Advocates Act, 1961. Rule 15 states to "uphold the interest of his client". It was stated that He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused. On a general note, fiduciary relationship is that of trust and confidence. In the case of *V.C. Rangadurai v. D. Gopalan* (1979), the Court observed that the relation between the advocate and his client involves the highest personal trust and confidence. Thus, their relationship cannot be completely treated as purely professional owing to the confidential nature of the information that the client gives to his lawyer. Thus, the lawyer-client relationship is purely fiduciary in nature. There is no provision stating to not to defend a guilty person. Also Prosecution fails to prove them as guilty. This gives a way for many guilty persons to

¹² (1987) 1 SCC 466

¹³ "All let off in Nisha Sharma dowry case after 9 years". IBNLive. 1 March 2012. Retrieved 28 March 2015.

escape from the hands of the law.

INTERNATIONAL CONVENANTS REGARDING DOWRY:

The International Covenant on Civil and Political Rights, 1966¹⁴

Art.3 places an obligation on all covenanting parties to: "...undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant". Art. 23: 1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. 2. The right of men and women of marriageable age to marry and to found a family shall be recognized. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Beijing Principles of the Independence of the Judiciary

The objectives and functions of the Judiciary include the following: (a) To ensure that all persons are able to live securely under the Rule of Law; (b) To promote, within the proper limits of the judicial function, the observance and the attainment of human rights; and (c) To administer the law impartially among persons and between persons and the State.

The Declaration on Elimination of Violence against Women (DEVW) 1993.

Art. 14: State should develop penal, civil, labour and administrative sanction and domestic legislation to punish and redress wrongs caused to women; women who are subjected to violence should be provided with access to the mechanism of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; State also informed women of their rights in seeking redress through such mechanisms.

Convention on Elimination of all forms of Discrimination against Women ("CEDAW")

Art.18 defines "discrimination against women" as ".....physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non- spousal violence and violence related to exploitation...."

¹⁴ India acceded to the ICCPR on April 10, 1979. India has, however, not signed or ratified the optional protocols to the ICCPR (including the Second Optional Protocol, which abolishes death penalty)

The Justice Verma Committee is of the opinion that substantive equality and women's rights as human rights have been established both in domestic and international legal regimes: the Constitution embraces the substantive equality approach as provided in Article 15(1) and Article 15(3)¹⁵; the concept of formative action under sub-article (3) of Article 15 is not merely an enabling provision but, in the context of Article 14, maybe a mandatory obligation. The violence against women has a dual characteristic. It is an offence under the principles of penology but, more importantly, it is a direct constitutional violation.

The United Nations Children's Fund (UNICEF),

Though predominately focused on improving the quality of education available to children globally, has also taken a proactive stance against dowry death. On March 9 (International Women's Day), 2009, at a press conference in Washington D.C., UNICEF's Executive Director, Ann M. Veneman, publicly condemned dowry deaths and the legislative systems which allow the culprits to go unpunished.¹⁶ In 2009, UNICEF launched its first Strategic Priority Action Plan for Gender Equality, which was followed by a second Action Plan in 2010. The aim of these plans has been to make gender equality a higher priority within all international UNICEF programs and functions.

PRIVATE ORGANISATION ABOUT DOWRY DEATHS: Amnesty International, in an effort to educate the public, has cited dowry deaths as a major contributor to global violence against women¹⁷ Also, in their annual human rights evaluations, Amnesty International criticizes India for the occurrences of dowry deaths as well as the impunity provided to its perpetrators.

INDIA'S COMPLIANCE WITH INTERNATIONAL CONVENTIONS: India adhered to International Conventions, by enacting laws and amending with stringent provisions whenever necessary but it proved to be ineffective as even in the current day, brides are victims to dowry. The purpose of the ICCPR is to protect the civil and political rights of individuals. To this end, the ICCPR provides for enforcement of its provisions through two means administered by the

¹⁵ Ashok Kumar Thakur v. Union of India, (2008) 6 SCC 1

¹⁶ "Statement of UNICEF Executive Director Ann M. Veneman on International Women's Day". UNICEF. Retrieved 2012-09-04

¹⁷ "Violence Against Women Information". Amnesty International. Retrieved 2012-09-04.

Human Rights Committee¹⁸, interstate complaints and self-reporting by member states. In addition, a companion treaty to the ICCPR, the Optional Protocol, provides for an individual petition procedure¹⁹ Unfortunately, victims of dowry crimes and their families are unable to avail themselves of any of these methods for enforcing rights under the ICCPR. Only states may utilize the first two means. The individual petition procedure, which allows individuals to lodge petitions claiming violations of the ICCPR against member states, is unavailable because India is not a party to the Optional Protocol. But this lack of an enforcement mechanism for victims of dowry crimes does not mean that dowry deaths do not violate the right to life under the ICCPR. This Comment argues that dowry deaths are an arbitrary deprivation of life in violation of Article 6(1) of the ICCPR. Although "international human rights law... must rely heavily on voluntary compliance by states," it also relies on "such moral and other influence as other nations are prepared to exert." Depending on the nature of the breach, this pressure can consist of military force, suspension or termination of reciprocal obligations, a case before the International Court of Justice, economic sanctions, or political sanctions. In addition, nongovernmental organizations, such as Amnesty International, can become involved publicizing human rights violations.

LATEST DOWRY INCIDENT AND AFTER EFFECTS OF DOWRY SUICIDE: The suicide case of a 23-year old woman Ayesha Arif Khan, in Ahmedabad in the month of February 2021, after being harassed by her husband and in-laws over dowry shocked the Muslim community in Agra. The Muslims in Agra had vowed to stop the exchange of dowry in all their Muslim marriages. In a news article from India today, it was evident that the husband and his family were arrested by the police and they were later released on bail. The delay in giving justice tend to reduce the faith in our Judicial system.

¹⁸ Article 28 of the ICCPR establishes a Human Rights Committee consisting of 18 members to administer the enforcement mechanisms provided for in the ICCPR. ICCPR, *supra* note 4, art. 28(1).

¹⁹ Thus, the state complained against must be a party to the Optional Protocol as well as a party to the ICCPR. As the language of Article 1 implies, only individual victims can submit a communication: "NGO's or other interested parties are prohibited from filing communications under the Protocol, unless they themselves are victims of [human] rights violations." See LILLICH, *supra* note 109, at 195. However, according to Lillich, the Committee will accept communications from an individual 'through an appointed representative." *Id.* In addition, an individual who is a close family member of the alleged victim can submit a communication on the victim's behalf when he or she is unable to do so. *Id.* In such cases, the burden is on the author to establish that a close family relationship exists. *Id.* Failure to meet the burden will result in the communication being inadmissible

INTERESTING FACT:

The only Town in India which will greet you with a 'A Dowry Free Zone' sign is a small town in Kerala named as Nilambur. The steps taken by them to eradicate dowry must extend to all parts of the world.

CONCLUSION:

The essence of greed of bride groom and his family can be termed as Dowry. I previously thought that education will eradicate this social evil. But educated brides commit suicide because of dowry harassment nowadays. So it is clear that professional education imparted in schools is not a solution. Moral or spiritual education must be imparted to all family members in their particular Religion. Religion preaches the moral values. This contemporary social feels proud and prestige to uphold their religion rather than to learn what their religion preaches.

Maximum people blind-foldly practice some orthodox beliefs such as walking on the fire, beating themselves with knife etc. as per their religious custom. So this practice of following their religion can be diverted to enlighten the moral and ethical values imbibed in their religions.

Since demanding dowry is individualistic in nature, the change from originate from the individuals.

SUGGESTIONS:

Apart from these the following can be done to eradicate dowry.

1. Every dowry case has to be decided within 3 months. Speedy disposal and the awareness towards speedy disposal will act as a deterrent in the minds of greedy people.
2. Only punishment ie the capital punishment must be given for dowry death case . Since a girl full of life is made to die can be justified only if the perpetrators get same level of punishment. Also this will inculcate the fear and treat their wife or daughter-in-law fairly.
3. Optional Protocols in International covenants can be signed by our country. The message that individuals can file a case if their rights are violated as prescribed in the covenants will presurize both our country as well as our people to abolish it permanently.

4. Non governmental Organisations such as Amnesty International, can be involved in publicizing dowry death cases and human right violations.
5. Dowry prohibition officers must have close liason with public and they must have easy access to contact them.
6. Finally, the Rights of Inheritance of all the gifts and properties received by the bride before, during or after the marriage should not be given either to her husband or her husband family members. It must be in her control and can be used by her alone.
7. Financial independence of a woman will curb dowry menace to an extent
8. 'Dump Dowry' associations can be set up and informers to be deployed to give a tip-off about such cases
9. Online websites can be launched like www.dowryfreemarriage.com wherein anybody from any part of the world can register and upload his/her profile free of cost. It can be a collaborative venture of Government and NGO Mahila Samakhya Society to promote dowry free marriages.

So, the Iron hands of Judiciary, Proper Investigation, Deterrent punishments, awareness of laws and Dowry Prohibition officers, Inheritance rights only to the bride will be helpful to get away with the Social evil Dowry.

IJLRA