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With this thought, we hereby present to you

DOWRY DEATHS: A SOCIO LEGAL ASPECT

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DECLARATION

I declare that the project entitled “Dowry Deaths” is the outcome of my own work conducted under the supervision of Ms. Navedita Kochhar, Assistant professor of Law at Amity Law School, Amity University, Noida U.P.

I further declare that to best of my knowledge the dissertation does not contain any part of any work, which has been submitted for the award of any degree either in this University or in any other University/Deemed University without any proper citation.

Name: Vandita Gupta Dated:

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ABSTRACT

When a woman enters into a union she has many salubrious expectations. She would like to a happy married life. She would expect to be a mother someday and then expect to be mother-in-law, grand-mother and so on. And deserve to be a dignified status in society. All these are worn out by the cruel hands of dowry-related deaths.

Dowry deaths is violence by the husband and his family with a motive of extortion of gifts and other demanded from time to time against a woman. The unnatural death of recently married woman vital to women's moment in the Indian society through the meaning of dowry has changed over time but harassment and cruelty have remained the same to some extent. Protection of women from this social evil is the responsibility of the state. Government has enacted many laws regarding the prohibition of dowry like the Dowry Prohibition Act, 1961 and so on. On the recommendation of 21st law commission report certain Penal provisions were inserted. Many educational and awareness programme was run by the government and non- governmental organisation with the intent to the lesser down the rate of dowry death. To deal with this brutal kind of social evil section 304 B Dowry death, Section 498A (Cruelty by Husband or in-laws i.e. domestic violence) 113 B (Presumption as to dowry death) was incorporated in Indian penal laws around 1986 to eradicate the nuisance of dowry death.

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CHAPTER-1

INTRODUCTION

Marriage as a social institution is recognized as a civilized social order where two individuals, capable of entering the union, have pledged themselves to the institutional norms and values and promised to each other a very strong bond to sustain and maintain the marital obligation. It works as a root for the continuance of the human race. Marriage has a long and diverse history. It has evolved from arranged alliances for economic and social reasons to today's focus on love and companionship. Through time, it has adapted to different cultures and beliefs, remaining a cornerstone of human society, symbolizing unity and togetherness. Despite all the promises made at different occasions of marriage ceremony that the individual incompatibilities and attitudinal differences for non-adjustment or refusal for adjustment may come to an end, but certain circumstances occurred where the husbands and his families¹ demand i.e. Dowry which is not fulfilled and sometimes a perverted sense of revenge occurred.

Marriages are made in heaven indeed, but mother-in-law, sister-in-law, husband and other relatives are being actively involved in the dissolution of marriage for the lust of dowry. Dowry death, murder-suicide, and bride burning are burning symptoms of peculiar social ailment and are unfortunate development of our society. During last few decades India has witnessed the dark evils of the dowry system in a more acute form in almost all parts of the country since it is practiced by almost every section of society; irrespective of religion, caste or creed to which they belong. It is almost a matter of day-to-day occurrence that not only married women are harassed humiliated, beaten and

¹ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths'", *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India " *American Economic Review*, 92 (4): pp. 1029-1043.

forced to commit suicide and ill-treated but thousands are even burnt to death because parents are unable to meet dowry demands.

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 offence² 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 .

Though the efforts for the eradication of the dowry practice go back to more than a century, it has perhaps become the most alarming social issue during the last two decades or so as manifested by the growing violence against women emerging from matters relating to dowry. It is generally understood that dowry, in its original form, was not based on greed and extortion as it quite often the case today but present a token of love and regard for the bridegroom. The term Varadakshina, mentioned in the Hindu Shastras, was a Dakshina of a purely voluntary nature without which the meritorious act of Kanyadaan would not be complete. The role of the bride's parents was to provide security and compensation for inheritance rights to the daughter in order to enable her to lead a dignified and harmonious relationship with her husband and his family.

² Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths'", *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" *American Economic Review*, 92 (4): pp. 1029-1043.

Social evils such as dowry system are the bane of Indian society. Despite having a law prohibiting the giving or taking of dowry in any form (Dowry Prohibition Act, 1961) the practice flourishes amongst all sections of the society irrespective of their caste or class. The legislators tried to control the ill-treatment of women by their husband or in-laws by inserting Section 498A in the IPC in the year 1983 but statistics revealed an alarming increase in the number of suspicious deaths of women in the matrimonial home, thereby prompting the lawmakers to insert two more provisions, Section 304B in the Indian Penal Code and Section 113B in the Indian Evidence Act, in the year 1986. This was done to curb the rising incidences of Dowry Deaths by making special provisions for prosecuting those accused of killing women for dowry.

Section 304B deals with both homicidal as well as suicidal deaths. As per law, where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death" and such husband or relative shall be deemed to have caused her death. The presumptive character of Section 304B makes it easier for the prosecution to secure conviction in cases where the above ingredients are present because Section 113B of the Indian Evidence Act clarifies that, when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

These provisions show a marked departure from the ordinary principles of Criminal law wherein it's entirely upon the prosecution to prove the guilt of the accused beyond reasonable doubt. In cases of Dowry death, the prosecution has to discharge the initial burden of ruling out the possibility of a natural death and adducing evidence of link between the death of the woman and

cruelty related to dowry demand. Beyond this the onus shifts onto the accused to prove his innocence. Another difference is regarding punishment prescribed. Ordinarily in crimes, the law prescribes the maximum punishment and the discretion lies with the judge to award a lesser sentence. But, in cases of Dowry deaths, the law prescribes the minimum punishment of seven years imprisonment and vests discretion with the judge to award a higher sentence which may go up to life imprisonment³.

Initially Section 304 came under much flak as it didn't prescribe death penalty which was provided for in case of murder. There was a proposal to amend this section and provide stricter punishment for Dowry Deaths. The 202nd report of Law Commission presented in 2007 did not approve of the proposed amendment as prosecution under Section 304B is no bar to prosecution for murder. Thus, if dowry death is proven and the case is also covered under Section 300 then death penalty may be awarded in that case subject to the judicial dictum of rarest of rare cases. Prescribing death penalty for Dowry deaths may have adverse impact as in such cases the public sentiments run high and may influence the judiciary to impose the harshest penalty provided under law without going into the larger issue regarding desirability of retaining death penalty as a punishment.

The Act also provides the penalty for the giving or taking of dowry which may not be less than fifteen thousand rupees and up to five years of imprisonment or what the Court may deem fit. If an individual makes a demand for dowry, he can be made liable to pay a fine of Rupees ten thousand and imprisonment for six months which may be extended to two years.

The Dowry Prohibition Act is both a remedial and penal statute. As such, the courts are expected to construe the provisions in a way that the purpose is

³ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths'", *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" *American Economic Review*, 92 (4): pp. 1029-1043.

fulfilled through and within the limits of the language employed in the statute. Moreover, the courts, despite the obligation of making the legislative enactments a success have also to keep in mind that the charge must be made out. It is so because the cardinal principle of criminal law is that unless guilt is established, the accused should not be punished only because a lesson is to be taught to the person involved in a crime or because the Court is satisfied that the criminal has committed a moral transgression. This has both positive as well as negative repercussions. While innocents are saved from being framed for charges of dowry harassment, guilty persons many a time get away with the crime because of paucity of direct evidence.

Despite the existence of Dowry Prohibition Act, 1961, and its two amendments in 1984 and 1986, none of them has been able to curb the social evil of dowry. The reasons why the enactment has singularly failed to achieve its objective are:

- (i) Vague definition of “dowry” given by the Act — The definition of “dowry” contained in the Act is vague and ambiguous. The Act contains an explanation under Section 2 which weakens the law and nullifies its objective. It provides that presents in the form of cash, ornaments, clothes and other articles are not to be deemed as dowry unless they are made as consideration for the marriage of the said parties.
- (ii) Section 3 of the Act makes both the giver and taker of dowry punishable for the offence. This is unique as the victim is made equally punishable for the offence.
- (iii) The punishment for demanding dowry is quite inadequate and hence ineffective. The element of deterrence is lacking.
- (iv) The most important reason for failure of the Act is that it virtually lacks enforcement. A lot is lacking in investigative and enforcement machinery for the proper enforcement of its provisions or for providing necessary help to the dowry victims to prosecute their cases. If some machinery, which can intervene whenever necessary, is available, it may help in averting a number of dowry tragedies and also in rendering necessary help to the victim.

Moreover, the Court which is competent to try offence under the Act by virtue of Section 7(a), cannot take cognizance of any offence except on a complaint made within one year from the date of the offence.

CHAPTER-2

MEANING AND STATISTICS

DEFINITION OF DOWRY

Dowry means the transfer of parental property at the marriage of a daughter. Dowry is a payment of cash or gifts from the bride's family to the groom's family upon marriage. It may include cash, jewellery, electrical appliances, furniture, crockery, utensils, car and other household items that help the newly married couple to start their life journey. Dowry is an ancient custom, and its existence may well anticipate records of it. Dowries continue to be expected in many parts of the world and are sometimes used as a condition of the contract that if not accepted then the wedlock comes to an end, particularly in parts of Asia and North Africa. The custom of dowry is deep-rooted in Indian society over the years; it has turned into a social peril, too entrenched and devilish to be tackled by reformers and lawmakers.

Locally, dowry or trousseau is called jahez in Urdu, Persian and Arabic; dahez in Hindi, dāj in Punjabi, daijo in Nepali, çeyiz in Turkish, joutuk in Bengali, jiazhuang in Mandarin, varadhachanai in Tamil, streedhanam in Malayalam, miraz in Serbo-Croatian and in various parts of Africa as serotwana, idana, saduquat or mugtaf.⁴

Dowry Deaths — Practiced by Traditions, Forbidden by Law

Dowry is a concept of giving and taking money or gifts from the bride's family at the time of marriage as a token of love and acceptance which binds both families into one. Unfortunately, over the years the term has shifted from being an affectionate gesture to a horrifying nightmare. Though the practice of dowry emerged as a safeguard for the woman, it has assumed mammoth shape and magnitude. Over time, in some cases, it became common practice for

⁴ International Journal of Creative Research Thoughts (IJCRT)

families to exploit the dowry system all over the world. What was meant to be a gift and promise of security from one partner to another soon became a financial demand that resulted in broken engagements or divorce, violence, and even death for unpaid dowries. It is for this reason that countries like India, Pakistan, Nepal, Greece, and Kenya passed laws making dowries illegal in any capacity. 7634 brides were burned to death in India in 2015 due to dowry disputes. This approximates to one bride being burned every hour. 30.6% of total cases of dowry deaths were reported in Uttar Pradesh (2335 cases) alone, followed by Bihar (1154 cases).

“Dowry death” can be seen as a result of a unique form of violence suffered by Indian women. It, in all ways, was always murder. In fact, during the early 1980s, most cities in India publicized murders of wives involved in dowry disputes. It seemed that a plague was spreading and an increasing number of educated middle-class women were falling victim to it. In the wake of the campaign that was generated, it came to be accepted, both nationally and internationally, that a unique form of violence was being perpetrated on Indian women by their husbands and in-laws. A logical extension of this recognition was the belief that a more stringent law against dowry would prevent marital murders. Accordingly, commission of “dowry death” was categorized as a separate offence.

Dowry in India

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.

Dowry deaths rose from about 19 per day in 2001 to 21 per day in 2016. While these statistics are worrying, there is a great deal of variation in the incidence of “dowry deaths” across regions and over time. It is indeed alarming that the rise in dowry deaths is unabated despite greater stringency of anti-dowry laws⁵. In 1961, the Dowry Prohibition Act made giving and taking of dowry, its abetment or the demand for it an offence punishable with imprisonment and fine or without the latter. This was an abysmal failure as dowries became a nationwide phenomenon, replacing bride price. More stringent laws followed but with little effect. Dowry refers to the gross assets brought in by the bride at the time of marriage, henceforth “gross dowry”. Beckerian dowry, on the other hand, refers to the bride’s contribution minus the groom’s payments, henceforth “net dowry”. Dowry as negative bride price tends to emphasize the marriage market in determining dowry, and focuses on net dowry. Dowry as bequest, on the other hand, focuses on gross dowry.

There has been a persistent rise in the incidence of dowry marriages in India. The amount of dowry demanded has grown to a level that threatens destitution of daughter-only households and the constant harassment of brides. It is the part of dowry over which the bridegroom or his kinsmen hold either direct or indirect control (groom price) that has been rising steadily. Such a change in marriage transactions, corroborated by the perceptions of parents themselves, suggests a rise in the value of bridegrooms as a result of their relative scarcity in the marriage market. Besides, while a large dowry raises the prestige of the bride among her affines, more importantly, a small one can make her life miserable and result in extreme torture and in many cases her murder (e.g.

⁵ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of ‘dowry deaths’”, *Social Science & Medicine* 119 1-9.

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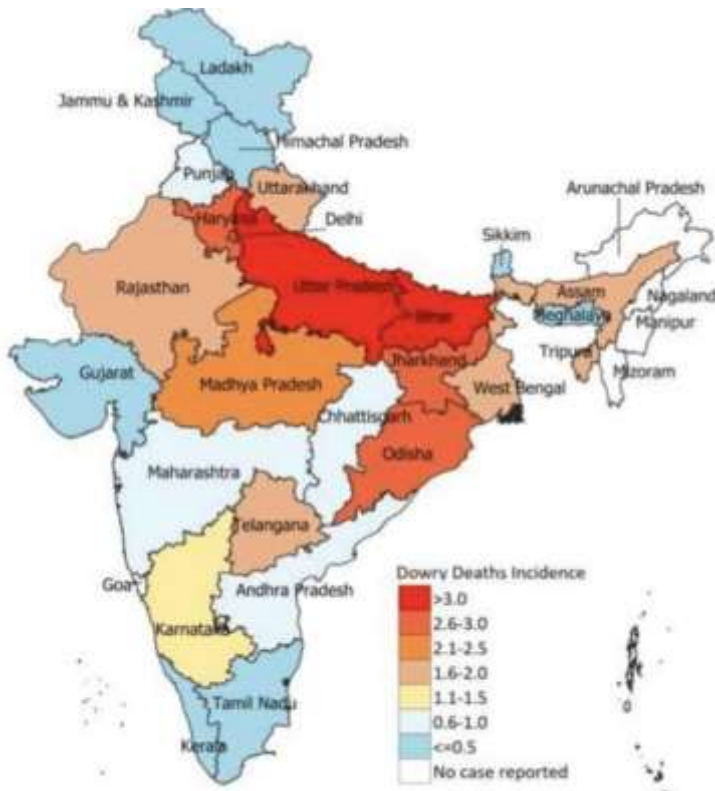
through burn injuries) or suicides. What is indeed worse is that dowry claims continue in her later life as contributions to lifecycle events (Bhatt and Halli, 1999). Dowry deaths may occur by various means, including poisoning, hanging or burning. Recognition by lawmakers that women in India have traditionally been vulnerable to dowry-related abuse by their in laws, sometimes resulting in their death, has led to the enactment of special legal provisions⁶to prevent such abuse and cruelty.

Stastics for dowry deaths and cases reported

NCRB recorded 4668 dowry deaths in the year 1995. The numbers rose to 6787 in the year 2005 and further to 7634 in 2015. Thus, going by the latest data, India loses 21 lives to dowry every day. Studies reveal that out of total number of cases registered, 93 per cent of the accused were charge sheet but only one third resulted in conviction. This is despite having special provisions against the crime of dowry deaths. This raises pertinent questions regarding the effective enforcement of existing laws and the desirability of looking at legal solutions for social problems without first tackling them at the ground level.

Record shows that 13,479 instances were reported in 2022 under dowry prohibition act, 1961. 6,450 dowry deaths were reported during the same time in 2022. Even though number of dowry deaths and cases reported under the act has slightly decreased by 4.5% while number of cases reported under the dowry prohibition act, 1961 has decreased by 0.6%, Uttar Pradesh has highest number of dowry deaths in 2022, with 2218 cases, followed by Bihar with 1057 and Madhya Pradesh with 518.

⁶ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths'", *Social Science & Medicine* 119 1-9.
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Rate of dowry deaths per 100,000 women aged 15–49 years in 2018 in India, by state

With 4,807 cases, Uttar Pradesh led the nation in cases filed under the Dowry Prohibition Act of 1961. Bihar with 3,580 had the second-highest number of cases registered, followed by Karnataka with 2,224. There were 442 dowry deaths in the southern states overall, with Karnataka leading that group with 167, Telangana with 137, Tamil Nadu with 29 and Kerala with 11. In the meantime, 2,776 cases from the southern states have been registered in accordance with the Dowry Prohibition Act of 1961. With 2,224 instances, Karnataka led the other states with the most, Andhra Pradesh with 298, Tamil Nadu with 220, Kerala with 28 and Telangana with 6.

The NCRB data shows that 359 dowry deaths were closed despite the fact that the reports were valid due to lack of proof. In the meantime, 4,148 instances were charged throughout the year, and five deaths were moved to another state or agency.

Cultural practices such as dowry system have assigned a secondary status to women leading to further ills such as female feticide and infanticide. Separated and divorced women are stigmatized, which is the reason behind women continuing in abusive marriages either under family pressure or of their own accord. We have laws providing equality in all spheres for women whether education, employment, property rights etc. We desperately need to root out the sex-based prejudices ingrained in our social consciousness. Religious leaders can help and they should do their bit. We need a wider social movement to educate both men as well as women to acknowledge basic human worth that is needed to assign this pernicious social evil⁷ to flames.

Despite the changes in Indian Criminal law reflects serious efforts by legislators to put an end to dowry-related crimes, and although they have been in effect for many years now, they have been largely criticized as being ineffective. While the laws give great powers, they are not effectively enforced by the police or by court. It takes a lot of time for a case to get it listed in the court and the husband and families acquitted even for murder because women and their families cannot prove beyond a reasonable doubt. There is a criticism of dowry related provisions in India are often misused, particularly section 498-A of IPC because of mechanical arrest by the police. In the case of Preeti Gupta & anr. V. State of Jharkhand & anr. Section 498-A was challenged and Supreme Court regrets about the possible misuse of anti-dowry laws and recommend a detail investigation.

In December 1983 the Criminal Law (second amendment) Act was passed, introducing Section 498A to the Indian Penal Code. According to this section, cruelty, specifying both physical and mental harassment, was made a non-bailable offence, punishable by up to two years in jail and a fine. A complaint

⁷ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths'", *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" *American Economic Review*, 92 (4): pp. 1029-1043.

under the law allows for immediate arrest and jailing of the accused, often the husband and his family members, but it was observed that this provision was frequently misused with many women filing false cases. To put a stop to it, the Supreme Court ruled on 27 July, 2017, that arrests can be made only after a preliminary investigation into the accusation.

Moreover, the apex court directed that in every district, one or more family welfare committees be constituted by the District Legal Services Authorities (DLSA) and every complaint received by police or the magistrate under this provision be referred to and looked into by the committee. Indian Evidence Act was also amended by including Section 113A that helped with proving abetment to suicide. Lastly, there was also an amendment of Section 174 of the Criminal Procedure Code, which made it compulsory to do a post-mortem of a woman who died within 7 years of marriage. Whether a death is deemed an accident, suicide, homicide or dowry death depends heavily on allegations in the accounts of the woman or her family, and further, if allegations of harassment are made, whether they are dowry-related. The final classification follows an inverted process.

Depending primarily upon whether and what allegations are made by the victim or her relatives, the police invoke particular sections of the law, which in turn determine the legal classification of death. Thus many cases get eliminated. The National Crime Records Bureau (NCRB) reveals that after registration of dowry deaths, police have charge sheeted around 93.7 per cent of the accused, of which only 34.7 per cent have been convicted. The remaining cases are still pending in various courts. As we do not know how many cases were rejected by the local police (or fraction of total cases registered), and the dismal conviction rate with delays of two years or more, the inescapable conclusion is one of despair.

Anti-dowry laws are not to be judged by their intent but by their implementation. On this criterion, the police and judicial systems⁸ are abysmal failures. Even if these failures are remedied, the main culprit is bestial masculinity. In a nuanced view based on recent evidence, Kulkarni et al (2014) argue that dominance and control over women are set in male attributes and behaviour (“masculinity”), regarded as a shared social ideal.

Using community networks, identifying change agents, and disseminating provocative messages through the media can at least bring intimate partner violence out of the private realm into the public eye. Interventions with boys and men demonstrate that addressing unequal gender norms early in life (through approaches similar to girls’ life skills programmes addressing early marriage) can influence boys’ perceptions of masculinity and gender norms⁹. Interventions that address masculinity seem to be more effective than those that ignore the powerful influence of gender norms and systems of inequality. Though limited, examples such as Yaari Dosti are encouraging: young men in the programme’s intervention groups in Mumbai and Gorakhpur were much less likely to perpetrate physical or sexual violence than others in these sites. The replicability of such results, however, needs further investigation.

Demand for dowry, in the present day, can be understood as demand for any property or valuable security directly or indirectly which has a nexus with the marriage. Thus, there are three occasions pertinent to understand the concept of dowry, one is before the marriage and the second is at the time of marriage and the third is anytime after marriage which may seem to be an unending period. But, the crucial words are “in connection with marriage of the said parties”. Therefore, the premise on which the concept of dowry thrives is that

⁸ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of ‘dowry deaths’”, *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India " *American Economic Review*, 92 (4): pp. 1029-1043.

⁹ (Dang et al. 2018)

the valuable property, movable or immovable, must be given in relation to the conjugal union of two people.

CHAPTER-3

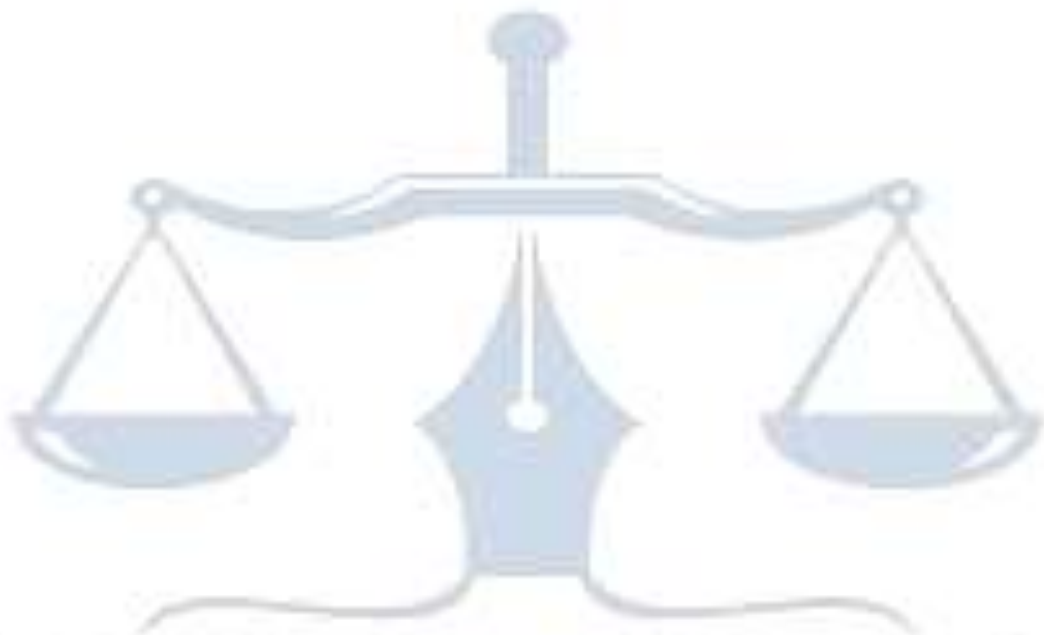
DOWRY HISTORY & ORIGIN

There is no specific evidence of dowry in ancient history of India. Historical eyewitnesses suggest that dowry was insignificant in ancient India, in fact daughters had right of inheritance. Later in 20th century, evidence suggest that there were instances of **bride pricing** which resulted in poor man left being bachelor. Code of Manu sanctioned dowry and bride wealth but it was mainly associated with elite caste like Brahmins (Priestly).

However marriage involved reciprocation of gifts, as a part of conjugal estate. Ancient Literature like Vedas proves that there were no such practices in Vedic period. Evidently, a women in ancient India had property rights in her father's property. Even Hindu law sources like Smritis speaks for itself, that dowry were not present or infrequent enough to be noticed.

Dowry Practice in India finds its roots in medieval period where a gift in cash or in other kinds like farmland, jewellery, cattle, etc. were given to a bride to maintain her independence after marriage. During Colonial period, Britishers made the practice of dowry mandatory, it officially became legal to get married.

Although seeking dowry has been prohibited by Dowry prohibition Act of 1961, India still sees evidence of bride-price bargaining **Dowry**.



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India by far accounts to highest number of deaths relating to dowry or cruelty by husband or in-laws. According to National Crime record Bureau (NCRB), a total of 8,233 death caused by lust of dowry were reported in 2012, which simply means every 90 minutes a bride was burned.

Indian police reported in 1996 that, every year they receive over 2,500 reports of bride-burning. The death toll is been increasing over the years. In 2019- 20, every day a sum of 20 bride lose their life, what for? The answer to it is **Dowry**.

The brutality of such offense is not limited just to rural areas, even educated families like mine and yours, sitting in metropolitan cities Mumbai and Delhi also are a part of it.

Dowry system during ancient period

In ancient times, marriage rites were performed in the Vedic period which was associated with the famous 'Kanyadan'. This is laid down in Dharmashastra that this praiseworthy act of Kanyadan is not complete until the bridegroom was given a 'Dakshina'. So, the actual rite was as follows: when a bride is given over to the bridegroom, he was to be given something in cash or in kind, this would fulfill the meaning of 'Dakshina'. Thus, in those times Kanyadan became common with giving 'Dakshina'. While, this must be noted that, the 'Dakshina' was offered out of love and affection and it did not constitute any kind of compulsion or it didn't mean it was a consideration for the marriage. This was completely a voluntary practice without any demanding overtones. Now, as time progressed, selfishness, illogical behavior, and inhumanity dawned on society. The actual meaning of dowry has disappeared and coercive elements like force and demand have crept into society. This evilness in society has taken deep roots not only in the marriage ceremony but also in post-marriage relationships. What was originally intended to be a non-

mandatory offering given by the bride's party to the bridegroom has now gone out of proportions and has assumed the overtones of demand. The social reformers who were from the nineteenth and early twentieth centuries have struggled very hard to abolish this system. This evilness in society was spreading filth and danger for the brides. As, if the bride's family could not pay the bridegroom according to what is being demanded they would kill or torture the bride.

Dowry system during medieval period

The practice of dowry is not confined to India. The practice dates back to the late middle Ages. In medieval Western Europe and later, the dowry was commonly practiced among most, if not all, social and economic groups. In accordance with Roman law, the dowry was practiced in many parts of the Byzantine Empire until its fall to the Ottomans in the fifteenth century. Dowry payments were prevalent in seventeenth- and eighteenth-century Mexico and Brazil, where Spanish and Portuguese family law governed colonial marriages until those countries gained their independence. In Victorian England, dowries were viewed by the upper class as an early payment of the daughter's inheritance. Only daughters who had not received their dowries were entitled to a part of the estate when their parents died. It has been found that dowry is being practiced among many Asian families in Britain. In one case, a woman named Dwindertjit Kaur faced dowry demands from her husband and in-laws at the time of her marriage and later, in their hope to use the dowry money for their business and to move into a bigger house. Inability to pay adequate dowry resulted in her being kept in slave-like conditions. Due to the absence of anti-dowry laws, the police were unable to arrest the accused when she complained. Awareness around the widespread nature of the problem of dowry in Britain has now initiated police and government departments to work towards tackling this issue.

In the Islamic laws, the dower is a sum of money or property that is paid to the bride at the time of marriage. The law confers the right of Mahr or Dowerto the wife. According to the Holy Quran, the following verse entitles the rightof Mahr on the bride, —You shall obtain permission from their guardians before you marry them and pay them their due mahr (dowries) equitably,
—you give them their bridal due (as) on obligation. And (there is) no sin on you concerning what you mutually agree of it (dowry) from beyond the obligation.

Dowry System in India during British Colonialism

In the 19th century, British colonialism further exacerbated the dowry system. The British introduced laws that recognized the rights of women to inherit property and made it illegal for husbands to take their wives' property withouttheir consent. However, these laws also gave rise to the notion that women's property rights should be compensated for with dowry payments. The dowry system continued to grow in prominence in the 20th century, and in some cases, it became a major source of tension between families. In the 1960s and70s, the Indian government attempted to address the problem by passing laws that made it illegal to demand dowry, but these laws have been difficult to enforce.

Dowry System post independence

After almost more than a decade of gaining Independence, a specific Act was introduced which tackled with the problem of dowry called the Dowry Prohibition Act, 1961. This Act prohibits the practice of giving or taking of dowry by either parties to a marriage. The Act also punishes demanding and advertising dowry¹⁰.

¹⁰ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of'dowry deaths' ", Social Science & Medicine 119 1-9.

It has been observed in *Shanti v. State of Haryana* that the term “dowry” has not been defined anywhere except in Section 2 of the Dowry Prohibition Act, 1961. The definition of “dowry” provided by this section is: “any property or valuable security to be given directly or indirectly by one party to a marriage to the other party to marriage at or before or any time after the marriage in connection with the marriage of the said parties”. Payments which are customary payments, e.g., given at the time of birth of a child or other ceremonies as are prevalent in different societies, are not covered by dowry. Hindu custom historically prohibited women from inheriting land, particularly when there were male heirs, but this appears to have no legal force. In India, social norms make it extremely rare that women would receive real (immovable) property. The dowry (of movable property) is subsequently viewed as a sort of pre-mortem inheritance after which the daughters generally have no rights to the paternal estate. Therefore, it is not that laws in India prohibit a woman’s dowry from including land, but it is virtually unheard of because of social custom.

Origin of Dowry System in India

- Ancient Roots: The practice of dowry can be traced back to ancient Hindu scriptures, known as the Vedas, where it was initially mentioned as gifts and payments to be given to the bride’s family during marriage.
- Financial Security: In its early days, the dowry system had noble intentions. It aimed to provide financial security to women who couldn’t inherit property and relied on their husbands for support.
- Changing Norms: As societal norms evolved, the dowry system began to transform. Women started to be viewed as financial burdens on their

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" *American Economic Review*, 92 (4): pp. 1029-1043.

families, and dowries were seen as a means to offset this perceived cost.

Patriarchal Influence: The dowry system's transformation took a sinister turn with the rise of patriarchy. Women became increasingly vulnerable to financial exploitation, and dowries became a way to secure a groom for daughters.

Extreme Demands: In some instances, the demand for dowry became extreme, pressuring families to take out loans or sell property to meet the groom's expectations.



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ENACTMENT OF LEGISLATION RELATED TO DOWRY

The Dowry prohibition act, 1961

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 practice 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 continued 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 punishment¹¹ 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*, 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

¹¹ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of ‘dowry deaths’”, *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" *American Economic Review*, 92 (4): pp. 1029-1043.

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* it was said that “The dowry system is a big slur and curse on our society, democracy¹² 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 amendments the act tries to curb this social menace. Section 7 provides persons and agencies who may initiate the proceedings (a) police (b) aggrieved person (c) parents and relatives

(d) any recognized welfare institution or organization 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.

¹² Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of dowry deaths’ ”, *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India " *American Economic Review*, 92 (4): pp. 1029-1043.

A common rehearsal 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 held that taking possession of bride articles will amount to criminal breach of trust punishable under section 405 of penal code.

A joint parliamentary committee examining the working of the act in 1982 and gave two reasons for abject failure of act is defective definition of dowry and lack of enforcement instrumentality. Though, definition of dowry has been amended and enforcement provision has been actively worked after the committee's report of 1982.

Indian Penal Code, 1860

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. In brief, we can say that there are four situations where married woman is subjected to cruelty and harassment leading to the commission of an offence.

In the year 1983, there was a large number of cases reported of deaths caused because of the demand for dowry. Women who could not pay the demand after marriage were either brutally treated or they were murdered. In order to control the inflammatory situation of dowry death, the Parliament inserted Section 304B in the Indian Penal Code, 1860 by the Dowry Prohibition (Amendment) Act, 1986. Section 304B of IPC states that if the death of a woman is caused by such bodily injury or otherwise than under normal circumstances or if she is subjected to cruelty or harassment for

demand of dowry and if such death or act of cruelty is caused within seven years of marriage, then the husband or his relative will be deemed to have caused her death. This presumption shall be raised under Section 113B of the Indian Evidence Act, 1872.

The parliamentarians also inserted Section 498A in the Indian Penal Code by the Criminal Law Amendment Act, 1983, which penalizes cruelty by husband or his relative on a woman for any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand, which forces her to commit suicide or cause grave injury or danger to her life.

Firstly, 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*[6] 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.

The term dowry has not been defined in the Indian Penal Code, whereas section 304-B explanation affirmed that dowry shall have the same meaning as defined in section 2(1) of the Dowry Prohibition Act¹³, 1961.

¹³ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of ‘dowry deaths’”, *Social Science & Medicine* 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India " *American Economic Review*, 92 (4): pp. 1029-1043.

Essentials of Dowry deaths under section 304-B

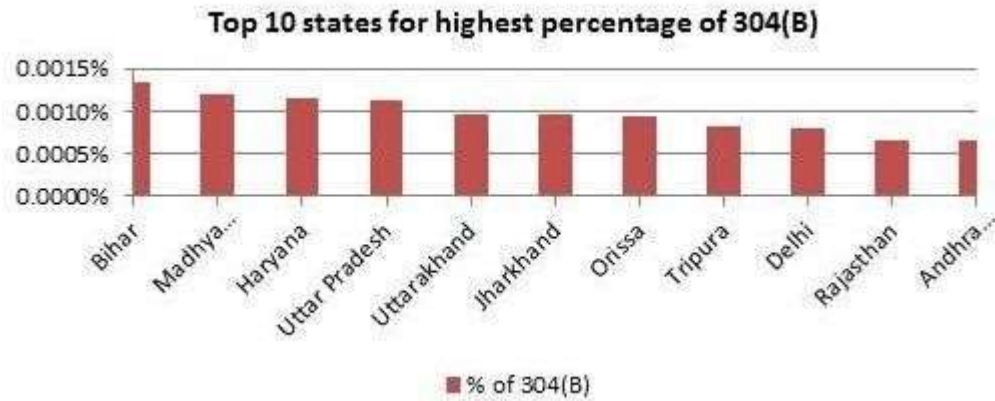
1. Death was caused by burns or bodily injury or otherwise than under normal circumstances.
2. Death should have occurred within seven years of her marriage.
3. Woman must have subjected to cruelty or harassment by husband or his relatives.
4. Cruelty or harassment should be in connection with demand of dowry and soon before death.

In case of *Satbir Singh v. State of Haryana* 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 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* 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 death¹⁴ 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.



Secondly, 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 willful 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.

¹⁴ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) “The social construction of ‘dowry deaths’”, Social Science & Medicine 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India" American Economic Review, 92 (4): pp. 1029-1043.

In case of *Vijeta Gajra v. State of NCT Delhi*, it was held that foster sister is not “Relative” within the meaning of section 498A, IPC to fix liability for causing cruelty against the complainant.

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.

In the case of *Arnesh Kumar v. State of Bihar* the petitioner approached the Supreme Court by way of special leave petition for grant of anticipatory bail in which he was unsuccessful earlier. Section 498A of IPC was enacted with avowed object to combat the menace of harassment to a woman by husband and his near relatives. Supreme Court said that it is a fact that section 498A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provision that is used as a weapon rather than shields by disgruntled wives, the simple way to harass is to get the husband and his relatives arrested under this provision. In a quiet number of cases old and bed-ridden fathers and mothers of husband, their sister living abroad who never meet with each other will also get arrested so the Apex Court gave following directions before arresting under section 498A of IPC:-

1. State government to instruct Police not to arrest without a warrant unless feels necessity and fulfillments of all parameters laid under section 41 of Cr.PC

2. All Police officer shall provide with a check list containing specified sub-clauses under section 41(1)(b)(ii) and must be filed and furnish the reason and material which necessitated the arrest.

3. The magistrate while authorizing the detention of the accused shall peruse the report furnished by the police and after recording its satisfaction may authorize detention.

4. The decision not to arrest was forwarded to magistrate within two weeks from the date of institution of the case with a copy that arrests not made under offence referred.

5. When, such person, at any time, fails to comply with terms of notice or unwilling to identify himself then the police may arrest for offence mentioned in the notice.

Thirdly, Intentional Death of women ¹⁵ –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

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.

¹⁵ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths' ", Social Science & Medicine 119 1-9.

Bloch, F., and V. Rao. (2002). "Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India " American Economic Review, 92 (4): pp. 1029-1043.

Section 174(3) of the Code provides certain circumstances under which the police officer can send the body to the nearest Civil Surgeon or any other qualified medical person appointed by the state government for the post-mortem. This is only done if there is no risk of putrefaction or decaying of the body while covering the distance to such a medical person, or otherwise the examination would be useless. However, this medical examination cannot be done in every case but in certain circumstances as provided below:

- If the case pertains to the suicide of a woman within 7 years of her marriage.
- Death of a woman within 7 years of marriage, creating a reasonable suspicion that an offence was committed by another person to the deceased woman.
- The case is related to the death of a woman within 7 years of marriage, but the same has been requested by the woman's relative to the police by any of her relatives.
- The circumstances create a doubt or reasonable suspicion regarding the cause of death.
- The police officer conducting the investigation for any other reason considers it expedient to send the body for examination.

Indian Evidence Act, 1872

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.

In view of the nature of the dowry offences that are generally committed in the privacy of residential homes and in secrecy, independent and direct evidence necessary for conviction is not easy to get. Accordingly, amendment act 43 of 1986 has inserted section 113B in the evidence act, 1872 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.

Section 113B of Indian Evidence act states that if it is shown that soon before the death of a woman such woman subjected to cruelty or harassment for, or in connection with any demand for dowry death under section 304B IPC.

In other words, when there's a case to decide if someone is responsible for a woman's death related to dowry, and if it's proven that the woman was treated badly or harassed by that person for dowry shortly before her death, then the court will assume that the person is guilty of causing the dowry death.

In the case of State of W.B v. Orilal Jaiswal it states that in spite of presumption the standards of proof and defence will remain the same.

Impediments in implementation of the 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

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 women¹⁶ 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.

Police and Law Enforcement

In society, the work of the police is to act as a shield for general mass but inreality, they create fear in mind of the public at large by an act of police. The police are also accused of attitudes, practices and perception which reduces the likelihood of the successful implementation of laws in the present context. 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. Commissioner. of Police Delhi 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.

¹⁶ Belur, J., N. Tilley, N. Daruwalla, M. Kumar, V. Tiwari, D. Osrin (2014) "The social construction of 'dowry deaths' ", Social Science & Medicine 119 1-9.

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Police have their own explanation that there is an unsatisfactory state of affairs. Firstly, inadequate evidence due to independent witnesses. The dying declaration which is a substantial piece of evidence always contradicts with a statement of connected persons. Forensic evidence is also generally helpful it would be better if experts are brought to the victim at sight of occurrence. Inordinate delay in medical reports.

The Judiciary

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.

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CHAPTER-5

EFFECTS & MEASURES TAKEN FOR PREVENTION

Effects of dowry system

INITIATES GENDER IMBALANCE: When we speak of gender in equality in the nation, dowry system can be considered the catalyst for this issue. According to the social infrastructure of the nation, it is a common perception that a woman is able ability and is to be married off someday, with a dowry debt at disposal. Well, for the masses, the birth of a girl is an inception to long-term plans to pay off the dowry along with the child. Seemingly, this saving venture hampers the future of the girl and restricts her of equal opportunities for the mail child. The very future planning for a better marriage proposal ruins the prospects of a merrier life for the child. Well, dowry system can be accounted for atrocities on the masses. The plight of the girl child is initiated with her birth due to this particular infrastructure and continues to hamper her peace of mind and tranquility. According to the latest 2011 census stats, the number of females per 1000 male's stands at an eager count of 943. Hence, this impacts the building blocks of the society and hampers the growth of the nation.

Social Effects

Society owes its origins to masses and when we speak of the constituent evil of the segment in our subcontinent, dowry system is one of the most leverage done. Being widely practiced across the nation, every other family faces the brunt of it. If a demand is not met by the bride's family, she suffers at the hands of her groom's family leading to social imbalance and emotional breakdown. Seventy % of our population resides in the villages and this practice still holds its stance midst the economy and the society. The society seemingly judges the worth of a person on the basis of dowry accepted or received and this framework can be attributed to the detrimental status of woman in the society.

- **Decrements status of women:** When a girl is born, for particular individuals, the societal framework is dismayed. She is no longer happiness and her birth is no more an occasion. She is deprived of basic rights to education, freedom and speech. However, owing to the basic structure, the dowry ideology, her ordeal doesn't

end with marriage. For a female individual, with little or no self economic support, she exists at the assistance of her groom. Hence, when his demands aren't met, it leads to the breakdown of the empathetic relation between the two entities leading to disparity. After a period, this ordeal doesn't come to conclusion, rather, it leads to domestic violence and poses a serious threat to the future of the family. The girl loses on her freedom once she is married and it yet again, comes at the cost of a dowry debt.

- **Promotes domestic violence and crime:** Dowry system initiates the act of violence in the society. When demands are not met by the bride's family, the atrocities elevate proportionately. At times, extreme steps are undertaken to shell out financial grants or material benefits from the bride's family. Well, yet again these steps can be attributed to the much debated domestic violence. The crimes against women take a surge owing to this structure of extortion.

Economic effects

Economy is not just the financial stockpile of the nation. Rather, it is a deep-vested, mass effort to bring the platter for every individual. Dowry system, though it seems a minor social evil can affect the nation and its individuals alike. Owing to this setup, women aren't granted equal rights and opportunities, leading to loss of economic workforce from the segment. Women are active participants in the development of the nation, and if their rights are hampered at the domestic level, it affects our economic build-up significantly. We lose the consistent workforce at the hands of a social evil and hamper the growth of our own home and the society.

- **Deteriorating financial status of bride's family:** Dowry doesn't affect the bride alone. Rather, its ordeal extends to bride's parents and they have to bear the financial demands of their counterparts to ensure well-being of their child. With regular demands from the groom's family, reports of suicides are yet again common in the country. Needless to say, this social evil should necessarily be eradicated for the society and the nation.

- **Loss of self-esteem among the women:** The demands being met for the welfare of the bride comes at a cost. Out of concern for her parents, she loses on self-esteem by believing she is a burden on her family. It costs her peace of mind, and

her right to a better life. Dowry system has imposed an invisible chain upon the freedom and self-respect of women and continues to haunt them since time eternal. Observing the problem closely, the greed of an individual ruins the peace of a beautiful brain.¹⁷

Impact of Dowry System

- **Gender Discrimination:** Due to the dowry system, many a times it has been seen that women are seen as a liability and are often subjected to subjugation and are given second hand treatment may it be in education or other amenities.
- **Affecting Career of Women:** The larger context for the practice of dowry is the poor presence of women in the workforce, and their consequent lack of financial independence.
 - The Poorer sections of society who send their daughters out to work and earn some money, to help them save up for her dowry.
 - The regular middle and upper class backgrounds do send their daughters to school, but don't emphasize career options.
- **Many Women End Up Being Unmarried:** An uncountable number of girls in the country, despite being educated and professionally competent,

¹⁷ International Journal of Creative Research Thoughts (IJCRT); www.ijert.org © 2022 IJCRT | Volume 10, Issue 1 January 2022

remain endlessly unmarried because their parents cannot fulfil the demand for pre-marriage dowry.

- **Objectification of Women:** Contemporary dowry is more like an investment by the bride's family for plugging into powerful connections and money making opportunities.

- This renders women as merely articles of commerce.

- **Crime against Women:** In some cases, the dowry system leads to crime against women, ranging from emotional abuse and injury to even deaths.

Way Forward

- **Recognizing Limitations of Political Solution to Social Problem:** No law can be enforced without the wholehearted cooperation of the people.

- Enacting a law no doubt sets a pattern of behaviour, activates social conscience and renders some assistance towards the efforts of social reformers in getting it abolished.

- However, social evil like dowry cannot eradicate itself unless the people carry the philosophy behind the law much further.

- **Educating Girls:** Education and independence is one powerful and valuable gift that parents can give to their daughter.

- This will in turn help her to be financially sound and be a contributing member of the family, giving her respect and right status in the family.

- So providing the daughters with a solid education, and encouraging her to pursue a career of her choice is the best dowry any parent can ever give their daughter.

- **Creating Social Stigma Around Dowry:** Accepting dowry should be made a social stigma, and all generations should be addressed. For this,

social consciousness about the ill effects of the dowry system needs to be aroused. In this context:

- The Union and State governments must take effective steps for stepping up 'anti-dowry literacy' among people through Lok Adalats, radio broadcasts, television and newspapers on a 'continuing' basis.
- Youths are the only ray of hope to effectively combat the menace of the dowry system. They must be given moral value based education to broaden their minds and widen their outlook.
- **Multi Stakeholder Approach:** Dowry is not a standalone problem, thus society should take every step to bring gender parity. In this context,
 - States should look at gender-disaggregated data across the life cycle – birth, early childhood, education, nutrition, livelihood, access to healthcare, etc – to address gender inequality.
 - There is a need to expand childcare and safe public transport, reduce discrimination in hiring, and create affirming workplace environments.
 - At home, men should share domestic work and care responsibilities.

Measures taken to prevent dowry

National Crime Records Bureau (NCRB) compiles and publishes information on crime in its publication "Crime in India". The published reports are available till the year 2021. As per the published NCRB data, a total of 405326, 371503 and 428278 cases of crimes against women were registered in 2019, 2020 and 2021 respectively.

'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India. The responsibilities to maintain law and order, protection of life and property of the citizens including investigation and prosecution of crime against women rest with the respective State Governments. The State Governments are competent to deal with such offences under the extant provisions of laws. However, Government of

India has taken a number of initiatives for safety of women across the country, which are given below:

- i. The Criminal Law (Amendment), Act 2013 was enacted for effective deterrence against sexual offences. Further, the Criminal Law (Amendment) Act, 2018 was enacted to prescribe even more stringent penal provisions including death penalty for rape of girls below the age of 12 years. The Act also inter-alia mandates completion of investigation and filing of chargesheet in rape cases in 2 months and trials to be completed in 2 months.
- ii. Emergency Response Support System provides a pan-India, single internationally recognized number (112) based system for all emergencies, with computer aided dispatch of field resources to the location of distress.
- iii. Using technology to aid smart policing and safety management, Safe City Projects have been sanctioned in first Phase in 8 cities (Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Lucknow and Mumbai).
- iv. The Ministry of Home Affairs (MHA) has launched a cyber-crime reporting portal on 20th September, 2018 for citizens to report obscene content.
- v. MHA has launched the “National Database on Sexual Offenders”(NDSO) on 20th September 2018 to facilitate investigation and tracking of sexual offenders across the country by law enforcement agencies.
- vi. MHA has launched an online analytic tool “Investigation Tracking System for Sexual Offences” for Police on 19th February 2019 to facilitate them to monitor and track time-bound investigation in sexual assault cases in accordance with Criminal Law (Amendment) Act 2018.
- vii. In order to improve investigation, MHA has taken steps to strengthen DNA analysis units in Central and State Forensic Science Laboratories. This includes setting up of State-of-the-Art DNA Analysis Unit in Central Forensic Science Laboratory, Chandigarh. MHA has also sanctioned setting-up and upgrading of DNA Analysis units in State Forensic Science Laboratories after gap analysis and demand assessment.
- viii. MHA has notified guidelines for collection of forensic evidence in sexual assault cases and the standard composition in a sexual assault evidence collection

kit. To facilitate adequate capacity in manpower, training and skill building programs have been undertaken for Investigation Officers, Prosecution Officers and Medical Officers. Bureau of Police Research & Development has distributed 14,950 Sexual Assault Evidence Collection Kits to States/ UTs as orientation kit as part of training.

ix. MHA has also approved two projects for setting up and strengthening of Women Help Desks in Police Stations and Anti-Human Trafficking Units in all districts of the country

The State/UT-wise details of dowry deaths reported during years 2017 to 2021 are at Annexure¹⁸ (mentioned below). As per available information, in order to enable integrated services, including legal aid/ counseling, psychosocial counseling, medical aid, temporary shelter and police facilitation where required, the Government has operationalized One Stop Centers at district level (more than 700 centers) in the country for women affected by violence and in distress. Further, the Ministry of Women & Child Development undertakes awareness exercise for safety and security of women. The Government, through institutions like the National Commission for Women and State Women Commissions, have been spreading awareness through seminars, workshops etc. to sensitize people about the evils of dowry system and various provisions of related laws etc.

Apart from this, the Ministry of Home Affairs has issued Advisories to all States/ Union Territories, advising them to ensure thorough investigation of crimes against women, filing of charge sheets against the accused persons in a timely manner without compromising on the quality of investigation in heinous crimes and for increasing gender-sensitivity in Police. These advisories are available at www.mha.gov.in.¹⁹

¹⁸ Annexure 1

¹⁹ <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2019-pdfs/ls-25062019/502.pdf>

SL.	State/UT	2017	2018	2019	2020	2021
1	Andhra Pradesh	152	140	112	111	108
2	Arunachal Pradesh	0	0	1	0	0
3	Assam	171	174	156	148	198
4	Bihar	1081	1107	1120	1046	1000
5	Chhattisgarh	74	79	76	71	65
6	Goa	1	0	1	0	0
7	Gujarat	9	9	9	6	11
8	Haryana	245	216	248	251	275
9	Himachal Pradesh	3	4	4	1	2
10	Jharkhand	248	252	299	275	281
11	Karnataka	206	200	194	176	158
12	Kerala	12	17	8	6	9
13	Madhya Pradesh	632	547	550	608	522
14	Maharashtra	233	200	196	197	172
15	Manipur	0	0	0	1	2
16	Meghalaya	1	1	3	1	0
17	Mizoram	0	0	0	0	0
18	Nagaland	0	0	0	1	0
19	Odisha	326	372	342	320	293
20	Punjab	68	67	69	63	69
21	Rajasthan	457	404	452	479	452
22	Sikkim	0	1	0	0	0
23	Tamil Nadu	48	55	28	40	27
24	Telangana	251	186	163	158	175
25	Tripura	33	18	38	23	22
26	Uttar Pradesh	2524	2444	2410	2274	2222
27	Uttarakhand	60	63	57	65	72

28	West Bengal	499	444	470	522	454
	TOTAL STATE(S)	7334	7000	7006	6843	6589
29	A&N Islands	1	0	0	0	1
30	Chandigarh	1	6	6	1	4
31	D&N Haveli and Daman & Diu +	0	0	5	1	0
32	Delhi	120	153	116	110	141
33	Jammu & Kashmir*	8	8	8	9	16
34	Ladakh				0	0
35	Lakshadweep	0	0	0	0	0
36	Puducherry	2	0	0	2	2
	TOTAL UT(S)	132	167	135	123	164
	TOTAL (ALL INDIA)	7566	7167	7141	6966	6753

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CHAPTER-6

CONCLUSION

Dowry deaths rose from about 19 per day in 2001 to 21 per day in 2024. While these statistics are worrying, there is a great deal of variation in the incidence of “dowry deaths” across regions and over time. It is indeed alarming that the rise in dowry deaths is unabated despite greater stringency of anti-dowry laws¹². In 1961, the Dowry Prohibition Act made giving and taking of dowry, its abetment or the demand for it an offence punishable with imprisonment and fine or without the latter. This was an abysmal failure as dowries became a nationwide phenomenon, replacing bride price. More stringent laws followed but with little effect.

Dowry death is a social curse which is a burning issue in Indian society. Organized approach by women welfare organizations, police, public servants and judiciary by applying deterrent punishment for dowry deaths culprit. It can be observed that government of India along with Indian judiciary makes co-operative and supportive law to safeguard the life interest and dignity of women and provide further justice to the victim of harassment or cruelty by husband and his relatives. Change in education system led to an improvement in the education status of female and door to door employment service will lesser down dowry deaths.

Still, certain corrective measures need to adopt to eradicate or at least curb this social menace of dowry death, but most importantly it needs a public will and commitment to shun away materialistic greed of dowry demands.

In cases to curb the rate of dowry deaths, harassment or cruelty more female police personnel should be inducted so available in a situation relating to unnatural deaths of women. In the interest of proper investigation and justice, the investigation cannot be done below the rank of assistant commissioner.

Punishment for abetment of suicide must be raised to up to seven years. A rational and practical approach to the above-mentioned matter will certainly be helpful.

Violence is not necessarily a part of masculinity, but the two are often closely linked, mediated by class, caste and religion. A few observations on what needs to be done suffice: while the expansion of education among girls and more rewarding employment opportunities for girls and women are likely to enhance women's bargaining power, in a context where they are highly disadvantaged there could be perverse outcomes. Evidence suggests, for example, that a woman gaining employment while the male spouse is unemployed may cause tension and domestic violence. Together with rewarding employment opportunities, the transfer of property to women (e.g. landed property) significantly reduces the risk of marital violence. Immovable property provides a woman economic and physical security, enhances her self-esteem, and visibly signals the strength of her fall-back position and tangible exit option. It can both deter violence and provide an escape if violence occurs.²⁰

²⁰ (Agarwal and Panda, 2007).

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International Journal of Creative Research Thoughts (IJCRT) www.ijcrt.org a438 as a whole.

(Agarwal and Panda, 2007).