



**Australian Government**  
**Refugee Review Tribunal**

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# Country Advice

## India

India – IND39128 – Dowry – Women –  
Relocation – State Protection – Punjab

17 August 2011

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### 1. Are there recent reports of women being extorted and harmed as a result of dowry disputes in Punjab?

Numerous recent reports can be found of women being extorted or harmed in relation to dowry disputes in Punjab. On 27 July it was reported that police had registered a case against the husband and in-laws of a Punjabi woman based in Canada who had allegedly harassed the woman to provide a dowry. The woman also claimed that her husband, who was in Punjab, had used her to gain entry to Canada.<sup>1</sup> On 22 July four persons including a husband, father-in-law and mother-in-law were booked for allegedly torturing 24 year-old woman over demands for a car as dowry. The case was registered under sections 498, 406 of the Indian Penal Code.<sup>2</sup> On 15 July a woman lodged a complaint to police that her husband and in-laws had tortured her mentally and physically, also over demands for a car as dowry. Police had booked the in-laws on the charge of demanding dowry.<sup>3</sup> On 1 July a husband and his relatives were charged with the ‘dowry death’ after the death of a woman near Zirakpur town, 10km from Chandigarh.<sup>4</sup> In March, a father, mother and son were sentenced to ten years imprisonment in a dowry case by the District and Sessions Court.<sup>5</sup> In February, the father of a girl alleged that her in-laws had demanded a dowry to enable them to send her husband to Canada. The girl was allegedly beaten and then poisoned resulting in her death.<sup>6</sup> In 2001 a woman committed suicide allegedly due to harassment which included dowry demands.<sup>7</sup>

Dowry disputes were said to be a serious problem nationwide.<sup>8</sup> A Freedom House report noted in 2010 that “despite the criminalization of dowry demands and hundreds of convictions each year,

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<sup>1</sup> Mehak, G. 2011, ‘Punjab bridegroom booked for fraud and demanding dowry from Canada based wife’, *Punjab Newslines*, 27 July <http://punjabnewslines.com/content/punjab-bridegroom-booked-fraud-and-demanding-dowry-canada-based-wife/32461> - Accessed 16 August 2011 – Attachment 1

<sup>2</sup> Kang, S. 2011, ‘Four persons booked in dowry case’, *Punjab Newslines*, 22 July <http://punjabnewslines.com/content/four-persons-booked-dowry-case/32377> - Accessed 16 August 2011 – Attachment 2

<sup>3</sup> Kang, S. 2011, ‘Six members of Punjab family booked under dowry Act’, *Punjab Newslines*, 15 July <http://punjabnewslines.com/content/six-members-punjab-family-booked-under-dowry-act/32262> - Accessed 16 August 2011 – Attachment 3

<sup>4</sup> ‘4 booked in Punjab dowry case’ 2011, *Newsleaks*, 1 July <http://newsleaks.in/4-booked-in-punjab-dowry-case/> - Accessed 16 August 2011 – Attachment 4

<sup>5</sup> Shahr, N. 2011, ‘3 sentenced to 10 years imprisonment in Dowry death case in Punjab’, *Punjab Newslines*, 15 July <http://punjabnewslines.com/content/3-sentenced-10-years-imprisonment-dowry-death-case-punjab/29206> - Accessed 16 August 2011 – Attachment 5

<sup>6</sup> Luthra, P. 2011, ‘Dowry claims another life in Punjab village’, *Punjab Newslines*, 3 February <http://punjabnewslines.com/content/dowry-claims-another-life-punjab-village/28258> - Accessed 16 August 2011 – Attachment 6

<sup>7</sup> ‘Dowry victim couldn’t take it any more’ 2001, Punjabi Network, 20 November <http://www.punjabi.net/forum/showthread.php?t=437> - Accessed 16 August 2011 – Attachment 7

<sup>8</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April, Section 6 – Attachment 8

the practice continues”.<sup>9</sup> According to the Indian National Crime Records Bureau (NCRB), in 2009 there were 8,383 reported dowry deaths. The US Department of State (US DOS), however, notes that since many cases were not reported, the statistics were not always accurate.<sup>10</sup> The NCRB recorded 31,950 cases of dowry deaths pending trial nation-wide in 2008 (this includes those which may have occurred in previous years).<sup>11</sup> According to the US DOS, deaths associated with the non-payment of dowries rose in the past few years.<sup>12</sup> A 2005 UN commissioned paper by women’s organisation Manushi attributes this strengthening culture of dowry demands to a groom’s parents now feeling they will not be able to rely on economic support from the son once he is married.<sup>13</sup> This trend stretches back to at least the late 1990s.<sup>14</sup> It is worth noting that in comparison to the rest of the country, Punjab recorded a lower rate of crimes against women in 2009.<sup>15</sup>

## False Reporting

A large number of the complaints lodged regarding dowry demands were said to be false. As in one of the above reports, Section 498 of the Indian Penal Code is sometimes applied to dowry related cases. The section contains the offence of “cruelty by husband or relatives of husband”. In Punjab, on average, 75% of the cases listed for hearing in criminal courts are registered under this section of the Penal Code. Of these, the Manushi paper said lawyers claimed that 90% were false accusations. The law is said to be exploited for the purposes of blackmail.<sup>16</sup> In 2009, a husband sought support from the Punjab State Human Rights Commission alleging that he had been framed in a false dowry case which had seen his father arrested and detained.<sup>17</sup>

In most cases, there were a number of non-dowry related factors leading to conflict and mistreatment in a marriage. Accusations of dowry demands were often the legal manifestation of such conflicts. Author of the Manushi report, Madhu Kishwar a women’s rights activist, states “in the 28 years of my dealing with domestic violence cases in India, I have never come across a single case whereby a man battered a woman solely because of additional dowry demands and would begin to treat his wife well if his in-laws met with all his demands”.<sup>18</sup>

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<sup>9</sup> UK Home Office 2010, *Country of Origin Information Report – India*, 21 September, p122 – Attachment 9

<sup>10</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April, Section 6 – Attachment 8

<sup>11</sup> ‘Disposal of IPC Cases by Courts During 2008’ (undated), National Crime Records Bureau website <http://ncrb.nic.in/CII2008/cii-2008/Table%204.9.pdf> - Accessed 16 August 2011 – Attachment 10

<sup>12</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April, Section 6 – Attachment 8

<sup>13</sup> Kishwar, M. 2005, *Strategies for Combating the Culture of Dowry and Domestic Violence in India*, Manushi - UN Division for the Advancement of Women, May, p25-26 <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> - Accessed 16 August 2011 - Attachment 11

<sup>14</sup> Vinayak, R. 1997, ‘Victims of Sudden Affluence’, *India Today*, 15 December <http://punjabnewsline.com/content/six-members-punjab-family-booked-under-dowry-act/32262> - Accessed 16 August 2011 – Attachment 12

<sup>15</sup> ‘CRIME AGAINST WOMEN’ (undated), National Crime Records Bureau website <http://ncrb.nic.in/CII%202009/cii-2009/Chapter%205.pdf> - Accessed 16 August 2011 – Attachment 13

<sup>16</sup> Kishwar, M. 2005, *Strategies for Combating the Culture of Dowry and Domestic Violence in India*, Manushi - UN Division for the Advancement of Women, May, p22 <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> - Accessed 16 August 2011 - Attachment 11

<sup>17</sup> Khanna, M. 2009, ‘NRI, kin booked in dowry case’, *Ludhiana Tribune*, 9 August <http://www.tribuneindia.com/2009/20090810/ldh1.htm> - Accessed 16 August 2011 – Attachment 14

<sup>18</sup> Kishwar, M. 2005, *Strategies for Combating the Culture of Dowry and Domestic Violence in India*, Manushi - UN Division for the Advancement of Women, May, p2 <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> - Accessed 16 August 2011 - Attachment 11

**2. If so, what level of state protection is available to women facing this kind of violence from their husbands and their husbands' families either in the Punjab or elsewhere in India?**

There is a high level of state protection available to women facing this kind of violence from their husbands and in-laws throughout India, including in Punjab. The US DOS reports in 2011 that the law “forbids the provision or acceptance of a dowry” and “bans harassment in the form of dowry demands and empowers magistrates to issue protection orders”. On 23 November 2010, the Supreme Court made it mandatory for all trial courts across the country to add the charge of murder against persons accused of causing dowry deaths. More broadly, the law provides for protection from all forms of abuse against women in the home.<sup>19</sup> Despite this it is worth noting that commentators still argue that the rights of women in India are neglected.<sup>20</sup> A Human Rights Watch report dated August 2009 indicates that women are among the “classes of people in India who are discriminated against, and routinely denied equal protection under the law”.<sup>21</sup>

*The Dowry Prohibition Act, 1961*, prohibits the giving or taking of a dowry. The Act extends to all of India except Jammu and Kashmir:

2. Definition of ‘dowry’.-In this act, ‘dowry’ means any property or valuable security given or 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 or to any other person;

at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

...

4. Penalty for demanding dowry.- If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.<sup>22</sup>

In Punjab, this Act was amended through the *Punjab Act 26 of 1976* to also prohibit lavish weddings which may be seen as a form of dowry:

Section 4-A. Bar of certain acts – Any person who, -

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<sup>19</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April, Section 6 – Attachment 8

<sup>20</sup> Human Rights Watch 2010, *World Report 2010 – India*, January – Attachment 15

<sup>21</sup> Human Rights Watch 2009, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*, August, pp 9, 44 & 73 – Attachment 16

<sup>22</sup> ‘THE DOWRY PROHIBITION ACT, 1961’ 1961, Government of India – Ministry of Women and Child Development, 20 May <http://wcd.nic.in/dowryprohibitionact.htm> - Accessed 16 August 2011 – Attachment 17

- (i) Displays any presents made at the time of such marriage in the form of cash, ornaments, clothes or other articles; or
- (ii) Takes in a marriage party more than twenty-five persons exclusive of minor and the members of the band; or
- (iii) Gives in the form of *Shagun* at the time of Thaka, betrothal or marriage, anything the value of which exceeds eleven rupees; or
- (iv) Gives to the parents or any other relation of a party to the marriage anything on the occasion of '*Milni*' or any other ceremony performed in relation to betrothal or marriage; or
- (v) Serves to the marriage party more than two principal meals;

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both".<sup>23</sup>

Furthermore, despite the abuse of the law and prevalence of false accusations discussed in Question 1, the Manushi report stated that many feminists felt that Section 498 of the Indian Penal Code served women well and proved extremely useful as a deterrent.<sup>24</sup> The Section states that "[w]hoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine".<sup>25</sup> Another law which protects women in India from violence which may result from dowry demands is the Protection of Women from Domestic Violence Act 2005 (PWDVA).<sup>26</sup>

## Enforcement

In addition to the laws themselves, the level of state protection available to women is affected by how these laws are enforced. There is evidence to suggest that laws are enforced thoroughly. A large number of families have been locked up in jail for a few days, weeks, or even months, simply following the registration of a police First Information Report.<sup>27</sup>

There has been criticism that anti-dowry legislation is often enforced unfairly and involves corruption. This is likely to have a long term effect of weakening the law. According to a website critical of Section 498, the law "fosters corruption, as the very nature of it, due to...its loopholes, exposes the police force to corruption". It is argued that when a dowry case is filed, the police treat the accused according to their social standing and the officer's perception of the accused. Furthermore, the counselling session which, in some cases, is imposed prior to making

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<sup>23</sup> Katyayani 2008, 'Dowry Prohibition Act' to stop lavish weddings in Punjab', Voice 4 India website, 26 February <http://voice4india.wordpress.com/2008/02/26/dowry-prohibition-act-to-stop-lavish-weddings-in-punjab/> - Accessed 16 August 2011 - Attachment 18

<sup>24</sup> Kishwar, M. 2005, *Strategies for Combating the Culture of Dowry and Domestic Violence in India*, Manushi - UN Division for the Advancement of Women, May, p22 <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> - Accessed 16 August 2011 - Attachment 11

<sup>25</sup> Government of India 1860, *Indian Penal Code 1860 - Section 498A*, Commonwealth Legal Information Institute [http://www.commonlii.org/in/legis/num\\_act/ipc1860111/](http://www.commonlii.org/in/legis/num_act/ipc1860111/) - Accessed 9 November 2010 - Attachment 19

<sup>26</sup> Republic of India 2005, *Protection of Women from Domestic Violence Act*, All India Christian Council website, 13 September [http://indianchristians.in/news/images/resources/pdf/protection\\_of\\_women\\_from\\_domestic\\_violence\\_act\\_2005.pdf](http://indianchristians.in/news/images/resources/pdf/protection_of_women_from_domestic_violence_act_2005.pdf) - Accessed 4 November 2010 - Attachment 20

<sup>27</sup> Kishwar, M. 2005, *Strategies for Combating the Culture of Dowry and Domestic Violence in India*, Manushi - UN Division for the Advancement of Women, May, p22 <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/kishwar.dowry.pdf> - Accessed 16 August 2011 - Attachment 11

an arrest, is an opportunity for the police to make “a demand to settle the issue monetarily”. Upon arrest, the police reportedly continue to demand bribes, intimidate, and threaten the accused and, depending on the social standing of the accused, may “resort to coercive tactics” such as physical assault. The report states that the police “make an average of Rs. 10,000 for each 498A case, and that is a very low estimate”.<sup>28</sup>

Several states were reported to have a “chief dowry prevention officer” although it was not mentioned whether Punjab was one of these states.<sup>29</sup> In 2003, Punjab was said to be the one of the first states to give official sanction for Community Police Resource Centres (CPRC) and had given approval to seven districts for setting up such centres. The Centres were designed to look at “marital problems amongst NRIs in the district” which can involve dowry disputes.<sup>30</sup> Despite this, a 2009 Human Rights Watch report on police in several North Indian states, including Himachal Pradesh which borders Punjab, found that officers treat claims of domestic violence as a ‘private matter’. Nevertheless, it is reported that police officers in India have undergone domestic violence awareness training.<sup>31</sup>

### **3. Are there any barriers to the internal relocation of women who have experienced this kind of violence?**

While there are no legal barriers in India for anyone needing to relocate,<sup>32</sup> with the exception of Jammu and Kashmir, there are serious economic, cultural and social barriers for women seeking to relocate. These are primarily based around finding accommodation and living on one’s own. Many of the difficulties depend on a woman’s education level and whether she relocates to an urban or rural area, though some barriers apply to all women.

The UK Home Office cited a representative at the National Commission for Women (NCW) stating that “internal relocation is not easy for women all over India” and “it is not easy for single women to survive”. This included divorced women. In small towns and cities it was difficult for women to set up homes independently, even if they have a family. According to Dr Basu of the All India Women’s Conference, in general it was difficult for women to live on their own, although this was not so much the case in urban areas where women often live independently in apartments. Landlords, however, are unlikely to let apartments to women on their own and view them “with hesitation” and “suspicion”. While this attitude is changing there is a broad view that if women are not married they should stay as a paying guest with a family.<sup>33</sup>

Another NGO, Jagori, stated that it was difficult for lone women in North India to move to both rural and urban areas. It stated that women are often told to return to their parent’s home or their estranged husband’s home. The British Council stated that in urban areas, accommodation for

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<sup>28</sup> 498A Organisation 2008, ‘A Guide to Surviving IPC’, IPC 498A website, April, pp.31-33, 43  
<http://ipc498a.files.wordpress.com/2008/04/a-guide-to-surviving-ipc-498a-apr-2008ci.pdf> – Accessed 9 November 2010 – Attachment 21

<sup>29</sup> Human Rights Watch 2009, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*, August, pp. 9, 44 & 73 – Attachment 22

<sup>30</sup> ‘Now community policing gets real’ 2003, *The Times of India* website, 20 July  
<http://timesofindia.indiatimes.com/articleshow/85224.cms> – Accessed 9 February 2007 – Attachment 23r

<sup>31</sup> UK Home Office 2010, *Country of Origin Information Report – India*, 21 September, p118, 120-1 – Attachment 9

<sup>32</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April – Attachment 8

<sup>33</sup> UK Home Office, 2004, *Report of the fact finding mission to India – Women in India*, UK Home Office website, 11-24 July, chapter 9 [http://www.homeoffice.gov.uk/rds/pdfs06/india\\_ffm0704\\_250106.doc](http://www.homeoffice.gov.uk/rds/pdfs06/india_ffm0704_250106.doc) – Accessed 13 February 2007 – Attachment 24

younger women to live alone did exist but “along with tight restrictions”. Oxfam stated that it was “not possible for women to live on their own because society clings on to age old customs” and that this was even the case for middle class women. Women are also at risk of violence when relocating as there is a lack of security. Safe housing was hard to find even for those with high incomes.<sup>34</sup>

The situation in the Southern city of Hyderabad was different with more occurrences of girls living independently. In the city were said that “by and large people have accepted this situation”.<sup>35</sup>

**4. Please provide a map of Punjab showing Jalandhar City, Samana/ Sumana in the Patiala District, Baba Bakala in the Amritsar District and Mani Majra in Chandigarh with an indication of the distances between these places?**

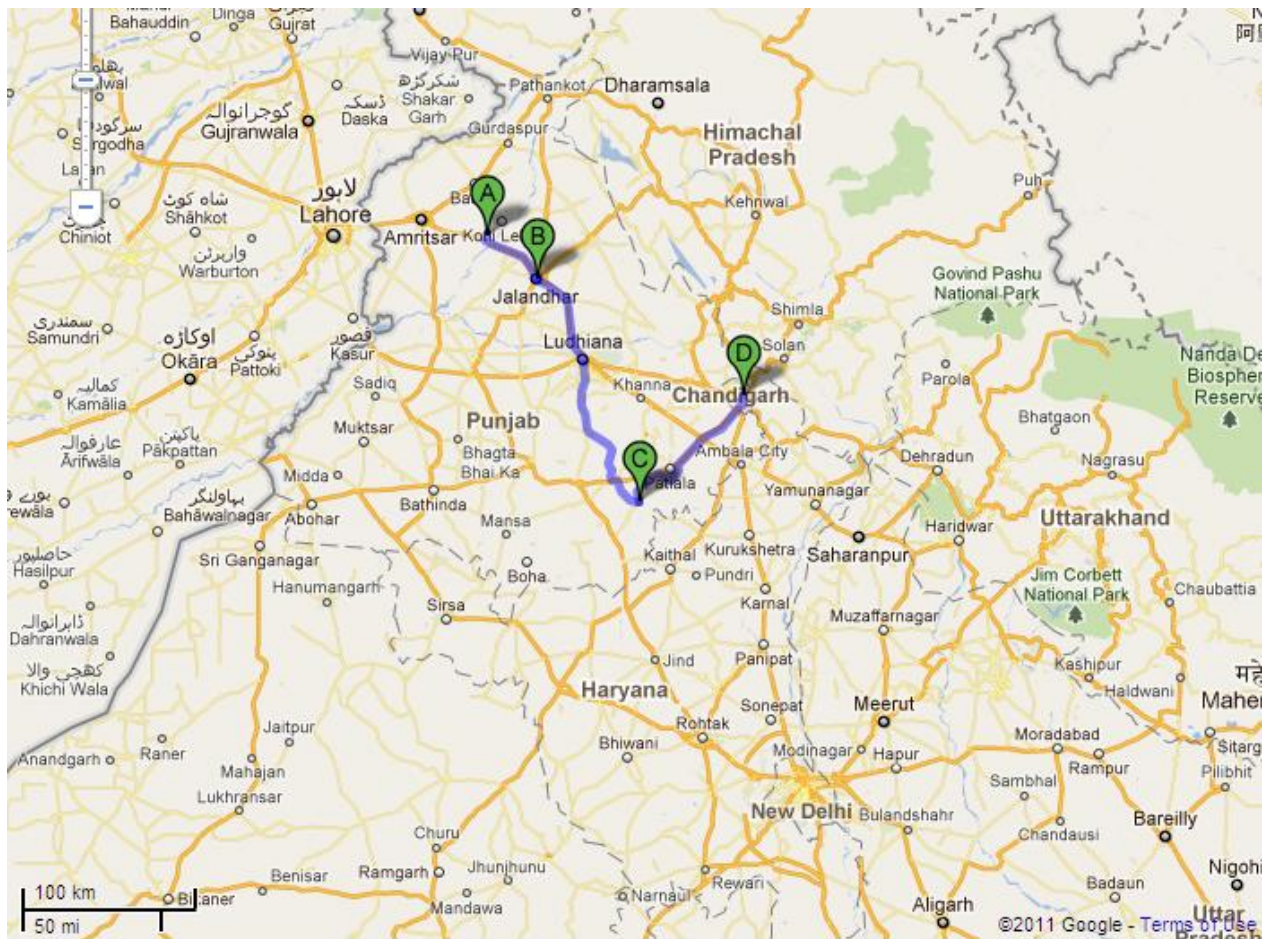
The following map from Google Maps shows the four locations. The distances and travel times between the towns by road are as follows:

- Baba Bakala (A) to Jalandhar (B) = 42.8km (47 min)
- Jalandhar (B) to Samana (C) = 168km (3 hours, 2 min)
- Samana (C) to Manimajra (D) = 103km (1 hour 51 min)

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<sup>34</sup> UK Home Office, 2004, *Report of the fact finding mission to India – Women in India*, UK Home Office website, 11-24 July, chapter 9 [http://www.homeoffice.gov.uk/rds/pdfs06/india\\_ffm0704\\_250106.doc](http://www.homeoffice.gov.uk/rds/pdfs06/india_ffm0704_250106.doc) – Accessed 13 February 2007 – Attachment 24

<sup>35</sup> UK Home Office, 2004, *Report of the fact finding mission to India – Women in India*, UK Home Office website, 11-24 July, chapter 9 [http://www.homeoffice.gov.uk/rds/pdfs06/india\\_ffm0704\\_250106.doc](http://www.homeoffice.gov.uk/rds/pdfs06/india_ffm0704_250106.doc) – Accessed 13 February 2007 – Attachment 24



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<sup>36</sup> 'Directions to Manimajra, Chandigarh, India' (undated), Google Maps website  
[http://maps.google.com.au/maps?f=d&source=s\\_d&saddr=Baba+Bakala,+Punjab,+India&daddr=Jalandhar,+Punjab,+India+to:Samana,+Punjab,+India+to:Mani+Majra,+Chandigarh,+India&geocode=FZtz4QEdNYJ8BCmdZOOqmMsbOTEE50gtOeFSUA%3BFT\\_3QEddzOBBCmR66IHV1oaOTG4tKVawDRLxw%3BFR4bzAEdMbuKBCKNaSQLrcwROTHzmxpNB1wDqg%3BFW2g1AEdlmaUBCkxL6\\_eNpMPOTEtNMn6\\_z47-g&hl=en&mra=ps&sll=31.147006,76.179199&sspn=2.844022,4.224243&ie=UTF8&z=8&layer=c&ei=dspITvOsN8q8kgWBqMi7CA&pw=2](http://maps.google.com.au/maps?f=d&source=s_d&saddr=Baba+Bakala,+Punjab,+India&daddr=Jalandhar,+Punjab,+India+to:Samana,+Punjab,+India+to:Mani+Majra,+Chandigarh,+India&geocode=FZtz4QEdNYJ8BCmdZOOqmMsbOTEE50gtOeFSUA%3BFT_3QEddzOBBCmR66IHV1oaOTG4tKVawDRLxw%3BFR4bzAEdMbuKBCKNaSQLrcwROTHzmxpNB1wDqg%3BFW2g1AEdlmaUBCkxL6_eNpMPOTEtNMn6_z47-g&hl=en&mra=ps&sll=31.147006,76.179199&sspn=2.844022,4.224243&ie=UTF8&z=8&layer=c&ei=dspITvOsN8q8kgWBqMi7CA&pw=2) – Accessed 16 August 2011 – Attachment 25

## Attachments

1. Mehak, G. 2011, 'Punjab bridegroom booked for fraud and demanding dowry from Canada based wife', *Punjab Newslines*, 27 July <http://punjabnewslines.com/content/punjab-bridegroom-booked-fraud-and-demanding-dowry-canada-based-wife/32461> - Accessed 16 August 2011.
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4. '4 booked in Punjab dowry case' 2011, *Newsleaks*, 1 July <http://newsleaks.in/4-booked-in-punjab-dowry-case/> - Accessed 16 August 2011.
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6. Luthra, P. 2011, 'Dowry claims another life in Punjab village', *Punjab Newslines*, 3 February <http://punjabnewslines.com/content/dowry-claims-another-life-punjab-village/28258> - Accessed 16 August 2011.
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15. Human Rights Watch 2010, *World Report 2010 – India*, January.



16. Human Rights Watch 2009, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*, August.
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18. Katyayani 2008, 'Dowry Prohibition Act' to stop lavish weddings in Punjab', Voice 4 India website, 26 February <http://voice4india.wordpress.com/2008/02/26/dowry-prohibition-act-to-stop-lavish-weddings-in-punjab/> - Accessed 16 August 2011.
19. Government of India 1860, *Indian Penal Code 1860 – Section 498A*, Commonwealth Legal Information Institute [http://www.commonlii.org/in/legis/num\\_act/ipc1860111/](http://www.commonlii.org/in/legis/num_act/ipc1860111/) – Accessed 9 November 2010.
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