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# **DOWRY DEATH IN INDIA: A SOCIETAL CURSE.**

AUTHORED BY - BHAWANA SHEKHAR

## **Abstract**

One of the great and most essential practical and practicable idea is nothing but marriage itself. The idea creates a concept of togetherness of not only two people but their respected families and kinship also. The notion of marriage is simply somewhere ultimately related to give and take relationship on the name of gifts and presents from bride families to groom families and their relatives also. In other word or to simplify this the new belief and conception arose called dowry system. In some areas this system is not even spontaneous and dark but this does not happen always in some areas it turned into a nightmare and the girl tortured or humiliated by the hands of her husbands, in laws and relatives because of many reasons related to the demands of things which some time even end with death. The social norms and agendas of some pathetic frame a gloomy structure of a society indicated uncertainty and shady part of human kind. Dowry, also known as Dahej, is one of the deep-rooted societal ills that has become an obstacle to women's regular lives. Dowry has become a societal norm, which is a major issue for both society and women. The dowry system is the evil that has murdered and disabled countless vulnerable women, forcing some to commit suicide. Dowry is the oldest social malady or sickness on the Indian subcontinent. It has become a terrible social disorder that is profoundly established in people's blood. Many individuals regard dowry as a symbol of social standing and self-recognition. As Mahatma Gandhi has rightly said "Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonours womanhood". The main goal is to investigate the ills of the Dowry system and its repercussions in India.

## **Introduction**

Dowry deaths refer to a situation in which brides commit suicide or their husbands kill them after their marriage due to their dissatisfaction caused by the failure of the brides' families in paying dowries. Despite enviable modernisation of this country and expanding rate of middle class families, dowry-deaths kept on rising in this country due to poor societal and ineffective legislative structure in past few decades. However, the figure 1 has reflected a different

phenomenon though a news article published by “Indian Express” in 2020. The number of death cases in 2020, has decreased slightly with amendments in Dowrydeath Prohibition-acts. In 2020, there were 17 cases of dowry-deaths; whereas in 2019, the number was 52. Amendments were made in some of the terms of Indian dowry-death related legislations, which resulted in an improvement in curbing this issue. During the ancient time, the dowry system was also prominent. The bride's parents gave the girl presents, money, property, and other household assets because they wanted to. The girl's premortem right was referred to as such<sup>1</sup>. She was the only proprietor, and not even her husband had any claim to it. The concept and proportions of dowry, however, have evolved over time. It became a significant and key consideration in marriage. Regardless of their ability, the girl's parents were required to provide a handsome dowry for her. Dowry grew to be the most important aspect of a girl's wedded life. Several females committed suicide because their in-laws made their lives miserable since their parents could not pay a suitable dowry. The worst element of this wickedness was that it led to another evil, female foeticide. When we are going towards modernity, it is critical to understand what causes such an immoral behaviour to flourish in society.

The history of the dowry system is very vast and broad concept in itself. It has a space of many cultural and an association of different kinds of views, some people may evaluate this as a normal moral tradition and some might think that this is not the right this must be cover in the fort of immorality. In understandable words we can frame dowry is something which is given to the bridegroom and his family or relative by bride family in some instance we can calculate it as a condition or in a lawyer term it can be said as a kind of consideration of marriage. In ancient times it was given in the form of lands, properties, cash, gold, jewellery, furniture, crockery, cattle, as a token of gift and to show love to the bride comfort and rooted position in the groom family it was considered as an unchangeable practice and bride family had to have perform the same.

At the British time it was observed that the idea had not change its shape but mould itself into a new sphere. Zamindari system was evolved and it was circulated that women cannot hold any property and women were prohibited from holding any land and property by their own name as a result the gift which in theform of land or property that were given to bride from her family was

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<sup>1</sup> (Tambiah, 1973; Pandya, 2008)

ultimately gives to the groom, this was the reason misusing was increased and demand of dowry was also at its peak. In terms of rural areas, there exists a high level of income inequalities, orthodox societal structure and gender inequalities, which are impeding process of establishing a healthy societal structure by alleviating dowry systems from India and preventing dowrydeath cases. Thus, it is essential to reinforce legislation in these areas by enhancing awareness. Present study has provided a critical understanding of factors influencing dowry-deaths in India and ways proper measures and legislations can reduce this issue.

## **Essential ingredients under the law which held the death as a dowry death**

Dowry was supposed to be a present for the bride and her in-laws, but who knew a simple gift would become a pawn for expectations, or should I say incorrect expectations? Greed, not money, is said to be the source of all evil. This is precisely how dowry death became as the most heinous of offences. The requirement for a present evolved into dowry rather than a simple gift. Its rise is due to the hope of receiving fancy automobiles, cash, and jewellery. When a parent cannot afford such obligations, he frequently fails to meet them. The failing of a poor parent cost him a life, his own daughter's life.

Certain specified essentials of Dowry death are death of woman should be induced by burns or bodily injury or otherwise than under ordinary circumstances, Death should have taken place within Seven years of her marriage, the woman must have been exposed to cruelty or harassment by her husband or relatives of her husband, such Cruelty or harassment should be for or in connection with the demand for a dowry, such cruelty or harassment should have been subjected soon before her death

## **Causes of Dowry death in India**

Dowry deaths rose from about 21 per day in 2016 to approximately 35 per day in 2022. While these statistics are worrying, there is a great deal of variation in the incidence of "dowry deaths" across regions and over time.

A majority of dowry-related cases in India take place to adhere to the customs and traditions of the Indian society. People tend to follow what has been followed through the years and stick to such customs even if it causes discomfort to them. A majority of dowry-related cases in India take place to adhere to the customs and traditions of the Indian society. People tend to follow what has been followed through the years and stick to such customs even if it causes discomfort to them. Many families in India give dowry to get rid of their insecurity of ill-treatment of their daughters by their in-laws. There is a perception that giving dowry will ensure their daughter's security after marriage and non-discrimination. Administration of justice in criminal cases is itself a challenging job and it becomes more difficult when minimum social support is not there in society. Generally, 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 neighbourly relation. They hassles apprehend regarding the police and court proceedings. Worse than the indifferent attitude is the partisan attitude of neighbours favouring the culprits.

Many young women can be saved from cruelty, harassment and unnatural deaths if they are insulated from the source of violence in proper time. Such recourse cannot be done or not possible due to traditional constraints. Despite the ill-treatment, some parents advice their daughters to keep staying with husband and his relatives which sometimes result to the avoidable tragedy. . Education is the only game changer. We need to revisit our educational system immediately and we need a national program and implementation if we have to address social issues in the long term. Every stakeholder mentioned above comes from the same society and unless there is a system of education that teaches a common minimum set of values that we can all share, we will not be able to build and retain a progressive society. A society that evolves in a healthy way in keeping with the changing times. Education needs to be proactively provided at two levels. In our homes and at school. The child receives its first education from parents and therefore unless we ALL realize this responsibility and focus on moral education at home, we will not be able to build a society that does not carry legacy social evils like dowry. The school will have to take its share of responsibility in developing citizens and not just students.

## Reports on Dowry Death in India

India has an alarming trend of dowry death according to which 20 women die every day as a result of Dowry related harassment – either murdered, or compelled to commit suicide. According to National Crime Records Bureau (NCRB) reports on an average, every hour a woman succumbs to dowry deaths in India with the annual figure rising upwards of 7000. In 2021, reported dowry death cases in India amounted to nearly 6.8 thousand. This was a gradual decrease from the 2014, in which this number was approximately 8.5 thousand. The dowry system in India incorporates payments in the form of capital, durable goods, real estate among others, made to the bridegroom from the family of the bride as a condition for marriage.

As many as 13,534 cases were registered in the country under the Dowry Prohibition Act of 1961 last year, a 25% rise compared to the cases registered in 2020 (10,046), the data released by the National Crime Records Bureau (NCRB) has revealed. Up to 4,594 of these cases were registered in Uttar Pradesh — the highest in the country. However, there has been a slight decline of 3.85% in the number of dowry-related deaths in 2021, which recorded a total of 6,589 such cases, compared to 6,843 cases in 2020. With 2,222 registered cases, the highest number of dowry deaths in the country has also been recorded by Uttar Pradesh. Among the southern states, Telangana recorded the highest number of such deaths (175), while Kerala registered the least.

According to the NCRB data, 330 cases of dowry deaths were closed due to lack of evidence last year, while two were transferred to a different state or investigating agency. The chargesheeting rate stood at 41.3%. Among the cases under the Dowry Prohibition Act, 1,086 were closed because of insufficient evidence, and 49 were transferred to a different state or agency. The chargesheeting rate was 35.05%.

## **Legal Provisions**

As in the beginning of the assignment we have already mentioned the proper definition of dowry explained in IPC section 304B. This provision is clearly class biased as we can say that it is equal for all caste and class of a woman who is a victim of a particular crime and falls under the act. This act clearly gives an immunity to female gender for standing and fighting for right to life. If a is dead due to the reason of dowry it can also fall under Article 21 which is right to life. Every

person and an individual have a right to safe their life and right to live freely. Section 304B also mentioned some criteria to calculate the provision as it is said that any women who died under unnatural circumstances either by burn injuries or bodily injuries within seven years of her marriage and had been continuing the subject of violence, abuse, harassment, cruelty by her husband and in laws shall be considered as a victim of dowry. But in my opinion what if the victim has crossed the period of seven year and for instance if she died after 10 years of her marriage? Is it still under the consideration and an offence and will the accused still be liable for the same. Hence the essential element of the dowry death stated under the section 304 B are as follows:

- Death of a married woman.
- Death caused by bodily injury or by burn or any other unnatural circumstances.
- Death within a specific period of time (7 years).
- Subject matter is important like harassment, mental and physical abuse etc.
- All the essentials are must related to the demand of money, property, as dowry.

In India, the dowry system puts a great financial burden on the bride's family. The law-makers, taking the note of seriousness and consequence of the problem legislative measures to plug the loopholes in the law as well as to enact new provisions so as to make the law rational and effective. The Dowry Prohibition Act, the first national legislation to deal with the social evil of dowry, was passed in 1961. The object of this act is to prohibit giving and taking of dowry. The act lays down a number of preventive and punitive provisions but, as could be foreshadowing, the objectives have not been achieved. Though the dowry problem as such may not be the appropriate target of criminal law, the violence connected with a dowry, sometimes fatal, is certainly within the functional domain of criminal law. As a result of speedy rate of dowry-related deaths and failure of dowry legislation, which results in certain substantial and procedural changes in law criminal law as Criminal Law Amendment Acts, 1983 and 1986. In Indian Penal Code, two new offences have been created under section 304-B and 498-A. The offence under section 304-B called as the Dowry death whereas section 498-A called as Husband or relative of husband of a woman subjecting her to cruelty, Code of Criminal Procedure includes section 174 and 176 deals with the investigations and inquiries into the causes of unnatural deaths by police and magistrate respectively and in Indian Evidence act new section 113-B called as presumption

in cases of dowry death that the person who is shown to have subjected the woman to cruelty or harassment soon before her death.

“Section 498A of IPC covers an important provision and also it is mentioned that, it deals with husband or relative of husband of the women subjecting her to cruelty. The section mentioned that whoever, being the husband or the relative of the husband of a women, subjects such women to cruelty shall be punishable with imprisonment for a term which may extended to three years and shall also be liable to fine”.

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 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*<sup>2</sup>, 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*<sup>3</sup>

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<sup>2</sup> Gurbani, Vikas, and ShagunThakur. ‘Study of Alleged Dowry Death Cases at a Morgue in West Bengal.’(2018) 12(1).

<sup>3</sup> ‘Criminal Jail Appeal No.D45 of 2018 ( Order with Signature Of Hon’ble Judge, December 8, 2021).

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. Usually, on a number of occasions, the Supreme Court expressed anguish and shocking view regarding deaths of young brides. In Virbhan Singh v. State of U.P apex Court said in view of increasing deaths of brides, such dastardly crimes whenever detected and proved then ruthless action and deterrent punishment must be imposed. Supreme Court concern about the acquittal of some alleged culprits but the state cannot approach apex Court in appeal. In Samunder Singh v. State of Rajasthan 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 harassment victim some other reported matter the matter not reported which creates a lacuna in Indian legal system.

## Conclusion

Dowry is deeply embedded in the social fabric of India. It is strongly embedded in society's patriarchal mind set. Women became a commodity as consumerism increased. Dowry is encouraged due to women's disempowerment, male domination, and financial dependency on males. The first stage in the campaign to abolish this social scourge should be to raise social consciousness among the population. In this instance, the media can be proactive. Several legislation, notably the Dowry Prohibition Act of 1961, have undoubtedly been adopted, but action on the enforcement front is required. Furthermore, the government should take note of the severe enforcement of such dowry regulations. Dowry death is a societal curse that is a hot topic in Indian society. Organized approach by women's welfare groups, police, public officials, and the judiciary by imposing deterrent penalty on those responsible for dowry fatalities. It can be seen that the Indian government, in collaboration with the Indian judiciary, develops cooperative and supporting laws to protect women's lives and dignity, as well as to offer further justice to victims of harassment or cruelty by husbands and his family. Changes in the school system have improved female education status, and door-to-door job services will reduce dowry fatalities. Still, some corrective measures must be implemented in order to eliminate or at least reduce the societal scourge of dowry death, but most crucially, a public will and determination to reject the materialistic hunger of dowry demands is required.

The police act as ‘death brokers’ and use culturally appropriate scripts to classify death of a woman within seven years of marriage as dowryrelated (or not). They engage in a set of social negotiations with the victim, her natal (family of birth) and marital (husband's family) families, health practitioners, and forensic experts to render the definition of an individual death socially and legally acceptable. Recent evidence shows how the police collude with the perpetrators of this crime in resisting registration of FIR, tampering with the evidence, and threatening the victim’s family with dire consequences.

