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## **UNDERSTANDING WOMEN EMPOWERMENT THROUGH LEGAL INITIATIVES ON DOWRY IN INDIA AND ITS SOCIAL PRACTICE: A CONTEMPORARY FIELD STUDY**

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### **ABSTRACT**

*Women Empowerment is a situation in which gender justice is sought by availing equal legal, social, political and economic rights to woman at per man. Different laws are accordingly passed to get this situation of gender justice. One such significant law is Dowry Prohibition Act, 1961 (amended later in 1984 and 1986) which made giving and taking of dowry a legal offence and punishable under the law. There are different instances of this social practice in which both parties agreed and hence no legal actions are recorded for such acts. Such illegal social practices have actually converted women empowerment into a theoretical proverb only without its actual implementation. My paper will reflect the issues and concerns on the perception of dowry practice that are found in a micro qualitative field study which was conducted in the Mumirka Village among the Jat community in New Delhi. The paper also assesses as to what extent the views of female were different from that of male's and if social pressure works behind the practice of dowry.*

**KEY WORDS:** *Women Empowerment, Law, Dowry, Gift, Dowry Prohibition Act, Marriage.*

### **INTRODUCTION**

The third international women conference held at Nairobi in 1985 defined women empowerment as 'redistribution of social power and control of resources in favour of women'. The process of women empowerment is multidimensional which allows women to realize their full potential in all spheres of life. Empowerment is a process in which people acquire more influence over factors that shapes their lives such as economic, political, social etc. and it tends to be primarily applied for disadvantaged groups of people to associate them towards more equal living conditions in the society. In a general sense the concept refers to empowering women to become self-dependent by providing them access to all the freedoms and opportunities which they were denied in the past because of their status being women and in a specific sense, women empowerment refers to enhancing their position in the power structure of the society (Suguna 2006:1).

The government of India has also undertaken various measures for empowerment of women through its different socio-legal initiatives. Law is believed to be an importance source of social change and social engineering which has deep rooted impact in the society. There are different legal initiatives taken up by the government for equality between the genders. The present paper will specifically emphasize on the Anti-Dowry law and its implementation towards gender equality. The legal discourse on the issue of marriage in India directs us to investigate the fundamental questions surrounding the crucial notions of the institution of marriage which is deeply rooted in a patriarchal structure. In specific context the purpose to discover as to how marriage actually works as a social reality go hand in hand with the



question of the positional reality of women empowerment. The present paper focuses on the issues of women empowerment emphasizing the legal rights of women and hence examines the Dowry Prohibition Act, 1961 and 1984 amendment Act and the practicability of the given rights within a male dominated patriarchal, Caste-based Indian society.

### CONCEPTUAL UNDERSTANDING AND DEBATES ON DOWRY AND STATE INITIATIVES

Dowry, in general indicates the presents given to a bride or to the couple either in cash or kind by bride's parents at the time of her marriage. However, a sociological study on this general perception brings a variety of observation from different angles. Goody defines dowry as 'part of a familial or conjugal fund which passes down from holder to heir, and usually from the parents to the daughter' (Goody and Tambiah, 1973 : 17). Goody also talks of the controller of dowry and questions if it is completely under the control of the women or returnable nature of dowry in case of divorce (*ibid*, 1973: 20). According to Tambiah, "Technically dowry is her property and in her own control though the husband usually has rights of management" (*ibid*, 1973 : 62). Thus the property transferred to her husband in the conjugal household cannot be transferred to his sister. Else it violates the spirit of the system. But the spirit of this system in many cases is not maintained in India. Kane adds that in the earliest texts properties held to be owned by women were presents made at the time of marriage such as ornaments and cloths and household articles. Hence the concept of *Stridhanam* which is women's property that excluded the immovable property (Kane, 1946 : 771). Tambiah considers dowry as women's pre-mortem inheritance (Goody and Tambiah, 1973 : 64). Dowry is considered as *Stridhanam*. (*ibid*, 1973 : 86). A woman's *stridhanam* gifted to her at the time of marriage was considered as a part of sacred cultural aspect of *kanyadan*<sup>1</sup> marriage. According to Dumont, Hindu ideal of *dana* (gift) is not complete without its appropriate '*dakshina*'. He sees the present day dowry as having evolved from its ancient custom when people tried to convert their material wealth into spiritual wealth by performing religiously meritorious act of '*kanyadana*' (Dumont, 1959 : 219-20).

The dowry system is intrinsically associated with the marriage system in India. Srinivas made a wonderful observation on dowry wherein he links dowry to hypergamy. "Hypergamy refers to the custom of marrying a man from a superior grade or clan, within the same *jati*." (Srinivas, 1984: 8). A distinction between Northern Dowry system and Southern Brideprice<sup>2</sup> system is being also observed. Srinivas introduces the notion of 'modern dowry' in the North India among the hypergamous castes with the unidirectional flow of cash, goods and service from the bride's kin to the groom's, whereas in the isogamous South, modern dowry is totally a new development. The 'dowry' in higher caste weddings in India today is a totally new phenomenon which ought not to be mixed up with traditional ideas such as *kanyadana* and *stridhana*. 'A gift or *dan* has to be accompanied by a subsidiary cash gift (*dakshina*) and in *kanyadana* the bride is given as a gift to the groom. On this analogy, dowry becomes the *dakshina*.' Thus this came to the forefront as a result of colonial rulings and westernization and it led to the commercial mindset which in turn results in the disappearance of all traditional hypergamy, polygyny or *kanyadana* systems. Modern dowry only deals with monetization of marriage system i.e. to have only huge amounts of money, goods, ornaments, jewelries from the bride side to the grooms house.

The institution of dowry cannot be understood well without the understanding of the particular social structure under which it prevails. The relationship between kinship, rules of marriage and dowry system are intrinsically intertwined. In northern Indian Kinship system, patriliney<sup>3</sup> and patri-virilocality<sup>4</sup> are the dominant norms and marriage is determined by 'proscriptive' form of marriage and there is a status differentiation between 'wife-takers' and 'wife-givers' while Southern marriage is basically determined by 'prescriptive' rules of marriage wherein along with patriliney and patrilocality, matriliney and matrilocality are found to exist. Dowry in Northern India is seen associated with hypergamous marriage and as a mechanism wherein it is not just presents given to her at the time of marriage but a continuous process whereby on every auspicious

<sup>1</sup> *Dakshina* and *Stridhana* were considered as sacred cultural aspects of *kanyadhan* marriage.

<sup>2</sup> Brideprice is basically some goods or money, paid to the Bride's father by his groom's family at the time of wedding.

<sup>3</sup> Descent traced in the male line from father to son.

<sup>4</sup> Residence of a married couple with the husband's father.

occasion she receives presents from her natal family throughout her life. Thus, marriage in Northern India is only one-directional and any marriage in the opposite direction is strictly forbidden. It was traditionally prevalent mainly among higher castes like Brahmins and Khasatriyas. The scenario, today, is however, different as now a shift has been seen among the lower castes as well for dowry from the system of bride price. Not only this, the custom of dowry which once was prevalent only among the Hindus now gradually starts spreading among other communities as well. In a study, Khan and Aysha shows that dowry was practiced by all religious groups, including those communities where dowry system had no religious sanction. Albeit, Muslims admit that according to their Islamic rule, payment of acceptance of dowry is a sign of anti-Islamic way of life, yet they pay and accept dowry (Khan and Aysha, 1982 : 172-73).

Although initially dowry was associated with the concepts of *stridhana*, gift or woman's only movable property, later on dowry proved itself to be a social evil. Ursula Sharma underlies an interesting observation ".....when they arrange the marriage of a son, parents do not just look forward to the dowry they will receive at the wedding. They look to the bride's family's general capacity to give." [Uberoi, Patricia (ed.s) 1993 : 343]. There has also been lots of reported and unreported incidence of dowry murder and violence in post independent India and 1970s became a decade of women's movement protesting against dowry violence. Post dowry agitations, Government initiated serious legislations against dowry offence. Although the first anti-dowry legislation was passed in 1961, a failure on the part of this Act led to its amendment in 1984 and later on in 1986. According to the Dowry Prohibition Act, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly (a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person. The penalty for either giving or taking of dowry is also mentioned in the Act. Commenting the anti-dowry law of 1961 and its amended version of 1984, Basu states that Dowry laws are example of slippery legal terrain. The Amended Dowry Prohibition Act (1984) makes the giving and taking of dowry as a condition of marriage but excluding the voluntary gifts. She says that the execution of such laws does little towards complete redress of dowry flourishes (Basu, 2009 : 181). In the light of legal provisions it seems interesting to relook the extent to which our women are benefitted because even today in spite of such a provision in marriage, the question of dowry always persists. In spite of the legislation against Dowry, that is the Dowry Prohibition Act it still continues to prevail directly or indirectly in our society. In a society where the Dowry question is inherent in the very structure itself, we can definitely speculate as to what extent even the preventive measures like "Dowry Prohibition Act" will work, hence a big question mark that needs profound investigation.

### OBJECTIVES AND THE CONTEXT OF MY STUDY

The objective of the paper is to make a contrastive study of the aforesaid Act and its empirical reality at the practical level taking the case of Jat community in the Munirka Village, New Delhi. The study seeks to understand as to how people distinguish between the two words, dowry and present (or gift in sociological sense) and how this perception varies across genders. Hence whether the notion of dowry is indicative of forced gift giving process due to social pressure or whether it is indicative of love and affection is an important aspect to relook. The paper examines if the meaning of 'Dowry' has different interpretation depending on love or arranged marriage and whether 'education' proves to be a practical communicative mediator between the laws for women and its practice or the 'patriarchal domination' still a problem behind real implementation.

A qualitative field study was conducted for almost three months in 2012-13 among the Jat people of Munirka village in New Delhi. Following snowballing sampling I could access 10 people with whom I did through in depth interviews. The informants were ready to talk to me on such a sensitive issue only after I was introduced by a friend of mine (although a non Jat friend) who stays in Munirka village itself. I made 4 to 5 visits for each of these 10 informants who fall within the age group of 20-70. The study is an effort to comprehend as to how dowry as an institution is still attached to the marriage rituals and how this notion of dowry varies across generations.

Of the 10 informants, 7 are women and 3 men. Significantly, 2 male informants' perception on dowry is totally different from what my female informants spoke. However the view of another man on the perception of dowry who belongs to the younger generation, is almost similar to that of the rest female

informants. Long interviews of 1 hour to 1½ hour were conducted with almost every informant in each sitting. As far as the social backgrounds of all my 10 informants are concerned they belong to either Delhi or Haryana. All the 3 males are of Delhi origin, staying in Munirka since birth. As far as age group is concerned among the 7 female informants 5 of them fall under the age group 30-50 while 1 in 20s and 1 in her 60s. Among the male informants, 2 of them are in their 60s and 1 in his 30s. As far as education of male informants are concerned, 2 of them in 60s have completed their 10+2 while 1 under matriculation. Among female informants, 1 in the category of 10+2, again 2 each in the category of a) illiterate b) under matriculation c) graduate & above . Almost all live in joint households except 2 of them. So far as work of husbands of the 7 female informants are concerned 4 of them at present are non-working, 2 of them are involved in driving cars, 1 in Delhi Police. But so far as family income is concerned all of their income fall within the range of 25,000 - 45,000 p/m irrespective of whether husband works or not which made me more curious to go in the depth of the study.

### PERCEPTIONS ON DOWRY PRACTICE: AN ANALYSIS FROM THE FIELD STUDY

On the question of the perception of dowry practice, differences across genders are significant. Female perception of dowry reveals presents given at the time of marriage of the daughter whether it is demanded by groom family or not. While presents received from friends, neighbours are categorized within the category of 'gift' and hence female perception agrees the existence of dowry in Jat community. Contrary to this for male informants dowry is something which is given at the time of marriage of the daughter when it is demanded by the groom family. Since nobody gives his/her daughter to that family in Jat community who makes demand, dowry does not exist in their society. So as far as public acceptance of dowry among the community is concerned though females accept its presence, males refrain themselves from accepting it. Here one of my informants told me the narrative of one of her cousin's marriage which was fixed and finalized to a well to do family and her father (who is the uncle of my informant) was thinking of giving a car in the marriage. But somehow this information was received by the groom family and the latter started spreading the news to other people "*ab to hame gadi milnewali h*" (Now we are going to receive car). Later when her uncle came to know about this nature of the family he immediately called off the marriage thinking that they have hidden demand which might be problematic in case he sends his daughter to that family. This event is narrated by my informant to show that in case of even indirect demand parents refuse to give their daughter and dowry demand is not tolerated in Jat society.

At this point, it was difficult to understand the male perception of non-existence of dowry in the jat community which might also be possible that they don't want to accept it in public. There is another reason to strike my attention towards such an observation. One of my male informants (aged 62 years) comments on the gifts<sup>5</sup> given by groom family "*denge wo lough wahi jo unka auquat h*" (they will give that much only which falls under their capacity). Here the striking word which can catch anybody's attention is "*auquat*" which Ursula Sharma also remarks that parents do not just look forward to the dowry they will receive at the wedding rather, they look to the bride's family's general capacity to give which means a lot of indirect pressure on part of the bride family. Thus in my study while on one hand they are saying that they don't demand dowry, they don't tolerate demanding dowry and the next moment they are trying to judge the '*auquat*' of the bride family on the basis of what and how much they can give in the wedding which in itself seems paradoxical.

On the question of the items included as part of dowry is found the items necessary to build a new house. Although conversation with daughter-in-laws was not easy because of the constant presence and comments of the mother-in-laws yet I got enough opportunity to talk with one of my female informants in her shop who is self-dependent working lady, a lady tailor in Munirka and she shared almost each and every small thing. The confidence and boldness which I can observe inside this lady while talking to her could not see while talking with the daughter-in-laws in the joint households. This lady tailor reveals that starting from gas, each item of kitchen, bed, furniture, dressing table, refrigerator, cooler, television, jewelry, cloths of each member of the in-law family every possible items are included as dowry and she poses, '*kya nahi dete h*' (and what not given), but money is not included as part of dowry among Jat community. It is also observed as to

<sup>5</sup> I am using here the word 'gift' because as per this male informant these are gifts, but not dowry.

how the quantity of items that were given in 1970s, 80s, 90s till date vary substantially and the variations occurred over time show that the practice has not changed in spite of legal legislative Act against dowry. It is found that few female informants are even not aware of the Anti-Dowry Act although most of them are aware of it. As far as the variations in the nature of dowry is concerned it was also evident that in 70s the total expenditure in a daughter's marriage was around 30 to 40 thousand, in 80s it was 1 to 2 lakhs, in 90s 4 to 5 lakhs, during 2000-09 it increased to 10 to 12 lakhs, in recent ones around 15 lakhs. One of my female informants said, "*aaj kal to 50 lakh mein normal shadi hoti h*" (Now a days a normal marriage takes 50 lakh). This shows a continuous increase in the quantity of dowry items and also an indirect interest by the groom family of getting dowry in marriage.

Apart from giving dowry at the time of marriage by the bride family, in each festival also gifts from the bride's family are sent to the groom's family and this is mainly for the daughter, mother-in-law and husband. The lady tailor added, "*mother-in-law ko dena to jaruri hota hein kyoki wo hamesha habhi rehte h na bahu ke sar par is liye*" (it is the necessity to give mother-in-laws as they always control the daughter-in-laws). Thus, the '*siddha*'<sup>6</sup> basically come from the natal family in 4 major occasions - a) Holi b) Diwali c) Tissa ka Tyohar and d) Makar Sankranti. In other occasions such as '*Raksha Bandhan*' as well gifts are given. On the query of why such continuous gift giving is essential, it was informed by one of the male informants that "*isse pyar bhadta h*" (thereby, love increases)<sup>7</sup>. It was also found that even in birth of a boy child a ritual called '*bhale*'<sup>8</sup> system is performed wherein again it is the girl's family who have to celebrate everything by giving gifts to the members of the girl's in-laws' family. Moreover, each time the daughter-in-law goes to her natal family she is given with some amount of money such as 10 to 15 thousand. So, the responsibility of the parents does not end just by getting married of their daughters, rather as one of my informants told, "*pressure shadi ke baad to aur barh jate h*" (indeed the pressure increases after getting the daughter married off). Interestingly this is totally a unidirectional process and not reciprocal in nature.

It was also fascinating that out of 7 female informants the husbands of 4 of them do not work outside the home. So it was again a question on what criteria grooms are selected and the age of most of these 7 husbands at the time of marriage was between 20-25. The immediate response to such a question was the ancestral property of the groom, amount of land or money he or his father has along with character of the boy etc. but whether he is working or not, what is his occupational status etc. are not even uttered by any of my informants. Marriages of all 9 informants except the one are held arranged wherein a known person called '*bichola*'<sup>9</sup> made arrangement of their marriages.

### FACTORS BEHIND PREVAILING CONDITION OF DOWRY

It was exciting to investigate in my field as to why dowry in some form or the other still prevails in spite of a good legislation against giving and taking of dowry. A good number of interesting reasons are found for it.

- To maintain the status of the bride family: In Jat community, marriage takes place for two days. The first day is called '*lagan*' where the bride family comes to the groom family and on that day the list of items to

<sup>6</sup> The process of giving gifts in different occasions is called "*siddha*".

<sup>7</sup> They think that process of giving gifts by the bride family helps in increasing love between the two families, but no sufficient logic is perceived as to how love can increase if it is one directional.

<sup>8</sup> This is a system which is celebrated only when a boy child is born, not a ritual in birth of girl child. This is because boys keeps the lineage on while but girl keeps the lineage of not this family that that family where she will go.

<sup>9</sup> Bichola is a middleman between groom's family and bride's family who keeps giving information of grooms to the girl's family. Bichola may be a relative, neighbour, friend, male, female. This person keeps coming and going in the house of groom and bride, but in case of conflict between the two families the '*bichola*' is not blamed. This is because bichola informs the bride family about the groom family or vice versa. It is after that the bride's household themselves come and see the groom that they will enter into marriage alliances.

be given to the groom family is announced and given in front of all the people present there. So, it is matter of prestige and status of the family to give as much as possible.

- To maintain the status of the daughter in her in-law family: As much as is given to the bride, her status and value in the in-law family accordingly increases.
- As part of security of the daughter: After marriage if some problem happens and she is forced to leave alone then she will take away nothing but what she got as part of dowry in her marriage. But again a question that constantly clicks here relating to the security of the girl is as to why instead of giving dowry in the form of kind parents do not go for fixed deposit in their daughter's name which could bring much security to the daughter? But here also as it might lead to clash in the family, hence parents usually don't prefer so.
- As her inheritance: As the daughter is not basically entitled to claim the property rights of her father due to social pressure (although legally she can), because of a prevalent system called '*bhat* system'<sup>10</sup> and the role of the brother is taken as a status enhancing mechanism which the girl does not want to lose. As such the only property that she will get at the time of marriage means a lot to them. If they will refuse even that, nothing will be left with them. More than that, since it is related to the status of the family along with her own status, she even cannot refuse dowry.
- As part of competition: Dowry is also given as part of social competition. An informant told me if there are two girls in a neighbour and in marriage of one of the girls the parents have given her a car worth 8 lakhs, in the marriage of the second girl her parents will think of giving a car worth 12 lakhs. This also relates indirectly to the status of the family in the community.
- As a social norm: Dowry is felt in most cases as a social norm. It has been going on as tradition and so they have to follow it to stay in the society.

A serious study on the above reasons and perception on dowry make one conclude that although dowry is given out of their own wish, but it is more of a pressured norm wherein to maintain the status of the family and the daughter in front of the community, as a norm they adhere to the dowry system. In other words, the reasons show that there is always an indirect pressure behind giving dowry, which also makes the practice socially approved.

Then the next issue which arises is to what extent the daughters have control over what they get at the time of marriage. It is found that as it is a social norm they have to give dowry to their daughter, post marriage even if the entire in-law family utilizes those, they have no problem over it. For instance in case of jewelry is part of core *stridhan* of women, it is important to examine the level of control that the daughter-in-law has over it. It is found that albeit they can wear it at any time and no clash generally occur on the issue of who will keep the jewelry whether the daughter-in-law or the mother-in-law, but a problem definitely arises if the daughter-in-law will go for utilizing her right over it. In other words although it is her property yet she has to take permission from the family in case she wants to sell it whereas a man who owns property of land, can sell it at any time even if he is far from the land. This also indicates the amount of control a girl has on her dowry.

### THE CASE OF LOVE MARRIAGE AND DOWRY PRACTICE

A daughter-in-law, 23 years old, stays in Munirka who basically belong to Baratwaj caste from Delhi Uttam Nagar, good-looking and a graduate married a Jat boy in Munirka 3 years ago. While I was talking with her, her mother-in-law was in front of her and the latter herself says that they had been angry with their son and daughter-in-law for 3 years. After the birth of one girl child, the couple had been invited to their home recently. Here my informant told me the amount of dowry she brings. Actually she said that she did not bring any dowry with her since it was a love marriage and in total it took 15-20 thousand for the proceedings of the court marriage. Later on her own mother gave her the jewelry meant for her. This is the only instance of court

<sup>10</sup> This is a system in which in case of marriage of the children of the girl, her brother uses to give amount of gifts to her children which is again done in front of the community which is considered status-enhancing ritual and the girl to maintain a good relation with her brother usually refuses to claim parental property. All my female informants are also against claiming their parental property.

marriage found in the study while the other informants followed only the social custom to marry without the legal recognition of marriage.

## CONCLUSION

The present study reveals that there is continuous existence of dowry among the Jat community in particular and in north India in general. However, the system of brideprice is not at all available in the community and in its absence makes the gift giving process becomes an unidirectional process. Out of my 10 informants only one female informant admits that she is still not aware of the Dowry Prohibition Act, but it is evident that people prefer to give dowry out of their own wish. However, there is always an indirect pressure behind giving dowry, thereby, dowry has got the position of social approval. Even the Hindu Succession Act has not got much fruitful status in such society because of the prevalence of traditional custom like 'bhat system'. The only exception observed is the case of love marriage where marriage has become successful even without giving and taking of dowry. Hence, it can be argued that for stopping dowry system, social movement should be organized focusing on the importance of love-marriage campaign if possible. Kiswar rightly states, "Until we can ensure inheritance rights for daughters, we have no right to ask them to sacrifice the inadequate compensation they get by way of dowry". (Kiswar, 1988 :10). For that what is necessary is to make the girls ready to take their inheritance of ancestral property. If they refuse to take just to adhere to age-old custom of 'bhat system' dowry system will never disappear from our society. In other words we would not be able to justify women empowerment in its real sense. Hence it is the need of the hour to work unanimously to change the mindset of the people. Proper efforts and initiatives of the government are of utmost concern for such social reforms by empowering women to their legal rights thereby also enhancing towards gender equality.

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