CHAPTER IV

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ACHIEVEMENT OF EQUALITY OF HINDU WOMEN UNDER THE
CONGRESS RULE (1937-'39 AND 1947-'67)

Congress Ministries

The Government of India Act of 1935 abolished 'Dyarchy' in the Provinces and introduced 'Provincial Autonomy'. The first election as per this Act was held in February, 1937. In that election, Congress won clear majority and Rajagopalachari (Rajejí) became the Premier of the Madras Presidency on 15th July, 1937 to 1939.¹ As per the resolution of the Working Committee of the Congress Party on 22nd October, 1938, directing the Congress Ministries to resign due to the issue of entangling India into the Second World War without its consent, so the Ministry of Rajeji also resigned on 29th October, 1938. In 1945 election, Congress Party captured a majority of seats in the Provincial Legislature. T. Prakasam was elected as the leader and formed his Ministry on 30th April, 1946. Due to some factional conflict in the Madras Presidency, he resigned on 14th March, 1947 and on 24th March, 1947 C.P. Rameswamy Reddiar's Ministry was sworn in.

Reddiar was succeeded by P.S. Kumaraswamy Raje on 7th April, 1949. The New Constitution was introduced on 26th January,

1950 and as per this constitution, Kumeraswamy Rajaji became the First Chief Minister of Madras Presidency. In 1952, First General Election the Congress Party had not gained majority. Therefore, Rajaji with support of some Independents formed his Ministry on 10th April, 1952. Unfortunately Rajaji was forced to resign on 1st April, 1954, before the expiry of his period, because of his introduction of New Education Policy (1953-'54). The education policy was ridiculed as Kulakalvi Thittam (Caste Oriented Education) by the opponents and they declared a 'Protest Day' on 21st June, 1953. The leaders of the Congress Party themselves passed a resolution to remove him from leadership.

After Rajaji exited his office K. Kamaraj became the Chief Minister of Tamilnadu and he was the Chief Minister for three consecutive terms (1954-'57, 1957-'62, 1962-'63). In the Second General Elections held in 1957 Congress won the majority, for the second time Kamaraj became the Chief Minister. Even though he afraid of the growing popularity of C.N. Annadurai and his D.M.K. Party, he decided to strengthen the Congress and wanted all the senior members of the party to resign from their coveted positions and to go for the party work at the grass-

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4 The Hindu, 8th December, 1953.
root levels. As an example he himself resigned from Chief Ministership and many other leaders followed it. This was known as Kamarej Plan. When The Hindu referring to the ‘Plan’ reminded the Congress Party that it was an appropriate occasion more for re-examination of policies of men for a more reshuffled personalities.

M. Bhaktavatsalam who succeeded Kamarej on 2nd September, 1963 was responsible for the complete route out of Congress Government in Tamilnadu since then Congress never raised its head as a ruling party in Tamilnadu. Because of the compulsory introduction of Hindi in educational institutions, food problem and the rise of D.M.K. Party, the Congress was defeated in 1967 election and led way to D.M.K. rule.

The Congress Ministry was interested in improving the condition of women, so during the Congress rule, certain important enactments were introduced to remove the disabilities of women.

SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN

The Madras Suppression of Immoral Traffic (Amendment) Act, 1938 (Act No.VII of 1938)

The problem of immoral traffic in women and children

6 The Hindu, 1st September, 1963.
could not be brought under control because there were certain loop-holes in the Act. For instance, the third party who induced women and girls to become prostitutes could not be punished so easily because sufficient evidence could not be provided. To rectify this defect, a separate clause was included to punish the persons who were living on earning of a prostitute. The Devadasis used to escape on the pretention that they were associated with certain customs in the temple.\(^7\) In the light of these considerations, the Government decided to amend the Madras Suppression of Immoral Traffic Act of 1930.

On 22nd March, 1938 K. Raman Menon introduced a Bill in the Madras Legislative Council to further amend the Madras Suppression of Immoral Traffic Act of 1930. During the debate Usman Sahib stressed the need for establishing a Central Rescue Home for "fallen girls".\(^8\) It became the Act No.VII of 1938.

In this Amendment Act, Section 8\(^a\) was incorporated. According to this newly incorporated section, "any person not below the age of eighteen years who knowingly lived, wholly or in part, on the earning of a prostitute, could be punished with imprisonment, which right extend to two years, or with fine of one thousand rupees, or with both. But the mother or

\(^7\) G.O.Ms.No.42, Legal Department, 4th March, 1938.

son of prostitute could not be punished, though they were not allowed to aid the prostitute.\textsuperscript{9} According to this amended section from 1938 to June 1939 three persons were convicted of whom two were fined Rs.10 and 25 respectively and third one was sentenced to three months rigorous imprisonment.\textsuperscript{10} Government had taken strict measures to suppress the evil in Municipal areas also.

The Suppression of Immoral Traffic (Amendment) Act (No.VIII) 1940

It was amended for third time in 1940. The aim of the third amendment was to rescue more girls from brothels and other places. Section 6(1) of the Act of 1930 authorised the Magistrate to authorise a police officer to rescue a girl who was under eighteen years of age was living on or carrying on, or being made to carry on, the business of prostitution in a brothel. There, the police could not act independently. Before he went for rescue he had to get the permission of a Magistrate. In the meantime the girls were likely to transfer to some other place. The police officer could not rescue minor girls from brothels without getting prior sanction from the Magistrate. He had no authority to rescue minor girls confined therein.\textsuperscript{11}

\textsuperscript{9} G.O.Ms.No.81, Legal Department, 2nd May, 1938.

\textsuperscript{10} G.O.Ms.No.4825, Home Department, 9th September, 1939.

\textsuperscript{11} G.O.Ms.No.20, Legal Department, 2nd March, 1940.
In order to remove these obstacles, the Suppression of Immoral Traffic Amendment Act (No.VIII) was passed in 1940. According to this Amended Act of 1940 the police officer was empowered to rescue any girl under eighteen years of age found in a brothel house or disorderly place. This amendment gave encouragement to police who would thereafter freely entered and rescued minor girls from brothels. Now, the prostitutes changed their place of business from brothels to seasonal resorts like Courtallam, residential areas, industrial areas, bus stands, railway stations, cinema theatres, etc. They ran their business with the help of pimps. Due to poverty even parents became pimps and they took their daughters to lodges and temple festivals for prostitution.

When the prostitution was widened in all the places, the Government after Independence decided to amend the Madras Suppression of Immoral Traffic Act of 1930 for the fourth time by adding some more clauses.

The Suppression of Immoral Traffic (Amendment) Bill (No.17) of 1947

This was the fourth Amendment Bill of the Act of 1930. The aim of this amendment was to impose stringent heavy punishment on prostitutes and pimps. When the police officers were given power to enter premises wherein minor girls were confined, for purposes of rescue, they took the Law in their hands. They were also bribed by the prostitutes and the pimps. When prosti-
tution in the lodges and hotels increased, and the police, automatically, began to raid these places they used to get more bribes. The Judges and Magistrates were very lenient towards prostitutes and imposed minimum punishments. The Government said, that it was the cause for the failure of the Act. The Government insisted that such cases should be transferred to First Class Magistrates and to go for enhanced sentence.\footnote{12}

K. Madhava Menon was one of the thirteen Ministers of C.P. Ramaswami Reddiar's Ministry from 24th March, 1946 to 6th April, 1949.\footnote{13} When the Government decided to amend the Madras Suppression of Immoral Traffic Act of 1930 for a fourth time, Madhava Menon took the initiative and introduced the Bill (L.A. Bill No.17 of 1947) in the Madras Legislative Assembly on 20th October, 1947 and insisted it be sent to the Joint Select Committee.\footnote{14} The Joint Select Committee consisted of 14 members, seven members from each House. K. Madhava Menon was explaining the aim and objective of the Amendment Bill of 1947.\footnote{15}

Under the Section 12 of the Madras Suppression of Immoral Traffic Act, 1930, solicitation by a woman in a street or public places to be punished with imprisonment for a term which might extend to two months or fine which might extend to one thousand

\footnote{12} \textit{G.C. Ms. No.3907, Home Department, 27th October, 1945.}

\footnote{13} \textit{Justice Party Golden Jubilee Souvenir, Madras, 1968.}

\footnote{14} \textit{M.L.A.D., Vol. XIV, October 1947, pp.408-409.}

\footnote{15} Ibid.
rupees, or with both. That was the only section which provided for conviction. That conviction did not give them a chance to reform themselves, but on the other hand it turned them criminals. So, Madhava Menon stated instead of sending them to jail, they could be sent to Vigilance Homes or Rescue Homes, where they could be taught some profession, which might be useful to them when they came out. In this case, they might be detained in the Homes for a period of two years so as to teach them a full professional course. The women below 30 years, who had been found guilty were to be detained in Vigilance Home for a period of not less than 2 years or exceeded 5 years.

During the course of debate on the Bill, Begum Sultan Mir Amiruddin, a women Muslim member showed her interest in the amendment. She raised a doubt about the guilt of men. Under Section 12 of the Madras Suppression of Immoral Traffic Act, 1930, only the women became the victims but men were exempted. Men were also responsible for the degradation of women. Therefore, she said, the Bill was unjust, so far as it was for penalising women alone, whereas men were equally guilty. The Speaker replied that in a modern civilized society, provision to penalize women who were guilty of solicitation was found, but no such provision to penalize men who were primarily responsible for the moral degradation of women. He was of opinion that there must be one moral Law for both men and women. After his reply

16 Ibid., p.442.
17 Ibid.
all the women members approved the Bill. However, it was opined that the Government must provide rescue homes and then only the Act would be practically enforced. Then the Bill was passed into Law. 18

The Bill became Act No.XXXV of 1947, with the term of imprisonment raised from two months to two years. A New Section (12.A) was incorporated in the Madras Suppression of Immoral Traffic Act of 1930. According to this New Section (12.A), a woman who was under 30 years of age instead of sending her to jail, she could be sent to Vigilance Home * if her term was not less than two years or more than five years. The Act contained provisions for the management of Vigilance Homes. 19

The impact of the Act was the sufficient protection to the women and girl convicts. They were given training according to their level of education and interest. Hence, they changed their way of life and became useful citizens. The police took keen interest in arresting the prostitutes for providing them a good means of livelihood. Not only the police but also Vigilance Associations also took active interest in this affairs. Therefore, the

18 Ibid.

*Vigilance Home - Where the rescued women were kept in.

19 Act No.XXXV of 1947, Legal Department.
prostitution cases declined. For instance in 1947, 879 cases were registered under Section 12 of the Act.\textsuperscript{20} But in 1950 the number had come down to 103.\textsuperscript{21}

**Appointment of a Committee, 1950**

On 10th March, 1950 the Government appointed a Committee to review the working of the Act. The Committee was consisted of the Commissioner of Police, The Chief Inspector of Certified Schools, The Provincial Vigilance Officer, T. Viswanathan,M.L.A., K.R. Dalavai,M.L.A., A.A. Kuttiammai Ammal,M.L.A. and M.N. Clubwala. The Committee recommended that suitable amendments should be made in the existing Act to deal effectively. So, the Government thought of another amendment to the Act.\textsuperscript{22}

When this was going on in Madras Presidency, the Government of India signed the "International Convention" held in New York on 9th May, 1950 for Suppression of Immoral Traffic in Women and Girls.

In accordance with the convention, the Suppression of Immoral Traffic in Women and Girls Bill was introduced in the Lok Sabha on 20th December, 1954 by Mr.Katju, the Minister for Home

\textsuperscript{20} G.O.Ms.No.3488, Home Department, 10th July, 1947.
\textsuperscript{21} G.O.Ms.No.3907, Home Department, 5th September, 1950.
\textsuperscript{22} G.O.Ms.No.353, Home Department, 2nd February, 1953.
The Bill was passed by the Lok Sabha on 30th November, 1956 and the Rajya Sabha on 18th December, 1956. As the Government of Madras had already passed such an Act, it framed the Suppression of Immoral Traffic in Women and Girls (Madras) Rules, 1958 so as to suit the organization of protective homes and their administration.

The Act came into force in Madras on 1st May, 1958 and Gazetted Officers of the rank of Deputy Superintendent of Police were appointed as Special Officers for administering the vigilance. A Vigilance Squad under the supervision of the Assistant Commissioner of Police, Madras, was organized for the purpose of conducting raids on houses of ill fame. But it could be operated at the district level, only.

There were certain difficulties in the enforcement of this Act. The brothel keepers and prostitutes knew fully well that they could be arrested only by the Gazetted Officers, above the rank of a Superintendent of Police, and such number of officers...

were very limited. Even if they were arrested they could easily get bail and come out to continue their business. They require a respectable woman as witness for this case. No respectable woman would appear in the court as witness for this case. Inspite of all these difficulties, the Assistant Commissioner of Police, Madras, and his special staff took interest and booked 352 cases against pimps and 22 brothels and prostitutes in 1963.27

Actually, the number of brothels and professional prostitutes were decreased in Tamilnadu due to legislation and the active supervision of the police. But, it took other forms such as call girls, model girls, dancing teachers, music teachers, sales girls, film extras, receptionists, etc. One of the ways of curbing this oldest profession was to make awareness among men about dangerous V.D.

ABOLITION OF DEVADASI SYSTEM

The Madras Devadasis (Prevention of Dedication) Bill (L.A.Bill No.22 of 1938)

When Rajaji was the Prime Minister of Madras Presidency (15th July, 1937 to 29th October, 1939) nine other Ministers were in his Cabinet. The attempt made to abolish the Devadasi System by Mrs.Muthulakshmi Reddy became abortive during the Justice

Party rule. As soon as Rajaji formed his ministry, again the question of Devedasi System came to be discussed by Mrs. G. Ammann Aja, a member of the Legislative Assembly elected from the Ellore town, Women General, Urban Constituency, had introduced the Madras Devadasis (Prevention of Dedication) Bill (L.A.Bill No.22 of 1938). She requested that the Bill might be referred to a Select Committee consisting of nine members. She explained the meaning of the term Devadasi and their devotional service to God. She also explained the earlier attempts made for the abolition, of Penal Code provisions, the Acts of Hindu Religious Endowment Board etc. She specifically stated the steps taken by Mrs. Muthulakshmi Reddy for an enactment to abolish the Devadasi System. By Mrs. Muthulakshmi Reddy’s endeavour the Hindu Religious Endowments Act of 1926 was also amended for the sake of this social reform. So far, the legislations made in the Madras Legislative Council were in permissive character. Therefore, they were neither prohibitive nor penal in character as in Mysore, Cochin, Travancore and Bombay. With the result of this Act, certain temples had freed the Devadasis, whereas other temple authorities forced the Devadasis to continue their services. On enquiry and investigation it was found that the practice was still prevalent in the Madras Presidency. Not only the inām holding Devadasis, but also other Devadasis dedicated the large number of innocent girls and young women to Hindu temples without any

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idea of devotion of service to God, but simply for profiteering by prostitution. Thus this practice initiated young women to a life of immorality and prostitution. It was against the Sastras and social morality. A Devadasi could not contract a valid marriage. Hence to safeguard women from this, the practice of dedicating girls to Hindu temples should be prohibited.\(^{29}\)

As early as in 1912, the Central Assembly amended the Indian Penal Code Section 372, 373, only to increase the age of minor girls from 16 to 18 years. But this amendment had failed to achieve the desired result, because it did not deal with the dedication as a whole. The temple authorities, parents and general public honestly felt, that the Devadasi System was sanctioned by religious rites. The girls who were dedicated from Backward Communities thought that Devadasi System was their Kuladharma and not a sin or crime. The Legislative Enactment was therefore necessary in the Madras Presidency for the abolition of Devadasi System.\(^{30}\)

As soon as the Congress assumed, the office the public opinion began to grow against the existence of the Devadasi System. Gandhiji himself wrote in his journal Harijan that of all reforms the abolition of Devadasi System was the most important.\(^{31}\)

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29 Ibid., pp. 290-291.

30 Ibid.

31 Ibid., p. 292.
Lastly, Mrs. Ammanna Raja said that the existence of Devadasi Community was acting as a safety valve. But nobody had the right to keep such a separate section of people for a purpose of immorality. When a section of people stood as a shame and discourage to the society how could the state call itself as the guardian of morality, and therefore she commended the Bill for the acceptance of the House. The resolution was seconded by A.V. Kuttimalu Amma, a member of the Legislative Assembly from Calicut. She said that the Congress Government should abolish this system to purify the society.

Then a Select Committee consisting of nine members was formed and P. Subberayan was appointed as the Chairman of the Committee. The following were the members of the Committee: (1) P. Subbarayan, Minister Incharge of Law Department, (2) Mrs. Ammana Raja, (3) A. Kaleswara Rao, (4) A.V. Kuttimalu Amma, (5) Lakshmi Ammal, (6) Grandhi Venkata Reddi, (7) C.P. Subbush, (8) Kallur Subba Rao, and (9) G. Krishna Rao. 32

Due to the commencement of World War there were no elections and legislature until 1947. The Interim Governments existed during this period were controlled by Advisors. Therefore, this question was taken in the year 1947 only.

32 Ibid., pp.293-294.
The Madras Devadasis (Prevention of Dedication Bill, 1947 (L.A. Bill No.21 of 1947)

While O.P. Rama Swamy was the Chief Minister of Madras (24th March, 1947 to 6th April, 1949) Presidency, P. Subbarayan was the Chairman of the Select Committee on The Madras Devadasis (Prevention of Dedication) Bill, 1947 (L.A. Bill No.21 of 1947). He submitted its report in the Assembly on 26th November, 1947. It narrated the history of the Bill from 1927 to 1947. In 1927, the Bill was moved by Mrs. Muthulakshmi Reddy, but it was not passed as a Law and in 1938 the Bill was moved again. In between these twenty years (1927-’47) several conferences by the Devadasi Community passed motions that the Bill ought to be made as Law. Hence the Government had shown interest in passing the Bill. 33

Begum Sultan Mir Amiruddin, who supported the Bill, congratulated the Government that took interest in passing the Bill. Mrs. V. Lakshmi Ammal also supported the Bill and stated that it might have been passed as a Law. Thus the Bill was supported by almost all the members of the House who insisted that the women should be liberated from the bondage of immoral prostitution.

But P. Natesan who admired the prolonged effort taken by the Government to pass the abolition Act for the past twenty years. By this time he said, the Devadasi Community was

completely deteriorated, declined and dead. It was a wrong notion that only Devadasis were practising prostitutions but it was not every Devadasi who took to prostitution. This Devadasi Community was a must to safeguard the old culture and civilization of the arts of music and dancing. Therefore he said, that a legislation for the abolition of Devadasi System was not necessary. But as the Bill had passed the Select Committee stage, he did not want to discuss further more on the subject. 34

Anjali Ammal, a member of the Assembly, suggested that, that sort of culture and civilization were not at all necessary. Instead young girls should be taught music and dance in the schools and utilise their talent without any damage to their morality. Another member R.V. Swaminathan, after appreciating the Bill supported wholeheartedly. 35

At the end of the discussion the motion was put and carried. after due amendments were carried out. The Bill was passed into Law in November, 1947. 36 Anyhow, the social stigma of Devadasi System had abolished and the society was purified and its dignity was raised. The religious sanction attached to this badly nourished system had been withdrawn by the people themselves. Along with

34 Ibid., pp.646-647.
36 Ibid., p.653; Vide Appendix-I.
the decline of feudalism, zamindari system and the disappearance of Western Lordism the temple concubine Devadasi System was also declined and dead. On any method of calculation it was not a loss to religion, culture or community. The block spot on certain castes had disappeared.

ENFRANCHISEMENT OF WOMEN

Women's Right to Contest in the Elections

On 10th May, 1921 the Government of Madras passed the "Madras Electoral Sex Disqualification Removal Regulation". By this resolution the women were given the right to register in the electoral roll of any Constituency of the Legislative Council of Madras. By this resolution, they were given only the right to vote and not to contest in the election. Following the example of Madras Province, slowly franchise was given to women in all the British Provinces of India. By 1926, all the women in the State had the right to vote to the Provincial Legislative Councils. However, the womenfolk did not satisfy with their enfranchisement right alone but they demanded for the right to sit in the Council. Lady Sadasiva Iyer headed a Deputation of the member of the Women's Indian Association and urged Lord Willingdon the right for women to sit in the Council. He promised to recommend their case to the Secretary of State for India.

37 G.O.Ms.No.108, Law Department (Legislative), 10th May, 1921.
In 1926, the Government of India granted women the right to sit in the Legislative Council. Immediately, the Women's Indian Association supported two candidates Kamala Devi Chattopadyaya and Mrs. Hannam Angelo to contest in the elections. Kamala Devi Chattopadyaya contested in the South Canara Constituency but she was defeated. The Women's Indian Association pressed the Government for the nomination of a woman to the Legislative Council, and the Madras Government nominated Mrs. Muthulakshmi Reddy to the Madras Legislative Council. She was the first Indian woman to sit in the Council and also the first to be elected as Vice-President among the Democratic countries of the world.39

The Indian Women's Association sent representatives to take part in the discussion of "Commonwealth of India Bill". Again the women's representatives took part in the Round Table Conferences held at London. Begum Shah Nawaz, and Mrs. Radhabai Subbarayan had participated in the First Session of the Conference. Mrs. Sarojini Naidu attended the Second Session. They demanded that the disparity between men and women voters should be removed; they urged that the wives and widows of the property holding male voters to be granted votes. In Round Table Conferences, it was decided that between 10 percent to 25 percent of the total population of women should be given the right to vote. On this basis, four women were elected as the women's representatives.

39 Frank Morase, op. cit., p.95.
to look after the women's rights. These representatives of Women's Organisations pressed for adult franchise for men and women and opposed communal electorates. They wanted equality between men and women and that should be incorporated in the New Constitution. Despite the other qualifications, property qualification was the main qualification for the franchise for the Provincial Legislature.40

Women demanded to contest in elections but the White Paper Report (proposal for Indian Constitutional Reform, March 1933) dropped their demand. The Women's Indian Association called for a Conference to discuss the question of women's franchise and their place in the New Constitution. They passed about twenty resolutions demanding their right to vote and to contest in the elections.41

In 1936, the elections were held under the Act of 1935. Mrs. Muthulakshmi Reddy, Mrs. Yakub Hassan, Mrs. Chopra and Mrs. Ponnumswamy Iyer met C.F. Brakenbury, Chief Secretary to the Government and made representation regard to registration of women literates as voters. They wanted that in the case of Purdah women the registering officer could be a woman, and a Proclamation might be made to the effect by 'tom-tomring' to be


41 Proposals for Indian Constitutional Reform (White Paper Report), Appendix V, Delhi, p.32.
more useful than publishing in the newspaper about the registration of women literates as voters. 42

Thus, women succeeded in getting right to vote only on their mere literacy. And so after 1935, the ratio of women and men voters was increased from 1:20 to 1:7. In the first stage they succeeded on "Wifehood qualification", in the second stage on the literacy qualification and in the third stage on the adult suffrage. 43 But during the first Congress regime (1937-'39) the Women of India gave up their idea of adult franchise and struggled for Indian Independence. They began to participate in the National Movement along with men. From 1939 to 1942, elections were not conducted because of the World War II. There was an 'Advisor's Government'. On 19th September, 1945 Viceroy Lord Wavell announced about the election dates. Elections were conducted, but they were not based on the adult franchise. In 1946, "Interim Government" was formed.

On 15th August, 1947 India got Independence and the drafting committee for the Indian Constitution was appointed. This Committee ensured the adult franchise in the preamble itself. Thus, the women were given equality by the Constitution of India. Accordingly they not only had the right to vote but also to contest elections

42 Stri Dharma, Vol. 19, May 1936.
and to the occupied posts like Ministers, Chief Ministers and Speakers. In recent times there are women Ambassadors, Governors, Diplomates and also representatives in the International Organisations. They enjoy the status of fullledged citizens of India, no less or no more than men.

The history of women enfranchisement was very peculiar in the pages of history of Tamilnadu. It was given not on the mercy of menfolk but by the prolonged struggle of womenfolk. The impact of western education was the main cause of their raising and they broke the custom and usage and also the legal ban. The Indian Penal Code itself considered them as equivalent to lunatics and aliens.

The Indian Women's Association organised the women under the leadership of great personalities and agitated for their right and got succeeded. They demanded the right to franchise on the basis of wifehood literacy and adult suffrage. They got the right to contest election in 1926. After Independence adult suffrage was incorporated in the preamble itself of the Indian Constitution. Then women became M.L.As and M.Ps and even as C.Ms and P.Ms. The progress was in ascending order.

**HINDU WOMEN'S RIGHTS TO PROPERTY**

Women were considered inferior to men throughout the age not only in family and society but also in the matters of proprietary rights. While society was progressing and many changes were

*Vide Appendix No.III.*
taking place in many spheres, women continued to be backward. The legal position of Hindu women of inheritance to property was completely absent. Hindu women were generally excluded from succession to property, which resulted in this dependence.

After the death of her husband, the Hindu widow ought to burn herself with the body of her husband or to lead a life of suffering and misery and was treated with contempt by the other members of the family, as she had no property right.

The British administrators introduced a new type of economy, state structure and educational system and changed the position of women in family and society. Indian leaders also supported the cause of women. Some women joined hands with men in the freedom movement. The British enacted some reforms to improve the condition of Indian women. In 1829, 'The Child Marriage Restraint Act' was passed and it abolished the child marriage. This led to the improvement of female education. On 4th December, 1829 'Sati' was made as a crime of culpable homicide punishable with fine, imprisonment or with both. In 1856 'Hindu Widows Remarriage Act' was passed. In 1874, 'Married Women's Property Act' was passed. In 1929, the 'Hindu Law of Inheritance (Amendment) Act' was passed. But in actual practice, women could not enjoy these rights.

The British administrators also realised the sufferings of
Hindu widows, due to their absence of property right. To improve their legal position the 'Hindu Women's Rights to Property Act' was passed in 1937. This Act gave the widow a right to enjoy the property of her deceased husband during her lifetime. Thus, the sufferings of Hindu widow was somewhat reduced and she need not depend upon her husband's family for her livelihood. Even though, this Act gave her the right of enjoyment over the property of her deceased husband it did not give her the full right over the property; She was freed from the burden of her day to day living but not as the rightful owner of the property.

The Contribution of Gandhiji and Congress for the Upliftment of Women

The Congress and Gandhiji worked hard and achieved memorable success for the upliftment of women. "Woman", Gandhiji declared, "is the companion of man, gifted with equal mental capacities. She has the right to participate in every minute detail in the activities of man, and she has an equal right to freedom and liberty with him".44 When the Hindu Pandits quoted Sastras and assigned subordinate place to women and sanctioned evils, Gandhiji bluntly answered, "It is irreligion not religion, to give religious sanction to a brutal custom".45

Gandhiji had a special contribution to make for feminist

45 Young India, 26th April, 1926.
regeneration. The message of emancipation of women was carried
to every village by the Congress. "Woman is the incarnation of Ahimsa" said Gandhi and in 1930 he declared, almost prophetically "If non-violence is the Law of our being, the future is with woman." At the call of Nation, the Indian women plunged into 'Civil Disobedient Movement' with such emerge and enthusiasm that it took not only the British Government but their own menfolk by surprise. They came out of their cages and courageously entered in the National struggle wearing saffron khadi saris. Thus thousands of them faced persecution beatings, assaults, lathis and jails with an indomitable courage, which often put to shame their menfolk.

Thus, their participation in the National Movement very much moved the heart of Gandhi and other National leaders and they adopted a resolution in the Karachi Congress that in future Swaraj Government, no disability should be made in the Constitution on the basis of sex in regard to public employment, office of power or honour and in exercise of any trade or of Nation. It was

46 Herij, 24th February, 1940.
47 Young India, 10th April, 1930.
48 Jawaharlal Nehru, The Discovery of India, New Delhi, 1981, p.27.
50 Resolution, June 27, 1930, The Indian National Congress 1930-'34, p.33.
also accepted that the discrimination against the sex in the matter of franchise should go.

The Congress Election Manifesto of 1936 looked forward, to their sharing in an equal measure with men of India, the privileges and obligations of citizen of a free India. When the Congress accepted the office in 1937, it redeemed its pledge by appointing women Ministers, Parliamentary Secretaries and Deputy Speakers of Provincial Legislatures. Then came 'Individual Satyagraha' in 1940, and 'Quit India Movement' in 1942 and in both Movements women played a glorious part. Kasturba Ganchi died in prison on 21st February, 1944, and 'Kasturba Gandhi Memorial Trust' was started to carry forward the work of the upliftment of women. This Trust worked more for the welfare of village women and children.

Thus, the Gandhian Movement became the vanguard of feminist renaissance in India. Under the Congress and Ganchiji's leadership the Conservative Indian Society was convinced and it accepted the equality of women with men and their rights in society and politics. The Congress made Sarojini Naidu as the President of Indian National Congress in 1925. In 1937, Vijeyalakshmi Pandit was appointed as a minister and in 1947 Sarojini Naidu as Governor.

51 The Indian Annual Register, Vol. II, 1936, p.190.
It took more than half a century in the Western countries to achieve their equality, but in India it was achieved within a short period. It has been accepted that, "No one has done more to restore woman to her rightful position in society than Gandhiji". 53

Apart from the Congress and Gandhiji, the Christian Missionaries, Brahmo Samaj, Arya Samaj, Ramakrishna Mission, etc., had already raised their banner of revolt against the evils like child marriage, purdah, dowry and Devadasi System, and advocated widow remarriage, female education and even divorce. The educated Indian women had established Women's Indian Association in 1917. They demanded for equality of women in social, economic and political rights.

The Colonial Government did not have courage to interfere in the socio-religious customs of Indians, whereas the Indian Ministers during dyarchy had enacted certain social legislations. This was followed by the Congress rule. 54 But the Britishers occasionally had tried their best to improve the condition of women in relation to property. The 'Married Women's Property Act, 1874 (Act III of 1874)' was one of the earliest Laws which widened the scope of Stridhana. Under this Act, the separate property


54 Sherna Sriam, A Constitutional History of India, New Delhi, 1954, pp.194-95.
of women such as wages and earnings in any employment; occupation of trade carried on by law; money acquired through literary, artistic and scientific skill; all savings from and investment of such wages; and policy of Insurance effected on her own behalf, were owned by her. 55 This Act provided the right to own property and to acquire property by women.

The next legislation was introduced by the Central Government in the direction of extending women's property right was the 'Hindu Law of Inheritance (Removal of Disabilities) Act, 1928'. 56 This Act was extended to the whole of India, except Jammu and Kashmir and Princely States (Part B States). This was an Act to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts. According to this Act, no Hindu Law or custom should prevent a person or exclude a person from inheritance or from any right or share in joint family property unless he had been from birth a lunatic or idiot or mental defect. The Act was amended in 1929 without repealing any clause.

This Act recognized a son's daughter, daughter's daughter, sister and sister's son would, in order so specified, be entitled to rank in the order of succession. Next after a father's father

55 Neera Desai, Women in Modern India, Bombay, 1977, p.75.

and before a father’s brother, provided that a sister’s son would not include a son adopted after the sister’s death. Nothing in this Act would affect any special family or local customs having the force of Law.  

By twentieth century the impact of Western civilization and culture and the notion of equality between men and women which is the key stoke of civilization had gone a momentum to the Women’s Movement in India. The question of equality of women was freely discussed in press and platform. On the imitation of west, the new ideology of 'Modern Women' was born. Thus, the awakening of women also caused for the passing of the 'Hindu Women's Property Right Act, 1937'.

**Hindu Women’s Property Right Act, 1937**

D.V. Deshmukh was the author of the 'Hindu Women's Property Right Bill' who introduced the Bill in the Central Legislative Assembly on 4th February, 1937. While introducing the Bill he said, sub-service of women to men was purely out of ignorance, prejudice, superstition, lust and self-interest on the part of men. Everything was covered under the cloak of religion which was foreign to the principles of Hindu Law.  


58 Kulwant Gill, Hindu Women's Right to Property in India, New Delhi, 1986, p.104.
the other causes, the Hindu women themselves championed their cause for the right of property by organizing meetings and agitations. Their voice reached the legislators who supported the enactment of the Hindu Women's Property Right Act, 1937. Even before this enactment, the matter had been examined by the two Committees, one set up by the Maharaja of Baroda and the other by the Maharaja of Mysore. Both States had enacted Laws for their own territories to emancipate Hindu women from the unjust traditional restrictions and civil disabilities.

These two states stood as an example to the Central Legislators of India. Therefore on 26th September, 1935 a Bill for ameliorating women's right to property was introduced in the Legislative Assembly. The object of the Bill was to obtain the right of women in their inheritance or partition of property. Thus, equality of men and women was tried in holding the property. Clause 3 of the Bill clearly provided that no person should be excluded from inheritance and partition on the basis of sex; Clause 4 of the Bill specifically provided that it would devolve upon the wife, mother, daughter and wife of a predeceased son along with the sons and would have equal share in the property; and Clause 5 equated the status of women to that of men and made them absolute owners of the property and not limited owners.

On October 15, 1936 this Bill was moved in the Central Legislative Assembly at Simla by G.V. Deshmukh and was referred to a Select Committee for consideration. The Committee, after some modifications, submitted its report on January 25, 1937. In the modified Bill, the absolute right of the widow was not found and only the limited interest known as 'Hindu Women's Estate' was allowed to the widow. The right of the daughter was disallowed. Thus, the widow's right was restricted and the daughter had no right to property. Hence, the aim of the Bill was mutilated.

From Select Committee, the Bill was passed to Assembly for further discussion. Many members brought motions for making amendment by the Law Member Sir.Nripendra Nath Sarcar opposed those amendments. Many members vehemently criticised not only the Bill but also its author, who was an eminent surgeon and not a lawyer.

Deshmukh condemned the selfish and narrow outlook of those members who objected this Bill. 60 Inspite of vehement opposition the Bill was enacted as the 'Hindu Women's Rights to Property Act, 1937'.

Provisions of the Act

The Act provided that where a man died leaving male issue,
his widow would inherit along with the male issue, his separate property, if he was governed by the Mitakshara, or all his property along with the male issue, if he was governed by the Dayabhaga Law. In fact, the Act had made provision in respect of three widows, intestates widow, his son's widow and his son's son's widow and made them heirs along with the son, grandson and great-grandson and even in default of them.

The widow and her son were given equal share and in the absence of a son the entire property should go to the widow. But in the case of joint family property, the widow would get the particular fraction of her share.

Though, the framers of the Act wanted to equate the status of widow with that of the man by giving her the absolute interest, their efforts failed and the widow was given only limited interest. The limited interest was known as Hindu Women's Estate. However, she was given the same right of claiming her partition as a male owner had. This was the only remarkable achievement of this Act. But, this Act required amendment. On 3rd March, 1938 a Bill to amend the Act was introduced in the Legislative Assembly and the amendment was given retrospective effect 61 from 14th April, 1937.

Even after the amendments, the Act continued to be a source

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61 The Gazette of India, 5th March, 1938, Part IV, p.33.
of trouble to litigate, lawyers and judges. Though, the Act was short and simple it had resulted in conflict of interpretations. But, the Hindu Women's Rights to Property Act, 1937 as amended in 1938, made the Hindu widow a right person to get her share in the property of Hindu joint family. Under the Hindu Law a widow had only the right of maintenance from the joint family property at the time of partition. According to this amended Act as a first time, that the widow's right to claim partition at par with a male owner was recognised. Thus this Act had made the widow a coparcener and only a coparcener had a right to claim partition.

Thus, the object of this Act clearly shows that despite of conservative opinion of a large section of the Hindu populace, Deshmukh brought his Bill for acceptance with a view to ameliorate the social status of Hindu women and to grant to them substantive rights in the property of their husbands and of the joint family of which they happened to be members.

Thus, by this Act the right of a widow to maintenance during her widowhood had been changed into a right to demand a share in the property.

The Act conferred a right to inherit property on the widow of a pre-deceased son and a widow of a pre-deceased son's son. Here it is to be noted, the widow of a pre-deceased son and a
widow of a pre-deceased grandson had also become heirs. But the daughter of a pre-deceased had not been given the right to inherit the property of her deceased father.

The object of the Act was remedial and benevolent to the widows. Therefore, the widow could succeed to her husband's interest without being a coparcener. After her death the coparceners would become sole and absolute owners. Thus, the rights of women were safeguarded.

This Act gave a widow the right to claim partition and separate possession of her husband's share. Not only that, the widow of a pre-deceased grandson could claim their partition and position, the daughter-in-law as an heir claims to her father-in-law's property. Thus, the introduction of daughter-in-law and grand daughter-in-law as an heir was the revolutionary step taken by this Act.

As per the old Hindu Law, if a widow adopted a son, the property inherited by her from her husband should go to the adopted son, but the women's right to property, 1937, gave her the right to one-half share of the property.

By this Act, the widow got the right to inherit non-agricultural property of her deceased husband. And so, she need not depend upon the agricultural property alone for her maintenance. But however, she had the right to have her right of maintenance
from agricultural property also.

In this Act two words were very important i.e., Hindu and widow. As long as she remained as a Hindu and widow her rights were held good. But in the case of her change of religion or remarry, her right would be forfeited. The estate of the deceased husband would go to his other heirs.

This Act was passed mainly due to the effects of Deshmukh, but the legislators appeared to have had a softer heart for widows than for women in general. As a result that the Act contended itself dealing with widows and refrained from improving the legal position of the women as a class. Hence, the Act could more appropriately be called "Hindu Widow's Right to Property Act" than "The Hindu Women's Rights to Property Act, 1937".

The effect of the Act was to enlarge the maintenance right of some of the widows to a right demanded a share in the property from which maintenance was claimable and to introduce some more widows as heirs in the line of succession. A widow of a coparcener was entitled to demand a partition and a share and also the right to maintenance.

But the Act of 1937 was silent regarding the devolution of the interest of the widow after her death. The separate property of her husband inherited by her, would develop upon her husband's heirs. In the case of joint family property, if she died without
any partition, her interest would pass to the coparceners. If she
got partition and died, her share would pass to her husband's
heirs.

Daughters could not inherit until all widows were dead.
Between daughters, the inheritance would go first to the unmarried
daughters; secondly to the married daughters and thirdly to those
daughters who were married and enriched.

Though, the customs, usages and traditions of Hindu Society
put the womenfolk into untold miseries and even their fundamental
right such as owning property was abetted, this Act had attempted
to improve the rights of women.

The Madras Hindu Women's Rights to Property (Extension to Agri-
cultural Land) Bill, 1947 (L.A. Bill No.4 of 1947)

By the Hindu Women's Right to Property Act of 1937 the
widow got the right to inherit non-agricultural property of her
deceased husband and she need not depend the agricultural property
alone for her maintenance. But she had the right of maintenance
from her agricultural property also. Her right to property of
her demised husband was confirmed and her maintenance problem
somewhat solved by this Act. But in order to give her the right
of agricultural property, this right was extended to agricultural
land by the L.A. Bill of 1947. When the Bill was passed in 1937,
unfortunately the Madras Province was not prepared to amend the
Bill. Ten years after the Bill was passed, the Madras Government had taken it for consideration. This Bill was introduced when C.P. Ramaswamy Reddiar was Premier of Madras Presidency.

Participating in the discussion A. Vaidyanatha Ayyar and Kaleswere Rao strongly supported the Bill for its implementation with retrospective effect. Begum Sultan Mir Amiruddin and other lady members unanimously supported the Bill. Therefore the Bill was sent to Select Committee. After the review of Select Committee, again the Assembly pursued the debates on the suggested amendments. The Select Committee emphatically insisted that this Bill should be given retrospective effect. Therefore, V. Lakshmi Ammal, K. Varadachari, H.S. Hussein Sahib, Mrs. Jebamony Masilamony and others also supported the Bill was to be passed and carried out with retrospective effect.62

K. Varadachari said, that even in the days when the Central Legislature passed this Bill, there were certain enactments such as Hindu Law of Inheritance and Succession that gave women a right to a share in the family property.

Even if the Bill was passed in the House it would become a subject of litigation of lawyers and judges. The main point of this Bill was agriculture property. It included inams also. This inams might be the question of partition between male and

female if so it might not be asked again in favour of women. Therefore by passing this Bill it might land in confusion and hardship. These should be taken into consideration before going for passing this as an Act. 63

H.S. Hussain Sahib pointed out that so far the Law had given the right of maintenance to women. But in so many cases the maintenance was not regularly paid to the women and therefore many women were compelled to go to court. In execution proceedings to avoid this hardship to the women the right to agriculture land to women was the best method of safeguarding them. 64 P. Subbarayan was also for giving retrospective effect.

T.R. Venkatarama Sastri was against 'Hindu Women's Rights to Property Act' because according to this Act the widowed daughter-in-law was given preference to the daughter and the mother. But Begum wanted justice when the daughter-in-law became a widow, rendered destitute and helpless. She should be given priority though the daughter and the mother were also important. But the daughter-in-law needed better treatment and better right. Pappu Somasundram also supported Begum. 65

At the end of the discussion the Bill was put to motion

63 Ibid., pp.752-753.
64 Ibid., pp.753-754.
65 Ibid., p.757.
and carried out. There were 22 votes in favour of the Bill and eighty three against it. 66 Again the House began to discuss over the Bill. P. Subbarayan, Abdul Hameed Khan Sahib, P. Venkateswarlu, K. Brahmanandam Reddi, V. Lakshmi Ammal and others took part in the discussion. 67

The Bill was accepted by majority of the members and sent to the Select Committee. The Select Committee, after careful analysis and study, incorporated all the amendments and prepared a detailed report. The detailed report was submitted to the House for further discussion. Thus almost all the formalities were over on the Bill. Hence it was generally expected that the negotiation would be completed in the second stage of discussion.

But when the discussion over the Select Committee Report was going on, except the lady members, majority of the male members were reluctant to accept the Select Committee Report. The emphasis on a point was that the Bill should not be given retrospective effect. There would be decreased litigation and review petitions in the courts, on these grounds the Bill was not accepted as it was and failed in the first stage to be passed into law on 28th November, 1947.

In its last stage the minister explained the stage in which

Ibid., p.765.
Ibid., pp.768-769.
Bill was hanging. The discussion stage was over; and it was submitted to the Select Committee; The Select Committee reviewed the Bill on the basis of discussion of the House and prepared a report over it. After this the morel duty of the House was to carry out the Bill as it was only after this explanation the House again considered the Bill favourably and passed it into Law.

When it was sent to Legislative Council for approval, the Legislative Council taken the Bill into consideration and began to discuss it on 5th December, 1947.

The Madras Hindu Women's Right to Property (Extension to Agricultural Land) Act, 1947 (Madras Act No.XXVI of 1947)

The Central Act XVIII of 1937 for extending the operation of the Hindu Women's Rights to Property and the Central Act XI of 1938 and Hindu Women's Rights to Property (Amendment) Act, 1938 were extended to Madras Province also. The Amendment Act of 1938 extended the right of the Hindu widow to agricultural land in lieu of her maintenance. These Acts included agricultural land in which the Hindu widow had got her legal rights.

F. Subbarayan moved this Bill in the Madras Legislative Council. ⁶⁸ He said, that the Bill ought to be taken into consideration at once, because it was passed long back in the Central Legislature and was declared to be 'ultravires' as far as agricultural

land was concerned. At that time the Advisors were in power. When it was put to them, they felt that it ought to be passed by the "Popular Legislature" than be undertaken by the Governor's Legislation. 69

Though the Bill was moved by Deshmukh and passed as an Act in 1937 by the Central Assembly and published in 1946 no retrospective effect was given. P. Subbarayan said that, if the retrospective effect was prevailed in the Law, it would have been of great use, since it was not there, many widows suffered during 1937 to 1947. 70

The Bill was already passed by Madras Legislative Assembly and its Council for immediate action. E. Bhima Rao who participated in the discussion said, under the presumption that the Law held good that the retrospective effect was given from the date of its enforcement i.e., from 18th April, 1937. Therefore, Hindu women who were unfortunately widowed after 18th April, 1937 were given their shares. During 1942-'43 eight Provinces made amendments making the Act applicable to agricultural land, making an additional provision in every one of those eight amendment Acts. But Madras Province, so far not attempted any amendment. Hence Bhima Rao insisted amendment. During the Advisor's Government, he attempted for amendment but it turned deaf to his application. Bhima Rao

69 Ibid.
70 Ibid.
explained the sufferings of women who were driven out of their lands. In some places the lands were mortgaged and the widows were deprived of their shares.

In the Agricultural Relief Act of 1937, the rights of widows was not extended to agricultural land. On this basis the Federal Court also delivered its judgement against the interest of widows. On this basis lands were sold and the widows were duped. Hence, he said, when eight Provinces passed amendments after the Federal Court Judgement, the Madras Province ought to amend the Act with retrospective effect. 71

M. Narayana Menon was not in support of the Bill and said that it should not be given retrospective effect. 72

Mrs. Hensman, who supported the Bill said that, in future the widows would be safe with their shares on agricultural lands and the dowry system would be affected by this guarantee. 73

Mrs. M.N. Clubwala stated that Bill was for Hindu widows benefit and so it should be supported. 74

At the end of the discussion the mover of the Bill P. Subbarayan had refused the points of Narayana Menon who disagreed

71 Ibid., pp.108-110.
72 Ibid., pp.110-111.
73 Ibid., p.112.
74 Ibid.
for giving retrospective effect to the Bill. He appreciated the support given by the women members. Hence, he requested the House to pass the Bill as it emerged from the Legislative Assembly. Then the Bill was put, carried and passed into Law.\textsuperscript{75}

Thus the House cut the gordian knot and given the right of property over agriculture land to the Hindu widow. Apart from getting her share in the family property of her husband and maintenance, she got a share in the agricultural property too. This had improved the condition of Hindu women to a great extent.

In the pre-Independence era the British Government enacted the Hindu Law of Inheritance Act of 1929 and the Hindu Women’s Rights to Property Act of 1937. The later one gave the widow her right to the property of her husband. The full-fledged right of woman was not granted. The Gandhian Movement and Western education shaped the ideology of “Modern Women”, so, the question of equality between men and women was accepted.

In 1937, the right of a widow for maintenance during her widowhood had been changed into right to demand a share in the property. This right was extended to three generation. This was for her benevolent and safeguard. Thus the right of Hindu widow had the separate possession. This Act gave the inherited right over the property but it was not extended to agricultural

\textsuperscript{75} Ibid., p.113; Vide Appendix-II.
land. But by the Act of 1947, her right was extended to agricultural property also. The Act gave the right with retroactive effect. Hence, the deprived women were freed from court cases.

**DOWRY PROBLEM IN TAMILNADU**

The emergence of dowry system as a determining factor for the marriage and peaceful life of married women has created intolerable problems to people irrespective of castes, creed and religion. The chief factors for the growth of dowry system and dowry problem are education and the emergence of civil servants and professional in various fields during the Colonial period.

The word "Dowry" means money or property the wife brings to her husband; the portion given with the wife; the present or gift given by a man to or for his bride.\(^7\) According to the encyclopedia of social work in India "Dowry" refers to the movable and immovable property that a bride brings with her at the time of marriage to her husband and/or his parents/guardians often on their explicit and occasionally on their implicit demands.\(^7\)

Dowry is a property given to the bride by her kin, to take with her husband's family. It is a gift from her family to members of her husband's family; Dowry also called Stridhana.

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belongs to women but also controlled jointly by her husband, who does not have the right to dispose it off. At the time of the petition of the joint household, the women takes with her to her new unclear household each and every one of the household goods brought with her as dowry.78

Dowry, therefore is an amount or property or asset of a family given at the time of marriage, before or after beyond the bride's financial reach. Dowry is called Varadakshina and it has been in practice from ancient time. But it was not practised as it is practised to-day. Over the years it has undergone some changes and concepts in its function. To-day the practice witnesses the culmination of women subordination on their exploitation and discrimination and harassment at the hands of men.

The institution of marriage has been treated as sacred. It is a happy union of men and women in the name of God. According to Manu, women are to be honoured and adorned by fathers, brothers, husbands and also by brothers-in-law who desire much prosperity.79 But such honourable were treated like dependents to and subordinate of men throughout their lives. According to Manu, a woman in her childhood is to be under the will of her

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father, in her youth of her husband, after the death of her husband, of her sons, and she should not enjoy her own will. This is existing even to-day at all levels. The women were treated as commodities to be sold and as liabilities to be disposed off at any cost.

During Sangam Age, in consideration of women's willingness to marry a man, the latter had to pay a certain amount of money demanded by her parents. This is called "Bride Price" (Parigam). A lover, resident of the Neydal tract (sea and adjacent lands) says to himself. "My love is the most beautiful one; she is too valuable a gift that I can obtain even by exchanging boat loads of the best wealth if I have". But on the other hand the Ayars (Shepherds) did not value the bride price very much. They valued the high valour of a young man who could plunge in between the two sharp horns of a bull and bring it under control.

During Vijayanagar rule in Tamilnadu the bride price (Stridhana) was restricted to a certain level. During the time of Devaraja II, the Brehmins of various sub-communities made an agreement among themselves as a piece of social legislation among themselves and so the State did not interfere in it. Accordingly, the marriage should be done only as Kanyadane and no one should

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give gold or no one should receive gold on marriage contract and if so, they were liable to punishment by the king and were to be excluded from the community of Brahmans. 82

Stridhana Changed as Varadakshina

It was only in Medieval period, Stridhana practice had degenerated into Varadakshina or Dowry. The Purdah system was introduced; separate place was reserved for women even in a residing house. To prevent grown up girls from being abducted by Muslims, child-marriage became popular. The difficulty of finding a match in the same caste for a girl at the proper age also encouraged the practice of Dowry. The Hindus afraid of being converted to Islam, had to give dowry to men who came forward to marry girls earlier. 83

Due to the Muslim contact, the Hindu culture degenerated and the marriage system was changed from Bride Price to Bridegroom Price. In South India 'Dowry' was very much practised by the Brahmans first and then it was slowly followed by various sections of people in Tamilnadu. The parents who had offered dowry beyond their financial reach ventilated their grievances to the King Devaraya II (1422-1449). In the Edict of 1426 A.D., he warned the people not to go for 'Dowry' and if so, they will be considered as traitors

82 Indian Express, 11th September, 1983.
and Unbrahmins. This Edict is found engraved in Tamil in the Maramasakaya Temple at Virinchipuram near Vellore.

The Edict says: The people in the service of king, the highly learned, the elite-Brahmin community and all others have met and decided that marriage should be performed/celebrated as kanyadhan (a mode of marriage marked by absence of dowry). Instead if they (people) resort to it through exchanging gold or receiving it and indulge in Varadakshina Viveka (Dowry Marriage), they will be considered traitors and Unbrahmin.

During the Colonial period Dowry System began to reach its zenith. Because, the Western educated Brahmin youths used to get Government appointments and improved in their standards of life, social status and economic position, naturally, they acquired high price in their marriage-market. Even lower caste groups, who attained super-level, imitated the customs amongst English educated Brahmins and later spread amongst other communities also. To-day irrespective of castes all the elite Hindus, Christians and Muslims have their own market value of Dowry.

It is evident that it was also due to English education and British cultural influence on the Indian elite, the custom of Dowry became an inheritable danger which is swallowing the lives of hundreds of married women every day. Thousands of parents were

84 Indian Express, 11th September, 1983.
drowned into distress because of their daughters lives. Now and then, there were hue and cry against this evil customs and 'Reform Movements' were also agitating but it is escaping from the teeth of hardant legislation.

Until the close of the nineteenth century the Government of Madras did not take any action against the dowry system or child marriage or unequal marriages because the age of consent problem was with the Central Legislative. Hence, the Madras Government forwarded the petitions, and memorials to the Government of India.85

Questions were raised against bridegroom price system in all the Social Reform Conferences. Renuade, the great social reformer raised the dowry problem in the "All indie Social Reform Conference" held at Nagpur in 1891. He passed a resolution that both bride price and bridegroom price systems must be put an end. The conference insisted that the Government should take legislative measures to put an end to the practice of dowry system.86

The press also played an important role and indicated the happenings of dowry deaths and dowry tortures.87 It gave evidences of ill-associated marriages and the sale of young girls in the name of custom.

85 G.O.Me.Nos.495-496, Judicial Department, 14th March, 1892.
86 Ve'neswara Chintemani, Indian Social Reform, Madras, 1901, pp.170-171.
87 Viratanta Patrika, Mysore, 24th December, 1890.
of marriages and asked the Government to take legislative measures against ill-associated marriages. 88

Thus, the pressure of the press and the public had little response from the side of the native rulers. The Maharajas of Vijayanagar and Mysore took legislative measures against old men marrying young girls. But unfortunately, the dawn of twentieth century turned the tide of affairs.

The outbreak of World War I and the Swadesi Movement drew the attention of the Government. Hence, the British administration in Madras and the Centre could not find time to concentrate much on the social problems. Moreover, the British Government as a policy, hesitated to involve into the socio-religious affairs. Thirdly, the native educated people who entered into civil services changed their position and status in society and state. Therefore, the parents of the unmarried girls were ready to purchase them at any cost as their sons-in-law. Their voluntary payment of bridegroom price changed in course of time as a compulsory payment.

The introduction of professional courses and technical education resulted in the increase of bridegroom price in the marriage market. Thus the change of economic condition had its impact on dowry system.

The newly developed capital towns, industrial areas and district headquarters turned to be as the centres of moral and material corruptions. There arose a lot of brothels where young girls became the victims of sex trade. In the poor and middle class, few girls were sold to these brothels due to dowry problem.

On the point of bride price the girls were sold for higher rates to old men or unsuited men in the name of marriage. Inability to pay the dowry, forced many poor and middle class parents to sell their daughters for getting money. Some of the minor girls were also sold to Devadasis. Thus, the sale of minor girls due to dowry problem, and poverty became a vital problem in the society and so the press and the public began to fight to eradicate this social evil.

Dadabai Nouroji, an enlightened social reformer and freedom fighter introduced a Bill to make further provision for the protection of women and girls for other purposes, popularly called the Girls Protection Bill in the Central Legislative Council on 18th September, 1912. According to the provisions of the Bill, "the dedication of girls to temples or by symbolic marriage, procuration, and defilement, possession, adoption and guardianship of girls by persons of immoral or undesirable character, mock-marriage, giving of girls for concubinage, transfer of wife and so on, would be considered as punishable crimes". 89

89 G.O.Ms.No.276, Judicial Department, 10th February, 1913.
This Bill was sent to the Provincial Governments for collecting opinions from the Governor-in-Council, Legal opinions of the Judiciary and of the society and so on. The Governor-in-Council gave a favourable reply that the girls should not be disposed by getting money as bride price in the name of marriage or immoral purposes such as concubinage or prostitution. In Madras, Indian ladies held a meeting at Brahma Samaj on 12th December, 1912 and promised the co-operation of Indian ladies for the enactment of the Bill. Swadesamitran indicated that the Bill should be passed immediately and it would save money among girls before 16 years from the clutches of the Devadasis and other touts who bought and brought them in the name of adoption or marriage to indulge them into prostitution. But at the end, the Bill was not passed because the Government felt that some sections of the Indian Penal Code were enough to punish the sale or purchase of girls.

For avoiding dowry problem, the Rajputs killed their female children at the time of their birth itself. In order to suppress female infanticide the British administration directed, the Rajputs to create Dowry Funds for meeting the dowry payments. In 1837 the Colonial Government abolished female infanticide. But, the Queens

90 Ibid.


92 Swadesamitran, Madras, 21st September, 1912.
Proclamation of 1858 prevented the Government to interfere in social reform.

In 1886, the Government of India made an enquiry on infant marriage and enforced widowhood. The infant marriages, dowry system and dowry problems were analysed. As an outcome of these enquiries the Act of Consent 1891 was enacted, by which the age of consent for sexual relations was raised from 10 to 12 by amending Section 375 of the Indian Penal Code. This social legislations of the Central Government encouraged the Provincial Governments. Hence, the Madras Government forwarded the memorials sent by the Brahmins to the Government of India.

As a first time in the Census of India, 1911 the dowry system was authentically defined. It said that modern dowry system originated from the Brahmins and extended to other communities. The press condemned the dowry system which led to the growth of moral and material corruptions. In order to meet the marriage expenses and dowry, parents sent their daughters to prostitution. Even married girls were transported to prostitution


4 G.O.Ms.Nos.495-496, Judicial Department, 14th March, 1892.

for earning money to pay dowry debt. 96

Women's Indian Association awakened the womenfolks from their long slumber of illiteracy, ignorance and idiotic restrictions inflicted on them by men. Its official publication Stridharma became the Crusader of social evils. Periodically it published dowry problems, and the cases of dowry torture. The Madras Provincial Social Conference held at Conjeevaram on 11th May, 1918, under the Chairmanship of A. Narayana Pantulu, condemned the purchasing of bridegrooms by giving dowry. Certain Provincial Governments like Elhar and Sind introduced Acts to prevent the practice of dowry system. On 22nd May, 1946 M.A. Narayanaswami Iyengar and others from Mannargudi sent a memorial to the Government of Madras to enact an Act prohibiting dowry demand. A Brahmin Conference held at Salem under the Presidentship of C.P. Ramaswamy Aiyar condemned the dowry system. 97 The press drew the attention of the Government to eradicate the dowry system and save the parents from the grip of dowry devil. 98 Mahatma Gandhi said, "An educated youth who makes dowry as a condition for marriage discredits his education and dishonours womanhood'.

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96 Native Newspaper Report, Government of Madras, Madras, 1912, p.106; The Cases of Dowry tortures and Dowry deaths were also reported in the Press (Ibid., p.112).


During the Justice Party rule, education was extended to non-Brahmin Communities. The Communal G.O. provided them ample opportunities to get Government jobs. Therefore, the dowry system was further extended to non-Brahmin Communities. This, encouraged male education and discouraged female education because parents saved the money for dowry.

Dowry system received a new momentum since Independence because the European administrators, bureaucracy and a lot of professionals were replaced by the native people whose power and prestige raised in the pinnacle of its glory. Therefore, the bridegrooms' price was raised to its zenith, particularly the foreign return bridegrooms price amounted in lakhs. Many youth by making marriage proposals used to go abroad for higher education at the expense of his fathers-in-law which would be considered as the dowry amount. 99

The Madras Marriages Bill

Thus, by the pressure of the press, the public and the Women's Associations the Government yielded to introduce a Bill against the dowry system. The Bill was called The Madras Marriages Bill and it was introduced by the Minister of Law on 21st October, 1946.

Provisions of the Bill 1946

The Bill stated that, "in the case of marriages, or ceremonies of betrothal and consummation, no person, whether he may be the bridegroom or his parent, guardian, relative or friend should, as considered for the marriage, stipulate for or accept any present of money by way of Varadakshina or otherwise or any gift of property, whether movable or not, would be punishable".

However, the Bill exempted the customary presents to the bridegrooms of cloths, vessels and jewels provided it should not exceed one thousand and five hundred rupees. The violations of the provisions would be punishable with fine which should not exceed twice the amount of the payment or the value of the gift or twice the aggregate of the amount of the payment and the value of the gift, as the case might be, stipulated for or accepted by him. But the Bill was not further moved for enactment. It was taken not as an important social problem but a problem of a particular community.

Provisions of the Madras Dowry Prohibition Bill

Again 1949, T. Viswanathan, an M.L.A. gave notice for the introduction of the Madras Dowry Prohibition Bill. Some provisions of the Bill were very stringent. The bridegroom should

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100 G.C.Ms.No.3841, Home Department, 4th December, 1946.
be liable to imprisonment of either description for a period not exceeding six months or for a fine not exceeding rupees one thousand. Parents or guardian of the bridegroom or persons on their behalf should also be liable to imprisonment for a period not exceeding two years with or without fine, not exceeding the amount of the dowry proved to have been received. If the offender was a civil servant, he was entitled to lose his post. The most important provision of the Bill was, that if there was no reasonable ground for the complaint, the accused might be paid a sum of amount not exceeding rupees two thousand recovered from the complaint, as under the provisions of the Code of Criminal Procedure. 101

The Bill was taken for discussion in the Council of Minister on 7th August, 1949 and T.S.S. Rajen, the Minister for Health and Hindu Religious Endowments presided over the Cabinet. The other ministers present in the meeting were M. Bhakthavatsalam, B. Gopal Reddi, K. Madhava Menon, H. Sitarama Reddi, A.B. Shetty, K. Chandra Mouli, B. Parameswaran, N. Senjiva Reddi, C. Perumalsamy Reddiar, and J.L.P. Roche Victoria. In the meeting, the Bill was opposed on the ground that the dowry system was a problem among Brahmins only and it was not a public demand for such legislation. So, the Government did not consider it as a serious evil which affected the whole society. At the end of

discussion the Bill was left to be lapsed and was not passed as an Act.102

But the Cabinet decision was not true to the fact. The dowry system became every caste problem after the Independence because a lot of native people occupied the chairs of the Europeans and raised in their position and status. Their children were educated in the English Medium Schools and some of them in foreign countries. The Technical Education was developed and the professional institutions were increased. Hence, not only the persons employed in state services but also in professional and technical jobs began to demand dowry and rather, the fathers of the brides tried their best to purchase white collar bridegrooms at any cost. Thus the practice of dowry system spread among other communities and it is surprising to note that the Cabinet decided otherwise.

The Madras Dowry Prohibition Bill, 1951

Due to the pressures given by the various Associations of Women the Madras Dowry Prohibition Bill was introduced in the Madras Legislative Assembly on 30th August, 1951 by Kalesware Rao.103

102 Ibid.
The Bill defines dowry thus: "Dowry means any property movable or immovable given or agreed to be given to the man or woman who is a party to a marriage or to some person on his or her behalf by the parent or guardian of such woman herself, either at such marriage or before or after such marriage in consideration of such woman being married by such men".

Regarding punishment the Bill states, "whosoever not being below 16 years of age, adopts the offence shall be punishable with imprisonment of either description not exceeding six months and also with fine". Unlike the other Bills the Bill has got the provisions to recover the paid dowry from the parties who received it. It states that, "any person who has given any dowry shall be entitled to recover back such dowry or its value from the person or persons who received it by preventing an original jurisdiction within two years from the date of giving such dowry dates". 104

The most important point to be noted here is that in the Bill the practice of giving Mehr by the Muslim was not included. This Bill was not passed into an Act and lapsed because the Government did not give much importance to pass it. 105

But the public and media did not keep quiet. The Young Men's Brahmins Association, Madurai which was started in 1953

sent memorials to K. Kamaraj, the then Chief Minister of Tamilnadu. Again the Association convened its Conference on 18th December, 1955 and demanded the Government to enact anti-Dowry Act. 106

The Mail, insisted the Government that if there would be more employment for women, they would be economically independent, which would reduce the value of dowry demand. 107

While the public and press were urging the need for legislation, the Government of India prepared to pass a Bill. Hence, on 27th November, 1953, Uma Nehru introduced the Dowry Restraint Bill in the Lok Sabha. Then, the Government of India sent a circular to the State Governments to furnish particulars such as any legislative measures taken by the State Governments related to dowry and so on. For this, the Madras Government gave its opinion that it considered that legislation would not be very effective in stopping or controlling dowry; Legislation if any would worsen the situation. And so the Madras Government was of the view that no attempt should be made to control dowry payment by legislation. 108 More than Law, people concerned should think positively about the abolition of dowry system.


107 The Mail, Madras, 25th April, 1956.

Madras Dowry Prohibition Bill, 1958

People and the press began to criticise the silent attitude of the Government. And so, N.K. Palaniswamy, a Congress Party man and a member of the Madras Legislative Assembly introduced the Madras Dowry Prohibition Bill, 1958 in the Assembly on 4th September, 1958. 109

In this Bill N.K. Palaniswamy clearly defined the meaning of dowry and he excluded Dower or Meharin of Muslim for which the Muslim Law applies. Giving or taking dowry was not excusable even if it was allowed by custom or usage. The offences under the Act would be non-cognizable, bailable and non-compoundable and the penalty was fixed as whoever demanded or took dowry or abetted the giving or taking of dowry would be punishable with imprisonment not exceeding six months and with fine not exceeding one thousand or with both. 110

Since, the Government gave priority and took efforts on education and economic development it did not pay its attention on anti-dowry legislation in Tamilnadu during 1950s. In the Central Legislature Renu Chakraverthy proposed to introduce a


Bill entitled The Restraint of Dowry Bill, 1958. Apart from giving the definition of 'Dowry' and the punishment section of the Bill emphasised, "where a dowry was given before or after the commencement of this Act, such dowry would be deemed to be the property of the women in connection with whose marriage it was given. The dowry should be used for the welfare of the bride.\textsuperscript{111}

The Bill, Restraint of Dowry Bill (Bill No.9 of 1958) was introduced in Rajya Sabha on 5th December, 1958.\textsuperscript{112} In the course of discussion, the House was divided on the definition of the terms dowry and presents and so a joint session of both the Rajya Sabha and Lok Sabha was constituted and it passed the Bill as an Act. This Act was known as the Dowry Prohibition Act, 1961 (Act No.28 of 1961). It was passed as an Act on 9th May, 1961.\textsuperscript{113} This Act became a total failure for the following reasons.

Its provisions were very liberal. For example, Section 10 of the Act excludes presents from the sense of dowry. Accordingly any present given at the time of the marriage in the form of cash, ornaments, clothes or other articles should not be deemed to be dowry unless they are made as consideration to the marriage.

\textsuperscript{111} G.O.Ms.No.3722, Home Department, 31st December, 1959.

\textsuperscript{112} Ibid.

\textsuperscript{113} Achar,M.P., Dowry Prohibition Act, Allahabad, 1962, p.3.
To claim the benefit of this section the present must be given at the time of marriage, and not before or after the marriage. The gift or present should be given only to the either parents of the marriage and none else. If the present was given to someone not to the party of the marriage, it would amount to dowry. Thus, this provision would enable the guilty party to escape from the clutches of the provision of the Act as mostly dowry is given at the time of the marriage and not before or after.

Therefore, it would be very difficult to prove that the present given or taken was dowry. The Act itself fixed that the value of presents should not exceed rupees two hundred and fifty. It was impossible to estimate the quantity and quality of payment as presents at the time of marriage. Again, whenever something was given or taken at the time of the marriage, the prosecution had to prove that the same was given or taken as consideration for the marriage.

The Act provided very simple punishment for giving or taking dowry. The offenders were to be punishable with imprisonment which might extend to six months or with fine which might extend to five thousand rupees or with both.

The implementation of this Act was entrusted with the State Governments, which did not give much emphasis in this regard. The Madras Government authorised the Registration Departmental
Officers who would be competent to sanction prosecution for offences under the provision of the Act within their jurisdiction. The District Registrars as Marriage Officers under the Special Marriage Act, had the power to conduct enquiries into objections and give decisions thereon to award costs by way of compensation up to a limit of rupees one thousand.

The Madras Government organised a Conference of Registrars of all ranks at Cootacamund on 20th and 21st May, 1965 and decided in this conference that the provisions of the Act should be popularised by means of similar conferences and press. But it resulted in nothing. Though the Act came into force on 1st July, 1961, the working of the Act was not visible. No offenders were brought to be booked because the officials of the Registration Department were pre-occupied with other routine works, they could find no time on dealing dowry problems. Naturally, the Act became a dead letter.

The common man was not familiar with the Act and the elite wanted to escape from the teeth of this Act, and the parties concerned hide facts to safeguard their families' prestige. Only


116 Ibid.
when the dowry deaths or tortures occurred they would came out to be known to public. Moreover the brides and bridegrooms parties themselves settled the problem instead of bringing the matter to the court. Hence, dowry problem became almost a domestic problem.

White collar jobs were the root-cause of modern dowry system. In 1964, the Government of India prohibited the Government servants for viging or taking or even abetting the giving and taking dowry. Again similar provision has been enacted in the Indian Civil Service Conduct Rule. Thus the provision of Dowry Prohibition Act of 1961, and its amendments have been incorporated with the Government Servants Conduct Rule to give punishment for dowry demand. So, to certain extent the Government servants were brought under the provision of the Act. Therefore, the grief of father-in-laws were reduced when they go for white collar bridegrooms. However this Act was further amended and brought into force by the D.M.K. Government in 1968 with some added provisions which curbed the atrocities of bridegrooms.