

# The Rise of Dowry as a Social Evil- An Analysis

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**Abstract :** In the ancient past the concept of dowry was introduced in society for the giving the daughters of the family a financial support that she might use if required to support her financial needs after marriage in her matrimonial home. The concept when it was conceived was rather a noble and pious practice. But as the centuries passed dowry became a means of extortion, family of the groom, usually perceived the idea that it's their right to receive dowry as the mother has given birth to a male child and male child were considered better than girls in the society. Higher the dowry better the groom. Dowry became a means to extract more and more money from the girl's family and if the demand was not fulfilled the bride was subjected to torture, mental abuse and even murder. Therefore, in this article I have discussed how dowry changed from being a noble concept to a prohibited act of law.

**IndexTerms - Dowry, Social Evil, Women's status.**

## I. INTRODUCTION

*"Violence against women causes more deaths and disability than many diseases put together and violence against women is a common phenomenon in Indian society."*<sup>1</sup>

The origin of Dowry took place in the Vedic age, especially to provide financial security and independence to the daughter after her marriage. The wealth remained strictly with the bride and no one else without her consent. It was called *Stridhan* and not Dowry. The word Dowry came later on with the foreign invaders like the French and the Portuguese. During the Vedic age, it was considered that *Kanyadan* was the biggest penance for a father, as he donated the dearest person of his family, his daughter. Marriage was considered a sacred institution and the bond formed as an outcome of marriage was considered holy. Not only was the marriage well established in the Vedic age, but it was also regarded as a social and religious duty and necessity.<sup>2</sup> It was believed that from the religious point of view that a person who was not married was considered incomplete and could take part in holy sacraments.<sup>3</sup> Women were respected for she was the sole caretaker of household and maintained all values towards household. At the time when the *Varna* system were created, which had developed the system of four ashrams, pointed out that the whole society depends on the house holders for its maintenance; the Brahmachari, the Vanaprashtha and the Sanyasi can hardly exist without active help from a zealous and conscientious class of householders.<sup>4</sup> Just as all living creatures depend on air in order to live, so do members of the other stages of life subsists by depending on householders.<sup>5</sup> Women were respected and had special place in society matters, state matters, and political matters. Their opinion were also taken into consideration. Women were well educated in warfare, politics, literature, and many other subjects. Society behaved differently towards women, as there was no greed and no mal intention towards a woman. She was respected as a goddess. Many examples where women were worshipped as super powers were like goddess Durga and Kali- for power and strength, Goddess Lakshmi- for Wealth, Goddess Saraswati- for Knowledge and Wisdom and Goddess Parvati- considered to be the nature herself. So, we see here that Women attained a valuable position in the Vedic age, but it only after the foreign invaders came the worth and status of women decreased

<sup>1</sup> WHO: Violence Against Women: A Priority Health Issue, 1997.

<sup>2</sup> A.S Atlekar., 'The Position of Women in Hindu Civilization'; MotilalBanarasidass Publishers Private Ltd., 12<sup>th</sup> Reprint (2016); Delhi, pg- 31.

<sup>3</sup> The Mahabharata – I, Verse 7754, Ibid.

<sup>4</sup> Supra note 1.

<sup>5</sup> Wendy Donginer, K Brian Smith., 'The Laws of Manu, Verse-77', Penguin Random House, Hararyana, pg-50.

to nil. She was kept behind purdah, she was objectified and rather not even considered human. The dowry that we know of today is not from our culture, this kind of negative effect was brought in by the Persian and Turkish invaders first.

In the Middle East, attitude towards women was different to that of in India. In Pre-Islamic period women were considered as property or rubbish. The attitude towards women was extremely bad. Women had no rights and she did not inherit anything. She was considered a source of humiliation and shame.<sup>6</sup> Only after the advent of the Islam, status of women in the society got better. Islam allowed women the compulsory share of inheritance.

“For men it is a share of what the parents and close relative leave, and for women it is a share of what the parents and the close relatives leaves- be it little or much- an obligatory share”.<sup>7</sup> In pre- Islamic Arab if a woman bore a female child upon her birth she was thrown in a pit and pore dust over her. The birth of a female child was considered bad. If a father was away travelling while his wife gave birth to a female child, when he came back, the father would take the grown up daughter by surprise and throw her in a hole and then heap dust over her, while she pleaded for mercy but his heart would not soften.<sup>8</sup> Such was the attitude towards women.

In India, around 1000 A.D Mahmud of Ghazni first invaded India, simply for loot purposes, but in 1194 A.D the Ghori dynasty was established in India for reigning purpose. He forced changed many Hindus and women started being treated harshly. With many other foreign invasions such as Mughals in 1526, status of women were decreased to mere objects. With the coming of the Muslim rulers, women in India during the medieval period faced more dependency on men. The purdah culture of the Muslims, separated the outside world from the inside and this confined women only to their household and were not allowed any interaction with the outside world.<sup>9</sup> Repeated invasion of Muslim rulers further deteriorated the status of women by forcing them towards social evils like Child Marriage, Dowry System etc.<sup>10</sup> As discussed in earlier chapters, the British after their advent, changed the land reforms act, where women’s right to hold property was abolished, and so, even the minimal wealth she held went to her husband. During the Medieval period women lost her earlier status and were at its lowest point.

## II. The Rise of Dowry as Evil.

Society changed as per time and naturally moulded itself according to the need of the time. For example, during the reign Muslim rulers, even Hindus were forced to abide by the lowly cultural practices brought by the foreigners. The evil nature of the forced practices slowly grew root in our own culture and we accepted it as our own. The original dowry culture in India was washed away far before our independence. The new form was male dominating, abusive and wrong in all possible ways. It rejected any concept that spoke about women’s rights. Men began to take women as mere objects and they declined all basic responsibilities that they had towards women. Especially in regards to marriage. Earlier in India marriage was a religious ceremony. If women were subjected to any objectification, the society categorised as the low strata marriage. For example, the Rakshasa marriage, or it is more appropriately called by one authority, the Kshatra marriage, which belongs to the pre-historic times when women were regarded as prizes of war. In the BhagavataGeeta, Lord Krishna says to Arjun, that he did not like the Brahma marriage, because brides were treated there as objects of gifts like cattle.<sup>11</sup> We get many accounts where in ancient times, people were well concerned about women and their status which slowly declined in the Middle Ages and in the independence era, women completely lost their say.

The Earliest Glimpses of the Dowry system in India can be traced to the pre-historic times. In the Asura form of marriage or the AsuraVivaha, the husband used to get a bride by paying a reasonable price for her. The idea behind this was that it would be disgraceful for a girl and her family if she was given in marriage for nothing. If it was for nothing then it only meant that the girl

<sup>6</sup><http://www.islamweb.net/womane/nindex.php?page=readart&id=177693>, accessed on 08-05-2018 at 09:06 A.M.

<sup>7</sup> The Holy Quran, Verse 4:7

<sup>8</sup> “And when the Girl who was buried alive is asked for what sin was she killed?” The Holy Quran, Verse 81-8:9.

<sup>9</sup>Halli S. Chandrakala&Mullal M. ShridharDr., ‘Status of women in India- Status in Ancient, Medieval and Modern’; Imperial Journal of Interdisciplinary Research (IJIR), Vol 2 Issue 6 (2016), Pg-298.

<sup>10</sup> Ibid.

<sup>11</sup> The BhagavataGeeta-vol I; 245: 5-6.

was unworthy of any price and the family has no respect in society. The marriage by paying a certain amount of price was more in practice during the Assyrians and this might have given the name Asuravivaha was given to that form of marriage where the bride price was paid to the girl's family.<sup>12</sup> In the Vedic times, the custom of the bride purchase was practised in India and was known as *Vijamata*, or the disreputable son-in-law.<sup>13</sup> Though this concept of bride purchase was highly condemnable by many sociologists at that time, it still existed. Proof of society in condemnation of bride price can be seen in many scriptures like the *Padma Puran*, where it was advised that the face of a person, who has sold his daughter in marriage, should not be seen.<sup>14</sup> In a 15<sup>th</sup> century inscription from Tanjore District records an agreement among the *brahmanas* of that period in that area to the effect that they would excommunicate anybody who would accept bride price in marriage.<sup>15</sup>

It seems that all the social malpractices were interlinked to each other, where the bride price system made the bride as mere objects, with the education system seeping in the girls who were educated preferred to have a say in their marriage and this was unacceptable to their fathers. So, mostly the fathers preferred to marry their daughters at tender ages like 10 or 12. The bride price in such cases would be less and more the girls were elderly, she would cost her father more of bride price, this encouraged Child marriage. Dowry in India existed in different forms since many centuries. Dowry turned into an evil form in the medieval period with the lowering status of women.

Every crime that exists in society is linked with each other. The rise of dowry as a crime started to reach heights during the British period in India. The British tore India in many ways, on the basis of religion, culture, lifestyle, education and in endless ways. They looted India and like a termite ate up our country from within. India became poorer in wealth and in culture. Fathers were now more adamant than before to get their daughters married at a very early age with as much less dowry as possible. Polygamy was well in practise in our society. The marriage system all over India was nothing less than mere transaction of bride, as she was an object that needed to be got ridden off. For example in West Bengal, Brahmans married in huge numbers, they had wives and their ages could be anywhere between 5 (minimum) to 20 (maximum). This form known as the 'Kulin System', (Kulin means Best) was only to create the population who accepts the domination of brahmins and observe strict caste rules. Ishwar Chandra Vidyasagar being a Kulin Brahmin himself was well versed with the abuses of the kulin polygamy in Bengal, with increasing number of child widows and dowry issues, Vidyasagar made remarkable developments in societal reforms.<sup>16</sup> This situation existed only at the beginning of the British period. Later on the with more passage of time the dowry system became so deep rooted that it was believed as marriage without dowry is a sin.

During our independence, our country was going through many social issues like poverty, illiteracy, caste system, dowry etc., but among all dowry outgrew in terms of criminality. The Polygamy system among the hindus gave a way for more dowry and this increased greed, abuses, domination. It was only after the coming of The Hindu Marriage Act, 1955 that India abolished polygamy by all means and made it a prohibitory act. The source of dowry reduced as now men could not wed as many women as he wanted. The low availability of eligible men and lowly attitude towards women created havoc in society. A sort of rat race began since then. Giving of dowry became more prevalent as now the concept again took turn and this time it meant more the money better the groom. So, we see here the shift of concept in the dowry phenomenon. From selling of brides by the fathers to selling of sons by his family. The concept of dowry can a long way with some major change in ideas and believes, though law has time and again tried to curb the ebb of dowry but the truth lies in its figures in present days.

In pre- Independence time, the administration of police belonged to the British and they did not pay any head to the matters like dowry problems in a family or even marriage related matters. It was only after independence, we formed our own police force for maintenance of internal law and order these problems started getting attention. Our country by then had its own constitution and

<sup>12</sup> A.S Atlekar., 'Position of Women in Hindu Civilization'; 12<sup>th</sup> Edition Reprint (2016) MotilalBanarasidas Publishers Private Ltd., Delhi, pg- 39.

<sup>13</sup> The Rig Veda, Vol 1, verse 109:2.

<sup>14</sup> Brahma Khanda, verse 24, pg-26.

<sup>15</sup> South India Epigraphical Reports., Vol I, pg-56.

<sup>16</sup> BenoyGhose., 'Ishwar Chandra Vidyasagar'; 1965, Division Publication, Govt. of India, pg-110.

other statutes which dealt with various criminal activities. India inherited the Indian Penal Code from the British made several amendments since then. India was in the tight clutches of caste system and dowry system and to change that the society had to be changed, which was not a task of a day.

The women started speaking up against the abuse they faced in the name of dowry, when they got a background support of some Non-government Organisational support. Before that women never spoke up as they themselves believed that they had no right to complaint. They suffered in silence. This is mainly because of unawareness and illiteracy. Men in the family did not allow women to pursue education and thus, they remained unaware of their personal and constitutional rights. As society developed, the literacy rate among female also increased, they slowly became aware of the right and wrong and the abuses that they faced for generations. Even though the women literacy rate increased and they became aware of their rights, still they could not raise their voice as they carried their family's respect and no matter what happened, ultimately they were to be blamed.

The modern women's movement took shape in India in the 1960s and early 1970s with the economic dislocation caused by severe drought, the Bangladeshi war, and OPEC-induced inflation. Both the underlying economic problems and the declaration of emergency contributed to the growth of women's activism. Just as women started to form new coalitions keeping in mind the women issues, Gandhi<sup>17</sup> declared emergency. The emergency foreclose normal political debate and party politics, although emergency itself heightened its concern over human rights, as a result dowry deaths became a topic of press coverage, it was for the first time when private issues of women came to the forefront of the government on such large scale.<sup>18</sup>

Media started to release cases like that of *Shakuntala Arora*, was a lecturer by profession in a women's college. At the time of her marriage the groom demanded a scooter as dowry, and also put a condition that if his demands were not fulfilled the marriage would be cancelled which was a huge shame and disrespect for the girl's family. So, the fear of marriage getting cancelled forced the father of the bride to meet the demands of the groom. The demands did not stop right there, after marriage Shakuntala's husband demanded more money and other items and threatened that if his demands went ignored and failed to bring more money from her parents then she would be beaten. Although she was an employed person her economic freedom was restrained and was allowed a very small amount of money. Over the span of time the abuses increased, like when she was carrying her second child, her husband kicked her in the stomach. She was again beaten right after her delivery while she was holding the child. She was repeated beaten by her husband because she failed to bring more money from her father and she was prevented from attending her brother's married just two days before her husband burned her to death.<sup>19</sup>

When such stories like Shakuntala Arora started to come up on a regular basis, and the women oriented organisations started to focus especially on the dowry based violence against women. The continuous protects by several women group kept highlighting the domestic violence against women in the name of dowry and focused on enforcement of strict laws against cruelty towards women inside the household by her husband and families. The lobbying of women groups helped prompt two important pieces of legislation. Although on the matters of dowry by that time we already had The Dowry Prohibition Act, 1961 making giving and taking of dowry a prohibitory act, but the act alone was a complete failure. Thus, determined campaigns by women organisations led the enactment of the *Criminal (Second Amendment) Act, 1983 (46 of 83)* which further amended the Indian Penal Code, 1860, Code of Criminal Procedure, 1973, The Indian Evidence Act, 1872, and The Dowry Prohibition Act, 1961 with the intention of protecting the wives from Marital Violence (Cruelty to Married Women), abuse and extortionist Dowry demands.<sup>20</sup>

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<sup>17</sup> The reason for Gandhi's emergency was that he claimed that, 'that there was a deep and widespread conspiracy that had been brewing, since the introduction of certain progressive measures of benefits to the common man and women'.

<sup>18</sup> Greenburg G. Judith., 'Criminalizing Dowry Deaths: The Indian Experience', Journal of Gender Social Policy and the Law, Vol 11 issue 2(2003), Article No. 20, pg-5-6.

<sup>19</sup> *Supra note 17*, pg-7.

<sup>20</sup> KishwarMadhu., 'Laws against Domestic Violence: Underused or abused?' <http://www.manushi.in/docs/184-law-against-domestic-violence.pdf>, visited on 13-05-2018 at 07:15 A.M.



Also in the chapter number 3, under the heading of “Dowry Deaths under the substantive criminal laws”, the 91<sup>st</sup> Law Commission Report in 1983 on *Dowry Deaths and Law Reforms*, Amending the Hindu Marriage Act, 1955, Indian penal Code, 1860, and Indian Evidence Act, 1872, has placed the burden of proof on the accused who received stringent punishment.<sup>21</sup>

The Criminal Law of India, underlines on the importance of the phrase, “Beyond Reasonable Doubt”, which is a test to prove violence against women, but proving domestic violence was rather a difficult issue as cruelty, domestic violence or marital violence couldn’t be proved as it takes place within the privacy of a household and this is the primary reason why the victims of domestic violence is unable to prove her case beyond reasonable doubt.<sup>22</sup>

### III. Conclusion

The rise of Dowry as evil in the modern times has proved to be a great social problem. The government has time and again tried to deal with the issue. At first the Legislators came up with the parent Act, The Dowry Prohibition Act in 1961, but this Act failed to tackle the issue due to its deep rootedness in the society and the crime started to increase at an alarming rate. Then the crime took an ugly shape when the news of brides being burnt to death started being reported by media and various women organisations stepped down on the streets to protest against a new crime called the Dowry death. After continuous protest marches by women organisations and simultaneous media coverage attracted the attention of the law makers and they came up with the enforcement for section like 498A and 304 B in the Indian Penal Code which were penal provisions and were non bailable and non-compoundable. The enforcement for Anti-dowry laws in India was first introduced with the objective to curb the evil of dowry system in Indian society. Dowry system has been in India since time immemorial and still exists. The legislators did not have the approach to eradicate it completely from the society. The parent statute that is the Dowry Prohibition Act, 1961, carries along a lot of flaws which though was tried to be corrected through Criminal Law Amendment Act, 1984 and 1986, still the statute failed miserably to deal with dowry crimes. The coming of penal section such as Section 498A, 304B IPC, 113A & B Indian Evidence Act, came later in support of the parent statute. Only then that India first noticed the power of law and these stringent provision poured havoc on the criminals through harsh punishments and fines. Many Non-Governmental Organisations put hard labour to bring in force such laws. Therefore, tackling the evil of dowry has always been a primary agenda of the law makers and to provide women from the domestic abuse. India legislators have time and again attempted to make amendments and tried to make laws stricter for the offenders according to the want time.

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<sup>22</sup>Supra note 19, <http://shodhganga.inflibnet.ac.in/bitstream/10603/144947/4/chapter%202.1.pdf>, visited on 13-05-2018 at 07:57 A.M.

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