

## **Dowry Death and Women: A Legal Study**

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### **ABSTRACT**

Dowry system and dowry death is one of the most persistent social evils affecting women in India. Dowry death remains one of the most disturbing manifestations of violence against women, reflecting profound patriarchal norms and socio-economic pressures associated with the dowry system. Like a disease it has spread across the country and has become a routine headline for each and every newspaper. Today it is a deep-rooted immoral practice and has been prohibited under the Law. Despite enactment of several effective and stringent legislations, incidents of dowry and dowry related deaths continue to be reported across the country. This legal research aims to examine legal regime regulating dowry and dowry death in India, analyses judicial interpretations and assess the effectiveness of current legislations in safeguarding women. The study sharply focuses on the provisions mentioned under the Dowry Prohibition Act 1961, the Indian Penal Code 1860, (now replaced by the Bharatiya Nyaya Sanhita, 2023) and the Indian Evidence Act 1872, (now replaced by the Bharatiya Sakshya Adhinyam, 2023). The research further discusses the socio-legal impact of dowry practices on women's rights and dignity, emphasizing the need for stronger enforcement mechanisms, awareness programs, and institutional support systems. The paper concludes by suggesting reforms aimed at improving the effectiveness of existing laws, strengthening investigative procedures, and promoting gender equality in society. Ultimately, addressing dowry deaths requires not only legal intervention but also a broader transformation in societal attitudes towards women and marriage.

**Key words:** Dowry, Dowry Death, Dowry Prohibition Act, Criminal Law, Domestic Violence, Legal Rights, Legal Framework

### **INTRODUCTION**

In India, the practice of dowry has been a prominent social matter, completely implanted in cultural values and social usage. Historically, marriages have been accorded the position of sacrament, a pious ceremony of bringing two people into a union called marriage and this bond of marriage unites two different souls as one soul, who are meant to stay together forever till separated by death. Traditionally, dowry was also considered a customary gift associated with the custom of marriage which was given to the bride during her marriage to secure her financially and support her in home. However, over the time this system transformed into a violent and unethical practice of pressurizing bride and her family for the gratification of

economical lust. Inability to meet demands of dowry eventually lead to cruelty, harassment and exploitation resulting in unnatural death of a young married women, commonly known as dowry deaths in the form of burning, poisoning or committing suicide.

Today when everyone is giving emphasis on modernization and equality, dowry and dowry death in India is a bitter reality affecting the society. It is spreading like a cancer day by day due to orthodox, traditional, mental status and life style of the community. It can be very well said that in this context that apart from husband subjecting wife to cruelty, it is her in laws as well who put women to such constraints. Hunger of dowry is growing in a rapid speed followed by death. It is the duty of the government to check this kind of unnatural cruelty done to women. It is the biggest challenge to the modern society, police authorities, legal officers and judiciary not only to punish the offenders but also to eradicate this evil practice from the very root to bring peace in the lives of the thousands of the young married women.

## **OBJECTIVES OF THE RESEARCH**

- (1) To study the concept of the dowry system in India.
- (2) To examine the legal framework regarding the dowry system in India.
- (3) To understand the judicial interpretations of the dowry death instances.
- (4) To evaluate the causes responsible for the dowry death in India.
- (5) To determine the challenges in the implementation of the legislations.
- (6) To provide recommendations and suggestions for preventive measures.

## **HYPOTHESIS OF THE RESEARCH**

- H1]** Social pressure and patriarchal attitudes continue to hinder justice for victims.
- H2]** The existence of stringent laws alone is not adequate to combat dowry cases.
- H3]** Greater need for effective enforcement and awareness to lessen dowry death cases.

## **METHODOLOGY OF THE RESEARCH: A DOCTRINAL APPROACH**

A doctrinal research methodology will be employed to analyse the concept of dowry system and dowry related deaths. This approach involves a systematic examination of primary and secondary legal sources to understand the provisions, interpretations, and its application.

## **LEGAL FRAMEWORK ON THE DOWRY SYSTEM IN INDIA**

Dowry is called Dahej in Hindi, Joutuk in Bengali, Jehaz in Urdu and Arabic is the bride's price with different names existing among different communities. Dowry can be defined as any kind of worldly goods, belongings in terms of property and possessions in terms of valuable security

to be agreed between bride's and the groom's family in advance in exchange of the marriage either directly or indirectly. The practice of offering dowry by bride's family and greed of the groom and his family have led to the formation of painful and miserable dowry system in India.

To prevent and punish the practice of dowry and dowry-related violence, several legislations have been enacted, a legal framework consists of the Dowry Prohibition Act, criminal provisions for cruelty and dowry death, evidentiary presumptions, and domestic violence protection laws to combat the dowry system.

The Dowry Prohibition Act, 1961 is a landmark legislation enacted on May 20, 1961 which aims at forbidding exchange or demand of the dowry. Some of the significant provisions includes: -

- 1} **Section 3:** This section prescribes penalty for giving or taking dowry.
- 2} **Section 4:** This section prescribes penalty for demanding dowry.
- 3} **Section 5:** This section states that any kind of agreement form for the purpose of the exchange of dowry shall be void.
- 4} **Section 8-B:** This section was inserted by the amendment of the 1986 under the Dowry Prohibition Act, 1961 which makes arrangement for the appointment of the Dowry Prohibition Officers and also assigns their roles, responsibilities, and powers.

There are challenges and shortcomings faced by the Act despite its rigorous enforcement due to the social stigma associated with dowry practices by the society.

## **THE PROVISIONS RELATING TO DOWRY SYSTEM IN CRIMINAL LAW**

1) **Section 80:** This section of the **Bharatiya Nyaya Sanhita (BNS) 2023**, defines "Dowry Death" replacing section **304-B of the Indian Penal Code (IPC) 1860**. This section makes the offence of dowry punishable with imprisonment of seven years but which may extend up to imprisonment for life.

2) **Section 85 and 86:** This section of the **Bharatiya Nyaya Sanhita (BNS) 2023**, prescribes punishment for the husband or relatives of the husband of a woman subjecting her to cruelty. This offence is punishable with imprisonment for a term of three years and fine. Earlier it was mentioned under section **498-A of the Indian Penal Code (IPC) 1860**.

**3) Section 118:** This section of the **Bharatiya Sakshya Adhiniyam (BSA) 2023**, replaced section **113-B of the Indian Evidence Act (IEA) 1872**, to lay down presumption as to dowry death in case of death of a woman within seven years of her marriage.

## JUDICIAL INTERPRETATION

The judiciary has stressed the importance of stricter punishment to the offenders in order to discourage the dowry related brutality. The courts have played a very significant role in interpreting dowry laws in order to protect women's rights. The judiciary has ruled out that; where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under any 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 his relatives for in connection with any demand for dowry, such death shall be called "Dowry Death" and the husband or the relatives shall be deemed to cause her death, shall be punishable.

Important landmark case on dowry and dowry death in India, frequently cited in legal research and judgements: -

**Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar (2005)** is a landmark case of Supreme Court of India, a criminal case in which a seven- year sentence for dowry death under section 304-B IPC was confirmed. The court stated that the evidence of cruelty "soon before death" for dowry demands, even if the exact cause of death is not immediately clear, justifies conviction.

### Key Details of the Case: -

**Facts:** Appellant Kamesh Panjiyar and his wife, Jaikali Devi, were married in the year 1988. During the time of marriage Rs. 40,000 was demanded and was paid as a dowry. There was a constant pressure for a she-buffalo by the appellant. However, this demand of the appellant was unmet. The unfulfilled demand caused harassment to the wife, who died within seven years of marriage under unnatural circumstances.

**Question Raised:** The question was whether the death was a "dowry death" under the section of the Indian Penal Code (IPC), 304-B and if the presumption of guilt under section 113-B of the Indian Evidence Act is applied.

**Judgement:** The appeal was dismissed by the Supreme Court, upholding the conviction and the modified seven-year rigorous imprisonment sentence given by the High Court of Patna.

**Key Legal Principles Established: -**

**“Soon Before Death”:** The court stated that the expression “soon before death” does not mean immediately before, but rather a proximate, live link between the cruelty and the death.

**Definition of Dowry:** The court stated that dowry demands can be made before, at, or any time after marriage, provided they are in connection with the marriage.

**Unnatural Death:** The court stated that when a woman dies otherwise than under normal circumstances, and there is evidence of prior harassment, the presumption of a dowry death stands.

This judgement strengthens the legal framework for combatting dowry-related fatalities by emphasizing that circumstantial evidence of abuse linked to dowry demands is sufficient for conviction.

**CAUSES OF THE DOWRY DEATH****1] Patriarchal Mindset**

Male dominated society who considers woman as an object, subordinate to men, valueless and tie them value only with the dowry they bring.

**2] Monetary Gain**

With a motive to improve financial status and satisfy greed of wealth, the groom and his family attempts to pressurize bride and her family.

**3] Social Validation**

Despite being legally banned, this custom of dowry is socially sanctioned and is practiced community wise nation-wide.

**4] Lack of knowledge or Awareness**

Ignorance of education and awareness of laws among the people especially in rural regions makes people accustomed to this deep-rooted tradition.

**5] Ineffective Implementation of Laws**

Despite of several legislations and time to time amendments, there is a weak enforcement of laws which suggest negligent compliance.

**PERSISTENT CHALLENGES IN IMPLEMENTATION**

Following are the key challenges in implementation despite strict legal provisions: -

**1} Well Established Tradition**

The dowry is considered a very normal system in the society, usually viewed as a “tradition” or a custom and the dowry is considered to be a “customary gift” rather than a curse on the society, making families resistant to seek any legal assistance.

**2} Perceived as Prestige Symbol**

Extravagant dowries are marked as status symbol for high profile families for the display of social standing in society through economic show off.

**3} Underreporting due to Social Pressure**

Most of the dowry harassment cases goes underreported due to societal stigma of family honour and safety concerns.

**4} Lack of Evidence**

Incidents of dowry and dowry death related crimes occur inside the home, which causes difficulty in gathering evidences and witnesses.

**5} Lack of Police Apathy**

Victims frequently face aggressive behaviour and contemptuous attitudes to register First Information Report (FIRs), especially in rural regions which makes victims reluctant to act.

**6} Judicial Delays**

Backlog cases and slow court proceedings leads to “Justice delayed is Justice denied” followed by unfavourable settlements.

**7} Low Conviction Rates**

Low conviction rates cause mental, financial and psychological imbalances due to which victims loose trust and patience in legal process and this process itself leads to trauma, a sense of secondary victimization.

**8} Economic Vulnerability or Insecurity**

Lack of financial independence is one of the driving forces in making women and their families reluctant in raising voice against injustice.

**9} Growing Materialism**

The desire of lavish lifestyle has led to commercialization of the practice especially among the middle classes.

**10} Inadequacy of Institutional Support System**

There is a shortage of easily available legal aid, counselling services and safe shelters for women who choose to report, having a sense of unwanted potential threat.

## RECOMMENDATIONS AND SUGGESTIONS

Following are the preventive measures for effective enforcement: -

### 1) Rigorous Enforcement of laws

Anti-dowry laws should be rigidly enforced to restraint perpetrators.

### 2) Set up Fast-Track Courts

Greater need to establish fast-track courts for speedy trial of dowry harassment and death related cases.

### 3) Appointment of Committed Dowry Prohibition Officers (DPOs)

It shall be ensured that every district has well trained Dowry Prohibition Officers to keep track and put a stop to dowry affairs.

### 4) Compulsory Record-Keeping

Families should maintain the list of wedding gifts and presents, written and signed in order to avoid heavy demands in future or to prevent any false claims.

### 5) Systematic and Prompt Investigation

Police must be well trained to tackle cases with enhanced responsiveness, assuring timely registration of FIRs.

### 6) Ensuring on Spot Collection of Evidences

Police must gather evidences punctually for thorough evidence-based investigation rather than false and arbitrary arrest.

### 7) Higher Education and Economic Empowerment

Measures should be taken to prioritize financial independence with a view of sensitising zero tolerance policy.

### 8) Anti-Dowry Resolution

Youth should be encouraged to take active pledge to genuinely boycott marriages which involves dowry demands.

### 9) Encouraging Public Awareness

Government and non-governmental agencies should actively launch awareness campaigns to educate people about the anti-dowry laws.

### 10) Promoting Greater Sensitization

There should be arrangement for mandatory and periodical training of the judicial officers and the police to sensitize them to the social and psychological dimensions of dowry.

#### **11) Building Institutional Support System**

There should be facility for legal aid, availability of the counselling services and the arrangement of shelter home for those in need.

#### **12) Developing Property Rights**

Women should be encouraged to register property in their own names to improve financial security and self-reliance.

#### **13) Facilitating Women Helplines and Crisis Centres**

Helplines and crisis centres should be available for the victims to ensure immediate assistance and help.

#### **14) Creation of Special Cells for Women**

Specialized units should be created and attached to police stations or with the district administration to deal with the dowry related complaints.

#### **15) Conducting Regular Surveys**

It shall be the duty of the Dowry Prohibition Officers to conduct survey on regular basis to find and support dowry related victims in remote areas.

### **CONCLUSION**

Dowry remains one of the most persistent social evils in India despite several legislations and prohibitions. The continuation of dowry practices reflects deep-rooted patriarchal values, gender inequality and societal pressure that commodifies marriage and treats women as economic liabilities. Dowry deaths represent the most extreme form of violence arising from this practice. Although the legal framework provides stringent punishment and procedural safeguards for women, the effectiveness of these laws is often limited by weak enforcement, social stigma, reluctance to report cases, and delays in the judicial process. In many instances, victims suffer prolonged harassment, cruelty and abuse before such incidents are recognized by law enforcement agencies. Therefore, eliminating dowry and dowry related violence requires more than legal provisions demands a combined effort of strict implementation of laws, greater awareness of women's rights, empowerment through education and economic independence, and a transformation in societal attitudes towards marriage and gender roles. Strengthening institutional support systems, and community-based monitoring can also play a significant role in preventing dowry harassment. In conclusion, the eradication of dowry and dowry deaths is essential for achieving gender justice and equality in India. Only through

coordinated legal, social, and educational reforms can society move towards a system where marriage is based on dignity, mutual respect, and equality rather than financial transactions.

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