

# LEGALFOXES LAW TIMES

## DOWRY SYSTEM IN INDIA: A STUDY OF SOCIO-RELIGIOUS, ECONOMIC AND LEGAL ASPECTS

By Sakshi

### **Abstract**

According to data published by the National Crime Records Bureau (NCRB), 13,534 cases under the Dowry Prohibition Act of 1961 were filed in 2021, a 25% rise over the numbers registered in 2020 (10,046). NCRB said 87% of dowry death cases are still pending in the Indian courts. Dowry is a social evil that has ruined the Indian marital system and led to unspeakable crimes and tortures against women. It is not only against the law, but it's also immoral. A careful study of the available literature reveals that in the beginning there was no system of dowry, only at the time of marriage the parents used to voluntarily offer some ornaments, property and cash as a 'gift to the bride and bridegroom. In early societies where women enjoyed considerable freedom and privilege in the spheres of marriage, religion and public life, the giving of gifts in marriage was a voluntary practice. The present study has focused on the socio-religious as well as economic aspects of dowry system in India. It has also dealt with role of legislation in curbing of evil effect of dowry system in modern society.

Key Words: Cruelty, Dowry system, Kanyadan, Socio-Religious

### **INTRODUCTION**

Dowry is a gift given in kind or financially to a bride's future in-laws when she gets married. Women are frequently treated as liabilities because of the dowry system, and they frequently experience subjection and inferior treatment in many spheres of life, including schooling. The custom of dowry has led to various social, economic and psychological malpractices in society. Though traditionally dowry has been deemed as a social problem, yet modern dowry system is a symbolic and symptomatic of the distorted economic and social transition in India. Today's dowry is basically an economic phenomenon being nurtured in the womb of the parallel economy and reared by men with black liquidity who ruggedly use it

to finance dowry transactions in connection with their daughters' marriage.<sup>1</sup> A new class of nouveau riche, that buys their daughters' future, to raise its social status by entering into marriage alliances with families of high status, has emerged. It is a fact that the compulsive and coercive character of this custom has ransacked the Indian social structure, paying the way for social decay in India. Proliferation of dowry system and wasteful expenditure leads to inflationary trends in the economy.<sup>2</sup> The issues and problems related to this evil practice have been examined critically, analysed and highlighted specifically under the following three heads:

- 1) Causative factors,
- 2) Socio-religious dimensions of dowry, and
- 3) Economic aspects of dowry.

### 1) Causative Factors

It is seen from our earlier discussions that in the early period this system of providing dowry was nominal and was offered out of affection and reverence to the bridegroom's family. It was also due to affection of parents for their daughters because they are to be given away.<sup>3</sup> During the medieval era, however, it took deeper roots. From the royal family this practice descended to the landlords and other people as well, who claimed their natural superiority over other class of people living in the society? There is no denying the fact that the problem is based on social, religious, economic and other foundations. Therefore, in order to understand the problem of dowry, one must consider all these aspects of this evil practice in the present day society.<sup>4</sup> The society has adopted this custom or practice for a variety of reasons and some of the probable socio-religious and economic, factors which have influenced the growth of dowry in the society are discussed below.<sup>5</sup>

### 2) Socio-religious Practice

The dowry system is necessarily linked with the religious conceptions of marriage as a 'daan' or gift. In other words, dowry was a part of the sacred cultural concept of 'kanyadan' that is, making a sacred offering of one's daughter in front of the Gods. Dowry was regarded as 'dakshina' along

<sup>1</sup> Sunita Devi, "An Economic Analysis of Dowry", an abstract in B.N.Das(Ed.), Dowry: Diagnosis and Cure, Berhampur University,(Orissa), (1989), pp.59-60.

<sup>2</sup> Ranjana Kumari, "Brides Are Not For Burning: Dowry Victims In India",

<sup>3</sup> Hemalata Devi, "Attitudes to Dowry System", Social Welfare, Vol. 30, No.6, (1983), pp.13-14

<sup>4</sup> VNParanjape, "Socio-Legal Dimensions of Dowry as a Matrimonial Offence" Women's Link Vol.5, No. I, (January-March 1999), p. 17

<sup>5</sup> Ranjana Kumari,ppxit., p.17

with the main gift of the girl. Because of the gift of the girl, 'kanyadan' was a religious gift and a religion's gift in kind usually accompanied by a gift in cash/kind. Thus, the all gifts which were given to the bridegroom after 'kanyadan' was considered to be 'dakshina'. But in this connection it may be submitted that the above stated concept of 'dakshina' was purely a voluntary practice without any coercive overtones.<sup>6</sup> In Manusmriti<sup>7</sup> also there are references to this voluntary practice of giving presents in the form of clothes and ornaments to the bridegroom or his parents. The dharmashastras also laid down that the ritual of 'kanyadan' was an integral part of the marriage ceremony and the marriage was not complete until the bridegroom was given 'varadakshina' by way of some gifts or presents in token of love and affection for the latter.<sup>8</sup> It also served as a kind of security or financial protection to the bride in her adverse circumstances. But the sanctity of this socio-religious practice was retained until the beginning of the 19th century when due to materialism and craze for money, the concept of 'varadakshina' gave way to the commercialisation of marriage institution and the devil of dowry emerged as a major social evil in the contemporary Indian society.<sup>9</sup>

### 3) Matter of Prestige and Status

The custom of giving presents at the time of marriage is a universal phenomenon and continues to be so; such type of custom also prevails in India, whereby parents of the girl give presents to the bride at the time of solemnization of marriage.<sup>10</sup> The rationale behind these presenting of gifts is the affection of the parents towards their children. But unfortunately the said custom has grown rigid and became associated with social status and family prestige leading to great social evil.<sup>11</sup>

#### 1. Dowry as a compensatory measure

Sometimes, dowry is taken as a compensatory measure. The parents who have required giving dowry for marrying of their daughters tend to accept an equal amount or even more, at the time of the marriage of their sons.<sup>12</sup> One of the strongest reasons of this fact is that those who are compelled to give dowry are bound to feel aggrieved and think that there is nothing wrong if they

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<sup>6</sup> See Report of the Joint Committee of the parliament-on working of the Dowry Prohibition Act, 1961, New Delhi, (1982), Ch. 1, Para 1.1

<sup>7</sup> Manusmriti Verses 27 to 31, 33 and 34

<sup>8</sup> Ibid.

<sup>9</sup> R.S.Khare, op.cit. p. 104

<sup>10</sup> Paras Diwan "The Dowry Prohibition Law" 27 JILI 564 1985

<sup>11</sup> Robin Wyatt, "Broken Mirrors: The 'Dowry Problem' in India", Sage Publications (CA), p.91

<sup>12</sup> V.N. Paranjape, op.cit., p.18

accept it when it is their turn.<sup>13</sup> Rather they consider it as a compensation for the expenses incurred or the amount paid as dowry in the marriage of their daughters. Apart from this the husband's people assume that they have helped the girl's parents by carrying the burden of their daughter for life, and in return for their generosity, they assume that they have a right to demand compensation in cash or in kind.<sup>14</sup>

2. Dowry as a share in parental property

It is argued that because a daughter takes no share in the Joint Hindu Family property, the dowry compensates her as 'stridhan'.<sup>15</sup> In some cases it is seen that the girls themselves are keen to collect their own dowry without any consideration for the plight of the parents and the future of younger brothers and sisters. One of the reasons for the girls who are interested in dowry is the denial of a share to them in parental property. The Hindu daughter got the right to inherit from her father like the son or the widow.<sup>16</sup> There, is a general understanding that the daughter is not to expect any share in the family property as such. The above stated fact induced the girl to make calculations and be interested in obtaining dowry in the form of jewellery, cash and other goods at the time of her marriage. She, further, feels that her marriage is the end of her membership in the natal family and therefore the marriage is the appropriate occasion for her to get whatever she can.<sup>17</sup>

3. Dowry means of obtaining the necessities of life

Dowry has become a means of obtaining the necessities of life and achieving upward socio-economic mobility for the husband's family. Thus, in this sense, the dowry is to provide the in-laws of the bride the capital for a business investment, the amount to be paid to a broker for a job for the young men in the family, the gifts to be given to the husband's sister, publicly or ostensibly, or the motorcycle, television, refrigerator or even a house for their own use.<sup>18</sup>

### **SOCIO-RELIGIOUS DIMENSIONS OF DOWRY**

The existence and dimension of dowry in India has become a matter of national concern during the present decade. The dimensions of dowry are far and wide. 'dowry' is an offshoot of the Hindu religion, as a religious practice, it has not yet been able to maintain its singularity confining only to Hindu tradition

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<sup>13</sup> S.K. Awasthi & U.S. Lal.op.cit., p.3

<sup>14</sup> A.K.Varshney, "Victimisation of Brides", Legal News and Views, Vol. 12, No.2, (February 1998), p.32

<sup>15</sup> Ranjana Kumari, of iM., p.14

<sup>16</sup> The Hindu Succession Act, 1956 confers the right of absolute ownership over property and the woman can make 'will' leaving her share of property to the heirs. Section 10 of the Act provides for the property of an intestate being divided among the heirs in accordance with certain prescribed rules.

<sup>17</sup> Rajni Palriwala, "Reaffirming the Anti-Dowry Struggle," Economic and Political Weekly, April 29, (1989), pp. 29-31

<sup>18</sup> See Indira Rajaraman, op cit., pp.275-279

but has transgressed the barrier and has become a necessary part of the marriage incidence in the whole human community of India irrespective of religion, class, caste and creed.<sup>19</sup> Now the custom 'of giving and taking of dowry has increased in all groups Hindus, Muslims, Christians; all alike through a process of sheer osmosis. The Hindu dowry tradition is firmly entrenched among the Roman Catholics of Goa and the Syrian Christians of Kerala.<sup>20</sup> The Christians of Mangalore follow their pre-conversion custom of 'Kanyadan'. It is reported that in a State like Kerala, with its high literacy rate and progressive outlook, prevailing high rate of dowry makes marriages almost impossible for many Christian girls belonging to large families and induces them to join nunneries or search desperately for jobs in other States.<sup>21</sup>

Among the Muslims, in many parts, there is a custom of giving cash to the bridegroom (popularly known as 'salami') after the 'nikkah' ceremony and of giving clothes and jewellery to the bride by the parents who also bear other expenses of the marriage. It is the problem of dowry that has been very acutely felt and practised in Muslim Community of Hyderabad.<sup>22</sup> In Muslim Law, 'Zahej' is analogous to dowry of Indian marriage; Zahej has come to include all essential requirements of a newly wedded couple apart from money.<sup>23</sup> Though 'dowry' is rampantly being practised in various communities as a cross-culture practice, yet case-laws are very negligible to supplement our study as it has only remain a matter of experience.

The system of dowry has produced adverse effects in contemporary society in general and women in particular. Many girls belonging to noble families are compelled to lead an unmarried life because their parents/guardians cannot able to final resources to meet the exorbitant demands of the other side.<sup>24</sup> There have also been instances where such girls were led astray and were compelled to adopt ignoble ways of life which may be because of meeting their bare maintenance or even for the expenses to be incurred in their marriages. Thus, this unsolved problem created a sore in the heart of the parents/guardians of the girls.<sup>25</sup> They shortened their span of life by being sensitive to the problem which becomes a source of constant worry to them. Accordingly, this evil practice not only affects adversely the marital relationship and social status of women but increasing dowry demand at times even forces girls of marriageable age to

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<sup>19</sup> Dr. Krishna Bala, "Marriage and Violence : An Analysis of Cruelty related to the Practice of Dowry" in Niroj Sinha (Ed.), Women and Violence, Delhi, Vikas Publishing Hosue Pvt. Ltd., (1988) p.83

<sup>20</sup> Jamila Verghese, Her Gold and Her Body, New Delhi, Vikas Publishing House, (1980), p.121

<sup>21</sup> Anam Abrol, "Dowry System in India-With a Special Reference to Jammu and Kashmir" in B.B.Singh Sehgal (Ed.), Human Rights in India: Problems and Perspectives, New Delhi, Deep and Deep Publications, (1999), p.445

<sup>22</sup> Ibid., pp.250-255

<sup>23</sup> Ibid., pp.220-225

<sup>24</sup> Prof. Surendra Singh, "Violence on Women : A Search for Social Justice", Social Welfare, Vol. 43, No. 10 (January 1997), p.9

<sup>25</sup> Urvashi Gulati, "Violence against Women", Kurukshetra, Vol.XLIII, No. 5, (February 1995). p.34

commit suicide out of sheer frustration or for mitigating the suffering and mental tension of their parents.<sup>26</sup>

### **ECONOMIC DIMENSIONS OF DOWRY**

Human desire is unlimited but the means to satisfy them is limited. Materially hungry society often forgets the reality. In many cases, black money and unaccounted earnings are playing a great role in encouraging this evil practice. It is now taking the form of a huge bribe to buy the daughters' future by arranging marriage alliances with highly placed bridegroom belonging to families of high social and economic status. Dowry problem is more acute in urban areas and among educated families of high or middle income groups. The more qualified the groom is, the more is the quantum of dowry demanded and varies from place to place and profession to profession. A good education and high employment made a youth immensely, attractive in the marriage market.

In the rural areas also, the situation is reported to be more distressing. The farmers are forced to sell their land, bullocks etc., which are the only means of livelihood, to evolve dowry funds for marriages of their daughters. It is also found that prevalence of dowry system is one of the reasons for rising rural indebtedness. The farmers borrow, year after year, from the money-lenders and government institutions by mortgaging their land or otherwise at a very high rate of interest. It has been estimated that a major portion of the borrowings by the farmers is spent on marriages and other social ceremonies and very little amount is spent on improvement or inputs of agriculture. Accordingly, the 'life of the small farmers has become very precarious as they have to either alienate or sell their livelihood earning assets such as substances for farming land and milk animals to raise dowry funds for their daughters' marriage.

### **CONSEQUENCES OF DOWRY; CRIMES AGAINST WOMEN**

The consequences of the demand for dowry are, obviously, disastrous not only for the wife and the husband and their two families but also for the marriage itself.<sup>27</sup> 'Demand of dowry' will give an average picture of 'victimisation of the bride' by the husband and in-laws in her conjugal home. Wife abuse acquires a different connotation in Indian society due to the institution of dowry.<sup>28</sup> Here, the term 'abuse' includes physical as well as non-physical acts. There is enough evidence to suggest that it often receives

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<sup>26</sup> Shobhan Bantwal, "The Dowry Bride", Kensington Publishing Corporation, (January 2007). Pp. 170-177

<sup>27</sup> Shalu Nigam, "Women's Rights and Violence in Marriage ", Legal News and Views, Vol. 15, No. 1, (January 2001), p.3

<sup>28</sup> Ram Ahuja, Crime against Women, Jaipur, Rawat Publications, (1987).

enough wider familial sanction.<sup>29</sup> It is institutionalised in various forms which range from inhumanly long hours of labour, often within and outside the home, persistent denial of food, constantly locking a woman out of the house, denying access to children, neglect of ailments, verbal abuse by affiances to physical violence by the husband and sometime other family members. In such cases Section 498-A of Indian Penal Code 1860<sup>30</sup> come into picture.<sup>31</sup>

Bride burning and allied atrocities on women relating to dowry have become a common and chronic feature of modern Indian society. There is no satisfactory explanation of why the system of dowry is growing and indeed spreading to communities where it did not exist. Nonetheless, its role in perpetuating violence within the home is substantial. Of particular relevance is the fact that dissatisfaction over dowry payments and subsequent presentations result in abuse of the wife not only by her husband but by other affine as well.<sup>32</sup> One of the significant aspects of the problem of dowry, which can be assessed by analysing the victim-offender relationship of domestic violence related to dowry, is that women are the sole victims in dowry related domestic violence whereas in any other violence both victims and offenders are account to both men and women.<sup>33</sup>

### FEMALE FOETICIDE AND INFANTICIDE

Female foetus is closely linked with the fear of dowry and the belief that the females are inferior. In India, the addition of a female kid to the family is a matter of despondency and invariably considered a "drain and burden".<sup>34</sup> Female foeticide has become popular with the spread of aminocentesis, a medical technique to discover birth defects.<sup>35</sup> But surprisingly, these aminocenteses tests are blatantly advertised as sex determination tests and people are persuaded to spend five hundred rupees now to terminate pregnancy instead of spending five lakh rupees when the girl attains marriageable age.<sup>36</sup> One can easily guess the number of baby girls killed before birth, from the census data. The 1901 Census reported that the male-female ratio has been constantly declining with an exception in 1951 and 2001 Census data. In India, there are 108.15 males for every 100 females in 2021. There are 669.44 million women and 723.97

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<sup>29</sup> See Report- of the Joint Parliamentary Committee appointed to Examine the Question of the Working of the Dowry Prohibition Act, 1961

<sup>30</sup> In 1983, a new Chapter XX-A entitled "Of cruelty by Husband or Relatives of Husband" consisting of one Section 498-A was inserted in the Indian penal Code vide the Criminal Law (Second Amendment) Act, 1983 (w.e.f. 25th December, 1983).

<sup>31</sup> Sunita Devi.op.cit,, p.60

<sup>32</sup> N Nandi, "Dowry Laws of India", (2011)

<sup>33</sup> Ibid., pp.178-181

<sup>34</sup> Radha Kumari, "Crime Against Women - Role ofNGOs", in O.C. Sharma (Ed.).op.cit, p.149

<sup>35</sup> Dr Pramilla Kapur, "Plight of the Girl Child: Nine-point Formulae to Remove Her Disabilities", Kurukshetra, Vol. 38 No 12, (Sept 1990), p. 13

<sup>36</sup> R.K. Rao, "Girl Child : Young Victims of Yama", Social Welfare, Vol.43, No. 3, (June 1996), p.30

million men. Males make up 51.96% of the population, while females make up 48.04%. There are 54.54 million more men than women. In terms of the proportion of women to men, India is ranked 135th out of 201 nations and territories. Although it is a welcome improvement from 1991 census, interstate variations have shown that in certain States the sex ratio has declined. One of the main reasons attributed to it is the prevalence of dowry.<sup>37</sup>

### ROLE OF LEGISLATION IN CURBING DOWRY

The first bill was introduced by Lok Sabha in the year 1959 Dowry Prohibition Bill on 24th April, 1959. The main object of this Bill was to prohibit the evil practice of giving and taking of dowry. The Dowry Prohibition bill was assented to by the President of India on 20th May, 1961 and was enforced with effect from 1st July, 1961.<sup>38</sup> In order to review the working of the Act of 1961 and to consider the necessary amendments a Joint Committee of both the Houses of Parliament was constituted which gave its Report in 1982,<sup>39</sup> The Committee made recommendations with a view to giving teeth to the Law. Parliament accepted some of the recommendations, and incorporating the same passed the Dowry Prohibition (Amendment) Act, 1984. The Indian Penal Code, 1860(hereinafter referred to as the 'IPC'), the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'CrPC') and the Indian Evidence Act, 1872 (hereinafter referred to as the 'IEA') have suitably been amended by the Criminal Laws (Second Amendment) Act, 1983 to deal effectively not only with cases of dowry death but also cases of cruelty to married women by their in-laws. Parliament passed the Dowry Prohibition (Amendment) Act, 1986,'an Act further to amend the Dowry Prohibition Act, 1961 and to make certain necessary changes in the IPC, the CrPC and the IEA.

Section 3 of the Original Act of 1961 provides 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 which may extend to six months, or with fine which may extend to five thousand rupees or with both.<sup>40</sup> Section 3 of the Dowry Act of 1961 was amended to make punishment for giving and taking of 'dowry' more stringent. Any person giving, taking or abetting the giving or taking of dowry will be subject to

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<sup>37</sup> <https://indianexpress.com/article/explained/explained-how-gender-equal-is-india-as-per-the-2022-global-gender-gap-index-8026983>

<sup>38</sup> Act No. 28 of 1961 (w.e.f. 1st July, 1961)

<sup>39</sup> R.Dayal, Law Relating to Dowry, Allahabad, Premier Publishing Company, (1995), p.332

<sup>40</sup> Act No. 28 of 1961 (w.e.f. 1st July, 1961)

imprisonment for a term of minimum six months, but which may extend to two years and a fine which may extend to ten thousand rupees or the amount of the value of the dowry, whichever is more.<sup>41</sup>

The Section is further amended to provide that it does not apply to presents given to the bride or bridegroom at the time of marriage without any demand having been made in that behalf and such presents are entered in a list maintained in accordance with their rules made under this Act. Further such presents are required to be of a customary nature, and their value must not be excessive having regard to the financial status of her parents.<sup>42</sup>

The old Section 4 states that if any person, after the commencement of this Act, demands, directly or indirectly from the parents or guardians of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both<sup>43</sup>. However according to the Proviso to this Section no Court shall take cognizance of any offence under this Section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.<sup>44</sup>

The object of Section 4 is to discourage the very demand for property or valuable security as consideration for a marriage between the parties thereto. Section 4 prohibits the demand for 'giving' property or valuable security which demand, if satisfied, would constitute an offence under Section 3 read with Section 2 of the Act. But in cases coming under the original Act of 1961, there was some controversy among our High Courts as to whether the offence of demanding dowry is constituted merely on the demand being made or for the constitution of the offence it was also necessary that the demand should be accepted by the other party. The reason for this controversy was the wording of the definition of dowry contained in the original Section 2 i.e., any property valuable security given or agreed to be given "as consideration for the marriage". But now these words have been substituted with the words, "in connection with the marriage". Thus there is no scope for the controversy.<sup>45</sup>

An important amendment made by the Act 63 of 1984 is that the requirement for obtaining sanction of the State Government for any prosecution under the Act, for demanding dowry has been done away with. It may also be noticed that the amendment cannot have retrospective operation, and in case any offence committed under Section 4 before October 2, 1985, the Proviso to old Section will govern the matter. And

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<sup>41</sup> Substituted by the Act No. 63 of 1984, Section 3, for the words "with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees or with both "(w.e.f. 2nd October, 1985)

<sup>42</sup> Section 4 of the Act No. 28 of 1961 (w.e.f. 1st July, 1961)

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> B.V.R SARMA& R.JAGAN MOHAN RAO, "Law Relating to Cruelty and Dowry Death", Thomson Returns (2020)

now any aggrieved person can file a complaint before a magistrate. The punishment of demanding dowry is the same as under Section 3 of the amended Act. It also calls for pointed notice that the insertion of Section 4-A by Act 43 of 1986 is a remarkable change towards the prohibition of dowry. According to Section 5 of the Act of 1961, "any agreement for the giving or taking of dowry shall be void". It is to be noted here that this Section of the original Act has not been amended either by Act 63 of 1984 or by Act 43 of 1986.<sup>46</sup>

Section 6 of the Act is the most salutary one. It contains a precautionary provision. No doubt, demanding, giving or taking or agreement to give or take dowry is all invalid as per Sections 3, 4 and 5 of the Dowry Prohibition Act.<sup>47</sup> But, if in violation of these provisions dowry is given or received, the consequence is not that the transaction is invalid, the consequence is that provided for in the Act itself in Section 6.<sup>48</sup> As per the provisions of Section 6, the recipient of the dowry is required to transfer the same to the woman within the prescribed period failing which he is liable to be prosecuted on a complaint by her at a place where she resides.<sup>49</sup>

After the Amendment of 1984, the police officer has the power to investigate any dowry offence, without waiting for a complaint to be filed, and if he comes to the conclusion that a dowry offence has been committed, he can approach the Court. At the time, no person can suffer any harassment as he cannot be arrested without a warrant.<sup>50</sup>

To combat the menace of dowry deaths, the Indian Penal Code has been amended by inserting a new Chapter - Chapter XXA and a new Section- Section 498-A . Section 498-A of IPC, deals with husband or relative of husband of a woman subjecting her to cruelty.

"Whoever, being the husband, or the relative of the husband, of a woman, subjects such woman to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine".

Regarding dowry death a new Section i.e., Section 304-B has been inserted by this Amending Act in the IPC 1860. The Amendment of IPC in 1983 was the first time that the crime of violence specifically against a woman by her husband was recognised in law.<sup>51</sup> Obviously this provision was introduced as part

<sup>46</sup> Dr. Tahir Mahmood, *An Indian Civil Code and Islam Law*, Bombay, N.M.Tripathi Pvt Ltd. (1976), pp.9-10.

<sup>47</sup> *Ibid.* , pp. 35-40

<sup>48</sup> Sumeet Malik, "Law of Marriage and Divorce", B.P Beris (2020), pp.68-75

<sup>49</sup> *Ibid.* ,pp.90-95

<sup>50</sup> Kumar Askand Pandey, "Indian Penal Code", Eastern Book Company(2020)

<sup>51</sup> *Ibid.*

of a growing recognition of the domestic violence that women experience.<sup>52</sup> Unfortunately, it has severe limitations in its use, but it still remains one of the most effective legal remedies against domestic violence. Similarly, since 1986, the law has provided for a punishment of not less than seven years and upto life imprisonment for the husband and, possibly, his family, if a woman's death occurs due to burns, injuries or other unnatural circumstances and she was subjected to cruelty or harassment in connection with dowry by her husband or relatives.<sup>53</sup>

Sections 174 and 176 of the Criminal Procedure Code, 1973 were amended for making the enquiry in a case of dowry death or suicide by a police and the Magistrate being empowered to held inquest.<sup>54</sup> A new Section i.e., Section 198A has also been inserted which provides that cognizance of an offence under Section 498-A IPC could be taken only on a police report or upon a complaint 'made by the aggrieved person or her father, mother, brother; sister or by father's or mother's brother or sister or, with the leave of the Court, by any person related to her by blood, marriage or adoption.'<sup>55</sup> Besides, a new entry was inserted in the First Schedule under Chapter XX-A after the entries relating to Section 498 making the offence of cruelty by husband or relatives of husband cognizable and non-bailable offence.<sup>56</sup>

The Indian Evidence Act has been amended by the above mentioned Amendments. A new Section 113-A was inserted in the Indian Evidence Act by shifting the burden of proof on husband regarding presumption as to abetment of suicide by married women, if the death occurs within-seven years of marriage.<sup>57</sup>

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Section 113-A "When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all other circumstances of the case, that suicide had been abetted by her husband or by such relative of her husband".<sup>58</sup>

## CONCLUSION

<sup>52</sup> Surendra Malik and Sudeep Malik, "Supreme Court on Penal Code", Eastern Book Company(2018)

<sup>53</sup> C K Takwani, "Indian Penal Code (IPC)", Eastern Book Company(2018)

<sup>54</sup> S K Misra, "Law of Criminal Procedure in India (Criminal Procedure Code)", Allahabad Law Agency(2018)

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Criminal Manual- CrPC, IPC and Evidence Act, Eastern Book Company(2018)

<sup>58</sup> Ibid.

Analysing the socio-religious and economic aspects of the problem of dowry system, it can easily be concluded that dowry and bride burning are symptoms of a deeper malaise, namely the corruption embedded in society. As we have seen, in the 21st Century, the dowry has become an essential ingredient of Hindu marriage and has become a night mare to an unmarried Indian girl. There are number of cases which have all helped the growth of the evil practice of dowry. Taking into account the factors responsible for the strengthening of the dowry system, it seems impossible to eradicate it. It is found that the system of dowry has caused many malpractices in the society. This evil system has also occasionally promoted unnecessary consumption of luxury goods for probable prospects of a marriage even by the poor. Things which poor cannot afford to buy for themselves are given with dowry with their daughters. The amount of dowry differs from caste to caste depending upon the education, employment, status, personality and promotional aspects of the boy and the social and economic status of his family.

Dowry has turned out to be a feudal cruelty in India, simply because anti-dowry laws sleep in the statute books and social consciousness is not awakened to end its vicious survival. In spite of number of changes in the law, the problem of dowry has assumed abnormal proportions. All the amendments have not failed to prevent harassment and torture for dowry nor have they reduced the growing number of dowry deaths. So it is convinced that the need of the hour is a total quick change, as suggested above, in the existing provisions of law relating to dowry and allied legal provisions. But the reforms through legislation require sustained efforts and constant vigilance. The first requirement while framing laws is to realise that law cannot ignore social reality, and that the laws are only one of the many tools to bring about changes; other tools of social control be utilized. A deep-rooted social evil like dowry cannot be wished away by legislation alone. Legislation can only give legal, sanction to individual and group action against this system. Legislation will need to be backed by community action.