



FACULTY OF JURIDICAL SCIENCES

COURSE: LLM TWO YEARS Constitutional & Administrative Group /Criminal group/ corporate & business group

Semester-II

SUBJECT: Law and social transformation in India

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Lecture-8



Dowry

In 1961, the Government of India passed the Dowry Prohibition Act, making the dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported.

In 1985, the Dowry Prohibition (maintenance of lists of presents to the bride and bridegroom) rules were framed. According to these rules, a signed list of presents given at the time of the marriage to the bride and the bridegroom should be maintained. The list should contain a brief description of each present, its approximate value, the name of the person who has given the present and his/her relationship to the person. However, such rules are hardly enforced.

A 1997 report claimed that at least 5,000 women die each year because of dowry deaths, and at least a dozen die each day in 'kitchen fires' thought to be intentional. The term for this is bride burning and is criticized within India itself. Amongst the urban educated. Such dowry abuse has reduced dramatically.

Female infanticides and sex selective abortions

India has a low sex ratio, the chief reason being that many women die before reaching adulthood. Tribal societies in India have a better sex ratio than all other caste groups put together. This is spite of the fact that tribal communities have far lower levels of income, literacy and health facilities. It is therefore suggested by many experts. That the low sex ratio in India can be attributed to female infanticides and sex-selective abortions.

All medical tests that can be used to determine the sex of the child have been banned in India, due to incidents of these tests being used to get rid of unwanted female children before birth. Female infanticide (Killing of girl infants) is still prevalent in some rural areas. The abuse of the dowry tradition has been one of the main reasons for sex-selective abortions and female infanticides in India.

Abortion permitted on therapeutic ground

Abortions are only permitted on medical ground in order to protect the life of the mother. That is to say, the unborn child must not be destroyed except for the purpose of preserving the yet more precious life of the mother.

Medical Termination of Pregnancy Act, 1971 Legalize abortion

In 1971 India liberalized its abortion law by enacting the above said Act, which permitting abortion under certain conditions.

The termination of pregnancy involves a risk of life of a pregnant woman or a risk of grave injury to her physical or mental health.

The termination of pregnancy is not an offence if there exists a substantial risk that, if the child were born, it would suffer some physical or mental abnormalities so as to be seriously handicapped.

The termination of a pregnancy would not be an offence if the pregnancy is caused by rape.

The termination of pregnancy is not an offence if the pregnancy is the result of failure of any device or method used by the married couple for the purpose of limiting the number of children.

Hence the Act permits termination of an unwanted pregnancy of a married woman on the ground that a contraceptive device failed. The Act provides very mere punishment for the contravention of the provisions of the Act, which may extend to one thousand rupee only.

The Pre-conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 2003:

“An Act to provide for the prohibition of sex selection before or after conception and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities of metabolic disorder or chromosomal abnormalities or certain congenital malformation or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matter connected therewith or incidental thereto”

The use of technology for pre-natal determination of sex, in the context of India, is wholly discriminatory to the female sex and has an impact on the status and dignity of women. Large scale misuse of the technologies in future would precipitate a severe imbalance in male and female ration. Keeping in view the emerging technologies selection of sex before and after conception and problem faced in the working of implementation of the Act and certain direction of Hon'ble Supreme Court² New amendment in Sec. 23 legislator has increased the punishment up to five yrs, imprisonment and fine up to Rs. 1, 00,000.