

**DOWRY, PROSTITUTION, CHILD MARRIAGE AND LAW IN INDIA**

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**Abstract**

The Indian subcontinent faces many age-old sanctioned evils. Among these numerous evils child marriage, prostitution and dowry are very common. There are numerous cases reported every year in which women, children and sex workers suffer a lot. Many a time some criminal acts go unreported due to lack of awareness and educational facilities. The girls suffer the most. The victims run from pillar to post to get justice. This study aims to determine how these devils can be ousted along with their origins in historical times. Besides, it also aims to analyse the problems faced by the victims. Will these social problems end in our country? It also creates an overview of social perspectives. It also states the social perception about these social evils. To analyse the number of cases dealt with almost on a regular basis online sources by Google experts, UNICEF reports available on the online platform and various other legal websites were visited. The study reveals that there have been numerous cases recorded every year in India. But with the spread of education and awareness, the people have started voicing their discontent over the rising cases. Not only this, but the people have also taken steps to curb these problems through campaigns on social media platforms and various other platforms. These cases will soon reduce with the responsible steps taken by the government and the citizens of the nation. The result shows that the steps taken by the government are undermined by the corrupt officers of the system. The outcomes show that further ameliorations in the bureaucracy are required. Corruption must be reduced at all levels. A high level of discipline and strict implementation of laws are necessary. Also, there must be speedy judgements as red tapes are quite a common phenomenon in contemporary India.

**Keywords:** petitioner, respondent, criminal, accused, sanction, imprisonment, discrimination, liability

**Article**

India, an aspiring, developing nation tediously striving towards excellence is still barred in some aspects of development due to primordial, sanctioned atrocities that are devious to the country. Among these age-old adversaries dowry, prostitution and child labour are rancorous issues to be legally dealt with. Many parents and guardians of daughters are bearing the burden to pay dowry on their daughter's marriage to get her a good, rich husband and high class. There have been numerous cases of dowry deaths where the women are fiercely killed and bludgeoned to death. The National Crime Bureau of India, as recently as 2017, recorded nearly 7000 dowry linked deaths. On average, dowry paid in every marriage is equivalent to Rs.38.946<sup>1</sup>. This is the reason why female foeticide is common in the Indian subcontinent. Parents usually consider a girl child as a liability because they have to pay lots of money in their dowry. This is the way of showing affluence and lavishness. The bride's car is burdened with heavy goods. Next in the line is prostitution. Prostitution is the practice of indulging in indiscriminate sexual activity with a person who is not a spouse or friend in exchange for immediate payment of money. In India prostitution is named as a profession in which socially underprivileged women are forced to work in. The prostitutes are tortured and insulted for being sex worker. When a female prostitute discloses her identity she is looked down upon and excluded from societal matters. The hotly discussed topic is child marriage which is an illegal sexual union of a minor with another minor or adult usually forcefully. These unions are probably found in rural areas. This malpractice has resulted in a steep fall in development in India. A girl is forced by her guardians or parents to be a part of such an unlawful union. The minor is sometimes not aware of the person whom she/he is about to marry. The emotional and physical development of such children is generally low in comparison with the mature children of their age who are blessed with the opportunity to learn in an educational institution. The female in such a union suffers lots of pain and health problems due to early age pregnancy. For how long shall we live with these disastrous dehumanising elements?

The dowry system has been sanctioned in the history of India. It has been prevalent in India since the colonial period. Dowry was an institution in the pre-colonial era managed by women, for

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<sup>1</sup> Princeton. edu, <https://paa2010.princeton.edu/papers/10022> (last visited on March 17, 2021)

women (Oldenburg 2018). It was given by the father to the family members of the groom. (Oldenburg 2018). It was given to the wife to manage her day to day life (Oldenburg 2018). In the ancient era, marriages were organised in the form of Swayamvara in which the bride was given the option to select a groom from those who were standing in the line to be chosen as a husband by her. It was solely given to the women with no share allowed to men (Oldenburg 2018). The dowry system has been misinterpreted in contemporary India as it has become a social menace in India leading to stress among the parents of the girls. It has now taken the shape of an exploiting agent. Islamic marriages do not recognise the institution of marriage and do not specify the exchange of dowry. One of the famous cases of dowry in India is the Geetanjali Murder Case legally named 'Ravneet Garg vs Central Bureau Of Investigation (April 3, 2017)<sup>2</sup>. In this case, the deceased Mrs. Geetanjali Garg, wife of a suspended subordinate judge of Haryana and Chhattisgarh court was murdered for dowry. The petitioner, who was a retired judge was given a Skoda car worth Rs. 16 lacs during the marriage but later on asked for another expensive Skoda car after marriage during the marriage of the deceased's brother's marriage. The Skoda car was used by the younger brother of the petitioner, Navneet Garg. Ravneet bought a plot in Sonipat and got it registered in the name of a distant relative Monika Jain who later transferred the property in the name of the suspended subordinate judge on 8.07.2013. They further demanded Rs.50 lacs for a house in Sector 25, Panchkula and troubled Geetanjali's parents for dowry. The petitioner even troubled Geetanjali for bringing money to satisfy his expensive needs that amounted to more than his income.

Ravneet even asked Geetanjali to bring money for the admission of their daughters to school. He never allowed Geetanjali's parents to meet their granddaughters. The case was filed with Sec 304(IPC), Sec 498 A, Sec 30 of Arms Act, Sec 106(I.E.A.), Sec 113(I.E.A.). During further investigation, it was found that the petitioner's licensed revolver was found at the suite of Geetanjali's murder who was brutally murdered with numerous bullets as six shots were fired at her. The shreds of evidence found were totally against the petitioner and his parents who had scant love and chagrin for the deceased. The C.B.I. in their investigation declared that they found discrepancies by the petitioner during interrogation. Several discrepancies were found in dowry death, murder, suicide note left by her and its destruction. One of the landmark cases of dowry

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<sup>2</sup> Ravneet Garg v. Central Bureau of Investigation, 2017

death is the Kamesh Panjiyar @Kamlesh Panjiyar vs. State of Bihar(2005)<sup>3</sup> in which the deceased was bludgeoned to death by the appellant for not bringing a buffalo from her parents. The appellant was awarded 10 years of imprisonment under sec 304 of I.P.C.<sup>4</sup> for cruelty enough as evidence. Numerous such cases go unreported as the dead of dowry is considered normal and the girls are suppressed under the hood of societal reputation. A major reason for such heart wrenching criminal acts is illiteracy, poverty, backwardness, societal reputation, ignorance of dowry prohibition laws and sanction by rituals. Some women are forcefully divorced by their men for dowry. Some women commit suicides after unbearable physical and mental torture. In 2014-2016, 3400 cases for dowry deaths were reported officially as per the reports of the Ministry of Home Affairs. Among the highly vulnerable states of dowry deaths are Uttar Pradesh and Bihar<sup>5</sup>.

Prostitution in India is legalised to some extent. In India pimping, brothel management, forceful prostitution, kerb-crawling, child pornography and prostitution centres are illegal. Due to an orthodox population, it is insulted and considered as a sin by women. It is one of the oldest professions of women. In ancient times, Rambha and Menaka were the most beautiful women. The people of our nation do not recognise prostitution as a respectable profession. Most of the prostitutes are forced to practice this profession owing to poverty, desertion by their husband, unemployment, divorce, incest, rape, difficulty in marriage, disdain by the family members, affair before marriage and; illegal trafficking and kidnapping by some malicious people. The practice of prostitution was ritualized in the era of Gods. It was called the Devadasi system. The girl presented as Devadasi to a religious deity was known as jogini. According to Lok Sabha, there are 2.8 million prostitutes in India largely female. The girls are hidden in bunkers and behind the maze of passages and secret cells leading into a clandestine place far from the reach of police officers (December 2013, Reuters report)<sup>6</sup>.

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<sup>3</sup> Kamesh Panjiyar@ Kamlesh Panjiyar v. State of Bihar(2005) 2 SCC 388

<sup>4</sup> The Indian Penal Code ( 45 of 1860) 117, Lexis Nexis

<sup>5</sup> Statista, [https://www.statista.com/statistics/633011/reported-dowry-death-cases-by-state-india\(last](https://www.statista.com/statistics/633011/reported-dowry-death-cases-by-state-india(last) visited on March 17, 2021)

<sup>6</sup> Reuters, <https://www.reuters.com/article/us-india-trafficking-brothels-idUSKBN1E71R1> (lasted visited on March 17, 2021)

Every hour four women and girls are indulged in practising prostitution four among them are forcefully thrown into prostitution. Sonagachi, West Bengal is the largest red-light area in India and Asia. The second-largest red light area in India is Kamathipura, Mumbai, India. The third-largest red light area in India is Budhwar Peth, Pune. There are several more red light areas where other criminal activities are carried on<sup>7</sup>.

Quoting Mrs. Renuka Choudhary, Union Minister of Women and Child Development said that out of the total number of prostitutes in India 35.47 percent were forced to enter into prostitution. In *Gaurav Jain vs. Union of India*, the court directed the upliftment of prostitutes and the establishment of juvenile centres for minor prostitutes.

The prostitutes are usually found suffering from health ailments like STD, HIV, cervical; cancer, traumatic disorder, psychological disorder and brain injury. 6% of females enter into the profession of prostitution. 8% of female prostitutes enter into prostitution after insult from their family members and society. They are often raped, beaten, kicked, abused, repressed, molested forcefully, socially excluded and even ill-treated by the police officers. They are denied the right to file an FIR in most of the cases as the police officials also ill-treat them. They are not given their rights in most cases. Their peril goes unheard and unreported. In *Budhadev Karmaskar vs. State of West Bengal (2010)*,<sup>89</sup> a prostitute was brutally killed by Budhadev Kamaskar in 1999. Under article 21 prostitutes also have the right to live with dignity. They also have the right to enrol themselves for any vocational training and earn a livelihood. In the statement made in his regard, the court also said that a woman is forced to indulge in prostitution due to abject poverty, not for pleasure. The court also demanded certain rights to be given to NGOs who work for the welfare of women. The court made Durbar Mahila Samanvaya Committee (DMSC) and a sex worker organisation and its affiliate, Usha Multipurpose Cooperative Society (UMCS) as parties to the case and sought their views on the subject of rehabilitation of the sex workers. The practice of prostitution is legalised to some extent. The Illicit Trafficking (Prevention) Act, 1956 instead of safeguarding the rights of prostitutes places limits on the practice of prostitution.

<sup>7</sup> Scoop whoop, <https://www.scoopwhoop.com/inothernews/red-light-areas-india/last> visited on March 17, 2021)

<sup>8</sup> Lawyers Collective, <https://lawyerscollective.org/2012/04/30/170-budhadev-karmaskar-v-state-of-west-bengal-criminal-appeal-no-135-of-2010-in-the-supreme-court-of-india/> (last visited on March 17, 2021)

<sup>9</sup> *Budhadev Karmaskar (4) V. State of West Bengal (2011) 10 SCC 283*

Child marriage is another centuries-old menace in India that has deteriorated the lives of innocent children who have not witnessed the truths and untold beauty of the world. Child marriage was not sanctioned during the Vedic age. The Vedas prescribed that a girl should be married after she attains full maturity. This system got reversed during the sixth and seventh centuries.<sup>10</sup> The people started marrying off their daughters before they attained puberty. The Kama Sutra states that a girl who has attained full puberty should be avoided as a wife. Before 1000 years, the invaders carried young girls as booty back to their nations. So to protect the dignity of their daughters' parents were forced to marry their girls before they attained puberty. This became a custom later and the one who did not follow the custom was socially excluded. A girl who attained puberty was considered a responsibility that was necessary to be protected. So they considered marriage as the best option. These children often cry for justice and in most cases fail to get the same. Married children face fewer educational opportunities and numerous health hazards. It has a disproportionate effect on girls and boys although girls face more problems than boys. Many girls die before giving birth to a child or during pregnancy. These girls give birth to weak children who usually die after some time. These girls are forced to undergo sexual intercourse and bear a child to satisfy the desires of the in-laws. The development of a married girl child is far less than the educated girl. Most of the cases of child marriage are found in rural areas where most of the people are illiterate and unaware of the ill effects of the menace. The people are largely uneducated. The parents of these illegal couples are mostly destitute. Some people are forced to marry off their children at a young age due to societal reasons, for instance, tribal communities. South Asia has the highest number of child marriage cases where almost half of the girls are married before their 18th birthday.

According to UNICEF reports of February 2019, India ranks fourth among all the nations in South Asia in terms of child marriage. One in three child brides lives in India. Over half of Indian child brides live in five states: Uttar Pradesh, Madhya Pradesh, Bihar, West Bengal and Maharashtra. The practise of child marriage is less more common today than in previous decades. In the institution of child marriage, most of the individuals are tens while some are toddlers. Among the landmark cases for the child, marriage is Seema Beghum vs. State of West

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<sup>10</sup> Frontline, <https://frontline.thehindu.com/cover-story/article30205519.ece> (last visited on March 17, 2021)

Bengal<sup>11</sup> in which the Muslim girl, aged 16 years sought, when a petition was made, that she was mature to get married as she was governed by the Muslim laws. Muslim Law states that a girl who has attained puberty or 15 years of age is eligible to get married with the consent of their parents and; Hardev Singh vs. Harpreet Kaur & Ors.<sup>1213</sup> in which the minor boy misrepresented his age to be 23 years and married an adult girl without the consent of their parents. After the respondent's parents troubled the appellant he asked for protection from the court. The court granted the protection but took it away after the respondent's father applied. The court ordered filing an FIR because the appellant was minor. The court granted an interim order to cancel the protection given.

With a high call to redress these prevalent problems in India, the government of the nation has various laws to protect the citizens from further exploitation. It has even joined hands with international organisations to curb these discriminatory acts. To combat the age-old evil of dowry, the British government passed the Child Marriage Restraint Act, 1929. Mahatma Gandhi urged member of the Central Legislative Assembly, Mrs. Harbilas Sarada to pass a bill to introduce a law stating the legal age of marriage for girls to be 14 years and boys to be 18 years. It is popularly known as Sharda Act. This was later amended in 1978 and the legal age for marriage of a girl was increased to 18 and that of a boy was 21 years.<sup>14</sup> In 2006, the Prohibition of Child Marriage Act, 2006 was passed that penalised those who were a party to child marriage and those who forced the minors to enter into this union. There are 21 sections in this act to prevent child marriage in India<sup>15</sup>. It also prescribes punishment for the criminals involved in this heinous crime. The government of India has joined hands with UNICEF and UNDP to prevent the spread of this contagious crime. The state of Rajasthan passed Sanjhaa Abhiyaan (Collective Campaign), a strategic action plan that was later the national example. The national government started Rashtriya Kishore Swasthaya Karyakram to start skill development. It also received

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<sup>11</sup> indiankanoon.org, <https://indiankanoon.org/doc/1466771/last> visited on March 17, 2021)

<sup>12</sup> indiankanoon.org, <https://indiankanoon.org/doc/1466771/last> visited on March 17, 2021)

<sup>13</sup> Hardev Singh v. Harpreet Kaur ICL 2019 SC 1277

<sup>14</sup> [www.latestlaws.com](http://www.latestlaws.com), <https://www.latestlaws.com/latest-news/child-marriage/last> visited on March 17, 2021)

<sup>15</sup> [lexforti.com](http://lexforti.com), <https://lexforti.com/legal-news/supreme-courts-landmark-ruling-on-child-marriages/lastvisited> on March 17, 2021)

support from the UNICEF Regional Office of South Asia.<sup>16</sup> In 2014- 2017 Regional Office Management Plan (ROMPO) was planned. The union government also organised National Household Surveys like Demographic and Health Surveys, Multiple Counter Surveys, Rapid Survey on Children and National Family Health Survey. According to the Hindu Marriage Act of 1955 child marriage is a punitive offence. Several laws have been passed to prevent the practice of illegal prostitution and the forceful involvement of women and girls in prostitution. These laws include the Suppression of Immoral Trafficking of Girls and Women Act, 1956 to prevent the illegal trafficking of women and girls. Sec 2(f) of the Immoral Trafficking Act (1956) defines prostitution as sexual misuse. Sec 372 and 373 of the Indian Penal Code, 1860 deals with child prostitution and describes the punishment for the offenders. Section 366A, 366B and 370 A states that one who forces a minor to enter into illicit sexual intercourse is imprisoned for 10 years, fined and held liable; and the next section states that importation of foreign girl for sex; and exploitation of a trafficked person are punitive crimes.

The constitution of India prohibits the trafficking of human beings, beggars, and similar forms of forced labour under article 23(1) and penalises such offences under Article 23(2).<sup>17</sup>

If prostitution is legalised in India:

- It will give the children of prostitutes educational opportunities;
- It will help them earn adequate income;
- It will protect the rights of the prostitutes;
- It will provide them with labour laws;
- It will help the government to keep track of the sex workers;
- It will reduce the number of rape cases with the prostitutes;
- It will replace bribery with tax;
- It will give the prostitutes right of choice; and
- It will reduce the number of minors in prostitution.

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<sup>16</sup> Unicef, <https://data.unicef.org/resources/resource-type/journal-articles/> (last visited March 17, 2021)

<sup>17</sup> [www.legalservicesindia.com](http://www.legalservicesindia.com), <http://www.legalserviceindia.com/article/1269-Prostitution-in-India.html> (last visited on March 17, 2021)

While some are in support of legalising prostitution, some people are still against the legalisation of prostitution. Following arguments have been put forward against the legalisation of prostitution in India:

- It will increase the illegal trafficking of humans.
- It will increase the number of scams.
- It will increase the number of forced sex workers.

To prevent dowry, the government of India has passed various laws. Law passed by the Indian government is the Dowry Prohibition Act, 1961.<sup>18</sup> Section 304B(IPC)<sup>19</sup> and Section 113B (IEA)<sup>20</sup> state punishment for dowry deaths. Section 498 A(IPC)<sup>21</sup> states that the husband or any relative to the husband of the woman if subjects her to cruelty will be imprisoned for a term that may extend to three years and liable to fine. Sec 4 of this act states that anyone who directly or indirectly asks for dowry will be awarded imprisonment of not less than 6 months that may extend to 2 years with a fine extending to Rs. 10,000. In 1986, the Dowry Prohibition Act was amended. A list of presents given to the groom and his relatives is maintained. A law called Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985. In furtherance of this, the Protection of Women from Violence Act, 2005 was passed. Most probably a case for dowry death is passed within seven years of marriage. These laws have still not reduced the number of dowry-related cases in India. There is a sharp decline in child marriage in India in the last decades according to UNICEF reports.<sup>22</sup> Awareness and education will show better results.

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<sup>18</sup> [www.bareactslive.com](https://www.bareactslive.com), [https://www.indiacode.nic.in/bitstream/123456789/5556/1/dowry\\_prohibition.pdf](https://www.indiacode.nic.in/bitstream/123456789/5556/1/dowry_prohibition.pdf) (last visited on March 17, 2021)

<sup>19</sup> The Indian Penal Code Act(45 of 1860),118, Lexis Nexis

<sup>20</sup> [blog.ipleaders.in](https://blog.ipleaders.in), <https://blog.ipleaders.in/legal-aspects-related-to-prostitution-in-india/> (last visited on March 17, 2021)

<sup>21</sup> The Indian Penal Code Act(45 of 1860),189, Lexis Nexis

<sup>22</sup> Unicef, <https://data.unicef.org/resources/resource-type/journal-articles/> (last visited on March 17, 2021)