

The evil of dowry in India: A legal insight

Richa Gupta

Assistant Professor of Law at Amity Law School Delhi, affiliated to GGSIPU Dwarka, Delhi, India

Abstract

Marriage is an integral part of society, a source of joy and festivities as well as of new beginnings. Yet, one of the longest standing evils associated with marriage from a woman's point of view in the Indian society is the Dowry system. Despite a lot being said and done against the custom, it is still prevalent in the 21st century, in both subtle and obvious ways. The word 'dowry' means the property and money that a bride brings to her husband's house at the time of her marriage. At the beginning it was voluntary custom, but later on took the shape of a tool to exert pressure on the bride and her parents, in the name of social practice and honor. The dowry at present is a source of both joy and curse in the society. It is also a joy to the husband and his relatives who get cash, costly dress and utensils, furniture, bedding materials, etc. But, it is a curse to the bride's parents who have to bear enormous cost to satisfy the unreasonable demands of the bridegroom's party. A demand of dowry does not diminish even after marriage. The in-laws of the bride are very much ready in Indian homes to inflict harassment, insults and tortures-both mental and physical. When more pressure is put on the bride's parents, their dear daughter has no other option but to commit suicide to avoid more insult and torture at the hands of the members of her husband's family.

Keywords: dowry, dowry prohibition act 1961, dowry death, marriage, social practice and family honor

Introduction

"Who makes dowry a pre-condition for his marriage, not only shows disrespect to women but also humiliates his own nation, education and womanhood and such young person's should be socially boycotted".

Mahatma Gandhi

On an average a bride is burnt every hour in the country, courtesy-Dowry. This age old ritual has come a long way from being a token of love for the daughter to a social menace. Although paying and accepting of dowry has been illegal in India, for 55 years under the Dowry prohibition Act (amended in 1984 and 1986) 1961 but, the provisions are rarely enforced and the evil practice is still rampant and thriving. Despite anti dowry laws and the constant media campaign against dowry, this social evil is behind the deaths of thousands of women in the country every year. This article is an attempt to have an insight into the origination of this social evil that has commercialized nuptial vows and to identify the ways out.

Definition

Dowry can be defined as the money, good or property that a woman brings to her husband at the time of her marriage. It is the payment in cash or some kind of gifts given to a bridegroom's family along with the bride. Generally, it includes cash, jewelry, electrical appliances, furniture, bedding, crockery, utensils and other household items that help the newlywed set up her home. This age old ritual has come a long way from being a token of love for the daughter to a social menace.

Origin

The dowry system did not stand as an impediment in daughter's marriage in ancient India. In pre historic times daughters were regarded as chattel and it was the bride's father,

and not the bridegroom's, who was regarded as justified in demanding a payment at the time of marriage. The bridegroom carried away the bride and deprived her family of her services. He could not have dreamt of demanding a further dowry or donation. Thus dowry system was generally unknown in early societies, and the same was the case with ancient Hindus. In rich and royal families there was a tradition of giving gifts to son in law at the time of marriage. However, these presents can hardly be termed as dowry for they were voluntarily made after the marriage out of love and affection. These properties formed the 'stridhan' of the women voluntary given by the parents to help the daughter in her rainy days. However, an offshoot of the same grew in the evil practice of dowry. The parents of a bride twisted this concept of stridhan for invoking greed, in the mind of groom's parents and offered to satisfy the same just to provide comfortable and settled life for their daughter. Otherwise the Smritis contain no reference of any pre nuptial contract of payments to be made by the bride's father to the bridegroom or his family. The concept of dowry system is associated with the belief of marriage as a "dana" or gift of the daughter. The Hindu Shastras recommended that the bride be adorned with jewellery and then be gifted away, also known as "dana" or "kanyadana". However the act dana remained incomplete till the receiver was given "dakshina" in this case the husband. Hence the bridegroom was given something in cash or kind along with "kanyadan", referred to as "varadakshina". Another view point is that the practice of dowry seemed to have been fuelled to overcome the bias in the Mitakshara system. The Mitakshara system or the law of inheritance prohibited women from getting any share in parental wealth; hence the system of favoring the daughter with handsome dowry seemed to have been introduced to overcome this restriction^[1].

It was only in medieval times and in Rajputana that this system assumed alarming proportions (from about 13th and 14th

century A.D). However, during this period also, the practice remained confined mainly to Rajputs and in the ordinary families amount of dowry was nominal one. Even during the pre-British period, when the society was mainly agricultural and government appointments were not so lucrative, there were no such factors. The practice assumed scandalous proportions only during the last century. The various excuses for upholding the demand of dowry are

- A lucrative appointment, good footing in a learned profession or good education enormously improved the social and economic status of a youth and made him immensely eligible son-in law.
- It is a prestige issue for the family.
- *Hum to ladkewale hain and we have the right to demand dowry.* Sigh!
- We have spent so much on our son's education, so it is only justified that we ask for dowry.
- The girl is not beautiful, and hence asking for the higher Dowry amount is only legitimate.

These are several notions that have ruled the minds of the ladkewalas waiting for a sincere 'Shift+Delete' command.

Legislation

In India the legislature enacted The Dowry Prohibition Act 1961 (hereinafter referred to as 'Act'). However the Act failed to curb the evil practice and it continued to be practiced throughout the country in the name of customs and as a means of establishing one's social prestige and rank.

The Act sought to define Dowry as anything given as consideration for the marriage. However, It excludes the presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof does not exceed Rs. 2000, with a view being necessary to make the law workable. The Act prohibits not only giving and taking dowry but also raising a demand for the same. However, besides the fact that punishment prescribed for demanding, taking and giving dowry were very low, the Act also contains so many loopholes [2].

The Act has been amended twice, first in 1984 and for the second time in 1986 to cure its defects and make it more effective.

1984 Amendment Act

The definition as given in sec 2 was amended to give it an expansive view and the words "as consideration for the marriage of the said parties" were substituted with "in connection with the marriage of the said parties" so that any payment whether in cash or in kind given before, at or after the marriage can be included in dowry as it was very difficult to determine what constitutes consideration for marriage. Also the punishment for the offence of giving and taking dowry was enhanced.

In the case of *Yogendra Kumar Bansal v. Smt Anju* [3] the Allahabad High Court said that "Dowry means any property given or agreed to be given by the parents (or any others) of a party to the marriage or before marriage or at any time after the marriage in connection with marriage". Thus where the husband demanded an amount of Rs 50,000 by way of dowry some days after the marriage from the wife's father and in the event of her not being able to give that amount was subjected to torture, it would mean that the amount was demanded in connection with the marriage and it was a demand of dowry

even though it was demanded after marriage. The phrase "in connection with marriage" however is ambiguous and has not been interpreted in a uniform manner. The question of whether gifts received under coercion/ pursuant to demands being made, after the completion of the marriage ceremony, but during the course of the marriage, are included in the definition of dowry remains unanswered. The courts in the past have interpreted this clause in the favour of the defendants when they claimed that any gifts were exchanged out of affection rather than as a demand having any connection with marriage. Thus the defendants would often escape liability altogether solely based on classification of the property demanded. The requirement that dowry be defined as being "in connection with marriage" fails to recognize that most marriage negotiations are done confidentially and that any discussion about the dowry exchange will be covert. Defendants can easily be acquitted by arguing that gifts given during marriage over a period of years were voluntary, out of affection, or connected with events apart from marriage, such as childbirths or religious festivals.

1986 Amendment Act

The definition of dowry under section 2 was further amended to include the demands made at or before or anytime after the marriage [4]. The punishments were made more stringent and prescribed a term imprisonment for 5 years and fine of Rs.15, 000/- or the amount of the value of dowry, whichever is more for giving and taking dowry [5]. The 1986 Act introduced new sections 8-A and 8-B. Sec. 8-A says that the burden of proving that one has not committed offence u/s. 3 (giving or taking of dowry or any abetment towards it) and u/s. 4 (demanding dowry) is on the person charged.

In Order to provide more teeth to dowry prevention laws, the Government made it mandatory for couples to make a list of gifts exchanged during the ceremonies of marriage. The Dowry Prohibition (Maintenance of List of present to the Bride and Bridegroom) Rules were introduced in 1985 in pursuance of the same purpose. It clearly stated that the list of gifts, in form of a sworn affidavit, has to be notarised, signed by a protection officer or a dowry prohibition officer and kept by both the parties. Failing this can invite heavy penalty including a three-year term in jail for not only bride and groom but also their parents.

The legislation was further complemented with suitable amendments in the Indian Penal Code 1860 (hereinafter referred to as IPC) by inserting Sec 498A [6] and Section 304B [7]. Provision to this effect has been added in the Indian Evidence Act, by adding Section 113-B [8] since the year 1983 and Section 198A [9] in the Code of Criminal Procedure, 1973.

A conjoint reading of the above mentioned provisions lays that in the case of suicide by a married woman, within 7 years from the date of her marriage, the Court may presume that such suicide has been abetted, encouraged by her husband or his relatives.

Sec. 304B is an exception to cardinal principles of criminal jurisprudence that a suspect in the Indian Law is entitled to the protection of Art.20 of the constitution as well as, a presumption of innocence in his favor. The concept of deeming fiction is hardly applicable to criminal jurisprudence but in contradistinction to this aspect of criminal law, the legislature applied the concept of deeming fiction to the provisions of Sec 304B. Such deeming fiction resulting in a presumption is,

however, a rebuttable presumption and the husband and his relatives, can, by leading their defence prove that the ingredients of Sec 304B were not satisfied^[10].

Thus once the prosecution discharges the initial burden of proving the basic ingredients of Sec 304 B, and that the harassment of cruelty was related to the demand for dowry and such was caused "soon before her death", the court will presume by deeming fiction of law that the husband or the relative complained of, has caused her death. By a deeming fiction in law the onus shifts on the accused to prove as to how the deceased died. It is for the accused to show that the death of the deceased did not result from any cruelty or demand of dowry by the accused person^[11].

In case *Lajpat Rai Sehgal v. State*^[12]- Section 4(2) of Code of Criminal Procedure, 1973 (herein after referred to as CrPC), deals with the enquiry at trials etc. under any other law. Thus the crimes under the Dowry Prohibition Act are to be tried, investigated and enquired under the provisions of Cr.P.C.

The Act also provides for Dowry Prohibition Officers under sec 8B^[13] to ensure the effective implementation of the provisions of the Act.

Another relevant legislation strengthening the above mentioned provisions was the enactment of Protection of women from Domestic Violence Act, 2005 enacted in the year 2005. The legislation took the cognizance of most hidden form of cruelty against the women taking place in their home itself. Some measures are also taken by the international community for eradication of domestic violence against women and declared 25th November as the International day to prevent violence against women^[14].

Advantages of Dowry System in India

Though the practice of dowry is legally criminalized, condemned publicly and morally despicable, it continues to persist as a significant segment of society argues that the practice of dowry has its own advantages. Some of the arguments in favor of dowry are discussed here under:

1. Dowry helps newly married couple to establish their family
The supporters for the practice of dowry claim that the valuables, money goods and articles brought by the bride at the time of marriage help the newly married couple to set up their new home and also enables them to equip their home with necessary accessories.
2. It makes marriage of ugly looking girl easy
Dowry serves as an inducement for luring a suitable bride groom for the marriage of an unattractive, uneducated and aged girl. A huge amount of dowry acts as effective and useful method for alluring a suitable bride groom for the bride.
3. Supports the Higher Education of poor boys
The practice of dowry has often been justified on the grounds of sponsorship for higher education of the prospective bridegroom. It solves the financial problem of poor young bachelors and gives support for higher education. Alternatively the parents of the groom pursue marriage of their son as a means of reimbursement of what they have spent on the education of their son.
4. Raises the status of women in family
An Analogy is drawn between the evil practice of dowry and a life insurance wherein the marrying off a girl is treated as a life insurance and the dowry as the premium. The amount of dowry brought by a bride is directly related

to her confidence while entering her matrimonial home. She earns better attention and importance in her matrimonial family members and relatives. Where as a girl, without or insufficient dowry remains subdued, feels anxious and apprehensive.

5. Promotes Inter-caste, inter religion and inter- state marriage
Dowry serves as a medium to find a suitable bridegroom from a different cast, religion or form other state. More to the point, it also serves as a valid and obvious consideration for a lower Class / Caste women to marry an upper class/ caste boy through which she can uplift her status in the society.
6. Acts as a provident fund
The dowry given to a girl is treated as an investment made by the parents towards her provident fund which can help her in her trying times of financial crisis

Disadvantages of Dowry System in India

The despicable custom has assumed an alarming proportion reducing the sacrament of marriage to just a merciless business transaction and has been the origin of many evils in the society. It tags a young maiden as an unwarranted liability and groom a salable commodity and has become a socially established norm of draining the wealth from the family of the bride to that of the groom.

1. Dowry causes great economic burden on bride's family
The practice strikes most harshly to the middle and lower income families who live hand to mouth to utilize their resources for the fulfillment of basic necessities of life like education and health. The pressure to keep up with the societal norms, force such families either to borrow money or to mortgage or dispose off their property. Thus the marriage of a daughter becomes the source of agony for the parents, which they keep on carrying over the years. Very often the change is irreversible. The situation creates a vicious circle in the society where parents as an escape route to the mentioned problem become non-hesitant to indulge in practices like female foeticide, child marriages and selling of women for servitude and prostitution etc.
2. Dowry undermines the institution of marriage
The practice of dowry in the guise of custom has degraded the status of woman to a commodity capable of being sold and bought. It has reduced the institution of marriage primarily an economic relationship in which the opinion of a girl has no meaning and groom's choice of wife is determined by one's ability to pay rather than on mutual respect and love between bridegroom and bride. Thus the system aggravates rather than healing class distinctions.
3. Dowry encourages corrupt and immoral practices
The evil practice acts as a two way sword on the parents and daughters simultaneously. On one side, the societal norm create psychological pressure on parents, to collect money for paying dowry and pushes them to adopt corrupt practices and indulge in various illegal activities like accepting bribes and smuggling.
On the other hand, young girls, in order to save their parents from the unwarranted superimposed burden prefer to undertake jobs and amass the amount of their dowry. Such girls serve as an easy target and fall prey to the false promise of the young boys and are often sexually cheated to be made pregnant. Consequently they are socially defamed and finding no alternative, forced to commit suicide.

At times girls are bound to commit suicide when their in-laws forced them to bring more and more dowry from parents. Even the husband along with his parents or other family members do not hesitate to take away the life of bride on dowry issue if the dowry is not up to their satisfaction. This accounts for an explosive situation such as bride burning and many other atrocities activity against women in our society. A demand for dowry does not diminish even after marriage. Women are ill treated, disrespected, manhandled, tortured and subject to all sorts' cruelties in the name of dowry. Newly married girls are always the victims of harassment, violence, murder and suicide. Dowry is demanded as though it is fundamental right of the bridegroom. Violence against women who bring less dowry or no dowry includes-physical battering, emotional neglect, torture, verbal abuse, refusal of sufficient food, imposition of heavy physical work and so on.

In spite of the varied legislation to ban the practice of dowry, the regret is that it still persists. Demands for dowry have even caused dowry death. For every hour, a dowry death occurs in our society. Further some girls, who remain unmarried due to dowry system, take decision to carry on illegal sexual relations in order to satisfy their sexual urge and there by pollute the whole society.

4. Dowry practice lowers the status of women

A girl is considered a liability in her own natal home due to prevalence of the custom of dowry practice. Some parents are unwilling to give higher education to their daughter as they want to save money for arranging the dowry in her marriage. Further the prevalent notion is that it would be difficult to search a suitable alliance for a well qualified girl and will create unnecessary problem for parents. Given the situation parents don't hesitate to give differential treatment to male and female child as the male child will be a source of prosperity and wealth by bringing dowry along with the bride while in case of a daughter they have to give and spend. Besides, the boy who receives huge amount of dowry may think of himself as more dignified as having a higher status greater prestige and more respectful than the

girl. Subsequently the girl develops inferiority complex. Dowry system serves encourages and motivates greedy boys who want to make easy money and would not dither to marry several women to get monetary' benefit in the form of dowry.

5. Dowry system makes imbalance in the sex ratio

Parent of poor families kill their daughter from their very birth or at the stage of fetuses in their mother's womb. The practice of female infanticide and feticide has led to an imbalance in the sex ratio in our society.

6. Dowry practice enhances psychological tension

At times just for the sake of dowry, parents fix up their son's marriage without taking his consent which leads to nothing but misunderstanding and unhappiness between married couple. Many marriages breakdown due to dowry practice and increases the tension of both parents and daughters. Besides, parents always remain worried and tensed in arranging money required to pay in dowry for daughter's marriage. In many cases, girls are ill-treated even after the payment of dowry. So they spoil their mental peace and cause continuous irritation though they resist this treatment.

Present scenario

The cases of dowry deaths have increased by 4.6% during the year 2014 over the previous year (8,083 cases). A total of 8,501 victims were reported under 8,455 dowry deaths cases in the country during the year 2014. 29.2% of the total cases of dowry deaths were reported in Uttar Pradesh (2,469 cases) alone followed by Bihar (1,373 cases). The highest crime rate in respect of dowry deaths was reported in Bihar (2.8) followed by Uttar Pradesh (2.5) as compared to the national average of 1.4. The cases registered under this Act have decreased by 6.2% during the year 2014 as compared to the previous year (10,709 cases). Maximum such cases were reported in Bihar (2,203 cases) followed by Uttar Pradesh (2,133 cases), Karnataka (1,730 cases) and Jharkhand (1,538 cases). The highest crime rate (9.6) was reported from Jharkhand as compared to 1.7 at the national level [15].

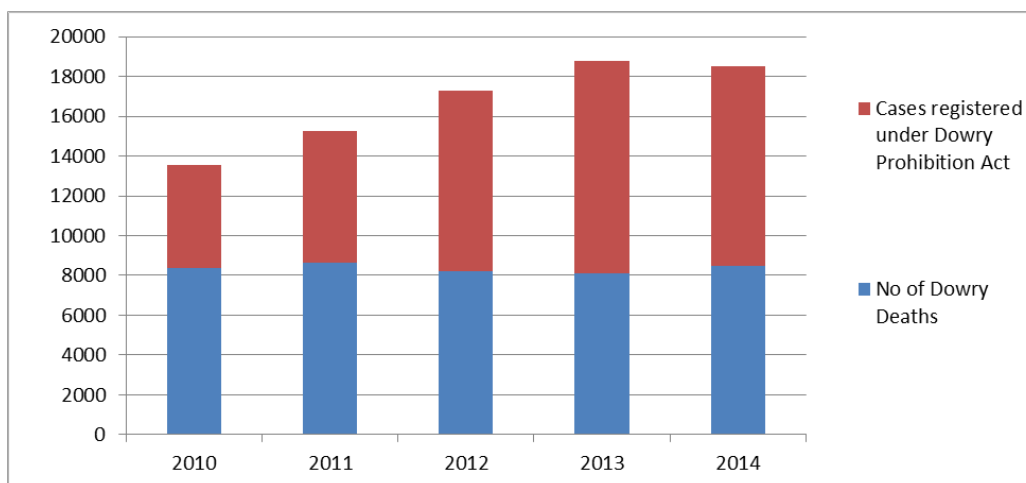


Fig: 1

Given this evident situation there has been a growing demand from all the wings for dilution of Dowry laws as the same are alleged to be misused. In the case of *Preeti Gupta v State of*

Jharkhand [16], the Supreme Court observed that "serious re-look of the entire provision is warranted by the Legislature. It is a matter of common knowledge that exaggerated versions of

the incident are reflected in a large number of complaints. The tendency of over-implication is also reflected in a very large number of cases". S.498A was introduced in the year 1983 to protect married women from being subjected to cruelty by the husband or his relatives. A punishment extending to 3 years and fine has been prescribed. The expression 'cruelty' has been defined in wide terms so as to include inflicting physical or mental harm to the body or health of the woman and indulging in acts of harassment with a view to coerce her or her relations to meet any unlawful demand for any property or valuable security. Harassment for dowry falls within the sweep of latter limb of the section. Creating a situation driving the woman to commit suicide is also one of the ingredients of 'cruelty'. The gravity of the situation can be appreciated in the light of a recent order of a Division Bench of Bombay High Court reportedly directed the Maharashtra Government to file a "detailed reply" on a bunch of PILs alleging that marriage bureaus in the country were functioning unregulated, with some of them openly facilitating the menace of dowry. It cites examples of several marriage bureaus, which mention the expected dowry in their clients' profiles. Some of these websites were openly advertising that they were ready to act as negotiator in dowry matters^[17]. But to say all is lost would not be true. Not even a single dowry death was reported in Nagaland and Lakshadweep for the period of 2002-2012. Several anti dowry campaigns in the country have gathered steam. A significant step was taken in this direction by Nilamboor Grampanchayat, Thiruvanthapuram that is taking several steps to make the village dowry-free. Several innovative initiatives have also put the spot light on the need to eradicate this problem. One such initiative is 'Angry-Brides', a game by Shaddi.com. This game involves a woman throwing household items on grooms who demand dowry^[18].

Judicial Trends

In the case of *L.V. Jadhav v. Shankar Rao Abasahab Pawar*^[19] - The Apex Court observed that having regard to the object of the Act the whole meaning of the term Dowry should not be introduced in section 4^[20], held that a liberal structure has to be given to the word Dowry used in this section.

The object of Sec 4 of Dowry Prohibition Act 1961 is to discourage the very demand for the property or valuable security as consideration for a marriage between the parties thereto. Sec 4 prohibits the demand for giving property or valuable security which if satisfied, would constitute an offence under sec 3 read with sec 2 of the Act. Thus the ambit and scope of sec 3 and 4 of Dowry prohibition Act, 1961 are different from the ambit and scope of sec 304B IPC^[21].

It was observed in *Raja Lal Singh v State of Jharkhand*^[22] that the expression soon before her death occurring in Sec 304B IPC is a relative term. It can refer to a period either immediately before death of the deceased or within a few days or few weeks before death. There cannot be a rigid period of time which can be mechanically applied in each case. There must be existence of a proximate or live link between the effect of cruelty based on dowry demand and the concerned death. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence^[23].

In *Nand kishore v State of Maharashtra*^[24] it was observed by the Supreme Court that the ingredients of sec 304B must exist conjunctively and mere cruelty is not sufficient, it has to be in

connection of dowry and continue up to the period of soon before her death^[25].

In *State of Rajasthan v Jaggu Ram*^[26] the Supreme Court held that where the death occurred within one and the half years of marriage, with evidences of cruel treatment and harassment starting immediately after marriage and continued until death, the High Court erred in acquitting by giving undue weightage of some discrepancies, ignoring the fact that she suffered head injuries at her in-laws place and died of them, her parents not informed and crimination was done in hush-hush manner.

In case *Sidramnarayan Batane v. State of Maharashtra*^[27] - In the present case, both the parties to the marriage were not well off, they did not have large lands or assets and were not in a state to incur a lot of expense on the marriage. However an amount of Rs. 1,10,000/- was given which was not held to be called as Dowry as it was the expense, which was spent on the marriage ceremony.

In the case of *Madan Lal v. Amar Nath*^[28] the court stated that "property given either to secure an agreement to marry or given at the time of marriage in exchange for of as the reason for the marriage, as it were. It, may also include property given subsequent to the marriage but expressly deferred as the reason for the marriage but "would not include property that may pass hands subsequent to the marriage, even months or years after it, merely to save the marriage from being broken or to smoothen the course of matrimonial life, or to keep the family of the in-laws of the wife better disposed towards her".

In case *Babulal Sao v. Moolchand Jain*^[29] - It was held that giving of gifts before formalization of wedding, these gifts are included in the definition of Dowry and the same is annulled under this section of the act. The word 'dowry' has to be understood as is defined in sec 2 of the Dowry Prohibition Act, 1961. Thus there are three occasions related to dowry, i.e. before marriage, at the time of marriage and at an unending period^[30].

Under section 6 of the act it has been said that if any dowry given to any individual other than the bride, then it will be transmitted to her within the specified time period. In case it is not transferred it will be held to be a crime under the act and penal action should be taken. Also till the time the property is held with a person, he or she will hold it as a trust, further this section explains that if the female expires before receiving the property, her heirs will be entitled to claim it.

In case *Sakhi Mandalani v. State of Bihar*^[31] - Section 3 and 4 of the Dowry Prohibition Act make out separate offences, but in the present case it was the claim for Dowry joined with cruelty and harassment which establishes the foundation of the prosecution case. Once the main part of the charge under S. 304-B was not found to be established, it was not possible to conduct prosecution under Section. 3 and 4 of the Dowry Prohibition Act:

Recently the Supreme Court in the matter of *Appasaheb and anr. V state of Maharashtra*^[32] held that "Demand for money on account of some financial stringency or for meeting some urgent domestic expenses cannot be termed as a demand for dowry as the said word is normally understood. dowry means any property or valuable security to be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties hence a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential "

In *Kamesh Panjiyar v State of Bihar* ^[33] the Supreme Court observed that the marriages are made in heaven is an adage. A bride leaves the parental home, leaving behind sweet memories there with a hope that, she will see a new world full of love in the groom's house. She leaves behind not only her memories but also her surname, gotra and maidenhood. She expects not only to be a daughter in law, but a daughter in fact. Alas! The alarming rise in the number of cases involving harassment to the newly wed, for dowry shatters their dream. In-Laws are characterized to be out-laws for perpetrating terrorism which destroys the matrimonial home. The terrorist is dowry, and it is spreading tentacles in every possible direction.

In case *Vikas v. State of Rajasthan* ^[34] - This inherent social evil necessitates to be measured not only by operative application of the Dowry Prohibition Act, 1961, but also by the Society. The Community or Society has to find new ways and means of monitoring and regulating this evil of taking and giving of Dowry. It seems that instead of regulating payment and receiving of Dowry in one or some other form, it is growing even in the educated class of people. Maybe, it is growing to a level because of gathering of black money with few and others having less money; means follow the same out of obligation.

Conclusions

However despite rapid privatization, liberalization and globalization dowry has become the one of the gravest social evil today. The data depicts a clear picture as to how this menace is growing with the passage of time and shockingly the practice is more rampant in urban area among the educated people. Surprisingly the situation is not that grim in lower strata of society because there the woman is engaged in economic activities and are supplementing the family income. On the other hand woman in high income and affluent families are subjected to more of such practices in the name of honor and reputation of the family. Legislative and non – legislative measures are to be taken for the eradication of dowry practice.

Although we have a separate legislation in the shape of Dowry prohibition Act, 1961 since more the five decades but the points to be considered are that our laws are made at the apex level by the parliament which remain confine to certain elite classes and does not reach to the people at the grass root level. According to Pandit Nehru "Rural India is the real India", where the awareness regarding the Act is almost negligible and nonexistent. India is a country with a huge population of over 121 cores with a literacy rate of only 74 percent ^[35]. Given the situation where people are struggling to meet their both ends and fulfill their basic needs cannot have the luxury of filing a complaint and go to the court to seek redressal for their problems. The parliament while enacting the law failed to appreciate the fact that more than two- third of the population in India still resides in rural areas and is oblivion of the existing laws in the country. The Dowry prohibition Act failed to acknowledge the importance of Local self-government like Panchayati Raj System prevailing in our villages. The Panchayat officers are the best equipped persons for ensuring the implementation of Act as they know the members of their village and are aware of marriage etc. in any family of the village. A panchayat officer can easily collect the information regarding the giving and taking of any dowry in any marriage solemnized in his village. If they are made responsible and liable for reporting any such incidence occurring in their

village, it will become easy for the courts and executive to take prompt and appropriate action against the defaulting parties. There should be an extensive drive educate the rural populist by various methods such as nukkad natak, movies, drama, educational camps etc. in rural areas.

Also a further relook is needed in the existing laws to examine the causes of failure of the Act. Sec 3 of the Act prescribes punishment for those who demand as well as those who give dowry. As a result when a woman or her parents make a complaint against the groom or his family members he files a counter complaint against the bride and her parents for committing the offence of giving dowry. Simultaneously he makes a complaint to the income tax office seeking an inquiry into the sources of finance allegedly spent on arranging dowry given in the marriage. This ultimately exposes the already pained and distressed bride and her parents to the prosecution on both the sides and acts as a deterrent for them to approach the appropriate authorities.

Similarly Sec 8 –B provides for appointment of full-time dowry prohibition officers by the respective state governments as the existing police personnel were too busy to pay attention to cases pertaining the dowry. However, there is a complete lack of awareness regarding the existence of such officers among the masses. In fact the provision seems to be in existence on papers only. State governments have failed to make the appointments of Dowry Prohibition Officers or to provide any kind of infrastructure for them to work effectively ^[36].

The Act also fails to take notice of the fact that any transaction related to giving and taking of dowry is either covered under the table or are done in the guise of voluntary ceremonial or ritual gifts. Such deals are kept in dark secrecy so that the transaction would remain captive from the eyes of society and also satisfy the greed of the groom or his parents.

Also it is suggested that the government should frame a policy banning all kind of extravaganza in the marriages in the name of family honor and reputation. Irrespective of the religion professed by the parties registered marriage should be the only mode for solemnizing a marriage. This step although cannot curb the under table giving and taking of dowry but will go a long way in curbing other incidental expenses incurred in a marriage in the name of various ceremonies and rituals.

Therefore, before moving towards any such dilution it is desirable to be ensure that the agencies responsible for the enforcement and investigation of such laws and provisions are diligent in their discharging their duties. They should be proficient in separating the grain of real cases from the chaff of false allegations facilitating justice to those really suffering. The remedy lies in bringing a change in our mindset and teaching woman since girlhood that their life is not useless without marriage. Position of woman in the society must be raised while abolishing the gender based inequality. Proper education of girls leading to economic independence would serve as panacea to this ailment of dowry system in our society. The age of marriage should be raised not only on the statutory books but in the mindset of masses. It is needed to be understood that demanding dowry is just another name of begging. Proper female education, marriage at an advanced stage mainly settled by parties themselves and the awakening of the public conscience seem to be only remedies that will eventually stamp out the heinous custom.

As has been rightly observed by Late Pandit Jawaharlal Nehru

that, “Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape”.

References

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2. Altekar AS. The position of women in Hindu Civilization from Prehistoric Times to the Present Day 69-72, Motilal Banarsidas Publishers Limited, Delhi, 1999. <http://www.legalindia.in/an-overview-on-dowry-prohibition?>
3. Allahabad Law Journal 914, 1989.
4. Section 2 of Dowry Prohibition Act Definition of Dowry In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly, By one party to a marriage to the other party to the marriage, or By the parent of either party to a marriage or by any other person,, to either party to the marriage or to any other person,
5. At or before [(Note: Subs. by Act 43 of 1986, sec.2) or any time after the marriage] [(Note: Subs. by Act 63 of 1984, sec.2) in connection with the marriage of the said parties, but does not include] dower or mahr in the case or persons to whom the Muslim Personal Law (Shariat) applied.
6. Section 3 of The Dowry Prohibition Act 1961 states “if any person, gives or takes or abets the giving or taking of dowry, he shall be punished with imprisonment for a term which shall not be less than five years, and with a fine which shall be not less than fifteen thousand rupees or the amount equaling the value of the dowry, whichever is more.
7. Chapter XXA (containing Section 498A)ins. By Act 46 of, Sec 2 Indian Penal Code, 1860 Sec 498A states that Whoever being the husband or relative of husband of a 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, 1983.
8. Explanation.—For the purpose of this section, “cruelty” means—
 - (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
 - (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.
9. Sec 304B of Indian Penal Code. states that “where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death 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 shall be called “dowry death” and such husband or relative shall be deemed to have caused her death, 1860.
10. Clause 2 of Sec.304-B stated that whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.
11. Section 113B of Indian Evidence Act, 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, 1872.
12. Explanation.-For the purpose of this section: "dowry death" shall have the same meaning as in section 304B of the Indian Penal Code, 1860.
13. Sec 198A of Code of Criminal Procedure states that “198A. Prosecution of offences under section 498A of the Indian Penal Code. No Court shall take cognizance of an Offence Punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or Upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.
14. Kashmir Kaur vState of Punjab, AIR 2013 SC 1039
15. Ashok Kumar V State of Haryana AIR 2012 SC 3025
16. 1 DM 301 (DEL), 1993.
17. Sec 8- Dowry Prohibition Officers.
 1. The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act. —(1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act."
 2. Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:
 - a) to see that the provisions of this Act are complied with;
 - b) to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;
 - c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and
 - d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.
 3. The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.
 4. The State Government may, for the purpose of advising and assisting Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an Advisory Board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).

18. <http://www.legalindia.com/an-overview-on-dowry-prohibition/> visited on 18.04.2017
19. <http://ncrb.nic.in/StatPublications/CII/CII2014/chapters/Chapter%205.pdf>
20. 7 SCC 667, 2010.
21. Age Correspondent. Bombay High Court seeks reply on plea for dowry officers” The Asian Age. 2016 alternatively <http://www.livelaw.in/high-courts-weekly-round-up-25/> visited on, 2017.
22. <http://saynotodowryenglish.blogspot.in/2012/01/angry-brides-takes-on-indias-dowry.html> visited on 25.04,2017
23. SCR 762. 1983, (3).
24. Penalty for demanding dowry- If any person demands, directly or indirectly, from the parents or other relatives or
25. guardian 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.
26. Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.
27. Pathan Hussain Basha v State of Andhra Pradesh AIR SC 3205, 2012.
28. CrLJ 3262(SC). 2007.
29. Mustafa Shahdal Shaaikh v State of Maharashtra, AIR SC 851, 2013.
30. CrLJ3706 (Bom), 1995.
31. Deen Dayal v State of U.P.AIR 2009SC 1238
32. AIR 2008SC 982
33. 1 DMC 204 (BOM) 1993.
34. 26 DLT 480, 1984.
35. 11 DMC 42 (MP) 1989.
36. Satvir Singh v State of Punjab AIR 201 SC 2828
37. 5 S.C.C. 705: 1999 S.C.C.(Cr.)1039, 1999.
38. 9. SCC 721, 2007.
39. CrL J1418 (S.C.) 2005.
40. Cr.L.J.3760 (SC) 2002.
41. http://www.censusindia.gov.in/2011census/PCA/PCA_Highlights/pca_highlights_file/India/Chapter-1.pdf visited on 2017.
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