

# Legislative Measures On Dowry

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## I. ABSTRACT

*Marriage is Associate in Nursing integral a part of society, a supply of joy and festivities in addition as of recent beginnings. Yet, one amongst the longest standing evils related to wedding from a woman's purpose of read within the Indian society is that the dower system. Despite loads being aforesaid and done against the custom, it's still prevailing within the twenty first century, in each refined and obvious ways that. The root of a number of social atrocities against ladies, the custom of presenting dower is that the crudest expression of the male-dominance within the society. It is most often the mandatory custom of a girl's parents having to provide a considerable amount of cash, gold in the form of jewelry, electronic equipment, movable or immovable properties, to the groom and his family, at the time of marriage. Although the origin of the custom lies with folks attempting to assure monetary stability for his or her daughters, in current perspective it's translated into folks paying up for the assurance of well-being of their daughters. The jewelry and money that a bride brings together with her from her parents' home is typically cited as "Streedhan" and in theory is that the property of the woman, but in reality it is often treated as their rightful due by the groom's family. The add to be paid as dower has no set commonplace, the yardstick greatly depends on the groom's profession/social standing and is usually perceived because the groom's family as the compensation of efforts they need created to coach their boy. In a a lot of refined perspective, one may define this custom as the unquestioned idea that the girl's family is inferior in standing with the boy's family, no matter what her qualities are. Thus they need to be on their best behavior and offer lavish "gifts" to please the boy's family. This ideal is so ingrained in the psyche of a large number of Indians, they either practically ruin themselves financially in order to pay for the appropriate price of the chosen groom, or make a bid to eradicate the prospect of this financial burden by selective gender-biased abortion or female infanticide. This exploitative system that has turned the custom of giving gifts and well needs into a obligatory demand for cash, respect and subjugation, is that the one amongst the key causative factors impeding the expansion of the Indian society wherever being a woman is still viewed synonymous to being a burden..*

## II. CONCEPT OF DUE PROCESS OF LAW

No Dowry is nothing but the demanding money and valuables' from the girl's family so that the groom

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family can have a luxurious life. Literally the boys society is so weak and incapable that they cannot make all their at their own. A very orthodox thinking of yours that taking money in the names of girls luxury and you want that you as well as your family to be comfortable. I feel even shame even in today world where still female infanticide, Sati, female foeticide and other orthodox practices and still be run in today's world. One of the biggest of the Indian society is dowry system. This fact is condemned by every modern citizen of this country and yet it still flourishes at very large scale in our society is a testimony of how deeply rooted thus system is in the Indian society. Now dowry is being demanded by the groom's parents and marriage takes place only if a certain amount of dowry is paid by the bride's parents. Today gift is given as compensation to groom folks for the money they spend in educating and upbringing their son. It is also considered a status symbol, especially in high class and generally the items of dowry are flaunted any hyped by both parties. In India different kind of people have their own vision for seeing the dowry as, For a business minded person it's the net market value or price of the bridegroom, For a practical person it's the cost of growing up and educating bridegroom which was incurred by parents, For an orthodox it's the great mechanism devised by Indian society to help newlyweds setup their new home, For an ethical theorist it's a gift given by bride parents out of their own wish and emotions. But in reality it is an utterly discriminatory social practice grossly undermining so-called gender equality in society. It is widely prevailing because no one wants to let it go when it's his chance and no one wants to risk there daughter's future family life. Usually the family of the bridegroom take dowry in the form of stree dhan but actually its too different from each other. Dowry includes any kind of demand made by groom and his family that involves direct or indirect deal in connection with wedding it can be demanded before or after wedding, it can be cash, valuable property, assets or any other favour. Whereas in Stridhan means stri means women and dhan means wealth which means woman property. Stridhan constitutes of any property or gift given to you at the time of marriage or later and you alone have the right to gift or dispose off the property as you desire. According to Muslim personal laws there is nothing referred to as dowry or bride price. However there is a custom of giving a "Mahr" which is a payment from your husband or his family to you especially to support you in the event of your husband's death. In muslim personal law mehr is a fundamental religious right to get mahr which establishes your financial independence from your parents as well as your husband and the vest part is that the husband and his parents do not have any right to claim over mahr given to you. The dowry system in India is linked with the marriage establishment.<sup>2</sup> But unlike the present time dowry was completely a voluntarily gift in the ancient time the daughter and her husband which in present scenario has become a conditional dowry. The ancient text and literature depicts and suggest that marriage ceremony was

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<sup>2</sup> <https://gulfnnews.com/world/asia/india/dowry-an-ancient-indian-practice-1.1227759>

one of the most important rituals and one of the main ceremonies in a person's life almost compulsory and binding for all the Hindu men in general and all women in particular but there is no mention of dowry system in those texts and literature.<sup>3</sup> During the vedic period marriage was a holy bond which was blessed by god and goddesses themselves and this holy bond could not be broken by any sort of human actions. There were some very basic and simple rules that people followed for the consideration of the marriage but still there is no mention of dowry. Authors of literature dedicated towards the writing concerned with dowry system growth in India show that in the past the daughters were not having any right of inheritance and eventually only the sons inherited the father's property. In this scenario the parents of the daughter during the time of her marriage out of sheer love and affection used to gift some part of their money and Jewellery to her which apparently have started and triggered the dowry system in the country.

### III. DISADVANTAGES OF DOWRY SYSTEM.

Some disadvantages of dowry system are- It reduces the sacred institution of marriage to business transaction. It has degraded a youth maiden to the level of saleable commodity. Dowry has virtually become a menace in the Indian society. Its practice leads to various evil consequences among which the following are- Dowry causes great economic burden on bride's family specially to the middle and lower class money because they save money for their resources and all they have to give here secondly it lowers the standard of living of parents as all the money went in dowry including their savings so automatically their standard of living will decline thirdly in order to escape from the menace of the dowry some young girls prefer to take jobs to earn huge amount of money to meet the dowry expenses and reduce dowry tension from their parents. In the process some innocent girls are carried away by false promise of the young boys and are often sexually cheated to be made pregnant. Subsequently such girls are socially defamed and finally they lead to commit suicide as being no alternative lastly then dowry practice enhances psychological tension as many marriages breakdown due to dowry practice and increases the tension of both the parents and the daughters. In some cases with self dignity may refuse to marry a boy who demand dowry and may be forced to remain spinners through their lives. In many cases girls are even ill treated after the payment of dowry so they spoil their mental peace and cause continuous irritation though they resist their treatment.

Many a times only for the sake of dowry people fix up their sons wedding while not taking his consent that finally leads to misunderstanding and unhappiness between marriage. Despite rapid globalization, liberalization and privatization dowry has become the social evil today. Both legislative and non-legislative measures are to be taken for the wipeout of the dowry system.

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<sup>3</sup> <http://www.mahavidya.ca/2008/06/21/the-hindu-dowry-system-origins/>

#### IV. DOWRY A SOCIAL PROBLEM

Today in Indian society is surrounded with many problems such as unemployment, illiteracy, population growth. Among these problems a problem deep inside rooted in Indian society is the problem of dowry system. In the modern Indian politics discusses the custom of dowry Is often represented as the cause of serious social problems including the neglect of daughters, sex-selective abortion, abuse etc.<sup>4</sup> More than 9500 women are killed every year in India over dowry. The Vedas prescribe that dowry be given by the bride family to the groom family. The Rig veda states that the cows and gift given by Aryan father of the bride to the daughter accompanied the brides possession, Rg Ved X.85 ] [ Apte 12 ].

Kahivat within the Vedas says he became wealthy by the dad in law giving him 10 chariots and maids and 1060 cows throughout the wedding ceremony. As per the book of “Genocide of women in Hinduism “ authored by sita aggrawal over the last 65 years more than 50 million female children have been murdered as a result of vedic dower and infanticide law.<sup>5</sup> In the book aforesaid the author says that the ancient vedic custom of kanyadan where the father presented his daughter with jewellery and clothes to her daughter at the time of her marriage and vardakshina were the father presented the groom with cash and kind are, in essence the dowry system. The curse is fully sanctioned in the Vedas. These examples shows that dowry was practiced in ancient times. Thus in order to marry sita to “godly” rama her father had to supply her with 100 crores of gold mohurs, 10000 carriages, 10 lakh horses, 6000 elephants 1 lakh male slaves, 50 thousand female slaves, 2crores of cows and 10 lakh of pearls and many other items. Thus dowry which is the very root of Hindu evils of sati and bride burning is given divine sanctions by the noble hindu gods. It is laid down in dharmashahstra that the meritious act of kanyadan is not completed till the bridegroom was given a dakshina.

So once a bride is given over the bridegroom , he has to be given something in cash or kind which constitute varadakshina.

Thus kanyadan became associated with vardakshina i.e. cash or gifts kind by the parents or guardian of the bride to the bridegroom.

The varadakshina was offered out of feeling and did not represent nay reasonably compulsion or thought for the wedding.

It was a voluntarily practice without any coercive overtones. In the course of time, the voluntarily element in the dowry has disappeared and coercive element crept in. It has taken deep roots not only in marriage ceremony but also in post marital relationship. It was originally intended to be taken as dakshina but now it has taken the

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<sup>4</sup> <https://www.theguardian.com/global-development/2018/jul/18/death-by-dowry-claim-by-bereaved-family-in-india>

<sup>5</sup> <http://education.dewsoftoverseas.com/vakilno4/dowryprohibitionact/indroduction.html>

form of dowry. The social reformers of 19th and 20th century have striven hard for the abolition of various social evils including the evil of dowry system. The dowry system is responsible to a great extent for child marriage and discrimination of girls. If a girl is married at a tender age, a small amount of dowry will work but if the girl is educated and qualified, she needs an equal amount of dowry to get the bridegroom of same status. Unfortunately the dowry system is still prevalent in the Dowry Prohibition Act 1961 which says that "If any person after the commencement of this act gives or takes or abets the giving or taking of dowry then he shall be punishable with imprisonment for a term which is not less than 5 years and with fine which shall not be less than 15000 rupees or the amount of value of such dowry whichever is more.

## V.EFFECTS OF DOWRY SYSTEM

There are some effects of dowry system which are immediate and permanent in nature like injustice towards girls as dowry bears huge financial obligations for the bride's family. As a consequence girl child is viewed as a possible source of drain on the family finances. This view evolves into gigantic proportions taking the shape of infanticides and feticides of girl's child. A host of restrictions are imposed on them in the name of family honor and they are made to stay indoors.

Child marriages are still practiced as a result because age is still counted as an index of purity. Child marriage typically result in verbal abuse, domestic violence and even death.

Continuous physical and mental depression may lead women to depression and even commit suicide. <sup>6</sup>2016 figure indicates that in India 21 woman die every year due to dowry related issues. Lastly it creates gender inequality as the idea of paying dowry in order to get a girl married generates an increased sense of inequality among the genders, placing men superior than woman. Young girls are kept from schools while their brothers are given access to education. They are regarded incompetent for roles other than housework and are often discouraged from taking up the jobs. The effect of dowry system are many and varied but in almost all the cases it is the girl's side which has to face the repercussions while the boy's side walk away from the issue unharmed, with their heads held high. When demands for dowry are not met, the bride is subjected to torture and often even killed.

Most of the dowry death occur when young woman, unable to bear the harassment and torture, commit suicide, Most of these suicides are hanging oneself, poisoning or by fire. Sometime the woman is killed by setting up her on fire which is known as bride burning and is distinguished as an accident to avoid criminal charges and punishment. <sup>7</sup>The Indian Police says that they receive over 2500 reports of bride burning alone every year while the number of dowry death is 9000. These rates increase at the rate of 1% -2% every year.

<sup>6</sup> <https://www.indiatoday.in/mail-today/story/dowry-deaths-national-crime-records-bureau-conviction-rate-972874-2017-04-22>

<sup>7</sup> <http://edition.cnn.com/WORLD/9608/18/bride.burn/>

It is also the reason why many parents don't want to have the daughters, because of dowry they have to shell out her marriage, and the stress they go through because of never ending demands of in laws In fact dowry deaths of a nearly married are always in the news.

## VI. GOVERNMENT WORK ON DEMOLISHING DOWRY

Government has made up its mind to make the cases of cruelty or harassment of woman on the hands of husband and in laws a compoundable offence. Minister of state for home Kiren Rijiju in an oral reply ion Rajya Sabha said that home ministry is merely waiting for an opinion for the law ministry on the issue to take the step. TOI had on 22 March reported that the government was in the process of amending the law to make it compoundable. At the moment, the offence is non-bailable and non-compoundable leaving no chance for husband and wife to reach a compromise after the case has been filed. "This is a family issue, it can be resolved within the family, such a widow should be available under the law. For thus we have sought an opinion from the law ministry. When some women MP's protested saying that harrassed woman had nowhere to go, Rijiju said that section 498 A which deals with the offence , was very stringent. So stringent that is been misused' he said even as he assured that there would be no compromise on protecting woman who are harassed.<sup>8</sup> Haribhai Parthibhai Chadhary too, in a written reply informed the House about the proposal. He also said that about 9% of the cases of cruelty or harassment of woman registered in 2013, where false or bad in law.<sup>9</sup> Quoting National Crimes Record Beureau Data, he said that in 2013 a total of 1,18,866 cases were registered under Section 498A of IPC for cruelty by husband or relatives. Although we have Dowry Prohibition Act 1961 still it is ineffective and was vehemently raised in a PIL petition before the Supreme Court. The Supreme Court anguished over the fact that the scene on the dowry front had not improved in the country and probably a social revolution was needed to put an end to the biggest social evil of the society. And till then the court emphasized, it will be necessary to make serious efforts to enforce to provisions of the dowry prohibition act and rules framed under it.<sup>10</sup> According to final judgment delivered in the case recently [2005 [3] CCSC 1554] the supreme court reiterated that when the executive fails to successfully implement the law enacted to tackle a social problem which has assumed menacing proportions the court has to step in with the directions to implement the Act rigorously. Therefore court issued the following directions:- The Union and State government must devise means to create honest efficient and committed machinery for the purpose if Dowry Prohibition Act and the rules framed under it. The Union and State government must take more effective steps to implement the dowry prohibition Act with particular reference to section 3 and section 4 and the rules framed under it. The Union and State government must give priority to activate the

<sup>8</sup> <https://groups.google.com/forum/#!topic/evening-news/mMoJvceKbrQ>

<sup>9</sup> <https://www.thehindu.com/news/national/rising-number-of-dowry-deaths-in-india-ncrb/article4995677.ece>

<sup>10</sup> <https://indiankanoon.org/doc/899749/>

Dowry Prohibition Officers. The Union and the State government must take effective steps for stepping up anti dowry literacy among people through Lok Adalats, radio broadcast, televisions on a continuing basis.

## **VII. LEGISLATIVE MEASURES TO DEMOLISH EVILS OF DOWRY**

In clause 93 of the Hindu Code Bill put up before the Provisional Parliament of India. In this clause it was stated that dowry shall be deemed to be the property of the bride and that the person who receives it should hold it in trust for the benefit and separate use of the bride and transfer it to her on completing the age of eighteen years. Undoubtedly in both these attempts dowry was not prohibited but the effects of these provisions could certainly achieve some measure of restriction or check on this evil practice. These provisions attempted at wiping away the wrong uses of dowry but not the evils of dowry. Government has been making various efforts to deal with the problem. Even the social reformers like Raja Ram Mohan Roy, Ranade, Ishwarchandra Vidyasagar, Mahatma Gandhi and many others of the nineteenth and early twentieth century have striven hard and dedicated their lives for the abolition of various social evils including the evils of dowry from which the Indian women were suffering. The fruitful results of the efforts of social reformers were perceived to some extents even long before India gained independence, first of all in Sindh. The then provincial Government of Sindh passed an enactment known as "Sindh Deti-Leti Act, 1939" with a view to deal effectively with the evil of dowry system but the enactment had neither any impact nor could create the desired effect. It prohibited payments in excess of limits specified in the list applicable to the girls' family which were drawn either by the respective Panchayat or failing which, by the provincial government. Such lists were registered and published and were binding upon every members of the Panchayat and also provided punishment for contravention of the provision of the Act. It prohibited giving and taking of dowry in excess of limits specified as part of contract of betrothal or marriage. The three major Acts which govern legal trials in India are the Indian Penal Code (IPC), which lays down categories of offences and stipulates punishments, the Criminal Procedure Code (CrPC) which lays down procedural rules for investigation and trial and the Indian Evidence Act, which prescribes the rules of evidence to be formed during a trial. In those crimes in which women alone are the victims are referred to as violence against women and special laws are made to tackle them. Under this, homicide for dowry, dowry deaths and the attempt, come under Section 302/304-B, IPC and the torture, both mental and physical under Section 498-A, I PC. Besides those identified by the IPC, there are crimes under the Special Laws as well.

## **VIII. SOLUTIONS TO DOWRY SYSTEM**

Several laws has been enacted to prohibit the practice of dowry and the injustice against women stemming from it. Making demands of dowry is punishable by a minimum imprisonment of 5 years and fine of Rs.15000. Incidences of cruelty by the husband or his family against the wife has been addressed in section 498 A of IPC and section 198 A in Crpc. Section 113A added in Indian evidence act further provides the

family of the bride to charge the husband's family of abetting suicide of their daughter within 7 years from the date of marriage. It is never enough to just introduce acts and amend sections to fight against a social evil. Although such allegations should be taken very seriously by the authorities, lack of investigative procedure often leads to the accused going free. The government needs to ensure a zero tolerance policy for such offenders and ensure enforcement of law through systematic charges. Even the Supreme Court expressed its anguish over the fact that the scene on the dowry front had improved in the country and probably a social revolution was needed to put an end to the menace.

The Supreme Court judgment concluded with a fervent appeal to the enlightened females and educated males. The conscience of the society needs to be fully awakened to the evils of the dowry system so that the demand of dowry itself should lead to loss of face in society for those who demand it. We have no doubt that our young and delighted woman would rise to the occasion to fight the evil which tends to make them article of commerce. We also hope our educated young males would refuse to be sold in the marriage market and come forward to choose their partners in life in a fair manner.