

LAW COMMISSION OF INDIA



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91ST REPORT ON

**DOWRY DEATHS AND LAW REFORM:
AMENDING THE HINDU MARRIAGE ACT,
1955, THE INDIAN PENAL CODE, 1860
AND THE INDIAN EVIDENCE ACT, 1872**

10TH AUGUST, 1983

No. F. 2(9)/83-L.C.

JUSTICE K.K. MATHEW

Shastri Bhavan,
New Delhi,

Dated the 10th August, 1983.

My dear Minister,

I am herewith sending the Ninety-First Report of the Law Commission on "Dowry Deaths".

2. The subject was taken up by the Law Commission *suo moto*. The importance of the subject is explained in Chapter 1 of the Report.
3. The Commission is indebted to Shri P.M. Bakshi, Part-time Member and Shri A.K. Srinivasamurthy, Member-Secretary, for their valuable assistance in the preparation of the Report.

With regards,

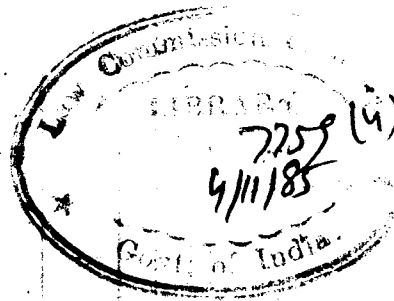
Yours sincerely,

Sd/-

(K.K. MATHEW)

Shri Jagannath Kaushal,
Minister of Law, Justice & Company Affairs,
Shastri Bhavan,
New Delhi.

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CHAPTER 1

INTRODUCTORY

1.1. The last few months have witnessed an alarming increase in the number of cases in which married women die in circumstances which, to say the least, are highly suspicious. In the popular mind, these deaths have come to be associated with dowry, which is why, in popular parlance, they have come to be called 'dowry-deaths'. As the victim is often a young (and a recently married) woman, the phrase "bride-burning" has also come in vogue. Dowry deaths

1.2. One need not quote statistics to show that there has been an unusual increase in such deaths. Many such deaths must be going unreported. But even those that come to be reported are enough to unnerve all right-thinking members of the society. Such incidents, and the frequency with which they go on occurring, may have their roots in several social economic and psychological factors. Those factors may be too deep-rooted and imperceptible to be tackled only by reform of the law. Nevertheless, it appears to be proper to consider some legal aspects of direct relevance to such incidents. Need for law reform

1.3. If, in a particular incident of dowry death, the facts are such as to satisfy the legal ingredients of an offence already known to the law, and if those facts can be proved without much difficulty, the existing criminal law can be resorted to for bringing the offender to book. In practice, however, two main impediments arise— The approach to be adopted

- (i) either the facts do not fully fit into the pigeon-hole of any known offence; or
- (ii) the peculiarities of the situation are such that proof of directly incriminating facts is thereby rendered difficult.

The first impediment mentioned above is aptly illustrated by the situation where a woman takes her life with her own hands, though she is driven to it by ill-treatment. This situation may not fit into any existing pigeon-hole in the list of offences recognised by the general criminal law of the country, except where there is definite proof of instigation, encouragement or other conduct that amounts to "abetment" of suicide. Though, according to newspaper reports, there have been judgements of lower courts which seem to construe "abetment" in this context widely, the position is not beyond doubt.

The second situation mentioned above finds illustration in those incidents in which, even though the circumstances raise a strong suspicion that the death was not accidental, yet, proof beyond reasonable doubt may not be forthcoming that the case was really one of homicide. Thus, there is need to address oneself to the substantive criminal law as well as to the law of evidence.

1.4. Speaking of the law of evidence, it may be mentioned that one of the devices by which the law usually tries to bridge the gulf between one fact and another, where the gulf is so wide that it cannot be crossed with the help of the normal rules of evidence, is the device of inserting presumptions. In this sense, it is possible to consider the question whether, on the topic under discussion, any presumption rendering the proof of facts in issue less difficult, ought to be inserted into the law. Law of Evidence

Substantive
criminal law

1.5. Coming to substantive criminal law, if a deficiency is found to exist in such law, it can be filled up only by creating a new offence. Before doing so, of course, the wise law maker is expected to take into account a number of aspects, including the nuances of ethics, the ever-fluctuating winds of public opinion, the Demands of law enforcement and practical realities.

Importance
of a consi-
deration of
the subject.

1.6. There are some of the important pros and cons that we have kept before ourselves in formulating our recommendations on the subject. All the same, the matter with which this Report is concerned is so important from the point of view of social justice and so vital to the vindication of human dignity and the protection of members of the society, that the time and labour devoted to an examination of the relevant legal aspects requiring urgent attention may not be considered ill-spent.

Paramount
need for
preventive
measures.

1.7. At this stage, we should also state that while the detection, investigation and punishment of offences constituted by conduct leading to dowry deaths are certainly matters of importance, there is still greater need for focussing attention upon effective preventive legislation. To remove unhappiness in the family is beyond the province and capacity of the law. But the law can provide suitable legal remedies designed to avoid, or reduce the intensity of, the situations that are found to precipitate tragedies in the family. This is the least that the law owes to itself, where the tragedy is man-made. The enthusiastic law reformer can think of measures that will make it easier for a suffering party to get out of a situation laden with danger—get out at a time when it is not yet too late to do so. In other words, the law reformer should ponder as to how the law can prevent the emergence of long and sustained states of intensive tension and unhappiness, at the very beginning while the situation is still under control. It is in this spirit that we have approached the problem and we, therefore, attach a very high value to the preventive measures that we are going to recommend in this Report.

Difficulty
of detection.

1.8. Those who have studied crime and its incidence know that once a serious crime is committed, detection is a difficult matter and still more difficult is successful prosecution of the offender. Crimes that lead to dowry deaths are almost invariably committed within the safe precincts of a residential house. The criminal is a member of the family; other members of the family (if residing in the same house) are either guilty associates in crime, or silent but conniving witnesses to it. In any case, the shackles of the family are so strong that truth may not come out of the chains. There would be no other eye witnesses, except for members of the family.

Suggestions
for reform

1.9. Given all these circumstances of the usual "dowry death", it will be conceded that even where there is in a particular case, moral certainty that the death is the result of murder, the circumstances would be hostile to an early or easy discovery of the truth. Punitive measures—such that can be pursued within the ambit of the existing law—may be adequate in their formal content. But their successful enforcement is a matter of difficulty. That is why there is need to supplement the punitive measures by appropriate preventive measures. This Report seeks to make a few modest suggestions as to what can be done in this regard. It is possible that the measures recommended here will be regarded as very mild by some persons, or as radical by others. But it is hoped that the discussion will at least give a new stance to the thinking on the subject. Some effective preventive measures, whatever be their content and drift, are needed urgently. If this is not done soon, there is a grave risk that the problem of bride-burning will grow out of control and a stage will come when one of the two possibilities will become real. Either there will be no enthusiasm left for

trying out concrete solutions, or there will come to be adopted solutions that might be worse than the problem. Hence the need for some concrete preventive steps to check "bride-burning" or "dowry deaths". Incidentally, neither of these two expressions is very happy; one of them is even inaccurate, because the female who is burnt is no longer a "bride". These two expressions will not satisfy a linguistic purist. However, we are not, at the moment, concerned with the purity of language, but with the purity of conduct.

CHAPTER 2

THE FACTUAL COMPONENTS OF DOWRY DEATHS, AND THEIR IMPACT ON THE LAW OF EVIDENCE

2.1. Let us first examine the factual components of a typical "dowry death". The following analysis of these components, elementary though it may appear, is basic to an understanding of this peculiar social phenomenon:—

- (i) *Sex*—The person who dies in a dowry death is *always a woman*.
- (ii) *Age*—She is mostly in her twenties.
- (iii) *Status*—She is a married woman, totally dependent on her husband or his relatives. In many cases, she has already become a mother, or is about to become a mother.
- (iv) *Mode of death*—In the vast majority of cases, the death occurs as a result of burns sustained by the woman in a fire—though some cases of injuries or poisoning have also been known.
- (v) *Condition*—The woman is extremely unhappy, by reason of the demand for dowry. She has no other cause for unhappiness, except that resulting from, or connected with, the demand for dowry. The demands are persistent, determined and oppressive.
- (vi) *Nature of the act*—Initially, a case of dowry death is presented (and even recorded) as one of accident or suicide. Homicide takes a back seat, and is brought into the front only with great reluctance, and only after great persuasion. This is not to say that the police or any other enforcement authority is necessarily to blame for the situation. For various reasons, the general stance adopted in law enforcement is not to rush to a conclusion of homicide, in the absence of some concrete proof. In the cases of dowry death, such concrete proof is not easily available.
- (vii) *Locate*—The death mostly takes place within the house; the victim of the "accident" is always behind closed doors, when she dies.
- (viii) *Reporting*—The death, where reported to the police by the husband or his relatives, is reported as caused by suicide, but where it is reported by the woman's own parents or relatives, the suspicion of homicide is put forth. There are several other noteworthy features, but they need not encumber the present discussion.

2.2. The features of dowry deaths mentioned above¹ are significant enough. The first three factors mentioned above (age, sex and status of the victim) show that we are confronted here with the death of a person who is, or has become, too weak to resist. The will and power to resist has been largely eroded by the

¹Paragraph 2.1, *supra*.

persistent demands. This aspect is highlighted here to substantiate the suggestion (to be made in later paragraphs of this Report) to raise a presumption as to the cause of death in certain circumstances.

To recapitulate briefly the points already made above, there are several noteworthy factual components of a dowry death. In every case, the victim of the supposed accident is a woman, young and married, dependent on her husband or in-laws. Her desire to live is slowly eroded by oppressive conduct which emanates from no other source except the in-laws. Tension is built up to a high pitch. All these features would *prima facie* seem to justify the inference that such cases, occurring with regularity, frequency and monotonous uniformity, are the result of some human act and are not the consequence of an act of God.

The fourth
factual
component.

2.3. The fourth factual component mentioned above—mode of death—fortifies the argument advanced in the preceding paragraph² as justifying a presumption of non-accidental death until the contrary is proved.

Recommendation
to amend the
Evidence Act.

2.4. On an examination of the several aspects of the matter, we have come to the conclusion, and we recommend, that a presumption on the following lines should be inserted in the Indian Evidence Act, 1872:—

“Where—

- (a) a married woman dies, within five years of her marriage, of burns or injuries sustained in the house in which she and her husband were residing together immediately before her death, or from other cause of a similar nature, and
- (b) the death takes place behind closed doors, it may be presumed that the death was not accidental.”

Utility.

2.5. Incidentally, it may be pointed out that the utility of such a provision lies in this. The case becomes one in which the need for investigation by the police or an inquest by the Magistrate into the cause of death becomes strong.

The fifth
factual
component.

2.6. A presumption (as recommended above)³ to the effect that death taking place in the specified circumstances was not accidental, would, of course, still leave unresolved the tie between suicide and homicide. One may now turn to the fifth factual component of a dowry death,⁴ namely, the *condition* of the victim of the tragedy. Let it be pointed out that the woman had no other cause of unhappiness such as ill health, failure in some big venture, death of a very near relative, serious financial difficulty or the like.

Assuming that the death was due to suicide, which itself was impelled by a feeling of disgust with life caused by great unhappiness, one can state that the woman's unhappiness was not due to any other facet of her life, excepting the demands for dowry. On this reasoning, persistent demands for dowry may be legitimately presumed to be a major causative factor of her death. The manner in which the chain of causation actually operated in a particular case would, of course, still remain uncertain. We do not yet know whether the case was one of suicide or homicide, but there is ground for presuming that it was one of the two. Further, in the circumstances, there is ground for presuming that the demand for dowry which the woman could not meet either forced her to take her own life in the end or impelled the members of her husband's family to take her life.

¹See paragraphs 2.4 and 2.6. *infra*.

²Paragraph 2.2. *Supra*.

³Paragraph 2.4. *supra*.

⁴Paragraph 2.1, *supra*.

2.7. The factor mentioned in the preceding paragraph seems to justify the insertion, in the law, of two provisions:—

- (i) Besides the presumption already recommended for being inserted in the Evidence Act,¹ another presumption should also be inserted in the same Act, as under:—

“Where a married woman dies, within five years of her marriage, of burn or injuries sustained in the house in which she and her husband were residing together immediately before her death, or from other cause of a similar nature, and there is credible information that there had been persistent demands of dowry against the woman or her parents or other relatives, it may be presumed that her death was the result² that

- (a) either of suicide to which the woman was driven by such persistent demands of dowry, or
- (b) of homicide.”

The definition of “dowry” for the purpose of the provisions to be newly inserted will be as under:—

“‘dowry’ means money, or other thing estimable in terms of money, demanded from the wife or her parents or other relatives by the husband or his parents or other relatives, where such a demand is not properly referable to any legally recognised claim and is relatable only to the wife’s having married into the husband’s family.”

- (ii) Secondly, it would be proper to regard persistent demands for dowry as amounting to “cruelty” within the meaning of matrimonial legislation. This point will be developed later, when we come to the question of divorce.³

2.8. The sixth factor mentioned above⁴ relates to the nature of the act (accident, suicide, homicide). This is most difficult to detect. Incidentally, the difficulty is enhanced by the locale in which the death takes place (the seventh factual component). However, later in the course of this Report, a few recommendations are proposed to be made, which might mitigate the difficulty to some extent.

2.9. The seventh factual component of dowry death mentioned above⁵ relates to the locale of death. A dowry death always takes place within closed doors. Obviously this renders difficult the detection of the cause of death. Proof of the cause of death is thus rendered an arduous task because of scanty available evidence. It appears to us that a legal presumption as to the cause of death, if otherwise justifiable on rational grounds, may help in this respect. This aspect thus fortifies the reasons given above in support of inserting certain presumptions where there is a dowry death.⁶

2.10. The eighth factual component of a dowry death⁷ is concerned with reporting of the death. We propose to deal with this in the next Chapter.⁸

¹Paragraph 2.4, *supra*.

²In this case, death need not take place behind the closed doors.

³Chapter 4, *infra*.

⁴Paragraph 2.1, *supra*.

⁵Paragraph 2.1 *supra*.

⁶Paragraphs 2.4, 2.6 and 2.7, *supra*.

⁷Paragraph 2.1, *supra*.

⁸Chapter 3, *infra*.

Recommendation for another amendment in the Evidence Act.

Sixth factor nature of the act.

Seventh factual component locale.

Eighth factual component reporting.

CHAPTER 3

DOWRY DEATHS AND THE SUBSTANTIVE CRIMINAL LAW

the eighth factor-reporting.

3.1. The eighth and the last factor mentioned above is concerned with reporting—or rather with failure to report—by those who are near and dear to the woman. Already, in law, there is a provision in the Code of Criminal Procedure requiring every person aware of the commission of certain serious offences to inform the nearest Police officer or Magistrate.¹ The offences are specified in the provision and (so far as is material) cover murder and culpable homicide not amounting to murder.² But its language is not wide enough to cover deaths that are apparently accidental. By virtue of this provision, a person is bound to report the matter only if he is aware of the commission of murder or culpable homicide amounting to murder. If the death does not proclaim itself as one caused by murder or culpable homicide, no obligation to report arises.

Recommendation as to obligation to report.

3.2. In the circumstances, there is scope for an improvement in the law in the context of the growing incidence of dowry deaths. It is not being suggested here that an obligation to report the death of a woman to the police should be imposed in every case. What can, and should, be inserted in the law is a provision of a limited character, which would appear to be justified in the interest of prompt reporting of dowry deaths. The provision could be to the following effect. Where a married woman dies within five years of her marriage as a result of burns or injuries sustained by her in the house in which she was residing with her husband immediately before her death, or from other cause of a similar nature, and her husband, on becoming aware that his wife has so died, does not, within a reasonable time, inform the nearest police officer or Magistrate about her death, the husband shall, in the absence of reasonable excuse (the burden of proving which shall lie on him), be guilty of an offence punishable with imprisonment not exceeding three years, or with fine, or with both. This provision can be appropriately inserted in the Indian Penal Code.³

Recommendation to amend the Indian Penal Code to punish persistent cruelty driving a person to suicide.

3.3. Having regard to the need to deal effectively with suicides that are the result of ill-treatment within the family, it is also necessary to punish persistent cruel conduct on the part of one person that drives another member of family living with him to the commission of suicide. Such a recommendation was, in fact, made by the Law Commission⁴ long ago in its Report on the Indian Penal Code.⁵ That recommendation awaits implementation. The matter has now become very urgent. The new Section may run on these lines:—

“Whoever, by persistent acts of cruelty, drives a member of his family living with him to committing suicide shall be punished with imprisonment of either description, which may extend to three years, and shall also be liable to fine.”

Of course, this will be a general provision covering all suicides impelled by cruelty. Besides this, the law should expressly provide that persistent demands for dowry shall amount to “persistent acts of cruelty” for the purposes of this Section.

The definition of “dowry” for the purpose of the above new provision will be as under:—

“‘dowry’ means money, or other thing estimable in terms of money, demanded from the wife or her parents or other relatives by the husband

¹Section 39(v), Code of Criminal Procedure, 1973.

²Section 302, 303 and 304, Indian Penal Code.

³Provision to be inserted in the Indian Penal Code.

⁴Law Commission of India, 42nd Report (Indian Penal Code), page 245, para 16.35.

⁵This concerns the Indian Penal Code.

or his parents or other relatives, where such a demand is not properly referable to any legally recognised claim and is relatable only to the wife's having married into the husband's family."

CHAPTER 4

DOWRY AND THE LAW OF DIVORCE

4.1. The amendments recommended in the preceding Chapters of this Report touch the criminal law and its periphery. Once a dowry death takes place, there is certainly need for inserting provisions designed to facilitate investigation and prosecution, if the case contains a criminal element. But the pressing need is for effective measures which have, as their objective, preventing the recurrence in society of situations that lead to dowry deaths, whether such deaths are the result of suicide or of murder. Close reflection will reveal that dowry deaths occur because the woman's relatives in the husband's family make a persistent and determined demand for dowry. In the mind of the woman, this builds up tension of an acute character. The tension is built up step by step. Ultimately, a stage comes when the woman does not see any way out of the situation, excepting suicide. Returning to the parents' home would hardly suggest itself to her as a permanent solution, though it is sometimes resorted to as a temporary expedient. Death becomes the last refuge of the woman. Side by side with building up tension in the woman's mind, the situation occasionally develops into one where the greed for money, the aggressiveness provoked by resistance and the ease with which the weaker sex can be exploited, all culminate in the desire to take the woman's life. It is not a sudden or impulsive step, it is the final catastrophe to which each of the psychological and social factors mentioned above contributes. Students of dramatics might even discover a parallel between this real life drama and the classical exposition of the elements of tragedy. The slow ascent, the crisis, the catastrophe and the denouement, all are present here.

Amending the law of divorce.

The object in stressing this aspect here is to substantiate the recommendation for reform that is going to be made in the next sentence. Stated in brief, our recommendation is that the law relating to the grant of divorce or judicial separation should be reformed by specifically providing that a persistent demand for dowry shall be deemed to constitute cruelty for the purpose of the grant of matrimonial relief under the head of cruelty. To equate such conduct to cruelty, is to our mind, a perfectly legitimate approach. Moreover, it is the only practicable legal reform that would enable the woman, if she so chooses, to secure release from a situation that is potentially dangerous to her life.

4.2. No doubt, every case where dowry is demanded after marriage does not necessarily result in a "dowry death". But if recent events are any guide, every case where the demand is persistent should at least put the woman on her guard that the situation is potentially dangerous. The possibility of dowry death (whether by suicide or murder) in such circumstances is not so remote or fanciful that it can be disregarded by the law. To put the matter differently, the danger being real and not fanciful and the harm likely to ensue being of the most substantial character, the law is justified in devising a remedy that can be of concrete help in preventing further unhappy developments that will most probably culminate in a tragedy.

Varieties of factual situations.

It is true that in every such case the wife may not necessarily prefer divorce. But the law can only provide a remedy. At what stage the woman should start thinking of going to court, is for her to decide. A faint suggestion that some payment be made by her parents may not ordinarily evoke thoughts of divorce. A repetition of the demand may induce some, though not many, women to think of divorce. Much depends on the emotional make up of the woman and many other factors. But where the demands grow persistent, the woman should be

on her guard and, in due time, take a decision as to her future course of action. She must decide whether she would still continue to live in a state of tension which might ultimately result in a tragedy, or whether she would prefer to secure release from the situation for all time to come. For any woman, the decision to seek divorce on this ground or on any other ground is a crucial one, often an agonising one and always a difficult one. That difficulty notwithstanding, the framework of the law must take into account the harsh realities of life and accord the woman an appropriate and effective remedy that will enable her to re-mould her life before it is too late.

Stability of marriage weighed against problem of life.

4.3. Our recommendation amounts to a liberalisation of divorce. We are aware that in any society a liberalisation of the law of divorce ought not to be embarked upon unless there are strong and weighty reasons in support of the course proposed. Divorce, in itself does not put an end to the social ills of the family. It does not increase the emotional happiness of the spouses, now separated. It might have a serious impact on the life of children. It must, in the majority of cases, cause a heavy economic strain on the wife and may, for years to come, weave a misty veil of odium and disapprobation around the hitherto untarnished face of the woman.

Factors to be taken into account.

4.4. In taking decision to widen the grounds of divorce by legislative action, all these factors must naturally weigh with the authorities concerned. But we would wish to point out that the situation dealt with in the present Report is a very special one. One has to weigh, in opposing scales, two conflicting considerations. The stability of the marriage is placed in one scale, while in the other scale is placed the very survival of the woman. Persistent demands for dowry must upset the mental poise of any average woman. This much, we believe, will be conceded by any reasonable human being. But this is not all. Experience in India in recent years shows that such demands lead to the emergence of a situation in which the wife is either driven to suicide or is murdered by (or at the instance of) those whose "interest" lies in demanding more and more. Whether it is the wife's exasperation (leading to suicide) or the unabashed greed of certain persons (impelling them to commit murder), the situation is one which ought to be prevented. In our view, the scale in which this consideration finds a place, outweighs the needs of stability of marriage. No doubt, the institution of marriage deserves to be protected against emotional storms which the passing hour may bring. These are clouds that may soon disperse. But persistent demands for dowry are a different matter. They show human nature at its worst. And no woman should be forced to go on fighting human nature at its worst.

Divorce, in such circumstances, is a lesser and milder evil than continuing to live constantly in an atmosphere of terror.

Recommendation for amending the Hindu Marriage Act, 1955,—provisions relating to "cruelty".

4.5. In the light of the above discussion, we recommend that in the sections of the Hindu Marriage Act, 1955 dealing with the grant of divorce or judicial separation on the ground of cruelty, an Explanation somewhat in the following terms should be inserted:^{1,2}

"*Explanation:* For the purposes of this Section, persistent demands for dowry shall be deemed to be an act of the husband treating the wife with cruelty, where the demands are made by the husband, or with his connivance or acquiescence".

Other matrimonial enactments whether to be amended.

4.6 We have, in the above paragraph, concentrated on the Hindu Marriage Act. There may be no objection in *principle* to making such a provision in the other matrimonial enactments also, which govern the marital relationship among

¹This concerns the Hindu Marriage Act, 1955.
²See also para 2.7(ii), *supra*.

members of other communities. However, a firm decision in that respect may have to be preceded by some study of the question whether, in other communities also, "dowry deaths" present a substantial problem. The Dowry Prohibition Act, 1961, no doubt, applies to all marriages, whatever be the religion of the parties. But the subject with which this Report is concerned is not the regulation of the practice of giving or taking dowry at or in connection with marriage,¹ but the peculiar phenomenon of death as a result of the desire to extract dowry after marriage. Whether this phenomenon exists in other communities may have to be first ascertained, before taking a firm decision to amend enactments other than the Hindu Marriage Act on the point under discussion.

4.7. We may also state here that persistent and oppressive demands for dowry, if they can be proved to have affected the wife's mental health, may even now amount to cruelty. But we would prefer a specific provision² on the subject in order to avoid all controversy and the need to prove damage or likelihood of damage to health. Present law if adequate.

4.8. This brings us to the definition of "dowry" that may be needed for the purpose of the various recommendations made in this Report. It appears to be necessary to include a definition of "dowry" framed after specifically keeping in mind the objectives of the above recommendations. Recommendation regarding definition of dowry for the purpose of the present recommendations.

The definition in the Dowry Prohibition Act, 1961 addresses itself to a somewhat different point of time. The emphasis therein is on contemporaneity or immediate connection with the event of marriage.³ To the tragic incidents with which this Report is concerned, what is more relevant is the relationship of marriage, the way in which married life is lived, a cluster of post-nuptial facts which bring untold unhappiness and misery to the women. The dowry Prohibition Act, 1961 focuses itself mainly on the economic hardship and social ignominy caused by demanding dowry as a price for entering into the marriage. Our recommendations, in contrast, are concerned with the physical agony and ignominy caused directly to the woman in leading her life in the husband's family. This report is concerned with a state of affairs, a continuum, rather than with a demand made at a particular point of time. Greed for money may be common to both; scant respect for the woman as an individual entitled to maintain her human dignity may also be common to both; and yet, there is a shift on emphasis. The wife is now threatened (directly or indirectly) that her social status as a wife will be jeopardised if the demand is not met. This threat is addressed to the wife and it is she who is the visible victim. The threat ultimately culminates in the extinction of her life. For effectively covering these nuances of the situation, the definition of dowry in the Act of 1961 would not be sufficient. In any case, it would be unrealistic in the present context.

4.9. It is thus desirable that there should be inserted a self-contained definition of "dowry" which should be made applicable to all the provisions that may come to be enacted as a result of our recommendations (wherever those provisions contain the word "dowry"). We would recommend a definition somewhat in the following terms, for the purpose:— Recommendation regarding definition of "dowry".

" 'dowry' means money, or other thing estimable in terms of money, demanded from the wife or her parents or other relatives by the husband or his parents or other relatives, where such a demand is not properly referable to any legally recognised claim and is relatable only to the wife's having married into the husband's family".

¹See also paragraph 4.8, *infra*.

²Para 4.4, *supra*

³See also paragraph 4.5, *supra*.

CHAPTER 5

CONCLUSION, AND SUMMARY OF RECOMMENDATIONS.

Conclusion.

5.1. Finally, by way of conclusion, let us state that the recommendations made above would not put an end to "dowry deaths". The root causes of this phenomenon lie much deeper than is generally realised. The law and its apparatus cannot put an end to human avarice, snobbery and desire to make a show of wealth. If happiness comes to be measured by some sections of society in terms of money only, the law can hardly provide a cure for it. The recommendations made above are intended primarily:—

- (i) to introduce certain legal reforms that will facilitate the taking of timely steps to avoid future precipitate developments; and
- (ii) to strengthen certain other parts of the law, concerned with the detection of the causes of dowry deaths and the institution of criminal proceedings.

Summary of recommendations.

5.2. For convenience, we summarise below the recommendations made in earlier chapters of this Report.

- (1) A provision as under should be inserted in the Indian Evidence Act, 1872:—

"Where—

(a) a married woman dies, within five years of her marriage, of burns or injuries sustained by her in the house in which she and her husband were residing together immediately before her death, or from other cause of a similar nature, and

(b) the death takes place behind closed doors, it may be presumed that the death was not accidental".¹

- (2) Another provision should be inserted in the Evidence Act to the following effect:—

"Where a married woman dies, within five years of her marriage, or burns or injuries sustained in the house in which she and her husband were residing together immediately before her death, or from other cause of a similar nature, and there is credible information that there had been persistent demands for dowry against the woman or her parents or other relatives, it may be presumed that her death was the result either of suicide to which the woman was driven by such persistent demands of dowry, or of homicide".²

- (3) In the Indian Penal Code, a provision should be inserted to the effect that where a married woman dies, within five years of her marriage of burns or injuries sustained by her in the house in which she was residing with her husband immediately before her death or from other cause of a similar nature, and her husband, on becoming aware that the woman has so died, does not, within a reasonable time, inform the nearest police officer or Magistrate about her death, he shall, in the absence of a reasonable excuse (the burden of proving which shall lie on him) be guilty of an offence punishable with imprisonment not exceeding three years or with fine or both.³

¹Para 2.4, *supra*.

²Para 2.7, *supra*.

³Paragraph 3.2, *supra*.

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- (4) A specific section should be inserted in the Indian Penal Code, punishing a person who, by persistent act of cruelty, drives a member of the family living with him to committing suicide. Further, the new provision should expressly provide that persistent demands for dowry shall amount to persistent acts of cruelty for this purpose. The punishment should be imprisonment of either description upto 3 years and fine.¹
- (5) The Hindu Marriage Act, 1955, should be amended to provide that for the purposes of the sections of that Act providing for the grant of matrimonial relief on the ground of cruelty, persistent demands for dowry should be deemed to be an act of the husband treating the wife with cruelty, where the demands are made by, or with the connivance or acquiescence of, the husband.²
- (6) For the purpose of the provisions recommended above, "dowry" should be defined as meaning money, or other thing estimable in terms of money, demanded from the wife or her parents or other relatives by the husband or his parents or other relatives, where such a demand is not properly referable to any legally recognised claim and is relatable only to the wife's having married into the husband's family.³

(K. K. MATHEW)
Chairman

Sd/-
(K. K. MATHEW)

(NASIRULLAH BEG)
Member

Sd/-
The amendments suggested appear to me to be too light and not sufficiently stringent.

Sd/-
(NASIRULLAH BEG) 10-8-83

(J. P. CHATURVEDI)
Member

Sd/-
(J. P. CHATURVEDI)

(P. M. BAKSHI)
Part-time Member

Sd/-
(P. M. BAKSHI)

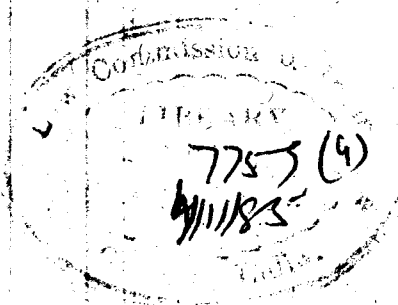
(VEPA P. SARTHI)
Part-time Member

Sd/-
(VEPA P. SARTHI)

(A. K. SRINIVASAMURTHY)
Member-Secretary

Sd/-
(A. K. SRINIVASAMURTHY)
Member-Secretary

Dated: August 10, 1983.



¹Paragraph 3.3, *supra*.

²Paragraphs 4.1 and 4.5, *supra*.

³Paragraph 4.9, *supra*.