

DOWRY DEATH AND ITS CONSEQUENCES:
A SOCIO LEGAL STUDY OF DOWRY HARASSMENT AND
DEATH CASE IN DISTRICT SAMASTIPUR, BIHAR

A DISSERTATION TO BE SUBMITTED IN PARTIAL
FULFILMENT OF THE REQUIREMENT FOR THE AWARD
OF DEGREE OF MASTER OF LAWS

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This is to certify that the dissertation titled, “**Dowry Death and its Consequences: A Socio Legal Study of Dowry Harassment and Death Case in District Samastipur, Bihar**” is the work done by **Shivam Kumar** under my guidance and supervision for the partial fulfilment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

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ACKNOWLEDGEMENT

In consummation of this dissertation I have taken help and guidance from many whom I would like to thank.

I do hereby pay my due regard to the Almighty and omnipotent God with whose power and creator's cooperation, I have been able to complete this dissertation.

I am grateful to **Prof. Dr. Sudhir Awashti**, Head of the Department, **Babu Banarasi Das University, Lucknow, UP**, India for his encouragement and her able care to do the work on my topic.

I deem it my pious duty to put on record my deep sense of gratitude and thankfulness to my guide, supervisor **Mrs. Sarita Singh** for the help and inspiring guidance, she is very kindly extended to me. Without her able guidance and inspiration, this work could never have seen the light of the day.

I am grateful to my colleagues especially for encouragement and able care to do the work on my topic.

I am also thankful to the librarians and staff of BBDU, Lucknow. I express my immense gratitude to my learned authors and my teachers whose works I have consulted and referred on my occasions.

Thanks

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LIST OF ABBREVIATIONS

- AA : Affirmative Action
- AIR : All India Reporter
- Art : Article
- CAD : Constituent Assembly Debate
- CJ : Chief Justice
- e.g. :Exempli gratia
- ed. : Edition
- GOI : Government of India
- HC : High Court
- i.e : id est (that is)
- Ibid. :Ibidem (at the same place)
- Infra : Below
- CSR : Corporate Social Responsibility
- J./JJ. : Judge, Judges
- J.I.L.I. : Journal of Indian Law Institute
- NCRWC : National Commission for Review of Working of Constitution
- OBCs : Other Backward Classes
- P./pp. : Page(s)
- PD : Protective Discrimination
- Pvt. : Private
- SC : Supreme Court
- SCALE : Supreme Court Almanac
- Sec : Supreme Court Cases
- EOC : Equality of Opportunity Commissions
- SCJ : Supreme Court Journal
- SCR : Supreme Court Reporter
- SCs : Scheduled Castes
- SEBCs : Socially and Economically Backward Classes
- U.O.I. : Union of India
- U T : Union Territory

LIST OF CASES:

- Arjun Dhondiba Kamble v. State of Maharashtra, 1995 AIHC 273.
- Baldev Krishan v. State of Haryana (1997) AIR 1997 SC 1666.
- Daulat Mansingh Aher (1980) Crim L. J. 1171.
- Dukhi Ram v. State of Uttar Pradesh, 1993 Cri. LJ 2539 (All).
- Indravati v. Union of India (1991) 1 (DMC) 117 (DB) (All)
- John Vallamattom v. Union of India AIR 2003 SC 2902.
- Kumbhar Mohanlal v. The State of Gujarat (1997) AIR 1997 SC 1531.
- L. Jadhav v. Shankar Rao Pawar (1983) AIR (1983) SC 1219.
- Madan Lal and Others v. Amarnath (1985) Cri. L. J. (N.O.C.) 118.
- Madhu Sudan Malhotra v. K.C. Bhandari; 1988 BLJR 360 (SC).
- Mohammed Ahmed Khan v. Shah Bano Begum and others, A.I.R. 1985 S.C. 945.
- Mulak Raj v. State of Haryana (1996) AIR (1996) SC 2868
- Rajeev v. Ram Kishan Jaiswal, 1994 Cri L.J. NOC 255 (All).
- Sakhi Mandalani v. State of Bihar (1999) 5 SCC 705.
- Satvir Singh v. State of Punjab (2001) 8 SCC 633; AIR 2001 SC 2828
- State of West Bengal v. Orilal Jaiswal, 1994 Cri. LJ 2104 SC
- S. Gopal Reddy v. State of Andhra Pradesh, (1996), AIR (1996) SC 2184.
- Vemuri Venkateshwara Rao v. State of Andhra Pradesh, 1992 Cri. LJ. 563 A.P.
- Vikas v. State of Rajasthan (2002) Cr. L. J. 3760.
- Vimla Devi v. State of Uttar Pradesh (2006), Crl. Misc. Application no. 610 of 2006.
- Zahira Sheikh v. State of Gujarat (2006) (3) SCC 104.

CHAPTER 1

INTRODUCTION:

By tradition, dowry¹, plays a very important role in an Indian marriage.² Dowry also called *Dahej* or *Dotal* has been defined as:

*“Dowry refers to a marriage practice in Hindu society where gifts of cash or other valuable items are exchanged between the families of the bride and groom.”*³

Legally, the Dowry Prohibition Act (1961) in India defines dowry as 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 parent of either party to a marriage or by any other person, to either party to the marriage or to any other person, before or after marriage”.⁴ The aforementioned definitions will form the basis of what constitutes dowry for the purposes of this dissertation.

It is also worth noting that these definitions embody the Hindu practice of dowry as opposed to the Muslim practice of *mahr*.⁵ The concept of *mahr* and *dahej* are often confused to be the same, as the literal English translation of both is dowry.⁶ This dissertation focuses only on the Hindu context of dowry.

¹ Dowry is an ancient Indian practice, initiated by the practice of *Kanyadaan*, where the father of the bride, gifts various items of daily usage to his daughter. This practice later became dowry.

² Prabhupada, A.C. Bhaktivedanta Swami, *Bhagavad-Gita As It Is*, (1991), A.C. Bhaktivedanta Publishers, India, Chapter 2.

³ Shravanti Reddy, ‘*Ancient Practice of Dowry Perpetuates violence against women in India*’, The Asia Observer, 7th November, 2002.

⁴ Section 2 Dowry Prohibition Act (1961).

⁵ *Mahr*, according to Koran, is a gift, mandatory in Islam, given by the groom to the bride upon marriage in Islamic cultures: The Koran, Verse 4.25. The concept of *Mahr* and *Dahej* (Hindu concept meaning the gifts in the form of wealth or kind given by the bride’s father to the groom’s family) is often confused to be the same, as the literal English translation of both is Dowry: P.J. Bearman, (Ed): *The New Encyclopedia of Islam 2002*, AltaMira Press, Delhi, India, pg. 476.

⁶ P.J. Bearman, (Ed): *The New Encyclopedia of Islam 2002*, AltaMira Press, Delhi, India, pg. 478.

In India the concept of dowry is said to have originated from the Vedas.^{7 8} Authors like Goody have mistakenly confined the concept of dowry to be an Indian practice.⁹ But the practice of wealth accompanying the bride during marriage was also shared by the Romans, English, Portuguese, Turkish and Irish.¹⁰ Richard Breen comments that the practice of dowry still persists in these countries.¹¹

Whilst the taking and giving of dowry is an offence and punishable under Indian national laws, the practice is still commonplace in Indian society today.¹² This is largely due to the societal acceptance of such a practice as a cultural norm.¹³ What is more concerning however is the violence that ensues from the practice. Non-compliance with the dowry demands of the groom's family before or after marriage often results in the death of the bride. For instance in 2006, 1,795 dowry related deaths were recorded in Uttar Pradesh alone, just one of the states in India.¹⁴ These official records however are only the tip of the iceberg, as H. Thakur states there are far more cases that go under

⁷ *Veda* is derived from the root 'Vid', which means, 'to know'. The *Vedas* are the recordings of sages to whom the *mantras* were revealed. They proclaim the transcendental Truth, which is not changed by time or place. They indicate the means to prosperity and security for the denizens of the three worlds. The three worlds are *Manushyaloka* (world of men), *Pitriloka* (world of fathers) and *Devaloka* (world of Gods). There are four main kinds of Vedas, viz., Rig Veda, Yajur Veda, Saam Veda, Atharva Veda.

⁸ Botticini & Siow, "Why Dowries", (November 2003), Vol. 93 No. 4, *The American Economic Review*, pp. 1385-1398, at 1387.

⁹ Goody & Tambiah, "Bride wealth and dowry", (1973), No. 7, *Cambridge Papers in Social Anthropology*, Cambridge University Press, pg 169.

¹⁰ Richard Breen, "Demography and Dowry: Family and Land Dowry Payments and the Irish Case", (Apr., 1984), Vol. 26, No. 2, *Comparative Studies in Society and History*, pp. 280-296, at 283.

¹¹ *Ibid* at 290.

¹² The Dowry Prohibition Act, 1961 and the Indian Penal Code have provisions that make the taking and giving of dowry an offence punishable under law.

¹³ Werner Menski, *South Asians and the Dowry Problem* (1998), First Edition, Trentham Books Publishing, United Kingdom, pg. 90.

¹⁴ India Human Rights Report, 2007. http://www.achrweb.org/reports/india/AR07/UP.htm#_ftn14.

reported.¹⁵ According to Thakur, unofficial sources depict that there are at least 25,000 dowry related deaths in India every year.¹⁶

The practice of dowry undoubtedly discriminates against women. In fact, dowry related deaths are a form of gender-based violence. The United Nation's Declaration on Elimination of Violence Against Women defines gender based violence as:

“any act. . . that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.”¹⁷

As a cultural norm, the practice of dowry is gendered because it is the father of the bride who has to meet the demands of the groom's family, at the time of marriage.¹⁸ In fact according to the ancient practice of *Kanyadaan*, the father of the bride gifted his daughter various things at the time of marriage.¹⁹ This was largely due to two main reasons; one as an act of gratitude because his daughter was going to a different house and because of the incapability of women to sustain themselves. This practice, which began as a voluntary practice became a compulsory tradition and was implicated against the inferior status of women.²⁰ Furthermore since the victims of dowry related deaths have always been women; it thereby constitutes a gendered crime.

¹⁵ H. Thakur, 'Are Our Sisters and Daughters for Sale? When will the horror of dowry and bride burning end?' June 1999, *India Together*, <http://www.indiatogether.org/wehost/nodowri/stats.htm>.

¹⁶ Ibid.

¹⁷ Article 1 of the United Nations Declaration on the Elimination of Violence against Women.

¹⁸ Rani Jethmalani *Kali's Yug: Empowerment, Law and Dowry Deaths*, (1995), Har-Anand Publications, New Delhi, India, pg. 33.

¹⁹ Kanyadaan is an ancient practice whereby the father of the bride gifts her items of daily usage for her comfort in her in laws home.

²⁰ Rani Jethmalani, (1995) supra n. 18, at 37.

Moreover, the practice of dowry also assisted in further subordination of women. This inter alia resulted in a higher rate of female infanticide.²¹ Basically, the practice of dowry has generated various forms of violence against girls and women. Therefore such forms of violence could only end when the concept of dowry is not only prohibited by the law but no longer accepted as a social and cultural norm.²²

In reality, the non compliance of the dowry demands of the groom's family would have one of the two outcomes for the bride. She would either be asked to leave her matrimonial home due to non payment by her parents, this in turn would result in social ridicule for herself and family; or she would be killed by her in laws, usually by being doused in kerosene and set ablaze.²³ The practice of setting ablaze the bride would thus render it impossible to investigate any evidence of the actual reason of her death. This was also conveniently done as the traditional Indian woman's clothing would alight very quickly, making it difficult for her to escape such a fire. Evidently this form of dowry related violence, i.e. setting her ablaze, grew rapidly in Indian homes. These forms of gender based violence continue despite of the fact that dowry taking and giving is punishable by law.²⁴ Despite legal provisions prohibiting the giving and taking of dowry and dowry related violence already in practice in India, the practice and associated deaths still prevail.²⁵ This dissertation examines the concept of dowry and dowry related deaths as a form of gender based discrimination and violence in India. Issues such as the origin of the practice of dowry, emergence of dowry deaths, the legal regulation of the practice

²¹ Rani Jethmalani: supra n. 18, at 46.

²² Ibid.

²³ M. Srinivas: *The Changing Position of Women*, (1978), Oxford University Press, Delhi, India, pg. 70.

²⁴ Section 2 of the Dowry Prohibition Act, 1961.

²⁵ The Indian Penal Code and the Dowry Prohibition Act, 1961, The Criminal Procedure Code. The Evidence Act.

of dowry, and associated violence, why the practice still prevails (despite its illegality) and consequential deaths still prevail today, and what further action needs to be undertaken to curtail the practice and prevent future dowry related deaths, will be considered. Particular attention will also be paid to the role of legislation, the judiciary, civil society and the media in trying to curb the problem. Fundamentally this dissertation challenges the legal and social practices that promote the continuance of dowry and dowry related deaths.

CHAPTER II:

WOMEN AND DOWRY IN INDIA

The practice of dowry in India has always been associated with women alone. The tradition and culture are the sources of Indian ceremonies like marriage. This chapter looks at the cultural meaning, origin and the co-relation of the secondary status of women and why they fall victim to the practice of dowry. Moreover, as the practice of dowry is gendered, the status of Indian women, their gendered and cultural expectations and roles are also analysed. Although Hindus all over India have common religious views, the same is different amongst the South Indian Hindus and the North Indian Hindus. An analysis of the practices amongst these two groups reveals a unique difference in the practice of dowry between North Indians and South Indians. Since culture forms the essence of Indian society, an examination of the status of women depicted through cultural sources in theory and practice explain the reason why women are victimised in practices such as dowry.

India is a country of diverse cultures and religions. Of all the different religions followed and practiced in India, it is averred that Hinduism is the most ancient and dominant²⁶. As the practice of dowry forms an integral part of Hinduism it is first important to briefly outline the link between dowry and the Hindu religion.

²⁶ G. Mukherjee: *Dowry Death in India* (1999), Delhi Publications, India, pg. 15.

A. The meaning and origin of dowry under the traditional Hindu religion:

The *Bhagwad Gita*²⁷ is the holy book of the Hindu religion and forms the basis of many Hindu cultural practices and ceremonies. It contains ceremonies to be performed, from the birth of a child; to those relating to marriage and those upon death. It contains verses taken from *Manusmriti*,²⁸ one of the most ancient sources of the Hindu religion and various *Vedas*.²⁹ The *Bhagwad Gita* and various *Vedas* lay down various rituals and practices. The *Bhagwad Gita* also contains the verses taken from *Manusmriti* and various *Vedas*.³⁰ The *Bhagwad Gita* and various *Vedas* lay down the procedure for performance of marriage ceremonies.

During the first Hindu civilisation in India, the Dravidians and the Aryans³¹ adopted these *Vedas* and *Bhagwad Gita* to be the source of their religion.³² They

²⁷ The *Bhagwad Gita*, meaning Song of God, is the Holy Book of the Hindus and is the sanction to various practices.

²⁸ *Manusmriti*, translated as, '*Manu's translation*', is regarded as foundational work of Hindu Law. *Manu* was a saint in ancient India and he compiled the *Manusmriti* based on his recollections in 200 BC. *Manu* was also regarded the 'fore father' of the human race by the Hindus. The Hindu culture is based on mythology and is based on the teachings of God. They contain the laws, rules of conduct to be applied by individuals, communities and nations. The *Vedas* and *Bhagwad Gita*, are written scriptures which are written by the Gods. On the other hand *Manusmriti* was the recollection by a human being, i.e. *Manu*, which made its authority questionable by many writers such as M. Srinivas. Due to these reasons many Hindus do not regard *Manusmriti* as a religious source. Another reason for the non-reliability of *Manusmriti* was owing to the chauvinist nature of its preaching. Many feminists like M. Kishwar, strongly oppose the chauvinist preaching of *Manu* because it advocates the inferior position of women in society. M. Kishwar also denies the relevance of *Manusmriti* as being the source of *Vedas* and the *Bhagwad Gita*.

²⁹ *Veda* is derived from the root '*Vid*', which means, 'to know'. The *Vedas* are the recordings of sages to whom the *mantras* (*mantras* are recitals in Sanskrit language, which are usually in the form of poetry appreciating Gods) were revealed. They proclaim the transcendental Truth, which is not changed by time or place. They indicate the means to prosperity and security for the denizens of the three worlds. There are four main kinds of *Vedas*, viz., Rig Veda, Yajur Veda, Saam Veda, Atharva Veda. All these *Vedas* are hymns in the praise of the Gods. Each of these *Vedas* has various other *Shakhas*, meaning branches and *Up-Shakhas*, meaning sub-branches. But the four main *Vedas* as mentioned earlier are the prominent ones.

³⁰ *Manu* was the author of *Manusmriti*, considered to be one of the most ancient sources of Hinduism by some.

³¹ The Dravidians were one of the earliest civilisations in India. The mention of the Dravidians first appeared in the holy book of the Hindus called the *Ramayana*. The Dravidians settled in the southern part of India and their practices influenced the traditional practices in southern India. Their interpretation of the *Vedas* also differed from those of the Aryans.

³² T. Hopkins: *The Hindu Religious Traditions (1971)*, First Edition, Dickenson Publishing, United States of America, pg. 36.

propounded different religious practices throughout the south and north of India respectively. Religious teachings of the Aryans and the Dravidians influenced practices such as marriage and related ceremonies like dowry. Owing to this the North Indian and South Indian practice of dowry therefore slightly differs from one another. The details are discussed in the later part of this chapter. Thus the significance of religion in practices such as marriage and dowry find their source in the religious texts.

A Hindu marriage is a Sanskara.³³ Since it is the tenth ordained by the sacred scriptures of the Hindus, an orthodox Hindu must marry.³⁴ There were eight forms of marriage out of which four were approved and four disapproved by the Hindu Scriptures³⁵. Out of the four forms approved by the scriptures, the two leading forms were *Brahma* and *Asura*.³⁶ In the *Brahma* form of marriage the bride accompanied by various gifts was gifted to the bridegroom by her father.³⁷ The *Asura* form of marriage literally meant an outright purchase of the bride, where the groom would pay the bride's father.³⁸ The *Asura* was practised only in few places like Bengal and Assam, while the *Brahma* was the most popular throughout the country.³⁹ Eventually the *Asura* practice of marriage was condemned as it was deemed to be against the Hindu religion and consequently the *Brahma* practice remained dominant throughout India. The association of the practice of dowry with women alone needs to be studied with reference to the

³³ Sanskara is a sacrament. As a result of which he must perform certain duties as mentioned in the Vedas. This is also where the concept of Karma (self-actions) demands certain actions to be performed in the name of religion. Marriage is an action which needs to be fulfilled as a result of karma.

³⁴ P.Nair: *Marriage and Dowry in India: The Dharmashastras*, (1978), First Edition, Minerva Publishing, India, pg. 1. The Hindu Dharma lays down certain duties to be performed in the name of Karma. These duties are listed as *Dharmashastras* and also appear in the Vedas and the *Bhagwad Gita*.

³⁵ P. Nair, (1978), supra n. 34, at 3

³⁶ P. Nair, (1978), supra n. 34, at 16.

³⁷ V. Singh: *Dowry Prohibition in India*, (1985), First Edition, Alkesh Publishing, New Delhi, India, pg. 13.

³⁸ V. Singh, (1985), supra n. 37, at 14

³⁹ V. Singh, (1985), supra n. 37, at 16

position of women. The heart of Hindu practices lies in the religious sanctions and authoritative support of various Vedas.⁴⁰

In *Manusmriti*, *Manu* outlines the concept of *hunda*, which meant a gift from a father to the daughter at the time of marriage.⁴¹ He called this practice *kanyadaan* and advocated two reasons why it was necessary. Firstly, this was needed because the women were considered weak and therefore unable to sustain themselves. According to *Manu*, women were by nature vulnerable to all kinds of evils and therefore needed protection at all times.⁴² Secondly, gifting of items of daily usage to the daughter would aid her survival during her initial days at her marital home.⁴³ It was the duty of a father to contribute towards his daughter's comfort in her marital home. This would usually be done by gifting her essential things like clothing, food grains, cattle, etc.⁴⁴ This practice was called *Kanyadaan* and was adopted by most Hindus throughout India.

The concept of woman (*Kanya*) being given in marriage (*daan*) to the groom, is the most ancient form of dowry. *Kanyadaan* is said to be one of the duties of a father, according to the *Rig Veda*.⁴⁵ The *Rig Veda* elaborated the meaning of *kanyadaan* to include, 'cows and gifts given by the father, who accompanied the bride's procession.'⁴⁶ The concept of *Kanyadaan* changed during the time when Brahmin priests were regarded

⁴⁰ M. Srinivas, (1978), supra n. 23, at pg. 22.

⁴¹ *Hunda* was a pot, filled with necessary items like food etc., given to the bride at the time of marriage according to the Hindu customs.

⁴² *Manusmriti* Verse II, para. 133.

⁴³ *Manusmriti* verse IX, para 1.

⁴⁴ *Manusmriti* Verse IX, para. 25.

⁴⁵ *Rig Veda*, is one of the four main forms of the Vedas. It is a collection of various hymns praising the Lords and laying down certain rules. *Rig Veda* portrays a monistic Supreme Being-as-Cause-and-Lord-of-all cosmology, describes a pattern of dharma towards righteous and prosperous living in tune with the Gods. This scripture also details yogic disciplines leading to realization of the Absolute. The *Rig Veda* also contains the duties of a human being, the fulfilment of which is needed for the attainment of solace. *Rig Veda* Verse X. Hymn 85, 44.

⁴⁶ *Rig Veda* verse X, para 85.

as the highest clan in the Vedic period during the 1500 BC.⁴⁷ Being the priests belonging to the most respectable caste in the Hindu society, they commanded high respect. Thus the voluntary practice of *Kanyadaan* was looked as ‘an insult to the Brahmins’ due to the word *daan*, which meant ‘donating’.⁴⁸ Since this affected the superiority of the Brahmins the practice was termed as ‘*dahej*’, which meant ‘bride-price’.⁴⁹ The transition of *kanyadaan* to *dahej*, is discussed at the later part of this chapter.

Thus over the period of time *Kanyadaan* became *dahej*.⁵⁰ With the change in economic conditions and inflation the meaning of dowry has been socially amended. Thus the dowry demands which initially were cash and clothing changed to flats and vehicles⁵¹. The amount of dowry demand was directly proportional to the social and economic position of the groom.⁵² This concept has remained unchanged even till date. Thus the practice of dowry under the guise of religion exists even today. But authors like W. Menski, deny, the practice of dowry having any authoritative backing by the Vedas.⁵³

Menski advocates the initial practice of *kanyadaan* being innocent as sanctioned by the Vedas. Thus the religious practice of *kanyadaan* bears Vedic significance, but it is the degeneration of *kanyadaan* that led to practice of dowry, which inter-alia led to dowry related violence. The importance of religion for Hindus in India is paramount. This results in the existence of the system of *kanyadaan*. Many ceremonies performed at the time of marriage are the result of Vedic teachings. *Kanyadaan* is one of the essential

⁴⁷ M. Srinivas: *Some reflections on Dowry*, (1984), First Edition, Oxford University Press, pg. 18.

⁴⁸ Altekar, *The Position of Women in Hindu Civilisation: From Pre Historic Times to the Present Day*, (1991), Motilal Banasidas Publishers, Delhi, India, pg. 100.

⁴⁹ Ibid.

⁵⁰ Dahej is the literal translation of dowry in Hindi (the national language of India).

⁵¹ W. Menski: (1998), supra n. 13 at 17.

⁵² V. Rao, ‘The Rising Price of Husbands: A Hedonic Analysis of Dowry Increases in Rural India’, (August 1993), Vol. 101, No. 4, *The Journal of Political Economy*, pp. 666-677, pg. 670.

⁵³ Botticini & Siow, (2003), supra n. 8, at 1386.

ceremonies to be performed at the time of a Hindu marriage. This facilitates *dahej* to exist under the cover of *kanyadaan* and the seekers of dowry demand dowry under the religious name of *kanyadaan*. This continual practice of *dahej* is assumed religious by many people in India.⁵⁴ This system of '*dahej*', is the root cause of dowry related violence exists even today.⁵⁵ The main reason for victimisation of women in dowry violence is due to the position of women in Indian society.

B. The position of women in Indian Society

The degeneration of the practice of *kanyadaan* to dowry was due to the inferior position of women in society. Vedas and various religious texts are responsible for promulgating the secondary status of women. A detailed analysis of the same explains the victimisation of women in dowry violence.

From the descriptions above it is evident that the practices of *kanyadaan* and dowry are gender biased. According to Hindu culture, a daughter represents her family's values and honour; she is a symbol of the moral code the family abide by.⁵⁶ When she is married she takes with her the family morals and values of her paternal home to her marital home.⁵⁷ The teachings of Manu, reflected in 'Manusmriti' were adopted by the Dravidians and the Aryans.⁵⁸ Amongst many teachings of Manu adopted by the Aryans and the Dravidians, the most significant was the inferior status of women⁵⁹. For instance, according to Manu, the *shudras* and the women were not worthy of being present when

⁵⁴ V. Rao, (1993), supra n. 52 at 672.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Bhagwad Gita, Chapter 18, Text 8.

⁵⁸ Amongst the first Hindu clans in India.

⁵⁹ Botticini & Siow, (2003) supra n. 8, at 1388.

the Vedas were being recited.⁶⁰ This was mainly because the Vedas were considered highly privileged and women were considered inferior to understand the Vedas.⁶¹ Similar treatment to women was given in the *Rig Veda*, which followed the steps of *Manusmriti*.⁶² According to *Manusmriti* women were fit for only two purposes; one for housekeeping and secondly for begetting children.⁶³ Both the *Manusmriti* and the *Rig Veda* glorified the *Brahmins*, and offerings made to them.⁶⁴ In order to satisfy the ego of the *Brahmins* women were also subjected to slavery for serving the *Brahmins*.

The *Brahmins* were considered the highest clan in society and were referred in *Manusmriti* as 'twice-born'.⁶⁵ Thus every father wished that his daughter be married in a *Brahmin* family in order to achieve high status in society.⁶⁶ As a result when a daughter was married, the father had to give certain gifts to the groom's family. This led to the increased practice of hypergamy.⁶⁷ The desire of higher status in *Brahmin* dominated society, induced fathers to fulfil any kind of dowry-demand. Thus fathers insisting on their daughters getting married to the *Brahmins*, had to comply with the dowry demands mostly out of their capacity.⁶⁸ The amended system of 'bride-price', by the *Brahmins*,

⁶⁰ Lowest caste in the Hindu caste system.

⁶¹ M. Srinivas, (1978) supra n.23, at 20.

⁶² M. Srinivas, (1978) supra n.23, at 25.

⁶³ *Manusmriti* Verse II, para. 133

⁶⁴ *Rig Veda* Verse III, Hymn 1.

⁶⁵ According to the *Manusmriti*, it was a privilege to be born as a human being in the next life. Hinduism believes that human life is achieved after prolonged good deeds in the past life. Apparently the *Brahmins* were assumed by *Manusmriti* to be the second birth as a human being. As he has already been a human being in his last birth, he is seen as a superior being. A *Brahmin* is also said to be born out of a Golden seed. Thus the position of a *Brahmin* is higher as he is the twice-born as a human being. *Manusmriti* Verse 1, Para. 9.

⁶⁶ P. Nair, (1978), supra, n. 34, at 30.

⁶⁷ Hypergamous marriages were those where the daughters of lower castes would marry the *Brahmins*, leading to dowry demands

⁶⁸ M. Srinivas (1978), supra n. 23 at 36.

was by 500 BC called *Varadakhsina*.⁶⁹ But sooner thereafter due to the higher status of Brahmins this voluntary practice became compulsory.⁷⁰

Thus the journey of *Kanyadaan* over the period of time seemed to change to the practice of *Varadakhsina*.⁷¹ By marriage and acceptance of *Varadakhsina* the Brahmins were obliging the father of the bride.⁷² The *Varadakhsina* would usually be in gold or cash.⁷³ But soon this practice spread to other non-Brahmin castes.⁷⁴ The giving of *Varadakhsina* by the father of the bride to the groom became the usual practice.⁷⁵ This enhanced the preference of the boy child over the girl child⁷⁶. Thus daughters were looked upon as a burden and a liability rather than an asset.⁷⁷ Birth of a daughter in a family would mean expenditure and the birth of a son meant an income for the family.⁷⁸ The birth of a male child was preferred, since the time of *Manusmriti*.⁷⁹ An Indian woman had certain roles to perform under the Hindu religion.⁸⁰ According to Hindu religious texts such as the Vedas, the gendered expectation from a woman is that of a righteous daughter, a virtuous wife, and a good mother.⁸¹ She was respected only in instances where she lived up to the cultural and gendered expectations. The gendered expectations from a woman thus resulted in girls being less desirable. The status of the girl child can be summed up in the verse of *Manusmriti* as;

⁶⁹ Varadakhsina literally means gifts to the groom. These were gifts given out of natural affection. Paras Diwan: *Dowry and Protection to Married Women*, (1987), Deep and Deep Publications, India, pg. 108.

⁷⁰ P. Diwan, *Dowry and Protection to Married Women*, (1987), Deep and Deep Publications, India, pg. 108.

⁷¹ P. Nair, (1978), supra note 34, at pg 37.

⁷² Altekar: (1991), supra n. 48, at 100.

⁷³ P. Nair, (1978), supra, n.34, pg 40.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Bloch & Rao, 'Terror as a Bargaining Instrument: A Case Study of Dowry Violence in Rural India', (September 2002), Vol. 92, No. 4, *The American Economic Review*, pp. 1029- 1043, at 1030.

⁷⁷ W. Menski, (1984) supra, n. 13, at 70.

⁷⁸ Ibid.

⁷⁹ Manusmriti Verse 3 Para. 55.

⁸⁰ P. Nair: (1978), supra n. 34, at 40.

⁸¹ M. N. Srinivas, (1984), supra n. 47 at 230.

“Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence⁸².”

Even in this century the preference of a boy child still remains strong.⁸³ It is this preference of a boy child that leads to dowry demands. Thus having a son would validate the demanding of dowry and would generate an income, was the main reason for male-child preference.

By the nineteenth and twentieth century the *Manusmriti* had been criticised for being gender biased.⁸⁴ Many authors like M. Srinivas and M. Kishwar have adopted various approaches to deny the authoritative nature of Manusmriti. The non-reliability of Manusmriti was because it was, ‘recollections of a human being.’⁸⁵ Another reason pointed out by M. Kishwar, is due to its dogmatist ideals and teachings.⁸⁶ This was opposed by Dr. Ambedkar, who stipulated that the *Manusmriti* is important in learning the origin of Hindu culture.⁸⁷ According to Dr. Ambedkar, *Manusmriti* also talks about respecting women.⁸⁸ Thus it is the personal interpretation of religious teachings that leads to dowry related deaths. The much criticised principles of *Manusmriti* were also used by British, in colonial times to draft the Hindu Civil Code⁸⁹. This was done mainly as this was the oldest religious scriptures of Hindu religion. But again an interpretation of the Manusmriti led to omission of women’s rights in the initial draft of the Hindu Code. For

⁸² Manusmriti Verse 9 Para. 3

⁸³ Botticini and Siow, (2003), supra n. 9, at 1386

⁸⁴ Altekar: (1991), supra n. 47, at 45.

⁸⁵ M. Srinivas, (1984) supra n. 47, at 40.

⁸⁶ M. Kishwar: *Manusmriti to Madhusmriti*, http://india_resource.tripod.com/social.htm, last visited 14th June, 2007.

⁸⁷ G. Omvedt: *Ambedkar: Towards an Enlightened India*, (2004), First Edition, Amazon Publishing, .

⁸⁸ Ibid.

⁸⁹ M. Kishwar: *Manusmriti to Madhusmriti*, http://india_resource.tripod.com/social.htm, last visited 14th June, 2007.

instance Robert Clive and Warren Hastings completely ignored the inheritance power of women.⁹⁰

Religious and mythological factors have also portrayed women as inferior to men in their societal roles and positions.⁹¹ Hindu goddess like Sita, the wife of Lord Ram, has been portrayed as highly respectable owing to her sacrifices.⁹² She is worshiped because she renounced the life of a queen and followed her husband to fourteen years of exile, living without any worldly pleasures or comfort. Whilst in exile, she was kidnapped by *Ravana*, a demon, and then later rescued by her husband. Having spent time in solitude with another man, her husband *Ram* demanded proof of her purity. Humiliated, it is claimed that *Sita* asked mother earth to open up and swallow her. In the end, despite all the sacrifices made by *Sita*, she succumbed to the earth as a proof of her purity. Consequently in Hindu culture she is epitomised as the ideal woman i.e. one who is willing to make all the sacrifices and expect nothing in return.

Another example is in the story of *Draupadi* in the epic of *Mahabharata*.⁹³ During late 3300 BC, a game similar to dominos was used as a measure to decide who the next successor to the throne would be. During the game the *Pandavas* had lost their throne to their competitor and cousin *Duryodhan*.⁹⁴ As a last resort and in the attempt to regain their empire, they placed their wife *Draupadi* as a bet. One may question, whether

⁹⁰ M. Srinivas, (1984) supra n. 47 at 71.

⁹¹ Kakar: *The Inner World: A Psycho-Analytic study of childhood and society in India*, (1978), Oxford University Press, Oxford, United Kingdom, pg. 66

⁹² Lord Ram was the King of Ayodhya, during the late 5100 BC in central India, was the son of King Dashrath and Queen Janaki. He is considered the seventh form of Lord Vishnu.

⁹³ *Mahabharata* is a famous Indian epic meaning 'the great tale of the Indian dynasty' dating back to 5 BC. It described the famous battle between the Kauravas and the Pandavas. The Pandavas were five brothers, who were the successors to the throne of Hastinapur, one of the biggest empires in India. It is a compilation of 74, 000 verses. The five Pandava brothers were married to a princess named Draupadi.

⁹⁴ Duryodhan was the cousin of the Pandavas, who was originally the successor of the throne, but because his father was blind and unable to rule the empire, the throne was handed over to the nephews, the *Pandavas*. Duryodhan was convinced by his maternal uncle *Shakuni* that the only way to regain his empire would be by winning the game similar to dominos.

women are mere property to be pawned. The *Pandavas* lost and *Duryodhan* ordered that *Draupadi* be undressed in open public. However, when *Duryodhan*'s brother attempts to undress the queen in open public, the *Pandavas* do nothing. On losing the bet and later the battle, the *Pandavas* went into exile. Despite being subjected to extreme humiliation by her husbands, *Draupadi* followed her husbands during exile. Again one of the reasons why *Draupadi* is so revered is that despite what she experienced due to her husbands' doing, she was still willing to make sacrifices for them as a good loyal wife. Thus Hindu religious mythology seems to stipulate that the role of a woman and a wife in particular is to always abide by her husband and be willing to make sacrifices for them.⁹⁵ This led to a prevailing secondary status of women.

In modern times, the imbalance in the sex ratio in India is mainly owing to the disappearance of women. As stated by Indian Economist Amartya Sen, more than 28 Billion women have disappeared due to reasons such as Sati (practise of widow emollition), female infanticide and other atrocities against women.⁹⁶ The problem of female infanticide and foeticide originated due to the practice of dowry.⁹⁷ Thus efforts are made to avoid any future payment of dowry and inter-alia to avoid dowry death. Thus efforts have been made to curb the practice of female infanticide. But despite legal provisions making the pre determination of the foetus an offence the practice has not stopped.⁹⁸ Even today sex determination of the foetus is mainly for the purpose of eliminating the possibility of a girl child.⁹⁹ It is assumed that women are expected to meet

⁹⁵ M. Kishwar: *Manusmriti to Madhusmriti*, http://india_resource.tripod.com/social.htm.

⁹⁶ D. Stein, 'Burning Widows, Burning Brides: The Perils of Daughterhood in India', (Autumn, 1988), Vol. 61, No. 3, *Pacific Affairs*, pp. 465-485, pg. 470.

⁹⁷ D. Stein, *supra* n. 101, at 473.

⁹⁸ Section 4 of The Pre-Natal Diagnostics Techniques (Regulation And Prevention Of Misuse) Act, 1994.

⁹⁹ S. Goonesekere: *Violence, Law and Women's Right in South Asia*, (October, 2003), Sage Publications, India, at 300.

the gendered expectations and would not revolt against any atrocity like dowry deaths. A contributing factor to this is the dependency of women both before and after marriage that renders them vulnerable to dowry death.

i. Women and Dependency before marriage

As evident from above, the journey of presents from *Kanyadaan* to dowry always remained confined to women alone. Women or girls in India are always referred to as, '*Paraya Dhan*', meaning belonging to the other.¹⁰⁰ Although the father has to pay the dowry, it is the bride who faces the punishment in the in event of the dowry not being paid.¹⁰¹ This makes women the object of the marriage transaction. It is as though one sells and the other buys, but here, even the consideration is women.¹⁰²

Women have continuously been regarded as 'chattels'.¹⁰³ Before marriage, they are considered the 'possession' of their fathers. It was the responsibility of the parents to incur any debts to pay the dowry for the daughter. They were and still are considered a liability on the father and the entire family. As H. Gosh expresses, 'a daughter is an economic burden and social liability'.¹⁰⁴

In India women are considered weak and in need of protection at all times.¹⁰⁵ Although this concept is diminishing, the rate at which it is diminishing, is very slow, which still leaves women, to be considered weak. The father nurtures his daughter until

¹⁰⁰ Literal meaning of the wordings '*Paraya Dhan*' is property of the other, but the colloquial meaning is belonging to the other. Therefore the father nurtures the daughter as a property of the other. The ownership and responsibility of the father terminates on the marriage of the daughter.

¹⁰¹ W. Menski, (1978) *supra* n. 13, pg. 45.

¹⁰² *Ibid.*

¹⁰³ H. Ghosh, '*Chattels of Society: Domestic Violence in India*', (2004), *Violence Against Women, Vol. 10, No. 1, pp. 94 to 118, pg. 95.*

¹⁰⁴ H. Ghosh, *supra* n 103, at 104.

¹⁰⁵ M. Srinivas, (1984), *supra* n. 47, at 223.

her marriage, after which she would become the ‘possession’ of her husband.¹⁰⁶ In Indian society the bride’s father is indebted to the groom and his family. This was because after marriage the bride lived with her husband’s family; and would be a burden upon them. Thus under obligation he would have to satisfy any demand made by the groom and his family. Owing to this feeling of indebtedness, the demands can neither be denied nor negotiated. According to Altekar, fathers who are unable to meet such demands have two choices; they could take out loans, sell their land, etc., and fulfil the demands of the groom’s family or be left with unmarried daughters and face societal shame and criticism¹⁰⁷.

Women and Dependency after marriage

Indian marriages are said to be a relationship not to the groom alone but a relationship to the entire family.¹⁰⁸ This meant responsibilities of taking care of all the members of the husbands’ family. The married woman is therefore a ‘puppet’ in the hands of her husband and his relatives.¹⁰⁹ She is therefore a puppet in the hands of her husband in the patriarchal society.

Dominance of patriarchy continues even in her old age when she would be dependent on her son.¹¹⁰ As upon marriage the daughter would leave her father’s house for her matrimonial home, she was never deemed to be in a position to look after her parents in their old age. It is therefore the son who supports his parents in their old age. A woman was therefore never independent and always deemed to be dependent on a male.

¹⁰⁶ M. Srinivas, (1984) supra n. 47, at pg. 40.

¹⁰⁷ Ibid.

¹⁰⁸ Bhagavad Gita Chapter 4, Text 40.

¹⁰⁹ H. Ghosh, (2004), supra n. 103, at 105.

¹¹⁰ Manusmriti Verse 9 Para. 3.

It was an ancient custom in India that a woman was not allowed to work.¹¹¹ Although they worked in farms they only contributed to the familial income. They were never deemed capable for earning of independent income. During the 20th century and era of industrialisation, this picture changed. However, once married, her social responsibilities changed and she was expected to be a ‘housewife’.¹¹² It is because of this dependence status of women that they were also subjected to being bought and sold.¹¹³ In certain rural areas of India, even today, women are not allowed to work, thus making them dependent on their husbands.¹¹⁴ A concept akin to the concept of dowry is that of *streedhan*, which constitute women’s own property.

Co-relation between dowry and streedhan

The two concepts most commonly misunderstood to be identical are those of dowry and *Streedhan*. Dowry as explained earlier in this dissertation is the ‘property or cash demanded or in various forms expected by the groom’s family.’¹¹⁵ *Streedhan* literally means woman’s property.¹¹⁶ The *Manusmriti* initially described *Streedhan* to include, maintenance and gifts given by the husband or his family at the time of the marriage. Even in the pre-Vedic period, the wife had all the rights to her *streedhan*.¹¹⁷ But in the Vedic period the practice changed owing to the dominance of the Brahmins.¹¹⁸ As mentioned earlier the Brahmins, being the highest clan had the power to change the

¹¹¹ M. Srinivas, (1984), supra n. 47, at 51.

¹¹² M. Srinivas, (1978), supra n. 23, at 20.

¹¹³ Goody & Tambiah, ‘Bride wealth and Dowry Revisited’ in ‘The Position of Women in Sub Saharan Africa and North India’, (1989), Vol. 30, No. 4, *Current Anthropology*, pp. 413 to 435, at 420.

¹¹⁴ M. Kishwar, ‘Destined to Fail’, India Together, Issue 148, <http://www.indiatogether.org/manushi/issue148/dowry.htm>¹¹⁵

W. Menski: (1998), supra n. 143 at 17.

¹¹⁶ Manusmriti Verse IX, Para. 194.

¹¹⁷ Ibid.

¹¹⁸ M. Srinivas (1984), supra n. 47, at 30.

practices. The new concept of *streedhan* was wealth given by the father of the bride for her maintenance.¹¹⁹ The bride would thus have the right over such *streedhan* as given by her father.

The Hindu religion did not allow women to inherit any property.¹²⁰ As a result *Streedhan* was the nearest means of security for a woman in her married home. With the initiation of women's rights movements, *streedhan* came to be added even in the Hindu Succession Act.¹²¹ Thereafter *Streedhan* was the only property on which women had both inheritance and disposal rights.¹²² In modern times, the Hindu Civil Law entitles the woman to have complete ownership of her *Streedhan*.¹²³ This was later extended to include ownership of both movable and immovable property acquired by any means.¹²⁴ This later aided the inheritance power of the daughters. Originally in India, when a Hindu died intestate, his property was divided amongst his sons and his male relatives under the Hindu Succession Act, 1956; in the absence of a son in the family, the property was inherited by the nearest male relatives. However with subsequent changes in the Hindu Succession Act, 1956, even daughters were allowed to inherit the property. As many authors like M. Srinivas believe *streedhan* was the concept to prevent dowry deaths, as it was a security for the bride. It also expressed possession over property by the bride, proving her independent income.¹²⁵ This act was made central in order to cover all the personal practices existing in the north and south of India. It was the difference in the practice amongst the north and south Indians that was the underlying issue.

¹¹⁹ Naik: A Study of Dowry Practices, (1996), Datane Publishers, Pune, India.

¹²⁰ M. Srinivas, (1984), supra n. 47, at 222

¹²¹ M. Srinivas (1984) supra 47, at 223.

¹²² Goody & Tambiah, (1989), supra n. 123 at 417.

¹²³ The Hindu Succession Act, 1956, section 14.

¹²⁴ The Hindu Succession Act, 1956, section 14 (1).

¹²⁵ M. Srinivas (1984), supra n. 47, at 44.

Difference between dowry practices amongst Hindus

Although most states in India follow the Hindu religion, the practices differ, mostly between the North Indians and South Indians. The early civilisation of the Aryans and Dravidians had a separate effect on the Hindu culture; with the Aryans influencing Northern India and the Dravidians influencing the southern parts of India.¹²⁶ This in turn affected the practice of dowry too. In Northern India the dowry was given by the bride's father to the groom. However in Southern India this practice was different.¹²⁷ In some communities in Southern India, such as the Mysore Brahmins, it was in fact the husband that gave the bride's father the dowry.¹²⁸

Moreover compared to Northern India, traditionally many states in Southern India advocated and allowed women's rights, like the right to property, inheritance etc.¹²⁹ For instance in Kerala and Karnataka, in the absence of a son, women inherited their father's property after his death. Another distinguishing feature of the South Indian culture was the concept of consanguineous marriages.¹³⁰ In contrast to North Indian Hindu norms, which prohibited consanguineous marriages, the South Indian Hindus, allowed these types of marriages. One reason for giving dowry is as a bribe i.e. to entice a suitable match for the daughter.

Those who practice dowry do so under the guise of Vedic sanction. But contradictorily, the Vedas do not allow or advocate the practice of dowry. As Menski

¹²⁶ Iyengar, "*Dravidian India*" (1925), Asian Educational Services, New Delhi, India, at 20.

¹²⁷ Iyengar (1925): supra n. 126

¹²⁸ Mysore is a city in Tamil Nadu, a state in southern India. The Brahmin is the highest clan amongst the Hindus.

¹²⁹ Iyengar (1925) supra n. 126

¹³⁰ G. Reddy, 'Consanguineous marriages and marriage payment: a study among three South Indian caste groups', (1988), Vol. 15, No. 4, *Annals of Human Biology*, pp. 263-268, at 264. Consanguineous marriages are marriages within ones clan, more particularly within ones family, but with distant relatives.

stipulates, it is '*kanyadaan*' and not '*dowry*' that is allowed by the Vedas.¹³¹ Therefore legal provisions and regulations have been aiming to eradicate this system of dowry. It also aims at curbing the dowry related violence and dowry related deaths. An insight into the legal regulations is essential to understand the efforts made to curb this practice.

¹³¹ Werner Menski: (1998), *supra* n. 13, at 17.

CHAPTER III:

REGULATION OF PRACTICE OF DOWRY AND DOWRY

RELATED VIOLENCE:

This chapter explores the regulation of the practice of dowry and the prohibition of dowry related violence and dowry related deaths. The key legislations that will be considered are; The Dowry Prohibition Act, 1961, The Indian Penal Code, 1860 and The Constitution of India, 1950. Relevant case laws will also be considered. In addition, the short-comings of the afore-mentioned legislations and judicial attitudes and approaches are analysed. Finally, the role of media in raising awareness about the practice of dowry and related violence, including dowry related deaths, is also examined.

An overview of dowry deaths in India

Dowry related deaths or most commonly called ‘bride-burning’. This practice came to light around the late 1950s.¹³² It is a practice wherein a bride doused in kerosene is set ablaze by her husband and/or in-laws, for the non-payment of dowry.¹³³ The practice of dowry related death is very simple and is a practical action of the definition afore-mentioned. The main aim of dousing the bride in kerosene and setting her ablaze is to avoid any evidence as to the reason of her death.¹³⁴ M. Kishwar further stipulates that

¹³² Rani Jethmalani, (1995), *supra*, n. 18 at 130

¹³³ N. Ravikanth, ‘Dowry Deaths: Proposing a Standard for Implementation of Domestic Legislation in Accordance with Human Rights Obligations’, (2000), 6, *Michigan Journal of Gender and Law*, 449 at 456. ¹³⁴ Madhu Kishwar, ‘Violence Against Women: Good Practices in Combating and Eliminating Violence Against Women’, Division for Advancement of Women, a report on the meeting organised by UN Division for advancement of women, Austria, (17th to 20th May, 2005), at 3

it is very easy to show this as an accident or suicide. Another reason for bride-burning foris to find another source to generate income by way of dowry. Brides who are unable to get the demanded dowry are of no further use. In these circumstances the possibility of receiving income is by marrying a different bride, who would bring dowry. But since Hindu marriage prohibits polygamy, the only solution here is either divorce or death of existing bride.¹³⁵ But divorce procedures in India take a long time and being called a divorcé taints the reputation of the groom. However being known as a widower generates a kind of sympathy in favour of the groom. Therefore demand of dowry during the second marriage protects the image of the groom's parents before the new bride's family.

Regulation of dowry in colonial times

The first formal legal regulation of dowry *per se* came during the colonial rule in the Indian subcontinent. Although initial litigation was introduced by the British, Himalayan blunders were committed by them, by ignoring personal laws.¹³⁶ Over emphasis on eradication of other practices like sati, child-marriage and widow-remarriage resulted in poor anti-dowry regulation by the British. Eradication of Hindu orthodoxy by way of atrocities against women was targeted during colonial times.¹³⁷ Many Indian reformists, such as Mahatma Gandhi, Raja Ram Mohan Roy, Dayanand Saraswati, aimed at curbing practices like dowry, sati, and widow remarriage.¹³⁸ Remarkable efforts were made by Raja Ram Mohan Roy in the colonial times to fight such social evils.¹³⁹

¹³⁵ M. Kishwar, (2005), *supra* n. 134, at 7.

¹³⁶ V. Singh, (1985), *supra* n. 37, at 32.

¹³⁷ R. Jethmalani: (1995), *supra* n. 18, at 30.

¹³⁸ D. Stein, (1988), *supra* n. 96, at 466.

¹³⁹ Raja Ram Mohan Roy was a freedom fighter from West Bengal and the founder of many social organisations such as *Brahmo Samaj*, advocating the concept of one god. During colonial times when

But practices like Sati and dowry related deaths grabbed the attention of the British. They viewed these practices as savage and beastly. Authors such as N. Ravikanth, mention that even though concepts of wife-battering were familiar to the British, these practices were inhumane. But in showing such concern, the Indians initially felt that the British were interfering in their cultural norms and practices i.e. trying to impose 'British' values onto them.¹⁴⁰ The British introduced various systems of criminal and civil litigation. These systems were much appreciated by freedom fighters such as Mahatma Gandhi and J. Nehru.¹⁴¹ They propagated the advantages of having the system of litigation amongst the Indians. Since the impact of even opinions of freedom fighters like these was strong on the Indian public, the concept of litigation was appreciated and used by the Indians.¹⁴² The effort of the British, to curb practices like dowry and sati did not go in vain as the same was taken further by Mahatma Gandhi. In his book he encouraged the youth to protest against the practice of dowry; denouncing it as heartless.¹⁴³ He also propounded that an educated individual who accepted dowry in marriage, insulted his education and qualification. According to M. Gandhi, this system was supported mainly by the middle class families.¹⁴⁴ Thus although it was covered by a very small part of the population he strongly argued that the practice needed to go.¹⁴⁵ Being a barrister at law, he suggested that the only solution to such a problem was legal abolition of the

religion was used as a weapon for dividing India, the *Brahmo Samaj*, was the organisation for uniting people. Amongst his notable work was the movement propagating eradication of dowry, emancipation of women, child-marriage etc.

¹⁴⁰ Ibid.

¹⁴¹ M. Gandhi: *Women and Social Injustice (1947)*, Navjivan Publishing House, Ahmedabad, India, at 40.

¹⁴² J. Duncan M. Derrett, 'The Administration of Hindu Law by the British', (Nov., 1961), Vol. 4, No. 1, *Comparative Studies in Society and History*, pp. 10-52, at 12.

¹⁴³ M. Gandhi, (1947), supra n. 141, at 55.

¹⁴⁴ Ibid.

¹⁴⁵ M. Gandhi, (1947), supra n. 141, at 59

practice.¹⁴⁶ However Menski stipulates that Gandhi targeted the middle class, thus ignoring participation of the lower class and the higher class.¹⁴⁷

Gandhi's views were propounded by other authors such as B. Ambedkar, whose contribution to dowry protests in colonial times is remarkable.¹⁴⁸ B. Ambedkar targeted all the three classes for both awareness regarding rights and eradication of dowry. He started educating the lower class women regarding the evils of dowry. He also educated women about their rights in denying any payment of dowry. He also encouraged women to oppose their husbands, fathers, brothers to take or give dowry.¹⁴⁹ The problem of dowry was now being targeted in all the three classes.¹⁵⁰ After all the efforts made these authors and various freedom fighters as mentioned above, the practice of dowry came to be known as a social evil. Constant attention to other forms of violence like sati and child-marriage led to the delay in the regulations relating to dowry and dowry related violence.¹⁵¹

Legal Provisions

The emergence of the phenomenon of dowry associated violence, and dowry related deaths in particular, has led to the enactment of various laws within India. The first step in preventing dowry related deaths was by penalising the very demand of dowry. Thus the main provisions relating to the Dowry Act, mainly deal with the giving and

¹⁴⁶ Ibid.

¹⁴⁷ W. Menski, (1998), supra n. 13, pg. 26.

¹⁴⁸ G. Omvedt, (2004), supra n. 87, at 300

¹⁴⁹ Ibid.

¹⁵⁰ M. Gandhi, (1947), supra n. 141, at 120. Here all three classes includes the upper class, the lower class and the middle class. Classes referring to classification made on the basis of income of a family and the caste of the family.

¹⁵¹ M. Srinivas (1978), supra n. 23, at 26.

taking of dowry, which is the gateway to dowry related deaths. The provisions of the IPC and the CrPC have to be co-ordinated with the Dowry Act in order to study dowry related deaths. The first major legislation to prohibit dowry deaths was the Dowry Prohibition Act and its subsequent amendments.

The Dowry Prohibition Act 1961

The Dowry Prohibition Act came into force on 1st July, 1961. The Act was amended in 1984 and 1986. The main aim of the Act was the prohibition of taking and giving dowry.¹⁵² According to the Dowry Prohibition Act, 1961, dowry is defined as:

" any property or valuable security given or agreed to be given either directly or indirectly.

By one party to a marriage to the other party to the marriage, or

By the 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 or persons to whom the Muslim Personal Law (Shariat) applied.¹⁵³

The definition of dowry under this Act is comprehensive and includes gifts demanded by the groom's family directly or indirectly in various ceremonies connected to marriage. India comprises of 28 states and 7 Union Territories. For all these there are 18 High Courts, which have incorporated changes in state laws after looking at precedent cases. For instance the State of Haryana widened the dowry definition by including various expenses incurred during the marriage ceremony such as *thaka, sagai, sangeet,*

¹⁵² Statement of Objects and Reason of the Dowry Prohibition Act, 1961.

¹⁵³ Section 2 of the Dowry Prohibition Act, 1961

tikka, shagun.¹⁵⁴ This is the insinuations of just one of the High Courts of India. Since the personal laws differ in all states and because there is no common state law, centralising regulations is difficult.¹⁵⁵ This Act has been designed to protect the rights of the women and prevent any perspective dowry related violence. As stipulated by V. Singh that the Act does not abolish the custom of gift giving in marriage, but has reformed dowry system to its original form.¹⁵⁶ The Act makes it an offence to accept or give valuable security, including ornaments, property both movable and immovable, demanded by the groom's family.¹⁵⁷

The Act however differentiates between the gratuitous gifts of *streedhan*, over which the bride has ownership and inheritance and the concept of dowry. As observed in the case of *Sher Singh v. Virendar Kaur (1979)*¹⁵⁸, the bride has all the ownership over her *streedhan*. It was observed by the courts that the main reason for continual practice of dowry was economic imbalance. In the case of *Vikas v. State of Rajasthan (2002)*, 'accumulation of unaccounted wealth with few and others having less means, follow the same out of compulsion.'¹⁵⁹ In *Sakhi Mandalani v. State of Bihar (1999)*, the Supreme Court of India insinuated that the evil of dowry had to be stopped, before all women are wiped out from India.¹⁶⁰ Therefore courts in India have concluded that continuance of dowry is due to reasons of economic imbalance and lack of public awareness. The

¹⁵⁴ The Haryana Act No. 38 of 1976, Explanation II: Marriage expenses shall include expenses incurred directly or indirectly at or before the marriage on-

Thaka, Sagai, Sangeet, Shagun, Milni ceremonies.

These are ceremonies in a traditional Haryana Hindu religion. *Thaka* is a ceremony of acceptance of the alliance. *Sagai* is the ceremony of engagement. *Sangeet* is Musical get together by the ladies of the families. *Shagun* is a ceremony where certain items depicting good luck such as coconut etc are given. *Milini* is a Welcoming the groom's 'baraat'.

¹⁵⁵ V. Singh, (1985), supra n. 37 at 25

¹⁵⁶ V. Singh, (1985), supra n. 37 at 33.

¹⁵⁷ Section 30 of the Indian Penal Code, 1860.

¹⁵⁸ *Sher Singh v. Virendar Kaur (1979)* FLJ, 493, at 497.

¹⁵⁹ *Vikas v. State of Rajasthan (2002)* Cr. L. J. 3760.

¹⁶⁰ *Sakhi Mandalani v. State of Bihar (1999)* 5 SCC 705.

changes in the economic conditions and life styles affected the dowry demands too.¹⁶¹

The initial demands of ornaments for the relatives of the groom changed to demands for cash, land and immovable property.

Under the Dowry Prohibition Act, 1961, any person who takes, gives, abets the giving or taking of dowry, is punishable with imprisonment for a term not less than five years and fine which is not less than Rupees 15, 000 or the amount of dowry given or taken.¹⁶² This aimed at eliminating dowry by including even acts of abetment as an offence. In *Rajeev v. Ram Kishan Jaiswal*, (1994) the definition was broadened to include property given in 'connection to the marriage' or 'in consideration of marriage'.¹⁶³ In *Vemuri Venkateswara Rao v. State of Andhra Pradesh*, (1992),¹⁶⁴ gifting of land demanded by the groom's family was also said to constitute dowry.

The practice of demanding dowry prior to marriage gave the bride's family a chance to report the matter to the police. Thereafter action was taken by the police and the members of the groom's family were given a warning by the police.¹⁶⁵ Thereafter the demanding dowry, 'at the time of the marriage ceremonies' was in vogue. For instance when the marriage ceremony is half way to completion, demands of dowry are made by the groom's family. The non payment of dowry is threatened by abandoning the marriage ceremony halfway by the groom's family. Fearing the consequences of societal shame, the bride's father is compelled to comply with such illegitimate demands.¹⁶⁶ A similar

incident occurred in the case of *L.V. Jadhav v. Shankar Rao* (1983), where the demand

¹⁶¹ Vindhya, 'Dowry Deaths, in Andhra Pradesh, India: Response of the Criminal Justice System', (2006), Vol. 6, *Violence Against Women*, pp. 1085 to 1108, at 1090.

¹⁶² Section 3 of the Dowry Prohibition Act, 1961. Rupees 15,000 can approximately be £182.50, converted on 19.08.2007, see http://coinmill.com/GBP_INR.html#INR=15000.

¹⁶³ *Rajeev v. Ram Kishan Jaiswal*, 1994 Cri L.J. NOC 255 (All).

¹⁶⁴ *Vemuri Venkateswara Rao v. State of Andhra Pradesh*, 1992 Cri L.J. 563 AP HC.

¹⁶⁵ Vindhya supra, n. 161, at pg. 1098.

¹⁶⁶ Rani Jethmalani, supra n. 18, at pg. 150.

was made at the time when marriage ceremony was in progress and was repeated after the marriage, it was held that it fell within the definition of dowry.¹⁶⁷

But successful convictions in dowry related death cases, persuaded many to resort to litigation under the Dowry Act. In the case of *Madhu Sudan Malhotra v. K.C. Bhandari* (1988), demand for household articles such as refrigerator, furniture, electrical appliances etc. at the time of the settlement of the marriage amounted to demand of dowry within the meaning of section 2 of the Dowry Act, 1961.¹⁶⁸ The Dowry Act, also empowered the courts to initiate proceedings upon its own knowledge, i.e. without any complaint being made.¹⁶⁹ This made the taking and giving of dowry a cognisable offence.¹⁷⁰ The courts could also do so on the basis of a police report, even if the aggrieved person lodged no such complaint. This was made so that the courts could initiate proceedings initiated through a police enquiry. Despite such strict penalties and successful convictions, the practice of dowry and dowry related deaths did not seem to stop. Certain provisions in the IPC were made strict pertaining to dowry related deaths and cruelty, which formed violence related to dowry.

The Indian Penal Code, 1860:

The IPC contains two major provisions aimed at curbing dowry related deaths and dowry related violence. The IPC is the most comprehensive penal code in India as it defines all the offences and the punishments accruing thereon.¹⁷¹ Section 498-A was

¹⁶⁷ L.V. Jadhav v. Shankar Rao, (1983) 2 Crimes 470.

¹⁶⁸ *Madhu Sudan Malhotra v. K.C. Bhandari*; 1988 BLJR 360 (SC).

¹⁶⁹ The amendments made to the Dowry Prohibition Act, 1961, made in 1984 and 1986.

¹⁷⁰ A cognisable offence is an offence classified under the Criminal Procedure Code, 1973. This comprises of a list of offences, which can be enquired by empowering the police with authority to investigate.

¹⁷¹ M. Srinivas, (1978), supra n. 23, at 44

introduced in 1983 and formed a major anti- cruelty provision of the IPC.¹⁷² Another important insertion was that of section 304 B which mainly covered dowry deaths. Each provision will be considered in turn.

Section 498 A of the Indian Penal Code 1860

There were many instances of cruel treatment by husbands on their wives for being unable to provide the demanded dowry. This in turn led to dowry related deaths. In order to prevent the aftermath of dowry related violence i.e. dowry-death, the IPC aimed at detecting and punishing cruel treatment. This provision mainly covers cruelty to women by the husband and his family after marriage. This section defines cruelty as:

any wilful conduct which is of a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb, or health (whether physical or mental) of the woman; or

*harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.*¹⁷³

This section is used for cruelty to women regarding any atrocity after marriage; most cases are those of cruelty to women for non payment of desired or excess dowry.¹⁷⁴ Those convicted under this section are punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine¹⁷⁵. Since instances of cruelty varied from case to case, the courts interpret ‘cruelty’ as per the facts of each case. In

¹⁷² M. Kishwar, supra n. 134, at 13.

¹⁷³ Section 498 –A of the Indian Penal Code, 1860

¹⁷⁴ S. Goonesekere, (2003), supra n. 99, at 140

¹⁷⁵ Section 489 A of the Indian Penal Code.

State of West Bengal v. Orilal Jaiswal, (1994)¹⁷⁶ the abuses of a mother-in-law led to the suicide by a newly wed daughter-in-law. Allegations such as being unlucky made on the daughter-in-law for having an abortion amounted to cruelty. The husband also assaulted her on various occasions because of the inferior quality of bridal presents brought by her. These actions fell within the ambit of cruelty as defined in section 498-A of Indian Penal Code. The court held that these acts instigated her suicide. The husband and his family members were charged with the abetment of suicide. This case was a landmark to many other cases of cruelty to women. The procedure was also simplified to encourage the victims to file their complaints.¹⁷⁷ Procedural requirements like the filing of the First Information Report (FIR)¹⁷⁸ could be done by victims or their relatives. This was useful in instances where the daughter-in-law was afraid to confront the police¹⁷⁹. In *Vimla Devi v. State of Uttar Pradesh* (2006), it was held that beating by family members that rendered the victim unconscious was cruelty under section 498-A.¹⁸⁰ However even with these anti-cruelty provisions, dowry related deaths could not be prevented.

Section 304B of the Indian Penal Code 1860

This provision deals with dowry related deaths. Section 304 B states:

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

¹⁷⁶ *State of West Bengal v. Orilal Jaiswal*, 1994 Cri. LJ 2104 SC

¹⁷⁷ R. Bhattacharya: *Behind Closed Doors: Domestic Violence in India* (2004), Sage Publications, India, at 35.

¹⁷⁸ In India, an FIR, is a written document prepared by the police when they receive information about the commission of a cognisable offence. All the provisions regarding the FIR are governed under section 157 of the Code of Criminal Procedure, 1973.

¹⁷⁹ R. Bhattacharya: *Behind Closed Doors: Domestic Violence in India* (2004), Sage Publications, India. at 37.

¹⁸⁰ *Vimla Devi v. State of Uttar Pradesh* (2006), CrI. Misc. Application no. 610 of 2006.

dowry, such death shall be called "dowry death" and such husband or relatives shall be deemed to have caused her death.

This section aimed at punishing the perpetrators who killed the woman within seven years of marriage. The main essence of this section was punishing those who to killed and abetted the killing of the brides for non payment of dowry. Those convicted under this section are punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life. In the case of *Vemuri Venkateshwara Rao v. State of Andhra Pradesh (1992)*,¹⁸¹ three essential ingredients were laid down that need to be satisfied in order to be convicted of an offence under section 304 B. These are (a) That there is a demand of dowry and harassment by the accused, (b) That the deceased had died, (c) That the death is under unnatural circumstances. In this case there was demand for dowry and harassment and death within seven years of marriage. These facts were enough to prove conviction under section 304- B of IPC.

The case of *Vemuri* was a landmark case and was subsequently referred to in later cases. But with the change in facts in each case, another ingredient came to be added for the case under section 304-B to be established. Immediate death of the woman after harassment by family members of her husband was the added criterion for proving a case under section 304-B of IPC.¹⁸² The impact of this ingredient was so strong that in a few cases, lack of immediacy failed to make an offence under this section. In *Arjun Dhondiba Kamble v. State of Maharashtra, (1995)*¹⁸³ the suicide of a wife after prolonged

¹⁸¹ *Vemuri Venkateshwara Rao v. State of Andhra Pradesh*, 1992 Cri. LJ. 563 A.P.

¹⁸² M. Kishwar, supra n. 134, at 15

¹⁸³ *Arjun Dhondiba Kamble v. State of Maharashtra*, 1995 AIHC 273.

harassment for dowry did not amount to dowry death. But with the addition of this new ingredient certain procedures were simplified for women. For instance, the burden of proof in cases under section 304 B has always been on the husband and his relatives.¹⁸⁴ The preliminary investigation would have to be made with the police, they played an important role in the proceedings.¹⁸⁵ Since these provisions under the Indian Penal Code required the matter to be reported to the police, the police played an important role too. A further discussion of this is made in the next part.

For the success of the provisions of the IPC, awareness amongst people especially the illiterate and the underprivileged was most important. This was mainly because, not only were most people ignorant of their dowry rights, but most of them were unaware of dowry being illegal too.¹⁸⁶ Cases like *Satya Rani Chadha's case* have helped spark the awareness amongst women all over India.¹⁸⁷ This case has been called a celebrity case because of the public support *Satya Rani Chadha* received for filing the case. *Satya Rani Chadha* had filed a case after her daughters were set ablaze as a result of non payment of dowry by their families.¹⁸⁸ She waited for seven years before the verdict of her case was out and the perpetrators were punished. She succeeded in her case as the grooms' family was convicted for death of the daughter-in-laws due to non payment of dowry. As a result of this case, section 306 was also amended to include, relatives who abetted the suicide. Thereafter in 1987, she established the first Indian women's organisation called the,

¹⁸⁴ Section 113-B of the Indian Evidence Act, 1872 and section 304-B of the IPC.

¹⁸⁵ M. Kishwar, *supra* n. 134, at 20.

¹⁸⁶ R. Bhattacharya, (2004), *supra* n. 177, at 43.

¹⁸⁷ For a detailed citation see R. Jethmalani: *supra*, n. 18, at 37.

¹⁸⁸ R. Jethmalani: *supra*, n. 18, at 30.

'*Shakti Shalini*', meaning the powerful women. This organisation has been motivating women to eradicate the practice of dowry.

Atrocious incidents continued even after the limited success of the Dowry Act and the provisions of the IPC. Jethmalani points out the continuation of dowry deaths, with the death of one *Meena Kumari*, by her sister in law.¹⁸⁹ *Meena Kumari's* parents had paid the demanded dowry but were unable to pay excess dowry demanded. It is alleged that the inability of parents to meet the demands resulted in the death of their daughter.¹⁹⁰ But due to unreliability on the dying declaration resulted in acquittal of the husband's parents. As R. Jethmalani states these are the few of the cases which have benefited with the anti-dowry legislation.¹⁹¹

The Constitution of India 1950

The Constitution of India 1950 bears all the important rights which an Indian is entitled to. The main articles relevant to dowry related deaths are Articles 14 and 21. Article 14 of the Constitution guarantees equality before law and equal protection of law.¹⁹² Article 21 guarantees right to life and liberty. It is argued that this practice of dowry infringes both these constitutional rights of women.¹⁹³ Various women's organisations have filed cases on behalf of the victims of dowry related deaths or violence. One such case was filed in the Supreme Court of India, challenging the

¹⁸⁹ R. Jethmalani: supra, n. 18, at 39.

¹⁹⁰ For a detailed citation see R. Jethmalani: supra, n. 20 at 39

¹⁹¹ Rani Jethmalani: supra, n. 18, at 35.

¹⁹² Article 14 envisages that all persons shall be treated equal before the law, thereby avoiding any discrimination. It also states that equal protection of law shall be provided to all persons, regardless of their age, sex, religion etc.

¹⁹³ W. Menski, supra n. 13, at 147.

infringement of the rights of the victims under the Constitution.¹⁹⁴ In *Neelam Verma and others v. The Union of India (1983)* seven dowry victims and two women's organisations had moved the Supreme Court of India.¹⁹⁵ They challenged the refusal of the police officers to register their complaints to be unconstitutional. The court held that the action of the police was an infringement of the constitutional rights of the victims. The court held that the duty of the police was to help the victims register complaints, denying the same was a breach of duty. This was a landmark case which helped raise 'public consciousness by way of a social litigation'.¹⁹⁶ The Supreme Court held that the infringement of right to life by dowry deaths was an infringement of a fundamental right. Thereafter, the Supreme Court of India made the implementation of anti-dowry laws stricter and victim-supportive. Procedural laws were simplified and encouragement to victims of dowry related violence was emphasised in many cases.

Shortcomings of the legal provisions

Despite the legal provisions in place to curb the practice of dowry and dowry related deaths, there are a number of problems with the laws. These problems are discussed below in turn.

Flaws in the Dowry Prohibition Act 1961

Madhu Kishwar points out the flaws in the workings of the provisions of the Dowry Act.¹⁹⁷ She mentions the exemption of 'voluntary gifts' from the legal definition

¹⁹⁴ Ibid.

¹⁹⁵ For a detailed citation see R. Jethmalani: supra, n. 18 at 43.

¹⁹⁶ Ibid.

¹⁹⁷ M. Kishwar, supra n. 134, at 23.

of dowry still leaves some lacuna in the Dowry Act.¹⁹⁸ The concept of ‘voluntary gifts’ has left little room for differentiation from dowry.¹⁹⁹ Soon the demands for dowry were made under the guise of voluntary gifts, which was not dowry and therefore was legal. The main drawback of the Dowry Act was its late enactment. Despite of the enactment of the Dowry Act very few cases were reported until the late 1980s.²⁰⁰ Thus lack of awareness regarding the dowry act and litigation, were reasons for the failure of the Act. Another flaw in the Dowry Act, was, ‘the lack of public co operation’, as held in the case of *Satvir Singh v. State of Punjab (2001)*.²⁰¹ It was held in this case that very little has been done in order to create awareness amongst people, since 1961. Even in 2001 two main reasons; lack of public awareness and public co-operation to curb dowry, still exist. This Act also failed owing to the inability of uniform application throughout India. The lack of a uniform law was responsible for the failure of the Dowry Act. This concept is discussed in the next chapter. Various other problems like those relating to evidence in dowry related cases was also responsible for failure of this act.²⁰² In practice this act has been so unsuccessful that it has rightly been described as a ‘paper tiger’ by Menski.²⁰³ The initial definition of dowry was very narrow and for years thereafter its insinuations by courts have been very narrow. For instance in the case of *Madan Lal and Others v. Amarnath (1985)*, the Delhi High Court held that time was not necessary for the conviction of dowry.

¹⁹⁸ ‘Voluntary gifts’, were excluded under section 2 of the Dowry Act, as to include kanyadaan and streedhan. Gifts falling under these criterion were excluded from the definition of dowry, thereby rendering them legal.

¹⁹⁹ Madhu Kishwar, ‘Destined to Fail’, India Together, Issue 148, <http://www.indiatogether.org/manushi/issue148/domestic.htm>

²⁰⁰ W. Menski, supra n.. 13, at 106.

²⁰¹ *Satvir Singh v. State of Punjab (2001) 8 SCC 633, AIR 2001 SC 2828*

²⁰² S. Goonesekere, (2003), supra n. 99, at 134.

²⁰³ W. Menski, supra n.. 13 at 110.

Mostly all cases thereafter applied this definition of dowry. This resulted in very few cases being reported and gave the groom's family a chance to demand dowry after few years of marriage. Since this act needed to be used simultaneously with the provisions of the IPC, its flaws affected the functioning of the Dowry Act.

Misuse of Section 498A of the Indian Penal Code 1860

The greatest criticism of this section was the misuse by women who wanted to blackmail their husbands and in-laws. There were instances where women fought for their rights and eventually had to die for their right of non-payment of dowry. One such instance of dowry death was the case of *Mulak Raj v. State of Haryana (1996)*.²⁰⁴ This case had a two-fold outcome. One on hand there was failure of justice and on the other there were allegation of law being biased. This was a classic case of a resistance to the non-payment of dowry, which unfortunately led to the death of the bride. Justice Majumdar referred to the victim as, "*the woman who lost her life in the altar of dowry demands*".²⁰⁵ In this case although the perpetrators were charged, the judge held that the death of the woman was the result of failure of justice. Here the law was proving fatal in eliminating dowry or delivering justice to the victims. But as further observed in this case, it was alleged that the law was too lenient and gender biased.²⁰⁶ Allegations were made that the laws were inefficient as they punished the innocent and failed to convict the guilty.²⁰⁷ Menski also criticised the 'laws to be as confused as the perpetrators'.²⁰⁸

²⁰⁴ *Mulak Raj v. State of Haryana (1996) AIR (1996) SC 2868, pg. 2869.*

²⁰⁵ *Supra*, pg 2868.

²⁰⁶ *Ibid.*

²⁰⁷ W. Menski, *supra* n. 13 at pg. 90.

²⁰⁸ W. Menski, *supra* n. 13 at 99

According to him the perpetrators were confused as one lot of society said that this law is gender biased and the other lot said this law was unable to render justice to victims.

Despite the comprehensive definition of ‘cruelty’ under the Indian Penal Code, many acts of cruelty failed to be included therein. In *Daulat Mansingh Aher (1980)*, instigation to commit suicide by dowry demands via a letter was not abetment to suicide.²⁰⁹ ‘Religious practice’ was the excuse given by the perpetrators when charged with committing the offence of dowry demand. Dowry taking and giving thus continued under the guise of religious practice.²¹⁰ Justice Hansaria in the case of *State of Himachal Pradesh v. Nikku Ram (1996)* provided probably the most comprehensive explanation of innocence of religion.²¹¹ He backed his judgment by saying that ‘*women are most respected in Vedas and in the Hindu religion. Therefore such a practice of dowry death is an insult to Hinduism*’. But in practice very little heed was paid to the words of Justice Hansaria. Dowry taking and giving continues even today in the name of religion.²¹² In the case of *L. Jadhav v. Shankar Rao Pawar (1983)*²¹³ it was held that gifts given out of love and affection did not constitute dowry. This was therefore in compliance with the cultural significance of *kanyadaan*. This facilitated dowry demands under another name of tradition i.e. *Kanyadaan*. Thus as the Dowry Act makes both *streedhan* and *kanyadaan* an exception, it is only assisting continuance of dowry demands.

There were instances where the husband and his family would get away owing to the flaw in legislation. In cases like *Dukhi Ram v. State of Uttar Pradesh, (1993)*,²¹⁴ the

²⁰⁹ Daulat Mansingh Aher (1980) Crim L. J. 1171.

²¹⁰ W. Menski, supra n. 13, at pg. 97

²¹¹ State of Himachal Pradesh v. Nikku Ram (1996) AIR 1996 SC 67.

²¹² M. Kishwar, supra n. 3, at 33

²¹³ L. Jadhav v. Shankar Rao Pawar (1983) AIR (1983) SC 1219.

²¹⁴ Dukhi Ram v. State of Uttar Pradesh, 1993 Cri. LJ 2539 (All).

relatives were successful in not being convicted under this section. In this case the co-villagers burnt the newly wed daughter-in-law for bringing insufficient dowry. The words of this section clearly contemplate the husband and the relatives. Since in this case the co-villagers committed the act, the husband and the relatives went unpunished.

The dowry laws give the police wider powers. This forms another flaw in the failure of provisions under the IPC. For instance at the time of filing the complaint, often the police try to mediate and solve the issue of dowry-violence themselves. The police advice in the matter is either the parties reconcile or that they resolve the matter in the private.²¹⁵ Thus rather than aiding the victims, the police try to solve matters their way. Since the initiation of the dowry death cases begins with police investigation, the police play a vital role, in recording the initial reports. But in instances as mentioned above, it results in under-reporting or no report at all.

The wordings of section 498-A of the IPC, convict the relatives as alleged by the victims, often innocent people are wrongly convicted. In *S. Gopal Reddy v. State of Andhra Pradesh (1996)*²¹⁶ an entire family was convicted under the Dowry Act and the IPC provisions. Due to non-participation of one of the accused, i.e. younger brother of main accused, he appealed his conviction. But the same was denied on the basis of an unsuccessful appeal by his elder brother. This formed an instance of the biggest flaw of the anti-dowry provisions.

There are many instances where the provisions of section 498A of the Indian Penal Code are misused by women. Allegedly there are more cases of emotional

²¹⁵ Ibid.

²¹⁶ *S. Gopal Reddy v. State of Andhra Pradesh, (1996), AIR (1996) SC 2184.*

blackmail reported in 2005-2006 than real cases by victims.²¹⁷ This provision has also been called 'legal-terrorism'. For instance the case that drew most media and public attention, in 2003, was that of Nisha Sharma.²¹⁸ Nisha Sharma, a Delhi based computer student, was to get married to Munish Dalal, but just a day prior to the day of marriage, the groom's father demanded more dowry. Going against societal norms, Nisha called the marriage off. This set an example for most of the girls thereby encouraging them to deny marriage rather than give dowry. However, in due course the other side of the story emerged. It was also speculated by the media, that Nisha's parents had paid the groom's family the initial dowry. Whilst taking and giving of dowry is punishable in India, Nisha's parents seem to have been pardoned for giving dowry.²¹⁹ Amidst all this, no record showed Sharma's parents being punished for 'giving' dowry. This was therefore a clear misuse of anti-dowry laws with the help of media speculation.

Other procedural flaws such as the inadmissibility of a dying declaration by a burnt woman add to the list of reasons for failure of dowry laws. But the inadmissibility of such evidence has changed from case to case. In *Kumbhar Mohanlal v. The State of Gujarat (1997)*²²⁰ the case under went three different decisions by trial court, High Court and the Supreme Court. The Trial Judge had acquitted the husband stating that no reliance could be placed on the dying declaration of the wife. The High Court of Gujarat however reversed the order of acquittal and stipulated that the dying declaration could be relied upon. This was upheld by the Supreme Court and consequently the husband was

²¹⁷ See <http://mynation.wordpress.com/2007/04/29/misuse-of-section-498-a-of-ipc-lok-sabha-unstarred-question/>.

²¹⁸ S. Majid, 'Guts in the Time of Dowry', 1st June, 2003, available at <http://www.boloji.com/wfs/wfs179.htm>, last visited on 16th August, 2007.

²¹⁹ Section 2 of the Dowry Prohibition Act, 1961.

²²⁰ *Kumbhar Mohanlal v. The State of Gujarat (1997) AIR 1997 SC 1531.*

sentenced to life imprisonment. Differing judgements resulted in wrong precedents being taken by lower courts.²²¹ In *Baldev Krishan v. State of Haryana (1997)*²²² the trial court and the High Court considered the family demeanour and their ill-treatment to the bride. The taunts from the relatives and past ill-treatments were also taken into consideration during conviction. In *Sham Lal v. State of Haryana (1997)*²²³, ill-treatment was not enough to convict the relatives. Failure by the police to record the complaints of victims regarding ill-treatment of the relatives led to their acquittal. Thus as Menski mentions, “neither the police nor the lower judiciary take much notice of the need for vigilance and activism in this area”²²⁴.

In 2004, a total of 1,34,757 men were arrested. Out of these 58,319 were registered cases of dowry. Only 47,828 cases had reached the chargesheet stage.²²⁵ Almost 10,491 dowry cases were not chargesheeted as they were based on frivolous grounds.²²⁶ The anti dowry laws are also used to create public shame for the husband and his relatives.²²⁷ It can be concluded that growing awareness, results in more misuse than use of dowry laws.

The personal laws in India have always been the hurdle for legislation. Even the practices like dowry in India differ from one state to another. The concept of dowry related death is resolved differently in each state in India sometimes also differing on the

²²¹ M. Kishwar, supra n. 134, at 35

²²² *Baldev Krishan v. State of Haryana (1997)* AIR 1997 SC 1666.

²²³ *Sham Lal v. State of Haryana (1997)* AIR 1997 SC 1873.

²²⁴ W. Menski, supra n. 13, at. 148.

²²⁵ The stage of chargesheet under the Criminal Procedure Code, 1973, is when the charges have been levied on the accused after interrogation by the police. This is in formal writing, which is used at the trial stage and further.

²²⁶ A survey carried out by the CNN IBN network, in India, <http://www.ibnlive.com/news/tortured-hubbies-victims-of-498a/27446-3.html>.

²²⁷ Supra n 244.

basis of difference in practice. The possibility of a uniform legislation is the only solution to continuing problems like dowry. The Uniform Civil Code (hereinafter the UCC) is the only common solution for the entire nation. According to H. M. Seervai, miscarriage of justice in many cases is due to the absence of the UCC.²²⁸ Landmark cases like *Mohammed Ahmed Khan v. Shah Bano Begum and others*, (1985)²²⁹ emphasised the need for a UCC. The need for a UCC is still felt today as observed in the recent case of *John Vallamattom v. Union of India* (2003).²³⁰ A UCC can thus remove differences arising out of personal or state laws, which govern the concept of dowry, which inter-alia affects dowry-related deaths.

International Human Rights Approach in the matter of dowry

Dowry related deaths are a form of gender based violence and are the basis of human rights violations equal to honour killings.²³¹ The United Nations recognises dowryrelated deaths as gender based violence in India, as a political responsibility. India has international obligations to many International Organisation for many purposes such as murder, women's rights etc. To name a few India is a party to the International Covenant of the Civil and Political Rights (the ICCPR), the Convention of Elimination of all Forms of Discrimination Against Women (hereinafter the CEDAW), the Convention for the

²²⁸ H. M. Seervai: *Constitution of India, 1950*, (1988), Tripathi Publishing, Mumbai, India.

²²⁹ *Mohammed Ahmed Khan v. Shah Bano Begum and others*, A.I.R. 1985 S.C. 945

²³⁰ *John Vallamattom v. Union of India* AIR 2003 SC 2902

²³¹ Women Commentary, *Harmful Traditions*, available at <http://www.unicef.org/>, last visited 16th August, 2007.

Rights of the Child (the CRC). For the current topic of dowry related deaths the CEDAW codifies the rights of women.²³²

Convention of Elimination of all Forms of Discrimination Against Women (CEDAW)

Adopted in 1979 by the United Nations General Assembly, CEDAW is often described as an international bill of rights for women.²³³ With regards to dowry, CEDAW imposes upon State Parties an obligation to combat discriminatory practices. Article 2 (b) enjoins the State to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Moreover, article 14 emphasises the elimination of discrimination faced by rural women. Furthermore article 15 (2) requires State Parties to ensure gender equality. CEDAW suggests that legislation-oriented remedies are most efficient in combating violence and discrimination against women. Thus the best mode of application of these rules is by way of domestic legislation. By operation of article 2 (f) and related articles of CEDAW, the State Party is obligated to take appropriate measures including legislation and modification of the law to abolish gender-based discrimination in existing laws, customs and practices. CEDAW thus suggests that dowry death matters can be curbed by using a positivist approach towards the problem.²³⁴

But as specified by Jethmalani, even the efforts of the CEDAW come to an end, which have to be continued by domestic legislation. The domestic legislation in India viz

²³² The Convention of Elimination of all Forms of Discrimination Against Women, G. A. Res. No. 34/180, U.N. GAOR, Supp. No. 46 at 193, U.N. Doc. A/34/46, 1979, available at <http://www.un.org/womenwatch/daw/cedaw/> (last visited 26th August, 2007)

²³³ Ibid.

²³⁴ Ibid.

the Dowry Prohibition Act and various other provisions seemed to have failed. Thus as Jethmalani stipulates, the CEDAW, even an international approach fails to eliminate the system of dowry.²³⁵

International Conferences on Dowry & Bride Burning:

The First International Conference on Dowry & Bride Burning was held in 1995 at Harvard University and two others held at Harvard University and London University.²³⁶

Key issues, relating to dowry, prompt action that could be taken to curb dowry related deaths and violence were raised. Moreover, dowry was considered as a form of domestic violence.

The first conference focussed mainly on the history of dowry and the justifications for the practice.²³⁷ Thus it was concluded that more forms of reform need to be implemented in the field of dowry awareness. Another valuable suggestion made was that dowry had no religious origin and that it was a man-made practice. The second conference focused mainly on the reasons for the persistence of dowry and the legal mechanisms in India. The working and the failures of the legislations were examined. It was concluded that reformation in dowry awareness and change in legislation are the only possible solutions to the problem of dowry related deaths. Menski also points out that one-sided blaming of male extortion was not sufficient to prove the persistence.²³⁸ Thus in the area of awareness, equal participation of men and women is required. To create social awareness and rural education were the prime targets of these conferences.

²³⁵ Rani Jethmalani: supra, n. 18 at 103.

²³⁶ Werner Menski, supra n. 13 at 8.

²³⁷ Ibid.

²³⁸ Werner Menski, supra n. 13, at 11.

Non-governmental organisation and women's social groups were the teaching tools responsible for educating the women of their rights. To spread awareness relating to dowry evils, media should be more extensively used.

Influence of the Media

The media plays an important role in Indian culture and daily life. Media can also be used for creating awareness, reaching those people, who are unaware of their rights. Within the media, the initiation of anti dowry awareness began with the famous Indian movie called '*Dahej*' (1950) by a renowned Indian filmmaker, V. Shantaram. Set in the 1950s, this movie depicted the concept of sensible men not accepting dowry. This movie had a social impact and a sense of awareness for people of all classes. Since the audience comprised of all castes and classes, this movie spread the word for curbing dowry to almost all Indians. The word of anti-dowry from this movie '*Dahej*' was spread all over India by means of radio and television.²³⁹ But although efforts were being made to utilise the positive effects of this movie, there were differences. As S. Chatterji comments, '...torture and humiliation seemed to send the wife into greater ecstasies of martyrdom, even if it led to her death'.²⁴⁰ Thus although such a movie centralised the martyrdom of the heroine, it just presented an example to the audience. The anti-dowry awareness was also spread through famous Indian comic called, '*Bahadur*', meaning the brave.²⁴¹ Thereafter many other movies like *Dulha Bikta Hai* (1982), *Yeh Aag Kab Bujhegi* (1991),

²³⁹ V. Talwar. "Dowry Murders in India: A Preliminary Examination of the historical evidence," In Meredith Turshen and Briavel Holcomb, eds. *Women's Lives and Public Policy: the International Experience*. Westport, CT.: Praeger, (1993).

²⁴⁰ S. Chatterji: 'Subject: Cinema, Object: Woman A Study of the Portrayal of Woman in Indian Cinema'. (1998), Parumita Publications, India, pg. 108.

²⁴¹ *Bahadur* was the quintessential Indian comic book hero, and the *Indrajal* comics, of the fame of Phantom, Mandrake, *Bahadur*, Flash Gordon.

Damini (1993), and Lajja (2001), strongly criticised the practise of dowry. All these movies depicted a picture of revolutionary Indian woman as opposed to the shy and downtrodden housewife. Most movies like Yeh Aag Kab Bujhegi (1991), also showed justice being done to the victim's family who suffered dowry death or dowry violence. This confirmed the faith of Indian audience in both judiciary and legal system.

The practical version of the phrase, 'Justice Delayed, is Justice Denied', can be seen from Indian courts.²⁴² The legal system in India usually takes longer than that of any other legal system of other countries. Thus the continual of the practice of dowry and consequential dowry related violence and deaths in particular are most definitely partly due to the shortcomings of the legal system. Another factor is the societal acceptance (in some parts of India) of such practices. These issues are discussed further in the next chapter.

²⁴² M. Kishwar, (2005), *supra* n. 134, at 38.

CHAPTER IV:

WHY DOES THE PRACTICE STILL PERSIST TODAY?

The continuance of the practice of dowry even today is an undisputed fact. As touched upon in the previous chapter there appear to be two main reasons for the persistence of dowry; the short comings of the legal provisions and the cultural acceptance of dowry and the failure of legal provisions in India. Linked to cultural acceptance is the economic expectations of a family which also influence the continuance of this practice. Moreover the inferior position of women in Indian society also contribute to their subjection to various forms of gender based violence such as dowry deaths.

Moreover according to Jethmalani,

*“evidence reasserts that the problems of dowry death, bride burning, and other forms of dowry-related violence on women is a Hindu phenomenon that is now almost out-of-control due to the following reasons: (1) retention of the caste system, (2) undermining of the woman by the religious orthodox and social patriarch making herself and her family vulnerable to socioeconomic pressure and extortion, (3) ever-increasing greed of the bridegroom and his family, (4) an economically strangled hyper populated society non-supportive of unmarried women, and (5) a morally depraved political system run by the pro-status quo conservatives.”*²⁴³

Dowry related deaths and the society

In Indian societies the concept of dowry differs geographically too. India is a country with a diverse population. Whilst most of the cities in India are modernised, few rural areas still remain with the sting of backwardness.²⁴⁴ As Bloch and Rao mention it is the prime duty of Indian parents to get their daughter married or to risk an unmarried over

²⁴³ R. Jethmalani: (1995), supra n. 18, at 50.

²⁴⁴ Bloch & Rao, (2002), supra n. 76, at 1030.

aged daughter. In either circumstance incurring an economic expenditure sooner or later, would be unavoidable. Leaving no room even for the thought of divorce in case of unsuitable circumstances rightly makes the bride, 'a hostage'.²⁴⁵ Non-compliance with demands of the groom's family could result in the death on the bride. This would mostly be by way of a kitchen fire. This soon became the concept of dowry death for Indian societies in the late 1980s. It is not denied that this concept of society still persists. The death due to dowry has been given least importance by society as alleged by R. Dube.²⁴⁶ This inaction on behalf of society encourages people to demand dowry and ill-treat women, who do not suffice this demand.

Reasons contributing to the persistence of dowry and dowry related deaths

There are a number of reasons why women are exploited for such gender based violence. It is the societal acceptance that has kept the tradition of dowry alive. The prolonged practice by the society in some form or the other has resulted in this form of gendered violence.²⁴⁷ As seen in Chapter I, religion and culture plays a vital role in determining the status of women in society.²⁴⁸

Role of Religion:

Most perpetrators practice dowry under the guise of religion, in order to legitimise their actions. Despite of the fact that the practice is not sanctioned by religion, but has

²⁴⁵ Bloch & Rao, supra n. 76, at pg. 1031.

²⁴⁶ R. Dube: *Female Infanticide in India: A Feminist Cultural History*, (2005), Suny Press Publishing, India, at pg. 30

²⁴⁷ M. Srinivas, (1984), supra n. 47, at 78.

²⁴⁸ M. Srinivas, (1984), supra n. 47, at 100.

been conveniently used over the period of years, in the name of *kanyadaan*.²⁴⁹ Religious views regarding caste system in India have always been very strict. Therefore in Vedic times, when the system of hypergamy prevailed, the practice of dowry was more corrupted.²⁵⁰ The other role religion plays is the portrayal of women in the familial ideology. As B. Sitaraman rightly stipulates, a married woman is expected to identify with her husband's family.²⁵¹ She has no identity of her own. Women are also regarded as the keepers of familial sanctity and harmony, acting under the advice of the males. Women, even today are also expected to be within the specified, 'gender roles'. Women are expected to be good mothers who are stoic and self-sacrificing. As wives they are expected to be chaste and obedient. A seemingly exaggerated statement by B. Sitaraman, is true to depicting the past and also paints the present picture.²⁵² These reasons are also responsible for the status of women, rendering more importance to the male child.

Importance of a male child

In India the importance of a male child exists since a long time. There are many cultural reasons for the same. For instance the Vedas suggest that for the attainment of solace on the death of either of the parents, the pyre should be lit by a son.²⁵³ Another reason for the preference of a male child was escaping the payment of *kanyadaan*. In the instance of a boy child, the groom's family would receive the *kanyadaan* payment. Thus the economic greed for receiving *kanyadaan* which became dowry exists since long.

²⁴⁹ W. Menski, (1998), supra n. 13, at 88.

²⁵⁰ M. Srinivas, (1978), supra n.23, pg. 230.

²⁵¹ B. Sitaraman, 'Law as Ideology: Women, Courts and 'Dowry related Deaths' in India', (1999), 27, *International Journal of the Sociology of Law*, pp. 287-316, pg. 294.

²⁵² B. Sitaraman, (1999), supra n. 257, at pg. 301.

²⁵³ Rig Veda verse X, para. 18.

But the position of the female child did not change. In order to escape the payment of the same, many girls were subjected to being mutilated on birth. Girls were always considered a burden and an expenditure for the family. This resulted in a series of horrific crimes of female infanticide and foeticide. As R. Dube writes, with the increase in technology, the same was used in the late 1980s to achieve the desired sex of the foetus.²⁵⁴ Most of the doctors in India believe two million fetuses are killed every year through abortion, simply because they are female.²⁵⁵ The girl is always given the least importance in her life and the rarest of comforts in life. Thus for instance in a family of with a daughter and a son, the son would be looked after by the family. The largest and the best share in the family's meal went to the son and the daughter received the leftovers.²⁵⁶ Education is another commodity that the daughter would be debarred from. The expenditure on the son's education was never considered futile as there was a vested interest of the repayment of the expenditure on the son via dowry from his wife.²⁵⁷ Another reason for not incurring any expenditure on the education of the daughter, was because she has to go to another home, therefore the parents would not benefit.²⁵⁸ This explanation was legitimised because the daughter was not allowed to work after marriage. This social stigma prevailed throughout the country and the daughters never resisted this concept.

²⁵⁴ R. Dube: *Female Infanticide in India: A Feminist Cultural History*, (2005), Suny Press Publishing, India, at pg. 10.

²⁵⁵ 'Should India do more to stop female foeticide?', BBC report, India, 26th January, 2001, found at http://news.bbc.co.uk/1/hi/talking_point/debates/south_asian/1125677.stm.

²⁵⁶ R. Dube, (2005), supra n. 254, at pg. 11.

²⁵⁷ R. Dube, (2005), supra n. 254, at pg. 13.

²⁵⁸ N. Bhuguna, 'Disparities in Inequality', (March 2003), India Together, found at <http://www.indiatogether.org/2003/mar/wom-states.htm>

Even today these methods of sex determination or more comfortably the sex alteration techniques are used in India, to get the desired sex of the child, inter-alia a male child.²⁵⁹

The undesirability of a girl child renders the status of the Indian women inferior.

Inferior position of women:

The position of women in India is largely responsible for the continuance of this practice.

Although the present scenario of women in India seems to conflict this argument, the same exists, especially in the rural parts of India. The major cities where the practice of dowry largely exists are Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh.²⁶⁰ A study shows maximum amount of illiteracy recorded herein. This may seem to contrast the view that the maximum number of Indian Administrative Service officers come from these states.²⁶¹

Despite the rising number of Multinational Corporations in India, many rural areas of these states, record least awareness amongst women regarding their rights. Statistics reveal that illiteracy among women is high, in some rural areas up to 63 percent.²⁶² With lack of awareness and in absence of illiteracy women here are at the highest risk of exploitation. Thus when a newly wed bride, does not bring the expected dowry, she and her family are prepared for the consequences. The only solution to the people in these states to such a problem is the payment of dowry than resistance. In many parts of Uttar Pradesh, marriage is thus a transaction where a wife can be bought and sold.²⁶³

²⁵⁹ R. Dube, (2005), supra n. 254, at pg. 9

²⁶⁰ N. Bhuguna, 'Disparities in Inequality', (March 2003), India Together, found at <http://www.indiatogether.org/2003/mar/wom-states.htm>.

²⁶¹ Ibid.

²⁶² N. Bhaguna, Supra n. 260.

²⁶³ Ibid.

Patriarchal Society:

The main problems begin with this huge difference in status between men and women. The roles they play in society to a great extent decide who makes the rules. According to Papanek, a continuance sense of insecurity needs to be built around the woman to keep the household working.²⁶⁴ He terms the appropriate task for women as, ‘family status production work’, which is supporting the male members by way of house caring chores. Ironically as pointed out by H. Ghosh, it is the men who decide what chores the housewives would be doing.²⁶⁵ Ghosh in her article vividly mentions that the very creation of women is done by men, in a manner appropriate to them. She further insists that men have only regarded women like Sati-Savitri²⁶⁶ in Hindu Mythology. It is this patriarchy that encapsulates the reasons for gendered crimes like dowry to be accepted by society.²⁶⁷ It is the constant fear that also helps men to dominate women. This fear which a woman possesses constitutes one of the main reasons why the matter of dowry related violence is under reported.²⁶⁸ A woman fears that the reporting of such matters would only render her homeless. Facing the consequences of being homeless and honour less, is beyond imagination for any woman, in this patriarchal society.

²⁶⁴ H. Papanek, ‘Class and Gender in education-employment linkages’, (August 1985), *Comparative Education Review*, pp.317-346, pg. 318

²⁶⁵ H. Ghosh, (2004), supra n. 103, at 95.

²⁶⁶ Sati was the goddess after whom the famous practice of sati (widow immolation) has been named. Savitri was also a respected mythological figure, who fought with the god of death, to retain her husband’s soul. Both these women are highly respected in Hindu Mythology for their chastity and purity. It is also said that it was the devotion to their husbands that earned them the respect in myths.

²⁶⁷ H. Ghosh, (2004), supra n. 103, at 97

²⁶⁸ Ibid.

Marriage as a financial transaction:

As speculated by many authors, marriage is indeed a transaction, where the bride is bought mostly the price, the husband is worth.²⁶⁹ Thus more the qualification of the groom, the higher is the dowry demand. As Menski comments this is largely due to the inferior status of women. This transaction of marriage gives rise to a socio-religious expectation which becomes a compulsion once the daughter is married.²⁷⁰ The groom's family assume they are superior to the bride's family and expect the marriage to yield utilities. This utility is characterised by demanding dowry, which they consider righteous. The lack of education expenditure for the daughter constantly attracts a qualified groom. The underlying principle of this transaction was that the bride was less qualified than the groom. With the change in time and the societal perspectives, many fathers educated their daughters in order to match the intellect of their prospective husbands. But this too did not condone the giving of dowry to the groom. There was a negative side of this effort too. This period of waiting for the 'right groom' delayed the marriage of such daughters. Such parents were unable to find a suitable match and were left with over-aged daughters. The suitable age for marriage of a girl is between the age of eighteen to twenty-two.²⁷¹ This gestation period results in compromising over an unsuitable groom. Even today most cases of such waiting for a suitable match results in a compromised marriage. Such compromised marriage result in societal shame and embarrassment.²⁷²

²⁶⁹ W. Menski, supra n. 13, at 89.

²⁷⁰ W. Menski, (1998), supra , 13, at pg. 78

²⁷¹ W. Menski, (1998), supra , 13, at pg. 80

²⁷² Vindhya, (2006), supra n. 161, at 1095.

In the words of V. Oldenburg explains the need of dowry and the economic expectations:

*'The will to obtain large dowries from the family of daughters-in-law, to demand more in cash, gold and other liquid assets, becomes vivid after leafing through pages of official reports that dutifully record the effects of indebtedness, foreclosures, barren plots and cattle dying for lack of fodder. The voluntary aspect of dowry, its meaning as a mark of love for the daughter, gradually evaporates. Dowry becomes dreaded payments on demand that accompany and follow the marriage of a daughter.'*²⁷³

The craze of Non-Resident Indians (N.R.I.s) grooms living anywhere in the world, for Indian parents is undying. As one critic, Annappa Caleekal, commented on the rising levels of dowry, particularly during the last decade is due to social stigma.

As R. Barot rightly mentions that the practice of hypergamy, has been revived from the Vedic times and amended, wherein the Brahmins have been substituted for NRIs. Thus an NRI son would be a minting machine for his family. The craze of getting a daughter married 'abroad' makes her parents so desperate that they succumb to any dowry demand. But as Barot mentions, it is the cultural practice that does not change the mindset of Indians living in a country like United Kingdom.²⁷⁴ He mentions one particular caste, being the Gujarati, who still practice hypergamy even amongst themselves. Thus when a daughter from a lower caste is married to a groom of a higher caste, dowry is given in the name of, '*pehramani*'²⁷⁵. These items are displayed to the community and are a status symbol to both the families. For most Gujarati families settled in United Kingdom a lavish marriage is also a part of the dowry demand. This is

²⁷³ V. Talwar, (1993), supra n. 239, at 35.

²⁷⁴ W. Menski, supra, 13, at pg. 169

²⁷⁵ '*Pehramani*', is a tradition amongst the Gujarati caste in India, which is a set of gifts given by the father to the bride and the groom at the time of the marriage. These gifts usually are expensive an entire trousseau for the bride and the groom including jewellery. This usually includes jewellery and clothing for the groom's family.

mutual as a show of ones assets and capability is also the desire of the bride's family. The most obvious gift in case of a hypergamous marriage is a house from the father of the bride. This is where culture plays an important role. Just as in the case of economic desires from the bride's family in India, a similar social stigma exists amongst the Indians residing in an advanced country like United Kingdom. Thus it may be rightly concluded that culture has the biggest contribution in the persistence of this gender based violence.

Economic and Material Desires:

M. Kishwar rightly calls dowry, 'legal extortion'.²⁷⁶ All the matters become convenient for the groom's family under the guise of tradition. Therefore there is no actual extortion and all this happens in the name of culture. But the real motive behind all this lies in the economic desires, which seems most appropriate by a simple demand of dowry. The economic study of barren land in the rural areas and the loss of revenue for farmers reveal the need for dowry.²⁷⁷ This is the most popular reason given for the persistence of dowry. But with the growth of industrialisation and urbanisation, the demands did not stop; instead the dowry demands got amended. As Madhu Kishwar concludes, this is therefore one of the excuses given for legalising their demand for dowry.²⁷⁸

Weak Regulations, Application of laws

As seen in the preceding chapter, weak legislation is also one of the reasons for the persistence of dowry practice. As Manushi points out, the Himalayan blunder

²⁷⁶ P. Nair, (1978), supra n. 34 at 30

²⁷⁷ V. Talwar, (1993), supra n. 239, at 40.

²⁷⁸ P. Nair, (1978), supra n. 36 at 35.

committed by the Dowry Prohibition Act, was the legalising of 'gifts'. Thus although dowry was made illegal, per se, the same demands could be made in the name of 'gifts'.²⁷⁹ This mistake is unavoidable as it clashes with the religious practices. It is this unavoidable mistake that needs amendment with the help of social reformation. There are two main reasons why the legislation seems to have failed. Firstly, the police in India register complaints from the dowry victims, which forms the preliminary ground for litigation. But owing to the widespread corruption in the Indian police, it is at this stage that the complaints fail to reach the courts. The second reason is the corruption of the judiciary, due to which the victims lose hope for justice.²⁸⁰

The Dowry Prohibition Act was more of a failure than serving the purpose it had been created for. As B. Sen mentions that the amendments in the definition of dowry have added to the confusion in the courts and facilitated the continuation of dowry practice.²⁸¹ As result of which the statistics display figures which are lesser than those in reality.²⁸² Sen further mentions that the Act was passed at a premature stage, because the concept of dowry was a result of a social environment; and women considered dowry as a family gift for their own benefit.²⁸³ Thus poor legislation has the largest contribution to the failure of curbing the practice of dowry.

Access to justice:

In most instances women are debarred from access to justice owing to illiteracy or rural conditions. Almost 63% of women in India are uneducated and therefore are not

²⁷⁹ M. Kishwar, (2005), supra n. 134, at 14.

²⁸⁰ W. Menski, (1998) supra , 13, at pg. 91

²⁸¹ W. Menski, (1998) supra , 13, at pg. 93

²⁸² Vindhya, (2006), supra n. 161, at 1097.

²⁸³ W. Menski, (1998) supra, 13, at pg. 95.

aware of their rights.²⁸⁴ Women in these areas who are victims of dowry violence are denied any legal advice or legal aid. The stigma attached to the concept of making the issue of dowry known to public was also against ones honour.²⁸⁵ This leaves victims of dowry violence with no option to restore justice. Going to courts and police stations to register a complaint against ones in-laws was an alien concept for women residing in rural areas. This concept of not exposing ones in-laws in public is not limited only to the rural areas, even women living in modern cities refrain from going public with their issue. In most cases women are advised by their own parents not to register complaints. They are mostly advised to re-conciliate with her in-laws or is 'emotionally blackmailed'.²⁸⁶ In certain circumstances since the perpetrators were women (mother-in-laws, sister-in-laws), the law tends to be more biased to them.²⁸⁷ This almost pardons the perpetrators by ruling out that, 'one woman cannot harm another woman with an intention to kill'.²⁸⁸

It is therefore most important to resort to other means like Women's organisation and using the help of International Organisation, to curb this cruel practice of dowry death. Another important thing is the educating of women of their own rights and making free legal aid available to women in rural communities. In the event of failure of all the above mechanisms, it is important to implement certain alternative mechanisms.

²⁸⁴ N. Bhaguna, *Supra* n. 260.

²⁸⁵ W. Menski, (1998) *supra* , 13, at pg.173.

²⁸⁶ Madhu Kishwar, 'Destined to Fail', (15th July, 2007), *India Together*, Issue 148.

²⁸⁷ Huma Ahmed-Ghosh, *supra* n. 103, at pg. 100.

²⁸⁸ *Ibid.*

CHAPTER V:

DOWRY HARASSMENT AND DEATH CASE IN DISTRICT SAMASTIPUR, BIHAR

5.1 Case studies on dowry harassment

Case: Rekha Kumari

Background:

Rekha Kumari (name changed for confidentiality) was a 22-year-old woman from a small village in Samastipur district, Bihar. She belonged to a lower-middle-class family, and her father worked as a farmer. Rekha had completed her secondary education and was known for her determination and ambition to pursue higher studies.

Incident:

In 2021, Rekha's family arranged her marriage with Rajesh Singh, a young man from a neighboring village. Initially, the marriage ceremony went smoothly, but soon after the wedding, the groom's family began making excessive demands for dowry. They claimed that the agreed-upon dowry was insufficient and insisted on additional cash, jewelry, and other valuable assets.

Rekha's family, already burdened by financial constraints, struggled to meet these demands. Despite their best efforts to fulfill the dowry requirements, the groom's family remained unsatisfied. This led to a rapid deterioration in Rekha's marital life. She started experiencing physical and verbal abuse from her husband and in-laws, who blamed her for the inadequate dowry.

Escalation of Harassment:

As the harassment intensified, Rekha's family tried to mediate the situation and sought help from community elders. However, the attempts at reconciliation were futile, and the dowry

demands continued to escalate. Rekha's parents, fearing for their daughter's safety and unable to meet the increasingly exorbitant demands, felt helpless and trapped.

Tragic Outcome:

One fateful evening, Rekha's family received a distressing phone call from Rajesh's family, informing them that Rekha had taken her own life. Devastated and in shock, Rekha's parents rushed to her marital home, where they found her lifeless body hanging from the ceiling. The tragedy sent shockwaves through the community, exposing the grim consequences of dowry harassment.

Legal Actions and Community Response:

Rekha's family immediately filed a complaint with the local police, highlighting the dowry harassment and the role it played in their daughter's death. The case received significant media attention, leading to public outrage and demands for justice. Community organizations, women's rights activists, and local authorities came together to condemn the incident and call for stricter enforcement of laws against dowry-related offenses.

Investigation and Trial:

The police launched an investigation into Rekha's death, collecting evidence and testimonies from family members, neighbors, and acquaintances. The statements revealed a pattern of dowry harassment and abuse leading up to Rekha's tragic decision. The accused individuals, including Rajesh Singh and his family members, were arrested and charged with dowry harassment, cruelty, and abetment to suicide under relevant sections of the Indian Penal Code and the Dowry Prohibition Act.

The trial proceedings brought attention to the widespread issue of dowry harassment and its devastating consequences. The court heard testimonies from witnesses, experts, and the victim's family, meticulously examining the evidence. Ultimately, based on the compelling evidence presented, the accused individuals were found guilty and sentenced to imprisonment for their crimes.

Impact and Lessons Learned:

Rekha Kumari's case served as a wake-up call for the community, highlighting the urgency of addressing dowry harassment and its lethal repercussions. The incident led to increased awareness about the rights of women, the consequences of dowry-related violence, and the need for support systems to protect potential victims. Rekha's tragedy also spurred discussions on policy reforms, enforcement of existing laws, and the importance of educating society to eradicate this harmful practice.

Conclusion:

Rekha Kumari's case exemplifies the distressing reality of dowry harassment and death cases in Samastipur, Bihar. It underscores the urgent need for comprehensive measures to combat this pervasive issue. The case serves as a reminder that dowry-related violence not only robs individuals of their lives but also perpetuates a cycle of abuse, injustice, and inequality. Efforts must continue to raise awareness, empower women, and ensure strict enforcement of laws to eradicate dowry harassment and protect the rights of women in Samastipur and beyond.

Case: Pooja Devi**Background:**

Pooja Devi (name changed for confidentiality) was a 24-year-old woman residing in Samastipur district, Bihar. She belonged to a lower-income family and had completed her graduation. Pooja was known for her passion for education and her dreams of pursuing a career in the field of medicine.

Incident:

In 2022, Pooja's family arranged her marriage with Vikram Singh, a young man from a neighboring village. The wedding ceremony was conducted with joy and enthusiasm. However, soon after the marriage, Pooja's in-laws began displaying avaricious behavior, demanding a hefty dowry. They insisted on expensive jewelry, electronic appliances, and a

significant amount of cash.

Financial Struggles and Increased Harassment:

Pooja's family, already burdened by their limited financial resources, found it difficult to meet the escalating dowry demands. Despite their sincere efforts, the in-laws remained dissatisfied, leading to a deteriorating situation for Pooja. She became the victim of emotional, verbal, and physical abuse at the hands of her husband and in-laws, who blamed her and her family for their failure to fulfill the extravagant dowry requirements.

Desperation and Tragic Outcome:

As the harassment continued unabated, Pooja felt helpless and trapped in her marital home. The constant abuse, combined with the pressure to meet unrealistic dowry demands, took a toll on her mental health. In a moment of despair, Pooja made the tragic decision to end her own life. She consumed a poisonous substance, which resulted in her untimely death.

Legal Actions and Community Response:

Pooja's family was devastated by her loss and immediately reported the incident to the local authorities. The case gained significant attention from the community, triggering widespread outrage and demands for justice. Women's rights organizations, community leaders, and concerned citizens rallied together, demanding stringent action against the perpetrators and seeking justice for Pooja's death.

Investigation and Trial:

The police swiftly initiated an investigation into Pooja's death, gathering evidence and testimonies from family members, friends, and neighbors. The investigation revealed a clear pattern of dowry harassment and abuse that contributed to Pooja's tragic decision. As a result, her husband, Vikram Singh, and his family members were arrested and charged under relevant sections of the Indian Penal Code and the Dowry Prohibition Act.

During the trial, the court examined the evidence and heard testimonies from witnesses,

including Pooja's family and individuals who had witnessed the dowry harassment. The trial shed light on the prevalence of dowry-related violence and its devastating consequences. The prosecution presented a compelling case, underscoring the role of dowry demands in Pooja's death.

Legal Verdict and Impact:

After a thorough examination of the evidence and testimonies, the court found Vikram Singh and his family members guilty of dowry harassment, cruelty, and abetment to suicide. They were sentenced to imprisonment for their crimes. The legal proceedings and the subsequent verdict served as a stern warning against dowry harassment and highlighted the significance of enforcing laws to protect women's rights.

Pooja's tragic case sparked a broader conversation about the pressing need to address dowry-related violence in Samastipur and the entire country. It further emphasized the importance of education, awareness, and support systems to protect potential victims and empower women to assert their rights.

Conclusion:

Pooja Devi's case exemplifies the heartbreaking reality of dowry harassment and its catastrophic consequences in Samastipur, Bihar. It underscores the urgency of comprehensive measures to eradicate this harmful practice and protect the rights and well-being of women. Efforts must continue to raise awareness, strengthen the legal framework, and foster a society that values gender equality and rejects dowry-related violence. Only through collective action can we create a safer and more just society for all.

5.2 Case studies on dowry harassment

Case Study 1: Rina Devi

Background:

Rina Devi (name changed for confidentiality) was a 20-year-old woman from a rural village

in Samastipur district, Bihar. She hailed from a modest family, and her father worked as a daily wage laborer. Rina had completed her secondary education and aspired to pursue further studies.

Incident:

In 2021, Rina's family arranged her marriage with Arjun Singh, a young man from a neighboring village. Initially, everything seemed fine, but soon after the wedding, Rina's in-laws began pressuring her family for a substantial dowry. They demanded a large sum of money, expensive jewelry, and household appliances, surpassing what Rina's family could afford.

Harassment and Exploitation:

As Rina's family struggled to meet the exorbitant dowry demands, her in-laws subjected her to constant harassment and emotional abuse. They would taunt her for her family's financial limitations and belittle her for not meeting their expectations. Rina's husband, Arjun, joined in the harassment, frequently berating her for not bringing sufficient dowry.

Physical Abuse and Isolation:

As the dowry demands remained unmet, the abuse escalated. Rina faced physical violence at the hands of her husband and in-laws, who saw it as a means to exert control and force her family to comply. They isolated her from her own family and restricted her access to any form of support or assistance.

Seeking Help and Legal Action:

Despite the constant torment, Rina summoned the courage to share her ordeal with her parents during one of their visits. Concerned for their daughter's safety and well-being, they decided to take immediate action. They sought assistance from local women's rights organizations and legal aid centers, where Rina's case was documented, and a complaint was filed with the police.

Legal Proceedings and Conviction:

The police launched an investigation into Rina's case, gathering evidence and recording statements from both the victim and witnesses. The court proceedings highlighted the systematic dowry harassment Rina endured and the subsequent physical abuse she faced. Based on the compelling evidence, Arjun Singh and his family members were found guilty under the Dowry Prohibition Act and relevant sections of the Indian Penal Code. They were sentenced to imprisonment for their involvement in the dowry harassment and physical abuse inflicted on Rina.

Impact and Empowerment:

Rina's case served as a catalyst for raising awareness about dowry harassment and its detrimental consequences in Samastipur. Her bravery in seeking help empowered other women in similar situations to come forward and report incidents of dowry harassment. The case prompted community discussions on the importance of challenging deeply ingrained societal norms and supporting victims of dowry-related violence. Rina's story became a symbol of resilience and the pursuit of justice in the face of adversity.

Case Study 2: Sunita Kumari

Background:

Sunita Kumari (name changed for confidentiality) was a 26-year-old woman from a semi-urban area in Samastipur district, Bihar. She belonged to a middle-class family, and her father worked as a government employee. Sunita had completed her college education and had dreams of pursuing a career in teaching.

Incident:

In 2022, Sunita's family arranged her marriage with Ankit Verma, a well-educated young man from a respected family. The wedding festivities were grand, but soon after the marriage, Sunita's in-laws began subtly pressurizing her family for dowry. They hinted at their expectations for expensive gifts, lavish wedding expenses, and a significant sum of

money.

Subtle Manipulation and Mental Torture:

Sunita's in-laws employed psychological manipulation to exploit the dowry system. They would make casual remarks about their desires for a better lifestyle, implying that Sunita's family needed to fulfill their materialistic wishes. Over time, these subtle hints turned into overt demands, creating a hostile environment for Sunita.

Financial Burden and Emotional Distress:

Sunita's family, while financially stable, struggled to meet the mounting dowry expectations. The constant pressure to provide an extravagant dowry took a toll on their finances and caused immense emotional distress. Sunita, caught between her family's limited resources and her in-laws' expectations, experienced severe mental anguish and anxiety.

Taking a Stand and Seeking Mediation:

Recognizing the detrimental impact on her mental well-being, Sunita decided to take a stand against the dowry harassment. She confided in her parents, expressing her concerns and fears. Together, they approached a local community organization that specialized in conflict resolution and mediation. The organization facilitated a dialogue between Sunita's family and her in-laws, aiming to address the issue amicably.

Resolution and Positive Change:

Through the mediation process, Sunita's family and her in-laws were able to have an open discussion about the dowry demands and the emotional distress it caused. The intervention provided an opportunity for both sides to express their concerns and work towards a resolution. Sunita's in-laws, realizing the adverse effects of dowry harassment, agreed to drop their demands and instead focus on building a harmonious relationship.

Awareness Campaign and Support:

Inspired by her experience, Sunita became an advocate for change and actively participated in awareness campaigns against dowry harassment. She joined forces with local organizations and community leaders to educate others about the negative consequences of the dowry system and promote gender equality. Sunita's story became an inspiration for many women in Samastipur, empowering them to challenge societal norms and stand against dowry-related abuse.

Conclusion:

These case studies shed light on the distressing reality of dowry harassment in Samastipur. They highlight the experiences of women who faced physical, emotional, and psychological abuse due to dowry demands. The cases underline the urgent need for comprehensive measures to address dowry-related violence, enforce existing laws, and promote gender equality. By sharing these stories, we aim to raise awareness, foster dialogue, and encourage collective action to eradicate dowry harassment in Samastipur and beyond.

4.3 Data Analysis on dowry harassment

This chapter is devoted to the study of the problem of dowry harassment and deaths from a sociological perspective in Samastipur district of Bihar. The present chapter is divided into two sections. First section deals with the dowry torture and harassment. The data has been classified on the basis of torture and age of women, education, nature of demand, frequency and nature of torture, motives of torture, agencies in whom dowry offences are reported, religion etc. The second section deals with the dowry death. The data has been classified on the basis of place of occurrence, reporting to the police, initiation of criminal proceedings, nature and type of dowry harassment and the motives involved in such cases. This section also deals with the victim's personal and social background. The distribution is made on the basis of age of the victims, duration of marriage, and educational status of the victim, rural and urban background, religion and nature of marriage of the victim. Next we deal with the personal and social background of the husband such as educational and occupational. We have also dealt with the personal and social background of the victims in laws which include income and occupation. On the basis of the analysis findings of the study are recorded. The last section is devoted to the conclusion of the chapter (Umar 1994:211).

5.3.1 : Dowry torture and the Age of women

It is generally believed that torture, murder or suicide on account of dowry takes place in the initial years of marriage i.e., when the brides are mostly young. To find whether dowry related torture is restricted to initial years of marriage only or persists even for a longer period after marriage (Mohanti 2005:58). The sample victims are classified into different age groups and are shown in table-5.3.1

Table-5.3.1 dowry torture & age-group of respondents in Samastipur

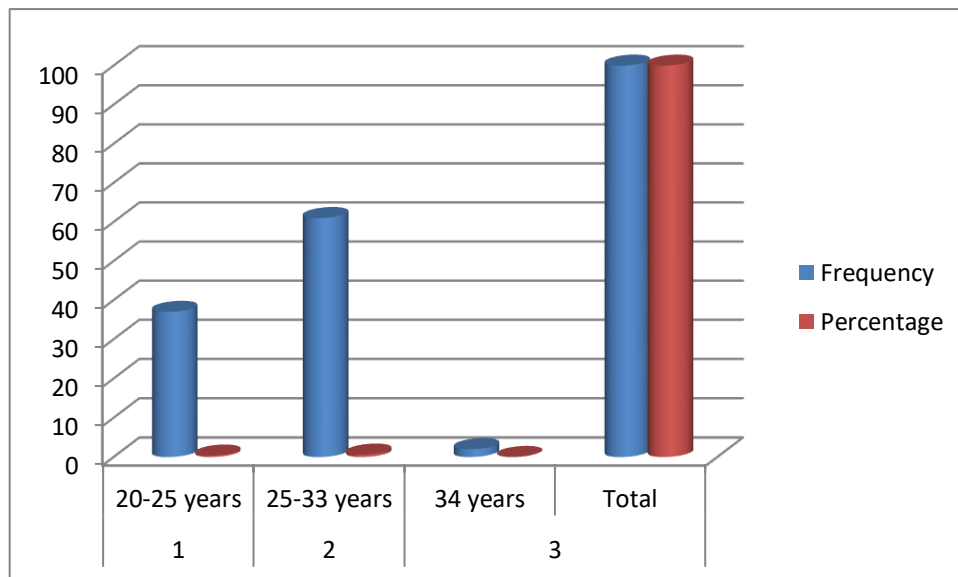
S.No.	Age- group	Frequency	Percentage
1	20-25 years	37	37 %
2	25-33 years	61	61 %

3	34 years	2	2 %
	Total	100	100

(Source: field work in Samastipur 2022-2023).

The Table- 5.3.1 reveals that 37% of the women are in the age-group of below 20-25 years, 61% are in the age-group of 25-33 years and only 2% of the women are above the age of 34 years. Age- wise distribution of dowry victims as shown, above shows clearly that women in the age group of 25-33 years are more susceptible to victimization for dowry than women in higher age group. The analysis suggests that irrespective of whether the women is educated or not, dowry torture is more prevalent in the initial year of marriage and the same gets less manifested in the later part of life. The reason for such a decline in the incidence of dowry torture among the women in the higher age group could be due to accommodation of demands of the in-laws by the parents in the initial years of marriage, development of a positive understanding between the victim and the husband/ in-laws, changing family environment with off springs taking responsibilities and above all due to the acceptance of the harassment as a part of life and not reporting the torture to anybody (Mohanti 2005:58).

Graph-5.3.1 dowry torture & age-group of respondents in Samastipur



(Source: Table- 5.3.1)

Age-wise distribution of respondents in Samastipur clearly shows that 61 % of the women were in the age group of 25-33 years.

5.3.2 : Dowry and Education

The constitution of India has bestowed upon women the privilege of equal rights with men, the same facilities of education, the same opportunities of profession and employment. But the bulk of Indian women are deprived of this boom of raised status, mainly because majority of them are devoid of education, even the elements of literacy (Umar 1994:170). It is reasonable to expect that education brings awareness among the girls, develops a sense of self prestige among them and hence they protest against marriage when dowry demands are made, especially when demands are beyond the capacity of their parents to meet. A corollary of this is to hypothesize that dowry tortures are more among the girls with very low or no educational background. In some studies however it is observed that surprisingly no correlation exists between the level of education of the bride and her murder on dowry issue (Mohanti 2005:60). “Parents belief that proper education of their daughters will diminish the margin of dowry is proving wrong. The more a girl is educated, the greater is the demand for dowry” (Baruah). If these demands of dowry are not met, the brides are tortured, harassed and even burnt alive or pushed to commit suicide (Umar 1994:172).

To find the link between education and dowry torture, the dowry victims are classified according to their educational qualification given below.

Table-5.3.2 educational background of respondents in Samastipur

S. No.	Educational background	Frequency	Percentage
1.	Illiterate	33	33%
2.	Primary level	36	36%
3.	High school level	14	14%
4.	Senior secondary	5	5%
5.	Graduate	6	6%

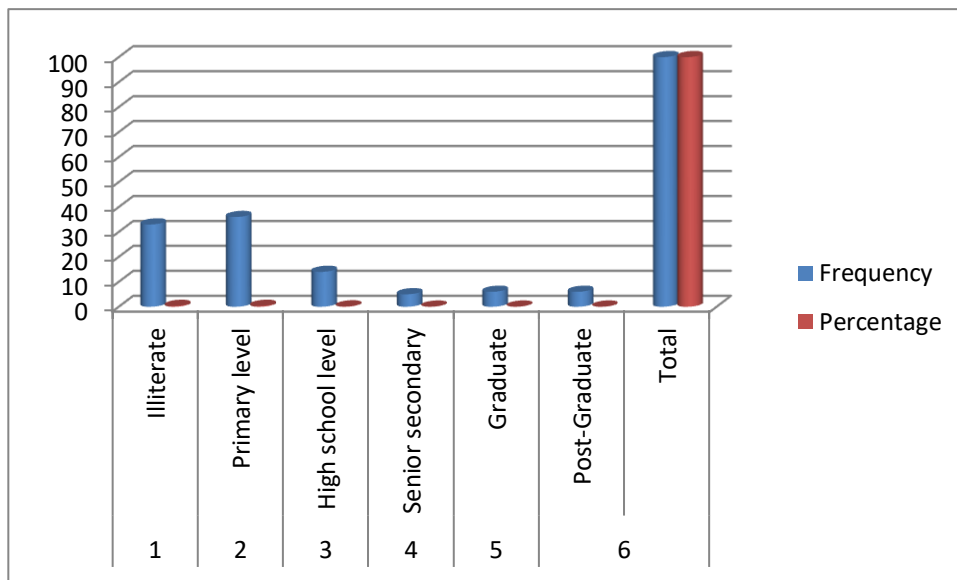
6.	Post-Graduate	6	6%
	Total	100	100

(Source- Field study in Samastipur 2022-2023)

It is found that out of 100 samples covered under the study 33% are illiterate and 36% have education up to primary level . Thus, 14% of the respondents have studied up to high school and only 5% of the respondents have higher education above high school level i.e. senior secondary. 6% have done graduation and another 6% have done post- graduation.

The table- 5.3.2 suggests that education of girls is an important positive element in prevention and control of dowry menace and higher level of education ensures low incidence of dowry torture.

Graph-5.3.2 educational back ground of women



(Source: Table-5.3.2)

The above graph-5.3.2 shows that not only illiterate women are susceptible to dowry but women with higher education are also susceptible to harassment on account of dowry. Broadly it can be said that though women who are victims of dowry torture are mostly

uneducated, progress of education among women has not completely freed them from such atrocities. It has also been observed in other studies that no co-relation exists between the level of education of the bride and her murder or torture on dowry issue. The general belief that proper education of girls will diminish the margin of dowry has proved wrong. On the other hand, the more a girl is educated, the greater is the demand for dowry, because a groom with better education and placement is sought for the girl. In practice dowry which can be treated as grooms price is more linked to educational and occupational status of groom than the educational status of the girl. An educated girl aspires to marry someone who is better qualified; her parents also have similar aspirations. Thus the more educated the girl is, the more qualified husband she needs. In such situations, parents of the girls often feel almost cheated in educating their daughters.

5.3.3 : Nature of demand

Often negotiation takes place between girl’s parents and boy’s parent on dowry issue and after they come to an amicable settlement marriage takes place. Under the situation there should not be any scope for torture to the bride after the marriage is over. Torture on dowry issue actually begins when either the parents go back on their words or in-laws extend their expectations of dowry. Dowry takes different forms of, depending upon the socio-economic groups involved. By and large it includes simple items like utensils and furniture to cash, vehicles, land and building. The composition of demand varies from place to place and community to community (Umar 1994:220). When these demands are not met, the victim’s husband and in-laws started maltreating the young brides. Harassment and battering takes place against the young bride and at the climax they are murdered by their husbands and in-laws (Umar 1994:226).

Table-5.3.3 nature of dowry demand of respondents in Samastipur

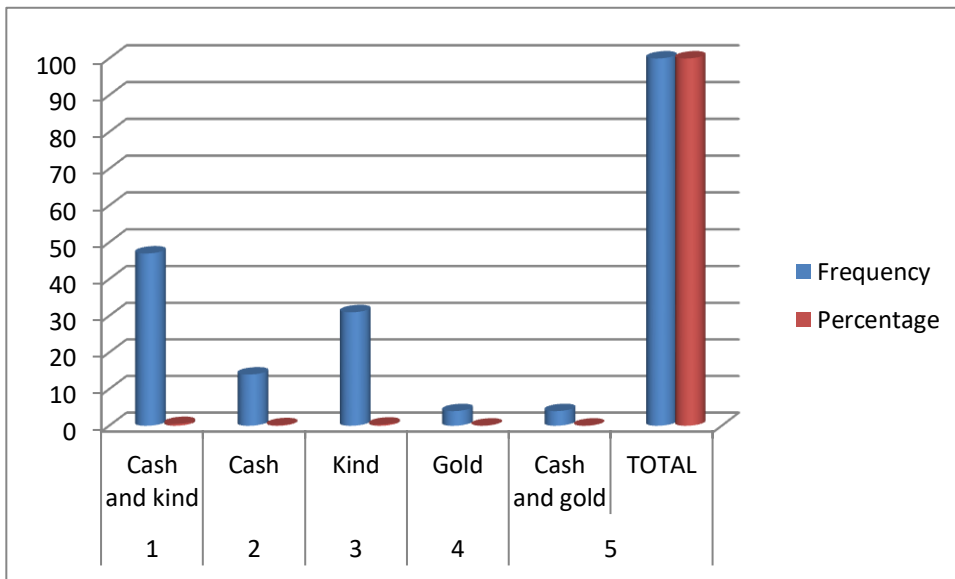
S.No.	Nature of demand	Frequency	Percentage
1	Cash and kind	47	47%
2	Cash	14	14%

3	Kind	31	31%
4	Gold	4	4%
5	Cash and gold	4	4%
	TOTAL	100	100

(Source: Field study in Samastipur 2022-2023).

It is found that demand for gold which generally remains in the possession of the bride comes from minimum number of families 4%. While maximum numbers of families in dowry demand cash and kind (47%). 14% demanded only cash, 31% demanded kind and finally 4% demanded cash and gold.

Graph-5.3.3 nature of dowry demand of respondents in Samastipur



(Source: Table-5.3.3)

The graph given above in the makes it clear that though dowry demand in the form of gold is invariably low 4%.The cash component of dowry demand is 14%; the kind component is 31%. While only the cash and kind component is 47%.

5.3.4 : Reporting of dowry demand

It was observed during field survey that not all families where dowry torture is being reported have demanded something more at the time of marriage. Table -5.3.4 gives us a picture of cases where parents have coped with dowry demand and cases where brides are accepted by in-laws initially.

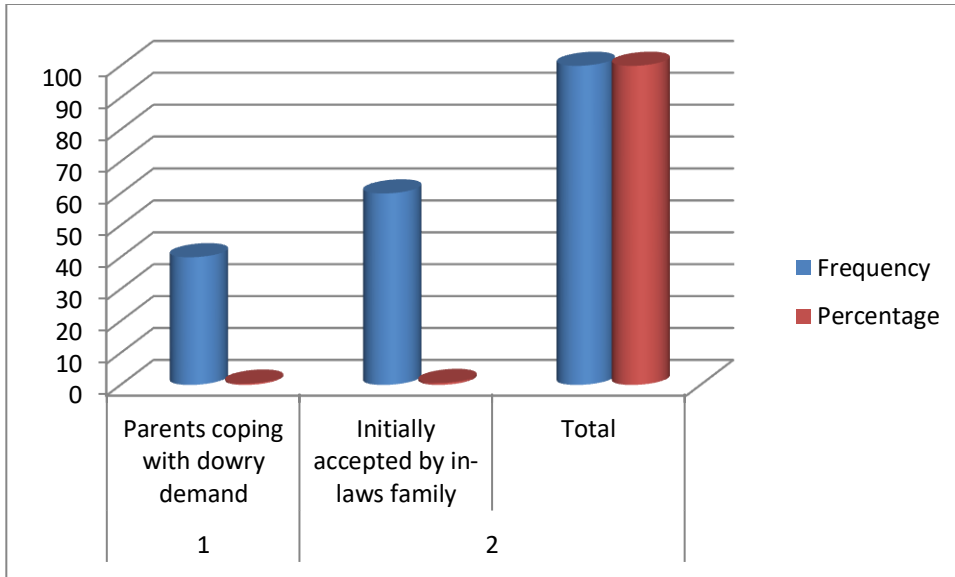
Table-5.3.4 reporting of dowry demand of respondents in Samastipur

S.No.	Reporting of dowry	Frequency	Percentage
1	Parents coping with dowry demand	40	40%
2	Initially accepted by in-laws family	60	60%
	Total	100	100

(Source: Field study in Samastipur 2022-2023)

It is found that while in 60% of the cases, brides were initially whole heartedly accepted by the members of the in-laws family. It was only in 40% of the cases, that the parents had coped with dowry demand. It is at a subsequent stage that the demand for dowry has taken a pervasive form leading to various forms of torture to the bride which ultimately culminates in suicide in few cases. It is mainly in higher income families that even though demand for dowry is not explicitly made, there is an implicit desire for it, which is expressed in the form of various mental tortures to the bride.

Graph - 5.3.4 reporting of dowry demand of respondents



(Source- Table- 5.3.4)

5.3.5 : Frequency and nature of Torture

The Time span of occurrence of torture varies and while in some cases, it starts a few days after marriage, in some cases it starts even after 3-4 years. In this connection observations made in other studies is worth mentioning. Arunimah Baruah in her book ‘The Softy Target’ observes; “Victimization starts immediately after the marriage in most of the cases. But sometimes victimization starts even en after several years of marriage. In Gaya town even after 8 years of marriage a mother of two children narrated a woeful tale before the police after regaining consciousness that her husband and mother in-law with the help of other members of the family inflicted hot iron injuries from her waist to the chest as the father of the victim had expressed his inability to comply with the demand of her husband” (Mohanti 2007:72-73).

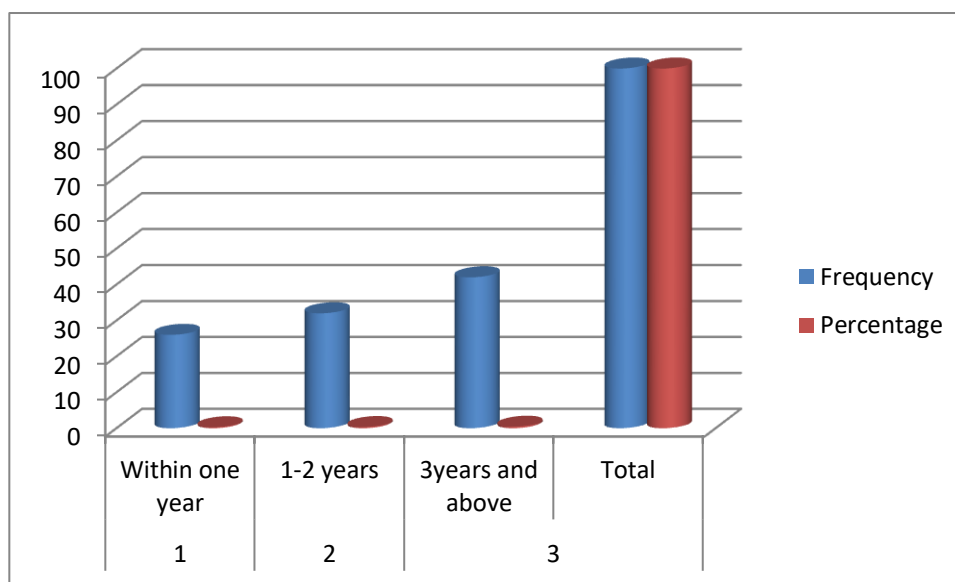
Table-5.3.5 time span of occurrence of dowry torture:

S.No.	Time span of torture	Frequency	Percentage
1	Within one year	26	26%
2	1-2 years	32	32%
3	3years and above	42	42%
	Total	100	100

(Source: Field work in Samastipur 2022-2023)

It is found that in 42% of the cases the women is put into torture after 3 years and above period. In 26 % of the cases, torture starts after one year and 32% of the cases within 1-2 year duration. Thus even though torture to the bride on account of dowry starts mostly in the initial period of marriage, the possibility of she being tortured after leading a peaceful married life for some years cannot be ruled out. It may be observed that 42% of the torture starts after 3 years and above.

Graph-5.3.5 time span of occurrence of dowry torture



(Source: Table-5.3.5)

The nature of dowry torture varies from mere scolding causing mental torture to burning leading to death also in few cases. Different types of torture inflicted on women are shown in Table - 5.3.5.1

Table - 5.3.5.1 nature of torture inflicted on women

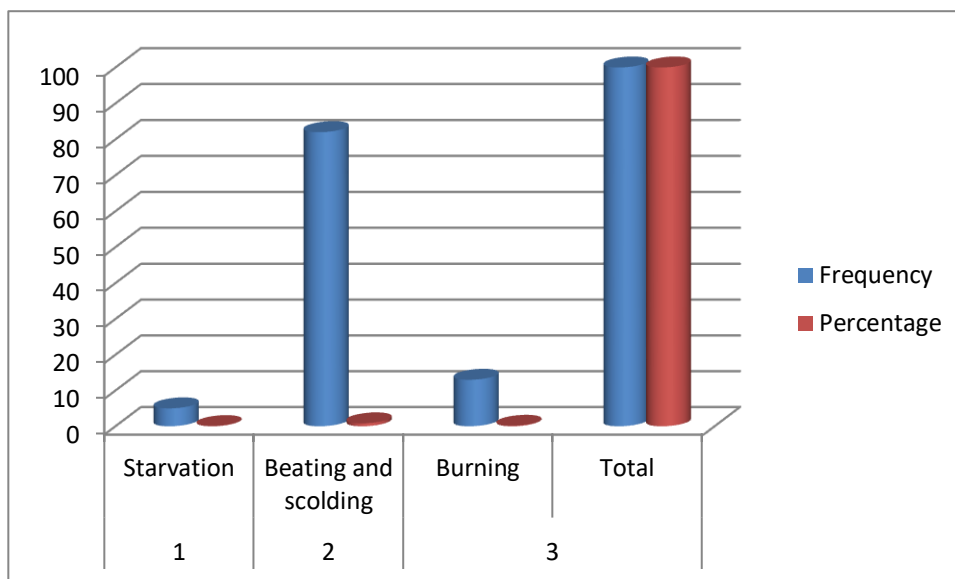
S.No.	Nature of torture	Frequency	Percentage
1	Starvation	5	5%
2	Beating and scolding	82	82%
3	Burning	13	13%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

It may be noticed that torture to a woman assumes more than one form and therefore summation of different categories assume more than 100%. Scolding seems to be the most common form of torture followed by beating. 82% of the women reported of being scolded and beaten respectively for not bringing adequate dowry from time to time, starving also seems to be a common form of torture, mostly in low income families and 5% of the women reported of being starved at times on dowry issue. The other type of torture includes burning which account for 13% of the cases. Discussion with victims revealed that in many cases they have accepted such torture especially scolding and beating as a part of life and have never raised their voice against it (Mohanti 2005:73).

While dowry torture happens to be a regular feature in some families, it occurs periodically in other cases. In our field work in majority of cases torture was inflicted by the husband and in-laws, as it was a regular feature. Broadly it can be said that dowry related torture are mostly committed by husbands and other members of the family have also supported this act.

Graph-`5.3.5.1 nature of torture inflicted on women



(Source: Table-5.3.5.1)

Beating and scolding seems to be associated with 82% of women. It is a regular feature.

5.3.6 : Cause of dowry torture

The causes of dowry torture as perceived by the victims are shown in Table - 5.3.6. In some cases the victims assigned more than one reason and therefore the total percentage is more than one hundred.

Table –5.3.6 causes of dowry torture as perceived by the victims

S.No.	Cause of Torture	Frequency	Percentage
1	Greed	38	38%
2	Socio-economic background	48	48%
3	Unmarried sister in-law	14	14%
	Total	100	100

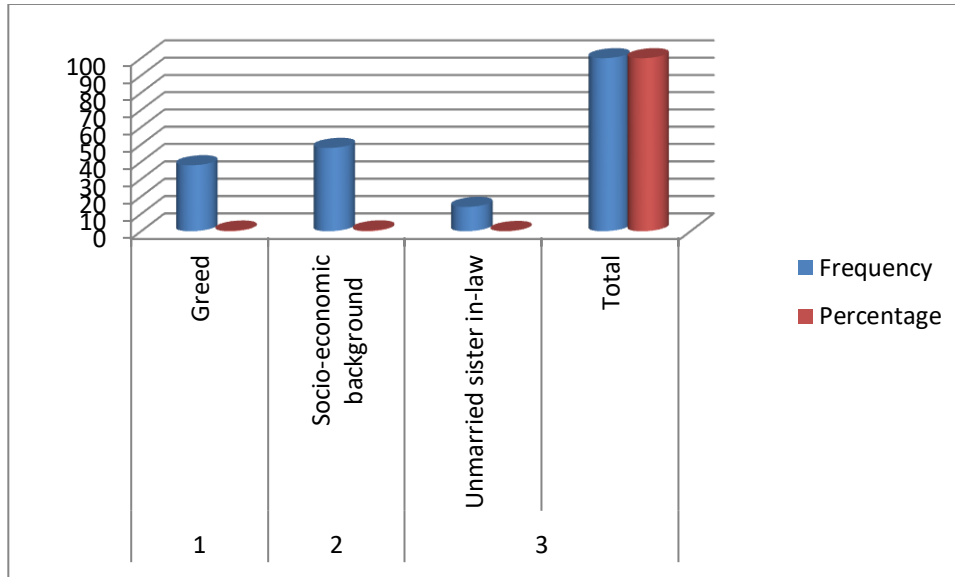
(Source: Field work, Samastipur 2022-2023)

It is found that 48% of dowry victims have attributed the torture to their low socio-economic background. It is their lack of education, poverty of parents combined with absence of independent source of earning that makes them vulnerable to such torture, the victims feel. However the greed of in-laws as well as husband plays a no less important role in perpetuating such torture. 38% of the victims reported that it is not the economic need but just greed on the part of the in-laws as well as husband that make them demand something or the other from the girl's parents and torturing the bride if the demands are not fulfilled.

The observation made by Madhu Kishwar which is something different is worth mentioning here. She says, "The increase in dowry payment is not primarily due to an increase in greed in society as a whole; it has more to do with the sudden and swift increases in cash incomes of a small but significant proportion of the population. Since one of the key determinants of the dowry payment amount is the perceived economic status of the grooms' family, families which seek upward mobility through marriage alliances are usually the ones who pay more exorbitant dowries".

Thus it can be said that even though poverty and lack of education among the girls mainly contribute towards their vulnerability to dowry crimes, greed of the in-laws play no less important role in perpetuating the crime.

Graph-5.3.6 causes attributed by the victims for the torture



(Source: Table-5.3.6)

It can be seen from the above graph- 5.3.6 that though low socio-economic condition of the bride leads to her torture in majority of the cases, greed of the in-laws despite their reasonably good economic condition plays no less an important role in torturing the bride. Other factors which the dowry victims consider responsible for their torture include alcohol/ drug addiction of the husbands, woman is generally held responsible for giving birth to girl child and when more girl children are born, she is tortured to bring more dowries from her parents, unemployment of the husband was stated by the victims as a contributory factor towards dowry torture (Mohanti 2005:75-77).

5.3.7 : Economic status of in-laws and dowry

Like education, economic status of the in-laws could be an important factor in lessening of dowry torture. Continuous demand for more dowry with consequent torture to the bride and leading to suicide and murder in some cases, normally should not feature in well to do families. It is in poor families that the bride is likely to be tortured to bring more and more of dowries. But contrary to such belief, it is alarming to note that the barbarity of the act, as reported in media from time to time, it is not confined to some pathological minority or those desperate for money but is also found among the so-called respectable and unmistakably

affluent. With a view to finding out the association between dowry torture and economic background of the family where such torture takes place, the families of dowry victims are divided into different income categories and presented in Table- 5.3.7

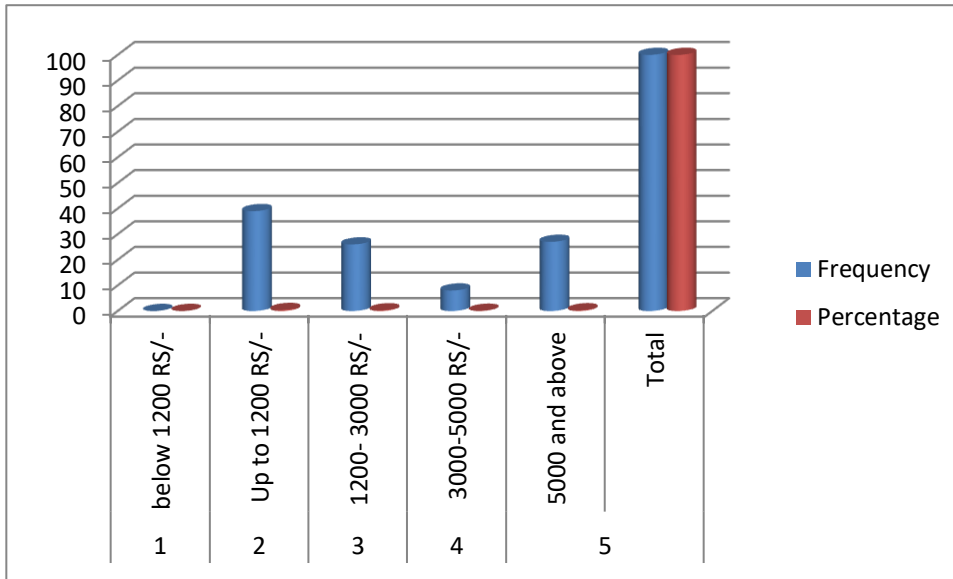
Table-5.3.7 Economic status of in-laws and dowry of respondents in Samastipur

S.No.	Monthly income	Frequency	Percentage
1	below 1200 RS/-	0	0%
2	Up to 1200 RS/-	39	39%
3	1200- 3000 RS/-	26	26%
4	3000-5000 RS/-	8	8%
5	5000 and above	27	27%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

Income of the family as shown in the table excludes the income earned by the woman herself or her husband and mainly consists of income of the in-laws. It is found that dowry tortures are more in families where income status of the in-laws is comparatively low. While, 39% of the dowry victims belong to the families in the income group of up to 1200 rupees, 27% of the victims belong to the families in the income group of 5000 and above. 26% of the victims belong to the family of 1200- 3000 rupees, and 8% of the victims belong to the family of income of 3000-5000 rupees. The figures show that the victimization of women on account of dowry is less prominent in higher income group than in lower income category.

Graph-5.3.7 Economic status of in-laws



(Source: Table-5.3.7)

The above graph shows that 39 % of the dowry victims belong to the families in the income group of up to 1200 rupees.

5.3.8 : Religion and dowry

The problem of dowry harassment is not confined to a particular religious community but it has spread to other religious communities as is evident from Table – 5.3.8

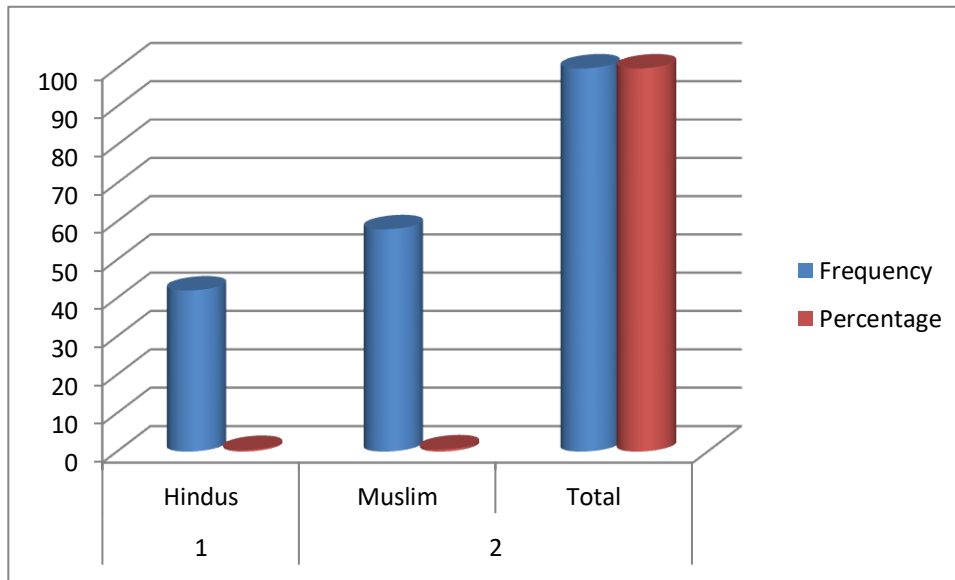
Table-5.3.8 Religion-wise distribution of respondents in Samastipur

S.No.	Religion	Frequency	Percentage
1.	Hindus	42	42%
2.	Muslim	58	58%
	Total	100	100

(Source: Fieldwork, Samastipur 2022-2023)

The above figures show that dowry torture is more prominent among the Muslims 58%, while among the Hindus, 42%.

Graph-5.3.8 religion wise distribution



(Source: Table-5.3.8)

Graph-5.3.8 shows that 58% cases were seen to have come from Muslims and 42% belong to the Hindus.

5.3.9 : Legal institutions to prevent dowry

In the context of spread of dowry evils to nook and corner of the state and failure of the social structure and legal provisions to eradicate the evil, it is interesting to analyze the response of the criminal justice system and other available institutional frame works to prevent and control dowry torture and to provide justice to the victims.

Table – 5.3.9 various legal institutions to prevent dowry torture

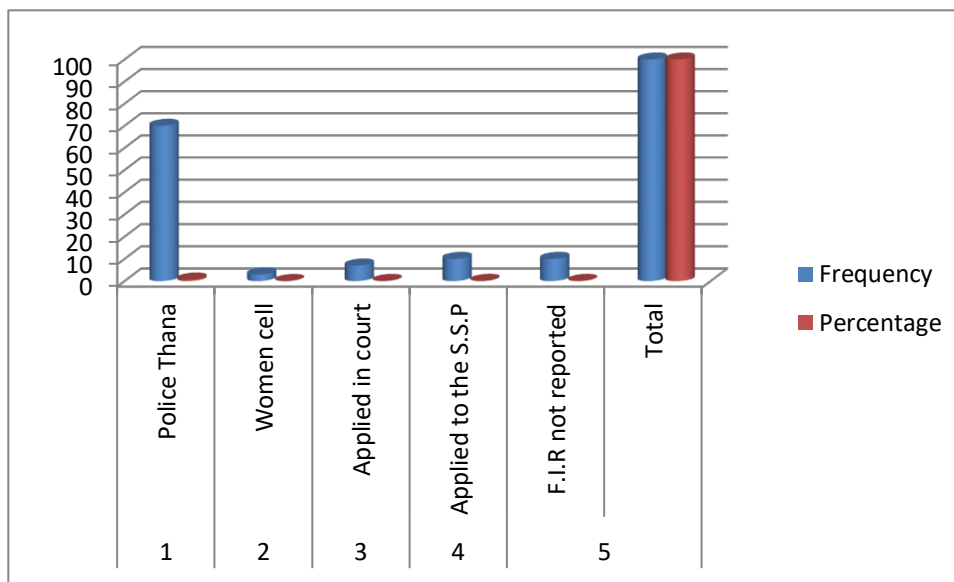
S.NO.	Legal redress	Frequency	Percentage
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1	Police Thana	70	70%
2	Women cell	3	3%
3	Applied in court	7	7%
4	Applied to the S.S.P	10	10%
5	F.I.R not reported	10	10%
	Total	100	100

(Source: Field work in 2022-2023)

The researcher has listed the various legal redress institutions to prevent torture. Amongst 100 respondents 70 % reported the matter to the police stations, 3% reported to the Women's cell, 10 % applied directly to the S.S.P, 7 % applied directly to the court and another 10 % did not report an F.I.R respectively.

Graph – 5.3.9 various legal institutions to prevent dowry torture



(Source: Table-5.3.9)

Some factors cited by dowry victims for not reporting have been the social inhibitions imposed on the woman who feels that her prestige as well as her parents prestige will be at stake by disclosing the torture caused to her, threat to life indicated by in-laws family, ignorance and lack of awareness about institutional help available in the locality and hope

for improvement in relationship. There are also other reasons responsible for not reporting of the crime, lack of parental support or unwillingness of the victims to be a burden on the parents has prevented the victims from reporting in many cases, poverty has prevented the victims from approaching different institutions

for help. The ineffective performance of institutional agencies as well as the slow progress in the settlement of cases could be important factors dissuading the dowry victims from reporting about the crime. They prefer to accept the torture as ordained by destiny rather than attempting to get justice (Mohanti 2005:80-81).

4.4 : Data Analysis on dowry deaths.

The problem of violence against wife or wife battering is not recognized by some scholars as a problem of criminal violence but is viewed by them as a social problem of human welfare and a social issue of changing women's status in family and society. Contrary to this, the problem of bride burning or dowry death is not considered a private family matter but is largely recognized by the public, the intellectual community and the criminal justice system as a vital problem of criminal violence. In the last one decade or so, some concern has been expressed regarding dowry deaths but the dominant perspective has been that of social work or family sociology and not the perspective of criminal justice. Research has sought to approach this seemingly illogical problem from a logical perspective. Some scholars have tried to provide external reasons when others have been unable to find internal reasons. But neither attempt has worked well. The prevailing public and social scientists attitude towards dowry deaths through the late 1970s was that dowry death was rare, and when it did occur, it was the product of mental illness or psychological disorder or disorganized personality. Today there is an urgent need for a new line of thought as there has been a large increase in the attention given to published newspaper reports on various aspects of conjugal violence and violence in family.

We, therefore, undertook this study with a view to analyzing the problem of bride burning with a sociological approach. We assumed that for every single dowry death reported, there may be at least five to ten dowry victims whose fate no one comes to know of and hundreds

and thousands of women who silently suffer harassment and indignities for having brought insufficient dowry.

5.4.1 : Dowry death and the age of women

It is generally believed that torture, murder or suicide on account of dowry takes place in the initial years of marriage, i.e. when the brides are mostly young. Other studies have also disclosed a similar pattern of age distribution of victims.

Ranjana Kumari conducted a field survey of the reported dowry victims of 150 cases in Delhi during September-December 1986. She observed that most of the victims were in the age-group of 21-35 years and victimization started immediately after marriage. Ghadially and Kumar in their survey report observed that in 47 % of the cases, the age of the women ranged from 18 years to 28 years with a mean age of 22.7 years (Mohanti 2007:231). To find out whether dowry related death is restricted to initial years of marriage or persists even after long period of marriage. The sample victims are classified into different age –groups are shown in Table – 5.4.1

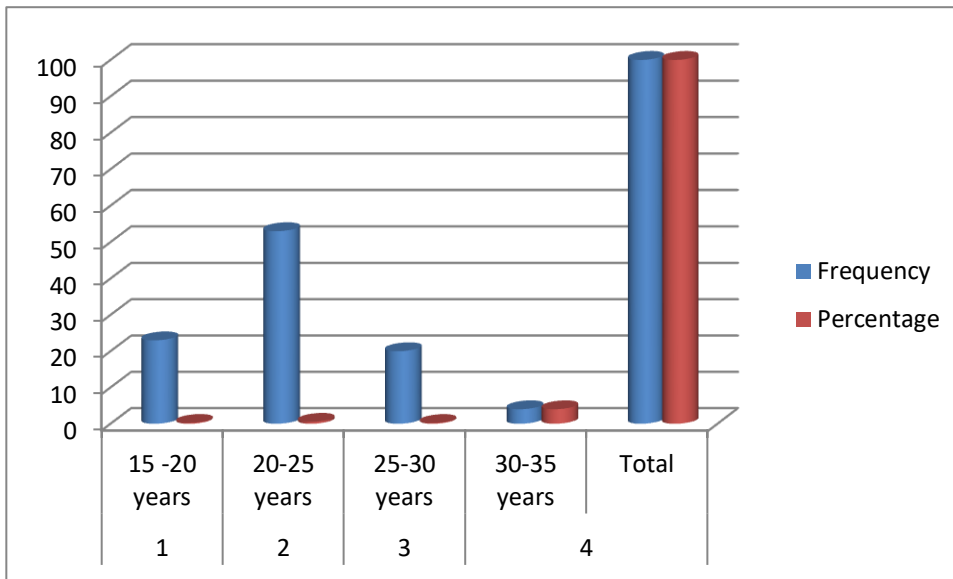
Table – 5.4.1 victims classified into different age – groups

S.No.	Age of the victim	Frequency	Percentage
1	15 -20 years	23	23%
2	20-25 years	53	53%
3	25-30 years	20	20%
4	30-35 years	4	4
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

Out of the total 100 sample cases, in 53% cases, the age of the victim at the time of the death was between 20-25 years, in 23% cases between 15-20 years, in 20% cases between 25-30 years and in 4% cases they were in the age group of 30-35 years.

Graph-5.4.1 victims classified into different age – groups



(Source: Table-5.4.1)

Graph - 5.4.1 given above shows 53% of women were in the age group of 20- 25 years, while 4% were in the age group of 30-35 years. This goes on to show that women in the lower age-group are more susceptible to victimization for dowry than women in high age group.

5.4.2 : Duration of marriage

Out of the total 100 sample cases the duration of marriage was between 1-6 months in 9% cases, 6-12 months duration in 2% cases , in 1-2 years duration was seen in 34% cases, 2-4 years in 35% cases, 4-6 years in 17% cases and 6-8 years duration in 3% cases. Table – 5.4.2 shows the duration of marriage of respondents in Samastipur:

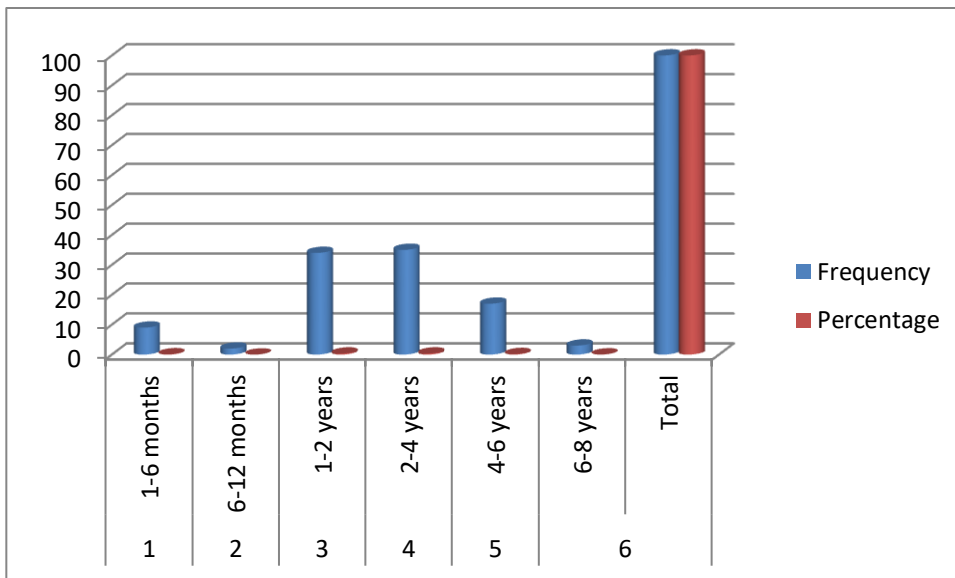
Table – 5.4.2 Duration of marriage of respondents in Samastipur

S.No.	Duration of marriage	Frequency	Percentage
1	1-6 months	9	9%

2	6-12 months	2	2%
3	1-2 years	34	34%
4	2-4 years	35	35%
5	4-6 years	17	17%
6	6-8 years	3	3%
	Total	100	100

(Source: Fieldwork in Samastipur 2022-2023)

Graph-5.4.2 duration of marriage



(Source: Table-5.4.2)

This graph shows that the duration of marriage was 35% between 2-4 years. These figures show that 2-4 years of marriage are crucial in a women's marital life. These facts also indicate that humiliation of a married girl on dowry issue starts soon after marriage.

5.4.3 : Education and dowry

Another effect of urbanization, westernization, and the consequent set of higher education among women is the increasing frequency among better off and usually higher ranking castes of the professionally trained young women capable of earning a considerable income. It is still the usual rule that the husband should be better educated and earning more than his wife, and, as a consequence able to command correspondingly higher dowry than the groom of an uneducated maiden. This consideration in fact placed severe limits on the amount of education fathers of limited means were willing to purchase for their daughters. With the legal prohibition somewhat affecting the public demands for the more conventional forms of dowry, and the weakening of prejudice against employed women of high social status , a women’s actual and potential earnings have paradoxically come to be considered part of her dowry, along with every other movable resource she possesses(Ray 2009:236).

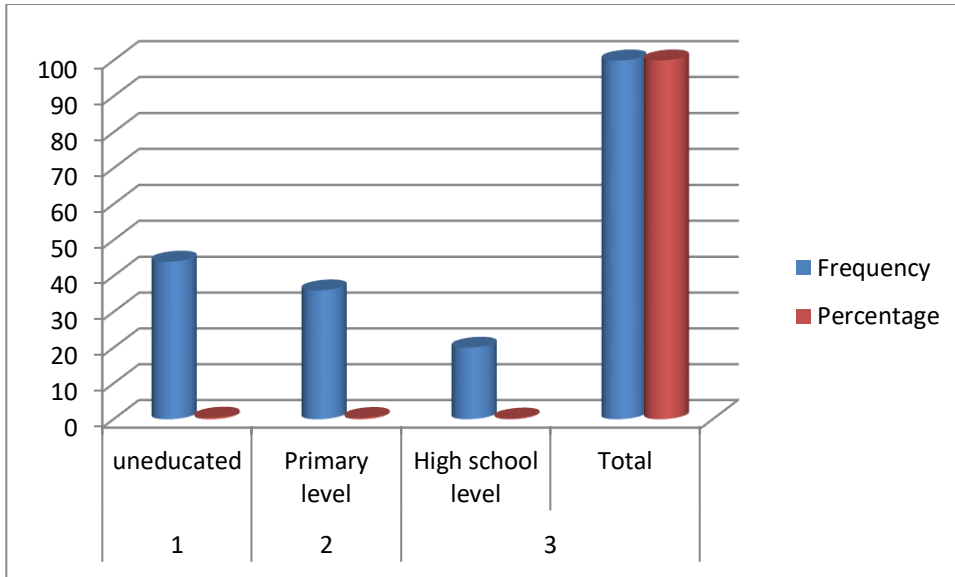
Table- 5.4.3 educational level of the victim

S.No.	Education	Frequency	Percentage
1.	uneducated	44	44%
2	Primary level	36	36%
3	High school level	20	20%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

In our study, according to table-5.4.3, given above, 44% of the victims were uneducated, 36% were educated up to primary level, and 20% up to high school level.

Graph-5.4.3 graph educational level of the victim



(Source: Table-5.4.3,)

44% of the victims were uneducated, 36% were educated up to primary level, and 20% up to high school level as is clear from the above graph.

5.4.4 : Educational level of victim's in laws and husband

It is easier to say that women should themselves protest against any torture and harassment on account of dowry and oppose any marriage proposal that is associated with dowry demand. Given the social structure and norms prevailing, it is not only parents who feel out caste in the society especially in the rural areas if they are not able to give marriage of their daughters in time, the daughters themselves also feel guilty that on their account the parents have to suffer. This menace can be reduced with the co-operation of the in-laws family and the husband. Sometimes the husband may not have direct support for the torture caused to the wife but finds it difficult to protest the dowry demands made by his parents and thus becomes a party to it(Mohanti 2005:65).

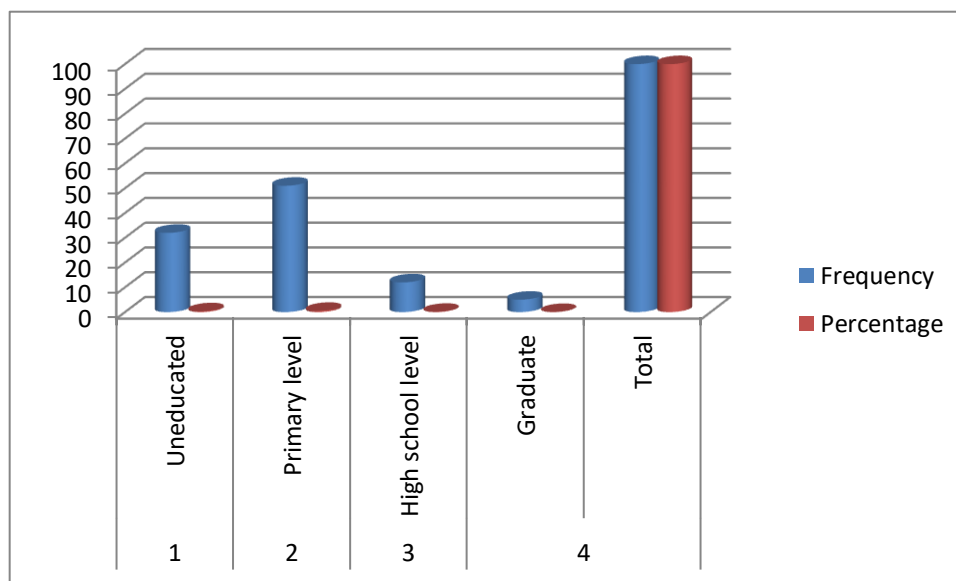
Table - 5.4.4 educational level of the victim's husband:

S.No.	Education level of victims husband	Frequency	Percentage
1	Uneducated	32	32%
2	Primary level	51	51%
3	High school level	12	12%
4	Graduate	5	5%
	Total	100	100

(Source: field work in Samastipur 2022-2023)

In Table- 5.4.4, 51% of the victim's husbands were educated up to primary level. While 5% of the victim's husbands were Graduate, 12% were educated up to high school level, and 32% were uneducated.

Graph-5.4.4 educational level of the victim's husband in dowry death cases



(Source: Table-5.4.4)

The above graph shows that 51% of the victim's husbands were educated up to primary level.

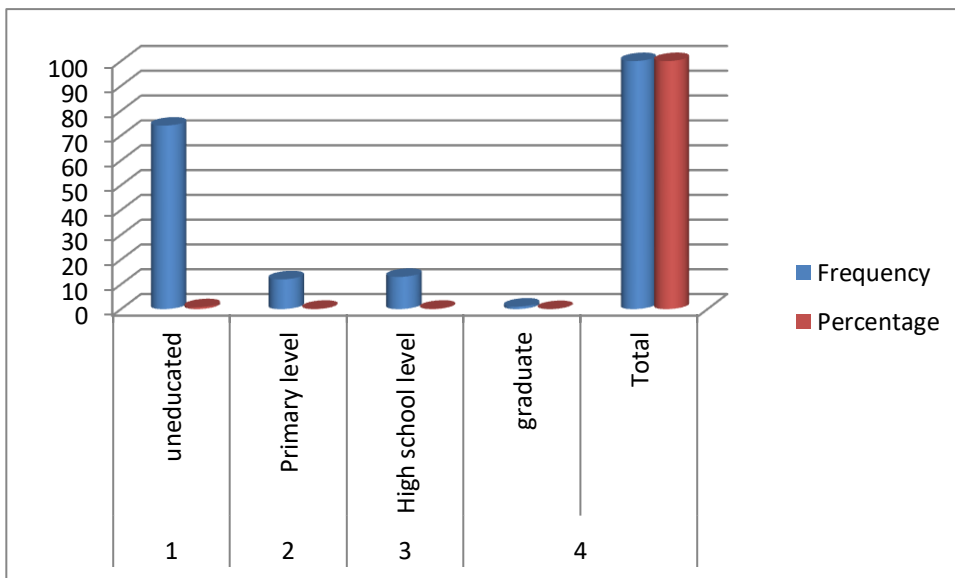
Table-5.4.4.1 educational level of the victim's in laws

S.No.	Education level of victims parents	Frequency	Percentage
1	uneducated	74	74%
2	Primary level	12	12%
3	High school level	13	13%
4	graduate	1	1%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

In our study, according to table 5.4.4.1 given above the in- laws of the victims were found uneducated in 74% cases. In 12% cases they were educated up to primary level, in 13% cases the studied up to high school and in 1% case they were graduates. Graph

Graph– 5.4.4.1 educational level of the victim's in-laws



(Source: Table-5.4.4.1)

The graph- 5.4.4.1 given above shows that 74% of the victim's in-laws was uneducated. The graph given above gives a clear indication that harassment to women on dowry issue is more prominent in families where the in-laws are uneducated and it declines as the level of education increases. It can be broadly observed that dowry torture is relatively less in families where the head of the family is highly educated (Mohanti 2005:67).

5.4.5 : Income, occupation and dowry

Like education, economic status could be an important factor in lessening of dowry torture. Continuous demand for more dowry with consequent torture to the bride and leading to suicide and murder in some cases, normally should not feature in well to do families. It is in poor families that the bride is likely to be tortured to bring more and more dowries. But contrary to such belief, it is alarming to note that the barbarity of the act, as reported in media from time to time, is not confined to some pathological minority or those desperate for money but is also found among the so called respectable and unmistakably affluent (Mohanti 2005:66-67). Table-5.4.5 shows occupation of the victim's husbands in Samastipur

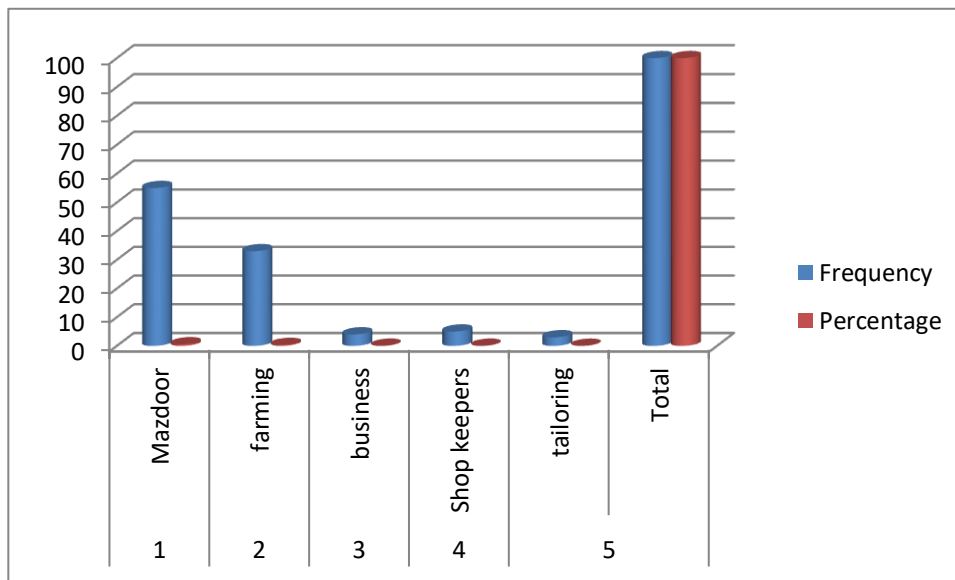
Table-5.4.5 occupation of the victim's husband

S.No.	Occupation of husbands	Frequency	Percentage
1	Mazdoor	55	55%
2	farming	33	33%
3	business	4	4%
4	Shop keepers	5	5%
5	tailoring	3	3%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

As regards the victim's husband's occupation, in 55% cases he was engaged in mazdoori, in 33% cases he was engaged in farming, 4% were engaged in business, 5% were shop keepers and 3% were engaged in tailoring.

Graph of 5.4.5 occupation of the victim's husband



(Source- Table- 5.4.5)

With a view to find out the association between dowry torture and economic back ground of the family where such torture takes place, the families of dowry victims are divided into different income categories and presented in table- 5.4.5.1

Table - 5.4.5.1 income of the victim's husband in Samastipur

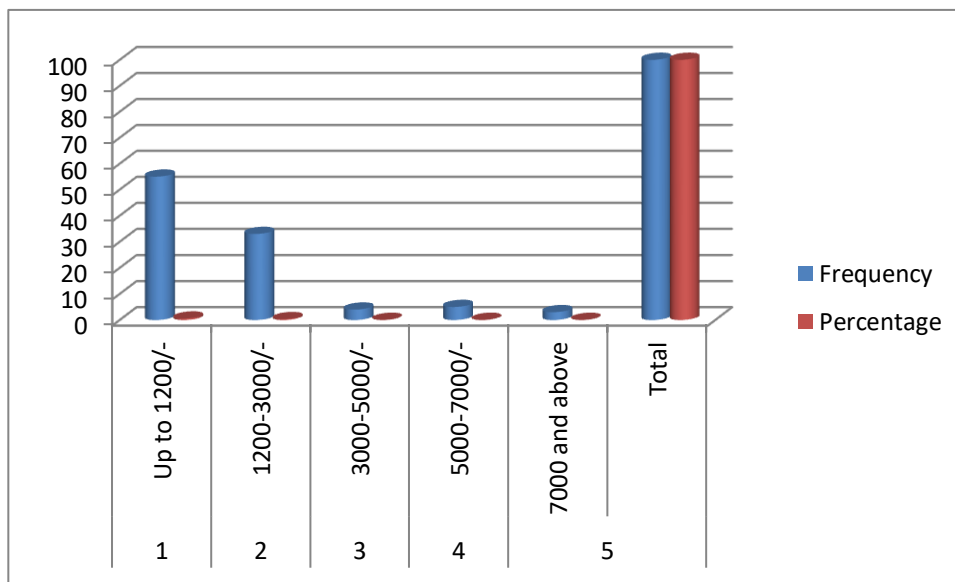
S.No.	Income of husbands	Frequency	Percentage
1	Up to 1200/-	55	55%
2	1200-3000/-	33	33%
3	3000-5000/-	4	4%
4	5000-7000/-	5	5%

5	7000 and above	3	3%
	Total	100	100

(Source: field work, Samastipur 2022-2023)

The income of the victim's husband was up to 1200/- in 55% cases. In 33% cases the income was between 1200-3000/- . In 5% cases the income was between 3000- 5000/- . In 4% cases the earned between 7000 and above, and in 3% cases their income was between 5000-7000/- . Income of the family as shown in the table-8 mainly consists of the income of the husband and it is shown that dowry torture is more in families where income status of the families is low.

Graph-5.4.5.1 income of victim's husband in graph



(Source: Table-5.4.5.1)

This economic back ground of families shown above shows that since dowry deaths are found more often in low income groups, bride burning victimization maybe more strongly associated with family income. But as the trend is not a constant progression i.e., the rate of bride burning increases in families with higher income, the conclusion that emerges is that bride burning shows no pattern or trend with regard to income.

5.4.6 : Dowry related ill- treatment, humiliation and murder

Though dowry-death is generally understood to involve the murder of a woman on the dowry issue in the family of procreation but before the act of killing, several forms of harassment and humiliation take place against the victim. “The killers in dowry- death are brutal and authoritarian and the murder is only one expression of the offender’s personality, abnormality and maladjustment”. The humiliation generally will start with criticism followed by familiar scenes-insults, abuses and demands for more money. Some women used to put up with victimization because they know that their parents are not in a position to give more.

The methods used in ill-treating daughter- in-laws’ are:(1)Abuses, insults, passing sarcastic remarks, (2) Assaults,(3)Denial of food or starvation, (4) Prohibiting them from going out and meeting any one, (5) Refusing visits to the parents’ home, (6) Not permitting them to talk with visitors from the parents’ home, and (7) Locking them up in a room.” The problem of dowry-death is not and cannot be a uni-causal problem; it is the product of a complex multi-dimensional process.

The harassment and violence against the bride revolves around the demand for more and more dowry and it continues till divorce or death of the wife takes place. Since the divorce is put to ridicule and looked down in the society, therefore, death is preferred. A stranger in the family, young and dependent, she may not be able to face the harassment and as a result may put an end to her life. Young brides and daughter – in – law have become much prone to fire in wake of intolerable torture and victimization (<http://shseminary.blogspot.in/2010/05/dowry-social-challenge.html>)

Table–5.4.6 methods of killing the victims in Samastipur

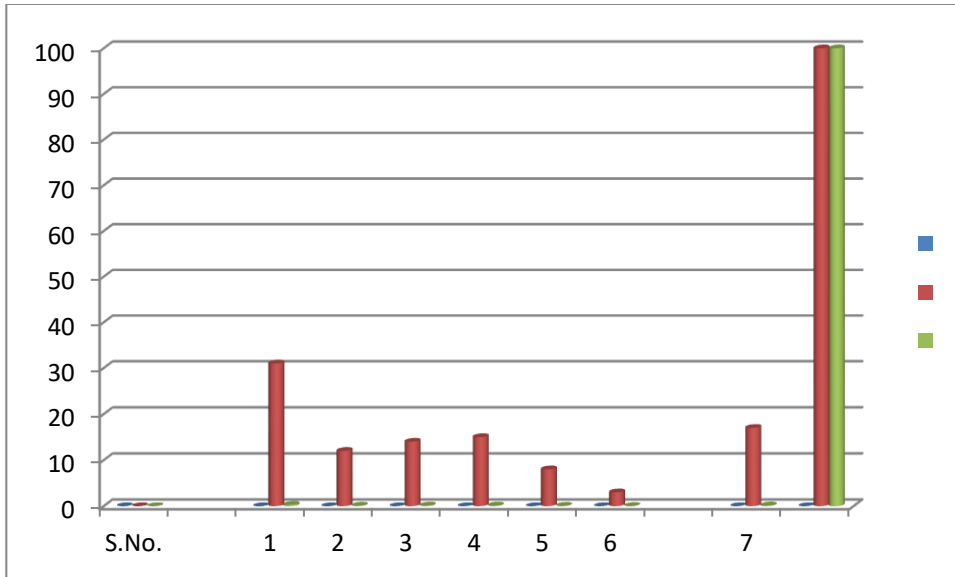
S.No.	Methods of killing the bride	Frequency	Percentage
1	Burnt to death	31	31%

2	hanging	12	12%
3	strangulated	14	14%
4	poisoned	15	15%
5	throttled	8	8%
6	electrocuted	3	3%
7	No information	17	17%
	Total	100	100

(Source: Field work in Samastipur 2022-2023)

Different modes were alleged to have been adopted in killing the brides. The most commonly used methods were burning, electrocuted, strangulation, hanging, poisoning to death. Out of a sample of 100 cases, 31% were burnt to death, 12% were hanged, 14% strangulated, 15% poisoned, 8% throttled, 3% electrocuted. In 17% no information exists. In our study, almost all the victims were reported to have been ill- treated soon after marriage. In 69% cases the victims had told their parents of the ill- treatment by their husbands or in-laws. Criminal proceedings were already started against them and then later on a compromise was made, but again they were subjugated to violence. In 31% cases the victim's parents thought that their sons in law were also to be blamed along with the in-laws for treating their daughters cruelly.

Graph- 5.4.6 modes of killing the victim



(Source: Table-5.4.6)

In majority of cases, i.e. - 31% the victims were burnt to death.

5.4.7 : Place of occurrence of death

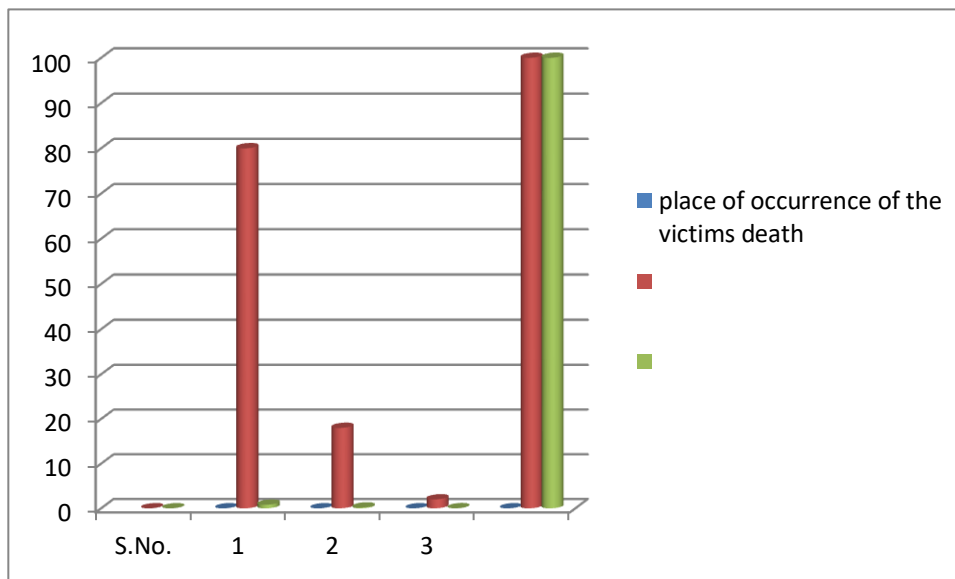
Out of the sample of 100, our data revealed that in 80 cases, the death of the victim occurred in their in-laws home, in 18 cases the victim died in the hospital, in 2 cases the body was found outside their home. Table -5.4.9 shows place of occurrence of the victim's death in Samastipur.

Table - 5.4.7 place of occurrence of the victim's death in Samastipur

S.No.	place of occurrence of the victims death	Frequency	Percentage
1	In laws home	80	80%
2	hospital	18	18%
3	Outside home	2	2%
	Total	100	100

(Source: Field work, Samastipur 2022-2023)

Graph-5.4.7 place of occurrence of the victim's death in Samastipur



(Source: Table-5.4.7)

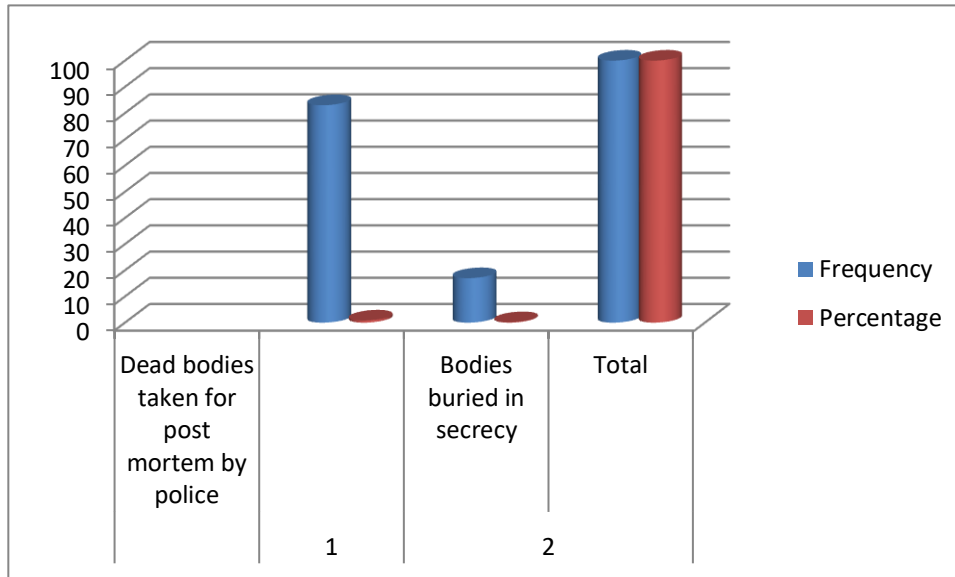
In 80 cases, the death of the victim occurred in their in-laws home, in 18 cases the victim died in the hospital, in 2 cases the body was found outside their home. As far as the post-mortem report is concerned, out of the total of 100 samples, in 83 cases dead bodies of the victim were taken into custody by police and the post mortem was carried out. In 17 cases, the dead bodies of the victims were cremated in secrecy without giving any information to the parents of the victim.

Table-5.4.7.1 post mortem report of the victims in Samastipur

S.No.	Post mortem report of victim	Frequency	Percentage
1	Dead bodies taken for post mortem by police	83	83%
2	Bodies buried in secrecy	17	17%
	Total	100	100

(Source: field work, Samastipur 2022-2023)

Graph - 5.4.7.1 post mortem report of the victims in Samastipur



(Source: Table- 5.4.7.1)

A common procedure adopted in cases of murder followed by disposal of dead body is done in such a manner that it looks as a suicide or an accident. Table –

5.4.7.2 shows the following ways in which deaths were declared as accidental or suicide.

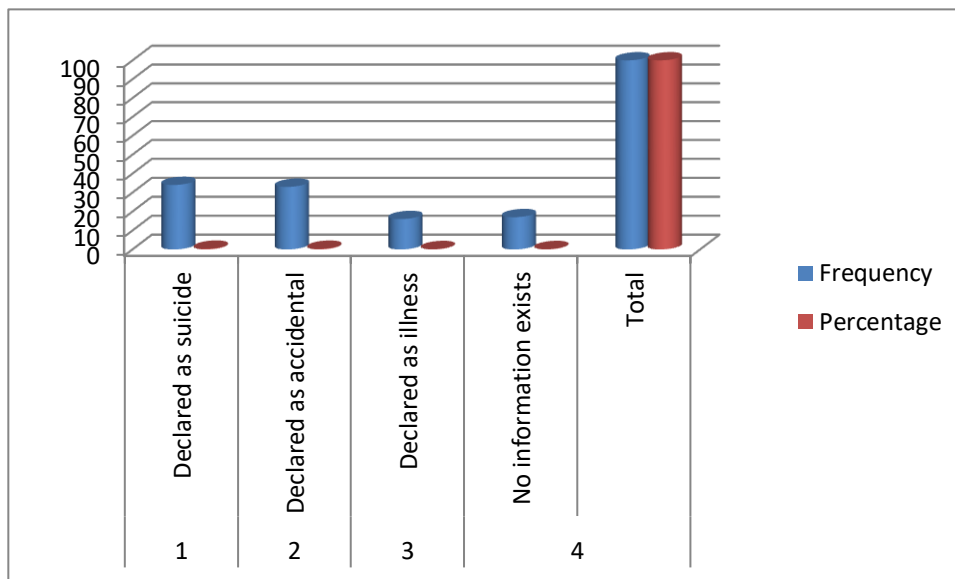
Table-5.4.7.2 ways in which deaths were declared as accidental or suicide

S.No.	Manner of deaths	Frequency	Percentage
1	Declared as suicide	34	34%
2	Declared as accidental	33	33%
3	Declared as illness	16	16%
4	No information exists	17	17%
	Total	100	100

(Source: field work in Samastipur 2022-2023)

The victim's death was declared as suicide, in 34% cases. It was declared as an accidental death in 33% cases and the mode of death was declared as illness in 16% cases and in 17% cases no information exists as no post-mortem was done. Graph 5.4.7.2 shows the following ways in which deaths were declared as accidental or suicidal.

Graph- 5.4.7.2 ways in which deaths were declared as accidental or suicidal



(Source: figure - 5.4.7.2)

In the graph given above majority of victims mode of death was declared as suicide in 34% cases, while in 16% cases the mode of death was declared as illness, in 33% cases the victim's mode of death was declared as accidental, in further 17% cases, no information exists as no post-mortem was done.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

Despite domestic legislation banning the practice of dowry and dowry related violence, dowry deaths are still a frequent occurrence in India even today. Every day women die as a result of bride burning or other forms of dowry related violence.²⁸⁹ Moreover, as a result of the existence of the practice of dowry, female infanticide is also a widespread phenomenon in India; as evidenced by the thousands of female babies that go “missing” every year.²⁹⁰

In this dissertation the historical and cultural roots of dowry in India have been discussed. What is evident is that the concept of dowry within the Hindu culture seems to stem from the religious practice of *kanyadaan*, performed as part of the Hindu marriage ritual. As explained in Chapter 1, around 1500BC the concept of *kanyadaan* changed when the Brahmin priests were regarded as the highest clan in Hindu culture. The Brahmins looked down upon the voluntary practice of *kanyadaan* as the word *daan*, which meant ‘donating’ affected their superiority.²⁹¹ This resulted in the change in practice, the evil of which still exists in the form of dowry. Consequently, the practice was termed as *dahej* which means ‘bride-price’ or dowry.²⁹²

With the change in practice, now being called dowry, the fads of dowry demands changed with the change in economic times. Thus dowry constitution began initially by

²⁸⁹ M. Kishwar, (2005) supra n. 134, at 3

²⁹⁰ Rani Jethmalani: supra n. 18 at 46.

²⁹¹ Altekar: (1991), supra n. 48 at 100.

giving cows and other form of cattle, which changed to flat and cars.²⁹³ Thus the demands have changed but the practice of dowry demand still persists. Owing to the male superiority, inability to meet the dowry demand, results in the death of the bride. These deaths came to surface in the late 1950s. This phenomenon commonly came to be known as dowry-related deaths' or 'bride burning'.

To curb this phenomenon, legislation was enacted, by way of the Dowry Prohibition Act, 1961. Various other provisions were also added in the IPC and the CrPC. These provisions make the taking and giving of dowry an offence, punishable by not more than 5 years imprisonment and fine of Rupees 15000.²⁹⁴ As stipulated by Madhu Kishwar, the fine of Rupees 15,000, and the possibility of anticipatory bail in dowry-death matters need to be amended.²⁹⁵ The provisions of the IPC are also subjected to various evidential formalities, which work more in the favour of the defendants.²⁹⁶ With such flaws in the regulations of dowry, regulation is said to be one of the reasons for the persistence of dowry.

Another reason besides poor regulation, for the persistence of dowry, is the social stigma attached to the non-payment of dowry. It is assumed by society that the parents of the bride ought to comply with the dowry demand of the groom's family. This is largely due to the preference of a male child. As M. Kishwar writes, that in the present century, though not statistically proven, parents confess of being taken care by their daughter better than the son.²⁹⁷ She further contemplates the guilt of not treating the girl equally to

²⁹³ W. Menski, (1998), supra n. 13, at 40.

²⁹⁴ Rupees 15,000 can approximately be £182.50, converted on 19.08.2007, see http://coinmill.com/GBP_INR.html#INR=15000

²⁹⁵ M. Kishwar, (2005) supra n. 134, at. 40

²⁹⁶ Ibid.

²⁹⁷ M. Kishwar, (2005) supra n. 134 at 14.

the boy, restrains them from setting a precedent for others.²⁹⁸ It is agreed that in any society, learning from other's mistakes, always proves beneficial to the prospective parents. Thus this gender inequality and preference of a male child, results in the persistence of dowry related deaths.

Although regulation has been improved from time to time, the same has failed to suffice the need to curb dowry related deaths.²⁹⁹ Despite of international obligation to committees like CEDAW, the instances of dowry related deaths continue. Since the participation of social stigma in the persistence of dowry is immense, the same needs to be changed.³⁰⁰ Along with regulations being amended, a social awareness needs to be brought about by way of media and social reforms.

B. Recommendations

Dowry is indeed a form of extortion.³⁰¹ The very thinking of people in Indian society needs reformations. Until personal determination combines with cultural reformation, an evil practice like dowry cannot be eradicated from society. Gandhi preferred girls to remain unmarried all their lives than to be humiliated and dishonoured by marrying men who demanded dowry.³⁰²

In the event of failure of the legislation, both nationally and internationally, a new approach needs to be taken in this matter. Leniency in the matter of dowry results in prevalence of dowry related deaths. Stricter laws are the only solution for dowry

²⁹⁸ P. Manchanda, 'Practical Steps Towards Eliminating Dowry and Bride-Burning in India', (2005), Volume 13, *Tulane Journal of International and Comparative Law*, pp. 305 to 332, at 320.

²⁹⁹ P. Manchanda, (2005), *supra* n. 298, at 310.

³⁰⁰ M. Kishwar, (2005) *supra* n. 134, at 4

³⁰¹ M. Kishwar, (2005) *supra* n. 134, at 4

³⁰² M. Kishwar, (2005) *supra* n. 134, at 32

prohibition. A great way to start would be to create awareness amongst Indian youth. An aspect which needs a complete eradication is the preference of male child over a female child. The identity of any civilised nation is by the rights enjoyed by its individuals. Essentially in these matter the rights of women are extensively abused, infringed and justice is far from being done. A greater mechanism of awareness, especially amongst the rural population in India is the greatest helping hand to the eradication of dowry. Owing to the highest rate of illiteracy in these areas, awareness by media, movies, street plays are the most effective means of proving a point to the public. Movies made in the past on the issue of anti-dowry have been proved to be most effective.³⁰³ Other effective means like the radio should be used to create awareness regarding the anti-social practice of dowry. The radio is another means to spread the message that the law makes both the giving and taking of dowry punishable under law.

Another flaw to the issue of dowry is the under-reporting of dowry. Free legal aid at police station for women especially to victims of dowry-violence, is much needed. Since the police stations are a taboo on rural areas and going to the police station to register a police complaint are impossible, other methods need to be implemented. For instance women's organisations can be endowed with the responsibility to accept complaints from such victims and file police complaints on their behalf. Works of BJP and Congress, two leading parties in India have contributed to the social awareness regarding taking and giving of dowry, calling it 'a social evil'.³⁰⁴ Although these political parties have been voicing discomfort regarding dowry, there have been difficulties for

³⁰³ S. Chatterji, (1998), supra n. 240, at 108.

³⁰⁴ S. Chatterji, (1998), supra n. 240.

their voices to reach the mass. Through all this an effort can be made to ensure the total eradication of this practice from society.

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