

# DOWRY DEATHS AND CRIMINAL JUSTICE SYSTEM IN INDIA

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## ABSTRACT

Women are facing the music of torture right from the earlier period. There is a lot of discussion over on the topic of women and we have a slot of legislations too for the protection of their rights but still we are lacking to provide a complete protection to her. In general there is a range of crime against women and still they are increasing with new ones but the old ones did not get any solution. The chief area from which we are here concern is the “Dowry System” or “Dowry Deaths”. This is correct that the problem is not new but this is also correct that we have not met with any solutions for the grave menace and still it is increasing day by day in each and every family by different names. Indian Parliament has provided legislations for each and every subject whenever required, similarly Parliament has provided “Dowry Prohibition Act, 1961 too which is dealing with the issues regarding giving and taking dowry. But the shortest Act of only ten Sections failed to met with its objects and problem still continues then so many amendments were done like Section 498A and Section 304 B of Indian Penal Code and Sections 113 A and 113 B in Indian Evidence Act which were required that time because of increasing dowry deaths and bridal suicides, after that domestic violence act also enforced which also added a clause of dowry tortures but still the problem remains same after having new laws. The main concern here also is to analyze the role of criminal justice system to curb the evil.

## INTRODUCTION

In the country of goddesses on the one hand we use to do Pooja of Saraswati when we need the blessing of knowledge, Durga Pooja is simply we use to do for power (Shakti), and we need blessings of Laxmi is for Money and on the other hand we just don't know that where these goddesses actually resides. *Huzur Maharaj Charan Singh Ji* Said that "Human being is a Temple of living God". It means we are simply unaware about the actual god. When we use to do all the complicated religious rituals of all these goddesses then how we will forget about the women. They are treated as vulnerable groups by the ancient times and even today.

India's first Prime Minister Jawaharlal Lal Nehru proclaimed that a nation's condition could be surmised from the status of its women. If indeed this is true ,than this paints a very bleak picture for nations across the globe where woman remain in subordinate societal position and face violence and oppression at the hands of the dominant male population.

A woman is the utmost beautiful creature of god on this earth, but she is ever since paying for her caring and lovable nature. She is lovable as wife but instead of understanding her love we used to humiliate her. She is lovable as daughter but instead of giving good education and care we used to kill her in the womb. She is lovable as mother but instead of imparting love and care to her we used to shift them in old age homes. Is this is the degradable status of women in our society which we are giving to them?

Exploitation against women comes in various forms in which one of the oldest phenomenon is Dowry which results in the form of kitchen accidents, family violence and bride burning. In India problem gets much further aggravated as we have the rampant problem of dowry. Married women are not merely treated with cruelty, but sometimes they are turned out of the matrimonial home. Not merely the dowry that they bought with them, but also of their entire property, the stridhan, is retained by the greedy husband and in-laws. They have no means to recover the same.

## DOWRY: A JOURNEY FROM CUSTOM TO EVIL

The sanctity attached to matrimonial bond through process of "Marriage" between a man and women and the inseparability and permanency of that is the firm foundation laid by Dharmashastra on which married life is constructed. The rite of saptpadi consists in the

bridegroom causing the bride to take seven steps, starting from western point, from her right foot, on seven small heaps of rice placed to the north of the sacred fire, i.e., first step for food, second for strength, third for wealth and prosperity, fourth for comfort, fifth for progeny, sixth for enjoyment of seasons and seventh to be my friend and be united to me by forever.” On taking the seventh step, the husband tells his wife “Be, thou my life-mate as we walk up seven steps together, thus thou go together with me for ever.”

Right from the very beginning, marriage has been in the form of the father gifting her daughter, duly clad and bejeweled with ornaments to a selected groom. Expensive clothes and jewels were part and parcel of the marriages. Later on, sordid gifts become an inseparable part owing to the prevalent perception and status of women in society. Dowry has thus regarded as an assurance and insurance against evil days. *Ipsa facto*, such a custom has no altruistic motive and has added to itself evil dimensions. The level and amount of dowry has gradually increased with the time in tune with inflation and the rising level of expectations. The pathetic eagerness of parents to marry of their daughter in time, and their passive acceptance of the demands made by the groom’s parents, has also contributed in no small measure to the evil of dowry. This evil is prevalent not only in Hindu society but also in other sections of the society. Marriageable daughters are expecting harassment and cruelty from their prospective in-laws because of high dowry demands. This trauma is unbearable with shocking impact on all the walks of life. The travails of the tyranny have taken the tolls of these women., absolutely helpless. This is the bitter truth that daughter-in-laws are being harassed, humiliated, tortured and brutally done to death in their own matrimonial homes by her husband and in-laws. Now the custom of dowry is held responsible for a number of problems perpetrated against the nation’s women, including dowry violence, bride burning and wife murder.<sup>i</sup>

With a view to eradicating this evil practice from society, Indian Parliament in 1961 passed legislation exclusively to curb the menace, the Dowry Prohibition Act, 1961 which applies not merely to Hindus but all the communities.<sup>ii</sup>

In present times people took it as a matter of pride for giving and taking hi-fi dowry and conducting Hi-Profile marriages. Parents primarily invest their money to educate their boys at the level of IIT, IIM or choosing their careers as IAS so therefore they demand or want to encash their total amount with interest in the form of dowry. A major defect of the system is that apart from demanding and giving so high, their lust does not reached to a full stop. They

demand whole life from bride's parents and as much as they get they remain unsatisfied. Then why should these sort of evil systems be continued which are going to weaken the society from its roots? Instead of this we have to educate our children at such height where they practically understand the meaning of education. The core problem is the families are looking forward for a fake pride in demanding dowry from bride. The evil, which targeted the aristocratic and royal families in the ancient period in the modern period it engulfed the entire society. In modern period women are harassed, beaten and face each and every kind of modern mode of tortures. We are surviving in such kind of society in which women are harassed at such extent in which they drive either to commit suicide or burnt alive.

## **ROLE OF CRIMINAL JUSTICE SYSTEM IN DOWRY DEATHS CASES**

### **ROLE OF POLICE & PROSECUTION AGENCIES**

The Dowry Prohibition Act, 1961 with its amendments of 1984 and 1986 and rules given to deal with the menace of dowry deaths either by homicide or abatement to commit suicide caused again young girls by their husbands, in laws and their relatives. The Criminal Law (Amendment) Act, 1983 (No. 43/83) brought further safeguards to women during the investigation and trial offences under the Dowry Prohibition Act, 1961. Dowry Deaths cases have become scandalous topic these days to the extent of the crime which bring an innocent girl to the door of death. Each such case outrages the patience of thinking people and rouses passion and outcry against the perpetrators of the crime. The police must give special importance to the prevention and investigation process of these crimes.

Police is the important agency of the criminal justice system and is the first line of defense against crime.<sup>iii</sup> Police occupy a strategic position in respect to social defense, probably only next to the family and other personal groups in importance.<sup>iv</sup> It is a fact that women are afraid to report to the police because of their known callous and unsympathetic behavior.<sup>v</sup>

Despite the media focus on bride-burning, the police approach on being informed of an unnatural death is to suspect nothing and straightway proceed on the assumption of suicide, without even investigating, if there could have been abatement to suicide.<sup>vi</sup> The police officials

have themselves said<sup>vii</sup>, that only a foolish policeman will be at pains to register every case and endorse it as a crime, because if the volume of crime cases registered is very high, he will be the first to be transferred from his chowki. Neither the local police nor the government stand to pain by registering a high crime rate.<sup>viii</sup>

Section 174 of the Code of Criminal Procedure already contains provision which empowers a Magistrate to make an enquiry into the cases of suspicious deaths. The new subsection, empowers the Magistrate to hold such an inquiry when a woman dies while living with her husband and in-laws or other relations of the husband during the first seven years of her marriage.

The new Section 198-A of the Act, lays down that no court shall take cognizance of an offence punishable under Section 498-A of the Indian Penal Code except upon a police report of facts which constitutes such offence or upon a complaint made by the person aggrieved by the offence or by her father or mother, brother or sister or with the leave of the court by any other person related to her by marriage, blood or adoption.

## **ROLE OF NON GOVERNMENTAL ORGANIZATIONS**

There has been a vital role of NGO's since starting in combating Dowry related violence. As the culture of liberalization has caught on, weddings have become "hi profile, involving exorbitant sums of money, a testimony to the economic and social status of families. It is also important to note down that the evil practice of giving and taking dowry does not begin and end with one lavish wedding ceremony. Every occasion following the wedding, childbirth, other long list of festivals is accompanied by a flow of gifts to the husband's family and relatives. It is also a truth that giving gifts is a two way tradition but it is to be accepted that it is the girl's family that ends up giving much more than it receives. A broad platform, Dahej Virodhi Chetna Manch, was formed, including a diverse range of women's groups, cutting across political and feminist lines. Among them, Mahila Dakshata Samiti was the first in Delhi's feminist movement to take up the issue of dowry and Stri Sangharsh made it a household term.

Women's organizations cannot be of much help when the parents or male kins of the bride want to send back to her matrimonial home at any cost or make to son-in-law to accept

her. Most cases are brought to these organizations after all possible forms of persuasion and intervention by relatives, community elders have failed. These organizations have no means of influencing the behaviour of the husbands except through moral perception. Many families have the feeling that organized protest and demonstrations would help, and some are convinced that if pressure is exerted through these groups on Government officials or someone high in police organization the husband may agree to treat the wife well, but the stage has actually not come yet.<sup>ix</sup>

## ROLE OF JUDICIARY

Role of judiciary is a very vital factor in these type of cases or we can say that the cases of dowry is much more depends upon the judiciary. In recent years crimes relating to domestic violence have attracted the awareness of almost all enlightened segments of Indian society. Legislators, jurists, judges, intellectuals, researchers, social workers and have common all made valuable contribution to the cause of women in distress. Nevertheless, the response of redressal agencies such as the police and the judiciary as well as role of social welfare organizations in detection of family crimes and in providing relief to victims of domestic violence is of paramount importance. It is obvious that the three pillars of Indian constitution i.e. legislatures, executives and judiciary play significant part in dispensing justice to citizen of the country. Women benefit as much from general laws of the country as men.

The Indian judiciary lead by the Supreme Court of India has exhibited a welcome judicial activism towards the domestic violence against women. Domestic violence includes the wife battering, cruelty whether mental or physical dowry-death, rape and adultery etc.

The Supreme Court in **Chandra Prakash Kewal Chand Jain V/s. State of Maharashtra**<sup>x</sup> gave his views; expressing their sentiments as follows :

"When the respect of womanhood in our country is, on the decline, unfortunately. In our country, standard of decency and morality in public life, is no the same as in other countries of the world, so the decency and morality in public life can be promoted and protected if only the courts deal strictly with those who violates the societal norms".

The most important among the contribution of our judiciary is the decision with respect to the stridhan property of a woman. Stridhan is proved to be the root cause of many of the domestic violence suffered by Indian women. In **Pratibha Rani Vs. Suraj Kumar**<sup>xi</sup> the husband, soon after the marriage, started harassing, teasing and beating the wife and ultimately turned her out with her children after five years of their marriage. In spite of repeated demands he refused to return her ornaments, money and other belongings and dishonestly misappropriated them. In this case the Supreme Court held that the wife is the absolute owner of the stridhan property and ban use her stridhan in any way she likes.

Judicial officials hold that in dealing with cases of violence against women, they use their discretionary power in particular circumstances, particular social conditions, and particular individual needs. But the question here is the use of discretion by magistrates always just, un-arbitrary, rational and reasonable? Is their judgment based on detachment, penetrating thought, and wisdom? In judgments, do judges always succeed in divesting themselves of all fear, anger, hatred, love, and compassion? Do they pay diligent attitude towards Domestic Violence against Women? Administration of Justice and Domestic Violent attention to hearing what the victim particularly women has to say theoretically, the claim of judges having patience in hearing and reasoning may be true but practically, it may be difficult to weld to such thinking. Judges cannot be free from human infirmities. They are human and subject to prejudices, hostilities, chauvinism, pressures and other human problems that might blush their opinion.

In the case of **Baby V/s. State**<sup>xii</sup> it is said that In dowry death cases, one accused gets seven years imprisonment, another gets life imprisonment and yet another is discharged. Even if there are no direct pressures, the magistrates may not wish to offend those who may control their future when they come up for promotion, transfer, reappointment, etc. Study of many cases shows that people engaged in legal profession are more punishment oriented. They are more 'legalistic' in their interpretations and less flexible in interpreting the law.

There is a lot of antipathy, resentment and dissatisfaction with the administration of justice. The social expectation is that since the law is founded on reason, judicial pronouncements must not only punish the offenders but also look to the interests of victims, and that law should not discriminate between rich criminals and poor victims.

In State of **Karnataka V/s. M.V. Manjunathgowda**<sup>xiii</sup> observing upon the objects of Dowry Prohibition Act and role of the judiciary, the Supreme Court observed that, "The practice of giving and demanding dowry is a social evil having deleterious effect on the entire civilized society and has to be condemned by the strong hands of the judiciary. Despite various amendments providing deterrent punishment with a view to hold back the increasing peril of dowry deaths; the evil practice of dowry remains unabated. The court cannot be unconscious to the intendment of the legislature and the purpose for which the enactment of the law and amendment has been effected. Every court must be sensitized to the enactment of the law and the purpose for which it is made by the legislature. It must be given a meaningful interpretation so as to advance the cause of interest of the society as a whole. No compassion or mercy is warranted to the perpetrator of a crime against the society.

## **ROLE OF GOVERNMENT**

Although the Role of Government is appreciable every where but in combating Dowry Crime it is also very helpful. Section 9 and section 10 of the Dowry Prohibition Act, 1961 provides provision for Power of Governments in combating Dowry Crime.

## **CONCLUSION**

Since the dowry death and cruelty relating to dowry demands still remains the same problem after having legislations in abundance or after having the prosecuting agencies against crime. Laws and agencies also need little control to fight obnoxious menace like dowry to generate mass awareness against crime. Promoting the equality of women and refusing to be associated with a family demanding dowry may considerably curtail the occurrence of dowry crime. There is a dire need from police and various other agencies to curb the crime of dowry, and it is not only possible by the efforts of one agency, it is necessary to curb the crime that all these agencies required to lend a hand with each other, one is incomplete without other. Apart from this, mentality of society should be changed by the attitude of police and women groups by lending a comfortable hand to the victims of dowry violence. Furthermore there is dire need to make sure that the police register a complaint immediately after receiving information about injuries sustained by woman under suspicious circumstances. Along with this police stations



should be provided each and every facility to investigate the crime easily, and the police stations and NGO's should keep an "*Online Complaint Machines*" also to register the complaint.

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Veena Joshi, "Wife battering: part of Dispensation", *Mainstream*, July 28, 1984, p 26

## ENDNOTES

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- i P.K. Majumdar & R.P kataria, "Law Relating to Dowry Prohibition, Cruelty and Harassment", (2013) Orient Publishing Company, New Delhi
  - ii The Act may be called Dowry Prohibition Act, 1961, it extends to whole of India except the state of Jammu and Kashmir and it came into force on: 1 July 1961. (Section 1 Dowry Prohibition Act, 1961)
  - iii Mir, M.D. "Crime and Criminal Justice System in India" (1984) P. 131
  - iv *Ibid*
  - v Veena Joshi, "Wife battering: part of Dispensation", *Mainstream*, July 28, 1984, p 26
  - vi Vimal Balasubramanyam, "Dowry Deaths and Suicide Theories", *Mainstream*, June 9, 1984, p 27
  - vii Shehnaaz Anklesaria, "Favourite Victims of Home Fires". *Statesman*, Feb 27, 1984 Pg 3
  - viii *Ibid*
  - ix Saxena, Shobha. (2008). *Crime against Women and Protective Laws*. Deep & Deep Publications Pvt.Ltd: New Delhi.
  - x AIR 1990 SC 658
  - xi AIR 1985 SC 628
  - xii (1984) Cr.LJ, 1684
  - xiii (2003) 2 SCC 188