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Dowry death and legal protection of women in India

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Abstract

Dowry death may be a burning issue of the Indian society since years. The unnatural death of fresh married young lady because of dowry is routine headline of each newspaper. Protection of young married women's against harassment and cruelty on account of dowry is responsibility of state. Ban of giving and taking dowry - the dowry Prohibition Act, 1961, is that the one that is most ordinarily challenged since its commencement everywhere the country. To influence this section 304B (Dowry deaths) and 498 - A (Cruelty by husband or -laws) were incorporated within the Indian penal code within the middle 1980's. Improvement of instructional standing of females by instructional semen awareness programs alongside severe punishments to offenders are useful to influence this social cur.

Keywords: dowry death, law, Indian penal code, legal protection

Introduction

Dowry and connected offences even death at the tip may be a burning issue of the Indian society since years. It's increasing day by day because of social inheritance, ancient mentality and life vogue within the family. Dowry death may be a huge challenge to the trendy society, ethical values, police, and rhetorical specialists further on legal officers and justice not solely to eliminate this social hazard however also to penalize the culprits in effective manner to form the globe free from it forever. In majority cases of bride killing or bride burning or dowry death, downside is formed by the feminine themselves against their own sex. It's been sometimes found that approach of mother in law is totally different from bride's mother. Initially at the time of wedding, cash is given by bride's family as per demand of the in laws however presently hunger of dowry is increasing extraordinarily high that is followed by torture of bride and finally ends up in her death. In different words, in bride burning cases, crime is often abetted and even committed by the females themselves. The unnatural death of fresh married young woman because of dowry is routine headline of each newspaper and media even nowadays. Self burning by females when death of her husband in Hindu community is historically accepted and matter of proud as in 'Pratha' or 'Joher'. However today, sizable amount of fresh married young women's square measure burnt alive by their husbands and / or in laws or forced by them to finish their sad life, whereas a couple of others square measure killed initial so burned to cover the crime. In majority of those cases, dowry is that the prime motive behind this terrible crime. Protection of young married women harassment and cruelty on account of dowry is responsibility of state. Structure and media might also effectively contribute by developing awareness relating to this issue and mobilizing the support of society against this terror. We tend to a requirement to fight along to finish this social crime forever to bring new happy horizon in lifetime of married women's.

Legal Protection of Women in India

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification

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of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

"Ratifying CEDAW remains among the unfinished business of the Civil Rights movement."

Dorothy I. Height April 13, 2010 Constitutional Privileges ^[1]

- Equality before law for women (Article 14)
- The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- The State to make any special provision in favour of women and children (Article 15 (3))
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
- Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3))
- Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))
- Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3))
- Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4))²

Legal provisions

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights,

to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories³.

- 1) The Crimes Identified Under the Indian Penal Code (IPC)
 - Rape (Sec. 376 IPC)
 - Kidnapping & Abduction for different purposes (Sec. 363-373)
 - Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
 - Torture, both mental and physical (Sec. 498-A IPC)
 - Molestation (Sec. 354 IPC)
 - Sexual Harassment (Sec. 509 IPC)
 - Importation of girls (up to 21 years of age)

The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements.

Some acts which have special provisions to safeguard women and their interests are⁴:

- The Employees State Insurance Act, 1948
- The Plantation Labour Act, 1951
- The Family Courts Act, 1954
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956 with amendment in 2005
- Immoral Traffic (Prevention) Act, 1956
- The Maternity Benefit Act, 1961 (Amended in 1995)
- Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Contract Labour (Regulation and Abolition) Act, 1976
- The Equal Remuneration Act, 1976
- The Prohibition of Child Marriage Act, 2006
- The Criminal Law (Amendment) Act, 1983
- The Factories (Amendment) Act, 1986
- Indecent Representation of Women (Prohibition) Act, 1986
- Commission of Sati (Prevention) Act, 1987
- The Protection of Women from Domestic Violence Act, 2005

Laws in relation of dowry deaths

In view of the increasing range of dowry deaths, tips are ordered down by the govt of Republic of India for examination of such cases, and also the law in respect there from has been appropriately amended. The Indian panel code (I.P.C.), Criminal Procedure Code (Cr.P.C.) and Indian proof Act (I.E.A.) square measure amended as per the panel code (Second Amendment) Act, 1983 and was approved by President of Republic of India to deal effectively with cases of dowry deaths and conjointly the cases of cruelty to married women's by their in laws.

IPC Section 304 - B deals with dowry death

When the death of a woman is caused by any burns or bodily injury or occurs beneath abnormal or suspicious circumstances inside seven years of her wedding period and

it's clearly shown that shortly before her death she was subjected to cruelty or harassment or torture by her husband or any relative of her husband or in laws for, or in reference to, any demand for dowry, such death shall be referred to as "dowry death", and such husband or relative or in laws deemed to own caused her death. Whoever commits dowry death shall be tarred-and-feathered with imprisonment for a term minimum of seven years which can touch imprisonment always ^[1].

IPC Section 498 - A deals with husband or relative of husband of the subjecting her to cruelty

Whoever being the husband or the relative of the husband or in law of a women, subjects such women to cruelty or harassment or torture shall be tarred-and-feathered with imprisonment for a term which can extend up to 3 years and she to pay fine. The cruelty is either mental or physical torture that drives the ladies to kill or to cause serious injury, or danger to life or health ^[2].

Cr.P.C Section 176(1) provides inquiry by govt official and Cr.P.C se 174(3) provides as follows

When (1) The case involves suicide by a women inside seven years of her wedding

(ii) The case relates to the death of {a women } inside seven years of her wedding in associate degree circumstances raising an inexpensive suspicion that another person committed an offence in relevancy such woman, or

(iii) The case relates to the death of a women inside seven years of her wedding and any relative of the women has created asking during this behalf, the officer can forward the body for autopsy to the closest medical officer for opinion ^[3].

IEA Section 113 – A deals with presumption on encouragement of suicide by a woman

When the question is whether or not the commission of suicide by women had been abetted by her husband or any relative her husband and it's shown that she had committed suicide inside a amount of seven years from the date of her manage and her husband or such relative of her husband had subjected to cruelty, the court could presume, having relevance all the opposite circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband ^[4].

IEA section 113 – B deals with presumption on dowry death

When the question is whether or not someone has committed the dowry death of a women and it's shown that shortly before her death, such women had been subjected by such person to cruelty or harassment for, or in reference to, any demand for dowry, the court shall presume that such person had caused the dowry death ^[5].

Forensic specialists and dowry death

Forensic specialists acquire image only if dowry death cases square measure sent to them for post-mortem examination for getting necessary opinions. In doctor's read, dowry death cases square measure like every different unnatural feminine death cases nevertheless. rhetorical professional, as a rule, should attempt his uttermost to search out the explanation for death solely on the premise of scientific facts ascertained in any given case and not on assumptions or preset construct. Firm devotion to the approved code for the

electrical phenomenon of post-mortem in dowry death cases ought to be ascertained. attempt to verify the cause, nature of death and time since death and different relevant facts from the medico-legal purpose of read to assist justice. Presence of a woman doctor within the autopsy team is should to visualise and explore all angles though every case is exclusive. Most of the victims square measure young married women's UN agency square measure sometimes tagged as accidental deaths, however truly these don't seem to be accidental cases however square measure of cutthroat in nature. thus it's the principal duty of rhetorical specialists to appear for the precise explanation for death on the premise of relevant knowledge and diagnostic criteria in scientific manner and approach.

Magistrate inquiry in dowry death

In dowry deaths, investigation officer plays a really necessary role to bring out justice further as on different hand to save lots of the husband or in laws if in the slightest degree {they square measure } innocent for the offence and are incorrectly being fixed in entice. He must investigate each dowry death case considerably of each mental and physical torture that has been imparted on the victim by the husband and/or in laws over a protracted amount that has resulted in suicide by the women.

Social factors and dowry death

Dowry may be a social sin, that is common amongst higher and middle categories of Hindu community of Republic of India, and is that the key issue for unnatural deaths in fresh married females since years. Besides dowry, illiteracy, organized or love marriages, kid marriages, joint family structure, oedipal ascendancy of mother in law, joblessness and financial dependence of husbands on their folks, close to complete dependence of ladies or their husband and / or in laws, drunkenness, cruelty and infidelity of the husbands and need of social safety among Hindu women's square measure different contributing factors touching the marital status happiness in one or different ways in which ^[6].

Dowry occupies just one finish of the shore of social exploitation sea; inside identical field square measure cruelty, penalty, and molestation, physical or mental torture etc. when wedding, lady is push into associate degree unknown world and is cornered into network of insecurities and therefore she is completely on the kindness of the husband and/ or his members of the family UN agency would possibly or won't take care of her. Scenario

Effective steps to be taken

Ban of giving and taking dowry Prohibition Act, 1961, is that the one that is most ordinarily challenged since its commencement every where the country. there's no disagreement that there's associate degree ever increasing crime against womens hands of their husbands and / or in laws. To influence this section 304 and 498 - A (Cruelty by husband or in were incorporated within the Indian panel code within the middle 1980's. A re-evaluation of dowry Prohibition Act, 1961 ought to be done once more because the law has truly did not management the crimes against womens or in result did not manufacture the important results. Moreover, the dowry Prohibition Act, 1961 being a legislative act, sometimes police don't take steps or take a lot of attention in it, a lot of quality as a result of offences beneath the act square measure treated as knowable offences

for sure restricted functions. Severe penalty is to lean to those that take dowry and harsh laws be framed for dowry connected harassment and dowry deaths. Strict laws ought to even be enacted to forbid remarriages for such men UN agency wives are burnt alive and / or the boys who are fixed in dowry deaths until the discharge of ultimate judgement [7]. Besides, a special task force of police ought to be ingrained ex this purpose, and speedy police investigations ought to be done. never-ending observance is additionally a requirement for all registered dowry death cases each at district and state supreme court level in order that justice ought to be delivered at the earliest [8].

Medico-legal aspects of dowry death

Some of the important medico that warrant notice are dealt in here to cogitate the fragile things baby-faced by rhetorical specialists in their routine apply. the first side is that not solely the police ought to act straight off to avoid demolition of essential clues at the scene of crime however conjointly police ought to act promptly in registering all such complains immediately. If a special task force / cell square measure maintained then this could even be sophisticated for t investigations of every case. Secondly, if native police is insulant behind or showing a delaying policy then either the superior officers square measure approached or voluntary organisations be approached for the right investigation to be done. Involvement of media conjointly focuses a robust awareness regarding the incidence of crime. If the victim is alive when the incident then prompt efforts ought to be created to record a declaration by a competent authority. Dying declaration has legal validity because the Indian law presumes that someone UN agency believes that her death is impending can tell solely the reality and ne'er lies. However, in our opinion, in sure things feminine victims UN agency build dying declaration, could provide artificial info, notably if the women is continue tortured for years along as an alternative is severely depressed or beneath the influence of drug or needs to secure the long run of her youngsters. Strangely, these aspects haven't been satisfactorily probed by the courts. The courts ne'er think about the feeling dilemmas baby-faced by these victims UN agency square measure giving dying declarations. Judiciary ought to take a recent examine the trait of dying declarations, specifically, once the honesty of a dying declaration has been criticised by scientific facts. The provide recognition and preference to the scientific facts and to not the dying declaration. Moreover, the victim's purpose in creating a deathbed declaration is either to guard the interests of her youngsters or different relatives whereas the medico medical specialist or the rhetorical specialists furnish facts with none motives and within the interests of society to help the administration of justice [9]. Every life finishes in the future however unnatural end notably because of dowry leaves a nasty example of excellent society [10]. a lot of deterrent sentences or proof of guilt from the prosecution to the suspect won't be effective unless the general public is formed tuned in to the wicked consequences of dowry and square measure assured protection just in case once they move to fight against it. of nice facilitate in prosecution of such crime by giving truthful proof regarding general treatment given to the bride before her death.

Conclusion

Dowry death may be a burning day to day downside of the Indian society. It ought to be accepted that needed result can't be gained by enactment of law alone against dowry. This social curse must be attacked by a multipronged and arranged approach by police, womens welfare organizations, acknowledged public servants, and judiciary and by grant deterrent penalty to all or any offenders. yet, associate degree improvement instructional standing of the females and providing easier job opportunities at the door step or self employment facilities can facilitate to limit the incidences of dowry deaths. additionally, instructional semen awareness programs ought to be designed right at the time of wedding thus on stop the husband from overwhelming liquors, medication or gambling, limiting to monogamousness and earning cash honestly by sheer toil instead of developing lust for straightforward cash. In our opinion, a rational and sensible approach on the higher than mentioned matter will definitely be useful.

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