

NOTES & COMMENTS

Dowry Deaths (bride burning) in India and Abetment of Suicide: A Socio-Legal Appraisal

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1. Introduction

Dowry system as a social problem has acquired grave dimensions in recent years and all attempts for a legal solution have not produced the desired result. Over the past few years, the cases of bride burning have registered a sharp increase through-out India, everyday, almost every six hours, somewhere at some place in India,¹ a young married woman is being burnt alive or beaten to death or being pushed the commit suicide.² The gravity of the situation may also be judged from the fact that the National Commission of the Women has recommended for the scrapping of the dowry Prohibition Act. It only shows that the reality of the situation is beyond the legislative and enforcement activities. According to data compiled by the National Crime Records Bureau (NCRB) of India, a total of 2,276 female suicides due to dowry disputes were reported in 2006 that is six a day on an average, while the figure was 2,305 in 2005. In 2004, at least 2,585 such cases were registered across the country.³ On an average one Indian woman commits suicide every four hours over a dowry dispute, as per official data, despite a series of laws to empower them.⁴

Dowry has been referred and may be defined as “unilateral transfer of resources from

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¹ Anita Pratap, *Women killed by greed and oppression*, TIME, Sept. 11, 1995.

² The National Commission for women in India in one of its year reports (2000).

³ Shuriah Niazi, *State of Dowry Deaths* (Jul. 15, 2008), available at <http://www.bologi.com/wfs6/2008/wfs1107.htm> (last visited on Aug. 25, 2008).

⁴ *Dowry Death Every 4 hrs in India*, available at <http://www.zeenews.com/articles.asp?aid=414869&sid=LIF> (last visited on Aug. 18, 2008).

the bride's family at marriage to the groom's family for inviting her to their home permanently and that dowry is, therefore, a compensatory payment to the family which agrees to shelter her hypothetically for the rest of her life.⁵

The dowry custom continues to rule society. In majority of Indian families the boy has inheritance rights while the girl is given a hefty sum at the time of her marriage⁶ in lieu of the Government regulated equal rights for girls in parental property. The evil of the dowry system has spread its tentacles in almost all parts of the country and almost in every section of society.⁷ There are several reasons for the prevalence of the dowry system, but the main one is that it is a necessary precondition for marriage. "No dowry, no marriage," is a widespread fear.⁸ There has also been an emergence of a feudal mindset with a materialistic attitude in a new globalized economy. The price tag for the groom is now bigger and bolder. The emergence of an affluent middle class, the torchbearer of social change in modern India, is the main factor for the perpetuation of the dowry system.⁹ It is difficult for families with daughters who are highly educated to arrange marriages because the girls are required to have even more educated husbands and there is shortage of eligible educated grooms. The daughter's parents are ready to pay a handsome amount as dowry and they run behind the eligible educated grooms.¹⁰

Most marriages are arranged by families, and a man who does not marry for love, he can marry for other considerations such as possessions. For this man and his family, a woman becomes the ticket to his shortcut richness through the system of dowry. There are a number of things people desire to have in their own houses but cannot afford; they use the opportunity of a son's marriage to get them.¹¹

On the other hand it is the duty of the father of the bride to find a suitable bridegroom for his daughter. The cast system, limited number of bread earning and educated bridegrooms; lack of education and earning potential of brides and greed of the bridegroom or his family to enrich by marriage have contributed the ancient system in to a present practice.¹²

⁵ RANI JETHMALANI (ed.), *KALI'S YUG: EMPOWERMENT, LAW AND DOWRY DEATHS* (Har-Anand Publications 1995).

⁶ Sita Kapadia, *A tribute to Mahatma Gandhi: His views on women and social change*, Souvenir of the First International Conference on Dowry and Bride-Burning in India, Harvard Law School, Sept. 30, Oct. 1 & 2, 1995.

⁷ Edward A. Gargan, *For Many Brides in India, a Dowry Buys Death*, N.Y. TIMES, Dec. 30, 1993.

⁸ Julia Leslie, *Dowry, Dowry Deaths' and Violence Against Women*, ch.II, in WERNER MENSKI, *SOUTH ASIANS AND THE DOWRY PROBLEM* 22-24 (Trentham Books 1999).

⁹ RINKI BHATTACHARYA, *BEHIND CLOSED DOORS: DOMESTIC VIOLENCE IN INDIA* (SAGE 2004).
See also Azad India Foundation, available at <http://azadindia.org/social-issues/dowry-system-in-india.html> (last visited on Aug. 11, 2008).

¹⁰ Madhu Kishwar, *Gandhi and Women*, MANUSHI (1995).

¹¹ RANJANA KUMARI, *BRIDES ARE NOT FOR BURNING* 136, 138 (Radiant Publishers 1989).

¹² KALPANA KANNABIRAN (ed.), *THE VIOLENCE OF NORMAL TIMES* 77 (WOMEN UNLIMITED 2005).

The root cause of bride burning, as well as other forms of domestic violence against women, lies in their subordination and their frequent powerlessness within their husbands' family following marriage. Thus, cases of bride burning can and do occur without dowry being the causal factor, although dowry is possibly the single largest cause. Dowry commonly refers to the material gifts given to the bride by her family, usually at the time of the wedding.¹³ Scholars, such as M. N. Srinivas, make a distinction between the ancient custom of dowry as *dakshina* or *dana* (voluntary and often token gifts) and the contemporary practice of dowry.¹⁴ Nowadays dowry refers to material objects demanded (as opposed to voluntarily given) by the bridegroom's family, and often involves significant amounts of cash, property, household objects, and jewellery. In its current form, dowry is regarded, by those who demand it, as a reflection of the social status of the bridegroom's family. Thus, the more eligible the prospective bridegroom (eligibility being perceived as the social standing, the wealth, the educational and career-related achievements, and so forth, of himself and his family) the larger the dowry that his family has the right to demand and receive. Geraldine Forbes,¹⁵ and other scholars also point out that, in relatively recent times, growing consumerism and the increasing tendency to equate social status with material objects has made it attractive for prospective bridegrooms and their families to use the dowry as a means of enriching themselves at the time of marriage by demanding expensive presents from the parents of the prospective bride.¹⁶ The desire for continuing to benefit materially from the parents of the bride can take the form of pressuring the bride and her family for more dowry even after marriage.

Incidentally, the relatively low social value of girls in Indian society (manifest, for example, in the very recent custom, within some segments of Indian society, of aborting female fetuses)¹⁷ is connected to the financial pressures encountered by their families through the custom of dowry.¹⁸ There are few more motivations which could also motivate the dowry system such as:

- Aspiration to marry in the High and Rich family.
- Pressure of the caste system.
- Social Custom.
- Marriage system.
- False notion of social status and
- Vicious Circle.

¹³ *An Essay about Bride Burning in India*, 25 JOURNAL OF BURN CARE & REHABILITATION 165, 170.

¹⁴ M. N. SRINIVAS, *CASTE IN MODERN INDIA* (Asia Publishing House 1962).

¹⁵ G. FORBES, *WOMEN IN MODERN INDIA: THE NEW CAMBRIDGE HISTORY OF INDIA* ch. IV.2 (Cambridge 1996).

¹⁶ Leslie, *supra* note 8, at 23.

¹⁷ John F. Burns, *India Fights Abortion of Female Fetuses*, N.Y. TIMES, AUG. 27, 1994.

¹⁸ Vibhuti Patel, *Sex-Determination and Sex-Preselection Tests in India: Recent Techniques in Femicide*, N.D

The pressure to provide a dowry is also felt by female children themselves. In Kanpur (UP) three sisters were reported to have committed suicide in order to spare their parents the humiliation of not being able to provide a dowry, without which they could not get married¹⁹ It is well known that birth of daughter is not a happy event. Giving a birth of daughter means additional burden of expenses of her marriage and endless expenses thereafter.²⁰ The birth of a boy is an occasion for rejoicing women who give birth to a son gets special favours from the husband and in laws of some communities.²¹

Dissatisfaction over dowry may find expression through acts of hostility ranging from verbal abuse to actual violence to bride burning.²² It is the most extreme violence against newly married women. This system is more rigid in the northern region consisting of Bihar, Uttar Pradesh, Rajasthan, Haryana, Delhi, Madhya Pradesh states specially in hindi speaking belt of India,²³ but we can not assume that non hindi speaking provinces had no causality of dowry.

2. Historical and Socio-Legal Concept of Dowry

Although it is not clear when the practice of dowry began in India but it is very ancient. The system of dowry was found widely practiced in Indian society in the early days. In ancient times, dowry was the part of the ritual of Kanyadanam (Kanya means daughter and Danam means gift)²⁴, particularly in upper class marriage in the ancient and the medieval period. In the British and modern period it engulfed the entire society.²⁵ It was a gift offered willingly in the medieval period and now turned into an evil system. A reason for the origin of dowry could perhaps be that the groom and his family had to take up the 'onerous' responsibility of supporting the bride for the rest of her life.²⁶

Father in order to marry his daughter had to pay hefty wealth demanded by groom's family. Though it was practiced in the aristocratic and royal families; it engulfed the society in alarming way. It started in the ancient religious customs of "Var Dakshina" (

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¹⁹ Integrated Human Development Services Foundation (IHDSF) 9 (Feb. 15-18, 1988).

²⁰ Leslie, *supra* note 8, ch. II, at 23.

²¹ M.N. SRINIVAS, S. SESHAIHAH AND V.S. PARTHASARATHY, DIMENSIONS OF SOCIAL CHANGE IN INDIA 218 (Allied Publishers 1977).

²² ILSA JOURNAL OF INTERNATIONAL LAW 110 (1992).

²³ Shingh Kamayani, *The Dowry System and Women in India*, INSTITUTE OF ASIAN CULTURAL STUDIES (2004), available at <http://subsite.icu.ac.jp/cgs/article/0408008e.html> (visited on Aug. 25, 2008).

²⁴ Srinivas, Seshaiha & Parthasarathy, *supra* note 21, at 211.

²⁵ ALAKA MALWADE BASU, CULTURE, THE STATUS OF WOMEN, AND DEMOGRAPHIC BEHAVIOUR: ILLUSTRATED WITH THE CASE OF INDIA (Oxford 1992).

²⁶ *Supra* note 5.