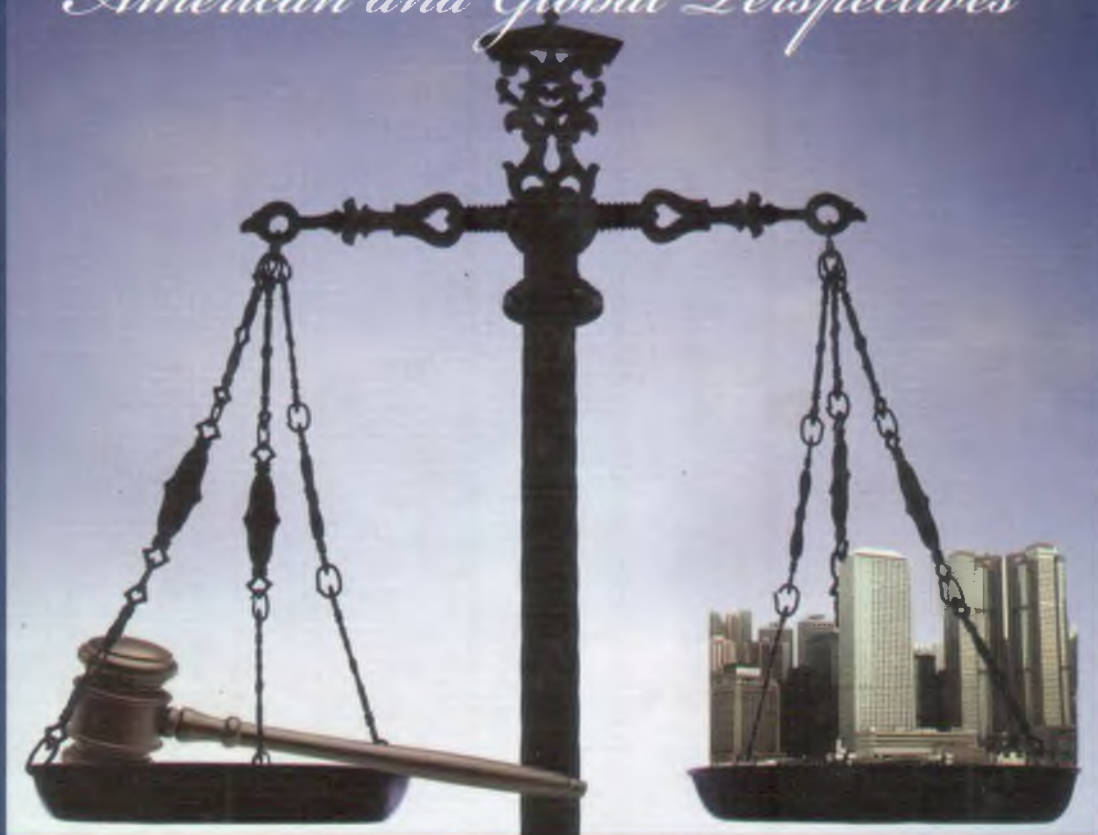


ENCYCLOPEDIA OF LAW & SOCIETY

American and Global Perspectives



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EDITOR

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LAW &
SOCIETY
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A SAGE Reference Publication

 SAGE Publications
Los Angeles • London • New Delhi • Singapore

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formed part of the dowry of English queens. In 1661, the Portuguese Princess Catherine of Braganza brought the island of Bom Bahia (now Mumbai, India) and the port city of Tangier, Morocco, to King Charles II of England as part of her marriage dowry.

Modern Variety among Cultures

In several communities, most notably the Hindu community, payment of a larger dowry can enable a girl to find a better groom. In this paradigm, the groom is reduced to the status of an "object," an individual bought at a price, the dowry. Some poor girls commit suicide at puberty because their parents cannot "purchase" even an ordinary groom for them. Because of the prevalence of dowry, the birth of a daughter is widely greeted with a gloomy silence. The antipathy for daughters is strong enough that some couples have sought out quack doctors willing to prescribe potions to guarantee them a baby boy, and other couples have sought to learn the sex of their fetus as soon as possible, choosing an abortion if it turns out to be female. To curb this activity, the Indian government passed the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act in 1994, which they modified in 2003. Any person, including a doctor, found engaged in determining the gender of an unborn baby faces the possibility of a long jail sentence.

Among Jews, especially during the Middle Ages, a *shadkhan* was a marriage broker or "matchmaker," whose job was to gather and evaluate information on the personal qualities and background of potential spouses to ensure a felicitous and holy union. Their fee, fixed by custom, was often a percentage of the dowry. *Shadkhanim* still exist today, but in greatly reduced numbers.

Among Muslims, where marriage is a contract between the husband and wife, the husband pays the dowry to his wife. The two parties agree on the amount, known as "dower" or *meher*. The size of the *meher* depends on the couple's socioeconomic status and is usually payable at the time they enter into the contract. They may defer payment by mutual consent. In India, women generally forgo the *meher*, but women in Persian Gulf countries do not.

DOMESTIC VIOLENCE

See FAMILY VIOLENCE

DOWRY CUSTOMS

Dowry encompasses the money, goods, and property that one spouse brings to another just before or at the time of marriage. More often than not, the bride is the one who brings a dowry. In some cultures, such as the Hindu, the custom continues even long after marriage. Legend mentions dowry customs at the time of King Arthur in England. The famed Round Table of Arthur came to him as dowry. His father-in-law, King Leodegran of Carmelide, gave it to him when Arthur married his daughter Guinevere.

Dowry historically has been common among nobilities. Pyrrhus (319-272 BCE), king of Hellenistic Epirus (now Ípiros, a coastal region in northwestern Greece and southern Albania), was given Corcyra (now Kérkira, an island in the Ionian Sea) and Leucas (now Levkás, another Ionian Sea island) in a marriage dowry. During the 14th century, the British town of Cricklade

The meher is a guarantee, in the form of cash or other property, which the wife receives from the husband in case of dissolution of the marriage. Its guarantee is that the woman can continue to live comfortably even after divorce. Among Indian clerics, there is division of opinion about these matters. Some believe that the husband should provide a meher only if the marriage ends; others believe that he should give it to the bride anyway. If the wife wants to divorce her husband, she can apply for a form of divorce (*khula*) where she forsakes her right to meher.

Dowry customs around the world are varied. Many Murut (indigenous groups in Indonesian Borneo) have entered the labor market to raise a traditional dowry for their daughters. Among the Ilocano in the Philippines, the husband's family provides a dowry, the *sabong*. It usually consists of land. Among some peoples, hard manual labor or even prostitution has been required of young girls as a means to acquire their dowry.

The Dowry's Persistent Importance

Historically, the dowry has been very important. In fifteenth-century Italy, for instance, wealthy persons used specially designed chests (*cassoni*) to keep dowry items the bride brought with her. They employed highly skilled artists to decorate cassoni. Wealthy families employed Florentine artists such as Sandro Botticelli, Paolo Uccello, and Donatello (Donato di Niccolò di Betto Bardi) to decorate cassoni with paintings set in an architectural framework. Although the finest chests came from Italy, women also used them in other countries. In seventeenth-century Holland, during the height of tulip mania (*Tulpenwoede*), a single bulb of a new variety of tulip was acceptable as dowry for a bride.

Monarchs fought wars for nonpayment of dowry. In 1659, France signed the Treaty of the Pyrenees with Spain, which ended a twenty-four-year war by arranging a marriage between Louis XIV and Marie-Thérèse, daughter of the Spanish king Philip IV. By one clause of this treaty, Marie-Thérèse renounced her claim to the Spanish throne in return for a large dowry. The couple was married in 1660. In 1665, Louis XIV claimed that since Marie-Thérèse's dowry had never been paid, her renunciation was void. Accordingly, he

conquered part of the Spanish Netherlands in his wife's name in the War of Devolution, which took place from 1667 to 1668.

In India, although the Dowry Prohibition Act of 1961, amended in 1984 and 1986, bans paying or receiving dowries, the system is so institutionalized that it still goes on. If families do not meet demands for post-marriage dowry, young brides run the risk of being killed by their spouses or immediate relatives. This killing occurs most often by burning, since then it is easier to disguise the death as accidental during cooking. People commonly know this practice as "bride burning."

This widespread practice among Indians in general and Hindus in particular forced the Indian government to amend the Indian Penal Code (IPC) in 1986. Section 304B of the IPC states: "where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called 'dowry death,' and such husband or relative shall be deemed to have caused her death." The state punishes dowry death with imprisonment for a minimum term of seven years, which may extend to life imprisonment. Few crimes in the IPC prescribe a minimum term of imprisonment. The use of a minimum for dowry death keeps a sympathetic judge from deciding on a lesser incarceration.

—Anil Aggrawal

See also Aboriginal and Indigenous Peoples, Legal Systems of; Abortion; Bride Burning; Bride Capture; Child Bride; Female Infanticide; Hindu Law; India; Islamic Law

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DRUGS, CRIMINOLOGY OF ILLEGAL

Much of the criminological analysis of drug laws has focused on the tightening of narcotics controls.

Alfred Lindesmith and the Federal Bureau of Narcotics

Alfred Lindesmith (1905–1991) at Indiana University was the pioneer in the United States on drug law research. His analysis involved a hard-hitting critique of the irrationality and heartlessness of the enforcement of the federal Harrison Tax Act of 1914 controlling cocaine and opium products. It was technically a tax and record-keeping measure, but it was enforced in a strictly prohibitionist fashion by the Federal Bureau of Narcotics (FBN). Lindesmith argued that the government could not successfully outlaw addiction, since early in an addict's history of drug use euphoria ceased to be a primary motivation and avoidance of withdrawal distress became the preeminent personal consideration. Extreme prices necessary to purchase street drugs and the threat of long prison terms provide no deterrence in the face of physical and psychological dependency. In other words, addiction represents an inelastic demand structure.

Lindesmith attempted to challenge the prohibitionist position of the FBN and its long-term director, Harry Anslinger (1892–1975). Anslinger brooked no opposition and the Federal Bureau of Investigation opened a file on Lindesmith because of his "subversive" writing. The FBN also attempted to have Lindesmith terminated from his Indiana University position and to prevent the Indiana University Press from publishing his books. Much of the political support for the oppression of addicts was a consequence of World War I and the fear of foreigners, which officials often blamed for U.S. drug problems. While Anslinger did

not succeed in intimidating Indiana University, he was clearly successful in implementing draconian policy initiatives that survive to this day.

The Harrison Tax Act did not cover marijuana; it was not until 1937 that Anslinger and the FBN got around to this task. Anslinger intended the Marijuana Tax Act of 1937 to broaden the political mandate of the FBN and protect its beleaguered Depression era budget. Anslinger's task was made easier by the growing Anglo fear of Mexican immigrants' inroads into the sinking American job market. With these new prohibitions on the traditional drug use among Mexicans, there was now a means to have many Mexicans deported for violating federal law.

Iceland

The United States is not the only nation to attempt impossible and irrational drug controls, which sometimes have a close connection to alcohol control. In 1909, based on a national referendum, the Icelandic parliament voted to cease importation of all alcoholic beverages. Showing considerable caution, the parliament did not allow this drastic measure to go into effect until 1915. Once in effect, the law lasted only seven years, with wine legalized in 1922 and all alcohol except for beer legalized in 1933. The rural, moral conservatives in parliament argued successfully that beer would be especially dangerous to the young people of the nation, since it would be a "stepping-stone" to hard liquor, which of course had been legalized. This is precisely the argument that officials have used in many countries against marijuana. In fact, young people in Iceland largely eschewed beer in favor of hard liquor. In spite of growing opposition to beer prohibition, the parliament did not repeal the law until 1989. By this time, Iceland had employed U.S.-trained uncover narcotics officers who could look for marijuana use among the nation's young people and consume the energies of Iceland's prohibitionists.

United States in the 1970s

America in the 1970s looked anew at the problem of illegal drug use, largely because of the growth of the use of marijuana on America's college campuses.



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