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# Bride-Burning: The "Elephant in the Room" is Out of Control

Avnita Lakhani<sup>1</sup>

*"...We talk about the weather. We talk about work.  
We talk about everything else, except the elephant in the room.  
There's an elephant in the room.  
We all know it's there. We are thinking about the elephant as we talk together.  
It is constantly on our minds. For, you see, it is a very large elephant.  
It has hurt us all...."*<sup>2</sup>

## I. INTRODUCTION

We know it exists. We know thousands of women in India die every year because of it. We know there is domestic legislation banning it. We know this legislation is weak. We know there are international laws against human rights violations. We also know they are not fully enforceable and binding on a sovereign state. We know it has historical, cultural, and societal roots. We know these roots run deep even as they run crooked. We know there is an "elephant in the room" and it is called "bride-burning"<sup>3</sup> in India. We know this "elephant" is large, pervasive, visible, pernicious, violent, and deadly. We know it is out of

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1. This article is dedicated to those women in India who suffer in silence and to those who work tirelessly to end the silence and give a voice and a solution to the problem of bride-burning. Avnita Lakhani holds an LLM in International Dispute Resolution from the Straus Institute for Dispute Resolution at the Pepperdine University School of Law in Malibu, California. Ms. Lakhani welcomes your comments and may be reached via e-mail (avnita@msn.com). Ms. Lakhani would like to thank all of the staff members at Pepperdine's Dispute Resolution Law Journal for their hard work and dedication in publishing this issue. This article is concurrently published in Volume 4 - Issue 1 (Spring 2005) of the Rutgers Conflict Resolution Law Journal."

2. Terry Kettering, *The Elephant in the Room* (poem), at <http://www.bartow.k12.ga.us/psych/crisis/elephant.htm> (last visited November 29, 2004), among other places.

3. Namratha S. Ravikant, *Dowry Deaths: Proposing a Standard for Implementation of Domestic Legislation in Accordance with Human Rights Obligations*, 6 MICH. J. GENDER & L. 449, 456 (2000) (Bride-burning is currently defined as the practice of dousing a young bride with kerosene and setting her ablaze because of insufficient dowry. Because the sari she traditionally wears is highly inflammable, the young bride burns to death in a violent way, leaving little evidence of foul play.). Note that while I address bride-burning here, an equally violent practice is sati, where young widows are expected to kill themselves at the funeral pyre of their dead husbands. The statistical counts of young women who die of sati is not addressed here, but involve the same underlying issues.

control, but we seem powerless to stop it. In fact, we do not even want to believe that it exists. The question is why? Today, out-dated, mythological misconceptions of women combined with the grossly manipulative practice of dowry means that bride-burning is as rampant today as it was 2,500 years ago and the Indian government and society implicitly sanction dowry murders by not adequately prosecuting it. A reality check is sorely needed.

This article is an attempt to answer the question of why the practice of bride-burning continues and propose alternative ways to not only look at the problem, but also to define workable solutions. It is only via a thorough conflict analysis of this complex issue that the world might rein in a problem that is clearly out of control in this day and age.

Section II examines the origins of bride-burning, its continued practice, and societal ramifications.<sup>4</sup> Section III analyzes some of the current and proposed efforts in place for banning bride-burning and punishing those who illegally engage in this disgusting practice.<sup>5</sup> Section IV provides a conflict analysis of this issue in light of its continuing devastation upon women in India.<sup>6</sup> Section V is a discussion on alternate, creative ways to resolve the issue of bride-burning in light of the conflict analysis.<sup>7</sup> Finally, Section VI concludes with a call to action for victims, advocates, lawmakers, the international community and most explicitly, the perpetrators of this human rights crime, to put an end to a practice which, five years from now, will easily qualify as genocide of the women of India.<sup>8</sup>

## II. THE ORIGINS AND RAMIFICATIONS OF BRIDE-BURNING – SEEING THE ELEPHANT

### *A. A Day in the Life of an Indian Bride*

“When Sunita Vir married in 1991, her father, Kalam Singh, spent over \$5,000 on her dowry, which consisted of cash, steel trunks, cupboards, a sewing machine, kitchen utensils, and most importantly, a black-and-white television set, a most coveted possession among India’s lower-middle class families. Still, the elaborate dowry was not enough for Sunita’s new in-laws. Less than two weeks after the marriage, Sunita’s husband and in-laws began demanding more dowry from Sunita’s family, specifically in the form of a new refrigerator. Sunita’s parents could not provide the additional goods, having already acquired a large amount of debt to supply the original dowry. With two other daughters

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4. See *infra* notes 9-78 and accompanying text.

5. See *infra* notes 79-171 and accompanying text.

6. See *infra* notes 172-297 and accompanying text.

7. See *infra* notes 298-318 and accompanying text.

8. See *infra* notes 319-323 and accompanying text.

to marry, they could do no more. Sunita's in-laws began beating her for her failure to secure the requested goods. In 1993, less than two years after her marriage, Sunita's father-in-law and brother-in-law held her down on a cot, while her husband doused her with kerosene and set her alight. Sunita died in the hospital, having suffered from burns over 96% of her body."<sup>9</sup>

This story is about your mother, sister, friend, wife, lover, child, neighbor, stranger, and foe. It is not just another story about domestic violence. It is a story about murder – intentional, deliberate, pre-meditated murder. And it is happening in India at least seventeen times per day, every single day of the year.<sup>10</sup> Sunita's suffering is like the journey of countless women in India and it begins the day a girl is born into the Indian culture and ends, most often tragically, the day she dies...maybe.<sup>11</sup> Sunita Vir was a tragic victim of bride-burning, one form of dowry-related violence against women that persists in India today.<sup>12</sup>

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9. Meghana Shah, *Rights Under Fire: The Inadequacy of International Human Rights Instruments In Combating Dowry Murder in India*, 19 CONN. J. INT'L L. 209 (1993)(citing Anita Pratap, *Killed by Greed and Oppression*, TIME, Sept. 11, 1995, Vol. 146, No. 11, at <http://www.time.com/time/international/1995/950911/women.india.html> (last visited November 29, 2004)).

10. Shah, *supra* note 9, at 210 (citing Indra Chopra, *Marriage: A Retail Outlet* (April 2003), at <http://indiatogether.org/2003/apr/wom-moddowry.htm> (last visited November 29, 2004); See also Amanda Hitchcock, *Rising Number of Dowry Deaths in India* (July 4, 2001), available at <http://www.wsws.org/articles/2001/jul2001/ind-j04.shtml> (last visited November 29, 2004) (gives several typical accounts of dowry murder, discusses various statistics offered by both the Indian government and NGOs in recent years, and maintains that while exact statistics are difficult to obtain, the National Crimes Bureau of the Government of India had reported a 170% increase in dowry deaths in the decade 1987-97); See generally Himendra Thakur, *Are Our Sisters and Daughters for Sale?* (June 1999), available at <http://www.indiatogether.org/wehost/nodowri/stats.htm> (last visited November 29, 2004) (stating that about 25,000 women are reported as victims of dowry deaths every year, adding that these figures are much lower than the actual statistic due to underreporting).

11. Judith G. Greenberg, *Criminalizing Dowry Deaths: The Indian Experience*, 11 AM. U.J. GENDER SOC. POL'Y & L. 801, 822 (2003)(citing the ancient Indian Code of Manu which calls for women to honor and obey their husbands. "The wife should subject herself to the authority of her husband. She should never do anything that might displease him, whether he is alive or dead." Also noting that according to religious text, a woman's religious life was devotion "at his feet."). The fact that the girl dies does not necessarily relieve the family of further suffering because now they have lost a daughter and they have lost their social caste connections. Furthermore, they may even continue to blame the daughter for this loss and thereby bring disgrace to the family name, according to some religious beliefs.

12. Laurel Remers Pardee, *The Dilemma of Dowry Deaths: Domestic Disgrace or International Human Rights Catastrophe?*, 13 ARIZ. J. INT'L & COMP. L. 491, 493-496 (1996)(discussing forms of dowry violence and ways women in Indian society are socialized to accept these practices, including bride-burning, sati, female-child murders, etc.). Bride-burning also exists in Pakistan and

### *B. Origins of Bride-Burning*

Bride-burning, the practice of dousing a new bride with kerosene and setting her ablaze to die, is the most common form of dowry deaths.<sup>13</sup> Dowry death is commonly known as a bride's suicide or a bride's murder at the hands of her husband and her in-laws soon after the marriage because the husband and in-laws are not satisfied with the amount of the dowry and, in most cases, are unable to extort additional dowry.<sup>14</sup> Dowry is defined as "movable or immovable property that the bride's father or guardian gives to the bridegroom, his parents, or his relatives as a condition to the marriage, and often under duress, coercion, or pressure."<sup>15</sup> In addition, the dowry paid is usually commensurate with and proportional to the bridegroom's class, socioeconomic status, physical appearance, and education.<sup>16</sup>

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other countries. In addition, the practice is pervasive among second and third generation Indians and Pakistanis who have re-settled in western countries, such as Great Britain. While the statistics contained herein reflect only those victims in India, the actual numbers are yet to be statistically catalogued, but are known to be even more extensive.

13. Ravikant, *supra* note 3 at 456 (bride burning is the preferred form for several reasons. Kerosene is inexpensive and readily available as a cooking oil in nearly every household. In addition, the burning takes place in the home and is not considered suspicious. Because the sari worn by women of India is light and highly combustible, kerosene quickly burns through the sari, engulfing the woman and killing her will little or no evidence. Burning also mask any pre-death torture that a bride may have suffered at the hands of her husband or in-laws and is virtually unidentifiable during post-mortem examinations. Therefore, there is usually insufficient evidence of murder and the chief witness against the killer is dead. Finally, there is a low rate of survival for the bride such that even a dying declaration is unattainable as a form of evidence of murder because of the proximity of the husband and in-laws while the bride lies dying at a hospital.)

14. Ravikant, *supra* note 3 at 456 (citing Lori Heise, *The Global War Against Women*, WASH. POST, Apr. 9, 1989 at B1; See also, A.J.F.M. Kerhof, *Suicide and Attempted Suicide: Causes of and Treatments for Suicide*, WORLD HEALTH, Mar. 1994, at 18, 19-20; Acts of Parliament (1986), Dowry Prohibition (Amendment) Act, No. 43, 8 Sept. 1986 (codified in part as India Pen. Code § 304B (Basu, 1998)). This Act supplemented the Indian Penal Code to include a legal definition of dowry death: "Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty of harassment by her husband or any relative of her husband for, or in Connection with, any demand for dowry, such death shall be called 'dowry death' ...." India Pen. Code § 304B(1) (Basu, 1998)).

15. Anshu Nangia, Note, *The Tragedy of Bride Burning in India: How Should the Law Address It?*, 22 BROOK. J. INT'L L. 637 (1997). Dowry used to be referred to as "stridhan". Stridhan included gifts given to the bride by her friends, relative, and family to assist the bride and the newlyweds in their new life together. Stridhan remained the property of the bride and was meant to provide some basis of future financial security since women in India technically are now allowed to own property or devise property upon death. However, the practice of stridhan gave way to the current practice of dowry, thereby placing the bride in a dependent state economically and emotionally.

16. Ravikant, *supra* note 3, at 458. The dowry does not take into account the same characteristics of the bride and the value she might bring to the marriage.

There are at least four prevailing views on the origins and persistence of the contemporary practice of dowry that leads to bride-burning. These views are important in setting the foundation for subsequent discussions on conflict analysis and future resolution of this human rights crime. These views also shed some light on why bride-burning continues today despite varied enacted domestic legislation, international law protocols, and grass-roots movements to halt the practice of dowry.<sup>17</sup> The most prevailing view relates to the perception and socialization of women in a highly patriarchal society such as India.<sup>18</sup> Even before she is born, Indian mythology has already defined a woman's role in society.<sup>19</sup> The myths consistently portray women as economically and emotionally dependent on men as mothers, wives, sisters, and daughters.<sup>20</sup> From the moment she is born, a woman in India is considered a burden, an extra mouth to feed.<sup>21</sup> Because of the caste<sup>22</sup> system and the very narrowly defined roles of men and women, women are considered an economic liability.<sup>23</sup> Men are considered an asset to the family because they can perform manual labor, carry on the family line, and are expected to care for their aging parents, thus providing economic security to the family.<sup>24</sup> On the other hand, women are conditioned from birth to be subservient to their husbands.<sup>25</sup> The girl's family sees her as "economic bondage" for whom they will have to give up their tremendous resources and material wealth as dowry.<sup>26</sup> This scenario is further complicated by the fact

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17. This section only highlights the main arguments for the existence of dowry practice and bride-burning today. See *infra* notes 86-178 an accompanying text for a discussion on current and proposed means of preventing bride-burning and the extent to which these methods have succeeded.

18. Nangia, *supra* note 15, at 646-49; Pardee, *supra* note 12, at 493-95.

19. Nangia, *supra* note 15, at 647.

20. *Id.*

21. Pardee, *supra* note 12, pg. 493.

22. Caste is "a system of social stratification more rigid than a class and characterized by hereditary status, endogamy, and social barriers rigidly sanctioned by custom, law, or religion. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 348 (17<sup>th</sup> ed. 1976). The caste system essentially determined an individual's social status. The five primary castes, in order from highest to lowest are: Brahmin, Kshatriya, Sudra, Vaisya, and Varna.

23. Pardee, *supra* note 12, at 493.

24. Ravikant, *supra* note 3, at 457.

25. Pardee, *supra* note 12, at 495.

26. Compare Pardee, *supra* note 12, at 494-495 (Pardee notes that a girl's parents know that when "she is old enough to marry, her parents will have to amass large quantities of money to induce her new family to take on the burden of her maintenance) with Nangia, *supra* note 15, at 646-647 (explains it slightly different in that the "daughter is seen as a special gift to be given away at the time of the marriage"...and this reflects the family's sacred duty to society to give the girl-child to another family for whom she will bear the valuable gift of a new generation."). Obviously, the

that once a woman is married, society mandates obedience to her husband.<sup>27</sup> Therefore, any disobedience is quickly silenced because it brings disgrace to both the bride and her family.<sup>28</sup> Divorce is highly discouraged and women do not accuse their husband of violence, even in the most dire circumstances.<sup>29</sup> They will suffer in silence instead. Consequently, because of societal pressures, relatives, friends, or neighbors will not come to the aid of an Indian bride if she claims domestic abuse.<sup>30</sup> Once she leaves her birth family's home, she is alone, considered an outsider even in her new family, and a virtual slave.<sup>31</sup>

A second predominant reason cited by scholars is the new-found consumerism that has caused countries such as India to become greedy.<sup>32</sup> This greed results in using dowry as a means to climb the social ladder, achieve economic security, accumulate material wealth, and "keep up with the Johnses".<sup>33</sup> Because of consumer greed, the practice of dowry has spread to those communities and classes who traditionally do not practice dowry.<sup>34</sup> Today, dowry has spread to all religious communities, including the Christian and Muslim communities in India, as a means to attain material wealth.<sup>35</sup> Furthermore, the insidious nature of consumer greed perpetuates the need to demand more dowry since the financial value of the dowry represents the social and economic status of both families and the extent to which either family can co-exist in the same social circle within India's caste system.<sup>36</sup> Unfortunately, because of patriarchal attitudes, the bridegroom and his family have greater bargaining power and usually set the dowry rates. Furthermore, the economic model used to calculate the dowry takes into account the bridegroom's education and future earning potential while the bride's education and earning potential are only relevant to her societal role of being a better wife and mother.<sup>37</sup> Consequently, the bridegroom's demand for a dowry will normally exceed in direct proportion to the potential husband's

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practice of dowry does not embody the reverence for the woman, her family, or societal goals because it is now seen as simply a business deal with the daughter being the object of the negotiations.

27. Pardee, *supra* note 12, at 495.

28. *Id.*

29. Pardee, *supra* note 12, at 494.

30. *Id.*

31. Pardee, *supra* note 12, at 494-495; Nangia, *supra* note 15, at 649 (noting that the "bride feels duty-bound to preserve the marriage because of the huge expenditures incurred by the parents.").

32. Pardee, *supra* note 12, at 498; Nangia, *supra* note 15, at 643-44; Ravikant, *supra* note 3, at 460-461; Shah, *supra* note 9, at 214.

33. Pardee, *supra* note 12, at 498

34. Nangia, *supra* note 15, at 643; (citing source that dowry deaths are rampant in urban areas and in North India, including Delhi, Punjab, Uttar Pradesh, Bihar, and West Bengal. Dowry deaths also occur among North Indians who have settled in Assam, Nagaland, and Maharashtra, but do not occur in states such as Arunachal, Goa, Manipur, Meghalaya, etc.).

35. Nangia, *supra* note 15, at 643-44.

36. Nangia, *supra* note 15, at 644.

37. *Id.*

education and employment, thus surpassing, in most cases, the annual salary of a typical Indian family man.<sup>38</sup> The taste of wealth only wets the appetite for more, leading to a continuous cycle of extortion for more dowry at the expense of the hostage bride.<sup>39</sup>

A third, primarily historical reason was to prevent the spread of the Muslim religion and to fight off Muslim invasions.<sup>40</sup> During the thirteenth and fourteenth centuries, Hindu culture and religion came under the attack of Muslim invasions.<sup>41</sup> To protect Hindu culture and religious customs, Hindus held steadfast to their castes and agreed to inter-marry only within their castes and sub-castes.<sup>42</sup> However, due to poor economic conditions, parents of daughters began to bid for bridegrooms in an effort to find a husband of sufficient economic and social standing.<sup>43</sup> This gave way to the practice of dowry being a form of settlement in marriage rather than a gift voluntarily given.<sup>44</sup> The practice of dowry spread further to the lower castes and marriage became a commercial, contractual arrangement as "Hindu traditions suffered a period of at least 333 years of continuous anarchy during which survival was top priority...."<sup>45</sup> The practice of dowry resulted in the degeneration of old Vedic traditions and scriptures,<sup>46</sup> which held men and women as equal in status, and today thrives on the insatiable perception of material wealth as the means to survive.

Finally, scholars argue that the practice of dowry remains as a remnant of British rule and India's experiences as a British colony.<sup>47</sup> Before India was a

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38. Nangia, *supra* note 15, at 643; Pardee, *supra* note 12, at 498; Ravikant, *supra* note 3, at 458-460 (noting that the dowry is usually proportional to the husband's class, socioeconomic status, physical appearance, and education. In addition, the poorest family may spend nearly \$3,000 for a wedding (not including additional dowry), which is equivalent to nearly 10 years' worth of income for an average worker.).

39. Pardee, *supra* note 12, at 498.

40. Nangia, *supra* note 15, at 642-43.

41. *Id.*

42. *Id.*

43. Nangia, *supra* note 15, at 643

44. *Id.*

45. *Id.*

46. Pardee, *supra* note 12, at 495-96 (discussing the Vedic period, 2500 B.C to 1500 B.C, when men and women held equal status. Women's status did not change until the Aryan period began in 300 B.C. when the Brahmins (highest caste) created and solidified the social caste system. At this point, women's freedom was curtailed as the Brahmin texts degraded women, subordinated them to men, and relegated them to the status of 'unwanted progeny'); See also Greenberg, *supra* note 11, at 827-829 (discussing the relationship between Brahmin dowry practice and subsequent reinforcement by British government while India was a British colony).

47. Greenberg, *supra* note 11, at 827.



British colony, there were different forms of marriage.<sup>48</sup> While the high castes (e.g., Brahmins) engaged in the practice of dowry, other castes recognized marriages with varied rituals, including one in which the groom gave gifts to the bride and her family (bride price).<sup>49</sup> Under British rule, the government reinforced the dowry form of marriage by discouraging other forms of marriage and considered non-dowry marriages to be invalid.<sup>50</sup> By the mid-twentieth century, the various forms of Hindu marriage that existed were discredited, leaving only the Brahmin form of marriage consisting of a dowry.<sup>51</sup> Therefore, historically, Indian women and particularly Indian brides have been slaves to an ancient system of survival since 300 B.C., for over 2300 years now!<sup>52</sup> Only now, it is a matter of life or death *only* for these brides as they are held hostage to acts of torture, degradation, humiliation, and extortion. If this does not shame the international consciousness of humanity, nothing will.

While it is likely that each of these theories have contributed to the existing practice of dowry, thus resulting in the continuation of bride-burning, none of these explanations are an excuse for the continued practice of bride-burning in violation of domestic and international laws.<sup>53</sup> Statistically, bride burning is on the rise<sup>54</sup>, convictions of perpetrators are nearly non-existent,<sup>55</sup> and the international community closes its eyes while there is a slow, statistical gendercide<sup>56</sup> of women, specifically Indian women, who are burned alive or tortured to death,

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48. *Id.*

49. *Id.*

50. Greenberg, *supra* note 11, at 828-29. The British government had two main reasons for taking such a course of action. First, they wanted to standardize marriages for purposes of administrative ease so as to distinguish between valid and invalid marriages. To do so, they hired the high-caste Brahmins as Hindu "experts" for advice on traditional forms of marriage. The Brahmins recommended only the most demanding forms of dowry marriage. Therefore, as a result of standardization, all other forms of marriage disappeared by the mid-twentieth century. Second, the British government did not like the idea of the bride-price form of marriage because the gifts passed from the groom to the bride's family because they perceived it as the groom purchasing a bride, though they did not balk at the idea that dowry form could be considered as the sale of a bride. In the end, dowry forms of marriage were considered valid and all other forms were summarily extinguished and discredited.

51. Greenberg, *supra* note 11, at 829.

52. The practice of dowry began during the Aryan period beginning in 300 B.C. and continues today.

53. Pardee, *supra* note 12, at 501-09.

54. Pardee, *supra* note 12, at 500 n.57.

55. *Id.*

56. Prevent Genocide Worldwide *available at* <http://www.preventgenocide.org/genocide/officialtext-printerfriendly.htm> (last visited on November 29, 2004); See Gendercide Watch, *available at* [http://www.gendercide.org/what\\_is\\_gendercide.html](http://www.gendercide.org/what_is_gendercide.html) (definition of gendercide; relation to genocide; examples of gendercide, etc.); See also book at [http://www.gendercide.org/g\\_and\\_g.htm](http://www.gendercide.org/g_and_g.htm).

everywhere, every single day at the rate of seventeen (17) women per day.<sup>57</sup> Over the course of a 365-day per year calendar, the result is intentional, pre-meditated murder of approximately 6,200 women per year on average!<sup>58</sup>

### *C. Slow, Statistical Gendercide of Indian Women*

Bride-burnings qualify as genocide under international law.<sup>59</sup> In addition, bride-burnings can also be considered 'gendercide' as gender-based mass killings.<sup>60</sup> Under Article II of the 1948 Convention on the Prevention and Punishment of Genocide, genocide is defined as "...any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group."<sup>61</sup> Analogous to genocide, gendercide is essentially gender-selective mass killing. The term was first defined by Mary Ann Walker as "...the deliberate extermination of persons of a particular sex (or gender)...a sex-neutral term, in that the victims may be either male or female."<sup>62</sup> In this case, the victims of bride-burning are innocent, young females.

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57. Nangia, *supra* note 15, at 638, n.8 (citing the 1995 National Crimes Bureau of India statistics).

58. Note – this number does not even account for the number of suicides as a result of dowry violence or extortion. This number does not take into account intentional female infanticide or female feticide because of the fear of dowry and the perception of women in India. These numbers do not take into account such practices in over 5 other countries which practice dowry marriages and result in bride-burning, female infanticide, and female feticide.

59. Prevent Genocide Worldwide, *available at* <http://www.preventgenocide.org/genocide/officialtext-printerfriendly.htm> (last visited on November 29, 2004)

60. *Id.*

61. *Id.*

62. Gendercide Watch, "What is Gendercide?" *available at* [http://www.gendercide.org/what\\_is\\_gendercide.html](http://www.gendercide.org/what_is_gendercide.html) (citing definition as first noted in MARY ANNE WARREN, GENDERCIDE: THE IMPLICATIONS OF SEX SELECTION (1995). Warren draws an analogy to the formal definition of genocide and expands it to include gender and sex as the basis of genocide under international law and also calls attention to the fact that "[t]he term also calls attention to the fact that gender roles have often had lethal consequences, and that these are in important respects analogous to the lethal consequences of racial, religious, and class prejudice.").

The statistics on bride-burning, an arguable form of gendercide, are appalling and on the rise. For instance, India gained its independence in 1947.<sup>63</sup> Between 1947 and 1990, approximately 72,000 young brides between the ages of 15-20 years old were burned to death<sup>64</sup>, an average of 1,674 murders<sup>65</sup> per year. Between 1990 and 1998 alone, more than 20,000 women were killed,<sup>66</sup> an average of 2,500 murders per year. In 1995, the Indian government reported that an estimated 6,500 women per year die as a result of dowry-related deaths.<sup>67</sup> However, this statistic is contradicted by other, unofficial statistics, which state the figure at approximately 25,000 women per year being murdered as a result of dowry related deaths.<sup>68</sup>

Ironically, the rate of bride-burnings and other dowry deaths increased after the Indian government enacted the Dowry Prohibition Act of 1961, with later amendments in 1984 and 1986 to increase its effectiveness.<sup>69</sup> Furthermore, domestic violence became punishable by law only in 1983.<sup>70</sup> Even with these domestic legislation "protections", bride-burning continued in ever-escalating numbers and has reached epidemic proportions today, causing widespread societal, legal, economic, and cultural degeneration. The widespread, statistical impact of bride-burning and dowry-related deaths is a systematic, intentional gen-

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63. Andrea Krugman, Note, *Being Female Can Be Fatal: An Examination of India's Ban on Pre-Natal Gender Testing*, 6 CARDOZO J. INT'L & COMP. L. 215, 224 (1998).

64. *Id.*

65. The turn "murder" is used here intentionally to indicate the gravity of the manner in which the bride dies. See generally, Amanda Hitchcock, *Rising Number of Dowry Deaths in India*, World Socialist Website, July 4, 2001, available at <http://www.wsws.org/articles/2001/jul2001/ind-j04.shtml> (last visited November 29, 2004)(Even though investigations by Indian police have, in nearly all instances, found that the bride's death was a "kitchen-accident", the statistics tell otherwise in terms of the coincidence between "kitchen-accidents" and death of a daughter in law. For example, "[o]f the 1,133 cases of 'unnatural deaths' of women in Bangalore in 1997, only 157 were treated as murder while 546 were categorised as 'suicides' and 430 as 'accidents.'" But as Vimochana activist V. Gowamma explained: "We found that of 550 cases reported between January and September 1997, 71 percent were closed as 'kitchen/cooking accidents' and 'stove-bursts' after investigations under section 174 of the Code of Criminal Procedures." The fact that a large proportion of the victims were daughters-in-law was either ignored or treated as a coincidence by police.").

66. Krugman, *supra* note 63, at 224.

67. Amanda Hitchcock, "Rising Number of Dowry Deaths in India", World Socialist Website, July 4, 2001, available at <http://www.wsws.org/articles/2001/jul2001/ind-j04.shtml> (last visited November 29, 2004); See also Shravanti Reddy, Digital Freedom Network, "Ancient practice of dowry perpetuates violence against women in India", ASIA OBSERVER, November 7, 2002, available at <http://www.asiaobserver.com/India-story2.htm> (last visited November 29, 2004).

68. Himendra Thakur, "Are our sisters and daughters for sale?", Indiatgether.org, June 1999, available at <http://www.indiatgether.org/wehost/nodowry/stats.htm> (last visited November 29, 2004).

69. Pardee, *supra* note 12, at 500; See also Greenberg, *supra* note 11, at 808(citing the increasing statistics of dowry deaths after enactment of the Dowry Prohibition Act of 1961 and later amendments.).

70. Hitchcock, *supra* note 67.

dercide of young women, unborn as well as those born to a fate they cannot control.<sup>71</sup> Twelve million girls are born every year in India.<sup>72</sup> Of this number, 1.5 million girls will never reach their first birthday.<sup>73</sup> Another 850,000 girls will never see their fifth birthday.<sup>74</sup> By the age of fifteen (15), only nine (9) million girls will have survived childhood.<sup>75</sup> At the same time, there will have been an *excess* of twenty-three (23) million males in the country.<sup>76</sup> One of the most shocking, unbearable consequences is the result of one study which found that, in 1991, there were approximately thirty-one (31) million *more* males than females in India.<sup>77</sup> The societal ramifications of these statistics are grave and continued bride-burning because of dowry will lead a young, independent country quickly into the throws of major international human rights violations and domestic civil unrest.<sup>78</sup>

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71. Krugman, *supra* note 63, at 218-220 (discussing the impact of dowry on gender discrimination against women. Dowry practice is the major cause of the prevalence of gender discrimination in India. The ramifications of gender discrimination has escalated from burning brides to keeping women from even being born so the families do not have to carry the economic weight of a future dowry for their daughter. Female infanticide, foeticide, suicides, and abnormally high male-to-female ratios are rampant issues with underpinnings in the practice of dowry.); *See Case Study: Female Infanticide, Gendercide Watch, available at* [http://www.gendercide.org/case\\_infanticide.html](http://www.gendercide.org/case_infanticide.html) (last visited November 29, 2004) (quoting Marina Porras, "Female Infanticide and Foeticide"); *See also* Krugman, *supra* note 63, at 229 (arguing that a "high sex ratio society" would result in even more devastating results for women for several reasons: 1) women would only be valued for reproductive capabilities and therefore continue to be used as objects or commodities; 2) gender discrimination would continue to escalate and women would not gain political power or economic resources; 3) oppression and violence generally increases in a male-dominated societies and 4) the shortage of women may result in men stealing girls from poorer villages to be married of or, worse, taking by force what they legally cannot get via a dowry).

72. Krugman, *supra* note 63, at 218.

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.* (emphasis added).

77. *Id.* (emphasis added).

78. It could be argued that the conflict between India and Pakistan is attributed in part to the lack of the female, nurturing influence and the complete disregard of the role of women in a society as nurturers, educators, and peacemakers. The male ego and aggressiveness plays itself out in dangerous ways such as turf battles over Kashmir and nuclear proliferation and political power plays.

III. CURRENT AND PROPOSED EFFORTS TO STOP BRIDE-BURNING –  
TALKING ABOUT CONTROLLING THE ELEPHANT

Currently there are several domestic initiatives in place to criminalize the practice of dowry and to punish those involved in bride-burning.<sup>79</sup> In addition, there are grass roots initiatives to prevent bride-burning<sup>80</sup> as well as international laws against violations of human rights.<sup>81</sup> Finally, there are proposed initiatives to stop bride-burning through a combination of amendments to existing domestic law and broadening the scope of coverage under existing international law.<sup>82</sup> Unfortunately, each of these initiatives has failed to effectively curb the increase in escalated violence toward Indian brides and female children. The effectiveness of each of the major initiatives is the focus of the next section, followed by an analysis of the actual conflict and whether these initiatives are appropriate given the nature of the conflict.

*A. Indian Domestic Laws to Control Bride-Burning – Law Enforcement / No Remedies*

The first major domestic legislation to halt dowry murders was the Dowry Prohibition Act and its subsequent amendments. In 1961, the government of India (“government”) enacted the Dowry Prohibition Act (“Act”).<sup>83</sup> The Act was amended in 1984 and 1986 to “rectify several inherent weaknesses and loopholes...”<sup>84</sup> The 1986 amendment of the Act, also known as section 304B of the Indian Penal Code (“IPC”), makes it a criminal offense caused by the husband or his relatives if a “woman dies of burns or bodily injury or unnatural circumstances within seven years of the marriage and where there is evidence that she suffered cruelty and harassment in connection with dowry.”<sup>85</sup> There are five major problems with this law.

First, there is ambiguity in the definitions of “dowry” and “cruelty”.<sup>86</sup> Under the Act, “dowry” is defined as “[a]ny property or valuable security given or

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79. See *infra* notes 80-107 and accompanying text.

80. See *infra* notes 108-112 and accompanying text.

81. See *infra* notes 113-150 and accompanying text.

82. See *infra* notes 151-171 and accompanying text.

83. Greenberg, *supra* note 11, at 807 (discussing how the modern women’s movement of the late 1960s and early 1970s as well as lobbying efforts by women’s groups led to two pieces of legislation intended to combat dowry violence, including the Dowry Prohibition Act of 1961. The 1961 version prohibited dowry and the demand for dowry.); See also Nangia, *supra* note 22, at 652-653 (discussing India’s legislative response to dowry-related violence.).

84. Nangia, *supra* note 15, at 653.

85. *Id.*

86. *Id.*

agreed to be given either directly or indirectly- (a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either party to a marriage or by any other person to either party to the marriage to any other party, at or before or anytime after the marriage in connection with the marriage..."<sup>87</sup> While the definition of "dowry" is more comprehensive, it does not take into account unwritten transactions to exchange property, what property 'in connection with the marriage' is considered dowry, and the near limitless demand for dowry that happens not only immediately after the marriage, but continues over the course of the marriage in the form of extortion.<sup>88</sup> In effect, perpetrators simply find 'loopholes' and change the way they demand dowry.<sup>89</sup>

Second, there is an extensive evidentiary burden for the prosecution in terms of linking "dowry" with the ultimate "cruelty" and "death".<sup>90</sup> To correct the problem of proof, the 1983 amendment of the Act created section 113A into the Indian Evidence Act.<sup>91</sup> Section 113A creates a presumption of "abetting suicide by a married woman if the suicide occurs within seven years from the date of her marriage and if the husband or his relatives had subjected her to cruelty."<sup>92</sup> In addition, the 1986 amendment of the Act introduced section 113B into the Indian Evidence Act.<sup>93</sup> Section 113B establishes a presumption of guilt that the husband and in-laws committed the dowry murder if "the woman was subjected to harassment in connection with dowry before her death."<sup>94</sup> However, these amendments still create further evidentiary issues in establishing a clear link between dowry and suicide or harassment.<sup>95</sup>

Third, the "seven year" statute of limitations in sections 113A and 113B are inherently problematic.<sup>96</sup> Perpetrators can simply wait until after seven years to burn their bride or to cause the death of the young bride through ever-increasing dowry demands, resulting in bride-suicide.<sup>97</sup>

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87. *Id.* at 656.

88. *Id.* at 657-60.

89. *Id.* at 658 (discussing the Delhi study which indicates that in sixty percent of cases, the husbands and in-laws did not demand a dowry until after the marriage, thereby falling out of scope with the Dowry Prohibition Act. Another method is the exchange of 'gifts', which are not considered under the purview of the Dowry Prohibition Act).

90. *Id.* at 653.

91. *Id.* at 654.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.* at 654-55.

Fourth, the Indian government amended the Code of Criminal Procedure to require police to do a formal investigation if a woman has died under suspicious circumstances within seven years of marriage.<sup>98</sup> Again, this amendment to Indian positive law has failed to curb dowry murders because most bride-burnings are considered “kitchen accidents” or suicides.<sup>99</sup> Furthermore, police do not conduct a proper investigation, prosecutors seldom file charges and judges rarely hand down convictions.<sup>100</sup>

A fifth major, underlying problem with India’s positive laws in controlling bride burning is Indian society’s misguided conviction that women should expect abuse and endure it.<sup>101</sup> The whole system of dowry has its basis on the concept that men own their wives.<sup>102</sup> Therefore, this philosophy extends to the more insidious view in which “brides can be viewed as objects to be passed from one social group to another, both as a means for the procreation of children and as vehicles for aspirations to social prestige.”<sup>103</sup>

A second major Indian positive law is the 1983 “Anti-Cruelty” statute, codified as section 498A of the Indian Penal Code.<sup>104</sup> This statute prohibits cruelty towards a wife and subjects the husband and in-laws to fines or imprisonment if they subject the wife to cruelty.<sup>105</sup> Cruelty is defined as “either willful conduct likely to drive a woman to suicide or to cause her grave injury, or as harassment based on dowry demands.”<sup>106</sup> Unfortunately, this statute suffers from the same degree of ambiguity as the Dowry Prohibition Act and a similar lack of adequate enforcement to curtail bride-burnings and dowry murders.<sup>107</sup> In the final analysis, India’s positive laws have done little to address the issue of bride-burning.

### *B. Grass Roots Initiatives to Halt Bride-Burning – Cultural and Legal Road-blocks*

Because of the lack of adequate enforcement of existing domestic legislation, several grass-roots organizations have taken up the cause to halt bride-

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98. Pardee, *supra* note 12, at 501.

99. *Id.* at 105; Ravikant, *supra* note 3, at 456 (discussing the fact that because bride burnings usually take place in the home without non-family witnesses available, it is difficult to disprove the husband’s or in-law’s ‘logical’ explanation of a kitchen accident or suicide.).

100. Pardee, *supra* note 12, at 502.

101. *Id.*

102. *Id.*

103. *Id.* at 502, fn.89.

104. Greenberg, *supra* note 11, at 807.

105. *Id.*

106. *Id.*

107. *Id.* at 808-09 (citing statistics of a rise in cases involving cruelty to wives from 21,916 reported cases in 1993 to 36,432 cases in 1997. However, in another study of 737 cases registered under the Anti-Cruelty statute in the 1990s, only 2.2% resulted in convictions, over 55% resulted in acquittals, and 25% were withdrawn.).

burning. One of the grass-roots initiatives is the government-funded family counseling center cells.<sup>108</sup> The cells are usually located in or near police stations with the intended goal of dealing with domestic violence, strengthening family ties, and reducing legal intervention.<sup>109</sup> While the intentions of these cells are to strengthen family ties, they unfortunately reinforce and reframe the issue in term of 'women's sharp tongues' and the men's tendency to 'hit and beat' as a result.<sup>110</sup> Some staff members also do not see a problem with male dominance and control over women.<sup>111</sup> Rather, the problem is reframed as one of women adjusting to newly married life rather than a problem of control and subordination of wives or as genuine issues of domestic violence. This attitude simply reinforces cultural and legal perceptions of women and wives as objects.<sup>112</sup>

### *C. Human Rights Violations under International Law – Lack of Binding Enforcement*

The issue of bride-burning and other dowry-related deaths has reached the stage of endemic international human rights violations. Nearly every government legislation, government initiative, and grass-roots organization has failed to adequately address bride-burning and its more insidious, underlying problems of female infanticide, feticide of unborn females, and suicides by young brides and young women whose only fate lies in being a potential future victim. As a result, activists for these victim-brides and critics of the current state of government non-intervention are seeking redress through international law, specifically under the International Bill of Rights.<sup>113</sup> These activists argue that India and the

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108. *Id.* at 812.

109. *Id.*

110. *Id.*

111. *Id.* at 812-13.

112. *Id.* at 811-12. Because divorce is looked down-upon in Indian society and family harmony and social status is paramount, family, in-laws, friends, and even neighbors will not readily come to the aid of a wife who is experiencing domestic violence.

113. *Cf.* Pardee, *supra* note 12, at 504 (citing that the following are three international instruments that comprise the International Bill of Rights: The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights) with Shah, *supra* note 9, at 218 (citing four international law instruments that comprise the core of rights that are allowed girls and women from the time of conception: 1) the International Covenant on Civil and Political Rights (ICCPR); 2) the International Covenant on Economic, Social, and Cultural Rights (ICESCR); 3) the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and 4) the Convention on the Rights of the Child (CRC)).



Indian government are state actors, complicit in the continuing deaths of thousands of women and young brides every year due to lax enforcement of the law, near non-existent prosecution and punishment of perpetrators, and by condoning cultural practices, such as dowry, that are precursors to human rights violations against these women.<sup>114</sup>

Currently, India is party to the following international human rights instruments: 1) the International Covenant on Civil and Political Rights (ICCPR)<sup>115</sup>; 2) the International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>116</sup>; 3) the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>117</sup>; and 4) the Convention on the Rights of the Child (CRC).<sup>118</sup> In addition, scholars argue that India is also bound by the Universal Declaration of Human Rights (UDHR) as well as the Declaration for the Elimination of Violence Against Women (DEVAW) because both are arguably customary international law.<sup>119</sup>

While India is a party to these instruments and has ratified<sup>120</sup> these international human rights instruments,<sup>121</sup> the government has either made reserva-

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114. Pardee, *supra* note 12, at 501-03; Shah, *supra* note 9, at 215-17.

115. The International Covenant on Civil and Political Rights, G.A. Res. 2200A(XXI), U.N. GAOR, Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), available at [http://www.unhcr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhcr.ch/html/menu3/b/a_ccpr.htm) (last visited November 29, 2004) [hereinafter ICCPR].

116. The International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A(XXI), U.N. GAOR, Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), available at [http://www.unhcr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhcr.ch/html/menu3/b/a_cescr.htm) (last visited November 29, 2004) [hereinafter ICESCR].

117. The Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. GAOR, Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979), available at <http://www.un.org/womenwatch/daw/cedaw> (last visited November 29, 2004) [hereinafter CEDAW].

118. The Convention on the Rights of the Child, G.A. Res. 44/25, Annex 44, U.N. GAOR, Supp. No. 49, at 167, U.N. Doc. A/44/49 (1989), available at <http://www1.umn.edu/humanrts/instreet/k2crc.htm> (last visited November 29, 2004) [hereinafter CRC].

119. Pardee, *supra* note 12, at 504 (stating Professor L. Sohn's view that "...the Declaration, as an authoritative listing of human rights, has become a basic component of international customary law, binding on all states, not only on members of the United Nations..."); Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, U.N. GAOR, Supp. No. 49, at 217, U.N. Doc. A/48/49(1993), available at <http://www1.umn.edu/humanrts/instreet/e4devw.htm> (last visited November 29, 2004) [hereinafter DEVAW]; Fact Sheet No.2 (Rev.1), The International Bill of Human Rights, at <http://www.unhcr.ch/html/menu6/2/fs2.htm> (last visited November 29, 2004) (the International Bill of Rights is composed of the Universal Declaration of Human Rights (UDHR), the ICCPR and the ICESCR.).

120. Under Article 2 of the Vienna Convention on the Law of Treaties, "ratification" is defined as "...in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty," available at <http://www.un.org/law/ilc/texts/treaties.htm> (last visited on November 29, 2004).

tions<sup>122</sup> to the treaties and/or has not, to date, ratified key optional protocols.<sup>123</sup> The optional protocols, in particular, would give individuals and non-governmental organizations a right of action to file a complaint and seek redress for human rights violations at the international level. This appalling lack of effective legal control over nearly fifty (50) years of modern gendercide<sup>124</sup> flies in the face of India's hard-won independence, India's Constitution, and customary international law!<sup>125</sup> There are also several other reasons why international human rights laws have failed to address the issue of bride-burning.<sup>126</sup>

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121. Amnesty International, "*Status of Ratification (as of 6 October 2004)*", available at <http://web.amnesty.org/pages/treaty-countries-ratification-eng#ind> (last visited on November 29, 2004)(stating the major international human rights instruments and its optional protocols, the countries who have signed and ratified these instruments, countries who have indicated reservations, and countries who have not signed such instruments. India has ratified the human rights instruments, but has not signed or ratified the optional protocols which would give brides and activist groups to file complaints directly at the international level, thereby keeping victims and domestic/international activists imprisoned in an internal legal system that does not intend to ever protect brides being burned to death.).

122. Under Article 2 of the Vienna Convention on the Law of Treaties, "reservation" is defined as "...a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State," available at <http://www.un.org/law/ilc/texts/treaties.htm> (last visited on November 29, 2004).

123. Amnesty International, "*Status of Ratification (as of 6 October 2004)*", available at <http://web.amnesty.org/pages/treaty-countries-ratification-eng#ind> (last visited on November 29, 2004)(noting, for example, that the optional protocol to the International Covenant on Civil and Political Rights or the Convention on the Elimination of All Forms of Discrimination against Women would not only allow for individual complaints to be filed but states who sign and ratify the optional protocol would recognize the competence of the HRC and CEDAW (respectively) to consider individual complaints. As of October 6, 2004, India has not signed any of the major international human rights protocols to allow for individual complaints. Furthermore, while India has signed as a party to the Convention Against Torture, it has not ratified this important international human rights instrument).

124. See *supra* notes 66-85 and accompanying texts on the discussion of gendercide and its relevance to genocide and India's implicit approval of bride-burning.

125. See Thomas Buergenthal et al., PUBLIC INTERNATIONAL LAW IN A NUTSHELL 22-23 (West Group; 3rd edition (August 1, 2002))("Customary international law develops from the practice of states. To international lawyers, 'the practice of states' means official governmental conduct reflected in a variety of acts, including official statements at international conferences and in diplomatic exchanges, formal instructions to diplomatic agents, national court decisions, legislative measures or other actions taken by governments to deal with matters of international concern.); See also International and Foreign Legal Research, *Customary International Law and Generally Recognized Principles*" available at <http://www.ll.georgetown.edu/intl/other.htm> (last visited on November 29, 2004).

126. Shah, *supra* note 9, at 228.

One of the primary reasons why international law is not a fully effective solution is because of non-intervention and conflicting positions with regards to United Nations intervention and state sovereignty rights.<sup>127</sup> For example, at the same time that the United Nations General Assembly (“UN”) unanimously adopts the Universal Declaration on Human Rights (“UDHR”) articulating and enumerating the essential protected human rights of all individuals, Article 2(7) of the United Nations Charter (“UN Charter”) protects a state’s fundamental right to be free from interference by other states.<sup>128</sup> Furthermore, the UN later codified the state’s right to self-determination in both the ICCPR and the ICESCR.<sup>129</sup> By doing so, the UN places a state’s right to self-determination and self-governance above intervention to stop human rights violations occurring in the state. This is narrow and, at worst, forecloses the international community’s reach into India to force compliance with customary international law.<sup>130</sup> In addition, the Indian government has a valid argument in support of self-determination because, according to India’s elected body, India has taken affirmative steps to halt bride-burning and other dowry-related deaths.<sup>131</sup>

A second reason why international law is not effective in resolving this issue is because international declarations do not have the force and effect of formal international treaties or domestic legislation. Declarations, such as the UHDR and the Declaration for the Elimination of Violence Against Women (“DEVAW”) are technically non-binding instruments that make public proclamations of views and intentions.<sup>132</sup> Declarations may evolve into binding customary international law only to the extent that “it either crystallizes emergent rules of law or attracts uniform practice by participating states.”<sup>133</sup> To the extent that declarations are binding, the binding effect is usually seen in four key areas: 1) articulates perceived principles of customary international law; 2) directs the

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127. Pardee, *supra* note 12, at 509.

128. *Id.*

129. *Id.* (quoting Article One of both the ICCPR and ICESCR as stating, “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” In addition, . . . the 1970 UN Declaration of Friendly Relations states that “by virtue of the principles of equal rights and self-determination . . . all peoples have the right to determine, without external interference, their political status . . . and every state has the duty to respect this right . . .”). *Id.* at 509-10.

130. *Id.* at 510.

131. *Id.*

132. “Options for treaty reform: declaration” available at [http://www.senliscouncil.net/documents/biicl\\_fourth\\_convention/options\\_treaty\\_reform](http://www.senliscouncil.net/documents/biicl_fourth_convention/options_treaty_reform) (last visited November 29, 2004)

133. “Options for treaty reform: declaration” available at [http://www.senliscouncil.net/documents/biicl\\_fourth\\_convention/options\\_treaty\\_reform](http://www.senliscouncil.net/documents/biicl_fourth_convention/options_treaty_reform) (last visited November 29, 2004) (discussing the definition, use, and effect of declarations within the context of a global drug policy. Most importantly, discussing the effect of declarations made by United Nations Conferences and their binding effect on domestic policy.)

actions of UN agencies; 3) shapes the decisions and plans of domestic actors; and 4) moulds political and public opinion.<sup>134</sup> Even if declarations may eventually cause a socio-political change in a state's political or legal system, the price of that change is time and the cost of that evolution is another seventeen (17) dead young women per day for an estimated total of 6,500 per year or 25,000 per year, depending on which set of statistics one wishes to believe.<sup>135</sup> Either way, declarations have no practical binding effect and no enforcement value until they are fully received by participating nations as customary international law or codified via an international treaty.<sup>136</sup>

Third, every major international treaty that protects human rights in general, and girls and women's rights in particular, also protects the state's right and the individual's right to enjoy their culture and retain their cultural development.<sup>137</sup> International law, in many respects, is based on a cultural relativist paradigm,<sup>138</sup> meaning that naturally inherent in the right of self-determination is the right to live out one's cultural life without interference, even if those cultural mores, explicitly or implicitly, condone killing helpless individuals.<sup>139</sup> While it could be argued that cultural development is important to national sovereignty, such an argument is contrary to international human rights laws and those rights that most countries regard as sacred, such as the right to life.<sup>140</sup> However, countries that refuse to comply with international human rights are the very same countries that will use cultural relativism as a defense against compliance with do-

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134. "Options for treaty reform: declaration" available at [http://www.senliscouncil.net/documents/biicl\\_fourth\\_convention/options\\_treaty\\_reform](http://www.senliscouncil.net/documents/biicl_fourth_convention/options_treaty_reform) (last visited November 29, 2004)(arguing as an example that "the use of non-binding international instruments [i.e., declarations] to formulate UN agency regulations can, in turn, precipitate international guidelines which may become internalized in the practices and legal systems of states."). However feasible this idea may be for economic or commercial issues, it is not practical when dealing with life and death situations or cultural and religious mores that lead to cases of genocide/gendercide, this process will likely take too long to save the victims. What is needed is a "911" type system.

135. See *supra* notes 63-78 and accompanying text (discussing the number of brides burned and killed based on a variety of statistics.).

136. "Options for treaty reform: declaration" available at [http://www.senliscouncil.net/documents/biicl\\_fourth\\_convention/options\\_treaty\\_reform](http://www.senliscouncil.net/documents/biicl_fourth_convention/options_treaty_reform) (last visited November 29, 2004).

137. Pardee, *supra* note 12, at 510-11.

138. *Id.* at 510. Compare with a universalistic paradigm, where certain values and mores are universally agreed to by all states and protected by all states, regardless of cultural practices. The United Nations and international law, to date, have recognized the right of member and non-member states to preserve and practice cultural differences.

139. *Id.* at 510.

140. *Id.* at 510-11.

mestic and international human rights legislation. For example, on the present issue of bride-burning, not only do UN declarations mandate non-intervention and self-determination in the domestic issues of a state, but so does India's Constitution through its multiple party political and legal system, a system designed to keep key human rights issues such as bride-burning and dowry-related deaths as far removed from the legal and political process as possible.<sup>141</sup> By setting up inadequately enforced laws condemning dowry and bride-burning, establishing All Women's Police Stations ("AWPS") to handle "women's issues" outside of the normal police investigatory and judicial framework, sponsoring government-funded "family counseling cells" near police stations with the intended goal of strengthening family ties, and refusing to sign and ratify the UN optional protocols which would allow for individual and non-governmental organization complaints to be filed at the international level<sup>142</sup>, India has set up a seemingly effective "smoke and mirrors" defense of complying with domestic law and customary international law. In actuality, however, the practical and statistical impact of these initiatives is devastatingly clear: 1) reliance on the police as the first line of defense is ineffective because the police have a long history of violence and hostility towards women and they do not have adequate training in domestic violence;<sup>143</sup> 2) a total conflict of interest with perpetrators since most police are men and most prosecutors and judicial officers are also men;<sup>144</sup> 3) a marginalization of the issue of bride-burning and dowry-related deaths as an issue of a woman's maladjustment to marriage or a woman's bad temper rather than an issue of domestic violence;<sup>145</sup> 4) a marginalization of women's complaints of domestic violence thus reducing the seriousness of the eventual killing;<sup>146</sup> 5) continued objectification and gender discrimination of women;<sup>147</sup> and 6) a continual, spiral escalation of bride-burning and related, more deadly forms of violence against Indian women in particular.<sup>148</sup>

A fourth, rather dubious, explanation of why international law has failed to stop bride-burning, as posited by some scholars, is that developing, overpopulated nations such as India "simply cannot take on the social responsibility [of areas such as family law] that other more developed nations are able to assume",

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141. *Id.* at 511; *see also* Shah, *supra* note 9, at 210-11; Gopal, *supra* note 166, at 65-68 (discussing India's Constitutional framework and the relationship to personal laws as it affects women's rights in India).

142. Greenberg, *supra* note 11, at 810-14; *see also* Pardee, *supra* note 12, at 511-12.

143. *Id.* at 813.

144. *Id.* at 811.

145. *Id.*

146. *Id.* at 811-12.

147. *Id.* at 813-14 (quoting a district commission of police saying to a group of protesters in regards to a recent case of severe spousal abuse of a pregnant woman that "this is not a case, it is an incident...I have 5,000 incidents like this. It is a very ordinary matter.").

148. Krugman, *supra* note 63 and accompanying text.

thereby creating "deliberate gaps" in Indian legislation and "purposefully relying on social systems already in place to shoulder social and managerial burdens [of these issues]."<sup>149</sup> In addition, international laws that place humanitarian obligations on such developing countries are an added, unsustainable burden because the standards of such international human rights instruments as ICCPR, ICESCR, and CEDAW are too high. Some scholars argue that India is not a positivist state even if they have positive laws, and that certain provisions of these human rights instrument are "plainly unrealistic in a developing nation."<sup>150</sup> However, these arguments fail since India purposefully and knowingly ratified these international rights instruments. These arguments also fail because they are simply excuses to continue to reap the benefits of being called "a developing nation", while simultaneously behaving as a child with no control and a bully within the context of state sovereignty.

Finally, international law (customary or treaty), even in its most honorable, eloquent, and effective state, is not binding or enforceable even if the state has signed and ratified it. It is simply not as strong as domestic legislation. It is only as strong as the extent to which states abide by their treaty obligations or customary international law norms and to the extent that other states enforce these obligation on each other. With this in mind, most of the newly proposed initiatives look to expanded protections for women in other existing domestic laws in hopes of finally finding a solution that will stop brides from being burned to death by their husbands and in-laws.

#### *D. Proposed Initiatives to Stop Bride-Burning – Expanded Protections*

Over the course of the last three years, scholars, activists, and concerned citizens have proposed alternate initiatives to stop bride-burning since current laws have failed and are flawed.

In addition to proposals *ad nauseum* to change India's current domestic legislation against dowry and bride-burning,<sup>151</sup> one alternate proposal is to expand the protection for women under the international refugee law in order to provide

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149. Shah, *supra* note 9, at 219-21.

150. *Id.* This only begs the question that if a country cannot keep its population from killing its most defenseless persons or keep its female children from being killed before they are even born simply because of their gender, can we really trust them with much else? Since when is a person's right to life 'hard to understand' even for a developing nation?

151. Nangia, *supra* note 15, at 656-90.

asylum to victims of gender discrimination such as the young women of India.<sup>152</sup> Currently there are three binding international agreements regarding refugees: 1) the Statute of the UNHCR; 2) the UN Convention; and 3) the Protocol to the UN Convention.<sup>153</sup> The Statute of the UNHCR adopted a three-prong definition of refugee.<sup>154</sup> However, the United Nation Convention (“Convention”) has adopted only the first two parts of the Statute of the United Nations High Commissioner for Refugees (“Statute”) definition of refugee. Therefore, ‘refugees’ today is defined as those “with a well-founded fear of persecution because of their race, religion, nationality, or political opinion due to events occurring before 1951.”<sup>155</sup> However, persons meeting the definition under the Statute qualify for UNHCR protection even if the person is not considered a refugee under the Convention.<sup>156</sup> While the international refugee laws were created for the benefit of persecuted and displaced persons such as the Jewish people during World War II, today’s refugees are “victims of violence or natural disasters”, not victims of ideological persecution.<sup>157</sup> One method of accomplishing this objective is to include “women” in the definition of the “social group” category of refugee under the Protocol to the UN Convention.<sup>158</sup> By expanding the definition of this category, women who have a well-grounded fear of persecution because of their gender will be protected and can seek international asylum.<sup>159</sup> A similar resolution, recognizing the need to protect women from persecution on the basis of gender was adopted by the European Parliament in April 1984.<sup>160</sup> Unfortunately, a proposal brought forth before the United Nations High Commissioner for Refugees (“UNHCR”) to follow the lead of the European Parliament was rejected with the option left open to the individual states to consider.<sup>161</sup> While the UNHCR recognizes state sovereignty, the result is that the international

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152. Linda Cipriani, *Gender and Persecution: Protecting Women Under International Refugee Law*, 7 GEO. IMMIGR. L.J. 511 (1993).

153. *Id.* at 533.

154. *Id.* at 533-34 (citing the three-pronged definition of refugee by the Statute of the UNHCR).

155. *Id.* at 534.

156. *Id.*

157. *Id.* at 511.

158. *Id.* at 512-13 (discussing the importance of the Protocol to the UN Convention because it expanded the definition of refugee and included those persecuted because of their membership in a particular social group.).

159. *Id.* at 535-36; 534-35 (arguing that this is especially relevant in the case of India where the government seems to act as a co-conspirator in the oppression of and violence against women because of cultural or religious practices. Also “well-grounded fear of persecution” is the standard used under current refugee law.).

160. *Id.* at 535-36 (discussing the European Parliament resolution which called on states in part to “recognize the rights ‘of women in certain countries who face harsh or inhuman treatment because they are considered to have transgressed the social mores of the country’ to be considered a “social group” within the meaning of the definition of refugee in the Convention.”).

161. *Id.*

refugee laws will either be ignored with regards to gender-based persecution or enforced inconsistently.<sup>162</sup>

Another method for providing protection for victims of bride-burning or other dowry-related violence under the international refugee laws is to expand the definition of "refugee" to include "anyone having a well-grounded fear of persecution because of gender".<sup>163</sup> This approach is problematic because of the historical issues of defining "refugee" as well as "persecution".<sup>164</sup> In addition, UNHCR would have to reach agreement with member states that refugees of gender persecution will be allowed into receiving countries, a process which could take years.<sup>165</sup>

A third possible solution is to provide women increased economic interest by establishing access to property rights for women.<sup>166</sup> Traditionally, women had access over the stridhan that was given by the family and women retained rights over the disposal of stridhan.<sup>167</sup> However, the practice of stridhan has given way to the current practice of dowry, in which the young bride has no property interest and no economic interest at any point in the marriage.<sup>168</sup> This situation is further exacerbated by the fact that the bride has no rights over any property belonging to the husband during his lifetime.<sup>169</sup> The husband is free to dispose, devise, or waste marital as well as non-marital property as he sees fit.<sup>170</sup> A move towards giving women more economic interest through increased property rights would certainly provide some parity between the parties. However, current property rights legislation is not equality-based and legal attempts to increase the property rights of women is a struggle because of the socio-political, patriarchal nature of Indian cultural and religious underpinnings.<sup>171</sup>

Each of these alternative proposals has merit to the extent that more scholars, activists, and members of the international community agree about a need for change. However, these propositions are not any more effective than those that currently exist and they require changes in a positivist system when the true

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162. *Id.*

163. *Id.* at 538.

164. *Id.* at 541-43.

165. *Id.* at 542-43; 545-46.

166. Dr. Gita Gopal, *Gender An Economic Inequality in India: The Legal Connection*, 13 B.C. THIRD WORLD L.J. 63, 67-68 (1993).

167. *Id.* at 69-70.

168. *Id.* at 68-69.

169. *Id.* at 72.

170. *Id.*

171. *Id.* at 68-69.



conflict may reside elsewhere in a non-positivist, impenetrable, complex world. That is the focus of the next section – to determine the nature of the true conflict.

#### IV. PRESENT-DAY CONFLICT ANALYSIS FOR FUTURE CONFLICT RESOLUTION – TALKING TO THE ELEPHANT

To all the proponents of current domestic and international legislation, to supporters of amending current positive law, imposing sanctions for violations of international law, and proposing new laws to stop bride-burning, I say “Stop the Madness!”

The current law is part of the problem, not the solution. We, as a concerned body of international scholars, educators, lawmakers, mothers, fathers, sisters, brothers, daughters, sons, friends, relatives, neighbors, and the future-born, must look elsewhere because the law has failed us for over 2,500 years and it will continue to fail us, albeit slowly so we do not recognize it. “The deck is stacked”<sup>172</sup> against the women of India! Only a careful understanding and analysis of the conflict will force us to pause, reflect, and look at the real problems, thereby opening our minds to find real, effective, practical solutions. As Albert Einstein so astutely stated, “No problem can be solved from the same level of consciousness that created it.”<sup>173</sup> Therefore, the solution to the problem of bride-burning lies outside the paradigm of positivist rules, patriarchal attitudes, and victim mentalities.

##### *A. Components of the Present-Day Conflict*

The issue of intentionally dousing the bride with kerosene and letting her burn to death as a result of one party’s failed attempts at extorting more dowry from the bride’s parents or family is consistent with Pruitt and Kim’s definition

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172. “The deck is stacked” is an American colloquial term that indicates that even if there are rules of fair play, they do not necessarily apply and most often, it affects those people for whom the rules were intended to protect. In this case, the anti-dowry laws, anti-cruelty laws, the dowry murder acts, and all international laws which should protect women do not apply equally or well, as evidenced by the male-dominated culture that enacted the laws, the patriarchal society that runs the country, the male-dominated police force and legal system, as well as the intense, societal and cultural subjugation women that is at the core of the religions of India. Basically, Indian brides are rats trapped in a maze created by the very persons who will eventually kill them and where there is no way out...at least so it seems.

173. Albert Einstein (1879 - 1955) was an American (German-born) theoretical physicist. Einstein became a citizen of the United States in 1940, but also retained his Swiss citizenship. Among his other well-known quotes is: “Any fool can make things bigger, more complex, and more violent. It takes a touch of genius--and a lot of courage--to move in the opposite direction.”

of conflict. According to Pruitt and Kim, conflict is defined as “a *perceived divergence of interest*, a belief the parties’ current aspirations are incompatible.”<sup>174</sup> This means that one party believes that if he/she gets what they want, the other party will not get what he/she wants, setting the stage for potential overt confrontation.<sup>175</sup> *Interests* are “people’s feelings about what is basically desirable.”<sup>176</sup> These interests are central to why people think the way they do and consequently shape a person’s actions and form “the core of many of their attitudes, goals, and intentions.”<sup>177</sup> Interests can be tangible, universal, or specific to certain actors.<sup>178</sup> Interests can also be hierarchical, such as one interest having higher priority than another interest, or some interests can underlie other interests.<sup>179</sup> As argued by Pruitt and Kim, before one party’s interest can clash with another party, the interests must be translated into *aspirations*, “mental representations of the things that a party strives for or believes it must achieve.”<sup>180</sup> Aspirations can be goals, such as the goal of earning a certain salary per year, or standards, in which a party may want to stay on good terms with an ally.<sup>181</sup> Therefore, there is a *conflict* when one party (e.g., “P1”=bride) and another party (e.g., “P2”=groom) perceive that their aspirations are not compatible and any available options do not satisfy both parties’ aspirations.<sup>182</sup> In addition, if a party fails to achieve “reasonable aspirations,” there will be an immediate divergence of interest, resulting in the experience of *relative deprivation*.<sup>183</sup>

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174. DEAN G. PRUITT & SUNG HEE KIM, *SOCIAL CONFLICT: ESCALATION, STALEMATE, AND SETTLEMENT* 7-8 (3<sup>rd</sup> ed., McGraw-Hill Higher Education 2004).

175. *Id.* at 8.

176. *Id.* at 15.

177. *Id.*

178. *Id.* at 16 (Tangible interests are things such as money, water, money, or territory. Intangible interests include power, honor, or recognition. Universal interests include basic human needs for physical well being, security, identity, freedom, justice, respect, and clarity about one’s world.)

179. *Id.* at 16.

180. *Id.*

181. *Id.*

182. *Id.* Pruitt and Kim use “Party” and “Other” to represent what I have indicated as P1 and P2. I use P1 and P2 intentionally to indicate that there are two responsible parties to the conflict, both of whom will have to be active in the resolution of the conflict. I also use “Other” to represent an outside party. In this scenario, P1 and P2 represent bridegroom and bride, respectively. I also use this particular terminology as a paradigm shift such that “Party” and “Other” might represent a “them vs. us” view and to not confuse it with a third-party who may be the source of the problem. I use “Other” to represent third parties, such as in-laws or parents who have an indirect influence in the issue of bride-burning. “Other” represents either the bridegroom’s family (O1) or the bride’s family (O2).

183. *Id.* at 19-20.

This deprivation is “relative” because a party feels deprived relative to a reasonable standard,<sup>184</sup> such that a party does not get what he/she feels or expects to get in a given situation. The initial reaction to this deprivation may be frustration or indignation; however if the source of the deprivation is a person or group, the party feeling deprived may resort to contentious tactics against the perceived source of deprivation.<sup>185</sup>

The goal is to achieve an *integrative solution* to the problem, one where the parties’ interests reconcile, thereby reducing the perceived conflict.<sup>186</sup> However, what frequently happens is that P1 (bride) compromises more than P2 (groom), resulting in a *partisan alternative*, where one party’s aspirations are met at the expense of another party’s aspirations.<sup>187</sup> This situation is further complicated by the imposition of the aspirations of a third-party (“Other”) as in the case of dowry-deaths and bride-burning. The “Other” party in this case includes the bride’s parents (“O1”) and the groom’s parents (“O2”). Each of these parties has aspirations with respect to the impending marriage, dowry, and life thereafter. Therefore, there could potentially be several layers of conflicts occurring simultaneously, including: 1) between P1 and P2; 2) between P1 and O1; 3) between P2 and O2; 4) between P1 and O2; 5) between P2 and O1; and 6) between O1 and O2. This situation is then further exacerbated by societal and cultural pressures, real or perceived, to preserve traditions for future generations.

Applying the components of conflict described above, the issue of bride-burning is complex, yet it is also relatively simple. Bride-burning has its roots in the system of dowry, a cultural practice that involves a negotiation between the family of the bride and the family of the groom for money or property in exchange for the marriage of the daughter, conducted in an environment laced with unequal bargaining power, coercion, social inequality and financial hardship for the bride and her family.<sup>188</sup>

In this case, Other’s aspirations have priority over P1 and P2’s aspirations and P2’s aspirations have priority over P1’s aspirations. The bride’s parents’ aspirations are driven by improving their social status or standard of living as

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184. *Id.*

185. *Id.* (describing the nature of relative deprivation and arguing that one does not need relative deprivation to have divergence of interest which creates a conflict, but that a divergence of interest can be based on statements of motive or lack of trust exhibited between Party and Other. Furthermore, parties may use contentious tactics regardless of whether there is an experience of relative deprivation).

186. *Id.* at 16.

187. *Id.* Integrative solutions could be considered “win-win”, while partisan alternatives would be considered “win-lose”.

188. Nangia, *supra* note 15, at 644-45; *See also* Shannon S. Ragsdale and Vanessa D. Campbell, *Protection of the Female Child: The Mothers of Our Future – Case Studies of India, Pakistan, Bangladesh, and Sri Lanka*, 7 TULSA J. COMP. & INT’L L. 177, 194 (1999)(discussing dowry killings in the context of the plight of the female child in India.).

well as the goal of ridding the family of an "economic liability" in the form of their daughter.<sup>189</sup> The groom's parents aspire to increase their social standards through a large dowry and to find a bride for their son who will bear children to continue the family name.<sup>190</sup> Furthermore, P2's aspirations include finding a bride, but also gaining sufficient dowry to take care of her, their new family, and P2's birth family. This is further complicated by society's view that P2's value is greater than P1, P2 retains all economic and property interest, and P1 has no value as a human being apart from serving P1 and being a reproductive slave.<sup>191</sup>

The societal, cultural and religious interests are overreaching and hierarchically superior to those who compose the society. Therefore, we have a hierarchy of interests among the parties, interests that are defined in terms of measurable (goals) and immeasurable (standards) aspirations, and a true conflict because the aspirations of the parties are not compatible given that it results in the death of one of the parties<sup>192</sup> and the loss of any benefit that may have been gained by any of the parties.

One of the reasons for the perceived conflict is that both sides, or all sides in this issue, are engage in zero-sum thinking. *Zero-sum thinking* is the belief that "the other's gain is one's own loss, and vice versa."<sup>193</sup> This only encourages the conflict when, in reality, zero-sum thinking is a faulty belief because, in nearly all cases, parties have compatible interests but they are blind to see them.<sup>194</sup>

Another reason is *ambiguity about each party's relative power* and an improbable set of *invidious comparisons* created by *status inconsistencies* as per-

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189. Ragsdale, *supra* note 188, at 194 (discussing the fact that the practice of dowry only further reinforces the belief that female children are "economic liabilities"). See also Shah, *supra* note 9, at 214 (citing that the "bride's family is just as culpable...seek to elevate their status, not through the acquisition of material goods, but through their daughter's marriage into a family with a caste or class higher than their own.")

190. Shah, *supra* note 9, at 214 (stating that "...groom's family is typically in a position of greater bargaining power in Indian marriage negotiations...groom's family often chooses a woman of lower caste or class and demands a high dowry...secure in the knowledge that such demands will be...satisfied, since the marriage will bring the much-desired status to the bride's family...").

191. Ragsdale, *supra* note 188, at 194-95; Nangia, *supra* note 15, at 645-47.

192. Of course, the assumption here is that the death of the bride is significant enough that it was not the desired end-result or an aspiration. It is also assumed that neither party or Other goes into the process of marriage or dowry with the intent of causing the death of the bride, regardless of their motivations.

193. Pruitt, *supra* note 174, at 22.

194. *Id.* (stating that a faulty belief can be the main culprit to escalating the conflict (citing Thompson & Hrebec, 1996)).

petuated by the Indian caste system and the continuing practice of dowry.<sup>195</sup> The caste system reinforces the notion that one group should be afforded more wealth or power simply by virtue of their birthright while the practice of dowry perpetuates the belief that one party is stronger than another and therefore has greater bargaining power, causing the bride's family to unnecessarily give up ten years of salary for virtually nothing in return.<sup>196</sup> The result is distrust between castes, lack of normative consensus between different groups who want to achieve the same level of aspirations, and inter-group conflict because of a perceived lack of tangible or intangible resources, ending in active ethnocentrism.<sup>197</sup> One could easily argue that the parties in the Indian society have set themselves up to completely fail in trying to achieve any sense of honorable solution to the issue of bride-burning, much less to the myriad of other problems that face their country. The fate of each individual is sealed to unending conflict unless there is a significant shift in consciousness either internally or with the help of the international community.

### *B. Strategy of Conflict and Use of Tactics*

The views of the parties about each other, the relationship between the parties, and the source and nature of the inter-group (i.e., inter-caste) conflicts are volatile dynamics which lead the parties to engage in conflict-management tactics that only escalate the conflict.

According to Pruitt and Kim, there are four basic strategies for settling a conflict: 1) contending or using contentious tactics to lower the other party's aspirations; 2) *problem-solving* to find a way to satisfy both parties' interests; 3) *yielding*, which involves agreeing to the other party's demands; and 4) *avoiding* the conflict altogether by being inactive or withdrawing from the conflict alto-

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195. *Id.*

196. Pardee, *supra* note 12, at 497 n.48; Ragsdale, *supra* note 188, at 194 (stating that "a typical dowry is the equivalent of a family's total earnings for several years."); See also Angela K. Carlson-Whitley, *Dowry Death: A Violation of the Right to Life Under Article Six of the International Covenant on Civil and Political Rights*, 17 PUGET SOUND L. REV. 637, 640 (1994)(stating that "a family is required to raise a dowry many times the annual earnings of the household to marry off their daughter."); Ravikant, *supra* note 3, at 459(stating that "...even the poorest Indian families spend more than \$3,000 on a wedding, which is the equivalent of nearly ten years' income for an average worker." "The price for having a daughter is debt and "economic bondage" for many Indian families.").

197. Pruitt, *supra* note 174, at 29 (ethnocentrism is favoring one's own group over another group. This can occur from having a social identity or from engaging in similar activities or having similar aspirations. In this context, ethnocentrism refers to the in-group/out-group effect and favoritism caused by the rigid caste system. The social identity theory was developed by Tajfel and Turner (1979, 1986) and holds that "mere awareness of the presence of the out-group is sufficient to provoke intergroup competitive or discriminatory responses on the part of the ingroup.").

gether.<sup>198</sup> In the case of bride-burning, the parties, especially the groom and the groom's family choose to handle the conflict through contentious tactics by coercing the bride and her family to yield to their demands. Furthermore, the contending and yielding tactics are being used within the context of blame direction and culture<sup>199</sup> as backdrops to the strategic choice made in attempting to solve the problem.

The most glaring influence on the strategy and tactics employed to create the conflict prevalent in the case of bride-burning is the impact of culture.<sup>200</sup> India is considered a collectivist culture.<sup>201</sup> As a collectivist culture, several key observations are relevant to understanding why Indian society has adopted dowry practice, why it continues today despite devastating implications, and why current and proposed alternatives to stop bride-burning have failed to effectively control the unnecessary deaths of young Indian women for the last 50 years.<sup>202</sup> First, the primary motivation for a collectivist culture is interdependence, group welfare, group harmony, and equality.<sup>203</sup> As a result, group goals and interests take precedence over individual goals and interests, resulting in a

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198. *Id.* at 5-7 and 37-39 (emphasis added).

199. *Id.* at 39-40 (articulating "four sets of theoretical notions about the conditions that affect choice among the basic strategies" of contending, yielding, problem-solving, and avoiding. These four perspectives include: 1) the dual concern model (based on relative strength of concern about Party's and Other's outcomes); 2) the perceived feasibility perspective (related to the perceived likelihood of success and the cost or risk of enacting the various strategies); 3) the blame direction model (which uses self-blame, other-blame, or mutual blame as a means to solve the problem); and 4) the impact of culture (individualism vs. collectivism as it affects conflict management tactics).

200. *Id.* at 56-62 (Culture, as used in this article is defined as "the set of shared and enduring meanings, values, and beliefs that characterize national, ethnic, or other groups." (Faure & Rubin, 1993). According to Pruitt and Kim, culture is "an important determinant of people's attitudes, self-construal, and behavior, and hence their strategic choice [in resolving conflict]." (citing Avruch (1998), Cohen (1991) and Faure & Rubin (1993)).

201. *Id.* (highlighting the differences between individualism and collectivism and how this affects the creation of conflict. Countries in Asia are generally considered to be collectivist cultures, such as China, Japan, India, Korea, etc. North American and European countries are generally individualist cultures.). As Pruitt and Kim point out, the notion of cultures as based on individualism and collectivism are derived from the works of Hofstede (1980) and Triandis (1995).

202. I indicate a period of 50 years as beginning at the point when India obtained its independence from Great Britain and began a period of self-governance. Certainly, bride-burnings likely occurred even during the Vedic period near 300 B.C., when dowry was initiated; however, the current modern period is to provide some context within which to compare why current methods to solve the bride-burning issue have failed.

203. Pruitt, *supra* note 174, at 56 (Individualist cultures, by contrast, place greater value on independence, personal achievement, rights, freedoms, and equity. In addition, members of an individualist culture place personal goals and interests ahead of group goals and interest within the hierarchy of interests.).

situation where individuals are essentially required to sacrifice their goals and interests in order to achieve and maintain group harmony and group welfare.<sup>204</sup> In the case of bride-burning, the groom and the bride appear to be pawns in the chess game between their respective families to increase their material wealth, upgrade to a better standard of living, and improve their social status. Certainly the bride has no voice and no right to assert her independence or her interests. Both the bride and groom are fated to a life defined for men and women nearly 2,500 years ago, a standard that is inconsistent with living in the world today. Furthermore, families perpetuate the gender-biased roles of men and women as well as the roles of groups defined by Indian religious and cultural mythology by subjecting themselves to countless rituals and financial hardships at the expense of group harmony and group welfare. This game is further complicated by cultural and religious norms which regard families having a daughter as disadvantaged over families having a son, one caste having superior status over another caste, and the impenetrable history of female subjugation and cultural disintegration.<sup>205</sup>

Second, with respect to conflict management, collectivist cultures like India tend to handle conflict via indirection.<sup>206</sup> Instead of confronting conflict, members of a collectivist culture tend to avoid dealing with conflict, have an aversion to confrontation, and especially do not like the use of contentious tactics.<sup>207</sup> In dealing with conflict, collectivist cultures engage in indirect, covert problem solving such as working through intermediaries.<sup>208</sup> One of the primary ways this approach is manifested is through the ingroup/outgroup paradigm.<sup>209</sup> Collectivist cultures generally function according to a common group identity.<sup>210</sup> Members of a common group will be part of the “ingroup” and those outside of the common group identity are considered part of the “outgroup” or opponents.<sup>211</sup>

This has several implications with regards to the strategy and tactics used between ingroups and outgroups to handle conflict. Collectivist cultures are more likely to distrust outgroup members, have a weak sense of fairness or no sense of fairness with respect to outgroup members, and more likely to use deceptive tactics when negotiating with outgroup members.<sup>212</sup> In addition, members of an ingroup tend to adopt much harsher, contentious tactics against out-

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204. *Id.*

205. *See supra* notes 13-58 and accompanying text.

206. Pruitt, *supra* note 174, at 57 (discussing the nature of conflict resolution in individualist cultures versus collectivist cultures.).

207. *Id.* However, the tactics that result in bride-burning are contentious, yet very much in keeping within the context of collectivist cultures.

208. *Id.* (citing Gelfand et al., 2001).

209. *Id.* at 59-60.

210. *Id.*

211. *Id.*

212. *Id.* at 60.

group members, treating outgroup members as “nonpersons” or “unfamiliar faces” against whom violence is not only expected, but can easily be justified.<sup>213</sup> The ramification of being part of the outgroup is the loss of protection as a member of an ingroup, the loss of one’s moral community, and the threat of violence should the outgroup member appear to threaten ingroup welfare and harmony,<sup>214</sup> apparently even if this means asserting the right to life as in the case of bride-burning and other dowry-related deaths. As asserted by Triandis, a noted expert on culture and conflict, “collectivists are extremely hospitable, cooperative, and helpful towards ingroups but can be rude, exploitative, and even hostile towards their outgroups.”<sup>215</sup> With respect to the issue of bride-burning, the Indian girl and the Indian women today *should* be a member of the ingroup with respect to her birth family. However, it is quite clear from the historical analysis of women in the Indian culture as well as the practice of dowry that an Indian girl is born as a member of an outgroup without any choice, a group defined simply on the basis of gender, regardless of other supporting factors such as caste, culture, or religion.

Because she is a woman and because she is Indian, she is a non-person, even if she is born within a wealthy family. Even within her immediate family, she is part of the outgroup because she is considered an “economic burden.”<sup>216</sup> Therefore, it is not uncommon for girl children in India to be treated with less respect and care even in her own family.<sup>217</sup> Because she is treated as a member of an outgroup, a future Indian bride does not receive the same type of protection in society as a future groom. When she is married off, most often to someone of a higher caste, she becomes a member of an ingroup consisting of the

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213. *Id.*

214. *Id.*

215. *Id.* (citing Triandis (1990) at pg. 42).

216. Pardee, *supra* note 12, at 493; Ravikant, *supra* note 3, at 459 (noting that having a daughter is considered debt and “economic bondage” for Indian families); Nangia, *supra* note 15, at 648 (discussing the fact that even an educated woman is discouraged from being independent and earning an independent woman. Women who strive academically or professionally with the goal of becoming independently self-sufficient are viewed as arrogant or licentious.).

217. Beverly Horsburgh, *Deconstructing Children's Rights and Reimagining Children's Needs: A Gender, Race, and Class Analysis of Infanticide*, 10 ST. THOMAS L. REV. 229 n.8 (1998) (stating that girls are consistently underfed and deprived of medical care.). See also MARILYN FRENCH, *THE WAR AGAINST WOMEN*, 115-116 (1992); S.H. Venkatramani, *Female Infanticide: Born to Die in FEMICIDE: THE POLITICS OF WOMAN KILLING* (Jill Radford and Diana Russell eds., 1992). Female children in India are subject to female infanticide, malnourishment, less education, gender discrimination and less economic opportunities because they are female and less valued than males.



higher caste, but she is always treated and regarded as an outgroup member, especially in the family of her in-laws. The dowry further supports her outgroup status throughout her life since the bride's family offers the dowry as "pay-off" for the ingroup to take the daughter (i.e., the economic burden) off of her parent's hands. Societal, cultural, and religious ideology and practices firmly cement the Indian woman's fate as a member of a gender-based outgroup by regarding women as troublemakers, slaves to their husbands, and born for the sole purpose of procreation and patriarchal servitude.<sup>218</sup>

The enactment of the Dowry Prohibition Act and Anti-Cruelty statutes, while attempting to halt the practice bride-burning, only cause further conflict between ingroups and outgroups. A girl's family is not likely to decline paying a dowry because the societal and financial pressures are too great.<sup>219</sup> Furthermore, neither the girl's family nor the groom's family will report abuse of dowry or dowry-related violence much less admit to bride-burning because the potential imprisonment of the male members of both families as well as mutual blame would result in both families having primary breadwinners in jail.<sup>220</sup> Again, this apparently has greater societal and financial implications than seeking to avenge the death of a woman already considered as an outcast.<sup>221</sup>

Furthermore, the legal attempts to halt the practice of dowry and prevent dowry-related deaths, such as bride-burning are individualist remedies to collectivist problems. Remedies are based on individualist notions of fairness in response to collectivist interpretations of the problem.<sup>222</sup> Some have even argued that India's Constitution is a positivist document imposed by an individualist mindset attempting to govern a people whose way of life is inconsistent with its own legal and political system.<sup>223</sup> For example, the legal system allows for the individualist way of solving conflict, by confronting conflict rather than avoiding it and by direct problem solving with the other person or through the court system.<sup>224</sup> However, India's Constitutional and legal framework is set up so as to delineate between constitutional guarantees and personal or customary laws (i.e., laws that govern matters such as family, marriage, divorce, child support, etc.) such that personal or customary laws fall outside of the legal system for remedies.<sup>225</sup> In addition, to date, there has been no constitutional challenge to

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218. See *supra* notes 13-58 and accompanying text.

219. Shah, *supra* note 9, at 214 (stating that despite protections of law, the parents of the girl child are not likely to discourage dowry).

220. Shah, *supra* note 9, at 216 (stating that the criminalization of dowry and dowry deaths is ineffective because of placing blame on the families and the resulting loss of key family members).

221. Ravikant, *supra* note 3 at 457.

222. Pruitt, *supra* note 174, at 60 (distinguishing between individualist and collectivist notions of fairness in the distribution of resources.).

223. Gopal, *supra* note 166, at 66-68.

224. Pruitt, *supra* note 174, at 56-57.

225. Gopal, *supra* note 166, at 66.

the practice of dowry or the ensuing torture, humiliation, and enslavement of women as a violation of India's constitutional guarantee of equality. In this context, a positivist or individualist approach to a collectivist problem is useless without first acknowledging that India's constitutional guarantee of equality applies to all and that the female child in India has a legal right worth vindicating. As it is, being perceived as a non-person is the equivalent of being non-existent, thereby having no right at all. It is no wonder that legislative attempts to halt the practice of dowry or bride-burnings have, to date, miserably failed.

A second, major influence on the strategy and tactics employed by parties involved in bride-burning is blame direction. Blame direction is essentially attributing the cause of the conflict in one of three directions: 1) the other party (other-blame); 2) themselves (self-blame); and 3) both parties (mutual-blame).<sup>226</sup> When other-blame is used, parties will mainly use contentious tactics because both are engaged in zero-sum thinking.<sup>227</sup> This creates the perception that one part is being treated unfairly at the hands of another party, which produces anger and further escalates the contentious behavior.<sup>228</sup> When self-blame is used, parties find fault within themselves for the conflict.<sup>229</sup> Self-blame tends to produce yielding behavior because the party feels a sense of guilt<sup>230</sup> for having caused the conflict and believes that "one must atone for one's misdeeds."<sup>231</sup> Self-blame is more likely when the conflict is mild while other-blame is prevalent in more intense conflicts.<sup>232</sup>

The situation that ultimately leads to the untimely deaths of young women in India via bride-burning is the result of this endless cycle of other-blame and self-blame. The future bride's family blames the girl-child simply for being born a girl, treating her as "economic bondage" and relegating her to the status of an outcast. The parents then unnecessarily carry with them the guilt of self-blame because they gave birth to a girl. This guilt is further reinforced by societal mores that regard families having a girl child as, on the one hand, obligated

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226. Pruitt, *supra* note 174, at 53 (citing Orvis et al., 1976; Shaver, 1985)(Under the blame-direction paradigm, people ask attribution-type questions such as "Who is responsible for this conflict?" and "Who is to blame?").

227. *Id.* at 54.

228. *Id.* at 60 (arguing that feelings of being unfairly treated only justify using harsher tactics by one party against the other.).

229. *Id.* (stating that self-blame is not uncommon as a mean of retaining control over events which one cannot control (citing Andrews & Brewin, 1990; Bulman & Wortman, 1977)).

230. *Id.* at 54 (citing Lazarus, 1991).

231. *Id.* at 54-55 (citing Freedman et al., 1967; Konoske et al., 1979).

232. *Id.* at 55.

to give up the girl child to a family to serve society as a whole, and on the other hand, as being socially disadvantaged. In this way, the family with a girl child may feel almost doubly victimized, first by being seen as an outgroup for having a daughter and second, by knowing that the majority of their lives will have to be spent saving up enough dowry to marry off their daughter. These are enormous pressures.

Furthermore, society implicitly blames and punishes families with girls by constantly reminding them of the burden of dowry and the gruesome alternatives for bearing a female child, such as selective female abortions and female infanticide.<sup>233</sup> In turn, a girl child in India is keenly aware of her lowly status on the totem pole and goes through a destructive pattern of self-blame and a near-obsessive pattern of guilt for what her parents must go through, believing that she is at fault and resigns herself to eventual fate. If she is unable to cope with this guilt, the tremendous societal pressures, negative messages, and the inability of her family to raise a sufficient dowry might eventually lead her to commit suicide, a sad yet very common practice these days among young women who are reaching marriageable age in India. In fact, most recently, four young Indian women committed suicide together and left a note stating that they could no longer bear the pain it was causing their parents in attempting to collect enough dowry for their future marriage.<sup>234</sup> They ended their lives in sacrifice for their brothers and parents to have a future free from this coercive and corrosive practice.<sup>235</sup>

The groom's family, knowing that they have the upper hand in the dowry negotiations, will generally practice other-blame, reminding the bride's family that they are of a lower caste, blaming the bride's family for having insufficient dowry or raising a girl that is not worthy of the groom. Regardless of how capable of a wife or mother the bride is, the husband and in-laws regard her as an outgroup member and will blame her for minor shortcomings, resorting to violence without the need to justify their actions. The groom and his family always regard themselves as part of the 'ingroup' simply by virtue of having a son in the family. When combined with the bride-family's guilt over having a daughter, the bride's family will generally yield to the demands of the groom and his family regarding the amount of dowry. Therefore, regardless of the amount of dowry paid or extorted, the bride and her family will *always* be outgroup members in relation to the groom and his family. This is the insidious side effect of

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233. Krugman, *supra* note 63, at 221-24.

234. "Indian Dowry Massacre: Mom Kills 3 Girls Then Herself", *S Paknews.com*, Updated on 2002-09-18 04:44:36 available at <http://indianterrorism.bravepages.com/IndianWomen2.htm> (last visited November 29, 2004); *India's Hidden Tragedy*, *BOSTON GLOBE*, August 4, 1991, at A26 (in 1988, three sisters hanged themselves from a ceiling fan because of dowry issues and the fear that their parents would face dowry burdens when it came their turn to marry)

235. *Id.*

combining two volatile elements, hoping to have a happy ending. It is the equivalent of lighting a match at a gas station, like oil and fire.

Furthermore, as the current body of literature, articles, and analyses clearly indicates, India, as a collectivist society, sees itself as an ingroup and attributes the problem of bride-burning and dowry-related deaths to external or outgroup elements. By blaming this problem on external factors such as "women's tongues", a woman's role in society, western consumerism, the residual effects of British colonialism, or even 'greed', India loses the opportunity to truly understand the underlying issues, engage in true problem solving through a democratic process, and assert its independence as a self-governing nation. Instead, by employing other-blame tactics, members of the Indian community lose "face" and a critical opportunity to show the world that it can address the social ills that plague the nation. However, by switching to self-blame or even mutual-blame, members of the Indian community can rise above to set an example for neighboring nations in this issue, as they are doing so in the commercial and technology arena, by taking responsibility and engaging in true problem solving.

When parties see conflict primarily from the vantage point of the impact of culture and blame direction, they employ tactics of contending and yielding.<sup>236</sup> Contending involves the use of contentious tactics by imposing one's preferred solution onto the other party, usually by persuading or forcing the other party to yield.<sup>237</sup> Contentious tactics lie on a continuum between the less contentious practice of ingratiation and the most contentious tactic of violence.<sup>238</sup> Yielding essentially involves capitulating to the other party's demands by "lowering own's own aspirations and settling for less than one would have liked."<sup>239</sup> Yielding can take the form of settling for less than expected, carving out a compromise, giving up something in exchange for the other party also giving up something, or simply giving in to the other party's demands.<sup>240</sup>

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236. Pruitt, *supra* note 174, at 53-60.

237. *Id.* at 63.

238. *Id.* at 63-81 (the list of contentious tactics here includes the following: 1) ingratiation; 2) promises; 3) persuasive argumentation; 4) shaming; 5) tit-for-tat; 6) threats; 7) coercive commitments; and 8) violence. Nonviolent resistance is also a tactic that can be used by low power groups to challenge the status quo without employing violence and could be considered a contentious tactic. A perfect example is the set of actions taken by Mohandas K. Gandhi (e.g., fasts) to secure concessions from the British forces that occupied India and eventually win India's independence from Britain.)

239. *Id.* at 5.

240. *Id.* at 5. The authors point out that yielding is an active strategy in the sense that it involves a "relatively consistent, coherent effort to settle a conflict." However, I disagree to the extent that if one is being coerced or threatened, yielding is not necessarily active strategy as much as a

In the case of bride-burning, the groom and his family use various contentious tactics to demand more dowry at various stages, eventually justifying the horrific act of burning the bride by claiming that it was a 'kitchen accident' or blaming the bride or her family in some way. Contentious tactics used by the husband and his in-laws include ingratiating, shaming, threats, and violence leading to mutilation or death.<sup>241</sup> For example, ingratiating could be accomplished simply by the prospective groom's family pretending to fairly negotiate the dowry demand or agreeing not to ask for a dowry at the time of marriage. While the bride's family thinks well of the prospective groom, what they do not realize is that the groom's family is only setting the stage for demanding dowry after the marriage or quietly extorting dowry throughout the married life of the couple by other means such as "gifts" for future born children, social functions, political contributions, etc.<sup>242</sup> In so doing, the prospective groom's family are also outside the scope of the seven-year statute of limitations for the Dowry Prohibition Act and the Dowry Murder Acts.<sup>243</sup>

An example of shaming is the case of Prema. Prema was married with a daughter and worked at a factory. As a result of pressures at home, she fled from her husband's home to live with her friend.<sup>244</sup> Upon returning to her job, she found the walls of the factory "covered with signs saying that she was a slut who had run off with another man."<sup>245</sup> She was forced to work alone and spent most of time crying until she eventually returned to her husband after two years because of the social pressures of not living with her husband, not being able to get a divorce, and in fear for her daughter's well-being.<sup>246</sup> Everyone had exposed her and made her feel ashamed for not making her marriage work. In

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passive reaction to avoid grave harm in some way. In the case of bride-burning, there are other factors that force a party to yield, whether consciously or unconsciously.

241. *Id.* at 63-80 (Ingratiation is defined as a "tactic in which Party tries to make itself more attractive to Other in an effort to prepare the Other for subsequent exploitation." Shaming is the "act of causing Other to feel the emotion of shame, the painful feeling characterized by a global condemnation of oneself...usually achieved by publicizing Other's defects or transgressions." (citing Smith et al, 2002). Threats are "message[s] from Party announcing the intention to hurt Other if Other fails to comply with Party's wishes." They differ in degree of explicitness. Violence is "behavior that is intended to physically injure another person or an object valued by another person." There is *instrumental violence*, whose aim is to advance Party's cause in a conflict with other, and *emotional violence*, where harming Other is an end in itself and involves emotions of anger, hostility, or the desire for revenge directed at Other. Most violence is a combination of instrumental and emotional.

242. Nangia, *supra* note 15, at 645-47 (discussing the extensive nature of dowry demands even after the bride and groom are married, such as when a child is born, the child reaches a certain age, etc.)

243. *Id.* at 658 (noting that many future in-laws bypass the dowry prohibition act by not demanding a dowry at the time of marriage, but doing so after the marriage, thus being outside the scope of the protection of the law.)

244. Greenberg, *supra* note 11, at 838.

245. *Id.*

246. *Id.* at 838-39.

addition, unmarried women as well as families of unmarried women are made to feel ashamed and useless simply for being unmarried or having a daughter who is unmarried. Shaming is a most devastating contentious tactic, considered a "highly potent way to elicit compliance"<sup>247</sup> and the "most powerful tool of social control."<sup>248</sup>

Threats are also very common in the issue of bride-burning as the primary form of dowry-related deaths. For example, six months after Santara was married, her in-laws began to threaten her for more dowry.<sup>249</sup> Her mother-in-law told her "Why don't you go home and get 50,000 rupees (about \$1,600), otherwise we'll throw kerosene on you."<sup>250</sup> Eventually, because Santara's family could not provide the additional dowry, Santara's mother-in-law carried out her threat and poured kerosene on her.<sup>251</sup> Santara was able to run and hide at a neighbor's home before the mother-in-law could set her on fire.<sup>252</sup> Unfortunately, she had to return to her in-laws because her mother refused to take back a married daughter, saying that she could "not keep a married daughter with me...it would mean more and more dishonor for me."<sup>253</sup>

Finally, violence is used most often, in varying degrees, with the most common result being death by burning of the bride. In one case, a woman was kicked in the stomach while she was in the late stages of pregnancy and then subsequently beaten after a caesarian delivery, all within eyewitness of neighbors whose calls for help for the woman went unheeded.<sup>254</sup> In another incident in April 1993, a young, twenty-three year old Indian woman was restrained by her husband, mother-in-law, and sister-in-law while they injected acid into her arms as punishment for inadequate dowry.<sup>255</sup> Yet another incident involved a husband who was so angry with a small dowry that he beat his wife and forced pesticide down her throat, causing her death within a few hours.<sup>256</sup> In another typical case, Savita Sharma's in-laws made demand for additional dowry in the form of a refrigerator, scooter, television set and cash.<sup>257</sup> In addi-

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247. Pruitt, *supra* note 174, at 69 (citing Etzioni, 2001).

248. *Id.* (citing Braithwaite, 1989). The most classic example of shaming is depicted in the novel, *A Scarlett Letter* (Hawthorne, 1850/1962, pg. 45).

249. Pardee, *supra* note 12, at 491.

250. *Id.*

251. *Id.*

252. *Id.*

253. *Id.*

254. Greenberg, *supra* note 11, at 813.

255. Krugman, *supra* note 63, at 224-25.

256. *Id.*

257. Nangia, *supra* note 15, at 637.

tion, Savita's mother-in-law verbally abused her, did not give her enough food to eat, beat her (as did her husband) and locked up all her clothes.<sup>258</sup> Savita once overheard her mother-in-law tell a tenant "I will burn her and then give money to the police to hush up the case."<sup>259</sup> Finally, another reminder of Sunita Mir. In 1993, less than two years after her marriage, Sunita's father-in-law and brother-in-law held her down on a cot, while her husband doused her with kerosene and set her alight.<sup>260</sup> Sunita died in the hospital, having suffered from burns over 96% of her body.<sup>261</sup>

These tactics or a variation of these tactics are then used against the bride's family, causing them to yield and give into the demands of their in-laws. If the bride or her family cannot or do not comply with the demands, the bride is surely at risk of being burned to death or led to commit suicide because of pressure from in-laws and society.

### *C. Escalation and the Persistence of Violence Thereafter*

A continual cycle of contending and yielding eventually escalates<sup>262</sup> the problem unless there is a perceived stalemate<sup>263</sup> from which to de-escalate the conflict and move towards integrative solutions.<sup>264</sup> Bride-burning and the events that lead up to bride-burning are a classic example of the contender-defender model of escalation.<sup>265</sup> In the contender-defender model, one party is viewed as "having a goal of creating change that places it in conflict" with the other party. This goal may consist of taking something from the other, to alter their reality at the expense of the other party or to stop the other party's annoying behavior.<sup>266</sup> The party with the goal (contender) usually starts with less contentious tactics such as ingratiation, promises, or shaming. However, if the contender does not achieve the goal through less risky tactics, the contender will eventually resort to

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258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. Pruitt, *supra* note 174, at 88-89 (describing and using escalation to mean that "one of the participants in conflict is using heavier tactics than before – is putting greater pressure on the other participant" or that "there is an increase in the intensity of the conflict as a whole").

263. *Id.* at 172 (defining "perceived stalemate" as "a situation in which one (or better, both) of the parties perceives that it cannot make further progress in the conflict at an acceptable cost or risk – that further efforts to win through escalation are unworkable and/or unwise." (citing Zartman (1989, 2000), who was the originator of the ripeness theory, a theory of the conditions under which severe conflicts move into negotiation and mediation.)). Pruitt and Kim differ with Zartman in term of what constitutes a stalemate.

264. *Id.* at 192; *See infra* notes 304-11 and accompanying text.

265. *Id.* at 92 (citing Pruitt & Gahagan, 1974, who defined three basic models of escalation: 1) the contender-defender model; 2) the conflict-spiral model; and 3) the structural change model.).

266. *Id.* at 65-69, 93.

heavier contentious tactics such as threats, coercive commitments, and eventually violence.<sup>267</sup> In the contender-defender model, the other party (defender) may be passive or may escalate the conflict, but only as a defensive measure. Party's escalation of the conflict is never in defense and is used strategically and intentionally to achieve their goal.<sup>268</sup> The contender-defender model appears to present one side as being mainly at fault; however, Pruitt and Kim argue that, in reality, both sides usually contribute equally to a conflict,<sup>269</sup> such that the conflict-spiral model may be a better description. Furthermore, James Gilligan, a psychiatrist, states that "I have yet to see a serious act of violence that was not provoked by *both* parties' experience of feeling shamed and humiliated, disrespected and ridiculed, and that did not represent the attempt to prevent or undo this 'loss of face' – no matter how severe the punishment, even if it includes death."<sup>270</sup>

The relationship between dowry and bride-burning involves many parties, both active and passive. Each party is claiming to be the victim or 'defender' since the major reasons for why these practices continue has been blamed on external factors.<sup>271</sup> In this case, the groom and his parents are likely contenders because they have greater bargaining power and are usually of a higher caste. In the specific instance of bride-burning, the bride is clearly in a defensive position and holds very weak bargaining power. Furthermore, because of society's perception of women and the financial burden created by having to offer a dowry, the bride's family also appears to have a weak stance. The escalation tactics used by the groom and his parents, therefore, have a great deal of power over the other parties. In addition, the groom and his parents demand a greater dowry and attempt to extort additional dowry after marriage in order to accumulate material wealth and improve their social standing, a goal which they believe is fairly achieved at the expense of the bride and her family's financial resources. In some cases, the bride's family is unable to defend itself or retaliate because they do not have the resources to do either. Finally, the bride is sacrificed and burned as the ultimate act of revenge for having suffered a 'loss of face' for marrying an inadequate woman with insufficient material wealth.

Though it would be easy to place the full blame on the groom and his parents, the bride and her family are equally to blame for perpetuating the myth that

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267. *Id.* at 71-80, 93.

268. *Id.* at 93.

269. *Id.* at 96.

270. *Id.* at 95 (quoting James Gilligan, 1996, pg. 110).

271. *See supra* notes 13-58 and accompanying text.



a daughter is less valuable than a son, that an unmarried or divorced daughter casts a stain on the family name, that a dowry must exceed normal living standards, and that any family is entitled to more than was originally negotiated. In addition, the bride's family is a willing party in the escalation of the conflict by consistently yielding to large dowry demands or subsequent dowry demands until they are so completely depleted that the only alternative is to burn the bride. By yielding to the demands of the contender, the bride's parents give the contender the impression that there is more available and when the defender does not or cannot comply further, the groom and his family believe they have 'lost face' in the community and take their aggression out on the bride.

Furthermore, cultural, religious, and societal practices only add to the escalation of the conflict by reinforcing old customs and traditions that have lost their practical value in the world today. By continuing to associate a person with a caste, by perceiving women as having less or no status as compared with men, by forcing ancient customs, such as dowry, upon modern living conditions and global standards, Indian society has further escalated the conflict towards a conflict-spiral model.

In the conflict-spiral model, the escalation results from a vicious circle of action and reaction.<sup>272</sup> One party's contentious tactics "encourage a contentious retaliatory or defensive reaction from the other party, which provokes further contentious behavior from the first party, setting up a spiral" of ever increasing hostile tactics.<sup>273</sup> For example, the unrealistic and unsubstantiated perceptions of women as subordinate to men and less valuable than men has create a cultured of suicide, female infanticide, and feticide of women in India.<sup>274</sup> There is further escalation of the conflict because of poor rationalization<sup>275</sup> of the behavior, selective information processing<sup>276</sup>, and attribution errors<sup>277</sup> all working to support a self-fulfilling prophesy<sup>278</sup> of caste superiority and gender-based discrimination.

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272. Pruitt, *supra* note 174, at 96.

273. *Id.*

274. *See supra* notes 13-58 and accompanying text.

275. Pruitt, *supra* note 174, at 155 (describing rationalization of behavior as the situation where a party's negative about the other party views lead to hostile actions against the other party, which the P1 rationalizes reaffirming views that gave rise to the initial hostile actions.).

276. *Id.* at 155-156 (citing Hopmann (1996) and describing selective information processing as a situation in which after one party has already formed a negative opinion of the other party, P1 will tends "pay attention to, search for, interpret, retain, and recall information in ways that confirm the negative impression" already formed about P2. P1 specifically finds information to support the preconceived ideas about the person.).

277. *Id.* at 159 (describing "attributional distortion" or causal inferences as another type of selective information processing in which "information about Other that supports Party's private hypotheses about Other tends to be attributed to dispositional causes, whereas information that is discrepant with party's hypothesis tends to be attributed to situational causes." This means that Party finds a negative trait and attributes it to a character flaw rather than just something that might

These practices are simply a reflection of an escalation in the conflict between "the haves" and the "have nots", between those who must give a dowry and those who demand it, and between those who have rights and those who do not. In such a society, everyone is a perpetrator and everyone is a victim, an equal participant. To become a victor instead of a victim, parties must move towards a perceived stalemate. As someone once said, "Until all of us are free, none of us are free."<sup>279</sup> As such the next section explores a theory towards a perceived stalemate followed by some practical solutions to the conflict.

#### *D. Towards a Theory of the True Conflict and a Perceived Stalemate*

As Pruitt and Kim point out, eventually every escalated conflict comes to an end, despite attempts to hold it in place.<sup>280</sup> The escalated conflict may come to an end in several ways including by adjudicating the matter, by one party overwhelming the other party, by one party taking unilateral advantage of the other party, by avoiding the conflict altogether or by negotiating a settlement.<sup>281</sup> Pruitt and Kim argue that negotiation and mediation usually grow out of reaching a perceived stalemate.<sup>282</sup> Currently, in our narrow issue, the conflict escalates to the point where the bride loses her life for failure of providing sufficient dowry or being unable to comply with extortion attempts for additional dowry. In a sense, the conflict is resolved because the husband and his family have taken full, unilateral advantage of the situation and overwhelmed the bride and her family with further dowry demands. Even in the cases where such "attempted dowry murders" have gone to court, the conflict has not been resolved in a manner such that future similar conflicts will not occur. The option of having a powerful third party (i.e., judge or arbitrator) impose a settlement has not been

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happen given a particular set of circumstances. In any case, Party will have a negative view of Other despite anything that Other might do to dispel the myth.)

278. *Id.* at 154 (self-fulfilling prophesy is "a phenomenon in which Party's beliefs and attitudes about Other make Party behave in ways that elicit behavior from Other that reinforces these beliefs." Therefore, because Party believes that Other is rude, worthless or an unhappy person, Party will create situations such as provoking Other to cause other to be defensive or angry, thus reinforcing Party's belief in Other's pre-determined character.)

279. Source of quote is varied. One source attributes this quote to Rosemary Brown, the first black woman to be elected to political office in Canada.

280. Pruitt, *supra* note 174, at 171.

281. *Id.* at 172.

282. *Id.*

effective to date, as evidenced by the lack of convictions for bride-burning as compared with the continuing rise in bride-burning.<sup>283</sup>

The optimal solution is for the parties to the conflict to come to the realization that the costs or risks involved in escalating the conflict are no longer worth it, thereby reaching a “high-water mark”, which is the point of maximum conflict intensity, and where the parties will no longer escalate the conflict.<sup>284</sup> This allows for a stalemate situation to occur even if one party continues to use contentious tactics for a while.<sup>285</sup> The importance of reaching a stage of perceived stalemate is two-fold. First, the realization that the costs of escalation are unworkable or unwise mean that the party’s outlook has begun to change regarding the nature of the conflict. This may be the result of the other party’s refusal to yield anymore or that it is too risky to escalate the conflict because of possible future consequences. Second, the status of perceived stalemate allows for ripe conditions to move into more productive problem-solving through negotiation or mediation or a combination of dispute resolution processes. Therefore, the goal with regards to the issue of bride-burning is to determine at which point each of the active and passive parties will realize that the costs and risks of this practice far outweigh the perceived benefits. It is fair to ask at this point: How many bride-burnings will be enough? How many suicides, female infanticides, or feticides are enough? How much dowry is enough to make parties realize that it will never be enough? How much is a daughter or son actually worth? How much of one’s life savings is one willing to give away before it is too much? Perhaps one brave young Indian woman has taken the time to answer some of these question simply by saying “No” to the demands of further dowry by a prospective groom.<sup>286</sup>

The story of Nisha Sharma (“Nisha”) is the story of one woman taking a stand and realizing that the cost of participating in this deadly dance of dowry weddings has far surpassed the benefits.<sup>287</sup> In March 2003, Nisha met her prospective groom, Munish Dayal (“Munish”) and his family.<sup>288</sup> As is a common tactic, the Dayal family initially insisted on not taking a dowry.<sup>289</sup> However, when they subsequently learned about Nisha’s former boyfriend, they used this information and began blackmailing the Sharmas for expensive goods, using the

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283. See *supra* notes 86-114 and accompanying text.

284. Pruitt, *supra* note 174, at 173.

285. *Id.*

286. Sabita Majid, “Guts in the Time of Dowry”, June 1, 2003, available at <http://www.boloji.com/wfs/wfs179.htm> (last visited November 29, 2004); See also “Lisa Ling Investigates “Bride Burning”, The Oprah Winfrey Show, available at [http://www.oprah.com/tows/slide/200401/20040116/tows\\_slide\\_20040116\\_01.jhtml](http://www.oprah.com/tows/slide/200401/20040116/tows_slide_20040116_01.jhtml) (last visited November 29, 2004).

287. *Id.*

288. *Id.*

289. *Id.*

"affair" as a bargaining chip to manipulate Nisha's family.<sup>290</sup> Nisha's father was blackmailed into buying an expensive car and home appliances for the future couple in addition to buying home appliances for Munish's elder brother, something for which Nisha's father had spent ten years earning and saving his money.<sup>291</sup> Later, closer to the wedding, the Dayals demanded \$25,000 in cash.<sup>292</sup> Until the day of the wedding, Nisha was completely unaware of the extent to which her father was being harassed.<sup>293</sup> After nearly weeks of escalating harassment by the Dayals, Nisha's younger brother told her of the abuse suffered by their father.<sup>294</sup> On May 11, 2003, the day of Nisha Sharma's wedding, Nisha immediately called her father, told him she would not be getting married, and then called the police to report the Dayal family's unlawful conduct.<sup>295</sup> The Dayals were arrested shortly thereafter.<sup>296</sup> Nisha Sharma said "no" to the abuse perpetuated by the dowry system and saved her own life while serving as an example to millions of young women.<sup>297</sup>

Given the current understanding of the conflict, it is clear that the true conflict resides at the four-way intersection between societal misperceptions of women, the cultural practice of dowry as a means to survive or achieve social status and material wealth, the lack of adequate legal enforcement of constitutional guarantees of equality free from gender bias, and the imposition of individualist-based processes to resolve collectivist-centered conflicts.

#### V. ALTERNATE AND EFFECTIVE MEANS TO STOP BRIDE-BURNING – ESCORTING THE ELEPHANT *OUT* OF THE ROOM

Clearly, we are at a point in our collective consciousness and our place on this planet where we know that bride-burning is wrong, that the practice of dowry is not the most efficient way to gain individual wealth or raise group

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290. *Id.*

291. *Id.* See also Christiane Amanpour, "For Love of Money", CBS News.com: 60 Minutes, October 6, 2003, available at <http://www.cbsnews.com/stories/2003/10/03/60minutes/main576466.shtml> (last visited November 29, 2004).

292. *Id.*

293. *Id.*

294. *Id.*

295. *Id.*

296. *Id.*

297. *Id.*

social status. We surely realize that neither domestic legislation nor international customary law has managed to escort the proverbial “elephant” out of the room. So where do we go from here? I propose the following options as a place to start solving this problem from a different level of consciousness from which it was created and with a greater passion and collective sense of genius than it takes to simply pass another law or perform another operation to abort.

#### A. *Just Say No!*

The easiest and most effective way to deal with this issue is to say “No” to additional demands of dowry or to participation in a dowry wedding at all. This is precisely the action that Nisha Sharma took when she not only refused further demands for dowry but called off her wedding and had her would-be groom arrested for demanding a dowry, a violation under the Dowry Prohibition Act.<sup>298</sup>

In addition, a grass-roots organization, the Association for India’s Development (“A.I.D”) sponsors a “Campaign Against Dowry”, where one can make a personal, community, or organizational pledge never to give or take a dowry.<sup>299</sup>

Saying “no” is a powerful step in realizing one’s own rights and taking responsibility for one’s own life as well as having a say in one’s own future. It also inspires others in ways that the law cannot, by making a personal and empowering statement of self-worth. For example, two women followed in the footsteps of Nisha Sharma’s courageous stance by calling off their wedding.<sup>300</sup> Saying “No!” is not avoiding the problem by not doing anything or withdrawing.<sup>301</sup> Saying “No!” is an active, affirmative response towards reclaiming one’s own life as well as recognizing one’s own self-worth when relating to those who wish to denigrate it.

While saying “No” is self-empowering, it can have its disadvantages. For example, as in Nisha Sharma’s case, it did not relieve her parents from the obli-

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298. *Id.* (Note however, that despite this one courageous act and an advanced engineering, even Nisha Sharma is fully ingrained in the dowry culture and admits that she would allow her parents to chose the course of her life and would pay dowry again if that is what was required. But her step is a step in the right direction and it is an individual, responsible step).

299. “*Campaign Against Dowry*”, Association for India’s Development, *available at* <http://www.aidindia.org/nodowry/index.shtml> (last visited November 29, 2004).

300. Majid, *supra* note 286.

301. Pruitt, *supra* note 174, at 6-7 (defining the strategy of “avoiding” as “not engaging in the conflict by inaction or withdrawal.” Inaction is “doing nothing about the conflict.” Withdrawal is “abandoning the conflict”, such as walking out of the door. Avoiding is a passive strategy.). In this case, saying “no” to dowry is not avoiding the conflict, but recognizing that one plays a part in the conflict and choosing, actively, how one will or will not participate. It is also active participation because the other party is fully aware of what choice one is making. It may be closer to the strategy of contending than avoiding.

gation of finding another groom for Nisha.<sup>302</sup> In addition, even after this brush with the extortion and violence associated with dowry, Nisha, perhaps out of a sense of obligation, entrenched traditions, or fear for her and her family's future, still trusts her family and the traditions of her culture, including dowry weddings.<sup>303</sup> However, she has taken a step towards the future and that step is one that cannot be taken away from Nisha Sharma or those who follow her example.

### *B. Going Below the Line*

The moment the conflict has reached a state of perceived stalemate is the optimal time to introduce negotiation or mediation.<sup>304</sup> At this point, the parties have a different outlook as a result of realizing that the costs and risks far outweigh the benefits of continuing the conflict.<sup>305</sup> Mediation offers several advantages over negotiation because it is a consensual, collaborative, interest-based process.<sup>306</sup> Because mediation looks at the interests and needs of the parties rather than what rights the party has or does not have, it is an informal, compassionate dialogue. The process of mediation goes "below the line" to determine what values, interests, and aspirations drive a person's behavior so as to determine ways to address these aspirations without resorting to escalated contentious tactics.<sup>307</sup>

Mediation can be used at any point during the conflict. As long as the mediator is well-respected and unbiased, parties will be able to discuss their differences and come to an agreement without legal intervention. While the legal system is available, in the situation of bride-burning, mediating the conflict may

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302. Majid, *supra* note 286 (reporting that Nisha's parents found Dayal as part of an arranged marriage after Nisha had an argument with a former boyfriend who was to be the previous intended groom). See also, Ehtasham Khan, "Anti-dowry icon, Nisha Sharma, ties the knot", November 19, 2003, available at <http://www.rediff.com/news/2003/nov/19delhi.htm> (last visited November 29, 2004)(reporting on Nisha Sharma's November wedding to a local that was arranged via a mutual friend. The engagement happened in September 2003, only three months after her rise to fame as an anti-dowry icon.).

303. *Id.* (reporting that despite the mess with the Dayal family, "Nisha keeps repeating: 'I'll do whatever my parents/father want me to.'" Further, Nisha states that she would be willing to have her parents give dowry in the future because "'[t]omorrow, if we are thrown out of our marriages, at least we would have these valuable things,' she says, echoing the sentiment rightly or wrongly shared by many young women today.").

304. Pruitt, *supra* note 174, at 172-73.

305. *Id.*

306. *Id.* at 232-35.

307. *Id.* at 199 (discussing the importance of analyzing underlying interests as a means to problem-solving and reconciliation.).

have benefit of further de-escalating tensions that the legal system has been unable to accomplish at this time.

One way to fully take advantage of mediation is to make it a mandatory step once a complaint has been filed with the courts. Because India's judicial system today is known for lax enforcement of dowry prohibition acts, it would be beneficial to recommend mandatory mediation if a complaint is filed. This way, the preliminary, pre-trial investigation can be done with the support of a third-party neutral who is trained to look at the problem from an interest-based perspective rather than purely a rights-based perspective. In a collectivist society such as India, this approach will likely be well received and more effective.

Using mediation is similar to the current use of family counseling center cells.<sup>308</sup> Whereas the counseling cells are government-sponsored, mediation would be done by a non-governmental neutral that is familiar with the emotional, psychological, and physical issues surrounding dowry marriages and their effects on women and society. In addition, unlike the family counseling centers, mediation would allow both men and women to share their issues instead of reframing the problem as one of women adjusting to a new marriage. Men also would likely welcome the opportunity to discuss how dowry affects them once there is reassurance of confidentiality and respect for all views. Once parties understand the process and benefits of mediation, they will see its value and take advantage of the process as a means to reframe the issue start to really find a viable, workable solution. Mediation is also advantageous because it is one way that parties can work close to the system, respecting its boundaries, while striving to make small, incremental changes.

### *C. Working Within the Existing System*

Until more effective measures are in place, the only effective avenue that parties have is through enforcement via existing domestic legislation.<sup>309</sup> With this in mind, I argue that if the practice of dowry is to continue, then dowry negotiations should take place as any other type of contract negotiations, with full legal representation for both parties, enforceable under India's contract law. It is clear that most scholars and critics regard dowry marriages as a negotiation of sorts where there is an agreement for marriage that is consummated via the exchange of consideration in the form of money and/or property.<sup>310</sup> Given this consensus of opinion, the dowry negotiations should take place between the relevant parties with full legal representation. This representation can be in the form of local attorneys, pro bono attorneys, a legal aid society, or a qualified

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308. See *supra* notes 108-12 and accompanying text.

309. See *supra* notes 83-107 and accompanying text.

310. Pardee, *supra* note 12 at 498; Shah, *supra* note 9, at 214; Nangia, *supra* note 15, at 644.

mediator. However, the important point is that it should be fairly negotiated, memorialized in writing, and enforceable in court. In addition, any additional demands for dowry should be considered as modifications to this contract, subject to all the formal and informal contract re-negotiation principles. If Indian society will continue to treat people as commodities and their children as commodities that are bought and sold in exchange for a "glimpse of economic paradise", then why not do this under common law contract principles known by the legal community and the justice system? At least in this manner, the transactions are documented, the results measured, and parties are held accountable for them. It might also create an incentive for people to realize how much their daughters are truly worth and that they are, indeed, priceless – as are their sons.

A written contract for marriage is not so far from the oral contract that currently takes place. The key difference is that the parties do not consciously realize that they are treating their sons and daughters as commodities in as much as they would treat a cow or an expensive car. Even if the parents are fully aware of their actions, it is almost entrenched unconscious actions disguised as custom, culture, necessity, or 'the way things have always been'. By forcing their words to be written down, perhaps all parties will have an 'awakening' of sorts in order to make a conscious paradigm shift towards realizing the grave present and future consequences of their actions. At worst, there may be less arranged marriages if parties are forced to memorialize them and be subject to enforcement. Pre-marriage contracts can also create some sense of interest and security for the bride in the future. At best, the issue of dowry marriage will come under a microscopic spotlight for all to see.

Another means to work within the current system is to educate all persons on their legal and ethical obligations as well as their rights under domestic and international law. It is incumbent upon parents and educators to teach children of their obligations under the law and to encourage lawful and peaceful resolution of conflict at all levels. In addition, the legislature, the judiciary, and law enforcement should be required to attend domestic violence training to better understand the insidious nature of dowry and dowry-related deaths so as to better enforce the law. Domestic violence education and the impact of dowry should also be part of local religious, cultural and community training. Today it is lax enforcement of the law that creates the primary roadblock to preventing bride-burning partly because law enforcement officials cannot empathize with the victims. Education is knowledge and knowledge is power in fully enforcing existing laws and solving this heinous crime of bride burning.



*D. Working Around The Existing System*

The optimal way for resolving the conflict is to reach a state of perceived stalemate such that parties are able to discuss and define integrative solutions to the conflict. Integrative solutions are those which move from the demands of either party to novel, workable alternatives developed through creativity and imagination that takes into account the interests of all parties in the conflict.<sup>311</sup>

One option to resolving the issue of bride-burning is to expand the pie. Expanding the pie is especially helpful when the root of the conflict is resource shortage and requires creative means for increasing the available resources.<sup>312</sup> For example, if the proposed groom and his family demand a high dowry because of a perceived shortage of family wealth, the bride's family can have a discussion with the future in-laws that is centered around the extent to which the proposed family wants to achieve a measured goal of family wealth. In addition, the bride and her family can relay their own perceived resource shortages and future goals. Together, they may be able to creatively find a way to use their current resources to mutually benefit each other by. For example, they can develop a partnership to sell certain goods or services with a percentage of profits serving as 'dowry' for the marriage or toward meeting each party's future goals. In this way, the families work together towards a common goal, but utilize means that respect each party's perceived resource shortages and strengths.

Expanding the pie can also be used by the Indian government in curbing dowry-related violence, such as bride-burning. For example, if the government's main reason for the current lack of enforcing anti-dowry legislation is scarcity of policemen and adequate judicial funding to prosecute cases, they could expand the pie by signing and ratifying the United Nations Optional Protocols to several international human rights treaties.<sup>313</sup> By doing so, the government expands the quantity and quality of their enforcement mechanisms by partnering with other domestic non-governmental entities as well as international relief agencies to curb the violent results of dowry practice. Some might argue that this would mean admitting fault or defeat. On the contrary, the oppo-

311. Pruitt, *supra* note 174, at 192-93 (discussing the benefits of integrative solutions and the five types of integrative solutions including: 1) expanding the pie; 2) nonspecific compensation; 3) logrolling; 4) cost cutting; and 5) bridging).

312. *Id.* at 194-95 (discussing the nature of expanding the pie and the information requirements necessary to devise an appropriate integrative solution as well as reframing the issue.). Note that while this type of integrative solution is useful for actual resource shortages, this technique can also be used in cases where there is a *perceived* shortage of resources as in the case of the underlying reasons why dowry is still practiced today.

313. See *supra* notes 120-26 and accompanying text (discussing the fact that while India has ratified the various international human rights treaties, they have not signed nor ratified the Optional Protocols to those treaties, allowing for individual complaints to be filed with the respective UN agency.).

site is true. By taking such a bold and creative step, the government would be a shining beacon to all similar countries in respecting the human rights of its citizens, working within an international forum, and demonstrating their commitment to effectively abolishing dowry practice and dowry-related violence, such as bride-burning. Through this mechanism, India gains the support and respect of its own citizens and the citizens of the global community.

A second option for resolving the issue of bride-burning is via bridging. Bridging is another integrative solution technique in which neither party achieves its initial demands, but both parties define new options that satisfy each party's most important underlying interests first.<sup>314</sup> To obtain an integrative solution via bridging, there must be an understanding of each party's underlying interests and the priority among these interests.<sup>315</sup> Such an understanding of underlying interests can be obtained between the parties or, preferably, with the help of an external, neutral mediator. By employing techniques such as active listening, role reversal, empathizing, or "listening with the third ear",<sup>316</sup> conflicting parties can come to a more clear understanding of each others' priority of interests and unstated goals.

For example, proposed dowry negotiations can be conducted with the help of a qualified mediator. The mediator can help both parties and their respective families determine each party's underlying interests and the priority among those interests.<sup>317</sup> By doing so, each party can then determine which of their prioritized interests have greater value, whether there are mutually acceptable alternatives, or which lower priority interests will lose to higher priority interests.<sup>318</sup> Again, this process can provide a way to have dialogue between the parties with the hope that each party begins to see the other as having needs and interests by engaging in a more humane dialogue about the transaction that will

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314. Pruitt, *supra* note 174, at 197-198 (discussing bridging as an integrative solution, information requirements for bridging, and a model for using this technique.). The importance of bridging in this conflict cannot be underestimated because the conflict resides at levels below the legal and economic solutions already proposed. By using active listening techniques and clearly identifying each party's underlying interests, it is possible that parties will begin to see the potential bride, groom, and each other as humans connected by a common goal rather than "non-entities" as happens in conflicts between ingroups and outgroups.

315. *Id.* at 198.

316. *Id.* at 199 (discussing the advantages and disadvantages of active listening, role reversal, empathizing, and "listening with the third year").

317. *Id.* at 201 (demonstrating how to identify each party's underlying interests and the priority among these interests. The effect of doing so is for each side to see that polar opposite interests are not necessarily a point of conflict and that there is an integrative solution among these interests.).

318. *Id.* at 198.

take place between the parties. Bridging is powerful to the extent that parties may realize that asking for dowry or demanding additional dowry is morally unethical and places their future neighbor, friend, or community in a position of weakness rather than creating a community of strength and cooperation. Today, many dowry negotiations appear to take place in a vacuum without any concern for the other party. By simply engaging the other side in dialogue, each party will have a voice in a dowry system which seeks only to “check-mate” its players.

Given the entrenched nature of the caste system in India, the misperceptions of women, and the international community’s recognition of state sovereignty, integrative solutions driven by each party’s need to creatively and cooperatively resolve the dilemma of bride-burning may be the first line of defense. Indeed, integrative solutions may be the only means by which to begin healing the broader violations of human rights caused by practices such as bride-burning.

## VI. CONCLUSION – A CALL TO ACTION, A CHANCE FOR HEALING

By official statistics, seventeen women (17) are victims of bride-burning every day in India.<sup>319</sup> By unofficial statistics, sixty-eight (68) women die of bride-burning or dowry-related deaths every day.<sup>320</sup> In addition, about 2000 dowry-related suicides are reported every year.<sup>321</sup> Female infanticide and feticide as a result of dowry are on the rise to the tune of millions of women missing from the Indian society per year.<sup>322</sup>

This is no longer an “issue” or an “incident” as law enforcement officials in India seem to think. We are now at a point where this is an epidemic, a systematic, albeit measured, gendercide of Indian women. In every sense of the word, bride-burning is a stain on the consciousness of the Indian community, a stain on the viability of that nation and a stain on our collective human consciousness,<sup>323</sup> unless we are bold enough to say “Stop”!

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319. “*Campaign Against Dowry*”, *supra* note 299.

320. *Id.*

321. *Id.*

322. *Id.*

323. See also David Luban, *The Romance of the Nation-State*, 9 PHIL. & PUB. AFF. 392, 397 (1980)(stating “[W]hen murders, tortures ... go unchecked, more so when their perpetrators (the worst people in the world) are treated as if they are legitimate, the common humanity of all of us is stained.”).