CHAPTER VI

ANTI-DOWRY AGITATIONS AND THE LAW

We Do Not Want Dowry!
Give Us Right of Inheritance!
Neither Bride-price, Nor Dowry!
Marriage Is Not A Transaction!
Don’t Burn the Bride!
Burn the Custom!

The question as to how the movements for anti-dowry started and what are their issues and contributions for eradicating this social problem are probed in this chapter. Various laws for curbing such menace are also described here. Why besides so many organisations and movements, dowry is still prevalent and is increasing day by day are intriguing queries that are attempted here.

Dowry-related harassment as well as dowry deaths is widespread in Jammu and Kashmir. Despite the Dowry Prohibition Act in operation in this state, there has been a spurt in incidents of death of young married women for dowry viz. A newlywed Sonali Bandral ended her life after 1 year of marriage. Police has arrested her husband and father-in-law on charges of abetment to suicide in Domana area of Jammu district. Her family blamed her husband, Vivek Singh Jamwal and other members of in-laws for forcing her to suicide (Daily Excelsior 12.4.2010). Another news was about Neha Gupta a resident of Trikuta Nagar, a posh locality of Jammu city, who committed suicide by hanging from roof in Gurgaon after 6 months of her marriage with Virender Sethi. In her suicide note she held her husband responsible for asking money again and again though he was given ₹10,00,000 by her father even after marriage. She also wrote that her in-laws force her to abort her child (Amar Ujala, 12.10.2007). One more news was of Geeta Devi who committed suicide on Karvachouth because she was teased by her sister-in-law that her parents have not sent anything on Karvachouth, getting frustrated by persistent torture and harassment and unable to meet the repeated demands of dowry, Geeta Devi committed suicide (Early Times, 23.11.2007)

In an article by Seema Shekhawat, ‘The Bitter Half”, she writes that what is alarming is that such crimes are now being noticed in those communities that were not earlier susceptible to such practices in the past. Kashmiri society neither had the tradition of dowry nor any crimes related to dowry. Now the menace has crept into
urban Kashmiri society and is slowly engulfing the middle class; in addition rural areas do not seem immune anymore. “It is for the first time that there are cases of bride burning also,” admits Girija Dhar, former Chairperson of the Jammu and Kashmir Women’s Commission. According to one news in Kashmir Times on 8 October 2006 ‘Dowry deaths are rear head in valley’ which depicts, as more and more materialism has been intruded in the life of the people, man has become greedy and is looking on the ways to increase his wealth. These news shows that dowry evils are present in this state also like in other states of India. There are also cases related to dowry in Jammu as well.

The socialization and inculcation of patriarchal value for a long period of time do not allow a woman to see her husband as anything other than God. Thus, women will protect men even at the cost of their own lives. The incredible mental cruelty that some families inflict upon their daughters-in-law is tragically revealed in a series of letters published in Manushi, written by a young girl who killed herself two months after she was married. The following extract is from her farewell letter to her husband:

My Raja (Lord)

I am going away. Forgive me.....

Ever since I came to your house your family has had difficulties. My coming into your house was not auspicious for you. So I am going away. I will make every effort to see that I do not survive, because if I do only will not my life be ruined, but so will yours. Do not take me to hospital...

I am taking your child along with me in my womb. Forgive me for this too. You had a desire to marry again. Do marry again. You can either burn the clothes; I brought in my dowry, or return them to my parents. The clothes which were given to me by your family can be ironed and kept for the new bride....

When the new bride comes, try and listen to what she says, and do not quarrel with her. Even if her relatives do not pay much attention to you, you should try to stay happy. You should ignore these things. Otherwise, her life will be ruined. And if she talks to you privately about anything, never tell anyone else in the house what she says...... (Jha and others, 1998: 251 -252)

Only yours

Tato

Tato committed suicide because her husband and his family tortured her for having brought so little with her by way of goods; mocking her and her family for the
quality of food at the wedding and presents to the bridegroom’s family. It is not known whether her husband took a formal dowry when he remarried, which he did a few months after her suicide, but there is no doubt that in contemporary Indian families who might not formally ask for or even take dowry, make known their expectation that the bride’s family will help to maintain a standard of life which the bridegroom’s family find mandatory (Ibid: 252).

ANTI-DOWRY AGITATIONS

Challenging gender inequalities in education, employment, and reproductive rights has been a priority for women’s groups all over the world. As the movements have matured, local and national organisations have broadened their scope and formed local and international coalitions with other women’s groups aiming to create and/or strengthen transnational ties. One incident in the 1920s which shocked people out of their complacent acceptance of this state of affairs, was the suicide of Snehlata, a Bengali girl. Snehlata burnt herself because she did not want her father to sell the only house he owned to celebrate her marriage. Snehlata became a household name everywhere. People realized that what at one time were a few symbolic gifts like lamps, new pots and mats given to a girl to herald her life as a householder had now got transformed into specific items like furniture, bed, mattress, silver, brass and steel vessels and vehicles. Gone were the times when even these symbolic gifts were not compulsory and when poor parents could say that they would place flowers in the place of gold and conduct the marriage and when marriage expenses would be borne by both the families. The death of Snehlata sparked off series of reactions that formed a firm basis for anti-dowry activities. It also led to a lot of questioning of the nature of the institution of marriage. Snehlata’s death acted as a catalyst to give more strength to activities already set in motion (Lakshmi, 2005: 295-296).

July 1979 dawned with new forms of anti-dowry agitation. A young couple, both from Delhi, Premlata and Vijay Narang, were engaged to be married. At the time of the engagement the boy was given ‘advance dowry’ (sagan) worth ₹ 15,000. This included cash and goods like TV and a sewing machine. The demands, however, kept growing every day. On May 25, two days before the wedding day, when the girl’s relatives went to the boy’s house to give the invitation cards for distribution, they were confronted with the demand for a scooter. Says Premlata’s uncle: ‘We came
home and discussed the matter till two o’clock at night. Finally we decided, “If we meet this demand, another will come up – there is no end to it. And such people cannot keep the girl happy.” So the engagement was broken off, but the money was not returned by the Narangs (Kishwar and Ruth Vanita, 2008: 43).

Premlata’s family had read in the papers about the anti-dowry demonstrations. They approached Nari Raksha Samiti and decided to organize a demonstration outside the boy’s house to disgrace him and demand their money back. Usually, when an engagement breaks off, the girl’s family try their best to conceal the fact, because they fear that people will suspect the girl’s character and it will be difficult to get her married. The courage of this family was truly remarkable. They brought their women onto the streets to openly proclaim that the engagement had been broken due to the greed of the boy’s family, thus for once taking the offensive and shaming the boy (Ibid).

Premlata’s family and their supporters, with the women in the forefront, collected outside Vijay Narang’s house at 10:30 a.m. on July 1. Vociferous slogan shouting – ‘Why did Vijay not marry? For a scooter. ‘Vijay Narang, shame on you’, ‘Vijay will never get a wife’, ‘Vijay will never marry’, ‘Down with the dowry’, Shame on those who demand dowry - brought neighbours out of their houses to sympathize. Some narrated how the Narangs had already broken off two earlier engagement after taking large sums of money, and thus were running a regular ‘business’ with their son’s eligibility as capital. The procession marched round the area. Some of the demonstrators suddenly took up the cry “Collect alms for Vijay’s scooter’, and two of them began to carry around a cloth as if asking for money, while a third held up the photograph of Vijay and called on spectators to see the ‘beggar’. Later, Premlata’s uncle said she would get married where there was no question of dowry now. She would be given the clothes and jewels already prepared for her, no more’ (Ibid: 43-44).

Although the Mahila Dakshata Samiti was the first women’s organization in Delhi’s contemporary feminist movement to take up the issue of dowry and dowry harassment, it was Stri Sangharsh whose campaign made dowry murder a household term. The Mahila Dakshata Samiti had organized a demonstration in Delhi and also published a booklet on the issue. On June 1, 1979 Stri Sangarsh organized a
demonstration against the death of Tarvinder Kaur, a young woman who lived in Delhi, saying that her death was a murder and that she was killed because her parents could not fulfill the ever-increasing demands of her in-laws. The demonstration was widely reported by the national press and in the next few weeks there was a spate of demonstration against dowry deaths, one of the biggest ones being organized by the Nari Raksha Samiti, on June 12, through the alleys of old Delhi. Each one hit the headlines (Ibid: 254).

Until this time women’s deaths-by-fire had been put down as suicide, and even these suicides were rarely seen as being due to dowry-harassment. No-one (including the police) had ever bothered to investigate them, or even categorize them. And mostly they had been passed off as ‘private’ affairs which took place within the family and which were no concern of the state. Within weeks, however, feminists reversed the indifference of decades, linking death-by-fire with dowry harassment, showing that many official ‘suicides’ were in fact murders.

After some months of campaigning however, several groups began to feel the need for a more direct method of communication with people when raising the issue of dowry. Discussions on this gave rise to the idea of having a street play. And some months later Stri Sangarh gave the first performance of its street play, Om Swaha, an attack on dowry and dowry murder, based on the lives of two women. The play proved enormously popular and soon people from all over began to ask the group to visit their locality and perform the play there. For many middle class women who were in the play, this was a first attempt at activist work.

One year after the agitation began, and then government started to legislate against dowry murders. In fact in 1978 Charan Singh, the Prime Minister, had said that measures to stop the ‘maltreatment of women for dowry’ would be introduced in the next parliamentary session. He made this assurance to a delegation of the Mahila Dakshata Samiti. The Samiti also met the Inspector General of Police (Delhi), who agreed to set up a Standing Committee consisting of the Superintendent of Police and a Deputy Superintendent, who would deal with cases of dowry harassment. However it took many years for the anti-dowry cells to begin functioning, and at present they are mainly concerned with complaints of dowry/harassment and not with dowry murders which are registered in Police stations.
Many feminists have chafed at having thus to aid in the nuclearisation of the family instead of filing complaints of assault against the people who burnt brides for dowry, but they have had few alternatives. Ironically enough, it is easier to prove dowry assault than dowry murder for in death-by-fire there is almost always no evidence to show that it is murder and not suicide or accident. ‘Her sari pallav caught fire.’ There was stove accident. The two kinds of evidence in such cases are (a) dying declarations made by the victims when they survive long enough to be rushed to hospital; (b) circumstantial evidence: letter, neighbours’ testimonies and so on.

Dying declarations have frequently been completely ignored by the police, as in the Tarvinder Kaur’s case, where she declared that her mother-in-law and sister-in-law had together set fire to her but the police dismissed this declaration and registered a case of suicide. When the police registered a case of murder against sundry in-laws and husband on the grounds of a dying declaration, the case has most often been dismissed for insufficient evidence. That the victim’s testimony cannot be regarded as sufficient evidence to convict the accused of murder is only fair; what is shocking is that in most cases dying declarations are not treated as sufficient reason for a thorough investigation by the police. The most frequently cited reason for this cavalier attitude of the police is that they were bribed by the murderers to delay investigation or else to ignore evidence. In most cases the victim’s parents would arrive too late to offer counter-bribes for the scene for suicide/accident would have already been set. But one is also constrained to ask: would the police recognize evidence when they saw it, in cases of death-by-fire? How many methods of collecting circumstantial evidence do they use? What practice do the police have in building detailed circumstantial cases against dowry murderers and what resources do they have to do so? Why haven’t they got more investigators, more doctors, and more machinery, to build up an adequate case? Why haven’t they asked for them (Kishwar and Ruth Vanita, 2008: 257-258). Such questions were probed by people.

India’s National Crime Records Bureau documents crime committed under ‘cruelty by husband and relatives’ not amounting to death. Such harassment increased by about 51 percent over a 10-year period; from 28,579 in 1995 to 58,319 in 2005.

An initial response of the state to the concern about the effects of dowry was the creation of legislation, the Dowry Prohibition Act, passed in 1961, but it did little
to reform marriage, and dowry as a practice continued. According to the law, both the families that gave dowry and those that took it were guilty; but not a single case was registered until the late 1970s. Women activists became disillusioned with the state’s inability to enforce dowry laws and redefined the problem by drawing attention to these deaths that began to be increasingly reported in the media.

At the national level, dowry as a gender issue and as an act of violence against women gained momentum in the scholarly work of several activists, as well as through the women’s movement. The literature on violence against women and dowry often grew out of women sharing their experiences in small consciousness-raising groups. Following the campaigns and protests in 1970s and 1980, violence against women became a central issue for women’s movement groups and organizations. Over these years, women’s groups in India have been successful in generating awareness in media and civil society and in criminalizing violence against women. In an attempt to address dowry-related harassments and deaths they also challenged both patriarchy and capitalism, and have been able to shift the focus of dowry from being a private problem to a public issue, needing the attention of state and legal institutions among others. Politicising the issue of dowry required mobilization of political and social forces along with protests, as well as lobbying and petitioning against the patriarchal social structure of the family, state and economy. State support in terms of legal amendments and involvement of court and police were also crucial measures that strengthened their goal to curb violence against women (Subramaniam, Remedios and Mitra, 2009: 209-210).

As a consequence of lobbying and campaigning against the practice of dowry by women’s organizations, two important laws including the Indian Penal Code and Dowry Prohibition Act were amended in 1986. The Indian Penal Code states that a woman’s death any time within the first seven years of marriage will be investigated, and the Dowry Prohibition Act now requires the government to main statistics on dowry deaths. Another sign of their success at national level is the establishment of anti-dowry cells, renamed as Crime against Women Cells in 1986 for handling crimes against women.

While the protests of women’s organizations and local women’s groups against dowry-related violence have been successful in bringing together disparate
groups of women, such as grass-roots activists and researchers, the movement also faces challenges in its efforts to combat the practice of dowry. First, Bureaucracy often delays a timely attention to the issue of crime against women as the traditional gender norms about women’s role in private affair than a public issue. Second, dowry cases are still under-reported, partly owing to the social taboo and partly because of the low rate of convictions of perpetrators of dowry. In the absence of substantial evidence of dowry-related violence, legal interventions by police and courts have remained inadequate. Finally, there are differences in language and framing of dowry as violence against women within feminist movements, which demand and seek change across various arenas; legislative, institutional, as well as in the practice of marriage (child marriage, early marriage, and the power for women to determine choice of partner) and dowry (Subramaniam, Remedios and Mitra, 2009: 210-211).

Prior to the 1980s, violence against women in India received little attention from women’s organizations, political parties, or the media. While state-initiated actions put issues involving women’s economic welfare on the agenda, it was women’s groups outside of government that placed body politics on the agenda. The framing of dowry-related deaths as private and as an issue internal to a family were challenged by women’s groups who showed that many official ‘suicides’ were ‘murders’. In fact, the UN-Declaration on Violence against Women (1993) adds dowry-related violence to other forms of violence (such as domestic abuse, sexual harassment) as harmful to women. Activists in India, however, disagree on the framing of dowry deaths. For instance, Kishwar (1998) points out that the issue of dowry was not linked to women’s right to property but that instead dowry-related violence was connected to domestic violence. Others, such as Agnihotri and Majumdar (1995), note that the campaign itself projected the ‘women as victim’ image to seek change. While there are differences in projections amongst activists and women’s organizations, there is an overarching concern and recognition to challenge dowry.

The Dahej Virodhi Chetna Manch (DVCM), the coordinating Forum of a range of organizations involved the anti-dowry movement, said that dowry cannot be viewed as an ‘isolated phenomenon’. In its August 1982 memorandum it stated that dowry was “linked with the entire gamut of inferior female condition. It’s increasing
incidence symptomatic of the continuing erosion of women’s status and devaluation of female life in Independent India. It is equally related to the worsening socio-economic crisis within which structural inequalities have accentuated and black money power grown to fuel greater human oppression”. Thus the DVCM did not see dowry as the root cause of the harassment of women, which Kishwar may once have seen it as, but as symptomatic of many cause. Dowry was and is no phoney symbol. Dowry and harassment and murder for dowry are the most immediate and inhuman expression of the coalescence of those processed and relationships which are objectifying and degrading women, turning them into commodities and into means for commodities, in the context of a largely patrilineal, patri-virilocal society (Palriwala, 2005: 284).

The agreement within the Dahej Virodhi Chetna Manch was that despite differences on particular points the Joint Select Committee Report and recommendations would be taken as the consensus. The recommendations included suggestions for comprehensive legal reform, not only of the Dowry Prohibition Act, 1961, but also on inheritance rights for daughters, registration of marriages and all gifts given at marriage, custody of children, family courts, legal aid and a common civil code. Other recommendations were related to the use of mass media and school textbooks for public education, the establishment of vigilance committees with representatives of women’s organizations as members, dowry prohibition officers and a National Commission on Women. The understanding was clearly that dowry cannot be fought in isolation. As a fight against dowry it was not a call for dowry boycott by itself, but raised a gamut of issues related to women’s economic dependence and their legal and social rights in both their natal and marital homes. With the further specification which one finds in the August 1982 memorandum of the DVCM, the first three demands in the section on legal action related to women’s rights in property. These included demands for amendments to provide equal property rights for women under all prevailing laws, a compulsory share for a daughter in a testator’s property and a half share for the wife in all assets acquired by the couple after marriage. In 1983, the anti-dowry movement’s concern with women’s dependent status continued in the focus on the issue of women’s employment by women’s organizations on March 8, International Women’s Day (Ibid:287-288).
Activists have found that the inadequacies in the law and the collusion and connivance of the police and local administration added to the problems of dowry harassment. However, for many sections in the anti-dowry movement, legal changes were viewed only as an instrument of social change. Thus the emphasis was on public campaigns in order to build the necessary political and social will to ensure action that would be effective in eradicating dowry and the increasing harassment of brides. Included in the written list of slogans circulated and raised at meeting and marches were “parivar mein rishta vaisa ho, bahu-beti saman ho” (relationship within family should be such that the daughter and the daughter in-law are treated the same) and “stri par na ho atyachar, ham parosi hain zimmedar” (we neighbor are responsible that women are not abused) (Ibid: 288).

In relooking at the anti-dowry movement and examining the developments of the last few years, the essential understanding of the anti-dowry movement is reaffirmed. The experience of the participating organizations and women made it clear that it was not a question of dowry first or inheritance first, but that both struggles have to take place together. Simultaneously, immediate and urgent measures were needed – legal, social and administrative – to tackle the harassment and murder of women for dowry. Whatever Kishwar (1988) may argue, dowry did not, and does not; give women much in material terms, while as a social phenomenon it takes away their very right to humanity and to life. The continuation of dowry acts as a justification for the daughter’s exclusion from her father’s property, leave alone devaluing her and her economic contribution to her family. Being attached to dowry and excluded from property, she can never be a full member of any family, where no family wants the complete responsibility for her or can give her a share in their unity, their property. If socially, women are to be accepted as complete persons, in their self – conception as well as the perception of society at large, the equation of women with dowry has to be broken and they have to become equal members, equal shareholders in the family property. The fight for the latter has to be in conjunction with the fight against dowry. Kishwar’s argument for first one and then the other is as mechanical as was the idea that dowry boycott would by itself end dowry.

In the 2002 AIDWA (All India Democratic Women’s Association) Survey dowry was restudied. The decision by AIDWA in 2001 to undertake a massive, All
India Survey has to be related to a development in its own activism. In the late 1980s, its Delhi unit, Janwadi Mahila Samiti, (JMS) had planned to undertake a large study of dowry, both to deepen its understanding of the phenomenon and to examine the impact of the anti-dowry movement. Initial work was begun but the study did not take off. From the mid-1980s onwards, there were repeated discussions in its various state units as well as in its All-India Fora of the need to undertake studies on problems which the organization confronted in the course of its mass-based activities. Not only was there little knowledge or experience of these issues in the movement, they were often not being addressed in research in the detail manner which AIDWA activists sought in the particular locations that they worked in.

There had been a massive, quantitative growth in gender-related research, but not necessarily on the issues or experiences which poor and working class women brought to the organization or on the questions which it was asking about these issues. Further, AIDWA had a responsibility to place the experience of its vast membership and myriad activities and the understanding drawn from these within the larger arena of feminist knowledge and activism. Readings of feminists’ movements in India as well as analyses of gender issues were flawed by the silencing of this perspective and experience. Activists, who are also social science researchers, and other scholars were drawn into this discussion and in the early 1990s they set up a research centre, the Indian School of Women’s Studies and Development (ISWSD), with which AIDWA Collaborated. However, the demands of research had continually to be balanced with the exigencies of everyday struggle and the demands of immediate issues, in which time for research received less priority (Parliwala, 2009:150).

Looking first at the surveys in state after state, 13 respondents indicated that not so long ago marriage prestations were of a different order – in quality and quantity. Apart from a few designated items, there had been no prestations at the time of their parents, marriage and in a large number of cases in their own marriage. This may be illustrated from the findings in a few regions and communities on the margins of or outside the dominant Hindu order. In Assam, the common and dominant practice had been of bride price paid by the groom or his family in kind and money (gadhan), as well as in labour on the farm or house of the future father-in-law (jamai khatani). Over 80% of the guardians interviewed said that there had been no dowry at the time
of their own marriage, but at the time of their daughter’s marriage 45% percent had given dowry gift (Ibid:154).

Similar findings were drawn from this study, as in Talab Tillo, 30% respondents did not give/take dowry in their own marriage but as far as the marriage of their children is concerned 10% children fall in this category. In Muthi-Domana 3% respondents did not give/take dowry in their own marriage and 9% of their children fall in this category. This is given in the Table below:

Table 6.1: Variation in the amount of dowry in parents and their children’s marriage

<table>
<thead>
<tr>
<th>Cost of dowry (in ₹)</th>
<th>Talab-Tillo</th>
<th>Muthi-Domana</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No. of respondents who gave/ took Dowry (%)</td>
<td>Dowry given/taken to children of respondents (%)</td>
</tr>
<tr>
<td>Till 1000</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1000-5000</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>5000-10,000</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>10,000-20,000</td>
<td>16 (16%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td>20,000-50,000</td>
<td>15 (15%)</td>
<td>17 (17%)</td>
</tr>
<tr>
<td>50,000-1,00000</td>
<td>10 (10%)</td>
<td>20 (20%)</td>
</tr>
<tr>
<td>1,000000-2,000000</td>
<td>8 (8%)</td>
<td>6 (6%)</td>
</tr>
<tr>
<td>2,000000-3,000000</td>
<td>5 (5%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>3,000000-4,000000</td>
<td>1 (1%)</td>
<td>3 (3%)</td>
</tr>
<tr>
<td>4,000000-5,000000</td>
<td>1 (1%)</td>
<td>2 (2%)</td>
</tr>
<tr>
<td>Above 5,000000</td>
<td>2 (2%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td>Unmarried</td>
<td>12 (12%)</td>
<td>40 (40%)</td>
</tr>
<tr>
<td>Dowry not given/ taken</td>
<td>30 (30%)</td>
<td>10 (10%)</td>
</tr>
<tr>
<td>Total</td>
<td>100 (100%)</td>
<td>100 (100%)</td>
</tr>
</tbody>
</table>

Source: Data collected from the field
In the Table above, the contrast is drawn between the giving and taking of dowry by the respondents and their children both in Talab Tillo and Muthi-Domana. In the case of Talab Tillo there was no respondent or their children who gave/took dowry till ₹10,000, 16% gave between 10,000-20,000 while 1% of their children fall in this category; 15% respondents and 17% their children gave from 20,000-50,000; 10% respondents gave ₹50,000-1,00000 while the number increased in time of their children to 20%; 8% respondents and 6% of their children fall in the category of ₹1,00000-2,00000; 5% respondents gave ₹2,00000-3,00000 and none of their child fall in such category; 1% respondent and 2% their children gave dowry worth ₹4,00000-5,00000; 2% respondents, one gave dowry worth ₹8,00000 and other worth ₹6,00000 and 1% of their children who was given dowry of ₹7,00000 fall in the category of ₹above 5,00000; 12% respondents and 40% their children were unmarried and 30% respondents and 10% of their children have not taken/given dowry.

In case of Muthi-Domana 4% are the respondents and none of their children who gave/took dowry till ₹1,000; 10% are the respondents and none of their children who gave/took dowry from ₹10,00-5,000; 13% are the respondents 10% of their children who gave/took dowry from 5,000-10,000; 10% gave till 10,000-20,000 while none of their children fall in this category; 30% respondents and 16% their children gave from 20,000-50,000; 12% respondents gave ₹50,000-1,00000 while the number increased in time of their children to 15%; 5% respondents and 12% of their children fall in the category of ₹1,00000-2,00000; no respondent and none of their children fall in ₹2,00000-3,00000 category; no respondent and 2% their children gave dowry worth ₹3,00000-4,00000; no respondent and 1% of their children gave dowry worth ₹4,00000-5,00000 and 3% respondents, one gave dowry worth ₹7,00000 and other worth ₹6,00000 and none of their children fall in the category of ₹above 5,00000; 3% respondents and 35% their children were unmarried and 10% respondents and 9% their children have not taken/given dowry.

It indicates that in Muthi Domana the children of respondents have given more dowry than their parents at their time than in the region of Talab Tillo. The jewellery and other small gifts in kind were the most common earlier but now the big items like motorbike, air conditioner, fridge, car etc. are common. Some respondents said that it
had now become the primary requirement for marriage to give dowry to their daughters. Respondents spoke of competition in dowry leading to rejection of prospective brides, divorce, or more harassment and that dowry gifts were seen as enhancing the status and dignity of brides at their in-laws’ house.

What is fascinating about the movement against dowry and dowry violence is how it has woven together several different kinds of attitudes towards women in India: from feminist to anti-patriarchal to anti-capitalist to utopian patriarchalism. The latter is held largely by men who felt it is their duty as good patriarchs to protect and care for their wives; it is not strong in the women’s movement against dowry and dowry-deaths. Many women active in this movement relate the incidence of dowry murder or suicide to the way capitalism is developing in India, as described by the Stri Sangharsh analysis quoted earlier. On the other hand, most of them see this as an anti-patriarchal issue rather than a feminist one: while protests are mounted against the subordination of young women—and sometimes young men—few would stress the contractual nature of marriage for this reason. This is due more to the kind of gap feminists feel between the language they use and the language used by politicians, social reformers, etc. (Jha and others, 1998: 262).

Transnational women’s activism

Like activism related to atrocities against women in India, many movements also took place in the world too. A significant impetus for transnational movement action by and for women was satisfied by specific activities initiated and supported by the United Nations. Women’s involvement in the UN stems from its inception in 1945 and the United Nations Decade for Women (1975-1985) was a watershed both for placing women on the international intergovernmental agenda and for facilitating their cooperation. While women participated in the official delegations and gatherings of the General Assembly at the three meetings of the Decade, their participation in the NGO (Subramaniam, Remedios and Mitra, 2009: 212-213).

The international movement for women’s human rights with the associated slogan that women’s rights are human rights has gained momentum. At the United Nations World Conference on Women in Nairobi (Kenya) in 1985, human rights began to emerge as a key issue for women, and by the 1995 World Conference on
Women in Beijing (China) human rights became the framework for the entire government plan of action (Chauhan, 1999:121).

The various UN Conventions and Covenants on human rights at the international level have been proclaimed and a large number of countries of the world are signatories to them. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was signed in 1979 and entered into force in 1981. This is the legally binding international document prohibiting discriminations against women and obligating government to take affirmative steps to maintain the equality of women. The Convention on the Rights of the Child was adopted in 1989 which come into force in 1990. This sets forth the civil, cultural, economic, social and political rights of children. India has ratified both these Conventions (Ibid: 121).

A Special effort has been made to incorporate the issue of Violence against Women in the human rights perspective. The United Nations Human Rights Commission has appointed a Special Rapporteur on Violence Against Women while the UN General Assembly has adopted a Declaration on Violence Against Women (1993) i.e., on the right of women to be free from violence and the obligations of governments to take step to eliminate violence against women. The Committee on the Violence against Women (1992), formed to enforce CEDAW defines violence as a form of discrimination against women (Ibid: 121-122).

The International Conferences on Dowry and Bride-Burning have been held, two at Harvard (30th September to 2nd October 1995 and 22nd to 24th November 1996) and one at the School of Oriental and African Studies, London University on 14th/15th November 1997. The issues covered in the first conference ranged from a discussion about the absence of dowry and sati problems in Vedic literature by one of the leading classical indologists in the world today, to the most recent evidence of dowry murders (Menski, 1999:9).

Several contributors showed clearly that the dowry problem was integrated with many other socio-psychological issues and that an exclusive focus on 'dowry' could not explain why South Asian women suffer dowry-related violence and continue to die. As a result of that first conference, it was even more obvious that further research was needed to explain and elucidate certain specific points (Ibid: 9).
On the legal front, the Second Dowry Conference assessed and analysed in some detail how modern Indian law has sought to control the dowry problem. It was found that the almost universal perception that the Indian anti-dowry law has been a complete failure was correct until recently. However, beginning in the mid-1980s, the legal control and retribution mechanisms for dowry murder in Indian law have been strengthened by a number of new enactments which have gradually led to more strictly enforced judicial supervision (Ibid:12).

While activist organization from across the world (within nations and transnational networks) focused prominently on violence against women at global forums, activists from India forming transnational advocacy networks have attempted to politicize specific crimes, such as dowry deaths, as instances of such violence. It is only in the context of concerns about violence against women that dowry becomes framed at the global/transnational level. Although women’s activism against dowry deaths and dowry harassment has not received exclusive attention at the global level, advocacy networks and human rights groups have brought together various activists campaigns on issues, such as domestic violence, dowry burning, and sexual slavery into international campaigns to end violence against women. For example, women activist from India have recommended strategies to combat violence against women in international meetings, conferences and forums. One such attempt was made by the women’s delegation from India, who placed violence against women at the top of agenda at the Fourth World Conference on Women held in Beijing in 1995. At the global level of the focus is on violence against women which is often a consequence of pressuring the bride’s family for dowry. This emphasis does not directly challenge the practice of dowry which subordinates and devalues women within marriage and the family (Subramaniam, Remedios and Mitra, 2009:214).

The 2000 UN Report on violence against women, funded by the Economic and Social Council (ECOSOC) and presented at the 56th session of the Commission on Human Rights by Coomaraswamy, the UN Special Rapporteur of Violence against Women, touches on the general social and economic situation of women, the effects of globalization on them, as well as reproductive issues and birth control policies. It states that ‘[F]emale infanticide, widow murder, neglect of girl children and dowry-deaths are related to the economic potential of women,’ and that several million
missing specifically in the developing world ‘owing to female foeticide, female infanticide, purposeful malnourishment and starvation, neglected health problems and murders, some of which related to dowry –so-called dowry deaths’. This framing effort combines several gender discriminatory issues including dowry deaths without raising concern about dowry as connected to marriage (Ibid :216).

The practice of dowry is described in the Special Rapporteur Coomaraswamy’s Report; the emphasis is on the outcome of a dowry system that was originally intended to ensure the bride’s financial independence. ‘If the woman’s family fails to pay the full dowry or does not meet demands for further payments, dowry deaths are a frequent consequence’. The 2000 UN report on violence against women deals with cultural practices in the family that violate women’s rights, ideologies that perpetuate these practices and state responsibility in this regard. Dowry is briefly mentioned in the section titled ‘Marriage’, and once again the focus is on dowry deaths. As noted above, this report focuses on India among other countries of the world (Ibid: 217). The advantages of using a global framework of women’s rights as human rights (with broader definition of violence against women) in the context of dowry-related violence are twofold. First, a broader framing of violence that is inclusive of otherwise residual categories of violence against women can have a wider appeal, across geographical borders and would not necessitate specific explanations. Second, in implementing the laws and monitoring dowry-related violence against women, a global framework of women’s rights as human rights can be viewed as a process of both legal and cultural transformations, bringing about changes in the cultural practices that marginalise women in various societies.

So there are three possible ways to bridge the local and global frames. Firstly, the global initiatives against dowry should consider taking direction from local efforts to challenge the practice and seek rights for women. Secondly, by bringing scholars from across the borders to discuss the various social, cultural and legal dimensions of dowry. Lastly, the laws related to dowry should be made strict which ought to be followed.

**LAWS RELATED TO DOWRY**

*The Dowry Prohibition Act* was introduced in the Parliament on 27th April, 1959 and was passed on 20th May, 1961. The penalty for giving and taking or
demanding dowry was made 6 months imprisonment and ₹ 5000 as fine. In 1984, The Dowry Prohibition (Amendment) Act was made: further in 1986 The Dowry Prohibition (Amendment) Act was passed which made the imprisonment for 5 years and ₹ 15,000 as fine or the value of dowry whichever is more. As far as the meaning of the term dowry is concerned it is defined in the Act as:

**Section 2. Definition of ‘dowry’:** In this Act ‘dowry’ means any property or valuable security given or agreed to be given either directly or indirectly:

(a) By one party to the marriage to the other party to the marriage; or

(b) By the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

(c) at or before [or any time after the marriage] [in connection with the marriage of the said parties but does not include] dower or mehr in case of persons to whom the Muslim Personal Law (Shariat) applies (Rao, 2006:95).

**In connection with the marriage**

“In connection with the marriage of the said parties” were substituted for the words “as consideration for the marriage” to broaden the scope of the definition of dowry. The former means any time after or before the marriage and the latter denotes dowry given at the time of marriage. It is generally seen that the bride’s family is put under a compulsion after marriage to make up for the so-called “deficiencies” at the time of marriage. Thus, it was observed by the Joint Committee that dowry is not isolated payment initially made at the time of marriage or before. It continues even after marriage and if the connection is obvious then it will come within the ambit of dowry. Dowry is considered as stridhan as it is the absolute property of the bride, even if it is in the possession of her in-laws they have to give it to the bride. They are the custodian of this stridhan (Ibid: 96).

**Traditional presents not included in dowry**

The Dowry Prohibition Act does not in any way bar the traditional giving of presents at or after the wedding which may be voluntary and affectionate gifts by parents and relatives to the bride. The traditional giving of presents is an accepted practice which finds mention in the ancient Hindu Scriptures at and even after
marriage. But, the real difficulty arises, pointing towards the flaw in the Act, in making a distinction between voluntary and extorted gifts. The coercive element in cases of dowry becomes very difficult to prove (Ibid).

In this regard it may be right to point out the observations made by the Committee:

“Keeping in view the interest of the girl uppermost in mind and to ensure that the parents of the bride are also not put to any undue hardship, the Committee is of the opinion that … presents made voluntarily, i.e., without compulsion or coercion either directly or indirectly to her by parents, relatives, friends, etc. at or before or after marriage in form of cash, ornaments, clothes or other articles … should not be treated as dowry” (Ibid).

**Dowry and Stridhan**

In modern Hindu Law, *Stridhan* denotes not only the specific kinds of property enumerated in the Smritis, but also other species of property acquired or owned by a woman over which she has absolute control; and she forms the stock of descent in respect of such property which accordingly devolves on her own heirs.

**Sec. 3** of the Dowry Prohibition Act lays down *penalty for giving or taking dowry* as:

If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than [five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years] (The Dowry Prohibition Act, 1961:4).

**Sec. 4** of the Dowry Prohibition Act lays down *penalty for demanding dowry* as: If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees (Ibid: 5).
Indian Penal Code, Section 498 deals with a husband of a woman subjecting her to cruelty. The law dealing with wife beating has been defined in Sec. 498 A in these words:

**498-A. Husband or relative of husband or a woman subjecting her to cruelty**

– whoever, being the husband or the relative of the husband or a woman, subject such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine.

*Explanation*: For the purpose of this section, “cruelty” means:

(a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or death (whether mental or physical) of the woman; or

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

The Dowry Prohibition (Amendment) Act, 1986 introduced S. 304- in the Indian Penal Code, (IPC) which defines dowry death as:

**304-B Dowry deaths** – (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, as such husband or relative shall be deemed to have caused her death.

*Explanation:*

1. For the purpose of sub-section, “dowry” shall have the same meaning as in Sec. 2 of the Dowry Prohibition Act, 1961.

2. Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Husband’s side has to prove that it is not a dowry death.
Comment

_Bride burning:_ The recovery of the stove with its lid removed and burnt match sticks from the kitchen of the appellant’s house clearly goes to show that the kerosene in the stove had been poured over the deceased and then lighted match sticks had been applied to her. It cannot be a case of accidental fire and likewise there was no reason for the lady to have attempted to commit suicide. The dying declaration clearly sets out that the appellant was in the habit of ill-treating her and that on the morning in question he had abused her and beat her and on top of everything he had also poured kerosene over her and set fire to her. The evidence on record conclusively establishes the guilt of the appellant, and that he has been rightly convicted under Sec. 302, I.P.C.

**Section 174(3) of the Criminal Procedure Code,** 1973 as amended in 1983 makes a “post-mortem” mandatory in a number of cases of suicide when:

(a) the case involves the suicide by a woman within seven years of her marriage; or

(b) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person has committed an offence in relation to such woman; or

(c) the case relates to the death of a woman within seven years of her marriage and any relation of the woman has requested for it; or

(d) there is a doubt regarding the cause of death; or

(e) the police officer for any other reason considers it expedient to do so.

He shall, subject to such rules as the State Government may prescribe in this behalf forward the body with a view to its being examined, to the nearest Civil Surgeon or other qualified Medical – man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such purification as the road, as would render such examination useless (Sharma, 1998: 596).

**Section 176 of the Criminal Procedure Code** as amended in 1983 makes inquiry by a Magistrate mandatory if the cause of death falls under (a) or (b) of Sub-section 3 of Section 174 of the Code (Sandanshiv & Mathew, 2005: 77).
Chapter VI: Anti-Dowry Agitations and The Law

Restoration of Dowry

It deals with the dowry to be for the benefit of the wife or her heirs. Where any dowry is received by any person other than the woman in connection with whose marriage it is given that person shall transfer it to the woman –

(a) If the dowry was received before marriage, within three months after the date of marriage; or

(b) If the dowry was received at the time of or after the marriage, within three months after the date of its receipt; or

If the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman (Rao, 2006:101-102).

Government Servants and Dowry

Government servants have been specifically prohibited from giving and taking dowry or abetting the giving and taking of dowry under the Civil Services (Conduct) Rules, 1964.

Rule 13 – A of the Conduct Rules says:

“No government servant shall:

1. Give or take or abet the giving and taking of dowry, or

2. Demand directly or indirectly from parents or guardians of a bride or bridegroom, as the case may be, any dowry

Explanations: For the purpose of this rule, dowry has the same meaning as in the Dowry Prohibition Act, 1961.”

In the Indian Services (Conduct) Rules, 1968 also, similar provisions have been enacted.

This is the scheme and structure of the Dowry Prohibition Act, 1961 after the 1984 and 1986 amendments. But in spite of the Act and amendments, the crime continues unabated. It was therefore felt that amendments should be introduced in the Indian Penal Code and the Indian Evidence Act for a multi-pronged approach to combat the menace of dowry.

Dowry Prohibition Act regards this offence as cognizable which means police can also intervene in a case without its report in the police station (Ibid:107).
Section 7 Cognizance of offences – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), --

(a) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

(b) No Court shall take cognizance of an offence under this Act except upon –

(i) Its own knowledge or a police report of the facts which constitute such offence, or

(ii) A complaint by the person aggrieved by offence or a parent or other relative of such person, or by any recognized welfare institution or organization;

(c) It shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass sentence authorised by the Act on any person convicted of any offence under this Act.

The Section 6 is related to the officers dealing with the problem of dowry. It is read as;

Section 6(8-B). Dowry Prohibition Officers:

1. The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

2. Every Dowry Prohibition Officer shall exercise and perform the following powers and functions namely, -

   (a) To see that the provisions of this Act are complied with;
   (b) To prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;
   (c) To collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and
   (d) To perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.

3. The State Government may, by notification in the official Gazette, confer such powers of a police officer as may be specified in the notification, the Dowry
Prohibition Officer who shall exercise such power subject to such limitations and conditions as may be specified by rules made under this Act.

4. The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition exercises jurisdiction under sub-section (1).

The evidentiary aspect

The 1983 Amendment Act also inserted Section 113-A in the Indian Evidence Act which raises presumption as to abetment of suicide by a married woman. It lays down that when the question is whether commission of suicide by a woman had been abetted by her husband or any relative of her husband, and it is shown that she had committed suicide within a period of seven years of marriage from the date of her marriage, that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband (Sandanshiv & Mathew, 2005: 77).

Further, Section 113-B was inserted into the Indian Evidence Act, which makes the presumption of dowry death mandatory once it is shown that the accused had subjected the deceased woman to cruelty or harassment for or in connection with any demand for dowry. This Section is perhaps the most important aspect of S. 304-B of the IPC because it concludes murder if and when the conditions of cruelty against the woman have been sufficiently proven. Another corresponding amendment in the Criminal Procedure code in the first Schedule made the offence under Section 304-B cognizable and non-bailable (Ibid: 78).

The difference between the two Sections, the Supreme Court said, was that in Section 304-B, the incidence of death is punishable when it occurs within seven years of marriage. No such period is mentioned in Section 498-A and the husband and the in-laws are liable any time after the marriage. This meant that the person charged and acquitted under Section 304-B can be convicted under Section 498-A (Ibid: 79).

Under Section 32 of the Evidence Act, when a statement is made by a person as to the cause of his death or as to any of the circumstances of the transaction which
resulted in his death, in case where in the cause of the death of that person comes into question, such a statement, oral or in writing, made by the deceased to the witness is a relevant fact and is admissible in evidence. Such a statement made by the deceased person is called the ‘dying declaration’, and falls in that category provided it has been made by the deceased while in a fit mental condition. A dying declaration, made by the person on the verge of death has a special sanctity to it, as that moment a person is considered most unlikely to make an untrue statement. Therefore, a dying declaration has a sacrosanct status, as it is verbal testimony given by the deceases victim (Ibid: 82).

Tests to verify a dying declaration

Once the statement of the deceased victim and the evidence of the witnesses testifying to the same passes the test of careful scrutiny of the courts, it becomes an important piece of evidence and if the court is satisfied that the dying declaration is true and free from any embellishment, such a dying declaration, by itself, can be the basis for recording a conviction even without looking for corroboration. If there are more than one dying declarations then the court must scrutinize all of them to find out if each one of them passes the test of being trustworthy. They must be consistent on the material particulars before the court can accept and rely upon the same (Ibid).

As far as the dowry law in case of Jammu and Kashmir, The Act No. XXXVI of 1960 [10th September 1960] is related to dowry is known as The Dowry Restraint Act, 1960 (see Annexure). The Section for dowry death here in the state is 306 and not 304 B as in case of The Dowry Prohibition Act of 1961. Regarding punishment of taking dowry, it is 1 year imprisonment and fine as the value of dowry and in case of giving dowry it is 1 year imprisonment and fine which is not less than ₹ 5,000. The rest of the Act is same as The Dowry Prohibition Act of 1961.

LOOPHOLES IN DOWRY PREVENTION

Despite the formulation of The Dowry Prohibition Act of 1961 which is discussed above, the dowry is prevalent in the society. Unfortunately dowry deaths and other dowry-related crimes have continued to increase during all these years. In 1995, dowry deaths recorded a marginal increase in rate (0.6), the situation was worse in many states, Delhi had a high rate of 1.5, and Uttar Pradesh and Haryana both had
rate of 1.3, according to National Crime Records Bureau, 1995. According to the Report of the Indian Police of 2008, every year it receives over 2500 reports of bride burning. Persistent demands for dowry, even though unintentional, against the women leading to the spouse or by her in-laws towards the women resulting in harassment, death or in commission of suicide by her can be termed as dowry related violence. It is due to certain loopholes in the dowry law and many other factors which are unable to get rid of dowry evil. These are discussed below:

Some flawed provisions in The Dowry Prohibition Act

The Dowry Prohibition Act had several loopholes and could not prevent dowry related crimes from accelerating. It has been variously described as a negative, limited penal and impractical Act, one which has not achieved its objective.

- Dowry is defined as “any property or valuable security given or agreed to be given directly or indirectly by one party to the other party to the marriage or by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before (or any other time after the marriage) in connection with the marriage of the said parties.” Definition of dowry is faulty as it involves both dowry givers and takers as culprits. It made ‘giver’ a culprit, who in most cases is the victim. So hardly any case of persecution for giving dowry ever come to light.

- The law sanctions “gifts” but forbids dowry. It cannot be used for giving gifts at the time of the marriage to the bride, provided they are voluntary and are entered in a list, in accordance with rules. Presents to the groom, if they are made without being demanded, are exempted.

- But who decides what is and what is not a voluntary gift? What is passed off as voluntary at the time of the wedding by the bride’s parents may attract the label of dowry in case strains in the marriage develop later. “Thus even when marital troubles may not be connected to tussles over dowry, women’s families tend to register cases using the draconian provisions of the anti-dowry law when the marriage heads towards a breakdown,” says Madhu Kishwar.

- Presents to the groom should not be of “excessive value”, in relation to the “financial status of the person by whom, or on whose behalf, such presents are given”. But the legal parameters for deciding what gifts are of “excessive value”
in relation to the economic status of the giver are fuzzy. What happens to owners of black money who do not declare their income or are _benami_ property owners?

- Section 498A declares that cruelty by husband or his family against his wife is an offence, and the person(s) found guilty of this ‘shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine’. ‘Cruelty’ is defined broadly to mean: any willful conduct of a nature likely to drive a woman to commit suicide or cause grave injury or danger to her life, whether mental or physical. It includes harassment with a view of coercing her or her relatives to meet any unlawful demand for property or on account of failure by her to meet such a demand.

  Positively, this Section does not use the term dowry (it only makes an indirect reference to ‘unlawful demand for property’) to define cruelty, and includes mental cruelty. Hence, it is broad enough to be used in situations of domestic violence where the cause of violence may or may not be dowry. On the other hand, the use of the term ‘grave injury’ gives space for subjective interpretation of the gravity of violence. As it does not specify the standards on which the gravity is measured, it ignores the everyday violence suffered by women.

  Section 304B focuses on dowry deaths. According to this section, where the death of the woman is caused by any burns or bodily injury, or occurs otherwise than under normal circumstances within seven years of her marriage and if it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any other relatives of her husband for or in connection with any demand for dowry, such death shall be called ‘dowry death’ and such husband or relatives shall be deemed to have caused her death’.

  This Section, unlike Section 498A, can be used only for cases related to dowry. Since no record is maintained and no complaints made at the time of meeting dowry demands while the girl is still alive, it is extremely difficult to prove dowry death under this Section. This Section also presumes that women are harassed for dowry only within the first seven years of marriage. Overall, this Section is not likely to benefit women to deal with domestic violence, as violence is not always related to dowry. From the words ‘soon before her death’ one can infer that it does not take into account the violence committed earlier, or the violence committed on a routine basis.
from day one, as a valid cause that may lead someone to commit suicide. Thus, abetment to suicide does not come under the purview of this Section. Proof of dowry harassment by the husband or his family is a must for conviction under this Section. Whereas, Section 498A has fewer requirements, since the seven-year marriage period is removed and the harassment extended to mental cruelty leading to suicide is not confined to the period immediately prior to the death.

Non-reporting of the cases

Very few cases are brought to the notice of the police, a microscopic minority of reports of bride-burning eventually find title to the newspaper columns as true crime briefs which do not portray the physical and mental agony of women forced to live in pain and humiliation. After all, for every woman is forced to live in pain and for the rest of their lives, there are hundreds who reconcile them to living without any hope in a state of suspended animation where it is the only reality (Majumdar, 2001: 249).

Role of Police performance in dowry cases

Burning case is also a bone of contention between police, public and social organizations. The Maharashtra government has however set up six Vigilance Committees, on dowry matters for as many districts. District magistrates of the district is the ex-officio Chairman of the District Vigilance Commission which consists of district police chief, a gazetted officer from the social welfare department, the Principal of a women’s college or school, one or two social workers, concerned citizens, one or two representatives of woman’s organizations.

A look at police records reveals alarmingly high death rates among young women due to burning. The inadequacy of the investigating machinery is revealed by the fact that 690 women died in 1983 of which 290 were 18-25 years of age, out of this 23 were alleged dowry burning in Delhi alone (Majumdar, 2001:250).

Following lapses have been pointed out about police role and performance:
1. Delay in reaching the scene and even after they reach the scene, they do not take relevant evidence in notice.
2. Recording of Dying Declaration is often delegated.
3. There is considerable apathy on the part of police in registering cases of bride-burning and making more arrests. Police officers quite often say that this problem is exaggerated. (Majumdar, 2001: 253).

In the present study it is found that one of the male policemen in the Women Cell has an opinion that people misuse women cell as advocates usually ask victims to go there. Most of the cases are false e.g. if mother-in-law asks her daughter-in-law to cook food then daughter-in-law goes to police station and gives false statement against her that she is demanding car from her, if her husband asks to get up early in the morning she says he is asking for a bike and so on. About 20% of the brides do not adjust in the family. He further said, he has now started to fill water in the house so that his wife may not come here in this Cell.

The police functioning is hampered due to multiple factors, out of which one is that when police arrives at the spot, the door, where the unfortunate bride has been burnt is already broken open and water thrown all over. Mrs. Kanwaljit Goel, the Deputy Commissioner of police operating the Dowry Cell says, it is the duty of every citizen to give evidence, but neighbors do not want to be witness because they think answering court summons is too much troublesome. Nor they want to annoy the boy’s family.

The Judicial View

It is believed that courts do not view with sympathy the dowry death cases. In this context, an article written by Mr. JP Aray, D.I.G., C.I.D., Haryana in column of the Times of India when he pointed out that in Haryana in 1977-1978, 106 cases were registered on account of dowry deaths out of which 59 were set up and none was convicted. Even in those cases where there is evidence, the court chose not to believe the woman, even her dying declaration is not believed. In one case Shanni Kaur, gave statement three times, once to police, and twice to two different doctors stating that her husband had poured kerosene oil on her and burnt her. The court disbelieved the dying declaration (Majumdar, 2001: 250).

Statistics compiled by the National Crime Records Bureau 1999 reveal that as many as 87.1 per cent of the dowry death cases remained pending in the courts as compared to the disposal rate of 2 per cent in the year 1995. This may be due partly to the lengthy and archaic judicial procedure. More alarming is the extremely
low rate conviction. The acquittal or discharge in cases of cruelty by the husband or his relatives amounted to 75.8 per cent (Chowdhary, 1999:156).

A closer look at the above cases, moreover, reveals that convictions were made at the level of the Supreme Court, the last and final court of appeal, often reversing orders of acquittal granted by the trial of the Court. This display of gender sensitization and judicial activism has unfortunately not percolated down to the subordinate courts, raising some questions about arbitrary and blatantly biased judicial strategies still commonly operating. A majority of the dowry victims belong to the middle and lower middle income groups, so have no financial resources pursue the case beyond the trial court or, at most, the High Court. A lengthy and tedious court process extending two or three years from the filing of the complaint to the actual trial at the end of which the accused is set free on flimsy grounds, leaves the girl (if indeed she is still alive) and/or her family mentally exhausted, financially depleted and disillusioned with a system that functions on a prejudiced level rather than being based on norms of justice. Clearly, then, despite the positive beginning made by the Supreme Court, the legal subjectivity of the subordinate courts coupled with the police and the inefficiency of the administrative machinery may be immensely difficult to sustain a charge of dowry murder in the court.

Implementational break-downs

It has been seen that there is no proper implementation of the dowry laws. In one of WARLAW cases, which is currently subjudice, the Sessions Court took eight years just to frame a charge against the accused persons. Over three judges were transferred in the course of the hearing, thus prolonging the pendency of the case (Sandanshiv & Mathew, 2005: 84).

The offenders in dowry related cases do not see themselves as guilty people, nor do the public perceive their conduct as criminal like in other offences. Dowry death cases are not treated with the seriousness that is required by the state and its enforcement agencies. In this study it is seen that 43% respondents in Talab Tillo and 39% in Muthi Domana think law of dowry is not properly implemented. It can be known from the Table given below:
### Table 6.2: Views of respondents regarding implementation of laws

<table>
<thead>
<tr>
<th>Implementation</th>
<th>Reasons</th>
<th>Talab Tillo</th>
<th>Muthi- Domana</th>
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<tr>
<td></td>
<td></td>
<td>No. of respondents (%)</td>
<td>No. of respondents (%)</td>
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<tr>
<td>Yes</td>
<td>Gives punishment</td>
<td>17 (17%)</td>
<td>12 (12%)</td>
</tr>
<tr>
<td></td>
<td>Helps poor</td>
<td>6 (6%)</td>
<td>11 (11%)</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>23 (23%)</td>
<td>23 (23%)</td>
</tr>
<tr>
<td>No</td>
<td>Dowry is still practiced</td>
<td>32 (32%)</td>
<td>34 (34%)</td>
</tr>
<tr>
<td></td>
<td>Dowry harassments and dowry deaths are still prevalent</td>
<td>11 (11%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td></td>
<td>No proper punishment</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>Both law and public is responsible</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>People are not obeying</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>Law is blind</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>Poor suffer</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>43 (43%)</td>
<td>39 (39%)</td>
</tr>
<tr>
<td>Partially</td>
<td>Dowry is still practiced</td>
<td>6 (6%)</td>
<td>5 (5%)</td>
</tr>
<tr>
<td></td>
<td>People are unaware about laws</td>
<td>2 (2%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td></td>
<td>Next generation will improve</td>
<td>0 (0%)</td>
<td>1 (1%)</td>
</tr>
<tr>
<td></td>
<td>Helps poor</td>
<td>4 (4%)</td>
<td>2 (2%)</td>
</tr>
<tr>
<td></td>
<td>Gives punishment</td>
<td>4 (4%)</td>
<td>7 (7%)</td>
</tr>
<tr>
<td></td>
<td>Weak laws</td>
<td>3 (3%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td></td>
<td>Helps needy aware persons</td>
<td>1 (1%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>20 (20%)</td>
<td>15 (15%)</td>
</tr>
<tr>
<td>Unaware</td>
<td>No awareness</td>
<td>14 (14%)</td>
<td>23 (23%)</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>14 (14%)</td>
<td>23 (23%)</td>
</tr>
<tr>
<td></td>
<td>Grand Total</td>
<td>100 (100%)</td>
<td>100 (100%)</td>
</tr>
</tbody>
</table>

**Source:** Data collected from the field

In this work, 46 respondents out of 200 are of the view that dowry laws are properly implemented as, 17% respondents in Talab Tillo and 12% in Muthi Domana believe that punishments are given according to the law; 6% in Talab Tillo and 11% in Muthi Domana believe that it helps poor people as they can approach court when demanded dowry. However, 82 respondents do not have trust in law, 32% in Talab
Tillo and 34% in Muthi Domana believe that dowry is still in process and law is doing nothing; 11% in Talab Tillo said dowry harassments and deaths are still prevalent and no such case is found in Muthi Domana; no case in Talab Tillo and 1% in Muthi Domana believe that no proper punishment is given; no case in Talab Tillo and 1% in Muthi Domana believe that both law and public are responsible for the dowry problem as people are giving dowry and law is not punishing them; no case in Talab Tillo and 1% in Muthi Domana said that people are not obeying the law; no case in Talab Tillo and 1% in Muthi Domana believe that law is blind; no case in Talab Tillo and 1% in Muthi Domana believe that poor are suffering as they have to give dowry irrespective of the dowry laws. 35 respondents think dowry laws are implemented partially as, 6% in Talab Tillo and 5% in Muthi -Domana think dowry is still practiced; 2% in Talab Tillo are of the view that people are unaware about dowry laws whereas no such case is seen in Muthi –Domana; no person in Talab Tillo and 1% in Muthi-Domana think there will be improvement in next generation due to these laws; 4% in Talab Tillo and 2% in Muthi -Domana think that law helps poor; 4% in Talab Tillo and 7% in Muthi -Domana believe that punishment is given to the culprit; 3% in Talab Tillo are of the view that law is weak and no such case is found in Muthi –Domana; only 1% in Talab Tillo think law helps only needy but law aware person and no one is of this view in Muthi –Domana. 37 respondents are unaware about dowry laws i.e. 14% in Talab Tillo and 23% in Muthi –Domana.

Thus it is inferred from the Table that most of the respondents said that they do not believe in the proper implementation of dowry laws.

Role of bail

Another stumbling block in this whole process is the role of bail. The culprits are bailed out easily by bribing the higher authorities. The Sessions Court and the High Courts continually grant bail in cases of domestic violence and dowry deaths despite the Supreme Court’s repeated pleas of caution. In the Naina Sahni murder case that took place in the central part of Delhi on the night of 2nd July, 1995, the accused, Sushil Sharma, the husband of the deceased Naina, was granted anticipatory bail in a far away southern state by the Principal Sessions Judge in Madras. The High Court cancelled the anticipatory bail \textit{suo moto} and severely criticized the callous and
casual response of the Principal Sessions Judge in having granted anticipatory bail without application of mind (Sandanshiv & Mathew, 2005: 85-86).

**Difficulties in gathering evidence**

Most of the dowry related crimes and harassment are well planned and executed within closed doors of a house by a group of members of family. As such gathering evidence about such crimes is rather a difficult task and several other sources of evidence have to be used to corroborate the commission of crime. Though the neighbours notice harassment of a bride they may rarely take serious interest considering such matters as ‘private or family affairs’ (Jha and Piyari, 1996: 258-259). In the present research, 4 respondents told that there was a dowry death in their locality; but all these respondents belonged to the same area. As far as the question of dowry harassment is concerned only few respondents admitted this. For instance, one of the respondents Sneh told that there was a case of dowry harassment in her neighbourhood. A family consisting of a couple and a son of 4 years used to live in a rented house. An allegation was put against the lady in this family Anu, by her in-laws that she has stolen ₹ 5 lacks from their almirah and Anu was asked to bring this huge sum from the house of her parents. So the couple was separated by the in-laws and they started to live in a rented house. The husband of Anu used to beat her a lot asking her to bring money, her cries were listened by the neighbourers and they tried to convince the man to behave properly as he was living in a good locality, all this will put a bad impact on the people residing in that area but all in vain. He still beat Anu many times. Anu used to come to Kavita and tell her the reasons why her husband tortures her. Then one fine day this family went back to Anu’s in-laws home to attend the marriage of Anu’s husband’s younger brother. Otherwise most of the interviewees told no such mishappening took place in their area. It may be because they are scared that they may be involved in some sort of police case. It amy also be because they consider it their personal matter.

Public outcry against ill-treatment of a bride though heard occasionally may not happen every time. Even law enforcement authorities may consider them as a domestic disturbances thereby paying deaf ear to complaints made by the kin of the woman. In many instances where husbands were obvious offenders, the dying woman might hesitate to make a statement before the police or the marriage against her
husband or even in-laws considering the fate of her children after her death and for fear of bringing bad name to her family (Jha and Piyari, 1996:259).

**Unawareness of law**

People are not much aware about the dowry law. They are not clear about the meaning of dowry. In this work most of them think that when the items in the marriage ceremony are demanded it contributes to dowry and if the bride herself brings dowry from her parents’ house without being asked for, it is not known as dowry.

In this study 36 (18%) respondents out of 200 are unaware about the dowry law. No doubt 126 respondents said they know about such laws that dowry is crime but still they do not know about what sort of crime it is? The below diagram depicts details about it:

**Talab Tillo**

- 79% Crime
- 3% Punishment
- 6% N't to give Dowry
- 6% N't to give and take Dowry
- 6% Unaware

**Muthi-Domana**

- 47% Crime
- 6% Punishment
- 13% N't to give Dowry
- 6% N't to give and take Dowry
- 4% Unaware

**Fig. 6.1: Pie Diagram showing dowry law and its awareness**

In the Pie Diagram above, which represents awareness of the people regarding laws of dowry, 6% of the respondents in Talab Tillo and 13% in Muthi-Domana say that dowry laws mean punishment, 6% in Talab Tillo and 4% in Muthi-Domana
believe it mean not to give dowry, 3% in Talab Tillo and 6% in Muthi-Domana say it means not to give and take dowry, 6% in Talab Tillo and 30% in Muthi-Domana are unaware about these laws which indicates that more persons are unaware in Muthi-Domana than Talab Tillo and 79% in Talab Tillo and 47% in Muthi-Domana believe that laws consider dowry as a crime indicates that 32% respondents more in Talab Tillo than in Muthi-Domana know what the dowry laws mean still they are unaware what the law actually is.

Thus regarding the unawareness about the dowry laws it can be said that respondents in Muthi Domana (30%) are more unaware than respondents in Talab Tillo (6%). Maximum respondents said dowry is a crime but still they do not know how it is considered a crime.

Victim hides her harassment

It has been seen that mostly the victim does not reveal her harassment in her in-law’s family. In the present study, out of 200 respondents no respondent answered that any case of dowry death or dowry harassment took place in his/her family. One respondent in Talab Tillo told that a dweller of his area, Bharti Devi was harassed for not bringing more dowry, but on being asked her she refused to reveal such truth. It indicates no one wants to disclose such evil practice if it takes place in his/her house. But out of 6 case studies related with dowry, in Talab Tillo Moni, Sneha, Jaya and Shalini told about their harassment in their in-laws’ house and in Muthi-Domana Shalika and Tripta revealed truth that they were harassed for dowry.

On the other hand victim hardly reveals the response of the in-laws related to the dowry she has brought. In this research, when the question was asked what do the in-laws or husband of the respondent think about the dowry she has brought? They said that no one asked them to bring more goods except in few cases of Shalika, Moni, Sneha, Tripta, Shalini and Jaya the respondents hide the truth. One respondent, Rano Devi revealed that small quarrels took place in her home regarding the goods which she has brought in her dowry. Her husband said she has brought small gagher (clay pot) and threw it many times, so she sold it to avoid repeated taunts of her dowry item.
Unjust social pressure

The most crucial element of a dowry death case is a woman’s inability to effectively resist her in-laws’ demands and, if necessary, to leave a marriage which causes her humiliation. In Indian society, there is a culture of silence that reinforces an oppressive pressure to keep the marriage going at all costs. This effectively keeps women in abusive homes. Hence, dowry and the increasing demands related to it are not the sole exterminators of women in this country. Instead, it is the unjust social pressure placed on women to stay in abusive, unwelcome homes when their lives are clearly in danger.

Greed of dowry

There is a great greed for dowry by the parents of the groom. They do not refuse to take dowry in the marriage of their son. It can be understood from the present study through an instance that the younger sister was married to the same person after the death of her sister i.e. it was a sororate marriage but the boy’s parents were so filled with greed that they took dowry from her too as they took from her deceased sister.

In another case, the boy named Aashim refused to take dowry at the time of marriage with Gouri as it was love marriage but later on, in every festival Gouri’s parents gave her household items, they gave her T.V, fridge, music system, almirah etc. Thus it is an indirect form of dowry and marriage by choice or arranged does not actually make much difference.

Acceptance of husband by the second family

Another disturbing trend is the urgency with which the husband gets married to another woman, after the unnatural death of his first wife. Almost invariably, this happens while the husband is on bail. In the famous Sudha Goel case, the husband, while out on bail, married again and even had two children before he went into jail to complete a term for life. The mother-in-law, when asked whether the second wife had got dowry with her, said that she was satisfied with the dowry. What is terrifying in this scenario is the calm acceptance by the second family of a man who is charged with the murder of his first wife, and the willingness with which the bride’s parents marry her off to him.
Misuse of Anti-Dowry Act

It is seen at times that the Anti-Dowry Act is also misused. In Daily Excelsior, 2nd November 2007 there was a news that Delhi High Court said people are using this tool to extract as much monetary benefit as they can, as one person and his mother got 7 years rigorous punishment in a wrong case for having caused 25% burns to his wife. Whereas wife gave two different statements where in one she said the burns were due to an accident and in the other it was by her husband and mother-in-law. The facts speak for themselves that entire story was cooked up. So due to such incidents, authorities view that a particular case may be fake as the party is trying to misuse the Act.

Politicians involved in dowry case

In our country the law makers are too involved in the dowry harassment case as Arjun Singh Ex. Human Resource Development Minister was in news when his grandson's wife put allegation on him and his family members that they are demanding dowry including a Mercedes car and a flat and harassing her over their demands (Amar Ujala, 31 July 2007). So, it indicates when the politicians are involved in asking for items related to dowry and it reveals that many times law makers are law breakers.

So all these factors mentioned above become obstacle in making society practice dowry less marriages.

Thus it is seen that many anti dowry movements were fought against the dowry menace. The Dowry Prohibition Act was made for helping the people to fight against this evil. It helped the victims to know about their rights and go to the court for justice. But, besides these anti-dowry agitations as well as dowry laws there are so many reasons of the prevalence of the dowry evil in our society as seen in earlier chapters.
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