

Law, Custom, and Crimes against Women The Problem of Dowry Death in India

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Law, Custom, and Crimes against Women The Problem of Dowry Death in India

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The cultural institution of dowry as practiced in India engenders substantial violence toward women. This takes the form of inter-familial harassment for additional payments of goods and money which can culminate in the murder or suicide of the bride. Reduction of this abuse of women is attempted through law and education. The primary means of controlling these abuses, Dowry Prohibition Act is widely regarded as having failed. Based on comparative examination of the distribution of dowry, dowry abuses, attitudes toward dowry and dowry violence and cross-cultural theories of dowry this analysis shows that the Dowry Prohibition Act will not be effective in reducing what in India are termed dowry deaths. A more effective approach would be the development of a gender-neutral body of property and inheritance law. Until that occurs the question of whether dowry prohibition is actually in the interests of women is unresolved.

Key words: women, marriage, violence, dowry

A 25-year old woman was allegedly burnt to death by her husband and mother-in-law at their East Delhi home yesterday. The housewife, Mrs. Sunita, stated before her death at the Jaya Prakash Narayana Hospital that members of her husband's family had been harassing her for bringing inadequate dowry.

The woman told the Shahdara subdivisional magistrate that during a quarrel over dowry at their Pratap Park house yesterday, her husband gripped her from behind while the mother-in-law poured kerosene over her clothes.

Her clothes were then set ablaze. The police have registered a case against the victim's husband,

Suraj Prakash, and his mother. (Times of India, February 19, 1988)

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HIS ROUTINELY REPORTED news story describes what in India is termed a "bride-burning" or "dowry death." Such incidents are frequently reported in the newspapers of Delhi and other Indian cities. In addition, there are cases in which the evidence may be ambiguous, so that deaths of women by fire may be recorded as kitchen accidents, suicides, or murders. Dowry violence takes a characteristic form. Following marriage and the requisite giving of dowry, the family of the groom makes additional demands for the payment of more cash or the provision of more goods. These demands are expressed in unremitting harassment of the bride, who is living in the household of her husband's parents, culminating in the murder

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of the women by members of her husband's family or by her suicide. The woman is typically burned to death with kerosene, a fuel used in pressurized cook stoves, hence the use of the term "bride-burning" in public discourse.

Dowry death statistics appear frequently in the press and parliamentary debates.

Parliamentary, sources report the following figures for married women 16 to 30 years of age in Delhi: 452 deaths by burning for 1985; 478 for 1986 and 300 for the first six months of 1987

(Bhatia 1988). There were 1,319 cases reported nationally in 1986 (Times of India, January 10, 1988). Police records do not match hospital records for third degree burn cases among younger married women; far more violence occurs than the crime reports indicate (Kumari 1988).

There is other violence against women related both directly and indirectly to the institution of dowry. For example, there are unmarried women who commit suicide so as to relieve their families of the burden of providing a dowry. A recent case that received national attention in the Indian press involved the triple suicide of three sisters in the industrial city of Kanpur. A photograph was widely published showing the three young women hanging from ceiling fans by their scarves. Their father, who earned about 4000 Rs. per month, was not able to negotiate

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marriage for his oldest daughter. The grooms were requesting approximately 100,000 Rs. Also linked to the dowry problem is selective female abortion made possible by amniocentesis. This issue was brought to national attention with a startling statistic reported out of a seminar held in Delhi in 1985. Of 3000 abortions carried out after sex determination through amniocentesis, only one involved a male fetus. As a result of these developments, the government of the state of Maharashtra banned sex determination tests except those carried out in government hospitals.

The phenomenon of dowry-death presents a difficult problem for the ethnologist. Ethnological theory, with its residual functionalist cast, still does not deal effectively with the social costs of institutions of what might be arguably referred to as custom gone bad, resulting in a culturally constituted violence syndrome. This essay examines dowry and its violent aspects, and some of the public solutions developed to deal with it in India. Our work consists of a meta-analysis of some available literature. We critique the legal mechanisms established to regulate the cultural institution of dowry and the resultant social evils engendered by the institution, and argue that policies directed against these social evils need to be constructed in terms of an underlying cause rather than of the problem itself. We consider cause, an aspect of the problem infrequently discussed in public debate. As Saini asserts, "legal academicians have shown absolutely no interest in the causal roots of dowry as practiced in contemporary India" (1983:143).

The Institution

Since ancient times, the marriage of Hindus has required the transfer of property from the family of the bride to the family of the groom. Dowry or *daan dehej* is thought by some to be sanctioned by such religious texts as the *Manusmriti*. Seen in this way, dowry is a religious obligation of the father of a woman and a matter of *ofdharma* (religious duty) whereby authority over a woman is transferred from her father to her husband. This transfer takes different forms in different communities in modern India (Tambiah 1973). In public [discussion](#), the term "dowry" covers a wide range of traditional payments and expenses, some presented to the groom's family and others to be retained by the bride. Customs have changed through time. The financial burdens of gifts and the dowry payments per se are exacerbated by the many expenses associated with the marriage celebration itself, but dowry payment is especially problematic because of its open-ended nature. As Tambiah notes, "marriage payments in India usually comprise an elaborate series of payments back and forth between the marrying families" and "this series extends over a long period of time and persists after marriage" (1973:92). Contemporary cases such as the death of Mrs. Sunita, often revolve around such continued demands.

A daughter's marriage takes a long time to prepare and involves the development of an adaptive strategy on the part of her family. An important part of the strategy is the preparation for making dowry payments; family consumption may be curtailed so as to allow accumulation of money for dowry. Seeing to marriage arrangements may be an important aspect of retirement planning. The dowries that the family receives on behalf of their sons may be "rolled over" to deal with the daughter's

requirements. Families attempt to cultivate in both their sons and daughters attributes that will make them more attractive in marriage negotiations. Many things besides dowry are considered in negotiations; "non-economic" factors have demonstrable effect on the expectations for dowry and the family's strategy concerning the dowry process.

Education is a variable to be considered in the negotiation process. Education of young women is somewhat problematic because suitable husbands for such women must also be college educated. The parents of such young men demand more dowry for their sons. A consideration in sending a young woman to college will therefore be her parents' capacity to dower her adequately so as to obtain an appropriate groom. In any case, education is secondary to a man's earning power and the reputation of a woman's family. Education is, however, important in the early stages of negotiation because of the need to coordinate the level of the education of the men and women. Education qualifications are also less ambiguously defined than other dimensions of family reputation. Physical attractiveness is a consideration, but it is thought somewhat unseemly to emphasize this aspect of the decision. Advertisements in newspapers are used for establishing marriage proposals (Aluwalia 1969, Niehoff 1959, Weibe and Ramu 1971), but contacts are more typically established through kin and other networks. Some marriages may be best termed "self-arranged," and are usually called "love marriages." In these cases, young men and women may develop a relationship independent of their families and then ask that negotiations be carried out on their behalf by family representatives.

Analysis of matrimonial advertisements shows some of the attributes considered to be important. Listed in such advertisements are education, age, income and occupation, physical attributes, *gotra* (a kind of unilineal descent group) membership, family background, place of residence, personality features, consideration of dowry, time and type of marriage, and language.

Consideration of dowry and other expenditures are brought out early in the negotiations and can serve as a stumbling block. Dowry negotiations can go on for some time. The last stage is the actual "seeing of the groom" and the "seeing of the bride," both rather fleeting encounters whose position at the end of the process indicates their relative lack of importance.

Marriage is a process by which two families mutually evaluate each other. The outcome of the negotiations is an expression of the relative worth of the two persons, a man and a woman, and, by extensions, the worth of their respective families. This estimation of worth is expressed in marriage expenditures, of which dowry is but a part. There are three possible types of expenditures: cash gifts, gifts of household goods, and expenditures on the wedding celebration itself. The cash gift component of the dowry goes to the groom's father and comes to be part of his common household fund. The household goods are for use by the groom's household, although they may be used to establish a separate household for the newlyweds. When separate accommodations are not set up, the groom's family may insist that the goods do not duplicate things they already have.

Dates for marriages are set through consideration of horoscopes; horoscopy is done by professional astrologers (*pandits*). This practice leads to a concentration of marriage dates and consequent high demand for marriage goods and services at certain times of the year. During marriage seasons, the cost of jewelry, furniture, clothes, musicians' services and other marriage

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related expenditures goes up, presumably because of the concentration of the demand caused by the astrologers.

The expenditures required of the women's family for the wedding in general and the dowry in particular are frequently massive. Paul reports, for a middle-class Delhi neighborhood, that most dowries were over 50,000 Rs. (1986). Srinivas comments that dowries over 200,000 Rs. are not uncommon (1984).'

Ethnological Theories about Dowry

Dowry had traditionally been discussed by ethnologists in the context of the functionalist

paradigm, and much theorizing about dowry appears to be concerned with explaining the "contribution" that the institution makes to social adaptation. The early theoretician Westermarck interpreted dowry as a social marker of the legitimacy of spouse and offspring, and as a mechanism for defining women's social roles and property rights in the new household (Westermarck 1921:428). Murdock suggests that dowry may confirm the contract of marriage (1949). Dowry is interpreted by Friedl as a means to adjust a woman to her affinal home as it rearranges social relationships including the social separation of the man from his parents (1967). Dowry payments are public expressions of the new relationship between two families, and of the social status of the bride and groom.

Dowry is seen in the social science literature as a kind of ante-mortem or anticipated inheritance by which a widow is assured of support, and provision for her offspring (Friedl 1967; Goody 1973, 1976). It transfers money to where the women will be and where they will reproduce; as a result, resources are also placed where the children will benefit, given the practice of patrilineal inheritance of immovable, economically valuable property like farm land. In India, dowry is also seen as an expression of the symbolic order of society. According to Dumont, dowry expresses the hierarchal relations of marriage in India and lower status of the bride (Dumont 1957). The amount of dowry given is an expression of prestige. The capacity to buy prestige through dowry increases the potential for social mobility (Goody 1973). Dowry is a kind of delayed consumption used to demonstrate or improve social rank (Epstein 1960). . There is a significant discontinuity between discussions of dowry in the ethnological theory and in public discourse. Certainly the dowry problem does appear in the writing of contemporary ethnologists, but it is simply lamented and left largely uninterpreted and unexplained.

The Extant Solutions to the Problem

The Dowry Prohibition Act of 1961, as amended in 1984 and 1986, is the primary legal means for regulating the dowry process and controlling its excesses. The laws against dowry are tough. Dowry demand offenses are "cognizable" (require no warrant) and non-bailable, and the burden of proof is on the accused. There are, in fact, convictions under the law.

The act defines dowry as "any property of valuable security given or agreed to be given either directly or indirectly-(a) by one party to a marriage to the other party to a marriage; or (b) by parents of either party to a marriage or by any other person, to either party to the marriage or to any other person" (Government of India 1986:1). The act makes it illegal to give or take dowry, "If any person after the commencement of this act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years; and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry which ever is more" (Government of India 1986:1). While this section unambiguously prohibits dowry, the third section allows wedding presents to be freely given. Thus the law does not apply to "presents which are given at the time of marriage to the bride (without demand having been made in that behalf)" (Government of India 1986:1). Identical provisions apply to the groom. Furthermore, all such presents must be listed on a document before the consummation of the marriage. The list is to contain a brief description and estimation of the value of the gifts, name of presenting person, and the relationship that person has with the bride and groom. This regulation also provides "that where such presents are made by or on the behalf of the bride or any other person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given" (Government of India 1986:2). Amendments made in 1984 make it illegal for a person to demand dowry with the same penalty as under the earlier "giving and taking" provision. It was also declared illegal to advertise for dowry, such an offense being defined as not bailable, with the burden of proof on the accused person.

This legislation was coupled with some changes in the Indian Penal Code that legally established the concept of "dowry death." That is, "where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown, that soon before her death she was subjected to cruelty

or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death," and such husband or relative shall be deemed to have caused her death" (Government of India 1987:4). The Indian Evidence Act of 1871 was changed so as to allow for the presumption of guilt under the circumstances outlined above. Changes in the code allowed for special investigation and reporting procedures of deaths by apparent suicide of women within seven years of marriage if requested by a relative. There were also newly defined special provisions for autopsies.

To this point, however, these legal mechanisms have proved ineffective. According to Sivaramayya, the "act has signally failed in its operation" (1984:66). Menon refers to the "near total-failure" of the law (1988:12). A similar viewpoint is expressed by Srinivas, who wrote, "The Dowry Prohibition Act of 1961 has been unanimously declared to be an utterly ineffective law" (1984:29).

In addition to the legal attack on dowry abuses, numerous public groups engage in public education campaigns. In urban settings, the most noteworthy of these groups are specialized research units such as the Special Cell for Women of the Tata Institute of Social Sciences (Bombay), and the Center for Social Research (New Delhi). Also involved in the effort are private voluntary organizations such as the Crimes Against Women Cell, Karmika, and Sukh Shanti.

These groups issue public education advertising on various

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feminist issues. The anti-dowry advertisement of the Federation of Indian Chambers of Commerce and Industry Ladies Organization exemplifies the thrust of these campaigns. In the following advertisement, which was* frequently run in the winter of 1988 in newspapers such as the Times of India, a photograph of a doll dressed in traditional Indian bridal attire was shown in flames.

Every time a young bride dies because of dowry demands, we are all responsible for her death. Because we allow it to happen. Each year in Delhi hospitals alone, over 300 brides die of third degree burns. And many more deaths go unreported. Most of the guilty get away. And we just shrug helplessly and say, "what can we do?" We can do a lot.

Help create, social condemnation of dowry. Refuse to take or give dowry. Protest when you meet people who condone the practice. Reach out and help the girl being harassed for it. Act now.

Lets fight it together.

As parents, bring up educated, self-reliant daughters. Make sure they marry only after 18. Oppose dowry; refuse to even discuss it. If your daughter is harassed after marriage stand by her.

As young men and women, refuse marriage proposals where dowry is being considered. As friends and neighbors, ostracize families who give or take dowry. Reach out to help victims of dowry harassment.

As legislators and jurists, frame stronger laws. Ensure speedy hearings, impose severe punishments. As associations, give help and advice. Take up the challenge of changing laws and attitudes of society. Let us all resolve to fight the evil. If we fight together we can win.

SAY NO TO DOWRY.

Also engaged in anti-dowry work are peasant political action groups such as Bharatiya Kisan Union (BKU). BKU consists of farmers from western Uttar Pradesh whose political program is focused more generally on agricultural issues. The group sponsored a massive 25-day demonstration at Meerut, Uttar Pradesh, in 1988. The leadership used the demonstration to announce a social reform program, most of it dealing with marriage issues. According to news service reports, "The code of social reforms includes fixing the maximum number of persons in a marriage party at 11, no feasts relating to marriage, and no dowry except 10 grams of gold

and 30 grams of silver" (Times of India, February 11, 1988). Buses plying rural roads in western Uttar Pradesh are reported to have been painted with the slogan "The bride is the dowry." Private campaigns against dowry occurs in the countryside as well as among the urban elites, although it is likely that the underlying motivations are quite different.

Policy Analysis

Our argument is based on the assumption that social problems are best dealt with by policies directed at the correction of causative factors, rather than at the amelioration of symptoms. While current legal remedies directly confront dowry violence, the linkage between cause and the problematic behavior is not made. Here we develop an argument consisting of three components: women's access to production roles and property; delocalization of social control; and economic transformation of society. The pattern of distribution of aspects of the institution of dowry and its attendant problems is important to this analysis. Although dowry practices and the related crimes against women are distributed throughout Indian society, the distribution is patterned in terms of geography, caste rank, socioeconomic rank, urban/rural residence, and employment status of the women. In some places and among some people there is demonstrably more violence, more intensity of dowry practices, and more commitment to dowry itself. Much of the distributional data are problematic in one way or another. The most frequent problem is that the studies are not based on national samples. Furthermore, the interpretation of results is often colored by reformist agendas. There is a tendency to de-emphasize differences in frequency from one segment of the population to another so as to build support of dowry death as a general social reform issue. Nevertheless, while the data available for these distributions are of inconsistent quality, they are interpretable in terms of our problem.

women's access to production roles and property. Dowry violence is most frequent in north India. Some say that it is an especially severe problem in the Hindi Belt (i.e., Uttar Pradesh, Haryana, Punjab, Delhi, Bihar) (Government of India 1974:75). It is a lesser, albeit increasing problem in the south. There is also a north/south difference in the marriage institution itself. To simplify somewhat, in the north hypergamy is sought after in marriage alliances, in which case brides seek grooms from higher rank descent groups within their caste group (Srinivas 1984). In the south, marriages are more typically isogamous.

The literature comparing north and south India indicates important contrasts at both the ecological and the institutional levels. Based on conceptions developed by Boserup (1970) in a cross-cultural comparative framework on the relationship between the farming system and occupational role of women, Miller (1981) composed a model for explaining the significant north-south differences in the juvenile sex ratio [the ratio of males to females ten years of age and below]. The farming systems of the north are based on "dry-field plow cultivation," whereas in the south the farming systems are dominated by "swidden and wet-rice cultivation" (Miller 1981:28). These two systems make different labor demands. In the wet rice or swidden systems of the south, women are very important sources of labor. In the north, women's involvement in agricultural production is limited. According to Miller, women in the north are excluded from property holding and receive instead a "dowry of movables." In the south, where women are included in the production activities, they may receive "rights to land" (Miller 1981:28). In the north, women are high-cost items of social overhead, while in the south, women contribute labor and are more highly valued. In the north there is a "high cost of raising several daughters" while in the south, there is "little liability in raising several daughters." There is thus "discrimination against daughters" and an "intense preference for sons" in the north, and "appreciation for daughters" and "moderate preference for sons" in the south. Miller thus explains the unbalanced-toward-males juvenile sex ratios of the north and the balanced sex ratios of the south (Miller 1981:27-28). The lower economic value of women in the north is expressed in differential treatment of children by sex. Females get less food, less care, and less attention, and therefore they have a higher death rate. In general the Boserup and Miller economic argument is consistent with Engels's thesis about the relationship between the subordination of women and property (Engels 1884, Hirschon 1984:1).

Miller extended her analysis of juvenile sex ratios to include marriage costs (including dowry), female labor participation, and property owning, and found that property owning was associated with high marriage costs and low female labor force

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participation, both of which were associated with high juvenile sex ratios. That is, the death rate of females is higher when marriage costs are high and women are kept from remunerative employment. Both of these patterns are associated with the "propertied" segment of the population (Miller 1981:156-159). Her data are derived from the secondary analysis of ethnographic accounts. The literature concerning the distribution of dowry practices and dowry death is consistent with these results.

Miller's analysis shows a general pattern of treatment of females in India. Their access to support in various forms is related to their contribution to production (Miller 1981). This analysis does not explain the problem of dowry violence, but it does demonstrate a fundamental pattern within which dowry violence can be interpreted.

The distribution of dowry varies by caste. In her study of dowry violence victims in Delhi, Kumari found that members of the lower ranking castes report less "dowry harassment" than do those in higher ranking castes (Kumari 1988:31). These results are consistent with Miller's argument since the pattern of exclusion of women from economic production roles varies by caste. Women of lower castes are less subject to restrictions concerning employment outside the realm of reproduction within the household. These women are often poor and uneducated, and are subject to other types of restrictions.

In the framework of caste, dowry practices of higher caste groups are emulated by lower caste groups. This process is known as "Sanskritization" and it may relate to the widely held view that dowry harassment is increasing in lower ranking castes. Sanskritization is the process by which lower ranked caste groups attempt to raise their rank through the emulation of higher rank castes. The emulation involves discarding certain behaviors (such as eating meat or paying bride price) and adopting alternatives (Srinivas 1969). Attitudinal research shows that people of the lower socio-economic strata have a greater commitment to dowry than do those of higher strata (Hooja 1969, Khanna and Verghese 1978, Paul 1986). Although the lower and middle classes are committed to dowry, the associated violence, including higher death rates, is more typically a middle class problem (Kumari 1988).

Employment status of women has an effect on dowry. In her survey of dowry problems in a south Delhi neighborhood, Paul (1986) found that the amount of dowry was less for employed middle class women than it was for the unemployed. This pattern is also suggested by Verghese (1980) and van der Veen (1972:40), but disputed by others (Murickan 1975). This link is also manifested among tribal people undergoing urbanization. Tribal people, ranked more toward the low end of the social hierarchy, typically make use of bride price (i.e., a payment to the bride's family) rather than dowry (Karve 1953). As these groups become more integrated into national life, they will shift to dowry practices to emulate high castes while their women participate less in gainful employment (Luthra 1983). Croll finds a similar relationship in her analysis of post-revolutionary China. She says, "it is the increased value attributed to women's labor which is largely responsible for the decline in the dowry" (1984:58).

Both Kumari (1988) and Srinivas (1984) developed arguments based on non-economic factors. Kumari in effect indicated that if dowry could be explained in economic terms, marriage would be simply a calculation of the value of a woman; if the value were high, bride price would be paid, and if the value were low, dowry transactions would occur. This formulation was presented as a refutation of Madan's dowry-as-compensation argument (Kumari 1988). We agree that reducing this practice to purely economic terms is an absurdity. The argument is not purely economic, but it is certainly consistent with a cultural materialist perspective (Harris 1979) in which symbolic values are shaped by an underlying material relationship that is the basis for the construction of cultural reality.

delocalization of social control. Dowry violence is more frequent in cities (Saini 1983). Delhi has the reputation of having a high frequency of problems of dowry (Srinivas 1984:7). The urban-rural distribution pattern may be a manifestation of the effects of the delocalization of dowry. Dowry, when operative in the relationships among local caste groups in related villages, was to an extent self-regulating through caste *panchayats* (councils) and by the joint

families themselves. These groups easily reach into peoples' lives. By contrast, the national level laws have inadequate reach and cannot achieve regulation. While in some areas caste groups continue to function to limit abuses, these groups are less effective in urban settings. Population movements and competition with state level social control mechanisms limit the effectiveness of self-regulation. A government commission study of women's status argues "that because of changed circumstances in which a son generally has a separate establishment and has a job somewhere away from home, the parents cannot expect much help from him, and so they consider his marriage as the major occasion on which their investment in his education can be recovered" (Government of India 1974:74). These views are consistent with the research results reported by Paul, who demonstrates that dowry amounts are higher among people who have migrated to Delhi and those who live in nuclear families, because the families in general and the women in particular are less subject to social constraints (Paul 1986). New brides do not seem to have adequate support networks in urban settings.

economic transformation of society. The custom of dowry has been thrown into disarray by inflationary pressures. The consumer price index for urban non-manual workers has increased from its reference year of 1960 value of 100 to 532 for 1984-85 (Government of India 1987). The media of dowry exchange have changed dramatically because of the increasing availability of consumer goods. It has become increasingly difficult to prepare for giving dowry for a daughter or a sister. Sharma argues that, in part, dowry problems are caused by rapid change in the nature of consumer goods which made it no longer possible to accumulate gift goods over a long period as the latest styles in material goods could not be presented (1984:70-71).

The current regime of individual dowry seeking and giving is constituted as a kind of rational behavior. That is, it is achieved through choice, is consistent with certain values, and serves to increase someone's utility. There are a number of things sought by the groom's family in these transactions. Wealth and family prestige are especially important. The family prestige "bought" with marriage expenditures, which is relevant to both the bride and groom's side in the transaction, is no doubt very much worth maximizing in the Indian context. From the perspective of the bride's family, dowry payments involve trad-

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ing present consumption for future earning power for their daughter through acquiring a groom with better qualities and connections. In a two-tier, gender segregated, high unemployment, inflationary economy such as that of India, one can grasp the advantage of investing in husbands with high future earning potential. It is also possible to argue that in societies with symbolic mechanisms of stratification, it is expected that persons will attempt to make public displays of consumption in order to improve their overall performance and so to take advantage of the ambiguities of the status hierarchy system. The demand for both symbolic goods and future earnings is highly elastic. Family connections, education, and wealth seem especially important in India, and they all serve as hedges against inflation and poverty. With women having limited access to jobs and earning lower pay, it is rational to invest in a share of the groom's prospects. If you ask people why they give dowry when their daughters are being married they say, "because we love them." On the other hand, grooms' families will find the decision to forgo dowry very difficult.

Summary

The distributional data indicate that the relationship between the way females are treated in marriage and their participation in economic production is consistent with Miller's development of the Boserup hypothesis. It is assumed that the pattern of maltreatment of females has been subject to various controls operating at the levels of family, caste, and community.

Urbanization reduces the effectiveness of these mechanisms, thus increasing the intensity of the problem. This trend is exacerbated by the economic transformations within contemporary Indian society. It is our viewpoint that policies developed to reduce dowry-related violence will fail if they do not increase the economic value of women.

The criminalization of dowry may have been a politically useful symbol, but it has not curtailed

the practice. As dowry is attacked, the state has not adequately dealt with the ante-mortem inheritance aspect of the custom. If dowry continues to provide a share of the family wealth to daughters before the death of the parents, then legally curtailing the practice is likely to damage the economic interests of women in the name of protecting them. One might argue that the primary legal remedy for the dowry problem actually makes it worse because it limits the transfer of assets to women. Perhaps this is why research on attitudes toward dowry indicates a continued positive commitment to the institution (Mathew 1987). India is a society in which most people (most particularly the elite) have given and received dowry; most people are even today giving and taking dowries. Declaring dowry a crime creates a condition in which the mass of society are technically criminals. The moral-legal basis of society suffers, and communal, parochial, and other fissiparous forces are encouraged.

To be effective, anti-dowry legislation must make sure that the social utility provided by dowry practices be displaced to practices that are less problematic, and that the apparent causes of the practice be attacked. To do so would mean that attempts to eradicate the social evils produced by the dowry institution need to be based on an examination of women's property rights so as to increase their economic access. Traditional Hindu customs associated with inheritance give sons the right from birth

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to claim the so-called ancestral properties. This principle is part of the Mitakshara 'tradition of Hindu law, which prevails throughout India except in Bengal, Kerala, Assam, and northern parts of Orissa. These properties are obtained from father, paternal grandfather, or paternal great-grandfather. According to Sivaramayya (1984:71), "The Hindu Succession Act (the law which controls inheritance) did not abrogate this right by birth which exists in favor of a son, paternal grandson and paternal great grandson. The availability of the right in favor of these male descendants only is a discrimination against daughters." The right is derived from ancient texts. According to Tambiah (1973:95), the Dharmasastras provide that it is "essentially males who inherit the patrimony while women are entitled to maintenance, marriage expenses and gifts." While the Hindu Succession Act abrogates much traditional law, it specifically accepts the principle of male birth right to the property of the joint family. That is, "When a male Hindu dies after the commencement of the Act, having at the time of death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act" (Government of India 1985:3). The Hindu Succession Act in its most recent form provides for the intestate or testamentary inheritance of a female of a share of the family property. Yet the prior right of males at birth is not abrogated. Hindu males own a share of the family rights at birth; females can inherit it. Testamentary succession overrides the principle of intestate succession, and therefore the interests of females can be usurped simply by writing a will. The other procedures for a female to renounce an interest in family property are very simple. Moreover, according to Sivaramayya (1984:58), "no specific formality is required for the relinquishment of the interest beyond the expression of a clear intention to that effect." Instruments of relinquishment can be and are forged.

The ante-mortem inheritance function of dowry has been eroded or perhaps supplanted by transfer of goods to the groom's family for their consumption and the expression of the so-called prestige of the family. Indeed social science commentary on dowry in India suggests that this aspect of dowry is relatively unimportant in any case because only a small portion of the total marriage expenditure is under the bride's control. There is evidence that even the clothing and ornaments and other personal property of the bride are being usurped (Verghese 1980). Implementation of a gender-neutral inheritance law as advocated by the Government of India Committee on the Status of Women may serve to increase the economic value of women in general, while it serves as an alternative to the ante-mortem inheritance aspect of dowry. Since dowry constitutes a kind of ante-mortem inheritance, it is logical to change the inheritance laws in conjunction with the restrictions on dowry behavior. Sisters as well as brothers need to have a share in the family wealth from birth, and that right should be associated with legal procedures that increase the difficulty of alienation of property rights. There is no question that such a procedure would serve to erode the stability of the patrilineal family by diluting its economic base.

The Government of India has passed legislation such as the Hindu Succession Act (1955) and the Hindu Adoption and Maintenance Act (1956), both of which inter-alia provide for a woman's right of inheritance from her father. For example, under the Adoption and Maintenance Act, a woman has a claim of rights of maintenance from her husband's father in case she

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is widowed. Moreover, she has the right to claim inheritance from her deceased husband's estate. In spite of these changes, inheritance provisions are quite different for males and females. The Chief Justice of the Supreme Court of India, Honorable Mr. Justice Y. V. Chandrachud wrote that in spite of changes, "some inequalities like the right of birth in favor of a son, paternal grandson and paternal great grandson still persist" (1984:vii). Provision of females with equal rights to inherit ancestral property from birth, or from a bequest, or at the death may reduce dowry problems. Furthermore, property that is allowed to remain in the name of the deceased for any length of time, as is frequently the case in India, should revert to the state. As it stands, property may remain in the name of a deceased ancestor, while his descendants divide it informally among themselves.

The establishment of a gender-neutral inheritance law represents a significant shift in public policy. We argue that there is a link between pro-male property laws and violence toward women. While we assert this position, we also need to recognize that the property laws give coherence and stability to an essential Indian institution, the joint family. The Mitakshara principle of male inheritance rights is both a reflection and a cause of family solidarity. Modifying this principle in an attempt to reduce violence toward women could have a deleterious effect on family coherence. In addition, the fundamental nature of these institutions make it inconceivable that there would be substantial resistance to these changes. Yet if one considers this issue in historic terms, it is apparent that during the 20th century, legal change is in the direction of gender neutrality, a process that started with the Hindu Law of Inheritance (Amendment) Act (1929) and the Hindu Succession Act (1956), and continues through judicial decisions to the present (Diwan 1988:384). As Diwan notes in reference to the changes brought by the Hindu Succession Act of 1956, "the Mitakshara bias towards preference of males over females and of agnates over cognates has been considerably whittled down" (1988:358). Such change is not easy. The changes brought with the Hindu Succession Act in 1956 were achieved only after overcoming "stiff resistance from the traditionalists" (Government of India 1974:135). The same report states, "The hold of tradition, however, was so strong that even while introducing sweeping changes, the legislators compromised and retained in some respects the inferior position of women" (Government of India 1974:135). It must be remembered that the texts that are the foundations of contemporary law include legislation (such as the Hindu Succession Act itself), case law, and religious texts, so that the constitutional question is also a question for religious interpretation, despite the constitutional commitment to secularism.

We are advocating further steps toward gender neutrality of the inheritance laws so that women and men will receive an equal share under intestate succession, and have an equal chance to be testamentary heirs. The law should thus be gender-neutral while still permitting a range of decisions allowing property to stay in a male line if the holder of the property so chooses. The required social adjustment could be largely achieved through the decisions of a family, backed by the power of the state. Families could express their preferences, but the state would not serve to protect the economic interests of males. The process could involve the concept of birthright as well as succession at death. We do not choose to engage those arguments, but do point out that the rapid aging of the Indian population may suggest that a full abrogation of the Mitakshara principle of birthright would be the best social policy because doing so would give older people somewhat greater control over their property in an economy virtually devoid of public investment in social services for older people (Bose and Gangrade 1988, Sharma and Dak 1987).

There are precedents for such policy at the state level. In Andhra Pradesh, the Hindu Succession Act was amended to provide for a female's birthright interest in the Mitakshara property. In Kerala, the Mitakshara property concept was legally abrogated altogether. Other gender asymmetries in the laws of India need to be attacked. The overall goal of policy should

be to increase the economic value of women.

Ethnological theory directs our attention to social recognition of marriage and property transfer as functionally important features of the institution. The state can provide a means of socially recognizing marriage through registration and licensure. The law expresses no explicit preference for traditional marriage ritual, and it is possible to have a civil marriage under the provisions of the Special Marriage Act (1954) through registration with a magistrate.

Nevertheless, this system co-exists parallel with the traditional system of marriage, which is beyond the reach of state control. Other marriages may be registered under this act if the persons involved so choose, and if a ceremony has been carried out. These special marriages are an alternative to an unregistered marriage.

We conclude that a useful mechanism for state control of dowry problems is the establishment of universal marriage registration, which does not exist at the present time. Marriage registration is also called for by the first Round Table on Social Audit of Implementation of Dowry Legislation (Bhatia 1988), which may serve to provide some monitoring of dowry abuses and perhaps to manifest the state's interest in an effective marriage institution. It would be naive to assume that such a policy would be widely honored, but as it is, low-income persons do not get married because they do not have the resources for marriage under the traditional non-state controlled regime. There are numerous reform groups that organize mass marriage ceremonies of village people so as to help them escape the burden of marriage expenditures. The point is that compliance is a large problem even under current circumstances.

In conclusion, we feel that the causes of the dowry problems are a product of the low economic value of women, loss of effective social control of abuse through delocalization, and pressures caused by economic transformation. The traditional family, caste group, and community controls which have been reduced in effectiveness should be replaced by state functions. The foundation of state control is universal marriage registration and licensure. The impact of the economic value of women on the problem is indicated by the transition from bride price to dowry among tribal people. It is also associated with a reduction in the extent of gainful employment and lower dowry amounts demonstrated for employed women. A broad program to increase the economic value of women would be the most useful means of dealing with the problem of dowry. Further restrictions on dowry without providing for a radically different property right for females is probably not in the interests of Indian women, since dowry represents ante-mortem inheritance. This underlying paradox may explain the commitment to dowry revealed in attitudinal research with Indian women, even though it is also an important feminist issue. The alternatives include

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the abolishment of the legal basis for the joint family as a corporate unit as has been done in Kerala, or the legal redefinition of the joint family as economically duolineal, as has occurred in Andhra Pradesh. . *

NOTE

1 For purposes of comparison, a mid-career Indian academic might be paid 60,000 Rs. per year.

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