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The Dowry Gift in South Asia: An Institution on the Intersection of Market and Patriarchy

Kalpana Khanal and Ruchira Sen

Abstract: Dowry refers to marriage gifts that are instrumental to the negotiation of the marriage contract. Historically, the dowry gift was constituted by law across the Roman empire. While dowry has become largely irrelevant in Europe in contemporary times, it is still pervasive across the Brahmanical Hindu societies of South Asia. Moreover, what was traditionally token gifts from friends and well-wishers has taken on the form of "new dowry" since the colonial period. "New dowry" is heavily composed of cash and market goods, including land and is frequently accompanied by violence against new brides when their families fail to make larger dowry gifts with higher market value. This article examines the evolution of "new dowry" through a Polanyian lens. Unlike the neoclassical Beckerian approach which takes an ahistorical outlook to marriage as a "market" for matching partners and dowry as a market price, the substantivist lens à la Polanyi investigates the historical evolution of "new dowry" through the advent of market processes in the colonial period and the countermovement of legal reform in the post-colonial period.

Keywords: Post-Colonial, South Asia, dowry gifts, Karl Polanyi

JEL Classification Codes: B52, B54, B55

Dowry refers to marriage gifts instrumental to the negotiation of the marriage contract. The dowry system dates back to ancient Greek (800–300 BCE) and the early Roman empire (200 BCE), where dowry gifts were instituted under Roman Law and became common across Eurasia, until the rise of the Ottoman Empire in the fifteenth century. Spanish and Portuguese colonists reportedly spread dowry practices to their colonies in present day Mexico and Brazil over the seventeenth and eighteenth centuries as colonial family law took over indigenous marriage customs (Anderson 2007). Contrary to the British colonists' disgust with dowry in South Asia, dowry gifts remained prevalent in Western Europe until the late twentieth century. In his 1972 case study of marriage contracts in the French Pyrenees, Pierre Bourdieu discovered that dowry gifts equally played a role in marriage negotiations as birth order, inheritance or education. Similarly, brides' families in Samoa (Polynesia) gave gifts of emblazoned matting to grooms' families as "tonga," which obliged grooms' families to make reciprocal gifts of "oloa" (Mauss 1990).

Dowry in South Asia bears special significance. While dowry practices have become less common in Europe, dowry gifts in South Asia have become almost universal. Vijayendra

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Rao (1993) has conducted surveys in rural India where out of 1,217 families surveyed between 1960 and 1995, 93% made dowry gifts at the time of marriage. Similarly, a survey on the Status of Women and Fertility conducted by the Population Studies Centre at the University of Pennsylvania between 1970 and 1993 shows that 97% of 1,030 families surveyed made dowry gifts at the time of marriage (Anderson 2007). Moreover, there has been an escalation in dowry gifts where money and market goods have begun to replace token gifts from relatives and well-wishers (Tenhunen 2008). The advent of market processes into dowry and market negotiations has been accompanied by a rise in violence against new brides. In India, 32.56% of crimes against women in 2016 were crimes of "cruelty by husband or his relations," typically in the form of requests for larger dowries (Authors' calculations from page xix of the National Crime Records Bureau Report 2016).

The conceptualization of dowry and marriage as economic categories is common in mainstream economics. Gary Becker (1981) defined marriage as a "market" for matching partners and dowry as a market "price." Among others, the work on "marriage markets" and caste by Abhijit Banerjee et al. (2013) and the modeling of dowry motives in Raj Arunachalam and Trevon Logan (2016) were strongly influenced by Becker (1981). While the Beckerian tradition is influential, it is ahistorical and creates a serious blind spot, failing to recognize the significance of marriage and dowry as institutions far predating the market economy. And thereby missing to account for the relations between such institutions and the advent of market processes.

Our work seeks to understand dowry as a gift, rather than a market price. It studies the impact of market processes, imposed through colonization, on the violence associated with dowry in South Asia. We situate the idea of dowry gifts in a Polanyian substantivist framework, to examine the modernization of dowry practices along with the emergence of property rights in the colonial era. We also explore the implications of the Polanyian framework on the interactions between dowry, markets and violence against women.

The Evolution of Dowry as a Gift in a Polanyian Framework

In this article, we emphasize the substantivist approach as opposed to the Beckerian neoclassical approach. Unlike the model of choice under scarcity characterized by the latter, the substantivist approach embraces non-scarcity determinants shaped by numerous institutions outside the realm of markets (Dalton 1990; Elardo and Campbell 2015). The substantive approach analyzes "the economy as an instituted process of interaction serving the satisfaction of material wants" (Polanyi 1977, 31; Stanfield 1986, 36). Much of Polanyi's (1944) opus is devoted to documenting alternative economic arrangements in non-capitalist contexts, and specifically in pointing out myriad ways in which the economy has been embedded in social institutions (Polanyi, Arensberg and Pearson, 1957).[1] Karl Polanyi referred to such social livelihood processes as the "substantive"

[1] It is important to note that, several critiques including Geoffey Hodgson (2016, 4–5) argue that Polanyi (1944, 30, 41, 46, 49, 53, 268, 269) uses the term "economic" in two peculiar ways. One meaning of "economic" points towards the behavior motivated by gain and the other meaning of "economic" is when conjoined with the word "system," implying production and distribution of economic goods. Polanyi, Arensberg, and Pearson (1957) also note two meanings of the word "economic," namely substantive and the formal meaning.

> The substantive meaning derives from man's dependence for his living upon nature and his fellows . . . [hence] supplying him with the means of material want satisfaction. The formal meaning of economic derives from the logical character of the means-ends relationship, as apparent in such words as 'economical' or 'economizing.' (Polanyi, Arensberg, and Pearson 1957, 243)

dimensions of the economy (Polanyi 1957). In these non-market contexts the individual pursuit of material self-gain is generally discounted and collective goals are established that link economic and other types of social processes (Waller and Jennings 1991, 488).

Marriage is one such complex non-market livelihood process. It comprises a set of collectively established, formal and informal norms (social, legal, cultural, political and economic)—regarding the exclusivity of the marriage contract, economic solidarity and long-term sexual intimacy (Boyer and Peterson 2012). Dowry is far more than a "price" in a market set-up and situating marriage strictly in a market context, as Beckerians do, is short sighted. The modern dowry system in South Asia is rooted in the practices of *kanyadan* (gift of the virgin bride), *varadakshina* (voluntary gifts given by the bride's father to the groom), and *stridhan* (voluntary gifts given by relatives and friends to the bride) (Srinivasan and Lee 2004; Diwan 1987; Van der Veen 1972). Traditionally these gifts would be in the form of small tokens from well-wishers. More recently dowry involves a substantial transfer of wealth from the bride's family to the groom's and has become a major factor in marriage negotiations (Teja 1991).

To explain the changing practices of dowry, we revisit Polanyi's notion of "double movement." That is, emergence of capitalism involves two phases, "marketization" followed by "protection" via regulation. Polanyi (1944, 71) saw marketization as causing disruption of social bonds and argued that market forces tend to takeover non-market forces with profound social consequences, implying a reorganization of the entire social fabric. Therefore, according to Polanyi, societies tend to design constraints on markets. Such constraints are not inherently beneficial to everybody, and may be oppressive, but they keep the system functioning (Khanal and Todorova 2019).

Even though all dowry does not lead to abuse and violence, in many cases, violence associated with dowry is on the rise in South Asia (Rastogi and Therly 2006). Scholars such as Srinivas (1984) call the evolution or more appropriately, the degradation of dowry system, the "new dowry." Srinivas sees this phenomenon as entirely "the product of the forces let loose by British rule such as monetization, education and the introduction of the organized sector" (1984, 13).

By observing the overall changes in the caste system and institution of marriage in South Asia from a post-colonial lens, Ranjana Sheel (1997, 1709) reinterprets and rearticulates the caste system as arising out of the colonial State's codification of the social order. The establishment of the British rule in India led to a new interpretation of Indian, especially Hindu traditions, rituals, and customs to facilitate the colonial State's subjugation of the native population. British ideals of societal hierarchy transformed previously fluid Indian institutions into the more rigid terms of class, caste and gender (Shrivastava 2019). Colonization also accelerated the process of the institutionalization of a single form of marriage. Newly "invented tradition" suppressed the diversity and complexity of all forms of marriage in India. First, it institutionalized "Brahma" marriage—the form of marriage that was most intrinsically linked with dowry. Second, it universalized the Brahma form of marriage by encouraging all social groups to emulate Brahmanical marriage practices (Sheel 1997).[2]

[2] Brahmanical societies in ancient India refer to strictly hierarchical social systems where Brahmins hold all socio-religious political power arising from the sole right to interpret the Hindu scriptures. Ritual purity is important in Brahmanical societies to preserve caste privilege amongst the Brahmins and the perpetuation of atrocities such as untouchability and violence against the lower "castes." In ancient Brahmanical societies, certain types of work were to be undertaken by certain castes only. For example, Brahmins were to perform religious ceremonies and impart education, the warrior castes were to govern and wage wars and the "Dalits" or lower castes were to undertake most tasks of production—especially those considered "unclean" such as cremating the dead,

Lucy Carroll (1989, 2) notes the process of propagating values of orthodox Hinduism and "Hinduizing" the castes and tribes on the fringes of Hinduism, during the colonial period. This process accorded State legitimacy to the Brahmanical rules and laws of social order over customary local practices of diverse rural groups. The reinforcement and expansion of the Brahma form of marriage, with dowry as an important component, took place in a situation where the local socio-economic conditions were getting restructured (Sheel 1997, 1712). The colonial state used its own brand of market capitalism to reshape social mobility. Land settlement was one of the tools used to reallocate ownership on the basis of contracts rather than status. The restructuring of economic order also included the commercialization of agriculture, the emergence of new market centers along the newly introduced railway routes and the creation of the service sector for colonial administration (1997, 1713).

The nineteenth century Indian social and economic order was substantially different from that of a century back. As Bayly (1988, 144) states "the more homogenous society of peasants and petty moneylenders which emerged in the nineteenth century was a more appropriate basis for a semi-European colonial State." Sheel (1997) further argues the colonial State's compulsion to extract surplus, expand revenue collections, and control a wider area of society effectively led to the creation of settled agriculture and peasant petty-commodity production. The pluralist and mobile cultural traditions of nomadic tribes were restricted by the introduction of revenue assessment (private property rights).

The colonial period witnessed increasing social mobility with the expansion of the State and the monetization of the economy. During the colonial period the role of women diminished in the production activities. Alfred Charles Turner (1933, 53) noted that female workers were proportionally lower in the post-1931 census period than they had been at the two censuses before that. Some scholars argue that the growing economic dependency into which women were forced strengthens the idea that men must be compensated for taking on the burden of providing for women (i.e., the dowry system). The link between the decline of women's contribution in productive economic sphere and the rise of the dowry system has been noted in *Stree Darpan* 1915 (VI), December, 418–24 (cited in Sheel 1997).

Veena Talwar Oldenburg (2003) tracks the course of the dowry system's changing perceptions and functions over the colonial period in Punjab and observes how dowries increasingly began to include cash and property when land became a marketable commodity. The transformation of the relationship between peasants and their land and the simultaneous codification of customary law led to the infamous indebtedness of the average Punjab peasant. These two intertwined events became central in altering the texture of women's lives, their implicit rights and entitlements in their families as daughters, wives, and widows, by making men the sole proprietors. This in turn transformed the notions of women's wealth, property rights, and dowry from pre-colonial to colonial times (Oldenburg 2003, 12–14).

With the creation of male individual property rights in land, the British decided to create the individual peasant owner as the centrepiece of their modern revenue policy. These new circumstances altered the generally symbiotic relationship between borrower and lender. In pre-colonial times moneylenders had advanced small loans; the object was never to let a debt be paid off entirely, in order to keep the debtor as a permanent client. The new breed of moneylenders, with an appetite for appropriating their debtors' land emerged as a cause of suffering in the countryside during these changed circumstances. The critical difference was that land was now a commodity that could be alienated from the original proprietor and auctioned (Oldenburg 2003, 14). Chronic indebtedness became the other side of the coin

working with leather and undertaking tasks of sanitation.

to marketization, for the majority of small peasant proprietors. As the colonial State sought to collect land revenue, leading to chronic indebtedness across the countryside, land prices and rents began to rise.

Putting landed property in exclusively male hands and holding males solely responsible for the payment of revenue had the effect of creating the Indian male as the dominant legal subject; this happened throughout British India. The effects were disastrous to the lives of women (Oldenburg 2003, 15). The establishment of property rights for peasants, inflexible tax demands and collection regimens, and a host of other imperial measures prepared the ground for worsening gender inequality which, in turn, increased the vulnerability of women to violence in both their parents' and marital homes (Oldenburg 2003, 5).

In brief, the relationship between women's property rights and the Brahma form of marriage is closely associated with the shift from tribal agricultural society and the emergence of patriarchy (Srivastava 2019). The sexual subordination of women was affected by an enforced economic dependence on the male head of the household. Property came to be regarded as a crucial indicator of the balance of power between women and men (Hirschon 1984, 1).

By the turn of the century, making requests for marketable commodities and money as dowry became pervasive across most parts of colonial North India. The dowry brought in by a bride, was no longer preserved as a woman's exclusive wealth but was now used to pay off debts or to marry off daughters in the husband's family. These were radically new uses for a woman's *stridhan*, and certainly could be marked as the beginning of a trend where dowry became an evil and problematic social practice.

Emergence of New Dowry, Violence against Women and State Protectionism

Since India achieved Independence, the State has continued to play the role of social reformer. The emergence of the notion of dowry as something evil continued to haunt the deliberations of the Hindu Code Bill in the early 1950. And eventually these debates led to the Dowry Prohibition Act of 1961. The Act made any dowry negotiation illegal and punishable by imprisonment and fines. A loophole remained; families could still provide "gifts" to the bride at the time of marriage, that was not "excessive" (loosely defined) in financial value. A record of the gifts had to be maintained and the gifts were to be held in trust for the bride (Banerjee 2014). Later on August 1983, the Law Commission of India published the 91st Report on Dowry Deaths and Law Reform. Its publication led to the amendment of the Hindu Marriage Act, 1955, the Indian Penal Code, 1860, and the Indian Evidence Act, 1872 (Sarkar 1983). The Criminal Law Act of 1983 defined "cruelty" as an offense under the Indian Penal Code Section 498-A. Based on this law cruel acts related to demands of property by husband or relatives of a husband is considered a punishable offence (Newman 1992). The Dowry Prohibition Amendment Act of 1984 helped narrow the loopholes in the Dowry Prohibition Act and increased the punishment associated with dowry negotiations. The concept of "dowry death" was added as an amendment to this act making it an offense (Shenk 2007). In addition, a woman's death occurring within the first seven years of marriage requires investigation (Newman 1992). The Protection of Women from Domestic Violence Act was passed in 2005. The law is comprehensive, including all forms of violence against women, including those related to dowry. In July 2009, the Bombay

High Court determined that the provisions of the new law would apply retroactively (Ghosh and Choudhuri 2011).

These laws and regulations can be seen as State protection mechanisms or the countermovement à la Polanyi, in the evolution of the "new dowry" process. These laws have presented alternatives to many urban victims. Yet many scholars see serious limitations in legal measures to curb domestic violence and argue that much remains to be done to ensure gender justice in a patriarchal society (Ghosh and Choudhuri 2011, 2). Others argue bans of dowry have taken the form of largely ineffectual "paper laws," and momentum needs to be gained among activists and policy-makers to make the prohibition of dowries actually work in reality. Publicizing regulations in urban and rural areas equally, increasing the penalties for violations, making reporting to authorities safer are some of the steps that need to be taken.

Conclusion

While mainstream literature, based on neoclassical economics and formalist anthropology, discusses dowry as groom-price, its ahistorical approach fails to account for the evolution of otherwise pre-capitalist dowry systems in modern capitalism. This article uses a substantivist method that combines economic history, culture and anthropology to explain the problem of motives of dowry giving and the interactions between dowry and market systems in South Asia. The Polanyian framework is used to examine the modernization of dowry practices along with the emergence of property rights in the colonial era. Moreover, the article goes beyond Polanyi's exclusive focus on the corrosive effects of commodification of land upon the institution of dowry. It also delves into some injustices within Indian society, including injustices, such as patriarchy, caste and class systems "that depend on social constructions of labor, land and money, precisely as non-commodities" (Fraser 2014, 544).

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