

Dowry- A Cause for Sex Selection and A Result of Son Preference

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Abstract

In a country where, as per scriptures, Gods reside in places where a woman is worshiped (Yatra Nari Astu Pujyante, Ramante Tatra Devataa)

Indian historical background and many studies have also shown that dowry system is closely associated with paramount institution of marriage. In the marriage dowry given by a girl's family to boy's family. But now Dowry transactions have become a social evil and serious crime, the family of groom make endless dowry demands and Dowry is widely considered to be both a cause and a consequence of son preference. It is an ironical but sad truth .it has become a grave social issue across the country. Daily newspapers are full of the news about Dowry demand, rapes, sexual-harassment, woman foeticide, molestation, acid-attack, bride beating and burning. According to a 1996 report by Indian police, every year it receives over 2,500 report of bride-burning. Bride-burning claims hundreds in India: Practice sometimes disguised as suicide or accident CNN,

Dowry deaths are deaths of women who are murdered or driven to suicide by continuous harassment and torture by husbands and in-laws in an effort to extort an increased dowry.

Section 304B-Indian Penal Code-Dowry Death

Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.-For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

(<http://304b.blogspot.in/p/section304b-indian-penal-code-dowry.html>)

The word "dowry" is defined in section 2 of the Dowry Prohibition Act, 1961. Thus, there are three occasions related to dowry, i.e., before marriage, at the time of marriage and at an unending period. The customary payment in connection with the birth of child or other ceremonies, are not involved within ambit of "dowry";(Dowry Prohibition Act, 1961)

(Satvir Singh v. State of Punjab, AIR 2001 SC 2828: (2001) 8 SCC 633)

Woman Foeticide

Woman feticide in India is the abortion of a female fetus outside of legal methods. When a person finds out that the fetus is female after undergoing a sex determination test.

Woman feticide is also defined as aborting the woman fetus after sex determination test or prenatal diagnostic test which includes

1. Ultra sonography
2. Foetoscopy
3. Placental tissue sampling
4. Amniocentesis <http://savegc-mission.weebly.com/female-foeticide.html>

Some reason for female foeticide-

We only want a son (Hamein toh beta hi chahiye)

The son carries the family name to the generation (Beta se Vansh Chalta Hai)

Dowry demand

Lack of Education System

Child marriage and forced marriage.

Rape and sexual assault

Abetment to suicide

One of the most important significant amendments introduced in the Indian Evidence Act 1983 was a section- 113A which allowed the courts to presume that in certain circumstances, a husband or his relative had abetted the suicide of a woman.

If two factors are present-(a) she had committed suicide within a period of seven years from the date of her marriage and, (b) that her husband or such relative of her husband had subjected her to cruelty, the court may presume, that such suicide had been abetted by her husband or his relative. 113A. Presumption as to abetment of suicide by a married woman.—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 the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband." Explanation.— For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860) <https://indiankanoon.org/doc/294349/>

Cruelty to women (I.P.C 1860 sec.498A)-

Cruelty to female is a violation of human rights and form of discrimination against female.

In the case of 'Inder Raj Malik vs. Sumita Malik' , it was held that the word 'cruelty' is defined in the explanation which inter alia says that harassment of a woman with a view to coerce her or any related persons to meet any unlawful demand for any property or any valuable security is cruelty. <http://cyberadvocate.in/mod/page/view.php?id=139>

The Indian Penal Code, s. 498A reads: "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.

Conclusion

Violence against women of poorly regarded castes has very deep roots which reaching efforts, clearly laws are necessary but they are not enough." –Navi pillay (south African jurist)

Dowry system and sex selective abortion is a horrific and illegal practice that has got to be stopped phenomena. The Indian penal code 1860 had provision of punishment for causing miscarriage and similar offences, but these were rarely enforced. In the 1994, after intensive public debate all over India, Parliament enacted The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 on 20.09.1994. The Act which came into operation from January 1996 provided for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital mal-formations or sex linked disorders, and the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.

We must need to work towards changing socialization of men's beliefs and attitudes and we must be taught that men and women are equal, how can we forget that female is creator of the society.

Now Its time to come together and reject the dowry system and stop violence against women. We should be aware of the gender discrimination because discrimination against begins in the womb.

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Reference

- Bride-burning claims hundreds in India: Practice sometimes disguised as suicide or accident *CNN*,
<http://304b.blogspot.in/p/section304b-indian-penal-code-dowry.html>
- Dowry Prohibition Act, 1961
<http://savegc-mission.weebly.com/female-foeticide.html>
- <https://indiankanoon.org/doc/294349/>
- <http://cyberadvocate.in/mod/page/view.php?id=139>
- <https://blog.ipleaders.in/understand-section-498a-domestic-violence/>
- The Indian Penal Code's. 498A.