



ISSN: 2230-9926

Available online at <http://www.journalijdr.com>

IJDR

International Journal of Development Research  
Vol. 14, Issue, 12, pp. 67259-67266, December, 2024  
<https://doi.org/10.37118/ijdr.29043.12.2024>



RESEARCH ARTICLE

OPEN ACCESS

## DOWRY: AN OBSCENE REALITY OF INDIAN MARRIAGE SYSTEM: A FEMINIST CONTEMPLATION

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### ARTICLE INFO

#### Article History:

Received 10<sup>th</sup> September, 2024  
Received in revised form  
14<sup>th</sup> October, 2024  
Accepted 11<sup>th</sup> November, 2024  
Published online 30<sup>th</sup> December, 2024

#### Key Words:

Indian Marriage System, Patriarchy, Dowry,  
Violence, Dowry Prohibition Act.

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### ABSTRACT

The article delves into the socio-economic ramifications and the ostensibly egregious reality inherent in the Indian matrimonial system, which is deeply entrenched in the ancient cultural and religious fabric of India. It delineates, within familial kinship, how the patriarchal and socio-religious framework has historically determined the roles of women, that permeates not only Hindu matrimonial rites but also extends across various religious matrimonial traditions. The dowry system, intimately intertwined with the conceptual framework of marriage within the Hindu doctrine. It has manifested in various forms: a) as gifts, b) as a mode of pre-mortem inheritance and c) as a form of compensation. The perpetuation of the dowry as a sociocultural tradition within the Indian societal fabric necessitates a rigorous critique. The degree of agency women wield over their dowries engenders considerable discourse; however, sociocultural cline in their agency in the contemporary context is unmistakably observable. Despite the enactment of the Dowry Prohibition Act in 1961 and its subsequent revisions, the legislation has been ineffectual in eradicating this malign and inhumane practice from our capitalist and semi-feudal society. Drawing upon a theoretical and legal framework, the paper scrutinises the situational, sociocultural and identity processes of Indian brides within social actions.

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Citation: *Debjani Halder, 2024. "Dowry: an obscene reality of Indian Marriage System: A Feminist Contemplation". International Journal of Development Research, 14, (12), 67259-67266.*

## INTRODUCTION

*Pitha Rakshathi Kowmare*  
*Bartha Rakshanti Yovane*  
*Putro Rakshathy Vardhake*  
*Na Stree Swathantra Marhathi.*<sup>1</sup>(Deshpande 59)

The concept that delineates the roles of familial guardianship, where the father safeguards the woman as a daughter, the husband during her youth, and the son in her old age, transcends cultural boundaries and is embedded not only within Hindu matrimonial traditions but also across various religious matrimonies. In these ceremonies, the husband commits to the perpetual protection of his wife, whereas the wife vows to nurture him and their offspring and to provide comfort to the family in times of adversity. However, within the patriarchal societal framework of India, the notion of *Arthangini* has come to highlight a 'double standard' applied to daughters-in-law. This patriarchal system, underpinned by male dominance, suggests men

occupy a superior position in the evolutionary hierarchy compared to women. Through the lens of power dynamics and discrimination, the phenomenon of female subjugation is scrutinised and perpetuated by societal norms and practices. The practice of dowry must be assessed not merely as a cultural and social ritual specific to a particular community but also in the context of its contribution to the perpetuation of property and gender hierarchies. In India, spiritual and social doctrines profoundly influence the dowry system, as illustrated by references in the Rig Veda and Atharva Veda to the matrimonial alliance between Surya, the Sun God's daughter, and Soma, the Moon God. In Atharva Veda (Kand xiv), there is an in-depth narration of the bride. At the same time, she is adorned in a splendid garment, anointed eyes, and a meticulously styled hairdo, embarking on her journey to her future husband's home in a decorated chariot, accompanied by her companions and carrying her dowry in a treasure chest (Kosa), epitomises the ceremonial and symbolic importance of dowry within the marital context (Siddhantalankar 71). The Atharva Veda mentions that royal brides were accompanied by dowries consisting of a hundred cows. The Aitareya Brahmana references a form of marriage termed '*Pasuvivaha*,' which implies a transactional nature, though it does not specify which party demanded monetary compensation. The Mahabharata elucidates those esteemed characters such as Draupadi, Subhadra, and Uttara were endowed with

<sup>1</sup>The Sanskrit rhythm was taken from Manu Nithi Cholan, and Manu Sastra was written in the pre-historic period. His sastra is referred to as "silapadi Karam" in the first century.

significant matrimonial gifts from their progenitors, encompassing horses, elephants, bovines, and ornaments. Correspondingly, the Jatakas delineate the tradition of giving the groom valuable and pragmatic presents. In the *Raghuvansha*, an elaborate narrative is provided on the king of Vidarbha dispatching opulent gifts to his sibling Indumati to commemorate her matrimonial departure. This custom is substantiated by S.L. Hooja, who highlights the historical foundation for exchanging dowries and gifts within the marital context in ancient Indian literature. He articulates that the term 'dowry' has evolved to signify gifts voluntarily given out of affection, after or in conjunction with the marriage. Conversely, the Smritis advocate for the bride to be wedded alongside appropriate adornments (Hooja 31). Yet, the quantity and valuation of these ornaments are left to the discretion and financial capacity of the bride's father without any contemplation or endorsement of a pre-marital contract in this regard.

The dowry system, intrinsically linked to the conceptualisation of marriage within the Hindu religion, is fundamentally perceived as *dāna*, or gift. This practice, where dowry is considered *Dakṣiṇā* accompanying the primary gift of the bride, was executed with a spirit of generosity. Giving away a daughter in marriage, known as *Kanyādāna*, bears religious significance and is often accompanied by additional gifts in various forms, including cash and gold. The legal entitlement of the bride to these gifts, whether received during the marriage as *dāna* or now of *Kanyādāna*, remains a subject of debate. Vedic texts offer scant commentary on the proprietary rights of wives, although they do not suggest that women are inherently incapable of owning property. The Upanishad provides instances, such as *Yajnavalkya* dividing his wealth among his two wives, indicating some recognition of women's rights to property. Sociologist Ranjana Kumari points to the Smritis, which details several categories of *Streedhāna*, or women's property, including gifts from parents, siblings, and sons; gifts received before the nuptial fire (*Adhyagni*); possessions acquired after marriage (*Upagta*); gifts from the husband upon a subsequent marriage (*Adhivedamaka*); contributions from kin; the bride price (*Kanyasulka*); and gifts received post-marriage (*Anuvadheyaka*). This enumeration in texts like the *Vishnumriti* highlights the complexity and nuanced understanding of women's property rights in a historical context (Kumari 17).

In a *Manu Smriti*, Manu gave a statement, though it was not a different enumeration. An analysis of the evolution of *Streedhāna*<sup>2</sup> a scholarly examination of its progression elucidated that ancient legal frameworks did not initially allocate distinct property rights to women (Deshpande 15). During the subsequent Vedic period, the recognition of eight matrimonial forms became prevalent, including *Brahma*, *Daiva*, *Arsa*, *Prajapatya*, *Asura*, *Gandharva*, *Rakshasa*, and *Pisacha* marriages. Notably, the practice of dowry was absent in several of these matrimonial arrangements, such as *Gandharva*, *Rakshasa*, and *Pisacha*. Specifically in the *Brahma* form of marriage, the father endowed his daughter with ornaments within his means to a suitor of distinguished intellect or character. This was done voluntarily and with respect, without any expectation of reciprocity. This practice should not be misconstrued as an early manifestation of dowry, as the decision rested solely at the discretion of the bride's father and was devoid of any coercive stipulation regarding dowry at the time of marriage<sup>3</sup> (Hooja 19). The Smriti texts occasionally delineate the adornment of daughters with various ornaments. These ancient texts specify that a maiden was to be "bedecked with ornaments," implying the physical act of dressing and adorning her with gold and endowing her with wealth. Furthermore, it was incumbent upon those

<sup>2</sup>Wealth obtained in the form of *Streedhāna* is to be distinguished from Wealth given by dowry. The former is provided voluntarily and without consideration of marriage. Herein lies confusion. Most confuse dowry with *streedhāna*. According to *Mitakshara* (a commentator of Smritis), *streedhāna* is land, jewel or cash (property) willingly gifted to the daughter, not necessary when wedding. The due (daughter) has the absolute right to dispose of such property (*streedhāna*) as she likes. The court also accepted *Mitakshara's* narrations.

<sup>3</sup> There are, however some references where the guardians of the girl had to offer a dowry to the bride-groom- 'A daughter who had some physical defect was to be disposed of with money (R.V. x.23.11)

responsible to honor her with an array of valuable gifts, including jewels, and to ensure she was adorned with new bangles. The process of dressing and ornamentation was to be executed to the utmost capability of the individual obligated to provide these ornaments, thereby symbolically endowing the girl with both material wealth and social honour (Stembach 369). It reflected that the dowry in a flagrant form was an essential part of the *Kanyādāna* form of marriage. The compulsion to confer dowry was on the bride's father or guardian. The Smriti justified the dowry practice by saying that the girl was honoured by giving gifts. It is said that where the women are honoured there, all rites are fruitless (Deshpande 56). Dowry in terms of goods or estate could thus be considered integral to the *Kanyādāna* form of marriage, which advocated '*Alamkritya Sutadānam* or 'decking the girl with ornaments before giving her away (Apte38). The Dharmashastra texts are in unanimous agreement regarding the commendation of gift-giving within the context of *Kanyādāna*, a form of marriage. However, there exists divergence among these texts concerning the legitimacy and appeal of the dowry associated with other matrimonial forms. This discrepancy is particularly pronounced in discussions regarding the *Asura* type of marriage. The widespread practice of the *Asura* marriage form in ancient periods across various global societies has been extensively documented and analysed by Westermarck (Westermarck166-171).

So, the historical roots of modern dowry can be seen in both the *Brahma* and *Asura* forms of marriage. It was. However, the culturally and ideologically predominant *Kanyādāna* form required the father to bestow the daughter in marriage with gifts, earning maximum spiritual merit to its performers and with gift giving, property, hypergamy, and cast restrictions inherited in it that gradually gained currency. That promoted the institutionalisation of the dowry system and facilitated evolution as an all-pervading part of the modern marriage system. Yet the fact that dowry did not assume a menacing proportion in pre-modern times can be attributed to two factors. First, the institutionalization of the *Kanyādāna* form of marriage did not mean an end to, or denial of, another form of marriage, which continued to exist till modern times. Second, because of this, the *Kanyādāna* form was prescribed mainly for the hierarchically upper cast and elites. The custom of dowry remained limited to a small group. That was also the group that could afford gift-giving because of its status. It was only when its status role began to change or decline that dowry, along with other factors, also became a burden (Sheel46). Primarily, the dowry system was not followed by the non-Hindus. Islam did not recognise dowry.<sup>4</sup> In Islam, where the opposite system of '*Mehr*' prevails, it was regarded as haram, while it had no prevalence among tribal. Even among oppressed castes within Hindu society, as among many tribes, it was the custom of bride price that was in force. During colonial times, instead of being increased in its social importance by the modernising effects of 'Western education', dowry was further reinforced by the demand among the urban classes for educated bridegrooms with job prospects in governmental organisations. However, forms of resistance against the dowry system also evolved with the development of women's education and with the growth of various social movements. The contribution of women in national movements provided an indirect impetus for such forms of resistance. The struggle of resistance took the form of young men forming leagues based on joint pledges that they would not take dowry, young women

<sup>4</sup> Mr. Abdul Waheed said in an interview that "however contrary to these assumptions Muslim women too are victims of dowry practices facing much harassment, if not bride burning. He pointed out that among Indian Muslims 14% of India's population do not absolutely follow Islamic ideals in their social lives, as is well known. Their customs traditions, social institutions are more Indian than Islamic. (Abdul Wahid is the author of Dowry among Indian Muslims- ideals and practices – in Indian Journal of gender studies.)

Although Islam does not prescribe endogamy or hypergamy, these forms of marriages have existed among Muslims for decades, especially in northern part of India, where Muslims are satisfied into hierarchical borders. The point is noted that Muslim women are deprived of the right of inherit property, thereby making dowry compensation.

refusing to go through the rituals of marriage with grooms who demanded dowry, conversions to Brahmanism or Christianity by families with daughters to avoid the domination of dowry and mobilization of social consent to abjure pretentious marriages.

### Heading: 1: Dowry, a Socio-Cultural Legacy or an Economic Indisposition

The persistence of dowry as a sociocultural tradition within Indian society merits critical examination. In the 1970s, both the Committee on the Status of Women in India and the feminist movement highlighted the expansion of dowry practices beyond their traditional confines within Hindu upper castes, where it served as a symbol of status to encompass a broader array of social groups. By the late 1980s, the practice of dowry had permeated lower and middle castes among Hindus, as well as Christians, Muslims, animists, and other tribal communities, extending into areas previously characterized by bride price, bride service, or reciprocal gift exchanges at the time of marriage, thereby adopting the guise of dowry. Scholars such as Das, Tambiah, and Goody have explored dowry through various lenses, including *Streedhana*, female property, and premortem inheritance, respectively. However, contemporary dowry practices diverge significantly from these traditional forms, particularly in terms of the bride's control over her dowry, as noted by Srinivas and supported by earlier observations. Srinivas observed that contemporary shifts in dowry practices can be delineated across a certain dimension. Firstly, dowry has become ubiquitous across castes, communities, religions, and geographic regions and is practiced among all social strata. Marriage, once one of several pivotal sacraments or rites of passage, now eclipses other life cycle rituals in its social and economic significance. Secondly, the previously voluntary nature of dowry 'gifts' has waned, with demands increasingly dictated by the groom's family to maintain social status rather than adhere to tradition. Instances have been reported where the groom's family has exerted pressure on the bride's family, threatening to halt marriage proceedings unless their demands are met. Such actions are rationalised from a patriarchal perspective as alleviating the bride's father from the burden of marriage arrangements. The continuous demands placed on the bride's family, under the pretext of insufficient dowry, ostensibly aim to 'save the daughter's home' (Srinivas 1-32).

The phenomenon of dowry has witnessed an escalation in monetary value alongside a qualitative transformation like the exchange of goods. This escalation often results in dowries surpassing the value of a daughter's equitable share in her father's estate, engendering discontent among other family members and a reluctance to extend further support. This perpetuates an inflationary cycle, compelling families to recover economically from the financial burden of a daughter's dowry through the matrimonial alliances of sons. Dowry encompasses the marital relationship and the customary exchange of gifts between betrothed parties. Sociologist and activist Madhu Purnima Kiswar elucidates that dowry demands extend beyond the engagement, persisting at regular intervals and during significant life events such as baby showers, the birth of children, rice ceremonies, and birthdays throughout the marriage (Kiswar 10). These occasions necessitate reaffirming the bond between the two families, placing the responsibility on the wife's parental family to maintain their relationship with their daughter's household through conspicuous and appropriately presented gifts. Furthermore, the array and creativity of the dowry, as reflected in the diversity of the bride's trousseau, gifts for the prospective family, and arrangements for their entertainment, serve not merely as a display of wealth but as an exposition of the bride's familial heritage, as articulated by Dr Rajni Palriwala in her writing. This display underscores the suitability of the marital union. The financial outlay on the wedding and the specifics of the dowry increasingly become crucial in assessing the appropriateness of a marriage proposal, with inadequate dowries sometimes leading to the discontinuation of negotiations, which are often conducted with subtlety. The dowry, thus, emerges as a significant motivator for men within the marital context. The extent of autonomy women exercise over their dowries is a matter of debate; however, the diminution of their influence in contemporary society is increasingly evident. This is

attributed to the changing dynamics of dowry practices, their escalating values, and, most significantly, the profound shift in the sociocultural positioning of women. Though the Dowry Prohibition Act was implemented in 1961 and was revised several times, it could not completely stop this evil and inhuman practice from our capitalist and half-feudalistic society. Even dowry has been practised as a mode of 1) Gifts, 2) A Mode of Pre-Mortem Inheritance, and 3) A Mode of Compensation.

**Dowry as gifts:** The first systematic sociological theory of gift exchange among primitive people was advocated by Marcel Mauss, who saw such a system as "total social facts". The foundational premise of the study entitled 'The Gift' posits that the archaic modalities of exchange, characterized by the tripartite obligations of giving, receiving, and reciprocating, were ubiquitous across diverse societies, fortifying communal ties. This phenomenon of gift exchange was perceived not merely as a transactional act but imbued with multifaceted significance, encompassing religious, legal, moral, economic, aesthetic, morphological, and mythological dimensions. (Kumari<sup>3</sup>) This observation has been further elaborated upon within the context of the religious-spiritual gift theory, positing that dowry can be conceptualized as a form of *Dakshina*, closely aligning with the practice of *kanyādāna* (the gift of the virgin). Recent discourse among social anthropologists has introduced a critical inquiry into the persistence of 'gift giving' during matrimonial exchanges, questioning the overt neglect of economic considerations. References to Hindu smritis, Puranic texts, and Vedic literature elucidate that the quintessential Hindu *dāna* (gift) is deemed incomplete without the provision of *Dakshina*. Historically, a concerted effort has been made to transmute material wealth into spiritual capital through *kanyādāna*.

The theory of gifts is contextualised by social scientists within the practices in the rural western regions of Uttar Pradesh, thereby situating these practices within the broader Hindu conceptual framework of gift-giving (Vatuk 169). Despite its origins in the ancient concept of *dāna* and its recognition within Hindu scriptures, the dowry system has evolved into a practice incongruent with contemporary societal norms in India. Currently, gifting within the dowry system imposes a significant financial burden on the bride's parents, transforming it into a more dangerous ordeal for the wives. This arises from the indeterminate nature of gifts, leading to frequent disputes over the discrepancy between expected and actual contributions. A survey among ten parents revealed that the expenditures incurred during their daughters' marriages invariably exceeded their initial budgets, indicating a prevalent expectation for considerable dowry payments. The primary motivation behind such demands from the groom's family is pressure and intimidation. The focus has shifted from the spiritual essence of the tradition towards materialistic consumption, with the dowry system now encapsulating the entirety of marital relations and the customary exchange of gifts between affines. Brides are often subjected to criticism and maltreatment for failing to meet the inflated dowry expectations, which, by historical standards, are exorbitant. Instances were noted where siblings-in-law demanded substantial sums of money or jewellery from the brides under the guise of tradition or, in jest, with tacit approval from the family elders. The commercialisation of social relations within India has rapidly evolved, propelling the nation towards embodying a modern capitalist economy. This transformation vividly illustrates the distinctive characteristic of capitalism identified by Marx: the formation of matrimonial connections among individuals and the establishment of social interactions among material commodities. Contemporary political strategists often demote women's issues to a subordinate status within the social sphere, erroneously depicting this realm as tangential to the primary concerns of class- or caste-based conflicts. However, Marx's critique underscores the importance of political economy, highlighting its pervasive influence in redefining the social sphere and reshaping the interrelations among groups and individuals ingrained within it. Conspicuous consumption has increased as ever, with vast consumer goods being made available to those who can afford it. Now, it is not only confined to upper economic groups and prospective consumers, but easy money for spending is available to the upper reaches to the

middle classes. With the effect of consumerism, people are rushing by the visions of the good life, which is projected by the media and the allurements of aggressive advertisements. Celebrity marriages, in all their obscene wastefulness and showy glamour, are recorded and projected continually so that these become the standard, and the necessity of having a traditional marriage with all its trappings gets reinforced. Thus, despite its professions of modernity and freedom, globalisation strengthens the ideological shackles that keep women in bondage to retrograde attitudes regarding marriage. The propagation of dowry today at all levels of society owes much to this enormous growth of consumerism and the commercialisation of human relationships. In the husband's family, dowry has become a means of obtaining necessities and achieving upward economic mobility. Dowry is given as gifts to the husband's brothers and sisters; cash is given as capital for business investment to groom and refrigerator, television, car, music system bicycles and other domestic equipment and consumer goods or house- flat given to in-laws. Still, all gifts were provided by the bride's family for the bride's happiness. With the influence of commercialisation often, the groom's families have crossed their demands limits. When the bride's family are unable to fulfil the groom's demands, then, in many cases, the wives are either burnt alive by a stove bust or attempt suicide.<sup>5</sup> Recent research by social anthropologists has identified a correlation between the commodification of goods and the phenomenon of dowry murder. The shift toward a wage labour economy has reallocated economic power from the familial unit to the broader market, the family's influence of financial institutions at the familial expense. Consequently, a family's economic sustainability is increasingly contingent upon its capacity to generate income through commercial commodity production or participation in the wage labour market. At the familial level, this economic predicament has manifested in an augmented necessity for liquid assets to counteract inflation, diminished employment opportunities for educated offspring, and a pervasive desperation to preserve existing living standards. These factors, in conjunction with the subordinate status of women in Indian society, have exacerbated the incidence of dowry-related fatalities. Such economic crises have further perpetuated various forms of violence and oppression against women. An illustrative case is that of Sita, who recounts her harrowing experiences post-marriage. Despite her family's substantial dowry contribution, consisting of cash, luxury items, and household goods, Sita faced relentless demands for additional dowry from her in-laws, culminating in threats of replacement for a more lucrative alliance. This scenario underscores the materialistic motivations underlying dowry harassment and murders, as well as the economic exploitation inherent in the practice, where the victim's belongings are appropriated by the new bride in a subsequent marriage (Caroline, Stone, 54-56).

### Dowry as a Mode of Pre-Mortem Inheritance

Within the discourse of familial and societal transactions, Dowry can be conceptualised as a mode of pre-mortem inheritance. This perspective posits that Dowry serves as a financial mechanism through which daughters receive a portion of their parental wealth before the parents' demise, ostensibly ensuring that women embark upon their marital journey with a semblance of economic security and comfort reminiscent of their natal homes. Proponents of this viewpoint argue that, in the absence of conventional inheritance rights for daughters, the dowry system provides a viable alternative for the equitable distribution of wealth. Furthermore, it is contended that this practice facilitates the preservation of family honour (*izzat*) by visibly fulfilling social and economic obligations towards the bride. According to the anthropological insights of Goody, the dowry system can thus be interpreted as a strategic, albeit controversial, method of securing a premortem inheritance for the bride, thereby embedding it within the broader socio-economic fabric of the community (Paul 242-247). Tambiah characterises the concept of dowry as a transfer of

wealth to a daughter at the time of her marriage, intended to serve as the foundation of the couple's marital estate. Predominantly, it can be observed that the practice of dowry in India underscores the principle of female property, known as '*streedhanam*.' While technically remaining under the woman's control, this property is often managed by the husband. A son, however, has the right to sell or appropriate the profits of his parental property even if he is away in some foreign country. However, a woman cannot sell any part of her strident, supported as her exclusive property. Nevertheless, in the present context, this confusion has raised the issue that the property (it may be land, jewellery, other assets like lands, houses, etc.) taken by the bride at the time of marriage is treated as *Streedhana*. In numerous instances, it has been observed that brides do not possess adequate legal authority over their *Streedhana*. This deficiency frequently translates into a diminished capacity to influence decisions within their marital households and persistent exhortations for additional dowry contributions. Often, the groom's family usurps these entitlements. A critical examination reveals that dowry resources are predominantly allocated towards extravagant matrimonial celebrations aimed at enhancing the social standing of the bride's family through ostentatious displays rather than securing the bride's financial independence for the future. As early as the 1980s, advocates for reform have posited that eradicating the dowry system hinges on establishing and enforcing equitable inheritance rights for women (Goody, Tambiah 1-56). Nonetheless, the concept of Dowry itself could not supplant the inheritance entitlements of women. Additional legal frameworks and societal norms, such as the practice of arranged marriages, which facilitated Dowry negotiations, the trend of marrying daughters at a young age, and the deficient educational opportunities provided to girls that would enable them to be economically independent, significantly influenced the Dowry tradition.

**Dowry was perceived as compensation:** Historically, women were often viewed as property. Hence, the bride's father, rather than the bridegroom, was deemed justified in seeking payment at the time of marriage. The father relinquished control over his daughter's labour following her marriage and compensated for this loss (Altekar 18). Within the framework of traditional practices and Hindutva ideology, numerous parents have historically engaged in the act of *Kanyādāna*, fervently wishing for male progeny. This preference is rooted in Hindu scriptures, which assert that only male offspring possess the capacity to liberate their parents from purgatory. Concurrently, ancient texts, including those attributed to *Kautilya*, have posited that the primary purpose of a wife is to produce a male heir. This ideology persists in the modern era, where it is occasionally articulated that the demise of an ox constitutes a misfortune. In contrast, the death of a female child is considered lucky. Presently, a substantial fraction of the female population in India remains undereducated. This is further exacerbated by the prevalent preference for male children in rural areas, leading to a disparity in the investment towards daughters' education and professional training compared to sons. Such gender-based discrimination culminates in unequal opportunities for employment and compensation in adulthood. Most women find themselves relegated to domestic roles within the confines of their homes, with societal expectations limiting them to household chores and childbearing.

In the context of cultural traditions and the ideology of Hindutva, numerous parents, while embracing the practice of *Kanyādāna*, —a ritual signifying the giving away of the daughter—have concurrently harboured a preference for sons. This preference is deeply rooted in the belief, as articulated within Hindu scriptures, that only a male offspring can liberate his parents from purgatory. This doctrinal stance is not isolated; for instance, *Kautilya's* ancient texts also underscore the notion that the primary purpose of a wife is to bear a male heir. This traditional preference for male progeny is not merely historical. Still, it persists into the present, evidenced by prevailing attitudes that deem the demise of a daughter fortuitous, in stark contrast to the misfortune associated with the loss of an ox. The implications of such gender biases extend into education and economic participation. In India, a considerable female population is deprived of adequate educational opportunities. This educational neglect is particularly pronounced in rural areas, where son-preference significantly

<sup>5</sup> According to the Vatak the marriage presentation may have been of the nature of pure gift in ancient India (possibly referring to the concept of *kanyādāna*) but this however is not true in the present scenario.

influences parental investment in children's education, favouring sons over daughters. This gender-discriminatory practice has far-reaching consequences, leading to disparities in employment opportunities and wage equity in adulthood. The culmination of this bias is a societal expectation that confines most women to domestic roles, limiting their professional engagement to the boundaries of household responsibilities and childbearing. This entrenched gender discrimination not only undermines the potential of women but also perpetuates a cycle of inequality that hampers societal progress.<sup>6</sup> But from a patriarchal conception, their housework is not considered productive labour. Women are treated as a burden. It is observed that parents are less interested in educating their daughters, but they are eagerly waiting to remove their burden. So many parents could not hesitate to give dowry at the times of the marriages of their unemployed daughters as a mode of compensation. Many parents only encouraged their daughters to get good degrees to make them more attractive matches for highly educated grooms.

Navej Purewal, a sociologist and demographer, has elucidated how dowry has perpetuated and intensified the prevailing preference for sons within society; through his scholarly investigation titled 'Son Preference', Purewal endeavours to highlight the persistence of this phenomenon across diverse practices of dowry and marriage alliances not only within South Asia but also amongst its diaspora. Despite the myriad variations in these practices, dowry emerges as a steadfast component in the discourse on son preference. The debate on dowry, engaged in by economist Bina Agrawal, among others, spans several decades, delving into its correlation with issues of inheritance, entitlement, the status of women, the nexus of poverty and wealth, as well as the dynamics of power between the families of the bride and groom. These debates serve as critical arenas for examining the multifaceted impacts of dowry on social and familial structures. Navej has elucidated that the phenomena of dowry and son preference can be comprehensively interpreted through a variety of perspectives, encompassing the constructs of masculinity and femininity, the dynamics of development, and the governance of gender relations, in addition to educational factors, rather than solely focusing on the limited viewpoint of the victimized girl child. This broader analytical framework allows for a more nuanced understanding of these complex socio-economic issues, highlighting the multifaceted nature of gender biases and their implications on societal structures. Banerjee points out that the difficulties of charting this interconnection seem too vast a task for most policymakers attempting to address gender disparities in South Asia. Thus, the policy agenda remains uncritical of structures and instead proceeds to target women and the girl child as victims and as beneficiaries of the state and other agency-sponsored efforts rather than viewing women as agents and participants in the worlds of gender that generate son preference. Dowry, a cultural practice entrenched in various societies, has been a subject of extensive academic scrutiny, especially in its implications on women's rights and well-being.

### **Heading:2: Cruel Face of Dowry Harassments and Dowry Deaths: Causes of Cruelties**

In essence, the practice of dowry can be perceived as a pervasive disorder that undermines familial structures. It is a notable anomaly, one of the few transgressions to receive broad societal endorsement. The NCRB (National Crime Record Bureau) report mentions that 13,479 instances were reported in 2022 under the Dowry Prohibition Act 1961. Six thousand four hundred fifty dowry deaths were reported in 2022 during the same time. Feminist theoretical frameworks articulate violence as a derivative of the constructed social roles encompassing the husband-wife dynamic alongside the entrenched societal norms advocating for male supremacy over resources, institutionalized gender disparities, and the resultant perceived entitlement of men to exert control over women's lives. These dynamics are equally pertinent in the context of the mistreatment of Indian women. Jethmalani and Prasad have observed that women implicated in dowry-related violence are interconnected

through their affiliations with male counterparts. Although mothers-in-law and other elder female figures are involved in perpetuating this violence, it is the tacit approval by the culture at large that facilitates such severe acts of violence (Jethmalani, Prasad 139-147).

The psychopathology of men as perpetrators of abuse constitutes a critical aspect of the intensity and frequency of such abusive behaviours. Flavia's (1988) analysis underscores the correlation between the societal pressure on men to conform to traditional masculine norms and their propensity towards violence. Specifically, the inability of some men to reconcile their failures with the rigid expectations of masculinity often results in the externalisation of their frustrations. This externalisation frequently manifests as blaming women for their shortcomings and resorting to violence as a means of asserting dominance. Moreover, the entrenched patriarchal norms that delineate the domestic sphere as a realm of male authority further exacerbate this issue. The societal endorsement of the husband's prerogative to 'discipline' his wife not only legitimises but also perpetuates acts of violence against women within the domestic setting. This is further complicated by the fact that men who have been exposed to or victims of violence in their formative years are more inclined to view physical aggression as a viable method of resolving conflicts, particularly within the context of a marriage. Hence, it is imperative to critically examine and address the underlying psychopathological factors contributing to men's abusive behaviour to mitigate the prevalence and severity of abuse against women. This entails a holistic approach that encompasses both the deconstruction of harmful masculine stereotypes and the implementation of comprehensive support systems for those affected by domestic violence (Agnes 160-161). In the jurisprudential landscape, a pivotal case elucidates the Supreme Court's stance regarding the evidentiary value of a dying declaration within the context of dowry-related fatalities. Expressly, the court sentenced that without the dying declaration being corroborated to a satisfactory level, establishing a dowry death becomes untenable. This legal principle was notably applied in the case of *Yashoda v. State of Madhya Pradesh*, illuminating the judiciary's approach towards the intricate interplay between testimonial integrity and the presumptive thresholds required for conviction in dowry death scenarios.<sup>7</sup> The Supreme Court has posited that the determination of the relevant period preceding a dowry death is contingent upon the unique facts and circumstances of each case, advocating for the application of a "reasonable period" standard.<sup>8</sup> It emphasised the existence of a proximate link between acts of cruelty along with the demand for dowry and the death of the victim. Thus, the decisions largely depended upon the periods that the courts were considered as constituting "soon before". Whereas some courts had held that harassment two days before the death could not be said to be "soon before" the death of the victim.<sup>9</sup> In recent discourse surrounding the legal framework of dowry deaths, a significant debate has emerged concerning the interpretative scope of the phrase "soon before her death," as delineated in Section 304B. Judicial interpretations have varied, with some courts asserting that the temporal proximity encapsulated by this phrase could extend to several days before the victim's demise. This broad interpretation has catalysed advocacy from women's organisations, groups, and the National Commission for Women (NCW), all of which have called for the deletion of the phrase above to ensure a more encompassing legal protection against the perpetration of dowry deaths. Furthermore, the statutory provisions under S. 304B, which prescribe a minimum sentence of seven years and a maximum of life imprisonment, have been critiqued for their perceived leniency. Given the gravity of dowry deaths and their categorisation within the broader spectrum of homicidal offences, it has been argued that the minimum statutory penalty is disproportionately lenient. Advocates for legal reform contend that the punishment for dowry deaths should align more closely with that for

<sup>7</sup> 2004) 3 SCC 98, approved in *T. Aruntpurunjothi v. State through SHO, Pondicherry* MANU/SC/8091/2006

<sup>8</sup> *Ashok Kumar v State of Haryana* AIR 2010 SC 2839

<sup>9</sup> *M Mohan v The State* represented by The Deputy Superintendent of Police AIR 2011 SC 1238

<sup>6</sup> It is estimated that average Indian women are doing minimum 8 hours of unpaid works within the family apart from any work outside the family.

murder, reflecting the severity and moral culpability associated with these crimes. This position underscores a broader call for a recalibration of legal sanctions to reflect the societal and ethical dimensions of dowry-related homicides more accurately.

It is a ubiquitous question why dowry deaths are increasing in contemporary India and why this law has so far failed to address the problems seriously. Significant loopholes and flaws remain despite the extensive amendments in these laws in the eighties. Also, as with several other criminal laws which must be investigated and enforced by the police, how the police have dealt with cases under the dowry laws and continue to deal with them leaves much to be desired. It has been widely reported that the police, in many instances, are gender biased, corrupt, and inefficient. In the first instance, the police do not even register an FIR<sup>10</sup> as they are bound to do in law. This negligence extends to their routine failure to collect substantial evidence and their delay in recording the testimonies of victims and other relevant witnesses, even when there is no deliberate attempt to undermine a case. The interpretation of these laws by the judiciary in India, encompassing the Trial Courts, High Courts, and the Supreme Court, further exposes the gender biases ingrained within specific segments of the judiciary. These biases are evident in the stereotypical perceptions of a woman's role within her marital home and family, which not only diminish the gravity of the violence she endures but also perpetuates her subordinate and marginalized status within the domestic sphere. Additionally, the protracted nature of judicial processes, coupled with barriers to accessing legal recourse, constitute significant impediments faced by victims of violence within the judicial framework. Despite legislative amendments to reinforce the framework against dowry practices, the prevalence of such customs has persisted and intensified. The persistence and exacerbation of dowry practices are evidenced by the findings of a Joint Select Committee of Parliament, which, after conducting an extensive review and gathering evidence across the nation, reported a comprehensive spread of dowry practices across all castes and communities. This diffusion signifies a departure from the historical confines of Hindu upper castes, traditionally associated with dowry practices. The Committee's observations, drawn from a nationwide examination in 1982, underscored that the adverse phenomena of dowry and its associated extravagant displays had permeated from affluent to less affluent segments, affecting a broad demographic spectrum, including both literate and illiterate populations across urban and rural settings. This widespread entrenchment underscores the ubiquity of dowry practices, transcending traditional socio-economic and religious boundaries, thereby implicating virtually every societal group irrespective of caste, creed, or religion.<sup>11</sup>

### Heading: 3: The Dowry Prohibition Act 1961: Intuitive Observations

An examination of the Dowry Prohibition Act (DPA) alongside various judicial decisions rendered under this statute reveals the ineffectiveness of the Act, despite amendments made in 1983, 1985, and 1986. The Act's shortcomings can be attributed to several factors, including the language of the statute, how it has been interpreted and enforced, and various socio-economic factors previously discussed. A significant challenge arises from the legal delineation of 'dowry' as prescribed in Section 2 of the Dowry Prohibition Act. This statute defines dowry as any property or valuable security that is given or promised to be given, either directly or indirectly, by one marriage party to the other...at or before or any time after the marriage in connection with the marriage (DPA-1-3). This definition underscores the complexity of addressing dowry transactions, as it encompasses a wide range of tangible and intangible exchanges related to the

matrimonial alliance.<sup>12</sup> The phrase "in connection with the marriage" has undergone diverse interpretations by the Supreme Court, resulting in acquittals in legal proceedings under the specified Act and Section 304B of the Indian Penal Code (IPC) and Section 306 IPC. These sections, addressing dowry murder and abetment to suicide, are directly influenced by the definition of dowry as established in the Dowry Prohibition Act (DPA). This variance in interpretation highlights the complexities inherent in legal definitions and their application in judicial decisions, underscoring the need for a more precise legal framework to mitigate ambiguities and ensure justice. Since the establishment of the Dowry Prohibition Act in 1961, the conceptualisation of dowry has been fraught with complexities. Initially, the Act delineated dowry as any property exchanged as a quid pro quo for marriage, necessitating evidence that the dowry transfer was contingent upon the marriage arrangement. This definition confined the Act of providing a dowry solely to the occasion of the marriage ceremony. However, legislative modifications in 1983 and 1984 expanded the scope of this definition to encompass the solicitation, acceptance, and offering of dowry at the time of marriage and before and after the event. The phrase "in consideration of marriage" was substituted with "in connection with marriage," broadening the legal understanding of dowry transactions. The proliferation and intensification of dowry practices, along with their underlying causes, have been documented in various scholarly studies.

The Dowry Prohibition Act of 1961, subject to multiple revisions over the years, stands as a critical legislative measure aimed at curbing the pervasive practice of dowry in India. The Law Commission of India, in its 91st Report, proposed a nuanced definition of 'dowry', articulating it as money, or other objects with monetary value, demanded from the wife or her kin by the husband or his relatives, wherein such demand does not align with any legally valid claim and is exclusively linked to the wife's marriage into the husband's family. This definition aims to encapsulate the multifaceted nature of dowry as a socio-legal issue, focusing on the unwarranted demands placed upon the wife and her family. The discourse surrounding the amendment of the Dowry Prohibition Act, particularly during the 1984 discussions in the Rajya Sabha, highlighted the contention over the phrase 'in connection with marriage'. Critics argued that this phrase was nebulous and did not significantly diverge from 'in consideration of marriage'. The ambiguity of this terminology has been a point of contention, with advocates and women's organizations pushing for its removal to eliminate loopholes that hinder the prosecution of dowry-related offences. This period also witnessed calls for the omission of the phrase 'in consideration of marriage' from legislation, as echoed by the Joint Committee of Parliament, to enhance the Act's efficacy in combating dowry practices.

Additionally, the amendments of 1983 and the suggestions from various committees and women's organizations brought forth the idea of imposing a ceiling on the expenditure related to marriage gifts, calculated as a percentage of the individual's earnings. Despite these recommendations, the government should have incorporated this suggestion in the 1983 amendments to the Dowry Prohibition Act. The requirement for maintaining a detailed list of gifts exchanged at the time of marriage, although intended to provide transparency, has been met with resistance in many parts of the country, where such

<sup>12</sup> The present definition of dowry in the Dowry Prohibition Act 1961 reads as under:-

2. Definition of 'dowry'.- In this Act, "dowry" means any property or valuable security given or agreed to be given directly or indirectly-  
(a) by one party to a marriage to the other party to the marriage; or  
(b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.  
Explanation II. - The expression "valuable security" has the same meaning as in Section 30 of the Indian Penal Code (45 of 1860).

<sup>10</sup> A First Information Report is a document which the police are mandated to prepare according to the Criminal Procedure Code 1973 the moment they receive information a cognizable offence.

<sup>11</sup> Report of the Joint Committee of the Houses to Examine the Question of the Working of the Dowry Prohibition Act, 1961, C.B. (II) No.333, presented on 11 August 1982, published by the Lok Sabha Secretariat, New Delhi

practices are deemed culturally inappropriate. The National Commission for Women (NCW) suggested imposing penalties for non-compliance with this requirement, highlighting the complex interplay between legislative measures and socio-cultural norms in addressing the dowry issue. The evolution of the Dowry Prohibition Act and the debates surrounding its amendments underscore the challenges inherent in legislating against deeply entrenched social practices. The legislative discourse reflects ongoing efforts to refine legal definitions and provisions to combat the dowry system more effectively, balancing legal imperatives with cultural sensitivities. The text you've provided outlines significant legislative advancements in the Indian legal system, mainly focusing on amendments aimed at addressing dowry-related violence against women.

The introduction of Section 498A into the Indian Penal Code (IPC) marks a pivotal moment in the fight against domestic violence, criminalizing both physical and mental cruelty perpetrated by a husband and his relatives. This legislation represents a broadening of the legal framework to encompass a broader range of domestic violence under criminal law. It defines cruelty in a manner that includes willful conduct likely to drive a woman to commit suicide or to cause her grave physical or mental harm. Furthermore, in 1986, an amendment to the IPC introduced a new offence termed dowry death,<sup>13</sup> targeting the escalating issue of dowry-related murders. This section posits that if a woman suffers an unnatural death within seven years of marriage and it is demonstrated that she was subjected to cruelty or harassment by her husband or his relatives concerning dowry, the death is presumed to be caused by them. The legal consequence for causing such a death includes imprisonment ranging from a minimum of seven years to a maximum of life imprisonment. These legislative measures underscore a significant shift towards recognizing and penalizing acts of violence against women within the domestic sphere, reflecting the influence and effectiveness of the women's movement in instigating legal reform (Singh49).

Women's groups and other advocates have consistently highlighted the necessity for preemptive measures to address the issue of dowry, asserting that without such interventions, legislative efforts would remain largely ineffective. The critique of dowry practices has historically emerged and continues to do so, primarily in the aftermath of the disintegration of matrimonial relationships or the wake of dowry-related homicides. There was a notable absence of mechanisms designed to halt the initial exchange of dowry, effectively preventing the perpetration of the offence. It is an attempt to introduce such preventive mechanisms. The 1986 amendment to dowry legislation enabled state governments to appoint Dowry Prohibition Officers. These officers were tasked with deterring the Act of taking, facilitating, or demanding dowry, in addition to ensuring adherence to the provisions of the Act.<sup>14</sup> Furthermore, Dowry Prohibition Officers were empowered to gather evidence against individuals implicated in

<sup>13</sup>Section 304B.- Dowry death

304B. Dowry death.—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation

For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment of not less than 7 years but which may extend to imprisonment for life—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

<sup>14</sup>S. 8B DPA. However, State governments have failed to appoint an adequate number of Dowry Prohibition Officers and even those that they have appointed are officers who already have other government duties. The negligent on the part of the state government shows that they are not serious about implementing the DVA. State Supervisory Boards were also not appointed "to advise and assist" these officers.

dowry exchange. The All-India Democratic Women Association (AIDWA) has spearheaded the anti-dowry movement across India. A significant milestone in their campaign was achieved in 2002 during an AIDWA workshop, where several resolutions against dowry practices were adopted. These resolutions encompassed a wide range of strategies to combat the dowry system. Among these were:

- Public demonstrations against the extravagant display of wealth by affluent segments of society.
- The promotion of inter-caste and self-selected marriages devoid of dowry.
- The closure of facilities conducting sex determination tests.

Additional measures included legal actions against advertisements and media content that endorse dowry practices, son preference, and extravagant marriage expenditures. The organization also initiated mass campaigns against dowry, which featured public commitments to abstain from accepting dowry. Efforts were also directed towards challenging son preference in religious rituals and integrating anti-dowry initiatives into broader political discourses.

## DISCUSSION AND CONCLUSION

The entrenchment of dowry practices, alongside the consequential violence inflicted upon women, emerges as a paramount concern within the discourse of gender justice. The scrutiny of the data unveils not only the widespread nature of such crimes but also the formidable obstacles encountered in securing legal justice, further complicated by the discourse on the issue of false allegations. It is imperative that a multifaceted strategy be adopted to address these concerns, one that encompasses legal reforms, societal transformation, and heightened awareness to dismantle the structures perpetuating dowry-related violence effectively. The integration of gender justice and women's rights within peace agreements and the legal and institutional frameworks underpinning post-conflict reconstruction is essential. As Prof. Veena Mazumdar articulates, the absence of women's active participation and comprehensive inclusion in peacebuilding efforts compromises the achievement of justice and development during the transition towards peace. Moreover, Mazumdar highlights the intrinsic connection between gender justice and all dimensions of justice, underscoring the pivotal role of women in shaping justice frameworks and the rule of law institutions in a manner that champions women's human rights, legal equality, and inclusion. This perspective is reinforced by Noeleen, who outlines three foundational pillars for a gender-responsive reconstruction framework. A) The rebuilding of state institutions to foster inclusive governance with an emphasis on constitutional protections for the rule of law and gender equality. B) The reconstruction of economic and social structures to address the root causes of conflict. C) The healing of psycho-social trauma through reconciliation processes to re-establish justice (Agnihotri 309-312). It is of paramount importance that institutions such as the National Commission for Women (NCW), All India Democratic Women's Association (AIDWA), National Federation of Indian Women (NFIW), alongside various non-governmental organisations, are engaged in providing counselling services to victims of dowry. Women organisations have been vocal, articulating several slogans such as "*Dahej Mat Do, Dahej Nat Lo*" (Neither give nor accept dowry) and advocating for the rights of daughters to inherit property through slogans like "*Betiyan ko Virasat do, Betiyan, Apni Virasat lo.*" (Daughters should be endowed with inheritance rights; daughters should claim their inheritance rights). Despite these efforts to raise awareness, women organisations believe that legal reforms are imperative to fortify and safeguard the position of women within the patriarchal fabric of society. Several critical measures are:

1. Legislation about land, property, and succession, including land ceiling laws, should be revised to ensure women's equitable rights, especially concerning immovable assets such as housing and land.



2. Any legal instrument through which a woman relinquishes her rights in favour of male relatives should be declared null and void.
3. Women should be prevented from transferring property inherited from their parents to their husbands or in-laws. In cases where a woman dies childless or under mysterious circumstances, her property should revert to her birth family, preventing her inheritance from becoming a motive for her murder. Inheritance should pass to her adult children or, in the absence of offspring and following a natural death after many years of marriage, to her spouse, mirroring the inheritance rights she would have to her spouse's property.
4. The actualisation of women's inheritance rights would likely lead to eradicating dowry in its current form. The exchange of gifts during weddings, even if termed dowry, would not be contentious. Furthermore, ensuring equal inheritance rights would prevent unmarried women from being disinherited. The emphasis should empower women with the necessary resources and capabilities to autonomously define, manage, and protect their interests and lives.

This analysis extends to the late 20th century in India, a period marked by a significant paradigm shift in the socio-political landscape, particularly in the women's movement for equality. This essay explores the evolution of women's movements in India, tracing their inception to the independence movement and charting their evolution into a comprehensive campaign for empowerment deeply interwoven with human rights advocacy. A critical examination of the pivotal moments, such as the publication of the 1974 Commission on the Status of Women in India's report, underscores the women's movement's strategic pivot towards addressing violence against women with unprecedented directness and vigour. The 1970s marked a seminal period in the Indian women's movement, characterised by an awakening to the pervasive issues of dowry murders, marital rape, domestic violence, and child marriages. This period saw Indian women adopting politically sophisticated stances, often more nuanced than their Western counterparts, catalyzing a unique and localised feminist discourse. The Tarvinder Kaur case in 1979 serves as a poignant illustration of the movement's ability to mobilize against dowry-related violence. The public outcry and the subsequent protests led by women's groups, notably Stree Sangharsh, against the misclassification of dowry deaths as suicides signaled a new era of activism that sought not only to raise awareness but also to enact legislative reforms. The essay further explores the ramifications of these movements, highlighting the significant impact on public consciousness and policy. The anti-dowry campaigns of the late 20th century, particularly the protests surrounding the Tarvinder Kaur case, exemplify the movement's success in challenging societal norms and influencing legislative discourse. The demands for making dowry an unbailable offence, mandatory postmortems for deaths occurring within seven years of marriage, and thorough investigations into purported suicides reflect a strategic approach to combating dowry violence. Moreover, the emergence of neighbourhood action committees, women's wings, front organisations, and the integration of counselling services within women's centers and police anti-dowry cells illustrate the multifaceted approach adopted by the movement to address the dowry issue. This essay contends that the Indian women's movement's evolution, characterised by its strategic pivots and the mobilization around the dowry issue, represents a critical juncture in India's socio-political history. It not only redefined the contours of feminist activism but also significantly contributed to the shaping of a more equitable social order. In conclusion, the trajectory of the women's movement in India, especially in its confrontation with the dowry system, underscores a complex interplay of cultural, socio-political, and legal dynamics. The movement's ability to adapt, mobilize, and effectuate meaningful change provides a compelling case study of feminist activism in a non-Western context, offering valuable insights into the global feminist discourse.

**Disclosure statement:** No potential conflict of interest was reported.

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