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The Dowry System in India: An Obstacle to an Egalitarian Society

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India, being one of the largest economies in the world which have successfully incorporated major changes, has had major societal problems as hindrances to the betterment of the country. One major societal peril is the Dowry System which has been prevalent in our country for centuries and though the practice is criminalized, the society has normalized and made it a universal rule. Dowry is a payment made by the bride's family to the bridegroom upon marriage in the form of cash or valuable items. The Dowry system cannot be solely classified as a social issue, dowry is a socio-economic problem that is a hurdle for the advancement of society, particularly, women. The study contends that the threat of dowry practice has evolved into a social problem, resulting in women's oppression, physical violence against the bride, financial and emotional strain on the bride's parents, marital strife, child marriages, female feticide, and cases of dowry deaths. The main objective of this paper is to showcase how dowry leads to gender inequality and dehumanizes women by treating them as property. The Dowry system is not only perpetuated by the illiterate but also by the educated privileged section of the communities. The research showcases how the Dowry system keeps women away from economic independence and gives an insight into the ambiguous role of education in related issues. The paper also talks about the legal aspect of dowry and briefly discusses the current situation in India related to dowry death. Lastly, this paper gives an overview of the various attempts to eliminate this system, which not only affects the victims but the entire womankind.

Keywords: Article 32, dowry, economic, family, women.

INTRODUCTION

The Dowry system is a societal evil that has been persisting in Indian society for a long time. Over time, the nature of dowry has changed, and especially in contemporary society, it has taken up a predominant role. This is societal cancer that has gone unregulated despite afflicting the general public on numerous occasions. We have become accustomed to hearing news reports about dowry fatalities and women's suffering, which highlight the dowry system's flaws. Dowry is predominantly connected with marriage in Hindu society, although it has made inroads into many areas of the Muslim and Christian populations as well. The threat has also spread to the Sikh community, but not to the same extent as it has among the middle and higher classes of Hindus. Despite legislative restrictions, dowry remains a fundamental component of the marriage system, however, its structure, intensity, and accompanying atrocities against women vary according to traditional customs. The degradation of society as a result of the harmful dowry system has resulted in an alarming number of suicide and dowry deaths by women, which has outraged the legislative awareness.

DOWRY SYSTEM IN INDIAN SOCIETY

Dowry is an asset provided by a father or guardian to a daughter during her marriage; on the other hand, bride price is an amount of money or property or an asset provided by the family of the groom to the family of the bride during the marriage.¹

“Any young man, who makes dowry a condition to marriage, discredits his education and his country and dishonors womanhood”

– Mahatma Gandhi²

Dowry is a deeply embedded traditional phenomenon in Indian weddings that has been considered one of the most significant barriers to India's path to economic and social equality.

¹ Rajeev Kumar, “Dowry System: Unequalizing Gender Equality” (Walter Leal Filho, Luciana Brandli, et al), *Gender Equality* (Springer 2021)

² Akash Kumar, ‘Dowry System: A social stigma’ (*The Times of India*, 21 May 2020)

<<https://timesofindia.indiatimes.com/readersblog/akash-kumar/dowry-system-a-social-stigma-20030/>>
accessed 03 April 2022

One of India's greatest social disasters is the country's exceptionally high degree of gender inequality and female impoverishment, which has lasted in the country for decades because of social traditions like dowry.

EVOLUTION OF DOWRY SYSTEM

The custom of exchanging presents at the time of marriage, whether in the form of dowry or bride wealth, is prevalent and has a rich history. Dowry systems may have originated from ancient Greeks and Romans in Europe, and there was a regular practice. Dowry payments were common as family law in Mexico and Brazil throughout the colonial period, which lasted from the seventeenth to the eighteenth centuries.

Dowries almost disappeared in Europe during the nineteenth and twentieth centuries. Dowry was not prevalent in ancient India, and it is difficult to determine when the concept of dowry first emerged in India, but it is believed to have ancient roots. According to Megasthenes and Arrian, in the 3rd Century B.C, they accorded that ancient Indian people in the process of selecting their bride did not care about whether the bride had dowry or she has any handsome fortune but only look at her inner and outer beauty.³ Dowry was originally connected with Hindu Brahminic castes, but it eventually crossed religious boundaries and spread to other religious communities. The system of dowry existed in India prior to British rule, although not in the manner that it is widely recognized. In the 1980s, women determined via their radical movement that the foundation of domination is in the biological family and that adopting legislation is insufficient until society's perspective is altered through education and political involvement.

IMPACT OF DOWRY ON SOCIETY

Dowry has impacted society in several ways, but one of the major areas where it affected tremendously in terms of the status of women. Dowry and dowry-related violence are intrinsically linked with patriarchal norms and perceptions about women's place in Indian

³ Soumi Chatterjee, 'Concept and Evolution of Dowry' (2018) 7 (1) IJHSSI 86-87
<[http://www.ijhssi.org/papers/vol7\(1\)/Version-2/M0701028590.pdf](http://www.ijhssi.org/papers/vol7(1)/Version-2/M0701028590.pdf) > accessed 03 April 2022

society. Marriage became merely another commercial transaction in which it was simpler to make money. The male child became a source of additional cash for the family, whereas the female child became a financial burden. This resulted in societal issues such as mental breakdown, bride burning, suicide or ongoing unpleasant marital life tensions, female feticide, and an imbalance in the male-female ratio in society, which resulted in increased crimes against women.⁴

DISCRIMINATION OF WOMEN

India is a patriarchal nation where males are prioritized above all else and women are frequently overlooked. As a result, women have faced prejudice in their own families since they were children. When compared to the male youth in the same home, they were provided food with inferior nutritional value. Women have been denied access to sports and other physical activities since they were considered as man's domain, resulting in poor physical and psychological development. In Indian societies, there have been various gender stereotypes – the husband will be the earner and the wife will be the homemaker.⁵ A narrow definition of a housewife was established - a woman who does not have her own independent identity; she is only a caretaker of domestic operations; and because she cannot compete with men in the competitive world, she is solely dependent on her husband's salary. This restrictive definition of housewife was expanded further – raising children, caring for other family members, and carrying out other home tasks had little significance when contrasted to duties performed by males.⁶

FEMALE FOETICIDE

The dowry system has negative consequences such as female feticide or female infanticide. The male child is desired in families because males have functional value in the dowry market. Girls are usually killed in the womb of mothers to avoid the burden of dowry in Indian

⁴ Nithya N.R, 'Institutionalization of Dowry in India: Social Custom or Modern Malaise?' (2013) 2 (9) IJSR, 47 <<https://www.ijsr.net/archive/v2i9/MzEwODEzMDY=.pdf>> accessed 04 April 2022

⁵ Reshma M.A and Dr. A. Ramegowda, 'Dowry - The Cancer of Society' (2013) 17 (4) IOSR-JHSS, 35-36 <<https://www.iosrjournals.org/iosr-jhss/papers/Vol17-issue4/H01743545.pdf>> accessed 04 April 2022

⁶ Rajeev Kumar (n1)

cultures, and this is due to the widespread preference for sons. Girls are seen as a financial burden on the family because the money spent on their education and upbringing will not be reimbursed in the form of dowry, as sons are; even mothers who give birth to a female child are looked down upon in family and community.⁷ Women from poorer socioeconomic backgrounds experience domestic abuse since they do not provide a substantial dowry; as a result, some parents prefer to kill the daughter in the womb to prevent disgrace later in life.

DOMESTIC VIOLENCE

The dowry system promotes acts of violence in society; when requests are not satisfied by the bride's family in a timely manner, atrocities intensify. Extreme measures are often utilized to get financial or material incentives from the bride's family, which can culminate in domestic violence or extortion.⁸ Furthermore, young girls and women are groomed to serve their in-laws without concern for their own needs throughout their lives. When a woman becomes a mother-in-law, she is finally in a position of power after being mistreated her entire life, and she becomes the abuser.⁹

IMPACT OF DOWRY ON THE ECONOMY

Marriage Market: Marriage has been transformed into a marriage market, with the need to match suitable bride and groom in order to build a pro-creational family. Dowry economics is strongly embedded in India's socio-cultural framework, with a demand-supply cycle. Society is modernizing as a result of the growing economy, but women's rights and identities are being disregarded as a result of a lack of respect for them and a narrow mentality. The dowry market is based on the overvaluation of grooms and the devaluation of brides. Women's

⁷ Milli Singh, 'Effect of Dowry on the Familial, Educational, Psychological and Social Areas in Bride and Her Parents Lives' (2016) 1 (4) IJSI 65-66 <<https://oaji.net/articles/2016/11170-1479315888.pdf>> accessed 05 April 2022

⁸ Kalpana Sharma, 'The Other Half: Burn dowry, not women' (*The Hindu*, 4 February 2012) <https://www.thehindu.com/opinion/columns/Kalpana_Sharma/the-other-half-burn-dowry-not-women/article2856945.ece> accessed 05 April 2022

⁹ Rastogi Mudita & Paul Therly, 'Dowry and its link to violence against women in India: Feminist Psychological Perspectives' (2006) 7 (1) Sage Publications, Inc., 69-70 <<https://www.jstor.org/stable/26636210>> accessed 05 April 2022

devaluation is the consequence of a long history of disempowerment that runs deep through the social structure.¹⁰

Financial Dependence of Women on Men: Dowries were originally intended to assist women in acquiring some degree of freedom in marriage. The bride's family would give her money, and this protection would offer her some power over her decisions. The practice evolved through time into a structure that favors husbands' supremacy and women's dependence. India, where dowries are most frequent, has one of the lowest percentages of female labor force participation in the world. This is largely due to the belief that dowries encourage a woman to be economically dependent on her husband's family and that she should not work outside the home.¹¹

RELATIONSHIP BETWEEN DOWRY AND EDUCATION

The Dowry system is a societal evil and to eradicate this deep-rooted tradition, one of the most important methods is by spreading awareness among people and education. Education has always been one of the highest social indicators for the middle-and upper-middle-classes in India. Dowry and education are very closely interlinked to each other and education have a very ambiguous role.

DOWRY AND FEMALE EDUCATION

In terms of women's education, the education of the bride doesn't affect the monetary transfers from brides and their families to grooms and their families. On the other hand, it actually plays an opposite role which is higher the education of the bride, the higher the amount of dowry. There are two probable reasons- firstly, the education of the bride reveals the household wealth and families are also ready to pay a higher dowry; thus, higher education plays a significant role in determining dowry. Secondly, an educated bride (who is assumed to have higher outside opportunities) compared to a lesser educated one, is considered to be having

¹⁰ Tonushree Jaggi, 'The Economics of Dowry: Causes and Effects of an Indian Tradition' (2001) 5 (1) University Avenue Undergraduate Journal of Economics 3-5

<<https://digitalcommons.iwu.edu/cgi/viewcontent.cgi?article=1030&context=uauje>> accessed 06 April 2022

the power of bargaining which is regarded as precarious in a marriage.¹¹

In terms of indicators of women's development, the state has consistently been significantly distinct from the rest of the country. Kerala's progress in terms of human development is due to women's improved educational and health status. In today's Kerala, the dowry system is very well concealed, and dowry is provided to the daughter as a 'present.' Kerala is the most literate state in the country, yet it is apparent that addressing the problem and spreading education have failed to cleanse people's minds from the impact of this wicked tradition.¹²

EDUCATION OF GROOM AND DOWRY DEMANDS

The impact of the groom's education on net dowry is anticipated; educated grooms are more valuable in the marriage market. The most popular argument for why a groom's better education leads to a bigger dowry is that brides compete for a certain groom, leading to offers of higher and higher 'groom prices' or dowries. However, there is an alternate approach in which the bride seeks desired attributes in the groom such as dedication, sincerity, loyalty, and so on, which may be essential for a peaceful marriage.

LEGAL ASPECT OF DOWRY- LEGISLATIONS

Dowry Prohibition Act, 1961: The Dowry Prohibition Act of 1961 was the first national legislation to address dowry-related issues, which made giving and receiving dowry a crime in India. One can be imprisoned for 5 years and a fine of up to Rs.15, 000 or the amount of the dowry, whichever is greater.¹³ The Dowry Prohibition Act of 1961 was amended twice, in 1984 and 1986, by the Dowry Prohibition (Amendment) Act. The failure is not solely due to a few flaws in the legislation, but also on the side of the government in terms of its implementation, but more to the fact that dowry is too deeply embedded in all segments of society.¹⁴

¹¹ Joe McCarthy, '9 Reasons Why Dowries Are Horrible for Women' (*Global Citizen*, 7 June 2017)

<<https://www.globalcitizen.org/en/content/8-reasons-dowries-are-bad-for-women/>> accessed 06 April 2022

¹² Soumyanetra Munshi, 'Education and Dowry: An Economic Exploration' (2012) 1 (2) IIM Kozhikode Society & Management Review, 117-118 <<http://dspace.iimk.ac.in/xmlui/bitstream/handle/2259/827/111-120.pdf?sequence=1&isAllowed=y>> accessed 07 April 2022

¹³ Navamya G. Acharya, 'Dowry deaths in Kerala, India's Most Literate State' (*The Leaflet*, 13 July 2021)

<<https://theleaflet.in/dowry-deaths-in-kerala-indias-most-literate-state/>> accessed 07 April 2022

¹⁴ Dowry Prohibition Act, 1961, s 3

Protection of Women from Domestic Violence Act, 2005: The statute was created to safeguard women from atrocities committed within the four walls of their married home. The Act protects the woman from all major types of abuse, namely physical, mental, or emotional, and also against any conduct which harms the dignity of any woman in domestic violence which can happen in the initial years of the marriage for the demand of dowry or violence in general at any time.

Indian Penal Code, 1860: Section 304-B of the IPC talks about dowry death and mentions several essentials. Dowry death will be considered under section 304- B when- the women have been subjected to harassment and cruelty of any forms or in respect to the demand of dowry by husband and family members; death within seven years of marriage and death caused by burns or bodily injuries or under normal circumstances.¹⁵

Section 498-A of IPC highlights cruelty to a woman by her husband or relatives. It is a punishable offence with a punishment of three years along with monetary compensation. Cruelty can consist of both physical and emotional abuse, which compels a woman to commit suicide or endanger her life.

Indian Evidence Act, 1872: The burden of evidence in dowry death was introduced by Section 113B, which specifies that a court must consider that a dowry death was caused by the person who is found to have subjected the woman to cruelty or harassment soon before her death.¹⁶

LEADING JUDGEMENTS RELATED TO DOWRY

Inder Raj Malik v Sunita Malik:¹⁷ The Delhi High Court ruled that a person convicted under both Section 4 of the Dowry Prohibition Act and Section 498A of the Indian Penal Code does not incur double jeopardy under Article 20(2)¹⁸ of the Indian Constitution. The prohibition of Dowry Prohibition Act and Indian Penal Code distinguishes from each other as in earlier

¹⁵ Indian Penal Code, 1860, s 304-B

¹⁶ Indian Evidence Act, 1872, s 113-B

¹⁷ *Inder Raj Malik v Sunita Malik* (1986), CriLJ 1510

¹⁸ Constitution of India, 1950, art. 20

enactment on demand of dowry is punishable, cruelty is not necessary whereas in later enactment presence of cruelty is a necessary element for section 498A of Indian Penal Code.¹⁹

*Mahila Nisha Sharma v The State of Madhya Pradesh*²⁰ The Nisha Sharma case was anti-dowry litigation in India that began in 2003 when Nisha Sharma accused her future husband, Munish Dalal, of demanding dowry. The case received extensive publicity in both national and international media, where Nisha Sharma was portrayed as a role model for other women and a youth icon. However, it was eventually determined that Nisha had fabricated the allegations in order to avoid marriage, and all defendants were acquitted in 2012.

DOWRY DEATH SCENARIO IN INDIA

Dowry deaths can be considered one of the neglected public health issues in India. Even after the payment of the dowry during the marriage, there is no guarantee on the terms of the health and security of the bride. There have been several cases where even after paying the dowry, there have been several other demands for dowry, failing to do so had led to brutality and violence on the bride which in some cases has also led to deaths. Dowry deaths can be defined as acts of violence committed by a husband and his family with the purpose of seizing money and other commodities from the bride and their family on a regular basis. Various measures and provisions were included in the response to the 21st law commission report, along with that various educational and awareness initiatives were also taken to reduce the rate of dowry deaths. But, the main problem of this societal hindrance is not lack of education, dowry is practiced even by the educated sectors of the society. One of the highlighted examples that should be mentioned in the state of Kerala even though having a hundred percent literacy, still failed to curb this societal cancer. It is among the many states which have the high number of reported dowry cases and deaths as well. This societal cancer is practiced by practically every sector of society, irrespective of religion, caste, or creed, and the country has witnessed terrible aspects of the dowry system during the previous few decades. Not only are married women tormented, humiliated, assaulted, pushed to commit suicide, and ill-treated on a daily basis, but hundreds are even burned to death because their parents are unable to

¹⁹ Indian Penal Code, 1860, s 498-A

²⁰ *Mahila Nisha Sharma v The State Of Madhya Pradesh* (2012) M. Cr. C. No. 3921/2012

satisfy dowry demands.

*Kamlesh Panjiyar v State of Bihar, 2005*²¹ Section 304-B of the Indian Penal Code (IPC) talks about dowry deaths, and through this case, the Supreme Court laid down the ingredients that should be considered in the case of dowry death. The elements can be mentioned as follows:

1. The death of the particular woman should be because of physical injuries or burns or because of something which is different from a typical scenario.
2. The death should have happened within the first seven years of her marriage.
3. She must have been tormented or harassed by her husband or any relative of her husband.
4. The cruelty or torture should be connected to the desire for dowry.
5. It must be demonstrated that the woman was subjected to such brutality or harassment shortly before her death.

PREVALENCE OF DOWRY SYSTEM IN CONTEMPORARY INDIA

Women account for half of India's overall population when considered as a separate category. At the same time, India is characterized as a male supremacist country. Dowry is now used by a family to make a public display of their social background on the occasion of their daughter's marriage. Western education, access to school, and employment have a greater favorable leaning toward males. With the developing urbanization, men were considered socially and culturally superior to women, intensifying women's reliance on men. Dowry, obviously, is not a one-time payment made on the day of marriage, but rather initiates a series of pricey rituals and gift-giving.²²

One of the most important factors, behind the prevalence of dowry, is the lack of proper implementation of the anti-dowry legislation. People generally are very greedy and self-centered when it comes to money. No amount of education can change that in an individual.

²¹ *Kamlesh Panjiyar v State of Bihar* (2005) 2 SCC 388

²² Sonia Dalmia & Pareena G Lawrence, 'The Institution of Dowry in India: Why it Constitutes to Prevail' (2005) 38 (2) *The Journal of Developing Areas*, 71-73 <<https://www.jstor.org/stable/4192976>> accessed 09 April 2022

People who have money, want more, and the ones who don't have considered this as a mode of earning money and taking the benefit. The Indian society has a very stereotypical functioning when it comes to women. Everything is interconnected to each other, when the girl's child born, teach them household work, make them leave their studies when they attain puberty, and fix their marriage as early as possible. The process thereby continues over years, making women illiterate as they're being dropped out of studies and are unaware of the legislation.

CONCLUSION

Dowry abuse is on the rise in India, and the most serious form is bride burning, which involves the burning of women whose dowries were deemed insufficient by their husbands or in-laws. The majority of these cases are recorded as accidental burns in the kitchen or as suicides, indicating the embedded stereotypes against women in India. In Indian civilization, cultural practices such as dowry payment tend to subjugate women. Dowry and bride prices both degrade and humiliate women in India. The increasingly oppressive nature of dowry has indeed resulted in a deterioration in women's prestige. Though laws are essential in ensuring fundamental rights and prosecuting offenders, combating the phenomena of violence against women in Dowry cases, requires a more comprehensive approach.