CHAPTER 3

LITERATURE REVIEW
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Literature Review

Review of literature is a very important part of research exercise. Literature review provides a solid background for a researcher’s investigation. Comprehensive knowledge of the literature of the field is essential as it helps a researcher to explore ideas related to the topic under study.

A literature review is an account of what has been published on a topic by concerned scholars and researchers. The purpose of writing the literature review is to convey to readers what knowledge and ideas have been established on a topic as well as its strengths and weaknesses. It helps a researcher to think broadly and to relate the information gathered from field with that of existing body of knowledge for further theorization.

As the present topic is related to the practice of marriage payments among the Shia community of Srinagar, it is imperative to review the materials available related to it. By doing so I will try to define, as well as clarify, the terms and processes already being explored by different scholars. The materials reviewed here include papers published in journals and books as well as some unpublished papers. Most of the reviewed literature is qualitative in nature.

3.1 MEANING OF MARRIAGE PAYMENTS

Marriage is traditionally conceived to be a legally recognized relationship between an adult male and female that carries certain rights and obligations
Marriage involves exchange of gifts between bride’s kin and groom’s kin and these gifts are called marriage payments. These payments form an important part of marriage, without which hardly any marriage is solemnized particularly in Indian context. Sociologists and social anthropologists have studied marriage payments in different regions and cultures and have defined the mode of payments differently.

Indian society is a mosaic of many cultures. In fact, there are cultures within a culture. Cultural regions can be identified by some cultural traits and by the people themselves. Different cultures show different ways of social practices, so is the case with marriage payments.

Comaroff is of the view that “Marriage payment is not to be understood by the cross-cultural comparison of their surface manifestations and their general social correlates, but by first establishing their relations to other organizational elements within encompassing systems” (Comaroff, 1980: 33).

Thus marriage payments are interlinked with other elements of the society and, without the involvement of these elements e.g. affinity, descent, sex, age, devolution and rank, ceremonial exchange etc., it is hard to understand the meaning of marriage payments. These elements of society together constitute social structure.

Tambiah defines marriage payments as “comprising an elaborate series of payments back and forth between the marrying families. The series of gifts
extends over a long period of time and persists after marriage”, e.g. in the form of mother’s brother’s obligation to his sister’s children (Tambiah. 1973: 92).

Thus marriage payments in a nutshell may be defined as gifts associated with marriage. The mode of giving and receiving of the gifts depends on the type of payment.

3.2 TYPES OF MARRIAGE PAYMENTS

Spiro distinguishes four types of payments. These are dowry, dower, bride wealth and groom wealth. Generally these four payments have been conflated in two broad types; dowry and bride wealth or bride price. He has defined dowry as those gifts which are given to bride or groom by the family of bride on marriage. Gifts given, therefore, become a sort of conjugal fund. Dower is the payment given by the groom to her bride. Bride wealth is the amount or some other things, which are paid by the family of groom to the family of bride. The main difference between bride wealth and dower is that former means gift from groom to bride’s parents and latter means gift to bride only. Groom wealth is just opposite of bride wealth in which gifts are given by the family of bride to the family of groom (Comaroff. 1980: 4).

William J Goody opines that both dowry and bride wealth have their economic functions and they should be viewed in that light. “Dowry can be seen as a type of pre-mortem inheritance to the bride, bride wealth as a transaction between the kin of groom and the kin of bride.” Goody has shown the marriage
transactions diagrammatically in the following manner.

**Figure 3.1: Marriage transactions**

![Diagram](image)

1. 
   
   Groom & Bride
   
   Goods → Bride wealth

2. 
   
   Groom & Bride
   
   Services → Bride Service

3. 
   
   Groom & Bride
   
   Goods ← Dowry

4. 
   
   Groom & Bride
   
   Services/Gifts ← Gift exchange/
   
   Sister exchange

5. 
   
   Groom & Bride
   
   Absence/token

Source: (Goody, 1973: 1).

The above diagram shows that there is transaction of goods or services or both depending upon the type of payment in consideration of marriage. In case of bride wealth, goods *viz.* cattle, cash are transferred from groom's side to bride's side. Bride service refers to the services which are rendered from groom's side to bride's side. In case of dowry, goods are transferred from bride's side to groom's side, and the case of sister exchange involves both transaction of goods and services from both side.

So far as the prevalence of dowry and bride wealth is concerned, dowry is characteristic of Euro-Asian societies and bride wealth is a feature of African
societies (Goody, 1973: 23). African societies are egalitarian in nature i.e. less stratified while as Eurasian societies are complex and stratified. This is the main reason why the nature of payment differs in these two societies. The mode of payment in consideration of marriage is directly linked with the type of society i.e egalitarian or stratified. The type of payment prevailing in a particular society has its own function. The function of bridewealth in African societies could be explained by comparing bridewealth marriage (kukwa) with marriage, which took place without bridewealth (kubula). In kukwa, children have right to inherit from their father and also husband has absolute control over his wife. Thus husband has both uxorial and genetricial rights. He is entitled to compensation in case of adultery and has complete right to recive or pay bridewealth of his sons and daughters. In case of kubula, husband has no genetricial rights and only limited uxorial ones. Children of such marriage have no rights to inherit from father and only take a major share of their mother’s brother’s property if he has no bridewealth children of his own. Thus non-payment of bridewealth means less conjugal bond and more consaguinal control over the bride. Weak conjugal bond often leads to adultery and husband in such a case is not entitled to compensation. Also it is the maternal kin who have rights and obligations regarding the bridewealth of such children (Goody, 1973: 16). In Eurasian societies, the presence of dowry is sustained by the essential social function it serves. Girls are generally denied of inheritance rights in parental property according to the traditional laws. So dowry functions as a sort of compensation to them. On the other hand, in African societies, one of the explanations for the non payment of
dowry could be linked with the homoparental inheritance system which means female inherit females and male from males.

Apart from these two distinctions, another form of marriage transaction, which is characteristic of a Muslim society, is mehr or dower. Dower refers to those gifts, which are given by groom to bride.

In India, both dowry and bride wealth payments existed till 19th century. But now it is dowry, which is practiced by large number of Indians, even by those who earlier practiced bride wealth. So far dower is concerned, it is practiced by the Muslim community.

3.3 DOWRY, BRIDE WEALTH AND DOWER

(a) BRIDE WEALTH:

The transmission of goods and services in consideration of marriage is an important feature of marriage practices of all known societies of the world. These marriage payments have received substantial attention in the sociological and anthropological literature. Of the two major types of marriage payments - dowry and bride price, latter involves transaction of gifts from groom to bride’s kin at the time of marriage. Bride price technically goes to the bride’s kin and not to the bride exclusively. It is a sort of compensation to the bride’s family (Klaas, 1972: 46).

As already stated bride wealth is the feature of less stratified African societies. In these societies, girls are economic assets for their families and bride
wealth payments are given for the compensation of that loss. At the same time, bride wealth received by parents of the bride is used to obtain a wife for a brother or even for father. Thus, this means that the fund does not remain confined to one place. It circulates at different times and hence also called as circulating fund. This means that in African societies bride price has an economic value (Goody, 1973: 7).

Tambiah defines bride wealth as the goods, which the bride groom’s family and kin transfer to the bride’s family and kin in return for which certain rights in the bride are transferred to the bride (Tambiah, 1973: 61). However, Goody has defined bride wealth in most of the Eurasian societies as those gifts, which are received by bride’s parents and are ultimately given back to bride and becomes a sort of indirect dowry (Goody, 1973: 1-2). But at the same time he has emphasized that the size of bride price payments depend on the quantum of rights transferred to bride (Goody, 1973: 3).

Gaulin & Boster (1990) reports that in two-thirds of the total 1267 societies listed in Murdock’s ethnographic atlas, bride price was normative while as dowry was dominant form of exchange in only six percent of the cases (Bhat, 1999: 129).

Absence or presence of bride wealth also depends on the matrilineality and patrilineality. Within the African societies, most of the matrilineal and bilateral societies show little or no payment of bride price. However, the payment of bride
price is high in patrilineal societies where children belong to the father’s side and are counted as his family members and inherit from him.

Williamson has differentiated bride wealth into big dowry and small dowry. The word dowry here doesn’t mean dowry but obviously bride price and instead it should have been big bride price and small bride price. The former is related to patrilineal societies and latter to matrilineal societies, where the control over children lies in mother’s natal home and inherits within it (Goody, 1973: 16).

Coming to the Indian context, the bride wealth was prevalent in south India. All caste groups practice it (Srinivas, 1983: 10). But at the onset of the British rule, this practice of brideprice was replaced by dowry payment, to which the upper castes responded first, because brideprice payments were equated with the “sale of girl” which means inferior form of marriage so far as the religious text is concerned. So Britishers legitimized “brahma” form of marriage (dowry marriage) for upper castes and “asura” form of marriage (brideprice marriage) for lower castes (Srinivasan, Padma and Gary, n.d). Thus the custom of bride price, which was universal among south Indian castes, took a new shape i.e. bridewealth was replaced by dowry which became the prevalent practice thereafter. This switch of entire endogamous groups from the bride price to the dowry system in India could be attributed to many factors which will be discussed latter in this chapter.
(b) Dowry

The term dowry has been defined differently by different social scientists. It may be defined as those payments which are being given or promised to be given by the kin of bride to the bride, bride groom and his kin in consideration of marriage.

The dowry system dates back to at least the ancient Greco-Roman world. It was particularly prevalent in medieval and early Europe and is presently widespread in south Asia. In India, dowry first developed in the Vedic and post-Vedic period in different forms. It was a payment for a hypergamous marriage or a gift to the new couple to get started (Chetty, 2006).

The development of the institution of dowry in the Indian sub-continent is not uniform. Dowry developed in different castes and regions of India in several ways. Commenting on the growth of the institution of dowry in India, Srinivas observes that it is the product of various socio-economic factors like the monetization of economy, growth of education, hypergamy, lesser female work participation, emulation of higher caste practices by lower caste, etc. He has constructed two well accepted modes of dowry: (i) Traditional Dowry and (ii) Modern Dowry.

TRADITIONAL DOWRY

In Ancient times, marriage was considered to be a ritual sacrifice in which a bride was given to groom along with some gifts called dakshina. This practice
was seen mostly among Brahmins and other high castes. Dowry was a natural gift given out of affection to the girl who was parting with her parents and the basic intention of the gifts so given was to help the young couple in running a household. These natural gifts were intended as a small sum of capital and goods (kitchen vessels, basic furniture, household items etc.) that would enable the couple to start their new household (Chetty, 2006).

While discussing traditional dowry, two important rites, stridhan and vardakshina, needs to be discussed. Stridhan usually refers to the gifts given to a woman by her natal kin or by her husband at or after the wedding and dakshina is a subsidiary gift given to the groom by the parents of bride at marriage. The women’s property complex i.e. stridhan can be defined in terms of technical stridhan and non-technical stridhan. Technical stridhan includes gifts, which a woman receives from her natal family, husband, relatives, friends etc. It is this stridhan that a women exercise dominion independently of her husband. While as non-technical stridhan is the property acquired by a woman through the exercise of her labour. Woman has no authority to donate, sell or enjoy independently this part of stridhan.

According to a Hindu belief, the marriage associated with the ritual of stridhanam is considered to be superior because it involves gifting to a virgin. But dakshina and stridhan, according to Srinivas, cannot be mixed up with the dowry practice because the latter is integrated with bargain or force, which is not the case with the religious rites (Srinivas, 1983: 12).
Traditional dowry also throws light on the concept of hypergamy. Hypergamy means marriage between a man from the higher social status and a girl from lower status but from same caste or jati resulting in asymmetrical flow of gifts from wife givers to wife takers (Klaas, 1972: 98). Kokali Banarjee while defining the features of traditional dowry links it with the event of a marriage between women of inferior rank to a man of superior social rank (Banarjee, 1999: 650). Thus, status is achieved by wife-givers by paying dowry to wife receivers. It is therefore the ethical social and economic reasons, which serve as major instruments in making the custom of dowry rigid in pre-colonial India.

MODERN DOWRY

Modern dowry is the product of forces let loose by the British rule e.g. education, monetization and introduction to organized sector (Srinivas, 1983: 13). The transition from traditional dowry to modern dowry involves two basic elements.

1. The diminishing use of bride price due to emulation of higher caste practices by lower.

2. Shift from a true dowry to the much more costly groom price.

The traditional dowry varies from modern dowry. The later is characterized by large sums of cash frequently amounting to a few lakhs of rupees, which is transferred along with furniture, gadgetry, costly clothing and jewellery from the bride’s kin to the groom’s kin (Srinivas, 1983: 11). Modern dowry plays a role of
money with which one purchases a groom. The groom’s parents instead of demanding jewellery, clothes, domestic utensils, demand for electronic goods, car or cash. In post-colonial India, dowry has become a mechanism for parents to make money by selling their sons at fairly high price. Srinivas notes.

“Young men, who had salaried jobs and careers in the profession, were sought after as bridegrooms. They were scarce commodities. The parents of the lucky youth demanded cash and such goods as cycles, woolen suits etc. as part of the wedding agreement” (Srinivas, 1983: 11).

Marguerite Roulet while studying Brahman, Gosain, and Chamar families in semi-rural eastern Uttar Pradesh tried to explore the current practice and representation of dowry marriage by its members. He describes the occurrence of dowry in terms of three factors:

a. \textit{Maang versus Khushi se}.

b. Modernity versus Tradition.

c. Trust and Distrust.

These three oppositions represented important frameworks through which people reflected upon the institution of dowry. Dowry has always been considered as a problem, as it is coterminous with demand (\textit{maang}) from groom’s side on bride’s family. But at the same time marriage gifts are given to bride out of love and affection and are considered to be voluntary gifts or gifts given to bride (\textit{khushi se}). Thus people represent dowry in both ways i.e. \textit{maang} and \textit{khushi se}. 
This representation gives a discursive construction of dowry, the meaning of which is ambiguous.

Tradition and modernity are aspects for representing dowry as an institution according to Roulet. Dowry besides being a social institution is deep rooted in Hindu religious philosophy like kanyadhan marriage and the link of dowry with modernity could be explained in terms of dowry being the symbol of prestige (Roulet, 1996: 97-99).

Dowry plays a central role in establishing the affinal relationship. Gift exchange between two parties became not only symbolic markers of, but actual instruments in the creation of the ties and obligations. Dowry exchanges thus played a central role in the transformation of a marriage negotiation between families marked by distrust into the creation of a relationship between affines based on trust and mutual obligation (Roulet, 1996: 100). It is again explained by Tambiah that the principal underlying the institution of dowry is the establishment of affinal relationship. The relationship of affinity is established by gift exchange, which persists long after the marriage (Tambiah, 1973: 64).

A number of sociologists and social anthropologists have put forward several theories of dowry. One of these is an influential theory presented by Goody and Tambiah. Goody has developed a model, which shows a contrast between African egalitarian societies and Eurasian stratified societies. Goody notes that dowry is part of a familial or conjugal fund, which passes down from holder to heir and usually from parents to the daughter. It is thus part and parcel of
the transfer of familial property, but a process of transfer that include women as well as men. Goody calls this transmission of property as diverging devolution (or the women’s property complex) (Goody, 1973: 17). Tambiah also favours Goody’s views and connects the pattern of devolution with patrilineality which excludes females from ownership of major fixed property. To him, dowry is a sort of pre-mortem inheritance given to the bride at marriage to compensate her share in major fixed property (Upadhya. 1990: 30). However, Madan (1975) in his work on Kashmiri pandits suggests that dowry can be seen as a substitute for women’s lack of rights of inheritance rather than as a compensation for inheritance rights of women. Thus the transmission of property through dowry should not be confused with inheritance (Upadhya. 1990: 30).

The theory of “Marriage Squeeze” introduced by Caldwell, Reddy. and Caldwell (1983) provides the explanation for the inflation of dowry payments. The marriage squeeze is a demographic phenomenon that relates population growth to the reduction in the age difference between brides and grooms. Various societies are characterized by differences in the age of spouses in which male being too older and women too younger. Thus females attain the marriageable age earlier than males, which results in the surplus of potential brides in the marriage market. There are two possibilities in order to overcome the problem especially in monogamous marriages viz either potential bride marry latter or reducing the marriage age of potential groom. This reduction in age difference between bride and groom is called marriage squeeze. This squeeze of age between the spouses causes inflation in dowry payments. Since supply of grooms to brides is less.
therefore increase in the price of husbands serve to equilibrate the marriage market i.e. dowry payments rise. Thus the theory of marriage squeeze implies that the spread of dowry is directly related to the higher ratio of females to males in which the groom become scarce commodity in the marriage market (Anderson, 2003).

Various ethnographic surveys show that dowry is the dominant form of marriage payment in the north while bride wealth is more commonly found in south India except in some Brahmin castes. In north India asymmetrical gift giving is a characteristic feature and in the south, symmetry of gifts is important.

Miller argues that “dowry in the north is more a means of cementing a good alliance within a hypergamous marriage system, while in the south: dowry is more a gift to the bride for her own welfare and protection” (Miller, 1981: 147-48). However the switch from bride price to dowry is increasing at a faster rate and its effects are now being reported in south as well (Srinivas, 1983: 10). There are various reasons why dowry is making its deep roots in the Indian society and why the custom of bride price payments is taking a shape of dowry. One of the explanations for the switch from bride price to the dowry is reflected in Manu’s dictum, that “no father who knows the law [should] receive gratuity, however small, for giving his daughter in marriage, since that man is a seller of his offspring” (Sheel, 1997: 1709). Thus sometimes religion-based argument may become the cause of dowry system prevailing in India. Thus any practice could not survive in the society, unless it is not functional.
According to Madan, dowry marriages are publicly and ideologically and morally validated, and bride price is considered the degraded and immoral form, and is therefore always under pressure to get converted into dowry (Tambiah. 1973:74).

Since every practice could persist if it fulfills the demands of the society. Dowry plays its function in many ways like it acts as a substitute for daughter’s right of inheritance, helps in getting a desirable match, elevates of status etc. Junsen Zhang and William Chan on their work on Taiwan give two important functions of dowry as follows.

1. It increases the resources of bride’s new family.

2. The threat of insecurity of bride increases her bargaining position in her family (Junsen Zhang. 1999: 786).

(D)Dower

Dower is practiced in almost all the Muslim societies of the world as an economic security available to the bride. People sometimes confuse the word dower with bride price. This confusion arises due to the fact that in both the cases the payment giver is the same i.e. groom’s side. Dower should not be confused with bride price. Dower is the amount of money or other things, which a bridegroom or his family agrees to pay to the bride under specific conditions. The payment of bride price goes to bride’s parents and not to the bride. This distinction between dower and bride price is well defined by Korson. According to him, bride
price is considered to be a payment of purchase price for a bride and its payment goes to father of the bride for the expenses he had taken for her upbringing. This is normally found in those societies where girls are economic asset for their families and their loss is compensated by bride price. Dower, on the other hand, is a sum of money the bride groom and/or his family agrees to pay the bride either at the time of marriage or at a later date, depending on the conditions of the contract (Korson, 1967: 527-528).

The Arabic word for dower is mehr or sadaq. It is mandatory for every Muslim to pay the amount and/or other things of mehr to their wives in their lifetime. Allah commands: in the Holy Quran: “And give them (the women that you marry) their compensation as an obligation“ (Pirzada, 1996: 256 [Verse 24]).

As already mentioned, mehr is not bride price as it is usually mistaken. It is based upon mutual agreement between a groom and his bride. The Quran stipulates that mehr should be offered as a gift that is out of good will and with the intention that it is her right. Allah commands: “And give the women (upon marriage) their dower as a free gift and if they of their own sweet will, remit any portion of it to you, you may enjoy it with pleasure and satisfaction” (Pirzada, 1996: 236 [Verse 4]).

There was no concept of mehr at the time of jahiliyah period (the period before the time of Prophet Muhammad (S.A.W). Wives were obtained either by capture or by paying bride price. Women had no security and were relegated to a lower status. Prophet (S.A.W) gave new light to these distressed women by
making the system of marriage a contract in which a specified amount of mehr was made due on bridegroom. This system of mehr payment elevated the status of women (Levy, 1962: 95).

According to Henry Korson, the amount of mehr can be paid in various ways. These are as follows

1. Prompt mehr means the sum of money, which is to be paid right at the time of marriage ceremony when the contract is made.
2. Deferred mehr is the sum of money, which is to be paid in case of separation or divorce.
3. One-half prompt. One-half deferred is the case in which part of mehr is paid at the time of marriage, and part of it is deferred.
4. On demand mehr in which the wife can impose a demand for the total sum at any time (Korson, 1967: 529).

The amount of mehr is not fixed. It may vary from few rupees to even lakhs. According to Fyzee, the social position of the bride’s family as well as her own personal qualifications is important guide in determining the amount of mehr that her family will expect (quoted in Korson, 1968: 696). The sum of money fixed by prophet Muhammad (S.A.W), which is also called Rasooli mehr, is approximately 32 rupees and it is of great significance in Muslim societies. This form of mehr is based on a religious tradition which holds that when the Prophet’s daughter Fatima (A.S) married, Ali (A.S), the bridegroom, pledged the equivalent of Rs 32/ (Korson. 1968: 698).
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of Rs 32/ (Korson, 1968: 698).
Although *mehr* is of great importance in Muslim marriages without which no marriage can be finalized, but many studies reveal that people are ignorant about this necessary institution. In a survey conducted by Khurshid-ul-Islam on the study of urban Muslim marriage in Kashmir, the statistical results show the ignorance among Muslims about *mehr*. The results of the respondents are given below.

Should be paid before marriage: 50%

Not necessary to be paid: 27%

Can be exempted: 20%

Do not know: 3% (Qadri, 1997: 131-132).

### 3.4 EXPLANATIONS OF DOWRY

Dowry is so complex phenomenon that it is very difficult to assign its perseverance in the society to a single factor. Its explanations vary from certain religious injunctions in support of the practice to the socio-economic changes generated in the society. Some of the causes, which have rendered the menace of dowry to exist even today are described below.

#### 3.4.1 SOCIAL STATUS AND DOWRY

Dowry is a status symbol. Men who do not practice dowry are sometimes devalued in the society (Majumdar, 2001: 399). The very fact that dowry has become a status symbol indicates that it no longer has any productive use. Instead,
it is a peculiar manner of conspicuous consumption (Chetty, 2006). Dowry, as we know, is a social evil and should be eradicated from its roots. But it persists in society and is practiced by majority of the people. Even poor of the poorest are in the grip of dowry system. Among the various reasons of its existence, one of the reasons is social status. The practice of dowry has become quite entrenched in the Indian marriage system. It appears that primarily dowry sustains because of the competition among potential brides and their families for gaining scarce eligible grooms. The mate selection system in most parts of India has long been characterized by hypergamy, with women from lower status families marrying higher status men within the same caste (Klaas, 1972: 96). Since marriages are traditionally hypergamous in nature, dowry becomes a vehicle by means of which bride’s families make status claims. The size of the dowry provides the bride giver an opportunity for social advancement by attracting a groom from a higher position in the status hierarchy. In turn, the groom’s family may select the economically desirable bride from among a pool of eligible brides. Trautmann notes that dowry is intricately connected with hypergamy, non-reciprocity between wife givers and wife takers, and the unidirectional flow of gifts (Sheel, 1997: 1711).

According to Roulet, “Dowry is not merely an institution confined to valorization of marriage, but serves more importantly as a central institution to define social prestige and status and thus becomes an important dimension of people’s representation of themselves and others” (Roulet, 1996: 91).
Rajaraman agrees with the view that dowry and social prestige are closely associated. According to him it is this status and prestige, which encourages people to participate in its practice (Rajaraman, 1983: 277). The transition of dowry involves a series of negotiations between families over their relative status and wealth that is given public acknowledgement, most notably during marriage ceremonies (Caplan, 1984: 220-21). In addition, bride’s parents are likely to believe that a generous dowry is essential to ensure that their daughter is treated well in her new home.

Again Srinivas notes “the change over to the system of dowry will be attributed to the increased wealth which enables people to spend more lavishly on weddings in their struggle for social recognition” (Srinivas, 1983: 21). Madan observes that in India, dowry is publicly and ideologically and morally validated, and bride price is considered to be degraded and immoral form as the former is measured in terms of social status and it is for this reason that the latter is always under pressure to be converted into dowry (Miller, 1980: 95). Thus when lower caste begin to sanskritize their rituals and practices, they began to shift from bride price to dowry marriage to demonstrate their upgradation in the social ladder.

3.4.2 FEMALE PROPERTY RIGHTS AND DOWRY

Many theories have been put forward to explain the occurrence of dowry. One of the hypothesis links dowry to the rights held by women and explains it as a premortem bequest made to daughters. Before discussing the bequest theory, it is
imperative to know the schools of law among Hindus explaining the inheritance rights of sons and daughters in parental property. There are two laws

1. Mitakshara law

2. Dayabhaga law

The majority of the Hindus, all over India, follow the Mitakshara School whereas Dayabhaga School of law is followed by the Hindus of Bengal. In Mitakshara law, property is distributed in a group of coparceners which can minimally include two persons and maximally some four generations of male who have joint rights to corporate property but need not to be co-resident, while female members are entitled to maintenance which includes residence, food, clothing, medical attention, education etc. (Caroll, 1991: 793). These rights, however, cannot be denied on the grounds that a woman may possess her separate stridhan property. Women are not members of the coparacenary under Hindu Mitakshara law and, therefore, they are not entitled to claim rights in coparacenary property (Caroll, 1991: 806). It is this Mitakshara law, which is followed by majority of Indians. However, in Dayabhaga law, interests in and rights over joint property differ radically from Mitakshara law. In Dayabhaga law, no coparcenary exists between a man and his son: the son acquires no interest at birth in the ancestral property held by his father. He acquires an interest in this property only on the death of his father. The rule of survivorship has no application in Dayabhaga law. The absence of a rule of survivorship in Dayabhaga law meant that a daughter
might well figure as an heir to her father’s joint family property (Caroll, 1991: 804).

The relation between absence / lack of inheritance rights in parental property and dowry has been examined by various anthropologists. While comparing the African and Eurasian societies, William J. Goody and Tambiah attribute the existence of dowry system to the absence of female rights in immovable parental property in traditional laws in Eurasian societies. Parents therefore think to compensate their daughter in the form of dowry. Thus dowry is seen as payments in lieu of women’s rights on parental property (Tambiah, 1973: 17). Modern dowry has its roots in traditional system of inheritance laws. In Mitakshara law, which is followed by the majority population of India, women are not the members of coparcenary property. Lucy Caroll explains such exclusion of rights as the main precursor that led to the creation of socially pernicious dowry system with its diverse social evils (Caroll, 1991: 806). Despite the Hindu Succession Act, 1956, which gave equal rights of inheritance to the daughter along with the son, daughters are denied of this right.

Modern Indian dowry system has its roots in traditional system of gift giving like kanyadhan (gift of the virgin), vardakshina (voluntary gifts given by the bride’s father to the groom) and stridhan (voluntary gifts given by relatives and friends to the bride) (Klaas, 1972: 37). While relating property rights of female with dowry, the concept of stridhan should be focused. Some of the important Hindu sources, which, besides other things, throw light on the women’s right to property or stridhan which literally means property of wife. The oldest
extant statement on *stridhanam* in dharmashastric works is that of Manu. According to Manu, the Hindu law-giver, *stridhan* has been presented as “what was given before nuptial fire (*adhyagni*). what was given on the bridal procession. what was given in token of love and what was received from a brother, a mother or a father, are considered as the six fold (separate) property of a (married) woman (Tambiah, 1973: 85). According to the sources, *stridhan* is of two types: one is maintenance (in money or land given by the husband), and the other anything else like ornaments given to her by her family, husband, in-laws and the friends of her husband (Anonymous, n.d_g).

Tambiah has linked daughter’s rights of inheritance or pre mortem inheritance with *stridhan*.

“The *stridhan* is a woman’s exclusive property and may be regarded as a substitute for the right of inheritance. Her, husband and relative-in-law acquire no interest therein” (Tambiah, 1973: 71).

Thus from the above explanations, it is clear that dowry has its link with the traditional system of inheritance laws. Despite the Hindu succession Act of 1956 in which both sons and daughters are equal share-holders in parental property, daughters are denied of their rights.

**3.4.3 COLONIALISM AND DOWRY**

Ranjana Sheel points out that the roots of the present phenomenon of dowry can be traced to Hinduism and the colonial state’s restructuring of socio-economic order (Sheel, 1997: 709). Colonialism has direct impact on the dowry
system in India. Traditional way of gift giving was legitimized in such a way that it lost its identity and came out as modern dowry. Despite many positive contributions for the development of nation, like education, introduction of organized sector etc., colonialism disturbed the indigenous process (culture and tradition) of nation making and created many imbalances. Of the eight forms of marriages enumerated in the laws of *Manu*, four were assigned to upper castes altogether called brahma form of marriage and four to lower castes called asura form of marriage. The dowry payment is linked with the brahma form and the bride price to asura form. At the onset of British rule, the most significant change, which occurred in the realm of marriage transactions was the legality of the brahma form of marriage. This led to the move from the asura form of marriage to brahma marriage. The moving up in the social hierarchy led to the shift from bride price to dowry (Tambiah, 1973: 69).

Among the important features of colonial period was the diminishing role of women in the production activities. The decrease in the percentage of women workers is linked with the replacement of household industry by the factory industry, which made the women economically non-productive. So, they no more remained an economic asset for their families, which resulted in the switch from bride price to the dowry system (Rajaraman, 1983: 276).

Another important impact of colonial system on the practice of dowry is attributed to growing number of educated males. The system of administration introduced by the Britishers required large educated workforce. The modern educational system was introduced in India to meet the demands. Educated youth were recruited in the government jobs which raised their market value. Parents of
such youth started demanding huge dowries on their son’s marriage so as to compensate whatever resources they had incurred on their upbringing and education. At the same time, parents of the bride are always desirious of marrying their daughter with a settled and employed groom. Consequently, two are linked with each other. Nishimura has also advocated this argument. According to him, the custom of dowry became common under the British regime as men who were in white collar jobs were rare, therefore such grooms become a scarce commodity. As a result, they were paid dowry by bride’s family. It is the British colonial government responsible for the creation of such jobs and the resultant practice of dowry (Nishumura, 1994: 246).

The social rules of marriage in traditional Indian society were based on unity and dependence on family. Every member of the family was dependent on the other, especially economic dependence. Family in traditional society was more than simply a social unit in which the group was placed above the individual i.e. the family as a group was more important than the individual members who constitute the group. But in modern society this holism has declined to a certain degree. This change of traditional family system to modern system is the direct reflection of commercialization, monetization and urbanization of the Indian economy and society. Commercialization is an economic process that includes the development of markets in land, labor, capital and commodities. Increased technological inputs in production and monetization in commodity and labor markets accelerated social change (Banarjee, 1999: 667). Thus commercialization
and education put little emphasis on the traditional values and importance was given to consumption level as markers of social status.

Thus, we may conclude that colonialism has changed traditional marriage pattern in following ways:

1. Introduction of organized sector, modern education and monetization resulted in shift from traditional dowry to modern dowry.

2. Shift from bride price payments to dowry payments for the sake of gaining status.

3. With the introduction of industries, female work participation decreased which lowered their value in the marriage market.

**3.4.4 FEMALE WORK PARTICIPATION AND DOWRY**

Sociologists, who are attempting to explore causes of dowry, find a connection between female work participation and dowry. The 1971 census defines a worker as “a person whose main activity is participation in any economically productive work by his physical and mental activity” (Gulati, 1975: 35).

According to 2001 census, female work participation in India is low as compared to male. The following figure 3.2 reflects this low female work participation.
Despite the fact that a woman is indulged in household activities from dawn to dusk, her work is not considered to be productive in census data. In this way, male is considered to be bread earner of the family and women being dependent on him. This lowers her status in the society and is a burden on her parents before marriage and on her husband after marriage.

The National Committee on the Status of Women in India observes that the reasons for the increase in the withdrawal of women from labor force as well as the declining role of women in production activities is the replacement of household industry by the factory industry in the colonial period (Sheel, 1997: 1714). Srinivas also considers decline in female work participation responsible for the switch from bride price to dowry (Srinivas, 1983: 20).
Banarjee explains the connection between the two; by mentioning that the function of dowry is the compensation paid by the bride’s family to the groom’s family for their economically dependent daughter (Banerjee, 1999: 662). Thus, the dependence of women on men is compensated by paying dowry on the eve of marriage.

Boserup defines women’s agricultural role as the determinant of the mode of payment. She defines two types of societies: Bride price paying societies and dowry paying societies. In the former, the rate of women’s agricultural labor is high and in latter, the rate is low. Thus high level of dependence of women on male is seen in dowry paying societies (Gaulin, 1990: 995).

Economic dependence of female could be explained by a number of factors. In Indian society parents show preferential treatment in providing education to sons. It results into low literacy rate of girls. It is this disparity, which enable male to attain high social position and female lag behind them, which is reflected later on in the marriage market where women generally marry up and men marry down (hypergamy) resulting in women’s inferior position in the society. In order to attain status, women need to pay high groom price on marriage and the quantity of groom price depends on the status of groom (Banarjee, 1999: 670).

According to the Census 2001, the work participation rate of women, which was 19.7% in 1981 has increased to 25.7% in 2001. It is still low as compared to the male work participation rate, which is 52.6% in 1981 and 51.9%
in 2001 (NIPCCD, 2005: 135). It shows that despite an increase in the percentage of female work participation, they are still lagging behind the male. There are various reasons for the spread of dowry in the society. The declining rate of women’s participation is one of the major factors.

### 3.4.5 HYPERGAMY AND DOWRY

The term hypergamy was introduced by Ibbetson in the 1881 Census report of Punjab. Ibbetson defines hypergamy as the rule, which compels a man to wed his daughter with a member of tribe (a group), which shall be actually superior in rank to his own. Hypergamous marriage is characterized by asymmetrical flow of gifts from bride to groom’s side. This asymmetry is supported by further evidence, which shows that the relations between affines are restricted after marriage and could be described as avoidance (Klaas, 1973: 98). According to Blunt, as per the rule of hypergamy, no man may take a bride from any family to which his own family has given a bride within the memory of man (quoted in Tambiah, 1973: 94).

There is a well defined relationship between hypergamy and dowry as is explained by various sociologists and social anthropologists. Srinivas expresses his views in terms of status asymmetry as the important feature of hypergamy, in which bride being inferior to groom. This is balanced by gift giving from bride’s side on marriage (Srinivas, 1983: 9).

In pre-colonial period, hypergamy was confined to higher castes and north India, and isogamous marriage was confined to south India even among Brahmins.
Former is associated with dowry and latter with bride price. Due to the impact of colonialism as discussed already, shift from bride price to dowry payments resulted in overall shift from isogamous marriages to hypergamous marriages. The main reason behind this change is status achievement, which is directly or indirectly linked with the dowry practice in the society.

T.N. Madan points out that the difference in the economic status and social standing is an important feature of two affinal groups in which bride’s parents are always in fond of marrying their daughter to a person who is status wise superior to them (Madan. 1975: 232).

The relationship between hypergamy and dowry has also been discussed by Louis Dumont. In hypergamous marriages, a lower status girl marries a high status boy. These marriages are accompanied by high dowry payment because lower status families always try to elevate their status through such marriages. The result is that there is always a low number of high status boys and a greater number of lower status boys. Since higher status boys want to marry hypergamously so that they can demand more dowries, this makes difficult for high status families to find a suitable match for their girls. The result is that there is an accumulation of high status girls in the marriage market and their marriage becomes a financial burden for their families (Klaas. 1972: 102).

3.5 CONSEQUENCES OF DOWRY

Indian society is patriarchal in which the position of women is inferior to men. The status of women in India has shown many ups and downs in different
periods. In the Vedic age 1500-1000 BC, they were worshipped as Goddesses. In the Muslim age 1026-1756 AD, their status suffered a sharp decline and in the British regime, they were looked down upon as ‘slaves of slaves’ (Sachadeva, 1998: 285). There are many causes which has lowered the status of women in the society. One of the major causes is the prevalent practice of dowry.

Dowry exists in both fact and design. By fact, it means dowry exists empirically; whereas by design, it exists in our mind values. The modern phenomenon of dowry has become a crude institution resulting in female foeticide, infanticide and bride burning. It has become a monstrous problem to which M.N. Srinivas has referred as “The sati of twentieth century” (Srinivas, 1983: 29).

According to Basu the word dowry is almost synonymous with Indian women’s oppression under patriarchal systems (Goel, 2004: 273). Dowry is multifaceted, deep rooted gender issue with social, economic and health consequences. Dowry is considered to be a Hindu custom. Dowry has become a tradition and norm even for those whose religion does not allow them to practice it.

The implications of dowry start from the womb of mother. Various techniques of sex determination and pre-selection have been developed during the last fifteen years. These techniques are fonography, fetoscopy the popular amniocentesis. These techniques are used to detect sex of the foetus. Prenatal sex determination and the abortion of female foetuses create an imbalance in the sex ratio with unprecedented consequences.
Census data shows that in India, the sex ratio for the total population has increased from 927 females per 1000 males in 1991 to 933 in 2001. However the sex ratio for the population of female children up to 6 years has declined from 945 in 1991 to 927 in 2001. This decline shows the abuse of sex determination techniques to get rid of the unwanted female child.

In Indian society, sons are prized while daughters are devalued. A baby girl born in first issue is considered to be a bad luck, second issue as disaster and in third as a catastrophe. This social preference of son leads therefore to abortion of girl child. Daughters are considered to be burden in every respect. The problem of dowry is the major factor which makes a daughter a burden on her parents. Thus infanticide and foeticide is directly linked with the dowry practice in Indian society. People in order to get rid of future extravagant expenditure prefer to abort the female child.

Dowry has many ill effects in the society. It lowers the status of women. It gives rise to many socio-economic problem, which results in bride burning, harassment and physical torture of the young brides and various kinds of pressure tactics being adopted by the husband and/or in-laws for an inadequate supply of dowry. Despite the Dowry Prohibition Act enacted in 1961, and the Dowry Prohibition (Amendment) Act 1984. dowry is practiced in the society in all its manifestations. The issues of dowry have become complex that it is difficult to eradicate and infact it keeps reinventing itself. The more people are becoming aware of the evils of dowry, the more the payments took place (Anonymous. n.d_h).
Veena Oldenburg opines that dowry existed in India before the colonial period. But the exorbitant dowries were not practiced in pre British period. However, in the post-colonial period, we are at the juncture where women are being burnt alive and are forced to commit suicide because of this custom of dowry. In India, an average of five women a day is burned in dowry related disputes and many cases are never reported. Oldenburg says, “Dowry has become a convenient peg on which to hang all the explanations about discrimination against women. But, in its origins, dowry was one of the few indigenous, women centered institution in an overwhelmingly patriarchal and agrarian society” (Anonymous, n.d_h).

Historically, it was an index of the appreciation bestowed upon a daughter in her natal village and not a groom’s prerogative to make demands on the girl’s family. The dowry infanticide plight was used to justify the annexation of India (Anonymous, n.d_h).

Sociologists and social anthropologists have attempted to explain functions and dysfunctions of dowry in the society.

**Dysfunctions of Dowry**

(a) Dowry is an immoral and illegal activity

(b) It causes friction in family.

(c) It may separate newly married couple.

(d) It causes mental torture.

(e) Suicide.
There are some factors that contribute to the continuity of the practice of dowry and are therefore functional.

**Functions of Dowry**

1. It is considered an incentive to get a suitable match.
2. It is used as an excuse for lack of inheritance rights of women among Hindus. So, dowry is given to compensate women’s parents’ property.
3. Dowry helps the new couple to have a convenient start in practical life.

Dowry is a serious problem which needs not to be looked down by the people rather it should be eradicated from its roots. It is necessary to change the social and economic roots of son preference. The major change in this regard lies in improving the status of women. By improving the status of women, she no longer would be considered as a burden on her family. The only way to improve the status of women is to educate them.

We have seen from the above mentioned works that many hypotheses have been put forward to explain the occurrence of brideprice and dowry. One theory links marriage payments to the inheritance rights of women and explains the dowry as as the premortem bequest made to daughters. Another analogy links dowry with the female participation towards economy. Various works relates
dowry with the price of groom and bride in the marriage market. Therefore, when grooms are relatively scarce brides pay dowries, and when brides are scarce grooms pay a brideprice.

Many thinkers show the linkage of dowry with hypergamy: whereby brides are expected to marry into a higher caste or social group and hypogamy: whereby brides are expected to marry into a lower caste or social group.

These and other explanations of marriage payments proposed by social scientists are not mutually exclusive: there are many factors which contribute to the determination of marriage payments in any society.