

**MARCHING TOGETHER...**



*Resisting Dowry in India*

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Infopack developed for:

**The India Court of Women on Dowry and  
Related Forms of Violence Against Women**

## INTRODUCTION

Not only did the 1970s and 1980s bring about a 'second wave' of feminism, unleashing strident women's agitations, they also marked the beginning of the contemporary women's movement, moving away from the earlier phase of social reforms and focusing on gender, violence, feminism and the law. A stormy backdrop – Emergency, the International Women's Year and the report of CSWI (Committee on the Status of Women in India) – led to the formation of new autonomous women's groups, infusing women's activism with a fresh energy and resolve. Violence against women became the rallying point for mobilizations on a scale that faded away in the following decades - mobilizations hinging on protests against rapes, dowry and dowry deaths. As the streets exploded with protests, thousands came out into public space, forcing policymakers to sit up and the media to focus attention. It was as if the lid over pent-up anger had been blown off and women were ready to walk that extra mile, marking their presence in the national discourse. The trigger was the rape of a 16-year-old tribal girl Mathura by two policemen in the compound of Desai Ganj police station in the Chandrapur district of Maharashtra, and the subsequent unacceptable judgment delivered by the Supreme Court. It acquitted the guilty on the plea that Mathura, "habituated to sexual intercourse" and of "loose morals" had consented to sexual intercourse. Outraged, women's organizations closed ranks, thronged the streets, pitched high their agenda for legal reform. They demanded that the onus of proof should shift from the prosecution to the accused and that a woman's sexual history should not be part of evidence. Under mounting pressure, the government amended the law in a half-hearted manner, leading to the incorporation of the first demand in cases of custodial rape and the rejection of the second demand. Conservative assumptions about virginity and chastity, however, held sway as the conservative forces co-opted and cast the demands raised by the movement, in the "traditional discourse of shame and honour" (Shilpa Phadke, *EPW*, October 25, 2003).

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

The anti-dowry movement included people from diverse ideologies: from men who felt it their duty to protect their wives as good patriarchs, to anti-capitalist organizations like Stri Sangharsh and 'anti-patriarchal' organizations, which protested against dowry but did not invest it with the feminist critiques of the institution of marriage. "Perhaps this range in points of identification explains why it has been one of the most prominent aspects of the recent women's movement: it incorporates the

domains of economy, marriage and the ‘cultural’, and violence against women,” said Srimati Basu (*Dowry and Inheritance*).

Protests against dowry in the 1980s assumed unconventional forms; protestors directly confronted the harassers face to face, shaming them within the community. Describing the stormy times, Madhu Kishwar wrote, “Our engagement spontaneously took the form of holding protest demonstrations outside the house of the murdered or dead woman, calling for a social boycott of the family, which had tortured the family or driven her to suicide. Each such demonstration would then move on to the local police station, either protesting against their complicity or demanding that they take appropriate and swift action in booking culprits” (*Strategies for Combating the Culture of Dowry and Domestic Violence in India*, 2005). They met with overwhelming response from neighbours. “Our demonstrations rarely faced hostility, even when we invaded neighbourhoods without prior notice or warning. In most cases, the men and women of the neighbourhood joined us spontaneously to endorse our call for social boycott. Even the police watched quietly, instead of trying to prevent us from holding demonstrations outside homes that had witnessed murders or even outside police stations,” wrote Kishwar. She said it was only on one occasion that she was personally confronted by hostile neighbours—when a *Manushi* team had gone to probe a suspected case of dowry murder. The strategy of demonstrating outside the residence of the guilty family came with the hard realization that getting justice from either the courts or police was a tortuous and often futile process. The fear and shame of losing honour within the community, on the other hand, often was a more effective strategy than indictment by law. Communities through history have practised their own ways of punishing the guilty. Even today we come across incidents where wife beaters and alcoholics are paraded through villages with their faces blackened to heighten their sense of shame and dishonour.

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Two decades have gone by since the streets of Delhi resounded with anti-dowry slogans and women were picketing outside the homes of families found guilty of dowry harassment. Streets have fallen silent, but violence has not waned. Not only have dowry demands not gone down, the onset of liberalization and rise in consumerism have further stoked them, lengthening the dowry ‘wish list’. Black and white television sets seem to have been replaced by colour sets or home videos; mixies and food processors by more sophisticated gadgets, Maruti 800s by automobile juggernauts. Still, while increasing consumerism has given dowry a different dimension, it may be too simplistic to attribute its dogged survival only to an atavistic culture. In fact, dowry remains a complex and highly contested subject of debate within the women’s movement. Different sections - activists, scholars, researchers - have constructed the birth and survival of the practice through different perspectives, resulting in a complex weave of multiple layers woven through culture, economics, tradition, caste, hypergamy and ritual superiority. Each of these strands intersect, pointing to the complexities of the practice. They also raise a question mark on adopting legal redressal as the sole mechanism for fighting dowry.

Notwithstanding a string of amendments to the Dowry Prohibition Law since 1961 and efforts to make the law more and more punitive, dowry and dowry-related

violence are rampant. Dowry-related deaths are estimated to have swung up from 400 a year in the mid-1980s to around 5,800 by the 1990s. “An accurate picture is difficult to obtain, as statistics are varied and contradictory. In 1995, the National Crime Bureau of the Government of India reported about 6,000 dowry deaths every year. A more recent police report said dowry deaths have risen by 170 per cent by 1997. All of these official figures are considered to be gross understatements of the hard situation on ground. Unofficial estimates put the number of dowry deaths at 25,000 a year, with many more maimed and scarred as a result of attempts on their lives,” said a concept note prepared by *Vimochana*. In a study conducted in 1997, *Vimochana* noted a high incidence of unnatural deaths taking place among women in Bangalore. “We found that of 1,133 cases of unnatural deaths of women in Bangalore in 1997, only 157 were treated as murder while 546 were categorized suicides and 430 as accidents.”

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

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Is there a way forward?

There are no easy ways of breaking the lull in the movement. In fact, it would be difficult to address the problem of dowry and dowry-related violence through a single strategy. One of the effective ways in the past, when the movement was at its peak, was the use of cultural mediums to spread information and create awareness. This can be done even now by forming new cultural groups, using existing ones, creating new plays, songs and poetry. People tend to respond to creative forms of communication. Simultaneously there can be efforts to revive the momentum, perhaps not in the sense of a mega movement of the 1970s and 1980s but through local activities sustained through a multi-pronged strategy combining agitations with cultural activities, bringing out magazines, newsletters, etc. Side by side with legal interventions there is a need to involve the political class, drawing leaders, members of parliament into discussions and proactive decisions to break the cycle of apathy. For instance, women’s groups can invite a panel of leaders and MPs, engaging them in interactive discussions.

### **Fleeting Images: Some Artefacts of the Movement I**

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

My Raja,

I am going away. Forgive me...

Ever since I came to your house your family has had difficulties. My coming into your house was not auspicious for you. So I am going away. I will make every effort to see that I do not survive, because if I do, not only will my life be ruined, but so will yours. Do not take me to a hospital...

I am taking your child along with me in my womb. Forgive me for this too. You had a desire to marry again. Do marry again. You can either burn the clothes I brought in my dowry, or return them to my parents. The clothes which were given to me by your family can be ironed and kept in place for the new bride...

When the new bride comes, try and listen to what she says, and do not quarrel with her. Even if her relatives do not pay much attention to you, you should try to stay happy. You should ignore these things. Otherwise, her life will be ruined. And if she talks to you privately about something, never tell anyone else in the house what she says...

(Courtesy *History of Doing*)

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

On the protests in the 1970s and 1980s, Brinda Karat wrote, “The struggles led to reform in many laws that have helped women in their struggle for justice.” “But today”, she explained, “such a strategy would be insufficient.” Karat said the focus of the anti-dowry struggles needs expansion. “Men need to be encouraged to speak and act against dowry. Young men who refuse to take dowry need to be made role models and their actions publicized. There are many communities who have taken the initiative in organizing marriages without dowry. Their examples need greater exposure,” said Karat (*Expanding Dimensions of Dowry*). In Kerala, young men have come together in an association called ‘Men Against Dowry’. They are encouraging their male colleagues not to take dowry.

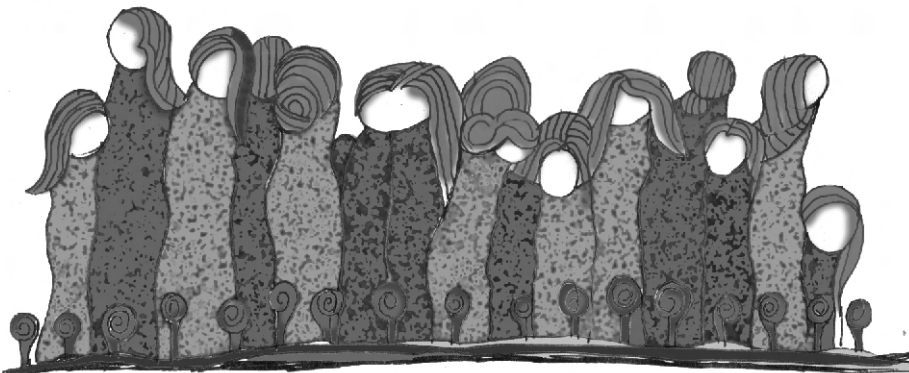
Over the last few years, stray incidents of women fighting back have made news. In May 2003, 21-year-old Nisha Sharma shot to fame when, minutes before her marriage ceremony, she called the police complaining of dowry harassment. The bridegroom had assaulted Nisha's father, demanding more dowry. Her spunky retaliation catapulted Nisha as a role model, evoking widespread media attention, with the twenty-one-year-old featuring in front page articles and holding radio talk shows. In an interview to BBC she said, "It has robbed me of my voice - all this constant re-telling of my story - but I am loving every second of it because I do believe it is something young girls and women in general need to know about." Four years down the line yet another stunning protest made headlines, creating a ripple. This time it unfolded in the conservative town of Rajkot in Gujarat, where Pooja Chauhan, a 22-year-old, stripped down to her underwear, ran down the street, protesting dowry harassment. "Pooja Chauhan said she had taken to this unique protest after being constantly harassed for not bringing dowry and for giving birth to a girl-child. The effect was immediate. The police arrested husband Pratap Singh Chauhan, parents-in-law and neighbours Veji Bharwad and Vinu Dalit on Wednesday after she (Pooja) threatened to scale up her protest and march nude to the police commissioner's office if she did not get justice," (*Times of India*). But at the same time the police slapped a case of indecent behaviour on Pooja, suggesting she was mentally unstable. "The arrests were made on the basis of Pooja Chauhan's complaint. We are also planning to take action against Pooja for indecent behaviour in a public place. However, we will examine her mental condition before taking any action," said Rajkot police commissioner K Nityanandam. Pooja's case showed that the institutions of law and police, rooted in patriarchy, remained as insensitive as before. The police took action only when confronted with a blaze of media attention, not earlier when the 22-year-old had approached them like any other citizen facing harassment.

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# AIDWA Report



## AIDWA REPORT AND THE SPREAD OF DOWRY

*Expanding Dimensions of Dowry,*” a survey by AIDWA in 2003, revealed how the scope and spread of dowry have widened over the last decade. A part of the survey conducted among a total of 63 Muslims in Delhi, including 30 married women, 23 young girls and 10 men, pointed to dowry gaining ground within the community. “Different people gave different reasons for supporting the dowry system. Young girls and their parents (all except one who had incomes within 5,000 to 10,000) said that it was because of the rigid custom prevalent in their society. Young girls considered it as their right. They said that as they did not get any share in their parents’ property this was the only way they could have some part of it... Most of them said that it was because of tradition that they will take dowry. If they did not take any dowry they will not get any respect in their matrimonial homes.” In state after state, respondents said it was impossible to escape the system; many stressed it was the only way of having a share in parents’ property. In Haryana, one of the states with an alarmingly low sex ratio, dowry has spread to all economic sections, with the poor under mounting pressure to scale up dowry. As per the AIDWA report, “Majority of respondents admitted that they are afraid of giving birth to a girl child because of dowry at the time of the marriage.” In Tamil Nadu, the majority of girls, across caste lines, said it was impossible to get married without dowry. But at the same time the report threw up a co-relation between the level of education of the respondents and their approach to dowry. Those with lower education levels seemed resigned to accept dowry as a way of life but women with postgraduate degrees questioned and disagreed with the system. The reports also threw light on the changing approach within the Dalit community to dowry. Under traditional Dalit customs, a bride would go to the groom’s family with 5 cooking utensils, and if that happened to be beyond the family’s means, then *pattal* or leaves were offered in the *pai punji* ceremony. The groom’s family would host the wedding feast. But the spread of dowry seems to be hurting this traditional custom. “The tendency to imitate upper castes and the spread of consumer culture among Dalits has also meant that items such as a colour television, fridge, motorcycle, cooler, etc. are now demanded. The rituals of upper caste weddings are also imitated. In addition, a demand for cash is growing,” stated the AIDWA report.

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The report showed that in Madhya Pradesh, regardless of their educational background and income levels, all castes and communities have been practising dowry for a long time. Mothers said that till about 15 years ago the demand for dowry had been much more restrained. In some communities daughters were sent off to their marital homes with the bare minimum - a few utensils and some jewellery. Women who got married three decades ago told AIDWA that only two ornaments and a few utensils were given. “Growing consumerism had undoubtedly led to an increase in dowry demands. Higher income Dalit families, particularly those who had migrated from the Vidarbha region of Maharashtra, reported that they do not have a dowry system. Some well educated parents holding high positions spoke passionately against the dowry system but hesitated to give their personal details and did not fill up the survey form,” AIDWA reported.

The survey revealed that not only have expectations and demands for dowry gone up in every state, but even those states which did not originally have a system of dowry, have now started practising it. Uttaranchal, for instance, never had a tradition of

dowry. But dowry, making an appearance some three to four decades ago, has gone on to tighten its grip in the last 15 years. Scheduled Tribes, which never had a tradition of dowry, have begun practising it like upper castes. Based on a survey of 20 families of the Bhotia tribe, a report said, "Till a few years ago there was no dowry in this community, but as the economic position of members of this community has improved, the dowry custom has gained ground with unimaginable speed. Families who have some kind of a reservation policy are in the forefront in practising dowry. But still the practice of dowry is much less."

Dowry and bride burning are not commonly associated with the Muslim community on the assumption that Islamic marriage does not recognize dowry. "However, contrary to these assumptions Muslim women too are victims of dowry practices, facing much harassment, if not bride burning," said Abdul Waheed ('Dowry Among Indian Muslims - Ideals and Practices' in *Indian Journal of Gender Studies*). He pointed out that Indian Muslims, 14 per cent of India's population, do not absolutely follow Islamic ideals in their social life, as is well known. Their customs, traditions, social institutions are often more 'Indian' than 'Islamic'. Although Islam does not prescribe endogamy or hypergamy, these forms of marriages have existed among Muslims for decades, especially in North India, where Muslims are stratified into hierarchical *biradaris*. Also, Muslim women are deprived of the right to inherit property, thereby making dowry compensation.

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

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

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

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# Courts of Women



## COURTS OF WOMEN, A FEMINIST DISCOURSE

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

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

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

**TO ALL WOMEN VOTERS**

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

We have come a long way since then. Women's issues have become more 'visible'. We are now an essential part of political rhetoric - no speech or manifesto is complete without a formula to draw women into the political and national mainstream. Why then do we need to reach out to you again?

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

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

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

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

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

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

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

- R.L. Jalappa, a Janata Dal candidate from Doddaballapur, who has been implicated in the murder of a lawyer.
- Dr Venkatesh, a former Janata Party MP, at present contesting on a Congress ticket from Bethamangala to Karnataka assembly, has not only deserted his wife and children without paying any maintenance (despite a court order), but also has a criminal case of assault on his wife pending against him.

The list is endless...

The irony is that none of the political parties involved, i.e. the CPI (M), Janata or the Congress (I) has thought it fit to initiate any inquiry against these individuals who have all been implicated in serious crimes. The greater irony is that some of these are not even seen as crimes - deserting a wife is seen as a 'personal' domestic issue. Society too sanctions such acts with its silence and cynicism about the 'criminalisation of politics'.

- Boycott these candidates in your constituency who get up on a public platform and speak of equality for women while denigrating and violating them in their personal lives.
- Support those candidates who you are assured will respond positively to issues of violence against women.
- Support those candidates who genuinely attempt to put into practice what they speak, both in their public and in their private lives.

It is a small step but the first one.

Let us vote with our conscience and bring forth conscience back into politics.

November 1989

VIMOCHANA

Forum for Women's Rights  
P.O. Box 4605

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## VOICES OF PATRIARCHY IN PARLIAMENT

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

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

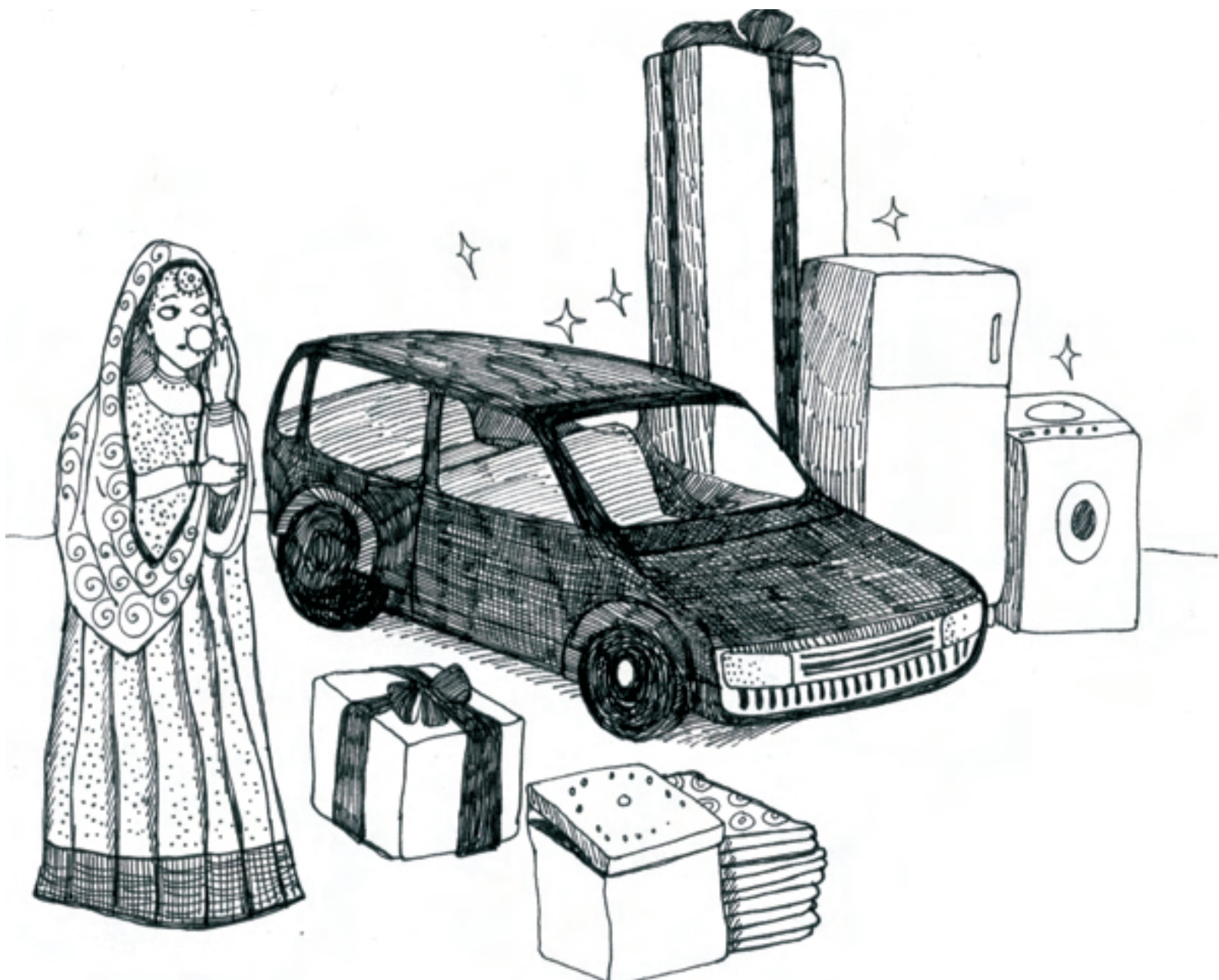
Five decades ago, MPs opposed a Parliamentary Committee's suggestion to ban all gifts at the time of marriage as against the original proposal to fix an upper limit of Rs 2000 on gifts. Outlining some of the strands of discourse, Ranjana Sheel, a Senior Fellow with the Banaras Hindu University, said, "In fact, Pandit Thakur Das Bhargava of Hissar demanded the abolition of the Bill if its intentions were to abolish the system of dowry itself. Other members regarded dowry as an 'ancient custom' which had provided 'security' and 'protection' to women. As such it was a mark of affection for the daughter. Thus it was 'not always an unmitigated evil'". The Speaker of the House excluded the *stridhan*, which was given out of love and affection for the daughter from dowry the evil... Dowry as such was not such an evil till the demands went 'beyond the reasonable financial competence of the other party' (*The Political Economy of Dowry: Institutionalisation and Expansion in North India*). Interestingly, we find reflection of some of these arguments in the provisions of the anti-dowry law.

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# Stridhan



## STRIDHAN

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

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

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

Basu refers to the popular Bengali custom of *tattwa* at the time of weddings to raise a question on how the distinctions can become blurred between custom and extortion. "At a Bengal Hindu wedding, the institution of *tattwa* - the formal display of gifts between the marrying families never fails to turn my stomach. It is a rare wedding where pride of place is not occupied by a roomful of cellophane-wrapped trays of clothes for the couple, clothes for a wide circle of relatives, linen, houseware, make-up, sweets, spices, fish...I even saw a container of Glenlivet single malt as part of a recent display! It is possible to hire a professional *tattwa* designer these days to make this display of 'artistic' clothing shaped into fantastic silhouettes; bamboo or Styrofoam sculptures; jewel-like accoutrements. People inevitably hasten to tell me that I am misreading *tattwa* as 'dowry' in the same sense as 'dowry deaths': as

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opposed to that terrible greedy and materialistic stuff, this phenomenon is cast as an authentic celebration of cultural traditions, a fundamental component of wedding ceremonies”, she wrote (*Politics of Giving: Dowry and Inheritance as Feminist Issues*).

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

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# **Women, Law and State**



## WOMEN, LAW AND THE STATE

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

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

Madhu Kishwar has argued that the flawed anti-dowry law has made it possible to club all cases of violence as related to dowry. "This pattern is evident from the fact that in cases where the woman had died, and left no account of her suffering, about half the cases (reported by others) were ascribed simply to dowry (36 out of 79). But in cases of torture or attempted murder where the woman either reported herself or would have spoken to the person reporting, only 14.7 per cent of the cases cited dowry as the sole cause; 13.2 per cent cited other causes as primary while mentioning

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dowry, and 72 per cent cited other causes (or none) and did not mention dowry,” wrote Kishwar (*Rethinking Dowry Boycott*).

But Kishwar’s views have been strongly contested by sections of the women’s movement. Refuting Kishwar’s point of view, Rajni Palriwala has asserted that “intensification of homicidal violence against wives” was a consequence of changing practices in dowry driven by socio-economic changes. “This is premised on the understanding that dowry, and indeed most forms of ‘transfer of wealth at marriage’ cannot be understood in itself,” said Palriwala (*Reaffirming the Anti-Dowry Struggle*).

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

#### SOME FLAWED PROVISIONS IN THE LAW

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

- Dowry is defined as “any property or valuable security given or agreed to be given directly or indirectly by one party to the other party to the marriage or by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before (or any other time after the marriage) in connection with the marriage of the said parties.”
- The law sanctions “gifts” but forbids dowry. It cannot be used for giving gifts at the time of the marriage to the bride, provided they are voluntary and are entered in a list, in accordance with rules. Presents to the groom, if they are made without being demanded, are exempted.
- Presents to the groom should not be of “excessive value”, in relation to the “financial status of the person by whom, or on whose behalf, such presents are given”.
- An amendment to the Indian Penal Code stipulating that if the death of a woman occurred within 7 years of her marriage and it was shown that she was being harassed for dowry, then her death would be “dowry death”.
- Two amendments in 1984 and 1986 make the giving and taking of dowry a cognizable offence. This empowered courts to initiate proceedings on its own knowledge or on the basis of a police report, even in the absence of a report lodged by an aggrieved person. A section of women activists have argued that these stringent amendments have led to a misuse of the law.

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Critiques to the above-mentioned legal provisions are as follows:

- Who decides what is and what is not a voluntary gift? What is passed off as voluntary at the time of the wedding by the bride's parents may attract the label of dowry in case strains in the marriage develop later. "Thus even when marital troubles may not be connected to tussles over dowry, women's families tend to register cases using the draconian provisions of the anti-dowry law when the marriage heads towards a breakdown," says Madhu Kishwar (*Strategies for Combating Dowry and Domestic Violence in India*).
- Ranjana Kumari's study in 1989 on dowry harassment cases reported to authorities revealed 60 per cent of families gave dowry despite no explicit demands; 79 per cent paid 'voluntarily' rather than 'under pressure'; 35 per cent said they had given dowry for the 'girl's happiness', 12 per cent as a status symbol and 22 per cent under 'social pressure'.
- The legal parameters for deciding what gifts are of "excessive value" in relation to the economic status of the giver are fuzzy. What happens to owners of black money who do not declare their income or are *benami* property owners?
- The law makes both givers and takers of dowry partners in crime. But hardly any cases of persecution for giving dowry ever come to light.
- According to some, the law does not take into account the changing form of marriage transactions. It is argued that dowry cannot be perceived as simply a spillover of traditional practices since the differences between modern-day dowry and *stridhan* are too stark to merit a comparison.

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

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**Report in the *Indian Express* by Manoj Mitta**

If 2003 has been marred by a succession of high-profile rape cases, it is also a year that began on a propitious note for the law against this crime. For on January 3, the government notified the enforcement of a legal amendment stipulating that in a rape case the victim cannot be questioned or cross-examined about her “general immoral character”.

This seemingly innocuous amendment to the Indian Evidence Act came as the culmination of demands that were made from time to time in the wake of the Supreme Court’s acquittal of both the accused policemen in the sensational Mathura rape case in 1979.

Though Mathura was established to have been raped by the uniformed men in their police station, the trial court let them off on the ground that her previous conduct of eloping with her boyfriend indicated she was “habituated to sexual intercourse” and was of “loose morals”.

The High Court, however, convicted the policemen ruling that surrender induced by fear could not be construed as consent or desire. But in a verdict that remains a blot on its record, the Supreme Court set aside the conviction and exonerated the policemen stressing the absence of any visible marks of injury on Mathura’s body.

Despite the outrage generated by the Mathura case, the government balked at touching Section 155(4) of the Evidence Act, which permitted the accused to attack her character. But it did make some less radical amendments in 1983, stipulating that the penalty for rape should not be less than seven years of imprisonment, providing for in-camera proceedings and making disclosure of the victim’s identity a punishable offence.

The courts on their part sought to live down the Mathura shame by reversing judgments that cast a stigma on the victim’s character or presumed, on some flimsy evidence, that she gave her consent.

But regrettably, there have also been cases where the judges continue to show appalling ignorance and shocking bias. For instance, in the Bhanwari Devi case, later made into a movie starring Nandita Das, a judge held that the victim could not have been raped since she was a Dalit while the accused was from an upper caste.

An NCRB report shows a steady, 6.6 per cent increase in the incidence of rape between 1998 and 2000. The courts, in questioning the victim’s character or even caste, have not always helped.

Not surprisingly, the latest report of the National Crime Record Bureau studying trends over the period 1998 to 2000 shows a steady increase of 6.6 per cent in the incidence of rape. The statistics vindicate the decision of the Law Commission to harden its stand in 2000 against Section 155(4) of the Evidence Act.

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When it first gave a recommendation in this regard in 1980, the Law Commission merely suggested a toning down of the provision so that the questions put to the victim on her past sexual conduct were only vis-à-vis the accused.

But two decades later, given the growing abuse of that provision to scuttle rape cases, the Law Commission recommended a wholesale deletion of Section 155(4).

The Vajpayee government, to its credit, acted on the recommendation with alacrity by enacting the amendment in the winter session of Parliament. Besides deleting Section 155(4), it inserted a proviso to Section 146 stating that it would not be possible to question the victim about her prior sexual conduct.

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

Meanwhile, the vastly varying sentencing policy has been another area of controversy in rape cases. So much so that Home Minister L.K. Advani is on record saying more than once that rape should be punished with death.

But significantly, the Malimath Committee set up to reform the criminal justice system rejected Advani's death-for-rape prescription. It said that since death penalty is irreversible, it will make the judges demand higher standard of proof and thereby lower the conviction rate.

Worse, the fear of death penalty may, it said, tempt the culprit to kill the victim. "What really acts as a deterrent is the certainty of conviction and not the quantum of punishment," the Malimath Committee said. Achieving that certainty of conviction is however easier said than done.

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## **Fleeting Images: Some Artifacts of the Movement II**

### **Ants in the Pants**

by

*Mary Roy*

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

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

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

It is extraordinary that in 1995, the Christian male-dominated community in Kerala, assisted by the chauvinistic church and the chauvinistic legislature, continued attempting to water down the Supreme Court's judgments and to revalidate the old gender discriminatory law.

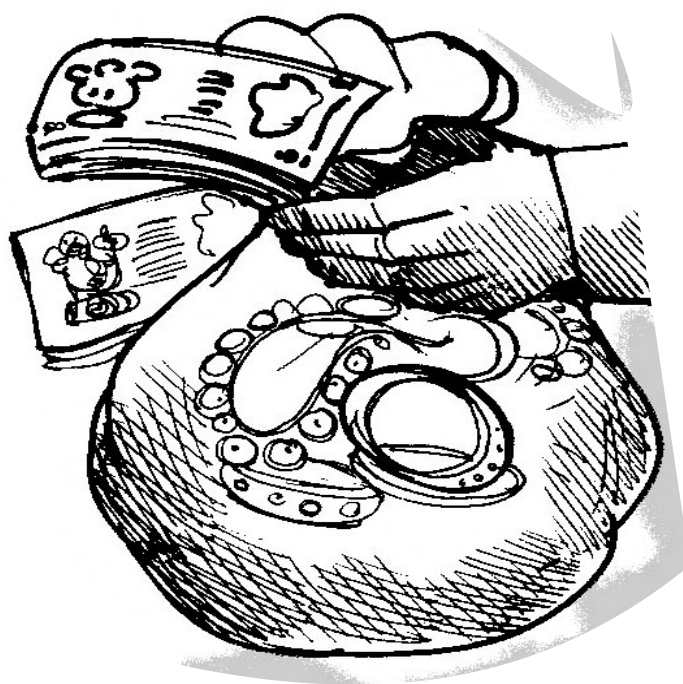
At the same time, there are demands by women's groups all over India for a Uniform Civil Code, in order to ensure a better deal to women who have been discriminated against by the personal laws of their religions.

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

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

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# Dowry, Ritual Status and Hypergamy



## DOWRY, RITUAL STATUS AND HYPERGAMY

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

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

### Reversal of Bride Price?

Some among scholars note with concern that the system of bride price among Scheduled Castes and Scheduled Tribes, is giving way to dowry, reversing the direction of giving gifts. They explain it in terms of a decline in women's participation in labour force. The switch from bride price to dowry and the fall in women's participation in workforce are constructed within a general lowering in the status of women. Others, however, contend that an increase in women's participation in labour is not automatically going to improve the status of women. It is argued that as long as women continue to have no control over their earnings and have no say in decision-making, their status will remain low. "It is true that the increasing coercive character of dowry has led to a decline in the status of women in addition to it being a threat to their very existence. But it must be pointed out that contrary to popular wisdom, women do not have a higher status in those castes and communities where bride price is paid for them," say Shalini Randeria and Leela Visaria (*Sociology of Bride Price and Dowry*). They argue that the relatively stronger position of lower and Scheduled Caste women as compared to upper caste women could be due to their better bargaining clout coming from the traditional systems of divorce and re-marriage.

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### The Changing Face of Dowry

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

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

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

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# **Annexures**

EXTRACTS FROM *OM SWAHA*, A PLAY WRITTEN IN 1979

Newspaper Vendor: Breaking News! Breaking News!  
Murder or suicide in Model Town! Murder or suicide in Model Town!

Enter reporter, buys a newspaper, reads it

Reporter: Hardeep Kaur: 20 years old  
Chorus: Hardeep Kaur: 20 years old

Reporter: Resident of Model Town  
Chorus: Resident of Model Town

Reporter: Wife of Gurudayal Singh, deal of automobile parts  
Chorus: Wife of Gurudayal Singh, deal of automobile parts

Reporter: Died last night at Jai Prakash Narayan Hospital after being burnt  
Chorus: Died!

Reporter: Before her death she told the police her father-in-law had set her aflame for not getting dowry.

Man: How odd! Woman burns to death and it is said that she was burnt because of not getting dowry!

Reporter: Look here I am saying so after investigating the matter.

Man: I live in Model Town-but haven't heard.

Reporter: You stay in Model Town so you have not paid attention.

Man: Seems you paid a lot of attention.

Reporter: Let's go to Model Town and ask the people.

(Go to Model Town)

Reporter: Let's ask this resident. Sir, did you see anything connected to the incident? Please tell this man.

Group: (Keeping hands over their eyes) Seen nothing.

Reporter: Let's go to another group. (Approaches a second lot) Did you hear Hardeep Singh screaming, crying?

Group: (Keeping hands over ears) Heard nothing.

Reporter: Strange! Let's go to another group. (Approaches third lot) Do tell us whatever you have to say about Hardeep Singh.

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Group: (Keeping hands over mouth) We can say nothing.

All: (Keep repeating at higher and higher pitch) We saw nothing, heard nothing, can say nothing.

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

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

Chorus: MB?

Prof. Shetty: MB, that is marriage broker

Chorus: Ok, understood. Marriage broker, etc.

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

Chorus: Two lakhs - that's a lot!

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## RESOURCES

### Features of Protection of Women from Domestic Violence Act 2005

#### Definition of Domestic Relationship

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

#### DEFINITION OF FORMS OF VIOLENCE:

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

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#### VARIOUS STEPS OF RELIEF FROM THE COURT:

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

## RELIEF AND ORDERS GRANTED FROM THE COURT:

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

- Preventing the perpetrator from entering the woman's place of employment and causing harassment.
- Preventing any communication via letter, phone, and email or in person with the woman from the perpetrator.
- Preventing any violence being caused to a person related to the woman.

### SECTION 19: RESIDENCE ORDERS

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

### SECTION 20: MONETARY RELIEF

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

### SECTION 21: CUSTODY ORDERS

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

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### SECTION 22: COMPENSATION ORDERS

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

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

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

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

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

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

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

Section 113a of Indian Evidence Act: When the question is whether the act of a suicide by a woman had been abetted by her husband or any of his relatives and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband and his relatives had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by the husband or his relatives.

## CRUELTY (COGNIZABLE, NON-BAILABLE)

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

### DEFINITION OF CRUELTY UNDER THIS SECTION:

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

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**DOWRY PROHIBITION ACT, 1961 SAYS:**

- If dowry is taken before the marriage, it must be handed to the girl within three months of the date of wedding.
- If dowry is taken at the time or after the marriage, it must be given to the girl within three months of taking it.
- If dowry was taken when the girl was a minor (i.e., below the age of 18 years) then it must be given to the girl within three months of her turning 18 years.
- If dowry is kept by a person other than the girl, then it is kept in trust by such person. This means that the person who has the dowry is responsible for keeping it properly and giving it to the girl at the proper time. He or she cannot sell, spend, use or give the dowry to anyone else.
- If a person does not return the dowry to the girl within the time laid by law, then she should file a complaint against the person. Such person can be punished with imprisonment from six months to two years or a fine of Rs 5000 upto Rs 10,000 or both.
- If a girl or woman dies before receiving the dowry, then her heirs can ask for it from the person in whose trust it is.
- It is essential to make a list of all the gifts received at the time of wedding. The list of gifts to the groom should be kept by him. The list of gifts given to the bride should be kept with her.
- The list should be made at the time of the wedding or immediately after the wedding.
- The list should be in writing
- There should be a brief description of each gift in the list.
- The approximate value of the gift should be written.
- If the giver is a relative, then the relationship to the bride or groom should be mentioned.
- The list should be signed by the bride and the groom.
- If the boy and the girl are unlettered, the list should be first read to them and their thumb impressions placed on it.
- If the bride and groom so desire, the list can be signed by a relative or person who has attended the wedding

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## THINGS TO REMEMBER

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

## KEY POINTS TO REMEMBER

- Lodge a complaint
- The dowry given at the time of marriage – *stridhan* - is the bride's personal property. No one else has a right over it.
- It is essential to make two lists of all the gifts received at the time of wedding. The bride should keep one. The groom should keep the other.

## COMPLAINTS CAN BE LODGED UNDER:

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

### Statistics on Dowry Related Deaths

- Approximately 6000 dowry deaths occur every year (National Crime Bureau report 1995)
- Unofficial estimates put number of dowry deaths at 25,000 a year with many more maimed and scarred as a result of attempt on their lives (concept note, Vimochana)
- Of 1,133 cases of unnatural deaths of women in Bangalore in 1997, only 157 were treated as murder (study by Vimochana)

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FILMS:

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

PLAYS:

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

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BOOKS ON DOWRY:

- *Law Related to Dowry Offences*  
Author: P D Mathew  
Publisher: Indian Social Institute  
Language: English  
New Delhi  
Legal Education Series No. 27
- *Landmark Judgments on Dowry Related Deaths*  
Author: M J Antony  
Publisher: Indian Social Institute  
Language: English  
New Delhi, 1995

- *Dowry and Inheritance*  
Editor: Srimati Basu  
Publisher: Women Unlimited  
Language: English  
New Delhi, 2005
- *South Asians and the Dowry Problem*  
Author: Menski Werner  
Publisher: Vistaar Publications  
Language: English  
New Delhi, 1998
- *The Gift of a Daughter: Encounters with Victims of Dowry*  
Author: Subhadra Butalia  
Publisher: Penguin Books  
Language: English  
New Delhi, 2002
- *Dowry Murder*  
Author: Veena Talwar Oldenburg  
Publisher: Oxford University Press  
Language: English  
New Delhi, 2002
- *Our Laws*  
Publisher: Multiple Action Research Group  
Language: English  
New Delhi, 2001
- *Sita's Curse: Stories of Dowry Victims*  
Author: Seema Sirohi  
Publisher: Harper Collins  
Language: English  
New Delhi, 1995
- *Expanding Dimensions of Dowry*  
Publisher: AIDWA  
Language: English  
New Delhi, 2003

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List of websites:

\*[www.498a.org](http://www.498a.org)

\*[www.idontwantdow](http://www.idontwantdow)

\*[www.womensnews.org](http://www.womensnews.org)

\*[www.ncw.nic.in](http://www.ncw.nic.in)

\*[www.icrw.org](http://www.icrw.org)

\* [www.498a.org](http://www.498a.org)

\*[www.nodowry.net](http://www.nodowry.net)

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## SUPREME COURT EXPRESSES ANGUISH OVER CONTINUING DOWRY DEATHS

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

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

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

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

Although paying and accepting dowry has been illegal in India for 40 years, it is still rampant. The contentious -- but thriving -- system was put under the spotlight when Nisha Sharma, a young bride from Noida, had her groom arrested for demanding cash from her family in 2003.

Other women have paid a very high price, sometimes even with their lives. The Dowry Prohibition Act 1961 (amended in 1984 and 1986) that bans paying and receiving dowry is rarely enforced by the police. Most of the time the perpetrators of the crime get away because of lack of evidence.

In rare cases, the victims survive to make dying statements accusing the husband and in-laws of the atrocity. Under the provisions of the Dowry Prohibition Act, the accused may be sentenced to a minimum of seven years or a maximum of life.

The Law Commission has recommended increasing the minimum sentence from seven to 10 years in dowry death cases. It has, however, declined a suggestion by the National Commission for Women and women’s rights groups to increase the maximum punishment from life imprisonment to death.

According to official data, one Indian woman, on average, commits suicide every four hours over a dowry dispute. The National Crime Records Bureau (NCRB) lists a total

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of 2,276 female suicides due to dowry disputes in 2006, that's an average of six a day.

The British medical journal *The Lancet* recently confirmed that thousands of young women, mostly in the 15-34 age-group, are killed in "fires" in the country every year. The "fires" referred to in the article are mostly a result of blatant domestic abuse. "Domestic abuse is a serious problem in India. Women are sometimes killed in disputes over dowries; often in such disputes the victims are doused with gasoline and set ablaze, and their deaths are claimed as kitchen accidents," the journal reports. It put the figure of such deaths at 100,000 a year.

"Most times women are tortured to squeeze more money out of their families, and in extreme cases they're killed. Then the husband is free to remarry and get another dowry," says Ranjana Kumari who runs seven domestic violence refuge centres for women in Delhi.

Dowries have become such a burden that many families are desperate to avoid having girls. Pregnant women are made to undergo ultrasound tests to determine the sex of the baby, and, very often, female fetuses are aborted. This, despite the Pre-Natal Diagnostics Techniques (Regulation and Prevention of Misuse) 1994 (amended 2002) Act that bans sex determination tests.

Source: *The Hindu*, June 2, 2009  
*The Telegraph*, June 2, 2009  
<http://straitstimes.com>, March 2009  
<http://news.bbc.co.uk>, July 2003

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## HOW DID 100,000,000 WOMEN DISAPPEAR?<sup>1</sup>

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

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

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

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

Women who are dead because their lives were undervalued.

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

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

From her office at the University of British Columbia, economics professor Siwan Anderson has been crunching numbers to try and understand why so many women are dying. "If you're interested in gender discrimination, it's really one of the starkest measures of discrimination, because it's women who should be alive, but aren't," she says.

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

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

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

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

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

Anderson says that lack of health care is likely a big part of the problem, but that there are numerous cultural and social factors at play that can be difficult to pinpoint.

In their "elementary accounting exercise" published this February, Anderson and Ray began to plot the causes of excess death in 2000 by age group, and produced some interesting figures.

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

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

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

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

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

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

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

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

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

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

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1. <http://www.thestar.com/news/insight/article/645832>

## HELP YOURSELF

Some informal ways of creating awareness about dowry:

- \*Form clubs or associations in colleges, universities and other educational institutions.
- \*Keep the issue alive by screening films, hosting talks.
- \*Organize cultural activities to focus on the problem. A lot of youngsters these days form their own music bands, coming with creative lyrics and attractive music.
- \*Form informal associations in residential areas, taking up day-to-day problems side by side with issues of domestic violence.
- \*Whenever an incident of violence comes to notice, alert the media and involve the community around you.

## BOOKS CONSULTED FOR INFO PACK:

- \**Dowry and Inheritance* by Srimati Basu
- \**History of Dowry* by Radha Kumar
- \**The Scandal of the State: Women, Law and Citizenship in Postcolonial India* by Rajeswari Sunder Rajan
- \**Expanding Dimensions of Dowry* (AIDWA publication)

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