

Dissertation on
“DOWRY DEATH AND IT'S LEGAL
PROVISIONS”

A DISSERTATION TO BE SUBMITTED IN PARTIAL
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AWARD OF DEGREE OF MASTER OF LAWS

Submitted BY

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SESSION 2022-23

CERTIFICATE

This is to certify that the dissertation titled, “**DOWRY DEATH AND IT'S LEGAL PROVISIONS**” is the work done by **Vijay Gaur** *Student* under my guidance and supervision for the partial fulfilment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

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ABBREVIATION

AIR Reporters	:	All India
ARPANET Agency Network	:	Advance Research Project
AVI Interleave	:	Audio Video
BARC Research Centre	:	Bhabha Atomic
BBBO Bureau Online	:	Better Business
CD Compact Disk	:	
CDA Decency Act	:	Communication
CEO Executive Officer	:	Chief
CERN Nuclear Research	:	European Council for
DG Director General	:	
DSCI Council of India	:	Data Security
ERRI Research Institute	:	Emergency Response &
FBI Investigation	:	Federal Bureau of
ICAN Assigned Names	:	Internet Corporation for
IGC Communications	:	Institute for Global
IT Technology	:	Information
Etc. Etcetera	:	

IMPORTANCE

The status of women refers to the position of women in our society together with their rights and obligations. The various roles she performs in our society as a daughter, wife, mother and carrier women. In order to find out the answer, let us study her in the past with her present as well as the women of India with the women of other countries thereby finding a solution to enhance their legal status. As per we recall, a women is always considered as the weaker gender of the two sexes, be that physically or mentally. What we observe in today's life is that even she has accepted this as her 'karma' as if she has been labelled as -to be taken for granted|| making her existence nearly invisible in the society of human beings. It has been noted that the acceptability of dowry has widened, moving beyond Hindu upper castes traditionally practising it, to Christians, Muslims, animists and other tribal groups. -In sum the plurality of marriage practices among the various castes, religions, regions and classes is being shifted in favour of homogenous Hindu upper caste model encompassed by the devaluation of women, the giving and taking of dowry and virilocal marriage,|| said Brinda Karat in Expanding Dimensions of Dowry, a report brought out by All India Democratic Women's Association (AIDWA) in 2003. As the culture of liberalization has caught on, weddings have become 'globalised', involving exorbitant sums of money, a testimony to the economic and social status of families. It is also important to note that the practice of dowry-giving gifts does not begin and end with one lavish wedding ceremony. Every occasion following the wedding, pregnancy, childbirth, especially the birth of a male child, festivals, the death of a father or mother-in-law, husband is accompanied by a flow of gifts to the husband's family, his relatives. It is true there is a two-way giving of gifts, but it is equally true that it is the girl's family that ends up giving much more than it receives.

SCOPE OF RESEARCH

The scope of this research includes the status of Indian woman, her history from pre-independence period, and her position in our constituent and under law as well as her importance in religion, kinship and family.

The challenges she has to face even before her existences in this world as a curse and burden till her last breath as a liability. The scope and spread of dowry have widened over the last decade. A part of the survey conducted among a total of 63 Muslims in Delhi, including 30 married women, 23 young girls and 10 men, pointed to dowry gaining ground within the community. –Different people gave different reasons for supporting the dowry system. Young girls and their parents (all except one who had incomes within 5,000 to 10,000) said that it was because of the rigid custom prevalent in their society. Young girls considered it as their right. They said that as they did not get any share in their parents' property this was the only way they could have some part of it... Most of them said that it was because of tradition that they will take dowry. If they did not take any dowry they will not get any respect in their matrimonial homes. In state after state, respondents said it was impossible to escape the system; many stressed it was the only way of having a share in parents' property. In Haryana, one of the states with an alarmingly low sex ratio, dowry has spread to all economic sections, with the poor under mounting pressure to scale up dowry. As per the AIDWA report, –Majority of respondents admitted that they are afraid of giving birth to a girl child because of dowry at the time of the marriage. In Tamil Nadu, the majority of girls, across caste lines, said it was impossible to get married without dowry. But at the same time the report threw

¹ http://members.tripod.com/global_india1/current.htm

up a co-relation between the level of education of the respondents and their approach to dowry. Those with lower education levels seemed resigned to accept dowry as a way of life but women with postgraduate degrees questioned and disagreed with the system. The reports also threw light on the changing approach within the Dalit community to dowry. Under traditional Dalit customs, a bride would go to the groom's family with 5 cooking utensils, and if that happened to be beyond the family's means, then pattal or leaves were offered in the pai punji ceremony. The groom's family would host the wedding feast. But the spread of dowry seems to be hurting this traditional custom. –The tendency to imitate upper castes and the spread of consumer culture among Dalits has also meant that items such as a colour television, fridge, motorcycle, cooler, etc. are now demanded. The rituals of upper caste weddings are also imitated. In addition, a demand for cash is growing,|| stated the AIDWA report.

HYPOTHESIS

- The legal status of women in India is deteriorating in spite of the efforts made by the legislation to sustain it.
- Even being in the 21st century, the society has the same mind set towards women.
- The laws and acts made by the legislation is only benefited by the high class society.

RESEARCH METHODOLOGY

This would be a Non doctrinal research including interviews and questionnaires thereby throwing a light on the legal status of women in India as is the title.

SOURCES OF DATA COLLECTION

In this Non doctrinal research, I have used interviewing method as well as questioner method of some great personalities in today's time. I have also taken references from various books dealing with the same aspect and have collected some information from the internet.

CHAPTERISATION:-

Sr. No.

Topic

- Introduction
- Challenges for a woman.
- Existence and Significance
- Conceptual development of Legislation (constitutional provisions) towards protecting rights of women in India
- Judicial approach

INTRODUCTION:

According to the Indian constitution, women are the legal citizens of the country and have equal rights with men. Because of lack of acceptance from the male dominant society, Indian women suffer immensely. Women are responsible for bearing children, yet they are malnourished and in poor health. Women are also overworked in the field and complete all of the domestic work. Most Indian women are uneducated. Although the country's constitution says women have equal status to men, women are powerless and are mistreated inside and outside the home

. India is a society where the male is greatly revered. Therefore women, especially the young girls, get very little respect and standing in this country. The women of the household are required to prepare the meal for the men, who eat most of the food. Only after the males are finished eating, can the females eat. Typically the leftover food is meagre, considering the families are poor and have little to begin with. This creates a major problem with malnutrition, especially for pregnant or nursing women. Very few women seek medical care while pregnant because it is thought of as a temporary condition. This is one main reason why India's maternal and infant mortality rates are so high. Starting from birth, girls do not receive as much care and commitment from their parents and society as a boy would. For example a new baby girl would only be breast fed for a short period of time, barely supplying her with the nutrients she needs. This is so that the mother can get pregnant as soon as possible in hopes of a son the next time

Even though the constitution guarantees free primary schooling to everyone up to 14 years of age, very few females attend school. Only about 39 percent of all women in India actually attend primary schools. There are several reasons why families choose not to educate their daughters. One reason is that parents get

nothing in return for educating their daughters. Another reason is that all the females in a household have the responsibility of the housework. So even though education does not financially burden the family, it costs them the time she spends at school when she could be doing chores. In addition, even if a woman is educated, especially in the poorer regions, there is no hope for a job. Most jobs women perform are agricultural or domestic which do not require a formal education. Another reason girls are not educated is because families are required to supply a chaste daughter to the family of her future husband. With over two-thirds of teachers in India being men and students predominately male, putting daughters in school, where males surround them all day could pose a possible threat to their virginity

Because women are not educated and cannot hold a prestigious job, they take on the most physically difficult and undesirable jobs. A typical day for a woman in an agricultural position lasts from 4am to 8pm with only an hour break in the middle. Compared to a man's day, which is from 5am to 10am and then from 3pm to 5pm. Most women are overworked with no maternity leave or special breaks for those who are pregnant. Plus women do the majority of the manual labour that uses a lot of energy compared to the men who do mostly machine operating. Even though women work twice as many hours as men, the men say that -women eat food and do nothing. This is mainly because the work the women perform does not require a lot of skill and are smaller tasks. Even if we take the situation of urban women who works in the office like any other ordinary man but still can't neglect her daily house hold courses like cooking, cleaning, raising children, and so on and so forth. This shows that no matter how educated a woman is, the class she lives in doesn't matter or the religion or

the background she has come from doesn't disturb the male dominating thinking of the society.

Dowry and related offences even death at the end is a burning issue of the Indian society since years. It is increasing day by day due to social inheritance, traditional mentality and life style in the family. Dowry death is a big challenge to the modern society, moral values, police, and forensic experts as well as to legal officers and justice not only to eliminate this social hazard but also to punish the culprits in effective manner to make the world free from it forever. Initially at the time of marriage, money is given by bride's family as per demand of the in laws but later on hunger of dowry is increasing extremely high which is followed by torture of bride and ends up in her death. In other words, in bride burning cases, crime is normally abetted and even committed by the females themselves. The unnatural death of newly married young woman due to dowry is routine headline of every newspaper and media even today. Self burning by females after death of her husband in Hindu community is traditionally accepted and matter of proud as in 'Sati- Pratha' or 'Joher'. But nowadays, large number of newly married young women are burnt alive by their husbands and / or in laws or forced by them to end their unhappy life, while a few others are killed first and then burned to hide the crime. In majority of these cases, dowry is the prime motive behind this terrible crime.

IPC Section 304 - B deals with dowry death

When the death of a married woman is caused by any burns or bodily injury or occurs under abnormal or suspicious circumstances within seven years of her marriage duration and it is clearly shown that soon before her death she was subjected to cruelty or harassment or torture by her husband or any relative of her husband or in laws for, or in connection with, any demand for dowry, such death shall be called as "dowry death", and such husband or relative or in law s

deemed to have caused her death. Whoever commits dowry death shall be punished with imprisonment for a term minimum of seven years which may extend to imprisonment for life.

CHALLENGES FOR A WOMAN

"You can tell the condition of a Nation by looking at the status of its Women." Jawaharlal Nehru, Leader of India's Independence movement, and India's first Prime Minister. India, being a male dominating country looks down on a girl child as a burden, liability or curse. Apart from striving to survive at the very birth, she has to take care of her family responsibilities of house hold works at the same time see to it that she doesn't put a shame to her family's name. She has to get married at an early age and has to act maturely towards her new family. She has to remain under her husband's word first and later of her son and if not, she has to accept her faith as it is.

Although India offers a lot of opportunities to women, it is still a male dominated society, where women are often seen as subordinate and inferior to men. This doesn't mean India isn't moving away from the male dominated culture, but discrimination is still highly visible in rural as well as in urban areas, throughout all strata of society. While women are guaranteed equality under the constitution, legal protection has a limited effect, where patriarchal traditions prevail. These patriarchal problems can be listed as follows:

India's Patriarchal Traditions

1. Dowry Tradition

Much of the discrimination against women arises from India's dowry tradition, where the bride's family gives the groom's family money and/or gifts. Dowries

were made illegal in India in 1961, however the law is almost impossible to enforce, and the practice persists for most marriages. Unfortunately, the iniquitous dowry system has even spread to communities who traditionally have not practiced it, because dowry is sometimes used as a means to climb the social ladder, to achieve economic security, and to accumulate material wealth. The model used to calculate the dowry takes the bridegroom's education and future earning potential into account while the bride's education and earning potential are only relevant to her societal role of being a better wife and mother. The bridegroom's demand for a dowry can easily exceed the annual salary of a typical Indian family, and consequently be economically disastrous especially in families with more than one or two daughters.

2. Women as a Liability

The Indian constitution grants women equal rights to men, but strong patriarchal traditions persist in many different societal parts, with women's lives shaped by customs that are centuries old. Hence, in these strata daughters are often regarded as a liability, and conditioned to believe that they are inferior and subordinate to men, whereas sons might be idolized and celebrated.

But why is that?

There are a couple of reasons, why men might be regarded an asset for a family:

- Considered capable of earning money
- Carry on the family line
- Able to provide for their aging parents
- Bring a wife (and with this a capable domestic helper) into the family

- Play an important role in death rituals in Hindu religion, which ensure, that the soul is released from the body and can go to heaven. On the other hand, there are a couple of reasons why women might be regarded more of a liability for a family:
- Not considered capable of earning money
- Seen as economically and emotionally dependent on men
- While they help with domestic duties during childhood and adolescence, they go to live with their husband's family after marriage, which means less help in the household of their originating family, and most importantly loss of money due to the dowry tradition. This might explain why the birth of a daughter may not always be perceived as equally blissful as the birth of a son, and why –May you be blessed with a hundred sons|| is a common Hindu wedding blessing.

Discrimination against Women

It should be noted that in a vast country like India - spanning 3.29 million sq. km, where cultural backgrounds, religions and traditions vary widely - the extend of discrimination against women also varies from one societal stratum to another and from state to state - some areas in India being historically more inclined to gender bias than others. There are even communities in India, such as the Nairs of Kerala, certain Maratha clans, and Bengali families, which exhibit matriarchal tendencies, with the head of the family being the oldest woman rather than the oldest man. However, many Indian women face discrimination throughout all stages of their life, beginning at (or even before) birth, continuing as an infant, child, adolescent and adult. The stages can be divided in following sections:

- Before Birth / As an Infant
- As a Child

- After Marriage
- As a Widow

Discrimination against Women: Before Birth / As an Infant

India is one of the few countries where males outnumber females; the sex ratio at birth (SRB) – which shows the number of boys born to every 100 girls - is usually consistent in human populations, where about 105 males are born to every 100 females.

There are significant imbalances in the male/female population in India where the SRB is 113; there are also huge local differences from Northern / Western regions such as Punjab or Delhi, where the sex ratio is as high as 125, to Southern / Eastern India e.g. Kerala and Andhra Pradesh, where sex ratios are around 105. Though –prenatal sex discrimination³ was legally banned in 1996, the law is nearly impossible to enforce and is not even familiar to all Indian families. Hence, the preference for a male child persists, quite often out of mere practical, financial concerns, because the parents might not be able to afford the marriage dowry for (another) daughter. This leads to some of the most gruesome and desperate acts when it comes to gender discrimination:

- Selective abortions
 - Murdering of female babies
 - Abandonment of female babies
- Prenatal tests to determine the sex of the fetus were criminalized by Indian law in 1994, but the above mentioned imbalances in the sex ratio at birth, clearly point to gender selective abortions. While abortion is officially illegal in India there are some
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³ Grace Pinto, Managing Director, Ryan International Group of Institutions,
http://www.daijiworld.com/news/news_disp.asp?n_id=221846

exceptions to this rule such as the failure of contraceptive device used by a couple; if the woman was raped; or if the child would suffer from severe disabilities. In total 11 million abortions take place annually and around 20,000 women die every year due to abortion related complications.

Discrimination against Women: As Child Nutrition & Health

As a child, girls are often treated differently from male children in terms of nutrition and health care; where limited food or financial resources are available, the insufficient means are prone to be allocated unevenly in favour of the male offspring.

This imbalance results in insufficient care afforded to girls and women, and is the first major reason for the high levels of child malnutrition. This nutritional deprivation has two harmful consequences for women:

They never reach their full growth potential

Anaemia Both consequences are risk factors in pregnancy, complicating childbearing and resulting in maternal and infant deaths, as well as low birth weight infants.

Education

India's constitution guarantees free primary school education for both girls and boys up to age 14. This has been repeatedly reconfirmed, but primary education in India is not universal, and often times not seen as really necessary for girls.

Their parents might consider it more important, that they learn domestic chores, as they will need to perform them for their future husbands and inlaws. Another disincentive for sending daughters to school is a concern for the protection of their virginity. When schools are located at a distance, when teachers are male, and when girls are expected to study along with boys, parents are often unwilling to expose their daughters to the potential assault on their virginity, that would ultimately result in an insult to the girl's family's honour.

This results in one of the lowest female literacy rates in the world.

- Literacy Rate for Women: 54%
- □ Literacy Rate for Men:76%

As a comparison, female literacy per 2009: Pakistan: 60%, Peru: 89%, Indonesia: 93%. Mothers' illiteracy and lack of schooling directly disadvantage their young children. Low schooling translates into poor quality of care for children, consequently in higher infant and child mortality and malnutrition, because mothers with little education are less likely to adopt appropriate health-promoting behaviors, such as having young children immunized.

Social sector programmes e.g. –Sarva Shiksha Abhiyan|| (Education for Everyone) are promoting girls' education to equalize educational opportunities and eliminate gender disparities, but these initiatives will take time to unfold their whole effect.

http://borjournals.com/Research_papers/Ap_2013/1184M.pdf

Child Marriages

The Prohibition of Child Marriage Act 2006 bans marriage below age 18 for girls and age 21 for boys, but some 80 % of Indians live in villages where family, caste and community pressures are more effective than any legislature. According to UNICEF's "State of the World's Children 2009" report, 47% of India's women aged 20–24 were married before the legal age of 18, with 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India.

Why does it happen?

- Financial Benefit o
- As outlined above, due to the dowry tradition women are prone to be a (financial) burden for their families, thus seen as a liability.
- If the match is made at an early age, the dowry is usually much lower, as the dowry is calculated on the future husband's societal status and education, which – obviously – would be much lower at an early age.
- Common Hindu phrase: –The younger the groom, the cheaper the Dowry|| In addition marrying off girls at an early age, ensures, that they marry as virgins, thus protecting the girl's and their family's honour.
- Historical Origins
- Child marriages started during the invasions of Northern India around 1,000 years ago, when unmarried girls were raped by invaders.
- To protect their women from abuse, family members began marrying their daughters at young ages.

- Religious origin

1. Copying the myth that the goddess Parvati had decided to marry god Shiva when she was only eight, girls were married off as young as eight or nine years old.

The consequences

Girls between 15 and 19 are twice as likely to die of pregnancy-related reasons as girls between 20 and 24. Girls married off as children sometimes stay in their parents' house until puberty, but it is just as common, that they move in with their husband and in-laws right after marriage. In that case, many child wives are inclined to experience domestic violence, marital rape, deprivation of food, and lack of access to information, healthcare, and education. Thus, the vicious cycle of illiteracy and abuse is likely to be continued and passed on to their own daughters.

Discrimination against Women: After Marriage

There is mainly a bias towards men and their superiority in marital relationships: while women ought to be respected, protected and kept happy by their husbands – their happiness being vital for the

prosperity, peace and happiness of the whole family – they should also be kept under constant vigilance, since they cannot be completely trusted or left to themselves. Whereas as a child a girl is supposed to remain in the custody and care of her parents, after marriage she becomes the property and responsibility of her husband, who is supposed to take care of her and keep her in his custody.

Under the existing cultural and social ethos of India a married girl / woman is no longer considered to be part of the family of her birth, instead she has become part of the family of the groom. Hence, after marriage the woman leaves her parental home and lives with her husband's family, where she is required to assume all household labour and domestic responsibilities.

In certain parts of Indian society, women are conditioned from birth to be subservient not only to their future husbands, but also to the females in their husband's family especially, their mother-in-law. Accordingly, the surrounding society mandates a woman's obedience to her husband and her in-laws. Any disobedience would bring disgrace to both, the wife herself and her originating family, and might lead to the woman being ostracized and neglected by her very own family and in her own home.

Discrimination against Women: After Marriage

There is no cultural or religious tradition behind one of the most ghastly incidents of female oppression, but the prevalence of the dowry tradition has supposedly lead to –Bride Burning‖ (or other form of murdering) of the newly- wed wife by the husband and his family, who would claim, that she died in a domestic accident, so that the widowed husband would be free to marry again and collect another dowry. Indian law demands a formal criminal investigation when a newly married woman dies within the home within 7 years of marriage. According to Indian National Crime Record Bureau, there were 8,239 dowry death cases, 1,285 cases of attempted dowry deaths, and another 4,890 cases with pending investigations in 2009. The punishment for dowry deaths is a term of 7 years, which may extend to life imprisonment. Indian law clearly distinguishes the offence of dowry deaths from the offence of murder, for which a death sentence might be declared.

Discrimination against Women: As a Widow

Indian government has enacted numerous laws to protect widow's rights, including prohibitions against traditional practices for which India has been discredited, such as the burning of widows (Sati). Whereas in India's contemporary culture, especially in the modern urban middle-class, these societal norms have given way to a more righteous conduct, the enforcement of the law continues to be challenging, where there are regional, religious or caste variants of family law, which tend to escape government jurisdiction. Hence, a widow is still seen as a liability in some part of the Indian society, which might result in her being abandoned by her in-laws. As her originating family is often unable or unwilling to take her back as well, she might be left on her own, without any education, skills, or financial assistance. Instead, she is subjected to many restrictions, and might be required to shave her head permanently, or to wear white clothes for the rest of her life; thus, stigmatized, she is not allowed to enter in any celebration e.g. weddings, because her presence is considered to be inauspicious. Moreover, a widow might face trouble securing her property rights after her husband's death, nor be allowed to remarry, disregarding at what age she became a widow. As the described discrimination against widows is likely to occur in the same societal surroundings as the above mentioned child marriages, this might lead to child or teenage widows, who are bound to be isolated and ostracized for the rest of their lives.

Discrimination against Women: For Inheritance

While in the educated, urban middle class women's rights continue to improve; there remains a strong bias against gender equality in those societal parts of India, where patriarchal traditions prevail. Consequently, in these strata any inheritance of a deceased husband or father would be passed down to the oldest son, while his wife or daughters would not receive any financial benefit. There

are laws in place to ensure legal protection for women's right to inheritance, but the enforcement of the law is challenging, when the woman is refused her right by the family, and when she is not confident or educated enough to claim her right 2

EXISTENCE AND SIGNIFICANCE

21st century women have risen to great positions in various key sectors. Women in today's society have certainly gained influence when we compare them to the females of yesterday there by making a significant contribution to the global economy. More and more women are looking at newer opportunities to exhibit their abilities but yet there is still far to go until a complete balance between the genders is achieved and therefore I say, in spite of the evident progress of women, there is a lot to be done for the uplift and emancipation of women. The startling and glaring incidents of women being dehumanized shows that they still need to see the light of day. Women do play a very vital role in the society. A family, who educates their girls, educates the next generation. Girls mature into women who for the most part oversee learning in the home and at school. When girls do not receive a well-rounded education, they cannot impart the same to their offspring. It is a simple, yet a profound truth. Woman of today needs to get her own identity because identity is the key for all human beings. It is imperative that a woman knows her strengths as well as her weaknesses so that she may be the best team member working cooperatively with all around her whether she is playing a game -at home|| or -away||.

Women have always and will always be -working women||. Women nurture on the home front as they have done throughout time, but now women are stepping outside of the home to contribute in corporate, educational, social service, medical, financial, and a varying and endless list of career paths. Women have

played important role in the society. So many women have impacted today's society for the better. There is an endless list where many unsung women in various parts of our nation have changed lives and shaped destinies giving new direction to so many in the country. However, women have always had a challenging task to be in the forefront in a number of male-dominated sectors. Even though certain societal norms may not always be able to accommodate women in leadership, they have created opportunities for themselves to serve in the least likely places. Women definitely bring to the fore different skill sets as leaders with their multitasking, tremendous networking abilities.

The highest priority for our country to grow during this time is to cling to the rich value system and ensure human dignity all through. India has such depth of diversity and every citizen has to uphold and support the aspirations of women that they live with dignity and reach their rightful place in society.

Being a woman translates into hard work, determination and, quite naturally, comes with a calling from above to invest a lifetime into encouraging all those with whom a woman comes in contact. The woman is the foundation of the family and of society itself. Women today need to have faith in themselves and believe in their own Godgiven abilities and accept one's unique skills and talents learn to own them, and to use them fearlessly and contribute to the world.

Just because the majority of top jobs are reserved for men it does not mean women cannot have careers. The traditional jobs such as midwifery or nursing, which were once dominated by females, are now open to men and therefore

6 <http://nlrd.org/womens-rights-initiative/legislations-laws-related-to-women/constitutional-and-legal-provisions-for-women-in-india> —

women have been allowed to enter into the job vacancies left by men. A fine example of a successful woman with a career is portrayed in the American TV show –Sex and the City. The programme revolves around 4 dominant females whilst the men featured are merely accessories. An average episode would show a man being used and then his personality heavily scrutinised for the women’s entertainment. The particular show provides evidence that that women can do just as well or even better in the workplace than their male companions. On a completely different line some women have no freedom. The Islam religion on its own without being made more extreme is still damaging to women; millions of women and girls are forced to marry. Muslim women have little say and cannot even ask for a divorce if they are unhappy. Some men are permitted to have four wives so you could argue that he views women as possessions. Muslims follow a life pattern set out in the Quran, which has been around for thousands of years and the treatment of women has changed very little. Women are important in our society. They are nurses, teachers, lawyers, police officers, jailers, writers, sales clerks, managers, accountants, business leaders, and so much more. Women make a difference. Women get involved. Women volunteer more than men do. Much of what has been accomplished in communities is due to the women that volunteer for different groups. These women get things done. It could be part of their nurturing instinct to hold close what is important to them and work for a better world. Women juggle many things in everyday life. For those who are married, or have children, it is even more of a balancing act. According to Virginia Sapiro, "Not surprisingly, given the relatively low levels of support women receive for juggling family, personal, and employment obligations, employed wives have less time for themselves and less leisure than employed husbands do, so they experience more stress," 4

CONCEPTUAL DEVELOPMENT OF LEGISLATION (CONSTITUTIONAL) PROVISIONS TOWARDS PROTECTING RIGHTS OF WOMEN IN INDIA:

The exalted status of Indian women in ancient days suffered a setback in the medieval period. Social economic and political factors played a major role in their suppression. Social inhibitions and discriminatory practices against them continued to exist during the 'enlightened' and 'civilised' imperial rule. The leadership of independent movement was, however, committed to accord an equal status to women and give them a place of honour, and dignity in the society. Accordingly, the constitution - the fundamental law- as emerged out of the constituent assembly, treated both men and women equally and also provided for protective discrimination for women in view of their peculiar position in the human society.

Constitutional and Legal Provisions for Women in India

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres.

India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.⁵

Constitutional Provisions

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for

neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Constitutional Privileges

- Equality before law for women (Article 14)
- The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- The State to make any special provision in favour of women and children (Article 15 (3))
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)

- The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (**Article 51(A) (e)**)
- Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (**Article 243 D(3)**)
- (xii) Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (**Article 243 D (4)**)
- Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (**Article 243 T (3)**)
- Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (**Article 243 T (4)**)

Though the constitution has provided equality of both the sexes man and women but biological condition of the female and developed sense of

subordination demand extra protection for them. The reason is that "women's physical structure and the performance of certain functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigour of the race. Thus the law and justice demands additional privileges and safeguards for maintaining proper socio-legal status of women in the society. To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as

'Crime against Women'. These are broadly classified under two categories.

Legal Provisions

- The Crimes Identified Under The Indian Penal Code (IPC)
- Rape (Sec. 376 IPC)
- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)
- Sexual Harassment (Sec. 509 IPC)(vii)Importation of girls (up to 21 years of age)

(2) The Crimes Identified Under The Special Laws (SLL) Although all laws are not gender specific, the provisions of law affecting women significantly have

been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

- The Employees State Insurance Act, 1948
- The Plantation Labour Act, 1951
- The Family Courts Act, 1954
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956 with amendment in 2005
- Immoral Traffic (Prevention) Act, 1956
- The Maternity Benefit Act, 1961 (Amended in 1995)
- Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971

Special Initiatives for women –

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

Reservation for Women in Local Self -Government –

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

The National Plan of Action for the Girl Child (1991-2000) - The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

National Policy for the Empowerment of Women, 2001 - The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a -National Policy for the Empowerment of Women in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.⁶

Women's Security: Indian Scenario Policies relating to women's rights have had a positive trajectory in the past few decades with the central government articulating many progressive measures to advance gender equality in social, Economic, and political arenas. Inequality between men and women runs across the board, including in education, economic opportunities, representation in governance, and other state and private institutions. The multiple forms of violence experienced in the household, at the community level, and in some instances by the state, threaten women's security in India.

JUDICIAL APPROACH

A judge is an eyewitness to a real-life drama—how the script written by the legislature is played by real-life characters. The parties while critically evaluating the laws may tend to have a partisan look; a judge can make a correct and realistic evaluation of the laws and find out authoritatively the difficulties in implementation of or lacunas in legislation. Today we propose to identify and catalogue such difficulties and lacunas. Secondly, and which is more important, a judge while administering the laws, if deprived of requisite sensitivity may frustrate the objectives sought to be achieved by the best of the laws. However, one thing shall have to be clearly borne in mind i.e. the role of the judiciary, in the vindication of gender justice. According to Justice V.R. Krishna Iyer, **"case-law, creative, imaginative and gender-friendly, has its logic and limitation. Judges cannot make law but only interpret it and decide specific cases and controversies within defined bounds although in that process they do make law interstitially. But legislation is essentially a wider function covering vaster spaces and free to weave fabrics of fundamental mutation. So it is substantive codification, radical in transformation of the social order, that we need, an avant-garde operation Parliament must perform. Magnificently as the judiciary has acted, they have not and could not usurp legislative functions."**

Landmark decisions delivered by the Indian judiciary, in particular during the last two decades, bear testimony to the fact that judges cannot be accused of gender injustice. They have shown the requisite sensitivity expected of them. However, all that can be said is that such sensitivity is individual and needs to be institutionalised. The purpose of this meeting is to share the experiences,

have an exchange of views and to learn and devise by our experiences a model of gender-justice sensitisation.

Judicial Initiative towards Empowerment of Women

Though plethora of legislations exists, due to ineffective enforcement, women are exploited by the male dominated society. Male dominated society has found ways to circumvent the provisions of the Act and act as a blockade against women empowerment. Due to the failure of the legislations to protect women, judiciary has come forward to protect women. The Supreme Court in *Muthamma v. Union of India* (1979)4 SCC 260 and *Air India v. Nargesh Mirza* AIR 1981 SC 1829 Struck down discriminatory service conditions requiring female employees to obtain government permission before marriage and pregnant women the right to be employed.

In *Vishaka v. State of Rajasthan* AIR 1997 SC 3011 the Supreme Court observed that quality in employment can be seriously impaired when women are subject to gender-specific Violence, Such as sexual harassment in work place. Therefore, The Supreme Court issued Guidelines to ensure that the women have equal working conditions and are protected from sexual harassment. *Vishaka* was public interest class action and came up before Supreme Court of India at the instance of certain social activists and NGO's seeking to prevent sexual harassment of working women in all work places. Their grievance was that while working women remained vulnerable to this, neither the legislature nor the executive government was taking any effective preventative measures in this behalf. There the plaintiffs approached SCI for the enforcement of the fundamental rights of the working women as guaranteed by the constitution.

This was endorsed in Apparel Export Promotion Council v. A.K.Chopra AIR 1999 SC 625 in which disciplinary proceedings for sexual harassment leading to dismissal from service was upheld by the Supreme Court.

In cases relating to public Employment, the courts have quashed the discriminatory provisions that gave advantage to men and imposed disabilities on women. In Maya Devi v. State Of Maharashtra 1986(1) SCR 743 where the requirement of husband's consent for wife's application for public employment was struck down as an anachronistic obstacle to women's equality and economic justice.

Since article 15(3) itself hints substantive approach, its application for giving special educational facilities, for giving representation in local bodies and for protection in places of work has substantive dimension. Upholding a service rule that preferred women in recruitment to public employment to the extent of 30%, of posts, the Supreme Court stated in Government of A.P. v. P.K.Bijayakumar AIR 1995 SC164 to say that under Article 15(3) job opportunities for women cannot be created would be to cut at the very root of the underlying inspiration behind this Article. Making special provisions for women in respect of employment or posts under the state is an integral part of article 15(3) The subordinated position of Christian woman, who was denied equal right in the matter of divorce against her husband, was brought to the limelight by way of anti subordination interpretation in ammine E.J. v. Union of India air 1995 ker 252 referring to the life Christian wife being compelled to live as wife against her wish the high court of Kerala observed, it will be

⁷ Delivered on the occasion of the release of the book by Justice R.C. Lahoti "*Search for a Vision Statement on Women Empowerment vis-...-vis Legislation and Judicial Decisions*" prepared by the Indian Trust for Innovation and Social Change and published by the National Commission for Women

humiliating and oppressed life without freedom to remarry and enjoy life in the normal course. It will be a life without freedom to uphold the dignity of the individual in all the respects.... the court quashed the impugned provision as violation to article 14, 15, and 21. In *Mackinnon Mackenzie and co. ltd v. Audrey D' Costa* AIR 1987 SC 1281. The court observed that there was discrimination in the payment of wages to lady stenographers and such discrimination was being perpetuated under the garb of settlement between the employees and the employer. The court finally not only made it mandatory to pay equal remuneration to lady stenographers as their male counterparts but also observed that the ground of financial incapability of the management cannot be a ground to seek exemption from the equal remuneration act 1976

Interpretation of the guardianship law in the light of article 15 by the Supreme Court in *Geetha Hariharan v reserve bank of India* AIR 1999 SC 1149 could equate the position of mother to the act of father in the matter of guardianship.

In protecting the women, the Indian Judiciary has removed all the procedural shackles and has completely revolutionised constitutional litigations. The judiciary has encouraged widest possible coverage of the legislations by liberal interpreting the terms. The judiciary has shifted from doctrine approach to the pragmatic approach, which was conducive to all interests in the society. The Courts have shown greater enthusiasm in granting the constitutional provisions for all women. The judiciary by its landmark judgments had filled up the gap created by the Legislative machinery. The judiciary had extended helping hands to women. When the legislature had denied it. The higher judiciary has shown concern for women's right in recent times; it also had been greatly influenced by the international declaration and covenants on women's rights. The vibrant judiciary has recently exalted the dignity of women by its golden judgments. In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (AIR 2000 SC 1274), the Supreme Court extended the benefits of the Maternity Benefit

Act, 1961 to the Muster Roll (Daily Wagers) female employees of Delhi Municipal Corporation. In this case, the Court directly incorporated the provisions of Article 11 of CEDAW, 1979 into the Indian Law. In *Chairman, Railway Board v. Chandrima Doss* (AIR 2000 SC 988), the Supreme Court awarded compensation of 10 lakhs to an alien woman under Article 21 of Constitution, who has been a victim of rape. In *Githa Hariharan v. Reserve Bank of India* (AIR 1999 SC 1149), the Supreme Court interpreted Section 6(a) of Hindu Minority and Guardianship Act, 1956 and Section 19(b) of the Guardians and Wards Act, 1890 in such a way that father and mother get equal status as guardians of a minor. In *Mohammed Ahmed Khan v. Shah Bano* (AIR 1985 SC 945), the Supreme Court granted equal right of maintenance under Section 125 of Cr. P.C. 1973 to a divorced married woman notwithstanding the personal law. The Supreme Court also held that "large segments of society which have been traditionally subjected to unjust treatment, women are one such segment." In *Charansingh v. Union of India* (1979 Lab IC 633), the Delhi High Court expressed that women are a backward class as compared to men. In *Government of Andhra Pradesh v. P. B. Vijay Kumar* (AIR 1995 SC 1648), the Supreme Court has held that the issue of reservation for women in State services was upheld under Article 15(3) of the Indian Constitution. In *Municipal Corporation of Delhi v. Female Workers* (AIR 2000 SC 1274, 1281), the Supreme Court held that a just social order could be achieved only when inequalities are obliterated and women, which constitute almost half of the segment of our society, are honoured and treated with dignity. In *Uttarakhand Mahila Kalyan Parishad v. State of Uttar Pradesh* (AIR 1992 SC 1695), the Supreme Court

<http://www.airinfotech.in/article3.html>

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struck down the discriminatory rules of Education Department of Government of Uttar Pradesh. In *Air India v. Nargis Mirza* (AIR 1981 SC 1829), the Supreme Court struck down the discriminatory Rules of Indian Airlines. In

Bodhisattwa v. Ms. Subhra Chakraborty (AIR 1996 SC 922), the Supreme Court held that rape is a crime against basic human rights.

In *Vishakha v. State of Rajasthan* (AIR 1997 SC 301), the Supreme Court took a serious note of the increasing menace of sexual harassment at workplace and elsewhere. Considering the inadequacy of legislation on the point, the Court even assumed the role of legislature and defined sexual harassment and laid down instruction for the employers. In *Apparel Export Promotion Council v. A. K. Chopra* (AIR 1999 SC 625), the Supreme Court found all facets of gender equality including prevention of sexual harassment in the fundamental rights granted by the Constitution. In *C. B. Muthamma v. Union of India* (AIR 1979 SC 1868) : 1979 Lab IC 1307, a service rule whereby marriage was a disability for appointment to foreign service was declared unconstitutional by the Supreme Court. In *Shobha Rani v. Madhukar* (AIR 1988 SC 121), the Supreme Court held that dowry demand was held enough to amount to cruelty. In *Prathibha Rani v. Suraj Kumar* (AIR 1985 SC 628), the Supreme Court upheld women's right to the Stridhana. In *State of Punjab v. Gurmit Singh* (AIR 1996 SC 1393), the Supreme Court held that rape was held to be violative of the right of privacy. In *Bodhisathwa Gowtham v. Subhra Chakaraborty* (AIR 1996 SC 622), the Supreme Court observed that rape was not only an offence under the criminal law, but it was a violation of the fundamental right to life and liberty guaranteed by Article 21 of Indian Constitution. In *Saveetha Samvedhi case* ((1996) 1 SCR 1046), the Supreme Court held that a married daughter was allowed accommodation in parental house. In *Delhi Domestic Working Women's Forum v. Union of India* ((1995) 1 SCC 14), the Supreme Court suggested the formulation of a segment for awarding compensation to rape

victims at the time of convicting the person found guilty of rape. The Court suggested that the Criminal Injuries Compensation Board or the Court should award compensation to the victims by taking into account, the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape. In *Gourav Jain v. Union of India* (AIR 1997 SC 3012), the Supreme Court laid down guidelines including the necessity of counselling, cajoling, and coercing the women to retrieve from prostitution and rehabilitate them.

Question Bank:-

1. Has India come to a stage where, according to article 14, we can say that the status of women is equal to that of a man? If no, what are the hindrances? Even when we see women being successful in almost each and every sector of the society, why is this society still believed to be as a male dominating society? Whom to blame, our culture or our society?
2. As we know, if we compare Indian women to the women of other countries, we find the other country women more bold and confident with regards to the aspect of looking at life. How can this be implemented in India? Is it even possible?
3. The status of women in India differs from state to state, has the 2005 act really secured its purpose? Are there any lacunas in it? Even when law has come up with so many acts and made so many amendments for the protection and development of women, why then do we find her still so helpless when it comes to family responsibility?
4. All these years we have been developing country, will this position upgrade if the command of the Indian chariot be given in the hands of women?

5. From where and when did the concept come, –women, a weaker gender in the society? What is the reason for this bias thinking? If we have to change this, from where have we to start?

6. The Indian Laws differ from religion to religion, state to state, region to region. Does this hamper the motive of our preamble? Few decades back, we pity the legal status of women in the past; will the future generation also pity the legal status of today's women?

ANALYSIS OF ANSWERS:

Analysing the result of the answers where majority of the ratio given by all the answerers can be clubbed as follows-

1) In the first answer, most of them state that the male dominating society concept comes from our ancestors, through our rituals, customs and traditions where a man is placed above a woman in all aspects of life. Therefore, no matter how hard a woman tries to lift her status in the society, she will be always placed below a man and hence our culture is a hindrance.

2) In the second answer, it is believed that every woman is equally capable to be confident and bold enough to match herself with the world. The thing that holds her back is the shyness and lack of moral boost by her kin and kith relations. We do have examples of great personalities that have sparkled the name of India at the international level in every field by fighting through all odds. All that was required was family support. It is becoming possible. What is required is time.

3) The domestic violence act 2005 no doubt has been a boon for the woman in India, but is brought into action only by a hand full of women. The reason behind this is the upbringing of a girl and the teachings she gets. She is taught to protect her husband's family no matter what and to sacrifice all her wishes and wants. This results to tolerance and acceptance to the cruelty and sufferings given to her by her inlaws. Therefore family responsibility is her priority among all.

4) After so many years of independence, we still are in a state of developing country. Being a democratic country, our laws are based on trial and error basis. So it is worth giving a try to put women in power as we all are aware of their determination, sincerity and emotions towards their work.

5) = 'Women, a weaker gender in the society', this is a long carried forward concept that is fixed in the mind of society. This can be only changed through educating the society from family level. In states like Delhi, Mumbai etc where we find woman in a better position where as if we see the scenario of women in U.P, M.P, etc. they are still tied up to their bias thinking.

6) The society changes from time to time and so does the law. The laws that were a part of the society in the past are now banned due to being illegal and are pitted by today's generations. For Example: Sati, ban on widow remarriage, no right in partition of property, etc So no doubt, in future, when the laws will develop, there will be the same situation.

COMMITTEE ON THE STATUS OF WOMEN IN INDIA

INTRODUCTION

Not only did the 1970s and 1980s bring about a 'second wave' of feminism, unleashing strident women's agitations, they also marked the beginning of the contemporary women's movement, moving away from the earlier phase of social reforms and focusing on gender, violence, feminism and the law. A stormy backdrop – Emergency, the International Women's Year and the report of CSWI (Committee on the Status of Women in India) – led to the formation of new autonomous women's groups, infusing women's activism with a fresh energy and resolve. Violence against women became the rallying point for mobilizations on a scale that faded away in the following decades - mobilizations hinging on protests against rapes, dowry and dowry deaths. As the streets exploded with protests, thousands came out into public space, forcing policymakers to sit up and the media to focus attention. It was as if the lid over pent-up anger had been blown off and women were ready to walk that extra mile, marking their presence in the national discourse. The trigger was the rape of a 16-year-old tribal girl Mathura by two policemen in the compound of Desai Ganj police station in the Chandrapur district of Maharashtra, and the subsequent unacceptable judgment delivered by the Supreme Court. It acquitted the guilty on the plea that Mathura, –habituated to sexual intercourse and of –loose morals had consented to sexual intercourse. Outraged, women's organizations closed ranks, thronged the streets, pitched high their agenda for legal reform. They demanded that the onus of proof should shift from the prosecution to the accused and that a woman's sexual history should not be part of evidence. Under mounting pressure, the government amended the law in a half-hearted manner, leading to the incorporation of the first demand in cases of custodial rape and the rejection of the second demand. Conservative assumptions about virginity and chastity, however, held sway as the

conservative forces co-opted and cast the demands raised by the movement, in the –traditional discourse of shame and honour|| (Shilpa Phadke, EPW, October 25, 2003).

Dowry and dowry deaths transformed the quality and character of activism, translating the feminist assertion of the personal as political. Harassment, atrocities, and deaths within the four walls of private space, brought under public glare, stunned the nation and evoked widespread anger. It was a momentous phase for the women’s movement. A broad platform, Dahej Virodhi Chetna Manch, was formed, including a diverse range of women’s groups, cutting across political and feminist lines. Among them, Mahila Dakshata Samiti was the first in Delhi’s feminist movement to take up the issue of dowry and Stri Sangharsh made it a household term (Radha Kumar, *The History of Doing*).

The anti-dowry movement included people from diverse ideologies: from men who felt it their duty to protect their wives as good patriarchs, to anti-capitalist organizations like Stri Sangharsh and ‘anti-patriarchal’ organizations, which protested against dowry but did not invest it with the feminist critiques of the institution of marriage. –Perhaps this range in points of identification explains why it has been one of the most prominent aspects of the recent women’s movement: it incorporates the domains of economy, marriage and the ‘cultural’, and violence against women,|| said Srimati Basu (*Dowry and Inheritance*).

Protests against dowry in the 1980s assumed unconventional forms; protestors directly confronted the harassers face to face, shaming them within the community. Describing the stormy times, Madhu Kishwar wrote, –Our engagement spontaneously took the form of holding protest demonstrations outside the house of the murdered or dead woman, calling for a social boycott

of the family, which had tortured the family or driven her to suicide. Each such demonstration would then move on to the local police station, either protesting against their complicity or demanding that they take appropriate and swift action in booking culprits (Strategies for Combating the Culture of Dowry and Domestic Violence in India, 2005). They met with overwhelming response from neighbours. –Our demonstrations rarely faced hostility, even when we invaded neighbourhoods without prior notice or warning. In most cases, the men and women of the neighbourhood joined us spontaneously to endorse our call for social boycott. Even the police watched quietly, instead of trying to prevent us from holding demonstrations outside homes that had witnessed murders or even outside police stations, wrote Kishwar. She said it was only on one occasion that she was personally confronted by hostile neighbours—when a Manushi team had gone to probe a suspected case of dowry murder. The strategy of demonstrating outside the residence of the guilty family came with the hard realization that getting justice from either the courts or police was a tortuous and often futile process. The fear and shame of losing honour within the community, on the other hand, often was a more effective strategy than indictment by law. Communities through history have practised their own ways of punishing the guilty. Even today we come across incidents where wife beaters and alcoholics are paraded through villages with their faces blackened to heighten their sense of shame and dishonour.

Two decades have gone by since the streets of Delhi resounded with anti-dowry slogans and women were picketing outside the homes of families found guilty of dowry harassment. Streets have fallen silent, but violence has not waned. Not only have dowry demands not gone down, the onset of liberalization and rise in

consumerism have further stoked them, lengthening the dowry ‘wish list’. Black and white television sets seem to have been replaced by colour sets or home videos; mixies and food processors by more sophisticated gadgets, Maruti 800s by automobile juggernauts. Still, while increasing consumerism has given dowry a different dimension, it may be too simplistic to attribute its dogged survival only to an atavistic culture. In fact, dowry remains a complex and highly contested subject of debate within the women’s movement. Different sections - activists, scholars, researchers - have constructed the birth and survival of the practice through different perspectives, resulting in a complex weave of multiple layers woven through culture, economics, tradition, caste, hypergamy and ritual superiority. Each of these strands intersect, pointing to the complexities of the practice. They also raise a question mark on adopting legal redressal as the sole mechanism for fighting dowry.

Notwithstanding a string of amendments to the Dowry Prohibition Law since 1961 and efforts to make the law more and more punitive, dowry and dowry-related violence are rampant. Dowry-related deaths are estimated to have swung up from 400 a year in the mid-1980s to around 5,800 by the 1990s. –An accurate picture is difficult to obtain, as statistics are varied and contradictory. In 1995, the National Crime Bureau of the Government of India reported about 6,000 dowry deaths every year. A more recent police report said dowry deaths have risen by 170 per cent by 1997. All of these official figures are considered to be gross understatements of the hard situation on ground. Unofficial estimates put the number of dowry deaths at 25,000 a year, with many more maimed and scarred as a result of attempts on their lives,|| said a concept note prepared by Vimochana. In a study conducted in 1997, Vimochana noted a high incidence of unnatural deaths taking place among women in Bangalore. –We found that of 1,133 cases of unnatural deaths of women in Bangalore in 1997,

only 157 were treated as murder while 546 were categorized suicides and 430 as accidents.¶

It has been noted that the acceptability of dowry has widened, moving beyond Hindu upper castes traditionally practising it, to Christians, Muslims, animists and other tribal groups. –In sum the plurality of marriage practices among the various castes, religions, regions and classes is being shifted in favour of homogenous Hindu upper caste model encompassed by the devaluation of women, the giving and taking of dowry and virilocal marriage,¶ said Brinda Karat in Expanding Dimensions of Dowry, a report brought out by All India Democratic Women’s Association (AIDWA) in 2003. As the culture of liberalization has caught on, weddings have become ‘globalised’, involving exorbitant sums of money, a testimony to the economic and social status of families. It is also important to note that the practice of dowry-giving gifts does not begin and end with one lavish wedding ceremony. Every occasion following the wedding, pregnancy, childbirth, especially the birth of a male child, festivals, the death of a father or mother-in-law, husband is accompanied by a flow of gifts to the husband’s family, his relatives. It is true there is a two-way giving of gifts, but it is equally true that it is the girl’s family that ends up giving much more than it receives.

Is there a way forward?

There are no easy ways of breaking the lull in the movement. In fact, it would be difficult to address the problem of dowry and dowry-related violence through a single strategy. One of the effective ways in the past, when the movement was at its peak, was the use of cultural mediums to spread information and create awareness. This can be done even now by forming new cultural groups, using existing ones, creating new plays, songs and poetry. People tend to respond to creative forms of communication. Simultaneously

there can be efforts to revive the momentum, perhaps not in the sense of a mega movement of the 1970s and 1980s but through local activities sustained through a multi-pronged strategy combining agitations with cultural activities, bringing out magazines, newsletters, etc. Side by side with legal interventions there is a need to involve the political class, drawing leaders, members of parliament into discussions and proactive decisions to break the cycle of apathy. For instance, women's groups can invite a panel of leaders and MPs, engaging them in interactive discussions.

Fleeting Images: Some Artefacts of the Movement I

Tato, a young girl, killed herself two months after she was married. Here is the farewell letter she wrote to her husband, published by Manushi:

My Raja,

I am going away. Forgive me... Ever since I came to your house your family has had difficulties. My coming into your house was not auspicious for you. So I am going away. I will make every effort to see that I do not survive, because if I do, not only will my life be ruined, but so will yours. Do not take me to a hospital... I am taking your child along with me in my womb. Forgive me for this too. You had a desire to marry again. Do marry again. You can either burn the clothes I brought in my dowry, or return them to my parents. The clothes which were given to me by your family can be ironed and kept in place for the new bride... When the new bride comes, try and listen to what she says, and do not quarrel with her. Even if her relatives do not pay much attention to you, you should try to stay happy. You should ignore these things. Otherwise, her life will be ruined. And if she talks to you privately about something, never tell anyone else in the house what she says...

Militant protests of the 1970s and 1980s did yield short-term results. They did grab media attention, getting people to sit up and take a serious look at dowry and violence against women. But in the long run these methods could not be sustained; equally important, the string of legal reforms, propelled by the agitations, could not make substantive changes in the situation. The protests had their own legitimate place but they also triggered serious introspections about methods of fighting dowry.

On the protests in the 1970s and 1980s, Brinda Karat wrote, –The struggles led to reform in many laws that have helped women in their struggle for justice.‖

–But today‖, she explained, –such a strategy would be insufficient.‖ Karat said the focus of the anti-dowry struggles needs expansion. –Men need to be encouraged to speak and act against dowry. Young men who refuse to take dowry need to be made role models and their actions publicized. There are many communities who have taken the initiative in organizing marriages without dowry. Their examples need greater exposure,‖ said Karat (Expanding Dimensions of Dowry). In Kerala, young men have come together in an association called ‘_Men Against Dowry‘. They are encouraging their male colleagues not to take dowry.

Over the last few years, stray incidents of women fighting back have made news. In May 2003, 21-year-old Nisha Sharma shot to fame when, minutes before her marriage ceremony, she called the police complaining of dowry harassment. The bridegroom had assaulted Nisha’s father, demanding more dowry. Her spunky retaliation catapulted Nisha as a role model, evoking widespread media attention, with the twenty-one-year-old featuring in front page articles and holding radio talk shows. In an interview to BBC she said, –It has robbed me of my voice - all this constant retelling of my story - but I am

loving every second of it because I do believe it is something young girls and women in general need to know about.¶ Four years down the line yet another stunning protest made headlines, creating a ripple. This time it unfolded in the conservative town of Rajkot in Gujarat, where Pooja Chauhan, a 22-year-old, stripped down to her underwear, ran down the street, protesting dowry harassment. –Pooja Chauhan said she had taken to this unique protest after being constantly harassed for not bringing dowry and for giving birth to a girl-child. The effect was immediate. The police arrested husband Pratap Singh Chauhan, parents-in-law and neighbours Veji Bharwad and Vinu Dalit on Wednesday after she (Pooja) threatened to scale up her protest and march nude to the police commissioner's office if she did not get justice,¶ (Times of India). But at the same time the police slapped a case of indecent behaviour on Pooja, suggesting she was mentally unstable. –The arrests were made on the basis of Pooja Chauhan's complaint. We are also planning to take action against Pooja for indecent behaviour in a public place. However, we will examine her mental condition before taking any action,¶ said Rajkot police commissioner K Nityanandam. Pooja's case showed that the institutions of law and police, rooted in patriarchy, remained as insensitive as before. The police took action only when confronted with a blaze of media attention, not earlier when the 22-year-old had approached them like any other citizen facing harassment.

Expanding Dimensions of Dowry,¶ a survey by AIDWA in 2003, revealed how the scope and spread of dowry have widened over the last decade. A part of the survey conducted among a total of 63 Muslims in Delhi, including 30 married women, 23 young girls and 10 men, pointed to dowry gaining ground within the community. –Different people gave different reasons for supporting the dowry system. Young girls and their parents (all except one who had incomes within 5,000 to 10,000) said that it was because of the rigid custom prevalent in their society. Young girls considered it as their right. They said that

as they did not get any share in their parents' property this was the only way they could have some part of it... Most of them said that it was because of tradition that they will take dowry. If they did not take any dowry they will not get any respect in their matrimonial homes. In state after state, respondents said it was impossible to escape the system; many stressed it was the only way of having a share in parents' property. In Haryana, one of the states with an alarmingly low sex ratio, dowry has spread to all economic sections, with the poor under mounting pressure to scale up dowry. As per the AIDWA report, -Majority of respondents admitted that they are afraid of giving birth to a girl child because of dowry at the time of the marriage. In Tamil Nadu, the majority of girls, across caste lines, said it was impossible to get married without dowry. But at the same time the report threw up a co-relation between the level of education of the respondents and their approach to dowry. Those with lower education levels seemed resigned to accept dowry as a way of life but women with postgraduate degrees questioned and disagreed with the system. The reports also threw light on the changing approach within the Dalit community to dowry. Under traditional Dalit customs, a bride would go to the groom's family with 5 cooking utensils, and if that happened to be beyond the family's means, then pattal or leaves were offered in the pai punji ceremony. The groom's family would host the wedding feast. But the spread of dowry seems to be hurting this traditional custom. -The tendency to imitate upper castes and the spread of consumer culture among Dalits has also meant that items such as a colour television, fridge, motorcycle, cooler, etc. are now demanded. The rituals of upper caste weddings are also imitated. In addition, a demand for cash is growing, stated the AIDWA report

The report showed that in Madhya Pradesh, regardless of their educational background and income levels, all castes and communities have been practising dowry for a long time. Mothers said that till about 15 years ago the demand for

dowry had been much more restrained. In some communities daughters were sent off to their marital homes with the bare minimum - a few utensils and some jewellery. Women who got married three decades ago told AIDWA that only two ornaments and a few utensils were given. -Growing consumerism had undoubtedly led to an increase in dowry demands. Higher income Dalit families, particularly those who had migrated from the Vidarbha region of Maharashtra, reported that they do not have a dowry system. Some well educated parents holding high positions spoke passionately against the dowry system but hesitated to give their personal details and did not fill up the survey form,|| AIDWA reported.

The survey revealed that not only have expectations and demands for dowry gone up in every state, but even those states which did not originally have a system of dowry, have now started practising it. Uttaranchal, for instance, never had a tradition of dowry. But dowry, making an appearance some three to four decades ago, has gone on to tighten its grip in the last 15 years. Scheduled Tribes, which never had a tradition of dowry, have begun practising it like upper castes. Based on a survey of 20 families of the Bhotia tribe, a report said, -Till a few years ago there was no dowry in this community, but as the economic position of members of this community has improved, the dowry custom has gained ground with unimaginable speed. Families who have some kind of a reservation policy are in the forefront in practising dowry. But still the practice of dowry is much less.dowry. But dowry, making an appearance some three to four decades ago, has gone on to tighten its grip in the last 15 years. Scheduled Tribes, which never had a tradition of dowry, have begun practising it like upper castes. Based on a survey of 20 families of the Bhotia tribe, a report said, -Till a few years ago there was no dowry in this community, but as the economic position of members of this community has improved, the dowry custom has gained ground with unimaginable speed. Families who have some

kind of a reservation policy are in the forefront in practising dowry. But still the practice of dowry is much less.

In Islamic practice the Arabic world *jahez*, associated with marriage among other things, means ‘making available certain things for a purpose’. *Jahez* could include a bride’s trousseau, valuable goods and amount of money. Muslim theologians have sanctioned *jahez* but urged not to cross a certain limit. Like *stridhan*, *jahez* too, over three decades has changed from trousseau to full-fledged dowry. According to Waheed, the character of *jahez*, under the influence of Muslim nobility and feudal classes, has changed since Independence. *Jahez* has come to include vessels for cooking, drawing room furniture, gadgets, refrigerator and electrical appliances. Over a period of time, dowry has become expensive and a serious problem for those who cannot afford it.

Demand for dowry is more in areas where the customs of *Tilak* and *Gode-Ke-JodeKi-Raqam* (marriage custom practised by Muslims in Andhra Pradesh and nearby areas) prevail. *Tilak* is common to both Hindus and Muslims in parts of Bihar and Bengal, requiring the bride’s parents to hand over valuable gifts and a settled amount of cash to the groom’s family before the marriage ceremony. The custom *Gode-KiJode-Ki-Raqam* has existed for centuries among Muslims in the South. Originally, it required the bride’s parents to make modest gifts to the groom. Over the years, however, it has perverted and transformed into an outrageous dowry system. Now the bride’s parents have to offer lavish gifts and huge amounts of money to the groom, depending on his qualifications and professional status.

Indu Menon, in a study (1981) conducted among Kerala's Muslim women found that 61 per cent of respondents had given dowry either as cash or property. She has explained it in two ways: one, dowry has become a common practice among Muslims; two, even if the girl were educated, the parents would look for an educated groom and the number of educated men among Muslims is small.

COURTS OF WOMEN

Amid this bleak scenario, there is an increasing need to revive the focus on dowry and bring it back into the public discourse. The Courts of Women, organized by Vimochana in Bangalore in July 2009, is an attempt to renew a discussion on the strategies of fighting violence against women. Women will gather in Bangalore from all over India to discuss dowry and related forms of violence. Before a jury of activists, academics, legal experts and women (rural and urban) will narrate their experiences, give testimonies of how they have resisted and coped with violence. Participants will interact with each other through diverse cultural forms: storytelling, plays, film festival, songs and round table discussions. A novel experiment, Courts of Women, essentially aims at creating feminist spaces, initiating conversations of dissent, blending the political with the personal and the aesthetic. It attempts to situate dowry-related violence in a larger context in which the roots of violence can be traced to pre-natal days; and the stories of wives killed become inexorably linked to daughters done to death. Like laws against dowry, the Pre-Natal Diagnostic Technique Act, barring the use of technology to determine the gender of the foetus, has not been such an effective deterrent against the killing of the female foetus. It is estimated that nearly two million female foetuses are aborted every year. Educated upper middle classes in Delhi's posh localities are using their wealth and access to information to eliminate female foetuses. As reproductive technologies are improving, fine-tuning, the well-heeled are queuing up before mushrooming clinics. The result has been visible in India's skewed sex ratio. The child sex ratio in the 0-6 age-group has been steadily declining from 976 in 1961 to 945 in 1991 and 997 in 2001. Participants at the Bangalore Court of Women will discuss dowry-related violence as part of the larger trajectory of gender violence, including sex selection, declining sex ratio, trafficking, forced prostitution, rape and sexual violence, property right, child marriage,

discrimination in education, mental harassment, physical violence, desertion and legal responses.

What lends Courts of Women its distinctive character is its strands of discourse. Progressive laws are necessary but they cannot constitute the sole means of fighting dowry and domestic violence. One of the arguments is that often we tend to restrict the conversation around violence to patriarchy and the way men think. But to understand the dynamics and operation of violence, it is equally necessary to deconstruct structures of power operating at various levels. It is essential to unravel the way institutions of democracy and dominant discourses appropriate and use the same patriarchal language. Gender-based power relations, like other relations of power, are not confined within the four walls of homes; they permeate every layer of society, operating in institutions of education, bureaucracy, government, law and so on.

A leaflet published by Vimochana, a women's group in Bangalore for the 1989 polls

TO ALL WOMEN VOTERS

Vimochana is not a political party. Why then do we reach out to you at the time of general elections? In 1979 when we first intervened in the political process, we did so to raise women's issues and put them on the political agenda. We had asked you to then vote for candidates who would recognize and talk about violence against women - dowry, rape, sexual harassment, exploitation in the media, shelter fuel, water... questions on which politicians were totally silent.

We have come a long way since then. Women's issues have become more visible. We are now an essential part of political rhetoric - no speech or

manifesto is complete without a formula to draw women into the political and national mainstream. Why then do we need to reach out to you again

Perhaps because we all know that in an age of false promises and hollow Utopias, the rhetoric too hides the everyday reality of the majority of the women in India. We write to you this time to ask you to expose the hypocrisy behind political promises. All parties speak glibly about giving full representation of women in politics - some have gone so far as to promise 30% reservation in these elections. How many parties have fulfilled this promise? In fact, this year the number of women candidates has drastically decreased.

We ask you to expose this hypocrisy because we all know that most of our representatives rarely practise at home what they preach on the streets - they cleverly separate private ethics from public morality. Today wife beaters and rapists can talk of morality of women; mafia dons can talk of justice; fundamentalists can preach secularism... As women and 50% of the electorate, we have to exercise our vote to transform this degenerate political culture. Let us take a strong stand against leaders like

Z.R. Ansari, the Union Minister of State for Forestation, who, despite being directly implicated in an attempt to rape by Mukti Datta, a woman activist working in Himachal Pradesh, has been given a Lok Sabha ticket.

Kalvi, a Janata Dal leader from Rajasthan, who openly came out in support of the murder of Roop Kanwar, a young widow burnt alive on her husband's funeral pyre in 1988.

The 19 CPI (M) activists arrested in connection with the gang rape of a young woman activist of Kashtakari Sanghatana, an organization working with the tribals of Dahanu District, Maharashtra.

Suraj Singh Deo, Bihar's mafia king, who is the trusted lieutenant of Chandrashekhar, senior leader of the Janata Dal.

H.K.L. Bhagat, who has been indirectly named by a number of post-Indira Gandhi murder carnage victims in Delhi in 1984 as the man behind the mass killings of Sikhs and yet continues to be a Union Minister and a senior Congress (I) leader.

- R.L. Jalappa, a Janata Dal candidate from Doddaballapur, who has been implicated in the murder of a lawyer.

- Dr Venkatesh, a former Janata Party MP, at present contesting on a Congress ticket from Bethamangala to Karnataka assembly, has not only deserted his wife and children without paying any maintenance (despite a court order), but also has a criminal case of assault on his wife pending against him.

VOICES OF PATRIARCHY IN PARLIAMENT

Our political class, in and outside the government, maintains a distance from an active fight against dowry. The only area they focus on is legislation. It is a fact that issues of social reform are brought into political discourse only when laws are discussed and seldom outside a legal framework. A non-legislative, active fight against dowry is thereby shifted exclusively to the domain of women's groups. Governments in succession have chosen the softer and easier option of legal redressals, charting out bills, pushing through innumerable amendments, which, though often progressive, are seldom implemented. The controversial 33 per cent Women's Reservation Bill, now on hold for as many as 13 years, has sparked nasty scenes in the Lok Sabha, triggering physical fights with male MPs tearing the bill to shreds in full public view. It is as if the onus of passing the bill rests solely on women MPs. Male MPs – from Congress, BJP and Left parties – have paid lip service but rarely rooted for the reservation bill with the same passion as their women colleagues.

Parliamentary debates over gender laws provide an interesting insight into the psychology of our political class and the patriarchal nature of institutions in their custody. In the 2005 debate over amending the Hindu Succession Act to give daughters equal right to property with sons, MPs from the Samajwadi Party protested, arguing it would create 'ashanti' (disquiet) at home, pit brother against sister and so on. The trend can be traced back to much earlier.

Five decades ago, MPs opposed a Parliamentary Committee's suggestion to ban all gifts at the time of marriage as against the original proposal to fix an upper limit of Rs 2000 on gifts. Outlining some of the strands of discourse, Ranjana Sheel, a Senior Fellow with the Banaras Hindu University, said, –In fact, Pandit Thakur Das Bhargava of Hissar demanded the abolition of the Bill if its intentions were to abolish the system of dowry itself. Other members

regarded dowry as an ancient custom‘ which had provided security‘ and protection‘ to women. As such it was a mark of affection for the daughter. Thus it was not always an unmitigated evil‘. The Speaker of the House excluded the stridhan, which was given out of love and affection for the daughter from dowry the evil... Dowry as such was not such an evil till the demands went beyond the reasonable financial competence of the other party‘ (The Political Economy of Dowry: Institutionalisation and Expansion in North India). Interestingly, we find reflection of some of these arguments in the provisions of the anti-dowry law

STRIDHAN

In traditional Hindu practice, stridhan is that part of wealth, the exclusive property of women, which passes from mother to daughter. Significantly, stridhan cannot be touched by anyone in the family except the one who has inherited it. If it is given to a male family member in case of emergency, he is expected to make good the money with interest. Stridhan may come in the form of money, jewellery, a share in business given to a woman as wife, sister, daughter or daughter-in-law. Stridhan includes gifts to the bride from in-laws and wealth earned by her.

In the debate around dowry, those viewing stridhan as indistinguishable from dowry, argue that it carries with it an element of extortion. Contesting this view runs the argument that stridhan makes the woman's position stronger, giving her inalienable rights to a share of wealth from her parental as well as marital families. It is argued that since daughters do not have a right to equal inheritance with sons, they receive a part of their share through stridhan. This particular issue was taken care of, at least on paper, when the Parliament amended the Hindu Succession Act in 2005. It removed gender discriminatory provisions, thus giving daughters the same rights as sons to parental property. But, like in other gender laws, patriarchy within the family and in the implementing institutions of judiciary and police, are likely to come in the way of realizing the benefits of the landmark amendment. Pointing to a gross lack of information, activists say that most of the women are not aware of the change in the inheritance law.

A section of activists and scholars questions the validity of the argument that women have control over stridhan, stressing that it goes with the bride rather than to her. Since a substantial part of this traditional dowry is made up of

consumable goods, it is difficult for the bride to set it aside for her own use. There is, however, no uniform system in practising dowry. The extent of control women have over these possessions differs from place to place, country to country. Parminder Bhachu, who studied East African Sikh women in Britain, pointed out the process of putting together an expansive dowry with their own earnings, over which they actually exercise substantive control, empowered the women (Dowry and Inheritance). –Perhaps the toughest problem is that of brides themselves. Kishwar reports that many young women wrote to her about the emotional value they attached to dowry as the only substantial transfer of resources from the natal family, and sees this as an opportunity to interrogate what dowry has come to stand for,|| writes Srimati Basu (Dowry and Inheritance).

Basu refers to the popular Bengali custom of tattwa at the time of weddings to raise a question on how the distinctions can become blurred between custom and extortion. –At a Bengal Hindu wedding, the institution of tattwa - the formal display of gifts between the marrying families never fails to turn my stomach. It is a rare wedding where pride of place is not occupied by a roomful of cellophane-wrapped trays of clothes for the couple, clothes for a wide circle of relatives, linen, houseware, makeup, sweets, spices, fish...I even saw a container of Glenlivet single malt as part of a recent display! It is possible to hire a professional tattwa designer these days to make this display of ‘artistic’ clothing shaped into fantastic silhouettes; bamboo or Styrofoam sculptures; jewel-like accoutrements. People inevitably hasten to tell me that I am misreading tattwa as ‘dowry’ in the same sense as ‘dowry deaths’: as opposed to that terrible greedy and materialistic stuff, this phenomenon is cast as an authentic celebration of cultural traditions, a fundamental component of wedding ceremonies||, she wrote (Politics of Giving: Dowry and Inheritance as Feminist Issues).

Should Bengal's traditional practice tattwa – decorating trays, filling them with goodies and fineries and sending them to the groom's family – be considered voluntary gifts or dowry? The number of trays sent off is a high point of conversation and mark of prestige. This renews the debate on what gifts are voluntary and what can be regarded as dowry extortions. The gifts sent in tattwa, seemingly voluntary, bring with them an element of coercion, socially sanctioned.

WOMEN, LAW AND THE STATE

The women's movement is split more ways than one on the question of how much faith should it repose in the state's commitments and promises. Radical feminists believe the historical phase of the 1970s and 1980s, when the women's movement looked towards legal reforms with unqualified hope, is long past. In fact, they believe investing too much of energy in legal redressals is nothing but misplaced hope and a waste of time. Their critique is grounded in questioning the state's liberal construct of the individual as citizen and law as a neutral institution. There is little disagreement within the women's movement that its main tasks include opposing state control, making it accountable and protesting its continued indifference to gender. No unanimity, however, exists on how much support the movement should seek from the state, particularly the legal institution, in demanding more laws and amendments. It is in fact on this that sharp differences arise, splitting women's organizations. Disillusionment with the law deepened after the turbulent 1980s succeeded in pushing through progressive amendments and legislations but failed to implement them as effective strategies. Says Flavia Agnes, –If oppression could be tackled by passing laws, then the decade of the 1980s would be adjudged a golden period for Indian women, when protective laws were offered on a platter. Almost every single campaign against violence resulted in new legislation. The successive enactments would seek to provide a positive picture of achievement. (But) the crime statistics reveal a different story... The deterrent value of the enactment was apparently nil. Some of the enactments in effect remained only on paper¹ (Women, Marriage and the Subordination of Rights). Those against the women's movement investing too much of energy in legal remedies have pointed out that the only result of stringent laws has been to push the dowry transactions into secrecy.

This is not to imply that progressive laws do not play a role giving assurances on women's protection, status and well-being. At the same time, feminists are actively questioning the wisdom of pressing for stringent punishments, hoping these will act as deterrents to crimes and violence. –Feminists are wary of asking for more stringent punishments for offenders or for placing the burden of proof on the accused (as has been proposed in many cases), from fear that conviction rate would decline further, or that such laws would be used as pretext for the state's further arbitrary use of power,|| writes Rajeswari Sunder Rajan (*Real and Imagined Women: Gender, Culture and Post colonialism*). A counter point to this argument is that the movements built around legal reforms do help in creating a new consciousness and awareness of women's rights; in fact, the impact can also be gauged from the backlash it evokes. For instance, the law against domestic violence spurred the creation of a string of organizations like Save the Family, relentlessly carrying on a campaign to seek the scrapping of the law.

Madhu Kishwar has argued that the flawed anti-dowry law has made it possible to club all cases of violence as related to dowry. –This pattern is evident from the fact that in cases where the woman had died, and left no account of her suffering, about half the cases (reported by others) were ascribed simply to dowry (36 out of 79). But in cases of torture or attempted murder where the woman either reported herself or would have spoken to the person reporting, only 14.7 per cent of the cases cited dowry as the sole cause; 13.2 per cent cited other causes as primary while mentioning dowry, and 72 per cent cited other causes (or none) and did not mention dowry,|| wrote Kishwar (*Rethinking Dowry Boycott*).

But Kishwar's views have been strongly contested by sections of the women's movement. Refuting Kishwar's point of view, Rajni Palriwala has asserted that –intensification of homicidal violence against wives|| was a consequence of

changing practices in dowry driven by socio-economic changes. –This is premised on the understanding that dowry, and indeed most forms of ‘transfer of wealth at marriage’ cannot be understood in itself,|| said Palriwala (Reaffirming the Anti-Dowry Struggle).

In the light of increasing criticism against the punitive character of laws on gender violence, policymakers deliberately kept criminal provisions that allow arrests on the basis of complaints out of the Protection of Women from Domestic Violence Act, 2005. Marking a departure from other laws prescribing punishment for perpetrators of violence either through imprisonment or fines, the Act against domestic violence aims to ensure security of the woman by recognizing her right to live in a violence-free home. The legal remedies include injunctions, compensation and monetary relief.

SOME FLAWED PROVISIONS IN THE LAW

It may help to take a look at some of the problematic provisions in the anti-dowry law listed below:

- Dowry is defined as –any property or valuable security given or agreed to be given directly or indirectly by one party to the other party to the marriage or by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before (or any other time after the marriage) in connection with the marriage of the said parties.||
- The law sanctions –gifts|| but forbids dowry. It cannot be used for giving gifts at the time of the marriage to the bride, provided they are voluntary and are entered in a list, in accordance with rules. Presents to the groom, if they are made without being demanded, are exempted.

- Presents to the groom should not be of –excessive value, in relation to the –financial status of the person by whom, or on whose behalf, such presents are given.

- An amendment to the Indian Penal Code stipulating that if the death of a woman occurred within 7 years of her marriage and it was shown that she was being harassed for dowry, then her death would be –dowry death.

- Two amendments in 1984 and 1986 make the giving and taking of dowry a cognizable offence. This empowered courts to initiate proceedings on its own knowledge or on the basis of a police report, even in the absence of a report lodged by an aggrieved person. A section of women activists have argued that these stringent amendments have led to a misuse of the law.

- Who decides what is and what is not a voluntary gift? What is passed off as voluntary at the time of the wedding by the bride’s parents may attract the label of dowry in case strains in the marriage develop later. –Thus even when marital troubles may not be connected to tussles over dowry, women’s families tend to register cases using the draconian provisions of the anti-dowry law when the marriage heads towards a breakdown, says Madhu Kishwar (Strategies for Combating Dowry and Domestic Violence in India).

- Ranjana Kumari’s study in 1989 on dowry harassment cases reported to authorities revealed 60 per cent of families gave dowry despite no explicit demands; 79 per cent paid ‘voluntarily’ rather than ‘under pressure’; 35 per

cent said they had given dowry for the ‘girl’s happiness’, 12 per cent as a status symbol and 22 per cent under ‘social pressure’.

- The legal parameters for deciding what gifts are of –excessive value in relation to the economic status of the giver are fuzzy. What happens to owners of black money who do not declare their income or are benami property owners?
- The law makes both givers and takers of dowry partners in crime. But hardly any cases of persecution for giving dowry ever come to light.
- According to some, the law does not take into account the changing form of marriage transactions. It is argued that dowry cannot be perceived as simply a spillover of traditional practices since the differences between modern-day dowry and stridhan are too stark to merit a comparison.

Below is an opinion piece by Manoj Mitta, which underlines the constraints of legal redressal, while pointing also to the deep-seated patriarchy of the judiciary as well as the political class. Though amendments to the rape law have been progressive, the judiciary’s patriarchal bias often deters their implementation. Also, a knee-jerk tendency to recommend capital punishment, Mitta has argued, is counter productive facilitating less convictions.

Report in the Indian Express by Manoj Mitta

- If 2003 has been marred by a succession of high-profile rape cases, it is also a year that began on a propitious note for the law against this crime. For on January 3, the government notified the enforcement of a legal amendment stipulating that in a rape case the victim cannot be questioned or cross-examined about her general immoral character“.
- This seemingly innocuous amendment to the Indian Evidence Act came as the culmination of demands that were made from time to time in the wake of the Supreme Court’s acquittal of both the accused policemen in the sensational Mathura rape case in 1979.
- Though Mathura was established to have been raped by the uniformed men in their police station, the trial court let them off on the ground that her previous conduct of eloping with her boyfriend indicated she was habituated to sexual intercourse“ and was of loose morals“.
- The High Court, however, convicted the policemen ruling that surrender induced by fear could not be construed as consent or desire. But in a verdict that remains a blot on its record, the Supreme Court set aside the conviction and exonerated the policemen stressing the absence of any visible marks of injury on Mathura’s body.
- Despite the outrage generated by the Mathura case, the government balked at touching Section 155(4) of the Evidence Act, which permitted the accused to attack her character. But it did make some less radical amendments in 1983, stipulating that the penalty for rape should not be less than seven years of imprisonment, providing for in-camera proceedings and making disclosure of the victim’s identity a punishable offence.

- The courts on their part sought to live down the Mathura shame by reversing judgments that cast a stigma on the victim's character or presumed, on some flimsy evidence, that she gave her consent.
- But regrettably, there have also been cases where the judges continue to show appalling ignorance and shocking bias. For instance, in the Bhanwari Devi case, later made into a movie starring Nandita Das, a judge held that the victim could not have been raped since she was a Dalit while the accused was from an upper caste.
- An NCRB report shows a steady, 6.6 per cent increase in the incidence of rape between 1998 and 2000. The courts, in questioning the victim's character or even caste, have not always helped.
- Not surprisingly, the latest report of the National Crime Record Bureau studying trends over the period 1998 to 2000 shows a steady increase of 6.6 per cent in the incidence of rape. The statistics vindicate the decision of the Law Commission to harden its stand in 2000 against Section 155(4) of the Evidence Act.
- When it first gave a recommendation in this regard in 1980, the Law Commission merely suggested a toning down of the provision so that the questions put to the victim on her past sexual conduct were only vis-à-vis the accused.
- But two decades later, given the growing abuse of that provision to scuttle rape cases, the Law Commission recommended a wholesale deletion of Section 155(4).
- The Vajpayee government, to its credit, acted on the recommendation with alacrity by enacting the amendment in the winter session of Parliament. Besides deleting Section 155(4), it inserted a proviso to Section 146 stating that it would not be possible to question the victim about her prior sexual conduct.

It's still too early to judge the difference this will make to the prosecution of rape cases.

1. Meanwhile, the vastly varying sentencing policy has been another area of controversy in rape cases. So much so that Home Minister L.K. Advani is on record saying more than once that rape should be punished with death.
2. But significantly, the Malimath Committee set up to reform the criminal justice system rejected Advani's death-for-rape prescription. It said that since death penalty is irreversible, it will make the judges demand higher standard of proof and thereby lower the conviction rate.
3. Worse, the fear of death penalty may, it said, tempt the culprit to kill the victim. –What really acts as a deterrent is the certainty of conviction and not the quantum of punishment, the Malimath Committee said. Achieving that certainty of conviction is however easier said than done.

Fleeting Images: Some Artifacts of the Movement II

Ants in the Pants by Mary Roy

In 1986, the Supreme Court struck down the Travancore Christian Succession Law, which stated that :

A daughter shall inherit one-fourth the share of a son or Rs 50,000, whichever is less.

It was automatically replaced by the Indian Succession Act by which intestate property is equally divided among sons and daughters and the widow inherits a onethird share.

It is extraordinary that in 1995, the Christian male-dominated community in Kerala, assisted by the chauvinistic church and the chauvinistic legislature,

continued attempting to water down the Supreme Court's judgments and to revalidate the old gender discriminatory law.

At the same time, there are demands by women's groups all over India for a Uniform Civil Code, in order to ensure a better deal to women who have been discriminated against by the personal laws of their religions.

In Kerala, there was not a murmur of dissent during the last hundred years when women were cruelly discriminated against. But now, every couple of months, the government is made aware of the -inconvenience|| caused to Christian males. In fact, Minister K.M. Mani feels that if legislation is delayed, an ordinance must be passed to revalidate the old Succession Act for a retrospective period of thirty years! The Church is obviously suffering from a bad case of ants in the pants, and Minister Mani feels that his solicitous care of Christian males is necessary to get himself re-elected.

(This appeared as a letter to the editor Manushi, 1996.)

2 B.R. Sharma, Department of Forensic Medicine and Toxicology, Govt. Medical College & Hospital, #1156-B, Sector-32B, Chandigarh, 160030, India 3 M.K.Gandhi. 4 Vandana Sing —Dowry or the living devil in the society||

DOWRY, RITUAL STATUS AND HYPERGAMY

There is no one single construct that could explain the prevalence and acceptability of dowry. One of the theses points to hypergamy, the preference or the rule that women should marry into families with a higher ritual and economic status than their own. This places families of bridegrooms in a position of ritual and economic superiority. –The dowry was the sweetener, one could say, or in today’s terms the incentive. It also marked the marriage as fulfilling appropriate caste and kinship rules,|| argues Rajni Palriwal.

The ritual status of dowry as part of kanyadaan, the highest form of Brahmin marriage, was part of imposing a hegemonic Brahmanical structure. –One way of looking at classification of marriages by the Brahmin law-givers is to regard it as an attempt to impose the Brahmanical ideology of kanyadaan on a country, where most people, including many Brahmin castes, but excluding the richer sections of hypergamous castes, practised bride price. This extremely popular form of marriage, was dubbed asura and condemned as unsuitable for Brahmins,|| M.N. Srinivas observed.

Reversal of Bride Price?

Some among scholars note with concern that the system of bride price among Scheduled Castes and Scheduled Tribes, is giving way to dowry, reversing the direction of giving gifts. They explain it in terms of a decline in women’s participation in labour force. The switch from bride price to dowry and the fall in women’s participation in workforce are constructed within a general lowering in the status of women. Others, however, contend that an increase in women’s participation in labour is not automatically going to improve the status of women. It is argued that as long as women continue to have no control over their earnings and have no say in decision-making, their status will remain low.

–It is true that the increasing coercive character of dowry has led to a decline in

the status of women in addition to it being a threat to their very existence. But it must be pointed out that contrary to popular wisdom, women do not have a higher status in those castes and communities where bride price is paid for them,⁹ say Shalini Randeria and Leela Visaria (Sociology of Bride Price and Dowry). They argue that the relatively stronger position of lower and Scheduled Caste women as compared to upper caste women could be due to their better bargaining clout coming from the traditional systems of divorce and re-marriage.

The Changing Face of Dowry

The conflicting perspectives on dowry need to be grounded in the fact that presentday dowry, including gifts not just to the bride, but to the groom, the in-laws, his relatives as well as furniture, household goods, bears very little resemblance to traditional stridhan.

Contemporary dowry is more like an investment by the bride's family for making powerful connections and increasing opportunities to make money. Marrying a daughter into a well-connected family, which demands and accepts dowry, could mean upward mobility for her natal family, especially brothers, who hope to secure benefits through this connection. Perhaps the only components of dowry that still retains similarity to traditional stridhan could be the bride's trousseau, gold jewellery, household goods and any property her parents may put in her name. –It is not uncommon for a groom's family to keep a part of this dowry for their daughter's wedding or treat the household goods as

⁹ Dowry system a curse on Indian Society, Pahlavi Sharma New Delhi.

offerings to the family, rather than just the bride,|| said Kishwar (Strategies for Combating the Culture of Dowry and Domestic Violence in India).

The extent and volume of dowry has come to hinge on the status-income and connections of the groom's family - higher the income, more powerful the connections, greater is the demand for dowry. The groom's parents perceive dowry as a way of making good the investments they have made in their son's education. An apprehension of insecurity that the son, following his marriage, may not look after them in old age tends to be yet another incentive. Liberalization, by opening up new employment avenues, has paved the way for greater upward mobility among educated middle and upper classes. A fast rising income graph has made the grooms much sought after by the brides' families who want to enter into matrimonial alliance with families of a status higher than their own.

EXTRACTS FROM OM SWAHA, A PLAY WRITTEN IN 1979

- Newspaper Vendor: Breaking News! Breaking News! Murder or suicide in Model Town! Murder or suicide in Model Town!
- Enter reporter, buys a newspaper, reads it
- Reporter: Hardeep Kaur: 20 years old Chorus: Hardeep Kaur: 20 yearsold Reporter: Resident of Model Town Chorus: Resident of Model Town
- Reporter: Wife of Gurudayal Singh, deal of automobile parts
Chorus:Wife of Gurudayal Singh, deal of automobile parts
- Reporter: Died last night at Jai Prakash Narayan Hospital after being burnt Chorus: Died!
- Reporter: Before her death she told the police her father-in-law had set her aflame for not getting dowry.

- Man: How odd! Woman burns to death and it is said that she was burnt because of not getting dowry!
- Reporter: Look here I am saying so after investigating the matter.
- Man: I live in Model Town-but haven't heard.
- Reporter: You stay in Model Town so you have not paid attention.
- Man: Seems you paid a lot of attention.
- Reporter: Let's go to Model Town and ask the people.
- (Go to Model Town)
- Reporter: Let's ask this resident. Sir, did you see anything connected to the incident? Please tell this man.
- Group: (Keeping hands over their eyes) Seen nothing.
- Reporter: Let's go to another group. (Approaches a second lot) Did you hear Hardeep Singh screaming, crying?
- Group: (Keeping hands over ears) Heard nothing.
- Reporter: Strange! Let's go to another group. (Approaches third lot) Do tell us whatever you have to say about Hardeep Singh.
- Group: (Keeping hands over mouth) We can say nothing.
- All: (Keep repeating at higher and higher pitch) We saw nothing, heard nothing, can say nothing

Professor Shetty: Brother and Sisters – do come in. Take a seat. Namaste, Namaskaaram, Sat Sri Akaal, Walekum Salaam, Welcome, Hello, Hi!

Come brothers and sisters, share your thoughts. Find the perfect match, sitting at home. Yes, who does not know me: in my neighbourhood, at the shop, on the street, on the bridge, on the canal, at the sewer line, at the door; my name is glowing on all four corners. People call me Professor Shetty, MB.

Chorus: MB?

Prof. Shetty: MB, that is marriage broker Chorus: Ok, understood. Marriage broker, etc.

Prof. Shetty: Ok folks. I have grooms ranging from IAS to peons. Some unemployed as well, but they are from wealthy families. They wish to start factories after marriage. Not much, they want only two lakhs as capital in dowry.

Chorus: Two lakhs - that's a lot!

RESOURCES

Features of Protection of Women from Domestic Violence Act

2005 Definition of Domestic Relationship

- It can be seen as a relationship between two persons who live or who, at any point of time, have lived together in a shared household. These people may be related by blood, marriage or through a relationship like marriage, adoption or family members living together as a joint family. Apart from wives and partners, women who are sisters, widows, mothers and single women are also entitled to legal protection under this Act.

DEFINITION OF FORMS OF VIOLENCE:

- Physical abuse means bodily pain or harm, or danger to life or impairment of the health and development of a woman.
- Sexual abuse means any sexual conduct that humiliates, degrades or violates the dignity of a woman.
- Emotional or verbal abuse includes insults, ridicule and humiliation related to not having a male child. This form of abuse also refers to repeated threats about causing physical pain to someone the woman is close to or interested in.
- Economic abuse signifies depriving the woman of economic or financial resources including household necessities, stridhan, property and rent payments in a shared household. It also includes prohibition and restriction to continued access to resource and facilities.

VARIOUS STEPS OF RELIEF FROM THE COURT:

- **SECTION 4: INFORMING THE PROTECTION OFFICER:** A woman or any person on her behalf can give information of domestic violence to the Protection Officer (PO), the Service Provider (SP) or the Police. A complaint can also be filed directly in court directly with the magistrate based on the information provided only if the woman herself wants to initiate legal proceedings.
 - **SECTION 5, RULE 5, FORM 1:** Duties of the Protection Officers or the Police after complaint has been lodged: A woman can lodge a complaint in the form (Form 1) of a Domestic Incident Report (DIR). A DIR is the official format in which a complaint is registered.
 - A woman can get this form from police stations, Protection Officers or Special Officers and fill it herself. If she cannot fill the form herself, the Police will convert her complaint into this Form 1 as a DIR and explain the contents to her. She will be informed of her right to make an application for obtaining relief by way of various orders passed by the court.
- RELIEF AND ORDERS GRANTED FROM THE COURT:**

Section 18: protection orders. The court may pass an order:

- Preventing the perpetrator from entering the woman's place of employment and causing harassment.

- Preventing any communication via letter, phone, and email or in person with the woman from the perpetrator.
- Preventing any violence being caused to a person related to the woman.

SECTION 19: RESIDENCE ORDERS

- A residence order may be passed by the Court where the woman has been thrown out of her matrimonial house and she wants to return to it. The aim of this order is to ensure that the woman has a place to live. In case she does not feel safe living with the male perpetrator of violence, she can also apply for an order seeking his removal from the shared household. The Court can also direct the perpetrator to provide alternative accommodation for the woman.

SECTION 20: MONETARY RELIEF

- The Court may pass an order to meet any expenses the woman may have incurred as a result of the violence faced by her. This may include payment of medical bills or loss of any belongings.

SECTION 21: CUSTODY ORDERS

- The Court may also pass temporary custody orders for the children. This is to prevent the woman from being separated from her children, which is a form of emotional abuse.

SECTION 22: COMPENSATION ORDERS

- The Court can also pass a compensation order in favour of the woman for the physical and mental injuries sustained by her. This is over and above the actual expenditure that can be obtained by a monetary relief.

WHAT CAN A WOMAN DO TO GET RELIEF FROM THE COURT IF THERE IS NO PROTECTION OFFICER OR REGISTERED SPECIAL OFFICER IN HER AREA?

- She can go to the Police to file a criminal complaint under Section 498 A of the Indian Penal Code for cruelty. She can also request the police to record a DIR under the Protection of Women from Domestic Violence Act and, at the same time forward it to the magistrate. If the Police refuse to file an FIR or DIR, she can directly approach the Court with a private complaint requesting the Court to direct the Police to register a FIR or DIR.

DOWRY PROHIBITION ACT, 1961 (COGNIZABLE, NON-BAILABLE)

Definition under section 2: Dowry means any property or valuable given or agreed to be given directly/indirectly by the girl's parents to the boy and his family before or after the marriage.

In order to prohibit the practice of dowry, a set of laws has been included in the Indian Penal Code:

Section 304b of IPC: When a woman dies as a result of burns or bodily injuries within seven years of her marriage and circumstances show that before her death she was subjected to cruelty or harassment by her husband or his relative for any demand of dowry, such death shall be called 'dowry death' and the husband and the relatives shall be presumed to have caused her death. Under this section, whoever commits dowry death shall be punished with imprisonment for not less than seven years, which may extend to imprisonment for life.

Section 113a of Indian Evidence Act: When the question is whether the act of a suicide by a woman had been abetted by her husband or any of his relatives and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband and his relatives had subjected her to cruelty, the

Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by the husband or his relatives.

CRUELTY (COGNIZABLE, NON-BAILABLE)

SECTION 498A of IPC: When a woman's husband or his relative subjects her to cruelty, they shall be punished with imprisonment (which may extend to three years) and shall be liable to fine.

DEFINITION OF CRUELTY UNDER THIS SECTION:

- Any intentional behaviour of the husband or his relative that is likely to force the woman to commit suicide or to cause serious injury to her life or health (whether physical or mental or both).
- Harassing the woman with a view to forcing her or any person related to her to meet the unlawful demand for any property or valuable goods, or on account of failure to meet such demands made by the husband or his relatives.

DOWRY PROHIBITION ACT, 1961 SAYS:

- If dowry is taken before the marriage, it must be handed to the girl within three months of the date of wedding.
- If dowry is taken at the time or after the marriage, it must be given to the girl within three months of taking it.
- If dowry was taken when the girl was a minor (i.e., below the age of 18 years) then it must be given to the girl within three months of her turning 18 years.

- If dowry is kept by a person other than the girl, then it is kept in trust by such person. This means that the person who has the dowry is responsible for keeping it properly and giving it to the girl at the proper time. He or she cannot sell, spend, use or give the dowry to anyone else.

- If a person does not return the dowry to the girl within the time laid by law, then she should file a complaint against the person. Such person can be punished with imprisonment from six months to two years or a fine of Rs 5000 upto Rs 10,000 or both.

- If a girl or woman dies before receiving the dowry, then her heirs can ask for it from the person in whose trust it is.

- It is essential to make a list of all the gifts received at the time of wedding. The list of gifts to the groom should be kept by him. The list of gifts given to the bride should be kept with her.

- The list should be made at the time of the wedding or immediately after the wedding.

- The list should be in writing

- There should be a brief description of each gift in the list.

- The approximate value of the gift should be written.

- If the giver is a relative, then the relationship to the bride or groom should be mentioned.

- The list should be signed by the bride and the groom.

- If the boy and the girl are unlettered, the list should be first read to them and their thumb impressions placed on it.
- If the bride and groom so desire, the list can be signed by a relative or person who has attended the wedding

THINGS TO REMEMBER

1. The law is called the Dowry Prohibition Act 1961.
2. Offences under the law are:
 - Giving and taking dowry
 - Helping in giving or taking of dowry
 - Asking for dowry
 - Advertising for taking or giving of dowry
4. Punishments for giving or taking dowry or for helping are:
 - Imprisonment up to five years
 - Rupees 15,000 fine
 - If the dowry amount is more than Rs 15,000, a fine equaling that amount
5. Punishment for asking for dowry
 - Imprisonment for at least six months or fine
5. Punishment for advertising
 - Imprisonment for a minimum of six months or Rs 15,000 fine or both

KEY POINTS TO REMEMBER

- Lodge a complaint
- The dowry given at the time of marriage –

stridhan - is the bride's personal property. No one else has a right over it.

- It is essential to make two lists of all the gifts received at the time of wedding. The bride should keep one. The groom should keep the other.

COMPLAINTS CAN BE LODGED UNDER:

- Sections 498A, IPC, 1860 for cruelty
- Dowry Death under Section 304B, IPC, 1860

FILMS:

- Stree Dhan Ya Nidan Language: Hindi Duration: 28 Mins Director/Producer: Nalini Singh
- Tum Akeli Nahin Language: Hindi Duration: 55 Mins Director/Producer: G S Chani Organization: CEVA, Chandigarh
- Ek Chingari Ki Khoj Mein Language: Hindi (EST) Duration: 22 Mins. Organization: Madhyam
- UNFPA Film on violence Language: English/Hindi Duration: 120 Mins. Director/Producer: Deepak Gupta Organization: UNFPA

PLAYS:

- Om Swaha: A striking play from the women's movement that struck a chord among audience. A copy of the script is available with Jagori.
- Meye Dilaam Shajiye (Have Got My Daughter Ready): A Bengali Play
- Bandornaach (Monkey Dance): by Malini Bhattacharya

BOOKS ON DOWRY:

- Law Related to Dowry Offences Author: P D Mathew Publisher: Indian SocialInstitute Language: English New Delhi Legal Education Series No. 27
- Landmark Judgments on Dowry Related Deaths Author: M J Antony Publisher: Indian Social Institute Language: English New Delhi, 1995
- Dowry and Inheritance Editor: Srimati Basu Publisher: Women Unlimited Language: English New Delhi, 2005
- South Asians and the Dowry Problem Author: Menski Werner Publisher: Vistaar Publications Language: English New Delhi, 1998
- The Gift of a Daughter: Encounters with Victims of Dowry Author: Subhadra Butalia Publisher: Penguin Books Language: English New Delhi, 2002

• Dowry Murder Author: Veena Talwar Oldenburg Publisher: Oxford University Press Language: English New Delhi, 2002

• Our Laws Publisher: Multiple Action Research Group Language: English New Delhi, 2001

• Sita's Curse: Stories of Dowry Victims Author: Seema Sirohi Publisher: HarperCollins Language: English New Delhi, 1995

• Expanding Dimensions of Dowry Publisher: AIDWA Language: English New Delhi, 2003

SUPREME COURT EXPRESSES ANGUISH **OVERCONTINUING DOWRY DEATHS**

The Supreme Court highlights the persistent menace of dowry and suggests that no mercy be shown to the accused

–You have burnt to death a woman by pouring kerosene. How can you do such a barbaric act? It is an uncivilised act. You should be hanged for the crime,|| said Justice Markandey Katju sitting with Justice Deepak Verma as a vacation Bench, on hearing an application filed by Prem Kumar Gulati who burnt his brother’s wife in collusion with his brother and mother, in Haryana.

Gulati had been given a life sentence by the Punjab and Haryana High Court and was seeking relief in the Supreme Court. Justice Katju told the applicant’s counsel Jasbir Singh Malik, who said it was a case of suicide: –They all say that. Every time they burn a bride, they say it was a suicide. On the one hand they regard women as a devi, on the other hand they burn them alive. This is against the norms of civilised society. It’s barbaric. We will not grant you any relief. You can try your luck before another Bench.|| The Bench postponed the hearing to a later date.

The deceased, Rajani, in her dying declaration, accused her husband Mahender Kumar Gulati, his elder brother and their mother of constantly harassing her and then setting her ablaze after pouring kerosene over her at their house in Bhiwani district. The accused was given a life sentence by the trials court; it was later confirmed by the high court. The appeal was directed against that judgment. It also sought bail.

Although paying and accepting dowry has been illegal in India for 40 years, it is still rampant. The contentious -- but thriving -- system was put under the spotlight when Nisha Sharma, a young bride from Noida, had her groom arrested for demanding cash from her family in 2003. Other women have paid a very high price, sometimes even with their lives. The Dowry Prohibition Act 1961 (amended in 1984 and 1986) that bans paying and receiving dowry is rarely enforced by the police. Most of the time the perpetrators of the crime get away because of lack of evidence. In rare cases, the

victims survive to make dying statements accusing the husband and in-laws of the atrocity. Under the provisions of the Dowry Prohibition Act, the accused may be sentenced to a minimum of seven years or a maximum of life. The Law Commission has recommended increasing the minimum sentence from seven to 10 years in dowry death cases. It has, however, declined a suggestion by the National Commission for Women and women's rights groups to increase the maximum punishment from life imprisonment to death. According to official data, one Indian woman, on average, commits suicide every four hours over a dowry dispute. The National Crime Records Bureau (NCRB) lists a total of 2,276 female suicides due to dowry disputes in 2006, that's an average of six a day. The British medical journal The Lancet recently confirmed that thousands of young women, mostly in the 15-34 age-group, are killed in -fires in the country every year. The -fires referred to in the article are mostly a result of blatant domestic abuse. -Domestic abuse is a serious problem in India. Women are sometimes killed in disputes over dowries; often in such disputes the victims are doused with gasoline and set ablaze, and their deaths are claimed as kitchen accidents, the journal reports. It put the figure of such deaths at 100,000 a year. -Most times women are tortured to squeeze more money out of their families, and in extreme cases they're killed. Then the husband is free to remarry and get another dowry, says Ranjana Kumari who runs seven domestic violence refuge centres for women in Delhi. Dowries have become such a burden that many families are desperate to avoid having girls. Pregnant women are made to undergo ultrasound tests to determine the sex of the baby, and, very often, female foetuses are aborted. This, despite the Pre-Natal Diagnostics Techniques (Regulation and Prevention of Misuse) 1994 (amended 2002) Act that bans sex determination tests.

Source: The Hindu, June 2, 2009

The Telegraph, June 2, 2009

<http://straitstimes.com>, March 2009

<http://news.bbc.co.uk>, July 2003

HOW DID 100,000,000 WOMEN DISAPPEAR?

Two researchers crunching population statistics have confirmed an unsettling reality. Siwan Anderson and Debraj Ray noticed the ratio of women to men in developing regions and in some cultures is suspiciously below the norm

In India, China and sub-Saharan Africa, millions upon millions of women are missing. They are not lost, but dead: victims of violence, discrimination and neglect.

A University of British Columbia economist is amongst those trying to find them – not the women themselves, who are long gone, but their numbers and ages, which paint a sad and startling picture of gender discrimination in the developing world.

The term "missing women" was coined in 1990, when Indian economist Amartya Sen calculated a shocking figure. In parts of Asia and Africa, he wrote in *The New York Review of Books*, 100 million women who should be alive are not, because of unequal access to medical care, food and social services. These are excess deaths: women "missing" above and beyond natural mortality rates, compared to their male counterparts.

Women who are dead because their lives were undervalued.

Around the world boys outnumber girls at birth, but in countries where women and men receive equal care, women have proved hardier and more resistant to disease, and thus live longer. In most of Asia and North Africa, however, Sen found that women die with startlingly higher frequency.

His research began a flutter of activity in academic circles and by 2005, the United Nations produced a much higher estimate for how many women could be "missing": 200 million.

From her office at the University of British Columbia, economics professor Siwan Anderson has been crunching numbers to try and understand why so many women are dying. "If you're interested in gender discrimination, it's really one of the starkest

measures of discrimination, because it's women who should be alive, but aren't," she says.

The 40-year-old researcher recently co-authored a paper with New York University's Debraj Ray, focusing on figures from China, India and sub-Saharan Africa for the year 2000. What they discovered flew in the face of existing literature and commonly held beliefs about the missing women phenomenon.

"Previously, people had thought that they (the missing women) were all at the very early stages of life, prenatal or just after, so before four years old," Anderson says. "But what we found is that the majority are actually later." Female infanticide has been endemic in India and China for some time, which she says led researchers to assume that it was the source of all the missing women. But the truth is much more complicated.

Once she and Ray broke down the numbers by age group, they found that the majority of excess female deaths came later in life: 66 per cent in India, 55 per cent in China and 83 per cent in sub-Saharan Africa.

One of their colleagues in the economics department at the University of British Columbia says this finding is striking, and points the way for future research and advocacy.

"Why would there be excess mortality of, let's say, 45-year-old women versus 45-year-old men?" asks economics professor Kevin Milligan. "And what they find is ... they have the same set of diseases, they just seem to die more frequently. The explanation that seems most consistent with that is differential access to health care. And so that's a really striking finding."

Anderson says that lack of health care is likely a big part of the problem, but that there

are numerous cultural and social factors at play that can be difficult to pinpoint. In their "elementary accounting exercise" published this February, Anderson and Ray began to plot the causes of excess death in 2000 by age group, and produced some interesting figures.

In sub-Saharan Africa, the dominant source of missing women was HIV and AIDS, the cause of more than 600,000 excess female deaths each year.

In China, Anderson says, most of the 141,000 excess female deaths by injury were suicides, making China the only place in the world where women are more likely than men to kill themselves, often by eating pesticides used for crops.

And in India, a category called "injuries" yielded ominously high figures: 86,000 excess deaths in the age group 15-29 in 2000 alone. Anderson has done extensive research in India, and says the numbers beg the question of exactly how many deaths were so-called "kitchen fires" – often used to mask dowry-related killings, the result of a new bride being tortured by her new family until her parents pay their debts.

Contrary to what you might expect, Anderson says, dowry prices have not dropped off with improvements in education in India. Instead, they have gotten worse, with educated brides and their families willing to pay even more for high-quality grooms.

Anderson says dowry payments can be six times a family's annual wealth – an excruciating price, especially for poor villagers. The implications of this hefty sum trickle down to the first moments of a child's life. While conducting recent field work in India, Anderson asked villagers about selective abortions and found them open about the fact that they use ultrasound to determine the baby's gender and help them decide whether or not to keep it.

"They see no other options," she says. "They really cannot afford to have a daughter."

Future research will delve deeper, seeking answers to questions such as: How often are men given mosquito nets to protect themselves from malaria, but not women? How many women die because they are not taken to the hospital when they are sick?

Anderson is using data gathered primarily from the World Bank, the United Nations and the World Health Organization, but admits that getting the figures can be a huge challenge. In sub-Saharan Africa, for example, many deaths go undocumented, and in India, it is virtually impossible to know how many "unintentional" deaths are actually dowry killings, because they are not accurately reported to the authorities.

It is also difficult to separate direct gender discrimination from biological, social, environmental, behavioural and economic factors. That will be part of the task as Anderson works on calculating missing women by region in India, and isolating gender discrimination from other factors that might contribute to uneven male-to-female ratios.

When asked what can be done to combat such deep-seated inequality, Anderson pauses. Even when governments outlaw root causes, such as the Indian dowry system, violence persists, she says. "It's too embedded in the system in their world."

HELP YOURSELF

Some informal ways of creating awareness about dowry:

Form clubs or associations in colleges, universities and other educational institutions. Keep the issue alive by screening films, hosting talks.

Organize cultural activities to focus on the problem. A lot of youngsters these days form their own music bands, coming with creative lyrics and attractive music.

Form informal associations in residential areas, taking up day-to-day problems side by side with issues of domestic violence.

Whenever an incident of violence comes to notice, alert the media and involve the community around you.

BOOKS CONSULTED FOR INFO PACK:

Dowry and Inheritance by Srimati Basu

History of Dowry by Radha Kumar

The Scandal of the State: Women, Law and Citizenship in Postcolonial India
by Rajeswari Sunder Rajan

Expanding Dimensions of Dowry (AIDWA publication)

This paper deals with the varied strategies used by Manushi and other womens organizations to deal with issues of domestic violence, the strengths and limitations of approaches followed hitherto and strategies I think might work far better than those tried so far.

However, at the very outset I would like to clarify that even though Manushi played a leading role in bringing national attention to domestic violence and the role dowry has come to play in making womens lives vulnerable, after nearly 28 years of dealing with these issues, I have come to the firm conclusion that terms dowry death and dowry violence are misleading. They contribute towards making domestic violence in India appear as unique, exotic phenomenon. They give the impression that Indian men are perhaps the only one to use violence out of astute and rational calculations. They alone beat up women because they get rewarded with monetary benefits, whereas men in all other parts of the world beat their wives without rhyme or reason, without any benefits accruing to them.

Domestic violence is about using brute force to establish power relations in the family whereby women are taught and conditioned to accepting a subservient status for themselves. Domestic violence is about telling women you better learn to live at mens mercy. It is about men with low self-esteem destroying a womans sense of self worth because they feel inadequate to cope with a woman who thinks and acts as a free human being with a mind of her own. Like rape, wife battering points to the common predicament of women across nations, castes, classes, religions and regions.

What a man states as his reason for beating a wife cannot be treated as the cause of that violence. For example, if a violent incident is triggered off in a home in Germany by a man flying into a rage and battering a woman to death saying you are a lousy cook or that you are fat and ugly, we dont call such crimes as lousy cooking murders or ugly looks murder. We recognize that these are mere excuses to destroy a womans sense of self worth, not the cause of battering. So also with dowry related violence. In the 28 years of my dealing with domestic violence cases in India, I have never come across a single case whereby a man battered a woman solely because of additional

dowry demands and would begin to treat his wife well if his in-laws met with all his demands. By contrast, I have come across numerous situations, whereby a woman suffers a lot of taunts and even violence because her husband's family feels she might start considering herself high and mighty for bringing in a huge dowry.

My paper traces the history of how and why domestic violence in India came to be treated as a special category of crime and how wrong diagnosis led to mistakes in framing laws to combat dowry and domestic violence. I also attempt to outline approaches that have a better chance of producing positive results.

Manushi's founding in 1978 coincided with an unprecedented rise in press reports about young married women dying due to burn injuries. It was very common in those days for newspapers to routinely publish terse eight to ten line news items on the city news page describing the burning to death of women as kitchen accidents or suicides based on police reports. Investigations by Manushi as well as two other Delhi based organizations, namely Mahila Dakshata and Nari Raksha Samiti demonstrated that many of these were actually cases of murder but passed off as suicides or accidents with the active collaboration of the police, provided the police were suitably bribed. Even if they were suicides, they pointed to a history of violence and abuse in the marital home. Burning oneself to death is one of the most painful ways of ending one's life. By choosing such an agonising form of death these women seemed to be making a statement that death by roasting themselves alive seemed preferable to daily torments and torture inflicted on them in their husbands' homes. When our investigations indicated clear evidence of foul play and we saw that aggrieved families were not getting justice, we felt we could not just stop at reporting such cases of marital abuse, but also needed to help the victimized women and their families get redress.

However, with a criminalized police establishment often refusing to even register an honest First Information Report (F.I.R.) while actively destroying evidence of crime in lieu of a bribe, getting justice through the slow, inefficient and often corrupt judicial institutions seemed a remote prospect. Therefore, our engagement

spontaneously took the form of holding protest demonstrations outside the house of the murdered or dead woman calling for a social boycott of the family, which had tortured the woman to death or drove her to suicide. Each such demonstration would then move on to the local police station, either protesting against their complicity or demanding that they take appropriate and swift action in booking the culprits.

Even though many of our demonstrations could be well considered subversion of due process of law as well as disturbing the peace of neighbourhood with noisy protests, if one went by the criteria set by modern laws, yet, women in particular and society in general, responded with great passion to such modes of protest on behalf of victims of domestic violence. Our demonstrations rarely faced hostility, even when we invaded neighbourhoods, without prior notice or warning. In most cases, men and women of the neighbourhood joined us spontaneously to endorse our call for social boycott. Even the police watched quietly, instead of trying to prevent us from holding demonstrations outside homes that had witnessed murders or even outside police stations. I personally remember only one case where we faced aggressive and hostile neighbours who threatened to beat up Manushi volunteers who had gone to merely investigate a suspected murder of a young wife, not even hold a demonstration. In all other cases, a good number of neighbours cooperated in giving us information. Some even expressed open support by joining the protestors, while others stayed quiet because there is an unwritten code in India that you maintain amicable relations with neighbours, even if you don't like them.

During these years, most of us were led to believe that the murders or suicides of young wives were primarily due to dowry demands. Therefore, our campaign was mainly directed against the giving and taking of dowry. Since then the issue of dowry has become the defining symbol of the vulnerable plight of Indian women both within India and internationally. However, by 1984 Manushi was forced by circumstances to revise our approach.

Most women's organizations interpreted the continuing hold of dowry as a sign that the anti-dowry law is "weak". Therefore, they pushed for further amendments to the antidowry law and demanded that it be made stringent and draconian without ensuring that the existing laws were adhered to at least by those who claimed to be anti-dowry.

The anti-dowry campaigners overlooked the fact that flagrant violation of the law was evident even among feminist activists. Many of those who vociferously shouted slogans outside other people's homes and in public fora calling for a social boycott of all those who gave or accepted dowry, did nothing whatsoever to ensure that dowry is not given or taken in their own families. Therefore, we at Manushi felt that if we did not lead by example, we had no moral right to condemn others. That led to my issuing a call through Manushi appealing to women activists and organisations to boycott all such marriages in which dowries were either given or taken to build a pressure among our own families for dowry less weddings. This resolve to try and practice what we preach became one of the most useful self-correcting mechanisms in Manushi's approach to dowry as well as all other interventions.

The first humbling jolt came when I found that except for my own immediate family and half a dozen Manushi volunteers hardly anyone else heeded our Boycott Call (See *Beginning with Our Own Lives*, Manushi, No. 7, 1979). The marriages of both my brothers in 1990 and 1991 were strictly dowry less out of sheer love and respect for me. But other than that the boycott call did not evoke much of a response even among women's organizations and activists.

I was then too young to understand the reasons for our campaign being a flop and attributed it merely to double-speak and hypocrisy. As a result, I became even more zealous in observing the boycott in my own life and in the process ended up causing needless hurt and estrangement to some of my dear friends and relatives.

A dowry-less wedding, in my view, meant the bride going to her marital home with only her existing clothes and items of daily use. There was no place even for new clothes and jewellery for the bride. This rigid definition was in response to what I saw as the convenient escape route adopted by all those who claimed to be anti-dowry but

routinely provided or accepted the customary gifts for marriages in their own families. I then believed that if we applied a very rigorous definition, we could then not only prove our conviction but also make the law more effective considering most parents justify lavish expenditure on the wedding trousseaus and expensive household goods saying these are "voluntary gifts" for their daughter rather than call it dowry. The net result of my stringent definition was that for 13 long years no weddings qualified for my presence, except that of my two brothers. For the rest, my own women friends, relatives and neighbours argued with me vehemently saying that my stand was absurd. Their logic was as follows: □ Since in most cases only sons inherit parental property and family businesses, it was only in the form of dowry that daughters got a share albeit an unequal one in parental property. After marriage, even the parental home comes to be their brothers and their wives home. A dowryless wedding would not work in a woman's interest because that did not bring any benefit to her as a daughter. It only meant their brothers would end up with an even bigger share of family resource. □ When a young woman enters a new family, she feels diffident to ask for basic things she needs for her daily use. If she goes to her marital home without anything to call her own, her dependence on her in-laws and husband increases, unless she has a reasonable income of her own which most women can't bring because they don't have any. Therefore, all the household requirements and clothes parents provide their daughters help them feel they have something to call their own in their new home. □ If young women go empty-handed to their husbands home, how can they expect that they be treated as equal partners? The dowry is, therefore, an investment made by parents to secure a share for their daughter in their husbands family property. □ When women go as new brides, their in-laws are also expected to provide them with expensive new clothes and jewelry. How can gift giving be one-way? Why should women's parents not give gifts to their husbands relatives as a goodwill gesture when the bride is going to become claimant in the husband's income and property? □ When I raised the issue of marital violence and abuse due to dowry demands they responded with this question: Are you suggesting that women get beaten and abused only in India, and that too only among communities that give dowry? Don't women in America, Europe, Australia, the

Philippines, and Africa also get beaten and killed, even though in these countries dowry giving is not an issue? That forced me to think: Who am I helping by my stand? If women themselves don't perceive their interest in dowryless weddings, who am I to decide what is good for them? In fact, seen from this viewpoint, one could even say Indian men who beat up their wives demanding higher dowries and offerings from in-laws are at least rational -- they beat up their wives for economic gain. But perhaps all those men the world over who beat up their spouses and even girl friends without any hope of gain ought to be treated as the truly deranged -- they gain nothing tangible by their brutality. The article "Rethinking Dowry Boycott" was an attempt to share with our readers why our anti-dowry campaign was destined to be a failure if we did not work hard to ensure inheritance rights for women in parental property. (See Manushi No.7, 1979)

This also explained why the anti dowry campaign seldom went beyond protesting outside the homes of those families who were alleged to have either murdered or driven their daughters-in-law to suicide. As long as its ire was confined to dowry murders or dowry suicides, it could draw upon a large sympathetic response. However, as soon as anyone crossed that line to protest against dowry per se, most people, including antidowry campaigners, felt upset or threatened, as I discovered at great personal cost.

Dowry Vs Extortion : Peoples Protests and Vigilante Justice

Even those who practice the giving and taking of dowry are strongly in favour of deterrent action against those families where women are tortured for bringing inadequate dowry or those who blackmailed the brides parents into giving more and more gifts and cash by using the threat of violence or divorce. **The social consensus on the issue is clear: voluntary giving is fine, but extortion through subtle or blatant coercive means is wrong and ought to be severely punished. In such a situation, it makes far more sense to have those sections of the Indian Penal Code that deal with extortion and blackmail enforced with Vigour in cases where a woman is being tortured with a view to**

blackmailing her parents to gift more money or goodies to the grooms family rather than have a law against giving dowry which no one obeys.

However, apart from the need to correct our understanding of the basic issues, time and again we have also had to rethink and reconstruct our strategies for combating violence against women. For example; in most cases of unnatural deaths of young brides, the pattern was pretty much the same: even when there was clear evidence that the concerned woman had been murdered, the police would invariably register a case of suicide or accident. Womens organizations had to fight long drawn out battles to simply get a proper F.I.R. lodged. And yet, at the end of it all the man was often let free for want of evidence. In cases of wife murder, the legal outcome is very uncertain and the judicial processes are so long drawn, cumbersome and soul destroying that even if after 10-15 years of effort if you managed to get half a dozen men convicted for murder or abetment to suicide a very unlikely scenario in most cases it still did not help all those still trapped in brutal marriages. Seeing how frustrating this whole exercise was turning out to be, we decided to focus mainly on cases where the woman though caught in a violent marriage was still alive. If we could save such women from being further brutalized, help them rebuild their lives afresh, they inspire by personal example hundreds of other similarly placed women to understand that even without marriage, women can live dignified lives.

By holding surprise protest demonstrations outside the house of men who were refusing to give divorce to their wives and were hell bent on destroying their, we were able to bring adequate pressure on several such husbands to agree to divorce by mutual consent. However, such demonstrations also created many unexpected problems. For example, during the course of some such demonstrations, some of our demonstrators got so agitated that they went and blackened the mans face with the paint meant for writing slogans calling for social boycott of the family. This so enraged the family that they started throwing stones at us. Some of the people present in our demonstration retaliated by throwing stones back at their house, leading to an ugly fracas. Luckily, we were able to bring the situation under control fast.

However, even though we got very positive press coverage for such demonstrations, some of us were very upset and ashamed at the ugly turn they had taken and vowed never to undertake any public protests without taking sufficient precautions that they do not degenerate into violence and undignified scenes.

When I look back on those days, I marvel at how we could get away with taking endless liberties with laws and law enforces without facing any negative consequences. For example, apart from demonstrations outside police stations, we also took our protests right inside the Court compound to protest against judgments we perceived unjust without taking prior permission from the police, which is a mandatory requirement even for ordinary demonstrations. While a few lawyers would argue with us that our action was improper but several other lawyers would come and join us in sympathy and the police watched as though spell-bound, while we broadcast our speeches on a loudspeaker. The positive press coverage given to exposes and protest actions by womens organizations created many unanticipated problems. Many parents who would seek our help in fixing the husband by getting him and his family arrested and punished through the law courts for the harassment and violence they had inflicted on their daughter. Demonstrations and dharnas outside the house of the husband and in-laws who had allegedly tortured or thrown out a young bride came to be seen as a means of swift and sure redressal. It took some work to convince all those who expected us to be forever ready for street action that no matter how hard social organizations like ours worked to get them redressal by creating social embarrassment for the grooms family, that would not help rebuild their daughters shattered life. Moreover, it quickly became evident that this kind of instant justice was a doubleedged sword and could easily lead to miscarriage of justice and lawless elements using it to settle personal scores. The turning point came when in our own neighborhood, hoodlums associated with a political party not only stoned the house of a family where a young bride was allegedly burnt to death but also burnt their car and tried to set fire to the house. From then on we decided that, we would use this method of redressal far more judiciously than we had done so far. Also, we decided not to help families that were merely interested in seeking revenge and did not want

to take responsibility for providing the required protection and support to the battered woman.

Distortion of Tradition

The idea of protesting outside the residence of the accused family was born out of the realization that getting justice through police and law courts was a remote possibility, given the high level of corruption and inefficiency endemic in these institutions. In India the verdict of ones neighbours, relatives and other close associates continue to matter much more for most people than the verdict of government appointed law courts. The notion of izzat or honour is a far more powerful determinant of social behaviour than the laws enacted by the Parliament because the colonial structure of our government machinery and the tyrannical behavior of its functionaries do not enable state agencies to command respect from citizens. Government laws often run contrary to popular opinion and social consensus on various issues. Therefore, in India peoples protests in both rural and urban areas often take the form of protests outside the house of the family accused of wrongdoing. There are any numbers of instances of village drunkards and wife-beaters being paraded round the village lanes after their faces have been blackened by the women of the area to bring shame on them.

The historical roots of protesting outside the house or business establishment of the wrong doer through a mass protest are traced in Dharampals book Civil Disobedience and the Indian Tradition, which shows how Mahatma Gandhis choice of satyagraha as a weapon to win over public opinion, both within India and internationally, was rooted in a well established ancient tradition of building collective pressure through peaceful but determined gestures of protest including inflicting dignified suffering on oneself through acts such as fasts unto death and other moral means to de-legitimize the actions of the wrong doer. However, those of us who are not deeply rooted in the Gandhian worldview or are also influenced by left politics with its emphasis on militancy and desire to see the oppressors defeated and humiliated, tend to bring an

element of violence and coercion in it, leading not so much to redressing the power imbalance but to a permanent state of enmity.

Such violent acts of disapproval, and condemnation, may act as temporary deterrents in the short run but they have never produced enduring results. Rather, they throw up many serious problems. For example, the very same women who led militant action against drunkenness and domestic violence react with outrage and hostility if a man of their family was likewise targeted. Such violent acts of humiliations inevitably lead to hardening of hearts and even violent backlashes, rather than bring about an enduring change for better gender equations. Gandhis satyagraha works better since it involves attempts to appeal to the moral conscience of the wrong doer and building self esteem among the oppressed so that they refuse to be a party to their own subjugation. His purpose was to bring about a change of heart rather than create a permanent wall of hostility.

That is perhaps why demonstrations against dowry and domestic violence served a very useful but limited purpose of bringing the issue out of the privacy of homes into the public domain. But they neither succeeded in eliminating violence, nor reducing the hold of dowry.

Positive Potential of Familys Role

If one set of parents want help in taking revenge at the other end of the spectrum were parents who came with the expectation that we would help their daughter by pressurizing their abusive husbands and in-laws into a compromise and take the woman back. Often parents narrated bizarre stories of how they went on suggesting newer and newer adjustment formulas to their daughters in the face of untold humiliations and brutal torture and how time and again daughters were sent back to their marital home even while they were being subjected to sadist tortures.

In the early years, we used to respond with impatience at the number of relatives - parents, brothers, sisters in-law, uncles, aunts-- who came and spoke on behalf of the woman. We assumed that these relatives would dominate her thinking and not let her

make up her mind as to what she wanted to make of her life. Therefore, we would encourage victims of domestic violence to come by themselves. We soon realized that this made most women very uneasy and suspicious. They wondered why we were driving a wedge between them and their family whose care and concern is vital for them. It took a while for us to understand that the presence of so many concerned relatives was, more often than not a definite asset, for the affected woman, rather than a liability. In societies which believe that the individual is responsible for and accountable to only himself or herself, apart from having to obey state rules and regulations, a victim of marital violence or child abuse does not feel she has the right to call upon her neighbours or kin for protection. Even if she did so, she would most likely be advised to call the police and lodge a court case against her husband, or go to a state welfare agency. Even while there is increasing pressure in social democratic societies to make laws more egalitarian and state enforcement agencies more efficient, relatives, neighbours and other community members have pretty much shed their responsibility for protecting vulnerable individuals in the community and sharing each others joys and sorrows. That is why even with an efficient police and relatively efficient courts in such societies, women continue to be victims of violence and have to often fight lonely battles to get redress because most of them lack supportive neighbours and relatives who consider it their prime responsibility to assist them in time of crisis. By contrast, most women in India are able to count on their relatives to come to their aid which often works better than the help of police or distantly placed womens organizations.

Therefore, we began to pay far greater attention to making these relatives understand that their love and concern should not be confined to putting all their efforts in saving her marriage, if it meant jeopardizing her life and well being. In the few cases when a woman came alone, it was no indication that she was more independent minded. Most women who lack parental support tend to be emotionally fragile and less able to take

<https://en.wikipedia.org/wiki/Dowry>

bold decisions because they feel they have no safety net. Instead of putting the entire burden of struggle on their already tired shoulders, we began to put more effort into convincing their parents, brothers and other relatives that they owe it to their daughters to take them back without making them feel like a burden. The simplest way of saving a battered woman from abuse and violence is to remove them from the scene of abuse, give her confidence that she has a right to her parental home and support, just like her brothers. Police help, and legal battles cannot by themselves help a woman live a life of dignity. Far more important is the unconditional love, support and a sense of rightful due in her parental home rather than be viewed as an object of charity. Our message to her family is simple: You have to give priority to saving the life of your daughter and helping her rebuild a new life. Getting the offending husband and in-laws humiliated through demonstrations or punished through the courts ought not to be the main focus of your efforts. I still remember how jolted some parents felt at our approach when we refused to yield to their pressure that we help them in getting the police and courts to teach the man a lesson while they let the daughter stay in the marital home where she was being tortured by their own account. We would tell them that if you are not willing to bring her back and make her feel welcome in your home, make her feel that she has a right to be there, you would be as guilty of her murder as her in-laws.

My impression is that in 90 per cent of the cases, the message went home. In all those cases where women got whole-hearted parental support, she recovered quickly from the trauma and was successful in rebuilding her life very fast. However, in all such cases where the family concentrated on legal action, they got relatively little gain from it. Hence, Manushi's emphasis on the need to work towards a new social, family consensus on women's dues rather than focus obsessively on legal rights with no one but an inefficient, corrupt and venal state machinery as their ally. In addition, we carry out a regular campaign advising concerned citizens to form neighbourhood based support groups to assist victims of domestic violence. **Even if a small group of determined neighbours intervene to stop the man and let it be known that they**

will not tolerate such behaviour in their locality, this proves a far better deterrent than police action.

Working with men of the family and neighbourhood and mobilizing them to take an active role in strengthening womens rights is no less important than encouraging women to take charge of their lives rather than live a life of hapless dependence.

Fortunately, in India one does not have to work too hard or make any demeaning compromises in order to get men to play an active role in championing womens cause and sensitizing other men to act responsibly towards women. Indian mens involvement with women and womens issues runs very deep because family and kinship ties are held very sacred. Irresponsibility towards family is looked down upon and those men who stay emotionally rooted in these bonds and put them above their own self-interest are held up as worthy role models. Moreover, when respected men take a stand against domestic violence, it lends additional strength and legitimacy to the movement against domestic violence.

CONCLUSION

Swami Vivekanand had aptly remarked: –Just as a bird could not fly with one wing only, a nation would not march forward if the women are left behind.‖ The modern Indian woman is working throughout the country at all levels and virtually in all professions at different positions.

She is not only visible as the top politician as seen above in politics. Even as managers in industrial firms, director of Nationwide operating banks, top bureaucrats, active members of micro-credit groups or as independent fashion designers. As bearers of values and cultural heritage

sometimes quite objectified - indeed women are also visible and valued as female heroines in Bollywood films and nationally ubiquitous in daily performances of classical Indian dance and song. On the other hand, one also sees women as servants, laundresses, porters on construction sites or even as beggars. The complete spectrum is covered in urban and rural India. It is the social culture, which is strong and rich on ancient traditions, is exerting pressure on successful women and cuts them on their career or on the way to selfrealization

Thereby, this social pressure arises not only from the male side. Whether they live as members of the 50 million female tribesmen in the forests of India or as one of the 400 million women in one of the 640 thousand Indian villages or city residents in slums, in poor or ordinary dwellings or opulent villas, it has no significance to the role which women have to newly define and design by themselves in the course of a changing society Despite some movements in which women, locally restricted, since 1882 and especially since 1920 consistently merged there are no strong national women's movements in India. A movement of sexual education and emancipation, as we could observe in Europe especially since the sixties, is also missing in India. Prospects The

previous absence of these two important components in an equal living together of sexes raises the fear that India is still far away to give women the role in society as it is in the ancient scriptures, as well as in the Indian Constitution and in other laws of the fledgling Union already reserved and set out for them. A humanitarian vision of an efficient society is undoubtedly based on equality and recognition of both sexes who do not interfere themselves in their self-realization, but support themselves and develop further as individuals but also in the family unit. One will not approach closer to this vision only with tighter laws against violence. They are only an important step on the way to unite the sexes. The turning point in India can only be achieved through active participation of women in national movements in which education must precede. Education and freedom, as well as its acceptance by the male side would arrange a new self-confidence, a newly defined image and a role of women, who no longer let herself be subordinated but operates on an equal height with men in society. But as long as the introduction of a nationwide new educational system does not arise, or at least, a landmark education reform, which would lead to the regular participation and development of girls in class across the country, the great majority of women in India will mostly remain suppressed in their traditional role as submissive creatures without a voice in the society. Man and woman are still trying to find their place in a society which balances along spiritual tradition and market-based modernity. Nevertheless, the hope remains that India would reflect and even use its old values on the way to modernity. The woman is and will remain a source of strength and love. She will always remain the embodiment of the values Dharma (righteousness) and Kama (love, care). What do we do? According to "Search for a Vision Statement on Women Empowerment vis-...-vis Legislation and Judicial Decisions" prepared by the Indian Trust for Innovation and Social Change and published by the National Commission for Women Justice R.C. Lahoti suggests

the following principles to be kept in mind by the judges to achieve the goal of gender justice:

(1) Be informed of the historical and cultural background in which the women have lived over the ages and understand their feelings and have regard to their needs as a class;

(2) Because the women are weaker sections of the society, strike a balance in your approach in dealing with any issue related to gender, or where a woman is victim, in such a way, that the weaker are not only treated as equals but also feel confident that they are equals;

(3) Treat women with dignity and honour and inculcate confidence in them by your conduct, behaviour and ideology whenever they come to you as victims or seekers of justice;

(4) Do not allow them to be harassed and certainly do not do anything yourselves which may amount to harassment of a woman; and

(5) Make efforts to render a woman victim quick, speedy, cheaper and effective justice—true to its meaning.

Some tips which he himself follows as a trial court judge and also as a member of the higher judiciary. These are:

1. Women to be treated with courtesy and dignity while appearing in the court. Any comment, gesture or other

action on the part of anyone in or around the courtroom which would be detrimental to the confidence of the women is to be curbed with a heavy hand.

2. Any gender bias is carefully guarded against in the courtroom and this protection should be extended to any female present or appearing in the court

either as a member of the staff or as party or witness or member of legal profession. A message should clearly go that any behaviour unbecoming of the dignity of woman shall not be tolerated by the court.

3. Court proceedings involving women must begin on time and proceeded with in an orderly manner and with dispatch so that they are concluded as expeditiously as possible avoiding the need for repeated appearance of women in the court.

4. The examination and cross-examination of women witnesses, in particular in cases relating to violence against women shall be conducted under the supervision of the presiding judge with such care and caution as to avoid prolixity and any harassment to the witness.

5. The female members of the Bar need to be encouraged in the profession, maybe by giving assignments as Court Commissioners for inspections and recording statements of witnesses.

6. Preference may be given to female lawyers in the matter of assigning legal aid work or amicus curiae briefs so that they have more effective appearances in courts.

7. Crime against women ought to be dealt with on priority basis so as to be decided finally at an early date lest the delay should defeat the justice.

Finally, two precautionary observations. Let the issue of gender injustice not be perceived as a war between the two sexes. Long before, when consciousness in society towards gender injustice was not present then resentment on the part of women was justified; but now the approach should be of complementing each other rather than competing on perceptions, which may not be real or may be non-existent. Societal bonds are based upon integration, mutual dependence and respect. They are not just contractual but based on deep organic unity. It is

true that the male sex is most of the time blamed as the inflictor of gender injustice; but it cannot be ignored that the male sex also suffers from and feels pained at gender injustice, as the woman subjected to injustice is sometimes his mother or his daughter or sister or wife. Therefore, perception change is needed for greater social awareness and sensitisation which breeds equality of the sexes and not rivalry of the sexes.

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