INTRODUCTION
INTRODUCTION

It is considered imperative by researcher to discuss geographic, social and cultural back-drop of the region which prompted the researcher to undertake the existing problem. Researcher born and brought up in the region of Mithila has deeply been moved by the condition of women supporting and carrying out the natural phenomenon of human life in the region. The problem in hand originates from Mithila and thereafter concerns to general state of affairs at national level. Though the word “Mithila” is well known by the people residing in the North-Eastern region of India but the most important reference of Mithila is in the Hindu epic, Ramayana wherein Lord Ram’s wife Sita is said to be the princess of the land, ruled by King Janaka who ruled Mithila from Janakpur.

The Region of Mithila includes in it the Northern plain of the Ganges which is spread over more than half of the area of the State of Bihar in India and part of adjoining Nepal. Spread in between the foot of great Himalayas and the bed of holy Ganges and irrigated by the currents of Koshi, Triruya (Tilyuga), Vyaghramati (Baghmati) and Kamala this lush green land of Mithila has been birth place of human civilization and cultural heritage since the beginning of history.¹ The ancient kingdom of Mithila covered in it present districts of Araria, Begusarai, Darbhanga, Khagaria, Madhepura, Madhubani, Muzaffarpur, Saharasa, Samastipur, Sitamadhi, Supaul and Vaishali districts of Bihar in India and Dhanusha district of Nepal. Presently the region of Darbhanga, Madhubani, Muzaffarpur, Saharasa, Samastipur,  

¹ Verma, Manas Bihari, “Darbhanga: Vikas Ke Kuchh Pahalu” in Naya Vihan, Souvenir published on the eve of 135th foundation day of Darbhanga by District Administration, Darbhanga, p. 146.
Sitamadhi and Supaul districts of Bihar in India and Dhanusha district of Nepal is known as Mithila. Famous Maithil poet of 19th century and leader of renaissance in Mithila, Chanda Jha has described the boundary of Mithila in the following words:

```
पश्चिम सीमा सदानीरा बह, दक्षिण सीमा गंगा ।
पूर्व सीमा में नदी कौशिकी, विस्तर तरल तरंगा ॥
उत्तर सीमा हिमालय कानन, जह बस मद मातंगा ।
अमृत जला कमलाविन्य कमला, कमलीया दरभंगा ॥
```

Thus according to Maithil Poet Chanda Jha, the land of Mithila is surrounded by river Gandak (Sadaneera) in the west, in South by great river Ganges, in East by river Koshi and in North by the mountains of Great Himalayan range.

According to great historian, D D Kosambi, “Satpatha Brahmana” tells that Madhava Videgha, led by his priest Gotama Rahugana, was the first king who crossed Sadanira (supposed to be Gandaka) and founded a kingdom where Videgha lived at the time of composition of Satpatha Brahmana. Gotama Rahugana was a Vedic rishi who composed many hymns of the first mandala of Rig Veda; the most notable Rig Vedic hymns of Gotama Rahugana are those which praise Swa-raja, which was undisputedly the state of Videgha which later became Videha due to phonetic change. Madhava Videgha, therefore, must belong to the Rig Vedic period and must have preceded the period of Satpatha Brahmana by a considerable gap. Descendants of Gotama Rahugana were called Gautama. One such sage lived near Ahilya-Sthan (presently situated in village Ahiyari of Jalley block of Darbhanga district) during the age of Ramayana.  

The legend of Mithila extends over many centuries since Vedic age to even the present day. Both Gautama Buddha and

---

2 Jha, Dr. Shankardev, “Maithili Lokgatha Aur Darbhanga” in Naya Vihan, ibid. p. 83.
Vardhamana Mahavira are said to have lived in Mithila. It also formed the centre of Indian history during the first millennium and contributed to various literary and scriptural works.

The name Mithila is derived after the mythical king MITHI. He was supposed to have been created from the body of his father king NIMI. MITHI established the capital of his kingdom at Mithilapur and hence the region came to be known as Mithila. Since he was born out of the body of his father, he took the title of “JANAK”. After this, the kings of Mithila were called “JANAK”. The most famous Janak was Kushadhwaj, the father of Sita. He was 21st Janak of Mithila. This dynasty was called VIDEH JANAKS. There were 57 kings in the dynasty of Videh Janaks.

It is said that the last king of Janak Dynasty was of bad character and he was dethroned by public under the leadership of Acharyas (Learned men). Thereafter, Mithila remained without king for hundred of years. Instead of king, a democratic system was followed where the ruler was elected by the people and decisions were taken in a collective manner. In fact Mithila can be said to be the first democracy of the world. This continued for several centuries till the region was attacked and conquered by Magadhan Empire.

Thereafter several dynasties such as Vajjisangh, Lichhavis, Shaishunag, Nand, Maurya, Shung, Kant, Gupta, Vardhan etc ruled there from time to time. There was no significant ruler after Janaks till 5th – 6th century when Jay Wardhan Raja Salhesh became king. He made his capital at Mahisauth-Sirha (presently in Nepal). He defended the region several times against attacks of Tibetans. Hence, he was called Shailesh (king of mountains) Jay Wardhan which in local dialect was called Salhesh. The brief history of Mithila after King Shailesh Jay Wardhan provides the glimpse of social, cultural, political and geographical condition of the region as follows:
Pal Dynasty (around 6th to 9th century):

The region of Mithila was ruled by Pal dynasty for three centuries. Pal dynasty was follower of Buddhism and the capital is believed to be located at present town of Balirajgarh (Babubarahi of Madhubani district). The last king of pal dynasty was Madanpal. He was a weak king and was defeated by Adisur Samant Sen’s army.

Sen Dynasty (around 9th to 11th century):

Sen Dynasty was the follower of Hinduism and hence people of Mithila, being Hindu helped Samant Sen in defeating Madanpal. Eminent scholar Vachaspati Mishra [from village Thadhi (Andhra Thadhi) in Madhubani district] was born in this period.

Karnat Dynasty (around 11th to 14th century):

Nanya Dev defeated the last king of Sen Dynasty. Karnat dynasty also had five kings; of these Harisingh Deva became most famous. He was instrumental in initiating and implementing PANJI VYAVASTHA [an arrangement under which the names of higher dynasty in Maithil Brahmins and Maithil Kayasthas (Karn Kayasthas) were registered]. He was also a great patron of art and literature. It was under his patronage that Vivad Ratnakar, a commentary on Hindu Law and an authority of Mithila School of Hindu Law was written by Chandeshwara. Pt. Kameshwar Thakur, royal priest in the Court of King Harisingh Deva was the author of “Varna Ratnakar”, the first prose and an encyclopaedia in any North Indian language. Pt. Kameshwar Thakur later became the founder of Oinwar Dynasty.

Oinwar Dynasty (1326 A D to 1526 A D):

In 1326, Firoz Shah Tughalak attacked and conquered Mithila region. The last king of Karnat dynasty Harisingh Deva fled to
Nepal. According to historian Dr. Upendra Thakur, anarchy prevailed in Mithila region for next 27 years. In 1353 Firoz Shah Tughalak appointed Pt. Kameshwar Thakur as KARAD RAJA (rent paying king). Kameshwar Thakur belonged to village Oini, presently in Muzaffarpur district. The dynasty was named after the village Oini as Oinwar Dynasty. This dynasty was one of the few dynasties of India who were Brahmins. Thereafter Mithila region had kings from Brahmin caste only till Sikandar Lodhi attacked Mithila region in 1526 AD and the last king of Oinwar dynasty Maharaja Laxminath Singh Dev was killed in the ensuing battle.

**Period of Anarchy (1526 AD to 1577 AD):**

Sikandar Lodhi made his son-in-law, Allauddin, the ruler of this region. During this period, Moghul Empire was beginning to take its root in Delhi. Allauddin was not a successful ruler and for next 50 years, anarchy prevailed in Mithila region.

**Khandwala Dynasty (1577 AD to 1947 AD):**

When Akabar became emperor, he tried to bring normalcy in Mithila region. He came to the conclusion that only after a Maithil Brahmin was made king, peace can prevail and rent can be collected in Mithila. In 1577 AD Emperor Akabar declared Pt. Mahesh Thakur as the Ruler of Mithila. Pt. Mahesh Thakur was of the MOOL Kharaure Bhaur and hence that dynasty was called Khandwala Dynasty. He made his capital in the North-West of Sarisab-Pahi and Rajgram. Khandwala Dynasty had 20 kings. Maharaja Sir Kameshwar Singh Bahadur was the last king of Mithila. On 15th August, 1947 the kingdom of Darbhanga Maharaja got merged with the Union of India.

**People and Life of Mithila Region:**

This part of land is rich with culture and traditions. Spiritual and physical happiness have inspired the people to develop creative
human imagination and various forms of art, analytical reasoning and philosophy. According to great scholars, since ancient time, Mithila has been the place of incarnation of many philosophers, jurists and scholars. Saint Yajnavalkya who composed “Yajnavalkya Smriti”, the famous script of Hindu Methods of life, Saint Gautam, who wrote comments over various philosophical treatise, Saint Kapil Muni, author of statistical philosophy and many more were born on the land of Mithila. Apart from these many noted scholars like Kumaril Bhatta, Achrya Mandan Mishra and his wife Bharati, Great poet Vidyapati Nagarjun, Bibhutibhushan Badopadhyay and many others were related to this sacred place. People here respect for their parents and believe in peaceful life. With strong belief in God, they generally live in larger families. Main cultural extravaganza happens during marriages and festivals like Holi, Diwali, Durga Pooja, Chhath, Shivaratri, Madhushravani (mainly concerned with newly married couples) and Muharram which are celebrated with fervour. Natives of Mithila are called Maithil. Sacraments like Mundan and Upanayana are very popular among Hindus in Mithila. In Mundan, the shaving of child’s hair is done for the first time in his life either before some deity or at home after performing ceremonial worship. This is followed by community Bhoj (feast). Sometimes it becomes very extravagant. The most special and important custom in Mithila region is its marriage ceremony. Marriage in Mithila includes four days’ function in it such as marriage Chaturthi, Barsait, Madhushravani, Kojegara and finally Duragman. These functions are traditionally fixed using complex genealogical tables called Panji among Brahmins and Karn-Kayasthas. The social life of Mithila is described in these following lines of Maithili:

PAGA PAGA POKHARI MANCHH MAKHAN.
SARAS BOL MUSAKI MUKH PAN.
VIDYA VAIBHAV SHANTIK PRATEEK.
SARITANCHAL SHRI MITHILA THEEK.
“The place of ponds, fish and *Makhan* (Espinosa), sweet tongue and smiling face with betel in mouth, Symbol of learning, riches and peace, land of rivers, it is Mithila.”

**Language of Mithila Region:**

*Maithili* is the language spoken in the region of Mithila. Linguists consider *Maithili* to be an Eastern Indic language and thus a different language from Hindi, which is Central Indic. *Maithili*, has previously been considered a dialect of both Hindi and Bengali. In fact *Maithili* is now a part of Eighth Schedule of Indian official language. *Maithili* is so sweet and soft to listen and speak that it is tough to guess a hot discussions taking place in Maithili.

**Geography and Climate of the Region:**

The region of Mithila is situated between the Great Himalayan Range and river Ganges, in the northern plain of Ganges - one of the most sacred rivers of India. Eight rivers – *Gandak, Budhi Gandak, Bagmati, Kamala, Kamala Balan, Bhutahi Balan, Tilyuga* and seven sisters of *Koshi* flows through the region of Mithila and join the Ganges, situated at the southern boundary of Mithila. Because of these rivers Mithila has its own advantages and disadvantages. The region is blessed with plenty of water, fertile land, clean and healthy environment and varieties of flora and fauna and remains lush green round the year. But availability of excessive water has its own problems. These rivers bring flood every year. Due to flood, roads and railway links get broken and there remains problem of transportation and communication for almost four months in every year.

The climate in this region is mainly dry and cool. In summers the temperature varies from 35 to 45 Degree Celsius and in
winters it is 5 to 15 degree Celsius. This area is very near to the mean sea level and hence the winter becomes uncomfortable. The weather during the months of February-March and then October-November remains comfortable to roam around.

The soil of Mithila region is suitable for agriculture which is the regions' main economic stake. Rainfall is sufficient for agriculture. This area is flooded every year causing terrible problem in the life of people and loss of billions of rupees.

**Economy of Mithila Region:**

Agriculture is the main stake of the region. Main crops are paddy, wheat, pulses, *moong*, *urad*, *arhar*, jute and sugar-cane (with recent decline in its production) and maize. These days this region with agriculture is not able to compete with other part of country instead it is becoming one of the most backward regions of the country. Flood destroys enormous amounts of crops every year. Due to lack of infrastructures such as roads and electricity there is absence of industries. Weak educational infrastructure and criminalized politics have made the majority of youths to relocate themselves to other regions for education and earnings. Even the great poet, writer and philosopher of the time Baidyanath Jha who was better known as “Yatri” and “Nagarjun” had to face the problem of relocation and while leaving his home he wrote the following laments:

अहिबातक पातल फोड़ि–फाड़ि,
पहिलुक परिवय कः तोड़ि–ताड़ि,
पुरजन–परिजन कः छोड़ि–छाड़ि,
हम जाय रहल छी आन ताम,
मैं मिथिले, ई अन्तिम प्रणाम।

---

4 Singh, Prof. Satish Kumar, “Manjoor Nahin Huaa Nagarjun kaa Antim Pranam” in Naya Vihan, Souvenir published on the eve of 135th foundation day of Darbhanga by District Administration, Darbhanga, p. 83.
The Saurath Mela of Mithila Region:

If we are not talking about the renowned 'Saurath Mela', the description of Mithila shall not be complete.

India is the country of great diversities. In the era of 21st century, still we can find so many traditional things in people's culture in different parts of the country.

Here is a similar example of the great cultural diversity that India has. The Indian month of Ashard (June and July) is the time of celebrating the famous 'Saurath Mela' in Bihar. This is the annual groom fair where the eligible bachelors go to find a spouse for them. This unique system of fixing marriages among Maithil Brahmins known as the Sabha-gachhi marriage has now become part of folklore.

This groom fair is organised every year in the Madhubani district in Mithila region of Bihar. The Saurath Sabha-Gachhi is perhaps the oldest of all Sabha-Gachhis and is centred round the culture of Mithila. Situated about six kilometres North-West of Madhubani, Saurath Sabha-Gachhi used to attract thousands of Maithil Brahmins from all over the country during each marriage season to negotiate for the marriage of their sons and daughters. Besides Saurath, such Sabhas were also held at Partapur, Sajhuar, Bhakhrail, Sahasaula, Bangoan and Govindpur-Harrahi. Of these, only the Saurath Sabha has been able to survive till date of course on smaller scale.

While writing the history of Mithila, noted historian Upendra Thakur wrote, "It was natural, therefore, that the Sabha-Gachhi at Saurath was selected first as the best place for Maithils to assemble and consult genealogical records, negotiate and settle the marriage after examining the 'Gotra' of the bridegroom. All this was done in an open place considered suitable for administration of justice during ancient India."
It was, thus, a big social gathering which gave impetus to the institutions of the 'Chatakaa' (the visitors) and the 'Panjikara' (the registrar of marriages). These institutions have now unfortunately lost their character and have become objects of ridicule among the progressive Maithils. These so-called progressive Maithil Brahmins played a significant role in hastening the decline of the once famous Sabha-Gachhi marriage, rued Ganga Ram Jha, a social activist.

But the fair is now a hit in the dowry market. The unique thing of the Saurath Mela is that here one can find the plenty of choice but strictly at a price. The family members of prospective brides come in the Mela and choose a match for their daughters. Most of the times, they go through hectic negotiations with the family members of the prospective bridegroom over dowry.

According to the fair organizer, Mahavir Mishra, around 1298 AD, registration and meetings were arranged at various places for participation in the Sourath Mela; specialists were given the work, and since then this system has been prevalent in Mithila.

On the other hand, some people have said that the tradition is actually dying because people from other districts have stopped coming in the fair. The local people have showed less interest in organizing the fair. Now, the age-old tradition is slowly dying out.

The Saurath Sabha's decline is proving very costly for the middle and lower middle classes. For them, finalization of marriage negotiations is increasingly becoming difficult as a lot of time and money is wasted in the process of setting a marriage. In the Sourath Fair the bridegroom's family was pressurized by the members of the society to reduce the amount of dowry to be taken, but now in present process the amount of pressure has almost vanished. Today, dowry has become a one-to-one dealing.5

5 http://timesofindia.indiatimes.com/articleshow/574951.cms
Besides the unique social institution of marriage, Mithila has a glorious history in the field of Law too. It had been the place of famous Law givers. The great sage Gautama lived in the present village of Ahiyari under Jalley block of Darbhanga district.

It is not a new knowledge that the old Hindu Jurisprudence has been divided into two main schools and these two principal schools of Hindu Law are known as Mitakshara and Dayabhaga. Where Dayabhaga School prevails in Bengal, the Mitakshara School prevails in the rest of India. The Mitakshara is further sub-divided into four sub-schools:

(i) Benares School,
(ii) Mithila School,
(iii) Maharastra or Bombay School (Western India)
(iv) Dravida or Madras School (Southern India)

It is important to note that the law of Mithila School is the law of the Mitakshara except in few matters in respect of which the law of Mithila School has departed from the law of the Mitakshara.\(^6\) The various authorities of Mithila School on Hindu Law are as follows:

(i) **Vivad Chintamani:**

It was written in the 15th century by Vachaspati Mishra, also the author of Vyavahara Chintamani, another work of allowed excellence, under the patronage of King Bhairavendra alias Harinarayana of Mithila\(^7\) (Jolly, Kane and J C Ghose place him in the early part of the 16th century A.D.). The Vivad Chintamani is given the first place being a work of unquestioned merit written by Vachaspati Mishra, a celebrated Nibandhakar of the fifteenth century. This work is not commentary on

---


\(^7\) Jolly, L&C 78, Kane; 405; J C Ghose (Vol. II, Introduction XIV and XV).
any code but digest.\(^8\) The Vivad Chintamani has been translated by Setlur in his collection of Hindu Law books. Mahamahopadhyaya Sir Ganganath Jha, a distinguished jurist of recent times has among various works to his credit translated this treatise. There are inaccuracies in the translation by Prossonno Coomar Tagore\(^9\) as noticed in several decided cases.\(^10\)

(ii) Vivada Ratnakara:

An earlier work of authority done in the Mithila is the Vivada Ratnakara by Chandeshwara written in the beginning of 14\(^{\text{th}}\) century. Chandeshwara was the minister of King Harsimhadeva of Mithila who conquered Nepal for his master. Vachaspati Mishra has stated that he has considered the Ratnakara and it would seem that this work has been written in the first quarter of 14\(^{\text{th}}\) century. Chandeshwara has given the year in which he performed an act called \textit{Tula Purusha} in which he distributed gold weighing his own weight among \textit{Brahmins}. The work has been translated by Gopalchandra Sarkar Shastri and Mr. Justice Digambar Chattarjee. Of other translations reference is often made to the one given by J C Ghose in his Hindu Law Vol. II.\(^{11}\)

(iii) Vivadachandra:

The Vivadachandra is one of the authoritative commentaries of the Mithila School of Hindu Law. It was composed during the rule of Chandra Sinha, by Misaru Mishra. It is said that the queen of Chandra Sinha, Lakshmi Devi was the real author of the book and she merely used the name of Misaru Mishra. Misaru Mishra is acknowledged to be one of the \textit{Maithil} writers by historian. In spite of the fact that it was once accepted that it was Lakshmi Devi who wrote it, the better opinion now seems to be that Misaru Misra wrote it under the

---

\(^8\) Mt. Thakur Deybee v. Balak Ram (1886) 11 MJA 139.  
\(^10\) Rajrani v. Gomati (1928) 7 Pat 820; Sabitri v. Savi (1933) 12 Pat 359.  
patronage of the queen Lakshmi Devi. This Commentary was composed during the middle of the 15th century A.D after the Vivad Ratnakara and before the Vivad Chintamani.

(iv) Madan Parijata:

The Madan Parijata, composed by Visveshwarabhatta, under the auspices of King Madanpala of Kastha is a work of authority in Mithila. Whether its date is about 1360 – 1370 A.D as Dr. Jolly and Mr. Kane would have it or whether it was written about 1175 A.D as the Patna High Court holds. This work is on civil and religious duties. It contains a chapter on inheritance and treated as an authority in the Mithila School. It is a digest which quotes a number of works and has been referred to by a number of later commentators and in numerous decisions. It is written in a language comparatively easy to understand. The tenuity of its style is one of its important features. This work is translated by Ghose (Vol.-II) and Setlur. The earliest translation was made by S. Sitaram Shastri and appeared in Madras Law Journal. It was published in book form in 1899.

(v) Subodhini:

Visveshwarabhatta is also the author of Subodhini which is the most celebrated Commentary on the Mitakshara. The complete text and English translation of Vyavaharadhyaya from this work has been published by Mr. Gharpure in his Hindi Law Texts Series (Vol. III and Vol. IV). It is not a running and exhaustive commentary but gives a very useful exposition of the difficult and obscure texts in Mitakshara in a remarkably facile manner. The Subodhini has been referred to in a number of decisions of various courts.

13 Lallubhai v. Mankuvarbai (1876) 2 Bom 388 (FB).
(vi) Kalpataru:

The Kalpataru of Lakshmihara is a work which is freely and frequently cited and referred to in the Saraswati Vilasa and Virmitrodaya as well as by the other exponents of Mithila School is also one of the important and trustworthy authority in that school. The Kalpataru was written about the first half of the 12th century.¹⁴

Apart from above described Commentaries, weight is also attached to the following works of Mithila School:

(a) Smritisara by Shrikantcharya,
(b) Smritisara by Harinathopadhyaya,
(c) Dwoita-Parishishta by Keshav Mishra.¹⁵

Having such a great, legendary and prosperous past, today Mithila has become one of the most backward regions in India. These days its agriculture is not able to compete with other parts of the country. Flood destroys enormous amount of crops every year. Due to absence of road, power and other requisite infrastructure, there is absence of industries. Weak educational environment and criminalized politics have left no ways for the Maithil youth but to relocate themselves in other part of the country for education and earning. It is in this glorious and rich social, cultural and educational backdrop that the work undertaken by the researcher proceeds.

The marriage has been a well established institution among the societies of Mithila wherein the Maithil ideals of marriage have been very high. Dowry has always been considered as one of the very important factors of marriages solemnised in Mithila region.

Before dealing with the different aspect of dowry and how it got established in the present form, it is considered necessary to have a brief look upon the institution of marriage.

¹⁴ Jolly L & C, 74; Kane 317.
It is not easy to chronologically trace the evolution of institution of marriage with its attendant variants because each segment of society evolved its own mould of man woman relationship in the form of marriage.

In ancient time, women have been coveted as a trophy of war. The woman came to be won by proving skill or strength set as tests by the bride people. Tests of endurance was another way to find out whether the boys will be able to produce food for his family-to-be. Quite a large number of these practices or part thereof persists in tribal people of India. Silent and secret negotiation between man and woman coupled with the thrill of elopement seems to be another method of acquiring a mate. There was also practice of working for the bride. With the change of time, barter was replaced by money and young aspiring husband preferred to pay for the wife. In Podaividu Kingdom of King Dev Raya II of Vijayanagar (1422-49) amongst the South Indian Brahmins lot of money by way of bride-price was received and given.\(^\text{16}\)

The payment of bride-price was normal in South India; it was practiced by poorer people in North but again universally in Himalayan region. Oriya Brahmins had to pay for their bride right up to the World War II.\(^\text{17}\)

The institution of both bride-price and bride-groom-price were rampant in castes with continuous hierarchy - dowry mainly at upper level, bride-price at lover level and both dowry and bride-price among status seeking middle level families. The small endogamous units, on the other hand, did not practice either of the two. While the Rajputs, Leva Patidars, Anavils and Khedavals have been notorious for high dowries and Kolies have been looked down upon for their practice


of bride-price, the Baniyas have been paying neither the dowry nor the bride-price.

Bride-price was practiced in Punjab among 116 tribal groups in India. Also in Himachal Pradesh, Idu Mishmis of Lohit District of Arunachal Pradesh and among Iyengar (Tamil Brahmins) of Princely Mysore the practice was in vogue. There are some communities in Rajasthan where a prospective bride-groom has no chance of having a bride unless he has three seers of silver to give to bride.

From the very commencement of Rig Vedic age, marriage was a well established institution and the Aryan ideals of marriage were very high. Manu, in impressive verses, exhorted man to honour and respect woman in the following words:

"Woman must be honoured and adorned by their fathers, brothers, husbands, and brothers-in-law who desire their own welfare,"

"Where women are worshiped, there the Gods are pleased; but where they are not honoured, no sacred rite yields rewards."

"The husband receives his wife from the Gods; he must always support her while she is faithful."

"Let mutual fidelity continue until death. This may be considered as the summary of the biggest law for husband and wife."\(^{18}\)

Since long it was considered that male issue was prized both for the continuance of family as well as for the performance of funeral rites. Hence marriage was necessary to have an Aurasa son. The Rig Veda declares:

\(^{18}\) Vedic Index I, 848-6; Manu, IX 96.
“Endless is the world of those who have sons; there is no place for the man who is destitute of male offspring.”

“O Agni! May I obtain immortality by offspring?”

According to Veda an Aryan is born burdened with three debts:

“He owes the study of Veda to the Rishis, sacrifices to the Gods, and son to the man.”

He is free from debt who has offered sacrifices, who has begotten a son and who has lived with student as a teacher. Manu says:

“Through a son, he conquers the world; through a son’s son he obtains immortality. But through his son’s grand-son he gains the world of Sun. Because a son delivers his father from the hell called PUT, he was therefore, called PUT-TRA (a deliverer from PUT).”

There are eight forms of marriages as mentioned by the proponents of Hindu law like Gautama, Baudhayana, Manu, Vishnu, Yajnavalkya, and Narada. Manu describes them as follows:

“The giving away of a daughter, after decking her with costly garments and honouring her by presents of jewels, to a man learned in Veda and of good conduct, whom the father himself invites, is called Brahma Rite.

“Gifting a daughter who has been decked with ornaments, to a priest who dully officiates at a sacrifice

---

19 Rig Veda, I, 21, 5 cited in Vas., XVII, 2-4; Vishnu, XV, 45; Manu, VI, 36-37; IX,45.
20 Manu, IX, 137-138.
during the course of its performance, they called the *Daiva* Rite."

"When the father gives away his daughter according to the rule, after receiving from the bride-groom, for the fulfilment of the sacred law, a cow or a bull or two pairs, that is named the *Arsha* Rite."

"The gift of a daughter by her father after he has addressed the couple with the text, "May both of you perform together your duties." and has shown honour to the bridegroom is called the *Prajapatya* Rite."

"When the bridegroom receives a maiden, after having given as much wealth as he can afford, to the kinsmen and to the bride herself, according to his own will, that is called the *Asura* Rite."

"The voluntary union of a maiden and her lover, one must know to be the *Gandharva* Rite, which springs from the desire and has sexual intercourse for its purpose."

"The forcible abduction of a maiden from her home, while she cries and weeps, after her kinsmen have been slain or wounded and their houses broken open, is called *Rakashasa* Rite."

"When a man by stealth seduces a girl who is sleeping, intoxicated, or unconscious, that is the eighth, the most base and sinful *Paisacha* Rite."^{21}

The Smritis regarded the *Brahma, Daiva, Arsha* and *Prajapatya* form as approved or blameless forms of marriages and the other four – *Gandharva, Asura, Rakashasa* and *Paisacha* as the

---

^{21} Manu, III, 27-34.
unapproved or blameworthy forms of marriages. However, the Patna High Court has decided that according to Mithila School of Hindu Law, the *Gandharva* form of marriage is not invalid.\(^{22}\)

The taking of bride price was condemned in no uncertain terms by the law giver Manu. According to Manu the *Brahma* form of marriage is the ideal form of marriage. This evolved the giving of the daughter duly decked to a learned bridegroom.

In the Hindu hierarchy, the twice born (DWEEJA i.e. *Brahmin*) occupy upper strata. They changed the concept of marriage from sale to gift. *Asura* marriage was condemned and *Brahma* form of marriage was approved. Those who occupy the lower strata of Hindu hierarchy commenced following the forms of marriages followed by upper strata. Certain reformist of Hinduism also advocated the philosophy of the gifting the girl (*Kanyadan*). Professor Scarlet Epstein made a detailed study of the change from bride price to dowry and she says:

"The change over to a system of dowry, I attribute to the inter-action between four important variables —

Firstly, the fundamental is the increasing wealth, Mandya peasants now enjoy. It is this which enables them to spend more lavishly on wedding in their struggle for social recognition.

Second, it has become a matter of prestige for wealthier peasant that their women folk do not work on the land, young girl no longer trained to do field works become capricious and demanded more of costlier items of jewellery. Where formerly a peasant’s wife was an economic asset, she has now become a liability.

Accordingly the grooms family now wants to be paid for taking over the responsibility of keeping her where previously they had been prepared to compensate her father for loss of her production contribution.

Third, there is now a small but growing number of young educated male peasant's whose parents feel justified in claiming compensation from their sons' in-laws.

Lastly, Brahmins who provide the reference group for the village peasants, practice a dowry system; imitating Brahmin custom means sankritising one's style of life in the hope of raising one's social status. As Beregowda puts it; “What is good enough for Brahmin is good for me.”

The desire to emulate Brahmins and change from bride price to dowry has been effected the scheduled caste too. Dr. L.S. Vishwanath, who carried out field work on Tadavi, a section of Bheel of Barooch district, Gujrat, found that they were earlier paying bride price in cash, but they have given it up as low and uncivilized.

Then came the question of love and affection for the departing daughter, the natural affection of seeing the young daughter settling without any pinching pang of penury. Hence not only the daughter was given away as a gift but she was also given gifts by her parents, their relations and friends. Not only that, the bridegroom’s people also gave gifts to the daughter-in-law they accepted to induct in their family. Thus was born the concept of “Streedhana”.

In the beginning the girl's father's capacity to give gifts to his daughter came to be silently assessed while considering the

24 Beri, Justice B P, Supra. P. 20
comparative merits of the girls. What was originally conceived as an affectionate gift by the girl’s kinsmen for giving a start to a newly wedded damsel became the measure to tilt the matrimonial scales.

Amongst the princely and quasi princely people dowry assumed large volume and more comprehensive contents. So prevalent was the practice that Goswami Tulasidas, the immortal poet of Ramcharit Manas has referred to Parvati’s dowry to consist of slaves, horses and elephants, cattle and vehicles, grains, jewels, clothing and gold vessels in following words:

\[
\text{DASI DASA TURAG RATH NAGA.}
\]
\[
\text{DHENU BASAN MANI VASTU VIBHAGA.}
\]
\[
\text{AANN KANAK BHAJAN BHARI JANA.}
\]
\[
\text{DAEEJ DINH NA JAAE BHAKHANA.}^{25}
\]

According to Valmeeki Ramayana, Sita, on her marriage received a dowry of hundred thousand cows, woollen cloths, countless silken robes richly decorated elephants, horses and chariots, male and female attendants, numberless golden coins and many other gifts.

The king of yesterday in India spent fortunes over their daughter’s wedding and their dowries kept pace with their own fortune and often more to evidence their pomposity. In Rajasthan some of the smaller land lords even levied a cess for the marriages in their families. Originally what was given out of love and affection and humility as Streedhana and Vardakshina came to be commercialized. Virtue was vulgarized and like securities the market also fluctuated. “The going rates have been the highest for the I. A. S. bridegroom at Rs. 4 Lakh, a sellers market all the time. That the market rate for engineer groom at Rs. 3.5 lakh is slightly above the asking price for the doctors may not reflect the actual market condition, whatever the doctors may diagnose
as the reason for the slight fall in their market value. Those with the master's degree may be unemployed. That is neither here not there. Their tag reads Rs. 1 lakh which, considering everything is neither more nor less. Indian B. A.'s would fetch the tidy sum of Rs. 25,000/- and thus down the scale, matriculates, upper division clerks etc."

Because marriages are still by and large arranged within the close confines of a caste and kinship lines and because the educated and eligible bachelors are relatively fewer, the choice of mate gets extremely restricted and thus competition has become keener. This is further actuated by the desire for a well educated and employed person. In every competition where money has a role to play it often becomes the ultimate regulator. Thus money plays a regular compensatory part in such alliance and that adds to the dimension of the dowry.

It has been argued that because a daughter takes no share in joint Hindu family property, the dowry compensates her as her Streedhana. On June 17, 1956 the Hindu Succession Act came into force and the Hindu daughter got the right to inherit from her father like son or the widow. It is said that because earlier the daughter had no share in the patrimony it was equitable to give her adequate Streedhana and maintain the flow of gift on all occasions. The unfortunate truth however is that gift given to the groom's kinsmen are so many and so varied that the Streedhana pales into insignificance. Besides, the Streedhana is often shared and diverted towards husband's mother and sister and the daughter is left high and dry. What was intended and legally protected for the daughter's use and complete control is assessed by her in-laws in the terms of being used as the parting gifts for the husband's sister. What loving parents acquired and accumulated often by self denial for the comfort and security of their darling daughter is deliberately diverted for the benefit of another girl.

---

and many such daughters-in-law shed silent tears due to the shameless avarice of the husband people. Therefore, the theory or *Streedhana* in actual practice is reduced to mere pretence in most of the cases.

With the advent of the Hindu Succession Act, 1956 and now the Hindu Succession (Amendment) Act, 2005 the argument of denial of inheritance has disappeared because a daughter has been given equal right of inheritance not only in father’s property but also she has now got equal rights as well as liabilities in the coparcenary property. It may be, however, true that daughters seldom enforce their right and when they do, it is visited with unpleasant consequences. Even to-day in many minds it has not been registered that the daughter shares equally with the son in coparcenary property. Should that ignorance or obduracy be a justification for the perpetuation of dowry which saps the economic strength of an average family and is a constant source of cruelty to the womanhood and women’s agony?

The psychological trauma which dowry inflicts on a sensitive girl’s mind often leaves a scare of bitterness. She starts suffering from a feeling of inferiority which is not her own creation but which a money loving society inflicts because of the vast economic differences between the people. Some of the more sensitive girls commit suicide on rejection, others suffer for the rest of their life and some others become vindictive when it is the tern of their sons to get wife.

The process of demanding dowry is a continuous one. Every occasion however small or big is to be exploited and converted into mundane advantage. If there is a birth in either family, the bride’s family is mulcted. If there is any other *Samskara*, customary ritual the brides’ family has to pay the levy and that too with humility and always with the danger of being run down or even insulted. Even death is exploited. If any death occurs in the bride’s family or the bridegroom’s family there is tax recoverable. There is a widespread feeling that the
girls kinsmen, belong to inferior side, have to keep the boy’s people in
good humour. On all occasion - festive, ritual, religious, cultural or
otherwise – the girl’s kinsmen have to cough out something to keep the
boy’s people in good mood. Any birth or death in girl’s family in some
caste creates an occasion to give presents to the boy’s people.

The unsatisfied husband who does not get a scooter, a
refrigerator or a subtle loan (without intention of repaying it) actuated by
his avarice assisted by his mother or sister or father starts third degree
method of extortion towards a young and inexperienced woman. The
wife knows the financial competence or degree of her parent’s
inclinations to oblige an ever demanding son-in-law. She suffers all kind
of agony and neglect silently because she has no quarter to go. If these
tortures do not yield results, the husband resorts to kerosene oil and
dramatises a case of burning accident while cooking blaming nylon’s
vulnerability. Often such accidents are hurriedly consigned to flames.
Money silences the curious and legal functionaries.

When insults are heaped up on injuries and neglect
becomes contempt, the utter helplessness leaves no option for the poor
girl. Frustration expresses itself in self destruction. True statistics are
not easily available in our country. The cases which are reported in
news papers are only those which people are induced to publish. Those
which go unnoticed are innumerable. Therefore, how many married
women are forced to die or suffer for the lust of dowry is myriad.

Like any other part of India, Mithila, a part of the State of
Bihar and adjoining Nepal is also worse affected with problems related
to dowry. This region, being part of the State of Bihar, had been
notorious for its lawlessness. All types of crime are committed without
any fear of police, law enforcement machinery and administration.
Kidnapping for ransom has developed like an industry in this region
which is suffering from an acute crisis related to infrastructure. The
districts of Mithila remain flood affected for almost four months in a
year. Availability of road and other system of transportation is in deplorable condition. By the time information reaches to the nearest police station, criminals fly far away and evidences of crime are wiped out.

The poor state of police and other law enforcement machinery and the news of dowry related crime, especially dowry death becoming headlines of newspapers almost on every alternate day, prompted the researcher to undertake a study of dowry in the region of Mithila and evaluate the efficacy of law in dealing with problems related to dowry and dowry-deaths.

The particular situation of law and order, special type of social life of the people, geography and climate together with the worse infrastructural problem of law enforcement machinery presents a peculiar circumstance which makes the region alone of its kind and therefore, it provides a special circumstance which is different from other part of this country. This was also a reason why the researcher decided to carry out a socio-legal study of dowry in the region of Mithila.

Apart from Introduction the study has been divided in seven different chapters. Chapter 1 is related to the concept of dowry. In this chapter the researcher has tried to analyse the origin of the term dowry and what one understood about dowry before passing of the Dowry Prohibition Act, 1961. Passing of the Dowry Prohibition Act gave a new meaning to the term dowry. However that definition could not bring the appropriate result and hence it was felt that the definition of Dowry as provided in the Act of 1961 was not sufficient to contain the problem of dowry. Consequently the original definition of the term dowry was amended twice by the Amendment Act of 1984 and Amendment Act of 1986. The researcher has tried to explain the concept of dowry with the help various important judgments of High Courts and Supreme Court and have also cited them to substantiate it.
Chapter 2 is about the status of women in India right from the Vedic age till to-day. In this chapter the researcher has tried to find out the status of women in the past as well as in present and also the reason behind the poor status of women as on today in India in general and in the region of Mithila in the State of Bihar in particular.

The evils of dowry have been attracting the attention of the different segments of people as well as society including the Legislature and Government for a long time. Right from 1934 the then British Government and after independence, our Union Government have tried to contain the evils of dowry by bringing various legislations. Chapter 3 is related with the different measures the Legislature as well as the Government has taken so far to contain the evils of dowry.

Dowry has its own ill effects. It is dowry due to which giving birth of a female child has become a loss making act. And, therefore, people restrain themselves from becoming parents of a female child. Apart from various other reasons for female infanticide and now female foeticide, dowry plays an unpleasant role in enhancing this particular problem of “eliminating the girl child”. There are other various counter effects of dowry which have been touched by the researcher in Chapter 4 of this study.

Our judiciary is the back bone of our democracy. Time to time, the Supreme Court of India as well as various High Courts have been considerate while protecting the interest of society as a whole within the limits of law. Through interpreting the law as an instrument of social reform, social harmony and social change, the Indian judiciary has not been a silent spectator or a neutral force in the matters affecting the life and honour of the masses and had been active in eliminating social evils, social injustices and inequalities. With the commencement of the Dowry Prohibition Act and other penal laws regarding dowry, courts have been showing their consciousness for its proper implementations and removal of the evil practices of dowry.
Chapter 5 makes a brief study about such endeavour of Indian judiciary.

Chapter 6 incorporates the outcome of the empirical survey conducted for knowing and analysing the problem of dowry and dowry-deaths and efficacy of law related to dowry prohibition and containment of the social evil of dowry. Data collected through questionnaires and interviews are compiled in table form and inferences are drawn. The last chapter of this research work that is Chapter 7 contains in it the conclusion reached and suggestion put forth with a view to eliminating dowry related evils and protecting the institution of marriage and awakening the young generation for fighting with the evil of dowry.