



Strengthening Response to Violence Against Women and Girls

Handout: session – Dowry Prohibition Act, 1961

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The concept of ‘Dowry’ was evolved and its reasons for prevalence is because of the devalued status of women in the society, inability to find a prospective Groom without giving dowry, the social acceptance of dowry by people. Also, the gender discrimination that existed in families, gender biased laws, oppressive social practices, poor implementation of the law were some of key reasons for flourishing the practice of dowry. The Dowry Prohibition Act, 1961 (DPA) was enacted with a view to combat the evil of taking and giving dowry and also to punish the husbands/grooms and their families on demanding dowry or exercising power by putting conditions on the bride’s parents before the marriage, at the time of marriage and after marriage. The DPA applies to people of all religions in India.

What constitutes ‘dowry’?

- *"Dowry" means any property or valuable security given or agreed to be given either directly or indirectly by the parties to the marriage at or before or after the marriage in connection with marriage constitutes dowry, but does not include dower or mehr as mentioned in Muslim Personal Law.*
- Marriage in this context included a proposed marriage and, more particularly, where the non-fulfilment of the demand of dowry leads to the marriage not taking place at all.
- The giving, taking and the demanding of dowry are criminal and non-compoundable offences. Even the abetment of giving, taking or demanding dowry has been made an offence. Any agreement for giving or taking of dowry shall be treated as void.

What is NOT ‘dowry’

- Any presents which are given at the time of marriage to the bride and the bridegroom without any demand being made, will not come within the purview of DPA
- The DPA **mandates the parties to maintain the list of presents** (which are not demanded) given to either the Bride or the Groom by the other side under the Rules made under the Act.
- Also, the presents of a customary nature and not exceeding the financial status of the person by whom it is given, do not constitute “dowry”.

Who can file the complaint?

- **The woman herself who has faced dowry harassment or**
- **a parent/relative of such person, or**
- **by any recognized welfare institution or organization recognized by the Central or State Government.**
- **The Dowry Prohibition Officer**
- **The Police**

The Metropolitan Magistrate or a JMFC shall try any offence under this Act if it is in its own knowledge or a police report of the facts

Dowry to be transferred to the concerned woman:

The DPA states that where any dowry is received by any person other than the woman herself in connection with marriage, he or she shall transfer it to the woman the dowry received before marriage, within 3 months after the date of marriage; or received at the time of or after the marriage within three months after the date of its receipt; or received when the woman was a minor, within 3 months after she has attained 18 years, and pending such transfer, shall hold it in trust for the benefit of the woman.

Penalty for giving and taking of Dowry:

- If any person, **gives or takes or abets the giving or taking of dowry**, shall be punishable with imprisonment of less than 5 years and fine upto Rs 15,000 or the amount of the value of such dowry. Also, if any person demands directly or indirectly, from the parents/relatives of a bride or bridegroom any dowry, he shall be punishable with imprisonment for 6 months and may extend to 2 years and fine of Rs 10,000/-
- Also, when the person fails to transfer the dowry to the concerned woman, it is punishable with imprisonment from 6months to 2 years or fine upto Rs 5000 to Rs 10,000/-
- If the woman entitled to any property dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it
- If she dies within 7 years, other than natural causes, such property shall be transferred to her parents, if she has no children, or if she has children, be transferred to such children and pending such transfer, be held in trust for such children.
- Conviction for failure to transfer any property (amount equal to the value of the property may be recovered from him as if it were a fine imposed)

The Dowry Prohibition Officers are appointed by the State Government to curb the menace of dowry. The powers of Dowry Prohibition Officers includes:

- to see that the provisions of this Act are complied with
- to prevent, the taking or abetting the taking of, of the demanding of dowry;
- to collect such evidence as may be necessary for the prosecution of persons committing offences
- to perform such additional functions as may be assigned by the State Government.

- confer such powers of a police officer as may be specified in the notification by State Govt
- appoint an advisory board consisting of not more than five social welfare workers for advising and assisting the DPOs in the efficient performance of their functions

There is difference between Dowry and Stridhan

- “Stridhan” means women’s property over which she has full ownership rights. It mostly consists of items which are given to her during the time of her maidenhood, presented at the time of her marriage or after the marriage. The stridhan is the woman’s property and she has full control over it.

In 1983, Section 498 A was introduced in IPC to protect women from physical and mental cruelty meted out to her by her husband and in-laws/relatives and 304 B

Section 498A- Husband or relative of the husband of a woman subjecting her to cruelty shall be punished with imprisonment upto three years and fine.

Cruelty means-

- to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- harassment is related to any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand
- Woman can file 498A case wherever she lives after leaving her husband's home

In 1986, Sec 304 B was introduced in IPC to address dowry death (1986)

S. 304B: Dowry Death - Where the death of a woman

- Any burns or bodily injury
- Normal circumstances within seven years
- Before her death she was subjected to cruelty
- Harassment by her husband/relative of her husband
- For, or in connection with, any demand for dowry,
- Husband/ relative shall be deemed to have caused her death.
- S. 174(3) - Police to inquire and report on suicide/death- reasonable suspicion - case relates to a woman who dies within 7 years of her marriage, the police officer shall send the body to be examined to the nearest Civil Surgeon or other qualified medical Officer appointed by the Government
- S. 113B (IEA) : Presumption as to dowry death