CHAPTER - III

CAUSATIVE FACTORS

There is absolutely no doubt that recent increase in the incidents of bride-burning are closely associated to dowry related matters. Dowry appears to be the main factor around which the ill-treatment of the bride hinges and most of the harassment, bride-burning and suicide evidently result from the dissatisfaction of the husband and in-laws over inadequate dowry brought by the bride. The present chapter is devoted to examine and analyse the various factors leading to murders and suicides of brides in their matrimonial home.

A number of issues centre round the factoral analysis. What are the dominant factors leading to bride-burning? Is it associated with a greedy motive to extract money from bride and her parents? Can a handsome dowry be considered as a security for standard living? Does poor dowry brought by the bride lower her position in the matrimonial home? Does the demand for good dowry arise out of desire of the husband and in-laws to have luxurious life without efforts? Is incompatibility and maladjustment between husband and wife one of the factors leading to bride-burning? Can the desire "to have a son and not daughter" be regarded in some cases a factor responsible for bride-burning? In what ways the rigidity
of divorce law affect the life patterns of the bride and the bridegroom? Does it provide an opportunity to the husband to dissolve marriage tie by executing the murder of wife? Does this rigidity compel the wife to continue a tormented life until she commits suicide with a view to ending marriage tie? Whether the socio-economic inequalities are responsible for incidents of bride-burning? Whether the unemployment and poverty of the husband and in-laws lead to the demand of more and more dowry resulting ultimately in murder or suicide of the bride? Does the attitude of in-laws become troublesome for young bride? Whether the lack of education has any impact within the household? Are the parents of bride themselves responsible for the miseries of their daughter? These are the issues which have been discussed threadbare in this chapter.

(A) Determining Factors in Bride-Burning

A phenomenon such as bride-burning cannot be explained on the basis of a single factor. The motive of the offenders is to extract the money from the bride’s parents. Dowry is the main tool of exploitation against the married women. The in-laws of the bride in an attempt to extract more and more dowry, both in cash as well as in kind create an atmosphere of harassment and cruelty.\(^1\)

Dasgupta and his associates observed that dowry

related problems usually arise out of three contexts such as failure to pay the remaining part of dowry, inability to fulfil extra demands made by the bridegroom's family and the general dissatisfaction of groom's family about the gifts or items given by the girl's parents.\(^{(2)}\)

When the bride’s relatives are not able to provide the complete dowry at the time of the marriage, the bride may be harassed by her husband, her mother-in-law or other members of her husband's family in order to bring pressure on her relatives. In exceptional cases, the harassment may turn to torture. And in even more exceptional cases, the torture may turn to murder. When murder occurs, the bride usually burns to death "accidently" in a kitchen.\(^{(3)}\)

This is the usual story of the cases coming before the courts. In order to determine the liability for murder the courts generally have to rely on circumstantial evidence. In these murder trials the motive of the offender/offenders plays important role in assigning responsibility. In case of *Ashok Kumar. v. State of Rajasthan*,\(^{(4)}\) the Supreme Court observed that motive for a


\(^{4}\) A.I.R. 1990 SC 2134.
murder may or may not be. But in dowry deaths it is inherent. Both the courts have concurrently held on evidence of parents of deceased, that her in-laws were regularly and continuously pestering her for bringing cash or an auto rickshaw and on their failure to satisfy their demand she was subjected to torture and maltreatment. But the judge attempted to dilute it by holding that relations between the deceased and her in-laws were strained ... There is thus little difference between the finding of the two courts on motive except for immediate cause. But what was overlooked was that in dowry-deaths motive is already there and what is required of courts to examine is as to who translated it into action as motive for it is not individual but of family.

In a recent case of Kundula Bala Subrahmanyam v. State of A.P.\(^{(5)}\), the Supreme Court observed that in a case based on circumstantial evidence, motive assumes great significance as its existence is an enlightening factor in a process of presumptive reasoning. The motive in this case is alleged to be greed of dowry. Both the accused, husband and mother-in-law has strong and compelling motive to commit the crime because of deceased parents not agreeing to get the land registered in the name of her husband.

\(^{5}\). 1993 Cri. L.J. 1635.
1. Dowry - A Social Malaise

Dowry is not plain buying and selling, neither it can be waived away in simplistic terms. It has no religious significance, only the sanction of a society that has reduced a woman to unproductive position and has considered her a gift to a man to be sent to him in the most splendid packaging possible. Today the custom remains as a visible symptom of a deep malaise in society, inextricably knitted in Indian society and so much importance is placed on getting a girl married that parents of unmarried girls are willing to meet almost any demand in order to get their daughters married. (6)

Complaints of insufficient dowry brought by the bride has now degenerated into a fixation with almost every mother-in-law and daughters. The bride’s life is made miserable. She is compelled to go to her parents to extort more and more presents in cash and kind from them. When the poor girl finding her parents impecunious, returns empty handed, she is invariably taunted, tormented and even tortured, sometimes to the extent of burning her alive. (7)

The system of dowry is thus a major social evil, extortionist in principle and foreign to ancient Indian culture. (8) Dowry has become a social

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8. Ibid p. 29.
evil and has also led to the emergence of various social, economic, psychological and ethical problems in the society.

(i) Historical Perspective

Not much is known about the cultural norms practised in the Pre-Vedic marriage ceremonies. Some information for the Vedic period can be had from the marriage hymns of the 'Rigveda' and the 'Atharveda' which mention dowry. These hymns begin with the allegory of the marriage of 'Surya', the daughter of the Sun, with Soma or the Moon. The bride bearing beautiful robe and a coverlet eyes daubed with unguents, head dressed upon the opasa or kuriya style, started for the house of her intended lord in a canopied chariot accompanied by bridal friends. Her treasurechest containing her dowry was also placed in her chariot. (9) The Atharveda once incidentally refers to royal brides bringing with them the dowry of a hundred cows. In the marriage hymn, 'vahatu' or dowry is mentioned. Also a king is cursed that his queen may not fetch any dowry for him. (10)

In the Aitaray-Brahmana, a bargain marriage is


called 'Pashuvivaha' or animal marriage, but it is not clear as to which party extracted money. Draupadi, Subhadra and Uttara were given valuable presents of horses, elephants and jewels by their parents at the time of marriage. The Jatakas also given an account of how rich presents were given to the bridegroom when rich merchants like the father of Visaka sent their daughter to their husband's homes. In Raghuvanssa, a vivid description is given of how the king of Vidarbha sends handsome presents to his sister Indumati immediately after the marriage. It seems that these presents were made voluntarily out of affection in the aristocratic or royal families. This inference has been further supported from the absence of references in the 'Smriti' to the custom of dowry(11).

The 'Smritis' have recognised eight forms of marriage 'Brahma', 'Daiva', 'Prajapatyā', 'Asura', 'Gandharva', 'Rakshasa', and 'Paisacha'. It is only the 'Brahma' form of marriage that the father gave away his daughter with such ornaments as he could afford to a man of character and learning, whom he invited voluntarily and received respectfully without taking anything in return(12). The 'Smritis' regard it the most honourable type of marriage, as it was free from physical force, carnal appetite, imposition of conditions and

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lure of money. One, however, comes across some reference in the 'Rigveda' where the guardians of the girls had to offer dowry to the bridegroom. A daughter who had some physical defects was to be disposed of with money. (13)

The method of offering bride-price was also practised sometimes. This was adopted in the 'Asura' form of marriage where the husband after having paid money to the relations of the bride and the bride herself, accepted her out of free will. Even in the Vedic period, bargains were sometimes struck and the bride was practically sold for a heavy price. Sometimes, out of greed, girls themselves selected wealthy though otherwise unfit husbands for money. (14) The 'Smriti' writers condemned this practice. According to 'Apastamba-Smriti', "not even a Sudra should accept money while giving away his daughter. Taking money is a sale in disguise". (15)

Thus, even sporadic cases of bargain marriages where transactions of wealth took place between either party to the marriage received unqualified condemnation as a custom. However, from the time of 'Manu Smriti', advanced maidenhood came to be decried and virginity became a badge of respectability. With

14. Ibid.
this, regulations which unconditionally enjoyed child marriages were laid. On religious grounds, the father of the girl now became anxious to get rid of the girl even with an offer of money to the bridegroom's father. The religious concept of marriage as a sacrifice also helped the rise of this custom. Dowry was regarded as 'dakshina' attending the main gift of the girl.

Hindu religious scriptures provide evidences that 'Lord Shiva' and 'Rama' received valuable items such as jewels, gold, horses, elephants, vehicles, cows etc. as dowry.

P.N. Tikoo is of the view that the payment of 'Varadakashina' (dowry) or otherwise to the bridegroom does not render the marriage otherwise in a 'brahmo' (legal) form into an 'Asura' one. Giving or demanding any kind of dowry is nowhere mentioned in any ancient Hindu shastra. Not very far back the Kanchi Kamakoti Shankaracharya denounced dowry as a 'pernicious' practice, having no sanction of the Shastras. The idea of dowry seems to have originated from one of the seven

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benedictory 'mantras' recited at the saptapadi (marriage) ceremony of the couple. That mantra says, "may we live long dowered by our relatives". In the course of time, this presumed idea of dowry took a concrete shape taking the name of 'Varadakshina'.

In medieval times, the hypergamous system of marriages among the royal and the aristocratic families gave further inducement to the practice of dowry. The rules under this system prescribed that a girl of a lower class could marry a boy of a higher class but not vice versa. The parents of the girl considered such status-climbing alliances advantageous to gain more prestige for themselves and paid the social cost of such a marriage through huge dowry. Hypergamy is known to exist among some Brahmin castes, such as, Kulin Audich, Khedaval, Anavils and Nambudiri Brahmins of Malabar, and among non-Brahmin groups, such as Marathas Rajputs and Leva Patidars of Gujarat. By the thirteenth or the fourteenth century, the dowry system became a positive evil of great magnitude, particularly among the higher classes. During the Mughal period, too, the Aini-Akbari has traced the evil of dowry.

Altekar says that in ordinary families the amount of dowry was a nominal one. It was a voluntary gift of pure affection and presented no impediment in the settlement of the girl’s marriage till the middle of the nineteenth century. It is only after that and more during the last five decades or so that the amount of dowry has begun to assume scandalous proportions.\(^23\)

There is a widespread confusion and misconception that the present dowry system has its origin to the twin Hindu marriage rites viz., 'Kanyadan' and 'Varadakshina'. The Joint Parliamentary Committee has opined, "the ancient marriage rites in the Vedic period are associated with Kanyadan or the ceremony of giving away the bride. According to Hindu Shastras the meritorious act of 'dan' or ritual gift is incomplete till the receiver is given 'dakshina'. So when bride is given over to the groom, he has to be given something in cash or kind which constitutes 'Varadakshina'. Thus, 'Kanyadan' became associated with 'Varadakshina' i.e., the cash or gift in kind by the parents or guardian of the bride to the groom".\(^24\) Paras Diwan observes that 'Varadakshina' has not been prevalent among all Hindus. It has prevailed only among certain caste of Brahmins.

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Apart from the Brahmins, no other class of Hindus have the rite of 'Varadakshina'.

The Committee abruptly equates 'Varadakshina' with dowry. It says, "this 'Varadakshina' or dowry in those days included ornaments and clothes which the Parents of the bride could afford and were given away as the property of the bride". The concept came to be judicially interpreted in Sudharam v. Jhandaveshwara, where it was observed that 'Varadakshina' was not to be kept by bride-groom's family, nor can he make a profit out of it. Consequently, the court held that 'Varadakshina' was dowry. This is a serious judicial misunderstanding or misconception. The two are essentially different. Dowry has always been, conceptually and in essence, that property which is obtained under duress, coercion or pressure. It is that property which is extorted from the father or guardian of the bride by the groom or his parents or other relatives. Among Hindus, it is that property which is extracted by the groom from his bride or more particularly from her parents or guardian. Dowry is thus construed as a form of marriage.


payment with certain positive functions such as validation, security giving, compensation etc. It is a property given to the girl at the time of her marriage in lieu of her share in the family property. It also helped girls in attracting a better marriage partner. It is seen as a institutionalised practice in patriarchal social organisation where women are treated as a commodity submitted to transactions between the male operators.\(^{29}\)

In the course of time dowry became a widespread evil probably because of change caused by modernisation, urbanisation and industrialisation, has fostered the frankensteinian growth of the dowry system instead of uprooting it.

The phenomenon of dowry now cannotes a different meaning, content and wider purpose. In the present context dowry has gone far beyond the practices of 'dakshina',\(^{30}\) or 'Varadakshina' (a token of gift given


\(^{30}\) The token payment of 'dakshina' although looks symbolic but it had its own significance. It was an index of socio-economic status of the donor and also means of control and obligation. See Romila Thapar, Ancient Social History : Some Interpretations, Orient Longman, (New Delhi, 1978), pp. 105-110. The dharmik (religious so meritorious) act of dan of a 'Kanya' is incomplete till the receiver (the bridegroom) is given a dakshina. In fact, payment of dakshina in earlier time was statutory and not compulsory. Apte, Usha, M., The Sacrament in Hindu Society : From Vedic Period to Dharmashastras, Ajanta Publishers, (Delhi, 1978), pp. 174-75. See also Shakambri, Jayal, The Status of Women in Epics, Motilal Banarsidass, (Delhi, 1966), p. 65.
to bridegroom), and 'Stridhan',\(^{31}\) which were in vogue as sacred cultural concepts of Kanayadan marriage in Indian society. It has now taken a new ominous dimension in terms of its intensity with an element of expectation and coercion unknown to the society of the past. The original notion and denotation of 'Varadakshina' and 'Stridhan' have changed to new notion of dowry in the emerging situation of contemporary Indian society. The dominant ideology of Kanyadan form of hypergamous marriage does not countenance this present form of dowry.\(^{32}\) At the present juncture dowry is composed of material gifts (particularly the products of new technology) and cash paid to the bridegroom and his kins. Many a time the transaction of dowry goes in the name of the bride in theory and the possession is taken by the bridegroom and/or his kins in reality. Such transactions take place not only prior or at the time of marriage but perpetuates even after on various occasions in unidirection in favour of

\(^{31}\) 'Manu Smriti', (IX, 194), enumerates six kinds of stridhan. Vishnu enumerated four kinds of stridhan (XVII, 28). Katyayana though enumerates six kinds of stridhan, his enumeration is different from Manu's (quoted by the Dayabhaga IV, I, 19). According to Yajnavalkya: "What was given to a woman by the father or received by her at nuptial fire or presented on her supersession and the like is denominated woman's property" (Yaj. II, 143).

bridegroom's family. (33)

The most common elements of dowry in north India include: gifts for the bride such as clothes, jewellery and other household goods ideally treated as bride's stridhan and they form nucleus of the conjugal home. Secondly, gifts for bridegroom consist of the luxury items like clothes, suits, wrist watch, gold chain, etc. as Varadakshina. Then the products of modern technology like television, scooter, fridge, video cassette recorder apartment etc. also form part of the gifts transacted to the bridegroom as per the status of both the affinal kin groups. Thirdly, some gifts are given to the bridegroom's kins also. Over and above, dowry also includes hard cash paid to the bridegroom's parents and other wedding expenses, like the fare on transportation of bridegroom and his party (Barat), etc. One new element entered into the marriage arrangement is that the demand or expectation of dowry is subtly conveyed through various channels like the intermediary and, in some cases, kins and friends also to the bride's parents. (34)

One of the most common feature which is prevalent in north east India, particularly in eastern U.P. when dowry is given in cash to the bridegroom's parents at

34. Ibid.
the time of Mangni (Sagai) that is known as Tilak. Dowry is fixed by the two parties before the marriage and it is given at the customary ceremony of Tilak. Bride’s parents and some other relatives came at the bridegroom’s home and give the dowry in cash before the presence of few respectable persons of that village and family.

Dowry and presents made to wife at the time of the marriage constitute her stridhan and if any item of Stridhan entrusted to her husband or her in-law at the time of the marriage or thereafter and if they refuse to give it to her on demand they would be guilty of criminal breach of trust under section 406, Indian Penal Code. (35)

(ii) Prevalence of Dowry System in India

Though, dowry is an all-India phenomenon, there were some communities and groups in the country which were relatively free from the menace of this custom till a few decades back. Most Muslim communities, the non-catholic Christians outside Kerala and the Parsees did not have dowry as an essential part of the marriage ritual. The Nagar Brahmins of Gujarat, the Khatris of Uttar Pradesh and the Mathur Kayasthas did not have dowry as a custom. Many castes in Maharashtra

also had no custom of dowry. But today even these communities have taken to dowry and look upon it as a prestige symbol.\(^{(36)}\)

The practice of dowry is rampant in Haryana, Punjab, Bihar, Rajasthan and Uttar Pradesh. Dowry is particularly practised among almost all the castes of the Hindus in all the states. In the south, the Reddis, the Kammas, the Velmas the traders and well-to-do Brahmins, the Vellallas, the Mudaliars, the Chettiaras, Vaishyas some Lingayat groups and the Christians (in Kerala) are known for their passion for big dowry.\(^{(37)}\)

The dowry-based marriages in contemporary Indian society are imposing a heavy burden on the bride’s parents especially those who are not affluent. The practice of dowry is glaring in northern and other parts of India, where the status of woman is less important than dowry. All these do indicate how the position of women has brought down to the level of beasts of avarice and the male arrogance in the contemporary Indian society.\(^{(38)}\)

The curse of dowry has claimed a number of victims throughout India since last decade. The facts and circumstances of the few recent dowry death cases may be


\(^{37}\) Ibid. Para 2.2.

\(^{38}\) Paul, Madan C., op. cit., p. 11.
illustrative. In *State of U.P. v. Ashok Kumar Srivastava*, \(^{(39)}\) the victim, Meera Srivastava, a young woman aged about 25 years, died of burns on the night between 20th and 21st July, 1974, in the two room apartment of her husband Ashok Kumar Srivastava. The marriage had taken place less than a year ago on 13th May, 1973 at Banaras. The father and sister of Ashok were not satisfied with the dowry or expenditure incurred on gifts by the father of the deceased Meera. They were of the view that what was paid in cash as well as by way of gifts at the time of 'Tilak' was short by about Rs. 4,000/-. The accused taunted, tormented and tortured the deceased for the insufficiency of the dowry amount. A few days before the incident while at their home town there was heated argument and then the husband of the deceased returned to the place of his posting at Lucknow without deceased. She entreated her father-in-law to permit her to join her husband but the latter refused saying she will have to rot alone unless the dowry amount was made good. Ignoring her father-in-law's refusal the deceased went to her husband. The father-in-law and his daughter followed her. There all the three illtreated her. The deceased was found on fire on the fateful day. While she was burning the three accused who alone were inside came out of room and stood in the verandah chit-chatting unconcerned about her plight.

In another recent case, a young wife along with her child was burnt to death by her husband and mother-in-law inside the house by sprinkling kerosene oil on her and setting fire. The deceased Santosh Rani was married to Harbans Lal two years prior to the occurrence. Soon after the marriage her husband and mother-in-law started harassing the deceased on the ground that she had brought lesser dowry. They used to abuse her and treat her in a cruel manner. Prior to the incidence the husband (Harbans Lal) demanded Rs. 20,000/- to make up the financial losses. Deceased's father promised to give the money and later sent the deceased along with some cash. He could not give Rs. 20,000/- immediately. The accused again started ill-treating the deceased. On 16-7-1979, the deceased along with her child was burnt by her husband and mother-in-law by sprinkling kerosene oil on her and setting fire. The deceased Santosh Rani died and her child was already dead.

Yet, in another recent case, a youthful wife of 20 years, Smt. Urmila was alleged to have been set on fire by her in-law's at her matrimonial house in village Bhadwa, District Fatehpur on 11.10.86. Prior to her death she had written a letter to her father stating therein that she is ill-treated, harassed and

threatened of dire consequences for non-satisfaction of demand of dowry made by her in-laws. The said letter and demand of dowry by accused was duly proved by prosecution.

In case of Kailash Kaur v. State of Punjab, Justice Balakrishna Eradi observed that this is yet another unfortunate instance of gruesome murder of a young wife by the barbaric process of pouring kerosene oil over the body and setting the culmination of a long process of physical and mental harassment for extraction of more dowry.

(iii) Social Attitudes

The attitude of society towards the prevalence of dowry custom is neither uniform nor consistent. Theoretically a majority among the educated in the middle-class disfavour it, but in actual practice, it upholds the custom under the fold of certain social and cultural justifications. The upper strata of society and those at the lower rung do not normally advocate its abolition. A number of factors seem to influence their attitude and explain their adherence to it.

A daughter, under the protection of law, enjoys today the rights to inherit equally the property of

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42. 1987 Cri.L.J. 1127.

her father with the male heirs.\(^{(44)}\) With this prerogative, her claim to dowry seems to be irrelevant and irrational. Many parents, however, feel that instead of a share to property, she should continue to receive dowry. Moreover, her property inheritance will not affect the practice of giving dowry. Dowry seekers will try to establish matrimonial alliances with those who possess large property. It is necessary also for providing her with a feeling of security in time of crisis, particularly under the present socio-economic framework where unemployment and illiteracy among the females continue to be high.\(^{(45)}\)

Social tradition, performance of marriage rites and ceremonies and above all the religious ideology of 'Varadakshina' (ritual gift giving to the bridegroom) also dominate the average family, which feels that the custom of dowry cannot be brushed aside even under the pressures of modern society. The bonds of social

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44. According to the text of 'Manu' that a wife, a son and a slave can have no property and that the wealth they acquire belongs to the person to whom they belong, is often quoted to show that Hindu Law did not recognise any right of property of woman (VII, 16). But the Hindu Succession Act, 1956, recognises the equal share of a daughter with the male heirs. Section 10 of the Act provides that the surviving sons and daughters and mother of the intestate shall take one share each. Daughter means a legitimate daughter born natural and adopted. If there are both natural born and adopted daughters, they inherit equally. An illegitimate daughter cannot inherit. A daughter also includes a posthumous daughter.

tradition are strong specially among the educationally backward groups. Others who have liberated themselves of the out-worn tradition feel that so long as Indian society continues to practice arranged marriages, considers marriage a sacrament and a necessity, and is subject to the pulls of tradition, the price of choosing a mate will have to be paid.\(^{46}\)

Status consciousness and personal glorification, it is generally felt, are other major reasons for the preservation of the dowry ritual. Some families are able to establish it because they have unaccounted earnings, and through huge dowry are also able 'to purchase's good match for their daughter. Some people over-spend just for the fear of their relatives who will snigger and gossip and create family scandals or purely for reasons of self-prestige.\(^{47}\)

(iv) Negative Impact

The custom of dowry though widely practised, has produced adverse effects on society. In India since the per capita income is very low, the capacity to save is also extremely limited. Most of the families, in meeting dowry demands to buy a secure and happy future for their daughter, have to indulge in debts. Marriage often consumes the provident funds and insurance

46. Ibid.

47. Ibid.
policies of the parents. Houses and lands are mortgaged and even human beings are kept under servitude as bonded labourers of the money-lender or the land owing families who give loan for marriages to the bride’s or the bridegroom’s family. Some parents are driven to adopt unfair means to earn money for dowry. Parents of honest means have to deprive themselves and their children of the minimum comforts nutritious food and also proper education to save enough for dowry. Dowry expenditure is not a productive investment; most often it is utilised in ostentatious consumption.\(^48\)

Sometimes, when parents of moderate means are unable to meet the abnormal demands of dowry, they marry their young daughter to an old man or to an unworthy person who does not ask for dowry. Such ill-assorted matches or where the girl is constantly harassed for bringing less dowry or has to remain a spinster because of dowry, lead to cases of mental breakdown, burning of brides, suicide or a continued unhappy married life, family tensions, etc.\(^49\)

The Committee on the Status of Women in India, reports that since the time of passing the Dowry Prohibition Act of 1961, not only the amount of dowry has increased rather it has become a necessary condition to negotiate marriage. To quote the views of the above

\(^{48}\) Ibid. p. 254.

\(^{49}\) Ibid.
"In reality, however, dowry has come to be regarded as essential to obtain a suitable match for a girl with a view to ensuring a higher standard of life for her. The increase in socio-economic inequality has been one of the most important inducements for dowry and operates at all levels of the society". (50)

(v) Dowry Among Other Communities

Independence which brought material prosperity to most of the people in India, including the Muslims has not only raised the standard of life of the later but has also brought in its wake modernisation and element of show and competition between the affluent and not so affluent Muslims. Although Islam does not accord sanction to dowry in the sense it is allowed in Hindu system. Yet in modern times among Muslims also marital alliance has now become a sort of gold-digger's opportunity. The parents put a highly inflated value on their son which is often not commensurate with his real worth. The dowry demanded sometimes includes among the usual items like gold etc., a scooter, tape-recorder, expenses for the boy's training and so on. The alliance is accepted only after the demands are accepted by the bride's father. In case of any such breach in the promises made, a family

50: Report of the Committee on the Status of Women in India, op. cit., p. 69
feud occurs and if tempers run still higher from either side, the marriage ties are sometimes sniped through 'Talak' (divorce).\(^\text{(51)}\) It is, however, surprising to observe that in spite of the flexibility of the Muslim Law in general there have been the cases of bride-burnings among the Muslim community.

In almost all states the highly placed people among Hindus practice dowry. It is equally prevalent, at present among the Muslims and Christians. Among the Muslims, in many parts of the country, there is a custom of giving cash to the bridegroom (popularly called as Salami) after the 'Nikah' ceremony and of giving clothes and jewellery to the bride by her parents who also bear the other expenses of the marriage.

At present, the Muslim community is as much engulfed by the dowry menace as the Hindus and Christians. On the other hand the Islam never mentions about the dowry system. The *Holy Qur'an in Surah Al-Nisa*, has stressed upon the husbands:

"Give the women (on marriage) their dower as a free gift, but if they of their own good pleasure remit any part of it to you, take it and enjoy it with right good cheer."\(^\text{(52)}\)

Indu menon in her study conducted in State of

51. Tikoo, P.N., op. cit., pp. 36-37
Kerala found that about 61 percent of the respondent had given dowry either in the form of cash or property. Her education does not seem to have much influence. This may be due to the fact that:

1. Dowry system has become a common practice among the Muslim so that inspite of the fact that the girl is educated enough, the parents have to give dowry for her marriage,

2. When a girl is educated naturally her parents will look for an educated groom for her and in the Muslim community the number of educated men is small. In that case the demand on the educated groom will be high, and consequently also the amount of dowry. This agrees with Hooja’s finding that, "among these communities the value of the boy in the marriage market enhances with the advances in his education".

Thus, Muslim did admit that the payment or acceptance of dowry is taken to be a sign of anti-Islamic way of life. But why do they pay them is another important question. Firstly, Muslims in India live in the company of Hindus. This itself is a big social influence. Secondly, in the best interest of the bridegroom, it is always better to settle the issue before marriage.

The Christians of Manglore follow their pre-conversion custom of 'Kanyadan'. It is reported that in a state like Kerala with its high literacy rate and progressive outlook the prevailing high rates of dowry make marriages almost impossible for many Christian girls belonging to large families and induce them to join the nunneries or search desperately for jobs in other states. There is in fact, no difference these days in the pattern and motives of conspicuous consumption and dowry, either religion-wise, region-wise or otherwise.\(^\text{55}\) Therefore, a distinct trend is noticeable among girls of middle-class families in urban areas to take up clerical jobs or go for nursing profession or work as sales girls in order to earn and accumulate their dowry.\(^\text{56}\)

In the rural areas, the situation is reported to be more distressing. The farmers are forced to sell their land, bullocks etc., which are the only means of livelihood, to evolve dowry funds for the marriages of their daughters. It is also reported that prevalence of dowry system is one of the reasons for rising rural indebtedness. The farmers borrow, year after year, from the moneylenders and government institutions by mortgaging their land or otherwise, at a very high rate.

\(^{55}\) Report of the Joint Parliamentary Committee op. cit. Para. 2.3.

\(^{56}\) Ibid. Para 2.4.
of interest. It is estimated that a major portion of the borrowings by the farmers is spent on marriages and other social ceremonies and very little amount is spent on improvement and inputs of agriculture. (57)

The dowry-mania has spread even to those poor castes and sub-castes of India where this system was almost unknown up to the time of independence. Here also a handsome dowry becomes the basis of a boy's marriage now. (58) The dowry witch-hunt has taken its heaviest toll in the middle-class urban areas, but the burning of women for more money and domestic goods in the form of dowry is quite widespread in the slums and rural areas. Investigations have revealed that bride-burning is prevalent all over the country, it is most acute in Delhi, Haryana, Bihar, Punjab, Uttar Pradesh and the Saurashtra region in Gujarat. (59)

(vi) Dowry - A Status Symbol

The dowry system has not only become a very rigidly adhered to custom but also an avenue for some families to display and enhance their social status and economic

57. Ibid. Para 2.4.
58. Tikoo, P.N., op. cit., p. 36.
At present dowry is continued to be given as a status symbol. When the parents of the bride on account of financial difficulty are not able to give dowry as per demand, then the marriage ceremony stands cancelled, where not cancelled the girl is illtreated and harassed to bring more dowry from her parent’s house.

The Dowry system is the problem of a highly conformist culture which makes it virtually impossible for not only dowry seekers but even for dowry victims to desist from such evil practices. When a particular boy is unwilling or opposed to accepting dowry, the girl’s parents insist on giving something in ‘Kanyadan’ because a non-dowry marriage would lower them in the esteem of their relatives. Even otherwise, what is being given is made out to be a gift of love and affection. The groom’s standard of living is compared with that of the bride’s.

Paul has observed that the dynamic forces of socio-economic inequality have given rise to rationalisation based on false ideas of prestige and status which sanctions, justifies, or explains the phenomenon of dowry in a social milieu. In such a social milieu, the glaring socio-economic inequalities, on the one hand, and the breakage of normative rules with politico-administrative patronage, on the other, have


given a wider and different meaning to dowry for the people of different background. Marriage has become now an occasion where one strives to promote one's status and interests. This leads to a kind of exchange within the framework of traditional socio-cultural as well as practical considerations between the two kin groups.\(^{(62)}\)

The status of a family is being balanced through the transfer of wealth. There appears to be a clear correlation of competition between the quantum of dowry and the standing or position of the families concerned.\(^{(63)}\) The transacted amount enhances the social status and economic position of their natal family and of the conjugal family respectively as well as their prestige in their in-law's family. In any case, with the crumbling of traditional spiritual values and the awaiting consolidation of the new ones, the phenomenon of dowry has been acquiring its own significance and sustenance depending upon the fundamental aspects of socio-economic and ideological positions of the groups concerned.\(^{(64)}\)

In a dishormonic social order dowry becomes an

instrument for the high and well-to-do castes and classes to attract a 'desirable' alliance from a prospective bridegroom for obtaining security and good status for their daughter. Not only that, it also becomes a strategy for them to maintain their exclusive social (caste-class) boundaries or to accord with newly-won prestige and economic resources.\(^{(65)}\) It is in this context that the concept of 'bidding' emerges significantly among the propertied and the nouveaux-riches classes. The highest bidder will transfer his daughter with pomp and show along with wealth and other luxurious consumer items as 'status symbol' to the bridegroom and family.\(^{(66)}\)

Furthermore, the social status or prestige is measured in terms of the expenses parents incurred on the marriage of their daughters and sons.\(^{(67)}\) Higher the amount of dowry transacted and the other expenses incurred in pump and show, the higher is the prestige and status the family enjoys in the society at present. The marriage of educated girls who are capable of economic independence are also settled with dowry, because the parents look for a match with higher

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qualification than the girl with a well paid job.\(^{(68)}\)

They are also the ones who desire the daughter to be placed comfortably, while those who are the dowry receivers view it as an opportunity for one time rise in their standard of living. Receiving a big dowry for one's son or giving it for one's daughter are both considered to be measures of the status of a family. In this commercial transaction for status enhancement, the girl is only forgotten factor. The quick economic gain by a family/group are exhibited by the show of wealth at the time of marriage.\(^{(69)}\)

(vii) Poor Dowry - A Cause of Contempt and Hatred

Since dowry is a necessary condition for negotiating marriage of a girl the daughter of those parents who either manage to get a bridegroom without dowry or with less amount of dowry, is likely to get a low position in her in-law's house. Such brides may be ridiculed and humiliated by their in-laws and others.\(^{(70)}\) Pratima Kumari in her survey conducted in Patna University attempted to know if similar opinion is held by the respondents in the study. It was found that 56% graduate and 52% post-graduate respondents affirmed the view.


\(^{69}\) Ibid. p. 206.

There were only 17% girls who felt that there was no relationship between dowry and the position of the bride in her in-law’s house. However, there were 17% respondents who said that apart from dowry other considerations such as her education, personality, physical appearance, family background, behaviour etc., determined her status in her in-law’s house. To them, the amount of dowry might have been a necessary condition but not the sufficient condition for determining the status of bride. It may be mentioned here that a majority of married respondents gave singular importance to the amount of dowry in shaping bride’s position in her new house. According to them, brides coming with huge dowry were better treated and enjoyed higher status. Another 16% of the married women thought that some factors other than dowry were also important with regard to status determination. These factors related to her physical and behavioural aspects.\(^{(71)}\)

In contemporary times, however, dowry is no longer a gift but rather a demand for cash or goods made by the groom and his family on the bride’s parents. Increasingly, it has become difficult to meet these demands and many young women have died for not fulfilling the expectations of the groom’s family.\(^{(72)}\)

\(^{71}\). Ibid.

In following two cases of bride-burning coming before the Courts it was alleged that insufficient dowry was the cause of death. In *Kailash Kaur v. State of Punjab,* (73) Amandeep Kaur, the deceased, was married to Avtar Singh. The husband and his parents were allegedly unhappy about the quantum of dowry brought by the deceased and she was being subjected to severe harassment and maltreatment with a view to extract more dowry from her parents. On May, 30, 1974, in the evening, Kailash Kaur (mother-in-law), and Mahinder Kaur (sister-in-law) started quarreling with the deceased and severely abused and threatened her. When the deceased was in her room the Mahinder Kaur caught hold of the deceased and Kailash Kaur poured kerosene oil on her and set her on fire. Thereafter, she was carried to Hospital, Hoshiarpur and Amandeep Kaur expired on June 1, 1974.

In another case of *Jaspal Singh v. State of Punjab,* (74) the deceased Surinder Kaur was married to the appellant Jaspal Singh about three years prior to the occurrence. After the marriage the appellant had been making a grievance against the deceased for having brought insufficient dowry in their marriage. He was maltreating the deceased and was coercing her to bring a motorcycle for his use from her parents. Consequently the appellant strangulated Surinder Kaur to death and set

73. 1987 Cri. L. J. 1127.
74. 1984 Cri. L.J. 691 (P & H HC).
her body on fire in a pyre made of cow-dung-cakes and fire wood in a room.

(viii) Desire to Have Luxurious Life Without Efforts

Going into the reasons of demand for dowry, the economic exploitation of the girl’s parents appears to be one of the cause. The boy’s parents fully exploit the socially advantageous situation of bride’s parents. It is nothing but greed. Those who demand dowry consider marriage also as merely another way of making money and boys as valuable commodities which can be bartered to obtain the social necessity of a wife and a lot of money and material to enrich the coffers of the family. For them marriage is devoid of everything but the material aspect is a mere exchange of two body masses without having anything to do with the mind and the heart. Thus, the greedy in-laws have now taken to ‘Tantric’ help to do away with the brides. Many husbands have deserted their wives charging them with failure to bring enough dowry.

In most cases, the greed of husband and in-laws drives them to contemplate and execute murder. The greedy disgruntled husband and in-laws may conspire and kill the bride with a view to remarry and receiving a more


handsome dowry.\(^{77}\) Cases where this greed has assumed extreme proportions and not only the bride has been murdered for the failure of her parents to fulfil the dowry demands but the atrocity has been repeated after a second and even a third marriage are also not unknown. Cases of repeated marriage for dowry and shortly afterwards pushing the unfortunate wives out of the house are also not lacking.\(^{78}\)

Full dimensions of this problem of cruelty which appears to be the fate of such a large number of brides in India is best illustrated by an Allahabad decision in Vinod Kumar v. State of U.P.\(^{79}\) This was the story of a young girl, Amita alias Babli aged about 22 years who was married to Vinod Kumar on 9.5.83 in Saharanpur. It was alleged that Vinod Kumar did not treat his wife properly after the marriage and he forced her to bring Rs. 2,000/- from her father. After this demand was met, there were several other demands including a T.V. set which was also provided by her father. Even then, the accused used to torture his wife and maltreated her. She was also assaulted for compelling her to bring more money from her father. Her husband on 13.5.84 had again asked her to bring more money from her parents and on her refusal to act accordingly, she was maltreated and her husband by

\(^{77}\) Khan, M.Z. and Ray, Ramji, "Dowry Deaths", A Paper Presented at the All India Seminar on Women, Crime and Law in India, (January 14-18, 1985), New Delhi, p. 4.

\(^{78}\) Atray, J.P., op. cit.

\(^{79}\) 1986 ALL. L.J. 1438 (All. HC).
saying that he would not see her face in future had poured kerosene oil on her and set her on fire and ran away. She succumbed to her injuries same day in the Hospital.

In another recent case, Justice S. Mohan of the Supreme Court observed that the root cause for killing young bride or daughter-in-law is avarice and greed. All tender feelings which alone make the humanity noble disappear from the heart. Kindness which is the hallmark of human culture is buried. Sympathy to the fairer sex, the minimum sympathy is not even shown. (80)

2. Incompatibility Between Husband and Wife

There could be another explanation for a bride-burning. Adjustment in new environment becomes problematic particularly in a joint family. Conflicts arise between husband and wife and daughter-in-law and parents or siblings-in-law right from the beginning. Over small conflicts, therefore, the girls rush to their parents' house to seek their (Parents') sympathy. The parents generally advise them to go back and adjust. These girls, therefore, remain frustrated, unable to cope with the harsh realities of married life and getting no emotional support either from their husbands or their own parents. In some extreme cases, they seek the easy way of "ending it all" by committing suicide. Some of the cases, thus, reported as dowry-deaths are in fact cases of impulsive

suicides. Psychologists have maintained that most of our women suffer from a martyr complex. A large number of cases are more suicide-prone in the age-group of 18-30 years because in this age, rapid hormonal changes in her body make a woman more excitable, depressive and vulnerable. When they experience tensions after marriage instead of love and affection from the husband and the family, they take their own lives, often on flimsy pretexts.\(^{(81)}\)

It is claimed that the majority of the cases reported to police as dowry demands are in fact cases of marital incompatibility. A lady Deputy Police Commissioner (DCP) of Delhi, in charge of the Anti-Dowry Cell set-up in March 1983, maintained that 90% of the cases registered with them have no connection with dowry, and that many of these are related to problems of maladjustment between husband and wife due to a variety of factors like physical or mental incompatibility, the wife resenting her mother-in-law's domination and wanting to live separately. Since there are no "biradaris" or panchayats to settle such disputes, the issue is made out to be a dowry issue taking advantage of the prevailing pro-bride wave.\(^{(82)}\)

It appears that large number of cases of bride-burning or suicides are not related to dowry, but they

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82. Ibid.
are the tragic consequences of incompatibility between husband and wife. They will continue to be so till men and women can face marital conflict squarely in the face and say to each other and to themselves that they had better part like friends. Anjali Deshpande claims this is not possible because all our ideas of 'character' and fidelity stem from the concept of a one-man woman. (83)

A newly married woman is required to bring about myriad adjustments with her husband. If they live in a joint or extended household, she is required to work out equations with a bewildering range of in-laws. But the newly-wed may find herself against many tangled adjustment problems. Quite a few of them may find themselves deep in acute frustration and despair. (84)

In Indian society, the choice of a spouse remains very largely a matter for negotiation and decision by the family elders. (85) As the custom prevails in a large number of cases arranged marriages are performed with the parent's consent. Elders choose a spouse, considering factors like dowry, whereas the match is totally unsuitable either because the boy is handsome and the girl is not beautiful and having not good features or the boy is educated where as the girl is uneducated. These

84. Khan, M.Z. and Ray, Ramji, op. cit., p. 4
factors ultimately lead to adjustment problems.\(^{86}\)

In India, even today the joint family system is predominant and the bride had to live with the parents of the groom after marriage. The parents want to have authority over the bride and in case if she opposes this it leads to conflict, which in turn leads to the torture of the bride.\(^{87}\)

J. N. Choudhary observed that strained relations between spouses may arise because of the difference in occupational status, income, employment of the wife or unemployment of the husband etc. The marital relations also become strained because of the family environment (structure of the family), chronic disease, immaturity at marriage and wide age disparity between the spouses. All these factors create conflicting situation in the family.\(^{88}\)

According to Choudhary another source of stress and conflict for the partners arises out of the fact that they may frequently be required to participate in a variety of social roles. For example, a woman is expected to play the role of a wife, a mother, a companion and a life-partner. Different roles require

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86. The Vice-versa is that match is totally unsuitable because the girl is beautiful and the boy is not handsome and the girl is highly educated and the husband is less educated than his wife.

87. Gupta, Vijay, op. cit.

different types of behaviour. In families where the traditional role patterns remain strong, conflict may arise when the wife attempts to assume a new role not consistent with the traditional role. Many husbands object to any assumption of authority by their wives in a field they (husbands) consider their own. When such role conflict persist, marital instability may be imminent. (89)

3. Illtreatment - Desire to Have Son and Not Daughter

Indian social system gives considerable importance to the birth of a male child. In Hindu society a male child is considered not only desirable but a religious necessity. This lure for male child often generates conflicts when wife fails to procreate a son. There are number of incidents where women are terrorised and even killed for being unable to produce a male child. Parental preference of sons give rise to female foeticide. With the introduction of sex determination test in our country female foeticide are mostly aborted. (90) D’Souza reports that of 8000 abortions that followed sex-determination test only one involved a male foetus i.e. 7999 : 1 ratio. (91)

89. Ibid. p. 111.


The root cause behind all these incidents is the concept of patriarchy. The patriarchal ideology and joint form of family exist as a cultural norm. The patriarchal family in India is also patrilocal and patrilineal male possessiveness and woman subordination is accepted as a social norm. (92)

In the patrilineal family, a son is looked upon as the natural successor, supporter and heir of the family. A father relives through his son. Unlike a daughter who must change loyalties after marriage, a son is considered to be a good investment and an insurance for the future. (93) The strong preference for a son has to be understood in terms of dowry interlinked with the family.

It is mainly the cultural milieu that accounts for the gender discrimination and dominance of patriarchy. The major reason behind the subordination of woman is the institutionalisation of the mother-house wife role as the primary role for all women. (94) Papanek also supported the contention that, "it is generally true that in India, women's sense of personal worth is related to her fertility performance and the social standing she


93. Ibid. p. 188.

receives as a mother of sons." (95)

This trend has been in existence since Vedic period. As the scriptures say that the son alone is competent to redeem his parents from hell, women are considered only as the vehicle for bearing sons and when they are unfit or unwilling to perform this function, they are considered useless. (96) According to the Aitrya Brahman, a daughter is a source of misery and a son is the saviour of the family. Parents prefer a son because he would always remain with them, to be support to them in their old age and helplessness, continue the family line, offer oblations to ancestors for their spiritual benefit and add lusture and glory to the good name of the family by noble and brilliant achievements. (97)

Economically a female child is considered a drain on the family purse. She takes away considerable money in the form of wedding expenses and a dowry. As she grows up, a girl is trained in the parental home to take up the role of a house wife, but when she takes the role she has been groomed for, she becomes an asset in the house of the in-laws. (98)


98. Sinha, Archana, op. cit.
In every household in India a son is preferred to a daughter. The desire for a son sometimes becomes an obsession. Even now, while education, science and culture have taken big strides, the craving for a male child in the people has not changed. This sort of propensity is strong even with middle-class and the poor. Unmindful of their strained circumstances, these people go on producing a series of daughters for the ultimate glory of a son. They calculate that the son will receive dowries on his marriage, earn and support the family and look after his parents in their old age. The daughter is a 'parayadhan' (other's property) who leaves her parents for good, taking a good chunk of their resources in the shape of dowry. \(^{(99)}\)

In rural areas, woman as a daughter is never welcome. The birth of even a fifth son is an occasion for congratulations, whereas the coming of even the first daughter plunges in the whole household into disappointment, if not mourning. The birth of a daughter is generally regarded as a decree for fifty or sixty thousands against the parents. \(^{(100)}\)

The desire for sons and women's slavery also common to better-off homes as well as in lower middle-class and other class. This vital factor binds these and many more.

99. Tikoo, P.N. op. cit., p. 27.
victims of bride-burning. If the bride gives birth to a daughter or in case if she has no son, she is looked down upon, tortured, burnt to death or being pushed to commit suicide or she herself commit suicide to save her from husband's and in law's taunts. In certain cases, when the bride does not give birth of a son, within few years of her marriage, the boy used to go in for second marriage and the alternative is to get rid of the bride by burning, strangulating, poisoning and so on.

Even in some cases, if a bride is incapable of producing offspring, within few years of marriage she is illtreated, harassed and tortured or burnt to death. She becomes the victim of taunts commented by her husband and in-laws and particularly by her mother-in-law and sister-in-law. She is treated as barren (banjh). This problem is not only confined in middle or lower class but it is also frequently prevalent in higher educated and higher cultured society. Sometimes, she is compelled to commit suicide and her husband is advised to get second marriage.

In case of Virbhan Singh v. State of U.P.\(^{(101)}\), it was observed that the reason for the torture and murder of the innocent wife in the present case was that she was considered an "inauspicious" girl. That was for the reason that she did not bear children for four or five years after the marriage and even though thereafter, she

\(^{(101)}\) A.I.R. 1983 SC 1002.
conceived twice and successively gave birth to two male babies, both those babies did not survive beyond a few weeks or days. Having branded the young wife as inauspicious, the selfish animal nature in the husband and his parents came out in the form of their determination that the husband should remarry after doing away with the obstacle in the shape of his existing wife. That led the husband and his mother to commit the dastardly murder of the young wife in a most gruesome fashion.

These are all frightening indicators of a deep-seated social malaise, whereby it seems all right for a male dominated society to victimise powerless woman. There are the violence in latent and manifest forms against women rampant even at the close of the 20th century. \(102\)

4. **Rigidity of Divorce Law**

Marriage constitutes the very basis of social organisation and creates mutual rights and obligations between husband and wife. Shastric Hindu Law regarded it as not only indissoluble but also eternal. This sacramental character of Hindu marriage gave rise to certain anomalies.\(103\) In traditional Hindu society, woman had no right to break the marriage tie. Manu, the

\[102\] Sinha, Archana, op. cit., p. 43.

ancient law giver, laid emphasis on the principle of indissolubility of marriage. He declared:

"Let the mutual fidelity continue until death, this may be considered as the summary of the highest dharma". (104)

Divorce was unknown to high caste Hindus, comprising three Varnas. Marriage bond was indissoluble not only for this life but for lives to come. The older generation usually accepted the life pattern believing it to be pre-ordained by destiny, and tried to make the best of the lot. The Hindu society which was inextricably bound by caste ethics and discipline did not permit its members to go against its caste rules. The violation of the rule led to immediate ex-communication from the caste-community and to almost insurmountable problems. (105) Thus, Hindus conceived of marriage as a sacramental union or a holy union. It was a sacrament in the sense that a wife could never ask for divorce, or for another husband, even if her husband was a lunatic, impotent, a leper, a deserter, a chronic patient of venereal diseases, or even a eunuch, or a dead man. As regards the husband he, could always mock at this sacrament with impunity and arrogance by taking another wife into another and he would do so as many times as he liked. (106)

104. ‘Manu’, IX-10.


It is evident that ancient Hindu law did not recognize divorce. Nor did any other matrimonial causes find a significant place in the law of marriage and marital relations. During the British period, the courts started granting relief in certain hard cases on the basis of 'dharmshastric' law\(^{(107)}\) or justice, equity and good conscience.

Though, the Hindu Marriage was an indissoluble sacrament till the Hindu Marriage Act of 1955, there were provisions even before that for a marriage to be dissolved. The first legislation with regard to the dissolution of marriage was probably enacted by Kolhapur state in the 1920's. The State of Baroda follows suit in 1942. The Bombay government also passed an act in 1947 permitting divorce. Madras and Saurashtra followed the example of Bombay in 1949 and 1952 respectively. And there was the Special Marriage Act of 1872 and 1926.\(^{(108)}\)

The successive individual and collective efforts to mitigate the hardship of women and elevate their marital status culminated in the passing of the Hindu Marriage Act, 1955.\(^{(109)}\) Now marriage is no longer

\(^{107}\) In a broad sense, 'Dharmshastric Law' means the old uncodified Hindu Law based on divine and religious literature of antiquity.


\(^{109}\) Act No. xxv of 1955 received the assent of the president of India on 18th May, 1955 and published in the Gazette of India, Extraordinary, dated May 18, 1955, part III, section 1. It came into force on 18th May 1956.
treated as a union for life, or regarded as an indissoluble union of husband and wife. The husband or the wife can now file a petition in the court for granting judicial separation or divorce. Section 9 to 13 of the Hindu Marriage Act, 1955, for the first time systematically codified the law of matrimonial relief including restitution of conjugal rights, nullity of void and voidable marriages, judicial separation and divorce. Thus, in the modern Hindu Law three theories of divorce i.e., faults grounds, breakdown grounds and divorce by mutual consent are recognised and divorce can be obtained on the basis of any one of them. Further, the customary mode of divorce is also retained.

The judicial separation as provided under section 10 of the Act either leads to reconciliation or to divorce. In exceptional circumstances it may mean permanent separation, such as, when parties abhor each other as much as they abhor divorce. Judicial separation is considered to be a lesser evil since it leaves open the door for reconciliation.\(^{110}\) Judicial separation is usually granted on certain specified grounds. Sometimes the grounds of judicial separation and divorce are different; sometimes the grounds are the same such as the case under the Special Marriage Act, 1954. The Marriage Laws (Amendment) Act, 1976 makes the ground of divorce and judicial separation common, with the result that an

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aggrieved party, if he or she so chooses, may sue for divorce or judicial separation.

Ordinarily, the Court will rescind the decree whenever parties ask for it. If the cohabitation is not resumed for a period of one year or more after the passing of decree of judicial separation, any party may apply for divorce under section 13(1-A) (i) of the Hindu Marriage Act.

The Hindu Marriage Act, 1955, originally, allowed divorce only on the fault theory. The Marriage Laws (Amendment) Act, (111) 1976, however, liberalised the relief grounds upto some extent. The enshrined nine fault grounds in section 13 (1) of the Act, provides that, either the husband or wife can seek divorce on grounds of extra-marital sexual intercourse (adultery), cruelty, desertion, conversion, incurable and serious mental disorder, virulent and incurable form of leprosy, communicable venereal disease, renunciation of the world and presumption of death which arises when a spouse is unheard for a continuous period of seven years. Section 13(2) of the Act provides of four special grounds on which wife alone could seek divorce.

The Marriage Laws (Amendment) Act, 1976, inserts a new section 13-B, under which divorce by mutual consent on

111. Act No. 68 of 1976 received the assent of the President of India on May 27, 1976 and was published in Gazette of India, Extraordinary, part II, section 1 dated May 27, 1976.
recognised. That section lays down that a petition for the lines of the Special Marriage Act, 1954, is divorce by mutual consent may be presented jointly by both the spouses with the following averments that:

(i) They have been living separately for a period of one year,

(ii) They have not been able to live together, and

(iii) They have mutually agreed to live separately.

On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree. (112)

It is clear from the above provision that after the presentation of the petition, the parties are required to wait for six months, though not for more than eighteen months, and then to move a motion in the court that divorce be granted. The parties are also free to withdraw

112. Section 13-B (2)
the petition at any time. But once a joint petition has been moved, one of the parties to it cannot withdraw the petition or his or her consent to the petition.\(^{113}\) If no motion is moved within eighteen months, the petition shall stand dismissed. The period of eighteen months is an upper limit for the withdrawal of the petition, but the court has power to grant divorce even after the expiry of that time if other conditions are fulfilled.\(^{114}\)

No doubt, section 10, 13, 13(1-A) and 13-B of the Hindu Marriage Act contains provisions for providing matrimonial relief to the battered wives but these provisions are only illusory and it has to remain only on the pages of the books. Still the unfortunate brides are not able to get the protection of these provisions. Since the marriage the persistent demand of dowry becomes the routine work, the brides become the victim of violence and harassment by the cruel hands of their husbands and in-laws. Persistent demand of dowry amounts cruelty and till now it has not been included under the head of cruelty for the grant of the matrimonial relief in Hindu Marriage Act, 1955.\(^{115}\)

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115. For the first time the Supreme Court in \textit{Shobha Rani} v. \textit{Madhukar Reddy}, AIR 1988 SC 121, has given a new dimension to the concept of cruelty, while granting divorce to a woman on the ground of persistent demands for dowry.
The 71st Law Commission Report submitted in 1978 recommended the introduction of "irretrievable breakdown of marriage" as a ground for divorce. For the first time, the Law Commission recommended introduction of this as a new ground for divorce. Consequent to the recommendation, a bill was introduced in Parliament in February, 1981, providing for the amendment of Marriage Laws to introduce this as a ground for divorce. The Women's Organisations argued that such a provision was not in the interests of the vast majority of Indian women. The opposition to the Bill was so forceful that the government yielded to their demand and the Bill was dropped. (116)

Section 14 of the Marriage Laws (Amendment) Act, 1976, lays down that no marriage may be dissolved unless the period of one year (117) has elapsed since the solemnization of the marriage though in the case of exceptional hardship to the petitioner or exceptional depravity on the part of the respondent, the marriage may be dissolved earlier. This is based on the assumption that it is the duty of every married person to give fair trial to the marriage. The drawback of this provision is that under section 14 of the Hindu Marriage Act, there is one year bar to divorce. A petition for judicial


117. Originally it was three years period at par with the Matrimonial Causes Act, 1950.
separation or divorce can be presented to the court only after one year has elapsed from the date of the marriage. This is, however, relaxable in case of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent. But the terms 'exceptional hardship' and 'exceptional depravity' have not been defined in the Matrimonial Causes Act from where they have been borrowed. They have also not been defined in the Special Marriage Act or the Hindu Marriage Act. The words 'hardship' and 'depravity' are of wide ambit but they have been qualified by the word 'exceptional' which means beyond the ordinary run of complaints which come before the court.

Since the date of their marriage, they become the victim of harassment and torture and they are kept in a dingy room for a days by their husbands and in-laws. Their expectations and dreams about marital life go in vain after few months of the marriage. How they can knock the door of the court for divorce unless the period of one year has elapsed from the date of marriage. They are required to wait for one year for the presentation of the petition of the divorce. On the other hand the husband and in-laws also cannot wait for one year because they and their parents want to get rid of the bride as soon as possible in order to perform second marriage with a view to obtaining the handsome dowry again. In order to get rid of the bride before the elapse of the one year, the
husband and in-laws used to beat, torture and even burnt to death to the young brides to give the colour of suicide and sometimes compelled to the brides to commit suicide. In some cases the brides themselves commit suicide at their own wishes to escape from the hellish life.

The other reason that after the elapse of one year, the brides do not opt for divorce due to the social and economic insecurity. Many brides are returned to their parent’s home as they cannot tolerate the harassment.

A divorced woman is looked down upon by the society and does not enjoy good social status in society. Even a divorced woman is not given welcome at their parental home. In many cases it is felt that divorce is not only failed to solve the problem but creates more. Several divorced women feel that it would have been better for them not to have gone for a divorce at all.

When a woman having a child seeks divorce, future of the child is doomed. Moreover, a divorced woman may face a lot of problems in negotiating her remarriage. Even after remarriage she may suffer from inferiority complex which may affect her conjugal and social life. (118)

Rama Mehta analysed the case histories of the twenty five respondents in the lower middle class, in Delhi, Bombay and Udaipur. He remarked the reasons why the divorced women were not welcome in their parental homes were due to four main causes:

(i) where parents were no longer living, brothers and uncles were not prepare to carry the financial burden of supporting them and their children for an indefinite period;

(ii) the family was afraid of getting a bad name because of a divorced daughter. This cast a blemish on the family name thus jeopardizing the future prospects of marriage of their other female children and of getting a girl from a good family as a daughter-in-law;

(iii) the fact that the respondents did go out either to work or to study made the relatives anxious about what others may say of them because they were in contact with men. The need to keep the family name above reproach in order to ensure the well being of other members, was always the guiding principle of action;

(iv) there was also a sense of reduced responsibility for a girl once she was married. There was pain at seeing her suffer but parents seemed to feel they had discharged their duty towards her. Their first concern was for their unmarried girl’s future than that of a divorced daughter’s future\(^{(119)}\).

Further he observed that after divorce the majority of the respondents found it difficult to establish a satisfactory social life. They were for the most part confined to the home meeting only their relatives. This

119. Mehta, Rama, op. cit., p. 16.
was mainly because they themselves were embarrassed to go out as there was in the beginning a considerable loss of self-esteem in the women. Though only three of the fourteen respondents reported that there was overt hostility towards them, the majority felt that they were looked upon as 'marked women', who at best were regarded as unfortunate women who had no home of their own. (120)

(B) Situation-Social and Economic Factors In Bride-Burning

The other factors which lead to the cases of bride-burning may be covered under the head of social and economic factors. Ram Ahuja in his book, *Crime Against Women*, observed that the economic situation in a bride's conjugal home contributes much to her adjustment soon after her marriage. It may be often a cause of her humiliation and cruel treatment. In a materialistic society, there are constant pressures on individuals and families for having more and more money not only to provide more comforts to themselves and family members, but also to have some future security. (121)

Further, he noted that on rough estimate the ratio of male and female was almost equal in these groups and there should be no need to pay and get a husband. But

120. Ibid.
121. Ahuja, Ram, op. cit., pp. 113-114.
for economic security. The boys postpone their marriage every parent and his daughter want a boy with a job and till they get jobs. Since the problem of educational unemployment exists in its active form in our country, in many cases the boys have to spend money to get jobs. The parents have already spent money in getting their sons admitted to good institutions, in completing their education, in getting their daughters married, and so forth. They, therefore, accept money at their son's marriage out of economic necessity. The problem of dowry is, thus, basically a problem of demand and supply.\(^{(122)}\)

It is axiomatic in every society that a woman has less intrinsic value than a man. And dowry is not just a bad isolated custom but a typical expression of a socio-economic system built on that axiom.\(^{(123)}\)

1. Socio-Economic Inequalities

Today, the status of woman is linked up with India’s socio-economic development which is again caught up in the web of world-wide capitalism. Such development can generate job opportunities only for few and encourage a limited enclave type of ‘modernisation’. The result is a widened socio-economic gap between man and men and between men and women. The traditional and high caste customs suggest that the men are always economically and socially

\(^{122}\) Ibid.

\(^{123}\) Tikoo, P.N. op. cit., p. 30.
'superior' and this demonstrates their value in the marriage market. (124)

The system of mate selection seems to have become a matter of calculation where both the parties try to gain and advance socially and economically. One deliberates and manipulates in order to obtain the most profitable economic and social transactions.

The model of transaction of dowry forms an ideological part of the well-to-do sections of society now and the less well-to-do sections are influenced to imitate it as a mechanism of upward social and economic mobility. (125) More so, the social environment of urban milieu allows the vulnerable sections to adopt more easily the social practices associated with the higher castes and classes. (126)

Dealing with the economic aspects of dowry and bride-burning the Supreme Court in case of Ashok Kumar v. State of Rajasthan (127), observed that bride-burning

124. Gail Omvedt, "We shall smash this prison someday", The Illustrated Weekly of India, April 8-14, 1984, p. 38.

125. Paul, Madan C. op. cit., p. 27.

126. Luthara, Arati, "Dowry Among Urban Poor : Perception and Practice" Social Action, 33(2), 1983, p. 30. A sense of competition to marry a girl to a family of high status to vie with neighbours and friends have become new value patterns among the prosperous sections of the society in the inflationary economy. In such circumstances, marriage proposal for some entrepreneurial classes become a business or commercial proposal to make easy money to invest in real business.

is a shame of our society. Poor never resort to it. Rich
do not need it. Obviously because it is basically an
economic problem of a class which suffers both from ego
and complex. Unfortunately, the high price rise and
ever increasing cost of living coupled with enormous
growth of consumer goods effacing difference between
luxury and essential goods appear to be luring even the
new generation of youth, of the best service, to be as
much part of the dowry menace as their parents and the
resultant evils flowing out of it... In the present case
Asha Rani was murdered by her husband and brother-in-law.
Sadly for Rs. 5,000/- or an auto rickshaw which her
father of seven daughters could not afford even though he
suffered the ignominy of her being beaten in his presence
by her in-laws at his own house.

2. Economic Inequality - Unemployment and Poverty of
Husband and In-Laws

The economic dependency of women continues to be a
fundamental feature of any society, especially with regard
to middle class and upper middle class families.
Economic inequality, unemployment and poverty have direct
bearing on cases of bride-burning in India. Economic
dependence determine the relationship of husband and wife
not only in India but even in other countries. For
example in USA majority of women in Homer's sample were
either powerless to gain an equitable distribution of
family resources in the first place or felt unable to
withstand persistent demands made by husbands to give the money back.\textsuperscript{(128)} Hence, the nominal pattern of income distribution turned out to be largely irrelevant, for the concept of husband's right in what Bell and Newley describe as the "differential relationship" appears to have been constantly reinforced by his might.\textsuperscript{(129)} Straus maintains that economic dependency on husband is the reason for violent beating of the wife. Evidences show that the husband's power of the purse is an important factor. Economic dependency along with the acceptance of responsibility for the care and welfare of the children is important factor in this regard.\textsuperscript{(130)}

Inequality among sexes also exist in relation to employment. The problem of female employment in India begins at the very level of measurement itself. As is the case in most Third World countries women in India constitute the bulk of the "invisible labour force", especially in rural areas. Statistical data measure employment largely in terms of cash income and so fail to provide an accurate index of the female contribution to

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the national economy. The size of this "submerged activity" can be gauged from the estimates of the National Sample Survey 1977-78, which classified around 44 million rural women as engaged in domestic work and another 27 million as suppliers of free goods and services. The failure to take into account this enormous workload handled by women prevents the full understanding of their economic planning needs.^(131)^

Table 1 below demonstrates that the work participation rates of main workers as recorded in the 1981 census in the country are 52.61 percent males and 13.99 percent females which are higher than that recorded in the 1971 census as 51.62 percent males and 12.06 percent females. The work participation rates of main workers in both rural and urban areas are higher than

those recorded in the 1971 census. Significant increase may be noticed in the case of female work participation rate. In rural areas, this rate increased from 13.36 percent in 1971 to 16.00 percent in 1981. There has been increase in the rate in the urban areas also from 6.65 percent in 1971 to 7.28 percent in 1981.

In Uttar Pradesh there has been a marked differential in work participation rates between males and females (See Table 2, below). Although over the years,

**TABLE - II**

WORK PARTICIPATION RATES OF MAIN WORKERS BY SEX IN U.P. (TOTAL, RURAL, URBAN) FROM 1971 TO 1981.*

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th></th>
<th>1981</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males</td>
<td>Females</td>
<td>Males</td>
<td>Females</td>
</tr>
<tr>
<td>All Ages</td>
<td>52.24%</td>
<td>6.71%</td>
<td>49.61%</td>
<td>6.02%</td>
</tr>
<tr>
<td>Total</td>
<td>52.98%</td>
<td>7.27%</td>
<td>50.17%</td>
<td>6.54%</td>
</tr>
<tr>
<td>Rural</td>
<td>47.85%</td>
<td>3.10%</td>
<td>47.10%</td>
<td>3.58%</td>
</tr>
</tbody>
</table>

* Source: Census of India, 1981.

both rates have been declining, the fall in the female rates has been faster than that of the male rates. In 1971, in U.P., 52.24 percent of the total population of the males consisted of main workers and 6.71 percent of the female main workers. Among rural areas, 52.98 percent males and only 7.27 percent females were main workers. In urban areas, 47.85 percent males and only
3.10 percent females were main workers. According to the Census of 1981, in U.P. 49.61 percent males and 6.02 percent females are main workers. In rural areas, 50.17 percent males and 6.54 percent females are main workers. In urban areas, 47.10 percent males and 3.58 percent females are main workers. The 1981 census data also shows that only 6.02 percent females are main workers in 1981 with compared to 6.71 percent females in 1971.

Even in regard to these rates, it is felt that the actual number of unemployed women may be much higher than those recorded, because the constraints on mobility, lack of opportunities for acquiring skills and of access to information prevent women from seeking employments.

Several studies conducted in India demonstrate correlation between bride-burning on the one hand and economic inequality, unemployment and poverty on the other. Deaths in Delhi, U.P. and other states attract the most attention. In U.P. the upward thrusting middle class and lower middle class accounts overwhelmingly for the tragic incidents. In Delhi, the brides burn in homes where the income is likely to fluctuate, and families are large and space little. According to a newspaper report, in two-thirds of the 33 cases studied in Delhi, the husband had no steady source of income. They were either an autoriksha driver, or a self employed mechanic or a bookseller at the Railway station or worked on daily wages, or a DTC Conductor or an NDMC employee.\(^{132}\) Most

\(^{132}\) Indian Express, (New Delhi), August 15, 1983.
of these men had neither a guaranteed income nor a distinct professional identity. Many of them had day to day earning and often were just hand to mouth. In this situation of insecurity and tension the girls' family are sometimes the only source to tap for money. Many families had six or more members not necessarily employed. They required support instead of providing it. They made more demands of dowry upon the daughter-in-law.

Bina Aggrawal has reviewed all available data and studies to show the inter linkage between gender, poverty and agricultural growth. The question that has been posed in recent years is: does the burden of poverty fall more heavily on women than on men? She concluded that the basic assumption in this exercise is that all members of the household are poor and secondly that all are equally poor. (133)

Women also have unequal control and access to cash. (134) Wages for agricultural work even when paid to women are taken over by men. (135) In some regions where husband-wife teams or family labour is employed, the cash is handed over to the male. Seasonal fluctuations in employment affect women much more because their work is


135. See f.n. (128) and the text accompanying it for position of women in U.S.A.
more task specific. In some places, this subordination leads to sexual exploitation also as in some districts of Uttar Pradesh. Many micro studies have demonstrated the inverse relationship between income level of the household and women's participation. (136)

Unemployment and under-employment have been burning problems in India causing and adding much to the human misery. It has become a malady having complex set of factors. The multiplicity of causes that lead to unemployment are difficult to differentiate from other forces of society. Though, unemployment has been considered mainly an economic problem, it is a social problem as far as its effects are concerned. (137) The problem of unemployment is always prone to assume serious proportions. In India too, the problem is acute with a tendency to become chronic. (138)

The economic problems arising out of unemployment affect a person's social and personal standing both within and outside the family. If the situation persists any length of time it might even lead to increased anti-


social and criminal activities. Employment enables one to meet and satisfy the different demands in one’s life.\(^{(140)}\)

The problem of poverty due to unemployment are the concern of economists. Frustration though mainly a psychological phenomenon, its effects, however, would be disastrous to society.\(^{(141)}\)

The Bhagwati Committee on unemployment stated that out of 40 percent poor in rural India, the lowest 10 percent belonged to households with a disproportionately larger burden of dependents.\(^{(142)}\)

Blumberg and Dwariki conducted their study on educated women of Bangalore city in two phases. They observed that most women believed that their broader experience would make them more tolerant in their relationship with their in-laws. The authors concluded that women, who tried to meet the traditional role obligation of the Indian wife and mother and also spent many hours away from home in a paid employment, were experiencing a role overload or a double day.\(^{(143)}\)

\(^{140}\) Parvathamma, C., op. cit., p. 4.

\(^{141}\) Ibid., p. 74


\(^{143}\) Blumberg, R.L. and Leela, Dwariki, India's Educated Women : Option and Constraints, Hindustan Publishing Corporation, (Delhi, 1980), p. 68.
According to the findings of the study of Lalita Devi, employment has contributed significantly to raise the status of women in the family and that the employed woman has more status in the family than her unemployed counterpart. Her status has been examined on the basis of different activities viz., her participation in the decision-making process, extent of freedom in speaking and others\(^{(144)}\).

3. Attitude of In-Laws

During the days of child marriages the daughter-in-law would enter her in-law’s home in the subordinate role of a child. As an elder and head of the family, the mother-in-law had complete authority over her. In fact it was the duty of mother-in-law to train the stranger, the way and means of the household so as to enable her to take over the administration of the family in future. The daughter-in-law lost her individuality when she entered her husband’s home and began to adopt herself to the traditions and customs of the family both mental and physical. She had to adjust herself to the mother-in-law, sister-in-law and other in-laws. She had to respect and obey all the elder members of her family, besides attending on the home duties such as cleaning, washing, drawing water, cooking, rearing children, tending cattle,

nursing the sick and aged, etc. But in the present society, the daughter-in-law is no more a child, particularly the educated working woman is not at all a child to obey and to be sub-servient to her mother-in-law. But she happens to be a woman of more self-confidence, knowledge and experience and views more sternly the mother-in-law’s superiority. There are usually more educated than their mother-in-law. They have studied the theories of child care, house-keeping and the behavioural patterns and they are now more aware of the society than the mother-in-law. All these pursuits deprive and nullify the mother-in-law’s superior position, elderly personality and source of knowledge and tend to prone to the frictions between them, particularly if they happen to live in the same house. Now the young couples desire in more numbers to have a separate shelter when they are married.

Most probably troubles come from mother-in-law’s side. Having accustomed to work from childhood and with the completion of marital obligations, the old mother-in-law faces boring and unworthy situation in killing time. As is said, "an idle mind is a devil’s workshop", the


mother-in-law who roams here and there without any work, tries to find fault with the daughter-in-law who is fully involved in the family work. She tries to nag the daughter-in-law at every type of work. Thus, the troubles arise on account of mother in law's unwelcome interference and nagging.\(\checkmark\) A mother-in-law, who is authoritarian and meddlesome gets displeased when the daughter-in-law is not good at cooking and obstructs her mother-in-law in having good relationship with the husband. Often, she treats her daughter-in-law as a captive, and in some cases, as a domestic servant.\(^ {147}\)

Mobel Fonseca quotes one of her subject’s remarks: "I was hated, ill-treated, harassed, assaulted, beaten etc. He (husband) was prohibited by his mother to stay with me". Again, her study states: "the mother-in-law dictated the husband in his marital rights and in one case she even refused to let the couple share the marriage bed. In some cases where the daughter-in-law is childless, she is reprimanded and ill-treated severely and in the case of daughter-in-law, who has given birth to all female issues, was beaten, scolded and nagged regularly. In some instances, the daughter-in-law is even branded. The daughter-in-law here is an unhappy victim of ostracism, suspicion and superstition and is considered at times as a harbinger of evil".\(^ {148}\)


The maiden sister-in-law also some times creates frictions between mother-in-law and daughter-in-law. When daughter-in-law comes to new house the brother may be generally very close to his wife in the early years of marriage. At times, sisters may be neglected. In such instances, the sisters feel isolated and deprived of their brother's love and affection. As a result, they try to find fault with the daughter-in-law. She is misunderstood to have captured and prevented their brother from keeping close contacts with his sisters.\(^\text{149}\)

When bride happens to be the only daughter of her parents, she finds even more difficult to adjust to the new environment. Sometimes, she is over dependent and seeks help and attention of her parents. In such circumstances, the disputes and discords between mother-in-law and the daughter-in-law increase considerably. On such complex occasions, it is difficult to pinpoint exact cause, the person or the situation responsible for discord. In such cases, the embarrassed and puzzled husband is a silent spectator and is overwhelmed by two forces pulling towards opposite directions, namely, his household and wife. In that the wife urges the husband to stay away from his parents and relatives. If not, in these crucial times, she stays with her husband and do the familial duties, but she wants her husband's assurance of kind treatment and a sympathetic dealing from the members\(^\text{149}\). Ibid.
of the house and if this is not available she could live separately with her husband. Mobel Fonseca observes that the cruelty meted out to daughter-in-law at times is so inhuman that she decides to live away from in-law’s family even deserting her husband. (150)

In some cases the attitude of the father-in-law and brother-in-law is also troublesome. The brides are subjected to torture and cruel treatment by their father-in-law and brother-in-law due to the bringing of inadequate dowry. The following decided cases are illustrative of this situation.

Recently, in a case of Smt. Kamala v. State of Punjab (151), the deceased was married to Ramesh Kumar the son of the appellant (Smt. Kamala) about 1½ years prior to the occurrence which took place on 29.9.79. The deceased was living amicably with her husband at Ludhiana and gave birth to a male child who was about 5 months old when the incident took place. Though the relations between the deceased and her husband were cordial, the appellant who was the mother-in-law of the deceased and Gurdial Mal, father-in-law were not satisfied with the articles of dowry and they were illtreating the deceased. On the day of occurrence the appellant and her husband had a quarrel with the deceased regarding the insufficiency of dowry. At that time the husband of the deceased was also there.

150. Fonseca, Mobel B, op. cit., p. 120.
but he did not interfere. When the deceased was busy in
the kitchen, the appellant sprinkled kerosene oil on the
clothes of the deceased and set her on fire. The deceased
was immediately removed to the hospital. Later she
succumbed to the injuries.

In another recent case, the attitude of the in-laws
happened to be very barbaric. In the instant case a young
girl Rita became the victim of fire. The accused persons
used to harass her for not bringing sufficient dowry and
pressed her parents to provide sufficient cash in lieu of
dowry. For that reason she was beaten by the members of
the family and sent to her parental home before the
occurrence. Only about 21/22 days before the date of
occurrence due to the intervention of some respectable
persons she returned to the house of her husband but there
was no change in the attitude of the family members. On
March 17, 1979, Om Prakash her husband along with his two
sisters Kanchan and Sushma caught hold of Rita and brought
her in the inner compound of the house. Rup Lai, the
father-in-law said that she should be burnt. Sheela
Wanti, the mother-in-law, brought the Kerosene oil and
sprinkled it on her body and then her husband set her on
fire. Rita succumbed to her injuries on March 29,
1979 (152).

4. Lack of Education in the Family

The Constitution of India and host of other

Statutes 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 boon of raised status, mainly because majority of them are devoid of education, even the elements of literacy.(153)

Such lack of education has its impact upon the whole social structure including the educated also and lower facilities for the girls or women within the household, inequality of wages between female and male labour, the burden of the domestic work resting upon women unshared by male members even when women are working outside all day long.(154)

Illiteracy is the greatest barrier to any improvement in the position of women in employment, health, the exercise of legal and constitutional rights, in attaining equality of status and equal opportunities in education itself.(155)

Female literacy and education alongwith employment and income, are decisive for the improvement in the quality of the family's life. The female literacy


154. Ibid.

155. 'An Analysis of the Situation of Children in India', United Nations Children's Fund Regional Office for South Central Asia, (New Delhi, 1984), p. 76.
percentage is still only a little more than half that of males. And the gap between the two, in percentage points, is not closing but rather widening from 17.02 in 1951 to 22.07 in 1981. (156)

Social attitudes towards women’s education seem still to be rather negative. According to 1971 survey carried out by the Committee on the Status of Women in India, 16.8 percent of the respondents rejected the view that girls should be educated at all, and as many as 64.5 percent disapproved of higher education for girls even if they have proved themselves to be very intelligent. What society expects of women is self contradictory: the ability to supplement the family income is a plus point in the marriage market but at the same time it is thought that the woman’s occupation should not in anyway interfere with her role as a dutiful housewife and mother. These expectations have reduced employed Indian women to overworked, harassed and exploited individuals, rushing from one responsibility to another with hardly any time left for their own needs and comforts. (157)

The level of individual’s schooling is considered to be crucial in bringing about ‘modernity’ in the outlook for a variety of activities. (158) Thus, the level of

156. Ibid.
157. Ibid.
parental education mostly that of 'father' in patriarchal societies, and that of 'mother' where socialization/education is primarily the function of family, is of significance in moulding the attitudes, beliefs and behaviour pattern of their offspring. The early socialization on the home front is likely to influence their role as adults in marital life too. In this process parental education was considered to be of importance. (159)

Inspite of all the expansion that has taken place in the formal educational system, the vast majority of Indian women have remained illiterate. In 1991, (see Table-I) the

**TABLE - I**

<table>
<thead>
<tr>
<th>Census Year</th>
<th>Literacy Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males</td>
</tr>
<tr>
<td>1901</td>
<td>9.83</td>
</tr>
<tr>
<td>1911</td>
<td>10.56</td>
</tr>
<tr>
<td>1921</td>
<td>12.21</td>
</tr>
<tr>
<td>1931</td>
<td>15.59</td>
</tr>
<tr>
<td>1941</td>
<td>24.90</td>
</tr>
<tr>
<td>1951</td>
<td>24.95</td>
</tr>
<tr>
<td>1961</td>
<td>34.44</td>
</tr>
<tr>
<td>1971</td>
<td>39.45</td>
</tr>
<tr>
<td>1981</td>
<td>56.37</td>
</tr>
<tr>
<td>1991</td>
<td>63.86</td>
</tr>
</tbody>
</table>

* Source: Census of India, 1991.

159. Mies, Maria, *Indian Women and Patriarchy*, Concept Publishing House, (New Delhi, 1980), p. 30. Mies observed that higher education not only improves one's intellectual, educational and creative abilities but it puts individuals in the hands of modernising forces.
number of female literates in the country is 39.42 percent compared with 63.86 percent literates among the males. In 1981, the number of female literates was 29.75 percent compared with 56.37 percent literates among the males. In terms of total population, it may be noted that while a little over half the male population is illiterate, the illiterates among females account for over three fourths.

In 1981 the literacy rate of U.P. was 27.16. Only 38.76 percent of the males and 14.04 of the females were literate compared with total percentage 21.7 in which 31.5 percent of the males and 10.6 percent of the females were literate in 1971. It is, thus, evident that progress in literacy has not kept pace with the growth of population. Thus, the number of female illiterates at the end of the 1970s exceeded the number at the beginning of the decade, despite a substantial increase in the proportion of female literates during the period.

Female literacy rates also differ greatly between urban and rural areas. In 1981 the literacy rate of India in urban areas was 57.19 percent and in rural areas 29.57 percent compared with 52.37 percent in urban areas and 23.69 percent in rural areas in 1971. In 1981, the literacy rate of U.P. in urban areas was 45.91 percent and in rural areas 23.34 percent compared with 50.53 percent in urban areas and 21.29 percent in rural areas in 1971. (See table II & III).
TABLE - II

LITERACY RATES BY SEX (RURAL, AND URBAN) 1981*

<table>
<thead>
<tr>
<th>Sl.No. India/State</th>
<th>No of Literates as Percentage to Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rural</td>
</tr>
<tr>
<td></td>
<td>Urban</td>
</tr>
<tr>
<td></td>
<td>Males</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>1. India</td>
<td>40.62</td>
</tr>
<tr>
<td>2. U.P.</td>
<td>35.40</td>
</tr>
</tbody>
</table>

* Source: Census of India, 1981.

TABLE - III

LITERACY RATES BY SEX (RURAL, AND URBAN) 1971*

<table>
<thead>
<tr>
<th>Sl.No. India/State</th>
<th>No of Literates as Percentage to Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rural</td>
</tr>
<tr>
<td></td>
<td>Urban</td>
</tr>
<tr>
<td></td>
<td>Males</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>1. India</td>
<td>33.76</td>
</tr>
<tr>
<td>2. U.P.</td>
<td>32.72</td>
</tr>
</tbody>
</table>

* Source: Census of India, 1971.

Imbalances in women’s and men’s education and literacy rates are the consequences of the young bride, which reflect to a great extent, the cruel attitude of the members of the family. Due to the lack of the education in the family, the members become greedy and demands for dowry are rampant. The non-fulfilment of dowry has serious implications among the members of the family.
The one of the reasons for the problem of bride-burning is inequality. Due to the educational inequality between males and females, for a variety of reasons, a greater proportion of males than females in India are educated. There are not only more marriageable males than females with education, but males have more number of years of education than the females. In such a situation, dowry is demanded or offered as a compensation to make the educated males marry the less educated or illiterate females. More often, the less educated or illiterate brides are taunted, tortured or burnt to death. It is axiomatic that the greater difference between the educational attainments or prospective brides and grooms, the larger are the dowries demanded and given.

Similar education inequality exists among marriageable males and females. One of the consequences of this is that the parents of males with education demand dowry and those of males with higher education demand a larger dowry to marry less educated females to their sons. Similarly, the parents of females with less or no education willingly offer money. In this process, the practice of demanding and giving dowry becomes a social custom and even the parents of males without education demand dowry and those of females with education offer it. If these demands are not met, the brides are tortured, harassed and even burnt alive or pushed to commit suicide.
6. **Parents : Too Guilty**

The dowry based marriages in which the better positioned bridegrooms are highly rated have increased on account of the new forces of modernisation alongwith the consumer culture of a partially profit-oriented society. It is this demand of 'desirable' bridegroom that has made the bride's parents to dance in the way the bridegroom, his parents and kins tune. All social groups have their own criteria of choice and considerations for selection of bridegroom and the value of women is frequently under-rated in this male dominated society. The parents are in competition to give their daughters in marriage to a 'desirable' and better boy and this is to be according to their customs and usages, on the one hand and the social pressure of the present society on the other.\(^{160}\)

In fact, the logic of relations is found to be guided by a scheme of culturally relevant ideas and meanings. There is a world of explicit and implicit systems of meaning and ideology which works behind the selection of match for both the kin groups as per their socio-economic standings. Those who are superior are in more advantageous position than those who are not. And the girls' parents are always in disadvantageous position. In that way every parents having daughters are in disadvantageous position though they may have boys

\(^{160}\) Paul, Madan C., op. cit., p. 8.
It may be noted that the majority of parents like to give their daughters in marriage in higher-status families. Because of this they are required to pay higher amount of dowry. It does not become a problem if the parents solemnize the marriage of their daughters in families which are equal to the status of their own. The amount of dowry remains within the payable limits. Since, psychologically the parents want that their daughters should not suffer economically and socially, they always attempt to make negotiations with such families which are economically well-off and the prospective son-in-law is in a better occupational position. The educational qualification of girls bears little weightage in marriage negotiation. It is interesting to note that in urban areas the parents generally discourage education beyond matriculation as the increase in educational qualifications of girl will require a better qualified boy and in such cases the amount of dowry will naturally be higher. (162)

There appears to be two peculiar situations in which the parents of girl cannot shed responsibility. One is to bring up girls in the most protected way. As a result, girls are not able to manage crisis situations that might arise out of the blue. They grow up with an inferiority

161. Ibid.
complex and a fear psychosis. When transplanted to another house, they are at a loss to handle various things which boys normally manage effortlessly. This puts an additional strain on husbands and is a potential invitation to stress and strain. Another fault which they commit is to get a boy into wedlock for his daughter and can go any length to get him. Since a good boy, as they see him can ensure a secure happy home for their daughter, they would allow nothing to permit the boy to slip through. This includes promises which they know they cannot keep. After marriage, when promises turn out to be hollow, friction develops and the marriage goes sour. If the bride’s parents forego this mad rush to get a particular groom at any cost, most of the resultant unpleasantness can be avoided. (163)

A study conducted by Women’s Organisation in four prestigious women’s colleges in Delhi revealed that scholars of these colleges wanted their parents to arrange marriages for them, paying ‘decent dowries’. (164) There is a competition among the parents of the girls to buy the best groom. In a number of cases the marriages are arranged with boys having little education and without much prospects of a good job with considerable dowry. In the rural society, the parents still consider it their duty to marry girls at a young age as it supposedly brings spiritual rewards. (165)

164. Ibid.
165. Desai, Neera & Krishnaraj, Maithreyi, op.cit., p. 205
Conclusion

It appears from the above discussions that no single factor is responsible for bride-burning but it may be explained in terms of multiple factors. The young married women are victims of dowry atrocities culminating in the dastardly act of murder or suicide. Now-a-days, dowry payment has become almost an indispensable condition of marriage. The amount of dowry is fixed in accordance with the educational, occupational and familial status of the groom. The dowry is demanded by the greedy husbands and in-laws in cash as well as in kind and it continues till the death of the bride takes place. They want to raise their status by receiving more dowry. If the bride fails to bring sufficient/desired dowry, she gets low status in the new family and becomes the victim of harassment and violence which results in murder or suicide. It is only those who are confident of fending for themselves outside the marriage can manage to escape death by fire. There is a fear of social stigma that what people will say upon her return to the parent's home. The rigidity of divorce law provides an opportunity to the husband and in-laws to get rid of the bride. Because they have desire to perform second marriage and get more handsome dowry again. The parents always pray for a son. Firstly, a boy brings happiness since he stays with the parents, continues the family line and support parents in their old age. Secondly, a son brings dowry and the girl is a
liability. She has to be sent to her in-laws with a fabulous dowry.

The socio-economic inequalities create the dowry related crimes. Sometimes, the unemployment and poverty of the husband and in-laws motivate them to demand more and more dowry and an atmosphere of insecurity is created for women. The parents of a bride fall victim to their emotions to ensure the safety and well being of their daughters. As one time economic involvement was not so much of a burden but the cycle is perpetuated beyond their economic resources. In majority of the cases, the parents of the girls want to get a good match for their daughter at any cost.