

DOWRY PROBLEM IN TAMILNAD (1947- 1961)**Dr. N. Neela***Associate Prof. (History), Sri Meenakshi Govt. Arts College for Women (A), Madurai-2***N. Nagalatha***M.Phil (FT) Scholar in History, Sri Meenakshi Govt. Arts College for Women (A), Madurai-2***Abstract**

Dowry is a real problem in the present day Tamil Society. It has been taken the shape of a commercial transaction. A large number of persons with or without meager means were unable to marry their daughters and even after that the women after marriage are subjected to torture and also to death. The women organizations and the women members of the legislative assembly persuaded the government to put a check on this problem through legislation. At the roots of the goal of ailment enacted Dowry Prohibition Act and the amendments to this Act to make stringent provisions to check this evil. The state government is empowered to frame rules to implement the provisions of this Act.

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The motive behind giving or demanding dowry is explicit. As there is no provision for women to either inherit or claim their parental or ancestral properties on par with brothers, dowry is given as Pre-mortem inheritance to compensate it. Secondly when daughters are given in marriage the parents, out of concern for the well being of the daughter who in different homes after marriage, give dowry to be used for their wards' happiness. If the daughters' families pass through difficult days, the jewels brought from natal families would be useful to fall back upon. Thirdly when marriage between two parties takes place, social and economic standing of the families involved is usually taken into consideration. So it is to keep up the social and economic status that the daughters-in-law are expected to bring dowry. In the transaction, the parental families of brides are let out of interest of the bride and bridegroom along with their in laws alone is taken care of. Thus the dowry practice acts as a symbol of the families involved fourthly a general notion that occupies the minds of the people is that the demand and supply of women population whose uneven proportion, may often necessitate dowry and determine in quantum. This law applies to most of the marriages which take place among the same community.

Prevention and Eradication of Dowry

It has been clearly established that the practice of dowry has been prevalent in some form or the other from time immemorial among almost all sections of society. It was originally intended to serve as gift from parents to girls at the time of their marriage. But

today dowry has lost its original meaning and is not considered as a right for a girl but a right of a boy and his parents. It is extracted from the girl's parents as a matter of right. This system has now degenerated into an instrument of oppression of a source of ill-gotten wealth. It is not used for upholding the parents' self-esteem and dignity either. Failure to meet the demands from the boy's side results in ill-treatment of young wives, even to the point of driving them to commit suicide. In many instances they have been physically liquidated. In India number of dowry harassments of deaths has been even on the increase in an alarming proportion. Compared to other nations, dowry is deep-rooted only in India. Why is this practice still prevalent in India. It is because of the fact that the women of this country have been systematically discriminated against birth and death. An acute sense of dependence on men causes a great mental depression and agony in the case of many a bride¹.

Since this menace has been eating into the vitals of the Tamilian society a few among the social reformers *Dr. Soundaram, Dr. Muthulakshmi Reddy, Smt. Hemalatha Devi*, secretary of Women's India Association, standing committee member of A.I.W.C and MLA, *Mrs. Raghupathi Devi*, MLA of Mettupalayam, *Mrs. Anandanayaki*, MLA, member of Women's India Association and women organizations, *Mrs. Clubwala*, M.L.C from 1946 to 1972 and member of the voluntary social welfare organizations, *Mrs. Lakshmi Krishnamoorthy*, M.L.C, *Mrs. Veerammal*, follower of EVR and Maniammai and other members of the women's organizations had condemned this practice. Both the colonial government and government of free India had been trying with against this evil by passing appropriate laws from time to time. In fact dowry is one of the most formidable challenges to the present society. Hence a concentrated and a determined action against it are most warranted.

Legislature Measures

The efforts of social reformers of women's organisations had the desired result to some extent first of all in the Mysore State in 1933 when the Act of 1933 was made. One of the provisions of this act relevant to the present enquiry is contained in section 10(3), which intended to discourage unscrupulous extraction of what is called dowry, by making the act ultimately ensure the benefit of the bride². Another attempt was made through clause 93 of the Hindu code bill put up before the Provisional Parliament of India. In this clause the idea enshrined in section 10(3) of the Mysore act of 1933 was made clear that dowry should be deemed as the property of the bride of that the person who received it should hold it in trust for the benefit and for the benefit and for separate use of the bride and should transfer it to her on completing her 18th year.³ The problem of dowry was taken up by Mysore Legislature in a piecemeal. A separate act on dowry was passed for the first

time by Sind Government. The Bihar Restraint Bill of 1938 and Sind DetiLeti Act of 1939 were the first even known full-fledged legislative measures to curb dowry.

The Bihar restraint bill of 1938 was extended to the whole of the province of Bihar. This bill defines dowry as anything paid in cash or kind by the father or the guardian of the bride to a bridegroom or to his father or his guardian and vice versa. According to this bill giving and taking of dowry was punishable but wedding presents from friends and relatives were not prohibited under this bill.⁴ Though this could not become an Act, the bill nevertheless took some measures of restriction on this evil practice of dowry and thereby influenced the public opinion.

In south India, particularly the Brahmin community is perhaps the most aggrieved by the dowry system. To what appealing extent moderate families are driven to dire poverty and poor families silently suffer untold hard ships not infrequent culminating in tragic occurrence, are matters that need not be expatiated upon, may, it will be presumptuous to do so to Rajaji, the then premier of the Madras Presidency. One Subbarayan from Pondicherry wrote a letter to Rajaji dated 22.4.1938 wherein he had invited the latter's attention to the problem of dowry. He referred to the notice of a motion given in the Bihar Assembly regarding penalization for giving and taking of dowry for marriage. He expressed his serious concern about the problem thus.⁵ In this way the Bihar Restraint Bill became a source of inspiration to the people of the Madras presidency.

In accordance with the growing interest in the problem of dowry, the Madras government in 1938 examined the question whether legislation was necessary to prohibit the payment of dowry and came to the conclusion that the question might be allowed to wait for some years to come. After a long period, as a result of the efforts of social reformer *Smt. Clubwala*,⁶ the Madras Government introduced Madras Marriage (Prohibition of acceptance of money and gifts) Bill of 1946. In June and July 1946 representations were received from certain residents of Tanjore and Nagapatnam deaths and also from the Salem conference held⁷ under the presidentship of C.P. RamaswamiAyyar and the resolutions brought over by Salem Women's India Association and A.I.W.C. *Smt. Hemalatha Devi*, secretary of Madras branch of AIWC urged the govt. to frame legislation in order to prohibit payment of dowry in marriage.⁸ In view of the pressure exerted by different sections, the government of Madras came out with the Dowry Prohibition Bill of 1946.⁹

Due to its importance, this bill was placed before the cabinet in Nov.1946, but the cabinet decided to defer the matter. Again the matter was placed before the cabinet in 1947, but the cabinet adjourned the consideration of the matter for there was no public demand for such legislation and also the government did not view it as an evil that should be prevented by legislation.¹⁰ Therefore, it fell through. However on 5.6.1949, T.

Visvanathan, MLA introduced the Madras Dowry Prohibition bill in the Madras legislative Assembly.¹¹

The Madras dowry prohibition bill stated that a bridegroom who acted in contravention of the provisions of Section-4 should be liable for imprisonment of either a period of not exceeding two years with or without fine not exceeding thousand rupees and the parents or guardians should be liable to imprisonment of either a period of not exceeding two years with or without fine not exceeding the amount of the dowry proved to have been received. It also had another notable feature that if a bridegroom or his parents who acted in contravention of the provision of section-4 should be disentitled from entering into government service.¹²

Madras Dowry Prohibition Bill, 1951

Again within a short period the Madras government observed that dowry had become most oppressive and ruinous to the parents of the girls in all communities and classes. As the bride's parents were unable to pay the exorbitant amount of dowry demanded by bridegroom and his parents, they were feeling it a curse to have a daughter. Tamilnadu Women's conference and Madras branch of the A.I.W.C had been incessantly demanding the enactment of law that would prohibit the dowry menace.¹³ The government had undertaken measures and introduced the Bill in 1951. This bill prohibited property movable or immovable given or agreed to be given in consideration of a woman given in marriage. But it did not prohibit presents of clothes or other articles not exceeding in value of Rs.300 in the aggregate to the bride or bridegroom at the time of marriage.¹⁴

In 1953, *Mrs. Uma Nehru*, MP, moved a private bill in the Lok Sabha seeking to ban dowry. The govt. raised doubt whether such legislation on the lines proposed by the member would be an effective remedy felt that the Hindu Code Bill itself would take care of such issues. The bill introduced by Uma Nehru was defeated for the government felt that separate legislation to prohibit dowry was not a matter of urgency. However the govt. of India sent a letter to all the state governments except Jammu and Kashmir persuading them to stop effectively the practice of giving and taking of dowry¹⁵ as it created grave social problem.

Before widening the scope of the Madras Dowry Prohibition Bill, 1958, the Government of Madras had to take a serious note of the inadequacies of the Madras dowry prohibition bill of 1951 introduced earlier. The limitation of the 1951 bill were pointed out by various conferences such as the women's special conference held at Trichirapalli on 20.10.1955, the Brahmin Sangam at Madurai in 18.12.1955 and the young man Brahmin association at Madurai on 27.12.1955. A representation was also made to the members of the assembly on 30.1.1956.¹⁶ *Mrs. Raghupathi Devi* of Coimbatore, MLA, member of

Women's India Association, *RajapathyKunchithapathan*, MLA and member of social welfare Board and *Dr. Soundaram* discussed the anomalies efficiently in the assembly. The Government of Madras introduced the Madras dowry prohibition bill on 4th Sep.1958 in the assembly.¹⁷ According to this bill dowry is 'any property of valuable security demanded, given or agreed to be given to the party to a marriage or to any when peruses behalf of such party by the other party to a marriage or to any other person on behalf of such other party either at such marriage or before or after such marriage as consideration for any betrothal of marriage between the said parties'. This bill also states that if any amount is demanded or an agreement for the giving or taking dowry or any transaction in that regard shall be void and that the offence of dowry shall be punishable with imprisonment not exceeding six months with fine nor exceeding thousand rupees of both.¹⁸

Although several social reformers pleaded that the bill should make the offence cognizable, the select committee rejected the plea on the ground that the police were too corrupt to be permitted to use such powers as may lead to harassment. By way of abundant precaution against frivolous cases,¹⁹ the select committee stipulated that cases under this provision could be heard in the court of a first class magistrate.

Dowry Prohibition Bill (DPB)

At the instigation of Madras state government and Women Associations of Madras branch the Central Government introduced the dowry prohibition bill in the parliament in 1959. Both Lok Sabha and the Rajya Sabha differed sharply in several issues relating to the Dowry Prohibition Bill. In the original bill the definition of dowry excluded presents in the form of clothes, ornaments, etc. up to a limit of Rs.2,000.²⁰ Such a provision appears to be necessary to make the law workable. The bill stated that dowry given both directly and indirectly should be made an offence for which imprisonment and fine should be imposed. It was felt that even a single day's jail was a strange deterrent than a finer especially for the financially well off.²¹

Dowry Prohibition Act 1961

The Dowry Prohibition Act came into force on 20th May 1961. The Act defined dowry broadly as 'any property of valuable security given or agreed to be given either directly or indirectly... by one party to a marriage to the other party to a marriage'.²² The Act made both the giving and the taking of dowry crimes punishable by prison sentences and fines. It exempted gifts given at the time of marriage, but required that a list of them be kept and that their financial value not be 'excessive' in relation to the means of the parties to the marriage. The law also treated any dowry given as a trust in favour of the bride and defined a time limit by which this amount should be given to her if she requested it.

Thus the elite women leaders worked for the prohibition of Dowry system in the Tamil society. They devoted much and had rendered remarkable service in passing the Dowry prohibition Act and its amendments. It has its impact on the society. Though not fully prohibited this evil, to certain extent they could put a check on its progress. Anyhow this Act got freed the women from domestic violence. It brought awareness to the women to become economically independent through education. Let women have a stake in raising their voices against the injustices in their matrimonial home through this legal tool.

End Notes

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