**Indian Women’s Human Rights and Dowry Practice - Policies**

 Lisa Danovich

SW 743 Robert Miller

Comparative Cross-National Analysis

 March 15, 2011

*Dowry Practice- Prohibition Act of 1961*

In 2001, a great achievement in the history of women in India, the government circulated the National Policy for the empowerment of women, which states nine objectives to eliminate all forms of discrimination and violence, while advancing women’s power and position to that equal of men. The 1961 law, the dowry prohibition Act, was an earlier attempt to safeguard women’s human rights by eliminating the cultural gender-biased practice of commodifying women as property, and with property, for trade in a marriage arrangement. Outlawing dowry practice by both parties, the giver and receiver, has not worked to change this practice for five decades. With the additional arsenal of the 2001 Women’s Empowerment law to boost the illegality of the dowry prohibition, still the practice of exchanging dowry with brides is commonly practiced when arranging marriages.

*Women and Girls Accepted as Property Foments Gender Slavery and Violence*

In India today, dowry practice is typically represented as the cause of serious social problems, like neglect of daughters, female infanticide and sex-selective abortion, harassment, abuse and murder of women and girls. The anti-dowry law as written equally criminalizes the giver and receiver. Therefore, disputes cannot be argued as both parties become liable to criminal prosecution. If wedding gifts are exchanged on the day of marriage, a technicality is created in which the dowry exchange can be legally executed as a gift exchange.

Either way, the “bride price” traded for in the marriage “deal” becomes the property not of the bride, but of the groom and groom’s family. The bride will not own any assets that were brought into the marriage on her behalf. This puts most women, especially those without an independent income and close family ties, as is often the custom in marriage, in a position of weakness, and in a position that is the situational seed of violence against women worldwide.

*Argument for Dowry as the Customary System for Female Inheritance*

Dowry has been argued as a “purposeful, strategic, and often in the best interests of the parents paying the dowry and for the daughter for whom it is given”, Shenk 2007. Shenk in her study of dowry continues,“ dowry is seen as a form of investment, inheritance, or bargaining power directed at maintaining or improving the quality of a married daughter’s life, the husband’s and the children and the long-term interests of the bride’s family”. As male children are given their inheritance upon the death of elder family members and remain physically within the patriarchal family, females, through dowry, are passed on their inheritance before it can amass over lifetimes. Often, families feel as though they are “watering another’s fields” when they care for their daughters and must pay a bride price or dowry. Limiting the number of daughters to marry and not investing in their health and education, as well as to marry them as early as possible are survival techniques for poor and/or greedy parents.

*Remediate the Dowry Prohibition Law*

Additional statutes of the dowry law, like increasing the punishment for taking and receiving dowry, and including a defined “dowry death” as a crime, as well as making the burden of proof resting on the accused, have strengthened the rights of the bride. Yet these measure have not curbed dowry exchanges, reduced discrimination nor violence against women. Eliminating the loophole of dowry exchange taking place at the wedding, encouraging enforcement of the law by decriminalizing the giver, or best yet, document the dowry as the bride’s inheritance and her sole possessions to be shared as she sees fit, while enforcing harassment and abuse of women, should quickly change ingrained discrimination and oppression, and violence directed at women.

These legal changes might provide more of the same non-compliance of the law, if could be argued, particularly, if there is no enforcement.

*Foster Higher Education for All*

When a educated bride is able to earn her own living independently, not only is her bargaining position higher in the selection of her spouse, so is her self-determination (ability to leave a violent situation), and her self-esteem and confidence will become evident in her deportment, intolerance for abuse, and she may even be an intimidating force to would-be abusers.

Elevating societies’ mass consciousness of human rights, and advancing intellects through higher learning may be a tactic for the disintegration of societal violence. Yet, eliminating crimes of violence against women may take some generations of de-gendering.

*Enforce and Modulate the Inheritance Laws*

Current inheritance law in India requires the equal division of assets between children. This law is not enforced. Should patriarchal societal patterns be extinguished, either sex would hold the same societal value as parental “providers” in old age, and valuing a human life based on which gender one belongs to would become ridiculous.

Ignorance can sometimes reign supreme, while the lowest common denominator of human morality might remain flawed in individuals.

*Evidence for Solutions*

Decades of academic research provide evidence that practical motivations for dowry are found among many groups in India both past and present (eg., Palriwala 1989; Samuel 2002; Thakur 1998) according to M Shenks. In Goody and Goody (1976) comprehensive data showed that dowry was a form of premortem inheritance for daughters meant to perpetuate or improve their social status the same way that a post-mortem inheritance works for their sons. In addition, dowries are used to attract a desirable son-in-law, as the growth of the capitalistic economy and the emergence of a wealth-based caste system. Social status of the bride’s family also encourages the use of dowry for “buying” a daughter’s spouse, or as it is called “groom price”.

For these entrenched cultural practice reasons, I suggest that by changing the inheritance/dowry laws once again to include a mandatory contract listing all dowry assets as the possession of the bride, to be retained by the bride, or bride’s family upon the bride’s divorce or death. In this way, both genders are equally valued as holders of practical wealth, which I believe will translate into human equality and empowerment of women, as directed in the 2001 law.

*Implementation of Law Addendum*

India’s ranking for women’s equality is 14th from the bottom of 128 compared countries. However, where India ranks at number 16 between compared countries is in their political arena. The Indian law requires that at least 30% of political representatives are women. With women advocating for these legal changes, the policy should be relatively easy to adopt. Next, enforcement will require a legal dowry contract to be included and registered with the marriage license.

*Impacts within India With the Adaptation of the Dowry Law*

The adaptation of the dowry law to enforce property contracts between spouses upon marriage, and the transfer of such wealth, is a system of protection for women and of redistribution of wealth. This action alone could upset the historic apple cart of patrimony that emerged in the days following ancient India, when women were revered as goddesses, equally with the male gods. This one action could be a tipping point for de-gendering society, as old patterns of wealth and human value are broken and replaced with values that hold all inherently equal. As India has the highest population and birth rate in the world, to see this transformation within this country will impressively impact every culture inter-globally, and by empowering all genders, India will increase in it’s many facets of power, and inculcate a de-gendering notion to the rest of the world.