

## ANTI DOWRY LAWS IN INDIA: AN ANALYTICAL STUDY

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### KEYWORDS

Dowry, Dowry Death, Domestic Violence, Crimes

### ABSTRACT

Indian constitution provides the right to equality to all the people of India including women. In spite of this, during her whole life violence in different forms is inflicted on her and she suffers gender discrimination. The violence and heinous crimes against women occur within the four walls of the homes and at other places. There are so many crimes which are related to women and dowry is one of them. The Dowry system is an evil which is deeply and widely rooted in the minds and desires of many people. It is prevalent in almost every section of society and all parts of the country.

### 1. Introduction

The term 'Dowry' was derived from the Hindi word Dahej which means a gift, a bounty, or a few expensive items. At the time of marriage, the bride's family gives the groom's family dowry in the form of cash, valuable items, and jewelry. Dowry is not a new concept in Indian society.<sup>[1]</sup> In ancient times, the tradition of dowry existed, and at the time of marriage, not only the bride's daughter, but also many articles such as clothes, animals, jewelry items, land, or any other expensive things were given by the bride's parents.<sup>[2]</sup> However, this was a willing practice, and the father of the bride used to willingly give all of the articles to the groom's side. With the passage of time, the practice of dowry became so widespread that receiving dowry became a source of social pride. If the bridegroom was properly placed in a government job or a well-established business, he made large demands on the bride's family, and the bride's side had to arrange things for dowry that were beyond their financial capabilities and conditions. To see her daughter happy, the father of the bride fulfils all demands of the daughter's-in-laws. However, in many cases, the demand for dowry continues to rise, and if the parents of the bride do not meet the dowry demands, the husband and in laws torture and harass the bride. But this was a willing practice, and the father of the bride used to willingly give all the articles to the groom's side, but as time passed, the practice of dowry became rampant, and taking dowry became a matter of social pride. If the bridegroom was properly placed in a government job or a well-established business, he made large demands on the bride's family, and the bride's side had to arrange things for dowry that were beyond their financial capabilities and conditions. The father of the bride satisfies all demands of the daughter's-in-laws in order to see her daughter happy, but in many cases, the demand for dowry continues to rise, and if the parents of the bride have not satisfied the dowry demands, the husband and in-laws torture and harass the bride.

### Dowry Vis-A-Vis Domestic Violence

Domestic violence against women is present in many forms in the society. Many women face violence in their married life due to dowry demands. Dowry demands and the death of the women due to dowry demand is present as a huge problem for women in society.<sup>[3]</sup> Dowry is an important factor to give rise to domestic violence against women. Verbal and physical abuse along with torture and burning of the bride is a heinous form of the crime. Many women are tortured for not bringing dowry and they are forced to commit suicide.<sup>[4]</sup> Dowry demands are prevalent in every village, district, town and city. It would not be an exaggeration to say that dowry has become an integral part of marriage. To get a preferred groom, the family has to fulfil the required dowry demand and if in case the dowry is not given then the newly wed bride has to bear torture and violence. The dowry is not only given during the marriage but the demand for it starts in the so many rituals before and during marriage.<sup>[5]</sup> Many relationships breakdown even before the marriage if in case the dowry demands are not fulfilled by bride's parents and many breakdowns at the time of the marriage. The dreams of many girls are scattered because of unfulfilled dowry demands and as a result most of these girls commit suicide to avoid shame and insults of the society while the bride's family also have to face insults and shame.<sup>[6]</sup> Many brides are maltreated and burnt to death by husband and in-laws for bring poor dowry.<sup>[7]</sup>

### Dowry Related Crimes

Dowry-related crimes are a major contributor to violence against women, manifesting as threats, torture, and violence against women.<sup>[8]</sup> Dowry-related crimes are prevalent in India's northern and eastern states.<sup>[9]</sup> Many crimes against women are committed as a result of dowry,<sup>[10]</sup> including: Female Foeticide – Female foeticide is a heinous crime in which a girl child is murdered before she is born.<sup>[11]</sup> Dowry is one of the many reasons for this heinous crime. Many parents believe that in order to become parents of a girl,

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they must collect dowry for the girl's marriage, and as a result, they kill the girl foetus in the womb of a woman.

**Cruelty, Harassment and Torture** – Pestering and harassing a woman for not bringing dowry or insufficient dowry, rude behaviour and ill treatment by the husband and his parents, and forcing the bride to commit suicide.

**Dowry Death** – The non-fulfillment of dowry demands, cruelty, torturing, and abetting suicide leading to the death of the bride.

#### **Laws To Prevent And Stop Dowry**

During the last few decades, the dowry system is prevalent and practiced by almost every section of society. The demand for dowry is the cruelest form of domestic violence, because of this not only the women are harassed, tortured, beaten, ill-treated, forced to commit suicide but also burnt alive by husband and in-laws for not fulfilling the desired dowry demand. Not only are the males involved in this type of crimes against women but also the female relatives are involved in this greed and lust for the dowry. Dowry death, bride burning, abetment to suicide and cruelty are the result of dowry demand which has become a horrific and dreadful social evil against women in society. In view of the increasing cases of dowry related crimes, taking serious note of this heinous crime the law makers enacted many provisions in laws and acts to make the law emphatic and effective.

Dowry demand and dowry related crimes and violence are prohibited under many acts and laws: The Dowry Prohibition Act 1961, Indian Penal Code 1860, Indian Evidence Act 1872 And Domestic Violence Act, 2005. Plenty of provisions have been made by the government to prevent the dowry related crimes and also for the upliftment of the women and not following them is a criminal offence. yet there is no decrease in the crimes related to dowry but instead there is a constant increase in it. The police, laws and the system are not able to curb such a crime and such types of perpetrators of these crimes. Time to time the law has brought changes, amendments and reforms to protect the rights of the women. Mentioned below is the description of the anti-dowry laws.

#### **Dowry Prohibition Act (1961)<sup>[12]</sup>**

This act was introduced and implemented in 1961 by the Government for the prevention and prohibition of an evil practice of dowry. According to this act, dowry is considered a social evil, a dark spot and an evil practice of the society. The main aim to implement this act was to curb the evil practice and serious crime of dowry system in the society. This act was amended from time to time and according to this act, demand and acceptance of dowry was declared as a crime even advertising for dowry was made as a punishable crime.<sup>[13]</sup>

According to section 2 of the Dowry Prohibition Act, 1961 states the definition of the word 'dowry' the word dowry related to valuable things and items given to one party to another party at or before the time of marriage.<sup>[14]</sup>

According to section 3 of the Dowry prohibition act, 1961 taking and giving of the dowry is punishable by imprisonment of 5 years and 15 thousand fine. If the amount of dowry is more than 15 thousand then an equal amount of fine is imposed and there is a provision of an imprisonment of minimum 6 months and a fine too. Publishing an advertisement of dowry is punishable with an imprisonment of 6 months and a fine of 15 thousand but the gifts awarded to the groom and to the bride do not fall in the category of dowry.

#### **Complaint related to dowry can be made to the following:**

- A woman affected by the dowry demands.
- Parents and other relatives of the affected woman.
- Police officer.
- A volunteer NGO.

#### **Dowry Prohibition (Amendment) Act, 1984 (Maintenance of Lists of Presents To The Bride And Bridegroom) Rule 1985-**

These rules come into force on the 2 October 1985. In 1984, by amending The Dowry Prohibition Act 1961, it was made more stringent. According to this act, it is necessary to make a list of all the items received as a gift at the time of marriage by both the bride and bridegroom. Thus, the list prepared has to be a written and both the bride and the groom will have one list each, in this list a brief description of the gift along with its value will also be mentioned. This list should be signed by both the bride and the groom and if they are illiterate then the rules will be read to them and their thumb impressions will be marked. To make the dowry prohibition act more stringent and effective, it was again amended in 1986 and section 8B in act and section 304 (A) and 304 (B) in the IPC was added. According to section 8 B of the dowry prohibition act 1961, The state government has to appoint dowry prohibition officers and by section 304(B) of Indian Penal Code crime of dowry demand has made cognizable, non-bailable, non-compoundable and triable by court of sessions.

#### **Domestic Violence Act, 2005**

For the prevention of the crimes against women, a domestic violence act was formulated in the year 2005. This act helps and provides protection to women against domestic violence.<sup>[15]</sup> According to which crimes against women were not only limited to physical and mental but also financial violence was also included in it and was made punishable. Dowry related offences are the one of the form and species of domestic violence.<sup>[16]</sup>

According to this act taunting for dowry during or after marriage is also a crime because this type of violence comes under mental violence.

According to the domestic violence act 2005, the meaning of dowry will be the same as per the Section 2 of Dowry Prohibition Act. According to sub section (b) of section 3 of DV Act 2005,<sup>[17]</sup> harassment to fulfil the demand of dowry and other valuable things also placed in the category of domestic violence.<sup>[18]</sup>

#### **Anti-Dowry Provisions Under The Indian Penal Code**

There is a provision of an imprisonment of 3 years and a fine under section 498 A of IPC in case the husband or any relative demands for any expensive article. Dowry death also is one of the most heinous crimes of dowry related crimes and to deal with this heinous crime, section 304 B of IPC deals with dowry death.<sup>[19]</sup> According to this section if in case any woman dies unusual and an unnatural death within 7 years of marriage and before till death, she is tortured by demanding dowry then the husband and other in-laws can be imprisoned with a term of 7 years to life sentence. Under the section 306 of IPC, abetment to commit suicide of woman is punishable. According to the Supreme Court, A person convicted under section 304 B of IPC cannot be acquitted of charges for abetment to suicide (under section 306 of IPC).

#### **Indian Evidence Act 1872**

The section 113 - B of the Indian Evidence Act provides the provision of the presumption. According to this, if a person causes dowry death of a woman

and it is shown that the woman has been subjected to cruelty and atrocities due to dowry demand before her death then the court will assume that the person has done the dowry death of the woman.

#### Case-Law On Dowry

Over the years, many landmark decisions related to dowry demand and dowry death have been given by judiciary, some of which are mentioned below:

##### **State of Madhya Pradesh v. Jogendra**<sup>[20]</sup>,

In this case the husband and father-in-law of the deceased demanded money from her to constructing the house and in case of non-fulfilment of demand of money, they started tortured and harassment with deceased. The trial court found the husband and father-in-law guilty under section 304 B, 306 and 498 A OF IPC. In the appeal, the High Court stated that asking for money for constructing a new house will not be considered dowry demand for dowry death. But the Supreme Court held that trial court has correctly defined that demand of money for construction of house can be considered as dowry demand. The bench of CJI Ramana, Justice A.S Bopanna and Hima Kohli said in this case that the word dowry should be described in a broader sense related to demand of property or valuable security of any nature to a woman. In this case the husband and father-in-law of the deceased demanded money from her to constructing the house and in case of non-fulfilment of demand of money, they started tortured and harassment with deceased. The trial court found the husband and father-in-law guilty under section 304 B, 306 and 498 A of IPC. In the appeal, the High Court stated that asking for money for constructing a new house will not be considered dowry demand for dowry death. But the Supreme Court held that trial court has correctly defined that demand of money for construction of house can be considered as dowry demand. The bench of CJI Ramana, Justice A.S Bopanna and Hima Kohli said in this case that the word dowry should be described in a broader sense related to demand of property or valuable security of any nature to a woman.

##### **Shakuntala Devi v. Union Territory of J&K**,<sup>[21]</sup>

In this case, the question of law has arisen for that definition of the dowry as defined under the J&K dowry restraint act 1960 is entirely different vis-à-vis dowry which was very restrictive whereas the definition of dowry defined under the Dowry Prohibition Act, 1961 was of wider amplitude. In this case the trial court wrongly rejected the offences under sections 306 and 498-A/34 RPC on the ground of that there was no evidence for cruelty for dowry demands with deceased by the accused and stated that deceased died of commit suicide. In this case the deceased's mother filed a petition against the order of the Trial court because the trial court framed the charges for offence under section 306 and 498-A/34 RPC and also discharged the respondents for the offence under section 304- B RPC. The bench allowed the petition and impugned the order of trial court to frame the charges for offence under section 304- B, 498- A/34 RPC against the respondents. The bench reminds the court the case of **Satbir Singh v. State of Haryana**,<sup>[22]</sup> that the meaning of "soon before" did not mean "immediately before". The court stated that if a woman died before 7 years under abnormal circumstances and it shown that she has tortured, harassed for dowry demand by husband and in-laws soon before her death, such type of death is called dowry death. The bench also clarified the definition of dowry of the Dowry Restraint Act, 1960 under section 2 that the definition of dowry used in the act begins with expression

"in this act unless the context otherwise requires" meaning cannot be put in to straight jacket formula.

##### **Satbir Singh v. the State of Haryana**<sup>[23]</sup>

The Supreme Court has delivered landmark judgment for dowry death that the phrase "some time ago" in section 304 B of the IPC cannot have the meaning "immediately before". It has also been stated that there should be a proximate and live link between consequential dowry death and cruelty or harassment by husband or relatives for dowry demands. In this case, The Supreme Court has observed that the phrase "some time ago" in section 304 B of the IPC cannot have the meaning "immediately before". It has also been stated that there should be a close and direct link between dowry death and cruelty or harassment by husband or relatives for dowry demands.

##### **Bhola Ram v. The State of Punjab**<sup>[24]</sup>

In this case the Supreme Court stated that merely demanding dowry is not enough to constitute the crime of dowry death, but it is necessary to harass the woman for the demand of dowry.

##### **Bachni Devi v. State of Haryana**<sup>[25]</sup>

In this case Supreme Court defines the dowry demand and stated that demand of valuable items, property and security which is connected to marriage is called dowry demand.

##### **Pradeep Singh v. the state of Jharkhand**<sup>[26]</sup>

The Court stated in this case that death of the wife within 7 months and the evidence being found those 10-15 days before the death, the deceased was tortured for dowry demand even if the death of deceased due to suicide, Supreme Court considered it as dowry death.

##### **Kamlesh Panjiyar v. State of Bihar**<sup>[27]</sup>

In this case, The Supreme court has defined the essential elements which are necessary to dowry death. The SC has held that section 304 of the IPC does not require direct evidence of dowry death whereas cruelty before death would be considered sufficient.

##### **Vikas v. State of Rajasthan**<sup>[28]</sup>

The Supreme Court expressed anxiety on dowry problem and said that demon of dowry is devouring and affecting the young bride's lives that marry with a person with high hopes and enter in in laws house but they faced violence for dowry. To stop this evil of dowry only implementation of dowry prohibition act is not enough but it requires being control by the society.

##### **Hemchand v. State of Haryana**<sup>[29]</sup>

In this case a woman died due to the noose hanging around her neck the evidence is that woman has been demanding dowry and being treated mercilessly by the husband. Therefore, this case is treated as a presumption under 113 B of Indian Evidence Act.

##### **Smt. Shanti v. State of Haryana**<sup>[30]</sup>

In which the supreme court has said that the deceased bride's family members were harassed for dowry and the complainant, the bride, was tortured and had passed away within 7 years and the last rites were also performed hastily without due information to the bride's family members and as such the death of the bride should be considered as an unnatural death.

##### **Akula Ravindra v. the State of Andhra Pradesh**<sup>[31]</sup>

In this case, a frequent harassment of the wife by the husband along with a demand for dowry was considered as cruel behaviour.

**Daulat Mansingh v. C.R Bansi**<sup>[32]</sup>

The Bombay High court did not hesitate to state that the offence of dowry demand is constituted when the demand is made, whether the other party has accepted it or not. The demand of dowry is started when the moment demand is made, it is not necessary to accept it from other party. (**Surendra Kumar v. State of Delhi Administration**)<sup>[33]</sup>.

**Conclusion**

The dowry system goes against the spirit of the Indian Constitution and is not only illegal but also a curse against women, which has made the lives of women difficult.<sup>[34]</sup> Many Acts have been passed so that this heinous crime related to dowry may get eradicated but the main problem is that the laws are not properly implemented in society.<sup>[35]</sup> The victim is not able to get any benefit from these acts and laws and has to bear torture for the rest of her life.<sup>[36]</sup> These are some suggestions to prevent and stop the dowry system in the society:

- The most important thing to stop dowry system in society is the proper implementation of various laws and enactments.
- It is important to bring awareness in the society to stop the dowry system so that all the women may get relief from the dowry related crimes. T.V, Radio and other social and mass media should make awareness against dowry system by launching anti dowry programmes on a large scale.
- The NGOs should come forward to make propaganda against the dowry system and help the victims of dowry related harassment and crimes.
- Education of girls can make them independent and responsible and aware of this social malaise.<sup>[37]</sup> So, more stress to be propagated on the importance of education for girls.<sup>[38]</sup>
- The government should take more effective steps to stop dowry system and thus lead to the social empowerment of women on all fronts.

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