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Dowry, Gender and Matrimonial Reform: Legal Implications of Expanding Marriage Right in India

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Abstract: Indian marriage reform is at a crossroads because of the twin needs to end long-standing dowry traditions and broaden rights to marginalized communities, i.e. the LGBTQ+ ones. Although equality is guaranteed by the Articles 14, 15, and 21 of the constitution, dowry-based violence and gender expectations continue to sabotage matrimonial justice. At the same time, landmark judgments such as Navtej Singh Johar v. Union of India (2018) have opened the door to broader recognition of sexual orientation and gender identity, fuelling debates on same-sex marriage. The paper reviews the legal issues about expanding marriage rights in India by placing dowry and gender reform in a comparative international context. It compares the situation in India to other jurisdictions that have constitutionally provided protection to same-sex marriage like South Africa, and nations that have long ago seriously changed their matrimonial law and do not require dowries like Sweden and Canada. The analysis also mentions the role in which international models exemplify the necessity of taking a combined approach to gender justice and LGBTQ+ rights, but also talks about the necessity of culturally specific enforcement mechanisms in India. The paper asserts that actual marriage reform must take a radical form: not only must coercive practices such as dowry be criminalized, but a new conceptualization of marriage as a people-inclusive institution of dignity, freedom and equality among gender and sexualities should be redefined as well. The paper posits that the current dowry legislations are substantially developed with a heterosexual and gender-binary dogma, which assumes that the female is a victim, and the male is a perpetrator. Although the report admits that women have been disproportionately harmed by dowry, it argues that modern times, specifically the acceptance of same-sex marriages and non-binary modes of gender, will require a reassessment of the statutory language of gender-specificity. Using the comparative analysis of marriage equality reforms, the paper shows that the move to the use of gender-neutral instead of gendered language in marital law has promoted the principles of dignity, autonomy, and equal protection without impairing the institutional stability. It theorizes that the reform urgently needs to shift its focus off punitive criminalisation and into a holistic model that combines gender-neutral drafting, monetary empowerment, remedial alternatives, and community-based alteration of norms.

Keywords:

INTRODUCTION

Marriage has existed in the past not merely as a personal relationship, but also as a social, economical institution defined by custom, religion and law. Of the customs, which matrimonial traditions impose, dowry takes up a rather disputable position. Generally speaking, dowry can be described as the transfer of money, property, or valuable things between two separate families in the context of marriage and has been defended in certain situations as a type of pre-mortem inheritance or provision of financial stability to the bride. But in most societies, particularly in some sections of the South

Asian continent, Africa and Middle East, the method has become an enforced system that purports structural inequality and subject's people, with women as the majority, to harassment and violence. Although statutory prohibition has continued to exist over decades, dowry related conflicts and abuse are still a reality that has cast doubt on both implementation and policy.

Conventional dowry laws were designed under a heterosexual and gender-binaries. The legislative imagination presupposed a male beneficiary of the dowry claims, the husband, and the victim of the

perceived abuse, as a female victim. This premise could be alternatively described as deep rooted patriarchal order where women depended on men economically and had little property rights thus making them more vulnerable in a marriage. But the social and legal environment has shifted a lot within recent decades. The growing acceptance of same-sex marriage, constitutional safeguarding of sexual minorities and the expanding appreciation of non binary gender identities has changed the legal definition of marriage. These evolutions undermine the sufficiency of legal systems where the analysts are based on strict gender-based representations. Statutory reforms in the jurisdictions which have legalised same-sex marriage, usually involved substituting gender-based words as husband and wife with gender-neutral terms as spouse. This linguistic amendment was not just an empty word; it marked the next move to non-discrimination and equality of marital rights and duties. In their ruling, courts that prioritize marriage equality have based their argument on the concepts of dignity, autonomy, and equal treatment before the law. The rights of distribution of property or inheritance laws and right of maintenance were re-adjusted to reflect the legal implications of marriage regardless of the gender makeup of the marital union. One of the ways the transition is described is that old institutions can be reorganized without compromising their basic social roles.

A gender free legal approach does not deny the historical fact that women have been disproportionately victims of dowry related violence. As an alternative, it aims at reviewing the foundations of legal protection that should rest on harm, coercion, extortion and abuse rather than the gender identity of the individual's concerned. And on top of the gender inclusivity issue, there is the factor of dowry practices interacting with the overall developmental issues. United Nations 2030 Agenda on sustainable development has listed gender equality, inequalities reduced, and institutions that are strong as key pillars in functioning of sustainable societies. Dowry related requirements may enhance and deepen poverty levels, demoralise investment in girl's education and may create cycles of indebtedness among poor families. In situations where the enforcement systems are lax or inadequate and do not apply consistently, the reputation of legal institutions is compromised, making the rule of law and trust in the government weaker. Therefore, criminal justice is and is not only a question of reforming dowry prohibition laws; it is a part and parcel of sustainable development goals.

The paradigm of sustainable development promotes the ancillary transition to preventive and structural solutions to purely punitive responses. As Milionis observes, the most effective law change is one that is supported by popular education, administrative alignment, and institutional responsibility as seen in jurisdictions that have already enacted a marriage equality law. The transfer of this lesson into the idea of dowry prohibition is that, the gender-neutral act of drafting has to be accompanied by community participation, economic empowerment, and equal support networks of the victimized in regards to the act of coercion.

The thesis of the research paper is that, in the times of plural families and espoused equal obligation, dowry prohibition laws should change in order to be normatively consistent and practically usable. Using the same-sex marriage jurisprudence and Sustainable Development Goals, the paper examines the revisions that ought to reformulate dowry-related harm in gender-neutral terms while not being insensitive to gendered patterns of abuse in the past. By framing dowry prohibition in a more extensive category of human rights and sustainable development, the analysis will seek to state an example of reform that will be able to handle any coercive marital transfers in a variety of social set-ups.

I. Dowry Practices and Gendered Harm

• Historical Context of Dowry in South Asia, the Middle East, and Parts of Africa

Dowry, as a method of transfer of marriage, has had different forms in different regions and through history. Descriptions of marriage-related gifts can be found in ancient legal and religious literature of South Asia where property given to a bride on marriage can be termed stridhan wealth meant to secure her and to be used personally. There are early accounts that these transfers were non-coercive, but operated as a part of a kinship structure that caused women to have restrictions in their inheritance. Gradually, however, socioeconomic changes changed the nature and definition of dowry. The reconfiguration of dowry as the voluntary provision of the family to a negotiated and occasionally compulsory contact was made by colonial practice of administration and codification of personal law, the monetisation of the agrarian economies.

As late as the nineteenth and early twentieth century's, dowry among most South Asian societies had been linked to the concept of mobility in status and endogamy along caste. Government employment and education improved the perceived value of grooms and the expectations during marriage negotiations were rising. Therefore, what was previously envisioned as a safeguarding gift to daughters, more and more, became a marriage prequalification.

Historically, marital transfers in the Middle East had a slightly different form. Islamic jurisprudence acknowledges the presence of mahr, a compulsory present that a groom gives the bride as a mandatory ingredient of a valid marriage contract. As opposed to South Asian dowry, mahr is owed to the bride directly, and it is legally binding in the form of a property. However, as seen in anthropological research, this kind of expectation has been developed in parallel in some societies where expectation of gifts or contributions by the bride family have taken place especially in areas where social status and economic show-off are prioritised. Simplicity Regional common classification is complicated due to the presence of both mahr and informal dowry practices.

In sub-Saharan Africa, as part of the bride price, property given by the family of the groom to the family of the bride has historically been more common than dowry. Bride wealth has been seen as a form of alliance between

lineages as well as recompiling the reproductive and labour services of the bride. These arrangements however have changed due to economic pressures and migration to the urban regions. On other African settings, hybrid systems have developed where both parties share a large amount of assets, sometimes creating a financial burden similar to dowry systems in other environments.

- **Gendered Violence and Economic Burden Linked to Dowry Demands**

Although these differences are regional, the modern practice of dowry in some of the areas in South Asia has been closely linked with gendered harm. According to the empirical studies and criminal justice records, there has been a habitual trend of harassment, cruelty, and violence associated with the failure to meet dowry expectations. The seriousness of the problem is indicated in the statutory frameworks that recognize dowry death as a legal concept since the sadistic element of financial pressure can lead to murder. Women that are viewed as bringing an insufficient dowry can be put under a long term emotional strain, physical abuse, or social ostracism, in a matrimonial family.

It is also costly in terms of dowry. Even poor families can get deep into debt in order to fulfill marriage requirements at times selling off land or savings that would otherwise be used differently. This burden has a disproportionate impact on households with daughters, which supports the discriminatory views of girls as children and the disproportionate rates of investment in girl's education. Not only it is a private transaction but it is a structural process that regulates demographical as well as developmental processes in these situations.

In addition, marriage power can be transferred with the acceptability of dowry. Where the financial transaction was directed towards the payment to the family of the groom, the subordination of the bride was developed directly because she was too weak to make household decisions or separate abusive relationships. The feminist legal scholars claim that dowry coercion is symptomatic of more extensive structures of patriarchal domination, in which both economic dependence and social discredit are present to silence victims.

At the same time, it must be mentioned that the damage brought about by dowry is not restricted to the physical violence on its extremes. The mental burden, the threat of being dumped, and the frequent demand to pay at more and more money, so-called dowry harassment are many years ago a potential mental and economic threat. These pressures are not only limited to personal marriages but they also influence what is regarded as normal in a given community and define trends of inequality.

- **Critiques of Traditional Scholarship: Beyond a Singular Gender Narrative**

Other scholars have argued that the focus of dowry as violence against women only distorts the complexity of marriage economies. As an illustration, there are situations where dowry property can be managed by the man and the woman or it can give women power over the

marital set-up. Some others report that some economic pressures linked to the marriage payments may load the grooms and their families too especially in the societies where they are supposed to exchange realms.

The issues concerning procedural fairness have also found attention in the legal disputes. In other jurisdictions, judicial commentary has raised apprehension that statutory presumptions that are gender specific may unintentionally lead to the reinforcement of stereotypes regarding victimhood and culpability. Though empirical research has revealed that falsely accusing someone of a crime constitutes only a minor portion of all cases, discourse about maltreatment has created an impact on the popular mind and judicial prudence. Critics believe that a gendered discourse can contribute towards polarization and thus prevent subtle reform.

The critique is further added by queer and intersectional scholars. With the widening of the legalization of same-sex marriage, it is also becoming apparent that economic coercion concerning marriage is not necessarily strictly heterosexual. Same-sex or gender-differentiated unions may comprise financial abuse with different aspects that have never been a concern of the traditional dowry legislations. Moreover, attending to the condition of women alone can be subjected to being felt as alone, therefore, marginalisation to those who do not conform to binary gender enlightenments. Intersectional approach emphasizes more on the aspect that the caste, class, sexual and regional inequalities interplay with gender to form vulnerability.

This objection does not deny the gendered fact of dowry violence; but makes demands on refinement of analysis. Appreciating the reality that women are skewed to harm is paramount. Future-oriented scholarship, however, suggests that the legal systems need to identify the very harm of enforcing the riches that are associated with marriage without previously specifying who is the victim or the perpetrator. This would be in keeping with evolving an agenda on equality and inclusivity in family law.

All in all, history and the existing evidence confirm that dowry is a practice that has led to severe gendered evils and, in particular, in South Asia. But the naive histories are undermined by heterogeneity of regional variations and multi-marital model development. To acquire an in-depth understanding of dowry, one must look into the socioeconomic roots of the latter, its flexibility and the need of legal structures that would be capable of combating the expression of exploitation in all its different manifestations.

II. Legal Frameworks Addressing Dowry: Comparative Analysis

- **India: Statutory Expansion and Judicial Interpretation**

Dowry response in India is one of the highly sophisticated legal responses as well as the most litigated in the world. This was in consideration of the eradication of the giving and taking of dowry in regard to marriage, which resulted in the passage of Dowry Prohibition Act,

1961. The statute defines dowry generally as any property or valuable guarantee pledged or to be pledged in any way it has to come in direct connection with marriage. They tightened penalties and the process in 1984 and 1986 was also a sign of legislative recognition of the fact that the original framework was insufficient.

The Indian Evidence Act and the Indian Penal Code (IPC) have complementary provisions added. Section 498A IPC makes cruelty by a husband or his kinsmen criminal, even dowry harassment. Section 304B of IPC added the offense of dowry death, which creates a presumption of guilt in a situation where a woman dies in unnatural circumstances within seven years after marriage, and there is evidence signifying her being harassed due to dowry. Section 113B of the Evidence Act also helps to make the prosecution a lighter burden by stating that, where underlying facts have been proven, the court of law is allowed to assume that the accused was the cause of the dowry death.

Courts have taken a leading role in the interpretation to influence enforcement. The courts have on several occasions pointed out that the purpose of dowry legislation is social reform, which should be interpreted purposively. Simultaneously, the fear of unreasonable arrest and a misuse of procedures have made the Supreme Court come up with a set of guidelines that seek to protect the due process. The resultant jurisprudence is indicative of a conflict between protective motive and constitutional rights of fair play.

Although the statutory framework itself is elaborate, there are still problems with its implementation. The gaps in reporting, the complexity of evidence used and a stigma associated with the prosecution are common barriers to effective prosecution. Besides, the legal terminology works mostly with gender assumptions, where the victim is always a female and the offender is always a male, on a heterosexual married set-up. With the changing laws on marriage that recognize the different types of unions, this gendered structure becomes conceptually constrained.

• **Pakistan and Bangladesh: Regulatory and Penal Approaches**

The Dowry and Bridal Gifts (Restriction) Act, 1976 of Pakistan takes a regulatory up-approach by establishing financial limits on dowry and bridal price instead of having the bridal gift prohibited. The Act empowers the seizure of surplus dowry, as well as punitive measures to breach of the law. Nevertheless, there has generally been a laxity in enforcing these rules and the statutory ceilings have become obsolete due to inflation. Critics also claim that regulation in the absence of strong monitoring schemes will be more of symbolic adherence than of being transformed.

In Bangladesh, the country passed its Dowry Prohibition Act in 1980 which was later replaced by amendments that refined punishment and enlargement of definitions. It is a statute that criminalises the giving as well as the accepting of dowry and imposes a sentence of imprisonment and fines. Similar to the case in India,

prosecutions are frequently reliant on witnesses of the bride family leaving them vulnerable to the social influence of the complainants. Based on the research of scholars, even though the law indicates a state negativity towards dowry, structural forces that keep the practice drag on include poverty, little female work ethics, and social disposition towards patriarchal values.

The statutory language of both Pakistan and Bangladesh is largely gender specific. Although they are meant to ensure women are safe, these frameworks have not been in a systematic manner amended to capture the wider changes in the field of family law, such as gender identity and equality debates.

• **Middle Eastern Legal Contexts: Contractual Safeguards and Hybrid Practices**

In most of the Middle East, Islamic legal tradition under classical law obliges payment of mahra by a groom to a bride as a legal aspect of marriage. Even in such countries as Egypt and Jordan, the modern personal status codes recognize mahr ascribable debt to the wife. It is also important that this arrangement is reversed to the South Asian dowry systems since the direction of payments is reversed and the right belongs to the bride.

The sociolegal literature, however, refers to the availability of informal rules of gifts or household offerings to be given by the bridal family as well as mahr in a few instances. This is normally governed by general principles of contract or family law rather than the criminal provisions in the non-existence of an express prohibition in such statutes. Response by legal means is more of a lessening of forces, and more a response in terms of contracts and resolution of conflicts.

It is a contractual orientation that provides comparative insight. Middle Eastern systems predict consent and property rights by treating marriage as a civil contract making the economic terms enforceable. However, the critics warn that even in contract law where there is formal equality there is no clearance of social coercion, especially in a case where family pressure influences the marital negotiation.

• **African Contexts: Bridewealth Regulation and Reform**

In sub-Saharan Africa, bridewealth, but not dowry has always been mostly prevalent. The legal dimension of bridewealth has been an issue in the efforts by some nations, such as Uganda and Kenya, to contest the matter through constitutional appeals. At times, courts have been called upon in ascertainment of whether the bridewealth practices breach the assurances of equality or the guarantee of dignity. Instead of criminalizing the practice itself, the judicial responses have favored focusing on the idea of voluntariness and dismissing the argument according to which bridewealth vicarious rights over women are a matter of course.

Other related harms, including the harms of child marriage and forced marriage, have been legislatively tackled, in some jurisdictions, through legislative means,

indirectly controlling economic transactions involving marriage. The Maputo Protocol of the African Union involves ending abusive approaches of women rights, which establishes regional human rights procedure that could be applied in domestic reform.

These cases provide an example of the alternative regulation approach, incorporating marriage payments into a wider set of constitutional, human rights standards, as opposed to standing such payments on their own as separate penal provisions.

III. Legal Implications

- **Dowry Prohibition Enforcement** The issue of widening the rights of marriage (e.g. acknowledging same-sex or non-traditional unions) would involve reviewing the Dowry Prohibition Act of 1961, which presently presupposes a heterosexual model. Ethical questions that come up include whether the guidelines associated with dowry are equally applicable in non conventional marriages and how the enforcement mechanisms should change.
- **Gender-Neutral Laws** A lot of matrimonial laws in India (including the Hindu Marriage Act, 1955) are gender-specific, referring to a husband or a wife. Gender-neutral drafting would be required due to the expansion of marriage rights without discrimination based on gender but gives equal protection and obligations.
- **Inheritance & Property Rights** Marriage enlargement influences the Hindu succession act, 1956 and the personal laws of other people. The legal status of spouses on equal terms would need alignment of the right to inheritance, particularly in traditionalist societies where inheritance is male dominated.
- **Domestic Violence & Maintenance** Legislations such as the Protection of Women from Domestic Violence Act, 2005 are based on the victimization of women. Reforms could give greater protection to married couples, be it both spouses and define the maintenance requirement with larger rights to marry.
- **Personal Laws vs. Uniform Civil Code** The legal system in India is a pluralistic system (Hindu, Muslim, Christian, Parsi personal laws) which makes it difficult to implement reforms. The broadening of marriage rights would help put into discussion the concept of a Uniform Civil Code (UCC) that would bring equality to religion and constitutionality.
- **Constitutional Equality** Article 14 (Equality before law) and Article 15 (Prohibition of discrimination) would take centre stage. To make sure that expanded marriage rights will not reinforce gendered inequalities in dowry, divorce, or custody, courts may have to read between these lines.

IV. Gender-Neutral Laws, Social Inclusion (SDG 10), and Social Justice in the Context of Dowry Prohibition

- **Gender-Neutral Dowry Laws as Instruments of Social Inclusion (SDG 10):** Sustainable Development Goal 10 asks states to ensure that they minimise inequality, both within and between nations and to focus on whether there is legal, social, and economic inclusive of statuses (regardless of status) in states and between states. Traditionally, dowry prohibition is viewed as a gender-justice approach, but its re-formulation in a gender-neutral approach can further transform through the lens of social inclusion.

On the surface of it, dowry seems to be too gendered in its implementation, women being disproportionately the victims of coercion and violence. Nevertheless, SDG 10 states that legal systems should be based on the concept of equal protection and non-discrimination whereby everyone, irrespective of sex, gender identity, sexual orientation, caste, class, and religion, will be afforded equal access to state regard to gender does not overlook historical reality, but instead shifts the legal question of the character of the harm: the extraction of wealth associated with marriage through force.

A statutory scheme that defines victims as wives and perpetrators as husbands only leads to doctrinal discontinuities in societies that recognise same-sex marriage by law. In case some form of coercion due to dowry arose in a same-sex or gender-diverse marriage, gender-specific legislation may not offer concrete solutions. Such exclusion would undermine the inclusive aspirations of SDG 10 by implicitly ranking relationships and identities in terms of legal worthiness.

Moreover, social inclusion extends beyond sexual orientation. Dowry practices have a common point with caste hierarchies, rural-urban inequalities, and economic marginalisation. To some families with lower incomes, dowry requirements can put unfair financial pressure on lower-income families, creating a cycle of debt and lawsuit in the process. The bigger structural inequalities in dowry transactions can be countered by a gender-neutral statutory design, which will anticipate economic coercion and vulnerability as opposed to gender identity alone.

From an SDG 10 perspective, the core contribution of gender-neutral dowry legislation lies in three dimensions:

1. **Equal Legal Standing:** Ensuring that any spouse subjected to dowry-related coercion has access to remedies.
2. **Non-Discriminatory Drafting:** Replacing gender-specific terminology with inclusive language such as “spouse” or “party to marriage,” thereby aligning family law with constitutional equality principles.
3. **Recognition of Intersectionality:** Acknowledging that economic vulnerability,

disability, minority status, or sexual orientation may compound exposure to exploitation.

The law is a mechanism of inclusive governance and not a specially focused protection measure because of organizing dowry prohibition around coercion and exploitation and abuse instead of the internalized gender roles.

- **Advancing Social Justice Through Targeted Public Policy:** Breaking the dowry practices is like breaking with the law; the statutory change must be an option backed by the statutory policy. Considering the dowry ban, the customized public policy in the light of social justice needs the adjustment of the economic and social environment supporting the demands of dowry.

The major policies are mainly economic empowerment policies. It has always been shown in studies that when women can access education, jobs, and property independently, they do not have to rely on dowry as a perceived security. The bargaining power in marriage, higher resistance to coercion and increased resistance to marriage is enhanced by investing in girls education, vocational training, and practicing inheritance. Gender neutrality would mean that such economic support systems would be extended to everyone who enters marriage such as the marginalised or the minority groups.

Second, crime-related sanctions could be enhanced with restorative mechanisms and civil remedies. Even though penal remedies imply facilitation by state of harms in the dowry realm, restorative ones such as incurring damages such as compensation, mediation under judicial direction and financial recovery orders might provide more relief to the victims. These measures are in accordance with the principles of social justice regarding focus on the recovery of dignity and economic security rather than punishment per se.

Third, to design an inclusive policy, institutional accountability and data collection are critically needed. Governments need to provide disaggregated statistics on the complaints of dowry payment, including the variables based on socioeconomic status, a region and, where available and gathered ethically, gender identity or sexual orientation. Making interventions based on real trends of weakness and not on prejudice toward old-fashioned gender roles is evident in this evidence-based approach.

Fourth, awareness campaign and norm transformation among the people is vital. Dowry does not just exist due to lack of laws but due to societal acceptability. Community involvement can be increased through educational programs that tend to frame dowry as an economic coercion and an infringement on equality, but

then not only a women-only issue. Once anti-dowry messages reinforce feminine social principles of fairness, decency and collective responsibility on the economic benefit of marriage, they have greater constitutional and developmental appeals.

Lastly, conformity to constitutional equality ensures increases the normative base of reform. In a number of jurisdictions, the courts have underscored that the family law should embrace the theme of dignity and non-discrimination. These principles form the basis of a gender-neutral system of prohibiting dowry that strengthens the notion that the concept of marriage should not be a place of financial exploitation to either party.

- **Reconciling Gender Sensitivity with Gender Neutrality:** The major issue about embracing gender-neutral language is that it can potentially water down the emphasis on the unfair advantage that women face. Social justice necessitates historical disadvantage. Problems with gender-neutral drafting cannot be addressed by dropping it but rather adopting it integrated with context-sensitive application.

Shelters, legal services, and protective services can be willful of gendered realities without making any strict assumptions of the statute itself. This is a way of balancing equal treatment before the law and attention to life experience.

This way, both SDG 5 (gender equality) and SDG 10 (reduced inequalities) can be perceived to be supported by dowry prohibition. By making the law revolve around the impossibility of coercion of the economy, the law insists that no one, irrespective of the gender, must be forced to donate goods as a means of marital honour.

V. Conclusion

Gender-neutral laws in the particular case of dowry prohibition can improve social inclusion by providing equal protection in different types of marriages and divergent socio-economic situations. Such laws can turn into tools of social justice when they are compounded with specific policies of the economy, economic empowerment, remedial mechanisms, institutional responsibility, and transforming norms, as opposed to mere prohibitions on behalf of social justice.

By one-to-one correspondence with SDG 10, the problem of dowry reform becomes representation of a set of commitments to mitigate structural inequality. The aim is not to criminalise a practice, but change the social and economic situation that facilitates the coercive movement of marital relations. This way, dowry prohibition turns into a gender-neutral therapeutic approach based on dignity and equality and sustainable development.