

DOWRY DEATH AND INDIAN PERSPECTIVE

AUTHOR – AQUIB AHMAD HUSSAIN & SATYA VRAT PANDEY, STUDENTS AT INTEGRAL UNIVERSITY LUCKNOW

BEST CITATION – AQUIB AHMAD HUSSAIN & SATYA VRAT PANDEY, DOWRY DEATH AND INDIAN PERSPECTIVE, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (1) OF 2024, PG. 1377-1380, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

The expectation of wealth that a bride must bring for her husband and his family is associated with violence, abuse, and oppression of women in India. The victims of dowry-related harassment experience severe trauma and mental health problems. The current study looks into the mental health problems that survivors of dowry harassment face. A multilevel mixed-method study was used for this. According to the report, victims of dowry harassment have serious mental health issues. One of the worst or most horrific issues is dowry death. The country's statistics on dowry-related deaths have increased despite the enactment and incorporation of laws and acts into the legal system, as well as campaigns and awareness programs initiated by government and non-government organizations to combat dowry deaths and the Indian dowry system. There are still some grey areas where the nation lacks growth, one of which is the prevalent Dowry System and related concerns, despite the fast growth of middle-class society and the youth population, the country's modernization efforts, the enormous privileged economic development, the improved education system, and so forth. In an attempt to lessen the annoyance of dowry deaths, find loopholes, and enhance society overall, this article has looked at and evaluated the legal provisions that the Indian legal system has adopted. It has also highlighted existing remedies and discussed ways to strengthen them. A holistic strategy that includes social interventions, legal reforms, and cultural change is required to effectively address dowry death. To create a society where people, regardless of gender, may live without the fear of dowry-related damage, it is imperative to strengthen legislative frameworks, improve enforcement mechanisms, and address the underlying causes of dowry violence.

Keywords: Dowry, Dowry Death, Offence, Remedies, Harassment, Cruelty

INTRODUCTION

Definition and Context

In an attempt to lessen the annoyance of dowry deaths, find loopholes, and enhance society overall, this article has looked at and evaluated the legal provisions that the Indian legal system has adopted. It has also highlighted existing remedies and discussed ways to strengthen them for the benefit of the party who is truly harmed.

Under Dowry Prohibition Act, 1961²¹⁹²

In this section 2²¹⁹³ of the Act, Dowry means any property or valuable security given or agreed to be given either directly or indirectly.

- a) by one party to the other party to the marriage, or
 - b) by the parents of either to a marriage to the marriage or by any other person, to either party to the marriage or any other person;
- At or before (or any time after the marriage) (in connection with the marriage of the said parties, but does not include) dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat)²¹⁹⁴ applies.

²¹⁹²Dowry Prohibition Act, 1961, § 2, No. 28, Act of Parliament, 1961

²¹⁹³Definition of “dowry”, § 2, No. 28, Act of Parliament, 1961

²¹⁹⁴The Muslim Personal Law (Shariat) Application Act, 1937

Under Indian Penal Code, 1860²¹⁹⁵

Section 304B²¹⁹⁶ Dowry death: –

1) 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.

Explanation – For the purpose of this sub-section, dowry shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961²¹⁹⁷

2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Historical and Cultural Context for the Dowry Death

Dowry deaths are those in which the husband and his family kill or commit suicide as a result of the bride's unhappiness with the dowry shortly after the marriage. It usually occurs as the result of the husband's family's repeated domestic abuse. The majority of dowry killings result from the young woman killing herself because she can no longer stand the abuse and harassment. The majority of these suicides are caused by fire, poisoning, or hanging. Bride burning is the term for when a lady is killed by being set on fire by her husband or in-laws; it can occasionally be passed off as a suicide or an accident. Indian women's deaths by burning have more often been linked to disputes over dowries. India has by far the highest number of dowry-related deaths in the world according to the Indian National Crime Record Bureau. In 2012, 8233 dowry death cases were reported across India²¹⁹⁸. Dowry issues cause 1.4 deaths per year per 100,000 women in India. According

to a 1996 report by Indian Police, every year it receives over 2,500 reports of bride burning. The Indian National Crime Records Bureau (NCRB) reports that there were 8,331 dowry death cases registered in India in 2011. The accuracy of these figures has received a great deal of security from critics who believe dowry death are consistently underreported.

Legal Framework

Overview of Laws and Regulations Related to Dowry and Dowry Death: – The government has published suggestions to address the growing number of dowry death cases in India, and laws have been updated to strengthen the judicial system and better support and protect victims of cruelty or dowry killing. Women are shielded from dowry-related violence or death by the Indian Penal Code, Indian Evidence Act, Criminal Procedure Code, and Dowry Prohibition Act. These laws were created in response to dowry disputes. Even in contemporary India, dowry is still widely used in many communities, although significant headway is being made in its abolition. In addition to indicating the persistence of gender inequality in our culture, the practice of dowries also contributes to other crimes and violations of women's human rights, including domestic abuse and dowry deaths. This chapter discusses dowry issues and looks at the legal structure in India for handling this custom. The meaning and popularity of this behaviour will be briefly reviewed at the beginning of the chapter. Thirdly, it will examine a few associated customs that have developed as a byproduct or ramification of the dowry system. Fourth, it will provide a synopsis of the Indian legal system to address.

Dowry Death and Dowry System in India

Analysis of Legal Provision for Prevention and Punishment of Dowry Death

The Indian Penal Code, 1860's Section 304B defines dowry death. Additionally, the presumption about dowry death is stated in Section 113B²¹⁹⁹ of the Indian Evidence Act of 1872.

²¹⁹⁵Indian Penal Code, 1860

²¹⁹⁶Indian Penal Code, 1860, § 304B, No. 45, Act of Parliament, 1860

²¹⁹⁷Dowry Prohibition Act, 1961, § 2, No. 28, Act of Parliament, 1961

²¹⁹⁸Wikipedia, https://en.wikipedia.org/wiki/Dowry_death (last visited may 10, 2024)

²¹⁹⁹Presumption as to dowry death, § 113b, No. 1, Act of Parliament, 1872

The Dowry Prohibition Act of 1961 was the first piece of dowry-related national law to be passed. Although the act establishes a variety of punitive and preventive measures, as was to be expected, the goals have not been met. The dowry practice is too deeply ingrained across society as a whole, which is the main reason for the failure, not just a few flaws in the law but also the government's implementation of it. The violence related to dowries is also within the jurisdiction of criminal law, making it an appropriate target for criminal law. Due to the dowry laws' failure and the rising number of dowry deaths, sections 304-B and 498-A²²⁰⁰ were added to the Criminal Amendment in 1983 and 1986. In summary, there are four distinct scenarios in which a married woman may encounter cruelty and harassment, which may ultimately result in the commission of an offence.

Dowry Death under the IPC Section 304-B

The definition of "dowry death" under section 304-B is defined as a woman dying from burns, physical harm, or unusual circumstances within seven years of her marriage, provided that it can be proven that she was subjected to harassment or cruelty regarding the dowry by her husband or his relatives. This offence carries a seven-year to life sentence in prison. Seven years would be regarded as the cutoff period because it takes seven steps for the bride and groom to complete the sacred nuptial fire, with each step being worth a year. Furthermore, in the case of *Hem Chand v. State of Haryana*²²⁰¹, In this instance, the parties tied the knot on May 24, 1962. After two months at her husband's residence, the bride went back to her parent's place. The husband had made demands for a fridge and a television. The bride's father had sent her back to her matrimonial home after giving her Rs. 6000 to satisfy this demand. This time, her spouse insisted on receiving Rs. 25,000 to buy a site. The husband then abandoned his wife at her mother's house, threatening to not

accept her until the entire amount was paid. Even though the husband got his wife back after a year, he continued to seek Rs. 25,000. Subsequently, the spouse returned home with Rs. 15,000 and assured that her parents would promptly settle the remaining amount. She was killed by strangulation in her husband's house after this incident. Also, in the case of *Shanti v. State of Haryana*²²⁰², it was claimed that the bride was continuously pressed to pay a dowry. Due to their inability to pay the dowry, the bride's father and brother were suddenly barred from entering her married home. The victim passed away within seven years of getting married, and her body was cremated right away without first telling her father or brother, excluding any possibility of a natural death. The prosecution provided irrefutable evidence that the victim's mother-in-law and the widow of her deceased brother-in-law had been abusing her for dowry money regularly.

Statistical Data on Dowry Death Globally and Regionally

According to the Times of India, a 39-year-old lady in New Delhi, India, died last week in what appeared to be a suicide. Authorities are currently looking into the death as a "dowry death."

The woman, Anissia Batra, worked as a flight attendant for Lufthansa and wed investment banker Mayank Singhvi in 2016. Singhvi is reported to have started abusing Batra soon after their marriage. As per the claims of Batra's relatives, Singhvi subjected her to emotional and physical violence on several occasions throughout their marriage due to her dowry, which is a payment made by the bride's family to the groom. Take the initiative to level the law and support Asia-Pacific Women's and Girl's Empowerment the tale of Batra is not unique. According to India's National Crime Records Bureau, dowry harassment by husbands or in-law families resulted in over 7,600 women being killed or driven to commit suicide in 2015. That works out to almost 20 women each day,

²²⁰⁰ Cruelty, § 498A, No. 45, Act of Parliament, 1860

²²⁰¹ *Hem Chand v. State of Haryana*, 1994 (6) SCC 565

²²⁰² *Shanti v. State of Haryana*, 1991 AIR 1226

as reported by the Guardian. The practice of donating or receiving a dowry has been outlawed since 1961, yet dowry customs and violence against women resulting from dowry unhappiness have endured. Parents continue to give dowries out of concern that their daughter would not get married if they do not, despite the fact that marriage customs in India are evolving with people being married later and away from conventional arranged marriages. Cultural norms that prioritize men over women further support this idea. A dowry is a gift intended to lessen the financial burden that women and girls are perceived as carrying.

However, some men and their families later put pressure on their wives to accept larger dowries because they are unhappy with what they originally receive. According to the Guardian, many of the victims of "dowry deaths" were women whose dowries had already been paid at the time of their marriage, but whose husbands and new families hoped to profit more by coercing and mistreating them. Others who cannot afford the demanded dowry become victims of violence.

Rights organizations have noted that the culture of granting dowries undercuts attempts to create gender equality and fuels the persistently high rate of violence against women in India.

Different Aspects of Dowry Death: - The Case of Kamlesh Panjiay v. State of Bihar, 2005²²⁰³

According to section 304B of the Indian Penal Code, the Trial Court found her mother-in-law and husband guilty of committing an offence. They received a harsh seven-year prison sentence as retribution. The appeal was denied by the High Court after it granted the Trial Court's request. The Supreme Court was then the target of the appeal. The Supreme Court ruled that demanding any kind of significant security or property related to marriage is equivalent to demanding dowry. It doesn't matter why or

what caused this kind of demand. It was noted that after her father refused to comply with the demand, the deceased was subjected to harassment by the accused. Therefore, dowry death is when persecution pushes the dead to end their own life.

CONCLUSION

The unfortunate and enduring problem of dowry death continues to take the lives of innumerable women worldwide. The frequency of dowry-related violence and fatalities highlights the urgent need for comprehensive action, even in the face of legal measures and awareness campaigns. Legal provision analysis shows both advancement and difficulties. Laws that forbid the exchange of dowries and specify the punishment, but systemic obstacles, public perceptions, and enforcement gaps frequently make these laws ineffective. Furthermore, victims may remain vulnerable and justice may be elusive due to the narrow scope of current legislation that may not adequately address the full range of dowry-related violence. The effective fight against dowry death requires a multifaceted strategy. This entails fortifying the legal system with precise definitions, severe fines, and victim-centred clauses. It also entails strengthening law enforcement agencies' capabilities, encouraging cooperation between parties, and improving enforcement mechanisms.

²²⁰³Kamlesh Panjiay v. State of Bihar, 2005 (2) SCC 388