

DOWRY IN INDIA: HOW IT STILL EXISTS DESPITE EXISTING LAWS

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Introduction

Living in a patriarchal society, we follow various customs. Even after modernization, these old-fashioned thoughts still act as a blockage while we look at a better tomorrow. Instead of being observed as a crime and a cause of shame, dowry has become a matter of pride. Even though the dowry has been illegal in India since 1961, it is still prevalent.¹ There is hardly any other problem of greater scale, which the society is facing today than the obscenity of dowry demand and dowry death. It is commonly talked of in the society that the newly married wife is expected to be a gold mine, failing which they treat her as burnable material, and because of this cruel behavior, the girl, who comes to the matrimonial home with great expectations and dreams, has to recourse to suicide or be burnt alive by the in-laws.

Laws are made for implementation. Needless to say, the effective enforcement of laws depends on the proper functioning of the law enforcement agencies. It is ironic that in India, dowry was originally intended to safeguard the woman and it was the provision of "Streedhan" where, "Stree" means woman and "dhan" meaning wealth, may it be in form of money, property or any gift which is given solely to the woman by her parents at the time of her marriage. "Streedhan", an inheritance which was meant to solely belong to the woman at the time of her marriage. The abuse of this custom wind-swept and ended the original meaningful function of dowry as a safety net for the woman and was tarnished to become a price tag for the groom.

An increasing number of cases of bride-burnings and dowry murders have been reported from India. These cases of married women being murdered, usually burned to death, by husbands, or in-laws whose demands for more dowry from the bride's family remain unmet. According to National Crime Records Bureau, 2016, 20 women are killed every day due to dowry-related violence. An open economy nurtured globalization, which in turn led to the coming in of the consumerist attitude. The growing consumerism has in a way affected the way dowry is perceived, encouraging it. The understanding of women supporting the dowry system is powerfully linked to modernization.

Understanding Dowry-The current situation in India

Why is the system of dowry still a threatening reality? Why do we value a woman's life by the amount of gold she brings in dowry? The ruthless reality of the dowry system is not only the story of rural areas. Even the educated families in Delhi and Bangalore have been harassing a woman for not bringing enough gold or money. At the beginning of 2020, Bengaluru, the Silicon Valley of India, reported 17 cases of abuse and death of women for dowry.

The Dowry Prohibition Act of India (1961) defines dowry as "any property or valuable security given or agreed to be given, directly or indirectly:

- by one party to the other party, or

¹¹ <https://www.vox.com/first-person/2017/2/6/14403490/dowry-india-bride-groom-dilemma>

• by the parents of either party to a marriage or before or after the marriage as consideration for 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) applies”² but continues, in many cases, for years. Because of the severe abuse suffered by women (e.g., harassment, assault, and bride burning) and their families resulting from the practice of dowry on women, it was outlawed in India in 1961.

Even when a case of dowry-related crime ends up in a conviction, if there is an appeal to the higher court, the probability for a reversal is very high. The Court deems the cases from the perspective of traditional principles of criminal justice, which is reflected in their judgments. In many reported cases, it is seen that the courts uphold a very restrictive approach and placed much emphasis on formal wordings of the law.

Indeed, there are a few cases where the judiciary showed judicial activism in resolving the dispute. For example, in *Masud Hossain v. The State and another*, the Court stated that: the dowry having been demanded during the continuance of the marriage cannot be quashed on the plea of divorce after the demand of dowry.

In some cases, to escape the punishment by law, the husband and his family do not kill the woman directly but harass her mentally and physically forcing her to commit suicide. A case was reported in Kerala last year when a 27-year-old woman was starved to death by her in-laws because their demand of two lakhs in dowry was not met. Also, the parents of young women want them to marry an economically well-off man. So, they willingly pay the cost of such a marriage by providing a huge dowry to the departing bride. There are several exchanges that take place in a marriage. It still exists currently despite being forbidden by the Indian law under Section 304B, IPC 1860. One of the major reasons why dowry still exists is that it is perceived as “easy income” for the groom’s family. It even exists in urban households of the rich and educated. ³

Another reason is the notion of security. Dowry, then, goes hand-in-hand with a class system and with the maintenance of the superiority of higher groups over lower. According to 20th-century research done by renowned scholars such as Krishnaswamy and Sharma advises that in-laws show more preference towards the daughter-in-law that brings a large dowry, giving her more autonomy and say in household matters and giving her fewer chores to do. Some sources show that the bride herself encourages dowry as she sees it as a transfer of wealth from her paternal side to her husband’s leading to a rise in the financial position and status of her new family.

Hence, the play of power and autonomy has led dowry to still exist. A few studies recommend that the employment status of women matters in today’s time and there exists a negative association between working women and dowry.

There is also a positive relationship between how qualified a woman is and dowry. In practicality, a woman is rarely allowed to have control even over things that are purportedly for her own use. Gold and other jewelry are supposed to be a woman’s personal safety, but, in

² file:///C:/Users/HP/Downloads/rastogi2006.pdf

³³ <https://www.indianfolk.com/practice-dowry-still-prevalent-edited/#:~:text=Dowry%20is%20one%20such%20exchange,under%20Section%20304B%2C%20IPC%201860.&text=One%20reason%20that%20dowry%20still,income%20by%20the%20groom's%20family.>

practice, the gold usually stays in the custody of her mother-in-law or husband. Dowry and dowry murders continue even though dowry dealings have been illegal in India since the Dowry Prohibition Act of 1961. Dowry deaths occur in Northwest India.

Dowry continues not only because the law is futile or difficult to impose, nor because of the pressures and demands of the groom's family, but also because the families of brides, despite growing public awareness of the heart-rending consequences, continue to give dowry. This may be due to concerns that otherwise a daughter could not be married at all, which is considered an undesirable event in India, or that the family could not secure an appropriate match. Also, parents of the bride may continue to believe that a lavish dowry will help to secure their daughter's favorable treatment in her in-laws' home.

Dowry murders must be viewed within the context of Indian culture. The ancient Sati and the modern bride burning, reflect one clear fact in India, that woman is unaccepted and is threatened by the society.

Laws in India Related to the Practice of Dowry

The first national law was The Dowry Prohibition Act of 1961. The Act made any dowry negotiation illegal and punishable by imprisonment and fines. However, a loophole remained, that families could provide 'gifts' to the bride at the time of marriage, that were not 'excessive' in financial value. A record of the gifts had to be maintained and the gifts were to be held in trust for the bride.

The Dowry Prohibition Amendment Act of 1984, helped narrow the loopholes in the Dowry Prohibition Act and increased the punishment associated with dowry negotiations. An amendment to this act added the concept of 'dowry death' by defining it, by making it an offense under the Indian Penal Code and resting the burden of proof squarely on those accused. Besides, a woman's death occurring within the first 7 years of marriage is requisitely investigated The Criminal Law Act of 1983 defined "cruelty" as an offense under the Indian Penal Code Section 498-A. The husband or relatives of a woman harassed or subjected to cruel acts related to demands of property is considered a punishable offence.

The Protection of Women from Domestic Violence Act, 2005. The law is comprehensive, including all forms of violence against women, including those related to dowry. In July 2009, the Bombay High Court determined that the provisions of the new law would apply retroactively.

The Perpetuation of the Dowry System

The most popular explanations for the continuation of the dowry system as found in the literature have to do with sociocultural, religious, and economic factors. They are believed to perpetuate gender discrimination that, in turn, fuels the ongoing cycle of dowry in India boys have a rate card in many societies.

This is the unofficial price the boy is worth. And that worth is measured by the amount of dowry a boy will get upon marriage. The stronghold of the gender inequality in Indian society makes a bride's family feel obliged to meet the dowry demands of the man who has 'agreed' to take care of the daughter.

The second major reason is that the dowry system is too deeply rooted in the Indian culture that it is seen as normal and unchangeable. Even today, when people are reminded that dowry is a crime, they ignore it as a substitute reality that cannot change the old customs. Many educated families practice it, to avoid being criticized for not following the customs. After all who will dare to change the traditions? The third and most important reason is the dominance of the institution of marriage.

A woman's marriage is of paramount importance in Indian families. If a woman's marriage requires dowry in return of her secured married life which is a challenge in the world that is unsafe and discriminatory for women, it is never seen as a crime. The existence of loopholes in the legislation—the Act of 1961 allows for 'gifts' to be given to a bride at the time of marriage.

Thus, the families who might demand a dowry, now simply do so by calling them 'gifts'. Marriage for Hindus is not only a social necessity but an important religious sacrament. Therefore, traditionally, an unmarried daughter is considered not only a financial and social burden but a source of damnation for her family and ancestors. Most families strive to marry off their daughters at all costs.

Further, within this context, the beliefs that marriage without dowry is not possible, or matrimonial security or happiness cannot be obtained without dowry are deeply rooted. Feminist movements for the abolishment of the system of dowry tend to be limited to the more educated, progressive sections of Indian society. At best, the public's outcry against the practice is sporadic, inconsistent, and not universal.

Difficulty in accurately identifying and naming suspicious deaths caused by burning, drowning, or poisoning as dowry deaths. The Reluctance of neighbors or the police in getting involved in what often is considered "family matters"

Non-convictions may also be an outcome of a corrupt or apathetic police force. Many sections of society see the dowry system as valuable or important because it (a) provides a wealthy bride to marry into a higher social caste, (b) increases the groom's family's wealth and status in society, and (c) may provide a disadvantaged (less talented, plain looking, or less educated woman) with the opportunity to marry.

Dowry is seen as a way for families to display their wealth in society, the greater the ostentation, the higher the status. In hierarchical societies where economic status may be valued above all else, such practices have a tendency to thrive.

Hindu customs, traditions, and religious texts describe women's status as being lower than that of men in society and the acceptance of such beliefs is ingrained into the culture, and women are viewed as chattels.

After marriage, women are often separated from their natal relationships, find themselves isolated from their support systems, and therefore are more vulnerable to abuse. Economically dependent, socially isolated women are at more risk of dowry-related problems after marriage than other women.⁴

⁴ Banerjee, P. R. (2013). Dowry in 21st-Century India. *Trauma, Violence, & Abuse*, 15(1), 34–40.

Dowry deaths are a result of this stagnancy in the traditions and cultures. Groom's families take advantage of the stronghold of the dowry system which will ultimately bring them wealth. Often, they 'rightfully' abandon or abuse the woman for dowry because she and her family did not fulfil their duty.

This is a harsh reality that still haunts the lives of the women who are moving ahead towards a respectable, empowered and independent future. This system is the major reason why daughters are considered as a burden for the families.

Consequently, families either keep the wealth aside for the daughter's dowry rather than investing in her education or kill her before birth to get rid of the burden forever. How far will women bear the weight of patriarchal traditions like these? How and when will the change begin?

Need for Change

Most women in India are still illiterate, lack training, and have only limited access. Families do not invest in educating and training their daughters as highly as they do their sons for reasons discussed above. This gender discrimination contributes to unequal employment opportunities, and pay in adulthood. Whether or not they are employed outside the home, women are expected to do all the housework. They may be encouraged to obtain a degree in higher education solely to make them more attractive matches for highly educated grooms.

Singh (1996) stated that once married, women are often discouraged to work outside the home because it is thought to take away time and attention from their husband and children. Finally, those families that have been financially drained by the marriages of their daughters attempt to recoup these losses when they marry off their sons. This too continues the cycle.

The court cases (Jethmalini & Prasad, 1995) show that even though mothers-in-law and other senior women were implicated for the abuse as the contributors of violence, the severe violence is done with the consent of or by the husband himself and with the implicit consent of the culture itself.

Therefore, we can validly assume that any power that women have in Indian society is closely associated with and derived from the male figures in the family.

The concept of "patriarchal bargain", sheds light on why women participate in the oppression of other women. Women who are battered stay in an abusive relationship because their past attempts to change their environment failed. Neither can they predict what will happen when they leave the relationship? Thus, they believe that staying is safer than leaving.

Implications and Conclusion

Many spectators of the problem of dowry murders in India have contributed to showing an influential link between this form of violence against women and women's relative lack of economic power.

With the urbanization and consumerism depicting India today, women have not shared in access to new economic opportunities with men.

We suggest that at the same time, their one traditional source of leverage, has possibly diminished in value. Current approaches toward the prevention of dowry exchange and violence prevention focus on legal education, media presentations, and creating government policies. Professionals should harness psychologically based, culturally sensitive, and gender-sensitive services to offer to groups of women and girls to help prevent dowry exchange and violence.

Men might be offered similar group settings to discuss male privilege, shame, violence and the “price of masculinity.” Outreach work in the community will help concerned family members, neighbors, and friends to spot early signs of abuse and violence, and learn ways to intervene. Families, couples, and individuals may be referred for appropriate psychological services. Professionals should assess for various gender related issues when working with clients of Indian origin.

Professionals should be informed and vigilant to the differences between normative practices and abusive behaviors within families. Regrettably, women are valued for the dowry they will bring; but so long as their valuation rests primarily in their being vehicles of property transmission, they will remain vulnerable to dowry harassment and murder.

Approachability of families to educate their daughters, help them capable of becoming economically independent, leading to the destruction of the traditional, cultural sense of learned helplessness. Tougher legislation to tackle cases of dowry.

A more consistent “follow-through” on arrests, convictions and punishments of perpetrators, regardless of their socioeconomic status. Bystander legislation—such that if neighbors or community members fail to report maltreatment to the authorities, they could be arrested and charged as coconspirators to a dowry-related crime. Consistent, large-scale national public health campaigns, spanning several years, “marketing” a bride as inherently valuable (Tripathi, 1995). Social acceptance of choice-based marriage over arranged marriage or intercaste marriages. Social acceptance of divorces and legislative changes to expedite divorces. 6.

Accurate reporting of data. National, official figures of deaths or torture of women tend to be lower than those reported by local grassroots organizations. In India, the law enforcement agencies to some extent do not perform their duties up to the mark. It goes without saying that the success or failure of the implementation of a law is inherent in the system of the enforcement, which depends on the effective functioning of the law enforcement agencies.

Thus, if the police adopt sympathetic attitudes to register the crimes and conduct the investigation properly, the prosecutors address the witnesses and evidence strongly, and judges apply their activism, the number of convictions will increase.

If the number of convictions increases, it can be said that the number of dowry-related crimes will decrease as the prospective perpetrators will think twice before ill-treating a woman for dowry.