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A Study on the Dowry System and Laws Made Against This Evil

Adv.Gagandeep Kaur

LLB

ABSTRACT

The trend of dowry system is increasing in India. Now, this evil has become a major problem for the Indian society as the basic reason of starting this tradition has changed. Historically, this trend of the dowry system is continuing from the ancient times in India. At that time, the dowry was treated as some needful objects given by the bride's parents to the groom. At that time, it was not compulsory to give dowry. But, this scenario has changed in a larger manner where now, the dowry has become the social symbol for the groom's families.

If groom's family does not get dowry or get insufficient dowry during the marriage then they feel insulted as they relate it with their social status. This dowry system has become a burden on the families of middle and lower classes as in some cases, the groom's parent's demand for higher dowry from them which they are unable to afford and in some cases, they have to borrow money from their relatives to fulfill the demands of the groom's parents. The current paper highlights the dowry system and laws made against this evil.

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INTRODUCTION

A number of anti-dowry laws are made by Indian government in order to overcome the increasing problem of dowry system in India. In this case, the bride's family members have to register a complaint against the groom's parents if they demand for the dowry in the marriage. But, unfortunately, most of the bride's parents don't file any complaint against the groom's as they fear about the loss of their social status if the groom's parents break the relation.

The Dowry Prohibition Act, 1961 is one of the laws made to prohibit the evil of dowry system from the Indian society. On finding the guilty of demanding of dowry on the occasion of the marriage, the provision of penalty is mentioned in the Article no. 3 of this Dowry Act, 1961.

In this scenario, the strong provisions are mentioned in the Section 498A of Indian Penal Code where the order of arresting the bridegroom's parents is mentioned in case of the dowry harassment. In this Section, some modifications were done by the Supreme Court where the provision of the Magistrate approval was added for initiating the process of arresting the bridegroom's parents on demanding dowry from the bride's parents.

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The Dowry Prohibition Act, 1961 facilitates the penalty on finding any proof regarding the demand of dowry. This Act specifies the imprisonment for five years and a fine of Rs. 15000 on finding the guilty of this crime.

This Act defines dowry as all those things which are provided to the groom's family members by the bride's family members ;at the time or after the marriage; forcefully. In this scenario, the bride's parents or any other family member can file a case against the groom's family members for the forceful demand of dowry.

In India, people of almost all the religions live. This evil of dowry is not confined to any particular religion as it is observed that almost every family of groom irrespective of the religion; demand for the dowry and it can be said that this problem of dowry has become very serious in our country.

Although, Indian Government has made a number of anti-dowry laws but all laws are ineffective until the people don't think about not demanding or giving the dowry. Hence, the people should take initiative in order to prevent this evil otherwise no law can be effective in removing this kind of serious evil.

DOWRY SYSTEM AND LAWS MADE AGAINST THIS EVIL

The Dowry Prohibition Act was passed on 20th May, 1961 with an aim to eradicate the evil practice from the society. The act declares not only the

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practice of accepting dowry unlawful, but also penalizes giving of the same. It includes property, valuable security like cash and jewelry exchanging hand during the marriage. Making demands of dowry is punishable by a minimum imprisonment of 5 years and a minimum fine of 15,000 rupees. Incidences of cruelty by the husband or his family against the wife have been addressed in the Section 498A of the Indian Penal Code and Section 198A in the Criminal Procedure Code.

Section 113A added in the 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.

According to the Indian criminal laws, dowry is a punishable offence and the accused persons are treated as criminals. A minimum sentence of seven years was specified by using Section 304B in the Indian Penal Code, 1960 where the dowry system was considered as a serious offence. According to this act, a provision of murder on the groom's family is offered if the death of a woman is caused due to burning or any other serious injury within seven years of her marriage. It is considered that the bride is mentally and physically tortured by the groom or his family members.

Under the section of 113B of the Evidence Act, 1872; it is assumed regarding the dowry death that the woman had been cruelly harassed in terms of demand of dowry. These sections of 113B and 304B were made

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in order to provide more strength to the existing Evidence Act and it is observed that most of the persons are caught with the help of these sections as some limitation were there in the previous act and these new added sections ensured to tighten the laws made against dowry.

The Dowry Prohibition Act has been in place in India since 1961, but the practice of dowry went on undeterred. When it is not demanded outright, it is implied that the bride's family will have to give 'gifts' and provide for a certain standard of living for the groom and his family.

Dowry is illegal in India under the anti-dowry law. Under the Dowry Prohibition Act, any act to take or give dowry is punishable in India. The punishment for violating the anti-dowry law is imprisonment for up to 5 years and fine of Rs. 15,000 or the value of dowry given, whichever is more. Any woman who is a victim of dowry in India must talk to a dowry lawyer to take appropriate legal action against her husband or his family members.

Even negotiations for the dowry for a lesser deal from the groom's side when the bride's side is unable to fulfill the actual demand/real deal' and the act of making the bride's family fulfill demands as compensation for marrying their daughter after the wedding are all punishable under the law.

The Indian Penal Code lays down the anti-dowry law with regards to dowry deaths, under *Section 304B*and cruelty or domestic violence for

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dowry demands, under *Section 498A.* The IPC makes the crime non-bailable, which means that the accused husband or family member cannot get a bail once arrested by the police.

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 the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more: Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

Nothing in sub-section (1) shall apply to or, in relation to,- presents which are given at the time of a marriage to the bride (without nay demand having been made in that behalf): Provided that such presents are entered in list maintained in accordance with rule made under this Act; presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf): Provided that such presents are entered in a list maintained in accordance with rules made under this Act; Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to

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the financial status of the person by whom, or on whose behalf, such presents are given.

DISCUSSION

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 root of a host of social atrocities against women, the custom of presenting dowry is the crudest expression of the male-dominance in 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.

Dowry demands often is exemplary of the collective greed of the society. Extortion in the name of social standing, compensation for the cost of groom's education, his financial stability is a key feature of Indian marriages. Demands are put forward shamelessly and are expected to be met with silence. Threats of withdrawing the proposal looms on the bride's family's head at the cost of losing face in the community, and portions of the agreed upon sum is often demanded before the actual ceremony.

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The dowry system is largely the manifestation of the patriarchal nature of the Indian society where men are considered superior to women in aspects of physical and mental capabilities. With the backdrop of such societal structure, women are often considered second-tier citizens, fit to assume only domesticated roles. Such perceptions are often associated of them being treated as a burden in economic terms first by the father and then by the husband. This feeling is further compounded by the dowry system which fuels the belief that girl child is a potential cause of drain of family finances.

Religious constraints imposed by the society on marriage customs, mainly suitability of groom have a contributing factor towards the dowry problem. These constraints do not condone inter-religious marriages or even between different religious sects and a suitable groom has to be found from the same religious backgrounds. These restrictions limit the number of suitable matches. Boys of marriageable age with desirable qualifications become a prize and this in turn encourages the practice of the catch being caught by the highest bidder.

Aside from similar religious backgrounds, further constrains are imposed based on caste system and social status. Practices like caste endogamy and clan exogamy, has to be kept in mind while arranging a match. Preferred matches have to belong to the same caste, different clan and same or higher social standings. These limitations again severely deplete

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the pool of marriageable men leading to similar consequences for demanding dowry.

The idea of paying dowry in order to get a girl married generates an increased sense of inequality among the genders, placing men superior to women. 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 jobs. Their opinions are suppressed, not valued or ignored more often than not. Physical and behavioral restrictions are imposed on girls that are completely natural for boys.

CONCLUSION

If any person demands directly or indirectly, from the parents or other relatives or 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: 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.

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