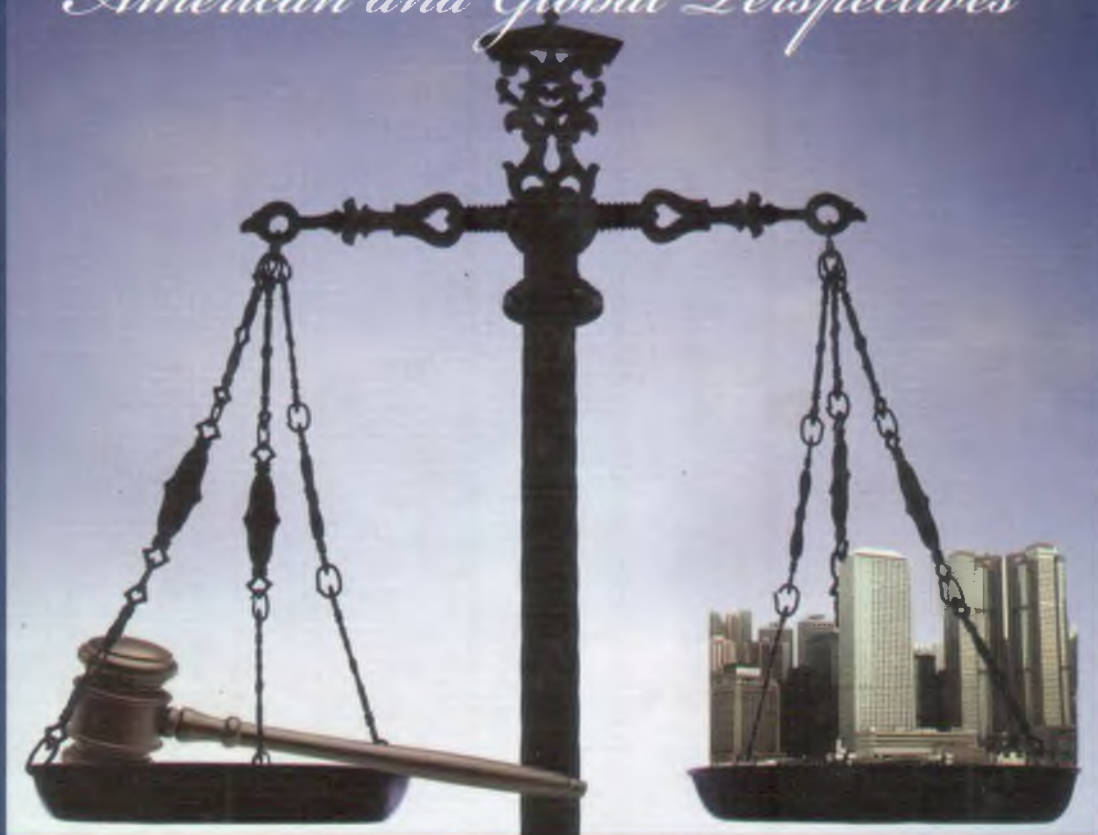


# ENCYCLOPEDIA OF LAW & SOCIETY

*American and Global Perspectives*



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EDITOR

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LAW &  
SOCIETY  
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urban middle classes to the social tensions that sometimes end in dowry murder.

Dowry has been illegal in India since 1961, before reports of dowry murders began. The government prohibited it in an effort to prevent families from bankrupting themselves to secure dowry for their daughters. Contemporary women's organizations have worked to strengthen laws against dowry and dowry harassment. These laws are, however, very difficult to enforce.

—Linda S. Stone

See also Bride Capture: Dowry Customs; India

### Further Readings

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Stone, Linda, and Caroline James. (1995). "Dowry, Bride-Burning and Female Power in India." *Women's Studies International Forum* 18: 125-33.

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## BRIDE CAPTURE

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The etiology of bride capture—taking a bride away for marriage by force—is manifold. Many sociologists and anthropologists have interpreted it as a rite of passage. If this is true, bride capture is in reality a "sham" capture, which often takes place with the tacit approval of both the husband's and wife's families, sometimes even after a formal betrothal ceremony. Another reason for the capture of women may have been to inflict disaster on an enemy group. Finally, in a few cases, a shortage of nubile females in a tribe may necessitate this practice.

When Europeans arrived in America, they discovered that the Guadeloupe Kalinago were accustomed to making trips back and forth between the mainland and the Windward Islands to capture brides. According to customary theories of marriage among all races, its earliest form was bride capture, when female shortages obliged young males to seek their mates in war. Such intertribal raiding was common to several South American forest tribes, for instance, the Amazonian Yanomamo.

## Ancient India

Eight types of marriage (*vivaha*) existed in ancient India; the first four were socially approved, and the last four were not. Authorities ranked bride capture among the socially unapproved marriages. The first and highest form of socially approved marriage, roughly in order of decreasing acceptance, was *Brahma vivaha*. This was the marriage of a well-dressed and ornamented girl to a man of the same social class. Second, with *Daiva vivaha*, a property owner invited a scholar to his home and requested him to perform certain rites. He then presented his daughter to the scholar as part of his professional fee and mark of respect. Third, with *Arsha vivaha*, dowry was not paid, but the bridegroom gave a cow and a bull to the bride's parents as a token bride price or gift out of respect. Finally, the groom's family also did not pay bride price with *Prajapatya vivaha*. It was similar to a civil marriage without fanfare.

Socially unapproved marriages, roughly in order of decreasing social approval, began with *Gandharva vivaha*, or love marriage. Second, *Asura vivaha* was a demon or barbaric marriage, whereby a man or his family purchased a girl for that purpose. Third, there was *Rakshasa vivaha*, a devil marriage, or marriage by capturing or kidnapping a girl. Finally, *Paishacha vivaha* was a ghost's marriage, whereby some wicked person raped a girl and later offered marriage in compensation. Bride capture thus occupies seventh place on a social approval scale.

## Modern, Pluralist Societies

In modern, pluralist societies, the custom of marriage by bride capture sometimes gives rise to the legal concept of *cultural defense* in charges of rape and sexual assault. Simply stated, the defense is the use of social customs and beliefs to explain, and so perhaps wholly or partly to justify or excuse from criminal liability, the behavior of a defendant from an ethnic minority. Immigrants typically use it, comparing their own nation's mores and legal standards with those of their adopted nation.

For example, marriage by bride capture is a continuing cultural practice among the Hmong communities

in the United States. The Hmong are originally from Laos. In this practice, the man abducts a woman he likes and holds her captive for three days. During this time, he performs repeated acts of sexual intercourse with her. After the third day, he frees the girl and she has a choice to either reject or marry him. In practice, the girl usually ends up marrying her abductor, either willingly or under her parents' pressure.

In a highly publicized case, *People v. Moua* (Fresno County Superior Court, CA, 7 February 1985, No. 315972-0), Kong Moua, a male member of the Hmong community in California, kidnapped Seng Xiong, a female member of his own community. He repeatedly had sexual intercourse with her. All through this, he genuinely believed he was following Hmong customary marriage practices. After she was set free, Seng Xiong not only rejected the tradition of marriage by capture but also filed kidnapping and rape charges against Kong Moua. He pled the cultural defense. The judge allowed Moua to plead guilty to one misdemeanor count of false imprisonment and sentenced him to 120 days in jail and a \$1,000 fine.

—Anil Aggrawal

*See also* Aboriginal and Indigenous Peoples, Legal Systems of; Child Bride; Cultural Defense; Dowry Customs; Human Rights, International; India; Marriage and Informal Unions; Pluralism, Legal

### Further Readings

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## BRITISH SOCIETY OF CRIMINOLOGY

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The British Society of Criminology is a learned society whose full members profess particular knowledge and expertise in the field of criminology. British law recognizes it as a charitable body because of its contribution to public education. The Society has 950

members, of whom 25 percent are students, and almost 10 percent live outside the United Kingdom. Some of these latter are expatriate members, while others are foreign nationals with an interest in British criminology.

The Society operates a program of conferences and seminars, which attract international delegates and speakers. The largest of these is the annual residential British Criminology Conference, which is organized jointly with a host university. The Society also runs two conferences per year and special events in association with government agencies. Criminologists in each region of the United Kingdom are encouraged to organize regional seminar programs free to members.

The Society is joint publisher, with Sage Publications, of the journal *Criminology and Criminal Justice*. Many Society members are also on the editorial board of the *British Journal of Criminology*. Although the Society does not publish this journal, its members are entitled to a discounted subscription, which is true for many other journals. The Society distributes news and advertisements of interest to its members through a regular e-bulletin and its Web site.

The Web site maintains a copy of the Society's constitution, its code of ethical practice, listings of events, a listing of criminology courses in the United Kingdom, and a database of criminology, criminal justice, and related journals. It also contains a register of members and their declared professional interests. Through the Web site and other channels, the Society provides media access to members' expertise and operates an e-mail helpline to solve a wide range of relevant criminology information requests. Since interest in studying criminology and related careers is strong, the Society publishes a careers leaflet.

With the financial support of Willan Publishing, the Society awards an annual prize for the best criminology article published by a new author. It also gives a prize for the best paper presented by a postgraduate to the annual conference.

The Society has established mutually advantageous links with related learned societies in the United Kingdom and other national and international criminology associations, such as the European and American



# ENCYCLOPEDIA OF LAW & SOCIETY

The **Encyclopedia of Law and Society** is the largest comprehensive and international treatment of the law and society field. With an Advisory Board of 62 members from 20 countries and 6 continents, the three volumes of this state-of-the-art resource represent interdisciplinary perspectives on law from Sociology, Criminology, Cultural Anthropology, Political Science, Social Psychology, and Economics. By globalizing the **Encyclopedia's** coverage, American law and society will be better understood within its historical and comparative context.

## Key Themes

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Anthropology (Ethnology) of Law  
Biographies in Law and Society  
Criminology  
Demography of Law  
Law and Economics  
Law and Political Science  
Law and Society Activities in Regions and Countries  
Law and Society Methodology and Research  
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