The custom of dowry is present in the Indian society. The women are given dowry at the time of their marriage. Whereas on the other hand they have their share in the property of their parents but no one thinks to give that share to them. The men get the share of such property by their father.

STATEMENT OF THE PROBLEM

The present research deals with the issue of dowry and property rights of Hindu women in Jammu district of Jammu and Kashmir (J&K) state. Dowry is an integral part of the Hindu marriage system and has closely and crucially affected the status of women in contemporary Indian society. It has expanded all over India and its wider ramifications are visible in the spate of cases of bride burning, suicides and harassment. On the other hand, though Hindu women now have a share in parental property, according to The Hindu Succession Act (1956), few of them actually claim it. Dowry has been intricately linked with the property of women, particularly in the form of stridhan. The present research has looked into the interface between dowry and property rights of women as well as the occurring of the two phenomena independent of each other. The study has focused on the questions as to why dowry, despite being declared as illegal continues to be practised unabatedly and the property right, which is a legal claim of any Hindu daughter, continues to be evaded.

Historically, dowry has been an integral institutionalized part of Hindu marriage system. It ideally and customarily denoted the gifts voluntarily presented to the bride, bridegroom and his family in marriage. The concept of kanyadana (gift of daughter) with gifts ranging from ornaments and other precious items finds references from ancient to modern texts on customs and rituals.

According to Webster’s New Dictionary, dowry means:

1. The money goods or estate which a woman brings to her husband in marriage; the portion given with the wife;
2. A natural talent, gift or endowment: as poetry was her dowry;
3. A gift given to or for a wife.
The meaning of the term dowry as per Wharton’s Law Lexicon is:

Dowry or Dote (Dos Mulieris) otherwise called Maritagium or marriage goods, that which the wife brings to the husband in marriage. This word should not be confounded with dower.

The Law Lexicon of British India, says Dowry or Dote (Dos Mulieris) was in ancient times applied to that which the wife brings to her husband in marriage; otherwise called maritagium or marriage goods; but these are termed mere property goods given in marriage and the marriage portion.

According to the Cambridge Dictionary, Dowry is property which a woman brings to her husband.

In Sanskrit, dowry means ‘Dayaj’ which signifies gifts or donations i.e., property both movable and immovable that a girl brings with her at the time of her matrimony. In Urdu, dowry is ‘Jahez’ i.e (Shadi ke waqt jo kuch bhi Ladki wale Ladke walon ko dete hain) which means whatever is given by the bride’s family to the grooms family.

Among Hindus, gift of the bride, Kanyadana, is accompanied by subsidiary cash, gift or dakshina and Stridhan refers to the gifts given to a woman by different relatives from either side. Thus, traditional dowry was equated with gifts including woman’s property or stridhan. The family of bride gave this voluntarily.

Broadly, two points are discernible in the provision of stridhan. First, while stridhan may have included the daughter’s portion of inheritance, her control over it was far from complete. Second, stridhan cannot be equated with dowry. In dowry, the transaction of gift was from bride’s father or guardian to the groom or his guardian and not to the daughter alone. As such, it did not constitute stridhan only but more. Even in modern times, the dowry is not stridhan because it is transacted at the instance of the groom or his family. Women’s limited rights and control respectively over inheritance and stridhan, however, confirm that the transmission of property to the daughter as a gift was the common practice. Dowry included both movable and immovable property (Sheel, 1999: 51).

There are divergent views with regard to the dowry system. One view is that dowry enhances social status of the giver of dowry as it was offered without expectation of any reciprocity. While the other view is that bride-givers always
remain inferior in status to bride-takers regardless of the offer of gift or dowry. Dowry may be just a pure gift in the ancient times, which has taken a new form in the present situation. In another notion, the dowry is looked from purely economic angle and equated to the compensation for women’s share of ‘leisure’ and her ‘negative net worth’ (Ibid: 20-21). Dowry is also viewed as a gift or a present which is not a voluntary present or a gift, but a present that is extorted under compulsion.

Keeping these perspectives in mind, the present study focuses on dowry as a social institution and how it evolved over the years and acquired the present dimension affecting women’s status in Indian society today. This is seen specifically in the context of Jammu district. In doing so, it has drawn upon a long and wide canvas and traversed from the ancient to modern times in an attempt to examine dowry and its various dimensions. Not taking dowry in the sense of a static custom or practice, the study examines it in a historical context of the prevailing socio-cultural, political, and economic structures. This has facilitated comprehension of its changing nature as well as its linkages with the state, society, and economy.

During 1980s many dowry deaths took place throughout the nation, the phenomenon was particularly pronounced in Delhi that saw clear links between unnatural deaths of young bride and the demands for more and more dowry. The police records revealed that a shockingly high rate of women had died this way due to burning: in 1983 alone, 690 women had died this way, of which 270 were between 18 and 25 years of age. A study by Kiran Devendra has shown that 25 year old Shashi Kala committed suicide in Tumkur, Karnataka. She was allegedly a victim of dowry harassment who mentioned in her diary that she was being harassed for bringing inadequate dowry (Devendra, 1996: 133). Such cases of dowry harassment and dowry deaths in different parts of India led to countrywide protest and agitation. Consequently as the result of vibrant women’s movement, amendments to the existing, The Dowry Prohibition Act of 1961 were made. These were The Dowry Prohibition (Amendment) Act of 1984 and The Dowry Prohibition (Amendment) Act of 1986. They made the earlier laws stricter. The penalty for giving, taking or demanding dowry which was earlier 6 months imprisonment or ₹5000 as fine or both was amended in 1986 as the imprisonment for 5 years and ₹15,000 as fine or the
value of dowry whichever is more. The dowry in the form of ornaments, clothes, gifts and other articles should not exceed ₹ 2000 in value (Kant, 2003: 107).

*The National Crime Record Bureau* (2002) of The Government of India gives the following statistical data regarding crime against women:

- 7,895 women were murdered due to dowry.
- In every 66 minutes 1 woman is murdered due to dowry.
- 12,134 women were driven to commit suicide due to dowry.

Recently the President of India Smt. Pratibha Patil termed dowry “a curse”, addressing a big gathering in Amritsar, she further added “I am not here to give a speech to you on this. I have come to talk to you about this serious issue. Dowry is considered a curse in this country because of which parents do not want daughters. We have to change this and curb issues like dowry”. She also said “if there are no girls, there will not be any mothers, sisters, wives, and daughters to take humanity forward” (Indo Asian News Service, 06.10.2010).

The cases of dowry harassment and deaths have also been rising in district Jammu and are the focus of this research. Day in and day out there are cases reported in news papers about dowry related incidents. The figures presented show that significant number of women think it as a social custom and a crime prohibited by law. It is only when the dowry related death takes place; the family of orientation of the deceased takes the refuge of Section 498-A of Ranbir Penal Code. In a report of *Crime in India*, the dowry deaths in district Jammu are 6 during 1999 (Crime in India, 1999). According to the report of *The State Women Commission, Jammu*, the rate of dowry related violence in Jammu has increased from 3.5% in 2001 to 8.9% in 2009.

As dowry is seen as intricately related with property rights of women, the interface between the two is attempted in the present study. But the dowry need not be necessarily related to the women’s property so it was also important to analyze the concept of ‘property’ and its related aspects separately and independently.

The term ‘property’ in *Section 14* of the Hindu Succession Act, 1956, accordingly included the gifts given at the time of woman’s marriage. Property was defined as both movable and immovable property acquired by a Hindu female by inheritance or devise, or at a partition or in lieu of maintenance or arrear of maintenance, or by gift from any person, whether a relative or not, before, at or after
her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhan immediately before the commencement of the Act (Sheel, 1999: 186).

Authors like Tambiah (1973) regard dowry in immovable form as women’s property. According to him, ‘dowry connotes female property or female right to property, which is transferred at a woman’s marriage, as a sort of pre-mortem inheritance, dowry also connotes in complementary fashion, that property is transferred together with a daughter so that she is enabled to enter into marriage’. In ‘diverging-devolution’ children of both sexes inherit, but women often receive their portion at marriage in the form of dowry while men inherit immovable property like land. Many authors, especially those who focus on north India do not agree with the view that dowry can be equated with inheritance. According to Ursula Sharma (1984) this is so because, ‘dowry does not represent a fixed share of a particular divisible estate’, and ‘it is not paid to the bride herself but to her husband’s family’. Bina Agarwal has also given similar views and added that ‘dowry for women is linked to whether or not they marry, while inheritance for men is not’ and except for certain communities ‘dowry has always been in the form of movables, while inheritance for men includes immovables’, also that ‘dowry is not entirely a woman’s own or in her control’ (Agarwal, 1998). There are however, shown that there are regional variations and indeed the concept of dowry and its practice as followed in different parts of India, cautions us against applying a uniform definition of dowry and universal understanding of the phenomenon (Chauhan,1999:127).

Traditionally the Hindus were governed by Mitakshara and Dayabhaga schools of law which denied women right to property. Attempts were therefore made to codify Hindu Personal Law to promote rights of inheritance of property to woman. The Hindu Code Bill, which was introduced for discussion between 1930s and 1940s, was the first major attempt to reform and codify Hindu Personal Law. Besides inheritance, the Bill legitimized civil marriage in addition to sacramental marriage. It also recognized a marriage as valid irrespective of the caste or the sub-caste of the parties entering into the relationship. In addition, it contained significant provisions for maintenance, adoption, divorce and prescribed monogamy.
The Hindu Succession Act of 1956 codified the multiplicity of laws concerning the property rights of women and considerably broadened them. It permitted Hindu females to hold any property possessed by her as her absolute property with full power to deal with it or dispose it. It also entitled the widow to succeed to the property of her husband. Daughters, including adopted daughters, could claim a share in the father’s property (though not in ancestral property). But unlike the son ‘the daughter did not get an immediate interest in the joint family property…. She was only entitled to inherit a part of the property that constituted the share of the father once he died’ (Nair, 1996: 225).

The Hindu Succession Act passed in 1956, ushered in significant changes yet, at the same time, reinforced and reformulated the traditional attitudes and beliefs regarding patriliny and inheritance for women. Its purpose of providing for equal rights in inheritance in accordance with the Constitutional guarantee of non-discrimination between sexes before the law was achieved only in a limited way.

However despite these provisions, it is seen that a large number of women do not claim their share in parental property. The symbiotic relationship between marriage, property and dowry becomes more apparent when examined the nature of women’s rights to inheritance, and stridhan, i.e. women’s property. Women’s rights to property are mentioned in ancient texts in the context of their rights to the stridhan, i.e. wealth given to them at marriage, which, at least normatively, was inviolable to a large extent. Besides this, a strong normative injunction to provide for an unmarried fatherless daughter’s marriage or for her upkeep was also laid down. A brother less daughter, however, could inherit on certain conditions (Sheel, 1999: 46).

The present research studied reasons that why women are not interested in taking their parental property before or after marriage. A woman who demands share of her father’s ancestral property or self acquired property risks ruining of her relationship with her brothers. An argument given by Leela Dube is that, where as brothers’ shares remain in the family, giving shares to sisters lead to fragmentation of property. She believes that kinship plays a role in organizing women’s social life including their right to property. It highlights that a father may make a will leaving some of his self-acquired property to his daughters; but very often he might be guided by traditional ideas and leave little or nothing for them. It is only among a few
educated people that daughters receive their shares without reservations. By and large the new law remains ineffective so far as daughters are concerned. Sometimes sons-in-law press their wives to claim their shares leading to disputes and bickering (Dube, 1997:38-39).

Sadly, in recent years dowry seems to have replaced the traditional Stridhan. The values and contents of dowry have increased many times over, because bridegrooms and their parents treat marriage as an easy method of accumulating wealth and acquiring capital or consumer goods. The absence of inheritance rights of daughters certainly give an impetus to the practice, as does the caste system with the restrictions that it places on marriage. In South Asia, even those women who participate in productive activities, working in the family’s fields or in its occupation, do not have control over resources or earnings. Those who earn wages may have control over their income but in terms of their ideology they are still dependent; that may be reminded that they live in the houses of their in-laws, whose food they eat (Ibid:41-43).

In certain communities of South India like Nangudi Vellalars of Tamil Nadu and Kammas and Reddys of Andhra Pradesh, dowry has been a form of pre-mortem inheritance which also included immovable items like land and movables, even though these are given at marriage and not strictly by right of inheritance. In Telugu, what is given at the time of marriage is called bahumanam meaning gift and not bhagan, a share. In Tamil, the land is called manjal kani for woman’s independent income and to be passed from mother to daughter. Customarily the women’s right to property on marriage both movable and immovable is recognized in these areas (Ibid: 39-40).

At present the people have not stopped the practice of dowry. Many women do not claim their property rights and there is a debate that dowry, at least in interim could be given in lieu of women’s property rights in some ways as part of dowry. Those who support it do so as it is asked and expected by girls themselves, it enhances status in the conjugal household and provide economic stability a well being (Kishwar, 1982).

However, looking at inheritance rights as a substitute for dowry is looking only at the evil side of it and purely in economic terms. Even if some portion of
Dowry is regarded as property, it is usually given as gift and it is difficult to ask people not to gift their daughters on such occasions. In today’s time, it may be seen that dowry provided acceptance and goodwill to women in their marital homes on the one hand, and a substitute for woman’s lack of right of inheritance, on the other.

This research focuses on the questions like, what women think about dowry? Do they support it or not? Should it continue? Should women claim their property rights? Should women claim their property rights in lieu of dowry? If yes, why? If not, why not? What do the women and people generally think about dowry and property rights of women? Why do people give and take dowry? Is the law only in papers or in writing? Why the law is not implemented properly? Has the dowry harassments increased? Is dowry an evil? If yes, why? If not, why not? If it is an evil then what are the reasons for its continuity? All these questions are probed during the study. The study focuses on question as to why women are not claiming their property rights even after The Hindu Succession Act – 1956 has given women rights in their parental property and still prefer dowry during their marriage? Are they aware about their property rights?

The study also deals with the views and perceptions of women, of their family of orientation, family of procreation and perceptions of men regarding dowry and property rights that have been enshrined in the Hindu Succession Act - 1956.

The awareness of women regarding various laws and amendments are studied. The research has taken into consideration the changes that have taken place in giving and taking of the dowry after the Succession Act with particular reference to district Jammu in J&K state.

Among the Hindus of J&K, the same Hindu Succession Act of 1956 is applicable as in the rest of the country. The Dowry Prohibition Act, 1961, is known as The Dowry Restraint Act, 1960 in J&K. In case of any dowry death, the Section 306 is here in the state and not 304 B as in case of The Dowry Prohibition Act of 1961 which prevails in rest of India. 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.
ORIGIN AND SPREAD OF DOWRY AND BRIDE PRICE

Dowry is one of those social practices that no educated Indian would own up with pride, although many of us still adhere to this much deplorable practice. Even among the educated sections of society, dowry continues to form an essential part of the negotiations that take place in an arranged marriage. During the marriage ceremony the articles comprising the dowry are proudly displayed in the wedding hall. Dowry is still very much a status symbol. A number of marriage-negotiations break down if there is no consensus between the bride's and groom’s families. Dowry deaths of a newly married bride are still regularly in the news.

Although the practice of dowry exists in many countries, it has assumed the proportion of challenge to the forces of modernity and change only in India. It is said that a dowry is meant to help the newly-weds to set up their own home. Another explanation is that dowry is given as compensation to the groom's parents for the amount they have spent in educating and upbringing their son. These explanations may seem logical in the present day context, but they cannot explain how this practice originated. A search for the origins of dowry would have to move backwards into antiquity. Discussion about dowry has to take into account the less prevalent practice of bride price, which is but a reversal of dowry. Although it may not be possible to ascertain when and where these practices originated, it can be supposed that dowry and bride price are posterior to the institution of monogamy. This is the same as saying that dowry and bride price came into being after the practice of monogamous marriage had become prevalent.

But monogamous marriage is itself a culmination of the human adaptation of animal promiscuity. Man is the only species practicing monogamy, all other species are promiscuous. Thus it is a logical corollary that man's institution of monogamy came into being at sometime in the long evolution of his species. The practice of monogamy itself evolved in stages as is evident from historical anecdotes as in the Mahabharata where the five Pandava brothers have one wife.

Promiscuity gave way to Polygyny/polyandry, and after various permutations and combinations, monogamy became the established system. As long as promiscuity existed there was no question of dowry or bride price. The origin of these two practices could be linked up with the discarding of promiscuity in favour of Polygyny.
Chapter I: Introduction

and Polyandry. These two forms of marriage are themselves mutual opposites. But the existence of the diametrically opposite practices of dowry and bride price, possibly owe their origin to polygyny and polyandry. The formation of polygynous and polyandrous forms of marriage could have been made necessary by changes in the demographic balance between the sexes. A rise in the number of females as compared to that of males is a congenial situation for the emergence of polygyny.

In absence of polygyny, in a society having a larger number of females as compared to males, many female members would have to deprive of marital life. The obligation to get more than one female member into wedlock with one male member could have been the situation which gave birth to dowry as a price exacted by the male and his family from the female's family.

The origin of bride-price could have taken place in opposite circumstances where the sex ratio favoured females and as there were a large number of males for every female, polyandry and bride-price could have been the result.

Along with this generalised hypothesis there were many factors specific to different situations that gave birth to dowry and bride-price. These factors can be identified with more certainty. In Indian context, these practices can be seen to be a result of the dialectics of our caste system. The conflict of opposing tendencies of the caste hierarchy, have resulted in endogamy, preventing inter-marriage between members of different castes. A reason for the origin of dowry and bride-price can also be seen in the same conflict. Hence discussion on these two practices would have to be intertwined.

Dowry (Dahej/Hunda) as we all know is paid in cash or kind by the bride's family to the groom's family along with the giving away of the bride (Kanya-dana). The ritual of Kanya-dana is an essential aspect in Hindu marital rites: Kanya is daughter, dana is gift. A reason for the origin of dowry could perhaps be that the groom and his family had to take up the 'onerous' responsibility of supporting the bride for the rest of her life.

Bride-price on the other hand involves the receipt of presents, in cash or kind, by the bride's family in return for giving away of the bride. Hence bride price has the character of an exchange. One feature about dowry and bride-price that is conspicuous is that dowry is prevalent among the higher castes while bride-price
exists mainly among the lower castes and tribals (Vanvasis). In the caste hierarchy it was the lower castes, the Vaishya's and Shudras who did most of the physical labour and menial work. The two upper castes, the Brahmins and Kshatriyas had only priestly and martial duties allocated to them and hence no occupational sub-division existed among them.

Thus among the lower castes, the coming of a bride into the family meant an increase in the number of members who could work along with other members and become a source of income for the family while the family from where the bride came suffered the loss of one earning member. Hence a bride price was paid to the bride's parents to compensate for this loss. Contrarily, among the higher castes to which no manual labour was assigned in the caste hierarchy, the reverse logic applied.

A marriage meant an additional member who was to be supported and hence was a burden on the groom's family, as the bride did not go out to earn and contribute to the family income. Thus a dowry was collected to provide the additional burden resulting from a bride's entry into the groom's family. In Indian context, ‘price’ is derogatory as girl does more work so she should be compensated. In Hindu ideology if ‘price’ is given for bride then people say parents have sold their girl but if dowry is given then people consider it prestigious.

Both brideprice and dowry involves the transmission of the property between the two families linked by marriage. In Indian context dowry is also a privilege in higher caste and class as it has spread among those who are economically rich. The exchange of gifts (cloths, ornaments, cash, and household goods) takes place at the time of engagement continues up to the time of the marriage and beyond it at all the important life-cycle rituals. The exchange continues up to the two generations at least and decreases in amount and number only in the third generation. The chain of prestation between the affines may begin with the formal engagement well before the marriage and continues for many years after the death of the woman whose marriage originally made the relationship into being. Whatever the symbolic nature of some of these exchanges, they also have their economic functions as ways of transferring property. Brideprice and dowry can be seen as contrary to each other only in so far as the direction of gift giving is concerned. Brideprice is a transmission of goods from
the kin of the groom to the kin of the bride on the return of which certain rights of the bride are transferred (Randeria and Visaria, 2005:57).

According to Patricia Uberoi, two types of marriage payments are conventionally contrasted: the first is ‘bride-price’ or ‘bride wealth’, a transfer of resources from the groom’s family to the bride’s in acknowledgement of the transfer of rights over her productive and reproductive capabilities. Typically, these gifts can be further utilized to secure brides for the girl’s brothers- a form of circulating wealth which is believed to contribute significantly to social solidarity in stateless societies. The other type of payment, called dowry, is essentially a gift to the bride or couple by the girl’s parents for the setting of their new conjugal estate (Uberoi, 1999:232).

Ancient Hindu literature is cognizant of both brideprice and dowry, but ranks the former as lower. The code of *Manu* unequivocally states: "No father who knows (the law) must take even the smallest gratuity, is a seller of his offspring". The recommended act was *kanyadan*, whereas the brideprice was seen as the sale of the daughter for profit, and regarded as shameful. Marriage, which was considered as more prestigious and recommended for the higher castes (Ibid: 58).

As far as the forms of marriages are concerned, opposite to the *Brahma* marriage was the *Asura* form of marriage. It required presentation of gifts or payment from the bridegroom or his kinsmen in exchange for the bride. It is, therefore, not surprising that the *Asura* form was prevalent most among the so-called low castes – the ones that remained outside the Brahmanic social order.

Yet it appears that the *Asura* or the bride price form of marriage was prevalent not only among the lower castes or Shudras but also some Brahmins and Rajputs occasionally practice it. It arose mainly out of economic compulsions and transcended caste rules and barriers.

Another factor for the bride-price marriages, according to the 1931 Census Report, was hypergamy. Lower ranked Brahmins and Rajputs, probably with better financial conditions and unable to secure brides for their sons in their community paid bride’s parents between ₹ 100 and 500. Vaishyas also often paid a large sum as bride-price, the amount of which was fixed by either private intermediaries or the Panchayats.
Marriages are also arranged through exchange forms which suggest equal relation and virtually no dowry. T.N Madan in his study of rural Kashmir found that marriage is also done by exchange. The two principal reasons given for this form of marriage are, first the economic burden of prestation and, second, the shortage of women among Pandits in rural areas (Madan, 2002: 227). One of the reasons for such type of marriage is that these eliminate the possibility of the extortion of gifts from a woman’s natal household by her parents-in-law. Each side fears reprisals by the other, and the conflicts which are usually associated with the relations between affinally related households remain somewhat in check (Ibid: 102).

The most disapproved form of marriage is that which is accompanied by the payment of money by the wife-takers (usually by the prospective husband himself) to wife-givers. The transaction is sought to be kept secret and at least part of the money returns to those who give it in the form of dowry that the bride brings with her. The rest of the money is used by her parents on marriage expenses. It is extreme poverty and presence of several unmarried nubile daughters in the household which compel a girl’s parents to resort to this nature (Ibid: 227). The importance of dowry can be seen in the fact that bride-price was promptly given up by those who’s economic condition improved in the course of time.

According to Srinivas (1984) in the nineteenth century all the castes in South India, except in Kerala, and the poorer sections of the hypergamous castes and many others in the north practised bride price. The examples include-Patidars of central Gujarat among whom the rich and land-owning section paid dowry while the poors paid bride price; the rich Desais (upper layer of Anavil Brahmins) paid dowry, while the Bhatela, the poorer division of the Anavils paid bride-price or practised marriage by exchange. The poor Pardi Desais had the custom of marrying by exchange, but now as they became prosperous they have adopted the practice of dowry. Srinivas (2005) put forth that the Okkaligas (a community in South India) since 1930s started shifting from brideprice to the dowry. At this era education was spreading among Okkaligas and better prices for agricultural produce during the war years, resulted in the increased prosperity. Educated youth thought that brideprice amounted to sale of the bride, and muyyi (gifts given to the bride or groom by kindered or friends), demeaning. In the late 1930s, the brideprice and muyyi were not taken. By the 1950s
the more prosperous and educated youth of Okkaligas gave up these institutions (Srinivas: 2005,12).

The payment at the time of marriage among the upper castes in Gujarat, which is in the same direction as the brideprice or *pallu*. It is distinguished from the former, however, in that the recipient of the *pallu* is the bride herself, and not father of family as in the case of brideprice. The *pallu* was usually in custody by the girl's father, until such time as her position in her husband’s family was secure (i.e. she was the mother of a couple of children, preferably a son). In north Gujarat, if the girl were to die childless, the *pallu* would have to be returned to the husband’s family among the Brahamans and the Banias, unlike the brideprice among the scheduled castes, which is not returnable. Only the direction of the payment of the *pallu* makes it appear similar to the brideprice (Randeria and Visaria, 2005: 59). Goody has termed it as 'indirect dowry' and Tambiah calls it an "analogue of brideprice which is redirected and transformed into a gift of jewellery to the bride, which she takes to her new house" (Goody and Tambiah, 1973:20 and 92).

Unnithan Kumar in her study of the Girasia in Rajasthan, found that marriage payment is called *dapa* (*da* means to give and *pa* means to get) and denotes an amount in cash given to the father of the bride by the father of the groom. The brideprice is transacted only in the form of money. The brideprice money could be paid all at once or delayed, depending on the process or type of the marriage (i.e. sooner at *hagai* than at *khichna*). Usually an initial payment is made and the remaining brideprice amount is transferred over the span of a year, frequently in three installments, approximately every four months. In 1986-87, brideprice rates were between ₹ 3,000 to 4,000 for young women who were brides for the first time. There was, however, a range of brideprice rates for 'better' or 'worse' wives. More brideprice was to the younger than the older and, within the same generation, for those who were more physically fit and reproductive (Ibid: 28/29). The Taivar Girasia view brideprice not so much as recognition of a women's contribution to the household nor as a payment for the loss of a productive member, but as a compensation to the father and his agnatic group for the past expenditure on her maintenance, particularly consumption of food (Kumar, 2005:30).
The bride price is prevalent among the gypsies also, which is an ethnic group with origins in India who are widely dispersed with their largest concentrated populations in Europe, especially Central and Eastern Europe, with more recent diaspora populations in the Americas and, to a lesser extent, in North Africa and the Middle East. Groom of the Roma people or gypsies, pays the bride's family for the loss of their daughter. The bride price also ensures that the bride will be well treated by her new family. Negotiations between the families of the bride and groom can become quite extensive, with the bride's father calculating how much his daughter has cost him since her birth, and how much she could be expected to earn during her lifetime. When agreement is reached, a ceremony, called a pliashka, is held. The groom's father brings a bottle of wine or brandy wrapped in a colorful silk handkerchief and attached to a necklace of coins. He puts the necklace around the bride's neck and embraces her. This indicates that she is now engaged and unavailable to any other man. The wine is drunk, but the bottle is refilled for use at the wedding ceremony.

Thus it is seen that unlike stridhan, which was the exclusive property of the woman, the present day dowry includes gifts and wealth given at a daughter's wedding, not just to her but to her husband, in-laws and his relatives as well as household goods required for setting up the house. These vary from simple gifts of clothing and small items of jewelry for the woman, to exorbitant sums in cash or expensive pieces of property to the groom and his parents.

A term ‘groom price’ is used for the amount of dowry commanded by a groom has more to do with his social status, income potential and social-familial connections than with the perceived share of a daughter in her parental property. Thus the part of wealth, which is given to the groom and his family, has acquired the form of groom price because it is an offering for seeking an alliance with a family with lucrative potential. Not surprisingly, men in those government jobs such as the Indian Administrative Service (IAS) and the Indian Police Service (IPS), which command the highest bribes and unlimited avenues for looting the public as well as robbing from the public exchequer and appropriating resources such as land allotments and business contracts, command the highest dowries. If in a family one
son is an IAS officer, his dowry will be substantially higher than that of his brother who may have managed to get nothing more than a school teacher's job.

Contemporary dowry is more like an investment by the bride's family in the hope of plugging into powerful connections and moneymaking opportunities. Marrying a daughter to such a man may mean upward mobility for her entire natal family, especially brothers, because they may secure huge benefits through this connection. The component of dowry that still retains some resemblance to the traditional stridhan involves the bride's trousseau, gold jewelry, household goods and any property that her parents might put in her name. But even this does not always remain in her control, leading to bitter tussles. It is not uncommon for a groom's family to keep a part of this dowry for their own daughter's wedding or treat the household goods as offerings made to the family, rather than being reserved for the bride.

Scarlett Epstein (1973) has shown in her study of two villages, Wangata and Dalena in Karnataka, how dowry has replaced bride-price over a period of fifteen years. Thus the dowry has spread to various castes and tribes practising bride-price earlier and also to other religious communities like the Muslims and the Christians. Epstein states four factors that have resulted in the shift from the practice of bride-price to dowry. These are increased wealth of the concerned community; a matter of prestige, especially not working in the fields or doing manual labour (though the two need not be co-related) grooms parents seek justification in spending money where dowry is seen as compensation for transfer of the girls dependence; and the emulation of Brahmins who are regarded as a reference group. Each of these reasons by themselves can be theoretically refuted but could occur in combination in various situations. The weddings now are regarded as means of establishing and reaffirming social relations which were earlier restricted generally to ones relatives or the villagers. Giving of dowry is but one part of the lavish expenditure incurred in the well to do families and is the result of increasing wealth and prosperity and changing consumer patterns. Writing about dowry items in Himachal Pradesh, Ursula Sharma says that these ‘were limited to a conventional number of sets of clothing, household items and jewellery, with very little variation and only with the large scale injection of cash into isolated hill areas after the First World War did dowry rates begin to rise’.
Thus the attempt to check dowry demands and payments and the consequent ill effects is also to work towards things like making marriage a simple affair with as much little expenditure as possible.

In recent years marriage no more means 'kanya daan' (gift of a daughter) but 'putr samarpan' (handing over of son to the daughter in-law), so groom’s family is insecure. They say that they have to be prepared for the eventuality that even occasional visits to the son's house may be resented and blocked by his wife, if she succeeds in winning him over to her side. That is why one finds many parents try to marry off their daughters before they arrange their sons' marriages because of the fear that they may not be allowed to contribute to the expenses after their sons get married. This is also the reason why dowry is increasingly taking the form of 'groom price', with parents expecting that a certain sum of money will be given to them almost as 'recompense' for their handing over the income and assets of their son to the woman who becomes his wife.

This increasing insecurity and uncertainty is at the heart of family tussles between the bride, her natal family and her-in-laws. While some gracefully resign themselves to this fate and even encourage sons to set up a separate house after marriage, many fight a grim battle to keep their sons under their influence, which often means using even vicious methods to prevent the couple from enjoying a close conjugal relationship. The young bride has a formidable weapon in her armory - her youth and sex. The old parents exploit the emotional appeal of blood bonds. This bond is easier to sever where the parents are dependent on the sons for old age support. The few families who are very wealthy may succeed in using their property as a glue to keep their married sons close to them. This anxiety and uncertainty about their fate vis-a-vis their sons is in large part responsible for strengthening the culture of 'dowry demands'.

The fierce battles between daughters-in-law and parents-in-law are also largely due to the fact that women in most communities are conditioned to believe that their rights lie in their husbands' families. Therefore, they feel extremely insecure and resentful about the claims of other members of their husbands' families. Part of the solution to this dilemma, therefore, lies in giving women inalienable rights in their parental property so that they enter their marital homes with a sense of self confidence.
in the knowledge that they don't have to keep the marriage going 'at all costs' and don't have to carve out a niche for themselves by curbing the rights of their in-laws. If they bring handsome dowry they are treated well by the in-laws otherwise their position becomes as subordinate in the family.

**METHODOLOGY**

The study is undertaken with the broader methodological framework of patriarchy, particularly the patriarchal structure of Hindu religious values. The study has analyzed the constraints of patriarchy on women and to what extent they are able to face the challenges. In this sense, it has also focused on women’s agency.

The study is based on both primary and secondary data. The primary data has been collected through the field work by using both quantitative and qualitative research techniques. Quantitative techniques includes interview schedule, sampling. In Qualitative techniques, Participant Observation and Case Study methods are applied. The secondary data is collected through books, newspapers, journals, reports etc. from different libraries and also from Police Stations, Women Cell, State Women Commission and Non-Governmental Organizations (NGO’s).

**Area of Research:** In J&K the total number of districts is 22. According to the J & K census 2001, the total population of the state is 10,143,700 out of which the population of Jammu division is 4,430,191 (43%). The total Hindu population of the state is 29.63% and it is 65.23% in Jammu division out of this 45.47% is in Jammu district. The study is conducted among the Hindus in the district of Jammu.

The Jammu and Kashmir state is the Northern most and largest mountain state of India. Situated between 32.17 degrees and 36.58 degrees North latitude and 37.26 degrees and 80.30 degrees East longitude. This heavenly place has the total area of 22,22,236 square kilometers including the area illegally occupied by Pakistan and China, the neighboring countries of Jammu and Kashmir state. The state of Jammu and Kashmir is sub-divided into three divisions- Srinagar, Jammu and Ladakh. The three are completely varying to one another in terms of geography, climate, flora and fauna and most of all topography. As per 2011 population census, literacy rate is 68.74%; of that, male literacy stands at 78.26% while female literacy is at 58.01%. The sex ratio of the state is 883.
District Jammu is one of the districts of the state which is extended along the whole length of the international border with Pakistan. The LoC defines its border in North-West and it shares its border with Rajouri, Udhampur and Kathua district in the North, in the East and in the South-East respectively. The geographical area of the district is 3097 Sq. Kms. with 4 Tehsils namely Jammu, Akhnoor, R.S. Pura and Bishnah.

According to Census 2011, density of Jammu district is 596. Average literacy rate is 83.98; out of which male and female literacy were 89.77 and 77.41 respectively. With regards to Sex Ratio, it stood at 871 females per 1000 male. The average national sex ratio in India is 940 as per latest reports of Census 2011 Directorate. The child sex ratio is 795. There are total 159,868 children under age of 0-6; out of which male and female are 89,067 and 70,801 respectively. Children under 0-6 form 10.47 percent of population of Jammu District.

Talab Tillo is a populated place in Jammu district having latitude of 32°43' 52.47'' N, longitude of 74° 50' 15'' E and elevation of 978 feet. It is situated 1432 kilometers North (352°) of the approximate center of India and 512 kilometers North West (334°) of the capital New Delhi. It is an urban locality which falls in west constituency of Jammu district, thus falling within the Municipality limits.

Muthi Domana is located at latitude of 32°46’ 52.16’’ N, longitude of 74°47’ 24.20’’ E and elevation 986 feet above sea level. This is a rural locality which comes under Bhalwal block of Jammu district.

**Sample Description:** It consists of households from two ecological settings of Jammu district i.e. one urban (Talab Tillo) and one rural (Muthi Domana).

**Sampling Method:** The selection of the localities for the research has been made through purposive sampling method. In this form those persons are chosen who in the judgement of the researcher have appropriate characteristic required of the sample members and are thought to be relevant to the research topic, as the research takes various categories. The present research has used this sampling method on the basis of data collected by Women Cell on dowry issues. On the basis of cases registered in the Women Cell it can be said that the following localities of Jammu district have maximum number of dowry related cases:
### Table 1.1: Selected areas of dowry cases in Jammu District

<table>
<thead>
<tr>
<th>Rural Areas</th>
<th>Registered Cases of Dowry in Women Cell in 2006</th>
<th>Urban Areas</th>
<th>Registered Cases of Dowry in Women Cell in 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Muthi Domana</td>
<td>6</td>
<td>Talab Tillo</td>
<td>10</td>
</tr>
<tr>
<td>Akhnoor</td>
<td>5</td>
<td>Nanak Nagar</td>
<td>5</td>
</tr>
<tr>
<td>Bari Brahmana</td>
<td>5</td>
<td>Resham Ghar Colony</td>
<td>2</td>
</tr>
</tbody>
</table>

**Source:** Women Cell, Jammu.

According to census 2001, the total number of households in Muthi Domana is 3182 and in Talab Tillo is 3600. So the Universe i.e. the total households of the localities is 6782 households. A sample of 200 households is selected, 100 households in Muthi Domana, 100 households in Talab Tillo which is almost 3% of the total households in these areas and is a representative of the total population. These households are selected by Systematic (or interval) random sampling in which the first respondent is randomly selected and then every nth person after that: ‘n’ is a number termed as sampling interval which is selected after dividing the total households of a locality by the number of households to be selected in the particular locality. In case of Muthi Domana ‘n’ is 32 (dividing 3182 by 100) i.e., every 32\textsuperscript{nd} household from the list is drawn, similarly in case of Talab Tillo every 36\textsuperscript{th} household. Besides a sample of 200 households, 10 case studies, 6 of the dowry cases and 4 cases related to property disputes regarding women, were also undertaken making total respondents as 210.

**Methods of Research:** The interview schedule was used for the structured interviews consisting of questions, both open and close-ended.

Besides this, Focused Group Discussions were held with people from different sections of society on the issue of giving and taking dowry and property disputes involving women.

In-depth Interviews were conducted from the women who were harassed for dowry as well as from those who got parental property.

Case Studies related to dowry cases and property disputes were also conducted.

Data collected was then coded, tabulated and interpreted for analysis in the study.
SIGNIFICANCE OF THE STUDY

The study is considered significant, as it has provided a different perspective to the studies done on dowry so far. Most of the studies are law centric, they see dowry as an evil and as a crime. This study has a sociological perspective and viewed dowry as a social institution and considers it as a social issue. It has tried to understand how dowry is practised among different people; how it structure social relationship and why do people continue to support this practice in society even if there are some harmful repercussions. It has related the issue of dowry with women’s property rights and focused on the question (among others) as to why women do not demand their share of property from their parents and what can be done to strengthen women’s property rights.

Significance is at the theoretical level as well as substantive level. At the theoretical level it has focused on the gender perspective. As long as patriarchal system is prevalent, it is difficult to change the practice of dowry but there are changes now like, more women are employed and have started taking decisions regarding dowry. To some extent parents are giving dowry in the form of fixed deposit also. At times women are taking stand to say ‘no’ to dowry. The study is significant, as it has analyzed the constraints of patriarchy on women and to what extent they are able to face the challenges. In this sense, it has also focused on women’s agency.

At the Substantive level it has brought out the major findings of the study, some of which can be seen as measures to resolve the dowry menace and the dowry related problems. The study has highlighted the cases of women awareness regarding property rights. The study looks at women not only as victims of dowry but also as those who deal with the problem of dowry and take stand in different situations. The study is significant because it brings out suggestions to decrease the cases of dowry deaths and dowry harassment.

HYPOTHESES

1. It is seen in many studies that dowry harassment cases have increased more in urban areas than in rural regions, the study therefore hypothesized that more urban is the area, more are the cases of dowry harassment.
2. It has come to light that though women are aware that practice of dowry is illegal and property rights are given to them, they do not come forward to claim their property rights but stick to dowry practise. Thus it is assumed that awareness of property rights and dowry laws has no direct relation to the practise of giving and taking of dowry and claiming of property rights.

3. It is observed from various studies that the improvement in the economic condition of people has led to the percolation of dowry system among them. In other words, practicing of dowry system depends on the position of the family. So, the hypothesis is better and improved the economic position of the family more is the giving and taking of dowry.

OBJECTIVES

The objectives on which the research focuses are as below:

1. To understand the interface between dowry and property rights of women.
2. To know about the perception of women regarding dowry and property rights enshrined in various Acts.
3. To analyse the changes regarding the dowry issue among the women after the enactment of The Hindu Succession Act both in rural and urban areas.
4. To study incidents of dowry harassments and dowry deaths.
5. To analyse the property claims and property disputes, if any.
Chapter I: Introduction

References


**Indo Asian News Service.** 6\textsuperscript{th} October 2010.


