



# **NETAJI SUBHAS OPEN UNIVERSITY**

**Under Graduate Degree Programme  
Choice Based Credit System (CBCS)**

**SELF LEARNING MATERIAL**

**SOCIOLOGY  
[HSO]**

**GE-SO-31**

## PREFACE

In a bid to standardize higher education in the country, the University Grants Commission (UGC) has introduced Choice Based Credit System (CBCS) based on five types of courses *generic, viz. core, discipline specific, elective, ability and skill enhancement* for graduate students of all programmes at Honours level. This brings in the semester pattern, which finds efficacy in sync with credit system, credit transfer, comprehensive continuous assessments and a graded pattern of evaluation. The objective is to offer learners ample flexibility to choose from a wide gamut of courses, as also to provide them lateral mobility between various educational institutions in the country where they can carry their acquired credits. I am happy to note that the university has been recently accredited by National Assessment and Accreditation Council of India (NAAC) with grade ‘‘A’’.

UGC (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 have mandated compliance with CBCS for UG programmes for all the HEIs in this mode. Welcoming this paradigm shift in higher education, Netaji Subhas Open University (NSOU) has resolved to adopt CBCS from the academic session 2021-22 at the Under Graduate Degree Programme level. The present syllabus, framed in the spirit of syllabi recommended by UGC, lays due stress on all aspects envisaged in the curricular framework of the apex body on higher education. It will be imparted to learners over the six semesters of the Programme.

Self Learning Materials (SLMs) are the mainstay of Student Support Services (SSS) of an Open University. From a logistic point of view, NSOU has embarked upon CBCS presently with SLMs in English / Bengali. Eventually, the English version SLMs will be translated into Bengali too, for the benefit of learners. As always, all of our teaching faculties contributed in this process. In addition to this we have also requisitioned the services of best academics in each domain in preparation of the new SLMs. I am sure they will be of commendable academic support. We look forward to proactive feedback from all stakeholders who will participate in the teaching-learning based on these study materials. It has been a very challenging task well executed by the Teachers, Officers & Staff of the University and I heartily congratulate all concerned in the preparation of these SLMs.

I wish you all a grand success.

**Professor (Dr.) Ranjan Chakrabarti**  
Vice-Chancellor

Netaji Subhas Open University  
Under Graduate Degree Programme  
Choice Based Credit System (CBCS)  
Subject : Honours in Sociology (HSO)  
Core Course : Gender and Violence  
Code : GE - SO - 31

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**Under Graduate Degree Programme**  
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**Subject : Honours in Sociology (HSO)**  
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**Netaji Subhas  
Open University**

**Honours in  
Sociology**

**Course : Gender and Violence  
Course Code : GE - SO - 31**

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**Module I**  
**Defining Gendered Violence**





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## Unit- 1 □ Social Construction of Gender

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### Structure

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### 1.0 Learning Objectives

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- To understand the concept of gender construction
- To conceptualize gender socialization
- To understand its agents
- To locate gender in its various settings

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### 1.1 Introduction

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The discourses on sex and gender have always formed a crucial part in the development of Gender Studies as a separate branch of knowledge. The logical divorce of the concept 'sex' from 'gender' was the handiwork of the second wave of feminism that commenced with the publication of Betty Friedan's *The Feminine Mystique*. The radical feminists opined that sex and gender are indeed separate concepts, though sometimes used synonymously. The former refers to the biological or anatomical differences between a boy and a girl, whereas the latter is a social construct. One is born with the former and

develops the latter through the process of gender socialization; a stand later negated by the post modern feminists. In this Unit, the social construction of gender is discussed with special reference to the process of gender socialization and the agents through which this construction is done followed by the critique of the idea that posits that sex is biological.

### **1.1.1 Gender construction and Gender socialization:**

As mentioned above, sex is the biological and anatomical difference between a boy and a girl while gender is constructed through a conscious process of gender socialization. In other words, once the sex is determined, the conscious process of construction of the corresponding 'femininity' and 'masculinity' can be considered as the social construction of gender. If an infant is labeled a girl then the development of the habits that will 'make' her a girl or 'develop' her feminine nature commences with it. 'Women are not born, they are made'- the line from the Simone de Beauvoir's book, *The Second Sex* sums up the whole process of gendering a sex and also hints at the sheer obduracy of the society with which it debars itself from challenging the process. Beauvoir's endeavor in unearthing the deep rooted societal bias in dealing with gender is well reflected in her post mortem of human physiology, where she claimed that public/private divide in our society is subtly corresponding to the male and female organs. The rationale cited is that a woman is expected to be confined in the private domain just like an ovum which remains hidden inside a woman's body and can hardly claim an external existence like a man's testicles which are visible and thus justifies man's visibility in the public sector. The overall construction of the society abides by this binary division of the gender.

The individual, whose biological sex coincides with the socially constructed gender, is considered to be a 'cissexual'. According to Schilt and Westbrook (2009), 'cis' are individuals "who have a match between the gender they were assigned at birth, their bodies, and their personal identity". Hence, non-cis are comprised of those individuals who are faced with inherent discrepancy between their assigned sex and constructed gender. This lends a further proof to the fact that gender is indeed socially constructed. The gender socialization is an ubiquitous process, challenging which can bring about serious repercussions.

Socialisation refers to the process by which a biological organism is turned into a member of the society by learning the rules and regulations and internalizing the culture into which they are inducted. The process of socialization is accomplished by various agents; in other words the responsibility of turning an infant into a responsible member of the

society lies on various agents like parents, school, peer groups, media and others. The agents successfully help the children to learn the rules, the dos and don'ts of the society. Interestingly, socialization is very specific to the culture into which one is born. People belonging to varied cultures learn the practices specific to their cultural ambit. For example, 'thumbs up' is regarded as an obscene gesture in Italy while it is a widely accepted gesture across globe to mean that everything is well. Hence the meaning attached to the practices change drastically with the change in the social setting. This makes the process of socialization rather unique and exclusive.

The process of gender construction takes place simultaneously with the process of socialization. Gender socialization is an ubiquitous process challenges to which can be perturbing. It starts with the moment an infant is born and continues for almost a lifetime. The major life decisions taken by an individual depends largely on socialization in general and gender socialization in particular. Gender socialization is a process by which gender is socially constructed by almost the same agents who are responsible for our socialization.

### **1.1.2 Agents of Gender Socialization:**

Socialization and gender Socialization run simultaneously. Hence the process by which a boy is made aware of the society and the surrounding milieu greatly differs from that of a girl. The familial and societal dos and don'ts vary for a boy and girl. Once the sex is assigned, the societal construction of the gender commences, leading to gender stereotyping. Gender stereotyping is the process through which the societal dos and don'ts are formally institutionalized. For example, a boy is associated with colour blue while a girl with colour pink, a boy can sit with legs wide open, while a girl is advised to sit cross-legged, a boy shedding tears is always ridiculed by his male peer and society at large or girl coming home late is generally rebuked. There are many instances that show that gender socialization creates these gender stereotypes and any man and woman is expected to live up to the stereotypes to maintain the societal balance. Any disruption in this gender harmony is believed to create a pathological condition; to adduce, even recently cross dressers or transvestites or eunuchs as third gender were considered a part of the society since they did not adhere to the gender stereotype laid down by the society.

As mentioned above the gender socialization commences from birth and is carried out by the same agents that socialize us.

- Family: The first agent of socialization in general, and gender socialization in particular, is the family into which a child is born. The first adjective used by the family

members heralds the commencement of the process of gender socialization, for example, in case of a girl, she is always described as ‘cute’ or ‘pretty’ while for a boy he is always praised as ‘handsome’ or ‘strong’ or ‘brave’. It is generally seen that boy’s room are made with blue while pink dominate a girl’s room, this dichotomization and gendering of colour again sets the tone for the gender differences and differential treatment from birth. The difference inherent in these apparently harmless adjectives is responsible in a way a child starts seeing himself or herself. Family lays down the rule to be followed by the members but the application of the rules differ for boy and a girl. While the rules for staying out are generally lenient in case of men but there exists a ‘cinderella hour’ for the girls which cannot be broken. Though many argue that these rules are set to ensure the safety and security of women in the society but these rules subtly pave the way in which they are seen and treated in a society.

- School and peer groups: The second most influential agents of gender socialization are the schools and peer groups. Even if the child is brought up in a non-sexist environment in the family, the school and peer groups definitely socialize the child into stereotypes. The gender awareness in school starts with the difference in uniform- a boy wear pant while girls wear skirts. The gender awareness of this sort is further followed by the sheer incapability of the girls to take part in sports due to the uniform. The second form of gender difference comes in the form of choosing of subjects while boys are encouraged to take up science and economics, the so-called ‘progressive and developmental’ subjects while humanities is believed to be a girl’s forte. It is generally believed that girls and science are two almost mutually exclusive categories; the grip of the gender stereotyping is so much so that a boy studying humanities is generally looked down upon in the society for apparently studying a ‘girly’ subject. This difference in choice of subjects is also reflected in the further career, since men opt for technical subjects, they end up mostly in the technical sectors or IT industry while women are mostly seen concentrated in the higher education and research.

Coupled with the school, peer groups also play an important role in building and maintaining the stereotypes. The first activity that a child is exposed to in school is to choose a peer group and it is generally seen that a girl chooses a girl gang, psychologically prompted by the similarity in uniform and boys the same. Peer groups have a more profound effect on the children than the family because the former tend to be egalitarian unlike the family which is authoritarian in nature; hence children believe their peer group and tend to emulate their peers. Thus they

learn the gender codes quite subtly and sometimes overtly from their peers; going against the group practices can bring a catastrophe in a child's life as not following the peer can get him/her alienated from the whole group.

- **Story books and Toys:** Quite surprisingly story books and toys are responsible for the psychological development and subtle gender stereotyping. From the childhood girls are more prone to read or they are socially led to read fairy tales that tell the tale marriage being the ultimate destination of women. Most of the girls grow up internalizing these patriarchal ideas unless they become aware of the subtle tact and manipulation hidden in promoting such a view point. But it is also true that when the same fairy tales are rewritten and introduced in the market there are very few takers, for example, there was an experiment where the ending of the story of Cinderella was changed to make it more gender inclusive, instead of marrying Cinderella off, the new story got her a job, but despite the change the story didn't have much taker that makes us realize that rather than projecting gender as a social construct, gender can actually be called an amalgamation of biology and societal influences. But it is also true that most of the books written for the children show a dearth of strong and independent female characters while the books are replete with male characters exuding masculinity or traits that are associated with being masculine. Similar explanation can be used to understand the difference in male and female toys. Toys are subtle way of preparing the children for adult life by creating a make-belief life. Boys are always given something robust like a robot or a battery operated cars while girls are gifted dolls that clearly send the message of domesticity and settlement. Games and sports are believed to be a man's forte. Thus story books and toys are subtly creating and maintain gender stereotypes.
- **Media:** Another important agent of gender socialization is the media. Literature is filled with the way men and women are portrayed in the media, in television, films and even in news items. Media is particularly a very influential medium due to its reach and also because it is capable of influencing the so called less educated people. Films have always been the breeding ground for the objectification of women where their presence was mostly as an arm candy or playing second fiddle to the hero. Most of the filmy climaxes involve the hero and the anti-hero with least botheration about the existence of a heroine or the heroines suggestively used as a trope for pitting the hero and anti-hero against each other. The objectification reached to the ultimate level of creating 'item girls' in Bollywood movies to gratify the male viewers. The subservient roles played by the women in the movies have been responsible for creating a typical patriarchal mindset. The objectified portrayal of the women in the

advertisements cannot be neglected in this regard. The presence of a female model even in advertising a male product has been normalized beyond reason. Women presenters in male sports have also been seen as the way to attract male viewers and raise the trp.

Apart from the agents discussed above, there are many overt and covert agents of gender socialization making it in ineluctable process. But family still remains the most important arena from where it starts even today. The gender awareness is a process that starts from infancy the there exist differential biological and the socially created ways in which a boy and a girl grow up in a particular society.

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## 1.2 Theories of Gender Construction

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Gender construction has been the major concern of both the sociologist and psychologists hence there are explanations available based on both the perspectives. Broadly there are four theoretical perspectives to locate gender socialization or gender construction- Social learning theories, cognitive development theory, gender schema theory, psychoanalytic theory.

**Social learning theory** - The Social learning theory posits the view that gender roles and gender aligned behavior are learnt through positive and negative reinforcements from the members of the primary groups especially parents. For example a boy can be reprimanded for playing with a doll by his father that shows a negative reinforcement that will give the cue to the boy to discontinue the said activity. Similarly, a girl can be appreciated for doing some basic household chores by the mother that acts like a positive reinforcement and is highly likely to ensure the recurrence of the activity. However, the theory has been proved inadequate many times especially in the case of the boys who exhibit gender appropriate behavior even in the absence of positive or negative reinforcements. It has been later proved that children are not always the passive recipients rather they are sometimes actively involved in the whole process of which behavior to internalize and which to discard.

**Cognitive development theory** - Cognitive development theory was first applied to gender identity by Lawrence Kohlberg. The theory posits that the gender definition changes and becomes more flexible as the children grow up and get exposed to varied definitions. The gender role definitions are more rigid for children of 4 or 5 years where deviations are dealt with severe sanctions but as they grow up they learn to adapt to varied situations.

**Gender Schema theory** - In 1981 Sandra Bem developed the Gender Schema theory to explain how individuals get gendered in a society. It puts forward the idea that in a society where the sex differences are pronounced, children use gender as a 'frame' to understand and process information about the society. Gender schemas are used by the children to organize and process information to make sense of the surrounding. The gender schemas tend to be highly polarized which means that children tend to develop a viewpoint where they believe that behavior acceptable to the females is not acceptable in males. It also tends to be androcentric in the sense that behavior pertaining to male is considered as uniform or malestream is believed to be the mainstream. According to Bem, depending on the acceptance and rejection of gender schemas there are four personalities- sex-typed, cross-sex-typed, androgynous and undifferentiated. Sex-typed individuals accept and process information that are in alignment with their gender, while cross-sex-typed individuals accept and process information related to the opposite gender. Androgynous individuals integrate and assimilate traits that are applicable to both the genders. While undifferentiated individuals are unaffected by sex aligned information. Individuals accepting or differentially adapting to the schema depends on the definition that influence them.

**Psychoanalytic theory** - Psychoanalytic theory of gender socialization was the contribution of Sigmund Freud in the field of psychoanalysis which suggests that gender identity is the product of the unconscious process. Freud's contribution in this context has been his understanding of the 'oedipus complex' which refers to the erotic desires a boy develops towards the mother. The term 'electra complex' was later introduced to explain the girl's erotic desire towards the parent of the opposite sex by Carl Jung but rejected by Freud. The successful socialization is defined as the process where the Oedipus complex is successfully suppressed and relegated to the subconscious. For Freud men goes through 'castration fear' and learn to recognize with the father while for the girls they develop 'penis envy' (manifested through the subconscious anger towards the mother for her failure to provide the visible sexual organ) and learn to repress that and emulate the feminine ways of the mother. This is how children learn to align with the sex they are born with and it also affects their future relationships. This is especially true in case of relationship with the mother. The impact of the relationship with the mother was further analyzed by Nancy Chodorow where she explained that the duration and the break from mother affect boys and girls differentially. Girls maintain a longer duration with the mothers hence they learn to define themselves in terms of relationships unlike boys who learn and sometimes forced to break free from the 'mama's boy' tag quietly early in life. Hence they suffer from what is called 'male inexpressiveness' and incapability



to form long term associations. Thus a break from a relationship in adult life affects the girls more deeply than boys. Though this theory has been widely criticized and especially by the feminists. The critics claim that the theory is based on the negative valuation of the femininity as the boys learn what is masculine by learning to break from 'what is feminine'. The theory is also criticized for its lack of empirical proof.

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### 1.3 Gender in Education

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The most important aspect of the gender construction is that gender is practiced on a regular basis in varied situations ('doing gender' as introduced by West and Zimmerman). As explained by the gender schema theory, gender can be explained as a schema, as an interpretive tool that is used by an individual to make sense of the world and add definitions to situations. The practice of gender starts from the moment a boy or a girl starts his or her school life. The basic difference in the uniform worn by both the genders lays the ground for differential attitudes towards them. Though gender awareness has reduced the gendered expectation of the teachers from the pupils, but for many years it was seen that boys studying anything apart from science was frowned upon. The internalized idea that mathematics is never a girl's strong point made the girls skip the subjects that require quantitative analysis. But over the years these ideas came to be challenged by varied examples of men and women breaking stereotypes in matters of choosing subjects. The idea of 'doing gender' was very much influenced by Goffman's (1976) work in *Gender Display* where he pointed out that in any interactive situation individuals give and give off certain Signs and the most prominent among them have been the signs pertaining to the masculinity and femininity. According to Goffman, there exists a 'scheduling' of gender display around activities that creates and maintains the gender stereotypes e.g, a couple may act more their gender in front of guests at a dinner party than when they are alone in their home. This gender play is almost ubiquitous and men and women are expected to adhere to their gender stereotypes, failure to do so is often blamed on the individual concerned than on the rigidity of the existing model. It is a matter of greater relief that the gender stereotyping in subject selection has gone down to a great extent where girls are never discouraged to study the apparently 'masculine' subjects like mathematics and science. We have come a long way from the belief system that once restricted women from getting educated altogether fearing a catastrophic repercussion of the education on their womb. The gender divide in the matters of education has been resolved to a great extent where women are not only getting educated but they are outdoing men in many respect; especially in the higher education. But as far as India is concerned, this progress is only limited to the girls in the urban area where as the

literacy rate of the girls in the rural areas is only 56.8% in comparison to men which stands at 72.3% (NSS 71<sup>st</sup> round report). For the urban area the female literacy rate stands at 74.8% and male literacy rate is around 83.7%. It is an imperative that this gender disparity is done away with the proper implementation of the women education schemes that will encourage more girls to get educated as the development of a nation depends on how it treats its female population.

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### **1.4 Gender in Workplace:**

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Workplace provides the best place to understand the overt as well as covert working of the gender and the related biases. The foray made by the women in the field of education, unfortunately loses its steam when the figures of women labour is seen in India. The rural-urban divide in India can never be ignored. Interestingly, the rural female labour force participation is much higher at 25.3% (2011 census) vis-à-vis that of the urban women which stands at 15.5%. The rural women work more because the agriculturally inclined rural economy always offers some work or the other to the women. They work on the lands as long as the agricultural season is on. Once, the lean season sets in, they do not have much work to do and they fall back on other sun-dry tasks depending on the ones available to them, be it beeri making, tailoring, hand-crafts and so on. Work has a direct connection with men since the financial contribution of men in running the household is directly proportional to the societal respect they are entitled to. The men everywhere have always been regarded as the sole bread winner of the family; hence the entry of women in the male dominated workplace successfully challenged the 'breadwinner' image of the men. Thus this entry of the women in 'men's occupation' was strongly protested against. Some functionalists posited the view that the gender division of labour has been functional for the society since it maintained the societal equilibrium with women taking care of the domestic sphere and men, the public sphere. Sexual division of labour also received a biological sanction since women were believed to be not fit for physically strenuous jobs that made Beauvoir (1949) comment that women's exclusion from hunting expedition and wars in the earlier times, due to menstruation and child birth, have contributed to the deigned status of women in the society. Hence sexual division of labour was touted as both biological and necessary for maintaining the societal equilibrium. The stark discrimination in the work place begins at the segregation of jobs of 'male' and 'female' jobs; where some work are believed to be fit for men and some for women. For example, works like carpet weaving and beedi making are believed to be fitted for women due to their nimble fingers. Women are also paid less in comparison to men for the same work; women are generally paid daily wages or on a piece-rate

basis (e.g 10 rupees for 100 beedi binding). For many years, women were visibly absent in the occupations that are believed to be strongholds of men. Only recently we are witnessing the inclusion of women in sectors like information technology; yet the grapevine reports that though there is no apparent gender discrimination in hiring, ~~but~~ women face insurmountable hurdles to rise up the corporate ladder; as we rise up the hierarchy there are fewer women involved. But the awareness and gender sensitization drive taken up by these corporate offices are making the women heard and is in the process creating an environment conducive for the working of the women.

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## 1.5 Gender in Domestic Space

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The construction of the gender begins at home. It commences from the birth of the child; hence family remains the main site for the performance of the gender in a crystallized form. As explained above, the initial reaction of the adults creates an environment for differential treatment for boys and girls and that continues till adulthood. Once the gender ‘dos’ and ‘don’ts’ are taught children are expected to live up to the expectation and perform gender roles accordingly. In this respect it is important to highlight that in the rural areas or in an economically disadvantaged family, the differential treatment meted out to both the genders is more prominent. It is often seen that girls are not sent to school or they are withdrawn to make way for their brothers, while girls are expected to learn the household chores and assist their mothers. The justification used by the parents for depriving girls of education is the burden of paying the dowry during marriage. Even in the urban, economically well off families boys are never taught to participate in household chores. Family provides the site for the germination of the gender differences; society becomes the macrocosmic reflection of it. Family also indulges in anticipatory socialization where girls are specifically trained for life after marriage. The public/private dichotomy, according to Engels, is the result of the rise of capitalism that has brought about the world historical defeat of the female sex. In their penchant to control private property, men started forcing monogamous marriage on women to ensure that their property passes on to their biological offspring. Again, with the rise of the big industries and the separation of ~~the~~ production and consumption (home became the consumption site), it became the norm for ~~the~~ men to move to industrial areas and home became the domain of the women (a classic reproduction of the ancient ‘hunter’ men and ‘gatherer’ women). This heralded the birth of the public/private dichotomy which cemented the idea of public men and private women. Thus home is believed to be the ideal place for women, a place where they are safe from ~~the~~ outside encroachment; a

belief that has been terribly shattered with the rise of the domestic violence rates. Even a few years back, there existed a proper *Zenana* or *andarmahal*, at least for those families that could afford it. It was a barricaded place designated for women that ~~resisted~~ restricted their mobility and ability to participate in public life alongside men. Hopefully, with the rise of urbanization and westernization, women will be allowed to venture more freely outside the safe cocoon of the private sphere and they will not be restricted by their biological sex and social gender.

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## 1.6 Conclusion

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There is no denying the fact that gender is actually a social construct. This construction becomes the basis for the germination of gender discrimination both at home and in the outside world. The differential expectations from men and women have paved the way for the differential gender performances. The societal obduracy to disconnect child bearing from child rearing has further resulted in the subordinate position of women in the society, thus social construction of gender is intrinsically linked to the overall discrimination and the tagging of women as the 'second sex'.

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## 1.7 Summary

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In India the construction of gender began with the composing of the ancient texts like Manusmriti and Arthashastra that categorically defined women as subservient, vile and requiring constant guidance. It was asserted that women should be protected first by the father and then by the husbands. It created the image of women as dependent on husbands and incapable of conducting their day to day affairs; this got reflected even in the composition of various lullabies that instilled the girls with the idea that their duty is to serve their husband, projected the idea that marriage is the ultimate destination for women, failure to do so will be severely admonished. The increasing criticism of this construction and the incessant work of the feminists are increasingly creating an awareness to break the gender straitjackets and creating an environment for the alternative expression of gender that does not fall within the ambit of the existing gender dichotomy.

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## 1.8 Questions:

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**Answer the following questions very briefly: [ 6 marks each ]**

1. What is the difference between sex and gender?
2. Name any two agents of gender socialization.

3. Who wrote the book *The Second Sex*?

**Answer the following questions briefly:[ 12 marks each]**

1. What is socialization?
2. What is gender socialization?
3. Explain media's role in gender construction

**Answer the following questions elaborately:[ 18 marks each ]**

1. Discuss the major theories of gender socialization.
2. What is gender stereotyping? Explain with examples.
3. How is the subordination of women closely linked to gender stereotyping.

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## 1.9 References

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1. Chodorow, N.J. (1978). *The reproduction of Mothering: Psychoanalysis and the Sociology of Gender*. Berkeley: U of California P.
2. De Beauvoir, S. (1949). *The second sex*. Vintage.
3. Dawe, A. (1973). The Underworld-View of Erving Goffman. *The British Journal of Sociology*, 24(2), 246-253. doi:10.2307/588382. Retrieved from <https://www.jstor.org/stable/588382>.
4. Dube, L. (1988). On the construction of gender: Hindu girls in patrilineal India. *Economic and Political Weekly*, WS11-WS19.
5. Engels, F. (2010). *The origin of the family, private property and the state*. Penguin UK.
6. Farber, B. (1961). The family as a set of mutually contingent careers. *Consumer behavior: Models of household decision making*, 276-297.
7. Friedan, B. (2010). *The feminine mystique*. WW Norton & Company, New York.
8. Giddens, A. (2006). *Sociology*. 5<sup>th</sup> ed. Polity Press, USA.
9. Hacking, I. (2004). Between Michel Foucault and Erving Goffman: between discourse in the abstract and face-to-face interaction. *Economy and society*, 33(3), 277- 302.
10. Heywood, A. (2003). *Political Ideologies: An Introduction*, Palgrave Macmillan, 3<sup>rd</sup> edition.

11. John, M. E. (2017). The Woman Question. *Economic & Political Weekly*, 52(50), 71.
12. Kandiyoti, D. (1988). Bargaining with Patriarchy. *Gender and Society*, 2(3), 274-290. Retrieved from [www.jstor.org/stable/190357](http://www.jstor.org/stable/190357).
13. Menon, N. (2004). *Recovering subversion: Feminist politics beyond the law*. University of Illinois Press.
14. Menon, N. (2012). *Seeing like a feminist*. Penguin UK
15. Mukherjee, P. (1978). *Hindu Women: Normative Models*. Orient Longman Limited, Calcutta.
16. Sangari, K., & Vaid, S. (Eds.). (1990). *Recasting women: Essays in Indian colonial history*. Rutgers University Press.
17. West, C., & Zimmerman, D. H. (1987). Doing gender. *Gender & society*, 1(2), 125-151.

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## **Unit - 2 □ Gender Discrimination and Gender Inequality**

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### **Structure**

#### **2.0 Objectives**

#### **2.1 Introduction**

##### **2.1.1 What is Gender?**

#### **2.2 Understanding Gender Discrimination and Gender Inequality.**

#### **2.3 Gender Discrimination in the Family**

#### **2.4 Gender Discrimination in Education**

#### **2.5 Gender Discrimination at Workplace**

#### **2.6 Gender Discrimination and the State**

#### **2.7 Conclusion**

#### **2.8 Summary**

#### **2.9 Questions**

#### **2.10 References**

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### **2.0 Learning Objectives**

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#### **To understand:**

- The concept of Gender?
  - Relation between Gender Discrimination and Gender Inequality.
  - The Nature of Gender Discrimination in the Family
  - The Forms of Gender Discrimination in Education
  - The character of Gender Discrimination at Workplace
  - Gender Discrimination and the State
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### **2.1 Introduction**

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In any society, irrespective of the era of its existence , gender remains one of the major sources of identity for an individual. Coupled with identity it also remains the basis on

which an individual is judged and often times discriminated against. Though used to mean the same differential treatment meted to both the genders, gender discrimination and gender inequality have different connotations attached to them. In a patriarchal society it is needless to say that opportunities are unequally distributed that enable men to operate and hoard resources more seamlessly than women. History bears the witness to the 'historical defeat of the female sex', as explained by Engels, that prepares the ground for continued discrimination. In this Unit, we are going to explain both the terms in details by providing a glimpse of how gender works and modifies the societal perception and vice versa.

### **2.1.1 What is Gender?**

John Money, a sexologist can be credited with providing the distinction between biological sex and gender as a role in 1955. Sex and gender have always been used as synonyms but it was subsequently shown that sex signifies the biological differences between a boy and a girl, while gender is the socially constructed difference after sex has been assigned. Hence, gender is a social construct, product of the society and its obduracy to refrain from meddling with the socialization process. Gender refers to the roles assigned to the individuals once the sex has been assigned, that include socially sponsored do's and don'ts. Gender is intrinsically linked to the construction of masculinity and femininity in an individual. An individual born with male sex organs is automatically exposed to characteristics expected of men and similar can be applied to girls. Any deviation to this method is treated with strong hands. An individual whose sex and gender are in alignment is called a cissexual, a term recently coined and defined by various sexologist and gender researchers. But gender is more complicated and multi-faceted term hence to provide a definition that covers every facet is really difficult. Later researchers have defined gender as 'performative' (Butler 1990) that argued that sex is socially determined and gender is performed after the society decides the sex of the infant. Gender, being a performance, hence is a fluid concept stripped off of the rigidity always assigned to it.

There are various agents responsible for the construction of gender from the time sex is determined. These include the family, school, peer groups and media. All these agents overtly or covertly contribute to the development of gender and closely monitor an individual's performance of it. The first task of gender development lies with the family and family remains the most influential agent in this regard. A child recognizes with either the father or the mother based on his or her sex and through the complex process of successfully suppressing the Oedipus complex and Penis envy (which was later named by Electra Complex by Jung). Oedipus complex, defined by Sigmund Freud is characterized



by a boy's infantile erotic desire towards his mother which he learns to suppress due to the subconscious fear of castration by his father and he eventually learns to identify with the latter. For a girl the process starts with a subconscious jealousy towards the mother due to the latter's inability to provide a 'penis' or external sexual genitalia, the process is finally assuaged with the girl's identification with the femininity of the mother and her subconscious suppression of the erotic desire towards the father. Hence the psychoanalysts have defined gender construction with the increasing awareness of the possession of the sexual organ or the lack of it. Social construction of gender encompasses the differential societal rules and regulations that surround this constructed gender identity and concretizes it. It can start with the assignment of different colours to a boy and a girl and take on various manifestations in the larger society, like differential treatment at workplace. Hence gender remains a basic identity on which an individual is judged.

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## **2.2 Understanding Gender Discrimination and Gender Inequality**

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As an act of reiteration it can be said that gender discrimination and gender inequality have always been used to mean the same thing, but they have different connotations. Gender discrimination also referred to as sexual discrimination is the act of meting out differential treatment to different individuals based on their gender, for example expecting a woman not to study science based on the myth that women have smaller brain size than men. Gender inequality, on the other hand is to make resources selectively available to both the genders for their self-actualization, such that one gender gets more than the other, for example giving more food to the boys during the growing up period based on the idea that men need more nutrition to function in comparison to women. Gender discrimination and inequality are simultaneous since discriminatory prejudices based on gender give rise to the unequal practices in the wider society.

Different variants of feminism have provided various explanations of the existing differential gender practices. According to the first wave feminism which also marks the commencement of the liberal version of feminism, the gender differences were the result of the unequal opportunities available to women. They focused on the right to equal education, right to equal pay at work, right to vote, right to abortion and many such practices that denied women access to the public sphere; a sphere known as profoundly 'male'. The emergence of the concretized public/private divided dates back to the rise of the industrialization and the separation of the production from consumption. In an agrarian society home provided the site for both production and consumption, with women actively participating in agricultural pursuit. With the rise of the industries it became a norm for the men to go

out and work creating concretized idea of private women and public men. Home became a woman's domain, giving rise to stereotypes like 'house wives' or 'home makers'. The women were denied the right to vote and right to education, the basic rights available to men. Hence the claims of the liberal feminists, the then first wave, was limited to bagging the right of the women to access the public sphere on the ground that the rights that accrue to men should also accrue to women because men and women are similar. The first wave feminism thawed with the right to vote being extended to women first in New Zealand in the year 1890, followed by UK and US in 1920. The first wave feminism concentrated on the discrimination against women was limited to the access to the public sphere, to the total exclusion of attention to the plight of the women involuntarily concentrated in the private sphere.

The second wave feminism or the rise of the radicalized version of feminism focused on the private sphere and claimed that family is the germination point of the larger discrimination and unequal practices against women. They also popularized the term patriarchy which comes from the Portuguese word 'pater' which means father. In other words patriarchy means rule by the father or the men in general. The family, thus becomes, the epicenter of the patriarchal rule where women are controlled first by their fathers and then by their husbands. Discrimination against women, according to the radical feminists, is the product of the patriarchal rule and the resultant ideology that bind the women in inferior position vis-à-vis men. Patriarchy sometimes uses the covert ideological tool of creating stereotypes and promotes such ideas that make the women believe in the existing situation being just and desirable (a concept very similar to Marx's idea of false consciousness). For example, gendering of work bears the testimony to the ideological control that society exerts on women by making them believe that some types of work are not suitable for them; they are made to accept the myth that women are meant for subtle manual jobs like stitching and embroidery due to their nimble fingers and the moment these works get mechanized they are replaced by male workers due to the existent belief that women are not fit to handle technology.

According to the socialist feminists, women contribute about one third of the world's production but own less than three percent of the world's property. To them, the discriminatory practices against women are the result of capitalism of which patriarchy is nothing more than a by-product. To the Marxist feminists class cleavage is more important than the gender and once capitalism gets abolished gender differences will automatically wither away. Sexism (the discriminatory treatment typically against women) is directly linked to capitalism. In a capitalistic society, women being confined to the

private sphere is a capitalistic necessity, because it frees the men to go out and work . Women also give birth and ensure the reproduction of the next generation workers, According to Juliet Mitchell women perform four important tasks for capitalism, i. they help the men to go to work by shouldering the responsibility at home, ii. women give birth and socializes the children and hence helps in continued production in a capitalistic world that thrives on labour, iii. they can be pumped into the economy hence they act as a reserve category of workers and iv. they are sex objects. Thus only the total annihilation of the capitalism can guarantee the emancipation of women from the clutches of patriarchy and the discriminatory practices. It is also worth noticing that the discussed variants of feminism provided their respective solutions to the ongoing unequal treatment meted out to women ; for the liberal feminists the solution lies in the access of women to the public sphere and the rise of androgyny or genderlessness where an individual can be judged solely on the basis of merit rather than gender, for the radical feminists the solution lies in the total restructuring of the family and identification of the subtle exploitation of the women within in it in terms of free labour and for the socialist feminists the answer lies in the abolition of capitalism that thrives on the free labour of women.

As far as India is concerned, sexism is blatant and has a historical context too. If indology is invoked, India holds precedence of women education in the pre-vedic period where ‘argumentative’ women could converse with the learned Brahmins without fear of damnation (Sen 2005). The condition of women started deteriorating in the post-vedic period, especially after the Manusmriti and Arthashastra that categorically described the position of women in the Indian society as being subservient to men. Mukherjee (1978) in her *Hindu Women: Normative Models* wrote,

*“Manu allotted to women a love of (their) bed, (of their) seat and (of) ornament, impure desires, wrath, dishonesty, malice and bad conduct. He further listed six causes of womne’s ruin: the habit of drinking alcohol, keeping company with bad people, separation from husband, roaming abroad, sleeping at day time, and living in another’s house. A popular saying enumerates falsehood, thoughtless action, trickery, folly, great greed, impurity and cruelty as the faults of women”.* (p-11)

Ancient texts have always painted a subservient picture of women which have been instrumental in determining the status of women in the society. Since, women were deprived the right to education these texts were interpreted by learned male Brahmins who committed the fallacy, intentionally or otherwise, of exaggerating the roles of women as housewives and mothers. The duties of the women as wives were highlighted as

supreme, thus categorically denying the women the opportunities available to men. This paved the way for the differential treatment to women or the blatant sexism that is so visible in the patriarchal society. It is also interesting to note that, unlike in the West, where women actively participated in demanding their rights, in India most of the reforms were the concerted effort of the male reformers who worked in close collaboration with the then British Government. Starting from the abolition of Sati (1829) to the introduction of widow remarriage (1886), we see the names of the male reformers associated with them. It is not that women did not participate in the Nationalist movement, but history has been blind towards the achievements of women and always presented them as providing service to the male freedom fighters. This discriminatory documentation of history has resulted in the 'invisibility of women' in historical accounts. Later researchers on subaltern and feminist studies have tried to remedy the situation by proving narratives of the women involved in the freedom struggle. Forbes (1988) provided a detailed account of the involvement of the male reformers in dealing with the 'women's question' and their contribution in creating the image of educate 'new Indian women'. She writes, "Many of the 'new women' were also educated in their homes and then sent to girls' schools. Parents who cared about female education waited until their daughters were older before arranging their marriages or occasionally allowed young married women to continue their education. Older brides became mothers at a later age and often played a greater role in child rearing. Often there were opportunities to exercise some choices of their own and consequently their status was far less derivative than has been true for a previous generation. There were also significant changes in what women could do—often characterized as the movement from the private to public sphere. But this both overly simplifies the Indian context and overly dramatizes what actually happened". (p-29).

Hence gender discrimination in India had a strong societal sanction to it and was to some extent endorsed by the ancient texts. Post- Independence period saw the spread of education among the masses; though the female literacy rate is much lower than the male literacy rate, it is steadily rising. Female education is an imperative to improve the condition of women since, it is believed that women getting educated will marry later and will have fewer children. But sometimes capability to make decisions does not determine well-being of an individual (Sen's work of agency can be mentioned in this regard). For example, fasting for religious reason is a choice made by an individual, but it does not guarantee a situation of well-being health wise. Modern development and awareness are creating and enhancing women's ability to make choices by ensuring

financial independence but whether this is turned into a successful vehicle of change is yet to be seen.

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### **2.3 Gender Discrimination in the Family**

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The major part of sexism within the family commences from the time of conception of the infant in the womb, where the sex of the child, if revealed, can lead to sex selective abortion. Sex selective abortion or in other words the abortion of the female fetus has been rampant in India. In the rural areas due to lack of the ultra sonographic facilities, feticide is often replaced by infanticide (killing of the female infants). The existing sex ratio of the country (940:1000; 2011 census) is the clear indication of the biased attitude towards the female child in the society which led Sen (1990) to refer to the unaccounted women as ‘missing girls’ of India. Sen (1990) reasoned that since women’s ability to survive is higher than men, the phenomenon of missing women is due to other socio-cultural practices prevalent in the country. If the fetus survives this onslaught and is allowed to grow then there are evidences of stark gender discrimination within the family. It is generally seen, a couple wanting to have one or two children generally stops trying after the birth of the son, while it is seen that many other couples continue to procreate in the hope of having one son, leading to high population in India. Hence apart from the original practice of sexism, the discrimination lies in the very attitude of the parents.

It is very difficult to measure the extent to which the discrimination is prevalent in middle class households. The discriminatory practices are discerned in the way the boys and girls are socialized with differential expectations from them. From very childhood, the children are provided with role models in their parents where they see their ‘working and earning’ fathers and ‘housewives’ mothers, thus setting precedence by providing a microcosmic reflection of the wider societal set-up. There are various reasons for the existing gender biases and the most important reason is the lack of money value attributed to housework or confinement of the women in the secondary labour market and how women are expected to prioritize family over career. In the rural areas in India, the difference is so stark that it is often reported that a girl child is given less nutritious food than her brothers; she is also deprived of education or is often withdrawn from schools to make way for her male siblings. Resource allocation within the household varies greatly based on the gender of the child. Bharadwaj, Dahl & Sheth (2014) reports that “Using data from three different countries, Thomas finds that resources are better allocated to girls when mothers have better bargaining power within the household” (p-

27). Deprivation of education is often based on the idea that girls do not get involved in productive employments, backed by the reality that a huge amount of dowry has to be paid at the time of their marriage. Hence the economically disadvantaged parents decide to train the daughters from a very young age for a life which is generally rife with discriminatory practices. The son preference is also the result of the money value attached to a man's work; they are literally brought up to be the sole breadwinner of the family. Based on the social investment theory for an Indian parent a child is seen as a potential source of investment who is expected to bring returns later on in life in the form of money/salary as well as security in old age. Sons score in both the areas leading to the continued preference for son and an indifferent, sometimes aversive attitude towards the daughters.

Post marriage gender discrimination is even more visible with the blatant sexism within the family of pro-creation. The reports of dowry deaths are very common in India, coupled with innumerable cases of torture if not death. The construction of the image of an 'ideal Indian woman' is closely associated with promoting the qualities of being subservient to men in all probable respects. As described above, the religious texts have been categorical in charting out the dos and don'ts for women and having an independent career is never endorsed in them. The most elementary form of discriminatory practice is the existence of patrilocal residences where women are expected to leave their natal place and stay with her husband's family; thus from the very beginning she is thrown into an alien environment where her freedom is more or less curbed. Another discriminatory practice is to expect the women to shoulder the household responsibilities with less or no help from men. Even in neolocal residences women are seen to share the lion's portion of the chores on the pretext that men are not naturally predisposed towards tasks in the private sphere. It can be reiterated in this respect that according to the radical feminists' claim, a man living on the labour of a woman falls under the category of the exploiter of the latter. Even in a dual-earning family, it is often seen that women are responsible for finishing the remaining chores while men are seen finishing their pending office works. Another area of discriminatory practice is to connect child bearing with child rearing, and expect the woman to do the latter as she is biologically predisposed towards the former. Child rearing is still considered a female job and many women are seen taking a sabbatical from work or quitting the job altogether to take care of the children. Hence family remains the germination point of gender discrimination or sexism, reflection of which is seen in larger society.

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## 2.4 Gender Discrimination in Education

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The discrimination that starts in the family sometimes spilled over to the field of education too. The major discrimination in education is to deprive the girls of it on the pretext that they will eventually get married. Even though primary education has been made free and compulsory in India, the rate of dropouts of the girl students remain quite high in the rural areas. The comparative analysis of the literacy rates in India give a clear indication of the existing gender disparity in the country. When education was made a mass phenomenon and inclusive, the content of the curriculum was made specific to women so as used to nurture their traditional roles as housewives and mothers. Sewing, cooking, embroidery, house husbandry formed a major part of the curriculum along with history and literature. According to the 2011 census, male literacy rate is 82.14% and female literacy rate stands at 65.46%. In the rural areas male literacy rate is 78.57% while the female literacy rate is 58.75%, while in the urban areas they are 89.67% and 79.92% respectively. It can be deduced that women are still deprived of education despite the fact that women's enrolment in higher education has increased. The subtle gender discrimination in the field of education starts with the difference in uniform for boys and girls, immediately creating an awareness about gender and asserting that boy and girls are different from each other. Due to the uniform like skirts, girls are unable to take part in sports or run faster, an area believed to be a man's zone. The gender discrimination is also subtly visible in the differential expectation of the teachers and the choice of subjects.

Boys are generally pushed towards science and commerce, while girls are known to be fitted for humanities and home science. Interestingly, home science as a subject is never taught in a boys' school. Men are seen to gravitate towards the STEM courses (Science, Technology, Engineering and Mathematics). Men are expected to be assertive in classroom and agile in sports, while girls are expected to be reflective and imaginative in their approaches. The reflection of the gender discrimination is also noticed in the way male characters are portrayed in the story books. Most of the story books have male characters who are independent, adventurous and powerful, while female characters are either missing or are presented as second fiddle to men. For example in the fairy tales women are always painted as 'damsels in distress' who need to be saved and marriage is only shown as the probable solution to all the problems. Such a portrayal of women creates an image in the impressionable minds that make them believe in the inner vulnerabilities that a woman is always attributed with.

In this linguistic sexism also plays an important role in creating and sustaining gender stereotypes. Phrases like ‘don’t cry like a girl’, ‘don’t fight like a boy’, ‘girls don’t fight’, ‘don’t sit like a boy’, ‘effeminate’, ‘tomboy’, not only negatively sanction the individual concerned but also helps in conscious and sub-conscious instillation of the desired characteristics in men and women. Gender discrimination in education creates a pressure on the students to live up to the expectation. It is true for both boys and girls who are forced into gender straitjackets. It is one way of adhering to hegemonic masculinity, where pupils who fail to abide by the gender norms are marginalized. But the recent awareness about gender discrimination has led many schools to take necessary precautions against the imbibing of strict gender characteristics.

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## **2.5 Gender Discrimination at Workplace**

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This is the area that has seen major and blatant sexism. Initially gendering of work was done based on the biological differences between men and women; women were always portrayed as delicate and unfit for physically strenuous jobs. The whole concept of public men and private women is based on gendering of work and marking home as the feminine territory. Women have always been seen as naturally predisposed towards housework; this idea is still widely prevalent. Even the rise of the modern information technology and women’s employment in it could challenge this division of labour within the family only to a limited extent (Ghosh & Sen, 2018). Women who were never allowed to work outside at one point of time, were forced into the economy when there was a shortage of men during the first world war. Even if they entered the economy they were mostly concentrated in the secondary labour market or in part-time jobs. Even today many employers prefer to hire male employees over female on the grounds that women prioritize family over career and will take longer maternity sabbatical which will affect production. On the other hand, men are much more mobile than women and are most likely to take up on-site opportunities.

In due course of time some jobs became feminized like teaching and nursing since they are premised on the intrinsic idea of care giving. Women’s entry in the male dominated occupations is only limited and vice versa. The reason why some jobs are feminized and there is a dearth of men in them is also monetary in nature. Most of the feminine jobs are low paid and that has failed to account for men’s involvement in them. In recent years the Information Technology (IT) sector have made it a point to prevent discrimination in the hiring process; which to some extent have been proved correct yet the discrimination is noticeable when the women try to rise up the corporate hierarchy.



Even if there is no apparent gender differences there exists unequal opportunities for self-actualization. Discrimination is also seen in the pay structure where sometimes men are paid more than the women for the same work. When the work gets mechanized women are generally substituted with male workers on the grounds that women cannot handle machines. More involvement of women at work is generally seen in the rural areas where they work in the fields or low paid jobs like beedi binding where they are paid on a piece rate basis. Hence gender sensitization programmes are an imperative to make everyone aware of the overt and covert gender biases and make inclusive arrangements for the holistic development of all genders alike.

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## **2.6 Gender Discrimination and the State**

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The first telling intervention of the colonial government in the gendered discourse of the subject population is Regulation XVII of December 1829, by which the practice of Sati was abolished in Bengal Presidency, under the initiative of Lord William Bentinck. Although the barbarity of Sati or self-immolation of Hindu widows on the funeral pyre of their deceased husbands had been rankling the administrators right from the end of the eighteenth century, no decisive action was taken till Bentinck arrived, for fear of giving umbrage to religious prejudices of the Hindus that might provoke an anti-government reaction and stall the onward march of Pax Britannica. Thus while the government was desirous of an abolition of the heinous practice, for the subject population, on the other hand, Sati became a marker of their ethos and tradition, to be fiercely protected from any alien intervention.

As Sati increasingly became a more visible rite, it became a rallying point of civilising mission and the government policy see-sawed between an avowed desire not to offend the religious sensibilities of the Hindus and the criticism that its silence on the stated issue gave indulgence to murder and made women the proverbial sacrificial lambs. Shocked at the gruesomeness and goriness of the incidents, the state could not turn a blind eye with girls as young as nine years being consigned to flames in the name of religion. While his predecessors dithered on the question of abolition, Bentinck was steelier in his determination. In his endeavour, he found an able support in a section of the indigenous population, the most notable being Raja Rammohun Roy. Basing his argument on the sacred texts, namely, Manusmriti, commentaries by Yajnavalkya, the nucleus of Rammohun's argument, as gleaned from his 1818 tract titled "Translation of a Conference between an Advocate for and an Opponent of the Practice of Burning Widows Alive," and a second pamphlet published in 1820, "A Second Conference between an Advocate

for, and an Opponent of the Practice of Burning Widows Alive” centred on trying to find answer to the question, “...whether or not the practice of burning widows alive on the pile and with the corpse of their husband’s, is imperatively enjoined by Hindu religion?”<sup>1</sup> His emphatic reply was, “Manu in plain terms enjoins a widow to continue till death forgiving all injuries...”<sup>2</sup> He claimed that the mythic lawgiver Manu who called for Hindu widows to lead a life of ascetic celibacy (*brahmacarye vyavasthita*) superseded the quoted injunctions of Angira and other ancient Hindu sages in support of self-immolation.

A widow, who outlives her husband but adheres to the tenets of celibacy was, according to Manu, to be venerated as a *sadhvi*. Battle-lines were drawn with the anti-abolitionists, too, gearing up with their own set of arguments gleaned from religious texts. The face of this group was Radhakanta Deb, who, too dug deep into the scriptures and cited passages from the Upanishads to bolster his argument against the proposed ban. Caught in the whirlpool of ruptures within the Indian society, Bentinck’s immediate predecessors jettisoned any concrete interventionist measures for the fear of ruffling the indigenous sentiments. However, Bentinck decided to step in where his predecessors feared to tread—the end result being the Regulation of 1829. Not to take things lying down, the conservative faction under Deb went all the way to the Privy Council to appeal against the Regulation, which however was rejected.

Nineteenth century also shows the tenuous relationship between gender and the state, calibrated along lines of confrontation and cooperation, often volatile, shaky and complicated. From the institution of Sati in the 1820s, to later conflicts over widow remarriage and the age of consent, the status of Indian women attracted the reforming zeal of missionaries, colonial legislators and metropolitan liberals. For Indian conservatives, reformers and later nationalists, women and the family were likewise potent symbols, conveying a variety of different class, community and national identities. As a force for ‘modernising’ tradition, the legislative debates within the elite Hindu arena made possible the regeneration of textually classical position on women. For the colonial administration, this ‘women’s question’ translated into a cautious cultural interface and intervention. The debates on women’s ‘duties’, sexuality and marriage were in themselves, crucial in defining gender relation within the family and of family with the nation at large. By the end of the nineteenth century, these debates infused a new sensibility and direction to women’s concerns and consequently redefined and realigned the roles of both men and women within the nation (Ghosh:2021).

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## 2.7 Conclusion

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Gender, thus, remains as an elementary cleavage in a society. Like class, gender creates the division between the ‘privileged’ men and ‘deprived’ women in a social setting. For centuries many years women have been regarded as the property of men to be possessed and controlled, with or without the use of force. In recent years certain steps have been taken in attempts to remedy this situation thanks to the concerted effort of the feminists and human rights workers who have highlighted the plight of the women in the global platform. The most notable among them is the Convention on the Elimination of all Forms of Discrimination against Women or CEDAW, 1979. It was instituted on 3<sup>rd</sup> September 1981 and ratified by 189 countries. Article 1 of the convention defines discrimination against women in the following terms:

*Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*

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## 2.8 Summary

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Apart from these, the convention also laid down certain mandate for the countries to follow like to guarantee basic human rights and fundamental freedoms to women “on a basis of equality with men” through the “political, social, economic, and cultural fields”, provide equal opportunity in education for female students and encourage coeducation. It also provides equal access to athletics, scholarships and grants as well as requires “reduction in female students’ drop out rates”, provides protections for rural women and their special problems, ensuring the right of women to participate in development programs and many such basic rights to ensure gender equality. The Convention was also followed by the Beijing Plan of Action 1995 that ensures the rights of the women and made it a mandate for the signing countries to provide education and other facilities to ensure the well being and holistic development of women. It is high time we understand the futility and gender stereotypes and focus on the skill-based development of the individuals.

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## 2.9 Questions

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**Answer the following questions very briefly: [ 6 marks each ]**

- i. What is the difference between sex and gender?
- ii. What is the meaning of cissexual?
- iii. Who is credited with separating sex from gender?

**Answer the following questions briefly: [12 marks each ]**

- i. State the distinction between gender discrimination and gender inequality.
- ii. What is the standtake of radical feminist on the issue of gender discrimination?
- iii. What are the major tenets of CEDAW 1979?

**Answer the following elaborately: [ 18 marks each ]**

- i. Explain the role of family in gender construction and gender discrimination.
- ii. Trace the historical existence of sexism in India.
- iii. What are measures that can be suggested to ensure gender equality?

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## 2.10 References

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1. Bharadwaj, P., Dahl, G. B., & Sheth, K. (2014). Gender discrimination in the family. *The economics of the family: How the household affects markets and economic growth*, 2, 237.
2. Butler, J. (2011). *Gender trouble: Feminism and the subversion of identity*. Routledge.
3. Census Report 2011, Literacy and Education Chapter 3. [http://www.mospi.gov.in/sites/default/files/reports\\_and\\_publication/statistical\\_publication/social\\_statistics/Chapter\\_3.pdf](http://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/social_statistics/Chapter_3.pdf)
4. Chakravarti, U. (1995). Gender, caste and labour: Ideological and material structure of widowhood. *Economic and Political Weekly*, 2248-2256.
5. Chandramouli, C., & General, R. (2011). Census of india 2011. *Provisional Population Totals*. New Delhi: Government of India, 409-413.
6. Dube, L. (1988). On the construction of gender: Hindu girls in patrilineal India. *Economic and Political Weekly*, WS11-WS19.

7. Forbes, G., & Forbes, G. H. (1999). *Women in modern India* (Vol. 2). Cambridge University Press.
8. Ghosh, S., & Sen, P., (2018). Situating Work within the Private Sphere: A Descriptive Study of the Married Corporate Women in urban Kolkata, *International Journal of Integrated Research and Development*, (Vo.2, No.14).
9. Giddens, A., & Sutton, P. W. (1989). *Sociology*. Cambridge: Polity.
10. Heywood, A. (2017). *Political ideologies: An introduction*. Macmillan International Higher Education.
11. Menon, N. (2004). *Recovering subversion: Feminist politics beyond the law*. University of Illinois Press.
12. Mukherjee, P. (1994). *Hindu women: Normative models*. Orient Blackswan.
13. Mukherjee, P. (1983, January). The image of women in Hinduism. In *Women's Studies International Forum* (Vol. 6, No. 4, pp. 375-381). Pergamon.
14. Sen AK (1992). Missing women. *BMJ*, 586-7.
15. Sen, A. (1990). More than 100 million women are missing. *The New York Review of Books*, 37(20), 61-66.
16. Sen, A. (1990). Development as capability expansion. *The community development reader*, 41-58.
17. Sen, A. (2001). *Development as freedom*. Oxford Paperbacks.
18. Ghosh Subhasree (2021). Gender and the State. Self-Learning Materials written for Netaji Subhas Open University to be published soon.

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## **Unit - 3 □ Gender Stereotypes: Facilitators of Violence**

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### **Structure**

#### **3.0 Learning Objectives**

#### **3.1 Introduction**

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#### **3.4 Measurement of Gender Stereotypes**

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#### **3.16 Questions**

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### **3.0 Learning Objectives**

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#### **To understand:**

- The concept of Gender Stereotypes
- Contemporary gender Stereotypes especially in the Indian context
- Gender based violence
- The ways of avoiding gender stereotypes

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### **3.1 Introduction**

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There is no question that a great deal of progress has been made toward gender equality and this progress is particularly evident in the workplace. There also is no question that the goal of full gender equality has not yet been achieved- not in pay (AAUW, 2016) or position level (Catalyst, 2016). There is a long history of research in psychology that corroborates this finding (Eagly and Sczesny, 2009; Heilman, 2012). These investigations support the idea that gender stereotypes can be impediments to women's career advancement, promoting both gender bias in employment decisions and women's self-limiting behavior (Heilman, 1983).

This topic is designed to investigate the current state of gender stereotypes about men and women using a multi-dimensional framework. Much of the original research on the content of gender stereotypes was conducted several decades ago (Rosenkrantz et al., 1968), and more recent research findings are inconsistent, some suggesting that there has been a change in traditional gender stereotypes (Duehr and Bono, 2006) and others suggesting there has not (Haines et al., 2016). Measures of stereotyping in these studies tend to differ, all operationalizing the constructs of agency and communality, the two defining features of gender stereotypes (Abele et al., 2008), but in different ways.

Gender stereotypes often are internalized by men and women and we therefore focus both on how men and women are seen by others and how they see themselves with respect to stereotyped attributes. The multiple objectives are to develop a multi-dimensional framework for assessing current conceptions of men's and women's characteristics and then use it to consider how men and women are seen by male and female others, how men and women see themselves, and how these perceptions of self and others in their gender group coincide or differ. In doing so, I hope to demonstrate the benefits of viewing agency and communality as multidimensional constructs in the study of gender stereotypes (Abele et al., 2008), (Hentschel, Heilman and Peus 2019).

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### **3.2 Gender Stereotypes**

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Hentschel, Heilman and Peus (2019) have used a multi-dimensional framework to assess current stereotypes of men and women. Specifically, they sought to determine (1) how men and women are characterized by male and female raters, (2) how men and women characterize themselves, and (3) the degree of convergence between self-characterizations and characterizations of one's gender group. In an experimental study, 628 U.S. male and female raters described men, women, or themselves on scales representing multiple

dimensions of the two defining features of gender stereotypes, agency and communality: assertiveness, independence, instrumental competence, leadership competence (agency dimensions), and concern for others, sociability and emotional sensitivity (communality dimensions). Results indicated that stereotypes about communality persist and were equally prevalent for male and female raters, but agency characterizations were more complex. Gender stereotypes were also evident in self-characterizations, with female raters rating themselves as less agentic than male raters and male raters rating themselves as less communal than female raters, although there were exceptions (no differences in instrumental competence, independence, and sociability self-ratings for men and women). Overall, the results show that a focus on facets of agency and communality can provide deeper insights about stereotype content than a focus on overall agency and communality.

Gender stereotypes are generalizations about what men and women are like and there typically is a great deal of consensus about them. According to social role theory, gender stereotypes derive from the discrepant distribution of men and women into social roles both in the home and at work (Eagly, 1987, 1997; Koenig and Eagly, 2014). There has long been a gendered division of labor and it has existed both in foraging societies and in more socio-economically complex societies (Wood and Eagly, 2012). In the domestic sphere women have performed the majority of routine domestic work and played the major caretaker role. In the workplace, women have tended to be employed in people-oriented, service occupations rather than things-oriented, competitive occupations, which have traditionally been occupied by men (Lippa et al., 2014). This contrasting distribution of men and women into social roles and the inferences it prompts about what women and men are like, give rise to gender stereotypical conceptions (Koenig and Eagly, 2014).

Accordingly, men are characterized as more important agent than women, taking charge and being in control and women are characterized as more communal than men being attuned to others and building relationships (Broverman et al., 1972; Eagly and Steffen, 1984). These two concepts were first introduced by Bakan (1966) as fundamental motivators of human behavior. During the last decades, agency (also referred to as “masculinity,” “instrumentality” or “competence”) and communality (also referred to as “communion,” “femininity,” “expressiveness,” or “warmth”) have consistently been the focus of research (Spence and Buckner, 2000; Fiske et al., 2007; Cuddy et al., 2008; Abele and Wojciszke, 2014). These dual tenets of social perception have been considered fundamental to gender stereotypes.

Stereotypes can serve an adaptive function allowing people to categorize and simplify what they observe and to make predictions about others (Devine and Sharp, 2009; Fiske



and Taylor, 2013). However, stereotypes also can induce faulty assessments of people- i.e., assessments based on generalization from beliefs about a group that do not correspond to a person's unique qualities. These faulty assessments can negatively or positively affect expectations about performance and bias consequent decisions that impact opportunities and work outcomes for both men and women (Heilman, 2012; Heilman et al., 2015; Hentschel et al., 2018). Stereotypes about gender are especially influential because gender is an aspect of a person that is readily noticed and remembered (Fiske et al., 1991). In other words, gender is a commonly occurring cue for stereotypic thinking (Blair and Banaji, 1996).

Gender stereotypes are used not only to characterize others but also to characterize oneself (Bem, 1974). The process of self-stereotyping can influence people's identities in stereotype-congruent directions. Stereotyped characteristics can thereby be internalized and become part of a person's gender identity- a critical aspect of the self-concept (Ruble and Martin, 1998; Wood and Eagly, 2015). Young boys and girls learn about gender stereotypes from their immediate environment and the media and they learn how to behave in gender-appropriate ways (Deaux and LaFrance, 1998). These socialization experiences no doubt continue to exert influence later in life and, indeed, research has shown that men's and women's self-characterizations differ in ways that are stereotype-consistent (Bem, 1974; Spence and Buckner, 2000).

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### **3.3 Gender Stereotypes in the Indian Context**

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Girls in India are considered as economic burden and it is the same country where goddesses such as Durga and Kali are worshipped to protect mankind. We live in a country where an average of 2,39,000 females dies each year under the age of five owing to the neglect due to gender discrimination. Despite the policies in place, India is still the country with the highest female foeticides in the world. One of the important reasons is dowry which is treated as a crime but in the Indian society it is also treated as a show of status, as a security for the girl in her husband's home.

Girls are taught about gender roles ever since they are born. Every phase in a girl's life is either full of obligations or duties that she should perform without fail. But the question is where does she belong? It is her own household or in the marital home? Contrarily, boys are free to express themselves in every phase of their life. Boys are given the responsibility to be the economic support to their parents, earn money, maintain the household, marry a beautiful woman and procreate etc. The gender socialization in India is a thing that one cannot ignore. In family gathering, the females ought to serve

food to men, while males ought to have “talks” about the economy and the important household decisions of the household.

When a child sees his father beating his mother, they set an example for their child, that men are mean to dominate, while females are bound to surrender. When a child notices these types of family behaviours, he or she inculcates the behaviour and continues the family hereditary in the same way. He or she treats the other gender in the same way their family members were treated. Hence, in order to improve the child in this regard, the discriminatory roles should be interchanged.

Another stereotype is associated with women drivers in India. But now we see that a lot of women are driving commercial taxis especially from the airports in the name of ‘pink’ taxis which is built to keep women safe while travelling at night. With the generations acquiring education and working outside their hometowns, there is a slight change in the mentality. Women work in the service sector in large numbers but there is less representation of women as entrepreneurs. The women are moving forward to raise their voice and break the age-old shackles of myths. The family decisions now include women’s voices. With the Hindu succession Act 1956, daughters are entitled to get equal share in their father’s property, although there is criticism attached.

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### **3.4 Measurement of Gender Stereotypes**

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Gender stereotypes and their defining features of agency and communality have been measured in a variety of ways (Kite et al., 2008). Researchers have investigated people’s stereotypical assumptions about how men and women differ in terms of, for example, ascribed traits (Williams and Best, 1990), role behaviors (Haines et al., 2016), occupations (Deaux and Lewis, 1984), or emotions (Plant et al., 2000). Researchers also have distinguished personality, physical, and cognitive components of gender stereotypes (Diekmann and Eagly, 2000). In addition, they have investigated how men’ and women’s self-characterizations differ in stereotype-consistent ways (Spence and Buckner, 2000).

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### **3.5 Contemporary Gender Stereotypes**

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Researchers often argue that stereotypes are tenacious, they tend to have a self-perpetuating quality that is sustained by cognitive distortion (Hilton and von Hippel, 1996; Heilman, 2012). However, stereotype maintenance is not only a product of the inflexibility of people’s beliefs but also a consequence of the societal roles women and men enact (Eagly and Steffen, 1984; Koenig and Eagly, 2014).

Therefore, the persistence of traditional gender stereotypes is fuelled by skewed gender distribution into social roles. If there have been recent advances toward gender equality in workforce participation and the rigid representation of women and men in long-established gender roles has eased, then might the content of gender stereotypes have evolved to reflect this change?

The answer to this question is not straightforward; the degree to which there has been a true shift in social roles is unclear. On the one hand, there are more women in the workforce than ever before. In 1967, 36% of U.S. households with married couples were made up of a male provider working outside the home and a female caregiver working inside the home, but now only 19% of U.S. households concur with this division (Bureau of Labor Statistics, 2017). Moreover, women increasingly pursue traditionally male careers and there are more women in roles of power and authority. For example, today women hold almost 40% of management positions in the United States (Bureau of Labor Statistics, 2017). In addition, more men are taking on a family's main caretaker role (Ladge et al., 2015).

On the other hand, role segregation, while somewhat abated, has by no means been eliminated. Despite their increased numbers in the labor force, women still are concentrated in occupations that are perceived to require communal, but not agentic attributes. For example, the three most common occupations for women in the U.S. involve care for others (elementary and middle school teacher, registered nurse, and secretary and administrative assistant; U.S. Department of Labor, 2015), while men more than women tend to work in occupations requiring agentic attributes (e.g., senior management positions, construction, or engineering; Bureau of Labor Statistics, 2016b). Sociological research shows that women are underrepresented in occupations that are highly competitive, inflexible, and require high levels of physical skill, while they are overrepresented in occupations that place emphasis on social contributions and require interpersonal skills (Cortes and Pan, 2017). Moreover, though men's home and family responsibilities have increased, women continue to perform a disproportionate amount of domestic work (Bureau of Labor Statistics, 2016a), have greater childcare responsibilities (Craig and Mullan, 2010; Kan et al., 2011), and continue to be expected to do so (Park et al., 2008).

Thus, there is reason both to expect traditional gender stereotypes to dominate current conceptions of women and men, and to expect them to not. Relevant research findings are conflicting. For example, a large investigation found that over time managers have come to perceive women as more agentic (Duehr and Bono, 2006). However, other investigations have found gender stereotypes to have changed little over time (Heilman et al., 1989) or even to have intensified (Lueptow et al., 2001).

There also have been conflicting findings concerning self-characterizations, especially in women's self-views of their agency. Findings by Abele (2003) suggest that self-perceived agency increases with career success. Indeed, there has been indication that women's self-perceived deficit in agency has abated over time (Twenge, 1997) or that it has abated in some respects but not others (Spence and Buckner, 2000). However, a recent meta-analysis has found that whereas women's self-perceptions of communality have decreased over time, their self-perceptions of agency have remained stable since the 1990s (Donnelly and Twenge, 2017). Yet another study found almost no change in men's and women's self-characterizations of their agency and communality since the 1970s (Powell and Butterfield, 2015).

There are many possible explanations for these conflicting results. A compelling one concerns the conceptualization of the agency and communality constructs and the resulting difference in the traits and behaviors used to measure them. In much of the gender stereotypes literature, agency and communality have been loosely used to denote a set of varied attributes, and different studies have operationalized agency and communality in different ways. We propose that agency and communality are not unitary constructs but rather are comprised of multiple dimensions, each distinguishable from one another. We also propose that considering these dimensions separately will enhance the clarity of our understanding of current differences in the characterization of women and men, and provide a more definitive picture of gender stereotypes today.

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### 3.6 Perceiver Sex

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Findings often demonstrate that male and female raters are equally likely to characterize women and men in stereotypic terms (Heilman, 2001, 2012). This suggests that stereotypes outweigh the effects of evaluators' gender identities and, because men and women live in the same world, they see the world similarly. However, the steady shift of women's societal roles and its different implications for men and women may affect the degree to which men and women adhere to traditional gender stereotypes.

On the face of it, one would expect women to hold traditional gender stereotypes less than men. The increase of women in the workforce generally, and particularly in domains typically reserved for men, is likely to be very salient to women. Such changes have distinct implications for them – implications that can impact their expectations, aspirations, and actual experiences. As a result, women may be more attentive than men to shifts in workplace and domestic roles, and more accepting of these roles as the new status quo. They consequently may be more amenable to incorporating updated gender roles into their understanding of the world, diminishing stereotypic beliefs.

Unlike women, who may be likely to embrace recent societal changes, men may be prone to reject or dismiss them. The same societal changes that present new opportunities for women can present threats to men, who may see themselves as losing their rightful place in the social order (Sidanius and Pratto, 1999; Knowles and Lowery, 2012). Thus, men may be less willing to accept modern-day changes in social roles or to see these changes as definitive. *Self-Stereotyping Versus Stereotyping of One's Gender Group.*

Although gender stereotypes impact characterizations of both self and others, there may be a difference in the degree to which stereotypes dominate in self- and other-characterizations. That is, women may see themselves differently than they see women in general and men may see themselves differently than they see men in general; although they hold stereotypes about their gender groups, they may not apply them to themselves. Indeed, attribution theory (Jones and Nisbett, 1987), which suggests that people are more prone to attribute behavior to stable personality traits when viewing someone else than when viewing oneself, gives reason to argue that stereotypes are more likely to be used when characterizing others in one's gender group than when characterizing oneself. Moreover, the impact of societal changes that affect adherence to gender stereotypes is apt to have greater immediacy and personal impact for self, and therefore be more reflected in self-characterizations than in characterizations of others.

Some studies have compared the use of stereotypes in characterizing self and others. In an early study (Rosenkrantz et al., 1968), each participating student was asked to rate men, women, and self on a number of characteristics. The researchers found that self-characterizations of men and women showed less evidence of stereotypes than characterizations of others.

There is reason to think that some dimensions of gender stereotypes are more likely than others to be differentially subscribed to when characterizing self than when characterizing others. For example, there is a tendency to boost self-esteem and adopt descriptors that are self-enhancing when describing oneself (Swann, 1990), and this may have adverse effect on whether these descriptors are consistent or inconsistent with gender stereotypes. If this is so, gender may be an important factor; there are likely particular aspects of gender stereotypes that are more (or less) acceptable to women and men, affecting the degree to which they are reflected in men's and women's self-descriptions as compared to their description of their gender group. However, there also is reason to believe that individuals will embrace positive stereotypes and reject negative stereotypes as descriptive not only of themselves but also of their close in-groups (Biernat et al., 1996), suggesting that there will be little difference between

characterizations of oneself and one's gender group. Therefore, to obtain a full picture of the current state of gender stereotypes and their impact on perceptions, it is important to compare self-characterizations and characterizations of one's gender group on specific dimensions of gender stereotypes.

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### **3.7 Can We Avoid Gender Stereotypes?**

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In light of the visible evidence that men as well as women can and do care for family members and friends and that women as well as men can display high levels of performance and ambition, it would seem silly to maintain that warmth typifies (all) women and competence characterizes (all) men. Indeed, at present, many people would be reluctant to explicitly make such claims. Nevertheless, their private convictions and implicit beliefs still often rely on these stereotypical associations- without them realizing that this is the case. For instance, in computerized reaction time tasks, people more quickly and effortlessly connect names and faces of women to various aspects of family life, whereas names and faces of men come more easily to mind when thinking about professional careers (Greenwald & Banaji 1995). Indeed, across different cultures and contexts, even those who are reluctant to claim that women are less competent (i.e., do not endorse hostile sexist views) may still believe that women are particularly sensitive and need to be protected by men (so-called benevolent sexism; Glick et al. 2000). Probably we require here a more elaborate rendition of gender stereotypes. Learners, come let us elaborate on this a little more.

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### **3.8 Gender stereotypes: An Elaborate Explanation**

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The Office of the High Commission for Human Rights (OHCHR) defines gender stereotypes as a generalized view or preconception about attributes or characteristics supposed to be possessed by women or men or the roles that are or should be performed by women or men. A gender stereotype is harmful if it is malicious and limits or doubts the capacity of a person to develop one's personal abilities, prevents one from making any free personal choice in career and/or in life. In short, gender stereotypes are, in general, create biases against a person on the basis of his or her gender. Persons who do not follow the gender-norms of the society or flout the social codes of gender-behavior fall prey to this kind of stereotypes; that may, in turn, encourage biased perception and perpetuate gender inequality in the society. Though it has long been established in almost all spheres of society it remains more pronounced against women from minority or small ethnic groups, women from less privileged background, migrant women, women with physical disabilities

and women from lower caste groups. Sets of everyday household tasks, system of education, family values, art, culture, music, mass media, literature, political institutions and economic activities often create, recreate and strengthen these stereotypes and also ensure their continuation from one generation to another. These stereotypes and principles of patriarchy are mutually enriching and no deviation from any of these is encouraged in a gender-biased society.

Gender stereotypes are, thus, dangerous as they distort people's perception, lead to discrimination, encourage unequal or unfair treatment and provoke violence against women and /or any person who falls short of satisfying the gender expectations of the society in general. Therefore, transgender persons or any other gender non-conformist people also fall prey to those stereotypes. Off course, in the last few decades we have seen a sharp rise in awareness regarding the unethicity of gender stereotypes and violence associated with the whole system of discrimination but these have not disappeared altogether. The world started to take notice of the facts of gender based discrimination in the 19<sup>th</sup> century when women activists started to raise their voices against biases and stereotypes and demanded their removal from the society. Matters also started to change for women very slowly since then; stereotypes against transgender and other gender-nonconforming persons had taken many more years to melt even a little.

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### **3.9 Significance of Gender Stereotypes**

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Gender stereotypes, like any other stereotype, are based on socially constructed norms, ideas, beliefs and practices that may often remain rooted in untruth or wrongful perception. For this reason these stereotypes hinder gender equality and force each gender to surrender to age old gender norms that block the natural talents, aspirations and abilities of a person based on his/her gender identity; it also justifies and perpetuates patriarchal control of the society over all persons irrespective of their gender identity. Stereotypes may not always be negative, but they definitely are prejudicial and disrespectful towards their targets. They also prevent people from enjoying rights and liberties. Gender stereotypes are targeted against women and other gender non-conforming people belonging to transgender and LGBTQ communities who experience denial of human rights, depravity of peace and security, restrictions in movements and low level of depravity. Lakshmi Puri, the UN Women Deputy Director and Assistant Secretary-General, has mentioned in a speech ( July,2011) that gender stereotype has weakened the mental and physical integrity of women and deprived them of equal knowledge, exercise and enjoyment of rights, encourages gender pay gap, occupational segregation, denial of promotion to

leadership, glass-ceiling in different professions, increased casualization of women workers and feminization of poverty, trafficking, forced marriage, female genital mutilation, honour killings, violence against women in domestic, workplace and other public and private spheres. Low work opportunities are also caused by such stereotyping.

Men, too, may face stigma and humiliation if they fall short of the expectations of masculinity, competitiveness, strength and assertiveness. They may face ridicule, humiliation and exclusion and ambitious self-seeking may be forcefully imposed on them as the established gender-norms expect men to be powerful leaders while women are projected as subhuman beings who are to follow male leaders meekly. Men are hailed as producers and women are looked down as mere consumers.

Gender stereotyping often affects self-characterization of a person. Women conventionally perceive themselves as less strong, less brave, less powerful and less efficient than their male counterparts; or when men view themselves as more upfront, smart, hard-working, intelligent and successful than women. Such perceptions cement differentiated positions for different genders, leading to internalization of gender stereotypical values and oversimplified, inaccurate assumptions regarding gender roles. These assumptions are rigid and take time to change. Gendered division of labour has been continuing from the foraging societies of a distant past to the more modern socio-economically complex industrial societies to keep women engaged in routine domestic work and care-giving. When women work outside their home they are mostly engaged in service-occupations; whereas men assume the role of the providers and work in more or less competitive occupations. On the basis of this observation Koenig and Eagly (2014) have concluded that this contrasting distribution of men and women into distinct social roles and the inferences about their statuses give rise to gender stereotypical concepts. Men are, thus, perceived as more powerful, being in control, more intelligent, smarter and more competent; whereas women are believed to be docile, submissive, soft, feminine and more into building relationship.

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### **3.10 Different Expressions of Gender Stereotype**

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Gender Stereotypes are rigid, but these can change over time and gender role expectations, too, continue to change as the character of the society changes. In general, gender stereotypes get expressed in four spheres. These are :

Personality Traits, Domestic Behavior, Occupation and Physical Appearance. Let us explore these spheres one by one.



**Personality Traits:** Men and women are expected to have different types of personality traits; for example, women should be steeped in ‘feminine’ qualities while men should possess ‘masculine’ attributes. No crossing of (gender) boundaries is ever tolerated.

**Domestic Behavior:** Women, traditionally, are expected to take care of children and household chores, while men are expected to take care of finances, work on the cars and do the home repairs.

**Occupations:** For a long time, certain jobs are considered to be suitable for women — the jobs that are believed to be less challenging, while the more challenging jobs requiring strength, power, quick decision-making prowess and courage are associated with men. Glass-ceilings are breaking, but at a slow pace and not in every society.

**Physical Appearance:**

There is a common perception in every society regarding the physical features and dress codes of males and females. Men are expected to be tall, stout and muscular, women are expected to be slim, petite and shy. Each gender is also expected to dress and groom themselves following the standard gender norms. Out of these perceptions there emerge two exaggerated images of gender like hyper-femininity and hyper-masculinity.

**Hyper-femininity** – It involves exaggeration of stereotypical behaviour believed to be feminine, i.e. passivity, naivety, sexual innocence, softness, flirtatiousness, grace, nurturing, non-demanding and all-accepting nature, etc.

**Hyper-masculinity** – On the contrary, hyper-masculinity involves aggressiveness, competitiveness, urge to dominate women, worldliness, virility, ambition, love for physical comfort and good living, etc.

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### **3.11 Gender Based Violence**

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Gender based violence is violence against a person or a group of persons belonging to a gender. Women, transgender persons and cross dressers are its primary victims who have to experience physical, verbal, emotional abuses and exclusion on a regular basis. Its occurrence is common and regular in all societies and therefore, it has been enjoying some sort of approval since ancient past; in spite of that it is essential to understand this in terms of serious human rights violation. Its existence is harmful for not only the victims, but also for the whole of the society. It expresses the imbalance of power that remains embedded within the society and violence is carried out against a person or a group which is perceived as weak and inferior by the more dominant person or section

of the society. The social and cultural structures of a patriarchal society nurture and nourish violence with supports from the norms and values of its powerful sections while it is perpetuated by the culture of denial, silence and submission.

Gender based violence should always be counted as a serious problem on many grounds. Firstly, it involves human rights violation and loss of freedom for the victims. It also undermines their sense of self-respect and self-worth; disturbs their mental peace, physical and emotional wellbeing. It also creates low self-esteem among the victims and may lead them towards self-harm, depression, isolation and suicide –attempt. It robs one of the most primary of rights – the right to live with dignity- and seriously limits a person’s urge for self-development.

Secondly, gender-based violence helps discrimination and segregation, fans prejudice, ill-feeling and hatred against women and persons who fall short of traditional gender-binary expectations of a hetero-normative society. It may impose isolation and marginalization as a deterrent or corrective measure and thus may contribute to the perpetuation of conventional image of powerful, dominant males and submissive and surrendering females.

Thirdly, gender based violence hinders gender equality and fans intolerance in an increasing manner. It prevents equal rights, equal employment opportunity for employment and empowerment and equal participation in social life for the targeted people. Absence of gender equality also leads to absence of equal access to social and economic resources to them.

Fourthly, when women are targets, gender based violence more commonly occurs within the four walls of one’s own home. They and gender non-conforming persons have to suffer in silence with little support from any quarter because the power structure within the family set-up and outside operate to subjugate and silence them. As such violence is often committed either by family member/s or by close acquaintances most of the victims conceal the pain and humiliation and remain silent on the identity of their tormentors. Complaints or protests from victims usually invite more violence. On many occasions the victims do not always define their experiences as illegitimate and/or unjustified and cover their pain and hurt with the natural coping mechanism. In many parts of the world, gender based violence has been recognized as an offence as per law, yet such violence on a more or less regular basis. In countries where there is a dearth of any protective law, gender based violence occurs more frequently and more intensely. Taking note of these situations the Istanbul Convention of the Council of Europe has recommended criminalization of several forms of gender based violence.

Fifthly, Gender based violence has serious repercussions on those who witness it on a regular basis. Family members including children, friends, relatives, colleagues and neighbours get deeply affected. Prolonged exposure to violence may cause extensive emotional and psychological damage to them; child witnesses to violence have to suffer serious trauma even when it is not directed towards them and may acquire wrong notions about the power equations in inter-personal relations and gender roles.

The Council of Europe Istanbul Convention (on preventing and combating violence against women and domestic violence), 2011 has taken note of the following types of violence:

Psychological violence, stalking, physical violence, forced marriage, sexual violence including rape, female genital mutilation, forced abortion and forced sterilization, sexual harassment, aiding or abetting and attempt at violence, unacceptable justification for crime including honour killing. These types of violence are usually directed against women, young and adult, but some of these are also used against people not conforming to standard gender expectations.

In this list verbal violence and hate speech, socio-economic violence, domestic violence or violence in intimate relationships, witch hunting, etc. can also be added. Each and every form of violence has many short and long-term repercussions that may ultimately shake the core of the society.

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### **3.12 Transgender and Other Non-binary Persons and Violence.**

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Transgender is a broad term that is used to describe people whose gender identity is different from the gender they have been born into. The term 'trans' is often used to describe them in short. The term not only includes people whose gender identity is completely different from the one assigned to them at birth, but also people who belong to a third gender, non-binary or gender-queer. Cross dressers are also included within this term.

Transgender individuals and communities experience shocking amount of violence and discrimination in almost every corner of the world. Though increasingly visible, they face severe discrimination, stigma and systematic inequality, often lack legal protection against discrimination based on their gender identity like discrimination in housing or dining in a restaurant, in accessing gender specific public bathrooms, etc. They have to live in poverty, with stigma, harassment and discrimination, have to face rejection from family, friends, neighbours and co-workers once their gender-identity is revealed and

have to tolerate prevention from accessing necessary services for their survival and well-being. They are often mis-gendered in common perceptions, local police statements and media reports.

Survey reports reveal that transgender and non-binary persons and communities experience shocking amount of violence and discrimination. The US Transgender Survey (2015), the largest ever survey in this regard, has reported that:

Nearly half (46%) of respondents experience verbal harassment. Nearly one in ten (9%) respondents experience verbal harassment. Nearly half (47%) respondents were physically attacked in the previous year because of being transgender. 72% of respondents have to do sex-work for survival. 65% of respondents experience homelessness. More than half (54%) have experienced some form of intimate partner violence and some kind of coercion. Transgender youths face dating violence.

Trans-women experience domestic violence. The stories of their violence against them often go either unreported or misreported.

Violence, assault, and killings often come from acquaintances, partners and only sometimes from strangers; some of the cases involve clear anti-transgender bias and in others their transgender status put them at risk in many other ways, such as forcing them in unemployment, poverty, homelessness and/ or survival sex work. They may also lack healthcare coverage and identity documents. Other two more drastic forms of violence are foeticide and infanticide.

**Female foeticide-** It is the process of finding out the sex of the foetus and undergoing abortion if it is a girl. Although it is illegal, many people continue to practice it. Besides this, there are some communities which practice female infanticide - the practice of killing the girl child once she is born. This fact is highlighted by the findings of census 2001 which show that there are only 933 women in this country for every 1000 men. Besides this, Census (2011) data showed a significant declining trend in the Child Sex Ratio (CSR), calculated as number of girls for every 1000 boys between age group of 0 - 6 years, with an all-time low of 918 in 2011 from 976 in 1961. This decline in sex ratio means that we are not just depriving girls of human rights, we are also depriving them of their right to live.

**Infanticide-** Infanticide is the act of deliberately causing the death of a very young child (under 1 year old). In the past, and in many societies, it was a widespread practice, permitted by different cultures around the world. Nowadays, it is considered to be an unethical crime; however, it is still performed. In some cultures, children are not considered

to be human beings until certain ceremonies have been performed (name-giving ceremonies or haircuts for example). Infanticide occurs rarely once those ceremonies have taken place but killing a child before them is not seen as a homicide. Infanticide is usually difficult to report, because in most cases these deaths are covered as stillbirths or children are just not registered at the civil registry after the birth.

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### **3.13 Facilitators of Gender Based Violence**

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There are some factors that facilitate and perpetuate gender based violence; at their root is the gendered power inequality nestled in patriarchy. The factors include elements and situations like, harmful gender norms and gender stereotypes, War and conflict situation, Poverty, food scarcity and hunger, lack of social support.

Substance abuse, improper socialization, low level of women's empowerment.

Socio-economic inequality, etc. These factors can be divided into four broad categories like cultural, legal, economic and political. Let us now discuss the factors one by one.

**Cultural Factors:** Gender based violence is more prevalent in societies where there is a culture of violence and male superiority is cherished without any question. This leads to strict enforcement of gender roles and hierarchy and association of masculinity with control of women. Such patriarchal and sexist views legitimize violence to ensure dominance and superiority of men at the cost of subjugation of women. Other cultural factors include gender stereotypes and prejudice, normative expectations of femininity and masculinity, socialization of gender, an understanding of the familiar sphere as private and under male authority and a general acceptance of violence as part of the public sphere like 'eve-teasing' or street sexual harassment. Violence may also be seen as a measure to solve conflict and assert oneself.

There is a religious and historical tradition in almost all societies to approve the use of physical force against women as a male entitlement and ownership of the 'weaker sex' as women are deemed to be the property of men and so their control has been legitimized. They can be killed in the name of protection of family 'honour'. Norms around sexuality also encourage hate crime and violence against transgender and other non-binary persons. In such a social-cultural environment gendered socialization leads to strengthening and continuation of gender bias and violence.

**Legal Factors:** Victims of gender based violence are considered guilty of attracting violence and aggression themselves through their behaviour. This partly accounts for low levels of reporting and investigation in such cases. Conventional laws in many

countries do differentiate between public and private spaces that make women persistently vulnerable to domestic violence. In the recent decades many countries have adopted laws to criminalize domestic violence, yet a section of law enforcers may side with the perpetrators by ensuring snail paced legal proceedings. As criminal cases are lengthy and complicated, cost too much money and time, require strong support system for the victims, most of the crimes go unreported. Decriminalization of transgender relationships has not occurred in many countries and this, too, leads to under-reporting of cases.

**Economic Factors:** Lack of employment and other resources generally makes women, trans persons and others particularly vulnerable to poverty and violence; they become easy targets for assault, harassment and abuse. Unemployed and poverty-stricken men, on the other hand, may try to assert their masculinity through violent means.

**Political Factors:** As women and trans persons remain under represented in power and politics, they get fewer opportunities to participate in the decision making process; their voice is rarely heard in the making of policies to combat violence in general and gender based violence in particular or for supporting equality. Also, male policy makers do not always show genuine interests in prolonged discussion over gender based violence as the issue is not important enough for them. Women's movements and LGBT+ movements have raised some very pertinent questions to shake the status quo out of its stupor, but for some this is reason enough to use violence against them.

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### **3.14 Conclusion**

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People find it difficult to recognize that these more subtle and implicit beliefs may also reflect stereotypical views of women and men (Barreto & Ellemers 2015). Yet the gender stereotypes implicitly endorsed in this way can overrule more explicitly stated intentions to treat men and women equally. For instance, the admiration for stereotypical qualities of women that characterizes endorsement of benevolent sexist views is associated with acceptance of domestic violence against women (Glick et al. 2002) and a desire to restrict their rights to regulate pregnancy and reproduction (Huang et al. 2016). In couples that implicitly endorse gender stereotypes in this way, the needs of the male partner for intimacy are prioritized over the achievement ambitions of the female partner (Hammond & Overall 2015). In task contexts, benevolent and implicit- rather than more hostile and explicit- references to gender stereotypes cause women to downplay their achievements and ambitions and to emphasize their interpersonal skills (Barreto et al. 2010).

The power of implicit beliefs is also visible among parents even those who claim that they show no difference in how they raise boys and girls. Those who implicitly make

gender stereotypical associations are more likely to behave differently toward their sons than their daughters, for instance, when disciplining them (Endendijk et al. 2014). Thus, from a very early age, children are implicitly taught about gender stereotypes and reproduce them in their own beliefs and behaviors. For instance, the implicit assumption that math is not for girls are already observed among girls at age nine. This assumption becomes stronger in adolescence and better predicts academic achievement and enrollment preferences than girls' explicit views about gender and math (Steffens et al. 2010).

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### 3.15 Summary

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This unit is concerned the role of format on gender among format, acquiescence, social desirability form resistant correlations. The possible of desires to appear tolerant with item form ambiguous relationships between education and prejudice. The finding that over half of the correlations between stereotypes and other variables show significant differences by format strongly suggests that these two measures reflect distinct concepts. Comparative items may come closer to the “we-they” feeling in prejudice when another group is contrasted against one's own. Juxtaposing groups with different social dominance may make prejudice more salient. In any event, these results indicate more refinement of the concept “stereo-type” is needed.

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### 3.16 Questions

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#### Long Questions :

1. What is gender stereotype? Explain.
2. Explain how the gender stereotype measurement happens.
3. Elaborate on contemporary gender stereotypes.

#### Short Questions :

1. What is perceiver sex?
2. What are the ways of avoiding gender stereotypes?
3. What is gender stereotype in India? Give examples.

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### 3.17 References

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- AAUW. 2016. *The Simple Truth About The Gender Pay Gap*. <http://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/>
- Abele, A. E. 2003. The Dynamics Of Masculine-Agentive And Feminine-Communal Traits: Findings From A Prospective Study, *J. Pers. Soc. Psychol.* 85, 768–776.
- Abele, A. E., Cuddy, A. J. C., Judd, C. M., and Yzerbyt, V. Y. 2008. Fundamental Dimensions Of Social Judgment, *Eur. J. Soc. Psychol.* 38, 1063–1065.
- Bakan, D. 1966. *The Duality of Human Existence: An Essay on Psychology and Religion*, Chicago, IL: Rand McNally.
- Bem, S. L. 1974. The Measurement of Psychological Androgyny, *J. Consulting Clin. Psychol.* 42, 155–162.
- Biernat, M., Vescio, T. K., and Green, M. L. 1996. Selective Self-Stereotyping, *J. Pers. Soc. Psychol.* 71, 1194–1209.
- Blair, I. V., and Banaji, M. R. 1996. Automatic And Controlled Processes In Stereotype Priming. *J. Pers. Soc. Psychol.* 70, 1142–1163.
- Bureau of Labor Statistics. 2016a. *American Time Use Survey*, Available at: <http://www.bls.gov/tus/charts/household.htm>
- Bureau of Labor Statistics. 2017. *Women in the Labor Force: a Databook*, Available at: <http://www.bls.gov/opub/reports/womens-databook/2017/home.htm>
- Catalyst. 2016. *Statistical Overview of Women in the Workforce*, Available at: <http://www.catalyst.org/knowledge/statistical-overview-women-workforce>.
- Cortes, P., and Pan, J. 2017. “Occupation and Gender,” in *The Oxford Handbook of Women and the Economy*, eds S. L. Averett, L. M. Argys, and S. D. Hoffman, Oxford: Oxford University Press.
- Craig, L., and Mullan, K. 2010. Parenthood, Gender And Work-Family Time In The United States, Australia, Italy, France, And Denmark, *Marriage Fam.* 72, 1344–1361.
- Cuddy, A. J. C., Fiske, S. T., and Glick, P. 2008. Warmth And Competence As Universal Dimensions Of Social Perception: The Stereotype Content Model And The BIAS Map. *Adv. Exp. Soc. Psycho*, 40, 61–149.



- Deaux, K., and LaFrance, M. 1998. "Gender," in *The Handbook of Social Psychology*, eds D. T. Gilbert, S. T. Fiske, G. Lindzey, D. T. Gilbert, S. T. Fiske, and G. Lindzey, New York, NY: McGraw-Hill), 788–827.
- Deaux, K., and Lewis, L. L. 1984. Structure Of Gender Stereotypes: Interrelationships Among Components And Gender Label, *Pers. Soc. Psychol.*, 46, 991–1004.
- Devine, P. G., and Sharp, L. B. 2009. "Automaticity and Control In Stereotyping and Prejudice," in *Handbook of Prejudice, Stereotyping, and Discrimination*, ed. T. D. Nelson, New York, NY: Psychology Press, 61–87.
- Diekmann, A. B., and Eagly, A. H. 2000. Stereotypes as Dynamic Constructs: Women and Men of the Past, Present, and Future, *Pers. Soc. Psychol. Bul.*, 26, 1171–1188.
- Donnelly, K., and Twenge, J. M. 2017. Masculine and Feminine Traits on The Bem Sex-Role Inventory, 1993–2012: A Cross-Temporal Meta-Analysis, *Sex Roles*, 76, 556–565.
- Duehr, E. E., and Bono, J. E. 2006. Men, Women, And Managers: Are Stereotypes Finally Changing?, *Pers. Psychol.* 59, 815–846.
- Eagly, A. H. 1987. *Sex Differences in Social Behavior: A Social-Role Interpretation*. Hillsdale, NJ: Lawrence Erlbaum Associates.
- Eagly, A. H. 1997. Sex Differences In Social Behavior: Comparing Social Role Theory And Evolutionary Psychology. *Am. Psychol.*, 52, 1380–1383.
- Eagly, A. H., and Sczesny, S. 2009. "Stereotypes About Women, Men, And Leaders: Have Times Changed?," in *The Glass Ceiling in the 21st century: Understanding Barriers to Gender Equality*, eds M. Barreto, M. K. Ryan, and M. T. Schmitt, Washington, DC: American Psychological Association, 21–47.
- Eagly, A. H., and Steffen, V. J. 1984. Gender Stereotypes Stem From The Distribution Of Women And Men Into Social Roles, *J. Pers. Soc. Psychol.*, 46, 735–754.
- Fiske, A. P., Haslam, N., and Fiske, S. T. 1991. Confusing One Person With Another: What Errors Reveal About The Elementary Forms Of Social Relations, *J. Pers. Soc. Psychol.*, 60, 656–674.
- Fiske, S. T., Cuddy, A. J. C., and Glick, P. 2007. Universal Dimensions Of Social Cognition: Warmth And Competence, *Trends Cogn. Sci.*, 11, 77–83.

- Fiske, S. T., and Taylor, S. E. 2013. *Social Cognition: From Brains to Culture*, London: Sage.
- Haines, E. L., Deaux, K., and Lofaro, N. 2016. The Times They Are A-Changing ... Or Are They Not? A Comparison Of Gender Stereotypes, *Psychol. Women Q.* 40, 353–363.
- Heilman, M. E. 1983. Sex Bias in Work Settings: The Lack of Fit Model, *Res. Organ. Behav.* 5, 269–298.
- Heilman, M. E. 2001. Description and Prescription: How Gender Stereotypes Prevent Women's Ascent Up , The Organizational Ladder, *J. Soc. Issues* 57, 657–674.
- Heilman, M. E. 2012. Gender Stereotypes and Workplace Bias, *Res. Organ. Behaviour*, 32, 113–135.
- Heilman, M. E., Manzi, F., and Braun, S. 2015. “Presumed Incompetent: Perceived Lack Of Fit And Gender Bias In Recruitment And Selection,” in *Handbook of Gendered Careers in Management: Getting in, Getting on, Getting out*, 90-104, (eds), A. M. Broadbridge and S. L. Fielden Cheltenham: Edward Elgar.
- Hentschel, T., Braun, S., Peus, C., and Frey, D. 2018. The Communality-Bonus Effect for Male Transformational Leaders – Leadership Style, Gender, And Promotability, *Eur. J. Work Organ. Psychol.*, 27, 112–125.
- Jones, E. E., and Nisbett, R. E. 1987. “The Actor And The Observer: Divergent Perceptions Of The Causes Of Behavior,” in *Attribution: Perceiving the Causes of Behavior*, (eds), E. E. Jones, D. E. Kanouse, H. H. Kelley, R. E. Nisbett, S. Valins, and B. Weiner, Hillsdale, NJ: Lawrence Erlbaum Associates, Inc., 79–94.
- Kite, M. E., Deaux, K., and Haines, E. L. 2008. “Gender Stereotypes,” in *Psychology of Women: A Handbook of Issues and Theories*, Vol. 2, (eds) F. Denmark and M. A. Paludi, Westport: Praeger, 205–236.
- Knowles, E. D., and Lowery, B. S. 2012. Meritocracy, Self-Concerns, and Whites' Denial of Racial Inequity, *Self-Identity*, 11, 202–222.
- Koenig, A. M., and Eagly, A. H. 2014. Evidence for the Social Role Theory of Stereotype Content: Observations of Groups' Roles Shape Stereotypes, *J. Pers. Soc. Psychol.*, 107, 371–392.

- Ladge, J. J., Humberd, B. K., Baskerville Watkins, M., and Harrington, B. 2015. Updating The Organization Man: An Examination Of Involved Fathering In The Workplace, *Acad. Manage. Perspect.*, 29, 152–171.
- Lippa, R. A., Preston, K., and Penner, J. 2014. Women’s Representation In 60 Occupations From 1972 To 2010: More Women In High-Status Jobs, Few Women In Things-Oriented Jobs, *PLoS One* 9:e95960.
- Lueptow, L. B., Garovich-Szabo, L., and Lueptow, M. B. 2001. Social Change And The Persistence Of Sex Typing: 1974–1997. *Soc. Forces*, 80, 1–36.
- Park, B., Smith, J. A., and Correll, J. 2008. “Having It All” Or “Doing It All”? Perceived Trait Attributes And Behavioral Obligations As A Function Of Workload, Parenthood, And Gender, *Eur. J. Soc. Psychol.* 38, 1156–1164.
- Plant, E. A., Hyde, J. S., Keltner, D., and Devine, P. G. 2000. The Gender Stereotyping Of Emotions, *Psychol. Women Q.*, 24, 81–92.
- Powell, G. N., and Butterfield, D. A. 2015. Correspondence between Self- And Good-Manager Descriptions: Examining Stability And Change Over Four Decades, *J. Manage.*, 41, 1745–1773.
- Rosenkrantz, P., Vogel, S., Bee, H., Broverman, I., and Broverman, D. M. 1968. Sex-Role Stereotypes And Self-Concepts In College Students. *J. Consult. Clin. Psychol.*, 32, 287–295.
- Ruble, D. N., and Martin, C. L. 1998. “Gender Development,” in *Handbook of Child Psychology Social, Emotional, and Personality Development*, 5th Edn, Vol. 3, (eds), W. Damon and N. Eisenberg, Hoboken, NJ: Wiley, 933–1016.
- Sidanius, J., and Pratto, F. 1999. *Social Dominance: An Intergroup Theory of Social Hierarchy and Oppression*, New York, NY: Cambridge University Press.
- Spence, J. T., and Buckner, C. E. 2000. Instrumental And Expressive Traits, Trait Stereotypes, And Sexist Attitudes: What Do They Signify?, *Psychol. Women Q.*, 24, 44–62.
- Swann, W. B. 1990. “To Be Adored Or To Be Known? The Interplay Of Self-Enhancement And Self-Verification,” in *Handbook of Motivation and Cognition*, (eds), E. T. Higgins and R. M. Sorrentino, New York, NY: Guilford Press, 408–448.

Twenge, J. M. 1997. Changes In Masculine And Feminine Traits Over Time: A Meta-Analysis, *Sex Roles*, 36, 305–325.

Williams, J. E., and Best, D. L. 1990. *Measuring Sex Stereotypes: A Multination Study*, Thousand Oaks, CA: Sage.

<https://www.vawnet.org/sc/serving-trans-and-non-binary-survivors-domestic-and-sexual-violence-against-trans-and>.

<https://www.liebertpub.com>> doi. vio.2018.0015

Transgender Women’s Experiences of Gender-Based Violence. M.Lantham.2019

<https://blogs.worldbank.org/voices/gender-based-violence>

Gender-based violence: lesbian and transgender women face.... 27-Nov- 2015.

<https://www.Coe.int/en/web/gender-matters/types-of-gender-based-violence>

Violence- Chap.1.

<https://www.Ncbi.nlm.nih.gov/articles/PMC3222349>

Social Support, Exposure to Violence and Transphobia. By T. Nemoto.2011.

**(Footnotes)**

<sup>1</sup> A major section of the unit especially the elaborate conception of gender stereotypes and gender based violence have been contributed by Dr. Kumkum Sarkar, Associate Professor, NSOU.

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## **Unit - 4 □ Gendered Violence: Meaning**

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### **Structure**

- 4.1 Learning Objectives**
- 4.2 Introduction**
- 4.3 Theoretical Framework**
- 4.4 Human Rights Perspective**
- 4.5 Gendered Violence and Intimacy**
- 4.6 Gendered Violence and War**
- 4.7 Domestic Violence**
- 4.8 Gendered Violence in the Context of Globality and Transnationalism**
- 4.9 Indian Case**
- 4.10 Conclusion**
- 4.11 Summary**
- 4.12 Questions**
- 4.13 References**
- 4.14 Glossary**

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### **4.1 Learning Objectives**

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The students will learn

- The concept of gender violence and its typologies.
- Introduce to the topic with a global as well as at the national scale.
- This topic given the ongoing vulnerabilities that women face in their everyday lives both in public and private spaces.

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### **4.2 Introduction**

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Background Feminist research and activism has maintained that to challenge and prevent men's violence against women, changing attitudes and behaviour are important (Flood et al., 2009; Hester and Westmarland, 2005). For example, Scotland's position as the

only country in the UK to define domestic abuse as gender based, thereby locating it within the wider structural context of gender inequality. The term gender-based violence reflects the idea that violence often serves to maintain structural gender inequalities, and includes the victimization of women, girls, men, boys, adolescents, and lesbian, gay, transgender, and gender non-conforming people. Gender-based violence is largely male-patterned violence and influences or is influenced by gender relations (<https://www.api-gbv.org/about-gbv/types-of-gbv/>).

Gender-based violence comprises not only rape and attempted rape, but also sexual abuse, sexual exploitation, forced early marriage, domestic violence, marital rape, trafficking and female genital mutilation (<https://www.who.int/hac/techguidance/pht/SGBV/en/>).

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### 4.3 Theoretical Framework

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Theoretical and practical research in the arena of men's violence against women has been developed and sustained by the contribution of feminists and masculinity theorists (Hester, 2009; Johnson, 2005; Stark, 2007). They have examined the spatial elements of violence (the sometimes blurred boundaries between public and private spaces), the gendered nature of power inequities and also violence as a temporal phenomenon. Thrift (1983) maintained that time and space are central to theorising social action, resulting in more recent moves to develop temporality and spatiality as critical theoretical and sociological constructs (Urry, 1996; Valentine, 2007). Space is not simply a physical entity or boundary (such as the home or the street); rather, space and place are identified as socio-cultural constructions with the term spatiality focusing on social and spatial practices and the use of space. Valentine (2007) helps to theorise how matter out of place (where something is uncommon) renders it visible within the spatial ordering in society: The identity of particular spaces- the home, the school, the workplace ... are in turn produced and stabilised through the repetition of the intersectional identities of the dominant groups that occupy them such that particular groups claim the right to these spaces.

When individual identities are done differently in particular temporal moments they rub-up against, and so expose, these dominant spatial orderings that define who is in place/out of place, who belongs and who does not (2007: 19). Kitzinger (1994) questions how the visibility of men's violence against women affects society's understanding of its prevalence. For example, when violence against women was hidden and not talked about, it was not visible and therefore dismissed as a rare occurrence and by implication, not a serious problem. Now, male violence against women is recognised as affecting

one in four women in her lifetime (Walby and Allen, 2004), its high prevalence succeeds in normalising rather than problematising its existence, leading to acceptance rather than resistance. Normalisation is the process identified by feminists (Dobash and Dobash, 1979; Kelly, 1988), where society endorses abusive actions as part of everyday gendered interactions between men and women. What is fundamental to the normalisation thesis is that power and violence are not seen as excessive but as legitimate. The key to this legitimacy is that the violence and victimisation are individualised (viewed as individual incidents) and not framed within the wider structures of male domination (Kelly, 1988; Stark, 2007). It is argued that people also learn to accept this type of behaviour as part of the normalised gender order, which means it is made invisible when they highlight examples of what constitutes 'real' violence.

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#### **4.4 Human Rights Perspective**

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The definition of the various spheres of life entitled to human rights protection, their recognition by national governments and the efficacy of the use of human rights as an instrument for protection from 'negative rights' and entitlement to 'positive rights', thus varies from country to country and at different moments in the same country. Some dimensions of human rights, such as reproductive rights or protection from gender violence, can be seen as more contentious than others by a certain government at a given moment. The emphasis is that the social perception that certain behaviors, attitudes, customs, and laws are violent or express social relations permeated by violence is historical and determined by the power relations and values predominant in each society.

Thus, ideas of order and disorder and of crime and punishment change in a given country and between countries because these ideas express social dynamics and not absolute truths. In Brazil, for instance, crime and punishment have been defined basically in relation to the dominance of the white, middle- and upper-class male. It has been so because, throughout the centuries, this group has monopolized the resources, the prestige, and influence to determine what is order and disorder, deviant and legitimate, crime and punishment in Brazilian society. To understand why, for so many years, gender violence was invisible in Brazilian society and why it is still so in many other countries, one should look at the ways society views women in all spheres of social, political, and economic life, and not only in relation to physical or sexual abuse. The inclusion of certain issues in government rhetoric, in laws and norms, derives from the power structure of a society (Pitanguy 1997).

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## 4.5 Gendered Violence and Intimacy

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Feminist scholarship has made it clear that gendered violence is linked across scales and sites (Moser, 2001; Tickner, 1992). In *Frames of War*, Butler (2010) charts the racialised hierarchies that determine which lives and whose suffering is recognised and deemed grievable by the West: these enable the cold rationality underpinning recent military interventions, skewed media representations of victimhood and feed the demonisation of Muslims within the West (Razack 2008). Yet, this distancing is also performed in relation to the violence that is closer to home, especially manifest in the social recognition of domestic violence (Pain 2014a). Fore fronting the intimate in analysis of gendered violence- and simultaneously redefining intimacy as already present and woven through broader processes and sites - presents one way of recognising that all forms of gendered violence are, as feminists have maintained part of the same complex of harm and control.

For example, terrorism may comprise spectacular moments rather than long-term entrapment, but like domestic abuse it achieves its work through control of emotions, particularly fear (Pain 2014a). Longstanding work by black feminists and feminist international relations scholars has connected international warfare and intimate violence, charting the use of rape in war, the rise in domestic abuse among military and civilian families during and after combat and the imperatives of hyper-masculinity and masculinist protection in state conflicts as in intimate violence (Sjoberg 2013; Young 2003). Even in what is called peacetime, intimate violence has congruence with international conflict: its emotional dynamics and tactics strongly resonate with the conduct and psychology of warfare (Pain forthcoming). Aggressors pursue the enforcement of their worldviews, laying blame and justifying violence through carefully constructed ethical framings. The psychological occupation of domestic abuse, the mind-games played by perpetrators and Orwellian doublethink required for resilience resemble occupying forces' deployment of their intimate cultural knowledge of the people they oppress.

An important strand in the connective tissue of gendered violence is resistance. Resistance is never in straightforward opposition to violence but exists in messy and dynamic relation and may also be an intimate practice. In situations of domestic violence, resistance is necessarily private and small-scale, not always planned and strategic, but may be faltering and unanticipated. It does not always clearly work against the paralysing effects of violence and fear: some of the time, it works with them (Pain 2014b). When resistance is more publicly articulated, the response may be further aggression as the emerging



issue of online violence against women, particularly threats of sexual violence on Twitter and Facebook, illustrates. Threats made against women who oppose gendered violence often shatter the myth of any distinction between offline and online violence (Citron 2009); threats are intimate, and they have real-life effects. Online violence is a reassertion of power, but perpetrators often deny this, minimising and de-scaling it, and drawing on a claim commonly made of older forms of gendered violence: that its spatial context means it is not-violence. These claims reflect how gendered violence is positioned within our culture at large (Women in Toronto Politics 2013; cf. Dowler et al. 2014). When we raise our heads to speak about violence- as individual victim-survivors, as activists, as scholars- we often face the same exhortations that work in the interests of power.

Geographers have had a tendency to analyse violence at and from a distance, at the same time as we are part of the relations that sustain or challenge it (Pain forthcoming). Many of our institutions have historical connections to violent imperialism, are complicit in contemporary oppressive social and economic relations, and are also everyday sites of intimate violence. As Dowler et al. (2014) argue in their analysis of recent institutional cover-up of sexual assault at Penn State University, the neoliberal cultural economies of universities and colleges have led them to prioritise institutional reputation over the welfare of individuals. Whether targeted at men, women or children, gendered violence works through intimate control and fear at multiple scales. At all scales, too, the intersecting structures of gender, racism, ethnocentrism and class privilege frame who loses most. Social attitudes and policy responses still reflect unawareness of the tense interface at which intimate violence might become public, and vice versa; always threatening, always precarious, its leakiness is full of risk. Yet the common separation of violence as significant or not, prevents the recognition of certain victims and the grievability of their suffering. Often, one form of violence compounds the effects of the other. Violence is a bouncing bomb, moving across intimacy geopolitics and gathering destructive power. If intimacy geopolitics is a single complex, the challenge approach gendered violence together, and to rotate intimacy so that it becomes primary to understanding.

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## 4.6 Gender Violence and War

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Melander had trained as a conflict scholar in the 1990s . It was a time when the forces underlying war were relatively well established: a lack of democracy, a low level of economic development, and the presence of nationalism. The status of women wasn't even on the list. So he was not convinced when, in 2000, he read the first in a group of studies by political scientist Mary Caprioli of the University of Minnesota, Duluth that

challenged some closely held views about violence and war by connecting the low position of women to conflicts from international aggression to civil war. The idea that the status of women helped predict a state's volatility sounded "like wishful thinking," recalls Melander, as part of the problem was what he assumed was a simplistic approach to sex differences underlying the connection. The notion that women are biologically so hard-wired for peace that simply giving them more say in international affairs yielded tranquility seemed suspect. Melander checked the claim that gender inequality correlated with escalated levels of conflict within states. Measuring the status of women by looking at the sex of a country's highest leader, the proportion of women in the legislature, and the ratio of women to men who receive higher education, he controlled for factors like democracy, economic development, and the time since a country's last civil war. To his surprise, the results, published in *International Studies Quarterly* in 2005, confirmed the finding that had aroused his suspicion. States where women were oppressed also had higher rates of political imprisonments, killings, and disappearances. Melander's research is among a nascent body of work in international relations showing gender inequality to be an important security barometer. By focusing on gender inequality rather than biological sex differences, these researchers say they have identified a previously overlooked trigger of conflict. Causality is far from proven, however, and some critics say that gender inequality could be a proxy for other underlying causes. Caprioli, whose work first piqued Melander's interest, is in some ways the ringleader of the new group. After controlling for other factors, she found states where women are treated poorly are more likely to become embroiled in disputes with other states, more likely to turn to violence in those disputes, and more likely to erupt into civil war (Hvistendahl, 2012).

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## 4.7 Domestic Violence

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One of the prominent early approaches was to look at domestic violence purely as a product of patriarchy and masculinity and as part of the process of controlling women. The construction of women as "victims" has been overtaken by ideas of survivors instead, stressing also the existence of agency (Barry 1979). The idea of survivor is used for example in the work of Dunn (2004) and most clearly in Liz Kelly's work since her important book *Surviving Sexual Violence* of 1988 stresses the way women resist, cope and survive (Kelly 1988, p. 163-164). There is also the issue concerning constructions of what constitutes abuse or violence as well as the existence of women batterers and how they came to be violent towards their usually abusive partners. Skeggs (1997) observes that there is a discourse about normalised or respectable femininities which constructs a binary division between women who are deserving of sympathy (as with rape) and

those who are not. The increasing recognition of domestic violence as a proper crime, and therefore requiring criminal intervention, is also affected by judgments made about what constitutes abuse and which women are experiencing it in terms of how respectable or deserving they are. The intersections of gender, race, ethnicity and class enter here with particular stereotypes about black male masculinities, culturally motivated domestic violence (within families) and also with notions of women who are to blame through their provocative or unreasonable behaviour (as class and ethnic subjects therefore) in eliciting violent responses from men. Many women who have experienced domestic violence do not disclose it. This includes women from all ethnicities and classes. Notions of honour and respectability as well as not wanting to be seen as a victim are prominent factors in non-disclosure. This is the case for working class as well as middle class women. One of the characteristics of domestic abuse which is well known is the difficulty that a woman has in leaving her abuser and the desire at times to protect and change him, with hope triumphing over experience. There are also feelings of self-blame and low worth. However, there are also cases where cultural norms and socially structured positions are central. Being subjected to controls via particular patriarchal structures found in different ethnic groups (including the dominant group in the state) can be important in preventing women from attesting and criminalising the offender. There are also fears of abandonment and addiction involved in the process. As Bograd states, "Individuals may have internalised ideologies antithetical to disclosure of violence" (1999, p. 281).

Sokoloff and Dupont (2005) quote a number of instances: For example, a Vietnamese woman who has been taught that saving face and family unity pre-empt individual safety will be reluctant to seek outside help for domestic violence.... As a member of a devalued racial identity, some women of color, particularly African American women, may fear that calling the police will subject their partners to racist treatment by the criminal justice system as well as confirm racist stereotypes of Blacks as violent... Furthermore, lesbians who are not out, or voluntarily open about their sexual orientations, may remain silent about the abuse in their relationships (2005, p. 43). However, one problem with some of the examples given about how cultural differences affect women is an over culturalisation of these phenomena and an under-emphasis on the structural dynamics at work. For example, much of the domestic violence literature which is concerned with dismantling essentialism and noting diversity in women's experience (as is also the case with intersectionality frameworks) focus primarily on cultural and normative expectations or identity constructions. Moreover, there is a tendency to fix culture instead

of treating it as fluid and dynamic. They fail to point to how social locations of both men and women are important both in terms of the labour market or political citizenship.

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## **4.8 Gendered Violence in the Context of Globality and Transnationalism**

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There is a growing recognition of the ways in which globalisation affects women disproportionately and unequally. Women have been most affected by its' detrimental effects, such as increasing poverty, forced migration, sexual and economic forms of exploitation. There are a range of forms of violence, some of which are linked to these, such as trafficking, honour killings, rape either as part of ethnic or racist crimes or in terms of the vulnerability of women occupying particular categories of work, including domestic maids, carers and sex workers. This kind of occupation comes with a lot of vulnerabilities for women as they cope up with the everyday situation.

There has also been a global inequality that accompanies globalisation linked to the hierarchy of countries in the global world and the increasing exploitation and economic disadvantages faced by many third-world economies and societies. The experiences of women in migration are gender-specific, many involving forms of violence, both physical and symbolic which is often emotional and cannot be described in transactional terms. These crimes are also racialised as well as culturalised. In the next section, I will look at two of these: honour-based violence and trafficking.

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## **4.9 Indian Case**

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In India most family related crimes like dowry, bride burning, rape and incest are well recognised crimes. They are given enormous publicity and draw social and academic interest, attention and condemnation. However, there is one crime which continues to go neglected and under-reported . It relates to the inter-caste and intra-caste marriages which are seen to infringe upon traditional cultural norms and customary practices. These are not infrequently run-away marriages and elopements. Perceived as common occurrences these have shown a tendency to escalate over the years. Most of them lead to direct violence perpetrated by the male family members on the couple generally and on the girl especially. Although they are decisively regarded as family or private matters, which remain hushed up and confidential affairs, some of them spill over into the wider community domain. It is in this sphere that they have attracted media attention. The following analysis of this widespread phenomenon in rural north India throws up aspects

of caste, class and gender which have a crucial inter-connection. One of its most visible manifestations is in the greater emphasis on the enforcement of caste and kinship codes. As marriage provides the structural link-up between kinship and caste, a closer surveillance is accorded to the marital alliances. Kinship linkages provided by marriage and relations established through marriage, give a caste group its strength, recognition and leverage in wider society and polity. Any breach in these caste linkages brings down the status of not only the immediate family but also the clan and finally the entire caste group. This factor was and remains a most potent consideration behind the enforcement of strict caste and sexual codes. At the centre of these codes stands the female, control of whose sexuality and bestowal of this sexuality in marriage is crucial to patriarchal forces and their concern with caste purity, caste status, power and hierarchy. Those who infringe caste and kinship norms in marriage are dealt with extreme violence. Although emphasis placed upon caste/gender/sexual codes by upper caste and lower caste groups differs, any infringement of the prescribed codes commonly evokes a violent response.

A challenge to these codes has repeatedly come both from within the caste and outside. The process of democratisation and opening up of economic opportunities has altered the power dynamics making for a complexity of relationship between members of different caste groups as well as between members within a caste group. In the former the growing resentment and assertiveness of the subordinate lower castes and classes not infrequently has resulted in inter-caste liaisons which infringe the upper caste norms and sexual codes. In the latter, the young members are challenging the caste/kinship ideology upheld by the caste leadership of senior male members by breaching sexual codes and taboos, defying demands of status and hypergamy or village exogamy and discarding notions of honour.

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#### **4.10 Conclusion**

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In the face of these challenges emanating mostly from the rural periphery and semi-urban-linked social groups, closely aligned with the nature of urbanisation which this region has undergone, the earlier areas of flexibility show constriction. In a situation which is socially and legally drastically changed, such infringements are sought to be controlled by invoking claims of tradition, culture and honour and enforced through the use of power, whether that of caste, class, gender, or seniority and finally violence. The more vocal opposition and violence is traceable to those social groups which stand to benefit most by bolstering these cultural ideas. A great deal of this reaction

can be traced to the insecurity created in property matters which has increased due to the legal enablement of a family, specially a daughter, to inherit property. This intersection between caste and class has generated anxieties which have reinforced certain concerns voiced in terms of tradition and caste codes. In fact, the emerging upwardly mobile groups under new socio- economic opportunities, education and apparent modernisation show a fractured response to these codes. Some show defiance, yet others lead in upholding caste/community norms and practices. Both these responses result in furthering caste solidarities as well as caste hostilities, with one feeding the other. However, a successfully forged alliance between cultural codes, honour and violence justifies such violence and makes for the complicity of most people cutting across social, gender and age divide. Yet others may be coerced by the collective pressure of the community exercised through the caste and village Panchayat which stands over and above the family dictates. This pressure is aided and abetted by individuals manning the state agencies who extend support to the gender and caste codes as upheld by the caste/community leadership. Their joint patriarchal surveillance allows the perpetrators of violence to go scot free. This pattern sets in motion a chain of ideological belief and practices validating the action, reinforcing the cultural codes and making its infringement less acceptable, more difficult and leads to violent reaction.

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#### **4.11 Summary**

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There are no easy answers to the question how can gender-based violence (GBV) can best be eradicated. Women's organisations, international development NGOs and human-rights campaigning bodies have succeeded in bringing GBV out into the open as a human-rights violation and a development concern, but the barriers are still formidable. The sad fact is that in many countries, they have hardly been dented, let alone destroyed. GBV can only be eliminated when severe gender inequalities are leveled out and women can claim their whole range of rights. This involves transforming deeply embedded injustices such as women's low representation in governments and parliaments which affects policy priorities and resource allocations and women's lack of assets relative to men. Until these and other issues are addressed, women will continue to be vulnerable to GBV. Criminalization and penalization may not create communities that are safer for women (Snider 1998), but they do show that society is serious about condemning this sort of action. Just as one cannot expect women to forego the protection offered by the possibility of imprisonment or other incapacitative penalties, so one cannot expect them to forego condemnation of the wrongful action by the most authoritative source, the public court of law. Both victims and offenders feel disempowered by constraints of

what they are allowed to say and how they are allowed to say it in court proceedings, and often they cannot understand what is being said.

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## 4.12 Questions

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**Answer the following questions elaborately:**

1. What is gender violence
2. What are the theoretical framework of gender violence
3. Explain gender violence and intimacy

**Briefly describe gender violence and civil society**

4. Explain domestic violence as a form of gendered violence?
5. Discuss in detail the Indian scenario with regard to gendered violence?
6. Discuss how gendered violence and war are related to each other?

**Answer the following questions briefly:**

7. What are the theoretical frameworks used in the study of gendered violence?
8. Explain Gendered violence and intimacy.
9. Briefly describe gendered violence and emergence of civil society.

**Answer the following questions very briefly :**

10. What is gendered violence?

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## 4.13 References

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- Barry, K. 1979. *Female Sexual Slavery*, Saddle River: Prentice-Hall.
- Barter C, McCarry M, Berridge D and Evans K. 2009. *Exploitation and Violence in Young People's Intimate Relationships*, London: NSPCC and University.
- Burman, M and Cartmel, F. 2006. *Young People's Attitudes towards Gendered Violence*, Edinburgh: NHS Health Scotland.
- Butler, J. 2010. *Frames Of War: When Is Life Grievable?*, Verso: London.
- Burton S and Kitzinger, J with Kelly, L and Regan, L. 1998. *Young People's Attitudes towards Violence, Sex and Relationships: A Survey and Focus Group Study*, London.

- Bograd, M. 1999. Strengthening Domestic Violence Theories: Intersections of Race, Class, Sexual Orientation and Gender, *Journal of Marital and Family Therapy*, 25: 275-289.
- Chowdhry, Prem. 1997. Enforcing Cultural Codes: Gender and Violence in Northern India, *Economic and Political Weekly*, 32(19): 1019-1028.
- Dobash, R.E and Dobash, R.P. 1979. *Women, Violence and Social Change*, London: Routledge.
- Dobash RE and Dobash RP (1998. 'Violent Men and Violent Contexts', in Dobash RE and Dobash RP (eds), *Rethinking Violence Against Women*, London: Sage, Pp-141-68.
- Dowler, L, Cuomo, D and Laliberte, N. 2014. Challenging 'The Penn State Way': A Feminist Response to Institutional Violence in Higher Education Gender, *Place and Culture*, 21: 387-94.
- Dublin Women's Aid. 1999. *Teenage Tolerance: The Hidden Lives of Young Irish People: A Study of Young People's Experiences and Responses to Violence and Abuse*, Dublin: Women's Aid.
- Dunn, J. L. 2004. The Politics of Empathy: Social Movements and Victim Repertoires, *Sociological Focus*, 57(3): 235-250.
- Flood, M, Pease B, Taylor, N and Webster, K. 2009. 'Reshaping Attitudes to Violence against Women, in Stark E and Buzawa E (eds), *Violence against Women in Families and Relationships*, Vol. 4, The Media and Cultural Attitudes, Santa Barbara, CA: Praeger.
- Hester, M. 2009. *Who Does What to Whom? Gender and Domestic Violence Perpetrators*, Bristol: University of Bristol in association with the Northern Rock Foundation.
- Hester, M and Westmarland, N. 2005. Tackling Domestic Violence: Effective Interventions and Approaches, *Home Office Research Study*, London: Home
- Hvistendahl, Mara. 2012. Gender and Violence, Science, *New Series*, 336(6083): 839-840.
- INCITE! 2006. *Color of Violence: The INCITE! Anthology*, South End Press, Cambridge.
- Johnson, M. 2005. Domestic Violence: It's Not About Gender- Or Is It?, *Journal of Marriage Family*, 67(5): 1126-30.



- Kelly, L. 1988. *Surviving Sexual Violence*, Cambridge: Polity Press in association with Basil Blackwell.
- Kitzinger, J. 1994. Challenging Sexual Violence against Girls: A Public Awareness Approach, *Child Abuse Review*, 3(4): 246-48.
- MA, Moser, CON. 2001. 'The Gendered Continuum of Violence and Conflict: An Operational Framework,' in Moser CON and Clark F C (eds), *Victims, Perpetrators Or Actors? Gender, Armed Conflict and Political Violence*, Zed Books, London.
- McCarry, M. 2010. Becoming a 'Proper Man': Young People's Attitudes about Interpersonal Violence and Perceptions of Gender, *Gender and Education*, 22(1): 17-30.
- Pitanguy, Jacqueline. 1997. Reconceptualizing Human Rights Language: Gender and Violence, *Health and Human Rights, 2nd International Conference on Health and Human Rights*, 2(3): 27-30.
- Stark, E. 2007. *Coercive Control: How Men Entrap Women in Personal Life*, Oxford: Oxford University Press.
- Skeggs, B. 1997. *Formations of Class and Gender: Becoming Respectable*. London: Sage.
- Sokoloff, N. J., & Dupont, I. 2005. Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence against Marginalized Women in Diverse Communities, *Violence against Women*, 11, 38.
- Thrift, NJ. 1983. On The Determination of Social Action in Space and Time, *Environment and Planning D: Society and Space*, 1(1):23-57.
- Urry, J. 1996. *Consuming Places*, London: Routledge.
- Valentine, G. 2007. Theorising and Researching Intersectionality: A Challenge for Feminist Geography, *Professional Geographer*, 59: 10-21.
- Walby, S and Allen, J. 2004. Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey, *Home Office Research Study*, No. 276. London: Home.

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## 4.14 Glossary

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Caste- one of the hereditary social classes in Hindu society that restrict the occupation of their members and their association with the members of other castes.

Violence- behaviour involving physical force intended to hurt, damage, or kill someone or something

Civil society- Civil society refers to the space for collective action around shared interests, purposes and values, generally distinct from government and commercial for-profit actors. Civil society includes charities, development NGOs, community groups, women's organizations, faith-based organizations, professional associations, trade unions, social movements, coalitions and advocacy groups.

Trafficking- The United Nations defines human trafficking as the recruitment, transportation, transfer, harboring, or receipt of persons by improper means (such as force, abduction, fraud, or coercion) for an improper purpose including forced labor or sexual exploitation. It takes on many forms today.

Gender- either of the two sexes (male and female), especially when considered with reference to social and cultural differences rather than biological ones. The term is also used more broadly to denote a range of identities that do not correspond to established ideas of male and female.



**Module II**  
**Structural and Situated Violence**



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## **Unit - 5 □ Caste, Gender and Violence: Dynamics of Power and Violence**

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### **Structure**

#### **5.1 Learning Objectives**

#### **5.2 Introduction**

#### **5.3 Instances of Violence**

#### **5.4 Understanding The Caste – Gender dynamics**

#### **5.5 Conclusion**

#### **5.6 Summary**

#### **5.7 Questions**

#### **5.8 References**

#### **5.9 Endnotes**

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### **5.1 Learning Objectives**

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- To understand how the concept of caste and gender is closely intertwined in the Indian context.
  - To learn about the various form of violence that take place against women of different castes.
  - To comprehend the reasons for violence against women of different castes.
  - To analyze the role of violence in reinforcing the unequal gender relations existing in the India society.
  - To understand how men use violence to maintain gender and caste hierarchy in society.
  - To learn about the concepts of structural and situated violence.
  - To know the forms of structural and situated violence against women in the Indian context.
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### **5.2 Introduction**

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The general focus of this module is gender and violence. To be more specific, the module has been separated into two units. The first unit focuses primarily on how caste and

gender identities intersect to provide women from different social backgrounds with different experiences of violence and how the existing structures of caste and patriarchy justify this violence meted out to women. The second unit deals with both the macro and micro context within which violence against women take place. The macro structures that cause and legitimize the use of violence against women are referred to as structural violence. The micro level understanding of sudden acts of violence against women is known as situated violence. Though an attempt has been made to differentiate these two forms of violence, it must be remembered that situated violence may or may not have a structural underpinning.

The religious aspect of the caste system gives it legitimacy in India. It is through the caste system that the various channels for the subordination of women are construed. According to Dumont the underlying principle of the caste system is the opposition of the pure and the impure and this has significant implication for gender relations in the caste system. In order to maintain purity within the caste system, it prescribes endogamous marriage rules. It also provides elaborate codes for de-pollution and purification. One can be polluted by touching, eating and sexual intercourse. It is up to the caste councils to decide on what ritual purification is required in case any of the prescribed caste rules are broken. Purity needs to be maintained both internally (blood) and externally(touch). Internal purity can be maintained by disallowing the mixing of blood (pure with impure hence the principle of endogamous marriages imposed with the need to control sexual relations which in turn would ensure the maintenance of ritual purity).<sup>1</sup>

In order to maintain purity within the caste system, control of women's sexuality becomes very important. Any contact with low caste men presents a chance of the contamination of the blood of high caste women. There are different variations in hierarchy. Higher castes practice a stronger control of women, whereas lower caste women may enjoy the freedom to remarry and are hence labelled to be sexually lenient. Freedom in the choice of marriage is seen as a symbol of being in the low caste. Keeping the property of women within the family was the reason why widow remarriage was prohibited. In order to impose restrictions on widows, they were secluded. They were not allowed to remarry. As one would see, restrictions imposed on women especially high caste women were based on the principle of purity.

Women in our country as everywhere else in the world are not a homogeneous category. Their life experiences are dependent on their other identities, namely their class, race, religion and in the Indian context, their caste. If one wishes to understand the lived experiences of women in the country, he/she cannot overlook the caste question at all.

It is an integral part of the women's identity here. In this unit, we will make an attempt to understand how caste categories tend to function differently for women belonging to different regions and different caste affiliations in the country. The caste and gender questions are so intricately interlinked that one cannot be studied without considering the other. We will begin the unit by looking at acts of violence inflicted upon women of different castes in different regions of the country. It has to be noted that such acts of violence are a manifestation of power which is also very complex in nature.

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### 5.3 Instances of Violence

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Incidents of caste violence inflicted against women are numerous. However, some forms supersede the others. The following are instances of violence too often inflicted against women belonging to different castes.<sup>2</sup>

1. March 1991, Roshni, a jat girl of village Mehrana in western Uttar Pradesh, ran away with a Bijendra, a low caste jatav boy, assisted by his friend. All three were caught. The Jat panchayat sat in judgement on them. All three were then tortured the whole night, hanged in the morning and then set on fire while two of them were still alive.
2. April 1991, in a village called khedakul of Narela (north Delhi), Poonam, a jat girl, was shot dead by her uncle in broad daylight for having an "illicit relationship" with a jat boy of the same village. Her death was considered punishment for the "heinous crime" they committed. Her actions had brought dishonour to their family and their caste group.
3. August 1993, in the village of khadravali in Muzzasafarnagar district, western Uttar Pradesh, a low caste girl Sarita, eloped with her partner Satish. They were both of the same caste but hailed from an adjacent sister village and were also distantly related to her. Both families worked as bricklayers and worked in the same brick kiln. Sarita and Satish returned after five months after they had eloped. Both were beheaded in the village chaupal by the girl's uncle. Their return was perceived as flaunting their complete disregard for social norms. The whole village was witness to the crime. Their death was a lesson for the others who dared to flout the norms.
4. March 1994, in Nayagaon, Haryana, Asha was hacked to death along with her lover Manoj. Asha was a part of the numerically and economically strong Saini caste of the village, the boy belonged to Ahir caste which was considered lower to the Sainis in their status. She was killed for showing her freedom to choose her own life



partner without taking into consideration the norms that govern her caste group and the wider community.

5. Chilakurti is a small village in Nalgonda district with approximately twenty five thousand household. On the 14<sup>th</sup> of August, a 35 year old Muthamma belonging to Golla caste working as an agricultural labourer was brutally beaten up by 3 Reddi goondas and paraded naked through the streets of the village, arrack being forced down her throat. Nobody intervened or came to her rescue. The men covered their eyes. An old man tried to cover her with a cloth was but was badly beaten up in the process. It was only after the state agencies took charge that the situation was brought under control and a case was registered. While Muthamma was being paraded naked through the streets of Chilakurti, men of her caste could not bear the sight and covered their eyes. To this, the Reddis said ‘open your eyes- are there no men amongst you?’.
6. Once in Tamil Nadu, a dalit leader who had organized a procession to demand higher wages was raped and killed by upper caste landlords.

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## **5.4 Understanding The Caste – Gender Dynamics**

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As one would go through these first four instances of violence that took place against women, certain commonalities would emerge. The women here all belonged to upper castes in their region and dared to choose their partners hailing from lower castes. By doing so they had violated both social and gender norms. They had infringed upon the ‘honour’ of their family, caste group and community. The question however is why does the simple act of choosing one’s own partner outside one’s own caste elicit such extreme and violent reaction on the part of the community? The answer to this is not simple for various processes are at work simultaneously.

Firstly, when a woman belonging to an upper caste chooses someone from a lower caste as her partner, she is seen flouting important norms. To elaborate, people of certain regions of the country (as one may notice most of the cases cited above are from the northern region) put a lot of emphasis on caste and kinship norms. Marriage is an important institution because it through this that both caste and kinship links is maintained. Kinships established through marriage provide strength to caste. Choosing a partner then is more of a collective decision than a personal one. Caste, Kinship and marriage form a very closely tied network. Any violations in the caste codes are taken seriously as they are considered as a transgression, not only to the concerned family but for the entire caste group. It is comprehensible then why caste and sexual codes(entails while choosing

a partner) are of paramount importance. What is very intriguing to note here is that women remain at the centre of this caste kinship dynamics.

Secondly, the need to control women and their sexuality in order to maintain caste purity, status, power and hierarchy cannot be overlooked. It is through the control of the female and her sexuality that the patriarchal forces reinforce themselves. It is because of this that when women do not abide by caste norms and kinship norms in marriage are often subjected to extreme forms of violence that often results in death.

Another very important concept which justifies the use of violence against women is the concept of 'honour'. Honour is centred on the codes of behaviour of women. It is through the regulation of the behaviour of the woman that caste boundaries are maintained. Structures of patriarchy and caste construct reinforce the idea of honour for the entire group. Men and women are seen to embody honour differently. Women are perceived as the repository of honour and man as the regulator of women's behaviour. The need to control women's conduct is seen as important, because it poses a threat of loss of honour for men. Within caste and patriarchy, honour helps to control women which in turn ensure that caste purity and boundaries are maintained. Therefore, any dishonourable conduct on the part a daughter ruins the family forever.

As explained by Veena Das, honour operates at the cost of human sentiments and values. It demands letting go of biological ties, kinship ties and morality. These must be sacrificed to uphold 'honour'. This is based on the idea that social order, individual personality is also cleansed and uplifted from a lower to a higher self by means of this sacrifice. This concept of honour guides social behaviour.

It is within the functioning of patriarchy that women's sexuality, behaviour and conformity are placed. If women are killed to protect the honour of their family, caste and community, it is what may be called 'femicide', killing of women and a kind of sexual violence against them.

The concept of caste and community honour is important to the upper caste. In contrast to the upper castes, the lower castes are not considered to possess any honour and women belonging to lower castes are worse off. Their weak socio-economic positions often prevent people of lower castes from claiming any honour in relation to the upper castes. They vaguely share the honour of the village as a whole. The only honour which they may claim is that of their caste honour in relation to the members of their own caste. Any infringement to this honour is therefore counteracted through strict punishments by members of the same caste. However, one needs to remember that the concept of

honour is neither accepted nor applied uniformly by all caste and status groups. Any violation leads to group pressure and violence. Violence underlines the existing ideology of honour.

As mentioned earlier, women of lower castes are seen to possess no honour at all. They are subjected to violence both within their caste and also at the hands of the upper caste men. Dynamics of power and violence operative on lower caste women is quite complex and multilayered.

1. If one takes the example of Muthamma, who was paraded naked in her own village by men belonging to the upper caste who were not even a part of her village originally and did not own much land there were able to commit the act without being stopped says volumes about the caste dynamics prevalent there. The lower caste men could only cover their eyes because the hegemonic nature of the caste society shamed them by humiliating the women of their caste. The upper caste was able to show its power and control as the low caste men stood in silence. This particular incident brings out another important aspect of the gender-caste dynamics, making a woman march on the street (Muthamma) with the use of force implies that she is available, which further brings her character into question and therefore character of her caste into question. Muthamma was made a target to send a clear message across to women who belonged to her caste. Backward and scheduled caste women in Chilakurti had to confine themselves within the four walls of their houses in fear of being identified as public women.
2. Lower caste women are often policed by upper caste men and any disagreement is punished through rape. This act of violence against the lower caste women by the upper caste men holds importance symbolically for the lower caste men. Lower caste men are very often reminded of their subjugating position in the caste society. Since women are seen as bearers of tradition and honour, protecting women mean protecting their caste honour, any violation to the honour of the women of their caste automatically means dishonour to the concerned caste.

What is clear is that gender within a caste society is defined and structured in a manner that the 'manhood' of the caste is understood in terms of both the degree of control men exercise over women and the degree to which women are passive in that caste. Humiliating women of another caste reduces 'manhood' of that caste. Take the example of Muthamma whose humiliation was not just a personal attack on her but also to her caste.

3. Taking another example, a dalit woman was raped by upper caste landlords, for demanding higher wages. The reason for the rape of the dalit leader by the upper caste men was twofold.<sup>5</sup>

Firstly, by demanding higher wages, the dalit leader crossed the space assigned to her through her caste status. Her caste status demanded her to be passive and submissive.

On the other hand, she was crossing the space assigned to her through her gender.

A protest was organized in response to this incident. This was when, one of the political leaders said, “What will happen if we dalit men marry upper caste women?” This led to caste riots throwing the lives of thousands of dalits at risk. Moreover, lower caste men had to show their loyalty by signing written bonds to landlords families to protect their lives and lives of others like them in the surrounding villages. A mere suggestion made by a political leader was enough to elicit anger among upper caste men and lead them to kill lower caste men. It also led a lot of dalit men to move their families from the area.

4. A dalit woman from Odisha was beaten up mercilessly by her landlord. This was because the landlord had called the woman for some work; she was feeding her husband and had said she would go after her husband had eaten. This did not go down well with the landlord and both husband and wife were beaten over it. They were harassed and yet had to stay along for they had nowhere else to go and knew that things would not be any different elsewhere. This will be discussed further after we take the next example into account.
5. Some dalit boys apparently had molested Reddi girls and police registered these cases without verifying. The onus of proof rested on the dalit boy. It is surprising to see is that the harassment complaints were filed by Reddi men who claimed to have been eye witnesses and not the girls who were allegedly molested. The upper caste women did not take part in these deliberations and let men take charge.

In a previous case, after lower caste men were killed by upper caste men, around 300 women of the upper caste marched in a procession in Tenali, declaring that their ‘modesty was outraged’ by dalit men. In this incident we find women of the upper caste by no choice of their own are entangled and very often used to assert the upper caste superiority over lower caste men. What is surprising to see here is that what would otherwise be an unconceivable act on the part of upper caste women

(crying rape and marching on the street) becomes acceptable because they are protesting against the violation of their honour and chastity. The primary duty of an upper caste woman is to ensure the longevity of her husband's life because her identity is based on that of her husband. The Dalit woman does not enjoy the same position as that of the upper caste woman. She cannot claim the same privilege as that of a higher caste woman which is why she is beaten up for feeding her husband and defying the landlords order.

So some very important aspects of the gender- caste matrix along with the dynamics of power and violence are revealed here.

Higher caste men decide upon the relative value of 'honour' to be assigned to women of their caste and women belonging to lower castes. Women are bearers of 'honour' of their respective castes and there is a requirement to control their behaviour in order to protect this 'honour'. Any transgression to this 'honour' means an infringement to the collectively held norms and status of the caste.

Higher caste men use violence against lower caste women for several reasons. Firstly, the use of violence against them is a manifestation of their power over the lower caste group. Since higher caste men assign the value of honour, they consider women of lower caste as possessing no honour at all which is in sync with the low position of the caste group they belong to. The same however cannot be said about higher caste women.

Honour of higher caste women need to be protected for it symbolizes the caste purity and superiority of higher castes. Any infringement to this even by the women themselves is punished brutally (women of higher caste marrying men of lower caste). Caste honour reigns supreme. Violence is used by higher caste men to assert their power and control over women of their caste in order to protect their superior position in the caste society. However, it must be added here that relationship between low caste men and upper caste women is not completely absent. In many areas where upper caste men are away from home managing business, women do have relations with lower caste men usually servants, this in itself does not threaten the caste hierarchy because power and control is vested in the woman by virtue of her caste status. It only when caste codes are infringed openly that harsh action is necessary. Men of lower castes can make no claims as that of higher caste men. A mere statement made by a political leader to marry high caste women was enough to elicit anger among upper caste men and lead them to kill lower caste men. Contrastingly, in Odisha, a dalit woman once came to receive her wages dressed well, with her hair oiled and combed. This prompted her landlord to comment

that she had come to work dressed as a woman belonging to his caste. As a sign of protest, all dalit women came to work dressed well the next day. The landlords commented that they could take the dalit women as their wives. A tension followed between the two caste groups. However, this did not prompt men of lower caste to kill men of higher castes who made such suggestions. What the lower caste seems to care about is defending their caste honour within members of their caste. They might resort to violence against members of their caste group (especially women) if they violate their collectively held idea of 'honour'.<sup>66</sup>

There are several factors that need to be considered while concluding this discussion:-

1. A caste is rebuked not just by the use of force against the women of that caste but also children. For example, children in Thanjavur were electrocuted by the upper castes because they dared to play at the upper caste well. Nothing seems to matter when the question of asserting upper caste control over territory is in question. The assertion is absolute. This is further reinforced by the increasing instances of rape and sexual harassment of minor and adolescent dalit girls in social welfare and missionary hostels by men who occupy positions of power and authority.
2. What is surprising to see is that though landownership is a crucial factor in caste relations, that lack of this does not prevent the upper caste from showing their pride or control. If we take the Muthamma case into account, the Reddis who paraded her naked on the streets of Chilakurti did not belong to that village originally, nor owned much land there. However, their caste privilege protected them or rather silenced the lower castes in the village.
3. There is an important issue related to the caste question and it is that of religion. Though caste is usually viewed as a Hindu phenomenon and conversion is seen as an escape from the oppressions of caste system, conversion does not always guarantee an escape from the oppressions subjected to individuals who belong to this particular religious affinity or the caste system in particular. One can take the case of a dalit Christian woman who joined the convent in order to escape the oppressions faced by dalit families in an upper caste village. She was the eldest among twelve children in her family who had to be taken care of while their parents worked in the field. The girl ran away from home and registered herself as a nun with the hope that she would escape both caste and gender oppression within the order. During the training, all were treated equally irrespective of their socio economic background. However, once they were through their training, they were sent to various centres where the

actual work began. It was here that their family background, caste and class details were taken and started to play major role especially in determining the kind of work they were assigned to them. Moreover, younger nuns from disadvantaged backgrounds were constantly accused of trying to attract the male priests who visited the centre. Caste based discriminations were experienced even within the church and this prompted the dalits to move out and formed an order of their own. The rigidity of the caste system is extended to a completely different religious order. Similar cases can be found in some Protestant groups in Tamil Nadu and Andhra Pradesh where segregation is based on caste. They would rather intermarry with Hindus of their own caste than with Christians of another caste. Even during service in the church some churches have separate enclosures for dalits who have to stand through service and receive communion only after the upper castes have left.

4. The role played by government agencies and the law and justice system Caste-gender based violence goes unreported or under reported, especially those against lower caste men women and higher caste women. In cases of caste based violence, the police choose to stay on the sidelines. They are of the opinion that issues such as these, must be taken care of by caste leaders or caste panchayats who very often do not follow the law of the land had have a different idea of justice. Caste panchayats seek to safeguard the conservative values that seek to protect interests of the higher castes. The caste norms differ from one region to another in the country as such does the prescriptions and prohibitions on marital relations among different communities. Such codes are starkly different from the laws which are upheld and enforced by courts. Violations to the locally held value systems of caste purity and gender relations are met with stringent punishments and even death.

We find the severely stratified Indian society does very little to check atrocities and violence incurred on the women, especially the depressed ones. Dalit women in particular instances are at the back burner and face the most severe form of brutalities. The stratification takes a very complex form of inequality especially in conjunction with gender, caste discrimination and class prejudices. Violence, especially molestation and even rape at its severe form takes its toll on the lower caste women. Not just rape, such acts are committed with utmost aberrations and anomalies which make the sufferings even more telling for the women at the receiving end. It brings not just physical bruises often resulting into casualties but also mental trauma and anguishes which leave behind debilitating impacts on the victims. This agony and the stigma often becomes unbearable resulting into suicide attempts by the victims. Not just molestation and rapes, gang

rapes and acid attacks are some of the gory forms of crimes especially committed on victims to take caste revenges and this often goes unreported and unaccounted.

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## 5.5 Conclusion

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It has to be taken into cognisance that caste and gender relations in our country are a complex one. It is a site of violence used to exert power both in terms of gender and caste identity. Lower caste women are doubly disadvantaged on account of their gender and caste affiliation. Lower caste women and higher caste women may have common experiences as being of the same gender but may differ considerably on account of their caste membership.

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## 5.6 Summary

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Lower caste men and women may come together to protest collectively on caste issues but may have dissimilar experiences on account of different gender. As our discussions in the unit suggest, caste is a deciding factor for women when we consider the violence they are subjected to. Violence of this and of many other unknown forms which may very often even lead to their sufferings and often death shows no sign of whisking off. The world outside may be chiming with hymns of gender equality and universal gender norms, but deep down the valley, in the dark villages and behind the closed doors, such violence are no doubt on the rise.

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## 5.7 Questions

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### Answer Briefly (6 Marks)

1. What according to Dumont is the underlying principle of the caste system? How does this feature of the caste system perpetuate subordination of women in Indian society?
2. What are the ways in which upper castes maintain their 'superior position' within the caste hierarchy? What does this imply for women of both upper and lower castes?
3. State any two instances of caste based violence against women.
4. With examples show how violence against the lower caste is extended to lower caste children.
5. What is 'femicide'?



6. What role does the law and justice system of the country play in averting caste based violence?
7. With examples, show how upper caste men tend to inflict violence against:-
  - (a) Upper caste women.
  - (b) Lower caste women.

### **Answer In Details (12 Marks)**

1. Discuss in details how the concept of 'honour' plays an important in inter- caste relations. How does the concept of 'honour' aid in maintaining and justifying violence against women of different castes?
2. With examples show how the nature of violence differs for upper caste and lower caste women. What does this indicate about their relative position in the caste hierarchy?
3. Describe the reasons for violence against lower caste women.
4. Do you agree with the idea that upper caste women often pave the way for greater exploitation of lower caste women? Justify your answer.
5. What role does kinship play in justifying caste based violence against women?

### **Essay Type Questions (20 Marks)**

1. Describe in details how the concept of 'pollution and purity' within the caste system function to subjugate women in the Indian society.
2. With examples, show how women in the Indian context face different forms of violence based on their caste affiliations.
3. Explain how lower caste women face twofold exploitation in India.
4. Is caste based violence against women a purely rural phenomenon? Provide examples to justify your answer.

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## **5.8 References**

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Kolsky, Elizabeth. "'The Body Evidencing the Crime': Rape on Trial in Colonial India, 1860–1947," *Gender and History* 22, no. 1 (April 2010), 111.

Jonathan Saha, *Law, Disorder and the Colonial State: Corruption in Burma c. 1900* (New York, 2013), 114–24.

Elizabeth Kolsky, "The Rule of Colonial Indifference: Rape on Trial in Early Colonial India, 1805–57," *The Journal of Asian Studies* 69, no. 4 (November 2010): 1093–117.

Rosalind C. Morris, *Can the Subaltern Speak? Reflections on the History of an Idea*, ed. (New York, 2010), 5.

Nancy L. Paxton, *Writing under the Raj: Gender, Race, and Rape in the British Colonial Imagination, 1830–1947* (New Brunswick, Canada, 1999), 1–3.

Das, Veena (1976), 'Indian Women: Work, Power and Status' in B R Nanda (ed), *Indian Women from Purdah to Modernity*, pp 129-45.

DighaNikaya (1976), E Carpentier (ed), Pali Text Society, London. Ganesh, Kamala (1985), 'Women's Seclusion and the Structure of Caste', paper presented at the Asian Regional Conference on Women and the Household, New Delhi.

Gautama Dharma Sutra (tr) (1975), George Buhler, *Sacred Laws of the Aryas*, Vol 1, MotilalBanarasidass, Delhi.

Lerner, Gerda (1986), *The Creation of Patriarchy*, Oxford University Press, New Delhi.

Leslie, Julia (1989), *The Perfect Wife: The Orthodox Hindu Wife according to the StridharmaPaddhati of Ilyambakayajavan*, Oxford University Press, New Delhi.

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## 5.9 End Notes

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Thiruchandran, Selvy, 1997, *Ideology, Caste, Class and Gender*, Delhi, Vikas Publishing House Pvt Ltd. pp 12-23.

Kannabiran. K, kannabiran. V, 1991, *Caste and Gender: Understanding Dynamics of Power and Violence*, *Economic and Political Weekly*, 26(37), pp 2130 - 2133.

Currie, Kate, 1992, *The Indian Stratification Debate: A Discursive Exposition of Problems and Issues in the Analysis of class, Caste and Gender*, *Dialectical Anthropology*, 17(2), pp 115- 139.

Chowdhury, Prem, 1997, *Enforcing Cultural Codes: Gender and Violence in Northern India*, *Economic and Political Weekly*, 32(19), pp 1019-1028.

Gupte, Manisha, 2013, *The Concept of Honour: Caste Ideology and Patriarchy in Rural Maharashtra*, *Economic and Political Weekly*, 48(18), pp 72- 81.

Rege. Sharmila, Devika. J, Kannabiran. K, John. E, Swaminathan, Padmini, Sen. Samita, 2013, *Intersections of Gender and Caste*, *Economic and Political Weekly*, 48(18), pp 35 - 36.

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## **Unit - 6 □ Structural and Situated Violence**

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### **Structure**

- 6.1 Introduction**
- 6.2 Structural Violence**
- 6.3 Female Foeticide and Female Infanticide**
- 6.4 Dowry Deaths**
- 6.5 Sati**
- 6.6 Rape**
- 6.7 Situated Violence**
- 6.8 Conclusion**
- 6.9 Summary**
- 6.10 Questions**
- 6.11 Reference**
- 6.12 End Notes**

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### **6.1 Introduction**

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Structural violence and the second one is situated violence. Structural Violence in the Indian context may be understood in terms of violence meted against women, for reasons that are not individual but inherent in the structure itself. Such acts of violence are means of reinforcing the existing ideas and strengthening them. Situational violence is a form of violence that is intricated due to the presence of factors which are contextual in nature.

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### **6.2 Structural Violence**

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Johan Galtung<sup>1</sup> is his famous essay titled “Violence, Peace and Peace Research” published in the year 1969, introduced the concept of structural violence. While discussing the dimensions of violence, he distinguished violence on the basis of the presence or absence of a subject. Violence where there is no actor or subject directly involved in committing the crime, it is structural or indirect violence. In case of such violence, consequences cannot be traced back to concrete persons as actors. There may be no person who directly harms another person. The violence is present in the structure and hints at an unequal

power structure and unequal opportunities. <sup>2</sup>In structural or indirect violence, there is no clear subject-object relation. He cited the example where one husband beats his wife, there is a clear case of personal violence, but when one million husbands keep one million wives in ignorance there is structural violence. Structural violence can also be understood as social injustice. Structural violence according to Galtung is latent, it does not show. Its latent nature implies that it may remain hidden or concealed even though it may be intense or violent by nature. The important question that now arises is how does such a latent form of violence then take place?

If one goes by the definition provided by Galtung, it may be said that the pre-existing inequality present in the social structure becomes the site for structural violence. It is so mundane and common place in nature that it may not come into notice. As mentioned before, the basis of structural violence is inequality; there is an unequal distribution of power, most importantly it prevails within the social structure of a given society. Violence is essentially caused due to the presence of repressive structures. Galtung argues all forms of structural violence may be traced back to personal violence in their pre-history. He gives the example of an exploitative caste system. Those who are agents of such forms of violence are socialized into a structure of violent nature. Any form of manifest structural violence (violence which may be observed), may stem from latent personal violence. When the structure is threatened, actors who benefit from the structure make attempts to maintain the structure and may be geared towards violence to maintain it.

<sup>3</sup>Structural violence may also be understood as patterns of differences within large scale social structures – differences of power, wealth, privilege, education and health that are unjust and unequal. This form of violence also occurs in a society if institutions and policies are designed in a way that creates barriers or inequitable access to a range of goods and services for some people but not others. Overall as a result of structural violence, people experience extreme social oppression and consequently erosion of human dignity and of all associated dimensions, including confidence, overall well being and security.

Coming to the context of structural violence in India, almost all forms of violence against women in the country may be traced back to the unequal gender relations and the existing patriarchal set up prevalent here. Much like the caste system which is based on hierarchy and discrimination against some by the others, the existing gender relations is biased against the women. Men enjoy a favourable position compared to women. The inherently

gendered society prevents women from reaching their true potential and limits their growth in all aspects of life.

Govind kelkar<sup>4</sup> in the article titled “Women and Structural Violence in India” is of the opinion that in order to understand the nature of structural violence towards women in India, we need to look into their subordinate position within the economic sphere. The author makes an attempt to understand how the existing social structures tend to maintain and reinforce women’s subordination in the society. There are certain inherent structures that prevent the participation of women in taking decisions that affect them. There are prevailing systems that maintain the imbalance in power relations and prohibit women from reaching their full potential. The author focuses on family as a part of the social structure that is a site of violence for women.

Most of the violence perpetrated against women in India has a structural underpinning. What this means is that violence is based on the structural framework within which people function on a day to day basis. The patriarchal structure prevalent makes certain ideas and practices so mundane that we hardly realize that they are the cause of violence against women and their subordination in the society. Researchers often undertake a lifecycle approach to understand violence against women. The approach discusses the various forms of violence that women face at different stages of their life. These may be female feticide, female infanticide, wife battering, domestic violence, dowry deaths, sati, rape and other forms of violence or abuse even in the old age. In the following paragraphs, an attempt will be made to discuss some of these forms of abuse in brief.

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### **6.3 Female Foeticide and Female Infanticide**

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<sup>5</sup>With the application of technological advances in medical science, a new form of violence emerged. The advancement made it possible to detect the sex of the foetus. People began to use the method to detect the sex of their unborn children. This led to the decline in the sex ratio due to a clear male preference in the society. The patriarchal structure favouring sons eliminated the female foetus or killed the girl after she was born (female infanticide). Reproductive technologies were misused and this was reflected in the declining sex ratio in the country. <sup>6</sup>In 2011, Census revealed an adverse child sex ratio (0-6 age group), it was 919, the lowest since 1961. There has been a decline in the sex ratio, not only in the rich urban areas of the north but also in the rural areas of the eastern and southern parts of the country. Discrimination against women start early, they are not even allowed to arrive in the world. This prompted the state to bring in legislations which would address the issue. The PCPNDT ACT (Pre- Conception and

Pre- Natal Diagnostic Techniques Act) came about in 1994 and was amended in 2003. The Act aimed at regulating the pre-natal diagnostic procedures and completely prohibit sex selection. However as one may know, enacting legislations alone can hardly bring in change unless the agencies play a pivotal role in successfully implementing it. The Act has been partially effective as a complete nexus of medical practitioners, families seeking this service work together to abort unborn foetuses. The State has also made efforts to encourage the birth of daughters through various schemes wherein parents are encouraged to educate their daughters by providing subsidies, financial assistance and various concessions to them.

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## 6.4 Dowry Deaths

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<sup>7</sup>In 1983 Tato committed suicide because her husband and his family tortured her for getting a small amount of dowry. She and her family were mocked for the quality of food at the wedding and presents given to the marital family. Her husband remarried a few months after Tato committed suicide.

We are discussing dowry deaths as they are unique to our country. Dowry deaths occur when married women are murdered by the members of her marital family or when is forced to commit suicide after being tortured by her husband or in- laws. Post marriage, the young bride on entering her husband's household has to often live with her parents-in- law and or siblings- in- law. Here her position is sub-ordinate; she is a wife, a daughter-in-law, sister-in law and mother. In India, we mostly have a patrilocal and patriarchal set up. She may be punished if found to deviate from playing any of these roles. Kelkar also seems to agree with this position. Dowry violence or deaths manifest the subordinate position women hold within the structure of the family. She is of the opinion that women's subordination may be rooted at the structure of material production. Women have to depend on men because men own land and women by and large do not. Despite the Hindu Succession Act which provide men and women equal right to property inheritance. Very often one would find sisters waiving their land rights to their brothers. They fear that claiming land rights to make them seem 'selfish' and could sever their relation with members of the natal family (though the reference is made to Hindu women, the same may be true with certain differences for women of other religions as well). Women are married off long distances from natal family. Once married, they are often asked to remain in the marital household. The wife is told to remain in her best behaviour and be meek and submissive. Her husband's family receives cash, jewellery and domestic goods. A large dowry is seen as a symbol of status. Brides who fail to provide sufficient dowry face violence which often lead to death. Dowry deaths are often referred to as bride

burning because very often, brides are murdered by pouring kerosene over them and setting them on fire.

Srinivas adds that the dowry practice in contemporary India has certain characteristics. Dowry spreads across classes, castes, communities, religions and regions. Gifts in form of dowry are often dictated by the groom's family. There has been a steady increase in the money value of dowry. Dowry tends to define the nature between natal and marital families.

Dowry is often expressed as an alternative to her not inheriting property. This does not hold true for two reasons, first, dowry is never given to woman but members of her husband's family, the control and distributing of this dowry is entrusted to the parents-in-law. Second, land never becomes dowry, she does not own any property and has no access to wealth.

Men continue to enjoy the primary position as contributors to family income. Women continue to hold a subordinate position since they remain in the shadow; they are dependent, ignorant and only concerned with children and household activities. This understanding of gender roles is then extended to the larger society. The subjugated position of women within the family is mirrored in the society. She enjoys low wages, poor health care, poor educational opportunities and so on.

There has been an estimated 7621 dowry deaths in the country in the year 2016 (NCRB). In order to prevent Dowry deaths, the Dowry Prohibition Act, 1961 was enacted. The Act came about in the effort to prevent the taking and giving of dowry during marriage. Any party caught in the act of taking or giving dowry was punishable according to law. However, the question remains why even as recently as 2016, we find so many women dying due to dowry and abuse in the marital family on account of it. This shows how deeply engraved are the values of patriarchy in our society which claim thousands of women's lives every year even today.

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## 6.5 Sati

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September 5, 1987, Jaipur, Bal Singh Rathore and SnenKanwar's eighteen year old daughter RoopKanwar became a widow and was cremated with the corpse of her husband as a sati in the village of Deorala, a two hours' drive from Jaipur. This case had caused uproar in Rajasthan during that and had brought into focus the idea that even post-independence, woman in the country could become sati and be glorified for it.

Much has been said about this age old tradition of sati. Hindu reformers and British administration during the colonial regime had fought to put an end to it. Sati was abolished in the year 1829 by the then Governor General Lord William Bentick. So the question to be asked is, why do we hear of it even today?

When we look at Kanwar's case, it seems like Roop made a voluntary decision to act like the way she did, but a closer examination of this act would reveal certain important aspects about the prevailing social, cultural and religious connotations of our society. Keeping mind the existing cultural values that speak for an exceedingly difficult life for widows, a woman's singular existence minus that of her husband's is seldom conceived by people. Her worth is judged based on that of her husband. In cases of Sati, the marital family can prevent such deaths if they wish to but seldom do so. This is mostly due to the commonly held ideas of womanhood. A woman possessed by 'sat' is believed to have special powers; she can curse or bless anyone. The fear of a sati's curse prevents people around her to stop her. The 'sat' provides a woman with the power of prophecy, the power to cure diseases. The sat makes the woman immune to fire and she experiences no pain when she jumps into the funeral pyre of her husband. By committing Sati, she becomes a goddess from an ordinary woman.

Sati is therefore, a classic example of structural violence meted out to women. The existing notions of 'ideal woman' force them to conform to societal norms that either justify the act of sati or forces her to put an end to her life after her husband's death for no value is attached to her existence as an individual devoid of all the relations that she establishes. This makes one wonder if the same applies for men who lose their wives but we already seem to have an answer to that.

However, one cannot just ignore the larger impact of sati. This impact is both ideological and material in nature. Ideologically speaking, sati increased the prestige of the family, all the more reason why it was provoked and encouraged. The act of sati would bring honour, just to the family but to the community and or the village. The village becomes a sacred and often well publicised place. In Roop's case for example, a temple was constructed and was visited by thousands from the surrounding areas. Materially speaking, one can argue that the question of inheriting husband's property lingers and members of the marital family encourage or force the woman to undertake such an act.

The Commission of the Sati (Prevention) Act 1987 makes an attempt to prevent the commission and glorification of the act of 'Sati', however there are certain limitations to the Act. In most cases, members of the family who play the primary roles of enforcing the act are let out due to 'lack of proof and evidence'; this seems astounding for in most



cases the sati is witnessed by thousands. The law prosecuting the act of sati has not been enforced with rigour. At the level of administration, officials, very often share pro-sati attitudes. In such cases, they only become silent observers as they do not wish to interfere in the community affairs. What makes acts such as sati problematic to be effectively brought under the law enforcement machinery is that it is often pushed to the area of religion. The act ensures pride and honour to the community in which it is undertaken. So the life of a woman is subjugated to the customary practices that attach no value to her life. Moreover, customs provide a justification and often glorify the act, thereby encouraging women to take part in it.

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## 6.6 Rape

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Rape in India is defined as the intentional, unlawful sexual intercourse with a woman without her consent. This definition is provided under Section 375 of the Indian Penal Code. This definition seems problematic for various reasons, for example, it does not recognize other forms of sexual assaults by relatives, marital rape. In the pre Independence India, nationalist feminist movement raised the issue to point to 'excesses' committed by the British state as colonizers. In the post Independence India, the campaigns were against police rapes which were of two types – mass rape and rape against individual women. The issue of police rape reached a turning point with the Rameeza Bee rape case which saw many feminists agitating in Hyderabad. The accused in the case were acquitted by Sessions court. An appeal was made by the feminist group to the High court and then the Supreme Court but the case is still pending today. There were several such isolated cases but the women's movement was united for the first time in 1980 in response the Supreme Court's judgement in the Mathura rape case. A 17 or 18 years old girl Mathura was taken by the local policemen to the police station and raped there. The Supreme Court held Mathura had given wilful consent because she did not raise any alarm. This led to nation-wide anti rape campaigns which demanded reopening of the case and amendments in the Rape Law. Finally, the Criminal Law Amendment Act was passed which amended the IPC. According to this Act, the identity of the rape victim could not be revealed, it introduced many new categories of sexual offences. In case of custodial rape, rape of pregnant women and gang rape even, if the woman victim made a statement that she did not consent, the court would believe that she did not consent. The definition of rape was maintained the same as before and it refused to recognize marital rape as a punishable offence. The Act provided for trial in camera. The amendment only partially accepted the demands of the campaign and had one crucial limitation. The definition of rape under Section 375 of the IPC was that it took into account only

penile vaginal penetration. Other injuries (physical and mental) were left to deal with under Sec 354 and 509 of the IPC. Besides, it left out many other recommendations made by the Law Commission and women's groups.

On December 2012, a 23 years old para-medical student was brutally gang raped and her male friend injured in a private transport bus in Delhi. She died two weeks later. There was a nation-wide protest at the incident with people speaking up against the insensitivity of the criminal justice system with an extremely low conviction rate in rape cases. Following the protests, the government appointed a commission to review the laws on sexual crimes. As per the demands made by activists, rape was to be treated as a sexual crime violating bodily integrity and not just as a crime against honour. The Verma commission agreed to the position taken by feminist groups. The Criminal Law Amendment Act came about in 2013. Offences like acid attack, sexual harassment, stalking was incorporated into the IPC. The Act expanded the definition of rape to include oral sex as well as the insertion of an object or any other body part into a woman's vagina, urethra or anus. The punishment of rape was extended to life imprisonment. Absence of resistance did not mean consent. Marital rape is an exception to Section 375 provided the wife is not under 15 years of age. However despite such swift amendments, the rate of conviction in cases of rape is as low as 25.5% (NCRB 2016 data) and the pendency percentage is as high as 87.7%.

Rape is an expression of masculine power. Victims of rape vary across caste, class and community. However very often, one would find victims of such crimes belonging to the deprived castes, classes etc. Historically, women's movement has played a proactive role in protesting against the offences caused to women and have been successful to the extent that several amendments have been made to the laws relating to rape and other offences. However, amendments do not necessarily mean that such offences will cease to occur. There is a need to alter people's attitude towards rape and other crimes inflicted on women. There is need to sensitize the agents of the criminal justice system so that victims of such crimes are not victimized further. Responsible coverage of such crimes by the media would lead to greater awareness among others.

To conclude, Galtung who had introduced the term 'structural violence' spoke of latent forces that are not quite visible but are equally important in perpetrating harm to individuals. When we consider India, the patriarchal structure is predominant and acts in a very latent manner. We have so acutely internalized it in our day to day functioning that we rarely recognize its role in the manner in which we think and act. Only a few out of many instances of structural violence faced by women have been discussed. Female

feticide, infanticide, rape, Sati, Dowry deaths etc are all indicative of the structural framework which not only provide women with a subordinate position but also justifies the violence against them.

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## 6.7 Situated Violence

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As the term suggests, situational violence is a form of violence that is inflicted due to the presence of factors which are contextual in nature. They are micro-situational meaning they are specific to that particular act of violence. In order to understand situational violence, one needs to consider the stimulants present during the commission of the act. Very often, situated violence is caused by internal factors. Extensive research on violence have usually concluded that people in general are averse to committing violent acts. This is due to the presence of certain cognitive and emotional controls that guide socially accepted behaviour. Yet during the act of situated violence, some of these controls may be restricted which would encourage the violent act. Social scientists have pointed out social-psychological techniques that make social controls ineffective. These are moral disengagement, emotional dominance, dehumanization and de-individuation. Micro-level emotional and cognitive controls like personal responsibility, hesitation, fear play an extremely crucial role in the prevention of situational violence. The moment they seize to control the individual, even a seemingly non-violent individual may be prone to violent acts. This is because the lack of control tends to deactivate self-awareness, guilt, hesitation, shame and fear. It is generally accepted that people choose to remain non-violent for two reasons. Firstly, people are socialised into conforming to societal norms and remain non-violent. Secondly, humans tend fear reciprocation if they act with violence. Researchers while studying situational violence have found out that in the moment when such acts of violence are committed, these controls cease to play their usual role. Moral principles which otherwise act as a guidance to perform socially accepted activities stop working when people engage in situational violence. This is called *moral disengagement*. It is the process through which people act violently by forgetting personal responsibility, dehumanizing the victim and using language that justifies their actions.

De-individuation refers to the psychological state when inner controls fail to function. The actor does not see the victim as an individual anymore. Emotional dominance occurs when the two parties involved in violence create a barrier also known as confrontational tension. When parties clash, both sides would hurl verbal insults at each other but all most always stop before becoming violent. This is usually overcome by focusing on vulnerable targets, taking part in groups that encourage in violent behaviour and fighting

at a distance. This would help the actor in defeating confrontational tension and engage in violence. Thus, situational violence occurs due to the failure of micro-situational controls that govern socially accepted behaviour. Individuals in situated violence tend to control the cognitive and emotional restraints that work to limit violent behaviour in humans. It is important to point here that situated violence often lead to habitual violence if offenders learn to suppress these restraints effectively overtime.

### **Family as a site of Situated Violence.**

The idea that family is a constant and permanent institution which ensures individual development has been considered a norm. It is ironic that it is within this family that most violence takes place. Violence may occur between couples, between children, may be between children and adults and even the elderly. Family is also the site where situated violence occurs. Such a form of violence may be seen when any one or both partners tend to handle conflict with violence. This form of violence may not have any particular pattern. The violence may be situational and minor in nature. Situated violence may not escalate into anything major over time. Partners resort to violence to gain control over the situation. Such form of violence usually take place among people do not have good communication skills. They resort to violence because they cannot communicate or express their feelings. Situated violence is also considered as common place violence - differences that every couple or members of the family encounter which usually do not progress any further from verbal disagreements but may sometimes be made difficult through alcohol abuse. This may escalate into slaps, blows or rarely into anything more serious. This form of violence may be bi-directional. Violence may be inflicted by either partner.

### **Situated Violence and Domestic Violence**

A clear distinction is made between situated and domestic violence. Domestic violence is a recurrent form of violence that occurs within the domestic or familial domain. There is a persistent pattern to this form of violence. The abuse may be physical, emotional, psychological, or sexual in nature. It manifests a systematic use of power to gain control by one partner over the other. Domestic violence is indicative of the hegemonic character of the family in our society. Situated and domestic violence differ on the ground that the former is a temporary act of violence while the latter is a relatively consistent pattern of violence. Situated violence may not necessarily be serious in nature but domestic violence can turn serious and even result in death in due course of time.

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## 6.8 Conclusion

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Any form of violence underlies a complex web of factors that play a complex role in the commission of the act. Though the psychological factors of violence are widely discussed, the social factors cannot be wholly overlooked. Both structural and situated violence are caused due to social factors. Structural violence takes place due to the macro level collectively held ideas and conception and negatively perceive certain sections of the population based on their identities. Such forms of violence are prevalent and generally difficult to eradicate because there exists a well-placed structure within the society which justifies such acts of violence. Such forms of violence takes place due to the inherent flaws persistent within the structure of the society. Situational violence exist momentarily due the fact that social controls cease to function at that moment in time. Societal controls that restrict individuals to participate in violent activities are suppressed by the individuals at that particular moment in time. Consistent suppression of such controls makes the individual a habitual offender.

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## 6.9 Summary

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The Basic difference between structural and situated violence is that the former depends on Macro factors while. The latter depends upon microwell individual factors. Structural violence is caused by collectively need values that undermine a section of society based in identities like caste, gender sexuality and more gender based violence in our society is a classic example of structural violence. The subordinate position of women in society is evident from the fact that women are never safe. Starting from female foeticide and infanticide to violence caused duel pervalence of dowry during marriage. Apart from this, other forms of violence against women would be rape or domestic abuse/ violence within family. Situated violence is caused by contextual factors that play a determining role during the moment the but is committed. In generally then are certain emotional and cognitive controls that restrict individuals to commit violent aets.

However, in situational violence these controls are suppressed through mechanism of emotional dominance. Moral disengagement and de-individuation. Situational violence may be observed with in intimats relations within family. However, this storkly different from domestic violence in that the letter is more naritual form of violence. Meted out to individuals members of the family.

Any form of violence, structural or situated must be condemned for both. Limit individuals to reach their full potential. Violence no matter what form it takes scors the victim for

life. Hence, people need to be sensitized about effects of violence on a person's wellbeing and find ways. and if possible prevent it.

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## 6.10 Questions

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### Answer Briefly (6 Marks)

1. Who introduced the term 'structural violence'? How would you apply the term in Indian context?
2. What is female feticide?
3. What are the possible reasons for dowry deaths in India?
4. How is Sati a form of structural violence against women in India?
5. What amendments have been made in the Criminal Law post the 2012 Delhi rape case?
6. What is situated violence?
7. Is structural violence different from situated violence?

### Answer in Details (12 Marks)

1. What are the possible reasons for the declining sex-ratio in the country? What does a declining sex-ratio indicate about the general position of women in the country?
2. With examples show how dowry deaths still prevail in the country. What legislations have been enacted to prevent dowry deaths? Have they been effective in preventing dowry deaths in India?
3. With examples, show how Sati has been an example of structural violence in India. What are the probable reasons for Sati to take place?
4. What does a low conviction rate in rape cases indicate about the general mindset of people about this particular form of violence against women in India?
5. Why do you think structural violence takes so many different forms in India? How does the existing structure reinforce and justify the subordinate position of women in India?
6. How does situated violence function to harm individuals?

### Essay Type Question (20 Marks)

1. What is the difference between structural and situated violence? Provide examples to support your answer.
2. Explain the process through which patriarchy tends to justify any act of violence inflicted on women, in case of dowry deaths and Sati.
3. How is rape a form of structural violence brought upon women in the country?

4. With examples show how situated violence and domestic violence differ. Does situated violence only harm women? Give reasons for your answer.

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## 6.11 Reference

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- Price, J. M. (2012). *Structural violence: Hidden brutality in the lives of women*. Sunny Press.
- Gupta, A. (2013). Structural violence and politics. *Economy and Society*, 42(4), (pp 686-692).
- Green, B. (2020). Book Review: *Victoria Canning, Gendered Harm and Structural Violence in the British Asylum System*.
- O' Brien, T. (2020). *Situational breakdowns: Understanding protest violence and other surprising outcomes*: by Anne Nassauer, Oxford, Oxford University Press.
- Lien, M. I., & Lorentzen, J. (2019). *Violence against men in intimate relationships*. In *Men's Experiences of Violence in Intimate Relationships* (pp. 1-12). Palgrave Macmillan.

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## 6.12 End Notes

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1. Galtung, Johan, 1969, *Violence, Peace and Peace Research*, *Journal of Peace Research*, 6(3), pp. 167-191.
2. Galtung, Johan, 1990, *Cultural Violence*, *Journal of Peace Research*, 27(3), pp. 291- 305.
3. *Structural Violence Against Children in South East Asia*, Unicef.
4. Kelkar, Govind, 1985, *Women and Structural Violence*, *Women's Studies Quarterly*, *Teaching about Women and Violence*, 13(3/4), pp. 16-18.
5. Nanda, Bijayalaxmi, 2014, *Sex Selective Abortion: A Syncretic Feminist Approach*, *Women's World*, LII(1), pp. 2-6.
6. Bal, Vineeta, 2012, *Abortion Rights: The Gender and Disability Dichotomy*, *Debates*, pp 4- 9.
7. Palriwala, Rajni, 1989, *Reaffirming the Anti- Dowry Struggle*, *Economic and Political Weekly*, 24(17), pp. 942- 944.
8. Jain,S, Misra, N, Srivastava.K, 1987, *Deorala Episode: Women's Protest in Rajasthan*, *Economic and Political Weekly*, 22(45), pp. 1891-1893.

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## **Unit - 7 □ Domestic Violence : Causes and Consequences**

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### **Structure**

#### **7.1 Learning Objectives**

#### **7.2 Introduction**

##### **7.2.1 Definition**

##### **7.2.2 Signs of Domestic Violence**

##### **7.2.3 Types of Domestic Violence**

#### **7.3 Causes of Domestic Violence**

#### **7.4 Consequences of Domestic Violence**

##### **7.4.1 The Indian Scenario of Domestic Violence**

#### **7.5 Remedies of Domestic Violence**

#### **7.6 Conclusion**

#### **7.7 Summary**

#### **7.8 Questions**

#### **7.9 References**

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### **7.1 Learning Objectives**

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- To identify the warning signs of domestic violence in our society.
- To learn about the types and the nature of domestic violence.
- To understand the basis of domestic violence.
- To explore the various causes of domestic violence.
- To study the consequences of domestic violence in our families and society as a whole.

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### **7.2 Introduction**

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Violence is rapidly mounting in the society we live in. It is present almost everywhere and nowhere is this eruption more intense than right behind the doors of our homes. Behind closed doors all across the world, people are being tortured, beaten, burnt and



killed. There are thousands of such cases which go unreported every day in every part of the world. This is happening in rural areas, towns, cities and in metropolitans as well. Even the most developed countries have failed to reduce the occurrences of domestic violence. The incidents of violence are crossing barriers of all social classes, genders, racial lines and age groups. It is becoming a legacy being passed down from one generation to another. The term used to describe this exploding problem of violence within our homes is Domestic Violence.

### **7.2.1 Definition**

*Domestic violence (also called intimate partner violence, domestic abuse or relationship abuse) is a pattern of behaviour used by one partner to maintain power and control over another partner in an intimate relationship.*

Domestic violence does not discriminate. Anyone of any race, age, sexual orientation, religion or gender can be a victim or perpetrator of domestic violence. Domestic violence can take place in marital homes between married couples, live-in partners or dating couples. It affects people of all socio-economic backgrounds and education levels.

Domestic violence includes behaviours that physically harm, arouse fear, prevent a partner from doing what they wish or force them to behave in ways they do not want. It includes the use of physical and sexual violence, threats and intimidation, emotional abuse and economic deprivation. Many of these different forms of domestic violence/abuse can be occurring at any one time within the same intimate relationship.

Definitions of domestic violence recognize that victims can include anyone, regardless of socioeconomic background, education level, race age, sexual orientation, religion or gender. Domestic violence was formerly referred to as wife abuse. However, this term was abandoned when the definition of domestic violence was changed to reflect that wives are not the only ones who can fall victim to domestic violence. The definition of domestic violence now recognizes that victims can be: spouses, sexual/dating/intimate partners, family members, children and cohabitants.

### **7.2.2 Signs of Domestic Violence**

It is not always easy to detect at the beginning of a relationship if it will become abusive. In fact many abusive partners appear absolutely perfect in the early stages of a relationship. Possessive and controlling behaviours don't always surface overnight, but rather emerge and intensify as the relationship grows.

Domestic violence does not look the same in every relationship because every relationship is different. But one feature that most relationships have in common is that the abusive partner does many different kinds of things to have more power and control over their partner.

Some of the signs of an abusive relationship include a partner who:

- Tells you that you can never do anything right and prevents you from making your own decisions.
- Shows extreme jealousy of your family, friends and time spent away.
- Controls who you see, where you go or what you do.
- Prevents you from working or attending school.
- Distances you or discourages you from seeing friends or family members.
- Insults, demeans or shames you in front of others or in private.
- Controls your spending or takes your money.
- Destroys your property or threatens to hurt you, your family, children or kill your pets.
- Intimidates you with harmful weapons like knife, guns or other weapons.
- Forces you to have sex when you don't want to or do things sexually you are not comfortable with.
- Forces you to use drugs or alcohol.

Experiencing even one or two of these behaviours in a relationship is a red flag that abuse is serious and no one deserves to experience abuse of any kind, for a reason. In order to see the signs of domestic violence we need to know its various types. Thus the various types of violence are discussed in detail in the next section.

### **7.2.3 Types of Domestic Violence**

When the general public thinks about domestic violence, they usually think in terms of physical assault that results in visible injuries to the victim. This is only one type of abuse. There are several categories of abusive behaviour, each of which has its own devastating consequences. The danger involved with physical abuse may place the victim at higher risk, but the long term destruction that accompanies the other forms of abuse is significant and cannot be minimized. The following section helps us identify domestic violence in its different forms.

**i. Control**

- ii. Physical Abuse
- iii. Sexual Abuse
- iv. Emotional Abuse & Intimidation
- v. Verbal Abuse: Coercion, Threats, & Blame
- vi. Isolation
- vii. Economic Abuse

**i. Control:** Controlling behaviour is a way for the abuser to maintain dominance over the victim. It is the belief that they are justified in the controlling behaviour and the resultant abuse is the core issue in abuse of people. It is often subtle, almost always sneaky and pervasive. This may include many forms of control but is not always limited to:

- Constant checking and following the victim at home or outside. Checking the mileage following their use of the car.
- Monitoring phone calls, using caller ID or other number monitoring devices, not allowing them to make or receive phone calls.
- Not allowing their freedom of choice in terms of clothing styles or hairstyle. This may include forcing the victim to dress in a specific way such as more seductively or more conservatively than they are comfortable.
- Calling or coming home unexpectedly to check up on the victim. This may initially start as what appears to be a loving gesture, but becomes a sign of jealousy or possessiveness.
- Invading the victim's privacy by not allowing time and space of their own.
- Forcing or encouraging their dependency by making the victim believe that they are incapable of surviving or performing simple tasks without the batterer or on their own.
- Using the children to control the victim parent by using the children as spies, threatening to kill, hurt or kidnap the children, physical and/or sexual abuse of the children.

**ii. Physical Abuse:** Physical abuse is any physically aggressive behaviour, withholding of physical needs, indirect physically harmful behaviour or threat of physical abuse. Different forms of physical abuse may include:

- Hitting, kicking, biting, slapping, shaking, pushing, pulling, punching, choking, beating, scratching, pinching, pulling hair, stabbing, shooting, drowning, burning, hitting with an object, threatening with a weapon, or threatening to physically assault.
  - Withholding of physical needs including interruption of sleep or meals, denying money, food, transportation, or help if sick or injured, locking victim into or out of the house, refusing to give or rationing necessities.
  - Abusing, injuring, or threatening to injure others like children, pets, or special property.
  - Forcible physical restraint against the victim's will, being trapped in a room or having the exit blocked, being held down.
  - The batterer hitting or kicking walls, doors or other inanimate object argument, throwing things in anger and destruction of property.
  - Holding the victim hostage.
- iii. Sexual Abuse:** Sexual abuse is using sex in an exploitative fashion or forcing sex on another person. Having consented to sexual activity in the past does not indicate current consent. Sexual abuse may involve both verbal and physical behaviour. This often takes the form of marital rape, attacking sexual body parts, physical violence that is followed by forcing sex, sexually demeaning the victim or even telling sexual jokes at the victim's expense. This may include:
- Using force, coercion and guilt to get what they want.
  - Exploiting a victim who is unable to make an informed decision about involvement in sexual activity because of being asleep, intoxicated, drugged, disabled, too young, too old or dependent upon or afraid of the abuser.
  - Making contact with the victim in any non-consensual way on any part of the victim's body.
- iv. Emotional Abuse & Intimidation:** Emotional abuse is any behaviour that exploits another's vulnerability, insecurity or character. Such behaviours include continuous degradation, intimidation, manipulation, brainwashing or co threatenin or accusing (either directly or indirectly)with the intention to cause emotional or physical harm or loss. For instance, threatening to kill the victim or themselves or both.
- Consistently disregarding, ignoring or neglecting the victim's requests and needs.
  - Telling the victim that she/he is mentally unstable or incompetent.

- Forcing the victim to take drugs or alcohol.
- Not allowing the victim to practice their religious beliefs, isolating the victim from the religious community or using religion as an excuse for abuse.
- Using any form of coercion or manipulation which is disempowering to the victim.
- v. **Verbal Abuse:** Verbal abuse is any abusive language used to malign, embarrass or threaten the victim. This may include:
  - Threatening to hurt or kill the victim or their children, family, pets, property or reputation.
  - Using abusive language or calling the victim by names.
  - Telling the victim that they are unattractive or undesirable.
  - Yelling, screaming, rampaging, terrorizing or refusing to talk
- vi. **Isolation:** Isolation is a form of abuse often closely connected to controlling behaviours. By keeping the victim from meeting people, doing what they like, setting goals, controlling the victim's actions, the abuser isolates the victim. By doing so, the abuser is breaking contact with the outside world. Isolation often begins as an expression of then love for the victim with statements like "if you really loved me, you would want to spend time with me, not your family". As it progresses, the isolation expands, limiting or excluding the victim's contact with anyone but the batterer. Eventually, the victim is left totally alone and without the internal and external resources to change his or her life. Some victims isolate themselves from existing resources and support systems because of the shame of bruises or other injuries, the abuser's behaviour in public or the abuser's treatment of friends or family. Self-isolation may also develop from fear of public humiliation or from fear of harm to themselves or others. The victim may also feel guilty for the abuser's behaviour, the condition of their relationship or other reasons.
- vii. **Economic Abuse:** Financial abuse is a way to control the victim through manipulation or control of economic resources which may include:
  - Controlling the family income and either not allowing the victim access to money or rigidly limiting their access to family funds. This may also include hiding money or accounts, giving limited or no money to the victims or taking their earnings.

- Causing the victim to lose a job or preventing the person from taking a job. The abusers can make the victims lose their job by making them late for work, refusing to provide transportation to work or by calling and harassing victims at work.
- Spending less money for necessities (food, rent, utilities) and spending more on nonessential items (drugs, alcohol, hobbies.)

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### 7.3 Causes of Domestic Violence

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There is no single factor to account for violence perpetrated against women. Research works has increasingly focussed on the inter-relatedness of various factors that should improve our understanding of the problem with different cultural contexts. Several complex and interconnected institutionalized social and cultural factors have kept the victims particularly vulnerable to the violence directed to them. Following are some of the causes of domestic violence:

1. **Sociological Factors:** Sociological causes can be studied under the following heads:
  - a. **Aggressive Attitude:** In families where tolerance takes a backseat it is often observed that family members lack morals and norms. The family members resort to violent measure in order to resolve even the petty issues within the walls of their homes. They believe that every matter inside and outside the home should be solved with physical power and not peace. Moreover in patriarchal societies women are not allowed to be ahead of men because of the belief that a man who cannot control women would not be regarded as a man in the real sense.
  - b. **Poverty:** When a person is not able to provide for his family he may become aggressive or violent in his behaviour leading to domestic violence. This is most common in cases where the bread winner becomes frustrated or burdened by responsibilities. Prolonged unemployment and financial problems can be one of the causes of violence caused by the pressure put on the abuser.
  - c. **Dominating Behaviour:** Domestic violence can be triggered when one partner feels the need to control and dominate the other. A person may become abusive because of his or her low esteem, insecurity, extreme jealousy, inferiority complex, illiteracy, deep-rooted anger and other strong emotions and weaker socio-economic background.
  - d. **Alcoholism or Drug Addiction:** Alcohol and other chemical substance abuse may contribute to violent behaviour. A drunk or high person will be less aware of his actions and unlikely to control his violent impulse. Alcohol use has been reported

in between 25 percent and 85 percent of incidents of battering and up to 75 percent of acquaintance rapes. It is far more prevalent for men than their female victims. Men's drinking patterns, especially binge drinking, are associated with marital violence across all ethnic groups and social classes.

The link of alcohol to violence is a complex one, involving physiological, psychosocial and sociocultural factors. Studies have found a genetic basis for alcohol abuse and alcoholism and for antisocial personality traits that are often found among violent offenders.

- e. **Male Privilege:** As long as we as the members of the society accept and tolerate violence against women, men will continue to be abusive. Four widespread social conditions which allow and encourage men to abuse women are: Objectification of women and the belief that women exist for the 'satisfaction of men's personal, sexual, emotional and physical needs'. An entitlement to male authority with a right and obligation to control, coerce or punish her independence. To view the use of physical force as acceptable, appropriate and effective. By failing to intervene aggressively against the abuse, the culture overlooks the violence.
2. **Psychological Factors:** Some of the psychological factors considered to be the cause of domestic violence by the psychologists are as follows:
  - a. **Learnt Behaviour as a child:** The meaning states that the abuser of domestic violence is the one who has learnt such behaviour from his/her home as a child by being witness to such incidents. The abuser in cases like this is often the by-product of a violent home or relationship. The perpetrator does not view aggression as inevitable, but rather sees it as a social behaviour that is learned and shaped by its consequences, continuing if it is reinforced.
  - b. **Extra-marital affairs:** Affairs after marriage are an increasing factor in marital conflict which leads to domestic violence. Infidelity is frequent in many cases, this in return creates lack of trust and suspicion taking a violent turn. Marital responsibilities are neglected due to extra-marital affairs. The result of such affairs can be dispute, domestic violence and sometimes separation or divorce. Children may suffer as a result of separation, divorce or custodial battles.
  - c. **Personality or nature of the partner:** The personality pattern of some people might have been shaped in such a fashion that a partner assumes a leading role in a marital relationship. These personality traits may be defined by their innate tendencies and the impact of environments like family, parents, socialization and relatives.

This can lead to clashes between partners because of their opposite nature, ways and different upbringing and education. Non-adjustment, non-acceptance and lack of understanding and respect for each other can lead to domestic violence.

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## **7.4 Consequences of Domestic Violence**

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### **1. Consequences of violence on women**

Battered women have tendency to remain quiet, agonised and emotionally disturbed after the occurrence of the torment. A psychological set back and trauma because of domestic violence affects women's productivity in all forms of life. The suicide of such victimised women is also a deadly consequence and the number of such cases is increasing.

A working woman may drop out from the work place because of ill-treatment at home or office, she may lose her efficiency in work. Her health may deteriorate physically and mentally. Some women leave their home immediately after first few atrocious attacks and try to become self-dependent. Their survival becomes difficult and painful when they have to work hard for earning two meals a day. Many such women come under rescue of women welfare organizations. Some of them who leave their homes are trapped into women trafficking and pornography. This results in a higher risk of becoming a drug addict and suffering from HIV/AIDS.

One of the severe effects of domestic violence against women is its effect on her children. It is nature's phenomenon that a child generally has a greater attachment towards the mother for she is the one who gives birth. As long as the violence subjected to the mother is hidden from the child, he/she may behave normally at home. The day when mother's grief and suffering is revealed, a child may become upset about the happening deeply. Children may not even comprehend the severity of the problem. They may turn silent, reserved and express solace to the mother. When the violence against women is openly done in front of them since their childhood, it may have a deeper and gruesome impact in their mind-set. They get used to such happenings at home, and have a tendency to reciprocate the same in their lives. It's common in especially in rural homes in India which are victimised by the evil of domestic violence. In other cases children are found to concentrate less on studies. They drop out of school and do not get the education which otherwise they might have got if they were not tormented and thus the country loses a productive asset.



In cases of Intimate Partner Violence (IPV), violence against women leads them to maintain a distance from their partner. Their sexual life is affected adversely. Many of them file for divorce and seek separation which again affects the life of children. Some continue to be exploited in lack of proper awareness of human rights and laws of the constitution.

## **2. Consequences of violence on Men**

The consequences of violence against men, are largely emotional and psychological in nature. The physical harassment resulting from domestic violence, also affects their lives and productivity but it is still more inclined towards the emotional problems which men face. It is largely because many such cases go unreported, as compared to cases of physical assault of women. Men are less likely to report such incidents to the concerned authority because of their hurt ego or because of the shame it would bring to them if other people find out about it. An emotionally harassed and depressed man may lose interest in the occupation he is associated with. If he is the only bread-earning person in the family, the family may find it difficult to survive. According to statistics of Save India Family Foundation (an NGO), around 1.2 lac harassed husbands have committed suicide in the country in the last four years in India itself.

**3. Consequences of violence on Children/Teens:** The consequences in case of children are far more drastic and its effects are long term. Children are sensitive to issues related to violence of any kind as they are not mature enough to comprehend them. In their growing years they try to imitate things which they see happening around them. In the process of following their parent's advice or instructions they become firm in their opinion and approach towards life. Now if the approach of parents itself is negative, children are bound to get influenced by it. They may adopt the negative traits of the ill they see around them or develop a hostile approach in life because of the ill-treatment they are subjected to. If a child is beaten badly for under-performing in school, he may do the same to his children, thinking it might be the only possible way of making a person to work hard. He fails to develop a vision to see things from an unbiased point of view. Experiences like these makes a child insensitive towards the society and the societal needs. Every instance of child abuse causes a callous indifference to suffering.

However in the process of comprehending the wrong being done to them, many children are traumatised and psychologically disturbed. They find it unsustainable and may lose out their mental soundness. Children who are victimised by physical violence may become handicapped as well. In some cases children prefer to run away from home and try to become self-dependent. Some commit suicide. Some indulge in malpractices because

of improper education and bad company they become a part of after leaving the home. Some even reciprocate the violence they are subjected to by harming the family members. Girls also develop a feeling of insecurity in their homes when they are sexually exploited. They lose their self-confidence and desire for living. A girl child from violent home can withdraw from society and become completely depressed. Children from violent homes become disobedient and violent and start using aggression to solve their problems. Adolescents may succumb to drugs and alcohol when treated harshly. Some helpless and abandoned children are picked up by gangs who sell their organs for making huge amount of money. In most of the cities, the group of beggars at traffic lights or railway platforms are the abandoned children who are physically deformed forcefully for begging.

#### **4. Consequences on aged parents**

The elderly abuse is one of the most unfortunate happening for the elderly class in their lives. They would rather like to be more at ease and calm in this phase of their life than being prone to such kind of shameful treatment by their own family or society. Ironically elderly class itself also indulges in harming each other. Many of the elderly men continue to beat and harass their wives throughout their lives.

Some of the old poets are ousted from home by their children, some are beaten until death and some are exploited socially. A sense of insecurity dodges them all the time. They are isolated and cut off from society in some cases where son and daughter-in-law do not let them interact and move around freely in the society. The guardianship they can provide out of their experience, the moral values which they can instil in the grandchildren are all not done as they are unwanted in their own homes.

The old people are not looked after properly and their health problems are neglected. Due to the abuse and mental trauma they suffer, some of them leave home, some are rescued from such situations and choose to stay in old age homes.

#### **5. Consequences on the society**

Domestic violence in any form adversely affects the family and the society as a whole. Violence against women may keep them locked in homes succumbing to the torture they face. If they come out in open and reveal the wrong done to them for help and rescue, it influences the society both positively and negatively. On the one hand it acts as an inspiration and ray of hope for other suffering women ; on the other hand it could

lead an aggravation of tensions. When something of this kind happens in the society, few families may witness the evil of domestic violence knocking on their door steps. Some families try to imitate what others indulge in irrespective of it being good or bad for the family.

#### **7.4.1. The Indian Scenario of Domestic Violence**

A recent study has concluded that violence against women is the fastest-growing crime in India. According to a latest report of 2018 prepared by India's National Crime Records Bureau (NCRB), a crime has been recorded against women in every three minutes in India. Every 60 minutes, two women are raped in this country. Every six hours, a young married woman is found beaten to death, burnt or driven to suicide. Dowry deaths are on the rise in our country where young brides become victims of torture and brutality in the hands of her husband and his family.

The response to the phenomenon of domestic violence is a typical combination of effort between law enforcement agencies, social service agencies, the courts and corrections/probation agencies. The role of all these has progressed over the last few decades, and brought their activities in public view. Domestic violence is now being viewed as a public health problem of epidemic proportion all over the world and many public, private and governmental agencies are seen making huge efforts to control it in India. There are several organizations all over the world government and non-government actively working to fight the problems generated by domestic violence to the human community.

In 1983, domestic violence was recognised as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. Parliament of India passed the Domestic Violence Act, 2005, "To protect the rights of women who are victims of violence of any kind occurring within the family and to provide for matters connected therewith or incidental thereto". This Act ensures the reporting of cases of domestic violence against women to a 'Protection Officer' who then prepares a Domestic Incident Report to the Magistrate "and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction..."

**Did you know?** In 1983, domestic violence was recognised as a specific criminal offence by the introduction of section 498-A in the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman.

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## **7.5 Remedies for Domestic Violence**

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### **a. Role of Non-Governmental Organizations (NGOs)**

The role of non-governmental organizations in controlling domestic violence and curbing its worse consequences is crucial. These NGOs continue to spread awareness amongst people regarding the legal rights they have in hand for fighting against the atrocities they are subjected to. They are encouraging more and more people to report any case of domestic violence so that proper action may be taken against the culprits. More such organizations need to be opened for the help of abused women, men, children and aged parents.

### **b. Police and Health Care**

Police plays a major role in tackling the domestic violence cases. They need to be sensitized to treat domestic violence cases as seriously as any other crime. Special training to handle domestic violence cases should be imparted to police force. They should be provided with information regarding support network of judiciary, government agencies/departments. Gender training should be made mandatory in the trainings of the police officers. There should be a separate wing of police dealing with women's issues.

Authorities should take steps to recognize Domestic Violence as a public health issue. A crisis support cell needs to be established in all major Government and Private Hospitals with a trained medical social worker for provide appropriate services. Training programmes must be organized for health professionals in order to develop their skills to provide basic support for abused people. Documentation on the prevalence and the health consequences of domestic violence should be undertaken by the concerned government departments, health care institutions, NGOs and counselling centres. A nodal agency should also be set up for the annual consolidation of the documented work and publish the same for wider publicity among the masses for increasing awareness.

### **c. Need for Strict Laws**

Violence is a complex issue because women are often taught to accept all treatment. Even in the most advanced societies women and men refrain from talking about abuse faced by them or try to hide it for the fear of reprisal from family members, guilt and shame. Another reason for such behaviour would be the belief that the perpetrator are likely to get away with their crime.

But stringent laws to deal with domestic violence and awareness of the victim's rights can reduce the instances of violence considerably. Education can empower women and men thus making them aware of their rights. Thus the weaker partners can no longer have to follow the commands of the other blindly or suffer in an abusive relationship.

#### **d. Need for long term measures**

Women by and large are handicapped with respect to all the prerequisites essential for access to justice. The widespread illiteracy, patriarchal mindset, cultural barriers, and subordination is very common. These unfriendly environment of our society has kept most distressed women away from seeking justice. Therefore, forming organisations for the empowerment of women which can promote gender equality, economic independence and education for women can be a step forward. Education plays an important role in bringing about change in the mindset of the people. Social transformation of norms for reinstating dignity and freedom, equal decision making power and emancipation of women from all exploitative compulsions should be given more importance as a long term measure to control domestic violence. The society as a whole should work together to design and review policies, create awareness and interact with central and state governments to bridge the gap between common men and women and the policy makers. The beneficiaries especially women should be made aware of the government schemes and initiatives.

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## **7.6 Conclusion**

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Since time immemorial, domestic violence has been an intrinsic part of the society we are living in. Having looked at a sensitive topic of "Domestic Violence", we can sense the importance of discussion of such a topic. The contributing factors could be the desire to gain control over another family member, the desire to exploit someone for personal benefits, the flare to be in the commanding position all the time showcasing one's supremacy so on and so forth. The varying causes which can spark the violence within the four walls of homes need to be analysed carefully and a wise study of the factors causing the violence may prevent a family to suffer from the menace of domestic violence. Though on some occasions the psychological problems act as the driving force causing violence in a household the studies cannot deny the fact that majority of the time social influence add to the vehemence.

The domestic violence may have a far wider and deeper impact in real life than what has been covered in this chapter. We need to see closely the association of the factors provoking a particular form of domestic violence. If these factors can be controlled then more than

one form of violence can be prevented from harming an individual or our society would be a much better place to live in.

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## 7.7 Summary

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The incidents of violence are crossing barriers of all social classes, genders, racial lines and age groups. It is becoming a legacy being passed down from one generation to another. The term used to describe this exploding problem of violence within our homes is Domestic Violence.

Domestic violence includes behaviours that physically harm, arouse fear, prevent a partner from doing what they wish or force them to behave in ways they do not want. It includes the use of physical and sexual violence, threats and intimidation, emotional abuse and economic deprivation.

Possessive and controlling behaviours don't always surface overnight, but rather emerge and intensify as the relationship grows.

There are several categories of abusive behaviour, each of which has its own devastating consequences.

Controlling behaviour is a way for the abuser to maintain dominance over the victim.

Physical abuse is any physically aggressive behaviour, withholding of physical needs, indirect physically harmful behaviour or threat of physical abuse.

Sexual abuse may involve both verbal and physical behaviour.

Emotional abuse include continuous degradation, intimation, manipulation, brainwashing or control.

Verbal abuse is any abusive language used to malign, embarrass or threaten the victim.

Isolation is a form of abuse often closely connected to controlling behaviours which keeps the victim from meeting people, refraining from leisurely activities, setting goals and controlling the victim's actions.

Financial abuse is a way to control the victim through manipulation or control of economic resources.

No single factor account for violence perpetrated against women but several complex and interconnected social and cultural factors have kept the victims particularly vulnerable to the violence directed to them.

A psychological set back and trauma because of domestic violence affects women's productivity in all forms of life. An emotionally harassed and depressed man may lose interest in the occupation he is associated with.

Children are sensitive to issues related to violence of any kind as they are not mature enough to comprehend them. Every instance of child abuse causes a callous indifference to suffering.

The old people are not looked after properly and their health problems are neglected. Due to the abuse and mental trauma they suffer, some of them leave home, some are rescued from such situations and choose to stay in old age homes.

### **Things to do**

Gather more information about such cases of domestic violence in order to express our concern over this issue with more accuracy. Try to collect facts and figures at hand.

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## **7.8 Questions**

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### **7.8.1 Answer in detail (18 marks)**

- a. What are the various consequences of domestic violence?
- b. Explain the different forms of domestic violence.
- c. What are the different causes of domestic violence?
- d. What exactly are we doing to minimise the occurrences of domestic violence in our societies?

### **7.8.2 Answer briefly [ 6 marks]**

- a. Can we clean up the mess created by domestic violence with sheer force and determination?
- b. Suggest two practical remedies for domestic violence?
- c. Write a brief note on the stringent laws in India against domestic violence.

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## **7.9 References**

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Centre for Women's Studies & Development the Research Institute. 2005. A Situational Analysis of Domestic Violence Against Women In Kerala: 1-31.

Domestic Violence Statistics. Retrieved from [http://www.domesticviolence.in /category/ domestic-violence-statistics](http://www.domesticviolence.in/category/domestic-violence-statistics) on 02/06/2019.

Domestic violence in the Times: From civil unrest to spouse abuse'. The New York Times. September 10, 2014.

Dutton, Donald; Painter, S.L. (January 1,1981). 'Traumatic bonding: The Development of emotional attachments in battered women and other relationships of intermittent abuse'. *Victimology*.6.139-155.

Joshi, M. M. 2001. The Protection From Domestic Violence Bill. Government Bill. Bill No. 133 of 2001.

Johnson, Michael, P., Ferraro, Kathleen, J. (November 2000). "Research on domestic violence in the 1990s: making distinctions". *Journal of Marriage and family*. 62 (4): 948-963.

Kishwar, M. 2005. Laws Against Domestic Violence. Retrieved from <http://www.indiatogether.org/manushi/issue120/domestic.htm> 1-6.

Koenig, A. M., et al. 2006. Individual and Contextual Determinants of Domestic Violence in North India. *American Journal of Public Health*. 96(1): 132-138.

Martin L. S. et al. 1999. Domestic Violence in Northern India. *American Journal of Epidemiology*. 150(4): 417-426

Panda, P. and Agarwal, B. 2005. Marital Violence, Human Development and Women's Property Status in India. *World Development*. 23(5): 823-850.

Panda, P. 2004. Domestic Violence Against Women in Kerala. Kerala Research Programme on Local Level Development Centre for Development Studies. 6: 1-44.

UNICEF. 2000. Domestic Violence Against Women And Girls. UNICEF Innocenti Digest. 6: 1-29.

WHO (2015). "Child Maltreatment"(PDF) Geneva, Switzerland: World Health Organization. Archived from the original on September 2019.

Kishwar, Madhu. Laws against domestic violence: Underused or Abused?



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## **Unit : 8 □ Divorce, Separation, Desertion and Abandonment: Basic Concepts**

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### *Structure of the unit*

#### **8.1 Learning Objectives**

#### **8.2 Introduction**

#### **8.3 Definition of Divorce**

##### **8.3.1 Divorce Rate**

##### **8.3.2 Divorce Law**

#### **8.4 Causes of Divorce**

#### **8.5 Effects of Divorce on Children**

#### **8.6 Divorce of Elderly Couples**

#### **8.7 Rights of Spouses to Custody of Children**

#### **8.8 India**

##### **8.8.1 Divorce under Various acts in India**

#### **8.9 Separation**

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#### **8.10 Desertion and Abandonment**

##### **8.10.1 Definition**

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##### **8.10.3 Property Division in Marital Abandonment**

##### **8.10.4 Protecting Oneself when Abandoned by a Spouse**

#### **8.11 Conclusion**

#### **8.12 Summary**

#### **8.13 Questions**

#### **8.14 Referance**

#### **8.15 Glossary**

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## 8.1 Learning Objectives

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- To get acquainted with the common terms like divorce, separation, desertion and abandonment
- To understand the rate at which divorce is increasing in all the societies these days.
- To learn about the various reasons for divorce.
- To understand the problem caused by divorce like custody of children and property division.

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## 8.2 Introduction

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As marriages continue to get less popular, divorce rates are increasing across the world. Though marriage is dependent on religion, family, culture and individual behaviour, it is currently a stubborn global issue. It might be merely a coincidence but developed countries face higher rates of divorce than developing countries. The conditions necessary to terminate a marriage in divorce vary widely from culture to culture and over time.

In certain societies the rights of women and men in this respect are still highly unequal, but there appears to be a move in Western societies towards an acceptance of the idea of irretrievable breakdown of a marriage as suitable grounds for divorce. One of the most significant trends in the wake of this liberalization of divorce laws has been the increasing propensity for divorce proceedings to be initiated by women. The definitions of the constitution of marriage and divorce also vary widely in different societies. In Western societies divorce is increasingly preceded by extended periods of separation between partners, which renders the legal procedure increasingly less relevant.

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## 8.3 Definition

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*Divorce, also known as dissolution of marriage, is the process of terminating a marriage or marital union. Divorce usually entails the cancelling or reorganizing of the legal duties and responsibilities of marriage, thus dissolving the bonds of matrimony between a married couple under the rule of law of the particular country or state.*

### 8.3.1 Divorce Rate

A measure designed to provide information on the comparative propensity to divorce in different populations. The crude divorce- rate for a particular year is calculated by dividing

the number of divorces occurring within a population over the year, by the average or mid-year population for that year, expressed times 1000. A more refined measure divides the number of divorces by the number of marriages in a given year (times 1000). The divorce rate is sometimes used as an indicator of social stress in a society. However, in countries where separation characteristically precedes formal legal divorce, divorce-rates are increasingly less relevant as a measure of the actual experience of individuals in a population.

In the United States and Britain over the past two decades, concern over rising divorce-rates has frequently reached the status of a 'moral panic', and it is often stated that, given the continuation of current rates, over one in three marriages contracted will end in divorce. However, these calculations must be considered in the light of high rates of remarriage among divorcees and an increasing propensity to establish common-law rather than formalized legal unions among those groups most at risk of divorce (for example the youth). Of course, the statistics say nothing of the social difficulties and personal suffering faced by many people experiencing the effects of divorce, including the children of broken marriages.

In India however, the divorce rate is less than 1 per cent. Out of 1000 marriages, only 13 results in divorce. The low divorce rate owes up to the societal pressure, arranged marriages usually takes place over months between two families and not individuals. The divorcees are usually shamed for going against the social rules and their parents will.

### **8.3.2 Divorce Laws**

Divorce laws vary considerably around the world which reflects different legal and cultural traditions in different countries. Divorce laws are not static, they often change reflecting and evolving social norms of societies. In most countries divorce requires the sanction of a court or other authority in a legal process, which may involve issues of distribution of property, child custody, alimony, parenting time, child support and division of debt. In most countries, monogamy is required by law, so divorce allows each former partner to marry another person.

Grounds for divorce vary widely from country to country. Marriage may be seen as a contract, a status or a combination of both. In the case of contractual marriage, the refusal or inability of one spouse to perform the obligations specified in the contract may constitute a ground for divorce for the other spouse.

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## 8.4 Causes of Divorce

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Social scientists study the causes of divorce in terms of underlying factors that may possibly motivate divorce. Some of the main proximal causes of divorce based on surveys done by the researchers are:

1. Extramarital Relationship
2. Money
3. Lack of communication
4. Constant conflict
5. Unrealistic expectations
6. Domestic violence or abuse
7. Lack of equality
8. Addictions
9. Not being prepared for marriage

### 1. Extramarital Relationship

Extramarital affairs are responsible for the breakdown of most marriages that end in divorce. This is one of the most common causes of divorce. The reason why people cheat on their partners are not clear. Anger and resentment are common underlying reasons for cheating, along with the couple's differences and emotional intimacy.

### 2. Money

Everything from different spending habits and financial goals to one spouse making considerably more than the other can cause a power struggle which in turn can strain a marriage to the breaking point. Clearly money and stress do seem to go hand in hand for many couples. Financial troubles can be categorized as one of the biggest causes of divorce after infidelity.

### 3. Lack of communication

Communication is crucial in a marriage and not being able to communicate effectively quickly leads to resentment and frustration for both the partners impacting all aspects of a marriage. Constant argument, lack of communication throughout the day, making nasty comments and expressions are some of the unhealthy methods of communication that needs to be avoided in a marriage. Poor communication is the biggest reason for divorce.

#### **4. Constant conflict**

From bickering about chores to arguing about the kids, constant argument between spouses kills many relationships. Couples who argue incessantly on the same issue often do so because they feel they are not being heard or appreciated. They may find it hard to see the other person's point of view, which leads to a lot of arguments without ever coming to a resolution, which can ultimately be a cause of divorce.

#### **5. Unrealistic expectations**

It is rather easy to go into a marriage with high expectations, but expecting your partner to live up to your image of what they should be, is taxing on him/her. These expectations can put a lot of strain on the other person, leaving you disappointed. Wrong expectation setting can become one of the reasons for divorce.

#### **6. Domestic violence or abuse**

Physical or emotional abuse is a sad reality for some couples. It does not always stem from the abuser being a bad person but deep emotional issues are the reasons for abuse. An abusive relationship can directly lead to divorce among partners.

#### **7. Lack of equality**

When one partner feels that they take on more responsibility in the marriage, it can alter their view of the other person and lead to resentment. Resentment often snowballs to become one of the reasons for divorce, in fact it is the leading cause of divorce.

#### **8. Addictions**

Addictions are often cited as a reason for divorce. The addictions range from alcohol to drugs to gambling and sex. Workaholics often spend more time in their workplace than with their families leaving a vacuum in the other member's lives. Addictions hijack a partner's brain and can become one's top priority. This habit of a spouse can wreak havoc on the entire family in a terrible fashion.

#### **9. Not being prepared for marriage**

A surprising number of couples of all ages have blamed not being prepared for married life the reason for the demise of their relationship. The age at which a person gets married is an important factor that makes a marriage successful, delaying marriage may provide more opportunity or experience in choosing a compatible partner. Divorce rates are highest among couples in their 20s. Lack of preparation is one of the most common reasons for divorce. Almost half of the divorces occur in the first 10 years of marriage.

No marriage is easy at times. Even couples with the best intentions are sometimes unable to overcome their challenges and end up in courtrooms. That is why it is very important to address issues in a relationship early or as it comes, one should not allow it to become one of the reasons for divorce. Divorce is one of the worst things a person can experience emotionally, but sometimes, it is inevitable and for the betterment of both the spouses.

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## **8.5 Effects of divorce on children**

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### **a) Psychological effect**

Divorce is associated with diminished psychological well-being in children of divorced parents. The effects include unhappiness, dissatisfaction, low self-esteem, anxiety, depression and mental tension. A great number of evidence indicates that there is a causal effect between divorce and these outcomes.

Many studies have revealed that children living with single parent after the divorce suffer from problems such as poor health, feelings of tension and sadness than those parents with share custody. Children of divorced parents are also more likely to experience conflict in their own marriages and are more likely to experience divorce themselves. They are also more likely to be involved in short-term cohabiting relationships, which often dissolve before marriage.

There are many studies that show proof of an intergenerational transmission of divorce, but this does not mean that having divorced parents will absolutely lead a child to divorce. There are two key factors that make this transmission of divorce more likely. First, inherited biological tendencies or genetic conditions may predispose a child to divorce. Parents simply do not realize the damage they do to their children by the battles they wage over them.

Children involved in high-conflict divorce or custody cases can experience varying forms of "parental alienation", which courts often consider to be a form of child abuse. Specific examples of parental alienation include brainwashing the child to cease their relationship with the other parent, telling the child that the other parent does not love them, limiting communication and quality time between the child and the other parent.

Research shows that children can be affected 2-4 years before the separation or divorce even occurs. This can be due to parental conflict, anticipation of a divorce and decreased parental contact. Many couples believe that by separating or by getting a divorced they are helping their children. But in situations of extreme parental conflict, abuse, unhealthy or unhappy environment it most likely will be beneficial for the children.

Exposure to marital conflict and instability, most often has negative consequences for children. Observational studies reveal that children react to inter-parental conflict with fear, anger, or the inhibition of normal behaviour. Conflict between parents also tends to spill over and negatively affect the quality of parent's interactions with their children. By the display of verbal or physical aggression, parents involuntarily teach their children that disagreements are resolved through conflict rather than calm discussion. As a result, children may not learn the social skills that are necessary to form mutually rewarding relationships with peers.

#### **b) Academic Effect**

Frequently, children who have experienced a divorce have lower academic achievement than children from non-divorced families. In a review of family and school factors related to adolescents' academic performance, it noted that a child from a divorced family is two times more likely to drop out of high school than a child from a non-divorced family. These children from divorced families may also be less likely to attend college, resulting in the discontinuation of their academic career. These negative effects tend to persist, and even escalate after the divorce or separation occurs.

#### **c) Social Effect**

Children of divorced parents also achieve lower levels of socio-economic status, income, and wealth accumulation than children of continuously married parents. These outcomes are associated with lower educational achievement.

Young children between the age group of 7 years and 16 years who had experienced the divorce of their parents were more likely to become runaways because of conflict in the family than the youths who had not experienced the divorce of their parents. Children of divorced or separated parents exhibit increased behavioural problems and the marital conflict that accompanies parents' divorce places the child's social competence at risk.

#### **d) Economic Effect**

Many times academic problems are associated with those children from single-parent families. Studies have shown that this issue may be directly related to the economic influence of divorce. A divorce may result in the parent and children moving to an area with a higher poverty rate and a poor education system all due to the financial struggles of a single parent.

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## **8.6 Divorce of Elderly Couples**

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Since the mid-1990s, the divorce rate has increased to over 50% among elderly couples. More and more seniors are staying single; adult couples that remain unmarried are five times more likely to live in poverty compared to those who are married. They are also three times as likely to receive food stamps, public assistance or disability payments.

Sociologists believe that the rise in the number of older adults who are not married is a result of factors such as longevity and economics. Women, especially, are becoming more and more financially independent which allows them to feel more secure with being alone, in addition to changing perceptions of being divorced or single. This has resulted in less pressure for baby boomers to marry or stay married.

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## **8.7 Rights of Spouses to Custody of Children**

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Upon dissolution of a marriage, legal questions remain as to the rights of spouses to custody of the biological children of their spouses. Unresolved legal questions abound in this area. Child custody policies include several guidelines that determine with whom the child lives following divorce, how time is divided in joint custody situations, and visitation rights. The most frequently applied custody guideline is the best interests of the child standard, which takes into account the parents' preferences, the child's preferences, the interactions between parents and children, children's adjustment, and all family members' mental and physical health.

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## **8.8 India**

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Due to the existence of diverse religious faiths in India, the Indian Judiciary has implemented laws separately for couples belonging to different religious beliefs. Mutual consent divorce procedure is relatively easier and fast while contested divorce procedure takes longer and depends on the religions of the couples.

### **8.8.1 Divorce under various Acts in India**

- The Dissolution of Marriage and Judicial separation (under the Indian Divorce Act, 1869)
- The Parsi Marriage and Divorce Act, 1936
- The Dissolution of Muslim Marriage act, 1939
- The Special Marriage Act, 1954



- The Hindu Marriage Act, 1954
- The Foreign Marriage Act, 1969

The Dissolution of Marriage and Judicial separation ( Under The Indian Divorce Act 1869), is the law relating to the divorce of person professing the Christian religion. Divorce can be sought by a husband or wife on grounds including adultery, cruelty, desertion for two years, religious conversion, mental abnormality, venereal disease and leprosy. Divorce is also available based on mutual consent of both the spouses, which can be filed after at least one year of separated living. Mutual consent divorce cannot be appealed and the law mandates a minimum period of six months (from the time divorce is applied) for a divorce to be granted.

On an all-India level, the Special Marriage Act passed in 1954, is an inter-religious marriage law permitting Indian nationals to marry and divorce irrespective of their religion or faith.

The Hindu Marriage Act is an Act of the Parliament of India enacted in 1954. Three other important acts were also enacted as part of the Hindu Code Bills during this time namely: The Hindu Succession Act (1956), The Hindu Minority and Guardianship Act (1956), The Hindu Adoptions and Maintenance Act (1956). The Hindu Marriage Act legally permitted divorce to Hindus and other communities who chose to marry under these acts.

Contested divorce is when one of the spouse is not willing to divorce the other spouse, under such condition the divorce is granted only on certain grounds according to the Hindu marriage act of 1955.

While a Muslim husband can unilaterally bring an end to the marriage by pronouncing “Talaq”. Muslim women must go to court, claiming any of the grounds provided under the Dissolution of Muslim Marriage Act. In the first major family law reform in the last decade, the Supreme Court of India banned the Islamic practice of “Triple Talaq” (divorce by uttering of the “Talaq” word thrice by the husband) in 2017. The bill was passed by the Lok Sabha, the lower house of the Parliament of India, but the same was stalled by the opposition in the Rajya Sabha, the Upper house.

The bill was reintroduced and passed by the Lok Sabha and the Rajya Sabha in July 2019. Consequently the bill received assent of the President of India. The act also entitles an aggrieved woman to demand maintenance for her dependent children. It was subsequently notified as a law in the same month. The act stands to be retrospectively

effective from 19th September, 2018. The landmark Supreme Court of India judgment was welcomed by women activists across India.

**Did you know?**

Divorce rates increase during times of hardship, war, and major events. Divorce rates increased after World War II because people were quick to marry each other before they went to war. When soldiers returned, they found out that they didn't have much in common with their spouses, so they divorced.

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## 8.9 Separation

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Marital separation occurs when spouses in a marriage stop living together without getting divorced. Married couples may separate as an initial step in the divorce process or to gain perspective on the marriage and determine if a divorce is warranted. Other couples may separate as an alternative to divorce for economic or religious reasons, for tax purposes or to ensure continuing retirement and/or health insurance benefits for both spouses.

### 8.9.1 Definition

A separation can be initiated informally or there can be a legal separation with a formal separation agreement filed with the court. As for a divorce, the latter may include provisions for alimony, whether to have sole custody or shared parenting of any children, and the amount of child support.

A separation isn't the same as a divorce. Separation means that you are living apart from your spouse, but you're still legally married until you get a judgment of divorce from a court (even if you already have a judgment of separation). However, generally a separation does affect the financial responsibilities between you and your spouse before the divorce is final.

### 8.9.2 Types of Separation

There are three different types of separation. In most countries, only one (legal separation) changes your legal status but all three of them have the potential to affect your legal rights.

**a. Trial Separation:** If a married couple need a break from the relationship, they may choose to live apart while they decide between divorce or reconciliation. During the period of their separation, the same legal rules apply as when they were married, in

terms of ownership of property. For example, money they earn and property they buy are likely to still be considered jointly owned by the couple, depending on your legal rules about property ownership. If the couple have kids, they will need to decide how and when each would spend time with them. If both decide there is no going back, then the trial separation turns into a permanent one.

**b. Permanent Separation:** When a married partner lives apart from their spouse without intending to reconcile but they are not divorced, then they are considered permanently separated. In some countries, living apart can change property rights between spouses i.e. if they don't intend to get back together, then assets and debts acquired during the separation belong only to the spouse who acquires them. Once they are permanently separated, they are no longer responsible for any debts that their spouse incurs. Similarly, the other party no longer stays entitled to any share of property or income that his/her spouse acquires or earns. Because it can significantly affect how their property and money are divided. If one partner moves out of the house and do not expect any long-term reconciliation with their spouse, there may be consequences to going out. Once a couple is separated and have made basic agreements about their joint assets and debts, they don't have to divorce right away. Some people stay married because of insurance and inertia can be a factor, too.

**c. Legal Separation:** In some (not all) countries, a married couple can get a legal separation by filing a request in their respective family court. Being legally separated is a different legal status from being divorced or married, he/she is no longer married, but they not divorced either and in such cases neither of them can remarry. But the court's order granting the legal separation includes orders about property division, alimony, child custody and support, just as a divorce would.

People choose legal separation instead of divorce because of religious beliefs, a desire to keep the family together legally for the sake of children, the need for one spouse to keep the health insurance benefits that would be lost with a divorce or simple aversion to divorcing despite the desire to live separate lives. Some people live very happily in a state of legal separation for many years.

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## 8.10 Desertion and Abandonment

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Desertion or abandonment must meet certain criteria and most but not all societies consider it a ground for divorce. Desertion, like adultery is a difficult route to divorce. In such situations the abandoned person or party needs to prove that the defendant or respondent left the home for more than one year, did so without the agreement of the spouse, failed

to pay support and that the reason for the departure was not caused by the plaintiff or petitioner. Desertion means that neither the husband nor the wife refuses the duties and obligations associated with the marriage. Many societies have laws saying that if one spouse has moved out, it demonstrates an irretrievable breakdown of marriage, sufficient for a divorce.

Like many facets of marital and family law, desertion or abandonment has two sides. As a strategy for coping with the domestic turmoil of a failed marriage, just leaving may have legal repercussions that weaken one's case after he or she thinks better of it and decides to formally end the marriage. This is particularly true when there are children because it may be much more difficult for the person who left to make a strong case that he or she is a fit parent if he or she walked away for a significant period of time.

Simply moving out of the family home in an attempt to create a temporary or permanent separation is not considered abandonment. Many times spouses abandon marriages, because they cannot get a divorce. In countries where divorce is prohibited, the unhappy spouses, unable to end a failed marriage, walk out abandoning their wives and children in poverty. For some abandonment is an escape from a bad marriage

### **8.10.1 Definition**

*Marital abandonment refers to a situation in which one spouse severs ties with the family, forsaking his or her responsibilities and duties to the family. It can also be defined as an act of giving up or withdrawal of support from something or someone or the act of leaving or deserting a person or property with no intention to return or fulfil those responsibilities.*

### **8.10.2 Types of Desertion and Abandonment**

#### **a. Constructive Abandonment**

Marital abandonment does not necessarily refer to a spouse leaving the home, but may be accomplished when one spouse forces the other to leave through bad behaviour. If one spouse intentionally makes life intolerable for the other, giving the other spouse no choice but to leave, he or she has committed constructive abandonment. Constructive abandonment could prepare the grounds for divorce in many marriages where it is not used for obvious reasons. Many acts or refusals may give legal grounds for a victim-spouse to leave the marriage and home. These may include:

- Physical, emotional, or mental cruelty
- Physical abuse
- Infidelity

- Withholding sex
- Refusing to provide financial support

#### **b. Criminal Abandonment**

Suddenly refusing to provide care, support and protection for minor children or for a spouse who has serious health problems is considered criminal abandonment. The law does not require people to continue living in a relationship and anyone has the right to walk away from a sick spouse, but there is a price. It is likely the court would consider such an abandoned spouse to be financially dependent on the leaving spouse and issue an order for continued financial responsibility and care. Abandoning a minor child is, in many cases, considered a crime as well, even if the child has not suffered physical harm as a result of being abandoned.

#### **8.10.3 Property Division in Marital Abandonment**

In most states, the fact that one spouse abandoned the marriage is not considered for the purpose of dividing marital assets. However, if one party leaves the residence without making an arrangement as to how the couple will pay the mortgage and other financial obligations, the remaining spouse may successfully argue to the court that the leaving party abandoned the marriage and neglected the marital property and obligations. If the remaining spouse continued to pay the mortgage and other bills with no help from the abandoning spouse, it could create a very persuasive argument that the abandoning spouse should not be entitled to any equity that has accrued on the property or possibly to the property itself.

In addition, most states' statutes make a provision for either spouse who purposely wastes, neglects, destroys or devalues the marital property, which may be taken into account by the family court judge when dividing the marital assets.

#### **8.10.4 Protecting Oneself When Abandoned by a Spouse**

When a couple divorces, each party has certain financial rights, which include the right to request alimony, and the right to an equitable distribution of the marital property. The process of enforcing these rights begins with the filing of a Summons and Complaint for Divorce.

In a circumstance in which a spouse who has been abandoned does not wish to file for divorce, the abandoned spouse may still request spousal support from the other party. Spousal support in an abandonment case with no divorce filed must be requested by the abandoned spouse through the local family court.

In the event an abandoned spouse has children with the other party, he or she may request a custody order from the court, establishing the children's custodial parent. The abandoned spouse may also seek an order for child support from the other party. The specific process to file for custody and child support varies by jurisdiction. Contacting the local family court, or consulting with a family law attorney, is the best way to discover the correct process.

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## **8.11 Conclusion**

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In order to prevent and resolve the problem of divorce couple need to look for immediate solution to their problems. Marital and family counselling would be of great help to the couple facing issues in their relationship. The decision of marrying a person should be well thought and planned. Maturity and acquaintance in a relationship would make the marital journey happier. As the success of marriage depends much on their ability to make adjustments, efforts should be made by both the partners to make their marriage a success.

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## **8.12 Summary**

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As marriages continue to get less popular, divorce rates are increasing across the world. The conditions necessary to terminate a marriage in divorce vary widely from culture to culture and over time.

The divorce rate is sometimes used as an indicator of social stress in a society. However, in countries where separation characteristically precedes formal legal divorce, divorce-rates are increasingly less relevant as a measure of the actual experience of individuals in a population.

Social scientists study the causes of divorce in terms of underlying factors that may possibly motivate divorce.

Children involved in high-conflict divorce or custody cases can experience varying forms of "parental alienation", which courts often consider to be a form of child abuse.

On an all-India level, the Special Marriage Act passed in 1954, is an inter-religious marriage law permitting Indian nationals to marry and divorce irrespective of their religion or faith.

A separation can be initiated informally or there can be a legal separation with a formal separation agreement filed with the court.

There are three different types of separation trial, permanent and legal. In most countries, only one (legal separation) changes your legal status but all three of them have the potential to affect your legal rights.

Marital abandonment refers to a situation in which one spouse severs ties with the family, forsaking his or her responsibilities and duties to the family. It can also be defined as an act of giving up or withdrawal of support from something or someone or the act of leaving or deserting a person or property with no intension to return or fulfil those responsibilities.

**Things to do** Conduct a pilot study to find out the various reasons for getting a divorce apart from the reasons mentioned in this chapter. Also study the impact of divorce, separation and abandonment on the emotional aspect of a divorcee (a prolonged observation or case study).

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### 8.13 Question

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#### 13. Answer in detail [18 marks]

- a. What are the various causes of divorce?
- b. How do you differentiate between divorce, separation and abandonment?
- c. Explain in detail the types of abandonment.
- d. Define separation. Explain the types of separation in a marriage.

#### Answer briefly [12 marks]

- a. Write in brief the effects of divorce on couples.
- b. Write a note on property division in marital abandonment.
- c. Explain briefly the custody right of the children in a divorce.

#### Answer very briefly [6 marks]

- a. Mention two causes of divorce.
- b. Define divorce.
- c. What is the divorce rate in India?

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### 8.14 References

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Aiyar, S Krishnamurthi(2017). Law of Marriage Maintenance Separation and Divorce. Universal Law.

- Berlin, G. (2004). *The Effects of Marriage and Divorce on Families and Children*.
- Chandran, Rina (2010-06-11). "An easier end to unhappy marriages in India?IndiaInsight". Blogs.reuters.com. Archived from the original on 2011-05-08.
- "Contested Divorce Procedure in India". Archived from the original on 2018-12-29.
- Dommaraju, Premchand (2016). *Divorce and separation in India*, Population Council. Vol.42, No.2, pp,195-223.
- Emery, Robert E. (2013). *Cultural Sociology of Divorce: An Encyclopaedia*. Thousand Oaks, Calif.: SAGE Reference. p. 416. ISBN 978-1412999588.
- Emery, Robert E(2013). *Cultural Sociology of Divorce; An Encyclopaedia*. Sage Reference. pp. 30–31. ISBN 978-1-4129-9958-8.
- Gary S. Becker (1981,1991). *A treatise on the Family*. Harvard University press, ISBN 0-674-90698-5.
- "India moves to make it easier to divorce". BBC News. Archived from the original on 2011-08-25.
- Mahajan, P. T; Pimple, P; Palsetia, D; Dave, N; De Sousa, A (2013). "Indian religious concepts on sexuality and marriage". *Indian Journal of Psychiatry*.
- R.L.Gupta. *R.L.Gupta's Medico-Legal Aspect of Sexual Offence*. Eastern Book Company. ISBN 978-81-7012-440-5.
- Safi, Michael. "India court bans Islamic instant divorce in huge win for women's rights". *The Guardian*. ISSN 0261-3077.
- Shankar Vedantam. "Marriage Economy: 'I Couldn't Afford To Get Divorced'". NPR.
- Shosana Grossbard-Shechtman (1993). *On the Economics of Marriage-A theory of Marriage, Labor and Divorce*. Boulder, CO: Westview Press.
- V.R.KrishnaIyerRetd.Judge. *Muslim Women (Protection of Rights on Divorce) Act, 1986*. EBC. pp. 1–166. ISBN 978-81-7012-349-1.

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## 8.15 Glossary

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- **Financial Responsibility** – The obligation of a parent to financially provide for the needs of a child.
- **Marital Property** – The property and money acquired by a couple during the course of their marriage.
- **Custodial Parent** – A parent given physical and/or legal custody of a child by order of the court.



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## **Unit : 9 □ Workplace Harassment**

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### **Structure**

#### **9.1 Learning Objectives**

#### **9.2 Introduction**

#### **9.3 Definition of Workplace Harassment**

##### **9.3.1. Harassment becomes unlawful when:**

##### **9.3.2. Harassment at Job Interviews**

#### **9.4 Components of Workplace Harassment**

#### **9.5 Victims of Workplace Harassment: Categories**

#### **9.6 Impacts of Workplace Harassment**

#### **9.7 Prevention or Expert Tips to Stop Harassment**

#### **9.8 How to Handle Workplace Harassment**

##### **9.8.1 Law and the Prevention of Sexual Harassment at Workplace in India (Prevention, Prohibition and Redressal Act)**

#### **9.9 Conclusion**

#### **9.10 Summary**

#### **9.11 Questions**

#### **9.12 References**

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### **9.1. Learning Objectives**

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- ✓ To learn about the nature and types of workplace harassment reported by the employees.
- ✓ To understand the basis of harassment in the work place.
- ✓ To learn about the importance of safe work environment and steps for its promotion.
- ✓ To learn about the different effects that harassment has on the victims of different backgrounds.

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## 9.2. Introduction

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Workplace harassment is all too common. As victims are often unsure of what qualifies as harassment and what to do when they're being harassed, it often goes unreported and continues to be an issue. Workplace harassment can ruin a great job and turn a company into a toxic and unproductive environment.

Recently, matters of workplace harassment have gained the attention of practitioners and researchers as it is becoming one of the most sensitive areas of effective workplace management, because a significant source of work-stress is associated with aggressive behaviours at workplace. It attracted lots of attention from researchers and governments since the 1980s. Under occupational health and safety laws around the world, workplace harassment and workplace bullying are identified as being core psychosocial hazards. Overbearing supervision, constant criticism and blocking promotions are all considered workplace harassment.

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## 9.3. Definition of Workplace Harassment

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Workplace harassment is the belittling or threatening behaviour directed at an individual worker or a group of workers. Workplace harassment is also known by many other names. "Mobbing", "workplace bullying", "workplace mistreatment", "workplace aggression", "workplace molestation" and "workplace abuse" are all either synonymous or belong to the category of workplace harassment.

*The Equal Employment Opportunity Commission (EEOC) defines harassment as unwelcome verbal or physical behaviour that is based on race, colour, religion, sex (including pregnancy), gender/ gender identity, nationality, age (40 or older), physical or mental disability or genetic information.*

Workplace harassment includes different types of discrimination and acts of violation that are not confined to one specific group. The wide-ranging types of workplace harassment can be loosely categorized into emotional and physical abuse. All of these forms of workplace harassment target various groups, including women, racial minorities, homosexuals, people with disabilities and immigrants. In essence, workplace harassment requires a pluralistic understanding because it cannot be delineated in one coherent and concrete definition. Any act of discrimination or assault that systematically disadvantages the employees is considered workplace harassment. Workplace harassment can contribute to deterioration of physical and emotional health.

A common misconception about workplace harassment is that workplace harassment is simply sexual harassment in the context of a workplace. While sexual harassment is a prominent form of workplace harassment, it is more than just sexual harassment. It may entail 'quid pro quo' harassment, which occurs in cases in which employment decisions or treatment are based on submission to or rejection of unwelcome conduct, typically conduct of a sexual nature. Workplace harassment may also consist of offensive conduct based on one or more of the protected groups above that is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as being fired or demoted). Thus, the problem of workplace harassment is a bigger category that encompasses sexual harassment.

### **9.3.1 Harassment becomes unlawful when:**

1. Enduring the offensive conduct becomes a prerequisite to continued employment or
2. The conduct is severe or pervasive enough that a reasonable person would consider the workplace intimidating, hostile or abusive. Also, if a supervisor's harassment results in an obvious change in the employee's salary or status, this conduct would be considered unlawful workplace harassment.

### **9.3.2 Harassment at Job Interviews**

In addition to harassment occurring in the workplace, harassment can also take place during a job interview. During an interview, employers should not ask about a person's race, gender, religion, marital status, age, disabilities, ethnic background, country of origin, or sexual preferences. These are discriminatory questions because they are not relevant to the candidate's abilities, skills and qualifications to do the job. One very common example of workplace harassment can be casting-couch in the entertainment industry.

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## **9.4 Components of Workplace Harassment**

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Harassing conduct may include offensive jokes, slurs, name-calling, physical assaults or threats, intimidation, ridicule, insults, offensive pictures and more. Workplace harassment is not limited to sexual harassment and doesn't preclude harassment between two people of the same gender. The harasser can be the boss, a supervisor in another department, a co-worker or even a non-employee. Interestingly, the victim does not necessarily have to be the person being harassed he/she can be anyone affected by the harassing behaviour. To file a valid harassment claim, the victim has to show that the employer tried to

prevent and correct the harassing conduct and that the employee unreasonably rejected the employer's corrective efforts.

Some countries or states (federal form of government) have broad definitions of what constitutes harassment. The different types of harassments imposed on the victims can be categorized into:

### **1. Physical harassment**

Physical harassment, also often called workplace violence, refers to a type of workplace harassment that involves physical attacks or threats. In extreme cases, physical harassment may be classified as assault. Physical gestures such as playful shoving can blur the line between appropriate or not, since it's the person on the receiving end who decides whether the behaviour makes them uncomfortable.

In order to more clearly define that line, physical harassment should be taken very seriously in the workplace and explained thoroughly in codes of conduct and policies. Examples of some common behaviour in physical harassment include: direct threats of intent to inflict harm, physical attacks (hitting, shoving, pulling, kicking), threatening behaviour (shaking fists angrily) or even destroying property to intimidate the victim.

Employees in some industries are more at higher risk of workplace violence. These include healthcare workers, police officers, social services employees, teachers and educators, retail staff, sex workers and public transit drivers.

Another form of physical harassment at work is workplace violence. Workplace violence is defined as physical threats and assaults targeted at employees. There are two main perpetrators for workplace violence: criminals who approached as clients and co-workers. The criminals assert violence through the forms of robberies and homicides and the rate of homicides in the workplace has risen significantly over the past twenty years.

The workplace violence perpetrated by co-workers tends to be less obvious. The acts of violence in workplace consist of pushing or shoving, fistfights, throwing things and rape. Much of the physical violence on workers is preceded by physiological aggression, hinting that emotional harassment may be the cause for workplace violence.

### **2. Emotional harassment**

Unlike physical harassment, emotional harassment is unnoticeable and also viewed as being more socially acceptable. Emotional harassment in the workplace gets less attention than physical harassment in the workplace, which perpetuates the issue of emotional harassment in the workplace. According to Keashly, emotional harassment can be defined

as “the hostile verbal and non-verbal behaviours that are not explicitly tied to sexual or racial content yet are directed at gaining compliance from others”. In short, emotional harassment is manipulation of people’s actions through social behaviours.

One common form of emotional abuse in workplace is bullying. Also known as mobbing, workplace bullying “is a long lasting, escalated conflict with frequent harassing actions systematically aimed at a target person”. Specific actions of workplace bullying include : false accusations of mistakes and errors, hostile glares intimidating non-verbal behaviours, yelling, shouting, screaming, exclusion “silent treatment,” withholding resources and necessary information sabotage, defamation, use of put-downs, insults, excessively harsh criticism, extreme long working hours and unreasonably heavy work demands designed to ensure failure. The areas of industry in which emotional abuse happens are not limited to one, but rather they range from hospitals, universities, manufacturing plants, research industries and social service agencies.

With such frequency of workplace bullying to various groups of people, many theories exist in discussing the causes of workplace bullying.

- i) One side argues that the bullying targets are in fact responsible for the bullying. More specifically, some physicians and psychologists attribute the cause of workplace bullying to the target employee’s mental disorders, such as general anxiety disorder instead of the working situation.
- ii) The opposite argument contends that the cause of workplace bullying lies in the organizational problems and poor leadership skills.
- iii) Another argument states that workplace bullying is a multi-causal phenomenon, as different factors can play their respective roles in building the tension. Despite the plethora of arguments many researchers address that academic analysis of the cause is difficult. Getting the perspective of perpetrators and potential bystanders is unrealistic, and therefore the studies are primarily focused on victims’ interviews.

### **3. Sexual Harassment**

Sexual harassment is simply the king of harassment that is sexual in nature and generally includes unwanted sexual advances, conduct or behaviour. Sexual harassment in the workplace is a form of unlawful discrimination and is taken seriously by the courts. Other types of harassment might take some time and increasing severity to create a hostile work environment for the victim, but sexual harassment typically brings about discomfort and negatively impacts the victims’ life immediately. Some examples of Sexual Harassment are: sharing sexual photos (pornography), posting sexual posters, sexual comments, jokes,

questions, inappropriate sexual touching, inappropriate sexual gestures and invading personal space in a sexual way.

### **How big is the Sexual Harassment Problem?**

For many years, there have been whispers that sexual harassment runs rampant in the restaurant industry. More recently, there's been a steady flow of sexual harassment stories coming from Hollywood and Bollywood spawning a #MeToo campaign that highlights the prevalence of this behaviour. Many studies explain how recent stories of sexual harassment actually aren't about sex at all, but about power.

This lack of education and awareness regarding workplace sexual harassment is unacceptable, especially considering how prevalent these incidents are. A recent Equal Employment Opportunity Commission (EEOC) study 2021 concluded that anywhere between 30 and 85 per cent of women have been the victims of sexual harassment at work. Even at the lowest number, 30 per cent, this equates to one in every four women experiencing sexual workplace harassment.

### **4. Psychological Harassment**

Psychological harassment has a negative impact on a person's psychological well-being. Victims of psychological harassment often feel put down and belittled on a personal level, a professional level or both. The damage to a victim's psychological well-being often creates a domino effect, impacting their physical health, social life and work life. Examples of Psychological Harassment are: isolating or denying the victim's presence, belittling or trivializing the victim's thoughts, discrediting or spreading rumours about the victim and opposing or challenging everything the victim says.

### **5. Verbal Harassment**

Verbal harassment can be the result of personality conflicts in the workplace that have escalated beyond the casual eye roll or something more serious. Unlike discriminatory types of harassment (such as sexual), verbal abuse is often not illegal. For this reason, a lot of verbal harassment can be particularly damaging since it goes unnoticed and unresolved. Examples of Verbal Harassment include: obvious verbal harassment behaviours like threatening, yelling, insulting or cursing at a victim in public or in private. But, if this is aimed at someone in a protected class, it is unlawful. The negative effects of verbal abuse are feelings of shame and guilt, loss of passions and even increased blood pressure.

### **6. Online Harassment or Cyberbullying**

Employers are embracing new technology in order to appeal to younger employees and reap the benefits of a digitally connected world. For example, instant messaging applications

such as Slack and Workplace by Facebook offer convenience, speed and user-friendly interface. However, there can be a downside to this digital world. Cyberbullying and online harassment are a serious concern for employers. Among many other things, online bullies may: share humiliating things about the victim by mass email or mass chat, spread lies or gossip, false rumours about the victim on social media or send harassing instant messages or text messages directly to the victim.

### **7. Power Harassment**

Power harassment is a common form of workplace harassment that is characterized by a power disparity between the harasser and the harassed. The harasser exercises their power by bullying a victim who is lower on the office hierarchy like a subordinate, junior or a new-comer.

In many cases, the harasser is a supervisor or manager who victimizes their subordinates. Power harassment is not limited to a certain type of behaviour. It can be verbal in the form of intimidation or it can be physical in the form of acts of violence.

More often than not it is psychological. The harasser subjects the victim to: excessive demands that are impossible to meet, demeaning demands far below the employee's capability or intrusion into the employee's personal life.

#### **Did you know?**

Retaliation harassment is a subtle form of retaliation and an often-overlooked type of workplace harassment. Retaliation harassment occurs when a person harasses someone else to get revenge and to prevent the victim from behaving in such a way again.

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## **9.5 Victims of Workplace Harassment : Categories**

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The victims of workplace harassment can be separated into many categories. While one group experiences workplace harassment more frequently than others, workplace harassment still affects wide range of population.

### **a. Gender**

Gender-based harassment is discriminatory behaviour towards a person based on their gender. Negative gender stereotypes about how men and women should or do act are

often the centre of the harassment. Some examples are: A male nurse facing harassment for having what is perceived as a woman's job. A female banker hits the glass ceiling and taunted for not being "leader material". A male colleague displays material (comics, posters) that's degrading to women.

Both men and women are victims of workplace harassment. Workplace harassment for women dates back to women's first foray into the workforce, as early as colonial times. The most common form of workplace harassment that women face is sexual harassment. According to Fitzgerald, one of every two women experiences workplace harassment in their working or academic lives. The most common form of sexual harassment is the unwanted and unavoidable sexual attention from co-workers. A study of government employees shows the inescapable, uncomfortable sexual attention takes varying forms 33% of respondents had been called by sexual remarks, 26% of respondents faced physical touching and 15% respondents were pressured to go on a date. The more explicit forms of sexual harassment are shown by court cases these days. While workplace harassment against women has been a frequent subject of study for more than twenty years, workplace harassment against men rarely receives attention and is not subjected to many studies.

### **b. Sexuality**

Sexual orientation-based harassment is starting to garner attention and recognition as a legitimate type of workplace harassment. Victims face harassment because their sexual orientation is different from those around them. People of any sexual orientation (heterosexual, homosexual, bisexual, transgender, queer, asexual etc.) may experience this form of harassment depending on their line of work. One common form of workplace harassment for LGBTQA community is the psychological and physical strain in hiding their sexuality in a heterosexist workplace environment. Other form of workplace harassment is direct harassment from the public after disclosing one's sexuality. Because an LGBTQA individual experiences explicit sexual assault, verbal assault, physical violence and hate crimes after disclosing their sexuality, the LGBTQA community more often than not conceals its sexuality in workplaces. Though many countries have made laws in their favour the society and some people still have reservations of their own and are treated differently in different social situations.

Did you know?

The Williams Institute 2011 study shows that "In the American workforce, more than eight million people (or 4 percent of the U.S. workforce) identify as lesbian, gay, bisexual or transgender(LGBT)."



**c. Race**

A victim may experience racial harassment because of their race, skin colour, ancestry, origin country or citizenship. Even perceived attributes of a certain ethnicity (curly hair, accents, customs, beliefs or clothing) may be the cause. Racial harassment often include: racial slurs, racial insults, racial jokes, degrading comments, disgust and intolerance of differences

Many studies show that culturally stigmatized groups face more workplace harassments. With changes in the political and social scenes in America, subtle and daily harassment is more common than blatant and explicit harassment today. The mistreatments and harassments do not explicitly confirm "reference race or discrimination as the cause of the treatment", because overt racism is prohibited in workplaces. However, the statistics show race is "significantly associated with mistreatment". Of the eighth of the workforce experiencing homicide, more than a fourth of the population is an ethnic minority.

**d. Religion**

Religious harassment is often interconnected with racial harassment, but narrows in specifically on the victim's religious beliefs. An individual with a religion that differs from the "norm" of the company may face workplace harassment or intolerance in a variety of ways: intolerance toward religious holidays, religious traditions, religious customs, sharing cruel religious jokes, making degrading stereotypical comments and adding pressures to convert into the majority religions.

**e. Disability**

Disability-based harassment is a type of workplace harassment directed towards individuals who either: suffer from a disability themselves, are acquainted with a disabled person or people or use disability services (sick leave or workers' comp). A person with a disability may experience harassment in the form of harmful teasing, patronizing comments, refusal to reasonably accommodate a disabled person or isolation them.

**f. Age-Based Harassment**

A person facing age-based harassment might be: teased and insulted, left out of activities or meetings or unfairly criticized simply because of their age and the stereotypes that come with it. Unfortunately, this harassment is sometimes an attempt to wrongfully push the individual into early retirement.

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## 9.6. Impacts of Workplace Harassment

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### a. Alcoholism

The intensity of workplace harassment is positively correlated with the level of alcohol use. One of the motives that people drink is "to self-medicate distressful feelings resulting from problematic social conditions". Thus, the negative social distress faced in workplaces is linked with increased consumption of alcohol. Moreover, because workplace harassment cannot be clearly delineated like sexual or racial harassment, victims do not counteract by legal and institution responses. Rather, they rely on drinking to cope with the emotional distress.

Many studies shows that while both women and men are at risk of alcoholism under workplace harassment, men are more likely to cope by drinking than women do. In a majority of cases women use their relatively wider social connections to attain the emotional support. But many researchers are of the view that women are more sensitive and receptive of workplace harassment and therefore women have "a greater propensity to drink". The negative drinking effects are more severe for women than they are for men.

Many surveys completed on employees have shown that the positive correlation between consumption of drinking and levels of workplace harassment continues after retirement. Even when the immediate abusers are not present, the victims still retain the increased use of alcohol. The study attributes the reason for the lasting effect that is "appropriate alcohol consumption may have functioned to somewhat inhibit the self-medication of stress-induced distress during work role occupancy".

### b. Post-Traumatic Stress Disorder (PTSD)

PTSD is commonly known as a "war wound", yet it also affects workers. "When a worker suffers PTSD, the workplace for that person has become a war zone". Several studies show that many workplace harassment victims experience Post-Traumatic Stress Disorder (PTSD). Based on the duration and persistency of the workplace harassment, the levels of PTSD differs from one person to another. The more recent and frequent the workplace harassment occur, the more severe the symptoms of PTSD are.

### c. Other psychological effects

Other than alcoholism and PTSD, victims of workplace harassment also experience other negative psychological effects. In comparison to the employees who have not experienced workplace harassment, employees who have experienced exhibited higher level of anxiety and nervousness. Many victims of workplace harassment have showed

symptoms of depression, stress, fatigue, lack of confidence, humiliation, guilt, nervousness and nightmares.

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## **9.7 Prevention or Expert Tips to Stop Harassment**

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The "Me Too" is a social movement against sexual harassment and abuse where people publicize allegations of sex crimes. This movement has enhanced awareness of sexual harassment and many employers have re-examined and strengthened their policies and procedures. Victims have felt more comfortable reporting incidences of harassment. So, now we know what types of harassment plague the office, the next step is to stop it. Here are three ways.

1. Implement, Update and Revive the Policies related to workplace harassment: Whatever verb is applicable to the policy situation of the workplace should be implemented. In case of an absence of a policy immediate steps for its creation should be initiated. In case of an outdated or dysfunctional policy immediate enforcement should be the next step. If there is a policy and it is accurate and enforced, the staff will have no reason not to abide by it. But as long as there's no guiding light for conduct and misconduct, there will be high chances of chaos if and where the situation arises.

2. Training: A proper and detailed training programme for the employees on harassment, its identification and report should be given to prevent harassment in the workplace. Workplace harassment training is an important part of doing business, as harassment and discrimination claims can have a lasting impact on any company, by increasing costs and damaging its reputation. In order to prevent problems of workplace harassment from arising, employers should take part in, and provide for its employees, workplace harassment training. Knowing just how to handle claims of harassment could prevent a civil judgment against the employer in a lawsuit for workplace harassment.

In order to implement workplace harassment training, employers should adopt a policy that complies with the legal system of the country. This policy should then be posted in the workplace and handed out to employees. Human resource staff and all supervisors should be trained on what constitutes workplace harassment, as well as the steps that need to be taken if it occurs. Employees should also be trained on how to identify the harassment and the steps they can take to prevent or stop it.

3. Implement, Update, Revive the Internal Complaint System: Policy and training can only do so much. To supplement a policy, and to step in when it's not enough, an internal complaint system can make employees feel safe and supported.

Unless a company has a formal complaint system that acknowledges the victim's rights to anonymity and security from retaliation, they probably won't come forward. Victims will fear the potential backlash and the lack of support might be worse than the harassment they already face.

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## **9.8. How to Handle Workplace Harassment**

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A person experiencing workplace harassment, or witnessing it perpetrated against another, may wonder how to handle workplace harassment. Employees can take certain steps to protect themselves and to ensure unwanted behaviour stops, if it occurs. Many employers provide new employees with an employee handbook, which provides company information, instructions and policies, including policies on workplace harassment.

In learning how to handle workplace harassment, it is important to understand that the first step is to clearly tell the offender to stop his unwanted or offensive behaviour. If the victim is scared or feels intimidated, he or she should seek help from a superior or human resource worker. All harassment should be documented thoroughly, including dates of incidents, name of the harasser(s), witnesses and descriptions of the actions. This may include keeping a log of incidents, keeping offensive emails, text messages, voicemails, and other communications. It may also include making and keeping copies of offensive postings, such as posters, cartoons and signs that are patently offensive.

If the offender fails to stop the behaviour when asked, the victim should report the conduct to his supervisor or human resource worker. This gives notice to the employer that an investigation needs to be done. If the offensive behaviour still does not stop, the victim should again report the other party's actions to the supervisor or human resources.

If, after following the appropriate chain of command in reporting workplace harassment, the issue is not resolved, the employee can file a formal complaint with the law. While it is not required, victims of workplace harassment may also hire an attorney experienced in labour law, harassment and discrimination to assist with complaints and even lawsuits.

However, prior to doing so, victims should usually make an effort to resolve the situation internally. One option is to reach out to the offending individual directly and let them know that such an act would not be acceptable. Another option could involve contacting the higher supervisor for assistance if one does not feel comfortable confronting the offender directly.

In cases where the perpetrator is in a powerful position than the victim, he/ she can contact either the Human Resources Department or their supervisor's boss and request

quick redressal of the matter. In addition, many organizations have designated an EEO or workplace complaint officer specializing in these issues who can be contacted for a confidential consultation.

Job applicants and other harassment victims may choose to consult a labour/employment attorney if other measures have not resulted in a satisfactory resolution. Historically, some employers have urged victims to sign confidentiality agreements as part of the resolution process thus in cases like this one needs to consult an attorney before relinquishing their rights.

### **9.8.1 Law and the Prevention of Sexual Harassment at workplace in India**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act") came into force on December 9, 2013, and is framed to provide protection to women at the workplace against sexual harassment. Under the POSH Act, "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication).

The POSH Act has been developed on and around these three foundations:

1. Sexual harassment at workplaces violates fundamental rights of gender equality and right to life and liberty and the right to work with human dignity guaranteed under the Articles 14, 15, and 21 of the Constitution of India.
2. In addition, failing to protect women against sexual harassment and not able to save their right to work with dignity went against the universally recognized human rights by international conventions and instruments such as the Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on June 25, 1993, by the Government of India. Thus, the POSH Act is an attempt to overcome these shortfalls.
3. POSH Act is an extension of Vishakha Guidelines, 1997, introduced by the Supreme Court which had laid down guidelines for dealing with sexual harassment in the workplace, pending formal legislation.

The POSH Act further lays down rules for the prevention and redressal of sexual harassment complaints by female workers.

This article sets out a brief framework of the POSH Act and the rules framed there under.

- Every organization, public or private, having more than 10 employees, should be committed to provide a safe and congenial work environment to its employees and ensure that they are not subject to any form of sexual harassment.
- Further, every entity should endeavour to create a safe and secure working environment for all persons employed or engaged by them. Every employee should enjoy a working environment that is free from all forms of harassment, including sexual harassment, unlawful discrimination, and intimidation.

While the POSH Act has been enacted for the protection of female employees from sexual harassment at the workplace, most of the entities in India have extended policies of sexual harassment to their male employees as well to be gender-neutral.

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## **9.9 Conclusion**

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Harassment at a work place is a growing issue. It cannot be checked without the implementation of a strong policy by the company or an institution. The organisation must play a proactive role in providing the behavioural support and discuss this aspect as a part of the work routine. The staff must nurture an inclusive, supportive and respectful environment in the office in order to build a congenial working atmosphere. Equally important is the organizational support to the victim of workplace harassment and the redressal process to overcome the negative effects of such an experience. Every worker male/female should stand up and fight against any kind of injustice or abuse to make their working space a safe and healthy one. It is only then workplace harassment can be checked.

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## **9.10 Summary**

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As victims are often unsure of what qualifies as harassment and what to do when they're being harassed, it often goes unreported and continues to be an issue.

Overbearing supervision, constant criticism and blocking promotions are all considered workplace harassment.

Workplace harassment is not limited to sexual harassment and doesn't preclude harassment between two people of the same gender.

The victims of workplace harassment can be separated into many categories. While one group experiences workplace harassment more frequently than others, workplace harassment still affects a wide range of population.

Gender-based harassment is discriminatory behaviour towards a person based on their gender. Negative gender stereotypes about how men and women should or do act are often the centre of the harassment.

People of any sexual orientation (heterosexual, homosexual, bisexual, transgender, queer etc.) may experience this form of harassment depending on their line of work.

A victim may experience racial harassment because of their race, skin colour, ancestry, origin country or citizenship.

Religious harassment is often interconnected with racial harassment, but narrows in specifically on the victim's religious beliefs.

Disability-based harassment is a type of workplace harassment directed towards individuals who either: suffer from a disability themselves, are acquainted with a disabled person or people or use disability services.

Many studies shows that while both women and men are at risk of alcoholism under workplace harassment, men are more likely to cope by drinking than women do.

Based on the duration and persistency of the workplace harassment, the levels of PTSD differs from one person to another.

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## 9.11 Questions

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### Answer in detail [ 18 marks ]

- a. What is workplace harassment? What are its different components?
- b. What is the impact of workplace harassment on an employee?
- c. Into how many categories can the victims of workplace harassment be divided?

### Answer briefly[ 12 marks]

- a. Write in brief the effects of workplace harassment on women.
- b. Write a note on the legal support given to the victims of workplace harassment in India.
- c. What is the best way to successfully reduce harassment at the workplace?
- d. What are the measures that can address the problem of workplace harassment?

### Answer very briefly [ 6 marks]

- a. Name two types of workplace harassment.
- b. Define workplace harassment.

## 12. Related terms and Issues

- Workplace Bully: Seek to harm, intimidate or coerce someone perceived as vulnerable.
- Workplace Mobbing: Surrounding and attacking someone in order to drive them off.
- General anxiety disorder: A mental illness in which a person is so anxious that their normal life is affected.
- Workplace Mistreatment: The practice of treating (someone or something) badly.
- Workplace aggression: It refers to an aggressive act that occurs in a work place carried out by an individual with the intent to cause harm to another person or a group of people.
- Molestation: To touch or attack someone in a sexual way against their wishes.
- Workplace abuse: It is cruel and violent treatment of people in the workplace.

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## 9.12 References

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- Keashly, Loreleigh (July 1997). "Emotional abuse in the workplace: conceptual and empirical issues". *Journal of Emotional Abuse*. 1 (1): 85-117.
- Layden, Dianne R. (1996), "Violence, the emotionally enraged employee, and the workplace: managerial considerations", in Curry, Renée R.; Allison, Terry L. (eds.), *States of rage: emotional eruption, violence and social change*, New York, New York University Press, pp. 48-49, ISBN 9780814715307.
- Lee, Deborah (July 2000). "Hegemonic masculinity and male feminisation: the sexual harassment of men at work". *Journal of Gender Studies*. 9 (2): 141-155.
- Leonard, E.B., *Women, Crime and society*, Longman, New York, 1982.
- Schat, Aaron C.H.; Kelloway, E. Kevin (April 2003). "Reducing the adverse consequences of workplace aggression and violence: the buffering effects of organizational support". *Journal of Occupational Health Psychology*. 8 (2): 110-122.Pdf.
- Zapf, Dieter (1999). "Organisational, work group related and personal causes of mobbing/ bullying at work". *International Journal of Manpower*. 20 (1-2): 70-85.





**Module III**  
**Sexual Violence**



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## **Unit: 10 □ Sexual Violence : Nature and Concepts**

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### **Structure**

#### **10.1 Learning Objectives**

#### **10.2 Introduction**

##### **10.2.1 Meaning and Definition : Sexual Violence**

##### **10.2.2 Nature of Sexual Violence**

##### **10.2.3 Rape as Sexual Violence**

#### **10.3 Reasons for Sexual Violence**

#### **10.4 Molestation as a form of Sexual Violence**

#### **10.5 Conclusion**

#### **10.6 Summary**

#### **10.7 Questions**

#### **10.8 References**

#### **10.9 Glossary**

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### **10.1 Learning Objectives**

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After thoroughly going through the unit , you will be able to understand the following things:

- To have a clear idea on the concept of sexual violence
- To understand Rape and Molestation as a form of sexual violence
- To have an understanding of the reasons behind the sexual violence

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### **10.2 Introduction**

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Sexual violence may be considered as a serious public crime and incorporates a profound short or long-run impact on physical and mental state. It is one of the severe violations of human rights. The purpose of this unit is to provide an insight into the meaning and nature of sexual violation with special attention to Rape and Molestation. The nature concept and types of sexual violence are discussed at length. Sexual violence is an act of violence that may be perpetrated by folks, caregivers, acquaintances and strangers, and also by intimate partners. It is seldom against the law of passion, and is an aggressive act that regularly aims to show power and dominance over the victim . It took several

years for sexual violence, not to be thought of as a minor issue and hence become criminalized. The term rape as sexual violence deserves special mention. Generally all societies have had a concept of the heinous crime of rape. Although what constituted this crime has varied by historical period and culture, the definitions tended to focus around an act of forced vaginal intercourse perpetrated through physical violence or imminent threat of death or severe bodily injury, by a man, on a woman or a girl, not his wife. Sexuality as conceptualized in many societies rejects the notion that a woman could force a man into sexual activity. Molestation as another form of sexual violence is discussed in brief. Rape and Molestation have their differences and is discussed in the succeeding sections.

### **10.2.1 Meaning and Definition of Sexual Violence**

We need to understand first, what is violence? Precisely violence means where physical force is intentionally used, against oneself or another person, or against a group or community. Violence results in injury, death, psychological harm, mal development, or deprivation. Violence can be of three main types-physical, sexual and emotional. Physical violence means when someone uses a part of their body or an object to control a person's actions. Sexual violence occurs when a person is unwillingly forced to take part in sexual activity. Emotional violence happens when someone says or does something to make a person feel stupid or worthless.

Coming to sexual violence, it is any sexual act or attempt to indulge in a sexual act by violence or coercion. It is rampant in times of peace and armed conflict. It is widespread and is taken into account to be one amongst the traumatic, pervasive, and most common human rights violations.

Sexual violence may be considered as a serious public crime and incorporates a profound short or long-run impact on physical and mental state. It might be diagnosed in hospitals with profound risk of sexual and other health issues like risk of suicidal tendencies and HIV infection. Sexual violence can occur to anybody at any age. It's an act of violence that may be perpetrated by folks, caregivers, acquaintances and strangers, and also by intimate partners. It is seldom against the law of passion, and is an aggressive act that regularly aims to show power and dominance over the victim.

It remains extremely stigmatized, therefore levels of speech or act of the assault vary between regions. In general, it seems that it is underreported and we tend to underestimate the true scale of the grave matter. Moreover, sexual violence is additionally a neglected space of analysis, so deeper understanding of the problem is

imperative so as to push a coordinated movement against it. Domestic sexual violence is distinguished from conflict-related sexual violence. Often, those that obligate their spouses into sexual acts believe their actions are legitimate as a result of being married. In times of conflict, sexual violence tends to be an inevitable repercussion. Sexual violence in the form of rape of girls and of men is usually used as a technique of warfare, as a type of attack on the enemy, typifying the conquest and degradation of its girls or men or captured male or feminine fighters. From a historical perspective, sexual violence was thought of as solely happening to girls and as being commonplace and normal throughout each war and peace times from the traditional Greeks to the twentieth century. It took from the beginning of the twentieth century to till date, for sexual violence to be considered as not a minor issue and hence become criminalized.

The World Health Organization (WHO) in its report on Violence and Health outlined sexual violence as: “any sexual act, commit, to acquire a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against somebody’s gender victimization coercion, by anyone in spite of their relationship to the victim, in any setting, together with, however, not restricted to home and work”.(WHO report:2009).WHO’s definition of sexual violence is not restricted to rape, that is outlined as physically forced or otherwise coerced penetration of the female genitals, employing an erectile organ, alternative body elements or an object. Sexual violence consists in an exceedingly purposeful action. The intention is usually to bring down severe humiliation on the victims and diminish human dignity. Other acts incorporated in sexual violence include numerous styles of sexual assaults, like forced contact between mouth and erectile organ, female genitals. Sexual violence will embrace coerced contact between the mouth and erectile organ, female genitals, or acts that don’t involve physical contact between the victim and therefore the perpetrator—for example, molestation, threats, and peeping.

Broader definitions of sexual violence are found in law. The Rome Statute of the International court (ICC) has established in article 7(1)(g) that “rape, sexual slavery, implemented harlotry, forced maternity, implemented sterilization, or the other type of sexual violence of comparable gravity” constitutes a criminal offense against humanity.(Internet Accessed on 12.9.2019)Sexual violence is explained within the ICC’s components of Crimes, that the Court uses in its interpretation and application of article 7(1)g. The book of Crime establishes that sexual violence is:

“An act of sexual nature against one or a lot of persons or caused such person or persons to have interaction in an act of sexual nature by force, or by threat of force or coercion, like that caused by concern of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a powerful setting or such person’s incapacity to administer real consent.”(Internet Accessed on 12.9.2019). A thorough definition is critical in observation of the prevalence of sexual violence and learning trends over time.

Conflict-related sexual violence is sexual violence perpetrated by combatants, together with rebels, militias, and government forces. The varied styles of sexual violence will be used consistently in conflicts to torture, injure, extract data, degrade, threaten, intimidate or punish. Sexual violence will in such cases is a weapon of war.

Domestic sexual violence is sexual violence perpetrated by intimate partners and by alternative family/household members, and is usually termed intimate partner violence. This type of sexual violence is widespread throughout conflict and in war time period. It’s usually believed that incidences of domestic sexual violence increase in period of wartime and in post-conflict environments.

A wide spectrum of individuals fall victim to sexual violence. This includes girls, men and kids, however conjointly that outline themselves in alternative terms, e. g. Transgender individuals. Most analysis, reports and studies concentrate on sexual violence against girls and sexual violence in armed conflicts. Though narratives on sexual violence typically depict men as perpetrators and girls as victims. Indeed, girls suffer disproportionately from sexual violence , but sexual violence is committed by both men and girls. A 2006 World Health Organization study on physical and sexual force against girls conducted across 10 countries, finds that prevalence of sexual force ranges on the average between 60 to 70 percent. Domestic sexual violence is additionally significantly less common than alternative styles of force.

### **10.2.2 Nature of Sexual Violence:**

Sexual violence is one among the foremost common and widespread human rights violations where the girls are mostly the victims. But the victims can be even boys or transgender , though they are lesser in numbers than girls. It is the foremost traumatic and psychological experience, that girls suffer throughout conflict.

Sexual Assault is unwanted, coerced or forced sexual penetration or touch. Penetration may be of the victim or forcing the victim to penetrate the actor. Penetration can be accomplished with either a body part or other object. Similarly, contact can be sexual contact with the victim or forcing a victim to touch the actor.

The terms sexual assault and sexual violence are often used interchangeably, however, both terms are used to describe various types of abuses.

*(i) Date/Acquaintance Rape*

Unwanted, coerced or forced sexual penetration that occurs between people who are known to each other. This relationship may be a dating relationship, a blind date or “hook up.” They may know one another well or for only a short period of time.

*(ii) Intimate Partner Sexual Violence (IPSV)*

Rape or sexual assault occurring between two people who have a consensual sexual relationship is understood as Intimate Partner Sexual Violence. Marital rape is an example. Intimate partner sexual violence is often a part of relationships in which other types of violence are present. IPSV is mostly seen occurring in dating relationships, marriages or long term gay or lesbian relationships. It is certainly unlawful regardless of previous sexual contact.

*(iii) Alcohol or Drug Facilitated Sexual Assault*

Here alcohol or other drugs are used towards the victim in order to perpetrate a sexual attack. Many types of drugs are used for this purpose. Some of the common drugs are Rohypnol, GHB and Ketamine. However, it must be pointed out that, although these drugs are used for sexual violence, alcohol remains the most common substance used towards victims.

*(iv) Child Sexual Abuse*

Any sexual contact with a child is illegal. Offenders who target children use a variety of strategies to engage a child, including- force, trickery, bribery, and blackmail. Child sexual abuse can be committed by another child, a young person, or an adult.. Studies on abused boys have shown that around one in 5 continue in later life to molest kids themselves. Child sexual abuse might cause negative behavioural patterns in later life, learning difficulties in addition as regression or slower development.

*(v) Incest*



Sexual abuse that is committed by any family member against another. It is called familial sexual abuse; incest can be committed by a parent, sibling, other family member, or an unrelated person living with, or treated as part of the family.

*(vi) Pornography*

Child pornography is any sexually graphic material or any material produced for the purpose of sexual arousal that depicts children, and is always unlawful. It is accompanied by violence, bribery and coercion, even if none is depicted. It is by nature abusive. Expressions of sexuality in our culture are often targeted, misunderstood, and demonized.

*(vii) Commercial Sexual Exploitation*

Commercial sexual exploitation include stripping, prostitution, nude bars, live sex shows, peep shows, and trafficking of people.

*(viii) Professional Sexual Exploitation*

This refers to the inappropriate use of sexual gestures and words by professionals and volunteers. Any sexual interaction between professionals and clients is a sexual violation. Professionals are ethically or legally bound to abstain from sexual interaction with clients, patients, and others they serve. Professions can include counselling, psychology, social work, therapy, health care, clergy, law, victim advocacy, education, and public health.

*(ix) Female Genital Mutilation*

Female genital mutilation is the term used to refer to the removal of part, or all, of the female genitals. The most severe form is infibulation. The procedure consists of clitoridectomy where all, or part of, the clitoris is removed or removal of all, or part of, the labia minora, and cutting of the labia majora to create raw surfaces, which are then stitched in order to form a cover over the vagina to heal. A small hole is left to urinate and menstrual blood.

*(x) Systematic Sexual Abuse*

This is an organized form of sexual abuse, which involve numerous perpetrators and victims, and used to control, condition, and initiate victims. This type of abuse may be repeated frequently and be perpetrated under the guise of a spiritual expression or initiation into a gang or other secret or selective group.

*(xi) Sexual Harassment*

Abusive verbal sexual advances, requests for sexual gratifications, and other visual, verbal, or physical conduct of a sexual nature comes in its ambit. Sexual harassment

can take place in the workplace, school and other settings such as public transport, shopping malls, events, social gatherings, , etc places. It can create a hostile environment for the victim. How the victim perceives and not the intent of the abuser actually determines whether the particular words or act is harassing or not.

Statistics regarding transgender people's experience of sexual violence shows astonishing levels of sexual abuse and assault. One in every two transgender individuals are sexually abused or assaulted at some point in their lives. Some reports suggest that transgender survivors may experience rates of sexual assault up to 66 percent, often coupled with physical assaults or abuse. This shows that the majority of transgender individuals are living with the a trauma and the fear of possible victim in near future.

Mostly women and girls are targeted by conflict-related sexual violence (CRSV) but men and boys are also targeted. Gender-based violence and child abuse are focused on women and girl child and very little attention is paid to the sexual assault of men and boys.

### **10.2.3 Rape as Sexual Violence**

Sexual violence, above all rape, is usually thought of as a technique of warfare. It's used not solely to torture, injure, extract data, degrade, displace, intimidate, penalize or just destroy but also as a technique to destabilize communities and demoralize men. The employment of sexual violence as a weapon of war was widespread during conflicts like, Sudan, Sierra Leone, and Kosovo. The perpetrators of female-directed violence in times of conflict are typically armed teams and native individuals.

Victim of sexual violence may be in a serious pathological state and has negative physical and psychological effects on health and well-being. There's proof that male and feminine victims of sexual violence might suffer similar psychological state, behavioural and social consequences:-

Rape may be a type of regulatory offense, however not all regulatory offense is rape. The term rape is usually used as a legal definition to specifically embrace sexual penetration without consent.

Apart from the use of force, perpetrators might use emotional coercion, psychological force, or manipulation to obligate a victim into non-consensual sex. Some perpetrators can use threats of the use of force to compel a victim to oblige, like threatening to harm the victim or the family or alternative intimidation techniques.

In alternative instances the victim might not grasp the identity of the wrongdoer. This sort of sexual violence is typically remarked as unknown rape. Unknown rape will occur in many different ways:

**Blitz sexual assault:** once a wrongdoer quickly and savagely assaults the victim with no previous contact, typically at the hours of darkness in an exceedingly public place.

**Contact sexual assault:** once a wrongdoer contacts the victim and tries to achieve their trust by play, luring the victim to their automobile, or otherwise making an attempt to obligate the victim into a state of affairs wherever the sexual offense can occur.

**Home invasion sexual assault:** ~~once~~ here an unknown person breaks into the victim's home to commit the assault. Survivors of unknown rape and acquaintance rape typically blame themselves for behaving in a manner that inspired the wrongdoer. It's necessary to recollect that the victim may be never in charge for the actions of a wrongdoer.

A wrongdoer will have any relationship to a victim, which includes the role of an intimate partner. There are various terms to discuss with sexual offense committed by an individual in a relationship with the victim, including: intimate partner sexual violence, force, intimate partner rape, marital rape, and spousal rape. Despite what term is employed or however the connection is outlined, it's never okay to have interaction in sexuality while someone's does not give consent.

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### **10.3 Reasons for Sexual Violence**

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Sexual assault in a relationship, seldom exists in a vacuum. It typically happens in different styles of abusive behaviour. The bulk of girls according to World Health Organization who were physically mistreated by an intimate partner had been sexually mistreated by that very same partner.

The term 'sexual violence' is used as a general term which denotes abuses, coercion and force that mostly girls are a prey to men. There are empirical and theoretical reasons for victimization. it's unacceptable to form neat distinctions between physical and sexual violence. On a theoretical level the term attracts attention to the very fact that it's violence committed by one sex, men, directed at the opposite sex, women. It links to MacKinnon's (1982) analysis of gender as a system of power through that men commit to manage girls. (Kelly:1987)

There are many reasons for the occurrence of sexual violence. It is important to make it clear that the abuser and not the victims are responsible for sexual violence. The offenders have a sense of their own understanding to use power and to commit sexual violence. Most of them adhere to strong gender roles that focus on the inequality of women. This allows them to treat women and the targeted victim with no regard or respect.

It is also important to look at other factors that contribute to sexual violence occurring such as those that are used to justify or excuse sexual violence. Gender-based stereotypes reinforce inequality between genders. For example, in a society where men are portrayed as being aggressive and women are seen as passive, a man who pressures a woman for sex is often perceived as behaving acceptably. Gender-based stereotypes are reinforced throughout society and can be seen reflected in culture and media.

Research indicates that alcohol and other drugs are often used by the perpetrator to incapacitate victims. Alcohol and drugs do not cause sexual violence but are contributing factors to the happening of sexual violence. Victims are blamed and in the prevalent culture the blame falls solely on the victim. To blame the victim means victim is responsible for the crime committed against her based on the way she behaves, dresses or lives. Such beliefs encourage sexual violence.

Typical responses to sexual assault are one or more of the following:

- Fear in the mind of the victim;
- A feeling of losing control of their lives
- Reminiscent of the assault again and again;
- Problems while concentrating;
- A feeling of guilt;
- A negative self-image is built
- Depression;
- Loss of interest in sex
- Fear and anxiety cause physical, mental, and behavioral reactions, all of which may lead the assault survivor to feel as though she has no control over her life (some information obtained from the Medical University of South Carolina).

These reactions are normal responses to the trauma all the victims go through.

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## 10.4 Molestation as a form of Sexual Violence

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Molestation covers experiences at work, on the street and public assaulted at crowded places. Molestation covers experiences wherever girls feel pressured by the man's behaviour or expectations, however they cannot say no. Molestation is experiences girls delineate as being 'like rape', wherever their consent is coerced or participation forced.

Molestation suggests that physical sexual acts are without the consent of the opposite person or once the opposite person is unable to administer consent. It might include physical offense, domestic violence, and stalking. The activity or conduct might embrace the person and contain physical force, violence, threat, intimidation, ignoring the objections of the opposite person, inflicting the opposite person's intoxication or incapacitation (through the employment of medication or alcohol) or taking advantage of the opposite person's intoxication (including voluntary intoxication)

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## 10.5 Conclusion

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Sexual assault may be a type of sexualized violence, that is, violence enacted in an exceedingly sexual method.

Sexual offense happens as a result of perpetrators placing their wishes over the survivor's right to consent. The survivor isn't in charge of the situation. Sexual assault is an act of violence, not sex. We tend to concentrate on the perpetrator's narrative and not the survivor's. This idea once more ties sexual violence to uncontrollable desire. Individuals don't commit sexual violence as a result of not having enough sexual opportunities. Individuals commit sexual offense as they feel entitled to people's bodies and disrespect another person's right to consent.

The consumption of alcohol doesn't cause sexual offense. Perpetrators, however, typically use alcohol or alternative medication as a way to facilitate assault. Like alternative criminal offenses, regulatory offense is usually an expedient crime, and perpetrators typically take the survivor's incapacitation as a chance to commit violence. Like alternative crimes, however, being drunk once committing regulatory offense doesn't absolve an individual of responsibility. Whether or not an individual is drunk, the person initiating sexuality should have clear and unambiguous consent. Many people have detected of the fight or flight response . The freeze

response may be a biological condition conjointly remarked as tonic immobility. Tonic immobility is an involuntary class response that happens in very fearful situations. This doesn't mean the sex is accordant. False accusations of sexual violence is very rare.

Men also are victims of sexual violence, and their perpetrators will be women.

But this idea results from an oversimplified and ultimately inaccurate understanding of gender. At the basis of this argument is the belief that men are biologically susceptible to sexual violence due to their hormones, sex drive, etc.; however these offenses are not regarding sexual desire; they are regarding power and management.

Whereas it is true that the bulk of perpetrators are men, this has a lot more to do with the way in which our society has created gender and masculinity, than biology.

There are several reasons why a survivor may maintain a relationship with somebody. The survivor may feel their safety would be vulnerable if they finish the connection. The survivor is also unable to avoid the wrongdoer if they live along, work along, at school along, or have an equivalent social circles. Or the survivor may still be shaping and making an attempt to grasp what's happened. Survivors feel social pressure to act like everything is okay, in spite of what they really feel. The necessary factor to recollect is that victims address traumatic incidents in numerous ways.

Sexual violence is the use of sexual actions and words that are unwanted by and/or harmful to a different person. A number of these actions are outlined as crimes. Some experiences of sexual violence are hurtful and violations of public boundaries. However it might not rise to the extent of a criminal offense. But that doesn't diminish the victim's pain of being injured. Sexual violence is widespread. It is wrong and harmful. It may be a broad term that covers several actions.

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## **10.6 Summary**

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Sexual Violence is a public crime. There are sexual definitions of sexual violence. The nature of sexual violence are varied, as these are various types of abuses. Rape is a form of sexual violence. There are sexual reasons for sexual assault. The bottom line is the sexual actions and words, that come under sexual violence are always unwanted and harmful to a person.

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## 10.7 Questions

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### Each Question is of 6 marks

1. What is sexual violence?
2. What are the different form of sexual violence?
3. Is sexual violence and sexual assault same?

### Each question is of 12 marks

1. How can a sexual harassment be severe?
2. Explain domestic sexual violence.
3. What is 'date rape'?

### Each question is of 18 marks.

1. Discuss the nature of sexual violence? .
2. Do you find anomaly in the term sexual violence? Give reasons for your answer.
3. Discuss in detail the distinction between sexual violence in the domestic sphere and outside.
4. What are the factors responsible for sexual violence?

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## 10.8 References

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1. World Health Organization Report, Geneva, 2002, Chapter 6, pp. 149.
2. [https://en.wikipedia.org/wiki/Sexual\\_violence](https://en.wikipedia.org/wiki/Sexual_violence). (Internet accessed on 12.9.2019)
3. [https://en.wikipedia.org/wiki/Sexual\\_violence](https://en.wikipedia.org/wiki/Sexual_violence) (Accessed on 12.9.19)
4. Belgrave, Faye Z. (2013). African American Psychology: From Africa to America. SAGE Publications. p. 501.
5. Kelly L. (1987) The Continuum of Sexual Violence. In: Hanmer J., Maynard M. (eds) Women, Violence and Social Control. Explorations in Sociology (British Sociological Association Conference Volume series). Palgrave Macmillan, London pp -46

6. Martin, J.; Anderson, J.; Romans, S.; Mullen, P; O’Shea, M (1993). “Asking about child sexual abuse: methodological implications of a two-stage survey”. *Child Abuse and Neglect*. ,American Psychological Association ,Washington,pp. 383–392

### **Additional References**

1. S Ahuja, *Social Problems in India*, NewDelhi,Rawat Publication (1999).
2. BasabiChakrabarti, *Women’s Studies: Various Aspects*. UrbiPrakashani 2014
3. Jenny Torres Sanchez,*The Fall of Innocence**Innocence*,Philomel books,2018.
4. Jenny Petrak , Barbara Hedge (Edited),*The Trauma of Sexual Assault: Treatment, Prevention and Practice* , Wiley; 1st edition (March 22, 2002).
5. Martin.D.Schwartz. *Researching Sexual Violence against WomenMethodologicaland Personal Perspectives*,sagepublication, March 1997.

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## **10.9 Glossary**

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HIV- (human immunodeficiency virus) is a virus that attacks the body’s immune system. HIV if untreated, can lead to AIDS (acquired immunodeficiency syndrome). There is no effective cure till date.

WHO- The world health organisation-It was established on 7<sup>th</sup> April 1948.It has its headquarter in Geneva Switzerland.It advocates universal healthcare and promotes human well being.

Rome Statute of International Court(ICC)- Rome Statute of the International Criminal Court is often referred to as the International Criminal Court Statute or the Rome Statute. It is the treaty that established the International Criminal Court (ICC). It was adopted at a conference in Rome on 17 July 1998 and it came into force on 1 July 2002.



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## **Unit : 11 □ Rape & Molestation**

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### **Structure**

#### **11.1 Learning Objectives**

#### **11.2 Introduction**

##### **11.2.1 History of Rape**

##### **11.2.2 Rape and Sexual Assault**

#### **11.3 Laws Regarding Rape in India**

##### **11.3.1 What is Rape by Lawbook?**

##### **11.3.2 Is Consent Required in Rape?**

##### **11.3.3 Marital Rape**

###### **11.3.3.1 Why is Marital Rape not a Crime?**

##### **11.3.4 Can Men be Raped by Women?**

##### **11.3.5. Homosexual Rape**

#### **11.4 Punishment of Rape**

#### **11.5 Motive behind Sexual Violence or Rape**

#### **11.6 Effects of Rape**

##### **11.6.1 Physical effects of Rape**

##### **11.6.2 Societal Response to Rape**

##### **11.6.3 Honour Killing and Forced Marriages**

##### **11.6.4 Infections due to Rape**

##### **11.6.5 Emotional and Psychiatric Effects**

#### **11.7 Molestation Meaning**

##### **11.7.1 Molestation Causes**

##### **11.7.2 Is Molestation Completely Different from Rape?**

#### **11.8 Conclusion**

#### **11.9 Summary**

#### **11.10 Questions**

#### **11.11 References**

#### **11.12 Glossary**

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## 11.1 Learning Objective

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After thoroughly going through the unit , you will be able to understand :

- the concept of Rape
- the meaning of molestation and the difference between Rape and Molestation
- the causes related to both the concept along with the various laws and the effects related to it.

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## 11.2 Introduction

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Rape is a sexual assault which involves sexual intercourse or other forms of sexual penetration which is carried out against a person without the approval of the person. The act is generally carried out by physical force, coercion, abuse of authority, or against a person who is incapable of giving valid consent, such as one who is unconscious, incapacitated or with an intellectual disability or is below the age for consent. The term rape is sometimes used interchangeably with the term sexual assault.

Across the world, rape is primarily committed by males. Again the notion Rape by strangers seems less common than rape by people the victim is acquaintedwith; Male-on-male and female-on-female prison rapes are common ,but they are the least reported forms of rape.

Generally all societies have had a concept of the heinous crime of rape. Although what constituted this crime has varied by historical period and culture, the definitions tended to focus around an act of forced vaginal intercourse perpetrated through physical violence or imminent threat of death or severe bodily injury, by a man, on a woman or a girl, not his wife. Sexuality as conceptualized in many societies rejects the notion that a woman could force a man into sexual activity — women were often seen as passive while men were deemed to be assertive and aggressive. Sexual penetration of a male by another male fell under the legal domain of sodomy.

### 11.2.1 History of Rape:

In ancient Greece and Rome, both male-on-female and male-on-male concepts of rape existed. Roman laws allowed three distinct charges for the crime: stuprum, unsanctioned sexual intercourse vis, a physical assault for purpose of lust; and iniuria, a general charge denoting any type of assault upon person. Iniuria was a civil charge that demanded monetary compensation, and had a wider application (for example, it could have been

brought in case of sexual assault on a slave by a person other than their owner.) Augustus Caesar enacted reforms for the crime of rape under the assault statute Lex Iulia de vi publica, which bears his family name, Iulia. It was under this statute rather than the adultery statute of Lex Iulia de adulteriis that Rome prosecuted this crime. Rape was made into a “public wrong” (iniuria publica) by the Roman Emperor Constantine. Romans drew clear distinctions between “active” (penetrative) and “passive” (receptive) partners, and all these charges implied penetration by the assailant (which necessarily ruled out the possibility of female-on-male or female-on-female rape.) It is not clear which of these charges applied to assaults upon an adult male, though such an assault upon a citizen was definitely seen as a grave insult. This is in contrast with the modern understanding of rape. (Randy, Craig: 2001)

Widespread and systematic rape (e.g., war rape) and sexual slavery usually occur during international conflicting scenarios. These practices are criminal offences against humanity and war crimes. Rape is recognized as an element of the crime of genocide when committed with the intent to destroy, in whole or in part, a targeted ethnic group.

Person who is raped can be traumatized by the experience and develop post-traumatic behavioural disorder. Serious injuries can result along with the risk of pregnancy and are at a risk of sexually transmitted infections. A person may face violence or threats from the rapist, and from the victim’s family and relatives.

The term rape originates from the Latin word ‘rapere’ (raptum), which means “to snatch, to grab, to carry off”. Since the 14th century, the term has come to mean “to seize and take away by force”. In Roman law, the carrying off, of a woman by force, with or without intercourse, constituted “raptus”. In Medieval English law the same term could refer to either kidnapping or rape in the modern sense of “sexual violation”. The original meaning of “carry off by force” is still found in some phrases, such as “rape and pillage”, or in titles, such as the stories of the Rape of the Sabine Women and The Rape of Europa or the poem The Rape of the Lock, which is about the theft of a lock of hair.

In 2012, the Federal Bureau of Investigation (FBI) considered rape a crime solely committed by men against women. However, they changed their definition from “The carnal knowledge of a female forcibly and against her will” to “The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” (internet accessed on 20.10.2019) The previous definition, which had remained unchanged since 1927, was considered outdated and narrow. The updated definition includes recognizing any gender of victim

and perpetrator and that rape with an object can be as traumatic as penile/vaginal rape. The bureau further states instances when the victim is unable to give consent because of mental or physical incapacity. It recognizes that a victim can be incapacitated by drugs and alcohol and unable to give valid consent. The definition does not change federal or state criminal codes or impact charging and prosecution on the federal, state or local level. It rather means that rape will be more accurately reported nationwide.

The World Health Organization (WHO) defines rape as a form of sexual assault. The Centre for Disease Control and Prevention (CDC) includes rape in their definition of sexual assault. They term rape a form of sexual violence. The CDC lists other acts of coercive, non-consensual sexual activity that may or may not include rape, including drug-facilitated sexual assault, acts in which a victim is made to penetrate a perpetrator or someone else, intoxication where the victim is unable to consent (due to incapacitation or being unconscious), non-physically forced penetration which occurs after a person is pressured verbally (by intimidation or misuse of authority to force to consent), or completed or attempted forced penetration of a victim via unwanted physical force (including using a weapon or threatening to use a weapon)

### **11.2.2 Rape and Sexual assault:**

Some countries differentiate between rape and sexual assault by defining rape as involving penile penetration of the vagina, or solely penetration involving the penis, while other types of non-consensual sexual activity are called sexual assault. Scotland, for example, emphasizes penile penetration, requiring that the sexual assault must have been committed by use of a penis to qualify as rape. The 1998 International Criminal Tribunal for Rwanda defines rape as “a physical invasion of a sexual nature committed on a person under circumstances which are coercive”. In other cases, the term rape has been phased out of legal use in favor of terms such as sexual assault or criminal sexual conduct.

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## **11.3 Laws Regarding Rape in India**

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The National Crime Records Bureau (NCRB) releases an annual report every year. It shows the data regarding the crimes against women committed in India. It is disheartening to see in the report that rape is one of the most heinous crimes committed against women in India.

Rape is defined under Section 375 of the IPC (Indian Penal Code, 1860). It holds that rape is committed when a man has sexual intercourse with a woman:

1. Against her will;

2. Without her expression of consent;
3. By obtaining her consent by force, or threatening to kill or hurt her or someone she cares about;
4. By making her believe that the man has been lawfully married to her;
5. By obtaining her consent during unsoundness of her mind, when she was intoxicated, or by providing any other substances that might affect her decision-making ability;
6. With or without her consent if she is under 16 years old, and 14 years old in case of Manipur.

This clause also states that mere penetration is sufficient to constitute sexual intercourse, which can be treated as rape. (Crime in India 2019, statistics Volume 1, National Crime Records Bureau, Ministry of Home Affairs)

### **11.3.1 What is rape by Law book?**

After knowing the definition of rape, we need to understand what actually is deemed as rape. Is penetration the only necessary act for rape? What if consent was not expressly given? Or the intercourse was not expressly denied?

To understand all these and other questions that might pop up in our minds, we need to have a look at the various judgements of the Supreme Court and High Courts of India.

In the case of *Sakshi v. UOI*, the Supreme Court threw light on the definition of rape and held that ‘only heterosexual intercourse, i.e., penial and vaginal penetration will be considered as rape within the purview of Section 375 of the IPC’.

The reason behind this verdict of the court was that there can be many forms of sexual abuse and all of them are atrocious. One has to note that not every sexual offence can be considered as rape. Therefore, penetration is necessary in order to constitute the offence of rape.

It was the view of the court that, insertion of foreign objects will be punishable under Section 354 of the IPC, which states that an assault or use of criminal force on a woman in order to outrage her modesty will be punished with imprisonment for up to 2 years.

But, the Court has limited the definition of rape to penial-vaginal penetration without consent. While passing the judgement, the court failed to take homosexual rape, and anal or any other forms of penetration into consideration.

### 11.3.2 Is Consent Required in Rape?

The definition of rape under Section 375 of the IPC clearly states that rape is committed in the absence of consent. But, it is not always practical to express consent verbally or in writing. The question is, how can one prove the presence or absence of consent before the court of law. Section 114A of the Indian Evidence Act, states that: 'If the victim states in her evidence that the consent was not given, the court shall presume the absence of consent', hence, the act will be construed as rape.

The Supreme Court in the case of Miss XYZ v. The State of Gujarat turned the decision of the High Court of Gujarat which held that 'the word of the victim can not be enough for punishing someone, the victim could be putting false allegations for money', as in this case, the victim was ready to withdraw the case for a monetary settlement. However, the Supreme Court concluded that the High Court made a blunder in failing to see that the settlement was being made under threat and coercion. All material evidence present if shows that whatever the victim is true and consent is not given, the court presumes her words to be true.

In the case of State v. Sandeep, the High Court of Delhi held that we must move beyond "no means no" and also understand that "yes means yes".

If such cases are considered as rape, everyone can approach the court after breaking up a relationship. The woman can file a case for cheating or outrage of modesty, but not for rape, as she had given her consent.

It is not practical to provide consent for sex every time, therefore, consent is deemed to be implied sometimes. For examples, in cases of marriage, live-in-relationship, or any other kind of non-platonic relationship, the consent to have sex is deemed implied.

Referring to the Nirbhaya case, Justice Verma Committee was constituted through a Government of India Notification dated December 23, 2012 to look into possible amendments of the Criminal Law to provide for quicker trial and enhanced punishment for criminals committing sexual assault of extreme nature against women. This was on account of the nationwide rage over the December 16, 2012 Nirbhaya gang rape in Delhi.

The Committee submitted its report within 30 days of its constitution, on January 23, 2012. The report was that the Committee was formed in the after the brutal case of gang rape in Delhi in December 2012. The committee was headed by Justice J.S. Verma (Retd) and had two other members, namely, Justice Leila Seth (Retd) and Mr. Gopal Subramaniam.

The Verma Committee report is a comprehensive document on the issue of rape, sexual assault, trafficking of women and children, child sexual abuse and honour killings, especially in terms of definition, references made from international conventions as well as international case laws.

The report notes that, “even though a government may enjoy popular public will, unless and until its actions are informed by constitutionalism, it will be unable to discharge the obligations towards citizens which are guaranteed under the Constitution. The way in which these rights are made visible in life, society, and on a practical and continual basis, is the obligation of the State. This cannot be more telling in the context of women, their rights and their empowerment.”

Some of the recommendations made in the report pertaining to safety measures are :

1. State should undertake the task of providing well-lit roads, streets and other common spaces to the citizens.
2. At night women have to get out of their houses to use sanitation facilities and these moments are abused by anti-social element and hence issue of provision of adequate sanitation facilities in villages and urban areas has to be considered urgently.
3. Directions given by the Supreme Court in respect of use of dark film on car windows need to be implemented strictly as the use of black films upon the vehicles gives immunity to the violators in committing a crime and is used as a tool of criminality, considerably increasing criminal activities.
4. The central government had issued a memorandum dated September 4, 2009 to all state governments titled “Advisory on Crime against Women” which include some pertinent points, gender sensitization of the police personnel, adopting appropriate measures for swift and salutary punishment to public servants found guilty of custodial violence against women, minimizing delays in investigations of murder, rape and torture of women and improving its quality, setting up a ‘crime against women cell’ in districts where they do not exist, providing adequate counselling centres and shelter homes for women who have been victimized, setting up of special women courts, and improving the effectiveness of schemes developed for the welfare and rehabilitation of women who are victimized with greater emphasis on income generation to make the women more independent and self-reliant.
5. The Advisory also directed concerned state departments to take suitable steps to increase number of beat constables specially on sensitive roads, increase number of police help booth/kiosks specially in remote and lonely stretches, increase police

patrolling specially during the night, increase in number of women police officers in mobile police vans, set up telephone booths for easy access to police, install people friendly street lights on all roads, ensure street lights are working.

6. All public transport, after 5.30 pm until 7.30 am must have a security person, they must be well-lit, they must have drivers who are security vetted by local road transport authority and they must have a good character certificate from two known persons in the city.
7. Make it mandatory for the bus owners (or State Road Transport Corporations) to display, in good light, the bus numbers as well as the name, age and address of the drivers along with their photographs and contact numbers. It should be displayed within the bus and should always be visible on the outside of the bus as well.
8. All buses to have CCTV cameras in Metro cities
9. All buses to be fitted with tamper-proof GPS systems.
10. There should be downloadable mobile phone applications so that citizens can, with one click or touch, send distress signals to the police. (<https://www.tribuneindia.com/news/ludhiana/joint-efforts-needed-to-improve-sanitation-144349>)

### **11.3.3 Marital Rape**

Coming to marital rape, it refers to sexual intercourse with one's spouse without their consent. However, it is an exception in Section 375, IPC. The provision clearly states that "sexual intercourse by a man on his own wife even without her consent will not amount to rape".

Marital rape is a big problem in India, and main problem is that most people believe such a thing doesn't even exist. Wives are deemed to have given consent to sex every time her husband wants. A survey conducted by an NGO – RTI Foundation, showed that every 1 in 3 married women in India is subjected to marital rape, which brings the number to about 83%. The statistics are very high, and the crime is heinous; however, the law still remains the same.

The aforementioned NGO had filed a petition in the High Court of Delhi, seeking amendment of the same. In the matter of RTI Foundation v. Union of India (pending), the court vide its previous order observed that acquiring a woman's consent via force, or by any other means could amount to cruelty if not rape. Any other means could include cutting financial ties with her, not providing expenses for kids, etc.



The petition is still pending before the High Court and a pragmatic approach is expected from the court. Many countries in the west such as the U.K and the USA have already criminalised marital rape. It is expected of our Courts to safeguard the equality of women by taking appropriate steps.

#### **11.3.3.1 Why is Marital Rape not a Crime?**

Marital rape is not criminalised. Mr. Deepak Mishra former Chief Justice of India, in a press conference said that ‘there is no need to criminalise marital rape as such laws might create absolute anarchy and will ruin our Indian family values.’ The society in the west is very different from our society. Different customs, religions, various factors deny to make marital rape illegal. In the case of *Independent Thought v. Union of India*, the Supreme Court said that marriage is no longer a social contract but a personal relationship. If laws like divorce and judicial separation could not destroy marriage, it is very unlikely that criminalising marital rape will. Although marital rape is still not a crime, hope is there for the laws to change in the near future.

#### **11.3.4 Can Men be Raped by Women?**

The definition of rape in IPC is very narrow and has made it absolutely clear that only forceful vaginal penetration by a man will amount to rape. Therefore according to laws, men can never get raped and women can never be guilty of rape.

The only provision that can protect men from sexual offences is Section 377 of the IPC, wherein the offender either a man or a woman can be held guilty of forced carnal intercourse. However, forced intercourse with a man cannot amount to rape.

Gender does not matter in the case of a child, whether male or female – all children are protected from sexual offences under the POCSO Act.

#### **11.3.5 Homosexual Rape**

Section 377 of the IPC used to criminalise even consensual sex among people belonging to the same gender as being ‘unnatural’. Hope was brought by the Supreme Court in the case of *Navtej Singh Johar v. Union of India*, where consensual gay sex was not criminalised.

This step is great in achieving equality in our society. Non-consensual homosexual intercourse will not amount to rape, due to lack of laws.

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## 11.4 Punishment for Rape

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Before the Nirbhaya Case, Indian statutes regarded only penile-vaginal intercourse under the definition of rape, and forcible penetration of any foreign object to vagina, mouth, or anus did not fall under this ambit. Due to the lacunae in laws many accused persons freely moved even after having committed such horrible crimes. The definition was broadened after this case to include forceful insertion of foreign objects.

The punishment for rape is provided under Section 376 of the IPC. According to this section, the punishment for rape will be imprisonment for a term of not less than 7 years, which may extend up to life imprisonment – depending on the facts and circumstances of the case.

In grave situations, the punishment will be rigorous imprisonment for at least 10 years, which may extend to life imprisonment. The convict may also be liable to pay fine, along with imprisonment. In Nirbhaya Rape Case, where in murder is committed after a rape, and the instance is so cruel in nature that it qualifies as ‘rarest of rare’, a death sentence is given.

The laws regarding rape in India only cover the tip of the iceberg and fail to recognise as well as acknowledge the existence of the rest. Rape of men or homosexual rape is not even considered rape.

The punishments are too less for such a heinous offence. The cases of rape in India are rising every day. Many cases go unreported. It is really important to educate our society regarding their rights and duties and spread awareness.

Changes are required in the current rape laws of our country. The law needs to change and adapt to the needs of the society.

Victims of rape or sexual assault can be found worldwide and are of various genders, ages, sexual orientations, ethnicities, geographical locations, cultures and degrees of impairment or disability. There are various forms of rape termed as date rape, gang rape, marital rape, incestual rape, child sexual abuse, prison rape, acquaintance rape, war rape and statutory rape.

Consent in rape appears to be complicated by law, language, context, culture and sexual orientation. Various studies have regarded men perceive women’s act as more sexual than they intend. Moreover, verbalized ‘no’ to sex may be interpreted as ‘keep trying’, or even ‘yes’ by offenders. Some believe, when injuries are invisible, the woman must have consented.

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## 11.5 Motive behind Sexual Violence or Rape

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No single facet explains the motivation for rape. The underlying motives of rapists can be multi-faceted. Several factors play which are both psychological and physical such as anger, power, sadism, sexual gratification, or evolutionary proclivities. However, some factors have causal evidence. American clinical psychologist David Lisak, says that compared with non-rapists, both undetected and convicted rapists are measurably more angry at women and more motivated by a desire to dominate and control them, are more impulsive, disinhibited, anti-social, hypermasculine, and less empathic. (Richard, Marvin:1990)

Sexual violence is regarded as masculine identity. That is manhood in some male groups and is considered higher in esteem among male group. Gang rape is considered by male offenders as a justified method. They regard it as immoral behavior among women. In some places in Papua New Guinea, women are punished by public gang rape.

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## 11.6 Effects of Rape

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The WHO report describes the consequences of sexual abuse as follows:

a) Gynaecological b) Reproductive disorders c) Sexual disorders d) Infertility e) Pelvic pain f) inflammatory disease g) Pregnancy complications h) Miscarriage i) Sexual dysfunction j) Acquiring sexually transmitted infections, including HIV/AIDS k) Mortality from injuries l) Increased risk of suicide m) Depression n) Chronic pain o) Psychosomatic disorders p) Unsafe abortion q) Unwanted pregnancy r) Emotional and psychological.

Often, victims might not recognize what happened to them was rape. Some may remain in denial for years afterwards. Confusion over whether or not their experience constitutes rape is typical, especially for victims of psychologically coerced rape. Women might not identify their victimization as rape for several reasons like feelings of shame, embarrassment, non-uniform legal definitions, reluctance to define the friend/partner as a rapist, or because they need internalized victim-blaming attitudes. The general public perceives these behaviours as 'counterintuitive' and so, as evidence of a dishonest woman.

Responses of the victims are varied. During the assault, some will respond with fight, others with flight, still others will freeze. Victims may react in ways they failed to anticipate. After the rape, they'll be uncomfortable/frustrated with and not understand their reactions. Most victims respond by 'freezing up' or becoming compliant and cooperative during

the rape. This could cause confusion for others and therefore the person assaulted. An assumption is that somebody being raped would seek help or struggle. A struggle would lead to torn clothes or injuries.

A man or boy who is raped may be stimulated and even ejaculate during the rape. A woman or girl may experience orgasm during the assault. This might be considered to be a shame and may lead to confusion for those raped .

Symptoms might not show until years after the rape.

In the weeks following the episode, the victim might develop symptoms of post traumatic stress .Symptoms include re-experiencing of the rape, avoiding things associated with the rape, numbness, and increased anxiety and startle response. The majority get over rape in three to four months, but many have persistent anxiety, depression, drug abuse, irritability, anger, flashbacks, or nightmares. Moreover, rape survivors may have future generalised psychological disorder, may develop one or more specific phobias, major depression, and should experience difficulties with resuming their social life, and with sexual functioning. those who are raped are at higher risk of suicide. Men experience similar psychological effects of being raped, but they're less likely to seek counselling. Another effect of rape and regulatory offense is to be noted in that the stress created in people who study rape or counsel the survivors; this is often called vicarious traumatization.

#### **11.6.1 Physical Effects of Rape:**

The presence or absence of physical injury could determine whether a rape has occurred or not. People who have experienced this kind of regulatory offense yet haven't any physical trauma is also less inclined to report back to the authorities or to visit health care.

While penetrative rape generally doesn't involve the employment of a condom, in some cases a condom is employed. Condom reduces the risk of pregnancy and disease transmission, both to the victim and to the rapist, particularly HIV eliminating evidence, making prosecution harder , giving the looks of consent in cases of acquaintance rape and thrill from planning and therefore the use of the condom as a new prop. Concern for the victim is mostly not considered a factors.

Those who are raped have relatively more reproductive tract infections than those who have not been raped. HIV is transmitted through rape. Acquiring AIDS through rape puts people at a risk of suffering psychological problems. Acquiring HIV through rape may cause behaviours that make risk of injecting drugs. Acquiring sexually transmitted infections increases the danger of acquiring HIV. There is a prevalent superstition found in parts of Africa and elsewhere that having sex with a virgin can cure HIV/AIDS. This ends up in the rape of women and girls.

### **11.6.2 Societal Response to Rape**

Those who are raped or sexually assaulted are sometimes blamed for the crime. In many cases, victims are said to have “asked for it”, thanks to not having resisted their assault or violating female gender expectations. A worldwide survey of attitudes toward sexual violence by the worldwide Forum for Health Research shows that victim-blaming concepts are a minimum of partially accepted in many countries. Women who are raped are sometimes deemed to have behaved improperly. Usually, these are cultures where there’s a big social divide between the freedoms and inequality afforded to men and girls. Rape victims are blamed more (Barbara:2003).

Finally, rape victims are blamed more after they are raped by an admirer or a date, instead of by a stranger. It seems to evoke the stereotype and rape victims are at risk of being blamed as it is thought that power is reserved to men whereas women are meant for sex and objectified, that girls want forced sex and to be pushed around, and male sexual impulses and behaviors are uncontrollable and must be satisfied.

For females, victim-blaming correlates with fear. Many rape victims blame themselves. In Chinese culture, victim blaming often is related to the crime of rape, as women are expected to resist rape using physical force. Thus, if rape occurs, it’s considered to be a partly the women’s fault and her virtue is named put into question.

### **11.6.3 Honour killings and Forced Marriages**

In many cultures, those that are raped have a high risk of suffering additional violence or threats of violence after the rape. This will be perpetrated by the rapist, friends, or relatives of the rapist. The intent may be to forestall the victim from reporting the rape. Other reasons for threats against those assaulted is to punish them for reporting it, or of forcing them to withdraw the complaint. The relatives of the one who has been raped may need to forestall “bringing shame” to the family and will also threaten them. This is often especially the case in cultures where female virginity is greatly valued and regarded mandatory before marriage; in extreme cases, rape victims are killed in honour

killings. Many rapes don't end in serious injury. The primary medical response to sex offense may be a complete assessment. This general assessment will prioritize the treatment of injuries by the hospital room staff. After the overall assessment and treatment of great injuries, further evaluation may include the employment of additional diagnostic testing like x-rays, CT or MRI image studies and blood work. The presence of infection is set by sampling of body fluids from the mouth, throat, vagina, perineum, and anus.

Victims have the right to refuse collection of evidences. The wishes of the victim are respected by medical staff. After the physical injuries are addressed and treatment has begun, then forensic examination proceeds along with the gathering of evidence that can be used to identify and document the injuries. Evidences are gathered with the consent of the patient or family members.

Evidence which are gathered within the past 72 hours is likely to be valid. During the medical examination, evidence of bodily secretions is assessed. Dried semen that is on clothing and skin can be detected with a fluorescent lamp. Notes will be attached to those items on which semen has been found. These specimens are marked, placed in a paper bag, and be marked for later analysis for the presence of seminal vesicle-specific antigen. Though technically, medical staff are not part of the legal system, only trained medical personnel can obtain evidence that is admissible during a trial. Genital injuries to children who are raped or sexually assaulted differ. Scarring is one sign of the sexual abuse of children. Many studies found a difference in rape-related injury based on race, with more injuries being reported for white females and males than for black females and males.

#### **11.6.4 Infections due to Rape**

The presence of a sexually contracted infection cannot be confirmed after rape because it can't be detected until 72 hours afterwards. The one that was raped may have already got a sexually transmitted bacterial, viral and other infections and if diagnosed, it's treated. Prophylactic antibiotic treatment for vaginitis, gonorrhoea, trichomoniasis and chlamydia is also done. Chlamydial and gonococcal infections in women are of particular concern because of the likelihood of ascending infection. Immunization against viral hepatitis is usually considered. After prophylactic treatment is initiated, further testing is done to work out what other treatments are necessary for other infections transmitted during the assault.

### **11.6.5 Emotional and Psychiatric Effect**

Some psychiatric and emotional consequences are often apparent immediately after rape and it is necessary to treat these early. Other treatable emotional and psychiatric disorders might not become evident immediately after the rape. These may be eating disorders, anxiety, fear, intrusive thoughts, fear of crowds, avoidance, anger, depression, humiliation, post-traumatic stress disorder (PTSD) hyperarousal, sexual disorders (including fear of engaging in sexual activity), mood disorders, suicidal ideation, borderline folie, nightmares, fear of situations that remind the patient the rape and fear of being alone, agitation, numbness and emotional distance. Victims may receive help by accessing a telephone hotline, counselling, or shelters. Recovery from regulatory offenses may be complicated and controversial, but support groups, usually accessed by organizations are available to assist in recovery. Professional counselling and on-going treatment by trained health care providers is usually sought by the victim.

There are clinicians who are specially trained for the treatment of those who have experienced rape and sexual assault/abuse. Treatment will be lengthy and be challenging for both the counsellor and also the patient. Several treatment options exist. They vary in terms of accessibility, cost, or whether or not the required amount of money exists for the treatment. Treatment also varies depending upon the expertise of the counsellor—some have more experience or have specialized in the treatment of sexual trauma and rape. To be most effective, a treatment plan should be developed based upon the struggles of the patient and not necessarily based upon the traumatic experience. A good treatment plan will take the subsequent into consideration: current stressors, coping skills, physical health, interpersonal conflicts, self-esteem, family issues, involvement of the guardian, and also the presence of psychological state symptoms.

The degree of success of emotional and psychiatric treatments is often dependent upon the language employed within the treatment, i.e. redefining the event and knowledge. Labels used like “rape victim” and “rape survivor” to clarify the new identities of women who are raped counsel that the event is the dominant influence on her life.

These may need a sway on ancillary personnel. The implications of victimisation has got to be assessed. Positive outcomes of emotional state associated psychiatric treatment for rape exist; these are often an improved self-concept, the recognition of growth, and implementing new brick designs.

A culprit found guilty by the court usually needs to receive treatment. Sexual assault could even be prevented by schools, college, and office education schemes. With respect to field statutory offense, nearly 2/3rd of students reported knowing victims of rape and over 0.5 reported knowing perpetrators of regulatory offense in one study; one in 10 reported knowing a victim of rape and nearly one in four reported knowing a victim of alcohol-facilitated rape.

Research on male-on-male and female-on-male rape is rare. Fewer than one in 10 male-male rapes are reported. As a group, males when raped by either gender usually get little services and support, and legal systems are usually unequipped to address this sort of crime. Instances within which the culprit is feminine, don't seem to be clear and cause the denial of women being sexual aggressors. This might obscure the magnitude of the problem. Analysis conjointly suggests that men with sexually aggressive peers have the subsequent probability of reporting powerful or forced sexual intercourse outside gang circles than men not having such sexually aggressive peers.

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## **11.7 Molestation Meaning**

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Molestation is the crime of sexual acts with children up to the age of eighteen, together with touching of personal components, exposure of privates, taking of sexy footage, rape, and numerous sexual acts with the wrongdoer or with different kids. Criminal contact by a relative with a minor friend and any unwanted sexual acts with adults may additionally constitute molestation.

State laws vary; however typically kid molestation, like different capital offenses like murder, carries a most sentence of life behind bars. Some state laws need all records involving cases of kid molestation to be sealed. Different states have laws requiring kid molesters to be registered as sex offenders.

### **11.7.1 Molestation Causes:**

Causes of molestations are debated and explanations of the cause embrace military conquest, socioeconomics, anger, power, sadism, pleasance, psychological state, moral standards, laws, attitudes toward the victims, and organic process pressures.

The victim of molestation can be a child or an adult. It can include- forcefully having a sexual contact, showing pornography to any person without any comments, passing sexual verbal comments or any such kind of a behaviour where there is no approval or consent [1]. It has a very wide meaning and cannot be given a comprehensive definition. Though the Indian law does not define 'molestation', it still has provisions to protect



women's dignity. Sections 294, 354, 355 and 509 of Indian Penal Code, 1860 provide for redressal for outraging someone's modesty.

#### Section 294

Under Section 294, any indecent or obscene act or singing, reciting, pronouncing of the lewd song done by the offender that causes 'annoyance' of others publicly and which cause mental nuisance are considered molestation. The offender shall be punished with jail up to three months or fine or with both. In the case of *Zafer Ahmad Khan v. State of Mysore*, Court held that the word spoken by the accused (a rikshawala) while addressing 2 women, were offensive in nature to the modesty of the ladies and were likely to cause annoyance. For an individual to urge punished under this Section, the act of the offender must create annoyance either to an individual particularly or a general person.

#### Section 354

This Section provides that whoever uses assault or force which is criminal in nature to a girl having an intention to outrage her modesty shall be punished with jail of a minimum of one year which can reach five years together with fine. In the case of *Ram Kripal S/o. Shyamlal Charmakar v. State of Madhya Pradesh*, the essential elements of this section were laid down as follows:

- The assault or the criminal force used must be on a girl i.e. the victim must be a woman.
- There must be an assault or a criminal force used.
- There must be intention to outrage that woman's modesty.

Though this section specifically provides for the protection of women, it lacks in defining and providing a transparent definition of the term 'modesty'. The meaning of the identical may be determined from various case laws as the judiciary has contributed in defining the identical. In the case of *Aman Kumar v. State of Haryana*[4], the Court stated that acts like pulling a woman's clothes, removing her clothes to own a sexual issues would amount to outraging the modesty of that woman. In yet another case[5], the Court stated that since the word 'modesty' wasn't defined under this Act, the dictionary meaning of term within the *Shorter Oxford Dictionary* (3rd edition) which said that 'womanly propriety of behaviour, scrupulous chastity of thought, speech and conduct' be taken.

Below are some cases where Courts have punished people under this section which also gives us a short idea about what are the varieties of acts that are considered punishable and offensive under this section.

In *State of Punjab v. Major Singh*, the accused had caused injury to non-public parts of a child who was just 7 and a half months old. This act was considered offensive and therefore the accused was held punishable under this section. It may be analysed from this section that age of a girl isn't an element that's to be considered while punishing the offender.

In another case, where the victim was cooking in her kitchen suddenly the accused entered the house and held her breasts. On an investigation, the accused was unable to defend himself and under this section, he was punished.

Section 354-A further provides for harassment and punishment for the identical. It enumerates and identifies those acts which constitute the crime for molestation. This section also provides for punishment for these offences individually which extends from one year to 3 years together with fine if necessary. Section 354-B deals with criminal acts to woman with an intention to disrobe the lady. The acts which are considered as offence are:

- Women are assaulted.
- There may be a criminal assault.
- Abetting any of the above acts.
- There is an intention to disrobe the girl

Punishments include imprisonment from one to a few years together with fine.

Section 354-C provides for the criminal act of Voyeurism which suggests that being happy by seeing a scene. It provides that if any man is seen capturing any picture or a picture of woman without her consent and further engaging in a very private act, it constitutes an offence. Also, broadcasting the pictures is additionally an offence. Punishment for the identical is jail of one to a few years together with fine.

Section 354-D provides for the offence of stalking and under this section, two acts are considered a criminal act:

- A woman who is followed by a stranger or a person without her consent and further tries to contact her is an offence.

- Any act where a person follows and controls a woman's life through mails or internet or through various technologies is an offence.

The punishment provides that if someone is committing the offence for the first time he is to be imprisoned which can be for three years together with fine. Someone committing the identical for the second time is also punished for a term of imprisonment which can extend till five years together with fine.

### **Section 355**

It deals with the intent to dishonour the person. Punishment is to be imprisonment which can reach two years, together with a fine.

### **Section 509**

It deals with any word, sign or act with an intention to insult the modesty of the lady. In the case of Phiraz Mohammed it had been held that the foremost essential element is the intention to insult the modesty of a lady. In a case where a University Graduate wrote a letter to a nurse containing indecent language and sent that letter to her, it was held that the nurse's modesty was outraged.

These guidelines adopt the definition of child regulatory offence formulated by the 1999 WHO Consultation on Ill-treatment Prevention which stated that: "Child regulatory offence is that the involvement of a toddler in gender that he or she doesn't fully comprehend, is unable to convey consent to, or that the kid isn't developmentally prepared and can't give consent, or that violates the laws or social taboos of society. Child sex offense is evidenced by this activity between a baby and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the wants of the opposite person. Paedophiles are individuals preferring sexual contact with children to adults. They're usually skilled at planning and executing strategies to involve themselves with children. There's evidence to suggest that paedophiles may share their information about children (e.g. child pornography). This could occur at a global level, particularly through the employment of the net.

The Protection of Children from Sexual Offences, or POCSO, (Amendment) Bill, 2019, seeks to provide for stringent punishment to those engaging in sexual crimes against children, corporal punishment in cases of aggravated statutory offence, besides levying fines and imprisonment, to curb porn.

The POCSO Bill proposes to safeguard the interests of vulnerable children in times of distress and ensure their safety and dignity. The Bill has been approved by Parliament — the Rajya Sabha on July 29, 2019 and thereafter the Lok Sabha passed it unanimously in 2019.

The POCSO Bill, 2019, was moved for consideration and passage by Women and Child Development Minister Smriti Irani. She said the Bill provided, inter alia, for levying fines and imprisonment to curb porno.

The Bill seeks to amend the Protection of Children from Sexual Offences (POCSO) Act, 2012, which may be a comprehensive law to safeguard the kids from offences of sex crime, harassment and pornography, while safeguarding the interests of the kid at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated special courts.

The POCSO Amendment Bill provides for stringent punishments for other crimes against all those below 18 years old. The POCSO Bill also aims at making offences against children ‘gender neutral’.

The POCSO Bill seeks to award strong punishment in cases of medicine being administered to children to achieve early sexual maturity. Speaking on the Bill, Irani said the legislation introduced a minimum jail term of 20 years or for the complete life and executing in rare cases consistent with the courts’ discretion.

### **11.7.2 Is Molestation Completely Different from Rape?**

Both rape and child molestation are concerned with sexual contact between one who is below the age of consent and one who isn’t. Both involve violations of the laws.

#### **Differences**

The important distinction between these two terms is that the voluntary actions of the minor who is concerned. Another central distinction is that the age of the victim. Thanks to the distinction within the severity of the offense, completely different punishments could also be obligatory.

#### **Statutory rape**

Statutory rape typically refers to a relationship with a minor who is past the age of pubescence. This offense usually involves sex between a legal adult and a kid who is below a chosen age that’s determined by the state statute.

The legal theory behind this principle is that kids beneath the statutory age of consent don't have the maturity, reasoning or judgment skills necessary to set up valid consent. Therefore, even though a minor kid entered into a relationship voluntarily, the law still considers the sexual relations to be a criminal offense as a result of the kid failed to really give consent. Therefore, the older party are often charged and held guilty of rape under this set of circumstances.

Different states have completely different ages of consent, as an example, one state might have associate age of consent of seventeen whereas another might have the age set at fifteen. If a relationship existed between a 15-year-old associated an adult, the conduct would be outlawed within the Delaware however not within the second, provided the conduct was voluntary. Statutes typically outline associate age gap that has to exist so as to search out that a criminal offense has been committed. As an example, T/X features a three-year gap. Therefore, if the statutory age of consent was seventeen, a relationship between a 16-year-old associated a 25-year-old would be abused whereas a relationship between identical 16-year-old and an 18-year-old wouldn't. Kid molestation typically refers to a relationship or sexual contact with a immature kid. It's sometimes treated as a additional serious crime than rape. The state definition of kid molestation could also be any act of sexual conduct, abuse or indecency that's supposed to arouse or satisfy the needs of the kid or adult. The planning of the crime could also be lewd and lustful intent.

Some states acknowledge electronic child molestation, which might occur if a person uses a device so as to transmit sexual footage of a baby. The sexual nature of the image might embrace showing child engaged in, elicited by or taking part in any indecent act. Again, these laws are sometimes supported by the age of the child. Therefore, identical conduct that's being employed on a 16-year-old might not be a criminal offense of this nature whereas it'd be for conduct perpetrated on a 12-year-old child.

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## **11.8 Conclusion**

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Safety of woman has to be a priority of everyone, be it the Government or any individual. It is evident that Government has taken various steps and made legislations so as to protect a woman's dignity and modesty. But the question arises as to why there are crimes committed almost every day. This can be answered through analysing the above sections. The punishment provided to the guilty offenders are not appropriate. The maximum punishment that is provided under sections 354 and 355 is of two years along with fine.

In a case where a Pujari molested a nine-year-old girl he was sentenced to one-year imprisonment. Here the offender molested a minor and committed a severe crime and deserved a more serious punishment. This can even imply that people can commit these crimes and escape with just two years of jail. There are reforms that are very necessary to be made so as to provide justice to the victims. Firstly, legal system should provide with legal definition of the term 'modesty'. Secondly, specific punishments must be provided for specific acts. Our law should be very well defined as we rely upon our laws and the system to provide us with fair justice.

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## 11.9 Summary

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The area of rape and Molestation is very complex in Indian context. Despite stringent laws and policies, it is increasingly becoming difficult to arrest such incidences of crime. It is time we become more conscious and proactive.

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## 11.10 Questions

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**All questions are 6 marks each**

1. What do you mean by Rape?
2. Give two effects of Rape?
3. What is 'honour killings'?
4. Give two consequences of sexual abuse?
5. What are the causes of Molestation?

**All questions are 12 marks each**

1. What do you think can be the motive behind rape?
2. Write in short the physical implications of Rape
3. What, according to you, are the emotional and psychiatric consequences of Rape?

**All questions are 20 marks each**

1. How, according to you, can rape be prevented according to you?
2. Is rape and Molestation same? Give reasons for your answer.
3. How is an examination of a Rape victim done?

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## 11.11 References

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1. Randy Thornhill, Craig T. Palmer A Natural History of Rape: Biological Bases of Sexual Coercion Revised ed. Edition, Paperback., 2001

2. <https://www.vox.com/2014/11/14/7214149/the-fbis-finally-collecting-modern-rape-stats>.(accessed on 20.10.19)
3. Richard B Felson, Marvin krohn ‘Motives for Rape’ First Published August 1, 1990 Research Article. <https://doi.org/10.1177/0022427890027003002> Volume: 27 issue: 3, page(s): 222-242 Issue published: August 1, 1990
4. Barbara Krahe, Eva Waizenhöfer, Ingrid Möller , ‘Women’s Sexual Aggression Against Men: Prevalence and Predictors’, sex roles September 2003, Volume 49, Issue 5–6, pp 219–232

### **Additional References**

1. Pinki Virani, Bitter Chocolate: Child sexual abuse in India, Paperback, Penguin India, 2000.
2. Tara Kaushal, Why Men rape: an Indian undercover investigation , Paperback Harper Collins 2020
3. Michal Buchhandler-Raphael, Failure of Consent: Re-conceptualising rape as sexual abuse of power, Michigan Journal of Gender and Law 18 (1):147-228, 2011
4. Basabi Chakrabarti, Women’s Studies: Various Aspects. Urbi Prakashani 2014
5. M. Ahmad, Child Labour in Indian Politics: A Legal Study, New Delhi: Kalpaz Publication (2004).
6. S. Ahuja, Social Problems in India, New Delhi, Rawat Publication (1999).
7. R. S. Narayan, Advancing Women and Human Rights, Indian Pub, Delhi, 2007.
8. Aruna Goel. (2004). “Violence and Protective Measures for Women Development and Empowerment”. Deep & Deep, New Delhi.

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## **11.12 Glossary**

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The World Health Organisation-It was established on 7<sup>th</sup> April 1948. It has its headquarter in Geneva Switzerland. It advocates universal healthcare and promotes human well being.

IPC- The objective of this Act is to provide a general penal code for India. The Indian Penal Code of 1860, sub-divided into 23 chapters, comprises 511 sections.

Verma Committee- was set up to recommend amendments to the Criminal Law. The aim was to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women.

POSCO- The Parliament of India passed the 'Protection of Children Against Sexual Offences Bill, 2011' regarding child sexual abuse on 22 May 2012 into an Act. The law supposes all sexual act with children under the age of 18 as sexual offence.



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## **Unit - 12 : Infanticide and Foeticide**

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### **Structure**

#### **12.0 Objectives**

#### **12.1 Introduction**

#### **12.2 Infanticide : Meaning**

#### **12.3 History of Female Infanticide**

#### **12.4 Female Infanticide in Post-Independence Period**

#### **12.5 The implications**

#### **12.6 Foeticide : Meaning**

#### **12.7 Nature of the Problem**

##### **12.7.1 Consequences of Female Foeticide and Female Infanticide**

#### **12.8 Laws Prohibiting Infanticide and Foeticide in India**

#### **12.9 Conclusion**

#### **12.10 Summary**

#### **12.11 Questions**

#### **12.12 References**

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### **12.0 Objectives**

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- The unit aims at giving the students an idea of the problem of female infanticide and foeticide in India.
- Helps understand the role patriarchy plays in supporting these heinous crimes against women.
- Examines the laws and other measures to prevent such crimes.
- Explains the real implications of infanticide and foeticide in the larger society.

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### **12.1 Introduction**

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India, as a society, awoke to the magnitude of the problems of female infanticide and foeticide only in the early -1990s when census reports indicated an imbalance in the

sex –ratio especially in the 0-6 age group. Field researches pin pointed the reason behind the missing number of girls as infanticide and foeticide, both gender –targeted violence , to keep the number of female children in a household under control. In fact, the gross imbalance in the male-female ratio is not a recent phenomenon in the country as it has been falling since 1901. While the first half of the twentieth century witnessed a fall in the adult sex ratio, the imbalance in the child sex ratio became evident after 1951. It is difficult to get a true estimate of female infanticide and foeticide because these are always carried out with support from the family members and no one comes forward to testify against them.

Female infanticide and foeticide are criminal offences ,hence punishable under the law. But these two offences are more than simple violations of the law because both represent very powerful patriarchal values that project women as insignificant and demean their status in every sphere of life .A 2018 survey has reported that globally India is seen as the most dangerous country for women and has put the country ahead of all others in matters of crimes against women and demeaning (for women) cultural and social practices like female infanticide , foeticide, child marriage and trafficking. Parents' unwillingness to invest in their daughters' education and healthcare or to pay hefty dowry at the time of their marriage jointly contribute towards the rising incidents of violence within the family against the girl child and the imbalance in sex ratio remains directly proportional to sexual violence. For the prevention of such violence an environment of respect, safety, education and equal opportunity for women must be created with support from holistic planning and change.

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## **12.2 Infanticide: Meaning**

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By definition, infanticide is the act of killing a child in the first year of its life. The child is entirely dependent on others for its survival and is killed by the mother, father or the relatives under whose care it is entrusted. Though the term 'infanticide' is free of gender narrative, in almost all the countries where it is noticed, girl children are killed because of their sex. For killing, various cruel methods like deliberate neglect, throat splitting, starvation, use of poisonous substances or chemicals , smothering, drowning and hitting with hard objects are commonly used. Neonaticide, a version of infanticide, is the killing of a newborn within twenty four hours of birth. Such practices are found in many cultures with ancient roots across many parts of the world and have impacted societies in multiple ways. The baby girls killed in this manner are known as the 'missing children'; their number in India alone totals well over 40 million. The attitude behind female infanticide is rooted in the society's cultural preference for sons and avoidance

of dowry. Though India tops the list, other countries having such culture include China and Pakistan.

Colonial administrators have documented the practice of female infanticide in many parts of the country including Gujarat, Rajasthan and Punjab especially among the affluent, landowning, high caste communities. The colonial state tried hard to prevent such occurrences without significant result. However, in many states where the phenomenon of female infanticide had no presence in the colonial era, for example in the southern states like Tamil Nadu, the practice gained ground after independence. The 2001 Census had made it quite clear that the child sex ratios in the 0-6 age group were quite alarming in many states like Punjab, Haryana, Gujarat, Delhi and Himachal Pradesh. Scholars and researchers have rightly pointed out that the adverse female sex ratios were the outcomes of female infanticide and foeticide in those states. The archival sources and census data till the 1931 census are also pointers to the tradition of a very low ratio of female children in many parts of the country. L. S. Vishwanath (EPW, 9.5.1998), who studied female infanticide in Gujarat and north India in the 19<sup>th</sup> century, has observed that certain castes used to practice female foeticide to keep the number of female children low compared to males. In view of an alarming decrease in female population among affluent, landowning castes in the northern and western parts of colonial India, an Act was passed in 1870. Census reports in the pre-independence period could link several castes as the main perpetrators of such violence; but after independence caste-enumeration in the census has been discontinued, so whether those castes continued with the practice could not be determined. But the areas that had previously earned notoriety for female infanticide and deliberate neglect of female children retain the notoriety even today. Vishwanath observes that the practice of female infanticide has become a tool to maintain socio-cultural dominance in the local area. In the latter part of the last century with the advent of modern technology, the practice of infanticide gave way to amniocentesis and female foeticide.

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### **12.3 History of Female Infanticide**

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The practice of killing unwanted children has been continuing for centuries. In the ancient world almost all cultures had supported the practice of infanticide irrespective of the sex of the child. Ancient civilizations everywhere, almost without fail, had supported the practice for various reasons like a good harvest, victory in battles, appeasing the god and so on. In Syria and Babylon child sacrifice was a regular affair. Child sacrifice was also practiced in ancient Germany, Scandinavia, England and Spain for divine appeasement.

Ethnic communities from Africa, America, Arabia and many other areas used to practice infanticide or child-sacrifice either to protect the family from ill-luck or to cast away the evil influences of some supernatural force. Strangely enough, cannibalistic communities, though notorious, never followed any such practice. Amongst the Arabs female infanticide was practiced widely and it came to an end only after the emergence of Islam. Polynesian people also used infanticide as a family-control measure, especially in the island of Hawaii. Even a little over 150 years ago mothers in New Zealand used to throttle their neo-natal daughters out of social stigma against them. In China, too, till the early nineteenth century new-born daughters were considered dispensable by their parents - both affluent and impoverished alike.

In India infanticide was quite common in all the corners of the land starting from Nagaland in the north-east to the Kuchchh in the west; from central India to Jammu and Kashmir in the north-most part of the country. In Bengal, one prevalent custom was child-sacrifice at Gangasagar, the point where the river Ganges meets the Bay of Bengal. In the coastal region of Andhra and Odisha too, child sacrifice used to be a traditional practice for the appeasement of Mother Earth; however such ritualistic sacrifices used to be free of gender-bias and both infant boys and girls alike could be offered for the benevolence of the divine forces or spirits.

The practice of female infanticide has not received any formal support in any of the ancient texts. On the contrary, some texts like the Devi Purana and the Shrimad Bhagabat have prohibited child sacrifice. The Brahma Vaivarta Purana had strongly condemned and criminalized the killing of a foetus and more so a female foetus. Medieval texts like the Babarnama have chronicled minute details of everyday life, plant and animal resources and many such details, but there is no mention of any such practice in the writings of either Hindu or Muslim chroniclers. However, early in the seventeenth century, in 1620 to be more precise, emperor Zehangir came to know of the prevalence of infanticide among the impoverished and issued an order to make it a punishable offence. Over a century later, in 1743, Jay Singh, the king of Amber, had passed an order to prohibit dowry and lavish wedding for preventing female infanticide. Unfortunately, none of the orders had the desired effect and the practice continued clandestinely for over centuries.

During the British Raj, the practice of female infanticide was discovered in 1789 quite accidentally when Jonathan Duncan, the then Resident in Benares province, was touring different parts of his Residency for settlement of revenues. He came to know of the practice of intentional killing of newborn girl children among certain castes like rajkumar rajputs of Jaunpur district and reported the matter to Lord Cornwallis, the then Governor-General of British India. In 1795 Duncan was appointed the Governor of Bombay and

by 1800 he came to know of the prevalence of female infanticide among the jadeja rajputs of peninsular Gujarat in Kathiawad and Kutchchh. It was also reported that the other locally dominant, rich, landowning castes like the rajputs, jats, ahirs, gujjars, khutris, lewapatidars, Kanbis and mohyal Brahmins had been practicing it for ages. The British officials could understand that the practice of female infanticide was closely connected with hypergamy, status maintenance and dowry avoidance. The top layers of these castes with their internal divisions into multiple sub-caste groups found it difficult to get suitable hypergamous grooms with limited dowry demands for their daughters. That led these castes to adopt the practice of killing their infant daughters. The higher the status of the group, the more extensive was the practice of female infanticide. The jadejarajputs, who belonged to the top stratum of the Gujarati rajputs in the 19<sup>th</sup> century, found it doubly difficult to get any suitable match for their daughters and started full scale female infanticide. Alexander Walker, the British Resident at Baroda, had reported in 1808 that among the total 1,25,000 jadeja rajput households in Kutchchh and Kathiawad districts of Gujarat, every year about 20,000 infant girls were killed. In 1816, in the whole peninsula there were only 15 female children left taking all the jadeja rajput households together. (EPW, 9.5.1998, p.1104). A register of female children in those households prepared in 1817 showed that in many jadeja rajput localities there was either none or only one female child living. Other caste groups of the region, like the lewapatidars and the kanbis, too, regularly practiced female infanticide. A census report from 1872 reveals that these castes used to practice so extensive infanticide that among the lewapatidars the child sex ratio stood at 39-53 girls per 100 boys; among the lewakanbis it was slightly higher with 73 girls per 100 boys. In the Punjab region the situation was no better and killing of the daughters was the norm. By 1851 the Punjab Board of Administration came to know of the fact that the Bedis had been destroying all their female offsprings for the past four hundred years. Many other high castes like the Suryavansh rajputs and the Bais rajputs of the North-western provinces had also been practicing it on a regular basis.

Rajputs, the warrior-ruler community, had to depend on land for income. Once the British established its colonial control over the land of the country, these land-owning castes were compelled to pay heavy revenues to the colonial rulers. It became quite problematic for them to bear the burden of high land-revenues on the one hand, and the hefty dowry demands from the coveted hypergamous matches for their daughters, on the other. As an easy way out of that trap the landowning high caste groups had resorted to extensive female infanticide. The practice then continued well into the 20<sup>th</sup> century. The 1911, 1921 and 1931 census reports clearly indicate a deficiency of females among the wealthy, powerful and dominant castes like the rajputs, jats, ahirs and gujjars. The

tradition had its roots in parts of south India also, but it was less prevalent there than the north and north-western regions. Reports from different regions notorious for female infanticide suggest that the problem has its roots in marriage customs and the problems of finding suitable (hypergamous) grooms for their daughters before they reached puberty.

Once the existence and extension of the practice came to light, the colonial government took firm steps to stop the killing of infant daughters and even threatened some of the dominant castes with dire consequences like loss of land rights if they failed to stop the killings. The threat worked for a limited period only, as after the Sepoy Mutiny in 1857 the Raj went slow in its efforts to curb such practices.

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## **12.4 Female Infanticide in Post-independence Period:**

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The practice of female infanticide continued as before but in a more clandestine manner in many parts of the country and even spread to areas where it did not exist before. In the southern part of the country only the Todas of the Nilgiri region used to practice female infanticide; but in the state of Tamil Nadu there was a general decline in the juvenile sex ratio after independence. In a study titled Female Infanticide in Tamil Nadu S.R. Chunkath and V.B. Athreya (EPW, April 26, 1997) observe that from 1941 to 1991 the juvenile sex ratio reveals a general sex imbalance. Behind this, one reason might be better healthcare provided to the male children than the female infants, another reason appears to be a very strong son-preference leading to the practice of female infanticide. The practice of killing female infants was not limited among the more powerful and affluent castes only; survey reports from Madurai district of Tamil Nadu, in 1986, have shown that even the poorer and socially disadvantaged communities and scheduled castes regularly practice it. The study has also revealed that in most of the cases the first daughter of a couple is not subjected to cruel killing; in some cases, though not in all, the second daughter, too, may escape death. But daughters born after that run a higher risk of being subjected to abuse and murder. It has also been noticed that in three other southern states excepting Kerala and Maharashtra female infanticide is quite widespread. Though with the passage of time the practice has resurfaced as a disturbing phenomenon, punishing the guilty is not at all easy because it always takes place within the 'safe zone' of one's own family. Athreya and Chunkath observe that it is "the mother, godmother or an elderly female relative of the infant, who are usually compelled (or otherwise pressured) by the patriarchal male leadership of the family (or neighbourhood social group) to carry out the actual act..... often the father of the infant threatening to throw out the mother if she did not kill the female infant— would escape the long arm of the law by concocting suitable alibis". (EPW, Dec.2, 2000). As facts about female infanticide

have come out of the closet in many corners of the country, community involvement has been initiated to arrest the trend and to address other related issues. Well planned intervention programmes like community mobilization, involvement of health functionaries, panchayat leaders and social activists have definitely resulted in a distinct decline in female infanticide incidents in many regions. However, another major (and more alarming) reason for the dwindling number of female infants in India is the rise in the number of female foeticide or killing of the unborn daughter with medical intervention.

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## 12.5 The implications

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Female infanticide, though a well known practice, remains difficult to detect because reliable data is hard to come by. From the comparatively limited information we have on the practice, we can distinguish two types of infanticide; indirect or passive infanticide and direct or active infanticide. The first type involves killing of a child by providing inadequate nutrition, neglect or depriving the child of proper care, especially if the child is sick. The second type signifies the killing of a baby by using deliberate force, dehydration, starvation, suffocation or head injuries. The practitioners of female infanticide use all the available measures to bring the short life to a faster end.

There are several social and cultural causes of infanticide and we have already discussed some of them. Here, we can take a quick look at the general causes behind it. These are:

- a) Control of population – in the olden days when advanced medical technology was non-existent, and natural measures like flood, earthquake, epidemic and warfare did not work, tribes and nomadic communities often used the measures of infanticide to keep their population under control.
- b) Keeping the family size small- In the past, unwanted pregnancies could not be terminated easily. So to keep the family small, sustenance easier and movements faster, children were killed with support from the family and community elders.
- c) Beliefs derived from biological causes - Among certain African tribes there is a belief that a child born with disability is a curse and may bring ill luck to the family. Out of that belief such children are often killed.
- d) One child policy – A few years back, China has been pursuing the ‘one child policy’ with extreme rigidity to keep her surging population within a limit. In many cases the second child has either been taken away by the state from the parents or the parents themselves have abandoned or killed it. Very few of the second children have survived.
- e) Gender –targeted killing – This is most rampant in India, China and several other countries where patriarchal values cherish the worth of a ‘son’ only. This has led the world towards a very dangerous and violent future where women will be violated, disrespected and abused.

The practice of infanticide may have weakened; but this is no indication of a better future; it has stopped because of the emergence of a more harmful practice like female foeticide.

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## **12.6 Foeticide: Meaning**

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Foeticide is the intentional act of killing a foetus or causing an abortion to a foetus which is healthy and capable of being born alive. It involves medical procedure to kill/ abort the foetus in the womb of the pregnant mother who also is otherwise healthy and capable of giving birth to a healthy baby. Foeticide, in most of the cases, is sex-targeted and is done in collusion between the family members and physicians to terminate the pregnancy if medical investigations suggest that the child will be a girl. The procedure of gender- identification of an unborn child through ultra-sound is known as amniocentesis and it is always done under the expert supervision of a qualified doctor in a well-equipped diagnostic center. In a culture rooted in patriarchal values female foeticide is performed out of the craving for a male child .In India, both the pre-natal sex determination and the termination of a pregnancy thereafter for preventing the birth of a daughter are illegal.

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## **12.7 Nature of The Problem:**

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In the 1970s, India was facing population explosion amidst extensive government propaganda in support of small family and family control measures. One of the major reasons behind the failure of the government programmes was (and still is) an insane preference for a son; it was so strong that the size of the family kept growing until a male child , the ‘heir’ to the family, was born. When female infanticide became too risky and condemnable under the changing values, prevention of unwanted births of daughters and thereby lessening the burden of dowry in near future, appeared to be an apt solution. Female foeticide or sex-selective abortion has social and cultural relevance in a society with preference for distorted masculinization. The UNO considers India as one of the world’s most dangerous place for the girls; one of its study shows that the mortality rate of girl children is 75 per cent higher than that of the boys. Traditional values and beliefs support such patriarchal preferences as sons are believed to augment the name of the family, earn money to run it , to enhance the status and to uplift the standard of living, to look after the parents in their old age and also to perform the last rites for the departed. Compared to all these ‘virtues’ of the sons, the daughters are deemed as unworthy, hence their birth is never appreciated.

Within such cultural environment the advances in medical technology appeared as a boon. The procedures of female foeticide began in the early-1990s when ultra-sound



techniques became popular in the country. Responding to the son-craze of the families, the medical fraternity suggested ultrasound techniques for detecting the sex of the child even before its birth. The widespread use of advanced medical technology like ultrasound has also made prevention of daughters' birth quite easy. To describe the trend Brinda Karat, the AIDWA general secretary, refers to it as a 'daughter dis-preference'. (The Telegraph, 19.09.2004). Satish Agnihotri, the secretary to the Women and Child Welfare department, Orissa, uses the term 'daughter dislike'.

### 12.7.1. Consequences of Female Infanticide and Female Foeticide:

Daughter dislike leads the society to a situation where daughters are in short supply; It has other far reaching consequences too. When men outnumber women cases of trafficking, abduction and purchase of women for marriage increase. The wives, thus procured, are never treated with respect or empathy; their children do not receive the same status that a child born of a local woman enjoys. An international study made in the early years of 2000-2010 decade has linked violence with unmarried status of men. It has also been noted in some studies that more violent crime is committed by unmarried young adult men than by married young men. Studies from China also support the claim. The Telegraph reported the dwindling number of women throughout the country, barring a couple of southern states with high literacy rate, to every 1000 men in a chart. (19.9.2004):

Name of the State	No. of Women per 1000 Men.
Kerala	1058
Pondicherry	1001
Chhatisgarh	989
Tamil Nadu	987
Andhra Pradesh and Manipur	978
Andaman and Nicobar Islands	846
Delhi	821
Dadra and Nagar Haveli	812
Chandigarh	777
Daman and Diu	710

The data of sex ratio based on the 2011 census and forwarded by the NitiAyog shows only limited variation in some of the states.

In the animal world, the females always outnumber the males; in the human world, the number of males and females should ideally be equal, with only marginal variation in favour of women. But human intervention has distorted the natural pattern and India is witnessing steady decline in the number of females. The law of economics suggests that a fall in supply increases the demand and status of the coveted item. But in the social world of men and women, a decline in the number of females does not indicate a rise in their status. On the contrary, it leads to increased violence against women, as the conditions in Punjab and Haryana indicate. A declining law and order situation contributes to an imbalanced sex ratio which, in turn, leads to more deterioration in law and order. Thus a vicious circle is created.

One interesting point to note here is that the child sex ratio is more eschewed and the number of female foeticide is far higher among the more educated and more affluent sections of the society. As per the fertility series data of census of India, 2001, the more educated the mother, the greater is the chance of her acceptance of female foeticide. From Delhi to Himachal Pradesh to Punjab and Haryana, the girl: boy ratio is higher where the mother is illiterate; but much lower where the mother is literate. Bhupendra Yadav (EPW, 10.11.2001), too, has reported that sex-selective abortions are more rampant among urban literates than the rural illiterates.

Female foeticide is always preceded by ultra sonogram or amniocentesis for detecting the sex of the child in the womb. In Haryana, on an average, 43 per cent of the female fetuses are likely to be aborted after the mothers have gone through the tests. According to a report published in 2003 jointly by the registrar-general of Census and UN Population Fund, there were less than 900 girls for every 1000 boys in most districts of Delhi; whereas in the more affluent areas of south-west Delhi the sex ratio was 845 girls:1000 boys. During the 1991 census it was 904:1000.

It has been found that income and female foeticide are directly connected because :

- a) Affluence gives one easy access to the medical technology of ultrasound and amniocentesis.
- b) Rich people want small but well-designed families.
- c) Rich people enjoy better access to the medical experts and clinics with latest technology to suit their needs.

- d) Gender- equality and gender-sensitivity both remain weak in patriarchal culture.
- e) The Indian Medical Association (IMA) protects the doctors even when they flout the norms and ethical codes of conduct.
- f) Rich and famous doctors receive political patronage .
- g) The Supreme Court has directed the states to register clinics that use ultrasound machines, but most states flout norms. In Delhi 30% of the clinics using ultrasound machines are not registered.
- h) Many states have no proper system of monitoring the SC guidelines.
- i) Female foeticide is more rampant in Gujarat, Himachal Pradesh and Maharashtra, with Punjab and Haryana topping the list. But it is far less frequent in the eastern states.(The Telegraph, 21.10.2003).

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## **12.8 Laws Prohibiting Infanticide and Foeticide in India**

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The colonial government had taken strong exception to the practice of female infanticide in India. Though there were (and still are) a number of reasons behind it like poverty, illegitimate pregnancy and birth, physical deformity of the child, financial stress due to famine and other natural calamities, lack of support system, death of the mother at childbirth and so on, the most common reason, from the very beginning, is the culture of son-preference and compulsion of dowry for daughters' marriage. To prevent the barbaric killing of the neo-nascent female babies the Raj passed a law in 1870, known as the Female Infanticide Prevention Act of 1870. Though it was meant for certain selected territories like Oudh, North-Western Provinces and Punjab, the Governor General had the discretion to extend it to any other part of the country. The Act was in force in Pakistan till 1981, as it was originally meant for pre-partition, undivided India.

The Indian Penal Code (1860), under Section 315, declares infanticide, or killing of a child of 0-2 years of age, as an offence. The person who commits such an offence will be punished with imprisonment for up to ten years; or may be charged with fine , or both. Section 318 of the IPC also holds concealment of birth by secret disposal of dead body of a child as a cognizable, bailable and non-compoundable act of offence which may be punished with up to two years' imprisonment or charged with fine or both.

Technology Act (PCPNDT) in 1994 to prohibit and punish acts of prenatal sex screening and female foeticide. This Act made determining or disclosing the sex of the foetus to anyone illegal. The other purposes of the Act are regulation of the use of pre-natal

diagnostic techniques like ultrasound and amniocentesis and prohibiting laboratories, clinics, or centers to conduct such tests only for the purpose of determining the sex of the unborn child. The Act, unfortunately, failed to make any strong impact and both amniocentesis and foeticide continued unabashed. In view of the situation the Supreme Court, at the beginning of 2002 had sought clarifications from the state governments of Punjab, Haryana, Delhi, Bihar, Uttar Pradesh, Maharashtra, Gujarat, Andhra Pradesh, Kerala, Rajasthan and West Bengal regarding their role in curbing female foeticide.

The PCPNDT Act has so far been amended twice, first in 2003 and then again in 2011. The main provisions of the Act are :

1. Prohibition of sex selection, before or after conception.
2. Regulation of the use of pre-natal diagnostic techniques like ultrasound and amniocentesis by limiting their use only to detect few cases.
3. Total prohibition of tests like ultrasonography to determine the sex of the foetus.
4. Prohibition on communication of the sex of the foetus to anybody by words, signs or any other method.
5. No advertisement for pre-natal and pre-conception sex determination facilities in any form can be made. Person found guilty of such an act can be imprisoned for up to three years and fined Rs. 10,000.
6. Registration of all diagnostic laboratories, counselling centers, genetic laboratories, genetic clinics and ultrasound clinics has been made compulsory.

The Health Ministry issued a notification on April 4, 2020 to defer/suspend certain provisions under the PCPNDT Rules,1996 in view of the Covid pandemic. But it did not alter the basic principle of maintenance of all records by the diagnostic centers, only the dateline for submission of records to the appropriate authority was extended.

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## 12.9 Conclusion

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In the absence of any specific field-surveys to find out incidents of female foeticide, measuring the true magnitude of the problem becomes really difficult. Though sex selection is prohibited by law in the country, a UN Report shows that in India 4.6 lakh girls were 'missing' at birth each year during 2013-2017 because of sex selective abortions and killing. The preference for gender-biased sex selection of off- springs is more pronounced amongst the wealthy families because they have easier access to all the modern medical technologies available within the country. As per the 2011 Census, the sex ratio for all

Indians was 940 females per 1000 males. However, nine states like Haryana, Uttarakhand, Delhi, Gujarat, Rajasthan, Uttar Pradesh, Maharashtra, Punjab and Bihar have a sex ratio at birth below 900.

It is easy to say that many things need change to alter the situation. Though the law is there, it needs proper implementation; and there are certain inadequacies and practical difficulties, no doubt. The implementation of the Act rests with the states and the Union Territories. So they should come forward with necessary steps and best of intentions to stop the brutalities. Awareness campaigns, education and empowerment of women, enhancing gender-sensitization to promote women's causes, etc are also required to stop female foeticide in our the country.

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## 12.10 Summary

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The unit discusses the problems of female infanticide and female foeticide in the India society. It also examines the laws that have been imposed by the state. It has been found that these problems are rooted in patriarchy. To solve the situation the attitude towards females offering should be changed first and education and empowerment of women are also needed.

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## 12.11 References

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- Athreya, V. and Chunkath S.R. Tackling Female Infanticide. *Social Mobilisation in Dharmapuri, Economic and Political Weekly [EPW]*, December 2, 2000. pp. 4345-4348.
- Bhat, P.N. Mari. On the Trail of 'Missing' Indian Females II : Illusion and Reality. *EPW*, April 26, 1997. pp. 5244-5263.
- Bose, Ashish. Fighting Female Foeticide. *Growing Greed and Shrinking Child Sex Ratio. EPW*. September 8, 2001. pp. 3427-3429.
- Bose, Ashish. Curbing Female Foeticide Doctors, Governments and Civil Society Ensure Failure. *EPW*, Feb. 23, 2002. pp. 696-697.
- Chunkath, S. R. and Athreya V. B. Female Infanticide in Tamil Nadu. Some Evidence. *EPW* April 26, 1997. ws-21-ws28.
- Patel, Vibhuti. Adverse Juvenile Sex Ratio in Kerala. *EPW*. December 28, 2002. pp. 2124-2125.
- Vishwanath, L.S. Efforts of Colonial State to Suppress Female Infanticide. Use of Sacred Texts, Generation of Knowledge. *EPW*, May 9, 1998. pp. 1104-1112.

Vishwanath, L.S. Female Foeticide and Infanticide. Discussion. EPW. September 1, 2001. pp.3411-3412.

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## **12.12 Questions**

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**A. Answer in brief: 5 Marks.**

1. What is female infanticide?
2. What is female foeticide?
3. What is the PCPNDT Act?
4. What are the main reasons behind female infanticide and foeticide?

**B. Answer in detail: 10 Marks.**

1. Discuss in detail, the history of female infanticide in India. What role did the colonial state play in curbing the practice?
2. Examine the problem of female foeticide in India with reference to the status of women in society.

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## **Unit-13 □ Child Abuse**

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### **Structure**

#### **13.1 Learning Objectives**

#### **13.2 Introduction**

#### **13.3 Child Abuse**

#### **13.4 Forms of Child Abuse**

##### **13.4.1 Commercial Sexual Abuse**

##### **13.4.2 Sexual Violence**

##### **13.4.3 Avoiding**

##### **13.4.4 Affecting Abuse**

##### **13.4.5 Rejecting**

##### **13.4.6 Ignoring**

##### **13.4.7 Separating**

##### **13.4.8 Stalking**

##### **13.4.9 Coldness**

##### **13.4.10 Bodily violence**

##### **13.4.11 Adolescent Wedding**

#### **13.5. Consequences of Child Abuse**

##### **13.5.1 Physical Consequences**

##### **13.5.2 Psychological Consequences**

##### **13.5.3 Behavioural Consequences**

##### **13.5.4 Societal Consequence**

#### **13.6 Child Abuse Prevention under Existing Laws**

#### **13.7 Psychological Effects**

#### **13.8 Conclusion**

#### **13.9 Summary**

#### **13.10 Question**

#### **13.11 References**

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### 13.1 Learning Objectives

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- ✓ To learn about gender based violence.
- ✓ To understand child abuse in Indian society.
- ✓ To develop acquaintance with the types of child abuse.
- ✓ To learn about the consequences of child abuse.
- ✓ To understand the legal provision for eradicating child abuse.

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### 13.2 Introduction

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Gender Violence may be defined as “any act involving use of force or coercion with an intent of perpetuating promoting hierarchical gender relations” (APWLD, 1990, Schuler, 1992). Manifestations of such violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result (Adriana, 1996). Violence against women has been clearly defined as a form of discrimination in numerous documents. The World Human Rights Conference in Vienna, first recognized gender- based violence as a human rights violation in 1993. In the same year, United Nations declaration, 1993, defined violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a woman, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life” (Cited by Gomez, 1996).

#### **Do you Know?**

Atrocities against women are rooted in unequal power relations between men and women in our society and can be understood within a gender framework. While sex is a biological category, gender is a social construct and refers to widely shared expectations and norms within society about appropriate male and female behavior and roles. While gender roles prescribed a strict division of labour, women are expected to perform largely reproductive functions like maintenance of the household, child rearing and so on. Gender roles also prescribe characteristics of docility, unending patience and servility for women.



### **13.2.1 Patriarchy, Gender roles and Violence:**

A society that expects males to dominate in all family decision-making is called as Patriarchy. It describes a political system ruled by men in which women have inferior social and political status including basic human rights (Kottack, 2005:198) Sylvia Walby in “Theorizing Patriarchy” calls it “a system of social structures and practices in which men dominate, oppress and exploit women” (Walby, 1990). Patriarchy is based on a system of power relations, which are hierarchical and unequal where men control women’s production, reproduction and sexuality. It imposes masculinity and femininity character stereotypes in society, which strengthen the iniquitous power relations between men and women. Patriarchy values male dominance as a natural inalienable right, thereby enforcing the inferiority and subordination of women. Normative behavior derived from this value includes institutional discrimination against women in education, health, and in labor force, resulting in restricted opportunities, lower wages.

Radhika Coomaraswamy identifies different kinds of violence against women, in the United Nation’s special report, 1995. There are-

- a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non spousal violence and violence related to exploitation.
- b) Physical, sexual and psychological violence occurring within the general community including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.
- c) Physical, sexual and psychological violence perpetrated or condoned by the state.

The family socializes its members to accept hierarchical relations, which are interlinked with Cultural and social factors. Culture of many societies does not permit equality between men and women. Because in many cultures gender dichotomization has its genesis in religion (Sarkar, 1999:205). The different process of socialization creates different gender roles because of which the man is given the role of domination and control and women the role of submission and obedience.

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## **13.3 Child Abuse**

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Child sexual abuse is defined as any kind of physical or mental violation of child with a sexual intent, usually by an elder person who is in possession of trust or power vis a vis the child. It is not confined within family and household. The perpetrator can be anyone

who exploits the child's vulnerability to gain sexual gratification. The anthropological definition of incest (defined as a sexual act imposed in a child or adolescent by any person within the family constellation) focuses on the consanguinity of the individual in the relationship and the nature of sexual act, which must include sexual intercourse. This has limitations in that much sexual abuse is conducted within the family structure without their necessarily being a blood relationship. This is primarily so in the case of stepfathers, the mother's sexual partner or boyfriend, friends of the family, or close neighbours. The abused child in the presence of such family constellations often has the same emotional investment and dependency needs as the child who is incestuously abused by father, grandfather or brother. The legal definition of incest is exclusively on penile penetration and sexual intercourse and ignores the full range of sexually abusive acts that have been reported, which nevertheless violate the child's boundaries and includes full intercourse, but does incorporate non-touching behaviour as well as physical contact behaviours. The non-touching behaviours includes exhibitionism, voyeurism, nudity, verbal innuendos, genital exposure, and the use of pornography. Physical behaviours includes fondling of the breast or genital area of the child, kissing, fellatio, cunnilingus and digital penetration . Child sexual abuse is therefore defined as the involvement of dependent child or adolescent in sexual activities with an adult in which the child is used as a sexual object for gratification of the older person's needs or desire, and to which the child is unable to give consent due to the unequal power in the relationship.

The definition of sexual abuse of children is best understood when problem is related to pedophilia. The basis of sexual exploitation of children is pedophilia-sexual attraction to children.

**Do you know??**

Do you know what Pedophilia is? Pedophilia is the attraction to or love of (philia) children (ped). A 'pedophile' is an adult that is sexually attracted to children. United Nation has also defined child sexual abuse as contacts or interaction between a child and an older or more knowledgeable child or adult (a stranger, sibling, or person in a position of authority, such as a parent or a caretaker) when the child is being used as an object of gratification for the older child's or adult sexual needs. These contacts or interactions are carried out against the child, using force, trickery, bribes, threats or pressure.

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## **13.4 Forms of Child Abuse**

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Child abuse can take various forms namely commercial sexual abuse, emotional, physical, sexual abuse and neglect.

### ***13.4.1 Commercial Sexual Abuse***

Commercial sexual abuse prevailed in the form of child labour and child prostitution. It is oldest oppression for child. Child labour includes all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, and use, procuring or offering of child for prostitution, for the production of pornography or for pornographic performance. Child prostitution in India is closely linked with the poverty and helplessness of those parents who cannot afford for the proper care and protection of their minor children. It has been proved that majority of teenagers who enter into the profession usually come from lower-class homes. Sometime children are inducted forcibly through abduction, trafficking and deceit (Kumar, 2016:3).

### ***13.4.2 Sexual Violence***

It can be classified into four types namely exposure which is viewing of sexual acts and exhibition, molestation, sexual intercourse on a chronic basis and rape in which there is acute assault intercourse. Rape can be of two kinds, intra familial and extra familiar i.e. rape by known person or person in authority and rape by stranger. Child rape is a great social stigma and it shows complete degeneration of moral values in society. In some cases the victims of rape are not even accepted at home. The victim is either too traumatized by the experience or the parents, out of concern for the child's future, hush up the matter. The rapist knows that there are high chances of his outrage against the minor not being discovered. This acts as a major motivating factors, as many victims do not go to the police out of fear of adverse publicity and unnecessary harassment. Apart from the delay or even absence of justice, the victims have to face similar incidences every now and then. When the victims do not find any safe place in society and do not see any future prospects, they enter into the den of prostitution (Advani, 2006:29).

### ***13.4.3 Avoiding***

Avoiding is probably the hardest type of abuse to define. It occurs when a child does not have adequate food, housing, cloth, medical care or supervision. Emotional neglect happens when a parents do not provide enough emotional support or deliberately and consistently pays very little or no attention to a child. Neglect can be physical, educational,

emotional and medical. Physical neglect includes refusal or delay in seeking health care, abandonment, expulsion from home. Educational neglect includes chronic failure to enroll a child of mandatory school age in school, and failure to attend to a special educational need. Medical neglect includes failure to provide necessary medical or mental treatment.

#### ***13.4.4 Affecting Abuse***

It can be defined as acts or omission by the parents or the other caregivers that have caused, or could cause, serious behavioral, cognitive emotional or mental disorder. It is an attack on a child's emotional and social development and is a basic threat to healthy human development. It is like brain washing in that it systematically wears away at the victim's self-confidence, sense of self-worth, trust in their own perception and self-concept. Emotional Abuse and neglect are at the core of all type of child maltreatment and have the most harmful effects on the physical and psychological development and well being of children. Emotional Abuse can be discussed in form of rejecting, ignoring, isolating, harassment and so on.

#### ***13.4.5 Rejecting***

Parents who lack the ability to bond will often display rejecting behaviour toward a child. They tell a child in a variety of ways that he or she is unwanted. They may also tell the child to leave, call him or her names and tell the child he or she is worthless. They may not talk to or hold the young child as he or she grows up. The child may become the family scapegoat, being blamed for all the family's problems.

#### ***13.4.6 Ignoring***

Ignoring a child deprives the child of all the essential stimulation and interaction necessary for emotional intellectual and social development for example parents may not show attachment to the child or provide nurturance. They may show no interest in the child, express affection or even recognize the child's presence. Many times the parents are physically there but emotionally unavailable.

#### ***13.4.7 Separating***

A parent who abuses a child through isolation may not allow the child to engage in appropriate activities with his or her peers, may keep a baby in his or her room, not exposed to stimulation or may prevent teenagers from participating in extracurricular activities. Parents may require the child to stay in his or her room from the time school hours are over until the next morning, or restrict eating to isolation or seclusion.

### ***13.4.8 Stalking***

Stalking is unwanted and repeated surveillance by an individual or group toward another person. It scares the child and repeated exposure to fear can alter the child physically, lowering their ability to deal with other stressful situations. Repeated evocations of the stress response alter the child physically, lowering their ability to fight off disease, increasing their risk for many stress related ailments. Besides the physical effects, a child living in terror has no opportunities to develop any other quality apart from unhealthy and anti-social survival skills and character.

### ***13.4.9 Coldness***

Children learn to interact with the world through their early interactions with their parents. If parents are warm and loving, children grow to see the world as a secure place for exploration and learning. When parents are cold to their children, they deprive the child of necessary ingredients for intellectual and social development. Children who are subjected to consistent coldness grow to see the world as a cold, uninviting place, and will likely have seriously impaired relationships in the future. They may also never feel confident to explore and learn.

### ***13.4.10 Bodily violence***

Physical Abuse is physical injury (ranging from minor bruises to severe fracture or death) as a result of punching, beating, kicking, hitting, shaking, throwing, stabbing, biting, burning or otherwise harming a child. The parent or caretaker may not have intended to hurt the child. It may; however be the result of over-discipline or physical punishment that is inappropriate to the child's age.

### ***13.4.11 Adolescent Wedding***

Child marriage is a form of sexual abuse of children. Child brides or the bridegroom do not understand the solemnity of marriage ceremonies but for adult person it is safest way of keeping property and money within the family and of preserving the chastity of their daughters. Early marriage is a form of sexual abuse of the girls' child as they have to become mother. Early motherhood deprives the girls an opportunity for development and schooling, they are made to assume domestic and child care responsibilities which hamper their intellectual and personality development.

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## **13.5 Consequences of Child abuse**

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The impact of child abuse is often discussed in physical, psychological, behavioural and societal terms.

### **13.5.1 Physical consequences**

Physical abuse concerns the violent shaking of baby. Shaking baby syndrome can cause vomiting, respiratory distress, seizures and death. Impaired brain development can cause important region of the brain to fail to form properly. This abuse can result in infections, bruises, broken bones, visual and auditory impairment, brain damage, burns and deaths. Physically abused children have also been found to be more likely to interpret the actions of their peers as hostile, and to respond inappropriately in an aggressive manner. In case of chronic abuse, the stress may result in impaired brain development and various resultant disabilities like physical deformities, proneness to stress disorder, conduct disorder, hyper activity, sleep disturbance and so on. Poor physical health can persist throughout life.

### **13.5.2 Psychological consequences**

Abused children have been found to display relationship problems with their parents and peers. For instance, they may be anxious or ambivalent towards their parents and be more passive and withdrawn with their peers. Abused child is associated with intellectual deficits and other academic problem such as delay in acquiring language and so on. They also have high rates of mental disorders like depression, anxiety, eating disorder, Post Traumatic Stress Disorder (PTSD), self injury behaviour, suicide attempts and alcohol dependency increases. Child Rape has both initial effect and long term effects. In the initial effect, the emotional reactions are of fear, anger, hostility, guilt and shame. The long term effects are worse as the child goes through the stage of depression, self destruction, anxiety and tension. Victims are totally isolated, stigmatized and suffer from a negative self concept.

### **13.5.3 Behavioural Consequences**

Abuse and neglect of children may lead to low academic achievement, poor concentration, personality disorder and other problems like delinquency, teen pregnancy, drug abuse and health problems . Emotional abuse and neglect increased the likelihood of adult criminal behaviour. In some chronic cases it may lead to sexual dysfunction, or even to child prostitution. Neglected children are likely to smoke cigarettes, consume alcohol or take illicit drugs. As many as two third of people in drug treatment programs reported being abused as children. Abusive parents often have experienced abuse during their own childhoods. It is estimated that approximately one-third of abused and neglected children will eventually victimize their children.

### **13.5.4 Societal Consequence**

Society is affected indirectly and directly by child abuse (sexual, emotional, and neglect). Indirect effect include long term economic consequences such as juvenile and

adult criminal activities, mental illness and personality disorder. Direct effects include those associated with maintaining a child welfare system to investigate and provide interventions for abused and neglected children. Most emotionally abused and neglected children feel isolated as they have little confidence in others. They also fear loss of control in relationships with peers and generally fail to develop trustworthy and intimate relation with peers and adults.

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### 13.6 Child Abuse Prevention under existing Laws

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Before specific Act was passed, various provisions of the Indian Penal Code (IPC) were used to deal with sexual offences against children as the law did not make a distinction between an adult and a child.

Now, the specific Act POCSO deals with sexual offences against persons below 18, who are deemed as children.

**The Protection of Children from Sexual Offences (Amendment) Act, 2019** mentioned tough sanctions for sexual offences against children.

- **Penetrative sexual assault:** Under the Act, a person commits “penetrative sexual assault” if he: (i) penetrates his penis into the vagina, mouth, urethra or anus of a child, or (ii) makes a child do the same, or (iii) inserts any other object into the child’s body, or (iv) applies his mouth to a child’s body parts. The punishment for such offence is 20 years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of natural life of that person and also be liable to fine.
- **Aggravated penetrative sexual assault:** The Act defines certain actions as “aggravated penetrative sexual assault”. These include cases when a police officer, a member of the armed forces, or a public servant commits penetrative sexual assault on a child. It also covers cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child or the child becomes pregnant, among others. The Bill adds two more grounds to the definition of aggravated penetrative sexual assault. These include: (i) assault resulting in death of child, and (ii) assault committed during a natural calamity, or in any similar situations of violence. Currently, the punishment for aggravated penetrative sexual assault is imprisonment between 10 years to life, and a fine. The POSCO (Amendment ) Act 2019 increases the minimum punishment from ten years to twenty years, and the maximum punishment to death penalty.
- **Aggravated sexual assault:** Under the Act, ”sexual assault” includes actions where a person touches the vagina, penis, anus or breast of a child with sexual intent

without penetration. “Aggravated sexual assault” includes cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child, among others. The POSCO (Amendment ) Act 2019 adds two more offences to the definition of aggravated sexual assault. These include: (i) assault committed during a natural calamity, and (ii) administering or help in administering any hormone or any chemical substance, to a child for the purpose of attaining early sexual maturity.

- **Pornographic purposes:** Under the Act, a person is guilty of using a child for pornographic purposes if he uses a child in any form of media for the purpose of sexual gratification. The Act also penalises persons who use children for pornographic purposes resulting in sexual assault. The Act defines child pornography as any visual depiction of sexually explicit conduct involving a child including photograph, video, digital or computer generated image indistinguishable from an actual child. In addition, the Act enhances the punishments for certain offences as shown in Table.

#### **Punishment for offences for using child for pornographic purposes**

Offence	POCSO Act, 2012	POSCO (Amendment) Act 2019
Use of child for pornographic purposes	Maximum: 5 years	Minimum: 5 years
Use of child for pornographic purposes resulting in penetrative sexual assault	Minimum: 10 years Maximum: life imprisonment	Minimum: 10 years (in case of child below 16 years) Maximum: life imprisonment
Use of child for pornographic purposes resulting in aggravated penetrative sexual assault	Life imprisonment	Minimum: 20 years Maximum: life imprisonment, or death.
Use of child for pornographic purposes resulting in sexual assault	Minimum: Six years Maximum: Eight years	Minimum: Three years Maximum: Five years
Use of child for pornographic purposes resulting in aggravated sexual assault	Minimum: Eight years Maximum: 10 years	Minimum: Five years Maximum: Seven years

**Sources:** *The Protection of Children from Sexual Offences (Amendment) Act, 2019; the Protection of Children from Sexual Offences Act, 2012.*



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### **13.7 Psychological effects**

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Childhood sexual abuse has been correlated with higher levels of depression, guilt, shame, self-blame, eating disorders, somatic concerns, anxiety, dissociative patterns, repression, denial, sexual problems, and relationship problems. Survivors often experience guilt, shame, and self-blame. It has been shown that survivors frequently take personal responsibility for the abuse.

When the sexual abuse is done by an esteemed trusted adult it may be hard for the children to view the perpetrator in a negative light, thus leaving them incapable of seeing what happened as not their fault. Survivors often blame themselves and internalize negative messages. Survivors tend to display more self-destructive behaviors and experience more suicidal inclination than those who have not been abused (Browne and Finkelhor, 1986).

Victims may withdraw from school and social activities exhibit various learning and behavioural problems including cruelty to animals, Attention Deficit Hyperactivity Disorder (ADHD), conduct disorder, and Oppositional Defiant Disorder (ODD). Child sexual abuse victims report almost four times as many incidences of self-inflicted harm than others.

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### **13.8 Conclusion**

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The child sexual abuse not only has damaging and long term impact on victims, but also affects the families, communities and society. Victims suffer several trauma or damage which can be emotional, physical and mental. Psychological problems may last a lifetime if the process of healing does not take place. Child rape is abominable and ghastly, and it worsens and becomes inhuman and barbaric when the victim, who is in a persistent vegetative state besides being a child, is subjected to unwanted physical contact by perverted male. The long term solution for reducing crimes against girls is removal of societal and institutional prejudices against girls and facilitating gender sensitization of society. It is necessary that the issues like child rape should not be neglected by government agencies and social activists.

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### **13.9 Summary**

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The prime need in child rape cases are to speed up the process of trial and impose deterrent punishment to perpetrators of grave offences. Rape victims should be encouraged to report cases to the police instead of cursing their lot with silent tears. Civil society

and women's groups must conduct a vigorous campaign for social rehabilitation of rape victims and help them to come forward to expose the miscreants. Control of crime and improvement of law and order depends on the quality of policing, sensitivity of the officers and the rapport between the police and the public.

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## 14.10 Questions

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### Answer in detail:

- a. What are the characteristic features of child abuse?
- b. How do you think child abuse can be prevented?
- c. How far are new law able to prevent sexual abuse insociety?
- d. Explain the psychological consequences of child abuse?

### Answer very briefly.

- a. Who are called feminist?
- b. Who are pedophiles?
- c. How can gender based violence be mitigated in society?
- d. What is Child Rape?

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## 13.11 References

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- Adriana (1996) *Domestic Violence against Women in Albania* UNICEF
- APWID (1990): *My rights, who controls?* Kuala Lumpur, Malaysia
- Advani Poornima, Lina Gonslaves and J.K.Mittal.2006. *Rape- A Legal Study*, New Delhi: National Commission for Women P-29.
- Anuja. S. 2013. 'Human Rights of Street Children to Safe and Healthy Childhood-The Approach and Challenges', *Indian Bar Review*, Vol. XL (4)..Browne, A., &Finkelhor, D. 1986. Impact of child sexual abuse: A review of the research. *Psychological Bulletin*, 99, 66-77.
- Gomez, M.L. (1996) Perspective Teachers Perspectives on "Teaching other people children."INZeichner, K, Melnick, s. and Gomez M.L. (eds) *Current reform in preservice teacher education*.109-132.New York: Teachers college Press

- Kottak, Conrad P.1994 *Anthropology, the exploration of human diversity*. New York: McGraw-Hill
- Kumar Pankaj and Gupta Sadhna.2016. *Interrogating Child Problems-Issues and Challenges*, Concept Publication, New Delhi.
- Kumar, Pankaj. 2016 ‘Crime Against Children-A Critical Appraisal of Child Rape’ ,in Sabir Ahmad (ed.) *Caring Children*, Maulana Azad College, Kolkata.
- Julia.R. and Herman Schewendinger.1993.*Rape and Inequality*, Sage Publications, California, 1993 p-95.
- Pandey, Rama Achyut. 2016. *Sexual Abuse of Girl Children Some Hidden Facts*, RawatPublication, Jaipur.
- Sathasivam,P.2014. ‘Protection of Children From Sexual Offences Act, 2012’ ,*All India Reporter*, January, Vol.101-Part 1201,p-1.
- Walby, S. (2002) Towards a Theory of Patriarchy, in *The Polity Reader in Gender Studies*, Blackwell Publishers, U.K.
- GOI, 2013. “The Criminal Law (Amendment) Act”.
- GOI,2012 “Protection of Children from Sexual Offences Act”.
- GOI,2019 “Protection of Children from Sexual Offences (Amendment)Act”.

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## **Unit : 14 □ Consequences, Treatment and Prevention**

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### **Structure**

- 14.1 Learning Objectives**
- 14.2 Introduction**
- 14.3 Patriarchy and Sexual Violence**
- 14.4 Forms of 'Violence Against Women**
  - 14.4.1 Wife Battering**
  - 14.4.2 Domestic Violence**
  - 14.4.3 Dowry**
  - 14.4.4 Sexual Harassment at Workplace**
  - 14.4.5 Incest and Rape**
  - 14.4.6 Human Trafficking**
  - 14.4.7 Stalking**
- 14.5 Conclusion**
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- 14.7 Questions**
- 14.8 References**
- 14.9 Glossary**

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### **14.1 Learning Objectives**

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The objectives of this chapter are primarily to understand the notion of sex based violence. Sexual violence in the form of eve teasing, molestation, sexual assault and rape is crime against the honour, dignity and self respect of a woman. It damages her personality, hurts her immensely and throws her in the background. She loses confidence in life and her career is also affected adversely. In a country like India where women are worshipped at par with the Gods, where rivers and various Goddesses are named as women, this kind of behaviour against women is unethical, unjust, unfair and hypocritical. Violence against women are rooted in unequal power relations between men and women in our society and can be understood within a gender frame work. Despite the progressive

steps in many areas a lot more needs to be done to give the marginalized masses a sense of security, dignity and honour in the society. The laws that intended to punish people who commit crime against women, and the laws and regulations on the protection of women and girl child should be strictly enforced.

In short the objectives are:

- To understand the nature of sex based violence in our country.
- To understand the forms of violence against Women.
- To understand the legal remedy for eradicating sexual violence.
- To understand the issues and the challenges faced by Indian Women.

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## 14.2 Introduction

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Atrocities against women are rooted in unequal power relations between men and women in our society and can be understood within a gender framework. While sex is a biological category, gender is a social construct and refers to widely shared expectations and norms within society about appropriate male and female behavior and roles. While gender roles prescribed a strict division of labour, women are expected to perform largely reproductive functions like maintenance of the household, child rearing and so on. Gender roles also prescribe characteristic of docility, unending patience and servility for women. Women are judged and condemned by society if they go against the prescribed forms of behaviours for them.

The construction of gender roles implies that women have far lesser access to productive resources and decision making compared to men, resulting in unequal balance of power. Unequal treatment and discrimination in child rearing and caring practices in the family, male preference and denial of right to health care and education to female are some of the factors that make women vulnerable and susceptible to different forms of violence. Gender based inequality exists in all stages of women's life—from infancy to old age and manifests in form of several acts of violence. Violence against women is not a myth, but a reality. It is an act of illegal and criminal use of physical force and it also includes exploitation, discrimination, upholding of unequal economic and social structures, and the creation of an atmosphere of terror, threat or reprisal.

**Do you Know?**

The major turning point is the Convention on Forms of Discrimination Against Women (CEDAW), 1979 which came into force in 1981. This may be rightly called as the magna carta of Women's human right as it essentially constitutes the international bill of rights for women. The human rights of women includes right to equality before law, right against gender discrimination, right against harassment, right to abortion, right to privacy, right to economic empowerment.

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**14.3 Patriarchy and Sexual Violence**

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The development in the patriarchal societies has been such that women have become a weaker section of our society. Her functions have been relegated to mere procreation and attending to household chores. The queen of the household, the *ardhargani*, the *sahdarmini*, the *bharya* and the equal participator with her husband in all sacrifices and *yajnas* has become worst target of social and economic deprivation. Equal opportunity and equal treatment are alien concept even to a large number of women in Indian society. In this scenario, women often have to endure a climate of disrespect bordering on contempt and hostility.

**Do you know?**

The framers of Indian Constitution were aware of the social problems of emancipation of the female sex. They also knew that gender-equality was crucial for national development. It was evident that in order to eliminate inequality and to provide opportunities for the exercise of human rights and claims, it was necessary to promote them with special care. Educational and economic interests of the women must be promoted and we must protect them from any social injustice and exploitation. The Constitution of India did well by declaring in its preamble it's desire to secure justice that is - *social*, *economic* and *political*, and to secure equality of status and opportunity and did its best to ensure translation of these objectives into reality by incorporating provisions ensuring equality of status and of opportunity in the fields of education, public employment and participation in political life. It directs that women shall not have equal right and privileges with men but also that the state shall make provisions—both general and special for welfare of women.

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## **14.4 Forms of Violence Against Women**

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In India the common violence against women are wife beating, harassment, torture, bride burning, slavery and exploitation, forced prostitution and sexual harassment, female foeticide and infanticide, acid attack, stalking, voyeurism etc. The nature of violence against women in and outside the families takes the form of injuring women's psychological health as well as their bodies and often involves humiliation in addition to physical violence. The violence caused to women in the family is domestic violence which includes foeticide, infanticide, marital cruelty, dowry murders, child abuse, incest and battering etc. The violence faced by the women at community level includes rape, sexual harassment, eve-teasing, acid attack, stalking, voyeurism, trafficking and sexual discrimination.

### ***14.4.1. Wife Battering***

It is unfortunate that home, the sweet home, the abode of rich and complex feelings and a place of retreat for protective sphere of family life, could be very dangerous place for women. Cruelty and wife beating, is so alien to our image of non-violence and respect for womanhood, is emerging as one of the least recognized and most appalling crimes. Wife battering is a global phenomenon. The institution of marriage which is supposed to protect a woman renders her even more vulnerable to assault. Law is adequate to deal with the battering of women within the home. Cruelty is a legal ground for dissolution of marriage under personal laws before the Civil Court, and the same cruelty is made punishable under law by amendment of Indian Penal Code in 1983. In order to combat the increasing incidents of torture of women by their husbands and his relatives, the legislature enacted section 498A of the Indian Penal Code 1860 and section 113A of the Indian Evidence Act 1872(Gupta,2015:198). The term cruelty under section 498A includes both mental and physical cruelty. The offence under this section is a cognizable offence and trial by a Magistrate of First Class.

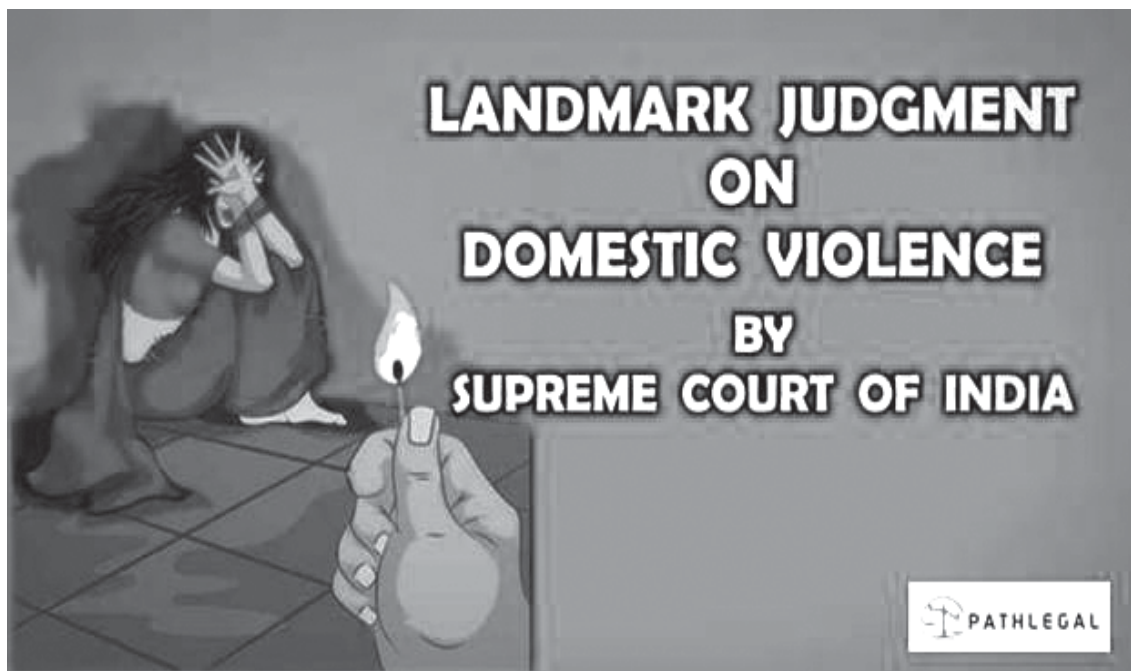
### ***14.4.2. Domestic Violence***

Physical violence as well as explicit forms of aggression is used by the more powerful in the household as methods to ensure obedience of the less powerful and therefore related to power dynamics in a household. At every stage in the life cycle, the female body is both the objects of desire and of control (Thapan 1997). Domestic violence includes not only inter-spousal violence, but also violence perpetrated by other family members. Generally, an important part of the power relationship between spouses and their families relates to dowry and its ramifications (Karlekar, 1995). There is a wide societal tolerance for wife-abuse, which is very often even considered justifiable under

certain circumstance: Domestic violence includes harassment, maltreatment, brutality or cruelty and even the threat of assault and intimidation. It includes physical injury, as well as “willfully or knowingly placing or attempting to place a spouse in fear of injury and compelling the spouse by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse has a right to abstain”. Abuse of wives and wife beating– or in more extreme cases wife battering is the most common form of abuse worldwide irrespective of class, religion, community (Bogards 1988; Chen 1922a; Hoff 1990, Strauss 1980).

**Do you know?**

Violence is a major cause of injuries to women. Physical violence leads to irritable bowel syndrome, gastrointestinal disorder and chronic pain. Extreme stress and anxiety during pregnancy due to violence can reduce women’s food intake and resulting in low birth weight. It can also lead to preterm delivery or foetus growth retardation. Any physical injury on abdomen leads to rupture of uterus and death of women.



<https://www.pathlegal.in/Landmark-Judgment-On-Domestic-Violence-by-Supreme-court-of-I-blog-2383477>



***Domestic violence as a Human Rights Issue:***

Human rights are some basic rights which are inherent in our nature and without which we cannot live as human beings. The human rights of women includes rights to equality before law, right against gender discrimination, right against harassment, right to abortion, right to privacy, right to economic empowerment. Today domestic violence is recognized as a gross human rights violation by different International Women's Conventions. The UN Conference documents i.e. Vienna declaration and Programme of Action 1993, and Beijing Declaration and Platform for Action 1995 recognised domestic violence as a human rights issue. The UN convention on elimination of all forms of discrimination against women 1979 recognised domestic violence as a gender based violence. Article 17 of this convention creates a committee on the elimination of discrimination against women which recognized Domestic Violence as a human right issue. In India, Domestic Violence violates Article 21 of the Constitution of India.

It can be stated that in spite of plethora of progressive and protective legislations favouring women, India failed to uplift the social status of women. Though a new civil law i.e. The Protection of Women from Domestic Violence Act, 2005 has been enacted, still today Domestic Violence is common in both urban and rural India. Undoubtedly, it involves a human rights issue and a serious obstruction to development. According to Poornima Advani (Former Chairperson of National Commission for Women) "It (domestic violence) is pernicious because it is directed against women who are supposed to carry the generations forward and goes against all canons of civilized behavior. It is insidious because it takes place within the closed walls of the home, which is supposed to be the safe sanctuary for its occupants.

***14.4.3 Dowry***

Dowry is a transfer of property from the bride's family to that of the bridegroom, at the time of marriage (Negi 1997: 14). According to the present practice, dowry usually subsumes material gifts and cash paid to the bridegroom and his kin. It means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage or by the parents of either party or by any other person to either party to the marriage. It may be given at or before or any time after the marriage in connection with the marriage of the said parties.

In the Bride-price form of marriage, the parents or guardians of the bride receive as a compensation amount of money from the parents or guardians of the groom, for the transfer of the labor and services of the bride from the parents household to her in-law's household. Some ethnographers (Tambiah, 1973; Schlegel and Eloul, 1988) used the term 'bride wealth' for bride price. However for Schlegel and Eloul's (1988) bride wealth carries the same meaning as given for bride price marriage. Payments are linked with a number of issues: most importantly, status and the economic contribution of the brides to the groom's family (Lindenbaum, 1981); nature of residence and the inheritance system (Spiro, 1975; Yalman, 1967); shortages of potential brides and bride grooms (Caldwell et al, 1983); and tendencies towards egalitarianism or stratification in a given society (Goody, 1973).

**Do You Know?****Legal Provision**

Section 498-A is integral to offences under section 304-B and 'cruelty' is a common ingredient to both the sections. In fact, the Supreme Court held *Shanti vs. State of Haryana* that the two sections (304-B and 498-A of Indian Penal Code) are not mutually exclusive and, in cases of 'dowry-death', both from the point of view of practice and procedure and to avoid technical defects, charges under both the sections should be framed. The Supreme Court further held that in the absence of any explanation under section 304-B about the meaning of cruelty, the meaning of cruelty and harassment has to be taken as the same as in the explanation to section 498-A of IPC.

In *Baldev Krishnan vs. State of Punjab case*, the Apex Court held that "taunts to the deceased by the accused saying that better proposals were received for the groom who were willing to give more dowry and making humiliating remarks about the low quality of gifts brought in by her during the marriage, amounted to harassment on account of insufficient dowry", and that even if there was no proof of physical torture, proof of mental torture was sufficient for conviction.



<https://www.change.org/p/smile-dowry-system-in-india>

#### ***14.4.4 Sexual Harrasment at Workplace***

Sexual harassment is yet another form of gender based violence. It is in the form of eve teasing, molestation, sexual assault and rape. This is a wrong committed against the honour, dignity and self respect of a woman. It hurts women immensely and throws her in the periphery. Sexual harassment in workplace is a serious irritating factor that renders women's involvement in works unsafe and affects right to work with dignity. She loses confidence in life and her career is put at stake. There is a strong need for combating this fast growing problem Sexual harassment at the workplace is a growing concern for women. Even though the occurrence of sexual harassment at the workplace is widespread in India and elsewhere, this is the first time it has been recognised as an infringement of the fundamental rights of a woman, under Article 19(1) g of the Constitution of India "to practice any profession or to carry out any occupation, trade or business"(Gupta,2017:41). Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to safe environment free from sexual harassment. Articles 14, 15 and 21 of the

Indian Constitution provide safeguards to women against all forms of discrimination. In recent times, the problem of sexual harassment at the workplace has assumed serious proportions.

The numbers of cases filed for sexual harassment has risen but women employee are still reluctant to report the matter to the concerned authorities. Indeed, a woman suffers it silently and avoids lodging report because she believes that her complaint would disadvantage her in connection with her employment. About half of the working women have suffered some kind of sexual harassment at workplace. For the majority of the working women, mental and physical harassment and gender discrimination have been the most dominant forms of problems relating to sexual harassment.

#### **Do You Know?**

For the first time sexual harassment had been explicitly- legally defined in India in *Vishaka v. State of Rajasthan and Others* case as an unwelcome sexual gesture or behaviour whether directly or indirectly as

1. Sexually coloured remarks
2. Physical contact and advances
3. Showing pornography
4. A demand or request for sexual favours
5. Any other unwelcome physical, verbal/non-verbal conduct being sexual in nature.

It was in this landmark case where the Supreme Court provided exclusive guidelines in respect of protection of women from sexual harassment at workplace. In less graver sense sexual harassment in India is also termed as “Eve Teasing” and is described as: unwelcome sexual gesture or behaviour whether directly or indirectly as sexually coloured remarks; physical contact and advances; showing pornography; a demand or request for sexual favours; any other unwelcome physical, verbal/non-verbal conduct being sexual in nature. Eve teasing is an act of terror that violates a woman’s body, space and self-respect. It is one of the many ways through which a woman is systematically made to feel inferior, weak and afraid. Whether it is an obscene word whispered into a woman’s ear; offensive remarks on her appearance; an intrusive way of touching any part of a woman’s body; a gesture which is perceived and intended to be vulgar, all these acts

represent a violation of a woman's personae and her bodily integrity. Eve teasing denies a woman's fundamental right to move freely and carry herself with dignity, solely on the basis of her sex (Hindu, August 2, 1998).



<https://www.google.com/search?q=photos+Sexual+Harassment+at+Workplace+in+india>

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides stringent clauses for the protection of women workers from harassment which are as follows–

1. A written complaint has to be filled by the female employee within three months of the date of the incident.
2. The inquiry has to be completed within 90 days.
3. The inquiry report has to be issued within 10 days from the date of completion of inquiry.
4. Employer is required to act on the recommendations of the committee within 60 days of receipt of the inquiry report.
5. Appeal against the decision of the committee is allowed within 90 days of the date of recommendations.

**Do You Know?****Some examples of behaviour that constitute sexual harassment at the workplace**

1. Making sexually suggestive remarks or innuendos.
2. Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
3. Offensive comments or jokes.
4. Inappropriate questions, suggestions or remarks about a person's sex life.
5. Displaying sexist or other offensive pictures, mms, sms, whatsapp, or e-mails.
6. Intimidation, threats, blackmail around sexual favours, and showing posters.
7. Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
8. Unwelcome social invitations, with sexual overtones commonly understood as flirting.
9. Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.

*Source: Ministry of Women and Child Development, November 2015*

**14.4.5 Incest and Rape**

The word 'rape' is derived from the Latin term 'rapio', which means to seize. Rape literally means a forcible seizure and that is the essential characteristic of the offence. It means the violation of one's esteem. Rape is not a crime only against the person of a woman but a crime against society being the worst kind of social menace. It is viewed as a crime against the 'honour' of not just the girl who is raped but also of her family (Gupta, 2015:81). Apart from being regarded as a dehumanizing act it is an unlawful intrusion on the right to privacy and sanctity of female. It is violative of the victim's most cherished fundamental right that is the right to Life contained in Article 21 of the Constitution. Rape is a crime not only against the person but against the entire society (Gupta, 2015:81). It destroys the psychology of woman and pushes her into deep trauma. When a woman is ravished what is inflicted is not only mild injury but the deep sense of deathless shame. It is crime against basic human right to live with human dignity as contained in Article 21 of the Indian Constitution. According to it, the right to life with human dignity is the fundamental right of every citizen and the state is under constitutional duty to provide at least minimum conditions ensuring human dignity.

Rape laws are covered under section 375 and 376 of the IPC. Under these sections, rape is seen only in times of penile-vaginal penetration. It does not include for instance anal or oral penetration. It does not include penetration by objects. As a result of these loopholes, very often judges find themselves trying rape cases under more watered down sections; 'outraging the modesty of a woman', for instance. The Indian Penal Code makes no distinctions between rape of a minor, and that of an adult.

### **Do you Know?**

#### **Psychological Implication**

Physical violence has far more psychological implication, as it erodes self esteem and brings personality breakdown and total loss of functioning of a normal human being. It brings emotional disorders. Depression, sexual dysfunction, eating problem and fear anxiety is the most common mental health problems. Such women suffer from acute anxiety disorder like obsessive compulsive disorder and Post Traumatic Stress Disorder (PTSD).



<https://www.gettyimages.in/photos/nirbhaya-protest>

### ***Legal Measures and Policies***

The Criminal Law (Amendment) Bill, 2013, more popularly called the Anti-Rape Bill, is now law. The Act came into force on 3<sup>rd</sup> February, 2013 following the outrage of the entire nation behind the homicidal gang rape that took place in New Delhi on the night of 16<sup>th</sup> December 2012. The protest in Delhi after the barbarous Rape Incident indicated the enormity as well as the seriousness for an immediate reform in Rape Laws. The Criminal Law (Amendment) Act, 2013, an Indian legislation passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences. The Bill received Presidential assent on 2 April 2013 and came into force from 3 February 2013. It was originally an Ordinance promulgated by the President of India, Pranab Mukherjee, on 3 February 2013, in light of the protests in the 2012 Delhi gang rape case. This incident generated huge international coverage and was condemned by the United Nations Entity for Gender Equality and the Empowerment of Women, who called up the Government of India and Delhi “to do everything in their power to take up radical reforms and the like to make women’s lives safer and secure”.

#### ***14.4.6 Human Trafficking***

Trafficking of humans involves moving men, women, and children from one place to another placing them in conditions of forced labour. The practice includes forced sex work, domestic servitude, unsafe agricultural labour, sweatshop labour, construction or restaurant work and several violations of human rights occurs within countries and across borders, region and continents (Sachdeva,2015:137) ‘Trafficking in persons’ includes recruitment, transportation, transfer harboring or the holding of persons by means of threats or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. The word “trafficking” does not have a single, universal definition, resulting in different numbers of women being counted for each different definition of the term used. Trafficking may be the result of force, coercion, manipulation, deception, abuse of authority, initial consent, family pressure, past and present family and community violence, economic deprivation or other conditions of inequality for women and children (Donna, 2000). Human trafficking is a continuously evolving transnational criminal activity. In India, the driving trends of the human trafficking include both push and pull factors leading to demand and supply of human beings and commodification of human beings (Nair, 2007). The United Nations Protocol to prevent, suppress, and punish trafficking



in persons, especially women and children (adopted in November 2000) define trafficking as: -

*“The recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or a giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation in the of the prostitution of form or other forms of sexual exploitation, forced labour or service, slavery or practices similar to slavery, servitude or the removal of organs”*

In India, human trafficking is generally equated with commercial sexual exploitation. The country does not have any systematic record of the number of persons trafficked. Both the victims and their families do not come forward to report incidents because of the stigma attached to it. Therefore the figures available are mostly from the rescue operations that are carried out from time to time.



<https://blog.ipleaders.in/human-trafficking/>

#### **14.4.7 Stalking**

Stalking is defined as a “willful course of conduct” involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidate, threatened, harassed or molested and that actually cause the victim to feel terrorized, frightened, intimidate, threatened, harassed or molested”. Stalking is

unwanted or obsessive attention by an individual or group toward another person. Stalking behaviours are related to harassment and intimidation and may include following the victim in person or monitoring them. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking includes-

- i) Repeated, unwanted, intrusive, and frightening communications from the perpetrator through phone, message, chat or email.
- ii) Repeatedly leaving or sending victim unwanted items, presents, or flowers.
- iii) Following or laying in wait for the victim at places such as home, school, work, or recreation place.
- iv) Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.
- v) Damaging or threatening to damage the victim's property.
- vi) Harassing victim through the internet. Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth. Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family work, or neighbors, etc.

Almost all stalkers have some type of mental or emotional problem. Stalkers go across town, country, or even to different continents in order to continue their stalking. Stable people simply do not continue, often in the face of years of rejection, to pursue someone. Stalkers, no matter what or how severe their mental disorder, can usually be sorted into one of three major groupings: Simple Obsession, Love Obsession, and Other.

### ***Simple Obsession Stalkers***

These stalkers have previously been involved in an intimate relationship with their victims. Often the victim has attempted to call off the relationship but the stalker simply refuses to accept it. These stalkers suffer from personality disorders, including being emotionally immature, extremely jealous, insecure, have low self-esteem and quite often feel powerless without the relationship. While reconciliation is the goal, this stalker believes they must have a specific person back or they will not survive. The stalker of former spouses or intimate partners, are often domineering and abusive to their partners during the relationship and use this domination as a way to bolster their own low self esteem. The control the abusers exert over their partners gives them a feeling of power they can't find elsewhere.

They try to control every aspect of their partner's lives. Their worst fear is losing people over whom they have control.

When they realize this fear as the relationship finally does end, the stalker suddenly believes that his/her life is destroyed. Their total identity and feelings of self-worth are tied up in the power experienced through their domineering and abusive relationship. Without this control, they feel that they will have no self-worth and no identity. They will become nobodies and in desperation they begin stalking, trying to regain their partner and the basis of their power. It is this total dependence on their partner for identity and feelings of self worth that makes these stalkers so very dangerous. They will often go to any length and stop at nothing to get their partner back. If they can't have the people over whom they can exert dominance and total control, their lives are truly not worth living. Unfortunately, along with becoming suicidal, they also often want to kill the intimate partners who have left them.



[www.shutterstock.com](http://www.shutterstock.com).

### ***Love Obsession Stalkers***

These are individuals who become obsessed with or fixed on a person with whom they have had no intimate or close relationship. The victim may be a friend, a business

acquaintance; people met only once, or even a complete stranger. Love obsession stalkers believe that a special, often mystical, relationship exists between them and their victims. Any contact with the victim becomes a positive reinforcement of this relationship and any wavering (even the slightest) of the victim from an absolute “NO” is seen as an invitation to continue the pursuit. These stalkers will often read sexual meanings into neutral responses from the victim. They are often loners with an emotional void in their lives. Any contact with the object of the infatuation, even negative, helps fill this void. Failed relationships are the rule among these individuals.

### ***Legal Action***

Previously, there were no penal provisions to combat the crime of stalking. Recently through the Criminal law Amendment Act, 2013

354D. (1) Any man who—

- (i) Follows a woman and contacts, or attempts to contact such woman to foster personal interaction despite a clear indication of disinterest by such woman; or
- (ii) Monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) It was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) It was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- (iii) In the particular circumstances such conduct was reasonable and justified.

The recognition of word cyber stalking cannot be said to be a new concept rather it got its place under Information Technology Act 2000. Section 29(a) of the Indian Penal Code defines Electronic Record as “The words “Electronic Record” shall have the meaning assigned to them in clause (t) of sub-section (1) of section 2 of the Information Technology Act2000”. This big change is the recognition of electronic document as evidence in a court of law.

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## 14.5 Conclusion

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Women across the world, regardless of income, age or education, are subject to physical, sexual, psychological and economic violence. Although violence is a threat to everyone, women and children are particularly susceptible to victimization because they often have fewer rights or lack appropriate means of protection. In some societies certain types of violence are deemed socially or legally acceptable, thereby contributing further to the risk to women and children. Victims of violence of any type fear stigmatization or societal condemnation and thus often hesitate to report crime. Addressing the gender-based violence requires significant learning and knowledge sharing through partnerships and long-term programs.

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## 14.6 Summary

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From time immemorial women have been placed on a pedestal ‘mother of mankind’. Paradoxically, the most horrendous cruelties are inflicted on her, often without reason and mostly without just cause. Crime against women is one of the most persistent human rights violations that are often ignored. This arises due to the culture of discrimination that denies equal rights and equal opportunities to women. It is a matter of serious introspection whether the rights guaranteed under the law have any meaning for the down trodden sections of society. Despite the progressive steps in many areas a lot more needs to be done to give the marginalized masses a sense of security, dignity and honour in the society.

A profound look into the unfavourable attitude of society towards women reveals that gender inequality is deeply entrenched in policies, legislation and societal institution in our country. The challenges facing women today, therefore, are alarming and cannot be resolved by laws alone. We need to change our stereo type mind-set, attitude and perception.

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## 14.7 Questions

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### Check our progress

#### Answer in detail:

- a. What are the characteristic features of sexual violence?
- b. How do you think sexual violence can be mitigated?
- c. How far are new law effective in preventing rape from society ?
- d. Explain the psychological consequences of r ape?

**Answer very briefly.**

- a. Who are called stalkers?
- b. Who are traffickers?
- c. How can sexual violence be eradicated from society?
- d. What is domestic violence?
- e. What are dowry laws?

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**14.8 Reference**

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- Agnes Flavia.1999. *Law and Gender Inequality*. New Delhi:Oxford University Press.
- Bhasin, Alok.2007.*Sexual Harassment or Work*.Lucknow: Eastern Book Company.
- Kumar Pankaj and Sadhna Gupta.2016. *Interrogating Child Problems*, New Delhi:Concept Publication.
- Pande, Rekha and Sita Vanka.2019. *Gender and Structural Violence*, Jaipur: Rawat Publication
- SenSankar and Jayashree Ahuja.2009. *Traffcking in Women and Children*, New Delhi: Concept Publication.
- Bogards, M. 1988. 'Feminist Perspective on Wife Abuse: An Introduction', in K.Yllo and Bogards (eds), *Feminist Perspective on Wife Abuse*,11-25. New Gursy: Sage Publication.
- Caldwell, J.C, Reddy P.H and Caldwell P. 1983. 'The Cases of Marriage Change in South India' *Population Studies*, 37(3): PP 343-361.
- Chen, R.1992. 'Martial Violence in Taiwan: Characteristics and Risk Factors', *Journal of Sociology*.21: 123-60
- Goody, J.1973. 'Bride-Wealth and Dowry in Africa and Eurasia', in J.Goody and S.J.Tambiah, (Eds.) *Bride Wealth & Dowry*, PP. 1-58: Cambridge, Cambridge University Press.
- Hoff, Lee Ann.1990. *Battered Women as Survivors*. London: Routledge.
- Gupta,Sadhna.2015.'Rape and Indian Society',in Pankaj Kumar and Sadhna Gupta (ed.): *Relocating Women's Equality*. Jaipur: Rawat Publication.

- Gupta, Sadhna. 2015. Crime against Women, in Ram Krishna Mandal(ed): *Women in Development* (194-213). New Delhi: Discovery Publishing House Pvt. Ltd.
- Gupta, Sadhna. 2017. Women as Victim of Sexual Harassment at Workplace, in Prem Kumar Agarwal and Shashi Nath Mandal Mandal(ed): *Empowerment of Women* (39-56). Delhi: ABS Books.
- Karlekar, M. 2003. 'Domestic Violence', in Veena Das(ed), *The Oxford Indian Companion to Sociology and Social Anthropology*. New Delhi: Oxford University Press.
- Lindenbaum, S. 1981. 'Implication for Women of Changing Marriage Transactions ns in Bangladesh', *Studies in Family Planning*, 12(11): PP 394-401
- Misra, Preeti. 2015. 'Sexual Harassment of Women at Workplace: Legal Control and Judicial Response', in Pankaj Kumar and Sadhna Gupta (ed.): *Relocating Women's Equality*. Jaipur: Rawat Publication.
- Nair, P.M. 2007. *Trafficking Women and Children for Sexual Exploitation*, New Delhi: UNIFEM.
- Negi, Elizabeth F. 1997. *Death by 'Social Causes': perceptions of and responses to female infanticide in Tamil Nadu*. M.S. Swaminathan Research Foundation, Monograph NO.5
- Sachdeva, Swati Akshay .2015. 'Crime against Women in Sikkim', in Pankaj Kumar and Sadhna Gupta (ed.): *Relocating Women's Equality*. Jaipur: Rawat Publication.
- Schuler, Set.al 1996. 'Credit Programmes, Patriarchy and Men's Violence against Women in Rural Bangladesh', *Social Science and Medicine*; 43(12)
- Spiro, M.E. 1975. 'Marriage Payments: A Paradigm for the Burmese Perspective', *Journal of Anthropological Research*, 31(2): PP 89-115
- Straus, M.A. And Gelles, R.J. 1990. *Physical Violence in American Families. Risk factors and adaptations to Violence in 8,145 Families*. New Brunswick, NJ: Transaction
- Tambiah, S.J. 1973. 'Dowry and Bride-Wealth and the Property Rights of Women in South Asia', in J. Goody and S.J. Tambiah(eds.), *Bride-Wealth and Dowry*, PP. 59-169, Cambridge: Cambridge University Press.
- Thapan, M. 1997. *Embodiment Essays on Gender and Identity in 'Femininity and its Discontents: Womens body in Intimate Relationship*. New Delhi: Oxford University Press.

Yalman, N. 1967. *Under the Bo Tree*. Berkeley: University of California Press.

Criminal law Amendment Act, 2013

Information Technology Act 2000.

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## 14.9 Glossary

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**Violence-** Violence is the use of physical force so as to injure, abuse, damage, or destroy. Violence is defined by the World Health Organization as “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm”.

**Acid Attack-** is the premeditated act of throwing acid on the body of a person “with the intention to disfigure, maim, torture, or kill”. Perpetrators of these attacks throw acid at their victims, usually at their faces, burning them, and damaging skin tissue, often exposing and sometimes dissolving the bones.

**Female Foeticide-**The act of aborting or terminating a foetus while it’s still in the womb, because it is female, is known as female foeticide. This can be done after determining the sex of the child before it’s born, through ultrasound scans.

**Prostitution-** The expression ‘prostitute’ means a woman who offers her body to indiscriminate sexual intercourse with man, especially for hire.

**Crime-** Crime is the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited, and punishable under criminal law.

**Eve-teasing-** It as an attitude, a mindset or even behavior that can be interpreted as an act of humiliation of the female sex. Eve teasing is a euphemism used in India for public sexual harassment or molestation of women by men.

**Empowerment-** Empowerment is the process by which the powerless gain greater control over the circumstances of their lives. It includes both control over resources and over ideology, a growing intrinsic capability giving greater self confidence, and an inner transformation of one’s consciousness that enables one to overcome external barriers. It involves not only changes in access to resources but also an understanding of one’s right. It is generally applicable to powerless sections of society.

**Voyeurism-** It is the activity of getting pleasure from secretly watching other people in sexual situation or more generally from watching other people’s private lives.



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## **Unit : 15 □ Feminist Perspective on Sexual Violence**

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### **Structure**

#### **15.1 Learning Objectives**

#### **15.2 Introduction**

#### **15.3 Types of Feminism**

##### **15.3.1 Liberal Feminism**

##### **15.3.2 Marxist/Socialist Feminism**

##### **15.3.3 Radical Feminism**

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#### **15.5 Sexual Violence**

##### **15.5.1 Rape**

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##### **15.5.3 Trafficking of Women and Girl Children**

##### **15.5.4 Feminist Orientation towards Trafficking and Prostitution**

##### **15.5.5 Honour Killing**

#### **15.6 Conclusion**

#### **15.7 Summary**

#### **15.8 Questions**

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#### **15.10 Glossary**

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### **15.1 Learning Objectives**

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The objectives of this unit are primarily to understand the notion of feminist ideology. Feminism in India is a set of movements aimed at defining, establishing, and defending equal political and economic rights for women in India. Feminists in India seek gender equality: the right to work for equal wages, the right to equal access to health and education, and equal political rights. The most important determinant for sexual violence is the historically rooted inequality of power relation between men and women. Violence is not a natural or biological phenomenon rather it is a product of the unequal power equations in the society. In fact, sexual violence mirrors gender inequalities and reflect other forms of social inequalities.

Feminist believes that crimes against women are rooted in unequal power relations between men and women in our society and can be understood within a gender framework. Despite the progressive steps in many areas a lot more needs to be done to give the marginalized masses a sense of security, dignity and honour in the society. The laws that intended to punish people who commit crime against women, and the laws and regulations on the protection of women and girl child should be strictly enforced.

In short the objectives are:

- ✓ To learn feminism.
- ✓ To understand types of feminist.
- ✓ To learn about patriarchy.
- ✓ To develop acquaintance with the feminist opinion on sexual violence.
- ✓ To understand the legal provision regarding sexual violence.

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## **15.2 Introduction**

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Feminism can be understood as belief in social, economic and political equality of the sexes. Though it has originated in the West, feminism is manifested worldwide and is represented by various institution committed to activity on behalf of women's rights and interest ([www.britannica.com](http://www.britannica.com)). It consists of social, economic and political movements and theories that are concerned with gender inequalities and gaining equal rights for women. In the West, the evolution of the feminist struggle is often referred to as 'waves' of change, reflecting peaks and troughs of the movement. The first wave of feminism began in the late 19th and early 20th century in the West, with the primary goal of securing voting rights ([www.en.wikipedia.org](http://www.en.wikipedia.org)). Feminism in India is a set of movements aimed at defining, establishing, and defending equal political and economic rights for women in India. It is the pursuit of women's rights women's within the society of India. Like their feminist counterparts all over the world, feminists in India seek gender equality: the right to work for equal wages, the right to equal access to health and education, and equal political rights. Indian feminists also have fought against culture-specific issues within India's patriarchal society. The foundation of Indian feminism—the first wave—was laid by the reform and anti-colonial movements of the 19th century. The aims of the movement centered on including women in public life with better political rights, access to education and employment in the context of the colonial state. According to Maitrayee Chaudhuri, unlike the Western feminist movement, India's movement was initiated by men, and later joined

by women. Various social reformers took up specific issues to improve the status of women. Reformers like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar, for instance, argued against the ideas of sati, polygamy, early marriage and permanent widowhood. Further, the Brahma Samaj gave impetus to mass education of girls and women. The movement for education and social reform was largely led by upper-caste Bengali Women. The reformist movement, as a result, led to various social gains such as the legalisation of *Widow Remarriage Act in 1856* and the *Abolition of Sati* by Lord William Bentick 1829. The later part of the struggle remained preoccupied with the issues on property and inheritance, limiting the composition of the movement to upper-caste and elite class women.

After independence, India began to look inward to resolve social issues and create a systematic development plan for women. This second wave of feminism became broader as the intersectionalist of caste; class and culture were recognized by the state. The movement entered the private sphere to claim equal rights pertaining to marriage, divorce, and succession, justice for dowry and sexual violence, and economic opportunities. An exemplification of this can be found with the passing of Hindu Act after 1950's, like Hindu Marriage Act, 1955, Hindu Succession Act 1956, Hindu Minority and Guardianship Act (1956), and Hindu Adoptions and Maintenance Act (1956), which provided equal rights to women through laws on divorce, marriage, adoption and inheritance. With the improvement in literacy levels and free movement, Indian women were beginning to determine their place in society and develop identity-consciousness. The key difference between the first and second wave was that the former was espoused by men on behalf of women and did not seem to challenge the hegemony of the Indian patriarchal social structure, instead it focused on specific cultural issues that conflicted with the idea of Western liberalization. The latter was largely led by women and women's organizations. The lines between women's social, economic and political rights became blurred in this period. The Chipko movement in 1973, for instance, saw women protest for their rights against environmental and economical calamities. This movement is key in Indian feminism because not only was it a demand for constitutional rights, it also stood against the patriarchal social structures at a grassroots level.

In 1980, the Five-Year Plan decided to focus on the health, employment and education of women, marking the beginning of the third wave of Indian feminism. Women-led non-government organizations proliferated in a bid to provide support to other women.

The movement also took up the rights of Dalit and marginalized women. The developmental programmes and women's groups largely directed their effort to raise the economic and social status of women. Principally, women's groups sought the empowerment of women to integrate them into the mainstream.

With the effects of economic liberalization and the advent of modern technology, by the 2000s, women in India witnessed a cultural shift that stressed on rights such as women's freedom, choice and independence. Although the term 'fourth-wave feminism' originated in the West, it emerged in India almost synchronously due to the widespread use of social media (<https://www.orfonline.org/research/the-rising-fourth-wave-feminist-activism-on-digital-platforms-in-india>)

Feminist theory refers to a broad system of ideas which are based on the principle that women are equal to men and need to be given the same rights and opportunities as men in every sphere of their lives. It can also be described as a system of ideas which seek to challenge traditional conceptions of gender and related concepts of femininity and masculinity. Simply theorizing about gender does not qualify as a feminist position. In order to be considered a feminist theory, it must also recognize gender as a system of inequality; assume that it is a changeable rather than fixed feature of human societies, and most importantly, advocate a commitment to a gender equitable system (Chafetz, 2006). Feminist theory differs from most sociological theories in two ways. First, it is the work of an interdisciplinary community which includes not only sociologists but also political activists, historians, biologists, psychologists, etc. Second, feminists work with a double agenda- they desire both to broaden and deepen their own discipline; and to develop a critical understanding of society in order to change it for the better (Ritzer, 2011).

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### **15.3 Types of Feminism**

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Based on their understanding of gender and gender inequality, various strands of feminist thought have developed over the years. However, it is to be noted that the categorization of these various strands of feminism is more for analytical purposes, as often the strands draw from one another rather than remain exclusive. The first three major strands of feminism which developed in the West were liberal feminism, Marxist/socialist feminism and radical feminism. Liberal feminism's central argument is that there exists gender inequality which can be ended when women get the same rights as men, through legal, political, educational and other reforms within the existing system. Socialist feminism

argues that gender inequality mainly stems from the inequalities set forth by the capitalist system. Radical feminism takes as its basis sexual politics as the basis of gender oppression. To response to the limitations posed by these forms of feminism, other strands began to evolve from these strands. Black feminism developed as a critique of the radical feminist view that women around the world share a common, universal experience of oppression. According to black feminist thinkers, gender oppression cannot be separated from race and class oppression and need to be analyzed at their intersections. Postmodern feminism, in adherence to postmodern thought, has argued that certain basic conceptual categories such as women and gender need to be challenged and deconstructed, rather than be taken for granted. Dalit Feminism has an emancipator potential against caste and gender concerns. With the establishment of the National Federation of Dalit women in 1995, the movement got its autonomous momentum. A Dalit feminist viewpoint primarily stresses the significance of 'difference' as a factor. Savitribai Phule remains the stalwart of Dalit feminism. Post-1990s, there was a radical turn in feminist politics which marked the initiation of ideology different from 'upper-caste' feminists. Dalit women are one of the most marginalized segments in the society. The condition of dalit women is more vulnerable than the non-Dalit women. Dalit women are suffering from multi-disadvantages. Eco feminism is an ideology and movement that sees climate change, gender equality, and social injustice more broadly as intrinsically related issues, all tied to masculine dominance in society. Ecofeminism also calls attention to the fact that women are disproportionately affected by environmental issues. These have been some of the common forms of feminist articulations.

### **15.3.1 Liberal Feminism**

Liberal feminism emerged from the political philosophy of liberalism centered on human being's capacity for rationality and reason, and their natural right of liberty. The world view of liberalism emerged as a distinct political tradition during the Enlightenment period. Liberal feminists defend the equal rationality of the sexes and emphasize the importance of structuring social, familial, and sexual roles in ways that promote women's autonomous self-fulfillment. They emphasize the similarities between men and women rather than the average differences between them, attribute most of the personality and character differences between the sexes to the social construction of gender, and tend to promote a single set of androgynous virtues for both women and men.

Liberal feminism has its roots in the writings of Mary Wollstonecraft (1759-1797), John Stuart Mill (1806-1873), and Harriet Taylor Mill (1807-1858). Many writers prior

to Wollstonecraft, such as Jean-Jacques Rousseau (1712-1778), had explicitly argued that men and women were by nature not merely different in kind but different in “natural rank,” with women being weaker physically, intellectually, and emotionally. Men were said to be more rational, women more emotional; their respective educations should reflect these differences. A few philosophers, such as John Locke (1632-1704), had argued that the sexes should receive the same education and that they shared equal rights and responsibilities with respect to their children. Liberal feminism holds the view that if society is to achieve gender equality, then it must provide women with the same political rights.

### **15.3.2 Marxist/Socialist Feminism**

Socialist feminism, which draws on aspects of Marxist feminism, emerged in the 1970s as a possible solution to the limitations of existing feminist theory. Marxist feminism cites capitalism as the cause of women’s oppression. Socialist feminists believe that women’s liberation must be sought in conjunction with the social and economic justice of all people. In Karl Marx and Frederick Engel’s work ‘*The Origin of Family, Property and the State*’ (1884) Engel’s elaborates on how physical and sexual labour of women has been appropriated for reproductive and care taking functions of private property and the family. The subordination and suppression of women are not natural but made to appear so in order to cater to patriarchy. The emergence of the institution of private property pushes women to the darkness of unrecognition, establishing capitalism and ownership in the hands of men. He refers this as ‘the final defeat of female sex’ in history. From then onwards, all society have been made patrilineal, property flowing from fathers to the sons.

Marxist feminism has been criticized for its inability to explain women’s oppression outside of the logic of capitalism. Socialist feminism attempts to overcome these problems through the production of historically situated accounts of women’s oppression that focus on both capitalism and patriarchy. This theory reject radical feminism’s main claim that patriarchy is the only, or primary, source of oppression of women. Socialist feminists assert that women are oppressed due to their financial dependence on males. Women are subjects to male domination within capitalism due to an uneven balance in wealth. They see economic dependence as the driving force of women’s subjugation to men.



RajKumari Amrit Kaur: one of the earliest Feminist in India

### 15.3.3 Radical Feminism

The basic argument of radical feminism is that men are responsible for and benefit from the exploitation of women (Giddens, 2009). The analysis of patriarchy—the systematic domination of women by men—is of central concern to this branch of feminism. Patriarchy is perceived to be a universal phenomenon that has existed trans-historically and trans-culturally. Within this system, men learn how to hold women in contempt, to see them as nonhuman, and to control them (Ritzer 2011). Radical feminists see in every social arrangement—be it class, caste, race or ethnicity—the workings of patriarchy. Their entire politics is based on challenging and eliminating the patriarchal system. The basis of radical feminism is their analyses of the interlinkages between sex and power. While ‘sex’ had always been discussed, either overtly or covertly, it was not until radical feminism’s bold declaration that “the personal is political”, that women’s sexuality became the subject of much political analyses. The main tenets of radical feminism can be summarized as

- Those women were, historically, the first oppressed group. ·
- That women’s oppression is the most widespread, existing nearly in every society. ·
- That women’s oppression is the deepest and hardest form of oppression to eradicate and cannot be removed by other social changes such as the abolition of class society (Tong 2009).

**Do you Know??**

The history of feminism in India can be divided into three phases: the first phase, beginning in the mid-19th century, initiated when reformists began to speak in favor of women rights by making reforms in education, customs involving women; the second phase, from 1915 to Indian independence, when Gandhi incorporated women's movements into the Quit India Movement and independent women's organizations began to emerge, and finally, the third phase, post-independence, which has focused on fair treatment of women at home after marriage, in the work force, and right to political parity. Despite the progress made by Indian feminist movements, women living in modern India still face many issues of discrimination. India's patriarchal culture has made the process of gaining land-ownership rights and access to education challenging

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**15.4 Notion of Patriarchy**

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In simple words, patriarchy means the societal mechanisms (including cultural beliefs, established norms, institutional practices etc) that allow, maintain and reiterate the domination of women, and even younger men, by older or more powerful men (Levy 2007). Patriarchal rule, in its every essence, is repressive. Feminist writings shed light on three major ways in which patriarchy manifests itself – first, the way in which it acts as an ideology; secondly within the space of the household where male domination of women takes place in the way women are bound to exchange their physical, emotional, sexual and domestic labour for their upkeep; and thirdly, as Marxist feminists point out, the interplay of capitalism and patriarchy in the coercion of women (Abercrombie, Hill and Turner 1994). According to Marxist feminists, patriarchy is a set of 'power processes between women and men.' Their approach involves linking these power processes with class and gender aspects. To them, the term 'patriarchal' would be an adjective to define a power relationship between men and women, where men tend to extract the surplus labour of women in a household setting. They also argue that women are not simply exploited by class processes but also actively oppressed by patriarchal policies sanctioned by the state (Fraad, Resnick and Wolff 1994).

The feminists try to draw attention to the repression perpetuated by patriarchal norms and structures. As V. Geetha argues, one needs to understand that gender and patriarchy are not isolated categories in themselves, but have inter-linkages with caste, class and religion. The 'honour' of men and their communities (be it caste-based or religious) is assumed to be engraved on the women's bodies. Therefore, guarding the women's virtue



and 'chastity' are seen as equal to safeguarding the male honour and, thereby, preserving their caste and religious identities. Thus a woman's sexuality gets controlled by the nexus of patriarchy, caste, class and religion. Especially in the case of caste or religion based riots, the assertion of community identity, exertion of power, or repression and opposition – all fervently revolve around the bodies of its women (Geetha 2002).

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## 15.5 Sexual Violence

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Sexual violence describes the deliberate use of sex as a weapon to demonstrate power over and to inflict pain and humiliation upon, another human being. Sexual violence may be defined as any violence, physical or psychological, carried out through sexual means or by targeting sexuality. Sexual violence is a brutal reality of women's lives and a slur on the face of civilized human society. Sexual violence, apart from causing immediate physical harm, leaves a permanent scar in the memory of the victim, which destroys her emotional psyche tremendously. Sexual violence not only negates the human rights of the victim concerned but at a large level, affects the society at large by lowering down the development prospects as it directly impinges upon the potential of nearly half of the human population i.e., women. Sexual violence may be homosexual as well as heterosexual. Women because of their oppressed and subjugated position in society are far more prone, in terms of vulnerability to sexual violence (Aneja, 2016).



Sexual violence is rooted in unequal power relations between men and women in our society and can be understood within a gender framework. While sex is a biological category, gender is a social construct and refers to widely shared expectations and norms within society about appropriate male and female behaviour and roles. While gender

roles prescribed a strict division of labour, women are expected to perform largely reproductive functions like maintenance of the household, child rearing and so on. Gender roles also prescribe characteristic of docility, unending patience and servility for women. Cruelty against women is sign of discriminatory position of women in patriarchal social structure (Kumar and Gupta, 2015).

According to the National Crime Record Bureau, crime against women has increased 7.3 per cent from 2018 to 2019. In terms of absolute numbers, Uttar Pradesh reported the highest number of cases. But Assam reported the highest rate of crimes against women (per lakh population). “A total of 4, 05,861 cases of crime against women were registered during 2019, showing an increase of 7.3% over 2018 (3, 78,236 cases). Majority of cases under crime against women under IPC were registered under ‘cruelty by husband or his relatives’ (30.9%), followed by ‘assault on women with intent to outrage her modesty’ (21.8%), ‘kidnapping and abduction of women’ (17.9%) and ‘rape’ (7.9%). The crime rate registered per lakh women population is 62.4 in 2019 in comparison with 58.8 in 2018,” says the NCRB report.

UP reported the highest number of crimes against women (59,853), accounting for 14.7 per cent of such cases across the country. It was followed by Rajasthan (41,550 cases; 10.2 per cent) and Maharashtra (37,144 cases; 9.2 per cent). Assam reported the highest rate of crime against women at 177.8 (per lakh population), followed by Rajasthan (110.4) and Haryana (108.5).

Rajasthan reported the highest number of rapes with 5,997 cases, followed by UP (3,065) and Madhya Pradesh (2,485). In terms of rate of rape cases, Rajasthan was the highest at 15.9 (per lakh population), followed by Kerala (11.1) and Haryana (10.9).

UP also had the highest number of crimes against girl children under the POCSO Act with 7,444 cases, followed by Maharashtra (6,402) and MP (6,053). The highest rate of these crimes were in Sikkim (27.1 per lakh population), MP (15.1), and Haryana (14.6). UP had the highest number of dowry cases (2,410), at a rate of 2.2 (per lakh population), followed by Bihar (1,120). According to the report, 150 acid attacks were reported in 2019, of which 42 took place in UP and 36 in West Bengal (<https://indianexpress.com>).

### **15.5.1 Rape**

The word ‘rape’ is derived from the Latin term ‘*rapio*’, which means to seize. Rape literally means a forcible seizure and that is the essential characteristic of the offence. It

means the violation of one's esteem. Rape is not a crime only against the person of a woman but a crime against society being the worst kind of social menace. It is viewed as a crime against the 'honour' of not just the girl who is raped but also of her family. Apart from being regarded as a dehumanizing act it is an unlawful intrusion on the right of privacy and sanctity of female. Rape is the gravest crime against human dignity (Gupta, 2015).



### Kill Rape Culture, Not Rapists

Rape is a type of sexual abuse usually involving sexual intercourse, which is initiated by one or more persons against another person without that person's consent. The act may be carried out by physical force, coercion, abuse of authority or against a person who is incapable of valid consent, such as one who is unconscious, incapacitated, or below the legal age of consent (Kumar and Gupta, 2016). The sexual use, involving penile, digital (fingers) or objects on a woman's or child's body without that person's consent, with forced consent (threats) or if that person cannot consent due to age, mental disability, state of drunkenness, or relative social position to the rapist (employee, slave, patient, lower rank, parishoner, etc.).

**Do you know?**

**In patriarchal societies**, virginity and chastity are considered to be the great assets of a woman and loss of chastity whether out of choice or by force is demeaning to her. Rape is considered to be a transgression against chastity, the raped women is severely criticized and condemned for loss of chastity. She faces not only a personal sense of shame, but is also weighed down with guilt for no fault of hers, because of the constant barbs and criticism that the society heaps on her. The society equates virtue with chastity in context of women. A guilty man in the society may be tolerated, but women must be guiltless and even unsusceptible. These social attitudes have resulted in a situation, whereby women are told from the childhood that rape is the worst thing that can happen to a woman.

**15.5.2 Feminist Perspective on Rape**

Many feminists have emphasized the role of rape in controlling women's behavior through fear. Dworkin contends that, due to the threat of rape, "all women live in constant jeopardy, in a virtual state of siege" (Dworkin, 1976); and several feminists have drawn analogies between rape and lynching as forms of terrorizing, group-based social control (Burgess-Jackson, 2000). Card argues that rape is a terrorist institution, one which—despite its admitted differences from acts more normally labeled terrorism, such as bombing and hijacking—advances its political purpose, the continued subordination of women, by terrorizing a target population (Card, 1991). Like all terrorism, she contends, rape has two targets: the direct victims, who are seen as expendable, and the broader population to whom a message is sent, and who can then be manipulated by fear into complying with demands they would otherwise reject. In response to the threat of rape, women scrutinize and restrict their own choices—what they wear, where they go and with whom, whether they drink, what "messages" they may be inadvertently sending men, and so on—to ensure that they are following the unwritten rules that govern female behavior and that (supposedly) distinguish the bad girls who get raped from the good girls who do not. Even women who, because of their conformity to these rules, do not feel afraid of being raped have nonetheless, Card points out, been terrorized into compliance.

Feminists have long claimed that, in patriarchal cultures, rape is not anomalous but paradigmatic—that it enacts and reinforces, rather than contradicting, widely shared cultural views about gender and sexuality. As Dworkin puts it, "rape is not committed by psychopaths or deviants from our social norms—rape is committed by *exemplars* of our social norms . . . . Rape is no excess, no aberration, no accident, no mistake—it embodies

sexuality as the culture defines it” (Dworkin, 1976). A core dynamic of patriarchal sexuality, on this view, is the normalizing and sexualizing of male (or masculine) control and dominance over females (or the feminine). This dynamic finds expression in a number of beliefs about what is natural, acceptable, and even desirable in male-female sexual interaction: that the male will be persistent and aggressive, the female often reluctant and passive; that the male is invulnerable, powerful, hard, and commanding, and that women desire such behavior from men; that “real men” are able to get sexual access to women when, where, and how they want it; that sexual intercourse is an act of male conquest; that women are men’s sexual objects or possessions; and that men “need” and are entitled to sex(<https://plato.stanford.edu/entries/feminism-rape/>).

### **15.5.3 Trafficking of Women and Girl Children**

Trafficking in children is one of the worst and most brazen abuses violating the rights of women and child. It is a blot on our collective consciousness. One of the most visible and widespread is the trafficking of women and children for commercial sexual exploitation. The issue of the sexual exploitation of women and children is not new, as it goes back into the history, cultures and traditions of many societies. What is new is the unscrupulous and massive scale of the problem, exacerbated by globalization, and modern technology and its link to a lucrative tourist sex industry. Trafficking is increasing dramatically in the Asian region, but the phenomenon spans the globe. While the fact of its existence is known to most of us, the enormity of the problem, its underpinning and its ramifications are often blurred.

With the progress of human civilization it was expected that man’s interest in sex would diminish slowly. However, not only man’s indulgence in sex has increased, but has crossed all the barriers of moral values and social norms. He has become more perverse, and has not spared even the innocent child in his pursuit of sexual pleasure. There could be few things that may be viewed as more obscene and abominable and that provoke as much public outrage as sexual crimes against children. Sadly, it is an organized crime now. These crimes though not overtly committed are suffered in silence and slowly corrode the social and moral fabric of a nation.

Child prostitution has emerged in recent years as a global phenomenon of disquieting proportions. It is found in both developing and developed countries, although the numbers loom larger in the case of the former. Despite attempts to counter the situation, it remains

daunting and intractable. In various parts of the world, the situation is deteriorating. The sexual exploitation of children has become more insidious because of its trans-frontier nature. Children are increasingly sold and trafficked across frontiers between developing and developed countries, among developing and among developed countries. The spread of child prostitution worldwide is part and parcel of the less positive aspects of globalization, and all continents of the globe deserve attention.

### *Devadasi*

The word 'devadasi' originates from two Sanskrit words: Deva meaning God and Dasi meaning a female servant. As the name implies, girls were married to God or goddesses and they are designated as servants of God. The tradition of Devadasi culture exists in India from time immemorial. Devadasis are also known by various other local names, such as Jogini in Telangana. The Devadasi practice is known as Basivi in Karnataka, Matangi in Maharashtra and Bhavin and Kalavantin in Gao. It is also known as Venkatasani, nails, muralis and theradiyan. The tradition of Devadasi culture can be traced back to as early as the 7<sup>th</sup> century, particularly in southern parts of India, during the reigns of the Cholas, Chelas, and Pandyas. The institution of devadasis did nothing to elevate the social position of dancers. These dancers of the temple degenerated into more prostitutes and their quarters adjoining the temple into brothels. At present, Devadasis are mere sex slaves or child prostitutes. Almost all of them are dalits, with a majority belonging to the Madiga and Valmiki castes in India.

#### **15.5.4 Feminist Orientation towards Trafficking and Prostitution**

Prostitution, sale and purchase of girls, the trafficking and trans-shipment, sexual slavery, and other related issues have been found to have existed at all times and virtually at all places. References have been made in the local literatures about such issues and history has also testified many such records. It is difficult to make any claims about the magnitude of this issue especially when it comes to the commodification of girls and their transshipment for the purpose of sexual exploitation. It is only now that we have some staggering figures that have been made available to us by several government, non-profit agencies and the media (Mallik, 2004). However any attempt at situating the issue within the sociological context must consider some of the existing theories. These theories are Feminist, Marxist, and Functional.

Feminist believes that gender is the organized pattern of social relations between women and men, not only in face-to-face interactions and within the family but also in the major institutions of society, such as social classes, the hierarchies of large scale organizations and other occupational structure. The social reproduction of gender in individuals sustains the gendered social structure. It is argued that in most society women and men are not only perceived as different but are also differently evaluated and these supposed differences in characteristics and capabilities justify power differences. Its opponents argue that in all societies, the belief that women and men are inherently different providing the moral justification for allocating certain kinds of work to women and men, and for relegating the rearing of children to women. Religion, language, education and culture teach and reinforce the society's values for women and men. The result is gendered moral order. This gender moral order is sustained by 'gender identity' and 'gender differentiations'. Gender identity refers to the way in which people view themselves along feminine/masculine lines. Gender role differentiations, however, is fairly universal across societies. Male and female are assigned different behaviours, tasks, rights, obligations, privileges and resources (Mallik, 2004). Besides gender patriarchy has often been used as an essential category of analysis through which the nature of girl/women's oppression both theoretical and social has been mirrored.

Marx and Engels in their work 'Capital: A critique of political economy' referred to some abstract recognition of the humiliation of women in modern society in some of the early works. They specifically mention the suffering of proletarian women with the disintegration of the proletarian families, and with the problem of prostitution (Sinha, 1987). According to Marxist theory one can explain the issue in terms of exploitation of proletariat by the bourgeoisie, feudal mindset of the economically well off sections and commodification of the 'other' sex as part of the globalization of market forces. Thus, the demand side is domain of the 'haves' (the bourgeoisie) and supply side of the 'have nots' (the proletariat). And it is this titled relation of power in favour of the bourgeoisie that propels, sustains and governs this illicit trade in girl child and women trafficking. Besides the bourgeoisie- proletariat polarity that has been employed here, alienation of a large section of society is argued to be the primary force (Mallik, 2004). Marx stressed that the capitalist economic system, rather than industrialization as such, is the primary source of alienation. It is a system, he argued of maximization of profit rather than the satisfaction of real human needs. Trapped within the system, both capitalists and workers

are alienated from their true selves. Members of both groups are preoccupied with self-interest in a system, which sets man against man in a struggle for survival and personal.

Functional theory emerged in the nineteenth century as a result of an analogy: society is like a biological organism, and hence its part can be analysed in terms of their functions for maintaining the body social. Prominent among the theories that are said to exist within the discourse of functionalism are those of Anomie and Deviance. For sociologist anomie is most frequently associated with Emile Durkheim. He (1984) used the French word anomie means 'without norms', to describe the disruption that societies experienced in the shift from an agrarian, village economy to one based on industry. It has been referred to as a state of society and not of individuals, although individuals were affected by these forces. By this Durkheim didn't mean to imply literal normlessness but rather a state of relative normative disorder. Robert K. Merton's use of 'anomie' is very similar to that described by Durkheim. He (1949) used the concept of anomie to describe how social structure produced individual deviance. According to him when there existed within a society a disjuncture between the legitimate goals that members of a society are to aspire to and the legitimate way of achieving these goals, then that society was in a state of anomie. For Durkheim and Merton frustrated aspirations were important cause of norm violation and deviance (Mallik, 2004). It would be simplistic to argue that girl child and women trafficking is abetted or is resultant primarily of anomie or deviance or both, it would also be extremely wrong if we have to conclude that there is no anomie or deviance in the Indian society and that it has no role to play in fuelling and sustaining the issue under present concern. In fact if one looks at the places of origin and destinations of girl child trafficking, a state of relative anomie and subsequent deviance can easily be cited.

### **15.5.5 Honour Killing**

Victims of honour killings are killed for reasons such as refusing to enter an arranged marriage, being in a relationship that is disapproved by their relatives, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate. It is a cold blooded murder where parents of the girl seem to be against their daughter's affair. In other words, "Honour Killing" is a somewhat misleading term for a ritualistic form of murder precipitated by the aggressors' perceived loss of honour.





### Honour Killing

The word honour killing and honour crimes are being used loosely as convenient expressions to describe the incidents of violence and harassment caused to women by the community or the family members. A spate of murders and dishonourable crimes in the name of 'honour' whether of a family or caste or community have been reported in the recent past and are continuing to be reported. Though most of these killings and crimes are being reported from the States of Punjab and Haryana, Delhi, Western U.P and other parts of Northern and Western India, the problem is not confined to these areas alone and almost every part of the country has been witness to such incidents. In a strong patriarchal society the word honour is not measured with the worthiness of a man, but rather the honour lies in the women under the control of a man. As per the latest available published information with National Crime Records Bureau (NCRB), a total of 28 cases

in 2014, 251 cases in 2015 and 77 cases in 2016 were reported with motive as Honour Killing (which includes cases registered under murder (section 302 IPC) and culpable homicide not amounting to murder (section 304 IPC) in the country. According to a report on crime statistics for 2018 by the National Crime Records Bureau of India, there were 24 murders with motives recorded as “honour killings” in 2018.

The greatest threat to this honour lies in the woman, in her body, conduct due to her reproducing and procreating capacity. Honour is presumed to be female linked commodity coupled with the male prerogative to ensure that she does not jeopardize its delicate balance at any cost. As a girl grows up, burden of shame accompanying her femaleness makes it difficult for her to be proud of her body. Since she represents fertility and growth, separate from the male and not under his control, her power is seen as dangerous, malevolent and potentially a destructive force. A man’s honour largely lies in his ability to impose such control on his womenfolk. It acts as a vengeance, usually death, committed by male family members. All decision regarding her body is made by the male members of her family and caste. The whole clan, caste and community are the co-owners of this honour as blood ties of the family extend to them. The social relationship of marriage subdues this dangerous force of the female. Male acting as a restraining factor becomes supreme by subordinating her in marriage.

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## 15.6 Conclusion

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Women represent the most numerous group that has been deprived of political power, economic development and social upliftment. The reason for making women underprivileged and subordinate to men in the Indian society are the role performance and the values attached to women’s and men’s behavior, which are not identical everywhere. Nevertheless, variation in activities and attitudes are well attested throughout the world. Victims of violence of any type fear stigmatization or societal condemnation and thus often hesitate to report crime. Addressing the gender-based violence requires significant learning and knowledge sharing through partnerships and long-term programs.

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## 15.7 Summary

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Patriarchy and caste operate hand in hand in perpetuating gender based inequality and oppression. The life of women in India is still surrounded by violence, neglect and exploitation. It is a matter of serious introspection whether the rights guaranteed under the law have any meaning for the down trodden section of society. Despite the progressive steps in many areas a lot more needs to be done to give the marginalized masses a sense

of security, dignity and honour in the society. The laws that intended to punish people who commit crime against women, and the laws and regulations on the protection of women and girl child should be strictly enforced. These efforts are not likely to be fully successful; however, unless basic changes in the way the girls and women are valued by society takes place. The principle of equality between men and women should be more widely promoted through the media to change the attitude and improve the awareness of the general public on this issue.

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## 15.8 Question

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### Answer in detail: 10 marks each

- a. What are the characteristic features of patriarchal policies?
- b. How do you think trafficking for prostitution can be prevented?
- c. How far radical feminist ideologies try to change Indian society?
- d. Explain the psychological consequences of Rape?
- e. What are the reasons for honour killing and how to curb the menace for such honour killings?

### Answer very briefly: 5 marks each.

- a. Who are called feminist?
- b. Who are liberal feminist?
- c. How can crime against women and girls' be mitigated in society?
- d. What is prostitution?
7. What is honour killing?

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## 15.9 References

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- Agnes Flavia.1999.Law and Gender Inequality. New Delhi:Oxford University Press.
- Bhasin, Alok.2007.*Sexual Harassment Work*.Lucknow: Eastern Book Company.
- Dubey,Priyanka.2019. *No Nation For Women*, Noida: Simon and Schuster
- Gay, Roxane.2014. *Bad Feminist:Essay*, New York: Harper Perennial Publisher.
- Gay, Roxane.2014. *Not That Bad: Dispatches from Rape Culture*, New York: Harper Perennial Publisher.

- Kaur, Mandeep. 2015. *Honour Killing in India*, New Delhi : Anamika Publishers and Distributors Pvt. Ltd.
- Pande , Rekha and Sita Vanka. 2019. *Gender and Structural Violence*, Jaipur: Rawat Publication
- Sen Sankar and Jayashree Ahuja. 2009. *Trafficking in Women and Children*, New Delhi: Concept Publication.
- Abercrombie, Nicholas, Stephen Hill, and Bryan S. Turner. *The Penguin Dictionary of Sociology*. Third Edition. New York: Penguin Books, 1994.
- Aneja, Sonia. 2016. *Sexual Violence Against Women with Special Reference to Rape Victimization and Judicial Approach in India*. <https://shodhganga.inflibnet.ac.in/handle/10603/78428>
- Burgess-Jackson, K. 2000. 'A Crime Against Women: Calhoun on the Wrongness of Rape', *Journal of social Philosophy*, 31(3):286-293.
- Card, C., 1991, 'Rape as a Terrorist Institution', in *Violence, Terrorism, and Justice*, R. Frey and C. Morris (eds.), Cambridge: Cambridge University Press, pp. 296–319.
- Chafetz, Janet Saltzman. "Theoretical Understandings of Gender: A Third of a Century of Feminist Thought in Sociology." In *Handbook of Sociological Theory*, edited by Jonathan H. Turner, 613-635. New York: Springer, 2006.
- Dworkin, A. 1976. *Our Blood: Prophecies and Discourses on Sexual Politics*, New York: Perigee Book
- Giddens, Antony. *Sociology*. Sixth. New Delhi: Wiley-India, 2009.
- Gupta, S. 2015. 'Rape and Indian Society', in p. Kumar and S. Gupta (ed) *Relocating Women's Equality*, Rawat Publication, Jaipur.
- Durkheim, Emile. 1984. 'Division of labour in Society', Translated by W. D. Halls, London, Macmillan.
- Kumar, P. and S. Gupta, 2016. *Interrogating Child Problems*, Concept Publication, Page 103
- Card, C., 1991, 'Rape as a Terrorist Institution', in *Violence, Terrorism, and Justice*, R. Frey and C. Morris (eds.), Cambridge: Cambridge University Press, pp. 296–319.
- Levy, Donal P. "Patriarchy." In *The Blackwell Encyclopedia of Sociology*, edited by George Ritzer, 3377-3379. Malden: Blackwell Publishing, 2007.

Geetha, V. *Gender*. Calcutta: Stree, 2002.

Mallik, Vaishaki. 2004. 'Girl Child Trafficking: A Study of Institutional Responses in India', M. Phil Dissertation (Unpublished), Jawaharlal Nehru University, New Delhi.

Ritzer, George. *Sociological Theory*. Fifth. New Delhi: Tata McGraw-Hill, 2011.

Sinha, Salini. 1987. 'Patriarchy and State', M. A. Dissertation (Unpublished), University of Delhi, Delhi.

Tong, Rosemarie. *Feminist Thought: A More Comprehensive Introduction*. Colorado: Westview Press, 2009.

National Crime Record Bureau's "Crime in India" 2019 report

[https://en.wikipedia.org/wiki/Feminism\\_in\\_India#:~:text=The%20history%20of%20feminism%20in,Indian%20independence%2C%20when%20Gandhi%20incorporated](https://en.wikipedia.org/wiki/Feminism_in_India#:~:text=The%20history%20of%20feminism%20in,Indian%20independence%2C%20when%20Gandhi%20incorporated)

<https://www.britannica.com/topic/feminism/The-second-wave-of-feminism>

<https://www.orfonline.org/research/the-rising-fourth-wave-feminist-activism-on-digital-platforms-in-india>

<https://indianexpress.com/article/india/ncrb-data-7-rise-in-crimes-against-women>.

<https://plato.stanford.edu/entries/feminism-rape>

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## 15.10 Glossary

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**Feminism**- Feminism consists of social, economic and political movements and theories that are concerned with gender inequalities and gaining equal rights for women.

**Feminist Theory**- Feminist Theory refers to a broad system of ideas which are based on the principle that women are equal to men and need to be given the same rights and opportunities as men in every sphere of their lives.

**Patriarchy**- Patriarchy means the societal mechanisms (including cultural beliefs, established norms, institutional practices etc) that allow, maintain and reiterate the domination of women, and even younger men, by older or more powerful men.

**Rape**- Rape is a type of sexual abuse involving sexual intercourse, which is initiated by one or more persons against another person without that person's consent.

**Trafficking in persons**- The United Nations Protocol on Trafficking in Persons, adopted in November 2000, defines trafficking as: "the recruitment, transportation, transfer,

harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

**Sexual violence-** Sexual violence may be defined as any violence, physical or psychological, carried out through sexual means or by targeting sexuality.

**Prostitution-** The expression ‘prostitute’ means a woman who offers her body to indiscriminate sexual intercourse with man, especially for hire.

**Honour Killing-** Honour killings are acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonor upon the family.

**Crime-** Crime is the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited, and punished under criminal law.

### Notes

1. Encyclopaedia of Sociology, Macmillan, Vol. II, 1992.
2. <http://www.legalserviceindia.com/legal/article-397-impact-of-honour-killings-in-the-society-of-india.html>
1. <http://lawtimesjournal.in/shakti-vahini-vs-union-of-india/>
2. Crime in India 2019, Statistics Volume 1, ncrb New Delhi Ministry of Home Affairs, Government of India
3. Chowdhary, P., *Contentious Marriage, Eloping Couples: Gender, Caste and Patriarchy in Northern India*, New Delhi, Oxford University Press 2007
4. Nabar, V.1995. *Caste as Woman*, Penguin Books, New Delhi.
5. Dewan, V.K.2000. *Law Relating to Offences Against Women*, Orient Law House, New Delhi.
6. <https://www.hrw.org/news/2010/07/18/india-prosecute-rampant-honor-killings>



**Module IV**  
**Addressing Gendered Violence : Politics and  
Public Policy**





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## **Unit : 16 □ Gender-Motivated and Gender Differentiated Violence in Sociocultural and Policy Contexts**

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### **Structure**

#### **16.1 Learning Objectives**

#### **16.2 Introduction**

#### **16.3 Understanding Gender and Violence**

##### **16.3.1 Violence and its Forms**

##### **16.3.2 Violence in the different realms: Private and Public**

#### **16.4 Gender, Violence and Community**

#### **16.5 State, Gender, and Violence: Laws in the Pre & Post-independence context**

#### **16.6 Verma Committee as a Site of State Feminism**

#### **16.7 Conclusion**

#### **16.8 Summary**

#### **16.9 Questions**

#### **16.10References**

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### **16.1 Learning Objectives**

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- ✓ To understand the concepts of Sex and Gender and the process of gendering.
- ✓ To understand gender-based violence and its forms
- ✓ To discern the nature and forms of violence in private and public realms
- ✓ To know violence against women in caste and community contexts
- ✓ To address women's movements and the principles underlying them in the pre- and post-independent era
- ✓ To discuss sati and rape laws and the movements preceding their enactment
- ✓ To learn about 'State Feminism'
- ✓ To understand how Verma Committee represents 'State Feminism'
- ✓ To draw a quick overview of the women's movements in the nineteenth and twentieth centuries that addressed gender violence

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### **16.2 Introduction**

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Over the years, gender issues have become more mainstream in scientific research and media reports, and with it, the confusion associated with the terms sex and gender

has decreased. In sociology, these terminologies are now reasonably standardized to refer to the different content areas. Sex refers to the biological characteristics distinguishing a male from a female. The definition emphasizes on the male and female differences on the following parameters—chromosomes, anatomy, hormones, reproductive systems, and other physiological components. Gender, on the other hand, refers to the social, cultural, and psychological traits linked to males and females through particular social contexts. Sex makes us male or female, whereas gender makes us masculine or feminine. Sex is an ascribed status as a person is born with it, while gender is an achieved status for it must be learned. This relatively simple distinction masks several problems associated with their usage.

Arguably, not all people can be classified in the unambiguous either or categories. The ascribed status of sex is less likely to be altered than the achieved status of gender. Nevertheless, some people believe that they are born wrapped in the “wrong” body and are willing to undergo major surgery to make their gender identity consistent with their biological sex. Sexual orientation, or a preference for sexual partners of one gender (sex) or the other, also varies. People who experience sexual pleasure with the members of their sex are less likely to consider themselves masculine or feminine in accord with the established gender norms. Those who are born with ambiguous sexual characteristics are assigned with a sex at birth. Nevertheless, they develop a different identity related to gender. Some cultures allow people to move freely, regardless of their biological (Linda Linsey 2016:4).

The idea of what is appropriate or inappropriate for gender is further extended in the ways consistent with social constructionism and symbolic interaction. Concepts used to categorize people—such as race, ethnicity collectively, and gender—do not exist objectively, but emerge through the socially constructed processes. Gender emerges not as an individual attribute, but as something that is “accomplished” in the process of interaction with others. People, therefore, are doing gender (Fenstermaker and West, 2002). In “doing” gender, symbolic interaction takes its lead from Erving Goffman (1922–1982), who developed a dramaturgy approach to social interaction. Goffman argued that the best way to understand social interaction is to consider it as an enactment in a theatrical performance. Like the actors on stage, we use strategies of impression management, providing information and cues to others who present us in a favourable light (Erving Goffman 1959). “Doing gender” through gender labels promote a pattern of gender-based competition, rejection, and emotional segregation. This pattern is reinforced when we routinely refer to those of the other sex (or gender) as the opposite sex. Man and

woman label each other as opposed to who they are and then behave according to those labels. The behaviour serves to separate rather than connect the genders.

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## **16.3 Understanding Gender and Violence**

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### **16.3.1 Violence and its Forms**

Violence is an act of aggression that occurs in the interpersonal interactions as well as in the sphere of personal relationships. This may be categorized as violence against self and those against the others. As, suicide, self-mutilation, negligence of ailments, sex-determination tests and the instances of food denial to women. Violence therefore is an act of illegal/ criminal use of force. Forms of violence are varied. They are:

1. Exploitation
2. Discrimination
2. Upholding unequal economic and social structures
4. Creation of an atmosphere of terror, threat, or reprisal
5. Various forms of religion-cultural and political violence.

Incidents of violence against women occur in the public and private spaces. Instances are sati (widow immolation), witch-hunts, stripping and shaming of women particularly to those belonging to the lower castes often as a punishment for transgression of their community norms. There is a social attitude of suppressing if not ignoring the incidents of violence against women. That reflects a malaise in the inner lives and families of individuals. In India, there is a disturbing silence in reporting the incidents and cases of violence with hesitance in subjecting family and its intimate relationships to public scrutiny. Incidents of violence against women go largely unreported. Today, if there exist a limited database on violence that goes on behind locked doors, it is due to the activities of Non-governmental Organizations, those in the women's movement and the police.

### **16.3.2 Violence in the different realms: Private and Public**

Violence against women occur in both the public and private realms. They may be further classified under the following sub-categories.

#### **I. Private Sphere**

##### **A. Domestic Violence**

In most parts of India, women enter as strangers among an already structured consanguineally related men. It generates tensions and conflicts in the loyalties and commitments within a family. Exceptions are the cases of Tamil Brahmins, who practice cross-cousin and maternal uncle marriages. According to M.S. Gore, the two leading causes of strain in a joint family are the evolution of a robust marital relationship and the difficulty of socializing women members into developing a community outlook and a sense of identity with the other members in a family. Domestic Violence Act, 2005 (Protection of Women Against Domestic Violence Act) was instituted into law at the request of the National Commission for Women (NCW). The analysis points towards the complex relationships between the state and non-state actors but also emphasizes that the leverage exercised by the state institutions (National Commission for Women and Parliament) varies considerably. The competing interests and the differential hierarchical power between the National Commission for Women and Parliament have implications for understanding state power (Malvika Karlekar 2007: 310). Violence is committed against women at both her natal and marital homes. However their nature, forms, and intensity vary.

## **B. Violence in the Natal Home**

### **1. Female Foeticide /Infanticide**

Violence is committed against women right from the time a girl child is conceived, and she is in the mother's womb. Abortion of a fetus happens upon knowing that the fetus is of the female sex. Female foeticide has become popular with the spread of amniocentesis.<sup>1</sup> The method was introduced in 1974 at a leading government-run hospital in New Delhi. Medical entrepreneurs quickly appropriated the new technology, and a spate of sex-selective abortions followed. Nevertheless, a series of government circulars from 1977 onwards banned the tests. Female infanticide is the intentional killing of baby girls of a year old and below. Such practices are motivated by a strong desire for a male baby over a female driven by a biased and stereotypical attitude. In 1870, the British government in India outlawed female infanticide. A century later, there were reports of baby girls being murdered in the areas where the custom did not previously exist. Studies show that female infanticide in the twentieth century was primarily among the higher social groups of north India. Some related the practice of sex selective abortion to the control and distribution of property and variations in the dowry tradition. Son preference in northern India came to be practiced with due regard for the sex-related work roles.

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\* A medical technique that was originally designed to discover congenital disabilities in a newly conceived fetus.

Legitimization of infanticide was deemed essential in the communities where the poor fear dowry while the rich consider the practice to avoid a fragmentation of property.

## **2. Child Abuse**

Child abuse may take place at home, school, or play. Sexual aggression, such as beating and extracting hours of labour from children who should be at school or play, amounts to child abuse. The abuse can be psychological, physiological, or emotional. Children often work under inhumane conditions to earn a pittance for their parents and family. Apart from the burden of working before their body is ready for physical labour, children are often subjected to the beatings and lashings in a range of situations.

## **3. Violence in the Marital home**

Within the marriage traditions for most of India, a bride is a vehicle for the passage of valuables from the kin to her husband. Dowry and its ramifications constitute an essential part of the power relationship between spouses. Discrimination practiced in the context of home range in forms, such as food discrimination, inadequate health, and a lack of living space and care, excessive expectations as far as the domestic work is concerned. When these are combined with a lack of access to property and assets, it is not difficult to discern the overall situation of denial and deprivation meted out to women.

## **4. Violence against the Elderly Women**

Elderly women are frequently subjected to violence, abuse and neglect owing to their age, sex, or an intersection of both along with the accumulated discrimination encountered in life during their life course. Other factors that that can be held responsible for a discriminatory treatment of elderly women are physical disability or infirmity, class, marital status, and sexual orientation. It is difficult to conceive a standard understanding of abuse against elderly women as there is no consensus on who constitute the elderly group? Nonetheless, elderly abuse is often defined as a single or a repeated act or a lack of appropriate action within a relationship resulting in a breach of trust, emotional exchange and care leading to harm and distress to an elderly person. World Health Organization (hereafter WHO) reports that during 2020, one in every four people of 60 years and above have experienced abuse in the community settings. The elderly population are subjected to an increased proportion of domestic violence at the institutional settings such as a nursing home and the rate of such violence have become manifold during the Covid-19 pandemic. While such violence tantamount to a violation of human rights, the violations assume different forms such as physical, sexual, psychological, and emotional

abuse, and financial and material abuse even leading to desertion, all adding to a cumulative loss of dignity and respect. The WHO's global strategy and the action plan on ageing and health as well as the United Nations decade of Ageing and Health (2021-2030) prevents abuse of the elderly through initiatives so as to identify, quantify and respond to the problem. Such initiatives support the efforts of nations to prevent elderly abuse, collaborating with the international agencies and organizations to eradicate the problem globally. Financial abuse is the abuse that elderly men and women are subjected to at hands of their close family members, trusted friends, and the caregivers. Such abuse is indicated through a lack of care, decline in personal grooming, absence of clothing, food, medicines and other basic necessities when the older person can afford them.

## **II. Public Sphere**

Within the public sphere, violence towards women is often expressed in the practices as eve teasing, physical and sexual violations including threats to subject a woman to a forceful sexual violation by individuals or even groups commonly known as gang rapes. Violence against women is a serious violation of human rights and a manifestation of the unequal balance of power between women and men. According to the United Nations, a total of 87,000 women were intentionally killed worldwide in 2017 and 58% of them were killed by intimate partners or other family members, that every day, 137 women were killed by someone who they would normally trust and expect to care for them. Besides, the COVID-19 pandemic with its accompanying restrictions on mobility, often trapped the victims of violence in closed spaces with the perpetrators, resulting in an increased number of being subjected to physical and sexual violations. In many developing countries, violence against women on the streets is widespread while the local services often lag in preventing and, more importantly, protecting women against such abuse. Street harassment in some cases can also be traumatizing and the feeling of helplessness and frailty is present. Sexual harassment and other forms of sexual violence in public spaces, both in urban and rural settings, are an everyday occurrence for women and girls in every country around the world. Women and girls experience and fear different forms of sexual violence in public spaces, as unwelcome sexual remarks, and gestures. It happens on the streets, in and around public transportation, schools, workplaces, public toilets, water and food distribution sites, and parks. This reality reduces women's and girls' freedom of movement, their ability to participate in school, work, and public life. It limits their access to essential services and their enjoyment of cultural and recreational activities, negatively impacting their health and well-being. Violence on women also entails events such as the lower caste women being subjected to verbal, physical and/or

sexual abuse by men of upper castes, trafficking of women and the witch-hunting practices performed. Women are also subjected to harassment as they pursue and earn livelihood through prostitution.

### **Prostitution**

Prostitution has been defined as an act of a female who offers her body for promiscuous sexual intercourse for hire, be it in money or kind. To be called a prostitute under the law, two requirements must be fulfilled. First, a female has to offer her body for indiscriminate sexual intercourse. Second, she should do it for some payment. However, the label prostitute is usually applied to a woman who does not subscribe to the conservative norms about women's modesty laid down by society. The social gaze decides which woman is a prostitute by her manner, walk, makeup, dress, the hour of the day when she is out, or by any other criteria which they may choose to apply at a given point of time. It can also be an effective way to humiliate women or force them to adhere to the conservative norms of society. These norms pertain to the manner of dressing, behaviour, and a restriction of movement. Any woman can be picked up, harassed, molested, or raped by police on the pretext that she is a prostitute and was soliciting in public. Therefore, the act, while protecting men, exposes all women to the danger of police harassment (Agnes, Flavia 1994: 1128). The conservative approach to prostitution rests on the premise that the society is divided into two sets of women- "the good and the bad". The good women are expected to be at home as the submissive, docile wives and daughters who can be battered, burnt, or raped within the home but who need to be protected from the big evil world outside. While the label "bad women" refers to those who are out on the street and should be treated with contempt and taught a lesson or two. And while one set of women need to be protected from the other, men can have access to both.

A particular form of prostitution, temple prostitution developed in South Asia particularly in India. The temple prostitution is a centuries-old Hindu tradition of dedicating young girls called *devadasi* to the deity at temples in southern India who become child prostitutes (Shingal, 2015). A *devadasi* (servant of a god or goddess) is barred from marrying a mortal and should bestow her entire life to the service of deity and temple. Over time, the practice widely held as sacred practice has been adulterated. The women and children of lower class were associated with the practice, and they are sexually exploited and carry out prostitution to sustain themselves. William Dalrymple of the New Yorker has summarized the difference between the *devadasis* of the past and today as, "There is an almost unimaginable gulf separating the *devadasis* of ancient poems and inscriptions and the lives lived by women.



In post-independent India, the *devdasi* system was formally outlawed in many parts of India, yet the practice is still prevalent in many parts of south India. However, the ancient system of temple dancing and pleasing God has been reduced to a sex trade. These women are stuck with the irrational social norms and those of poverty. As they grow old, men stop coming to them. They either become weak and fall ill or contract HIV and succumb to death. As the practice continues, religious beliefs, economic pressure and social pressure motivate and provide impetus to it.

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### **16.4 Gender, Violence and Community**

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Marriage provides the structural link-up between kinship and caste, and a closer surveillance is accorded to marital alliances. Kinship linkages offered by matrimonial union, and relations established through marriage, give a caste group its strength, recognition, and leverage on the broader society and polity. Any breach in these caste linkages brings down the status of not only the immediate family but also the clan and the entire caste members. The factor remains a potent consideration behind the enforcement of strict caste and sexual codes (Prem Chowdhry 1997: 1019). There is complicity between the perpetrators of violence and police about justice done for the sake of “honour.” Police in north India, heavily draws from the upper caste dominating groups. Besides, its criminalization and commercialization are well-known facts: monetary considerations overrule merits in recruitment, promotion, and transfer. In law-keeping, the socio-political role of such a force has proved as highly dubious. In their opinion, social issues must be resolved by caste leaders or the other caste panchayat members and not the law of the land. The latter applies to a different criterion of justice. The police action or inaction has created nervousness among the various communities (especially among the lower castes) who fear partiality and hidden biases in reporting the case or is not obeying the decision of a powerful high caste panchayat. The greatest danger to the ideology of *izzat* comes from a female. A female is supposed to dishonour her family, clan, or caste community by her shameful conduct (Prem Chowdhry 1997:1020).

The concept of honour and honourable conduct is a commonly shared ideology that guides the social behaviour of people in the whole of northern India. However, the concept of caste/community honour is mostly appropriated by the upper castes. The lower caste groups are not recognized by upper castes to possess any honour. Given their weak socioeconomic position, they are also unable to claim any such honour, especially about the higher ranks. They may vaguely share in the honour of the village as a whole. The identification may mean going willingly or unwillingly along with the dictates of

the upper caste leadership. The only 'honour' which they 'honourably' claim is in relation to their caste members and lies in their ability to enforce it within their caste group. The infringement of 'incest' taboos by the low caste couple of village, declared to be a slur on their 'honour' leading to public beheading. Denied any claims of honour about higher castes, the lower castes become hypersensitive in defending within their caste. Such a concept of honour cannot only be claimed but also must be protected and implemented. Significantly, neither the lower nor the upper castes extend this concept to incest, which may exist within family involving senior males and junior females or any other prohibited category of people. The idea of honour is neither accepted nor applied uniformly by all the caste and status groups. Any infringement of the selectively prescribed code of honour invites group pressure and violence. Violence, therefore, underlines the existing ideology of honour (Ibid1021).

The power dynamics between the different caste groups, especially the dominant and subordinate low caste, which has assumed a more aggressive form, has always been potentially explosive. On the one hand, the power dynamic shows a newer kind aggressiveness among lower castes, and it also indicates a new determination on the part of dominant castes through the green revolution technology to keep their status and position intact, especially about the lower castes. Such occasions as an opportunity by the upper castes to assert their hegemony and teach a lesson to those who challenge it or wish to do so. Significantly, the new assertiveness of the latter is reflected in their relationship with high caste women, witnessed in attempts at elopements and marriage. The rampant sexual exploitation, essentially born out of the work situation and power situation in which low caste women work as agricultural labourers, underlines the inability of the low caste men to 'protect' their women and is frequently used by the landowning castes as a powerful tool of domination. The spiralling effect of this is noticeable in the growing resentment of the lower caste groups, eruption of violence and the sharpening of caste consciousness and enforcement of the caste/customary codes by all castes high or low, not often as a form of offence as well as defence (Ibid1023).

In the pre-independence era, it was acknowledged that the coupling of the two caste groups, high and low, is significant. In the region, the norms were dictated by the dominant agriculturist castes, the chief being the jats. Consequently, the higher ritual ranking of the brahmin was dropped when confronted with the harsh reality of existence in which the brahmins were agriculturist caste rather than a priestly caste. Moreover, about the jats, they were numerically and socio-economically, far inferior. Within the changed socio-economy of the post-colonial period, such a breach among the dominant upper

caste groups is no longer socially acceptable. Both men and women are under pressure to remain within the caste, though the pressure on men is not as high or equal to that exercised on women. Therefore, it has meant a constriction of opportunity not only for men but, more importantly, for lower caste women who earlier had the facility to marry in castes above them. The difficulties likely to be experienced in arranging marriages not only for the children of such alliances but also for other members of the family are freely and frequently displaced (Ibid 1024).

There is a genuine fear of *hukka pani band* (social ostracism), as the village community is united in accepting such matches. Caste panchayats indeed intervene frequently to impose 'justice' as per their definitions. Caste panchayats generally award minor punishments that humiliate more than injure. Penalties range from fines, orders to give obligatory village feasts, rubbing one's nose in the dust before the aggrieved party or even the entire gathering or touching their feet, shaving of the head, drinking, or dipping one's nose in the urine of one or more person. The more recent exhibition of power has been in public stripping and awarding the death penalty and executions by the panchayat. These conducts are closely linked with the growing unhampered urbanization and consumerism.

Caste panchayats seek to protect the fast eroding 'traditional value system' as perceived to be enshrined in customary practices which the law of the land fails to do. The legal restrictions on marriage under the Hindu Marriage Act, 1955 are almost non-existent. Whereas in rural areas, apart from the several restrictions in marriages, even the category of 'incest' is very wide. Yet, even here the enforcement of the caste panchayats remains selective. For example, in enforcing the incest taboos, the well known liaisons within family, as mentioned above, between different categories of close relations are never taken up by the caste panchayats. Consequently, incest, whether intra-family or intra-got, never meets with similar violence even when made public. Similarly, sexual codes are sought to be enforced in relation to the upper caste women. The purity of lower caste women, even when breached through rape, is not taken cognizance of. The ideology of female guardianship is essentially an ideology of control. It is closely tied up with the question of control of female sexuality specially in relation to women of upper caste groups. In the high caste brahmanical social order the control is intrinsically connected not only to the patrilineal succession but also to the maintenance of caste purity and caste hierarchy. Consequently, miscegenation (mixing of castes) as well as hypogamy (union between women of a higher caste and men of lower caste), were severely condemned and inflicted with highest punishment (Ibid 1025).

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## **16.5 State, Gender and Violence: Laws in the Pre & Post-independence Context**

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Pre-independence feminists clung on the one hand to gender-based definitions of themselves. On the other, they reached out for an existence based on equality and sameness than complementarity and difference. Nevertheless, in the post-independence context, the feminist movement began by basing itself firmly on the principles of equality. For a long time, the difference between men and women has been a biological one mostly, and this should not affect women's right to equality with men in both the private and public spheres. But now the symbol of mother became a rare usage in the rallies. Instead, the two self-images replaced it, the image of woman as a daughter and as a working woman. It turned attention away from a woman as a mother or a wife emphasizing on her productive rather than the reproductive capacities (Radha Kumar 2018).

### **16.5.1 Sati**

The first legislation against sati was promulgated in 1827 in Bengal. The act was instituted with the initiatives and efforts made by many Indian social reformers and British rulers. In 1827, Mrityunjaya Vidyalankara, the chief pundit of the Supreme Court, announced that the practice of suttee or burning alive the widows of Hindus does not have any Sastric sanction. In 1818, the provincial governor of Bengal, William Bentinck, banned the practice in his province. It took another eleven years for the prohibition to be extended to other parts of India. The Abolition Act was passed in 1829, and with it, the practice of burning the widows of Hindus was declared null and void in law. A few sociocultural factors motivated the practice and even exacerbated it in the early nineteenth-century Bengal. Bengal was dominated by the Dayabhaga form of inheritance under which widows could inherit their husband's property if the latter died without having a son. The devolution of the property was permitted even if the family remained undivided. In 1815, Ram Mohan Roy, in his essay "A Conference Between an Advocate for and an Opponent to the Practice of Burning Widows Alive," set out to prove that no ancient Hindu prescriptive texts lay down that a widow must commit suicide in the funeral pyre of her husband. In response, a hundred and twenty-eight pundits published a manifesto asserting that Roy's arguments were and could not be assumed as representing Hindu opinion. Roy replied to the manifesto by marshaling textual evidence arguing that sati was not obligatory and was considered the 'least virtuous act' that a widow can perform. Nonetheless, he added that the practice assumed meaning and significance only if it was embraced voluntarily.

Similar legislation followed this in Madras and Bombay. The promulgation was challenged in the Privy Council by the pro-sati religious factions on the ground of freedom of religion. Nevertheless, the argument of women's choice, which was the central premise in defense of Roop Kunwar's murder, was not put forward then. There have been widespread protests following the public murder of an 18-year-old girl, Roop Kunwar, in Deorala, Rajasthan, in September 1987. One of the demands of activists was to deal with the issue in law. The government that had become an expert in passing legislation on the women's issues responded promptly. There was no pretense by the 'expert committees' to investigate the problems. They responded promptly. Before the members of the funeral pyre of Roop Kunwar had cooled down, the law came into effect. The state law, such as the Rajasthan Sati (Prevention) Ordinance, was passed in October 1987. This was followed by the central legislation in January 1988-the Commission of Sati (Prevention) Act, which was passed by both the houses with a minimum of debate or amendment (Mangala Subramanian and others 2014: 30).

### **Rape Law and its Reform**

Thomas Macaulay introduced IPC (Indian Penal Code) in 1862. Its provisions were substantially amended twice, in 1983 and 2013. Section 375 of IPC defines the crime. Section 376 prescribes punishment. Before 1983, rape has been defined as sexual intercourse by a man with a woman under the following circumstances:

1. When it was against her will/consent
2. When the consent was obtained under the fear of death or harm.
3. When consent involved impersonation of her husband.
4. When a victim was less than 15 years old.

Section 354 deals with an assault or imposing criminal force on a woman with the intent of outraging her modesty. Section 509 criminalizes any word, gesture, or exhibition of an object to insulting the modesty of a woman.

Indian feminists' struggles with rape law started post-Mathura, wherein the apex court reasoned that Mathura's seemingly lack of resistance meant that she had consented to sexual intercourse. In 1983, the Indian Parliament amended the rape law, incorporating changes that expanded the grounds for finding a lack of consent. This included survivors who were of unsound mind, intoxicated or drugged. The 1983 amendment allowed the presumption only for custodial rape. Under the newly introduced 114 of the Indian Evidence Act of 1872 (IEA), once the sexual intercourse by a man in a position of authority was

proved, and the rape survivor stated that she did not consent, her lack of consent was presumed.

In the recent years, the Indian Parliament adopted a few women-friendly laws, including the Protection of Women from Domestic Violence Act 2005 (PWDVA), the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 and most recently, the Criminal law (Amendment) Act of 2013. In light of the 2013 Rape Law reforms, the author poses the following questions. First, can we discern the emergence of Indian Governance Feminism? By mapping the Indian feminists' efforts to amend rape law from 1979 onwards and their points of access to the state, the author argues that Indian feminism has entered a governance mode in light of the three parameters. There is increased reliance on criminal law, a deep commitment to a highly gendered reading of sexual violence, and a diluted oppositional stance vis-a-vis state power (Malvika Karlekar 2007: 75-76).

Brutal gang-rape and murder committed in December 2012 of Jyoti Pandey, a twenty-three-year-old physiotherapy student, mobilized large-scale protests all over India against state inaction towards the violence against women. On December 16, Nirbhaya and her friend left a South Delhi mall after watching a movie. They boarded a private bus which was operating illegally, and as the bus circled about South Delhi, five men and a juvenile gang-raped and sodomized her. After that, both she and her friend were thrown out of the bus, where they laid naked and wounded. The police eventually came, but only after they have had argued over the jurisdiction of the case. Nirbhaya spent thirteen days in a precarious medical condition before she died at a Singapore hospital. Soon after, large-scale protests led by students demanding immediate state action erupted across the country. The Federal and Delhi government fumbled to respond to the growing demonstrations (Prabha Kotiswaran 2018:78).

Rape was catapulted into the mainstream of public life, whereas up until 2012, it was almost exclusively a feminist concern. When the Supreme Court acquitted two police constables who had raped Mathura, a fourteen-sixteen-year-old tribal girl inside a police station in 1979, massive protests broke out against the decision launched by the Indian Women's Movement. The Indian Women's Movement in its postcolonial phase aspired for a fundamental structural change in place of merely advocating for female interests. The movement sought to be autonomous -in a political sense from the prescribed political position of the oppressively dogmatic Left parties and financially from the external project-based funding as well as foreign funding (Ibid 80).

“State feminism” was a term coined by the Scandinavian feminists for their version of femocracy. State feminism mainly refers to the response of postindustrial democracies to the demands of second-wave feminism by setting up women’s policy agencies to improve women’s status. The term “femocrat,” in turn, is an Australian neologism referring to a feminist bureaucrat, a feminist formally appointed to a powerful position in government. In the early 1970s, Indian feminists ascended to state power, facilitated by the state’s receptivity to gender issues since the 1970s at two main sites: home and workplace. Parallel to the developments, and as a result of United Nations-related conferences and the Indian Women Movement’s demands, the National Commission for Women (NCW) was set up by the state in 1992 as an autonomous body to mediate between the state and Indian Women’s Movement. Nevertheless, personnel such as the chairperson of NCW are political appointees who are loyal to the ruling party and are neither the bureaucrats nor the feminists, unlike the femocrats. The term “state feminism” is used to designate them. Other sites of state feminism include permanent and ad hoc government committees such as the Law Commission of India and the Verma Committee (Ibid: 80-81). Answer in detail 1. Describe the movement leading to promulgation of the law in the post-independence era. State if any amendment to the rape law was proposed after independence. (5+5)

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## **16.6 Verma Committee as a Site of State Feminism**

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Verma committee shifted the tone of public debate, saturated until then, with calls for the death penalty and chemical castration. Its report instead held the state responsible for failing to prevent women’s abuse. It addressed head-on the rape inflicted by the state personnel and family members, including husbands, by removing the legal immunities these acts enjoyed. The committee labeled caste councils, which informally outlawed the intercaste romance and marriage, as illegal. It proposed a long list of new offenses such as criminalizing disrobing, voyeurism, trafficking, employing a trafficked person, seduction by a person in authority, sexual assault, stalking, gang rape, and rape resulting in death or a persistent vegetative state. The newly proposed offenses came to be broadly defined and had steep punishments awarded to them compared with previous penalties for similar crimes. For instance, now, the sexual assault came to include non-consensual and non-penetrative forms of sexual contact. These are punishable up to five years’ imprisonment or a fine or both (Ibid 98).

The Verma Committee proposed criminalizing a full range of acts that feminists designate as sexual violence. The committee benefited from its interaction with the 92 feminist

NGOs and individuals who met the Verma Committee members in January 2013. They even took credit for dissuading the committee from recommending aggravated rape. Feminists enthusiastically welcomed the committee's report as signaling a "paradigm shift" in thinking on violence against women (Ibid 98-99). If 86 percent of Indian rapists are known to their survivors, a significant proportion of rape must occur in relationships formed at the two institutional sites-workplace and the family. Within months, rape in both the contexts was debated extensively, and the significance of the background legal rules-employment law and the sexual harassment law in the case of rape at work, and family law and domestic violence law in the case of marital rape-became evident (Ibid 120-121). Effectively, there is no immunity for marital rape when the couple is separated, as Section 376 B states that a husband rapes when he has unwanted sexual intercourse with his wife or when they are separated "under a decree of separation or otherwise." His punishment has also increased from two years to a period between two and seven years. The marital rape immunity has been challenged at court on the basis that the immunity violates the equality clause enshrined in the Indian Constitution. Although initially dismissed, the Supreme Court in October 2017 held that sexual intercourse with a girl under eighteen years of age is rape regardless of whether she is married or not (Ibid 123).

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## 16.7 Conclusion

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The case of sexual violence is located in the feminist project as one of 'justice' rather than of 'emancipation.' It is a characteristic of the discourse of justice that leaves unproblematic the harm that is sought to be redressed-that 'harm' need not be proven within its own terms, but only where the harm was perpetrated. As successful as these efforts may be, the feminist movement in India is constrained by many issues that feminism faces worldwide. The campaign has not been successful in expanding its diversity to attract rural women or to mentor poor women as grassroots leaders effectively. NGOs that make up the movement continue to be led by women from the elite castes. Landmark scholarship about women and by women addresses many of these concerns but applying these theories to the lives of women outside the academy is difficult. The activists working for independence in the early twentieth century were able to create a sense of sisterhood that transcended the caste and cultural boundaries.

The contemporary movement has been unable to replay the achievement. Also, second-wave feminism retreated from the earlier party politics in favour of working with the grass-root leaders who identify with localized challenges. Women's political power



base regionally and nationally has been eroded. Strategies that diminished participation in party politics and the electoral arena have not served Indian feminism. As the power base is eroded, women's issues are further marginalized from the public agenda. In one sense, the feminist movement in India has been revitalized with media attention on gendered violence. In an Indian context, the diversity of women mobilized in the anti-violence campaign is quite remarkable. Feminists can adopt new strategies to address the everyday experiences of women in all ranks (micro-level analysis) and to account for the neoliberal globalization (macro-level analysis). These are necessary for feminism to achieve the whole, gender-equitable social order envisioned by Mahatma Gandhi.

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## 16.8 Summary

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The unit tries to describe, analyze, explain, and articulate a few basic concepts to understand what constitutes violence and its forms manifested in the different contexts. The unit also elaborates on the civil society initiatives to curb and control gender-based violence and the state's response to such endeavours.

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## 16.9 References

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- Agnes, Flavia (1994): "Women's Movement within a Secular Framework: Redefining the Agenda", *Economic and Political Weekly*, Vol. 29, No. 19 (May 7, 1994): 1123-1128.
- Chowdhry, Prem (1997): "Enforcing Cultural Codes: Gender and Violence in Northern India", *Economic and Political Weekly*, Vol. 32(19):1019-1028.
- Fenstermaker, Sarah and Candace West (2002): *Doing gender, doing difference: inequality, power, and institutional change*, Routledge: New York.
- Goffman, Erving (1959): *The Presentation of Self in Everyday Life*, The Overlook Press: New York.
- Karlekar, Malvika (2007): "Domestic Violence", *Handbook of Indian Sociology* edited by Veena Das, New York, OUP: 308-330.
- Kumar, Radha (2018): *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India, 1800-1900*, Zubaan: New Delhi.
- Kotiswaran, Prabha (2018): "Governance Feminism in the Postcolony: Reforming India's Rape Laws", in *Governance Feminism: An Introduction*, edited by Janet Halley, Prabha Kotoswaran, Rachel Rebouche and Hila Shamir, 75-148, University of Minnesota Press: London.

Linsey, Linda (2016): Gender

*Roles: A Sociological Perspective*. Routledge: New York

Subramanian, Mangala, Preethi Krishnan and Christopher Bunka (2014): “Women’s Movement Groups in State Policy Formulation: Addressing Violence Against Women in India”, *Indian Anthropologist*, Vol. 44 (1): 37-52.

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## 16.10 Questions

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**Answer briefly : 5+5**

1. Distinguish between Sex and Gender
2. Discuss ‘Gendering’ as a process.
3. What are the differences between the movements in the nineteenth and twentieth centuries addressing violence against women? (10)
4. What is sati? When was the practice declared null and void by law? (5+5)
5. State the rape law enacted in India. What have been the amendments so far? (5+5)
6. Define ‘state feminism’. Cite an example representing the wave of feminism. (5+5)

**Answer in Detail : 5+5**

1. Define Violence. State the different forms of violence committed against women. (5+5)
2. Discuss the violence that occurs in the private sphere. (10)
3. What are the varied forms of violence committed against women in the public sphere? (10)
4. Do you find any difference between the violence committed against women in the private and public spheres? Delineate the similarities and differences that you have noted. (5+5)
5. Discuss the interplay between caste, social honour and gender-based violence. (10)
6. What are the punishments inflicted on women by caste panchayats in case of breach of social honour? (5)
7. Discuss the contributions of the Verma Committee to the current feminist discourse. (10)

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## **Unit : 17 □ Policy-Making Process: Gender as an Agency**

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### **Structure of the Unit**

#### **17.1 Learning Objectives**

#### **17.2 Introduction**

#### **17.3 Gender-based Violence and Civil Society Activism**

#### **17.4 Laws addressing the Violence against Women in Domestic Sphere**

#### **17.5 Government's Response to the Campaign**

#### **17.6 Developments in Law with Judiciary**

#### **17.7 Laws and Procedures: Sexual Harassment at Workplace**

#### **17.8 'Women and Development' to 'Women in Development': Gender as Agency**

#### **17.9 Women in Development: Factors motivating the Shift**

#### **17.10 Producing new subjects for development: The sathin**

#### **17.11 Conclusion**

#### **17.12 Summary**

#### **17.13 Questions**

#### **17.14 Referances**

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### **17.1 Learning Objectives**

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- ✓ To understand the issues of violence against women and how the matter has been addressed at the policy level.
- ✓ To understand the civil society activism against gender-based violence.
- ✓ To learn the laws addressing violence against women.
- ✓ To learn about the campaigns against a few cases of gender-based violence.
- ✓ To draw an overview of the judicial developments in rape cases
- ✓ To learn about the laws relating to Sexual Harassment at Workplace
- ✓ To understand how gender shifted to the center and assumed a pivotal role in the development discourse.
- ✓ To learn about the factors that contributed to the above-mentioned shift.
- ✓ To learn about the key role of Sathin in the development discourse.

- ✓ To understand the initiatives that must be undertaken to ensure a safe and secure environment for women.

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## **17.2 Introduction**

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Women's movement has brought the term "violence against women" as related to the family into the public sphere since the 1970s. While there are differences between women's organizations and the state (as Parliament) on the definitions of violence and what constitutes women's rights, it is necessary to consider what is encompassed within the violence against women. An anthropological approach to the study of policy incorporates the full realm of policies and relations involved in the production of policy from the state's policymakers (including the state institutions) and their strategic initiatives to other non-state actors. However, a significant aspect of the process has received little attention in policy research, which is the recognition of complexity and challenges involved as non-state actors work with the state institutions to create policy.

The campaigns and the ensuing legal reforms have certain commonalities. Campaigns were highly visible and received extensive media publicity. In each case, the government response was prompt. In most of the cases, the Law Commissions or expert committees were set up to solicit public opinion. But most of the cases of recommendations that would have had a far-reaching impact did not find a place in the final enactment. Each enactment resulted in a more stringent punishment rather than plugging the procedural loopholes, setting a time limit for deciding the case and extending compensation to the victim. The apprehension of legal experts both within and outside the women's movement that stricter punishment would have fewer convictions proven correct.

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## **17.3 Gender-based Violence and Civil Society Activism**

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Dowry, though legally prohibited since the sixties, the practice continued to be a part of the marriage rituals of many communities. Agitations against it began in the late seventies, with much of the action being concentrated in Delhi. In the initial days of the movement, the two Delhi-based groups, the Mahila Dakshata Samiti and Stree Sangharsh, emerged in the forefront of agitation. As early as 1978, the Mahila Dakshata Samiti published a report on dowry deaths that identified them as murders. Soon after, several other demonstrations were organized in Delhi that targeted the police, the state, the offending families, and the communities who tacitly provided support to the perpetrators of violence against women (Ibid:213).

In both dowry and rape campaigns, as also in the campaign against sati, the primary target of women's demands, or grievances was the state. The assumption/belief was that the state had failed in its 'duty', to make the lives of one half of its citizens, women, safe and free from violence in independent India. The anti-sati agitation and the Shah Bano case provided the beginnings of another key lesson, that women could be divided by the politics of their religious and caste identities, and that they could be complicit in and consent to strengthening the structures of patriarchy that worked against them (Urvashi Butalia 2002: 219).

Several things marked the early years of activism. First, the perception prevailed that women were the victims of violence. Second, the focus was on holding the state accountable for the many ways in which such violence manifested itself against women. During the time, women activists remained engaged in setting up legal aid centers, taking on casework, organizing demonstrations and protest marches, spreading awareness through street plays, and responding to the ever-increasing range of issues that unfolded themselves. Nonetheless, women activists were either the party-affiliated groups or those who saw themselves as autonomous, both on channelled their energies to the state, while at the same time constructed themselves as the victims of gender violence (Ibid 222-223).

The mid-1970s marked a watershed in Indian politics. The popular women's movements found their voices in Indian politics. The first of these was the Shahada movement in the Dhulia district of Maharashtra, which was initiated by the Bhil landless labourers. They formed the Shramik Sanghatana (1972) with the help of activists of the new left and initiated a vigorous campaign by the women members against domestic violence. In the same year, the Gandhian socialists parted ways with the Textile Labour Association to form the Self-Employed Women's Association under the leadership of Ela Bhatt. The following year, Mrinal Gore from the Socialist Party joined women from the Communist Party of India (Marxist) to form the United Women's Anti-Price Rise Front which turned into a mass movement of women for consumer protection. In 1973-74, Maoist women formed the Progressive Organization of Women initiating a self-consciously 'feminist' critique of the radical left politics along with an overarching analysis of gender oppression. The events led to other Maoist 'women's organizations' in Pune and Bombay, culminating in the first major celebration of March 8 as International Women's Day in 1975 (Samita Sen 2002:481-85).

In December 2012, India witnessed a mass protest against the failure of the India government to address violence against women. This was in the wake of a gang rape and the eventual death of a twenty-three-year-old woman in India's capital city, Delhi. The rape led to

spontaneous mass protests drawing attention to the shocking incidents of violence occurring across the different parts of India (Flavia Agnes 1992:37). Seeking legal reforms, women's groups as well as the non-governmental organizations (NGOs) actively targeted the state to make policies and laws. State feminism, in this context assumed two very different meanings: to describe the phenomena of women's policy agencies in general and to analyze whether the structures are effective in making the state more inclusive of women and their interests. Some scholars have put forth the active role played by the women's policy agencies as effective partners in the women's movements towards gaining access to the policy-making areas and influencing the policy outcomes (Ibid 38). Engendering the state is complex because of who defines the interests or issues, that women's interests are articulated and incorporated and who is present at the negotiating table. Besides, the processes engaged in by those representing a variety of women's interest such as the state agencies and government representatives, can greatly influence the policy outcomes. The complexity and ambiguity of the process challenges to think about where a policy begins and ends.

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#### **17.4 Laws addressing Violence against Women in Domestic Sphere**

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The Protection of Women from the Domestic Violence Act 2005 was enacted to address violence against women in India. This was preceded by the three laws focusing on violence. First, the Dowry Prohibition Act passed in 1961 was amended twice in the 1980s. The act explicitly covers both the giver and the taker of dowry (parents/relatives of both bride and the bridegroom) as punishable. In 1983 Section 498A was inserted into the Indian Penal Code (IPC) through an amendment. It made cruelty to the wife by a husband or his relatives a cognizable and non-bailable offense. The law was introduced into the IPC to address dowry harassment, suicide, and mental cruelty. The third Section 304B was inserted into the IPC through an amendment in 1986. Acknowledging the absence of circumstantial evidence in most cases of dowry murders that happen within the privacy of the family, the law deals with dowry deaths. It transfers the burden of proof to a husband or his family.

Unlike most of the existing domestic violence laws that are criminal, Protection of Women on Domestic Violence Act (hereafter PWDVA) is a civil law aimed at protecting women from any future violence. Other than punishing a husband, the law also aims at women having access to marital home, claims to maintenance, and the right to custody over children. The PWDVA is often noted as a milestone and is deemed innovative in many ways. First, it includes relationships like marriage under its purview, thereby

providing the women in cohabiting relationships similar rights as married women. Besides, the act consists of economic abuse under its definition of violence. This act has been particularly useful in the case of marriages that were not registered but were solemnized using traditional customs. But, under the new law, women in marriage or marriage-like relationships can claim protection under the law. The law mandates the provision of protection officers, shelter homes, service providers, and medical facilities. The law also holds the state accountable for the appointment of protection officers and service providers to ensure that the law is enforced. Besides, a provision of rights, the law offers protection against the various acts of violence, guaranteeing women an array of reliefs in traumatic situations (Flavia Agnes 1992:40-42).

Three major acts govern criminal trials and punishment. The Indian Penal Code (IPC) lays down the categories of offenses and stipulates punishments. The IPC lays down the procedural rules for investigation and trial, and the Indian Evidence Act prescribes the rules of evidence to be followed during a trial. Till 1983 there were no specific provisions about violence at home. Husbands can be convicted under the general provisions of murder, abetment to suicide, causing hurt and wrongful confinement. But these provisions of criminal law do not consider the specific situation of a woman facing violence within the home as against assault by a stranger. The offense which is committed within the privacy of the house by a person on whom the woman is economically and emotionally dependent needs to be dealt with on a different plane.

On the contrary, a wife who musters courage to approach a police station would be viewed as brazen and deviant. Instead of registering her complaint, the police would counsel the woman about her role in the house and explain that she must please her husband and obey him. She would be sent back without even registering a complaint. So, a special law was needed to protect a woman in her own home. (Ibid 25).

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### **17.5 Government's Response to the Campaign**

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The amendment to rape law enacted in 1983 was the predecessor of all the recent amendments enacted during the decade. Sections 375 and 376 of the Indian Penal Code, which deal with the issue of rape, have remained unchanged in the statute book since 1860. Mathura, a 16-year-old tribal girl, was raped by two policemen within a police compound. The Sessions Court acquitted the policemen on the ground that since Mathura had eloped with her boyfriend, she was 'habituated to sexual intercourse' and hence she could not be raped. Further, the court held that there is a world of difference between sexual intercourse and rape. The High Court convicted the policemen and held that

mere passive or helpless surrender induced by the threats or fear could not be equated with a desire or will. The Supreme Court set aside the High Court judgment and acquitted the policemen and held that since Mathura had not raised any alarm, her allegations of rape were untrue. Her 'consent' was not a consent that could be brushed aside as 'passive submission.' The judgment triggered off a campaign for any change in the rape law that included protests and a comprehensive media publicity. The maximum gain of the campaign was that rape that was hitherto a taboo subject came to be discussed openly (Flavia Agnes 1992:20).

At the time, the meaning of 'consent' came to be redefined. The Mathura judgment brought to the fore that in a rape trial, it is extremely difficult for a woman to prove that she did not consent 'beyond all reasonable doubt' as was required under the criminal law. The Supreme Court judgment had interpreted that the absence of injuries and passive submission implied consent. The significant demand was that the onus of proving 'consent' should shift from prosecution to the accused. It meant that once sexual intercourse was proved, if a woman states that it was without her consent, then the court should presume that she did not consent to, and the burden of proving that she had agreed should be upon the accused. The other significant demand was that a woman's past sexual history and general character should not be used as evidence (Ibid 20).

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## **17.6 Developments in Law and Judiciary**

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The response of government to the campaign was prompt. A Law Commission was set up to study the demands. Their recommendations included both the demands raised by the anti-rape campaign i.e., regarding the onus of proof and a woman's past sexual history. The commission also recommended certain pre-trial procedures, as women should not be arrested at night, a policeman should not touch a woman when he is arresting her and the statements of women should be recorded in the presence of a relative, friend or a representative of women's organizations. It also recommended that a police officer's refusal to register a complaint of rape should be treated as an offence (Flavia Agnes 1992:20).

The bill also had certain regressive elements that were not recommended by the Law Commission. First, it sought to make publishing anything relating to rape trial a non-bailable offence. This meant a virtual censorship of press reports of rape trials. This was ironical because the public pressure during the campaign was built up mainly through media publicity and public protests. The provision met with a lot of criticism; hence it was referred to a joint committee of the parliament for further debate. After soliciting



public opinion from a wide section, the committee submitted its report in November 1982. The regressive provisions though not scrapped were made slightly milder in law. Nevertheless, the delaying tactics of setting up committees by the state had succeeded in robbing the campaign of its initial fervour. By the time, the amendment was passed, the campaign had virtually died down. But the enactment was an indication of some measure of success to the campaign. After the amendment, the campaign lost its awareness. There were barely any efforts to systematically monitor the impact of the new law in rape trials.

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### **17.7 Laws and Procedures: Sexual Harassment at Workplace**

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The developments in law following the amendment (1984), started with an extremely negative view of women's sexuality. A schoolteacher seduced a young girl, but when she conceived, he refused to marry her. The girl filed a complaint that the consent was given under a false promise of marriage and hence was not valid, and the act amounted to rape. The Calcutta High Court held: "Failure to keep the promise at an uncertain future date does not amount to a misconception of fact. If a fully grown girl consents to sexual intercourse on the promise of marriage and continues to indulge in such activity until she becomes pregnant, it is an act of promiscuity. This judgment was relied upon in several later cases where girls were duped into sex under a false promise of marriage to acquit the accused (Ibid 21).

In another judgment reported in 1989, the Bombay High Court set aside a conviction by the Sessions Court in Kolhapur. The girl who was in love had voluntarily accompanied

the accused to his friend's house. During the night, they slept in a small room, along with the hosts. The accused suggested intercourse, but the girl was unwilling. The accused overcame her resistance and raped her twice during the night. The girl was found in the company of the accused on a complaint filed by her father. Medical examination revealed that the girl's hymen was torn. There was blood on her underwear, but no blood or semen on any other garment. The Sessions Court held that the girl was a consenting party but was less than 16 years of age and hence was not a defense for the accused. So, the judge 'reluctantly' imposed one month's simple imprisonment and a fine of Rs 1000. In the appellate suit filed at the High Court, the latter doubted the age of the girl and held that since there was a discrepancy between school certificate and birth certificate, the benefit of the doubt should go to the accused. So, the court held that the girl was not a minor.

Regarding penetration, it was held that in a small room, in the presence of other people, the girl would have felt ashamed, and it is difficult to believe that the accused may have tried to gratify his passion by necking the girl. To overcome this, he may have forcibly touched her private parts with his hands, and she misconstrued this. Evidence lacks a degree of credibility required recording a conviction under Section 376 of the IPC (Ibid 21). Check your progress 1. Discuss the legal developments following the campaign on rape law. (10)

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## **17.8 'Women and Development' to 'Women in Development': Gender as Agency**

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The year 1997 is widely held a watershed moment in the history of women's movement and the legislations on women. The Supreme Court formulated the Vishaka guidelines that made it mandatory for institutions across the country to put in place measures to prevent and redress sexual harassment at workplace. However, it is of paramount importance to understand the events that preceded the framing, formulation and institutionalization of the Vishakha guidelines. The legal mandates laid the foundation for Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The movement that pushed for these mechanisms has its origins in the sexual harassment and gangrape of Devi, a Dalit woman employed by the Rajasthan government's Women's Development Programme. As a "saathin", a workers in the programme was called, it was Bhanwari Devi's job to spread awareness about hygiene, family planning and education of girls, alongwith campaigning against female foeticide, infanticide, dowry and child marriages. Devi, the saathin worker was raped by five Gujjar men as "punishment" in 1992. She

had stopped the wedding of a nine-month-old Gujjar girl and in reaction she was gang raped. A nation-wide network of women's organisations decided to support Bhanwari Devi's fight for justice. The movement recognized that Devi was attacked at what was primarily her workplace. But there was no law to deal with such harassment. Four women's organisations filed a writ petition at the Supreme Court asking for guidelines that would help institutions recognize, prevent and redress sexual harassment at workplace. A committee was formed in response and the guidelines to be mandatorily followed to warrant a safe and healthy working condition for women at workplace were instituted. In common parlance, the stipulations in law came to be known as the Vishakha guidelines.

The Vishaka guidelines deem it mandatory for the employers at workplace to curb sexual harassment at workplace. They suppose it as the duty of an employer or other responsible persons at workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide procedures for the resolution, settlement, or prosecution of acts, of sexual harassment by taking all the recovery steps. Sexual harassment includes such unwelcome sexually determined behaviour, directly or by implication such as:

1. Physical contact and advances
2. Demand or request for sexual favours
3. Sexually coloured remarks
4. Showing pornography
5. Any other physical, verbal or non-verbal conduct of sexual nature

To prevent criminal proceedings at workplace, employers or those in charge of the workplace in both the public and private sector, should take appropriate steps to prevent sexual harassment.

- (i). The private employers should take steps to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946. Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to ensure that there is no hostile environment towards women at work place.

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## **17.9 Women in Development: Factors Motivating The Shift**

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Feminist activists, development practitioners, and policymakers often invoke women's agency for social change and as a means for achieving the development outcomes.

Underlining the development logic is an assumption that development goals meet with greater success when women not only mobilize in their support but also assume responsibility for their success (Sumi Madhok 2012:646). The Women's Development Programme (WDP) mobilizes agentive subjects for development with destructive consequences for some of those called upon to participate in bringing about specific forms of social change or performing development. The WDP program argues that it is not enough to foreground women within the development programs. Instead, it is imperative to locate their subjectivities, forms of subjection, political agency, and the danger within the social-political and economic contexts. It is an exercise ill achieved through the intellectual lenses of voluntarism, choice, and free action. Ignoring the socially embedded and contextual nature of agentive capacities resulted in ahistorical development interventions. It led to catastrophic consequences for the individual agents involved and the projects or programs in which they are engaged in (Ibid 646).

The language of development invokes agency and empowerment, both integral to a feminist vocabulary, to create subjects who would be amenable to its economic and political project. Although neoliberalism is often referred to in the singular, it is experienced in the plural. Scholars have pointed to neoliberalism's rational-economic framework that privileges human subjects as principally homo economics, evaluating the state in terms of the quality of market function. It produces social policy in creating entrepreneurial themes and converts civic citizenship into entrepreneurial activity (Ibid 648).

Neoliberal governmentality, scholars suggest, produces docile bodies and subjectivities in its wake, essential for its maintenance. It is in the production of the desiring, self-disciplining, and self-shaping subjects that neoliberalism legitimizes itself, and it is through its political rationality that neoliberalism produces "prudent subjects" along with new ways of organizing sociality that reflect its economic rationality. Agency, within the discourse, is mainly associated with the formation of autonomous preferences, desires, and choices free from the sociological and structural constraints and exercised independent of collective solidarity or action. Underpinning neoliberal accounts and formulations of agency is a subject who is rational, self-affirming, self-reliant, self-sufficient, responsible, and capable of authoring and executing her own actions. The growing appropriation of the individuated conception of agency (and increasingly of empowerment) within the neoliberal-inspired development discourse is not too hard to explain: the autonomous, rational and self-determining subject of classical liberalism. It is reformulated to appear within the neoliberal political thinking as a hyperrational subject that determines the course of his or her actions in accordance with "economic incentives and disincentives" and "bears full responsibility for the consequences of his or her action. In this context,

the individual is empowered when acting in his or her own interest to maximize productivity by efficiently garnering, improving, and utilizing his or her own resources (Ibid 649).

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### **17.10 Producing new subjects for development: The Sathin**

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Women in Development (hereafter WDP) was launched by the government of Rajasthan, India, in April 1984 as a response to the failure of various state-led development programs to involve or to benefit women. The state development bureaucracy conceded that these had little or no effect on improving the inclusion and the participation of women within the development. The development indices for women in Rajasthan made for dismal viewing in the 1980s and continue to do so (Ibid 650). WDP's conceptual document prepared by the Department of Rural Development and Panchayati Raj listed several social practices that discriminated against women. It included widespread discrimination in matters of nutrition, education, and wages, as well as social and physical indignities such as dowry, polygamy, purdah, wife battering, and alcoholism among men. It noted that women exhibited deficient levels of consciousness of their subordinate social and familial status, and more significantly, it recognized that the improvements in education and the economic situation of households did not translate into the better conditions for women. In addition to employment, education, health, and legal priorities, the WDP concept document emphasized the importance of the "formation of appropriate organizations for women to facilitate communication, learning, and organized action." The formation of women's collectives in the villages, it was hoped, would generate awareness of rights, welfare entitlements, and development policies, allowing communication and the flow of information that give women the confidence to recognize their independent identities, needs, problems and aspirations (Ibid 651).

Integration of the empowerment framework into WDP can be attributed to the following developments: First, structural partnership envisioned within the WDP, the state, women's NGO activists, and academics, allowed for the different development perspectives to coexist within the program. Second, the financial arrangements through which the UNICEF bore the cost of the program in the first six years of its existence made it possible for the divergent perspectives on women's development to coexist (Ibid 652).

According to the government records, *sathin* came to be understood as a grassroots worker bearing a "low profile." She was required to familiarize herself with the village institutions and interact with village panchayat (elected council) and with village women. She received an honorarium and not a salary but for her activities. The amount of the monthly honorarium was set at rupees 200 in 1984 and has since been raised to 350

rupees. Her nonofficial status was seen as essential to the establishment of effective communication with the villagers, particularly with women, since she would be “one of them.” However, the assumption of harmonious functioning was to prove naive and ignorant of the challenges each *sathin* would face in her capacity as a primary worker. WDP and in the discharge of her everyday duties since she was both a state worker and a friend of local women (Ibid 653). Nevertheless, the *sathins*’ initiatives met with resistance, which in turn led to a conflictual relationship with the villagers. The latter saw the *sathins* as a corrupting influence upon other village women. The hostility led to a deep-seated suspicion about the *sathins*, their moral character, and the nature of their relationship with the state. The distance developed between villagers and the *sathins* and their relationship with the state.

The distance developed between villagers and the *sathins* also appeared and the members of the women’s collective they organized in villages. For *sathins*, this work in a negotiated landscape resulted in new self-awareness and new ways of thinking that set them apart from those they were trying to organize. They often referred to themselves as not being “ordinary women.” While the *sathins* felt more empowered through their work, the state version of the “empowered women” was at variance with their developing self-confidence. The empowered *sathin* was not a reflexive subject, but one who undertook the state empowered initiatives to deal with specific social and development issues (Ibid 654).

A long-standing point of conflict between the *sathins* and the state has been over the exact nature of their status within the state bureaucracy. That is, if they were not considered as workers, they should be allowed to exercise their democratic rights to organize as a worker’s union and demand worker-related entitlements from the state. The state vociferously regarded the *sathins* as nonstate workers while appearing to contradict itself in its refusal to allow them organize into a union. They demand to regularize their status as government employees who enjoy the security of employment and an adequate wage for their work. Following this in 1990, the *sathins* went on a strike over the issue. The government agencies refused their demands, stating that *sathins* were volunteers, not employees, and they were uneducated and illiterate and therefore, could not be the government employees (Ibid 657). The legal travesty attached to the Bhanwari Devi case enraged a woman’s rights group called Vishakha, who filed a public interest litigation case at the Supreme Court of India demanding safety for women in the workplace. In response, the court, invoking the UN convention to the Elimination of All Forms of Discrimination against Women, expanded the meaning of fundamental rights and included

protection from sexual harassment at work and the right to work with dignity. In passing a landmark judgment, the court laid down the guidelines to be followed by the establishments dealing with complaints about sexual harassment with the proviso that these guidelines were to be in place until legislation was passed. Reportedly, one of the outcomes of the instructions was that many civil society organizations became of it and started to publicize it and pushed for its implementation.

Around the time, many women who were being harassed broke their silence and started demanding action from their employers. The National Commission for Women took the lead in drafting a bill called Sexual Harassment of Women at the Workplace (Prevention and Redressal) Bill (2006). In the WDP, arguably, risk plays out in two different ways. First, it is structural that it is the product of a set of social relations that are managed by the experts. It is to produce strategic outcomes by matching the trajectories of development that ensure the individual profiles match up to them (Sumi Madhok 2012: 663).

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### **17.11 Conclusion**

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In a recent newspaper commentary, Brinda Karat points to the global experiences wherein punishments have not acted as deterrents for the commission of an offense. The issue, as repeatedly stressed by activists, is not just the extent or stringency of punishment, but as much the certainty of it through a swift and fair procedure that discourages crime. In practice, there has been no improvement in this regard. In India, the committee set up under the supervision of Justice J.S. Verma made a series of recommendations for the prevention of crimes. It placed the responsibility on the Central and State governments to ensure social and physical infrastructure to prevent the crimes against women. The suggestions included changes in school and college syllabus to educate young people on the social values of equality and respect for women's autonomy. It ensured safe public transport, city and street lighting, CCTV cameras, mapping unsafe areas, and the provision of increased police patrolling in such areas. Arguably, the policy initiatives have not been implemented in practice, and this accounts, to a large extent, for the continued commission of crimes.

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### **17.12 Summary**

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The learning unit focuses and elaborates on the gender-based violence and the civil society activism undertaken to address, curb and redress the wrongs committed by such atrocious activities. The unit maps the details on the state responses to such social evils and initiatives undertaken to tackle them, including legal activism. Emphasis is placed

on women's role and agentive efforts in developmental projects. The developmental activities targeted to ameliorate and uplift the status of women were in practice, but the pivotal role attributed to women in such projects marked a paradigm shift. The unit throws light on such changes and the factors promoting them. Despite the thoughtful policy proposals, not always the proposed changes are translated into practice, due to which the practical problems persist and even thrive.

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### 17.13 Questions

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1. Discuss civil society activism in the context of gender-based violence in India. (10)
2. When and where was the Shahada movement launched? Who initiated the movement? (1+1+1)
3. Who constituted the Progressive Organization of Women? (1)
4. What do you mean by state feminism? (5)
5. What are the three laws that govern criminal trials and punishment? (1+1+1)
6. Discuss the government's responses to the campaign for rape law reforms. (10)
7. What are the mandates of the Vishakha guidelines? (5)
8. Discuss the events and women's organization's initiatives towards institutionalization of the guidelines. (10)
9. What were the purported goals of the Women's Development Program? (5)
10. What do you understand by neoliberal governmentality? (5)
11. Who is a *sathin*? (2)
12. What were the points of conflict between the state and the *sathin*? (5)
13. What in your opinion can curb the rampant gender violence against women? Suggest a few steps towards it. (5+5)

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### 17.14 References

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- Agnes, Flavia (1992): "Protecting Women against Violence? Review of a Decade of Legislation, 1980-89", *Economic and Political Weekly*, Vol. 27 (17): 19-33.
- Butalia, Urvashi (2002): "Confrontation and Negotiation: The Women's Movement's Responses to Violence Against Women", *The Violence of Development: The Politics of Identity, Gender & Social Inequalities in India* edited by Karin Kapadia, Kali for Women: New Delhi.



Madhok, Sumi and Shirin M. Rai. (2012): “Agency, Injury, and Transgressive Politics in Neoliberal Times”, *Signs*, Vol. 37 (3): 645-669.

Sen Samita (2002) : “Towards a Feminist Politics?: The Indian Women’s Movement in Historical Perspective”, *The Violence of Development: The Politics of Identity, Gender & Social Inequalities in India* edited by Karin Kapadia, Kali for Women: New Delhi.

Subramanian, Mangala, Preethi Krishnan and Christopher Bunka (2014): “Women’s Movement Groups in State Policy Formulation: Addressing Violence Against Women in India”, *Indian Anthropologist*, Vol. 44 (1): 37-52.

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## **Unit : 18 □ National Laws And Policies**

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### **Structure**

#### **18.0 Objectives**

#### **18.1 Introduction**

#### **18.2 The Constitutional Framework**

#### **18.3 National Laws**

#### **18.4 National Policies on Women**

#### **18.5 An Assessment of National Policies**

#### **18.6 Conclusion**

#### **18.7 Summary**

#### **18.8 Questions**

#### **18.9 References**

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### **18.0 Objectives**

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- To provide an overview of the nature of gendered violence prevalent in India.
- To get an understanding of the constitutional provisions led down for women.
- To comprehend how the Government from time to time has enacted laws that address the different kinds of gendered violence present in the country.
- To understand the evolution of national legislations and policies that have come about and what may be their limitations.

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### **18.1 Introduction**

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The primary focus of this module is to understand the various forms of gender violence that occur in the country. As one takes a closer look at the acts of violence that take place, it might be observed that most result from pre-existing unequal power relations between men and women. Some of these acts of violence result from patriarchal conceptions people have about women and their role within the family and society at large. With time, some of these notions have been challenged and an effort has been made to prevent violence that results from them. Despite having legislations which try to reduce violence

against women, the legal procedure itself can be taxing especially for women. We find very often that those entrusted with the responsibility of implementing laws can have gender bias in their approach to justice. Crimes against women are underreported and most cases have an alarmingly low rate of conviction. Women survivors are often victimized and stigmatized for raising a voice against the injustice meted out to them.

Being a Member State of the United Nations, India is legally bound to implement laws that are formulated at the global level. International Conventions have often prompted the India to bring out corresponding legislations here. However, this is not always the sole reason, certain acts of violence demand attention and mobilize collective will to pressurize the Government into enacting new laws or amending the already existing ones. This module will make an attempt to cover all these areas to provide a holistic picture of the phenomena of gendered violence in the country.

Scholars have generally taken a life-cycle approach to comprehending the issue of gender violence. This is popularly known as violence from the womb to tomb. The approach has been used to understand different forms of gender violence as chronologically arranged in terms of the stages of life of a woman, this begins with sex-selection/sex selective abortion, female infanticide, child marriage, child abuse, trafficking, domestic violence, dowry harassment, murder, rape, sexual harassment and finally old age abuse.

Gelles in 1979<sup>1</sup> described 'violence' as an act of striking a person with the intent of causing harm or injury but not actually causing it. Strauss in 1980 mentioned violence as an act where there is the high potential of causing injury. Domenach in 1981 described 'violence' as an act by an individual which encroaches on the freedom of another. Kempe in 1982 used the term to mean physically striking an individual and causing an injury. Sangari uses the understanding of violence and places it in the context of gender violence, "violence is a foundational and systemic feature of all contemporary patriarchies." Violence is used to ensure obedience, submission and punish transgression. Violence often becomes a tool to socialise other members of the family according to existing norms of behaviour essentially from a male perspective. The family or household then becomes a site of oppression and deprivation of individual physical or mental psyches, everyone is socialised to accept submission and obedience, physical violence or less obvious forms of aggression become a means of sustaining this obedience.

Violence faced by women is an outcome of the unequal power relations between men and women. Violence against women put them in the back-foot and prevent them from

realising their true potential. It is through systematic use of violence that women are subordinated and they continue to live lives of second class citizens despite being given equal status by the Constitution of the country.

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## **18.2 The Constitutional Framework**

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<sup>2</sup>The Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles grants equality to women and also empowers the State to undertake measures of positive discrimination in favour of women. This positive discrimination would redeem to a certain extent the disadvantages faced by women over centuries in all spheres of life. Different Articles of the Constitution tend to take up different aspects of women's subjugation and attempts to correct them by providing a legal binding.

- Article 14 of the Indian Constitution talks about Equality before law for women.
- Article 15(i) mentions how State cannot discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them.
- Article 15 (3) mentions that the State can make special provisions for women and children.
- Article 16 talks of Equality of Opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- Article 39 (a) mentions that State has to direct its policy towards securing men and women equal right to adequate means of livelihood. And Article 39(d) mentions Equal pay for equal work for both men and women.
- Article 39 (A), Constitution promotes justice on the basis of equal opportunity and provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- Article 42 mentions that the State has to make provisions for securing just and humane conditions of work and for maternity relief.
- Article 46, the State has to promote with special care, the educational and economic interests of the weaker sections of the people and protect them from social injustice and all forms of exploitation.

- Article 47, the State to raise the level of nutrition and standard of living of its people.
- Article 51(A) (e), to promote harmony and the spirit of common brotherhood amongst all people of India and to renounce practices derogatory to the dignity of women.
- Article 243D(3), not less than one-third ( including the number of seats reserved for women belonging to Scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allowed by rotation to different constituencies in a Panchayat.
- Article 243 D (4), not less than one- third of the total number of offices of Chairpersons in the Panchayat at each level to be reserved for women.
- Article 243T (3), not less than one-third ( including the number of seats reserved for women belonging to Scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allowed by rotation to different constituencies in a Municipality.
- Article 243T (4), reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide.

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### **18.3 National Laws**

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The law also recognises that certain crimes may be committed specifically against women or girl children and such are included either under the Indian Penal Code (IPC) or under Special Laws (SLL)

The Indian Penal Code considers rape as an offence under Section 376 of IPC, kidnapping and abduction for different purposes under Section 363-373 of IPC, homicide for Dowry, Dowry Deaths or attempts under Section 302/304-B of IPC, molestation under Section 354 of IPC, sexual harassment under Section 509 IPC to mention a few. There are several acts which have undergone periodical reviews and have been amended thereof, these acts incorporate special provisions to protect and safeguard women against violence. Some of these are:-

- Immoral Traffic (Prevention) Act, 1956.

- Dowry Prohibition Act, 1961.
- Indecent Representation of Women (Prohibition) Act, 1986.
- Commission of Sati (Prevention) Act, 1987.
- The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.
- The Protection of Women from Domestic Violence Act, 2005.
- The Prohibition of Child Marriage Act, 2006.
- The Criminal Law (Amendment) Act. 1983 amended in 2013.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013

For further information, some of these Acts have been taken up more elaborately.

#### **Immoral Traffic (Prevention) Act, 1956.**

<sup>3</sup>Suppression of Immoral Traffic (Prevention) Act, 1956 (SITA) came as a response to International Convention signed at New York on the 9<sup>th</sup> of May, 1950. The convention was 'United Nations International Convention for the Suppression of Traffic in Persons and the Exploitation of Others'. SITA was amended twice in 1978 and 1986. After the 1986 amendment, the Act was called Immoral Traffic (Prevention) Act of 1956. It begins with a section on definition of terms used in the Act. These include, brothel, child, corrective institution, prostitution among many others. The Act discusses trafficking only in relation to prostitution and not in relation to other purposes like domestic work, child labour, organ harvesting etc. Any person involved in the recruiting, transporting, transferring, harbouring or receiving of persons for the purpose of prostitution, any person attempting to commit trafficking or is found owning a brothel or visiting one is punishable under this law. The punishment ranges from seven years which may be extended to ten years or even life imprisonment with a fine of Rupees one lakh. Survivors of trafficking are placed in institutions for their safety and rehabilitation. This is usually done by a magistrate. Efforts have been made constantly to amend this Act for it penalises prostitutes. Under this, any woman who is out at night can be arrested by police, indicating that the Act provides grounds for the misuse of power by the police. The two amendments brought to the act has only aimed at making stricter punishments which are not always efficient at deterring such crimes.

**Dowry Prohibition Act, 1961, amended in 1986.**

<sup>4</sup>Dowry under this Act is defined as any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage or, by 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 marriage as consideration for the marriage of the said parties. After having made amendments to the Indian Evidence Act, in case of dowry death, the burden of proof was shifted to the accused as against prosecution in case of a wife's death within seven years marriage. The Act also mentioned that 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.

**Indecent Representation of Women (Prohibition) Act, 1986.**

<sup>5</sup>This Act punishes indecent representation of women which basically means depiction of any manner of the figure of a woman, her form, or body or any part in such a way that it may be deemed as indecent or derogatory, deprave or corrupt or injure public morality is punishable. No person shall publish or cause to publish or arrange to publish or take part in publication or exhibition of any advertisement which contains indecent representation of women in any form. Here advertisement includes, notice, circular, label, wrapper or document and also includes visible representation made by means of any light, sound, smoke or gas. It mentions that any violation may be fined a sum of Rupees two thousand. The penalty is six months which may be extended to five years.

The National Commission of Women have made certain suggestions to amend this Act. They recommend substituting certain terms like derogatory with indecent, mediums included in advertisement would include laser, fibre, optic electronic and other media. The Commission also recommends greater fines, two thousand to ten thousand and repeaters to be fined a hefty sum of Rupees one lakh.

**Commission of Sati (Prevention) Act, 1987.**

<sup>6</sup>Sati as an act of violence is culture specific to our country. It is a custom where the widow is burnt alive along with the dead body of her husband. Relatives of the deceased male provoke or even compels the widow to commit suicide by burning herself on the pyre of her dead husband. This may be done due to several reasons, more commonly after the death of the male member, lest the childless wife makes any claim to his

property, very often she would be done away with in order to avoid such claims. What makes sati problematic is how it is glorified by those who practice it. They consider the act as an ultimate act of sacrifice and deems the victim a goddess like status in their community. It only facilitates this regressive act of violence and provides an impetus for more women to become a 'sati'. Raja Rammohan Roy had been instrumental in prohibiting this act and a law was passed under the colonial rule.

In 1985, a young housewife, RoopKanwar, was instigated to burn herself on her dead husband's pyre at Deorala, Rajasthan. The people responsible for provoking her were charged with abetment to suicide under Section 306, IPC. This is punishable with imprisonment up to ten years. Thirty-two accused in the case were responsible and were tried on the charge of murder under Section 302, however all of them were acquitted. This was because, the law on sati only recognises offence as abetment to suicide and not murder. To overcome this limitation, a new legislation was passed, the Commission of Sati (Prevention) Act of 1987. This Act provides for punishment of death sentence for abettors of Sati, irrespective of whether it is suicide or murder. Glorification of Sati is also a punishable offence punishable up to seven years of imprisonment. Despite such stringent legislative documents, the act continues to take place with reports emerging every now and then. To limit the commission of such acts, strict laws alone are not enough, there needs to be change in the outlook of common people and in their perception of women in general. Such heinous acts of violence to stop completely would take time for they are deeply rooted in tradition and custom.

#### **The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.**

<sup>7</sup>The Pre-Natal Diagnostic Techniques (Regulation and Prevention) Act was passed in July 1994. Generally, Pre-natal diagnostic techniques would be used for the purpose of detecting genetic or chromosomal abnormalities or certain congenital malformations or sex-linked disorders, however, very often these techniques would be misused to determine the sex of the unborn child and this would lead to female foeticide. The Act therefore specifies ways of regulating the genetic counselling centres, genetic laboratories and genetic clinics. It stresses on the written consent of the pregnant woman and the prohibition of the communication of the sex of the foetus. The Act mentions the creation of a Central Supervisory Board to monitor the implementation of the Act. The Appropriate Authorities and Advisory Committees would be constituted to implement the Act. The offences and



penalties for violation would include imprisonment which may extend to three years and fine which may extend to ten thousand rupees. The Act prohibits endorsement in any manner regarding facilities of pre-natal determination of sex available at any centre or clinic. The offence under this Act is cognizable, non-bailable and non-compoundable. Cognizable offence means that the police may arrest without a warrant the offender or a person who is suspected of committing the offence on account of reasonable belief. The accused cannot seek bail as it is a non-bailable offence. Bail may be granted or refused based on the discretionary power of the Court. It is also a non-compoundable offence meaning that no settlement between parties is possible to drop the criminal proceedings.

### **The Protection of Women from Domestic Violence Act, 2005.**

<sup>8</sup>The Protection of Women from Domestic Violence Act, 2005 was brought about in response to the United Nations framework for model legislations on domestic violence. All acts of gender based violence by a family member against women in the family, ranging from simple assault to aggravated physical battering, kidnapping, threats, intimidation, coercion, stalking, verbal humiliation, unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or other forms of violence, genital mutilation, prostitution, against household workers and any attempts to commit such act were to be considered as “domestic violence”. This Act paved way for two important changes. Firstly, the Act stepped out of the framework of marriage and looked at all kinds of domestic relationship, it took into cognizance live-in relationships as well. Secondly, it provided compensatory relief of the aggrieved woman. This was done by providing the woman with the right to reside in shared household, monetary relief, custody orders etc. The Act recognised the vulnerabilities of women rather than only penalising the guilty, this is a characteristic of Section 498A. The Act however is not free from limitations. Firstly, it does not protect women from violence in relationships that are not matrimonial in nature. Secondly, much like other pieces of legislation, its aim is not to provide relief, maintenance, shelter and custody. It only recognises the offence. Only recognising the offence does not necessarily mean women will resort to law, women in most cases may never even report cases of violence due to lack of support from families, friends and relatives. Thirdly, it does not provide the space to understand the needs of the victim. Even though the Act takes into account emotional abuse, it would take time for the enforcers to fully grasp the idea that emotional and physical abuse may be equally serious and damaging as physical abuse. There is a good majority

of conservative people who consider this law as a 'family breaker' for it apparently causes familial discord and disrupt harmony.

### **The Prohibition of Child Marriage Act, 2006.**

<sup>9</sup>This Act sets the legal of marriage for girls at 18 and boys at 21. If a male adult gets into child marriage, he face an imprisonment up to two years or a fine that extends to Rupees one lakh. Unless proven otherwise, the parents and guardians of the child are considered to have failed to stop the child marriage and are also held accountable. Child marriages where the child is detained away from parents or guardians, compelled to go to a different place or are sold into marriage or are made to marry after which they are trafficked or used for immoral purposes are considered void. The court has the power to issue an injunction prohibiting any person, including a member of an organisation or an association of people suspected of child marriage. The District Child Marriage Prohibition Officer has to ensure that no child marriage takes places within his/her jurisdiction. This Act also calls for the amendment of Hindu Marriage act 1955, the Immoral Traffic Prevention Act of 1956.

### **The Criminal Law (Amendment) Act. 1983 amended in 2013.**

<sup>10</sup>The Criminal Law (Amendment) Act came into force on 3<sup>rd</sup> February, 2013. The enactment came after the brutal gang rape of physiotherapy intern in Delhi on the 16<sup>th</sup> of December, 2012. The incident generated widespread coverage and government was placed under tremendous pressure both from national and international agencies to make stricter laws for crimes as heinous as the one mentioned. Soon after the incident, a Committee was set up on the 23<sup>rd</sup> of December, 2012. A three member Committee headed by Justice J.S Verma (former Chief Justice of Supreme Court) was set up. The Committee was asked to make recommendations to the existing criminal laws which would make punishments stricter and guarantee quicker trials. For this purpose, the Committee urged the public, eminent jurists, legal professionals, NGOs and various Women rights groups to send in their suggestions. The following amendments were made within the purview of the present Act.

1. New offences like acid attack, sexual harassment, voyeurism and stalking were incorporated within the Indian Penal Code.
2. Section 354A which mentions sexual harassment has been made a gender neutral offence.

3. There was no specific provision for the offence of assault or use of criminal force to woman with an intent to disrobe, Section 354B takes such acts into cognizance and considers them punishable with imprisonment between three to seven years.
4. Provides a broader definition of rape and imposes stricter punishment for it.

**The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.**

<sup>11</sup>The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 was implemented on the 9<sup>th</sup> of December, 2013 by the Ministry of Women and Child Development in India. This Act came about after the Supreme Court Judgement on the Vishaka case. It came about with the objective of preventing and protecting women from sexual harassment at workplace and for the effective redressal of complaints of sexual harassment. Every woman, irrespective of their age or employment status has the right to a safe working environment free from all forms of harassment. It is not a gender neutral legislation as it only protects women within the working sphere. The act applies to women working in both organised and unorganised sector. Sexual harassment includes, unwelcome sexually tinted behaviour whether directly or implied in physical contact and advances, demand or request for sexual favours, making sexually coloured remarks, showing pornography, any other unwelcome physical, verbal non-verbal conduct of sexual nature. Presence or occurrence of circumstances of implied or explicit promise of preferential treatment in employment, threat of detrimental treatment in employment, threat about present or future employment, interference with work or creating an intimidating, hostile or offensive work environment, humiliating treatment likely to effect the lady employee's health or safety can also amount to sexual harassment. The Act makes provision for an Internal Complaints Committee that would hear complaints and redress the complaints made in their respective office. This Committee could be set up in any office which has more than ten employees working within it. The Internal Complaints Committee would comprise of a presiding officer, internal members and members from a Non-governmental organisation that deals with similar issues. At the district level of each state, there would be Local Complaints Committee, which would be responsible for taking up cases where no Internal Complaints Committee could be formed. The Act lays down in details, the procedure the aggrieved party has to follow and the function of the Complaints Committee thereof. Once the decision is made by the Complaint Committee, the company in question would have to take the necessary

steps against the accused based on the rules laid down by the company. In case the company does not have rules pertaining to sexual harassment, various disciplinary actions would have to be taken up. Some of these are; written apology, warning and reprimand, censure, withholding promotion, withholding pay raise or increment, termination from service, undergoing counselling or carrying out community service, besides this, the remuneration of the guilty would have to be deducted and paid to the aggrieved for damages and treatment if required. The Act also entails a strict confidentiality policy, protecting the identity of the victim. If the Internal Complaints Committee does not comply with the procedure of the Act, a fine of Rupees fifty thousand would be imposed on it.

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## **18.4 National Policies on Women**

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From time to time different policies have been framed and implemented in our country. These policies address different aspects of women issues. Some of the important policies that been taken up by India are:-

- **Towards Equality: A Report of the Committee on the Status of Women.**

<sup>12</sup>Considered a landmark document in the post-independent India highlighting issues of discrimination of women in economic, political and social sphere. The report was prepared after exhaustive research indicating the status of women within the country. It was an eye-opener and laid the foundation for mobilising women's opinion on matters that concerned them.

- **National Perspective Plan for Women 1988-2000**

<sup>13</sup>This plan was undertaken to uplift women from the various social obstacles that they face. A group of fourteen members headed by the then minister of state for women and youth affairs and sports was constituted. The group made three hundred and fifty three recommendations. Some of these recommendations included:-

1. A Uniform Civil Code.
2. Women's right to property.
3. Reservation of seats for women in elected bodies.
4. Banning of sex-determination tests.

5. Making harassment of wife for dowry as a legitimate ground for divorce.
6. The plan also spoke about uplifting rural women by engaging them more in agriculture, providing women with employment opportunities, providing them with credit and finally,
7. Setting up a central maternity fund.

• **National Policy for the Empowerment of Women 2001**

<sup>14</sup>The Government of India declared 2001 as the year of Women's Empowerment. This policy was undertaken to uplift women socio-economically, culturally and politically. It set out with some very specific objectives for the empowerment of women. The policy mentions how women should have equal access to participation and decision making in all areas of the nation's development. It specifies mainstreaming a gender perspective in the development process. When addressing the issue of economic empowerment among women, it mentions the need of poverty eradication, availability of micro-credit to women, how women have an increasingly important role to play in the globalization process, how women can contribute to agriculture and industry. Within social empowerment, one has to take into account, education, health, nutrition, drinking water and sanitization, housing shelter among many others.

Within judicial legal system, it prohibits all forms of violence and mentions the need to address these acts of violence and reduce their incidence. It took into consideration sexual harassment of women in work place and paid special emphasis on the issue of trafficking of women and girls. The policy lays down strict enforcement of legislations and speedy redressal of grievances with a special emphasis on gender- based violence. It mentions the need to organize data on crimes and atrocities on women both at the state and at the centre. It mentions the establishment of Women's Cell in police stations, Women police stations, Family Courts, Mahila Courts, Family Counselling Centres, Legal Aid Centres and NyayPanchayats.

• **Draft National Policy for Women 2016.**

This policy on women empowerment is a recent document which is still in a nascent stage. It prioritizes economy, education, food security and nutrition among women. The policy aims at providing an environment where women can have access to shelter, infrastructure, drinking water, sanitation and social security. It also puts forward the need for sustainability of the environment and the important role women have to play in

this process. The policy takes into account that women are not a homogeneous category and that even among women there are those who are more vulnerable than the others.

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## **18.5 An Assessment of National Policies**

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The development of a nation depends largely on the status enjoyed by women in that nation. Women should therefore be at the forefront engaging actively in the decision making process. Though important strides have been made in this direction, a lot still remains to be achieved. The national policies have reflected the ambiguous status women hold in the society. Policies reflect both the present scenario and also what is left to be done. However, it has been observed how the policies tend to focus on an inclusive approach to tackling various women issues, they often fail to achieve the desired outcome simply because of the existing socio-cultural conditions prevalent in the society. The policies are seldom implemented effectively either due to a shortage of funds or lack of skilled personnel. Nevertheless we have been making slow and steady progress in making the nation better for its women folk.

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## **18.6 Conclusion**

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Women in India have been victims of humiliation and exploitation for as long as society has existed. Institutional practices, existing social norms provide impetus to the acts of violence committed against women. Despite having sound legislations in place, there is only a slight noticeable change in the treatment of women in the country. This is because, legislations alone cannot bring about change in the desired direction, there remains significant loopholes in the implementation of these legislations and the gendered nature of those who are entrusted to execute these legislations. Hence making punishments harsher for offenders would not necessarily deter them from committing crimes, especially with such low rates of conviction for all acts of violence perpetrated against women. What is required is a change at the cultural level, the ways in which both men and women are socialized which justify most of these acts of violence. Both boys and girls will have to be socialized in a manner in which they learn to respect individuals and protest against any acts of violence.

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## **18.7 Summary**

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This unit has dealt with the legal framework that recognise women as active participants in the development process of the country. The Constitution has made several provisions to provide women with equal opportunities like men and protect them from

discriminatory practices. Several important legislations have been enacted which address different aspect of women's life experience. However, these legislations are not without shortcomings especially when implemented in practise, many acts fail to deliver what is promises to deliver. Apart from legislations, there are several national policies that have been formulated from time to time. These policies indicate the vision state holds for women and aids the state to prepare a plan of action for the future.

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## 18.8 Questions

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- a. What is the difference between an Act and a Policy? Give an example to support your answer.
- b. Mention any six constitutional safeguards guaranteed to women.
- c. What is gender violence? Give examples.
- d. What are the basic safeguards offered in the Prohibition of Child Marriage Act of 2006?
- e. What incident led to the formulation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013?
- f. What is the National Perspective Plan for Women 1988-2000 ?
- g. What is the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act of 1994 ?
- h. What does the Protection of Women from Domestic Violence Act of 2005 state?

### Answer in Details (12 Marks)

- a. State the major components of the National Perspective Plan for Women 1988-2000
- b. Describe in details the contents of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013.
- c. Describe in details the safeguards mentioned in the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act of 1994.
- d. Which incident triggered widespread protest against the practice of Sati? What amendment was made to the law in response to this?
- e. Describe in detail the Indecent Representation of Women (Prohibition) Act of 1986.

**Essay Type Questions (20 Marks)**

- a. What major amendments were made to the Criminal Law in 2013? How would these amendments help women who faced violence?
- b. In brief, discuss the constitutional safeguards provided to women in India.
- c. Do legislations automatically guarantee a safe environment for women? What are the basic limitations to this? Give appropriate examples to support your answer.

**18.9 References**

- Moore, E. P. (2001). *Gender, law, and resistance in India*. University of Arizona Press.
- Chawla, M. (2006). *Gender justice: Women and law in India*. Deep and Deep Publications.
- Rajan, R. S. (Ed.). (2001). *Signposts: Gender issues in post-independence India*. Rutgers University Press.
- Sharma, A. (2002). *Translating desire: The politics of gender and culture in India*. Katha.

**Notes**

1. Ahuja.R. 2010, Social Problems in India, pp 245- 250.
2. Agnes, F, 1992, Protecting Women Against violence? Review of a Decade of Legislation, 1980-89, Economic and Political Weekly, Vol 27(17), pp 19- 33.
3. <https://indiankanoon.org/doc/69064674/>
4. Sharma.k; Joseph.A, 1985, Dowry Deaths: Same Old Story, pp 83- 99.
5. Indecent Representation of Women (Prohibition) Act, 1986.
6. Jain.S; Misra,N and Srivastava.K, 1987, Deorala Episode: Women's Protest in Rajasthan, Economic and Political Weekly, pp 1891- 1894.
7. Nanda, Bijayalaxmi , 2014 , Sex Selective Abortion: A Syncretic Feminist Approach, Vol LIII (1), pp 1-8.
8. Kothari. J, 2005, Criminal Law on Domestic Violence, Economic and political Weekly, pp 4843-4849.
9. <http://legislative.gov.in/sites/default/files/A2007-06.pdf>
10. <https://www.iitk.ac.in/wc/data/TheCriminalLaw.pdf>



11. Gupta,S, 2006, Gender Justice: Sexual Harassment of Women at Workplace: In India and Abroad. R. Cambray and Co.Private. Ltd, pp 230-243.
12. <http://pldindia.org/wp-content/uploads/2013/04/Towards-Equality-1974-Part-2.pdf>
13. <https://www.oreilly.com/library/view/changing-the-terms/9788131763544/xhtml/chapter008.xhtml>
14. <https://wcd.nic.in/womendevlopment/national-policy-women-empowerment>.  
[https://wcd.nic.in/sites/default/files/draft%20national%20policy%20for%20women%202016\\_0.pdf](https://wcd.nic.in/sites/default/files/draft%20national%20policy%20for%20women%202016_0.pdf)

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## **Unit-19 □ International Laws**

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### **Structure**

#### **19.0 Objectives**

#### **19.1 Introduction**

#### **19.2 International Laws on Human Rights**

#### **19.3 Women's Rights as Human Rights**

#### **19.4 The Effectiveness of International Norms**

#### **19.5 Debates in The Light of Universality of Human Rights and Notion of Cultural Relativity**

#### **19.6 Conclusion**

#### **19.7 Summary**

#### **19.8 References**

#### **19.9 Questions**

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### **19.0 Objectives**

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The purpose of the present module is to provide the students with a backdrop of international laws in the context of human rights. The issue of women rights have also been discussed. The unit discusses some important international conventions relating to both human rights and women rights. The universal nature of human rights especially in the light of cultural relativity have been discussed in length. Finally, the unit takes up the usefulness of having international conventions and what purposes do they meet.

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### **19.1 Introduction**

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International laws, conventions, treaties or agreements are contracts between or among countries which may be general or specific in nature. The concerned countries are legally bound to adhere to and uphold the specifications of law. International law tends to govern the relationship among member states. States generally abide by these laws because states generally have certain common goals that they wish to attain.

International laws can either be domestic, regional, public or private. Domestic laws originate from domestic legislators and determine the way of life of citizens in a specific state. Regional laws tend to emerge from inter-governmental bodies that address the

needs and requirements of individuals of a particular geographical area or region. Some examples of regional law are the European Union Law and the Regional Human Rights mechanisms. Public international laws specifically deal with relation among various states, inter-governmental players and even those who do not represent the state. Private international laws deal with domestic laws of a particular state or across states.

Public international laws generally comprise of law of peace and law of war. The law of peace governs peaceful relations including matters like international treaty law, diplomatic relations, international organization law, law of the sea and many more. International humanitarian law deals with the functioning of international and non-international conflicts. The distinction between the law of peace and the law of war has now become blurred with the rise of international human rights law and criminal law.

International laws are made through bilateral and multilateral treaties. This are usually prepared during negotiations of diplomatic states and finally a treaty is adopted when all the concerned parties agree with it. The treaty is then signed and ratified by the states.

The watershed international conventions that address the issue of gender based violence have been take up in the following section.

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## **19.2 International Laws on Human Rights**

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The United Nation has since its inception developed treaties that safeguard human rights. The Member States are required to ratify these conventions in order to make them binding in nature. Some of the important international laws on human rights are :-

1. Charter of the United Nations.
2. The International Bill of Human Rights.
3. Universal Declaration of Human Rights (1948).
4. International Covenant on Economic, Social and Cultural Rights (1966).
5. International Covenant on Civil and Political Rights (1966)
6. Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment (1984).
7. Convention on the Rights of Child (1989).
8. International Convention on the Protection of the Rights of All Migrant Workers

and Members of Their Families (1990).

9. Conventions on the Rights of Persons with Disabilities (2006).
10. International Convention for the Protection of All Persons from Enforced Disappearance (2006).

These some of the many important international conventions presently dealing with human rights. However, the UDHR ( Universal Declaration of Human Rights) has been considered for discussion as it considered as a watershed development in the space of internationally recognised human right convention.

- **Universal Declaration of Human Rights**

<sup>1</sup>The Universal Declaration of Human Rights came about on the 10<sup>th</sup> of December, 1948. It is landmark document comprising of thirty articles. Some of the important provisions of this Declaration areas follows:-

1. The Declaration states that all humans are free and equal in dignity and rights. It applies to all irrespective of their race, colour, sex, language, religion, political and other opinions, national or social origin, property, birth or other status. Everyone has the right to life, liberty and security. It prohibits slavery, servitude and slave trade. It also prohibits the use of inhuman or degrading treatment or punishment. Everyone is equal before law and entitled to protection against discrimination.
2. Every individual has the right to nationality, no one can be denied of his nationality arbitrarily.
3. Individuals are entitled to marriage in free will, during marriage and may also dissolve it if they feel necessary. The family is considered a natural and fundamental group unit of society and is entitled to protection by the society and state.
4. Every individual has the right to property and cannot be deprived of that right arbitrarily.
5. Everyone has the right to freedom of opinion and expression, this includes freedom to change his religion or belief and freedom either alone or in community with other and in public or private to manifest his religion or belief in teaching, practice, worship and observance.
6. Everyone has the right to freedom of peaceful assembly and association. However, no one can be compelled to be a part of an association.

7. Individuals can take part in the Government of his country, directly or through freely chosen representatives. Everyone has equal access to public service in his country. The will of the people shall be the basis of the authority of Government. This shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage, shall be held by secret vote or by equivalent free voting procedures.
8. Everyone has the right to work, free choice of employment, favourable conditions of work and protection against unemployment. Equal pay for equal work, people must be provided with remuneration which is just and favourable ensuring for himself and his family and existence worthy of human dignity and supplemented if necessary by other means.
9. Everyone has the right to a standard of living adequate for health, wellbeing of self and family, including food, shelter, clothing, medical care and other social security provisions. Motherhood and childhood are entitled to special care and assistance.
10. Everyone has the right to education, education must be free at least at the elementary and foundational stages.
11. Everyone has the right freely participate in the cultural life of the community, enjoy arts and to share scientific advancement and its benefits.
12. Finally, the exercise of rights and freedoms that everyone enjoy shall be subjected to limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the general requirements of morality, public order and the general welfare in a democratic society.

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### **19.3 Women's Rights as Human Rights**

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The important question to be asked is whether women's rights and human rights are the same or different? Very often, women's rights are not classified as human rights and this indicates how society at large tends to understand and treat issues related to women's lives. Women often remain invisible victims to human rights violation. Interestingly enough, most of the human rights violation caused to women are due to the fact that they are women. The concept of human rights have a universal appeal though the scope may not always be agreed upon. Promoting human rights remain one of the most important goals for any society. It demands that certain minimum standards of human survival are

promoted and maintained. Since 1948, there has been contestations about how human rights should be interpreted to respond to the global changes. However, women hold very little place in this discussion. Only recently, the absence of gender dimension in recognising human rights have been addressed. It is important that we conceptualise human rights, neither as fixed nor as belonging to any one particular section of the society. Rather, it should accommodate the needs of various groups of people and its meaning should address the changing needs of time. Human rights should therefore consider the abuses that degrade and violate women on a daily basis.

Women fighting for their rights have often been given excuses by governments and human rights institutions on why women rights cannot be given the importance as human rights. Some of these being firstly, gender discrimination comes only after larger concerns of survival which demand more attention and are more serious in nature. Secondly, when women are abused, it is more of cultural, private and domestic issue which is non-political and seldom require state action. Thirdly, as regrettable as they are, violence against women are pervasive yet an inevitable part of our existence. Women rights activists contest exactly these perspectives.

Though women rights do sometimes come within the purview of civil liberties, abuses against women can be placed within the larger socio-economic network that put women in vulnerable positions. Some of the important human right assumptions on food, shelter and work are considered as important parameters of human survival but exclude women from it. Considering women rights violation as private and individual in nature with no need of state interference very often forget that some of these abuses or violations though individual in nature are infact are encouraged and sanctioned by the state.

It is wrong to assume that women rights come after human rights which are more concerned about issues of life and death. This can be explained by the following example. Amniocentesis is used to determine the sex of an unborn child and female foetuses are often aborted in countries like China and India. During childhood, many countries experience discrimination towards the girl child. This includes feeding them less than their male counterparts and as a resulted girl children are often malnourished and suffer from ailments. In adulthood, women seldom have control over their own bodies especially their reproductive health often suffer for this reason.

Gender when combined with race, class and other forms of identities become a powerful tool of oppression foe women. It denies women their right to life and liberty on a large scale. As rightly pointed out, despite being wide spread, violations against women are

rarely incorporated in our understanding of human rights which only points out the political nature of the abuse women face. It develops from the complex web of structural relationships of power, domination and privilege that exist in the nature of the relationship shared by a man and woman. Violence against women help to maintain this status-quo of being dominated by men. By considering such violence as personal and individual, human rights excludes the gender experience from its definition. This is only a reflection of how deep rooted the problem truly is. Violence against women is still considered natural and inevitable. It is never seen as been politically constructed and maintained by those who stand to benefit from it.

The need to control women is often expressed in the resistance that laws regarding women face. These range from their reproductive rights to the freedom to choose their sexuality, abuse within marriage and more. Denial to bring in laws that usher change or resist such laws has far reaching human rights implications. Denying women's voice within human rights domain would only regress the situation.

The interesting thing to note here is that while violence against women is often brushed aside as a family affair falling outside the domain of the government or state, there are infact many family matters on which the government or state has considerable say so why not on this?

Therefore many important questions arise, who decides what is to be considered as human rights and what not? When does the state get involved or when does it not? Human rights norms defined by males will never be able to fully grasp the violations experienced by women. Human rights groups need to change their approach towards women issues. Governments would be required to play a pivotal role in curbing gender violence and work in collaboration with other state and entities to deal with the transnational nature of gender violence.

The following section discusses some of the international instruments that address the issue of gender violence within the context of women's rights.

- **Convention on the Elimination of All Forms of Discrimination against Women. (CEDAW)**

<sup>2</sup>The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the UN General Assembly in 1979. CEDAW is often described as an International Bill of Rights of Women. It comprises of a preamble and thirty articles. Firstly, the convention aims at defining what discrimination against women entail and secondly provides a framework within which nations can work to reduce and end such

forms of discrimination.

The convention defines discrimination as “distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. It mentions how member states have to include the principle of equality in their respective legal system, abolish laws that discriminate between sexes, adopt legislation that prohibit discriminatory attitude toward women. It urges the establishment of tribunals and other public institutions to ensure that women are protected against any discriminatory action. CEDAW specifies that all enterprises and organisations must treat men and women equally.

Women can be at par with men only when they are provided with equal opportunities to discover their full potential. Women have to be given equal access to political and public life, this includes the right to vote and to stand for election. Access should also be given in areas such as health, education and employment. Women must be given reproductive rights and one must not undermine the important role culture and tradition plays in shaping attitude towards women. Exploitative practices such as trafficking of women and girls must be prevented.

India is one of the countries who ratified this convention and is bound legally to put some of these recommendation to force. It must be mentioned here that some of the legislations that came about post this convention show that India has indeed incorporated these recommendations.

Even though two international conventions have been discussed in details, the United Nations and its specialised organisations take up different approaches, framework and strategies to address different aspects of gender based violence from time to time. The following important international documents also take up the issue of gender violence.

- <sup>3</sup>UN Declaration on the Elimination of Violence against Women. Special Rapporteur on Violence against Women, its Causes and Consequences. The United Nations Commission on Human Rights in resolution 1994/45, adopted this on the 4<sup>th</sup> of March, 1994. A Special Rapporteur was appointed who look into reports of violence against women including its causes and consequences. This was implemented in the form of a mandate that each member had to submit to the United Nations. Individual Member States had to submit a report on violence against women. This is to be prepared by government, treaty bodies and specialized agencies. The Rapporteur



would then make suggestions of ways – both at local and national level to eliminate these forms of violence.

- <sup>4</sup>International Framework for Action to Prevent Trafficking of Persons Protocol. This is technical assistance tool that Member States can use to effectively implement protocol to prevent, suppress and punish trafficking in persons especially, women and children.
- UNFPA Strategy and Framework Of Action to Addressing Gender Based Violence 2008 – 2011. This identifies priority areas which require specific action on gender based violence, policy framework, data collection and analysis. It also focuses on sexual and reproductive health, adolescents and youth, faith-based networks and other marginalized populations. It provides technical guidance to countries at regional and global level. Finally, it provides guidance to build capacity, ensure development, effective collaboration and partnership among stake holders.

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#### **19.4 The Effectiveness of International Norms**

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- International organizations or institutions are build put international legislations into action. Very often it has been observed that international conventions fail to make the necessary impact because there is no enforcement institution. The development of an institution or mechanism provides the necessary framework within which these rule can be enforced. This in turn the nature of interaction among international contacts.
- The important stride made by international treaties post 1947 is attempting to institutionalise the universality of these treaties especially those pertaining to human rights. They have taken into cognizance the fact that marginalized communities need separate platforms to voice their needs and concerns. International treaties are gradually recognising the need to address cultural and social specificities that many countries can identify with.
- Despite being legal instruments, international treaties tend to generate a common moral ground for states to act and this promotes a sense of security and well-being among individual actors.
- International conventions while taking up inclusive policies that take all forms of disadvantages into consideration, are seemingly become more fluid in nature. They have been able to recognise that local needs are important to take into consideration

to make a convention successful. This has prompted them to build a strong down – up approach to tackle important social issues.

- International law serves a meeting point to take necessary action by member states on issues that require immediate focus and action.

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## **19.5 Debates in the Light of Universality of Human Rights and Notion of Cultural Relativity**

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Ever since its inception, the pertinent question that has lingered is how universal are human rights? The preamble of the UN declaration of 1948 state that the rights are equal to all members of the global community. This is reaffirmed in their 1993 declaration. The western notion of human rights is often conceptualised as an extension of human security. The universal nature of human rights have been derived from the post- renaissance understanding of European liberalism and the Christian philosophy of equality. The downfall of feudalism and the emergence of the bourgeoisie made human rights popular. It is derived from the ancient Greco-Roman civilization and has also aided in its development. It would therefore be safe to consider the modern declarations on Human Rights is definitely a western contribution.

The universal nature of Human rights have been put to question both by cultural relativists and post- modernists.

Cultural relativists question the relevance of universal Human Rights in a world which is highly multi-cultural and multi-polar in nature. Post-modernists are apprehensive to accept any notion that is overarching. For they assume that such concepts and notion only lead to domination and control often invisible to normal eyes. This becomes even more relevant to the present context when wars are fought by big nations in the name of saving human rights.

An important observation made by political scientists is that, all international instruments have ignored the traditions, socio-cultural trends of the south. The ethnocentric bias is clearly indicated here. The human rights conventions are often seen as a means by which western countries tend to intervene in matters of the developing nations.

Saudi Arabia was one of the first countries to contest the idea of human rights as early as 1948. It refrained from voting at the General Assembly. They argued that the universal nature of human rights was destructive and undesirable for differences that exists between societies. Human rights have spoken about humanity for all people but it does not recognize

the differences that are equally important. The African Charter on Human and people's rights also known as Banjul Declaration (1981), the Declaration of Principles of Indigenous Rights adopted at Panama in 1984 and Islamic Declarations in 1981 and 1986 all refused the notion of the universality of human rights.

Cultural relativists are of the opinion that rights and values cannot be universal because no universal culture exists. They believe that there is an inherent dignity in customs and values of all communities and there is a need to show tolerance not just to one's own customs but also to that of the others'.

The Vienna Conference on Human Rights in 1993 further challenged the concept of 'Universalism' by introducing the discussion on 'Asian Values Debate'. The Asian leaders resisted the cultural domination of the west in the name of human rights and didn't accept the idea of allowing western nations to intervene in humanitarian matters of their countries. They emphasized on the significance of national sovereignty. They initiated to promote an alternative vision of human rights that focused on situational uniqueness. The South Asian countries stated that the Universal Declaration was taken up during the time when the developing world were either within colonial rule or just out of it. Such nations were more focused on the work of nation building and development. This hardly gave them the time to consider the issue of human rights.

Feminists have also questioned the universal nature of the declaration by stating that the entire declaration has been constructed keeping family as the smallest unit with underlying patriarchal values. None of the conventions on human rights take into consideration women's experience. Feminists have also questioned the cultural relativists who have put overemphasis on cultural values. Feminists are of the opinion that a lot of this culture and tradition tend to de-humanise women.

The principles of 'universal' human rights are based on the ideas of commonality and universally applicable values of society it must however, be noted that despite contentions this universal values provide a common ground for countries to come together and should not be undermined.

Amartya Sen is right to point out that when people have political and civil rights they can draw attention to their needs and demand action from the government. Hence, it is important to uphold these rights and take their violations seriously. Universality does not automatically presuppose uniformity. The state has to play an important role in the development and protection of human rights. It has to balance between uniformity and diversity.

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## 19.6 Conclusion

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Gender violence is a global phenomenon and women across the world face it. As such, global policies need to be developed to ensure they can at best address the multifaceted nature of violence that women face. Such international legislations are over-arching instruments which try to handle the problem at hand however they require countries and stake holders to coordinate and collaborate with each other in order to tackle the issues women face. The United Nations formulates mandates that Member States are made to follow from time to time, however these mandates would have to be moulded according to local factors at play in a given country. Nevertheless, such International documents alone are a proof of the fact the women across globe face discrimination and violence, it also suggests that there is a need to address these issues seriously.

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## 19.7 Summary

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International laws are documents or treaties that provide a common ground on which states can agree. These laws are binding and regulate individual state actions to a large extent. They provide a framework within which governments act and determine their relation with other states. Human rights has been one of the important areas which demanded systemic collaboration among various member states. Despite their global appeal, human right laws have often been contested and their universal nature has been questioned.

The gender perspective in human rights have also been dealt with. It has been observed how mainstream human right understanding have been devoid of the women's perspective. Despite global incidents of violence against women and other marginalised communities, they have not been included within the common understanding of human rights. Thus, human rights have been contested by cultural relativists, feminists and post modernists. This however does not undermine the important role it has to come play in present times. It important for us to think critically before applying these conventions to comprehend their relevance and utility.

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## 19.8 Questions

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### Answer Briefly (6 Marks)

- a. What does one mean by International Laws?
- b. When was the Universal Declaration of Human Rights brought into force? Mention

6 of its basic tenets.

- c. What does CEDAW stand for? How many articles does it comprise of? What does its preamble state?
- d. What are the basic tenets of the UN Declaration on the Elimination of Violence against Women, Special Rapporteur on Violence against Women, its Causes and Consequences?
- e. What is UNFPA Strategy and Framework of Action to Addressing Gender Based Violence 2008 - 2011?
- f. What is International Framework for Action to Prevent Trafficking of Persons Protocol?

**Answer in Details (12 Marks)**

- a. How does CEDAW define discrimination? When did India ratify this Convention?
- b. Describe the basic tenets of UN Declaration on the Elimination of Violence against Women. Special Rapporteur on Violence against Women, its Causes and Consequences.
- c. Give an example to show how India being a Member State of the United Nations has incorporated changes in domestic legislation to be in sync with an International Convention.
- d. Is it mandatory for a Member State to ratify all Conventions that the United Nation passes? Give an example to support your answer.
- e. How does the International Framework for Action to Prevent Trafficking of Persons Protocol work to protect women and children?

**Essay Type Questions (24 Marks)**

- a. Discuss in details the Universal Declaration of Human Rights.
- b. What does the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) state?
- c. Can International legislations be effective in tackling the issue of gender violence? Give examples to support your answer.

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## **19.9 References**

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Fitzmaurice, G. G. (2017). Some problems regarding the formal sources of international law. In Sources of international law (pp. 57-80). Routledge.

Abebe, D., Chilton, A., & Ginsburg, T. (2021). The Social Science Approach to International Law. *Chi. J. Int'l L.*, 22, 1.

Wuerth, I. (2017). International Law in the Post-Human Rights Era. *Tex. L. Rev.*, 96, 279.

### Notes

1. [https://www.ohchr.org/en/udhr/documents/udhr\\_translations/eng.pdf](https://www.ohchr.org/en/udhr/documents/udhr_translations/eng.pdf)
2. <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>
3. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx>
4. [unodc.org/unodc/en/human-trafficking/migrant-smuggling/international-framework-for-action-to-implement-the-smuggling-of-migrants-protocol.html](http://unodc.org/unodc/en/human-trafficking/migrant-smuggling/international-framework-for-action-to-implement-the-smuggling-of-migrants-protocol.html)
5. [https://www.unfpa.org/sites/default/files/pub-pdf/2009\\_add\\_gen\\_vio.pdf](https://www.unfpa.org/sites/default/files/pub-pdf/2009_add_gen_vio.pdf)

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## **Unit : 20 Role of Civil Society**

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### **Structure**

- 20.0 Objectives**
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### **20.0 Objectives**

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In this unit, the basic idea of civil society has been discussed. The characteristics of civil society organizations, their functions and role in processing women Rights have been discussed in details. In addition the importance of civil society organizations in reducing gender violence has been taken up some civil society organizations both international and domestic organizations dealing with women issues have been stated. Finally the general contributions to the function of civil society organizations have also been discussed.

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### **20.1 Introduction**

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Historically, civil society has been viewed as a political association that addressed social conflict by impressing certain rules upon people in order to prevent them from causing

harm to one another. The concept of civil society is indeed broad and subjected to different kinds of interpretation. There no single definition of the concept that all scholar have agreed upon. If one looks at how the term has evolved over the centuries, it would be clear that the meaning of the concept is ever-changing. During the classical thought period, man along with his social surrounding became the focus of Greek theology, as such a very faint idea of civil society was seen to emerge. Thinkers like Plato, Aristotle and Socrates conceived of civil society as a society where the values of justice, rationality and wisdom prevailed. The presence of these characteristics was key to create an ideal society. In an ideal society, citizens would cooperate with another based on their skills. In Classical thought, no distinction was made between the civil society and the State. Thomas Hobbes (1588-1679) and John Locke (1632-1704) too echo the ideas of their predecessors. They find the two concepts inseparable but draw a distinction between civil society and the state of “nature”. They assume that the latter is a state of anarchy where no rules apply as a result no form of social control existed. The State emerged to bring in stability within the society. According to Hobbes, humans are by nature anarchical and directed by self-interest. The existence of an all- powerful State- the Leviathan was meant to protect citizens from create conditions of peace and harmony within the society. John Locke’s view about the civil society and State are similar to those of Hobbes. However, there is a difference in that he feels that the State cannot hold absolute power over the people. Citizens enter into social contract and they have a common authority with the ability to frame legislations, maintain law and order and retain their rights. The State cannot by any means stand to abuse these rights enjoyed by the citizens. Basic rights according to Locke are right to life, right to liberty, and property. Like Hobbes, Locke also conceives of civil society as inseparable with the State, where the State and the public have an obligation to another. The citizens give up their authority to the State while the State guarantees that the rights of the citizens are protected.

Emile Durkheim (1978) is of the opinion that the civil society has several areas within its realm. These are political society or the public sphere, the family, voluntary association, and social movements. These areas have internal rationale and a specific set of practices that ensure social solidarity, individual freedom, and societal consensus. A major limitation of the Durkheimian understanding of civil society is that includes both the public and the private. Thus his conception of civil society is vague. Like earlier thinkers, Durkheim’s civil society includes the state implying that he sees no difference between the state and the civil society.



Adam Smith (1723-1790) conceives of civil society as an economic endeavour involving market and competition. He clarifies that the political domain is distinctly different from the economic domain. In the economic domain, the individual is free to pursue his self-interest and in return contribute to common good. Thus, there is no distinction between the economic domain and civil society.

G.W. F Hegel (1770-1831) in his book *Philosophy of Right* for the first makes a distinction between State and civil society. He argues that civil society is one of the three components of ethical life. The other two components are family and state. Individuals are allowed to pursue their interests within the social realm but cannot go beyond the collective will. The family is essentially the private realm which involve close-knit relationships. The state pursues what the majority of people decide upon to be pursued. This recreates a void which is then filled by the civil society. The civil society forms the space where individuals are allowed to participate and socialise. This is the site where conflicts emerge due to differences in interests but are resolved by the state.

Marx and Engels conceive of civil society as an economic sphere that has emerged due to the establishment of modern states. The State and civil society could be distinguished only in the contemporary time as interests including economic ones gradually become a part of individual rights which is separate from the public domain. The notion that individuals are free and possess political rights based on the pursuit of economic gain has emerged in the Marxian thought. The civil society forms the “base” where productive forces and civil relations took place while political structure formed the “superstructure”. Marx rejects the Hegelian line of thought which mentions that the State negotiates conflict within the society, instead he says that the State legitimised the interests of the ruling class to further their goals. Civil society for Marx is a collection of socio-economic relation while the State manifests the conflicts that persist in these relationships. Marx attributes the destruction of real community by the civil society for it is nothing but a summation of individuals who are by nature competitive and interest maximisers. Antonio Gramsci (1981-1937) expands Marx’s view of the civil society. According to him, civil society goes beyond the individual to include private organisations. The civil society is witness to the imposing character of the State. The civil society furthers social inequality by supporting the capitalist’s mistreatment of the proletariat in the name of individual pursuit. Louis Althusser (1918-1990) never uses the term ‘civil society’, instead he uses the notion of “ideological state apparatus”. The State and the civil society are connected and it in-fact plays a pivotal role in gaining consent of the masses without having to use coercion. However, it must be mentioned here that the central idea of

civil society put forward by Marxists may not always be empirically correct. At the most, it may serve as analytical tool. Experiences from all around the world have shown how the civil society have stood up against the action of the State when it has been despotic and totalitarian in nature.

It would be appropriate to present a few instances of how the concept has been defined from time to time.

The World Bank (2010) defines civil society as a wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others based on ethical, cultural, political, scientific religious or philanthropic considerations.

The Organisation for Economic Cooperation and Development (OECD) (2006) defines civil society as the multitudes of associations around which society voluntarily organizes itself and which represent a wide range of interests and ties. These can include community – based organizations, indigenous people’s organisation, and non – governmental organisation.

Oxford concise dictionary of politics defines civil society as the set of intermediate associations which are neither the state nor the family; civil society includes voluntary associations, firms and other corporate bodies.

Other definitions civil society include those by Hall (1995:1) who sees civil society as “a space in which social groups could exist and move something which exemplified and would ensure softer (and) more tolerable conditions of existence”.

Bayart (1986:11) views it as “a society in relation with the state... in so far as it is in confrontation with the state, or more precisely, as the process by which society seeks to breach and counteract the simultaneous totalisation unleashed by the state”. And finally, Scholte (2005: 322) conceives it as “a political space where voluntary associations deliberately seek to shape the rules that govern one or the other aspect of social life”. He has given four major uses of the term and has been clear in stating that one could from these definitions. Civil society according to Scholte is formally organized, registered, and comprise of professional staffs. This is the reason why civil society organizations are often considered as non-governmental organizations as well.

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## 20.2 Characteristics of Civil Society

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Some of the important features of civil society are:-

- **Public Life** - It is the space of public social relations where individuals can freely participate in economic, political, religious or community activities. It is distinctly different from the State and private realm.
- **Present within the State's Legal Framework**- Even though civil society is a part of our public life, it is not above civil conduct, it has to function within the rules and framework provided by society.
- **Dynamic**- The civil society is engaging, active and constantly undergoing change. Groups and members keep appearing and disappearing all the time. They respond to the policies the State constructs and even pushes for new ones.
- **Voluntary** - Decision about membership in civil society groups or organisations are purely voluntary, and free will of the actors involved.
- **Autonomous** – civil society groups enjoy autonomy as their different from the State and do not act as State agencies. The State does not fund them or decide who could be members. It has been recently observed that the civil society organisations or groups have to exist because the State has on many occasions failed to deliver services to the common people.
- **Non-violent** – what makes civil society essential is that fact that it might further a cause for common good but never resort to violence for it. In-fact many times, such groups and organisations have played the role of peace keepers in society.

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## 20.3 Types of Civil Society Organisations

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Given the vast scope within which civil society functions, it would be difficult to classify them, however, Scholte (2005) made an attempt to classify them based on the objectives with which they tend to function. Scholte has recognized three different types:-

- **Conformist** - Some further the idea that the existing structure, practices need to be upheld and maintained. They agitate when these values are violated or disturbed.
- **Reformist** - These civil society groups focus on change and attempt to bring about reforms in society. For example, those who pursue amendments in legislations fall within this category.

- Transformist - Those who demand a total or dramatic change in the existing order or polity fall within this category.

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## **20.4 Functions of Civil Society Organisations**

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- Public awareness creation –One of the essential functions performed by civil society groups is to engage people and educate them about the existing conditions. It attempts to develop social and political consciousness and lend them a voice. They launch various awareness campaigns to involve as many people as possible to generate an opinion among them and develop means through which they can systematically organize and mobilise people. The State has often been held accountable and forced to rethink its measures in the face of tough resistance presented by a well-informed public.
- Participate in development- Non-governmental organisations are known to participate at different levels of the development process. They make attempts to uplift the marginalized sections of the society and ensure that every individual has access to basic amenities. The civil society organisations make attempts to fill the void that may develop due to the inefficacies of State functionaries.
- Peace building - Civil society groups take part in “preventive and post conflict peacebuilding” activities. These activities range from conflict dissolution to assisting post-conflict societies to steady after vicious struggles. There are clear cases where civil society groups actively participated in conflict termination and aided peace processes. They continually engage the state through campaigning against structural violence that makes positive peace a dream. Thus we see them insisting on social justice, social egalitarianism, good governance and youth employment and empowerment.
- Promotion of Democracy- There are well known cases where civil society groups have successfully challenged despotic and authoritarian rules. Civil society groups have at various times and in different parts of the globe used nonviolent means to fight against social injustice, achieve national independence e.g. India’s civil protests led by Mahatma Ghandi against the exploitative British colonial rule.

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## **20.5 International Civil Society Organisations and Women’s Rights**

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Civil society organizations around the world work closely to promote women’s rights across the globe. These organizations play a critical role in bringing about change and

commitments to women's rights. These organizations work in collaboration to provide political, financial and technical support to those who need it. There are various civil society organizations that work towards promoting women's rights. However, one of the major organization working for the same is Civil Society under United Nation Women segment.

Civil Society was established in 2011 and has partnered by UN Women ever since. It works extensively on ideas, policies and partnership with other organizations across the globe. It aims at strengthening political voice of women across the world and building a strong feminist movement. It is inclusive and intersectional in nature. It believes that no woman should be left behind. The special focus of Civil Society has been on marginalized women. It has advisory groups at national and regional levels. These are known as Civil Society Advisory Groups. These serve as platforms for dialogue and discussion at all levels. These make UN Women consistent with issues that are grounded and concern different regions and constituencies. They also engage in several inter-governmental collaborations like the Commission on the Status of Women etc. Dialogue with women at the grass root level and engaging in discussions with policy makers provide support to women issues. The organization has a global reach with centres across the world. These include, Africa, America, Carribean, Arab States, North Africa, Asia, Pacific, Europe and Central Asia. Apart from this, there are several other organizations working for women's right. Some of these are:

1. Association for Women's Right in Development- This organization works for gender equality and women's rights across the world. They work closely with social activists and policy makers to bring about positive changes in gender policies and practice. They initiate dialogue between key stake holders by introducing areas that require global attention. The focus is on building capacities and networks to strengthen solidarity and work towards the wellbeing of historically oppressed communities.
2. Womenkind Worldwide- This organization is known to be active in African countries though have a global presence. They work closely with women and girls to promote equality. They spread awareness about practices that exploit and devalue girls and women. They team with local partners to emancipate these subjugated communities.
3. Centre for Reproductive Rights- This organization was established in 1992 and used law as a weapon to promote reproductive right as a basic fundamental right. So far it has been able to bring a positive change in reproductive laws in over fifty

countries. The main areas of focus are reproductive health, and abuses pertaining to reproductive health.

4. **Plan International-** This is a humanitarian organization working to promote the right of children especially girl children. It works primarily with young people and children to get to the root causes of discrimination and exclusion and how these can be reduced or prevented. It influences policies both at local, national and global level. The organization works closely to promote gender equality and justice.
5. **Women for Women International-** The main focus of this organization is to empower women of countries disturbed through war and conflict. It provides women with help on how they can be economically independent, save money and develop ways in which they can voice their opinion and have a greater say in matters concerning their communities. So far they have been able to positively impact the lives of more than four lakh women world-wide.
6. **Equality Now-** This international organization focuses on legal advocacy of cases that violate rights of women. The organization works to provide legal aid to women and brings cases of violation in global focus. With the help of media, it attempts to educate women and girls on their rights and the path to follow when violation occurs.
7. **Women's Environment and Development Organization-** Women's Environment and Development Organization (WEDO) is a global platform that encourages women to play a proactive role in environmental issues. This organization considers the pivotal role women play in ensuring sustainability of our environment and encourages women to voice their dissent if required. It aims at bringing together women from across globe to provide a stronger voice for environmental issues.
8. **Men Engage Alliance-** This is world-wide alliance born out of a global network of agencies and organizations working together to promote social justice. The Alliance focuses on exploitation of children (both boys and girls), HIV and AID preventive treatments, voices against transphobia and homophobia, advocating for the rights of the LGBTI community world-wide.
9. **Global Fund for Women-** It is one of the major global players in initiating change in the lives of girls and women. The Fund focuses on education, sexual and reproductive health of girls and women. It draws heavily on the UN Declaration of Human Rights. Besides, it works closely with two important documents namely- Convention on

the Elimination Of all Forms of Discrimination Against Women and the Beijing Declaration along with the Platform for Action document of the United Nations.

10. Rise Up- Works primarily in Africa, Latin America, Asia and US. This organization focuses leadership among girls and women of different communities so that they become driving forces in bringing about changes in their respective communities. The areas in focus are rights, equality, education, reproductive health and economic independence.

Apart from the above mentioned organizations, the other major international civil organizations working for Women's Rights are, MATCH International Women's Fund, Gender at Work, European Women's Lobby, International Centre for Research on Women, European Institute for Gender Equality among others.

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## **20.6 Women's Status in India**

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The status of women in India is complex. It is a combination of reflections of old traditional customs and value system with a touch of modernity. Industrialization, globalization and urbanization have had far reaching impact on the status of women. Some of the changes have been welcoming and positive while the others not so much. On the one hand, a free economy has provided ample opportunities to women to aim for better education and jobs while the same conditions have given birth to vulnerabilities for them. One would assume that greater opportunities for women to promote a better status for women in the country, however this is far from true. Women are now known to face more violence both within and outside their homes. The fact that women are considered secondary to men are reflected in the kind of jobs that are available to them, they are provided lower wages than men for the same jobs and often face discriminatory practices in the work place.

India is essentially a male dominated society and most institutions are under the control of men. This provides them with the opportunity to control women's livelihood choices and sexuality. Family, caste and religion all work together to promote the patriarchal system that subordinates women in society.

Girl child is seen as less desirable than a boy child for sons are considered to support the family when they are grow up and also help in extending the family lineage. This is reason why many opt to find the gender of their unborn child and kill the foetus if it turns out to be a girl. Though sex determination is a punishable offence many resort to unfair means to find out the sex of their unborn child. Girl children are often killed immediately after they are born. Studies have also shown how within the family, a girl

child and a boy child are treated differently both in terms of the quality of food and nutrition provided to each and also the opportunities to progress in life (in terms of quality of education). Child marriages are prohibited by law and yet is a custom still practiced in India today. Though dowry is legally prohibited, women continue to face harassment at their in-law's residence for dowry. We still hear of dowry deaths pretty often even today. Women working outside their homes are often employed in the unorganized sector (which fall outside the purview of laws protecting women engaged in employment), are more likely to be paid less than their male counterparts and often face harassment at work place. Women are considered subordinate to men. Though laws have made attempts are bridging the gap between men and women by considering them equal before the law, institutions that provide justice to women are all male dominated for which women find it difficult to obtain justice. No significant change will be noticed in the status of women in the country unless we change patriarchal values and attitudes that subjugate women. Both men and women need to be educated on how the development of a society depends largely on how it treats its women.

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## **20.7 Some Civil Society Organisations in India Working to Reduce Gender Violence**

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There are several non-governmental organizations (NGO's) working in India to further the cause of women rights, these NGO's work on various aspects of gender violence and exploitation. It would not be possible to enlist all of them, however some have been mentioned to give readers an idea.(The readers are free to explore this area further).

- Guria India – Guria India was established in the year 1993. The organization focuses on rescue and legal intervention. It helps victims with all requisites to fight their case. It helps women to fight cases, seek legal justice, provide counseling and financial support to women.
- Action Aid India – ActionAid India caters to survivors of domestic and sexual violence including minor boys. The victims are provided with counseling, intervention, legal help, shelter home and rehabilitation.
- MajlisManch – This organization provides socio-legal support to women victims of sexual abuse. They have a team of lawyers and social workers to explain victims the procedures involved in court cases. They are also made aware of various social legal provisions that they may enjoy.



- Sayodhya Home for Women in Need – As the name suggests, they provide short stay home/shelter for girls/women in distress. They have a twenty four into seven helpline service for emergencies. The shelter works closely with police and judicial officers to provide women with legal aid and justice.
- SikhshanAneSamajKalyan Kendra – The organization focuses on areas of health, education and empowerment. They hold workshops to make women aware of the causes and effects of domestic violence. They take issues of violence to the district level administrators and local courts to help women in distress.

These are only but a few among many non-governmental organizations fight for the cause of women's rights.

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## **20.8 Contributions of Civil Society Organisations in Promoting Gender Justice**

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Civil society organizations have come a long way in promoting gender justice within the domestic space and also internationally. Looking at how these organizations function, they can either work as a watch or a deliberator. By playing the role of a deliberator, civil society organizations can improve the quality of decision being made by policy makers in order to promote gender justice. By acting as a watch dog, civil society organization can enhance accountability. They can promote accountability by improving transparency at the level of negotiations, engaging in public campaigns to spread awareness among the public, and mobilizing the public in resisting inadequate choices on behalf of the policy makers. As a deliberator, the civil society organizations can broaden the perspective of policy makers by adding different voices in order to make an informed decision. Mobilizing opinions, spreading awareness and influencing the decisions that government or policy makers take are some of the important contributions made by civil society organizations is promoting gender justice.

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## **20.9 Limitations of Civil Society Organisations**

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1. Even though the public is mobilized on issues concerning gender justice, not all voices represent those of the common people. Instead, they belong to independent experts and certain specific civil society organizations tend to represent the common people at international forums.
2. As civil society organizations are not elected groups their representation are legitimacy are often put to question.

3. Even though civil society organizations may have access to the government decision making process, their input is often very limited.
4. Another important issue limiting the civil society organization is that of deliberative equality. This basically means that there might be an imbalance in the representation within the organization.
5. An important aspect limiting civil society organizations is the lack of resources. Since only the major global actors are financed especially by countries of the north. The specific area of concern usually becomes those concerning the north.
6. Internal power struggles and hierarchies pose a threat to networking and networking itself can become a challenge.
7. Civil society organizations may be forced to conform to existing values rather than suggesting alternatives which will in turn reduce its efficacy as an organization.

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## **20.10 Conclusion**

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Civil society in general and civil society organizations in particular have come to play a pivotal role in the modern society. They play an integral role in the development process by effectively distributing the provisions provided by the government. Their ability to reach the grass root level means they can successfully fill in the void that inefficient government administration creates. They are capable of making people aware of their rights and duties. The non-governmental organizations have become even more crucial to tackling problems pertaining to gender violence. They address the need for better implementation of laws and women friendly legal procedures. Civil society organizations have become instrumental in bringing about constructive changes in the society.

Over the years, civil society organizations have come to play a pivotal role in bringing about far reaching changes in the lives of girls and women. Both domestic and international organizations have worked in close collaboration with different stakeholders to address issues concerning women. These organizations have taken up different aspects of women's lives. While some focus on reproductive health, others focus on economic empowerment, legal advocacy, sexual freedom and so on. It is therefore important to realize the important role that such organizations have come to play in recent years. Even though there is a long way to go, the fact that these organizations provide a platform for women to voice their problems and exploitation, promotes an open dialogue with policy makers to initiate change in the desired direction.

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## 20.11 Summary

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Civil society organizations have come to exist both at the national and international level. These organizations have been able to build strong networks and establish dialogue on important issues pertaining to women's right. Their extensive reach have been able to influence policy makers and government to bring about necessary changes. They have forged community participation and taken up a bottom up approach to deal with problems more effectively. Women belonging to different cultures and coming from different parts of the world face different kinds and degrees of subordination and subjugation. Women are not a homogeneous category so it becomes essential to recognize the diverse nature of the problems they tend to face. Different civil society organizations have emerged to address these diverse needs. Though a multitude of factors are at play that determine the overall status of women in a society, these organizations have now become instrumental agencies in promoting women emancipation and working to protect women's rights.

Even though civil society organization play a crucial role in the development process, they are not devoid of limitations. Issues of representation within the organization, very little input within the governmental decision making process, funds dictating the policies within the organization has been some of the important limitation of such organizations. Nevertheless, these limitation do not by any means undermine the important role that civil society organizations have come to play in the recent years. Another important development that has taken place is that there has been an increased accountability towards the government. They have now become more regulated and need to provide proper documentation about the sources of their funds purely due to financial and executive reasons.

Civil society organizations will continue to play a proactively role in promoting gender justice and preventing any forms of violation that may have occurred in the past.

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## 20.12 Questions

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### Answer Briefly (6 Marks)

- a. What does one mean by civil society?
- b. What are the essential characteristics of civil society?
- c. State the basic functions of civil society organizations.
- d. What are conformist civil society organizations?

- e. What is the basic difference between reformist and transformist civil society organizations?
- f. Name any three civil society organizations that work for women in India.

**Answer in Details (12 Marks)**

- a. Describe in brief how the concept of civil society has evolved over time.
- b. Describe the important functions performed by civil society.
- c. What are three different types of civil Society organizations? Give examples (from India) of each type.
- d. What are the limitations of the civil society organisations working for gender justice in India?
- e. With examples, show how civil society groups in India have addressed the needs of women survivors of violence.

**Essay Type Questions (20 Marks)**

- a. Describe in brief how thinkers have gradually separated the concept of civil society from that of the State?
- b. Give examples from India to show how civil society groups have played an important part in the development process.
- c. Describe how Hegel's idea of civil society is distinctly different from that of Marx's? Which notion, do you think, is more relevant today?

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**20.13 References**

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- Jie, D. (2004). Gender and governance: The rise of new women's organizations. *Governance in China*, 172-92.
- Clayton, A., Oakley, P., & Taylor, J. (2000). *Civil society organizations and service provision* (pp. 1-23). United Nations Research Institute for Social Development.
- Salgado, R. S. (2014). *Europeanizing civil society: How the EU shapes civil society organizations*. Springer.

**Notes :**

1. Udegbumam, C.W.K. (2014). Concept and nature of civil society, in P-J Ezech (ed) *Social sciences in peace and conflict studies*, vol. 1. Enugu: SAN Press. pp 271-288.
2. <https://blog.giveindia.org/women/10-ngos-for-women-you-should-support-for-women-rights/>  
<https://www.humanrightscareers.com/magazine/organizations-gender-equality/>