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Dowry as a socio legal perspective

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ABSTRACT

The present study is an in depth empirical study of dowry-related offences. It makes a critical analysis of judicial activism-a new development- in liberating women. The specific objective of this paper was to study the socio-educational profile of victims of dowry offences and relate it to the socio-cultural practice of dowry. It also makes an analysis of the laws related to dowry and their effectiveness. The findings of the study show that section 498-A and section 304-B have provided teeth to the Dowry Prohibition Act, 1961, but Article 51-A of the constitution remains ineffective because the socio-cultural norms related to the practice of dowry have remained unchanged and therefore, the practice of giving and receiving dowry continues as such. Even otherwise law abiding citizens are giving and receiving dowry. Adequate social awareness and education is necessary, along with legal punishment, to do away with this evil practice.

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Introduction

Social etiology of violence against women in India: ¹Religion, customs, age-old prejudices, etc. have put Indian women in a subservient and exploitable position in many domains of life. Low rates of participation in education, lack of economic independence, value biases operating against them, etc., have resulted in the women being dependent on men folk and other institutions of authority like the family, neighborhood and the society. They are usually ignorant of their rights and even if they are not, they do not have easy access to justice.

The issues related to women are being raised and discussed in various forums, in the recent times. Of these, 'violence against women' is gaining more and more support and recognition, the world over. But despite the enactment of laws, formulation of reformatory legal processes, provision of legal aid to the needy, extensive use of the provision of Public Interest Litigation, conduct of Family Courts, Women/Family counseling centers, etc., women in India has a long way to go in concretizing their Constitutional Goals into reality.

The problem has to be visualized in a wider context and cannot be viewed in isolation from the status of women in the society. Legislation alone cannot by itself solve deep-rooted social problems; one has to approach them in other ways too. Therefore, what is required is not only a strong legal support network but also opportunities for economic independence, essential education and awareness, alternative accommodation and a change in attitude and mindset of society, judiciary, legislature, executive, men and the most important, woman herself. Restructuring society in terms of power and role relationship while emphasizing the egalitarian values is the need of the day. During the national Struggle for Independence, Gandhi gave a call for emancipation of women. He wrote- "I am uncompromising in the matter of women's rights. The difference in sex and physical form denotes no difference in status. Woman is the complement of man, and not inferior". Thus, the first task in post-independent India was to provide a constitution promises to secure to all its citizens- "Justice-social, economic and political"².

³With all her rich cultural antiquity, diversity and heritage, India has also been a country that has suppressed her women. It is ironic to say the least, because Indians have always worshipped their country as a 'Janani' or 'Mother'. On the one hand they worship this mother, and on the other they disregard their sisters, daughters, mothers, and wives.

❖Dowry Refers As Below

➤ **Dowry or Dahej** is the payment in cash or/and kind by the bride's family to the bridegroom's family along with the giving

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³ Vandana Sing "Dowry or the living devil in the society".

away of the bride (called Kanyadaan) in Indian marriage. Kanyadanam is an important part of Hindu marital rites. Kanya means daughter, and Dana means gift.

➤ A **dowry** (also known as **trousseau** or **ocher** or, in Latin, *dos*) is the money, goods, or estate that a woman brings to her husband in marriage. It contrasts with Bride Price, which is paid to the bride's parents, and dower, which is property settled on the bride herself by the groom at the time of marriage. The same culture may simultaneously practice both dowry and bride price. Dowry is an ancient custom, and its existence may well predate records of it.⁴

➤⁵**Dowry** (Dahej/Hunda) as we all know is paid in cash or kind by the bride's family to the groom's family along with the giving away of the bride (Kanya-dana). The ritual of Kanyadana is an essential aspect in Hindu marital rites. Kanya=daughter, Dana=gift. The word 'Hunda' appears to be derived from 'Handa' which means a pot. This could be due to the now extinct practice of offering dowry in a pot.

⁶Dowry system in Indian Marriages can be called the commercial aspect of the marriage. The practice of giving dowry was very common among all people of all nations. A girl gets all the domestic utensils that are necessary to set up a family. Dowry system in India was prevalent since the Vedic period. In Epic period gifts from parents, brothers and relatives and relatives were recognized as women's property- stridhan. According to Kautilya "Means of subsistence or jewellery constitutes what is called the use of property of the woman. It is no guilt for a wife to make use of this property in maintaining her son her daughter-in-law or herself if her absent husband has made no provision for her maintenance".

⁷Since British rule till date efforts are being put to root out one draconian evil from Indian society that is dowry system but in spite of huge efforts cornered, evil persists in all aspects everywhere in country. Problem is no more confined to one or two states or north Indian states but gained roots in the soil of Southern as well as Eastern states too. Problematic part is that it made its way to all sections, classes, castes, societies and communities. It permitted even to tribal societies known for primitive egalitarianism and gender equality and to Muslim community too. Strong legislation, laws and women's movements, every attempt to resist it has been thwarted by the wide social sanction accorded to this illegal practice.

Roots of dowry date back to the time when man started living a civilized life. Originally it intended just to give a support and security to new couple who start their married life. It also signified an alternative to inheritance for woman. In periods of time it distorted its face and but its worst face comes to the fore in present society where parents pass their whole life under debt to pay dowry in the marriages of their daughters which also results in murders and suicides of the daughters. Rising dowry death toll in recent years reflects the grimness of the problem.

Reasons behind huge dowry demands are counted by experts mainly the lack of economic rights of woman, denial of property rights and basic civil rights such as right of marriage of own choice, land rights and education. Social mental set up also works behind it such as in Indian society girls are considered a

liability while boys as assets. Culturally sons are preferred. This accords a secondary social status to women. Nalini Singh says that a woman has 'Zero political statuses in family. They are considered to be a compensation for that 'worth deficiency'. Several surveys reveal that dowry cases have risen drastically within last 10 to 15 years.

It is considered that dowry system was facilitated by economic liberalization. Sudden rise in dowry cases is also linked to the rising consumerist culture and according to the report of (AIDWA), All India dowry workers association, and the natural tendency of human to have easy access to the consumer goods which was prompted by the varied choices of consumer goods available in the market. Heightened incidents of dowry can be attributed to the changing economic structure of society consequent social polarization.

Dowry is not the only problem of Indian society, attached to it is the whole bunch of corresponding evils. International women's conference in Australia accepted that female feticide is directly related to dowry. Middle and lower middle income groups who are not able to fulfill the demand of dowry think it wise to nip in the bud. Domestic violence is another consequence of this evil. This colossal problem persists even after centuries, is mainly because stringent laws alone cannot bring change at level of mentality of people for that mass movement needs to be initiated. Mass awareness is to be created. Hundreds of dowry deaths are closed as just kitchen accidents or suicides. Around 40 percent women married happen to be below eighteen years of age and illiterate thus not in position to assert themselves. Their voice remains unheard in society.

Lack of political participation due to social-economic constraints is another reason why woman has not been able to assert herself and protect against this evil. This is also considered the failure of male- oriented polity by some experts. Due to all these disadvantageous position of woman, we fail to solve this problem even after all attention and focus on it. Women's education and enhanced participation in political process, position in decision-making bodies will improve the situation. They need to be provided with shield of protection which should not be blunt like present laws but Dowry originated in upper caste families as the wedding gift to the bride from her family. The dowry was later given to help with marriage expenses and became a form of insurance in the case that her in-laws mistreated her. Although the dowry was legally prohibited in 1961, it continues to be highly institutionalized. The groom often razor sharp that could really help them and prevent them from taking such extreme steps as taken by Pooja Chauhan of Rajkot.⁸

Demands a dowry consisting of a large sum of money, farm animals, furniture and electronics. The practice of dowry abuse is rising in India. The most severe in "bride burning", is the burning of women whose dowries were not considered sufficient by their husband or in-laws. Most of these incidents are reported as accidental burns in the kitchen or are disguised as suicide. It is evident that there exist deep rooted prejudices against women in India. Cultural practices such as the payment of dowry tend to subordinate women in Indian society.

The immune approach of the stronger world to its weaker counterparts has to be countered with strong arm methods of the state power. In an enlightened age such as this people in public

⁴ www.wikipedia.com women and dowry search.

⁵ Hindu Social Customs by Sudheer Birodkar.

⁶ "Dowry system in India" indianetzone.com

⁷ Pallavi Sharma "Dowry system a curse on Indian Society".

⁸ Dowry system a curse on Indian Society, Pahlavi Sharma New Delhi.

life are sufficiently sensitized to this issue and more and more legislation come up to stop stronger people from riding over the weak and meek. India too has several legislations that have become Acts to protect its women folk.

Considering the evils of dowry system, the dowry prohibition Act 1961 was passed in India. According to the Act if a person gives or takes dowry then he directly or indirectly dowry from the guardians of the wife after the marriage has been solemnized then such a person is liable to be punished for an imprisonment of six months and a fine of Rs.5000.

The investigation in dowry cases should preferably be entrusted to women police officers as far as possible because they are expected to be socially and psychologically more equipped to handle such cases.

Dowry being a socio-legal problem cannot be tackled by law alone unless members of the society come forward and actively co-operate with the law-enforcement agencies. There is the urgent need to create social awareness and mobilize public opinion against dowry through an intensive educational programme at all levels, particularly in the rural pockets. More recently, a number of voluntary (non-governmental) agencies and social organizations are doing a commendable work in helping the dowry victims and exposing the perpetrators of this crime with the necessary help of community assistance and guidance. The legal aid workers, including the law teachers and students, should also take the initiative in the dowry eradication campaigns through an intensive legal literacy programme not only in the cities and the towns but in remote village areas as well.

Of late, with the growing importance of human rights jurisprudence, the Human Rights Commission is also seized with the problem of crime against women and its expanding dimensions. Timely intervention by the local agencies of the commission in dowry-related crimes would certainly contribute to improving women's conditions and bringing about peace in the matrimonial homes. The Women Commission, established in 1993, should also take a lead in this direction. The Commission should, however, be endowed with statutory powers and authority to bring the culprits of dowry crimes to book and provide adequate to dowry victims.

Scope and limitations of the Study:-The focus of the present study is on the Socio-Economic, Cultural and religious aspects which effect or influence on the women's rights and the reasons of causing various problems for women victims of Dowry .For the better understanding of the present study, it would be necessary to grasp the information regarding the offences related with dowry imposing major obstacles to lead a healthy family life in the familial atmosphere.

The rising incidences of crimes and violence's against women are compounded by the massive challenges of caste, ethnic, conflict, religious and revivalist forces. Because of illiteracy and poor out-reach of legal services; women are more often than not ignorant about their rights. In fact there is over whelming evidences to indicate a wide gap between the constitutional mandates and disturbing trends in social reality. The governmental apparatus and society do not appear to have come to terms with the implications of this study area.

Since the scope of domestic violence against women is very wide, the researcher has confined the study only to the dowry related offences covered under sections 302,304-B, 306, 34,498-A of IPC and the relevant provisions of the Dowry Prohibition Act and the new laws on the Dowry violence .Cases on only

dowry related offences, reported in the Shivamogga district from 2001 to 2010 will be taken up for the detailed study on dowry related offences. Due to time and energy constraints the primary data will be collected only from the victims of dowry related offences which occurred between 2001and 2010. The study intends to cover only Shivamogga District.

The specific objectives of the study are as follows:-

- To study and analyze how the concept of dowry changed with the passage of time.
- To find out the causes for the acceptance of such a cruel practice by the society.
- To sociologically analyze whether there is possibility of misuse of the provisions relating to dowry.
- To study the socio-economic and educational profile of the victims.
- To examine the socio-cultural aspect related with the system of dowry.
- To determine the various law relating to women and dowry and its consequences.
- To study the various modes adopted by the bride or her in-laws to end her life.
- To analyze the number of dowry death, dowry murder, suicide, dowry violence and crimes under dowry Prohibition Act in the study area.
- To critically appraise the judicial decisions and the sentencing process on dowry related offences.
- To explore the efficacy of the alternative methods of dispute resolution system including family counseling centers.

From the above statistics and the picture below the problem of dowry is more strengthening day to day and the laws which are prevailing in India should also be strengthened



The Picture intends to explore the various practices of dowry in the society

The dowry system is responsible to a great extent for child marriage and discrimination against girls. If a girl is married at a tender age, a small amount of dowry will work, but if the girl is educated and qualified, she needs an equal amount of dowry to get a bridegroom of the same status.

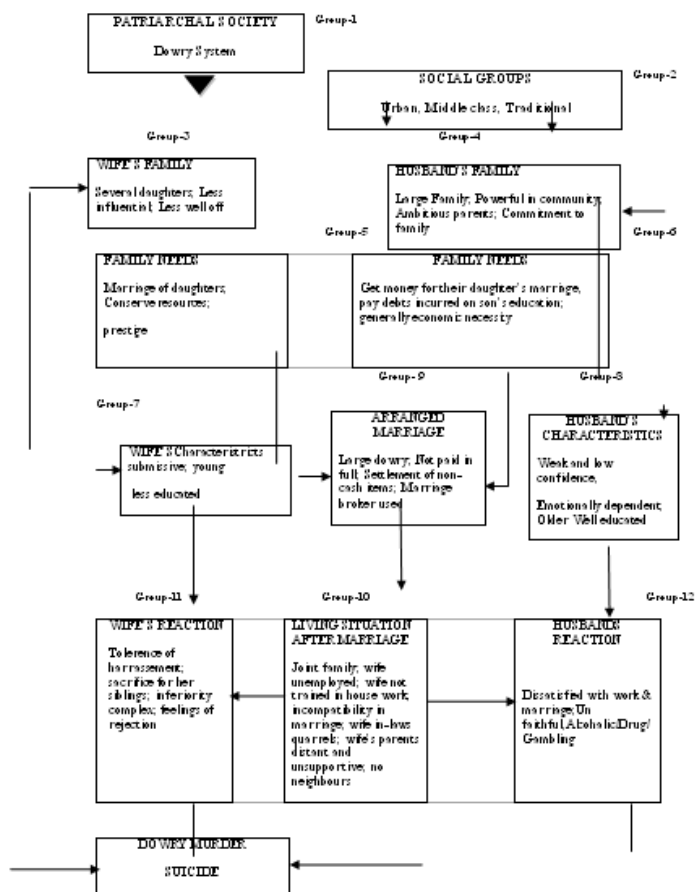
Unfortunately, the dowry system is still prevalent in India despite the provision in the Dowry Prohibition Act 1961. it says that: "If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more."

According to the preliminary survey report collected by the District Crime Records Beuro, Shimoga Police Commissioner's Office, From the year 2001 to 2010 the cases registered under 498(A) IPC and 498(A) DP Act statistic is as below

YEAR	Reported	False	Transferred	Punishment	Decided	Settlement	Enquiry	Investigation
2001	134	08	08	07	88	08	07	02
2002	159	01	01	04	131	08	11	03
2003	127	02	04	03	84	07	2	05
2004	107	08	04	07	55	05	19	03
2005	158	04	06	10	93	07	32	06
2006	191	05	05	04	87	06	93	01
2007	158	03	06	02	52	06	85	04
2008	207	04	10	01	33	01	157	01
2009	255	03	15	02	05	-	193	37
2010	48	01	-	-	-	-	19	28

In my view, it is mainly because of lack of awareness that women have been turned into a saleable commodity. Most of the women are not educated enough to defy the pre-established social norms. Even those who are educated are continuing this ugly tradition in the name of social prestige.

Sociological Module Of Dowry Problem In Indian Society Model



Conclusion:-

Dowry as well as bride price humiliate and dehumanize women in India. It is true that the increasing coercive character of dowry has led to a decline in the status of women. But it must be pointed out that contrary to popular wisdom; women do not have a higher status in those castes and communities where dowry and bride price is paid for them. Though laws are necessary to provide basic rights and to punish offenders, what is requires is a more holistic approach to dealing with the phenomenon of violence against women, particularly in Dowry

and Bride Price. For all watching this, raise your voice against dowry. Resist taking and giving dowry.

The practice of dowry abuse is rising in India. The most severe in "bride burning", the burning of women whose dowries were not considered sufficient by their husband or in-laws. Most of these incidents are reported as accidental burns in the kitchen or are disguised as suicide. It is evident that there exist deep rooted prejudices against women in India. Cultural practices such as the payment of dowry tend to subordinate women in Indian society. Though prohibited by law in 1961, the extraction of DOWRY from the bride's family prior to marriage still occurs. When the dowry amount is not considered sufficient or is not forthcoming, the bride is often harassed, abused and made miserable.

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