



Division for the Advancement of Women



*"Violence against women: Good practices in
combating and eliminating violence against women"*

Expert Group Meeting

Organized by: UN Division for the Advancement of Women
in collaboration with:
UN Office on Drugs and Crime
17 to 20 May 2005
Vienna, Austria

**Strategies for Combating the Culture of Dowry and Domestic
Violence in India**

Expert paper prepared by:

**Madhu Purnima Kishwar
Manushi, India**

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

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

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

What a man states as his reason for beating a wife cannot be treated as the cause of that violence. For example, if a violent incident is triggered off in a home in Germany by a man flying into a rage and battering a woman to death saying 'you are a lousy cook' or that 'you are fat and ugly', we don't call such crimes as "lousy cooking murders" or "ugly looks murder". We recognize that these are mere excuses to destroy a woman's sense of self worth, not the cause of battering. So also with dowry related violence. In the 28 years of my dealing with domestic violence cases in India, I have never come across a single case whereby a man battered a woman solely because of additional dowry demands and would begin to treat his wife well if his in-laws met with all his demands. By contrast, I have come across numerous situations, whereby a woman suffers a lot of taunts and even violence because her husband's family feel she might start considering herself high and mighty for bringing in a huge dowry.

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

•

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

However, with a criminalized police establishment often refusing to even register an honest First Information Report (F.I.R.) while actively destroying evidence of crime in lieu of a bribe, getting justice through the slow, inefficient and often corrupt judicial institutions seemed a remote prospect. Therefore, our engagement spontaneously took the form of holding protest demonstrations outside the house of the murdered or dead woman calling for a social boycott of the family, which had tortured the woman to death or drove her to suicide. Each such demonstration would then move on to the local police station, either protesting against their complicity or demanding that they take appropriate and swift action in booking the culprits.

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

During these years, most of us were led to believe that the murders or suicides of young wives were primarily due to dowry demands. Therefore, our campaign was mainly directed against the giving and taking of dowry. Since then the issue of dowry has

become the defining symbol of the vulnerable plight of Indian women both within India and internationally. However, by 1984 *Manushi* was forced by circumstances to revise our approach.

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

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

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

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

A dowry-less wedding, in my view, meant the bride going to her marital home with only her existing clothes and items of daily use. There was no place even for new clothes and jewellery for the bride. This rigid definition was in response to what I saw as the convenient escape route adopted by all those who claimed to be anti-dowry but routinely provided or accepted the customary gifts for marriages in their own families. I then believed that if we applied a very rigorous definition, we could then not only prove our conviction but also make the law more effective considering most parents justify lavish expenditure on the wedding trousseaus and expensive household goods saying these are "voluntary gifts" for their daughter rather than call it dowry. The net result of my stringent definition was that for 13 long years no weddings qualified for my presence, except that of my two brothers. For the rest, my own women friends, relatives and

neighbours argued with me vehemently saying that my stand was absurd. Their logic was as follows:

- Since in most cases only sons inherit parental property and family businesses, it was only in the form of dowry that daughters got a share – albeit an unequal one – in parental property. After marriage, even the parental home comes to be their brothers’ and their wives’ home. A dowryless wedding would not work in a woman’s interest because that did not bring any benefit to her as a daughter. It only meant their brothers would end up with an even bigger share of family resources¹.
- When a young woman enters a new family, she feels diffident to ask for basic things she needs for her daily use. If she goes to her marital home without anything to call her own, her dependence on her in-laws and husband increases, unless she has a reasonable income of her own – which most women can’t bring because they don’t have any. Therefore, all the household requirements and clothes parents provide their daughters help them feel they have something to call their own in their new home.
- If young women go “empty-handed” to their husband’s home, how can they expect that they be treated as equal partners? The dowry is, therefore, an “investment” made by parents to secure a share for their daughter in their husband’s family property.
- When women go as new brides, their in-laws are also expected to provide them with expensive new clothes and jewelry. How can gift giving be one-way? Why should women’s parents not give gifts to their husband’s relatives as a goodwill gesture when the bride is going to become claimant in the husband’s income and property?
- When I raised the issue of marital violence and abuse due to dowry demands they responded with this question: “Are you suggesting that women get beaten and abused only in India, and that too only among communities that give dowry? Don’t women in America, Europe, Australia, the Philippines, and Africa also get beaten and killed, even though in these countries dowry giving is not an issue?”

That forced me to think: ‘Who am I helping by my stand? If women themselves don’t perceive their interest in dowryless weddings, who am I to decide what is good for them? In fact, seen from this viewpoint, one could even say Indian men who beat up their wives demanding higher dowries and offerings from in-laws are at least rational -- they beat up their wives for economic gain. But perhaps all those men the world over who beat up their spouses and even girl friends without any hope of gain ought to be treated as the

¹ For a detailed analysis see *Dowry Calculations*, Issue No. 78 of 1993, *Manushi*. Also reprinted in *Off the Beaten Track*, Oxford University Press. This theme is also dealt in my film: *Dowry : Compulsion or Need?*.

truly deranged -- they gain nothing tangible by their brutality. The article "Rethinking Dowry Boycott" was an attempt to share with our readers why our anti-dowry campaign was destined to be a failure if we did not work hard to ensure inheritance rights for women in parental property. (See *Manushi* No.7, 1979)

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

Dowry Vs Extortion : People's Protests and Vigilante Justice

Even those who practice the giving and taking of dowry are strongly in favour of deterrent action against those families where women are tortured for bringing inadequate dowry or those who blackmailed the bride's parents into giving more and more gifts and cash by using the threat of violence or divorce. **The social consensus on the issue is clear: voluntary giving is fine, but extortion through subtle or blatant coercive means is wrong and ought to be severely punished. In such a situation, it makes far more sense to have those sections of the Indian Penal Code that deal with extortion and blackmail enforced with Vigour in cases where a woman is being tortured with a view to blackmailing her parents to "gift" more money or goodies to the groom's family rather than have a law against giving dowry which no one obeys.**

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

By holding surprise protest demonstrations outside the house of men who were refusing to give divorce to their wives and were hell bent on destroying their, we were able to

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

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

When I look back on those days, I marvel at how we could get away with taking endless liberties with laws and law enforcers without facing any negative consequences. For example, apart from demonstrations outside police stations, we also took our protests right inside the Court compound to protest against judgments we perceived unjust without taking prior permission from the police, which is a mandatory requirement even for ordinary demonstrations. While a few lawyers would argue with us that our action was improper but several other lawyers would come and join us in sympathy and the police watched as though spell-bound, while we broadcast our speeches on a loudspeaker.

The positive press coverage given to exposes and protest actions by women's organizations created many unanticipated problems. Many parents who would seek our help in "fixing" the husband by getting him and his family arrested and punished through the law courts for the harassment and violence they had inflicted on their daughter. Demonstrations and *dharnas* outside the house of the husband and in-laws who had allegedly tortured or thrown out a young bride came to be seen as a means of swift and sure redressal. It took some work to convince all those who expected us to be forever ready for street action that no matter how hard social organizations like ours worked to get them redressal by creating social embarrassment for the groom's family, that would not help rebuild their daughter's shattered life.

Moreover, it quickly became evident that this kind of "instant justice" was a double-edged sword and could easily lead to miscarriage of justice and lawless elements using it to settle personal scores. The turning point came when in our own neighborhood, hoodlums associated with a political party not only stoned the house of a family where a young bride was allegedly burnt to death but also burnt their car and tried to set fire to the house. From then on we decided that, we would use this method of redressal far more judiciously than we had done so far. Also, we decided not to help families that were merely interested in seeking revenge and did not want to take responsibility for providing the required protection and support to the battered woman.

Distortion of Tradition

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

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

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

That is perhaps why demonstrations against dowry and domestic violence served a very useful but limited purpose of bringing the issue out of the privacy of homes into the

public domain. But they neither succeeded in eliminating violence, nor reducing the hold of dowry.

Positive Potential of Family's Role

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

In the early years, we used to respond with impatience at the number of relatives -- parents, brothers, sisters in-law, uncles, aunts-- who came and spoke on behalf of the woman. We assumed that these relatives would dominate her thinking and not let her make up her mind as to what she wanted to make of her life. Therefore, we would encourage victims of domestic violence to come by themselves. We soon realized that this made most women very uneasy and suspicious. They wondered why we were driving a wedge between them and their family whose care and concern is vital for them.

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

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

struggle on their already tired shoulders, we began to put more effort into convincing their parents, brothers and other relatives that they owe it to their daughters to take them back without making them feel like a burden. The simplest way of saving a battered woman from abuse and violence is to remove them from the scene of abuse, give her confidence that she has a right to her parental home and support, just like her brothers. Police help, and legal battles cannot by themselves help a woman live a life of dignity. Far more important is the unconditional love, support and a sense of rightful due in her parental home rather than be viewed as an object of charity.

Our message to her family is simple: “You have to give priority to saving the life of your daughter and helping her rebuild a new life. Getting the offending husband and in-laws humiliated through demonstrations or punished through the courts ought not to be the main focus of your efforts.” I still remember how jolted some parents felt at our approach when we refused to yield to their pressure that we help them in getting the police and courts to “teach the man a lesson” while they let the daughter stay in the marital home where she was being tortured by their own account. We would tell them that if you are not willing to bring her back and make her feel welcome in your home, make her feel that she has a right to be there, you would be as guilty of her murder as her in-laws.”

My impression is that in 90 per cent of the cases, the message went home. In all those cases where women got whole-hearted parental support, she recovered quickly from the trauma and was successful in rebuilding her life very fast. However, in all such cases where the family concentrated on legal action, they got relatively little gain from it. Hence, *Manushi*'s emphasis on the need to work towards a new social, family consensus on women's dues rather than focus obsessively on legal rights with no one but an inefficient, corrupt and venal state machinery as their ally. In addition, we carry out a regular campaign advising concerned citizens to form neighbourhood based support groups to assist victims of domestic violence. **Even if a small group of determined neighbours intervene to stop the man and let it be known that they will not tolerate such behaviour in their locality, this proves a far better deterrent than police action.**

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

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

Viewing family as a source of support is anathema to many feminists. Many of them view, family in general and the Indian family in particular, as a site of oppression, tyranny and subjugation of women. It is seen as an instrument of patriarchal control over women's lives, bodies, sexuality and social relationships. While there is no denying that in most parts of the world family is the primary instrument for socializing women into accepting a subordinate role in society, it is also the most important source of support, protection and fulfillment for most women. The best of government laws and shelter homes for victims of violence cannot do for women what a supportive family can do.

The fact that in India commitment to family is not limited to parents and siblings but extends to a large network of kin and relatives makes it possible for a woman to draw support from a very large and diverse range of people. This is particularly helpful in raising children because those who are able to get emotional nurturance from diverse sources grow up to be far more healthy and resilient than kids whose emotional nurturance comes from a small nuclear family and that too not a very stable one.

Conversely, if one's family and kinship group, or the dominant males within it, turn against women, the life of such a woman becomes truly endangered.

Rights become meaningful only when others vis a vis whom they are defined respect them, honour them, even celebrate them with you and treat them as your due which they feel duty-bound to give. If rights are continually asserted in a hostile environment it seriously damages a person or, group's sense of selfhood.

Why Have Draconian Laws Against Dowry Failed

Even though I maintain that dowry per se is not the cause of domestic violence, there is no denying that dowry demands and sharp escalation in the amounts of money being spent by families in putting together dowries has contributed to viewing daughters as a burden and consequent devaluation of women's status. The culture of dowry giving is spreading even to communities which had no such tradition a generation or two ago. This despite the fact that in the last two decades the anti dowry laws have been made very stringent and draconian. Many interpret this as a sign of poor implementation. However, the law has so many inherent flaws that its honest implementation is well nigh impossible. In fact, these laws have created more problems than they have solved. You cannot combat a "crime" which is as ill defined as the definition dowry in our anti-dowry law. Yet, women's organizations worked zealously in the 1980's to make sure that the punishment for a fuzzy and poorly defined anti dowry law became draconian replacing the mild punitive action instituted in the 1961 Act.

1. As per the Dowry Prohibition Act (originally passed in 1961 and amended three times in the 1980's), dowry is defined as "any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage or by the parents of either party to a marriage or by any other

person, to either party to the marriage or to any other person at or before [or any other time after the marriage] in connection with the marriage of the said parties.”

2. As per this law “dowry” is forbidden but “gifts” are allowed.
3. The anti-dowry law cannot be invoked against the giving of presents at the time of marriage to the bride without any demand having been made “provided that such presents are entered in a list maintained in accordance with the rules” made under the anti-dowry Act.
4. Presents given to the groom are also exempted, provided no demand has been made and they are entered in a list.
5. The gifts to the bridegrooms are legal provided that “such presents are of a customary nature and the value thereof is not excessive” in relation to the “financial status of the person by whom, or on whose behalf, such presents are given.”
6. Women’s organizations also pushed to get a new category of crime included on the statute book via an amendment to the Indian Penal Code. This crime – named “dowry murder” or “dowry death” is covered by Section 304B. This section states that if the death of a woman is caused by burns or bodily injury, or occurs under abnormal circumstances, within seven years of her marriage and it is shown that just prior to death she was subject to cruelty by her husband or his relatives, in connection with demand for dowry, such a death would be called “dowry death” and the husband or relative would be deemed to have caused her death. The person held guilty of a "dowry death" shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life. By inserting a new section 113B in the Indian Evidence Act, the lawmakers stipulated that in cases that get registered by the police as those of “dowry death”, the court shall presume that the accused is guilty unless he can prove otherwise. Under section 304B, in the case of a “dowry death”, where allegations of demand of dowry or non-return of dowry are made, the accused are frequently denied anticipatory, or even regular bail.

This is understandable in cases of death because the unnatural demise of a woman through suicide or murder is in itself proof that something was seriously wrong in the marriage. But problems arise when the same presumption applies to cases of domestic discord where the underlying cause of conflict is not due to a husband's violence or abuse but due to the couple's inability to get along with each other. This has meant that in all cases of a married woman’s death, lawyers tend to advise the woman’s family that they must build a case of dowry demands even if the murder or suicide was due to other reasons.

7. Two amendments enacted in 1984 and 1986 made dowry giving and receiving a cognizable offence. This means, a court can initiate proceedings upon its own knowledge or on the basis of a police report, even if the aggrieved person has lodged no such complaint.
8. A person found guilty of taking or abetting the giving or taking of dowry, invites imprisonment for a term not less than five years and with fine which shall not be less than Rupees 15000 or the amount of the value of such dowry, whichever is more. However, no case is ever registered against dowry “givers.” It is only dowry “receivers” who are put in the dock. Not surprisingly, the very same family which would declare at the time of marriage that they only gave “voluntary gifts” to the groom’s family, does not hesitate to attribute all their "gift-giving" to extortionist demands, once the marriage turns sour and is headed for a breakdown.
9. What makes this law especially draconian is that the burden of proof has been shifted on the accused. In most other crimes, including murder, Indian jurisprudence puts the burden of proof on the complainant and the accused is considered innocent till proven guilty. However, in the case of dowry related offences, a husband and his family have to prove that they did not make dowry demands and what was given by the bride’s parents were voluntary gifts.
10. After declaring that giving or taking of dowry is illegal, the Act adds a curious rider that “where any dowry is received by a my person other than the woman is connection with whose marriage it is given, that person will transfer it to the women within three months after the date of marriage or within three months after the date of receipt. Failure to transfer a woman’s dowry invites imprisonment for not less than six months and a fine of Rs.10, 000.
11. Section 406, prescribes imprisonment of up to three years for criminal breach of trust for not returning a woman’s dowry. This proves most useful for retrieval of dowry in case of breakdown of marriage.
12. If the dowry was received when the woman was a minor, it should be transferred to her within three months after she has attained the age of 18 years.
13. If a person fails to comply with the court’s direction to transfer a woman’s dowry within the specified period, an amount equal to the value of the property may be recovered from him.
14. In 1983, Section 498A of the IPC defined a new cognizable offence, namely, “cruelty by husband or relatives of husband”. Under this law the police have no option but to take action, once such a complaint is registered by the victim or any of her relatives. It prescribes imprisonment for a term which may extend to three years and also includes a fine. The definition of cruelty is not just confined to causing

grave injury, bodily harm, or danger to life, limb or physical health, but also includes mental health, harassment and emotional torture through verbal abuse. This law takes particular cognisance of harassment, where it occurs with a view to coercing the wife, or any person related to her, to meet any unlawful demand regarding any property or valuable security, or occurs on account of failure by her, or any person related to her, to meet such a demand.

Basic Flaws in the Laws

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

- a) Who decides what is a “voluntary gift” and what is given under pressure of a demand? In most cases, at the time of marriage, a girl’s parents will say or at least put up the show that whatever they are giving is out of love for their daughter and, therefore, voluntary. However, as soon as strains develop in the marriage and it reaches a breaking point, and the girl’s family decides to take legal recourse, the very same “gifts of love” are termed “dowry items” given under pressure of demands from the groom’s family. 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.
- b) How do you decide what is “excessive” in relation to income by way of gifts when in India no more than 1 to 2 percent people declare their incomes and those too are grossly under reported? How do you judge the paying status of a family if most of their wealth is in “black” money and property holdings held in bogus names to escape taxes?
- c) The bride’s parents rarely want to declare the true value of gifts given because they too put together their daughter’s dowry from black money and, therefore, don’t want it listed.
- d) When dowry giving is a crime, why would a groom or bride’s family put their signature on the list of gifts being given?
- e) As per law, even dowry giving is an offence but there is hardly ever an instance of the bride’s family being prosecuted for giving dowry. The assumption is that only “takers” are guilty while “givers” are hapless creatures yielding to the greed and callous demands of the groom’s family.

- f) The campaigners against dowry make it appear as if escalating dowries are solely due to greed of the groom's family. However, as I have argued in several articles.* Greed theory would make sense only if our country had two distinct set of families – those who only produced sons and those who produced only daughters. The "son-blessed" families would thus be permanent gainers as dowry receivers while "daughter-cursed" families would be permanent victims of greed and be always at the mercy of extortionist demands. This is clearly not the case because a family, which gives on its daughter's wedding, becomes a recipient when their sons get married.
- g) This law does not take into account the rapidly changing form of marriage transactions. Even the anti-dowry campaigners treat dowry as though it is a simple hangover of traditional values. The present day custom of dowry giving may retain some ingredients of the tradition of giving *stridhan* (a woman's own inalienable property) to daughters but the difference between modern day dowry and *stridhan* is as profound as between a horse carriage and a motorized truck. Though both of them move on wheels but the power that propels the wheels is altogether different.
- h) *Stridhan* as per Hindu customary practices is that portion of wealth, which is the exclusive property of women and passes from mother to daughter. It includes gifts of money, property, jewellery or share of business given to a woman as a daughter, as a sister, as wife or daughter-in-law or wealth generated through her own enterprise. It includes, but is not limited to, gifts or wealth given to a daughter at the time of her marriage. It also includes gifts given to her by in-laws as well as any other wealth accruing to her due to her own effort or by inheritance. A key-defining characteristic of *stridhan* is that no one in the family can touch it, except if she voluntarily gifts a portion to someone. It passes from mother to daughter and if in a contingency a male member uses a part of a woman's *stridhan*, he is expected to return it with interest.
- i) The traditional *stridhan* given at the time of a daughter's marriage was determined by predictable norms within each community and was more in the nature of pre-mortem inheritance for the daughter. Up to my grandmothers' generation, community norms decided the gifts given to a daughter. By the time of my mother's generation, dowry had started emerging as a problem due to a slow breakdown of community norms in this regard because marriage alliances began to be made on the basis of a groom's potential income and status in the "modern" economy rather than traditional notions of *stridhan*.

Unfortunately, most feminist critiques of dowry tend to attribute the problems of modern day dowry system to the tradition of *stridhan*, which is seen as a hangover of "traditional" patriarchal norms. This overlooks the fact that traditional *stridhan* gives women stronger

* See: article "Dowry to Ensure Her Happiness or to Disinherit Her" in *Manushi* No. 32

and inalienable rights to a portion of wealth in both parental and marital families. By contrast, modern inheritance laws allow daughters and wives to be disinherited at will. Such misplaced hostility to traditional cultural norms, including those that gave women strong rights, results in ill conceived campaigns that only produce negative results.

Changing Forms of Dowry

- The present day dowry includes gifts and wealth given at a daughter's wedding, not just to her but her husband, in-laws, various relatives as well as household goods required for setting up the house. The latter vary from simple gifts of clothing and small items of jewellery to the women of the family to exorbitant sums in cash or expensive pieces of property to the groom and his parents.
- The amount of dowry commanded by a groom has more to do with his status, income potential and social-familial connections than with the perceived share of a daughter in her parental property. Thus that part of wealth, which is given to the groom and his family, has acquired the form of groom price because it is an offering for seeking an alliance with a family with lucrative potential. Not surprisingly, men in those government jobs such as the Indian Administrative Service (IAS), The Indian Police Service (IPS), which command the highest bribes and unlimited avenues for looting the public as well as robbing from the public exchequer and resources such as land allotments, business contracts – command the highest dowries. If in a family one son is an IAS Officer, his dowry will be substantially higher than that of his brother who may have managed to get nothing more than a schoolteacher's job.
- Contemporary dowry is more like an investment by the bride's family for plugging into powerful connections and moneymaking opportunities. Marrying a daughter to such a man means upward mobility for her entire natal family, especially brothers, because they will secure huge benefits through this connection.
- The component of dowry that still retains some resemblance to the traditional *stridhan* involves bride's trousseau, gold jewelry, household goods and any property that her parents might put in her name. But even this does not always remain in her control leading to bitter tussles. It is not uncommon for a groom's family to keep a part of this dowry for their own daughter's wedding or treat the household goods as offerings made to the family, rather than just the bride.

Reasons for Increase in Dowry

An important reason for growing cash demands and expensive gifts, for the groom's family is that parents see this as their main, if not the only chance to be compensated for the big bonanza they are offering the bride in the form of an earning son. They feel they should be recompensed for their investment in his education and upbringing since after

marriage his wife may not allow him to support his own parents. As long as joint families were the norm and most parents could count on their sons to support them in old age and treat their income as belonging to a common pool, dowry demands were not much of an issue. However, with increasing breakdown of joint families and reluctance of many women to stay in joint families, the insecurity of parents takes the form of trying to extract what they can from the bride's family at the time of the son's marriage. Moreover, the rapid upward mobility made possible due to opening of new opportunities for the urban educated middle and upper classes, whose earning potential has increased exponentially, has meant that such grooms are avidly sought after. For most women upward mobility comes through men rather than their own efforts. Since most families try getting higher status grooms in the belief that their daughters will find it easy to adjust in such families than if they were to marry below status, apart from the benefits accruing in the long run to the girl's family by forging an alliance with a well-connected kinship network, the demand for such upwardly men is far in excess of supply.

Those who make a case for a stringent anti-dowry law on the ground that dowry amounts are rising exponentially forget that among the dowry practicing groups, standards of living have also risen dramatically. Up to my grandmother's time, dowry consisted of clothes for the bride, jewelry, several sets of beddings, cows, buffaloes and bedsteads or cots or *peedhas* and perhaps a wooden closet. By the time of my mother's wedding, sofa sets and dressing tables had become mandatory and dinner sets and tea sets got included to the kitchen utensils. Watches, wall clocks and radio sets also became common because by then all these items had become necessary parts of middle class life. Today, refrigerators, air conditioners, automobiles and a whole range of gadgets are an integral part of dowries because even ordinary middle and working class people use many of these conveniences in their daily lives.

Why is the Law Ineffective

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

transactions at the time of marriage, there is ample scope for false claims and fraudulent denials.

Even the most active proponents and defenders of the anti-dowry law cannot claim that the law has been a success. Instead of fine-tuning their campaign to the realities on the ground, the anti-dowry agitationists have continued to demand that the law be made still more stringent. Since the wide gap between precept and practice, between what they say and what they do has never bothered the rhetorically militant social reformers, not surprisingly, the bizarre results produced by such a “high-on-emotion, low-on-common-sense” anti dowry campaign have not been paid due attention.

The Tide Turns

In the first decade of *Manushi*'s existence, most of those who came to us for legal aid were women who alleged abuse in their marital home. In the last few years, a good proportion of the cases coming to us involve complaints by mothers-in-law and other women of the groom's family about the misuse and abuse of laws, especially sections 498A and 406. Such cases are invariably brought to my notice, not only by aggrieved families and their friends, but more often by members of women's organisations themselves.

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

All these amendments placed draconian powers in the hands of the police without adequate safeguards against the irresponsibility of the enforcement machinery. The truth is that there were adequate provisions in the IPC Sections 323, 324, 325 and 326 for use against anyone who assaults a woman or causes her injury. But the police would in most cases not register a complaint against a husband under these sections, even where there was clear evidence that the wife's life was in grave danger.

No new principles of accountability were added to the anachronistic Police Act of 1860. The only new innovation we witnessed was that special Crimes Against Women Cells were created in select police stations to handle women's complaints. And, in some places, Family Courts were put into operation.

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

Misuse, Abuse and Under-Use of Anti-Dowry laws

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

Way back in 1988, I had pointed out, in what came to be a very controversial article, that there was already a distinct trend to include dowry demands in every complaint of domestic discord or cruelty, even when dowry was not an issue at all (see *Manushi No. 48*). The police as well as lawyers were found to be encouraging female complainants to use this as a necessary ploy to implicate their marital families, making them believe that their complaint would not be taken seriously otherwise. With the enactment of 498 A, this tendency has received a further fillip. Mentioning dowry demands seems to have become a common ritual in virtually all cases registered with the police or filed in court.

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

Often, highly exaggerated or bogus claims are made by unscrupulous families who demand the return of more than was given as *stridhan*, using the draconian sections 498A and section 406 of the IPC as a bargaining tool. Sometimes the goal is reasonable — the woman wants the return of all items that legitimately belong to her, but she is encouraged to overstate her case and to demand an enhanced settlement as a pre-condition for divorce by mutual consent.

A large number of cases registered under 498A are subsequently withdrawn, though not necessarily because they were false. The complexities of women's lives, particularly within a violent marriage, often compel them to make unsavoury choices. The conviction and imprisonment of the husband may not be the best solution to the problems of a victimised wife. Her limited choices and constrained circumstances often make it impossible for her to follow up the criminal case. Since the section does not protect a woman's right to the matrimonial home, or offer her shelter during the proceedings, many women are forced to work out a reconciliation. At this point she has to withdraw

the complaint as most husbands make it a precondition for any negotiations. If she has decided to opt for a divorce and the husband is willing for a settlement and a mutual consent divorce, again withdrawing the complaint is made a precondition for such settlement.

If she wants to separate or divorce on the ground of cruelty, she would have to follow two cases — one in a civil court and the other in a criminal court. This exerts tremendous pressure on the woman especially when she is at a stage of rebuilding her life. Under the civil law she is entitled for maintenance seek, child custody and divorce which would be her greater priority. So if she was to choose between the two proceedings, in most cases, a woman would opt for the civil case. Thus, many women end up dropping the criminal proceedings and go for a settlement or compromise by presenting, with mutual consent, a joint petition/ in the High Court. Thus, the law does not really help genuine victims while it lends itself to easy abuse by unscrupulous families.

Instrument of Blackmail?

Sadly, there are any number of cases coming to light where Section 498A has been used mainly as an instrument of blackmail. It lends itself to easy misuse as a tool for wreaking vengeance on entire families, because, under this section, it is available to the police to arrest anyone a married woman names as a tormentor in her complaint, as “cruelty” in marriage has been made a non-bailable offence. Thereafter, bail in such cases has been denied as a basic right. Such a drastic paradigm shift has lent itself to gross abuse, because arresting and putting a person in jail, even before the trial has begun, amounts to pre-judging and punishing the accused without due process. Although a preliminary investigation is required after the registration of the F.I.R, in practice such complaints are registered, whether the charges are proved valid or not, and arrest warrants issued, without determining whether the concerned family is actually abusive, or they have been falsely implicated. For example, there are any number of cases where the problem is mutual maladjustment of the couple rather than abuse by the entire joint family. However, a host of relatives, including elderly parents, who are not necessarily the cause of maladjustment, have all been arrested and put in jail for varying lengths of time before the trial begins.

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

The law was recast, heavily weighted in the woman’s favour, on the assumption that only genuinely aggrieved women would come forward to lodge complaints and that they

would invariably tell the truth. In the process, however, the whole concept of due process of law had been overturned in these legal provisions dealing with domestic violence.

Police and Lawyers Mislead

Manushi has dealt with numerous instances of the police using the threat of arrest to extort a lot of money from the husband's family. The police threaten to oppose or delay granting of bail unless the accused family coughs up fairly hefty amounts as bribes. Many lawyers encourage complainants to exaggerate the amounts due to them as *stridhan*, assuring them that they would get them a hefty settlement from the husband, provided they got a certain percentage as commission for their services in coercing the husband's family.

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

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

The cases in which these provisions have been exploited cover a large spectrum. In an instance brought to our notice by the Delhi based organisation, Shaktishalini, a young woman who happened to have married into a much wealthier family than her own, used the threat of Section 498A to pressure her husband into giving money to her brothers for investing in their business. In yet another case, a woman wanted a divorce because she was having an affair with a doctor from whom she was also pregnant. Yet, she sought a divorce alleging cruelty at the hands of her husband and charged him with being impotent - all so that she could coerce him into giving her a sum of money. Shaktishalini also mentioned a case they had to deal with in which a wife refused to consummate her marriage because she was involved in an incestuous relationship with her own father. Yet this father-daughter duo filed a case under 498A and demanded Rs.10,00,000 from the groom's family as a pre-condition to uncontested divorce.

I personally know of instances where the main point of discord between the couple was that the wife wanted the husband to leave his parent's home or an old widowed mother and set up a nuclear family. Since the man resisted this move, the wife used 498A as a bargaining device, without success though. In one instance, the young wife being the only daughter of a wealthy businessman, wanted her husband to move in with her parents because his income allowed middle class comforts, not the luxuries she was used to.

Since he did not succumb to the pressure of leaving his parents, she got both her father and mother in-law arrested and put in jail for several days under 498A, at a time when her husband had gone visiting his sister in the US. The man himself dared not return even to come and bail out his parents, before he got an anticipatory bail from the court. Needless to say, all these cases ended in divorce rather than in the wife getting her way.

Are These Stray Cases?

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

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

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

However, many feminists think that Section 498A has indeed served women well and proved extremely useful as a deterrent. They argue that without it women may not be in a position to see their complaint through to its logical end. It is indeed useful in bringing the husband to the negotiating table. Since the offence is non-bailable, the initial imprisonment for a day or two helps to convey to the husbands the message that their wives are not going to take the violence lying down. No doubt, some women feel compelled to use this method, to arrive at a speedy divorce and settlement of alimony because they feel that they won't get justice through the civil courts, given their tardy and unpredictable functioning.

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

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

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

Wealth of Aliens, Herself Poor

The biggest source of vulnerability for women in India comes not so much because their natal families do not care for them but because in most communities, they are viewed as “*paraya dhan*”, (the wealth of aliens) as temporary members of their parental families whose real place lies in their marital homes. The main reason why so many women feel compelled to put up with violence and humiliation is that they felt they have no where to go, since after marriage they are not expected to treat their parental home as their own. Most women describe their parental home as *bhabhion ka ghar* (the home of their sisters-in-law) where they would be treated as unwelcome, unwanted burdens rather than an integral and welcome part of the family. It is as if after marriage they sign away their rights to parental home. Even when a woman's parents are supportive, they hesitate to ask her to walk out of a bad marriage fearing that her sisters-in-law would treat her very shabbily, especially after the parent's death.

Therefore, from very early on *Manushi* shifted the focus of our campaign from dowry to inheritance rights in parental property, especially the right to parental home in the belief that if daughters got equal share in the property of their parents, which would also signify that they are not treated as *paraya dhan* (wealth of aliens), the culture of dowry giving would automatically get eroded. Giving of wealth per say is not bad, it is the form of giving which often becomes a liability for the daughter. The message was also carried through a street play *Roshni* that was written and enacted by *Manushi* volunteers in the streets of Delhi. It tells the story of a young girl who battles against parental discrimination and wants to become self-reliant. Since most parents consider it inauspicious to send their daughters “empty handed” and feel strongly that they want to give a portion of their wealth to their daughters in their own life-time to avoid the possibility of their brothers short-changing them, we tried to get the message across that

* Currently, three new drafts of Laws Against Domestic Violence prepared by women's organizations who are lobbying to strengthen civil remedies for offering women maintenance and protection through swift legal procedures. This clearly proves the fact that the draconian laws passed in 1980's have been found ineffective and/or abusive. One such draft Bill is provided in Annexure I.

“giving” would have more meaning for their daughters if it takes the form of income generating forms of property rather than spending vast amounts of money on consumer goods, most of which depreciate fast in value, leaving nothing substantial in the hands of their daughter in case her marriage failed or turned abusive.² This approach of giving solid assets in the name of the daughter has influenced numerous families who have come into contact with *Manushi*.

How did the culture of disinheriting women come to acquire such power despite the claims made by Jawahar Lal Nehru’s government in the 1950’s that a revolutionary new law for giving equal inheritance rights to daughters was being enacted in the form of Hindu Succession Act (HSA) in 1956? My archival research clearly showed that a big hoax had been played on women in the guise of equal rights rhetoric and how a totally alien concept, namely ‘the right to will’ was introduced in traditional Hindu law with the specific intention of allowing concentration of property in male hands. (See “The Hindu Code Bill: Myth Vs Reality”, *Economic and Political Weekly*).

A more deadly blow was inflicted on women’s rights during the course of land reform legislation in various states putting a ceiling on the amount of holding a family could own. This was ostensibly for the purpose of abolishing absentee land lordism and attacking concentration of land in a few hands. However, while fixing the ceiling on the amount of land a family could legally own, the government provided only for sons to be included as claimants of shares. Daughters were left out from the list of legitimate claimants to land titles. Consequently, even among those communities, which had a tradition of giving land to daughters, government laws forced families to eliminate the practice of women’s ownership. **Therefore, the focus of *Manushi*’s campaign came to centre on the to demand that any testament or will which disinherits daughters should be treated as an illegal document considering that after the enactment of HSA, most fathers make wills with the sole purpose of disinheriting daughters.**

Many responded to our demand by saying that this militates against the idea of individual freedom – thereby conveniently forgetting that under the Hindu law, sons cannot be disinherited by fathers in the joint family property. But nobody sees that as an infringement on individual freedom. It is only when you extend the same principle to daughters that people see it as an infringement of individual rights.

One-dimensional Concern

While it is easy to build a consensus in India in favour of women’s property rights as wives, there is much greater resistance to giving them their due right to property as daughters. This is also reflected in the one-sided focus of women’s organisations. Most of

² This is also the theme of two of my documentary films in Hindi entitled: *Dowry: Compulsion or Need?* and on *The Culture of Disinheritance in India*.

them focus almost obsessively on women's rights as wives while neglecting their rights as mothers, sisters and daughters. Therefore, when enacting matrimonial laws or legislation against domestic violence and abuse, we assume the violation of rights is a one-sided affair and that in-laws, especially mothers and sisters-in-law are on a one way torture spree against young wives who are assumed to be always right and always on the receiving side.

We have paid scant regard to the abuse and neglect of old mothers at the hands of daughters-in-laws or denying daughters the right to parental home. We overlook the fact that daughter-in-laws resent their husband's sisters being given the right to a share in parental property. Even when legislating on inheritance rights, we have ensured a better deal for women as widows but undermined their interests as wives, daughters and sisters and mothers.

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

However, too many parents find this expectation belied after their sons get married, especially if their sons take up well paying jobs or succeed in an independent enterprise separate from the joint family economy. Not just in metropolitan cities, but even in small towns and villages of India, young wives are increasingly prone to insist on moving away from the joint family and set up their own independent establishment, even when the in-laws may be reasonable. A man continuing to financially support his parents or younger siblings even after nuclearisation of the family often finds stiff resistance from his wife. Many even give up. Sometimes parents themselves withdraw from receiving such support in order to avoid friction in the marital life of their sons. Without doubt, in some cases daughters-in-law willingly endorse their husbands' efforts to support their natal families. But the over all trend is more in the direction of moving away from taking responsibility for the old parents-in-law.

This increasing insecurity and uncertainty is at the heart of family tussles between the bride, her natal family and her-in-laws. While some gracefully resign themselves to this fate and even encourage sons to set up separate house after marriage, many fight a grim battle to keep their sons under their influence, which often means using even vicious methods to prevent the couple from enjoying a close conjugal relationship. The young bride has a formidable weapon in her armoury -- her youth and sex. The old parents count

on the emotional appeal of blood bonds. This bond is easier to sever where the parents are dependent on the sons for old age support while the few who are wealthy may succeed in using their property as a glue to keep their married sons close to them.

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

If we want domestic and inter-generational harmony, it is necessary to work out new and more egalitarian norms for co-living, with every member feeling assured that his or her rights are well protected, well respected and inalienable. This was one positive feature of traditional Hindu law. Each member had the right to be maintained from common resources of the family, with the head of the family acting as a manager and trustee rather than sole owner of family property. We have already seen and suffered the ill-effects of concentrating all of the family's resources in the hands of men as happened during the last century and a half. This resulted in wives leading a life of dependence and vulnerability because elderly males commanded disproportionate power over resources. Negating altogether the rights of other members of the family and making the old depend on the charity of the young cannot correct that imbalance.

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

One is not likely to get an accurate or reliable perception of family politics and familial power relations if one views the situation solely through the eyes of the daughter-in-law as we many of us are prone to doing. The fact that only daughters-in-law come in plentiful numbers to complain against husbands and in-laws does not necessarily mean that they are the only victims of the imbalances in our family system. It is because members of the groom's family, including the much-reviled mothers-in-law are unlikely to take their complaints against their sons and daughters-in-law to the police or even NGOs. Women in their role as wives are more likely to complain, seek outside

intervention to solve their marital problems than are mothers, or sisters when the latter are abused by their son's or brother's wives because of blood ties and sense of family loyalty. They have a greater compulsion to keep things within the family and feel humiliated complaining to outsiders against their own sons and brothers especially if it involves legal interventions. If one goes by the records of women's organizations, police stations or court cases, one will inevitably get the impression that the only underdog/the wronged person in the Indian family is the *bahu*, especially in a joint family. However, it is naive to form an opinion about marriage and family life in India on the sole basis of cases of difficult or bad marriage that women's organizations are asked to deal with. We need to look at the entire range of tolerable/insufferable, good/bad, and abusive/loving marriages in order to have a more realistic view of the diversity in the family situation of different communities in India.

Therefore, we began to emphasize on the need to work towards creating a new social consensus in society and in family on what is a woman's rightful due and how to help her secure it with honour rather than focus obsessively on securing legal rights with no one but an inefficient, corrupt and venal state machinery as women's ally while everyone else disowns responsibility for her well being.

Freeing of Enslaved Goddesses

Fortunately, we got a chance to test it out on large scale through *Manushi's* association with Shetkari Sangathana – one of the largest mass based movement of farmers founded in Maharashtra in 1980 by Sharad Joshi. In 1986, Joshi invited *Manushi* to come and participate in their newly formed women's front – *Shetkari Mahila Aghadi* and evolve a programme of action aimed specifically to empower women of farm households who had till then been mobilized mainly on economic issues affecting the farm sector. The SS ideology marks a new thinking on why the farm sector remains so poor in India. It demanded an end to all the so called subsidies given in the name of farmers to fertilizer factories and other providers of farm inputs and attributed poverty in the farm sector to various state interventions which artificially depress the price of farm produce. Hence the slogan: "*Bheek nako have ghamache daam*" (We do not want charity, all we want is appropriate price for the produce of our labour). Though Joshi explained the economic drain of the farm sector with detailed calculations of how it all worked, the movement itself had a strong self respect component.

My main contribution lay in convincing Joshi and his colleagues that just as for the farm sector as a whole, their emphasis was on farmers getting their due price for their labour with economic freedom being the core issue rather than demand subsidies or protection from the government, so also it should be for women of farm families. The organization ought to ensure that women too did not have to live a life of hapless dependence with all economic resources concentrated in the hands of men of the family. I also was able to convince Joshi that for strengthening women's rights in the family, we need not wait till the government agreed to change this or that law. It was far more important that Sangathana be able to persuade its followers to willingly give women of their family their

due share because the best of laws can be rendered useless if people are not convinced of their worth. I wanted to see whether the success we had in convincing individual families in Delhi to avoid chasing police and law courts and instead ensure that women got justice within the family itself could be replicated on a large enough scale. The product of this collaboration between *Manushi* and *Shetkari Mahila Aghadi* was a unique campaign called *Lakshmi Mukti Karyakram*.

Sharad Joshi announced in 1989 that any village which performed the following three acts for women's empowerment would be honoured as a Jyotiba gram:

- 1) Ensure by consensus the victory of an women panel in panchayat elections,
- 2) Close the village liquor shop by mobilising the whole village in order to curb drunkenness and wife beating.
- 3) Voluntary transfer of a piece of land to the wife's name by a hundred or more families. Such a village would be honoured as a *Lakshmi Mukti gaon* (a village which had liberated its hitherto enslaved Lakshmis) through a public function in which Sharad Joshi would personally distribute certificates of honour to each such family.

A small remote village named Vitner in Jalgaon district made history by performing all the above tasks within a month and received the Jyotiba Phule award from the then Prime Minister of India. I reported on the amazing change in village culture as a result of these achievements. Thereafter the Sangathana launched a movement for the implementation of Lakshmi Mukti in all the districts where they had a stronghold. The only incentive offered was that Sharad Joshi himself would go and bestow certificates of honour to each such village. However, the movement sustained itself for a long while even when he could not go and I went as a substitute.

The nomenclature and symbolism of this unique campaign is itself fascinating. The goddess of wealth is named Lakshmi. However, a wife is also traditionally referred to as "*griha Lakshmi*" – i.e. goddess of the household. Likewise the birth of a daughter or daughter-in-law is also meant to be celebrated as the coming of Lakshmi in the family, even though many communities have come to see females as a burden rather than a blessing. Thus, the message of the *Lakshmi Mukti Karyakram* was that by enslaving their household Lakshmis, the farmers had invoked the curse of poverty. Therefore, in order to free themselves from economic bondage, they had to liberate their own Lakshmis and earn her blessings. My own campaign speeches were more focused on the advantages *Lakshmi Mukti* would bring to farm families but Joshi's speeches dexterously used economics, mythology, and sense of the sacred and dharmic responsibility to get his point across. Joshi would introduce the *Lakshmi Mukti* campaign by saying that so far Sangathana had worked tirelessly to get various exploiters off the farmers' backs and ensure that farmers got fair and remunerative prices for their produce. Now it was time for Sangathana to ensure that men

associated with the movement also paid their dues to women of the household.

Joshi linked the whole endeavor to an earlier *Karzmukti andolan* (movement for freedom from debts) whereby he had built a case through careful economic calculations that the farm community needed to be liberated from the stress of indebtedness to government banks by writing off of their loans since the government robbed the farm sector of Rs.72000 crores every year by artificially depressing prices of farm produce through numerous authoritarian, statist controls. He would then give them a similar lesson in economics vis a vis their household economy and the debt they owed their wives. Joshi told me some of these ideas took shape in his mind after reading certain articles in *Manushi*, notably a report of a Punjab village study published in *Manushi* Issue No.11 as well as my study of the Hindu Code Bill. I have rarely seen academic studies put to better creative use while being rendered into campaign speeches.

Here is a brief summary of Joshi's Lakshmi Mukti speech which indicates how the whole campaign appealed to men's sense of justice and recognise women's contribution to the economic and social well-being of the family:

“Just as I taught you to calculate the actual cost of your farm produce and the losses you suffer, so also I want you to learn how to calculate the economic contribution of your wife to your household's survival. On a relatively free day, sit down and consider the following: Your wife works 365 days a year without a holiday, without a break, combining housework with back breaking work in the fields. Her day begins at 5 am with care of the household animals. Thereafter she cleans, cooks, washes clothes, feeds the whole family and then is off for yet another full day's work in the fields in addition to fetching water, fuel and water. When she comes back home tired, there is still more work awaiting her – another round of tending to animals, cooking, cleaning, feeding the old and young. For herself, she is content with the little that is left over by way of food. There are times she even goes to bed hungry because the food ran short that night. But she doesn't complain or let anybody know. She just drinks a glass of water and goes to sleep. When someone falls ill, it is she who will nurse the person to health – often losing her own sleep in the process. When guests turn up unannounced and there is no milk or sugar to make them a cup of tea, she will save your *izzat* by quietly going and borrowing those things from a neighbor. On festivals and holidays everyone else takes a break, but your wife has extra work cooking special dishes with the meagre resources at her disposal. In return for all this work and acts of loyalty, love and sacrifice what does she get in return? A few plain *bhakhris* with chillies or occasionally with a little *bhaji tarkari* or deal. Apart from this you might buy her a saree or two in a year. There are times when you can't even provide that because of crop loss or some other emergency. At such times, she offers you the little jewelry she has for you to sell or mortgage to tide over times of acute distress.

Even if you put a value of zero for all the love, care and loyalty that are the foundation rocks of your family, surely you ought to recompense her at least for her economic contribution to farming operations. Even if we calculate her labour cost at Rs.20 a day, the current minimum wage for 8 hour work fixed by the government for agricultural work: (this was for the year 1989-90), for working 365 days a year for 20 years, you owe her wages worth Rs.1,46,000. She has never claimed this debt from you in the way the evil deities (*ongal devatas*) presiding over banks do by kicking and humiliating you when they come to confiscate your household goods at times when you have failed to pay loans taken from the bank for purchase of agricultural inputs. But surely *mangal* (auspicious) deities like your Lakshmi ought not to be treated with such disdain that you offer them nothing in return for all the services they render you, Lakshmi Mukti is a humble token offering to your Lakshmis without whom your household cannot run. It is a long overdue debt which ought to be paid with gratitude because her full debt you can never repay. Think of how poorly we men treat our Lakshmis? Often no better than God Ram (the hero of Hindu epic Ramayana) treated Sita, one of the best wives anyone could have".

The speech would then move on to recounting the kind of sacrifices Sita made for Rama and talk of her devotion and loyalty:

"When Rama was banished to 14 years' of forest life Kaikeyi had not demanded that Sita go with him. She could well have stayed back in the palace, but Sita insisted that wherever Rama goes, there goes Sita. She said, my place is by Ram's side. She suffered numerous privations for him joyfully. Finally Ravana abducts Sita for no fault of hers but to teach Rama a lesson for his misbehaviour with his sister. Though Ravana respected her chastity and did not violate Sita against her will, her own husband subjected her to the cruel humiliation of *agnipariksha* (fire ordeal) to prove her chastity. Even fire could not touch her but on their return to his kingdom, at the mere hint of a slanderous remark by a washerman, Rama asks Lakshmana to take away Sita and leave her in a forest. He does not ever personally explain anything to her."

And then step-by-step Joshi would build on the cruelty of Rama, how even if his duty as a king demanded the sacrifice of his marriage, he could have behaved more humanely towards her.

"In that entire capital of Ayodhya, this queen could not call any place her own for mere shelter. Could Rama not have told his queen that though they could not continue living together as husband and wife because of *praja's* opinion, she could live apart in another palace? Or offered her a small house? Or at least a small *kothri* (room/dungeon) where she could live quietly with her children? But no, Maharani Sita became a *bhikarin* (beggar) overnight simply because her husband turned against her and pushed her out. It did not occur to him that if his

subjects were not willing to accept her, that he too could have followed her example. He could go along with her after saying to his subjects 'If Sita is not good enough to be your queen, then my place is by her side. I cannot stay here either.' Instead he left her to live the life of a destitute beggar even while she was carrying his children and himself remained on the throne."

Joshi would then go on to narrate the legend associated with the Sita temple at Raveri village in Yeotmal district whose existence was brought to our notice by Sangathana workers from that area. There is virtually no Ram temple without the Goddess Sita but there is atleast this one Sita temple without Ram. The region's lore has it after being banished by Ram, Sita roamed from village to village as a destitute. When she came to Raveri village, she was in an advanced stage of pregnancy. She begged for food but the villagers, for some reason, did not oblige. She cursed the village, vowing that no *anaj* (grain) would ever grow in there fields. The villagers say that until the advent of hybrid wheat, for centuries, no grain grew in their village, though plenty grew in neighbouring villages. The villagers all believe in goddess Sita's curse. Her two sons were both said to have been born on the outskirts of the village, where a temple was built commemorating Sita's years of abandonment.

After narrating the Sita temple story, Joshi would go on to warn his audience to protect themselves from the curse of their own Sitas. He would tell them that their poverty was and their inability to obtain their due rights was in large part because of the enslaved condition of their Lakshmis. How can a home prosper if the goddess of wealth is reduced to the status of a beggar? He presented the redressal of the wrongs of modern day Sitas as a precondition for the peasantry's success in their fight for justice, and effectively resisting their own exploitation.

He would conclude by saying that the purpose of the *Lakshmi Mukti* programme was to see that no modern day Sita would ever have to suffer the fate of Rama's Sita because she had nothing to call her own. By transferring land to their wives, they were paying off "a long overdue debt" to Mother Sita. All this in the backdrop of expalining at great length the privations their own Sitas suffered, the hard work they put in, the sacrifices they make in order to keep the family going.

In village after village I would see men reduced to tears listening to this account and appeal by Joshi. Within two years hundreds of villages carried out the Lakshmi Mukti programme of land transfer to wives, celebrating the occasion as though it were a sacred festival. The entire village would be spruced and decorated with men dancing to the beat of drums. We would be received with much fanfare with women performing *arti* and singing songs as they received Joshi to preside over the certificate giving ceremony. Men seemed even more elated than women and much of the initiative for preparing villages for Lakshmi Mukti was taken by young male cadres of the Sangathana. Some of the men I interviewed described the whole campaign as a sacred calling.

The occasion would attract many people from neighbouring villages. After each public meeting, men from surrounding villages would come up and volunteer to effect similar transfers of land in their own village provided Joshi joined them likewise for the celebration. Thus far from creating a backlash among men, the approach of appealing primarily to the sense of fair play and justice among men, created a supportive atmosphere for women to exercise their rights. **What is equally important domestic violence went down dramatically in all such households where the beginnings of a new equation between men and women were being established. Unfortunately, the campaign could not be sustained beyond 6 years due to over pressure of work on the leaders and other issues gaining salience.**

I attribute the success of this campaign was due to the following factors:

- 1) Joshi had a long enough track record of demonstrating to the farmers that his ideas and methods of struggle yielded beneficial results for them. Therefore, when he told them Lakshmi Mukti is good for the well being of their family and for their own self-respect, they trusted his word. Their slogan “*Bheekh naka hawe ghamache daam*” (we don’t want concessions, we want the due price for our labour) could easily be used for lending legitimacy to women’s right to land because women in most farm families are the primary workers on land.
- 2) The Gandhian paradigm within which Joshi operated put great emphasis on self-respect and justice. While many other contemporary movements of farmers were more oriented towards appealing for concessions and subsidies and in farm prices, Joshi’s movement chose economic freedom and justice rather than concessions.
- 3) Once men become self-respecting by giving up groveling before their own tyrants – (in this case various government agencies) they are more easily able to extend the same respect to women. Men who themselves live under authoritarian regimes and controls become less self-assured and, therefore, more tyrannical towards women.
- 4) Key men of *Sangathana* led by personal example. They not only transferred land to their wives’ names but also encouraged them to take a part in *Sangathana* work. Their domestic conjugal lives showed visible improvements rather than become more stressful. Therefore, people could see for themselves that strengthening the rights of women need not lead to breakdown of family or greater conflicts between husband and wife. Rather it could lead to happier equations. Men did not feel attacked; rather they felt elevated for being called upon to do justice and being honored for it.

This campaign led to far reaching changes in the area, including reducing domestic violence and creating greater space for women in political and public life. While the entire might of the Indian State has failed to provide adequate protection for women, the

message of a respected leader could move hundreds of thousand of families into changing repressive norms towards women.

Despite these and other limitations, the movement clearly showed that the attack mode of social reform is usually counterproductive while building a campaign based on compassion, trust in the inherent goodness of human beings and making them active agents of redressing wrongs works far better than attempts to make them passive and supine recipients of authoritarian measures of reform carried out through threats of punishment to ensure compliance. This is evident in many other movements as well— a notable example being the Swadhyaya experiment in Gujarat founded by Late Pandurang Shastri Athavle, its main areas of influence being, Gujarat and parts of Maharashtra.³

We would do well to recognize that:

1. Laws work best when they represent a strong social consensus in their favour. Even the best of laws become infructuous if they go against popularly held beliefs of right and wrong.
2. Laws can only be effective when directed at those who are seen as deviants from popularly respected social norms. If they target entire populations who view the efforts of reformers as unwanted intrusion in their internal affairs, you create a powerful wave of hostility which obstructs, rather than assist, efforts at social reform.

Laws make sense only when used like small doses of antibiotics to help the body kill disease germs. Making them the sole instrument of social reform is like giving a patient only medicines and no other diet. Such a person would either end up dead or reject medicines altogether.

It is only under totalitarian and militaristic regimes that unpopular laws can be rammed down people's throats. Reform through terror or authoritarian measures may work temporarily but it usually produces a ferocious backlash for example, Shah of Iran's forced modernization gave way to Ayotalloh's Islamic fundamentalist regime which came to power through popular support. The erstwhile socialist societies may have "banned" prostitution and the use of women as sex-objects, but as soon as socialism

³ Swadhyaya is a social reform movement rooted in vedantic worldview with a simple message: "Each human being is the manifestation of the Divine. Therefore, every human heart and body ought to be treated like a temple of God." By helping people internalise this message, Athavle was able to transform the lives of millions of people transcending caste, class and even religious boundaries. Drunkenness, domestic violence and violent conflicts disappeared from Swadhyaya villages because if a person accepts that human body is the sacred abode of the divine, he can neither abuse his own body nor inflict violence on his wife or any other fellow villager. Swadhyaya villages became models of social harmony. The movement's spread has been unfortunately arrested, after Athavle fell critically ill and his wife and adopted daughter took over the entire swadhyaya empire with crores in its kitty and began to treat it as a personal fiefdom. It is ironic that a man who could make millions rise above narrow selfish concerns was blind to the fact that his own wife and daughter imbued with the same spirit.

collapsed, these societies are witnessing flourishing sex-trade and numerous other forms of sexual abuse of women.

Government the Big Culprit

Today, the biggest threat to women's lives and well-being comes from the utter lawlessness of government agencies. This is an important reason why the colonial minded Indian State lacks the credibility to act as an effective instrument of social reform. Since most government offices, including police stations and law courts, function primarily as extortion centers, government functionaries patronise an army of touts and anti-social elements to assist them in their operations. This adds to the vulnerability of families who do not have connections with power wielders in the government. Their rights can be violated with impunity because the police rarely come to the rescue of victims who can't pull strings. The slow, inefficient and corrupt law courts consume so much time, energy and money that mainly those with money power and clout come out winners. This colonial system of administration institutionalised by the British has grown progressively more tyrannical, as its outreach as well as greed has grown manifold since Independence. Leave alone women, whose security is being daily jeopardised by the mafias that have come to dominate political, economic and social life in every village, town and city of city (barring the absolutely remote villages which are far safer) even men feel powerless before the combined might of government parasites and their criminal associates. This is an important reason why people seek protection in numbers by clinging to their caste and community ties. Thanks to the trappings of electoral democracy, being part of a cohesive vote bank gives you a measure of leverage with the system.

This lawlessness more than any other factor, certain far more than the hold of patriarchal norms, has tilted the scales of power against women as a group and in favour of anti-social elements among men. Status and power in post British and post-Independence India is determined not so much by your caste, nor by the amount of land or property you may own but by the amount of control you can exercise over various arms of the government machinery and how far you can make it subservient to your personal aggrandisement. Folk sayings such as "*jitne ladke utne latth, jitne lathh utna kabza* (The number of sons a family has determines its power to inflict violence which is in direct proportion to the amount of land a family can hold) are an apt commentary on the source of power and prestige in large parts of India and in most sectors of the economy. In such a scenario, the birth of a daughter appears a burden and sons become valued assets. A widow without sons or other powerful male relatives to support her is the most endangered species, especially in rural India, not so much because of the stigma attached to widowhood but because whatever land or property she owns makes her an easy target of unscrupulous property grabbers. For example, it is very common for village land record keepers to surreptitiously transfer the land of single women or widows without grown up sons to others for a consideration at the time of Land Settlement Operations. Agencies of the State are unable to provide redress against such wrongs. Therefore, most such cases get settled on the strength of brute power. Given this situation, producing sons becomes a necessary survival strategy and daughters appear liabilities. Even among,

fiercely patriarchal communities in India that bore the brunt of repeated invasions, which created anxiety about women's safety, daughters were not as devalued as they came to be in post colonial India which witnessed the most determined marginalisation and devaluation of women with increasing insecurity for all those communities that do not have a strong foothold in the government machinery.

The Way Forward: An Agenda for Action

Since the lawlessness of the government machinery owes prime responsibility for the increasing hold of crime and violence in our society leading to powerlessness and marginalisation of women as a group, reforming the machinery of governance ought to be the highest priority for society in general and for women in particular. Making the police an honest, accountable and non-partisan instrument of law enforcement ought to be the first step in this process. This should be accompanied by matching judicial reforms so that our law courts are capable of delivering speedy justice at affordable cost to the average citizen.

Alongside with putting such systems in place, we can start the process of figuring out how to enact laws that can be implemented with integrity. The following thumb rules may well provide fairly reliable guidelines and litmus tests for varied measures of social reform.

To begin with each reform measure should be divided into two components:

- 1) Role of opinion mobiliser and social movements.
- 2) Role of State interventions.

Responsibility of opinion mobilisers: Before a group or set of organisations demand a law to outlaw any custom or social practice, they ought to demonstrate the viability of the legal reform they propose by demonstrating that they have prepared the ground for it within their own community, neighbourhood or city. For example, those who insist that dowry giving be made a punishable crime, should be required to submit at least 500 statements on oath by their own relatives, friends and neighbours that they would ensure the compliance of the anti dowry law as well as laws against domestic violence in their own community by reporting each violation to the police irrespective of whether the victim complains or not. Since this commitment would be made voluntarily, rather than through a legal mandate, social reformers would have to dialogue and discuss the matter with the concerned people in their own community to get them to sign an oath in a public manner. In the process, each reformer will get first hand feedback including suggestions for improvement in the proposed measure.

If a proposed law is supported by 500 individuals in the country and each one is made responsible for gaining acceptance for its voluntary compliance by another 500 people, in

the very first stage, 2,50,000 people would have tested the viability of the measure by adopting it in their own lives. This group of 500 can then claim the right to push for it as a national or state level legislation depending on the issue at hand. This process could easily be completed and reviewed in two years. If our ideas of reform are first put into practice in our own community and neighbourhood through moral persuasion, we will soon find out the strengths and weaknesses of those measures. If we avoid relying on legislative coercion or other forms of force and violence as the first step, we will be allowing people the freedom to reject those measures they consider unsuitable or inappropriate, our efforts at reform are more likely to succeed and yield more practical laws because they would be tuned to people's own requirements.

Role of state interventions: The next step involving state intervention, including legislation, should also go through a similar test. If the government of the day is convinced that a particular law is worth enacting, it should try out its feasibility through yet another pilot project involving civil servants. Before, making it a law for the entire population, the government may introduce necessary changes in the Government's service rules requiring all officers in the police, judiciary, various administrative services, as well as Members of Parliament to sign statements on oath promising compliance. Anyone accused of violating that order should be suspended from service for a period of three months within which a full and final enquiry should be held into the violation of law. If found guilty, the person should be dismissed from service. Once a proposed law has been tried and tested in this fashion, the government would have acquired the moral authority as well as the know-how to implement it at the state or national level.

Those who think this is an impractical way of going about things overlook the fact that the existing manner of imposing the anti-dowry legislation has failed miserably and calls for corrective measures of a radical kind.

Positive Demands from the Government

As mentioned earlier, domestic violence against wives is more prevalent in societies where daughters are devalued and by their own parents in comparison to sons. We cannot meaningfully strengthen the rights of women as wives if their rights as daughters are fragile. Therefore, our enduring effort should be to make the government and other influential organizations provide the kind of incentives that would have the effect of enhancing the value of girls and women in the eyes of their families and communities. For example, the following measures are more likely to curb the practice of female devaluation than the punitive legislations in place today.

- 1) The birth of a daughter would entitle her family to a Smart Card in the name of the girl child. In the first five years, it would entitle her to food and medical vouchers of Rs. 10,000 per year. In other words, her family would be able to encash the vouchers at a range of food shops as well as government or private medical facilities provided they ensure that they get a three monthly health check up for the baby girl. Even if all the food they purchase with the vouchers does not

go into feeding the girl child, the family would develop a high stake in keeping her alive and healthy because by her very being she adds to the family income and well being.

- 2) After 5 years of age upto the age of 19, the Smart Card would entitle the girl child and her family to an additional Rs. 20,000 per annum. They would be free to encash the entire sum for the girl's education at a school of their choice as well as health care for her and her siblings. By thus linking the well-being of even her brothers to the healthy survival of the girl child, the girl would become an asset for all in the family. The Smart Card would become invalid the day the girl is withdrawn from school.
- 3) After her marriage, the Smart Card would bring similar benefits to her husband and in-laws.
- 4) Educational curriculum should be revised to provide technical and entrepreneurial skills aimed specially at girls which allow them to earn independent incomes by generating self employment, since government and the organised sector of the Indian economy do not generate enough jobs in India.
- 5) Banks and credit societies should give preferential soft loans for setting up micro enterprises by women.
- 6) Enterprises owned by women should be given 50 percent tax rebate. So also property owned by women should be given 50 percent tax exemption. These two simple measures are likely to create a cascading effect with families developing a stake in registering businesses and enterprises in the name of women.
- 7) Any legal testament or will through which a father disinherits his daughters and passes on the property only to sons should be considered an illegal document. Among Muslims, daughters are entitled to at least half the son's share in property but few families honour this. It is time to make an all- India law making it both illegal for fathers to disinherit their daughters as well as profitable to do so by providing for 50 percent rebate in tax if a particular property is registered in the name of a female and 25 percent tax rebate for property held jointly by a male and female. With this measure a large number of properties are likely to get transferred in the names of women. Even if to start with, women do not exercise full control over that property and some may even be owners only in name, once a critical mass of women become property holders, they are likely to learn to exercise control over their assets.
- 8) Any village panchayat that ensures that all girls get educated upto class 12 should get a special grant of Rs. one crore for improving the village infra- structure. This way the entire village is provided a vested interest in promoting girls education.

- 9) Any village *panchayat* which starts employment generation schemes for women with a minimum earning potential of Rs. 1000 per month per women should be entitled to Rs. one crore per year for further improvements in the village infrastructure.

These measures are likely to show exponential results far beyond the realm of women's rights.

- a) Substantial amounts of money and services will reach poor families directly rather than through corrupt bureaucratic channels.
- b) Girl children will be viewed as assets rather than liabilities.
- c) Girls will get educated to atleast secondary level and each one will get trained into atleast one marketable skill leading to substantial rise in family incomes.
- d) The health and nutritional status of the entire population will rise swiftly and dramatically.
- e) If a large proportion of women become income and wealth generators, their status in the family and society will be enhanced.
- f) The age of marriage will rise fast without any coercive measures.
- g) When majority of women own assets of their own and earn independent incomes, the practice of dowry or groom price will start disappearing and women are far less prone to taking abuse and violence in marriage. Their families too are less likely to force them to stay in abusive marriages, if they are not perceived as liabilities. Once women's status rises in their own natal families, they can command greater respect in their marital families.
- h) At the moment it is mainly grooms' families that dictate terms for marriage. If daughters become valuable assets, their parents too will have greater bargaining power in marriage negotiations.

Traditionally, wedding ceremonies among different communities include a series of vows of mutual love, fidelity, respect and care taken in the presence of relatives and the officiating priest. However, these vows have become ritualised, and the community members who witness the ceremony do not feel obliged to see that the vows are adhered to.

From time to time, however, efforts have been made to revitalise the concept of mutuality in marriage and to make it more egalitarian. For example, in the 1880s*, Mahatma Jyotiba Phule, founder of the Satyashodhak Samaj in Maharashtra, instituted a new kind of wedding ceremony. The Brahman priest was eliminated from the ceremony and the community began playing an important role in legitimizing and blessing the union. Just before the garlanding ceremony, a new kind of *mangalashtrak* is sung, and the couple take vows of mutual obligations. After announcing their family names, addresses and properties, the bride and groom take the permission of the community elders to enter into a marriage relation. In the course of the ceremony, the bride tells the groom that since he believes in serving God, he must definitely be aware of the sufferings of women, and society's denial of mental freedom to women. She asks him to vow to give women their due rights. The groom replies: "I always try to protect and strengthen the rights of women. I will not fear to give my all in this cause." They then exchange vows of mutual monogamous fidelity, and each promises not to violate the other's *maryada* (meaning limits, dignity, honour, social norms) by even a hair's breadth. They call upon God and the heads of their families to bear witness to this. The only inequality in vows is that the bride promises never to disobey her husband's command, while he promises to sustain her.

Weddings amongst members of the Satyashodhak Samaj are even today conducted in this form. The vows acquire greater significance when read along with the qualifications laid down by Phule as essential for one who is called a *satyavanan* or a member of the Samaj. Such a one must believe that God has created both man and woman free by birth and endowed with all human rights, including religious and political freedom, freedom of opinion, speech and expression. A *satyavanan* does not believe in the exercise of violence against any individual by any other individual or group, or any usurpation of another's rights. Phule also states that a *satyavanan* considers all human beings equals, does not discriminate between them and considers no one a slave by birth. A *satyavanan* believes that God has made all men and women competent to hold office in matters relating to religion, village and revenue administration, and to hold property. These marriage vows contained some far reaching statements, which were remarkable for their time, and are relevant even today.

Mahatma Gandhi too initiated new marriage rituals and vows. In the course of the freedom movement, many followers of Gandhi made systematic efforts to live up to the new ideals of the man-woman relationship within marriage and came to be regarded as role models. These included well known figures such as Jayaprakash Narayan and his wife, Prabhavati, as well as any number of lesser known ones all over the country. They helped to challenge the legitimacy of oppressive social norms that operated against women.

* Material drawn from *Satyashodhak Samajokle Vivahsambandhi Vidhi* 1887 and *Satyadharm Pustak*, 1889 both by Jyotiba Phule.

It is significant that both Gandhi and Phule introduced the idea of marriage as a publicly made contract even while maintaining its value as a sacrament. Today, we need to carry the tradition of such reforms a step further.

The concept of *Kanyadan* (gifting away of daughter) currently prevalent among many Indian communities, amounts to the bride's parents practically forsaking their rights and responsibilities. What we need instead is public pledges by the groom's and bride's parents that they will help the couple build an egalitarian and mutually respectful relationship. In addition, the groom's family should pledge in writing that they will ensure the bride's safety and well-being. Registered marriages also involve a contract of sorts. However, even that is not sufficiently based on principles of mutuality. What we need is a model secular marriage contract which can be adopted by people from all communities, even if their marriages are solemnized through their respective caste or religious rituals.

To put content into the agreement, the following could be the affirmations and guarantees to be publicly made and registered as a contract:

1. The woman's natal family should give a commitment that they are not washing their hands of her or giving her away but that she continues to have as much right to their home as their sons, and can call on them for help at any time. They should commit themselves to giving her an equal share in inheritance which she will receive with her brothers, if any, at the time of her parents' death, or earlier, if her parents so desire.
2. Her husband and in-laws should also sign a pledge that they promise to ensure her physical and emotional well-being. As and when serious conflicts arise, they will be settled through dialogue and discussion in the presence of mutually agreed upon guarantors and mediators. Violence, either physical or verbal, will not be used under any circumstances. Nor will the woman be forcibly ejected from her matrimonial home without adequate arrangements made for her and her children, in case of marriage breakdown. In such a situation, the guarantors would be required to mediate and oversee a fair settlement in the terms laid down by the marriage agreement.
3. Although no dowry would be paid, if the couple were setting up a separate home, both parents would equally contribute to the expenses entailed in this. Any expenditure on the wedding celebrations, on new clothes, jewellery, gifts to relatives, and so on, must be mutually agreed upon and equally shared by both parties.
4. The husband and wife would pledge that even though they are marrying in order to build a life together, they retain their basic human rights and responsibilities as individuals. The woman will continue to maintain her

relationships with her natal family, and her husband and in-laws will not interfere in any way with these. She will be free to take as much responsibility for her parents as she feels is necessary. Likewise, the wife would be expected to share the responsibility of taking care of the parents of her husband in their old age. She would honour the rights and claims of her husband's sisters over their parental home.

5. All decisions affecting family life will be taken jointly, with each partner having an equal say at every stage of decision making. This will include decisions regarding finances, expenditure, savings/investments, shift of residence, social connections, lifestyle, the education and upbringing of children. In the event of the husband unilaterally taking any decision without consulting his wife she will be free to refuse to participate in its implementation. If it affects the children adversely he will be obliged to reverse it, should his wife object, or at least to ensure that she is enabled not to participate in it.
6. Both partners, if both are employed, will take equal responsibility for smooth running of the household and the upbringing and welfare of children. The decision whether or not to earn will be taken by the woman, as it is her right to decide whether or not she wishes to devote herself to domestic work alone. And if she is not earning, she will have a right to be provided appropriate sums of money for household and personal expenses.
7. All property and assets acquired by either partner from the day of the wedding onwards, will be jointly owned and will be equally shared in the event of a separation. If the couple sets up a nuclear family, the wife cannot be asked to leave the matrimonial home in case of marriage breakdown while she is raising the children without alternative arrangements being made for the wife and children. If the woman at the time of marital breakdown is living in her husband's parental home and is unemployed she must be provided with a home adequate for herself and the children till such time as she has no income of her own.
8. Both partners will retain the right to maintain and/or establish their own social circle, continue their friendships, alliances and associations, join any organisation, political, social or religious, that they wish. Commitments and obligations arising out of individual alliances are to be met by the individual from his or her own time, energy and share of the family income, without the other partner's necessary participation. Whatever norms of fidelity are mutually agreed upon and declared by both partners will apply equally and without distinction to both.
9. Since the woman's health is vitally involved in childbirth, she will have the primary right to decide the number of children, the spacing between

their births and matters relating to their care in infancy which relate to her body. In case she is not able to bear children (whether due to her own or her husband's inability to reproduce) this will in no way affect any of her rights or claims as a wife.

10. In the event of a separation, custody of children below 12 must go to the mother, unless the father can in a court of law prove that she is unfit as a mother. Custody of children over 12 should be decided on the basis of the child's own expressed preference. If the woman is not earning, the husband must pay maintenance for her and the children. If both are earning equally, they contribute equally to child support. If either of the partners is earning more, he/she contributes proportionately more.

However, all this can work only if there is a law making it mandatory for each marriage to be registered with the appropriate agency of the government.

These, or similar commitments, together with others that apply to the specifics of each marriage, should be made in writing by the couple at the time of marriage, in the presence of all the wedding guests, witnessed and guaranteed by elders of both families, and by any other friends or relatives whom each party wishes to invite. Making such commitments will not ensure that all or any of them will be honoured by all those who make them. But, at least, the partner who dishonours them will invite social stigma. If this process of registering marriage with model contracts began with several high profile families who lent it social prestige and legitimacy, in a well-publicized manner, it is bound to influence marriage norms of varied communities over time.

This system of social and familial guarantees needs to be backed up with an efficient police and judicial system which can come to a victim's aid, in case the family guarantees do not prove adequate. At the moment, it is relatively far easier for women to get her husband arrested and jailed than to get maintenance, child support and other necessary reliefs because of our civil laws. We need to strengthen our civil laws for maintenance, child support and protection from violence through civil remedies adjudicated through a whole network of efficiently run Family Courts capable of deciding on cases within six months of admission.

In addition, women's organizations need to carry out a rigorous campaign encouraging every neighbourhood and village to set up volunteer committees to combat domestic and other forms of violence through swift neighbourhood action, so that the dependence on police and law courts is reduced and women's lives will become far more safe than if police and legal action is all they can count on.

Conclusion

The last few centuries have seen the growth of the notion of rights of individuals as separate from and often in opposition to the family and community, which are seen as institutions and forces that curb individual freedom and initiatives. This has happened more in the West than elsewhere, though the ideology is catching on even in many non-Western societies. Nevertheless, the uneasiness and sense of loss that many people have felt from this development of making individual freedom the key indicator of modern civilisation have resulted in varied counter reactions.

While, there have been several successful examples of attempts to combine individual initiative and rights with a sense of belonging to and being embedded in some sort of a community, these have, by and large, remained confined to relatively small groups. At the same time, the 20th century witnessed the creation and growth of many state-run institutions to protect individual human rights. In these states, especially in some social democratic western democracies, government agencies appeared to be the primary ally and protector of individual freedom and rights. While the development of such institutions and the welfare state offered a measure of protection to individuals against economic insecurity and certain abuses, it is now being increasingly acknowledged that these institutions also weakened civil society and helped people abdicate responsibility for the well-being of their fellow human beings – including those living in close proximity. Such atomized societies are not very conducive to the emotional well being of people because among other things even family ties become fragile and feeble, leaving people very insecure and lonely even when their material needs are well taken care of.

The big challenge before us is to figure out ways to strengthen and reinvigorate civil society and family as an institution in a way that individual rights remain inviolable and also contribute to the protection of vulnerable individuals through communitarian efforts and vigilance. How can we make people respect the rights of others – not simply out of fear of being locked up in jail but because they do not feel good hurting the interests of others? How do we make laws that are taken seriously by the people and have the capacity to protect the legitimate rights and claims of women? The future of democracy in India is in large part dependent on whether we can evolve a legal framework that creates egalitarian and workable norms for the rights of men and women in the family and commands universal respect for its ability to maintain a healthy balance between allowing a good deal of autonomy to communities to manage their internal affairs and having the power to restrain them from violating the fundamental rights of individuals within each community.