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BEHAVIOUR

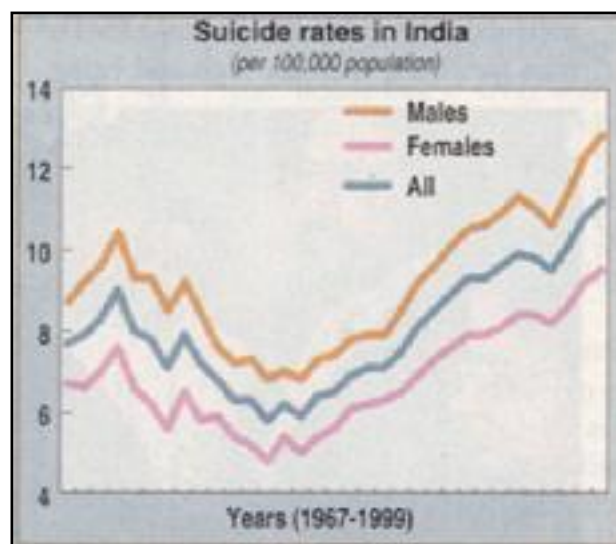
The Indian situation

V. SRIDHAR

MORE than one lakh persons take their own lives in India every year, and the problem is assuming alarming proportions. The rate of suicides in India, about 5 per 100,000 persons in the late 1960s, has more than doubled since then. The gravity of the problem is highlighted by the fact that nearly three-fourths of all suicides in India are by people in the socially and economically productive age group of 15 to 49. The increase is particularly striking since the mid-1980s - the number of suicides per 1,000 deaths has doubled from 6 in 1985 to 12 in 1998.

A paper presented at the Congress by Professor K. Nagaraj, senior economist at the Madras Institute of Development Studies (MIDS), reveals that although the suicide rate has generally tended to be high in the larger cities, the rate has also been increasing sharply in cities other than the major metros.

While the suicide rates have been decidedly higher in the southern States, the variation across the country has been diminishing in recent years. In other words, States elsewhere have been "catching up" with the southern States in the last few years. While the national average is currently about 11 per 100,000 persons, the southern States together have a rate of 30 for male suicides. The lowest rate for males is in the northern region, about 4 per 100,000 persons.

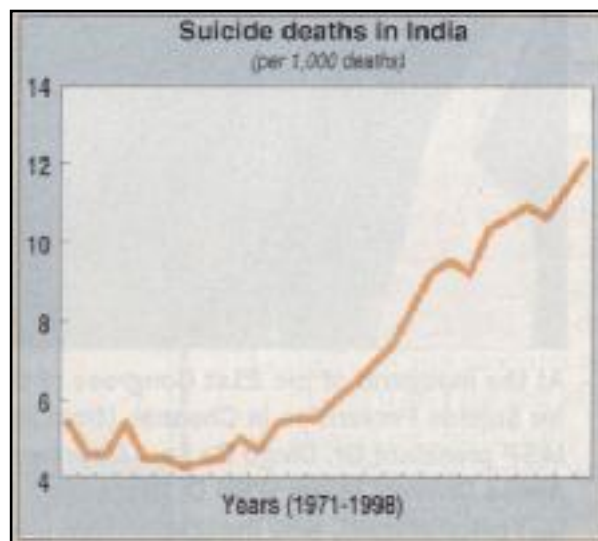


Across the country, the suicide rate for females is consistently lower than that

for males, in keeping with the global sex ratios of suicides. But in the younger age group, between 5 and 29 years, the female suicide rate is as high as that for males. Moreover, the rates for educated females - those who have gone beyond primary school - is higher than that for males. The greater vulnerability of women is also associated with the more unstable nature of their livelihoods. Nagaraj's study reveals that the suicide rates for women are significantly higher than those for men among those engaged in non-agricultural activities - whether they are engaged in the activity on a regular basis or are self-employed. He points out that employment and incomes in such activities are unstable. The growing reach of the market into these sectors further destabilises life in these sectors.

Nagaraj's study provides shocking data of suicide rates among those who declare themselves totally unemployed. For males in the age group of 30 to 44, the rate is a whopping 508 per 100,000 persons; for women it is more than 200. More important, as the duration of unemployment increases, suicide rates rise dramatically - the rates among men in the age group of 45 to 59 is a shocking 1,812 per 100,000 persons and among women, nearly 550.

The distribution of suicides by marital status reveals some interesting patterns. The rates do not vary much between the sexes for the never married. Among those currently married, while the rate for males is about 17 per 100,000 persons, the rate for females is 11.4 per 100,000. Among those widowed, while the rate for males is 21 per 100,000 persons, the rate for females is also significantly lower, at 6.6 per 100,000. However, among divorced males the suicide rate is 164 per 100,000 persons, but even in this class, among females the rate is only 63 per 100,000. While the suicide rate for separated men is about 167, for females it is only 41 per 100,000 persons.



Development by itself does not appear to make societies more secure. For instance, suicide rates are higher in the southern States such as Kerala (30.5 per 100,000 persons) and Karnataka (24.2), Tamil Nadu (18.6) and Pondicherry (58), which has the highest suicide rate in the country. This appears to be paradoxical in the context of the high degree of access that people in these States have to social sector

facilities like health and education.

Nagaraj argues that the characteristics of societies in these States perhaps explains the paradox. He points out that these societies are "more plural", in which "the aspiration levels of people are higher". Moreover, the rural-urban linkages are greater, enabling "the greater play of urban values and the media".

Nagaraj argues that the greater reach of the market as an institution in these States is another key factor. He points to Kerala's direct linkages to the world market - the large presence of Malayalees in the Gulf countries and the dominance of plantation crops in the State's economy being two instances. He argues that these have exposed society to greater instability and insecurity.

There is little evidence to show that the government has done anything even to acknowledge the presence of a mounting social problem, let alone combating it. The suicide rate in Pondicherry is a classic example of this neglect. The rates are, according to a paper presented at the Congress, "at world record level" for some sections of the population.

While voluntary and non-governmental organisations can play a role at the "micro" level, particularly in suicide prevention, it is evident that they are hardly in a position to intervene in the larger social processes that cause suicide and suicidal behaviour. For instance, suicide prevention organisations play a useful role during particularly stressful times such as when examination results are due. It is also a period when not only children but even their parents are under stress. By all accounts, it is evident that they are successful in preventing at least some suicides during this period. However, until the factor that constitutes the stressor in this situation, the examination system and the larger issue of school education, is addressed, the problem will remain. And this is where the state has a role to play.

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COLUMNISTS

OP-ED/EDIT/AGENDA/FORAY



Devi
Cherian

Spare a thought for Dowry law abuse

It had been with great joy that I attended the wedding of my friend's brother two years back. So it came to me as a great shock the other day when she came to me for solace. Her sister-in-law, who was considered the Lakshmi of the house, was unfortunately driving the household completely insane. She couldn't blame her brother because it was an arranged marriage.

I wonder if we should be proud or disgusted with our younger generation of girls. Gone are those days when the in-laws harassed the new brides for dowry or just to show them who is the boss, simply on account of the boys' side being considered superior. Actually, this is not the first instance where I have ended up feeling sorry for the boy's side. Thanks to the various NGOs, women these days can really use and misuse all the power to their advantage. Being a woman I do sympathise with my sisters who are genuinely harassed by their in-laws and would want to see them get the severest of punishment. But the change that has come over the girls of today cannot be ignored. An example is the new movie Aitraaz where this young girl goes all out to use her looks and her manipulative and calculating mind to finish off a man. Well, there is a saying that "hell hath no fury like a woman scorned".

I am also dead against the interference of a girl's family once she is married, having realised that it is often the over-ambitious/possessive mother who usually sets off disturbances in her daughter's new home. Coming back to the law isn't it a fact that at least 50 per cent of harassment cases are filed by the girls who want to teach their in-laws/husband a lesson, for not having been able to get their way. After all, today's girls are more independent financially and divorce is no longer a taboo in our society. Further, they only stand to gain sympathy all around. After all, we women too know how to manipulate situations to our advantage.

Somehow we seem to have forgotten to teach our new generation the traditional lessons of patience, sacrifice, respect and family honour. It is sad, because it is always a woman who can make or break a home. I am all for women's rights, I am against dowry, I am for equal status of married partners but I am not blind to biased laws that are used by manipulative girls to torture innocent families who put honour above everything and have to pay a high price for their peace of mind.

This is the dowry system in reverse. If the boy's family refuse to yield to their demands, they are threatened to be put behind bars as the the law is on the girl's side. And shockingly, girls today are marrying for money looking for hefty alimony and property.

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Coming back to my friend's case, the new bride had a history of mental ailment as a child - a fact which was not disclosed to the boy and his family. When he discovered it, he tried to take medical help to make the marriage work and also because his family believed in the sanctity of the marriage vows.

But the girl's family had other plans. Not only did they accuse the entire family of torture, money extortion etc, but have also threatened to lodge a case of dowry demand unless huge amounts of money was paid to them. Would the courts and social activists for woman's rights understand that some such cases may be just for money or for tit-for-tat. In these cases, the ones who gain are really the police in the Crime Against Women Cells or the lawyers who make the most in exploiting the underdog.

Come to think of it, is this another law like TADA which needs rethinking since under this law the whole family is put behind bars or put to ransom whichever is preferred by the girl and her family?

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COLUMNISTS

OP-ED/EDIT/AGENDA/FORAY



Chandan
Mitra

Woman on top

Women are the flavour of the season. In the last few weeks, legislation and schemes aimed at their protection and empowerment have dominated the news. Although the contentious Bill to reserve 33 per cent seats for women in Parliament once again failed to garner consensus, this was, perhaps, the most serious effort to evolve one.

In the process, some of its bitterest critics, such as UP strongman Mulayam Singh Yadav even softened his position from one of no reservations at all to provision of 10 per cent of seats in the first phase.

However, the proposal to enhance the total number of seats in both the Lok Sabha and Rajya Sabha by one-third - perhaps, the most politically convenient even if logistically problematic solution - did not find too many takers. But the issue will not go away. Between now and the Winter Session of Parliament starting in November, it is certain that the Bill's proponents will jack up their campaign. Given the growing importance of women in the nation's political life, I believe the reservation will materialise in some form within a couple of years, certainly before the next general election.

Meanwhile, the Prevention of Domestic Violence against Women Bill has already got the Lok Sabha's unanimous approval and its passage through the Rajya Sabha this week is a mere formality. Although widely hailed as a model piece of legislation, one that secures the dignity and ensures the rights of women, especially those victimised after marriage both in their marital and parental homes, the Bill raises some pertinent questions.

Undoubtedly, it empowers women to seek legal security from harassment, especially outrageous pronouncements by caste panchayats as well as obscurantist Qazi courts. The "verdict" against Imrana is a classic instance of the kind of gender injustice that prevails in rural society, particularly among a section of North Indian Muslims. In theory, she will now be in a position to assert her legal right to live in her husband's home in defiance of the fatwa that decreed her to treat him as her "brother" besides vacating his house.

But can we realistically expect Imrana to run to the nearest courthouse to obtain an order entitling her to remain in her marital home in defiance of Dar-ul-Uloom Deoband's fatwa? Assuming she does, who will enforce such an order? Will a policeman be permanently posted in her husband's house to ensure she is allowed to stay there, get two square meals and live with dignity? If her husband's family including the rapist father-in-law ill-treats her, will the law-enforcing authorities intervene on a regular basis?



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Further, soon after the fatwa, Imrana who had initially shown enormous guts to lodge an FIR against her sasur, publicly declared her acceptance of the verdict saying she would abide by the dictates of the Shariat. This was stated in the presence of National Council for Women chairperson Girija Vyas who sat through the averment nonchalantly. Under pressure from relatives and village opinion, the mother of five buckled.

I don't wish to be misunderstood as a rampant critic of this latest piece of progressive legislation. The kinds of atrocities that are perpetrated on Indian women are probably the worst in the world, and the most depressing aspect of it is that their humiliation enjoys wide social sanction. But that's the reason I believe the status of women in Indian society will not materially change till mindsets are altered.

Going through some statistics of dowry deaths recently, I discovered there had been virtually no change in their numbers over the last five years. If a few States registered a decline, bride-burning increased in others, keeping the total roughly the same: This despite the existence of a most draconian anti-dowry law.

It has often been contended that the anti-dowry Act is more abused than used. There is some justification in that assertion. The provisions of the law are such that even the innocent are often harassed by rapacious wives and their families. On the other hand, very few convictions take place in genuine cases of victimisation and/or cold-blooded murder. This is not to suggest that the anti-dowry Act should be removed from the statute books. But we need to seriously introspect whether it has achieved its objective and, if not, how it can be made more effective.

I am afraid the Prevention of Domestic Violence against Women Bill is slated to go the same way. Given the mindsets and our social structure, any woman who seeks protection under its provisions will surely have to say good-bye to her marital home. Recourse to this proposed piece of legislation shall be viewed as scandalous by her husband and in-laws.

And even if she wins the legal right to stay in their home, she will never again be regarded as part of the family. How she will cope with the added trauma of her children is another matter altogether. Again, I don't wish to argue that a husband should have the unfettered right to turf out a wife on any pretext, which is often the reality. My case is that there are better ways to deal with marital disputes than mere legislation. Mandatory counselling, for instance, could be easily more effective.

In urban areas, marital problems are sometimes compounded by the confrontationist advice given to distressed women by aggressive NGOs. Undoubtedly, NGOs do play a positive role in many cases; but for the support structure they provide to traumatised women, some of the worst criminals would never have been brought to book.

But there is need to better train NGO activists and bring them under some kind of official supervision. This is what the Ministry of Women's Empowerment ought to be doing. By abdicating its role to insensitive policemen or overworked judges, the Ministry has signalled its unwillingness to come to the aid of the very segment of our society it is supposed to protect. If a more proactive role by the Ministry demands a bigger budgetary allocation, that must be seriously championed.

I also feel that the addition of "emotional" to verbal and physical abuse as a ground for seeking legal protection is liable to rampant misuse. In any law, intangibles are best left out for they are open to varied interpretation and, thereby, prolong and complicate the judicial process.

Last week, some misguided champions of women's rights scored yet another theoretical triumph. Overturning the Standing Committee's recommendation, the Government decided to concede the Left's demand that "priority" must be given to women up to 33 per cent in selecting beneficiaries of the Rural Employment Guarantee Scheme.

Once again, this will cause more problems than it will resolve. How are officials supposed to determine which woman applicant is to be prioritised and which to be overlooked? What if there are not enough women applicants? Since the Bill says one member of every family that applies for work under this scheme will be given 100 days of assured employment, was there any need to complicate the programme?

Far too many ideological, Western norms are now being imposed on society without any serious attempt at changing mindsets through appropriate education and inculcation of values. I am acutely aware that voicing reservations on this score is instantly deemed politically incorrect, a hangover of conservative, male-chauvinistic attitudes. That's a pity because pseudo-progressivism, which includes pseudo-secularism, has done more damage to the country than any other ideology.

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Laws against domestic violence

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Underused or Abused?

Madhu Kishwar



The birth of MANUSHI in 1978 coincided with the unfortunate rise in reported cases of domestic violence and murder. Some of these appeared to be linked to dowry demands. When we organised one of our first demonstrations, in early 1979, to protest against the police gang up with the murderer's family by registering the death of the newly-married Tarninder Kaur as a case of suicide, nearly 1500 people of the neighbourhood joined us in calling for a social boycott of the family. This protest received widespread publicity in the media. As a result, MANUSHI and other organisations who joined in that protest were flooded with cases of married women, seeking redress against abusive and violent husbands, as also parents, whose daughters had been murdered by their in-laws, seeking our help in getting justice from the police and courts. However, the experience of approaching the police and law courts turned out to be a very disappointing one for most women's organisations.

To begin with, the police would put all manners of hurdles in even registering cases of domestic violence, even when the victims feared for their very lives. In cases where wives had been murdered, the police were found to play an active role in destroying evidence and passing off these cases as suicides or accidental deaths – simply because they had been suitably bribed. The story in the law courts was not very different. Husbands and in-laws got away with torture and even murder, because the women and their families found it difficult to “prove beyond doubt” that they were victims of violence and extortion.

From that experience many concluded that what we needed were stringent laws. By comparison, far less importance was given to figuring out ways of making our law enforcement machinery behave lawfully. But most important of all, domestic violence and abuse came to be seen as a one-way affair, largely because most of those whose cases reached women's organisations, police stations and law courts, happened to be wives who had complained against their husbands. Our laws do not recognise the possibility of daughters-in-law maltreating old in-laws or other vulnerable members of their husband's family.

Demand for Stringent Laws

As a result of determined campaigning and lobbying by women's organisations, significant amendments were made to the Indian Penal Code, the Indian Evidence Act and the Dowry Prohibition Act, with the intention of protecting wives from marital violence, abuse and extortionist dowry demands. The most notable ones are sections 304B, 406 and 498A of the Indian Penal Code, and Section 113 A of the Indian Evidence Act.

However, the actual implementation of these laws has left a bitter trail of disappointment, anger and resentment in its wake, among the affected families.

On the one hand, many victims of domestic violence, as well as many women's organisations feel that despite the existence of supposedly stringent laws, that enshrine the dual objective of helping the woman gain control over her *stridhan* and punishing abusive husbands and in-laws, in reality most victims fail to receive necessary relief. This is due to the unsympathetic attitude of the police, magnified by their propensity to protect the wrong doers, once they are adequately bribed.

A survey of cases, in which wives had been murdered or had committed suicide, carried out by *Vimochana*, a Bangalore-based women's organisation, also indicates that the police and other law enforcing agencies are willfully avoiding use of the stringent laws against domestic violence. In most cases, even where the circumstantial evidence clearly indicates that the wife was killed, the police seemed to go out of their way to convert her death into a case of suicide. In many instances, families of victims found it difficult to register an accurate F.I.R., or have the case properly investigated. There are widespread allegations that the police usually collaborate with the murderers in producing false post-mortem and forensic reports, even destroying circumstantial evidence so that the accused can easily secure acquittal (see report by **Vimochana** in Manushi 117).

Similarly, a study, based on police records, to evaluate the functioning of section 498A of the Indian Penal Code, conducted by a group of women activists associated with the Tata Institute of Social Sciences in Mumbai, indicated that 40 per cent of women were dead by the time their families came to lodge complaints against their violent husbands.

Thus, numerous women continue to suffer humiliation and battering, many even to the point of death, despite the existence of stringent laws in their favour. On the other hand, there is a growing and widespread feeling that these laws are being used by most police officers and lawyers to help unscrupulous daughters-in law hold their in-laws to ransom.

The Tide Turns

In the first decade of MANUSHI's existence, most of those who came to us for legal aid were women who alleged abuse in their marital home. In the last few years, a good proportion of the cases coming to us involve complaints by in-laws and husbands about the misuse and abuse of laws, especially sections 498A and 406. Wherever I travel, in India or abroad, such cases are invariably brought to my notice, not only by aggrieved families and their friends, but more often by members of women's organisations themselves.

Things have come to this pass, not just due to police and judicial corruption but also because the laws, as they are currently framed, lend themselves to easy abuse.

During the 1980's, far reaching changes were introduced in our criminal laws to deal with domestic violence. Prior to 1983, there were no specific provisions to deal with marital abuse and violence. But husbands could be prosecuted and punished under the general provisions of the Indian Penal Code dealing with murder, abetment to suicide, causing hurt and wrongful confinement. Since marital violence mostly took place in the privacy of the home, behind closed doors, a woman could not call upon any independent witnesses to testify in her favour and prove her case "beyond reasonable doubt" as was required under criminal law. Therefore, women's organisations lobbied to have the law tilted in women's favour by bringing in amendments which shifted the burden of proof on the accused and instituted fairly stringent, pre-emptive measures and punishments against the accused.

All these amendments placed draconian powers in the hands of the police without adequate safeguards against the irresponsibility of the enforcement machinery. The truth is that there were adequate provisions in the IPC Sections 323, 324, 325 and 326 for use against anyone who assaults a woman or causes her injury. But the police would in most cases not register a complaint against a husband under these sections, even where there was clear evidence that the wife's life was in grave danger. This was partly because, as habitual users of violence, policemen, more than any other section of our population, find it easy to condone beatings and even murder of wives by husbands. Given their track record in routinely brutalising people who fall into their clutches, it is reasonable to assume that the propensity of our policemen to beat up their wives would be much higher than that of the average citizen. Add to this their entrenched habit of patronising criminals as a way of garnering extra income and it would be, indeed, naive to presume that they would turn into compassionate rescuers of women in distress, simply because more stringent laws had been put at their disposal.

No new principles of accountability were added to the Police Act. The only new innovation we witnessed was that special Crimes Against Women Cells were created in select police stations to handle women's complaints. And, in some places, Family Courts were put into operation.

However, since the new police cells for women are run by the same police personnel, barring a few exceptional officers, the rest have had no compunction in making a mockery of the new laws by systematic under use or abuse — depending upon which offers better money-making opportunities.

The New Amendments

Let us examine the new provisions to see how they facilitate this process: The Indian Penal Code was amended twice during the 1980s — first in 1983 and again in 1986 — to define special categories of crimes dealing with marital violence and abuse.

In 1983, Section 498A of the IPC defined a new cognizable offence, namely, "cruelty by husband or relatives of husband". This means that under this law the police have no option but to take action, once such a complaint is registered by the victim or any of her relatives. It prescribes imprisonment for a term which may extend to three years and also includes a fine. The definition of cruelty is not just confined to causing grave injury, bodily harm, or danger to life, limb or physical health, but also includes mental health, harassment and emotional torture through verbal abuse. This law takes particular cognisance of harassment, where it occurs with a view to coercing the wife, or any person related to her, to meet any unlawful demand regarding any property or valuable security, or occurs on account of failure by her, or any person related to her, to meet such a demand.

During the same period, two amendments to the Dowry Prohibition Act of 1961, enacted in 1984 and 1986, made dowry giving and receiving a cognizable offence. Even in this case, where a person is prosecuted for taking or abetting dowry, or for demanding dowry, the burden of proof that he had not committed an offence was placed on the accused.

However, no punitive provisions were added for those making false allegations or exaggerated claims. There is, of course, the law against perjury (lying on oath). But in India, the courts expect people to prevaricate and lawyers routinely encourage people to make false claims because such stratagems are assumed to be part of the legal game in India. Therefore, the law against perjury has hardly ever been invoked in India.

Partners in 'crime' let off

A person guilty of giving or taking dowry is punishable with imprisonment for a term ranging from six months to two years, plus a fine, or the amount of such dowry. Needless to say, no case is ever registered against dowry “givers.” It is only dowry “receivers” who are put in the dock. Not surprisingly, the law is invoked very selectively. The very same family which would declare at the time of marriage that they only gave “voluntary gifts” to the groom’s family, does not hesitate to attribute all their “gift-giving” to extortionist demands, once the marriage turns sour and is headed for a breakdown.

Section 406 prescribes imprisonment of upto three years for criminal breach of trust. This provision of IPC is supposed to be invoked by women to file cases against their husbands and in-laws for retrieval of their dowry.

Furthermore, another Section 304B was added to the IPC to deal with yet another new category of crime called “dowry death”. This section states that if the death of a woman is caused by burns or bodily injury, or occurs under abnormal circumstances, within seven years of her marriage and it is shown that just prior to her death she was subjected to cruelty by her husband or any relative of her husband, in connection with any demand for dowry, such a death would be called a “dowry death”, and the husband or relative would be deemed to have caused her death.

The person held guilty of a "dowry death" shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life. By inserting a new section 113B in the Indian Evidence Act, the lawmakers stipulated that in cases that get registered by the police as those of “dowry death”, the court shall presume that the accused is guilty unless he can prove otherwise.

Under section 304B, in the case of a “dowry death”, where allegations of demand of dowry or non-return of dowry are made, the accused are frequently denied anticipatory, or even regular bail.

The burden of proof is shifted to the accused party. The basic spirit of Indian jurisprudence is that a person is presumed innocent till proven guilty. However, in all such cases a person is assumed guilty till proven innocent.

This is understandable in cases of death because the unnatural demise of a woman through suicide or murder is in itself proof that something was seriously wrong in the marriage. But problems arise when the same presumption applies to cases of domestic discord where the underlying cause of conflict is not due to a husband's violence or abuse but due to the couple's inability to get along with each other.

Misuse of Section 498A

Way back in 1988, I had pointed out, in what came to be a very controversial article, that there was already a distinct trend to include dowry demands in every complaint of domestic discord or cruelty, even when dowry was not an issue at all (see MANUSHI 48). The police as well as lawyers were found to be encouraging female complainants to use this as a necessary ploy to implicate their marital families, making them believe that their complaint would not be taken seriously otherwise. With the enactment of 498 A, this tendency has received a further fillip. Mentioning dowry demands seems to have become a common ritual in virtually all cases registered with the police or filed in court.

For years after the new law had come into existence, the police would refuse to register cases under 498A unless specific allegations of dowry harassment were made. However, determined action by some women’s organisations ensured that this section came to be used in all situations of cruelty and violence — not just confined to dowry related violence. But, in places where there are no vigilant organisations taking up such cases, policemen and lawyers are often found encouraging complainants to add dowry demands as the main cause for cruelty. This has created an erroneous impression that all of the violence in Indian homes is due to a growing greed for more dowry. This makes the crime look peculiarly Indian, but the truth is that violence against wives is common to most societies, including those which have no tradition of dowry.

Often, highly exaggerated or bogus claims are made by unscrupulous families who demand the return of more than was

given as *stridhan*, using the draconian sections 498A and section 406 of the IPC as a bargaining tool. Sometimes the goal is reasonable — the woman wants the return of all items that legitimately belong to her, but she is encouraged to overstate her case and to demand an enhanced settlement as a pre-condition for divorce by mutual consent.

A large number of cases registered under 498A are subsequently withdrawn, though not necessarily because they were false. Bombay based lawyer, Flavia Agnes, points out that the "complexities of women's lives, particularly within a violent marriage, have to be comprehended beyond the context of popular ethics. The conviction and imprisonment of the husband may not be the best solution to the problems of a victimised wife." Her limited choices and constrained circumstances often "make it impossible for her to follow up the criminal case." As Agnes point out: "Since the section does not protect a woman's right to the matrimonial home, or offer her shelter during the proceedings, she may have no other choice but to work out a reconciliation. At this point she would be forced to withdraw the complaint as the husband would make it a precondition for any negotiations. If she has decided to opt for a divorce and the husband is willing for a settlement and a mutual consent divorce, again withdrawing the complaint would be a precondition for such settlement."

Agnes adds: "if she wants to separate or divorce on the ground of cruelty, she would have to follow two cases — one in a civil court and the other in a criminal court. Anyone who has followed up a case in court would well understand the tremendous pressure this would exert, specially when she is at a stage of rebuilding her life, finding shelter, a job and child care facility. Under the civil law she would at least be entitled for maintenance which would be her greater priority. So if she was to choose between the two proceedings, in most cases, a woman would opt for the civil case where she would be entitled to maintenance, child custody, injunction against harassment and finally a divorce which would set her free from her violent husband." Thus, many women end up dropping the criminal proceedings. In most cases, criminal proceedings are "quashed" as a result a settlement or compromise by presenting, with mutual consent, a joint petition/ in the High Court u/s 482 Cr. P.C.

Instrument of Blackmail?

Sadly, there are also any number of cases coming to light where Section 498A has been used mainly as an instrument of blackmail. It lends itself to easy misuse as a tool for wreaking vengeance on entire families, because, under this section, it is available to the police to arrest anyone a married woman names as a tormentor in her complaint, as "cruelty" in marriage has been made a non-bailable offence. Thereafter, bail in such cases has been denied as a basic right.

Many allege that such a drastic paradigm shift has lent itself to gross abuse, because arresting and putting a person in jail, even before the trial has begun, amounts to pre-judging and punishing the accused without due process. Although a preliminary investigation is required after the registration of the F.I.R, in practice such complaints are registered, whether the charges are proved valid or not, and arrest warrants issued, without determining whether the concerned family is actually abusive, or they have been falsely implicated. For example, there are any number of cases where the problem is mutual maladjustment of the couple rather than abuse by the entire joint family. However, a host of relatives, including elderly parents, who are not necessarily the cause of maladjustment, have all been arrested and put in jail for varying lengths of time before the trial begins. Lawyers have cited several cases where judges have refused bail unless the accused family deposits a certain sum of money in the complainant's name as a precondition to the grant of bail.

Held Guilty Without Trial

Scared by these developments, many apply for anticipatory bail at the slightest likelihood of a wife lodging a complaint with the police. I also know of several cases where the lawyer advised his client to pre-empt his wife from registering a case of cruelty against him, by filing a divorce petition before the wife could reach the police. Husbands could then reasonably argue that the charges of cruelty were a malafide retaliation against the husband's petition for divorce. Thus, instead of finding redressal for her grievances, a woman ends up fighting a defensive divorce case.

The law was recast, heavily weighted in the woman's favour, on the assumption that only genuinely aggrieved women would come forward to lodge complaints and that they would invariably tell the truth. In the process, however, the whole concept of due process of law had been overturned in these legal provisions dealing with domestic violence.

Police and Lawyers Mislead

During the preliminary investigations carried out by MANUSHI, several lawyers provided us with instances of the police using the threat of arrest to extort a lot of money from the husband's family. Likewise, people allege that the police threatened to oppose or delay granting of bail unless the accused family coughed up fairly hefty amounts as bribes. Others allege that many lawyers encourage complainants to exaggerate the amounts due to them as *stridhan*, assuring them that they would get them a hefty settlement from the husband, provided they got a certain percentage as commission for their services in coercing the husband's family.

Many cases have come to our notice whereby the woman uses the strict provisions of 498A in the hope of enhancing her bargaining position vis a vis her husband and in-laws. Her lawyers often encourage her in the misguided belief that her husband would be so intimidated that he will be ready to concede all her demands. However, once a family has been sent to jail even for a day, they are so paranoid that they refuse to consider a reconciliation under any circumstances, pushing instead for divorce. Thus, many a woman ends up with a divorce she didn't want and with weaker, rather than strengthened, terms of bargaining.

Several women's organisations, with long years of experience in intervening in such cases, find to their dismay that their help was being sought in patently bogus cases. Several police officers also admit that a good number of cases are of dubious standing.

The cases in which these provisions have been exploited cover a large spectrum. In an instance brought to our notice by the Delhi based organisation, *Shaktishalini*, a young woman who happened to have married into a much wealthier family than her own, used the threat of 498A to pressure her husband into giving money to her brothers for investing in their business. In yet another case, a woman wanted a divorce because she was having an affair with a doctor from whom she was also pregnant. Yet, she sought a divorce alleging cruelty at the hands of her husband and charged him with being impotent - all so that she could coerce him into giving her a sum of money. *Shaktishalini* also mentioned a case they had to deal with in which a wife refused to consummate her marriage because she was involved in an incestuous relationship with her own father. Yet this father-daughter duo filed a case under 498A and demanded ten lakhs from the groom's family as a pre-condition to uncontested divorce.

I personally know of instances where the main point of discord between the couple was that the wife wanted the husband to leave his parent's home or an old widowed mother and set up a nuclear family. Since the man resisted this move, the wife used 498A as a bargaining device, without success though. In one instance, the young wife being the only daughter of a wealthy businessman, wanted her husband to move in with her parents because his income allowed middle class comforts, not the luxuries she was used to. Since he did not succumb to the pressure of leaving his parents, she got both her father and mother-in-law arrested and put in jail for several days under 498A, at a time when her husband had gone visiting his sister in the US. The man himself dared not return even to come and bail out his parents, before he got an anticipatory bail from the court. Needless to say, all these cases ended in divorce rather than in the wife getting her way.

Are These Stray Cases?

The question to ask is: are these stray examples or do they represent a growing trend? Opinions differ. Some lawyers will tell you that more than 90 per cent of cases under 498A are false or are based on questionable grounds. A lawyer, who handles the cases of *Sabla Sangh*, told me that in Punjab, on any random day, 75 per cent of the cases listed for hearing in criminal courts are registered under section 498A, and of these more than 90 per cent are malafide. Sumitra Kant of *Punjab Istri Sabha* confirms that the proportion of such blackmail cases is growing fast in Punjab and cited several cases personally known to her.

Nobody has established as yet whether the abuse of these laws is as rampant as it is made out to be. Some think that the scare caused by isolated cases of misuse has caused a reaction in our society, making people exaggerate the damaging consequences of these laws. They dismiss the charges of abuse by pointing to the very low rate of convictions under 498A.

While it is true that very few people have actually been given sentences under 498A there is no doubt that a large number of families have been locked up in jail for a few days or weeks, some even for months, following the registration of a police F.I.R. That is punishment enough for most. In many instances, out-of-court settlements are made using 498A as a bargaining point by the woman's family. Many cases do not go far because the charges are so exaggerated that the cases fall through. All these and other factors may be contributing to an abysmally low conviction rate.

However, many feminists think that Section 498A has indeed served women well and proved extremely useful as a deterrent. They argue that women cannot be in a position to see their complaint through to its logical end. But this is not to deny its usefulness in bringing the husband to the negotiating table. Since the offence is non-bailable, the initial imprisonment for a day or two helps to convey to the husbands the message that their wives are not going to take the violence lying down.

No doubt, some women feel compelled to use this method, to arrive at a speedy divorce and settlement of alimony because they feel that they won't get justice through the civil courts, given their tardy and unpredictable functioning.

But this in itself amounts to using the law as a weapon of intimidation rather than a tool of justice. I would condone its use thus, if it were true that lawyers used it judiciously to effect dignified settlements for women with legitimate

complaints. But in a good number of cases, least in metropolitan cities lawyers are actively distorting the spirit and purpose of the law.

The basic problem with the present laws dealing with domestic discord and marital abuse is that instead of providing effective remedies through civil laws, the whole matter has been put under the jurisdiction of criminal laws, with very draconian provisions to make their implementation stringent.

This is what scares many women from approaching the police or the courts for protection, because once they put their husbands behind bars, they know then that they are in a fight to the finish. Most women are not prepared for that. Instead, they prefer to approach organisations that can mediate on their behalf and work out a better solution for them. In some cases, where the Crimes against Women Cell personnel are sensitive and honest to their job, they do perform the role of mediators well. But in most cases, the police make such cases an occasion to make money by squeezing the husband's family, in return for the woman withdrawing her opposition to grant of bail.

Need For Workable Laws

One of the tragedies of independent India is that we have not yet learnt to distinguish between reasonable and unreasonable laws, between implementable and unimplementable laws, just as we have failed to create a law-enforcement machinery capable of providing genuine recourse to all those whose rights have been violated.

By a great deal of struggle and hard work, women's organisations have won a measure of social legitimacy in persuading our society, especially lawmakers, to recognise the serious threat to women's lives due to domestic violence. However, if instances of manipulation of such laws become common, we will get less and less sympathy for the plight of women in our society, even for those women who are facing threats to their lives. We need to sift the grain from the chaff and check out whether the allegations of abuse are indeed genuine, or they are exaggerated and altogether malafide. Those of us who are concerned about expanding the horizons of women's freedom and strengthening their rights, both within the family and in the public domain, ought to be taking note of these developments as they arise.

We invite our readers, those who may have personal knowledge of such cases as well as those who are handling cases of matrimonial disputes through women's organisations, to send us their feedback on how these laws are being put to use in their respective areas, so that we can initiate systematic investigations in order to arrive at a realistic assessment of the situation and work out timely corrective measures.

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Destined to fail

The present day dowry system symbolizes the disinheritance of women and the resulting desperation of parents to push their daughters out of their homes after marrying them off. **Madhu Purnima Kishwar** points to inherent flaws in the anti-dowry legislation, and argues that equal inheritance is the way forward.



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Even though MANUSHI played a leading role in bringing national attention to domestic violence and the role dowry has come to play in making women's lives vulnerable, after nearly 28 years of experience with these issues, I have come to the firm conclusion that the terms 'dowry death' and 'dowry violence' are misleading. They contribute towards making domestic violence in India appear as a unique, exotic phenomenon by giving the impression that Indian men are the only ones in the world to use violence based on astute and rational calculations. By this logic, it would appear that men in all other parts of the world are truly stupid because they beat and kill their wives without any benefit accruing to them, whereas Indian men attack their spouses in the expectation of extorting financial rewards from their in-laws.

Domestic violence is about using brute force to establish power relations in the family whereby women are taught and conditioned to accept a subservient status. Domestic violence is a way of trying to get women to believe that they can only live at men's mercy. It is often committed by men with low self-esteem who destroy a woman's 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 his wife should not be assumed to be the actual reason or '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 'you are fat and ugly', we don't call such crimes 'Lousy Cooking Murders' or 'Ugly Woman Murders'. We recognize that the ostensible reasons given by men for their violent rages are mere excuses to destroy a woman's sense of self worth. They are not the real cause. The same logic applies to dowry related violence. I have not come across a single case where 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, where a woman suffers a lot of taunts and even violence because her husband's family feel she might start considering herself high and mighty for bringing in a huge dowry. Director Vijay Anand's film *Kora Kagaz* produced in 1970s provided a very sensitive and insightful portrayal of an otherwise happy 'love marriage' suffering a break-up because the bride's mother insists on showering her daughter and son-in-law with gifts to make up for the modest income of the latter, leading to a sense of inadequacy and humiliation in the son-in-law.

Even though I maintain that dowry per se is not the cause of domestic violence, there is no denying that dowry demands and sharp escalation in the amounts of money being spent by families in putting together dowries has contributed to viewing daughters as a burden and consequent devaluation of women's lives. (See article "To Ensure Happiness or to Disinherit Her?", Issue 34, MANUSHI, 1986.)



The culture of dowry-giving is spreading even to communities, which had no such tradition a generation or two ago. This

despite the fact that in the last two decades the anti dowry laws have been made very stringent and draconian. Many interpret the failure of these laws to lessen dowry giving as a sign of their poor implementation. However, these laws have so many inherent flaws that their honest implementation is well nigh impossible. In fact, these laws have created more problems than they have solved. You cannot combat a 'crime' which is as ill defined as the anti dowry laws of India.

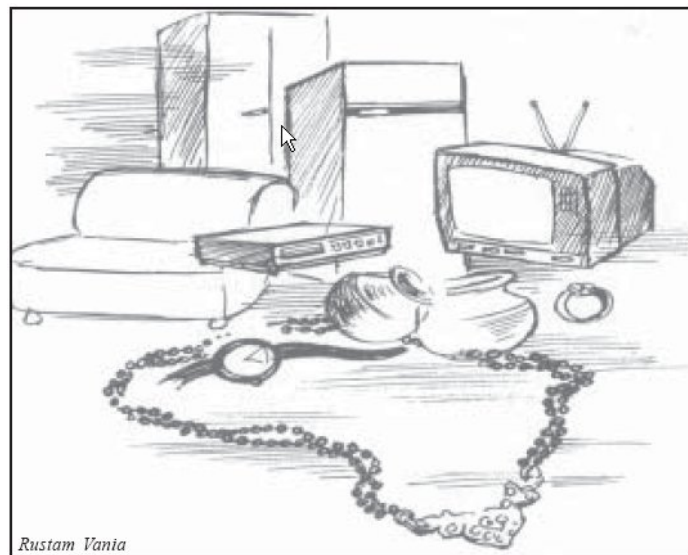
An Ill-Defined Crime

- Definition of dowry: As per the Dowry Prohibition Act (originally passed in 1961 and amended twice in the 1980s), dowry is defined as 'any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage 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'. As per this definition, gifts of jewelry, clothes and cash traditionally given by the groom's family would also be covered by the anti-dowry law and hence declared illegal.
- Cognizable offence: Two amendments enacted in 1984 and 1986 made dowry giving and receiving a cognizable offence. This means, a court can initiate proceedings upon its own knowledge or on the basis of a police report, even if the aggrieved person has lodged no such complaint. Gifts allowed : As per this law 'dowry' is forbidden but 'gifts' are allowed. The anti-dowry law cannot be invoked against the giving of presents at the time of marriage to the bride without any demand having been made 'provided that such presents are entered in a list maintained in accordance with the rules' as defined under the Anti- Dowry Act.

Presents to the groom allowed: Presents given to the groom are also exempted, provided no demand has been made and they are entered in a list and provided that 'such presents are of a customary nature and the value thereof is not excessive' in relation to the 'financial status of the person by whom, or on whose behalf, such presents are given.'

The theory that growing greed is the cause of dowry increase would make sense only if our country had two distinct sets of families - those who only produced sons and those who produced only daughters.

- Prescribed punishment: A person found guilty of taking or abetting the giving or taking of dowry, invites imprisonment for a term not less than five years and with a fine which shall not be less than Rs 15000 or the amount of the value of such dowry, whichever is more.
- Legalising the illegal: After declaring that giving or taking of dowry is illegal, the Act adds a curious rider that 'where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person will transfer the dowry to the woman within three months after the date of marriage or within three months after the date of receipt. Failure to transfer a woman's dowry invites imprisonment for not less than six months and a fine of Rs.10,000. If the dowry was received when the woman was a minor, it should be transferred to her within three months after she has attained the age of 18 years.
- In most other crimes, including murder, Indian jurisprudence puts the burden of proof on the complainant and the accused is considered innocent till proven guilty. However, in the case of dowry related offences, a husband and his family have to prove that they did not make dowry demands and what was given by the bride's parents were voluntary gifts.
- Dowry return : Section 406 prescribes imprisonment of up to three years for criminal breach of trust for not returning a woman's dowry, if a woman demands it after her marriage breaks down. Section 406 is one of the few clauses in the law that has proven useful for women with a genuine case because it helps in the retrieval of dowry where the husband or in-laws are unwilling to return the goods that came as dowry. If a person fails to comply with the court's direction to transfer a woman's dowry within the specified period, an amount equal to the value of the property may be recovered



from him.

- **Draconian anti-cruelty law:** In 1983, Section 498A of the IPC defined a new cognizable offence, namely, 'cruelty by husband or relatives of husband'. This means that once such a complaint is registered by the victim or any of her relatives, the police have no option but to take action. It prescribes imprisonment for a term, which may extend to three years, and also includes a fine. The definition of cruelty is not just confined to causing grave injury, bodily harm, or danger to life, limb or physical health, but also includes harming mental health by harassment and emotional torture through verbal abuse. This law takes particular cognizance of harassment, where it occurs with a view to coercing the wife, or any person related to her, to meet any unlawful demand regarding any property or valuable security, or occurs on account of failure by her, or any person related to her, to meet such a demand.
- **Punishment for 'dowry death':** Women's organizations also pushed to get a new category of crime included on the statute book via an amendment to the Indian Penal Code. This crime - named 'dowry murder' or 'dowry death' is covered by Section 304B. This section states that if the death of a woman is caused by burns or bodily injury, or occurs under abnormal circumstances, within seven years of her marriage and it is shown that just prior to death she was subject to cruelty by her husband or his relatives, in connection with demands for dowry, such a death would be called 'dowry death' and the husband or relative would be deemed to have caused her death. The person held guilty of a 'dowry death' shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.
- **Assumption of guilt:** By inserting a new section 113B in the Indian Evidence Act, the lawmakers stipulated that in cases that are registered by the police as those of 'dowry death', the court shall presume that the accused is guilty unless he can prove otherwise.
- **Bail provisions for 'dowry crimes':** Under section 304B, in the case of a 'dowry death', where allegations of demand of dowry or non-return of dowry are made, the accused are frequently denied anticipatory, or even regular bail. This is understandable in cases of death because the unnatural demise of a woman is in itself likely evidence that something was seriously wrong in the marriage. But it has also meant that in all cases of a married woman's death, lawyers tend to advise the woman's family that they must build a case of dowry demands even if the murder or suicide was due to other reasons.

Basic Flaws in the Laws

Many problems arise from this fuzzy definition of crime combined with draconian provisions for punishment:

- **Who decides what is a 'voluntary gift' and what is given under pressure of a demand?** The very same family that often declares, at the time of marriage, that they only gave 'voluntary gifts' to the groom's family, does not hesitate to attribute all their 'gift-giving' to extortionist demands, once the marriage turns sour and is headed for a breakdown. Thus, even when marital troubles may not be connected to tussles over dowry, and the marital strain is due to mutual incompatibility rather than the husband's violence or abuse, many women's families tend to seek an advantage in registering cases using the draconian provisions of the anti-dowry law when the marriage heads towards a breakdown.
- **How do you decide what is 'excessive' in relation to income by way of gifts when in India no more than 2-3 percent people declare their incomes and those too are grossly under reported?** How do you judge the paying status of a family if most of their wealth is in 'black' money and property holdings held in bogus names to escape taxes?
- **Burden of proof on the accused :** What makes this law especially draconian is that the burden of proof has been shifted onto the accused. The bride's parents rarely want to declare the true value of gifts given because the big dowry givers also put together their daughter's dowry from black money and, therefore, don't want it listed.
- **When dowry giving is a crime, why would a groom or bride's family put their signature on the list of gifts being given?**



- Since a good part of modern dowries consist of expensive jewelry, household goods and high priced clothes, how do you prove whether or not these things were transferred to the bride's name within three months of marriage? For example, if a family has spent Rs.3-4 lakh on providing new furniture for their daughter's home, does it mean that all that furniture must be kept in rooms meant for the exclusive use of the daughter?



- As per the law, even dowry giving is an offence, but there is hardly ever an instance of the bride's family being prosecuted for giving dowry. The assumption is that only 'takers' are guilty while 'givers' are hapless creatures yielding to the greed and callous demands of the groom's family.

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The campaigners against dowry make it appear as if escalating dowries are solely due to the greed of the groom's family. However, as I have argued in several articles, the theory that growing greed is the cause of dowry increase would make sense only if our country had two distinct sets of families - those who only produced sons and those who produced only daughters. The 'son-blessed' families would thus be permanent gainers as dowry receivers while 'daughter-cursed' families would be permanent victims of greed and be always at the mercy of extortionist demands. This is clearly not the case because a family, which gives on its daughter's wedding, becomes a recipient when its sons get married.

Difference between modern day dowry and *stridhan* is as profound as that between a horse carriage and a motorized truck. Though both move on wheels, the power that propels the two kinds of wheels is altogether different.

- This law does not take into account the rapidly changing forms of marriage transactions and mixes up the tradition of *stridhan* with modern day marriage transactions. Even the anti-dowry campaigners attribute the problems of the modern day dowry system to the tradition of *stridhan*, both of which are projected as a hangover of 'traditional' patriarchal norms. The present day custom of dowry giving may retain some ingredients of the tradition of giving *stridhan* (a woman's own inalienable property) to daughters but the difference between modern day dowry and *stridhan* is as profound as that between a horse carriage and a motorized truck. Though both move on wheels the power that propels the two kinds of wheels is altogether different.

Dowry vs Stridhan

Stridhan, as per Hindu customary practice, is that portion of wealth, which is the exclusive property of women and passes from mother to daughter. It includes gifts of money, property, jewelry or a share in a family business given to a woman as a daughter, sister, wife or daughter-in-law. It also covers wealth generated through her own enterprise or any other wealth accruing to her due to her own effort or by inheritance. It includes, but is not limited to, gifts or wealth given to a daughter at the time of her marriage. It also includes gifts given to her by her in-laws. A key-defining characteristic of *stridhan* is that no one in the family can touch it, except if the woman concerned voluntarily gifts a portion to someone. In the natural course, *stridhan* passes from mother to daughter and if in a contingency a male member uses a part of a woman's *stridhan*, he is expected to return it with interest.

The traditional *stridhan* given at the time of a daughter's marriage was determined by predictable norms within each community and was more in the nature of pre-mortem inheritance for the daughter that usually included items such as gold, cows or even a piece of land, along with a few clothes and utensils. Up to my grandmothers' generation, community norms decided the gifts given to a daughter. By my mother's generation dowry had started emerging as a problem because marriage alliances began to be made on the basis of a groom's potential income and status in the 'modern' economy rather than traditional notions of *stridhan*.

Traditional *stridhan* gives women stronger and inalienable rights to a portion of wealth in both parental and marital families. By contrast, dowry is a device for disinherit daughters from parental property, as discussed in my articles, "To Ensure Her Happiness or to Disinherit Her?" and "Dowry Calculations." (See MANUSHI No. 34, 1986 and No. 78, 1993. This theme is also dealt in my film: *Dahej : Zaroorat ya Majboori?* Available on CD from MANUSHI.). Modern inheritance laws also fall short of *stridhan* because they allow daughters and wives to be disinherited at will. As I have previously discussed, the provision of 'free will' was included in the Hindu Succession Act of 1956 specifically with a view to giving the power to fathers to disinherit their daughter. (For a detailed analysis see, 'Myth Vs Reality: The Hindu Code Bill', Economic Political Weekly, Vol. XXIX, No. 33, August 13, 1994).

Therefore, misplaced hostility to traditional cultural norms, including those like *stridhan* that gave women strong rights, results in ill-conceived campaigns that cause further harm to women. Punishment for such a poorly defined and

conceptualized law is heavy and draconian; the anti dowry law is being widely misused by unscrupulous families, policemen and lawyers.

From Dowry to Groom Price

Unlike *stridhan*, which was the exclusive property of the woman, the present day dowry includes gifts and wealth given at a daughter's wedding, not just to her but to her husband, in-laws and his relatives as well as household goods required for setting up the house. These vary from simple gifts of clothing and small items of jewelry for the woman, to exorbitant sums in cash or expensive pieces of property to the groom and his parents.

The amount of dowry commanded by a groom has more to do with his social status, income potential and social-familial connections than with the perceived share of a daughter in her parental property. Thus that part of wealth, which is given to the groom and his family, has acquired the form of groom price because it is an offering for seeking an alliance with a family with lucrative potential. Not surprisingly, men in those government jobs such as the Indian Administrative Service (IAS) and the Indian Police Service (IPS), which command the highest bribes and unlimited avenues for looting the public as well as robbing from the public exchequer and appropriating resources such as land allotments and business contracts command the highest dowries. If in a family one son is an IAS officer, his dowry will be substantially higher than that of his brother who may have managed to get nothing more than a schoolteacher's job.



Contemporary dowry is more like an investment by the bride's family in the hope of plugging into powerful connections and money-making opportunities. Marrying a daughter to such a man may mean upward mobility for her entire natal family, especially brothers, because they may secure huge benefits through this connection.

The component of dowry that still retains some resemblance to the traditional *stridhan* involves the bride's trousseau, gold jewelry, household goods and any property that her parents might put in her name. But even this does not always remain in her control, leading to bitter tussles. It is not uncommon for a groom's family to keep a part of this dowry for their own daughter's wedding or treat the household goods as offerings made to the family, rather than being reserved for the bride.

Recompense for Disinheritance

Denial of inheritance rights to daughters is justified on the ground that they inherit in their marital homes. However, the share women acquire in their marital family's property is not made in their own right, but comes to them through their husbands. Women inherit more often as widows than as daughters or wives. Because as widows they become claimants to their husband's share of property, dowry given at the time of a daughter's wedding has come to be seen as an offering to her in-laws, rather than her exclusive personal property.

Since in most cases only sons inherit parental property and family businesses, and it is only in the form of *dahej* that daughters get a share - albeit an unequal one - in parental property, most women consider dowry as their legitimate due. After marriage, even the parental home comes to be their brothers' and bhabhis' home. Most women feel that a dowry-less wedding does not work in their interest because it only means their brothers end up with an even bigger share of family resources.

How People Justify Dowry

Some of the commonly expressed justifications for dowry run as follows: 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 do not. Therefore, all the household goods and clothes parents provide their daughters are

supposed to help them feel that they have something to call their own in their new home.

Since daughters in most cases are disinherited by their parents after marriage, their main security lies in strengthening their economic rights in their husband's family. However, if they go 'empty-handed' to their husband's home, how can they expect that they will be treated as equal partners? The dowry is, therefore, in part an 'investment' made by parents to secure a share for their daughter in her husband's 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 husband's relatives as a goodwill gesture when the bride is expected to become a claimant in the husband's income and property?

When one raises the issue of marital violence and abuse due to dowry demands many have responded with the counter question: "Are you suggesting that women get beaten, abused and murdered 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?" Most women are in favour of a reasonable amount of dowry being given provided the groom's family does not put undue pressure on her natal family with additional extortionate demands.

Reasons for Dowry Increase Those who make a case for a stringent anti-dowry law on the ground that dowry amounts are rising exponentially forget that among many families in the dowry practicing groups, standards of living have also risen dramatically. Up to my grandmother's time, dowry consisted of clothes for the bride, gold or silver jewelry, several sets of bedding, cows, buffaloes and bedsteads, cots or *peedhas* and perhaps a wooden closet. Some communities also gifted a portion of land - a tradition still common in regions like Andhra. By the time of my mother's wedding, sofa sets and dressing tables had become mandatory and dinner sets and tea sets were included along with kitchen utensils. Watches, wall clocks and radio sets also became common because by then all these items had become customary parts of middle class life. Today, refrigerators, air conditioners, automobiles and a whole range of gadgetry are an integral part of upper class and upper middle class dowries because these families use many of these conveniences in their daily lives.

However, there is no escaping the fact that ugly tussles are becoming commonplace over dowry payments. An important reason for growing cash demands and expensive gifts for the groom's family is that parents see this as their main, if not the only chance, to be compensated for the big bonanza they are offering the bride in the form of an earning son. They feel they should be recompensed for their investment in his education and upbringing since after marriage his wife may influence him not to support his own parents. As long as joint families were the norm and most parents could count on their sons to support them in old age and treat their income as belonging to a common pool, dowry demands were not as much of an issue. However, with increasing breakdown of joint families and reluctance of many women to stay with in-laws, the insecurity of parents in many families takes the form of trying to extract what they can from the bride's family at the time of their son's marriage.

The rapid upward mobility made possible due to opening of new opportunities for urban educated middle and upper class men, whose earning potential has increased exponentially, has meant that such grooms are avidly sought after. For most women upward mobility comes through the man they marry rather than their own employment. Most families try getting higher status grooms in the belief that their daughters will find it easier to adjust in such families than if they were to marry below their status, apart from the benefits accruing in the long run to the girl's family by forging an alliance with a well-connected kinship network; the demand for such upwardly mobile men is far in excess of supply.

An important reason for the increase in domestic conflicts, rising dowry demands and the transformation of dowry from *stridhan* to groom price is that our legal enactments, administrative interventions and state policies are forcing the nuclearisation of families without due attention to the fact that the only or main old age security for the vast majority of people in India are their children, especially their sons. Parents invest all they can in their son's education and career building in the hope and expectation that sons will get jobs or other forms of earning opportunities bringing about upward mobility for the whole family. Sons are expected to contribute to the education and marriage costs of younger siblings as well as take care of parents in their old age. In societies where there is near total absence of any other form of



social or old age security, this is an understandable expectation.



However, too many parents find this expectation belied after their sons get married, especially if their sons take up well paying jobs or succeed in an independent enterprise separate from the joint family economy. Not just in metropolitan cities, but even in small towns and villages of India, young wives are increasingly prone to insist on moving away from the joint family and set up their own independent establishment, even when the in-laws are not abusive.

A man continuing to financially support his parents or younger siblings even after nuclearization of the family often finds stiff resistance from his wife. Many even stop doing so. Sometimes parents themselves withdraw from receiving such support in order to avoid friction in the marital life of their sons.

Without doubt, in some cases daughters-in-law willingly endorse their husbands' efforts to support their natal families. But the over all trend is more in the direction of moving away from taking responsibility for the in-laws.

Insecurity of Groom's Family

In recent years I have heard any number of parents tell me that marriage no more means 'kanya daan' (gift of a daughter) but 'putr samarpan' (handing over of son to the daughter-in-law). They say that they have to be prepared for the eventuality that even occasional visits to the son's house may be resented and blocked by his wife, if she succeeds in winning him over to her side. That is why one finds many parents try to marry off their daughters before they arrange their sons' marriages because of the fear that they may not be allowed to contribute to the expenses after their sons get married. This is also the reason why dowry is increasingly taking the form of 'groom price', with parents expecting that a certain sum of money will be given to them almost as 'recompense' for their handing over the income and assets of their son to the woman who becomes his wife.

This increasing insecurity and uncertainty is at the heart of family tussles between the bride, her natal family and her-in-laws. While some gracefully resign themselves to this fate and even encourage sons to set up a separate house after marriage, many fight a grim battle to keep their sons under their influence, which often means using even vicious methods to prevent the couple from enjoying a close conjugal relationship. The young bride has a formidable weapon in her armory - her youth and sex. The old parents exploit the emotional appeal of blood bonds. This bond is easier to sever where the parents are dependent on the sons for old age support. The few families who are very wealthy may succeed in using their property as a glue to keep their married sons close to them. This anxiety and uncertainty about their fate vis-a-vis their sons is in large part responsible for strengthening the culture of 'dowry demands'.

The fierce battles between daughters-in-law and parents-in-law are also largely due to the fact that women in most communities are conditioned to believe that their rights lie in their husbands' families. Therefore, they feel extremely insecure and resentful about the claims of other members of their husbands' families. Part of the solution to this dilemma, therefore, lies in giving women inalienable rights in their parental property so that they enter their marital homes with a sense of self confidence in the knowledge that they don't have to keep the marriage going 'at all costs' and don't have to carve out a niche for themselves by curbing the rights of their in-laws.

Draconian Yet Ineffective

The anti-dowry agitationists do not take these new dynamics into account. They have relied mainly on pious outrage combined with emotive outbursts demanding that the law be made more and more stringent in their attempt to abolish this 'social evil'. However, such laws work only if people perceive their own interest in the proposed measure of reform. If a woman believes in taking a portion of her parental wealth at the time of her marriage and if her parents believe this is a necessary investment for her future happiness, how can any law stop such giving and taking? The only effect of the anti-dowry law and campaign has been that the giving and taking has become more surreptitious. Earlier, families ensured that proper lists and accounts were prepared and the groom's family was made to sign the list of things they received while the dowry itself was put on display for all the relatives to take note of so there were numerous witnesses to the transaction. Today, no lists are signed and most of the giving and receiving is shrouded in secrecy and made known only through whisper networks within the kinship social circle. Though there is a helpful provision in the anti-dowry law making it a criminal offence if the girl's dowry is not returned to her on demand, in case of breakdown of marriage, the battles over return of dowry have become more difficult and complicated because in order to secure the return of her dowry, a woman has to first establish what was given. If there is no clear proof of what the transactions were at the time of marriage, there is ample scope for false claims and fraudulent denials.

In the first decade of MANUSHI's existence, most of those who came to us for legal aid were women who alleged abuse in their marital home. In the last few years, a good proportion of the cases coming to us involve complaints by mothers-in-law and husbands about the misuse and abuse



of laws, especially section 498A. Such cases are brought to my notice not only by aggrieved families and their friends, but more often by members of women's organisations themselves. (See my article 'Under Use & Abuse of Laws against Domestic Violence' - MANUSHI No. 120, 2000).

Even the most active proponents and defenders of the anti-dowry law cannot claim that the law has been a success. Instead of fine-tuning their campaign to the realities on the ground, the anti-dowry agitationists have continued to demand that the law be made still more stringent.

Even though in recent years a good number of Indian feminists have evolved far more nuanced positions on this subject, in recent year, the Dowry Prohibitionists continue to get a lot of support from some international networks that help them remain politically fashionable. Since the wide gap between precept and practice, between what they say and what they do, has never bothered these rhetorically militant feminists, not surprisingly, the heroines produced by such a 'high-on-emotion, low-on-common-sense' anti dowry campaign have been as phony as the Dowry Prohibition Act.

Phony Laws, Phony Heroines

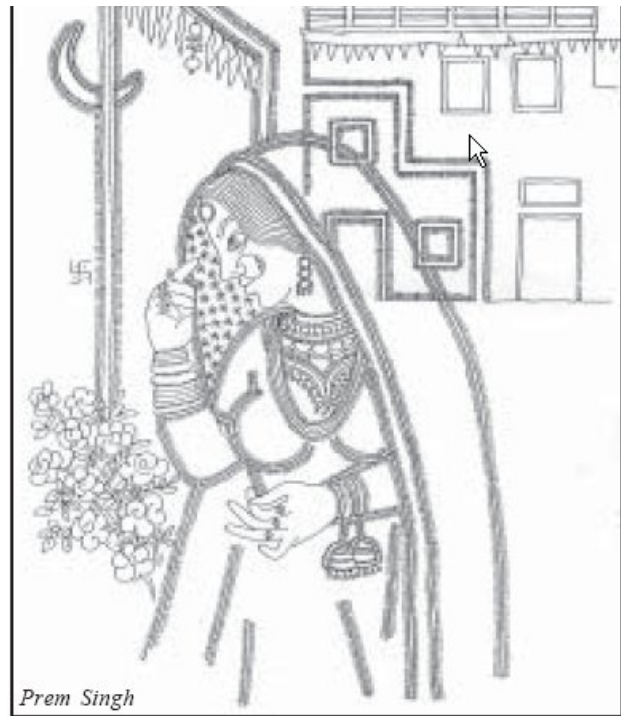
On May 12, 2004, most national papers and TV channels splashed the story of the 'heroism and courage' of 21 year old Nisha Sharma for having called the police to arrest her groom and his parents on her wedding day, alleging that they had suddenly demanded an additional 12 lakh as dowry from her father. Several women's organizations, including the National Commission for Women, vied with each other to give trophies and awards to Nisha Sharma, who overnight became a national icon held up as a role model for young women. Every newspaper and TV channel carried long reports of the glorious saga of Nisha Sharma. She became an instant heroine of the international media. A New York Times correspondent specially flew down to India to interview Nisha Sharma. However, to the allegations by the groom's family that the fracas on the wedding day was not created by them over dowry but instead was created by a former boyfriend of Nisha who came with his friends to stop the marriage by creating a scene, were given short shrift without proper investigation. Nisha's family did not deny that her boy friend Navneet had threatened to obstruct the marriage but insisted that the fight with the groom's family was over additional dowry demands.

An unusual aspect of this conflict over dowry was that certain items like a home theatre system, refrigerator, air-conditioner and washing machine had been purchased in duplicate - one set for Nisha and her husband and a second set for the groom's elder brother and wife. The justification given for this second dowry was that the groom's mother had demanded these additional items so that the standard of living of the two brothers would not vary too much. Apparently the first brother's wife comes from a family of modest means. Therefore, Nisha's father was expected to bridge the gap in the standard of living of the two brothers. Whatever the truth of the matter on that front, neither Nisha nor her father hid the fact that the family had already spent Rs. 18 lakh on buying all these goods. Thus, even as per Nisha's version, the fight was over the alleged additional demand of Rs.12 lakh, not over the giving of dowry per se. Nisha's father is reported to have told the press that they had even tape-recorded earlier phone conversations with the groom's family after they had begun making more and more demands for dowry.

Both Nisha and her father repeatedly justified the Rs. 18 lakh expenditure on dowry by saying they were not against 'voluntary giving' but were opposed to 'dowry demands'. Nobody bothered to ask them by what stretch of imagination they could describe a whole range of expensive gadgets for the elder brother's family as 'voluntary gifts' for Nisha.

So elated were the anti-dowry campaigners within the media as well as among NGOs that even before the start of court proceedings to prove the allegations leveled by Nisha against Munish Dalal and his mother, even before anyone bothered to investigate the authenticity or otherwise of Munish Dalal's counter allegations against Nisha regarding her boyfriend's role in disrupting the marriage, a chapter on her as an emulation-worthy role model for young women was included in the school textbooks of the Delhi Secondary Board curriculum.

Thus, for the public at large, Munish Dalal's family had been permanently condemned as guilty and their alleged crime turned into a moral lesson for generations to come on the basis of half-baked media reports even before the lowest court in the land pronounced its verdict. The Sharma family, by contrast, has been lionized as though they performed a great heroic deed despite the provision of the anti-dowry law that clearly states that both the giver and taker of dowry



are liable for prosecution. No one wondered why they were not arrested for having offered Rs. 18 lakh dowry as inducement to Munish Dalal's family. A few months later, media persons lost interest in her story as they allegedly discovered more and more holes in the version of the dispute Nisha and her family offered.

Consensus against Extortion

The bottom line is that Nisha, like millions of other people, believes that the voluntary giving of gifts and wealth - whatever be the amount - is perfectly legitimate, while anything demanded by the groom's family ought to be treated as an offence against the law if it exceeds the paying capacity of the bride's family or goes beyond their willingness to comply. If that is the social and legal consensus, if that is how law is actually enforced, if the dowry prohibition law comes into play not when dowry is being given or taken but only when the bride's family levels charges of coercion and blackmail, then logic demands that we scrap the anti-dowry law since extortion is in anyway a criminal offence under the Indian Penal Code (IPC).

All cases of dowry related harassment can easily then be tried under relevant provisions of the IPC as cases of extortion. Since there is a broad-based consensus that extortionist demands are both wrong and illegal, enforcing such a law will result in greater clarity and better implementation of its scope and ambit.

Today, most women end up using the anti-dowry law to book husbands for maltreatment even if dowry is not the cause of marital breakdown. Thus anti-dowry law has not curbed the giving and taking of dowry. It has only provided a strong weapon for revenge in the hands of wives against their husbands and in-laws, whether or not their conflict is over dowry. Lawyers and even police routinely advise families to list 'dowry demands' as the primary cause of marital violence, even if in actual fact this is not at all the case, or is only a relatively minor factor in marital conflict. We have found that when we probed deeper, women narrate far more complex stories of conflict than come out in their simplistic statements to the police and law courts about dowry being the cause of all their woes.

Harmful Emphasis

It has become politically fashionable to attribute all forms of violence and discrimination against women, including female infanticide and female foeticide to the economic burden of dowry that a daughter is said to represent.

Dowry requirements are used as another excuse for considering daughters a burden. The anti-dowry movement, by limiting itself to the constant repetition of 'dowry abolition' as a panacea for women's empowerment and as the primary strategy for ending their oppression, has only helped give further legitimacy to the conventional belief that daughters are an economic liability.

There is little mention of exorbitant dowries causing the ruin of families in the literature of pre-British India. Ruin due to exorbitant dowry payments became a major theme in nineteenth century literature because this period witnessed an unprecedented erosion of women's economic importance and inheritance rights due to the manner in which the colonial rulers carried out land settlement operations in India.

We need to combat the culture of disinheritance if we wish to effectively combat the growing hold of dowry culture.

In conformity with Victorian norms that they were familiar with in their home country, land entitlements were given to 'male heads of the family', bypassing our customary laws that allowed various categories of entitlements to women. This concentrated property in the hands of men in an unprecedented way and paved the way for the disinheritance of women. In addition, the rapacious land revenue demands drained large amounts of the economic surplus from the rural economy. It made the peasants extremely cash poor. The destruction of traditional crafts pushed large sections of impoverished artisan groups to fall back on their small landholdings and the consequent increasing pressure on land made land ownership bestow special power and status.

However, with rural society and artisan groups becoming extremely cash poor, the tradition of *stridhan* seems to have become burdensome. The traditional view of daughters as *paraya dhan* got a new and deadlier meaning. The term *paraya dhan* had the connotation of viewing women as wealth. This is an apt description in a society in which women carried their *stridhan* with them, that is, property that is theirs by right. Traditionally, the entry of a bride into her new family would be referred to as the coming of Lakshmi (Lakshmi aayi hai). Even today vestiges of that tradition remain in most communities. A young bride enters her marital home with haldi (turmeric) soaked feet, leaving auspicious marks on the floor, marks associated with Lakshmi, goddess of wealth.

As women were increasingly disinherited, daughters began to appear as liabilities. Kanyadan, the gift of a daughter, became not so much a matter of earning dharmic merit (the merit of doing one's religious duty) so much as getting rid of an unwanted burden. It is in this context of devaluation of women's lives and marginalisation of their economic rights that

dowry payments began to assume the form of offerings to a groom's family so that they would take a burden from the bride's family.

Thus, our modern inheritance laws have increasingly moved in favour of men and against the interests of women. All those communities that practiced matrilineal inheritance, such as the Nairs in Kerala, have also been forced through legislation to move towards patrilineal inheritance. Systems that provided reasonable or adequate protection of women's economic rights have been steamrolled out of existence.

The Way Forward

The present day dowry system in India symbolizes the disinheritance of women and the desperation of parents to push their daughters out of their homes after marrying them off, no matter how this affects their well-being. Failure to do so is considered a severe stigma on the family's *izzat* (reputation). Since the woman is being sent as a disinherited dependent, the receiving family has to be compensated.

Once women become equal inheritors, parents will not have to depend only on sons and daughters-in-law for old age security because daughters too will be empowered to take care of their parents. This will make families less male-centric and therefore, less prone to violent tussles. We need to combat the culture of disinheritance if we wish to effectively combat the growing hold of dowry culture. For this the following steps are likely to work better than anti-dowry laws:

- Encourage parents through widespread, high profile campaigns, to gift mainly income-generating forms of property to their daughters (land, house or business shares) depending on the economic status of the family.
- Encourage those parents who can afford it to ensure that their daughter has a house, room or even a jhuggi in her own name so that she is never rendered homeless, can never be 'thrown out of the house'.
- Amend the Hindu Succession Act to give coparcenary rights to daughters at par with sons as the states of Andhra Pradesh, Karnataka and Tamilnadu have already done.
- Amend the Hindu Succession Act to make it illegal to routinely disinherit daughters through their wills unless they can provide strong extenuating circumstances for doing so.

Madhu Purnima Kishwar

Manushi, Issue 148

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Sudarshan has a valid point on women
by [S Gurumurthy](#)

Brinda Karat, a Left feminist, has criticised RSS (Rashtriya Swayamsevak Sangh) chief K S Sudarshan for his views on the role of women. In Sudarshan's view, a woman who puts the family above her career is the role model for others. Brinda chided him for being anti-women. For her, a family woman is subordinated. Conversely, a career woman is liberated. Sudharsan's view and Brinda's are not just a conflict of the 'traditional' India with the 'modern'. Today, it involves the 'modern' West as well and a debate is on out there. Look at the facts and the thoughts on the role of women in the West, which our intellectuals of the Left and also of the rest generally benchmark.

Long before, the West had caught on to what the likes of Brinda now advocate for Indian women. The West, ideologically close to Brinda, moved even faster. In the Russian Federation, 65 percent of the marriages end in divorce. The divorce-to-marriage rate in the Ukraine is 63 percent, Czech 61 percent, the UK 51 percent, the US 49 percent, and Germany 41 percent. Swedish women are the most 'liberated' and 'empowered' with half and more of Swedish Parliamentarians and civil servants being women. Is it just a coincidence - or consequence - that 65 percent or more of Swedish women and men live together without marriage, any one with anyone for any length of time? In the end, over two-thirds of Swedish elders are bereft of family support. This has forced the Swedish Government to pass a law to provide caretakers, at its cost, for assisting the aged who are orphaned.

Look at the USA, which many look towards. The traditional arrangement where men go to work and women look after the house has fallen from 53 percent of married couples in 1972 to 21 percent in 1998. The divorce rate in the US has doubled between 1960 and 1998. Don't dismiss it as merely a cultural fall. It is economic as well. The state had to step in to fill the void in families. So the social security cost, that is the cost of caring for the aged and the infirm, unemployed and others, has skyrocketed. Many in the West are frightened of this time bomb ticking under their economies. Some of the best minds in the US fear that the

emerging 'Fatherless America', as one writer put it, will bankrupt the country.

In contrast, the entire social security cost is privatised in India through the traditional family mechanism. But for such traditional families the Indian state would have gone broke long ago. Now the West is realising the criticality of women who put home above career. A study made in 2003, covering over 1,00,000 families in the UK and the US, found all this: wherever men and women have competed and claimed arithmetical equality, families broke up; the happiness of families and their overall economic status stood eroded; wherever women had the full support of husbands and had been mothers taking care of the family, happiness in the family was complete; separation forcing women to remarry or remain single caused a drastic reduction in their overall happiness.

Look at the relatively more traditional Germany. An article in The Christian Science Monitor (March 25, 2005) reads: "In Germany, the idea that it's possible to combine family life and a career is rejected by society as a whole," argues Barbara Vinken, author of "The German Mother." German society, she says, is increasingly split into two camps: those who have children, and those who don't. "It's a society in which a growing segment isn't reproducing anymore." The article goes on: "Sending your child (to day-care in order) to work is seen as something that weakens the family rather than strengthens it," says Giscela Ehler, head of Familenservice, a childcare consultant based in Berlin. "Women," she says, "feel that they have to choose between family and career." Yet, only 16 percent of German women with children less than six go for work.

Now see the stunning decay in women's status in the relatively traditional Germany. Like in all West the German Government provides doles till employment is offered to the unemployed. An unemployed German girl receiving the dole was stunned when told by the employment office to either join a brothel that had jobs to offer her or, if she declined to, become disintituled to her dole! Why? As Germany had legalised prostitution as an industry, a job in a brothel was as good any other employment for women in market economics!

So the West is now debating what the ideal role of a woman should be. In the West, one abuses Barbara Vinken as anti-women or dismisses her as Biblical. Nor does anyone trivialise Giscela as medieval. What Sudarshan says in India is precisely what Barbaras and Giscelas say in Germany. So let us look at the debate in the West, developed and more than that, decaying - lest even as we replicate their development, we don't bring in their decay. Sudarshan has a valid point. He never said women should not opt for a career. He only cautioned against idolising career women and trivialising the family-bound. In an intellectually spineless atmosphere, he has had the guts to raise a point, a profound one. Let us discuss it without being dismissive or abusive.




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We have the law. To what effect?

NIRMALA SITHARAMAN

TO EDITOR EMAIL PRINT

Posted online: Wednesday, October 12, 2005 at 0003 hours IST

Parliament has passed the Protection of Women from Domestic Violence Bill. We can pat ourselves that as a nation we have risen to 'protect' women, this time from domestic violence. However, can the legislation in the present form offer any extra protection to women?

The worst form of harassment is the condition which some women are subjected to in their homes. In our country, a woman enters a marital home leaving her maternal household. Most Indian women are conditioned "to enter and adjust" to this new surrounding. Many others face difficulties. It is here that they need protection. The abuse a woman undergoes — physical, sexual, verbal, emotional and economic — are rightly brought under the rubric of "domestic violence." But the debate is about how effective, in practice, will be the protection envisaged by this bill.

This bill allows any person to give information in good faith about domestic violence without any civil or criminal liability. This will help in situations where the aggrieved woman is unable to reach for help. The information is to be given to a police officer, protection officer, a notified service provider (NGO) or magistrate. They, in turn are expected to brief the aggrieved woman of her right to seek shelter, home, legal aid, medical services, or file a complaint under section 498A of the Indian Penal Code. This is where the effectiveness of yet another well-intended law for the well-being of women becomes doubtful.

Prior to this bill, a policeperson and/or the Department of Women and Child can extend assistance of such nature and kind. But do they? In several cases, they do. The difficulty is that this task is one of the several other things they are expected to do. To get over this difficulty, this bill relies on the appointment of Protection Officers in every district.

Let us look at the implementation of the Dowry Prohibition Act. The state governments are expected to appoint an officer in each district for the purpose. Invariably, the revenue officers double up as Dowry Prohibition Officers (DPO). In reality, the aggrieved invariably seek police help, not the DPOs. What the DPO can do that a policewoman cannot is unclear.

The remedy suggested by the legislation constrains its effectiveness much more severely. If the aggrieved woman seeks legal remedy for the violence she underwent, it suggests section 498A of the IPC as the panacea. Several advocates feel that once action is initiated on a complaint under section 498(A) reconciliation becomes impossible.

About the pendency of cases in courts, the less said the better. In Andhra Pradesh, for example, a third of all the pending cases related to "atrocities on women" as on June 30 2005 are those under sections 498 and 498(A). In the first six months this year, 3801 new cases under just these two sections were instituted.

Thanks to the awareness levels among women, many more are approaching the courts today than before. Consider this against the number of cases that are disposed. They are only 2432 cases. Of them, only 164 cases led to convictions. 1449 cases ended in acquittal with the aggrieved women considering further appeals.

The bill enjoins that the magistrate shall fix the date of first hearing as not beyond three days from the receipt of the application. More importantly, Section 12 (5) of this bill states that the magistrate "Shall endeavor to dispose of every application within a period of sixty days from the date of its first hearing." But are there enough number of magistrates hearing and

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conducting cases? Statistics tell a sobering tale.

Due to the way in which the criminal justice system works, the odds are stacked up against women. The production of evidence on "verbal and emotional abuse" may not be in the forms and shapes the courts appreciate. The large number of acquittals in IPC 498 cases proves this point.

As it is, there are 41 acts that are women related and/or women specific. Dowry Prohibition Act, Illegal Trafficking Prevention Act (ITPA), Pre-Natal Diagnostics Act (PNDT), to name just a few, are each well intended. But it is time to make them effective.

Parliament would have done a greater service to the women of this country if it looked at the recommendations of commissions to improve the judicial infrastructure and reform the criminal justice system. It is time we thought of bringing all offences of criminal nature against women under one umbrella act. This act should allow the aggrieved woman to choose her prosecutor, and provide legal aid and protection, like the Atrocities against Scheduled Castes (Prevention) Act. Such cases should go through fast track courts. Only then can the promise of justice for women be meaningful.

The writer is a former member, National Commission for Women

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We are also women, say transsexuals

Sumanta Ray Chaudhuri

Tuesday, March 07, 2006 22:50 IST

KOLKATA: Transsexuals -- or males who have undergone sex-change operation to become females -- have an agenda today, on Women's Day.

They too want to enjoy the rights and social status of women. In fact, they want the special laws enacted for the protection of women to be applicable to them as well. Further, they have demanded that women rights groups and activists give equal importance to their cause.

A cross-section of the community has demanded that as 'women' they should also be able to reap the benefits of Section 498A of the Indian Penal Code, which defines the offence of matrimonial cruelty.

The demand has come mainly from Manabi Banerjee, a professor in a college in West Bengal, who is currently fighting a matrimonial-cum-criminal suit against her husband, Avijit Pahari.

Manabi, born male as Somnath Banerjee, underwent a sex-change operation three years ago and married Avijit a year later.

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Bhavisnyavani

What your stars foretell

 by **MARJORIE ORR**

SUTRA

He who seeks vengeance must dig two graves: one for his enemy and one for himself.

Chinese Proverb


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How Successful Are Anti Dowry Laws?

Posted on Wednesday, July 27 @ 08:44:45 EDT by [editor](#)



In today's Indian society is the Anti-Dowry Law really helping people or have marriages today becoming another extortion racket?

Laws against domestic violence like Section 304B (pertaining to dowry death), Section 498A (wilful, mental and physical cruelty) and Section 460 (criminal breach of trust) have created quite a few controversies since their inception. Unfortunately, it is the educated masses of our society who always misuse certain Laws for their own benefit and the 'Dowry Law' is no exception.

Everybody knows that anti dowry laws are one of the strongest but some clever girls and their parents are using this Law to their benefit, if they feel that things are not going the way they want to. There have been instances where the bride's family has threatened the groom's family if things haven't gone their way. This has resulted in a number of innocent people suffering.

Many feel that article 498A of the Indian Penal Code has now become a blackmailer's law. It is being used to harass many innocent husbands. Even lawyers admit that over 60% of cases registered under 498A turn out to be false.

It time that the law is changed and punishment for these false accusations be made the same as that meted out to those who are really guilty of such acts.

What's most disturbing is that it isn't the uneducated, under-privileged women who are rushing to the cops. The new dowry 'victim' in urban India are girls from well to do families. She wants it all the house, car, jewels and if the man resists or refuses she goes to the nearest police station, with a long list of complaints. While the guy is left cursing his fate more often than not the woman gets away with a large chunk of financial gains.

The anti dowry law has a number of loopholes and it is high time that our society wakes up and takes a strong note to amend these one sided laws which are eventually breaking up our Indian marriage system.

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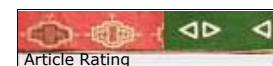
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