

A REVIEW ON DOWRY DEATH AND IT'S MEDICO LEGAL ASPECTS

Dr. Deepti Patel¹, Dr. S. R. Inchulkar² and Dr. Yuvraj Kaushik³

¹1st Year MD Scholar, PG Department of Agad Tantra Evam Vidhi Ayurveda, Govt. Ayurveda College, Raipur (CG).

²Professor & Head of Department, PG Department of Agad Tantra Evam Vidhi Ayurveda, Govt. Ayurveda College, Raipur (CG).

³Lecturer, PG Department of Agad Tantra Evam Vidhi Ayurveda, Govt. Ayurveda College, Raipur (CG).

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*Corresponding Author

Dr. Deepti Patel

1st Year MD Scholar, PG
Department of Agad Tantra
Evam Vidhi Ayurveda,
Govt. Ayurveda College,
Raipur (CG).

ABSTRACT

In present era, we can hear and see, a lots in social media about the burning of females after death of her husband, which was known to be Johar or Satipratha before but now a days it is due to Dowry, the women was forced by husband if alive or mother-in-law and all for dowry. In many cases we find that some women's after marriage are attempting suicide by burning themselves, hanging over the fan etc. If we talk about historical background of dowry – it is ancient custom with no records or when it started or where. In India during the vedic and Indus civilization it is seen the dowry was practiced from that time. The study focused about dowry violence. So keeping this in view the researches has attempted to review the literature related with the

practice of dowry, and laws practiced with the dowry. Although dowry has long been outlawed in India, the age old custom persists. One of the longest standing evils associated with marriage from a women's point of view in Indian society is the dowry system. Many act's have been launched to overcome this problem like the dowry prohibition act-1961, which is mostly challenged since its commencement all over the country. This article deal with this section 304-B (dowry death) and 498-A (cruelty by husband or in laws) were incorporated in I.P.C. 1980. To deal with this social curse, educational systems, educational cum awareness programme, knowledge about laws, should be known to every one to fight out with this dowry death.

KEYWORDS: Dowry, I.P.C., Suicide, Education, Etc.

INTRODUCTION

The dowry system in India refers to the durable goods, cash and movable property that the bride's family gives to the bridegroom, his parents or his relatives as a condition of marriages. Dowry death becoming a great challenge to modern society specially forensic experts justify whether the death of women really related to other cause or actually related to dowry. Dowry is defined under Section 2 of the Dowry Prohibition Act, 1961 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly- (a) by one party to a marriage to the other party to the marriage or (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahar in the case of persons to whom the Muslim Personal Law (Shariat) applies.^[1]

Historical Background^[2]

History of it can be

- The history of dowry is as far back as 1700 BC when the code of Hammurabi was written. This code stated that in the death of her husband or through divorce, the wife would receive back the dowry that she paid to him.
- The history of dowry in South Asia is not clear. In ancient India dowry was insignificant and daughters had inheritance right which by customs were exercised at time of their marriage.
- In ancient marriage it was known as Kanyadan later on associated with varadakshina, varadakshina being a voluntary practice without any coercive overtones.
- In present era- the more highly educated is the young man, higher are the demands of dowry, causing infanticide and foeticide in India adding to domestic violence.

Definition

Dowry being a transfer of parental property, gifts or money at the marriage of the daughter. According to section 304-B Dowry death can be defined as- death of women caused by any burn or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage and before death if she was harassed by her husband or any other relatives for

any demand for dowry. Under section 2 of dowry prohibition act 1961 dowry means any property or valuable security given by either party any other person to the marriage.^[3,4]

Causes of Dowry^[5]

Can be so many causes among which

- **Economic factors** – Dowry gave, at least in theory, women economic and financial security in their marriages in the form of movable goods, prevent family wealth break-up and provided security to the bride at the same time. This system can also be used as a premortem inheritance as once a women is presented with movable gifts she may be cut off from family.
- **Social customs** – May influence dowry as social customs or rituals and parents expectation of dowry are important. Studies have been showing that attitudes of people are changing about dowry, while India has been making progress for women's rights, women continue to be in a subordinate status in their family, women education, income, health are some significant factors that plays in to dowry system.
- **Religious factors** – Dowry in India is not limited to any specific religion. It is wide spread among Hindu and other religion for example, Indian muslims call dowry as jahez termed as jahez-e-fatimi. Islam its classify jahez in two categories the first comprises some essential articles for the out fit of the bride as well as for conjugal. The other is made up of valuable goods, cloths, jewellery, an amount of money for grooms family. The jahez often far exceeds the cost of baraat and marriage parties. The jahez is separate in from cash payment as mahr or dower that sharia religious law requires.

Laws in Relation of Dowry Deaths

In view of the increasing number of dowry death, the following laws have been laid by the government of India for examination of such cases, and the law in respect there of has been suitable amended.^[6]

IPC Section 304-B

In this section deals with dowry death where the death of a woman is caused by any burn or bodily injury, or occurs in a manner other than under normal circumstances within 7 years of her marriage, and it is shown that she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with any demand for dowry, such death is

called dowry death. It is a cognizable and non-bailable offence and punished with imprisonment from seven years to life imprisonment.^[7]

IPC Section 498-A

Whoever being the husband or the relatives of the husband of the woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Cruelty has been defined as any willful conduct which drives the woman to commit suicide or grave mental or physical injury to her or harassment of the woman with a view to coerce her for dowry.^[8]

CrPC Section 176(1) and CrPC Section 174(3)

CrPC Section 176(1) provides inquest by executive magistrate and CrPC Section 174(3) provides as follows; When The case involves suicide by a woman within seven years of her marriage. The case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman, or The case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf, the police officer will forward the body for autopsy to the nearest medical officer for opinion.^[9]

IEA Section 113-A

Presumption as to abetment of suicide by a married woman: when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by any relative of her husband.^[10]

IEA Section 113-B

Presumption as to dowry death: when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death, such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.^[11]

Penalty and Punishment For Dowry^[12]**The Dowry Prohibition Act 1961 Section-3**

Penalty for giving or taking dowry, If any person, after the commencement of this Act, gives or takes or abets the giving or taking of Dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees.

The Dowry Prohibition Act 1961 Section -4

Penalty for demanding dowry, If any person demands, directly or indirectly, from the parents or other relatives of a bride or bridegroom, as the case may be any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

The Dowry Prohibition Act 1961 Section -4A

Ban on advertisement, If any person offers, through any advertisement in any newspaper, periodical, journal or through any other media any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative. Prints or publishes or circulates any advertisement, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees.

Forensic Expert's View About Death Related To Dowry

If death is due to burn – fire accelerant's, kerosene and mostly used in order to established homicidal burning, all suspected materials should be collected from the scene and send for laboratory, the victim of dowry is usually young, female age group 18-30 years, usually the mode of death is burns but in some instance mechanical injuries may be inflicted by husband or his relation.

Postmortem burning should be suspected

- When autopsy reveals that death occurred before fire.
- If there is evidence that death was due to violent means other than fire.
- If there are unsuspected victims.

The dowry death, though mostly involving homicidal burning as described above, may involve homicidal poisoning. It is understood that zinc phosphide (highly toxic, 40mg/kg) and especially aluminium phosphide (3gm cephos tablet's containing 56% active which may

be mistaken for a medicinal preparation) are frequently misused in the dowry death cases in rural areas.^[13] In short we can say that dowry death occur either by murder of a married women she herself committing suicide being unable to bear harassment or cruelty. Dowry murder's are invariably committed secretly either in the house or at place where outsiders may not be witness.^[14]

Anti Dowry Steps

First of all the taking and giving of dowry should be banned. Dowry prohibition act 1961, is most commonly challenged, since its commencement all over country. To stop the increasing dowry crime should be dealt with section 304-B and 498-A, which are mis-used the girls therefore another new law should be amended. Severe punishment is to be given to those, who take dowry, strict laws should also be used to dis allow remarriages for such men who have been caught up in dowry deaths, and for men whose wives have been burnt alive, continues monitoring must be done for all registered dowry cases.^[15]

Important Steps to Eradicate Dowry

- Educate your daughters.
- Encourage them to have their own carriers.
- Teach them to be independent and responsible.
- Do not encourage the practice of giving and taking of dowry.

CONCLUSION

Being a very big burning problem of today era is dowry. This social curse should be removed with the enhancement of all the laws related with the dowry with the other organization such as women welfare organization all higher public servants and judiciary. Beside all this, there should increase in the quality of education system of girls, providing them for easier job opportunities. Awareness propaganda about laws of dowry, the side effects of dowry should be done to stop this evil curse of our society which is named as dowry. It is an accepted fact that dowry is not an easy problem, to be eliminated, However such a social menace can be combated with effective strategic measures that would protect the dowry of Indian bride and would allow such dowry to be treated as her exclusive property. It is certainly a social evil and it should be eliminated from our society.

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