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Category : July/August/September 2006
Published by Anonymous on Jul. 01, 2006

EDITORIAL

Protecting Women in Marriage

India's anti-dowry laws may cause more problems than they solve

Madhu Kishwar, new delhi

When a man commits domestic violence, he is using brute force to condition the women of his family to accept a position of servitude. Only men with low self-esteem employ this approach, because they feel that they cannot adequately cope with a woman who thinks and acts as a free human being with a mind of her own.

A man's stated reason for wife abuse should not be taken as the actual cause of that violence. Most explanations are only an excuse to destroy a woman's sense of self-worth. The same logic applies to dowry-related violence. Although the terms "dowry death " and "dowry violence " have recently become popular, it is rare to find instances where a man batters a woman solely to extract additional dowry items or money from his in-laws. The beating is aimed at destroying her sense of self-worth. This is why a large dowry is no guarantee against domestic violence. I have learned of numerous situations where a woman suffers violence because her husband's family feels she might start considering herself high and mighty just because her natal family paid a large dowry.

Although I do not believe that dowry is the sole cause of domestic violence, there is no denying the fact that the sharp escalation in the amounts of money being spent on dowries has contributed to an increased perception of daughters as family burdens. Dowry-giving is now spreading even to communities that had no such tradition a generation or two ago, despite the fact that in the last two decades anti-dowry laws have become very stringent. Many interpret the failure of these

laws to lessen dowry-giving as a sign of their poor implementation. It is my belief, however, that these laws have so many inherent flaws that their honest implementation is virtually impossible. This is one of several reasons why these laws have created more problems than they have solved.

A great many of these problems arise from ambiguous definitions of "dowry, " combined with draconian provisions for breaking the dowry law. For example, "dowry " is prohibited, but voluntary "presents " to the bride and groom are allowed, provided that "such presents are of customary nature and the value thereof is not excessive and provided that such presents are recorded on a list maintained in accordance with the rules."

Who decides which gifts are voluntary and which ones are given under pressure of demand? Often, the very same family that declares, at the time of marriage, that they gave only "voluntary gifts " to the groom's family will not hesitate to attribute all their "gift-giving " to extortionist demands once the marriage turns sour and is headed for a breakdown. Moreover, how can it be decided when a gift is excessive, relative to the gift-giver's income, when, in India, very few people declare what they earn, and those who do often grossly under-report? How does one judge the paying status of a family whose wealth is amassed from the "black market " or property holdings held in bogus names to avoid taxes? Finally, given the fact that dowry-giving is a crime, why would the groom's family dare put their signature on any list of gifts being given to them?

Although the law states that both dowry-giving and -taking are illegal, there is almost never an instance where a bride's family is prosecuted for giving dowry. The assumption is that "takers " are guilty and "givers " are hapless victims. Those campaigning against dowry make it appear as if escalating dowries are solely due to the greed of the groom's family. This is not true. If greed were the sole cause of dowry, India would consist of two distinct sets of families: those who produced only sons and those who produced only daughters. The "son-blessed " families would be permanent winners and "daughter-cursed " families would be permanent losers. This is clearly not the case, since the family that gives on its daughter's wedding receives when its sons get married.

Among the most misleading and harmful aspects of the anti-dowry laws is the blurring of definition between the ancient tradition of stridhan, "woman's gift, " with rapidly changing, modern-day marriage transactions described as dowry-giving.

Stridhan is that portion of family wealth which belongs exclusively to women. It is usually passed from mother to daughter. It includes gifts of money, property, jewelry or a share in a family business. Stridhan also includes wealth generated by a woman through her own work or wealth coming to her through inheritance. It includes gifts given to a woman when she is married, not only from her mother but also from her in-laws. A defining characteristic of stridhan is that no one in the family has rights over it, except the woman to whom it is given.

Unlike stridhan, present-day dowries include gifts and wealth given at a daughter's wedding, not only to her, but to her husband and his relatives as well. This includes household goods as well as simple gifts ranging from clothing and jewelry for the daughter to exorbitant sums of cash and expensive pieces of property for the groom and his parents. The amount given as stridhan is supposed to be in proportion to the traditionally defined norms of what constitutes a woman's share in the family wealth.

However, the amount of dowry commanded by a groom has a direct relationship to his social status, income potential and social-familial connections. For this reason, that which is given to the groom and his family has assumed more the form of "groom price, " paid with an intention of passing off the burden of an "unwanted " daughter to the groom's family. High dowry payments are more like an investment by the bride's family to gain an alliance with the groom's powerful connections and moneymaking potential. That is why IAS or IPS officers command the highest dowries, while schoolteachers command far less. The marriage of a daughter to a well-placed man often means upward mobility for her entire natal family.

One component of dowry that still retains some resemblance to the traditional stridhan involves the bride's trousseau, gold jewelry, household goods and any property that her parents might put in her name. But even this does not always remain in her control, and often becomes the cause of future tussles.

Dowry amounts are rising exponentially, not so much because people have become greedier, but because standards of living are rising dramatically. Today, refrigerators, air conditioners, automobiles and a whole range of gadgetry have become an integral part of middle- and upper-middle-class dowries, because many families now perceive these items to be necessary in everyday life. Another important reason for the increased cash demands by the groom's family is that his parents see this as their only chance to be compensated for their investment in

their son's upbringing and education. In the past, joint families were the norm and most parents could count on their sons to support them in old age. However, with the breakdown of joint families and the reluctance of many women to stay with their in-laws, the insecurity of the groom's parents triggers an impulse to extract what they can from the bride's family at the time of their son's marriage.

An important reason for the increase in domestic conflicts, rising dowry demands and the transformation of stridhan to groom price is that our legal enactments, administrative interventions and state policies are forcing the neutralization of families without due attention to the fact that the primary security for the vast majority of the elderly of India must come from their children, especially their sons. Parents invest all they can in their son's education and career with the hope and expectation that those sons will get jobs that bring about upward mobility for the whole family. Sons are expected to contribute to the education and marriage costs of younger siblings, as well as take care of parents in their old age. However, too many parents find this expectation unfulfilled when their sons get married, especially if those sons take up well-paying jobs or succeed in independent enterprises that are separate from the joint family economy. Not just in metropolitan cities, but even in small towns and villages of India, young wives are increasingly prone to insist on moving away from the joint family and setting up independent lives, even when their in-laws are not abusive.

The anti-dowry agitators do not take these new dynamics into account. They rely upon pious outrage and emotional outbursts when they demand that the law be made more and more stringent to abolish what they define as a "social evil." The only effect of the anti-dowry laws and campaign has been that the giving and taking of dowry has become more surreptitious. Earlier, families ensured that proper lists and accounts were prepared. The groom's family was made to sign lists of the things they received, and the dowry itself was put on display for all to see. There were numerous witnesses to the transaction. Today, no such lists are signed and most of the giving and receiving is shrouded in secrecy.

To further complicate the problem, many of today's women use the anti-dowry law to book husbands for maltreatment even if dowry is not the cause of marital breakdown. Thus, the anti-dowry law has not curbed the giving and taking of dowry; it has only provided a powerful weapon for revenge. Lawyers and even police routinely advise families to list "dowry demands " as the primary cause of marital violence, even if in actual fact this is not at all the case.

Those who characterize dowry-related problems as a legacy of traditional Indian social norms ought to remember that there is little mention of exorbitant dowries causing the ruin of families in the literature of pre-British India. Dowry became an issue during the nineteenth century when colonial rulers carried out land-settlement operations in India. In conformity with Victorian norms that they were familiar with in their home country, land entitlements were given to "male heads of the family, " bypassing India's then customary laws allowing various categories of secure entitlements to women. This concentrated the possession of property in the hands of men in an unprecedented way and paved the way for the disinheritance of women.

As the disinheritance of women became a widespread phenomenon, daughters began to be viewed as liabilities. Our modern inheritance laws have increasingly moved in favor of the interests of men and against those of women. The recent amendments in the Hindu Succession Act have tried to remove some of the glaring gender inequities, but there is no evidence that the government has an effective implementation plan to make that law a living force in property devolution.

However, the real battle lies in building a social consensus whereby parents begin to consider it a primary duty to provide the means of a secure and dignified life with or without marriage. Parents of brides should be urged to give their daughters income-generating forms of property, instead of spending huge amounts of money on expensive consumer items, which soon depreciate in value and therefore provide no long-term security to the woman. They should also endeavor to provide them with a house of their own (no matter how small and modest), so that their daughters have a safe dwelling from which no husband can throw them out.

Madhu Kishwar lives in New Delhi and is editor of Manushi, India's leading magazine on social issues and human rights, especially women's rights. E-mail: editor@manushi-india.org