



The social construction of ‘dowry deaths’

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ABSTRACT

The classification of cause of death is real in its consequences: for the reputation of the deceased, for her family, for those who may be implicated, and for epidemiological and social research and policies and practices that may follow from it. The study reported here refers specifically to the processes involved in classifying deaths of women from burns in India. In particular, it examines the determination of ‘dowry death’, a class used in India, but not in other jurisdictions. Classification of death is situated within a framework of special legal provisions intended to protect vulnerable women from dowry-related violence and abuse. The findings are based on 33 case studies tracked in hospital in real time, and interviews with 14 physicians and 14 police officers with experience of dealing with burns cases. The formal class into which any given death is allocated is shown to result from motivated accounting processes representing the interests and resources available to the doctors, victims, victim families, the victim’s husband and his family, and ultimately, the police. These processes may lead to biases in research and to injustice in the treatment of victims and alleged offenders. Suggestions are made for methods of ameliorating the risks.

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1. Introduction

In any jurisdiction, decisions have to be made about whether a death is natural or unnatural. If deemed unnatural, further decisions have to be made about whether it was accidental or non-accidental; and if non-accidental, whether self-inflicted or caused by a third party. In the event of death caused by a third party, decisions have to be made about whether anyone is culpable or not. Accounts of events leading up to the death are important in reconstructing the circumstances and cause, which in turn, inform the class into which it is placed. Those formally involved in classifying unnatural deaths vary by country and may include physicians, pathologists, district health officers, coroners, police officers, magistrates, public prosecutors, judges, and morticians (Brooke, 1974).

This paper deals with classification in India of young women’s deaths as a result of burns into three broad classes of unnatural death – accident, culpable homicide and suicide – supplemented

by a further class, ‘dowry death’, that is available when the deceased is female and has been married for less than seven years. It contributes to the wider literature discussed below on factors affecting the classification of equivocal deaths. Dowry deaths may occur by various means, including poisoning, hanging or burning. Recognition by lawmakers that women in India have traditionally been vulnerable to dowry-related abuse by their in-laws, sometimes resulting in their death, has led to the enactment of special legal provisions to prevent such abuse and cruelty. We examine the ways in which women’s deaths by burning do or do not come to be suspected as, treated as, and formally classified as dowry deaths. When a death is classified thus, the woman’s husband or other family members are automatically considered suspect and we examine the impact of this classification on the subsequent prosecution and conviction of perpetrators.

2. Background and literature review

‘Dowry deaths’ comprise a unique category of deaths in India. The custom of payment of dowry by the bride’s family to the prospective bridegroom’s family is ancient and widely prevalent. One of the many explanations for it is that it is a form of compensation

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to the groom's family for sheltering the woman for life (Ahmad, 2008). Other explanations include the concept of 'varadakshina': making a gift to the bridegroom to honour him. A third explanation invokes the Hindu Succession Act, which even after its amendment in 2005, confers less than equal property rights on the female child. As a result, customarily dowry is a one-time payment of 'streedhan' in lieu of her share of the family wealth at the time of her marriage (Sharma et al., 2002; Anderson, 2007). In addition, given low employment prospects and low earning capacity for women in general, dowry becomes a rational investment in the groom's prospects and his high future earning potential (Van Willigan and Channa, 1991; Anderson, 2007). The more educated the woman, the more educated her potential partner ought to be and thus the higher the 'price' he commands in the negotiation process (Van Willigan and Channa, 1991) as brides compete for more desirable grooms (Anderson, 2007). What might have been, in an earlier time, a means of economically empowering a woman at the time of marriage, has metamorphosed in many cases into an instrument of exploitation of the bride's family by the groom and/or his family.

When demands for cash, jewellery or goods remain unfulfilled in arranged marriages, or when the dowry is deemed unsatisfactory (Banerjee, 2013), the resulting tensions may lead to the husband or his extended family harassing the woman, sometimes to the extent of killing her or creating such intolerable conditions that she decides to take her own life. Such deaths are termed 'dowry deaths' in the Indian Penal Code (defined in section 304B). A conundrum for classification purposes is that both homicides and suicides can constitute 'dowry deaths' (Banerjee, 2013). Table 1 shows that the number of recorded dowry deaths has been growing very slowly, but it is unclear whether this is because the numbers have remained stable or reporting practices have remained unchanged. Nevertheless, the numbers are sufficiently high to generate concern.

Traditionally, dowry deaths (homicidal and suicidal) occurred through immolation. Indeed, even though in recent years dowry-related deaths as a result of poisoning or hanging may have been increasing, the term dowry death has become synonymous with 'bride burning' in popular discourse (Bedi, 2012; Varma, 2012). In this paper we focus only on dowry deaths as a result of burns.

The appropriate criminal justice response to the death of a woman from burns follows India's Code of Criminal Procedure (CrPC), 1973. Section 174 outlines the response to suicide, homicide, accident, or death under suspicious circumstances, and is applied particularly to women within seven years of marriage. The police are to report the incident to a magistrate (who follows section 176 and is empowered to hold an inquest), and, with at least two people from the neighbourhood in attendance, to report on the appearance of the body and the apparent cause of death.

The Indian Penal Code (IPC) was amended specifically to deal with dowry-related violence, cruelty and dowry deaths in 1983. Section 498A IPC penalizes harassment (or any kind) of a woman by her marital family. Unnatural death of a woman within seven years of marriage attracts penal provisions of section 304B IPC. This section defines dowry death as the unnatural death of a woman following harassment or cruelty by her husband or his relatives in connection with a demand for dowry. In cases where a woman commits suicide, as a result of harassment (not related to dowry) from her husband or his relatives, section 306 IPC addresses

abetment of suicide. If it is a dowry-related suicide both sections 304B and 306 are applicable.

Finally, amendments to the Indian Evidence Act (IEA) introduced a presumption of abetted suicide, which is a form of dowry death, and a separate presumption of dowry death (Ravikanth, 2000). Section 113A of the IEA gives the court the powers to presume abetment on the part of the husband or his relatives if a woman commits suicide within 7 years of marriage, if the husband or his relatives subjected her to cruelty. Section 113B provides that the courts 'shall' presume dowry death in case of unnatural death of a woman within 7 years of marriage, where prior to death either the husband or his relatives subjected the woman to harassment or cruelty. The 91st Report of the Law Commission enumerated the need for such a presumption in order to ensure that an unnatural death of a woman will entail "the need for investigation by the police or an inquest by the Magistrate into the cause of death becomes strong" (LCI, 1983: 4).

2.1. Classifying dowry deaths

The methods of – and difficulties entailed in – classifying unnatural deaths have been highlighted in previous research (Atkinson, 1971; Taylor, 1982). Atkinson's (1971; 166) research highlighted the fact that "technological, cultural and administrative influences" on the production of official mortality statistics (referring to suicide statistics) were seldom acknowledged. He suggested that the study of the processes – social and legal – by which official classifications of death are produced can be useful in placing official statistics in perspective and in identifying whether any systematic, non-random biases affect their production.

We explore the process of classification of death of women by burning within the conceptual framework of 'death brokering' (Timmermans, 2005), which refers to activities of authorities to render individual deaths culturally appropriate. Timmermans (2005) acknowledges that 'death brokering' of unexpected deaths by forensic experts in late modern Western societies involves classifying "profoundly equivocal deaths into contested moral categories". These forensic experts employ a variety of "cultural scripts" to render sense to these seemingly senseless deaths (2005: 995). In India, the police are primary 'death brokers' and employ culturally appropriate scripts to classify death of a woman within seven years of marriage as dowry-related (or not). This involves police officers engaging in a set of social negotiations with the victim, her natal (family of birth) and marital (husband's family) families, health practitioners, and forensic experts to render the definition of an individual death socially and legally acceptable. How these cultural scripts come to be constructed becomes vital in understanding how dowry deaths are 'brokered'.

2.2. Burning as a cause of women's deaths in India

Fire-related injuries are the leading cause of death among women in India in the age group 15–34 years (Sanghavi et al., 2009). Public health research has focused on the causes of burn-related deaths among women, their patterns and trends (Sawhney, 1989; Sharma et al., 2002; Ambade and Godbole, 2006; Peck et al., 2008; Ahuja et al., 2009; Sanghavi et al., 2009). Collectively the research literature suggests that accidents are responsible for a majority of burns, followed by suicide attempts and finally by homicidal attempts (Sawhney, 1989; Mago et al., 2005; Ambade and Godbole, 2006; Ambade et al., 2007; Kumar et al., 2007; Ahuja et al., 2009; Chakraborty et al., 2010; Ganesamoni et al., 2010). Shaha and Mohanty's (2006) analysis of victim and burn characteristics, based on post mortem reports, found that a majority of female victims were in the age group 18–26 years; were

Table 1
Recorded dowry deaths in India (Crime in India 2011).

Year	2006	2007	2008	2009	2010
Number of deaths	7618	8093	8172	8383	8391

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