

# **BASIC CONCEPTS : SEX AND GENDER, MASCULINITY AND FEMININITY, PATRIARCHY**

## **Unit Structure :**

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Sex and Gender
  - 1.2.1 Sex
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- 1.3 Masculinity and Femininity
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## **1.0 OBJECTIVES :**

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- To study the concepts of sex and gender as used in feminist works.
- To understand the concepts of masculinity and femininity as analytical categories.
- To study the concept of patriarchy and male dominance in society.

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## **1.1 INTRODUCTION :**

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Concepts are terms used by social scientist as analytical categories to study society and social behaviour. Through the use of concepts social scientists develop categories that act as aids in the scientific investigation of behaviour in the society. In gender studies there are several such concepts that provide the framework in the study of behaviour. For example, the concept of gender was first developed by Iill Matthews in 1984 in her study of the construction of femininity. According to Mathews, the concept of gender gives recognition to the fact that every known society

distinguishes between women and men. Therefore the term / concept of gender is a systematic way of understanding men and women socially and the patterning of relationships between them. The concept of patriarchy help in the study of the male dominance in the society. The concept of gender helps to study the differences in behaviour between men and women and to analyse the basis of these differences as basically biological or as social constructions by the society. The concepts masculinity and femininity define certain traits as typically male as so masculine in nature or as typically female and so feminine in nature. In this unit some basic concepts will be studied. These concepts are sex and gender, patriarchy and masculinity and femininity.

In feminist writings and in discourses on Gender Studies, these concepts are basic to our understanding of social differences between men and women in the society. A study of these concepts are useful as analytical categories.

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## **1.2 SEX AND GENDER :**

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The term 'sex' and 'gender' are concepts used by academicians, researchers and feminist writers to make a distinction between the biologically different 'male' and 'female' and between the socially different 'man' and 'woman'. Feminist sociologists suggest that there is a need to understand and distinguish between the two terms 'sex' and 'gender' in academic discourses and writings.

### **1.2.1 Sex :**

In a very broad way, 'sex' refers to the biological and physiological differences between male and female sex. The term sex is a physical differentiation between the biological male and the biological female. Thus, when an infant is born, the infant comes to be labeled "boy" or "girl" depending on their sex. The genital differences between male and female is the basis of such characterization. There is a biological difference between the sexes and most people are born (except for a few ambiguous cases) as one sex or another. However, it has been argued that having been born into one sex or another, individuals are then socialized according to specific gender expectations and roles. Biological males learn to take on masculine roles. They are socialized to think and act in masculine ways. Biological females learn to take on feminine roles. They are socialized to think and behave in feminine ways. As the feminist writer Simone de Beauvoir puts it 'one is not born a man but becomes one', 'one is not born a woman but becomes one'.

At birth, besides the basic biological differences in the genitals and reproductive organs, there is not much difference between the male child and the female child. Society makes the differences between boy and girl through gender constructions. The biological differences between the sexes does to some extent explain certain psychological and socially constructed differences. This view is criticized by some feminist writers like Judith Butler.

Judith Butler argues that sex is natural and comes first. Gender is perceived as a secondary construct which is imposed over the top of this natural distinction. Viewed thus, Butler argues 'sex' itself becomes a social category. This means that the distinction between 'male' and 'female' is a social distinction made by the society, that is, it is a social construction. It is a particular way of perceiving and dividing the differences between 'male', 'female'. Butler explains that 'sex' though seen as biological, is as much a product of society as it gender. So the term sex is also socially constructed.

The scientific, biological meaning and definition of sex is an important source of explanation to point out the basic differences in sex. Butler's concern is that 'biology' itself, as a scientific discipline, is a social system of representation and more important there are a number of differences between human beings, but only some become a basis for dividing human beings into distinct types. In other words, even if we accept that there are basic differences between the 'sexes' there is no logical or rational reason for use. This is the basis for dividing human beings into two groups or sexes.

Judith Butler further explains 'sex' is not just an analytical category. It is a normative category as well. It stipulates what men and women are. It also stipulates what men and women ought to be. It formulates rules to regulate the behaviour of men and women. Butler concludes that sex is also a social category. There are some feminist writers who do not agree with Butler and regard 'sex' as basically biological in nature.

Much research in sociology assumes that each person has one sex, one sexuality and one gender. Sometimes sex and gender are used interchangeably. Sometimes sex means sexuality, it may refer to biology or physiology. A woman is assumed to be feminine female, a man a masculine male. Research variables polarize sex as males and females; sexuality is polarized as homosexual and heterosexuals; gender is homosexual as and women these reflect conventionalise bodies that do not take into account transvestites, transsexuals, bisexuals and so on. In gender studies or women studies the four of concern is on the biological sex – man, woman, male female and the way in which

biological differences have been socially gendered in different ways by the patriarchal society. When infants are categorized as a particular sex, they are subject to a range of gendered behaviour through gendered socialization. This brings us to the question what is gender?

### **1.2.2 Gender :**

The concept of gender in feminist writings and other sociological discourses became popular in the early 1970. In simple terms, gender explain the differences between men and women in social terms as men, and as what a man can do; as 'woman', and as what a woman can or cannot do. Therefore, gender is a analytical category that is socially constructed to differentiate the biological difference between men and women. The term gender is also used to describe the differences in behaviour between men and women which are described as 'masculine' and 'feminine'. Feminist writings focus on this aspect and claim that these differences are not biological but are social constructions of patriarchal society.

Some theorists suggest that the biological differences between men and women also result in their mental and physical differences. They argue that biologically, men are physically and mentally superior to women. Other theorists suggest that the biological difference between men and women are exaggerated. The differences are socially constructed by the patriarchal system of society by which men are described as superior to women. Therefore women become subordinate to men in the society.

Ann Oakley in her book, sex, gender and Society written in 1972 explores the term gender. Oakley says that in the Western culture women play the roles of the 'housewife' and 'mother'. This is because women are made to play these roles because of their biology. The western culture also believes that any effort to change the traditional roles of men and women in the society can cause damage to the social fabric of the society. Oakley concludes that this view regarding the roles of men and women helps to support and maintain the patriarchal society.

Simone de Beauvoir in her book 'The Second Sex' says that "one is not born, but rather becomes a woman". She explains that gender differences in the society make the man superior through his role as the bread winner. It gives him a position of power in the society and family. Gender differences are set in hierarchal opposition such that men are superior and women are subordinate. Women's position is that of the 'other' and women are the continual outsiders. Civilization was masculine to its very depth.

Shulamith Firestone in her book, 'The Dialectics of Sex' (1970) suggests that patriarchy exploits women's biological capacity to reproduce as their essential weakness. She explains that the only way for women to break away from this oppression is to use technological advances of free themselves from the burden of childbirth. She advocated breaking down the biological bond between mothers and children by establishing communes where monogamy and nuclear family do not exist.

Few feminists accept firestones views mainly because both technology and its uses are still firmly in the hands of men. While cultural feminists question whether all the key differences between men and women are solely cultural and whether also biological. These feminists prefer to value and celebrate the mothering role as evidence of women's natural disposition towards nurturance and would not like to relinquish even if the could.

Ann Oakley says that there is a constant slippage between sex and gender; for example people are generally asked to declare their 'gender' instead of sex on an application form. In feminist writings there are references to the close association of gender with the biological or natural as inevitable. Recent writings on sex and gender suggest that feminism has relied too much on the polarization of sex and gender distinctions, showing that the meanings attached to sex differences are themselves socially constructed and changeable. It is dependent on the way we understand them and attach different consequences to these biological 'facts' within our own cultural historical context. At the same time there is an argument that biology does contribute to some behavioural characteristics.

Movia Gatens states that evidence points "that the male body and the female body have quite different social value and significance and cannot but help have a marked effect on male and female consciousness". Certain bodily events have huge significance especially if they occur only in one sex. She cites the example of menstruation. She points that masculinity is not valued, unless it is performed by biological male; hence the male body itself is imbued in our culture with the mythology of supremacy of being the human 'norm'.

Judith Butler's theorization about gender introduces the notion of performativity, an idea that gender is involuntarily 'performed' within the dominant discourses of heteroreality. Butler's conception of is perhaps most radical as she asserts that all identity concept 'are in fact that effects of institutions' practices, discourses with multiple and diffuse points of origin'. She further states that "sex / gender distinction suggests a radical discontinuity between sexed bodies and culturally constructed gender". This

approach questions the way we make constructing of gender identity. Individual do tend to challenge the way discourses establish and reinforce certain meanings and institutions such as that of compulsory heterosexuality.

It is difficult to accept a rigid distinction between sex and gender as either wholly biological or singularly cultural. There is a constant shifts between conceptualizations of human beings as controlled by either predominantly biological or social forces. The debates on sex and gender will continue as some will argue in favour of biological differences while other feminist writers will favour the differences as socially constructed, supported by social institutions like religion, caste, family marriage and so on. The substantial shift in women's lives and expectations since the 1960s clearly explains that the category of feminine has been rather elastic. Women's roles and performances have changed drastically over the past few decades which has added new dimensions to the debates by feminists and other on sex / gender distinctions.

### **1.2.3 Deconstructing Sex and Gender :**

In rethinking gender categories it is necessary to look at sex and gender as conceptually distinct. Each is socially constructed in different ways. Gender is an overarching category – a major social status that organizes almost all areas of social life. Therefore, bodies are gendered and are built into major social institutions of the society such as economy, ideology, polity, family and so on.

For an individual, the components of gender are the sex category assigned at birth on the basis of the appearance of the genitalia. Each category provides a gender identity, gendered sexual orientation, marital and procreative status, a gendered personality structure, gender beliefs and attitudes, gender at work and family roles. All these social components of are supposed to be consistent and congruent with one's biology. The actual combination may or may not be congruent with each other and with the components of gender and sex, moreover, the components may not line up neatly on one side of the binary divide.

The need for official categorization in societies of infants into neat legal label "boy" or "girl" soon after birth are at the sometime subject to rather arbitrary sex assignment. Sex change surgery is not uncommon for infants with anomalous genitalia Sociologists are aware of the varieties of biological and physiological sexes. The rationale given for categorization of the ambiguous as either female or male throws light on the practices that maintain the illusion of clear sex differences. Without such critical exploration, sex differences can easily be considered as natural of what actually is socially constructed.

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### **1.3 MASCULINITY AND FEMININITY :**

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The sex / gender differences raises the issues of male – female; masculine and feminine, male associated with masculinity and female with femininity. With each constructions the biological differences between men and women get translated into social terms and descriptions. Feminist writers argue that biological differences get heightened through social descriptions of masculinity and femininity.

Patters of differences by gender is seen when the character is either masculine or feminine. For example, pink and blue are gendered colours, former regarded as 'feminine' and the latter as masculine. Further to be 'strong' and 'tough' is masculine. Being 'weak' and 'soft' are associated with feminine character. There are several other traits that are categorized as masculine and feminine. Masculinity and femininity are concepts which signify the social outcomes of being male or female the traits and characteristics which describe men and women give men advantage over women.

Moira Gatens points masculinity is not valued unless performed by biological male. Hence the male body is imbued in our culture with certain traits that characterize maleness or masculinity. Hence the human norm of male supremacy. Similarly femininity is performed by the biological female. The female body is in our culture is imbued with certain traits that characterize female or femininity. According to Judith Butler any theorization about gender introduces the notion or idea of performance of gender in terms of masculinity and femininity. Thus performance of gender becomes involuntary as gender gets internalized through the socialization process within the dominant discourses of patriarchy gender is performed at different levels within the family and in the society. We socially enter into our gendered categories of masculine and feminine right from birth.

The concepts of masculinity and femininity as need in feminist discourses and writing to explain the differences between men and women. Some argue that these differences are based in their biology while others reject this argument and emphasize that the differences are socially constructed. Therefore, the construction of men and masculinity will accrue exclusively to the bodies of males. The construction of women and femininity will accrue exclusively to the bodies of females.

In contemporary writings there is a recognition that these social categorization of masculinity and femininity are blurring. There is a constant shift in the conceptualization of human beings as controlled by wholly biological or social forces. Women's

expectations have changed, women lives and roles have broadened. This explain just how malleable the category of femininity is.

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## **1.4 PATRIARCHY :**

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Patriarchy is a often used term in everyday conversation. The question here is “what is patriarchy?” In casual conversation, whether in English or any other language the term implies “male domination”, “male prejudice (against women)”, or more simply “male power”. Put simply, the term means “the absolute rule of the father or the eldest male member over his family”. Patriarchy is thus the rule of the father over all women in the family and also over younger socially and economically subordinate males. Literally, patriarchy means rule by the male head of a social unit (like family, tribe). The patriarch is typically a societal elder who has legitimate power over others in the social unit.

However, since the early twentieth century, feminist writers have used the term patriarchy as a concept to refer to the social system of masculine domination over women. Patriarchy has been a fundamentally important concept in gender studies. Feminist writers have developed a number of theories that aim to understand the bases of women’s subordination to men.

The term patriarchy is not only a descriptive term that explains how different societies construct male authority and power, but also become an analytical category. This changes of the use of the term patriarchy from a descriptive to an analytical category took place in the 1970s, in a specific global historical context of feminist political and intellectual culture. In the course of time this later led to the development of the discipline of women’s studies or gender studies, when women agitated for their rights. At the Universities women demanded that their experiences and points of view be taken seriously that patriarchy emerged as a way of both describing and explaining the world. Since this time, patriarchy has been used critically to explain the main components of authority and power in any social system. Patriarchy automatically privileges men over women such that women have little or no claims to material, sexual and intellectual resources of the society. That is, in a patriarchal society women have to struggle to be educated, to have property or to make choices regarding marriage and other aspects of life. For men, these resources are a matter of right and can make choices that affect their lives.

Let us take some examples to clarify the way in which patriarchy is evident in our daily life.

When a man raises his voice in the course of an argument and insists on his point of view, without letting others especially women get to utter a single word, his actions are likely to be described as “aggressively patriarchal”.

If a woman complains of sexual harassment at her work place, and all the men in her office deny that this could ever happen. The reasoning of men can be described as being “typically patriarchal”.

In public speeches that disclaim the subordination of women, this denial is described by the term ‘patriarchy’.

In a very general way “patriarchy” is a ‘catch’ word that describes the different ways in which society discriminates against women. These examples explain the many different and subtle ways through which patriarchy is expressed in the society.

Anglo – European anthropologists, writing in the nineteenth century, used the term widely. In their writings, ‘patriarchy’, usually referred to a social system where men were family heads, descent was through the father. Men alone were priests, and all laws and norms were dictated by the male elders in the community. When used in this sense, the term ‘patriarchy’ is often contrasted with the term ‘matriarchy’, which referred to social system where women exercised political authority over men, or possessed decisive power and exercised a measure of control over social relationships and everyday life. In the evolution of society, matriarchy was usually considered an earlier and more primitive stage of society, and patriarchy on later and more advanced stage of society.

In contemporary discourses on gender, patriarchy is a central concept that feminist writers have been grappling with to explain differential positions of men and women in the society. These writings view patriarchy as the subordination of women. The patriarchal system provides self – definitions and norms for women. These social norms restrict the social roles of women as mothers and wives. The patriarchal system also amply rewards all those women who learn to passively their defined roles.

Both wifehood and motherhood become glorified in the patriarchal system. These roles are granted social sanctions and at the same time are also eulogized in local folk lore, in literature, and religion so that women do actively engage themselves in playing their social roles and thus themselves contribute and perpetuate the patriarchal social order.

Patriarchy has both productive and punitive aspects. Thus women who wish to remain single and refuse marriage and treated

with disdain by the society. Similarly women who are not fertile or those who cannot bear children especially male are ridiculed and held in contempt and their position in the family is a non-existent one. The position of widow, especially upper caste widows under the patriarchal system was even pitiable. Widow remarriage was prohibited. The widow was excluded from also social and religious functions of the family, confined to the house and household chores. Those women who did not fall into this pattern of society, that is those women who refused to be invisible, and did not conform to their civic identity on their fertility and domestic status were ridiculed, and criticized for being stubborn and even as unnatural to their basic biology.

In some countries women who did not marry, or were not fertile, or who became widows at a young age were deformed in some ways. For example in India, upper caste widows were required to shave their heads, wear no ornaments, or colour garments as they were viewed with suspicion. They were women who had deviated from the conventional norms of reproduction and had to be relegated to a lowly status and position. Women who appeared as a threat to the larger society because they did not conform to the norms that governed feminine behaviour were accused of practicing magic and sorcery. They were identified as witches. Witch-hunting by men was expressed through violence against these women who were severely punished, publicly humiliated and even killed.

Patriarchy has been viewed as more than just the subordination of women. It has been pointed out that not all men are powerful in a patriarchal system. For example younger men in the family have less authority and power than older men. They have to defer to older men till their turn to exercise power comes. The lower class and underprivileged men, and in the Indian context the 'dalit men' have lesser or no authority as compared to the upper class, more privileged and upper caste men. Such men who are oppressed and exploited by powerful men are denied access to resources of the society as well as their own masculine identity. In spite of this, that certain classes and category of men are the targets of patriarchal authority, the fact remains that all men can claim resources and power more easily than women in their families or communities. In the lower caste lower class families male children get to eat better food and are more likely to be sent to school and receive health care than the female children. Another example is that of the hirjas (eunuchs) in India. They actively renounce and refuse their masculinity. They are often the object of ridicule and derision. Moreover, many of them are from lower castes and lower classes.

The above discussion clearly brings out the way in which patriarchy differentiates between men and women. And through such differential treatment women are denied access to resources of the society and to positions of power and authority both in the family and in the community.

### **What do men control in the Patriarchal System :**

Different areas of women's lives are said to be under patriarchal control.

- 1. Women's productive or labour power :** Men control women's productivity both within the household and outside, in paid work. Within the household women provide all kinds of services to their husbands, children and other members of the family throughout their lives. Feminist writer Sylvia Walby calls this as the "patriarchal mode of production" where women's labour is expropriated by their husbands and others who live there. She calls housewives as the 'producing class' and husbands are the 'expropriating class'. The work done by housewives is not considered as work at all and housewives become dependent on their husbands.

Men also control women's labour outside the home. They make women to sell their labour or they may prevent their women from working. They may appropriate what women earn often women are excluded from better paid work. They are usually working in jobs with low wages; or work within the home in what is called home based production, which is itself an exploitative system.

This control over and exploitation of women's labour mean that men benefit materially from patriarchy. They benefit economically from the subordination of women. This is the material or economic basis of patriarchy.

- 2. Women's Reproduction :** Men also control women's reproductive power. In many societies women have no control over their reproduction capacities. They cannot decide how many children they want, whether to use contraceptives, or a decision to terminate pregnancy. In addition men control social institutions like religion and politics which are male dominated. Control is institutionalized by laying down rules regarding women's reproduction capacity. For example, in the Catholic Church, the male religious hierarchy decides whether men and women can use birth control contraceptives. In modern times, the patriarchal state tries to control women's reproduction through its family planning programmes. The state decides the optimum size of the country's population. In India for example

the birth control programme limits the family size and discourages women from having more than two children. On the other hand, in Europe, where birth rates are low, women are lured through various incentives have more children. Women are given long paid maternity leave, child care facilities and opportunities for part-time jobs.

Patriarchy idealises motherhood and thereby forces women to be mothers. It also determines the conditions of their motherhood. This ideology of motherhood is considered one of the bases of women's oppression. It also creates feminine and masculine character types and perpetuates patriarchy. It restricts women's mobility and it reproduces male dominance.

3. **Control over Women's Sexuality** : Women are obliged to provide sexual services to their husbands according to their needs and desires. Moral and legal regulations exist to restrict the expression of women's sexuality outside marriage in every society, while male promiscuity is often condoned.

Another way of exercising control over women's sexuality is when men force their wives, daughters or other women in their control into prostitution. Rape and threat of rape is another way in which women's sexuality is controlled through notions of 'shame' and 'honour', family honour. Lastly, women's sexuality is controlled through their dress, behaviour and mobility which are carefully monitored by the family and through social, cultural and religions codes of behaviour.

4. **Women's Mobility** : Besides control of women's sexuality, production and reproduction, men also control women's mobility. The imposition of purdah restriction on leaving the house, limit on interaction between the sexes are some of the ways by which the patriarchal society controls women's mobility and freedom of movement. Such restriction are unique to women, while men are not subject to such restrictions.
5. **Property and other Economic Resources** : most property and other productive resources are controlled by men and are passed on from father to son. Even in societies where women have legal rights to inherit property, customary practices, social sanctions and emotional pressures that prevents them from acquiring control over them. According to UN statistics, "Women do more than 60% of the hours of work done in the world, but they get 10% of the world's income and own 1% of the world's property".

We have seen how men control different areas of women's lives through the patriarchal order of the society.

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## 1.5 SUMMARY :

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Concepts are terms used by social scientists as analytical categories to study society and social behaviour. Concepts such as sex and gender, masculinity and femininity and patriarchy are important terms in gender studies.

Sex and gender are the first set of concept being studied in this unit. The term sex refers to the biological and physiological differences between male and female. Feminists accept the basic biological differences but argue that the traits and characteristics of the biological male and biological female are socially constructed. The term gender refers to the social construction of the differences between men and women in a patriarchal society. In more recent writings of feminist there is an emergent view that it is difficult to accept the rigid distinction between sex and gender as wholly biological or singularly cultural.

Sex / gender differences raises the issue of male female, masculine feminine, male associated with masculinity and female with femininity. Such constructions translate the biological differences between men and women into social terms and descriptions. Feminist writers argue that biological differences get heightened through social descriptions of masculinity and femininity.

Feminist writers use the term patriarchy as a concept to refer to the social system of masculine domination over women. They have developed a number of theories to understand the bases of subordination of women in the patriarchal society.

In the patriarchal society, men control women's productive labour and their reproduction. Patriarchy idealises motherhood and thereby forces women to be mothers and also determines the conditions of their motherhood. Patriarchy restricts women's mobility and reproduces male dominance.

These concepts are used in studies on gender to understand the basis of male dominance and female subordination.

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## 1.6 CHECK YOUR PROGRESS :

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1) In sociology, how you will describe gender?

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2) What do you mean by masculinity and femininity?

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### **1.7 REFERENCES :**

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### **1.8 QUESTIONS :**

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1. Explain the terms sex and gender. Do you agree with the feminist view that they are social constructions? Give reasons for your answer.
2. To what extent do the term masculinity and femininity explain the differences between men and women?
3. Explain the term patriarchy. Discuss the reasons for women's subordinate status.



## **SEXUAL DIVISION OF LABOUR, PUBLIC PRIVATE DICHOTOMY, IDENTITY POLITICS**

### **Unit Structure :**

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Sexual Division of Labour
- 2.3 Public Private Dichotomy
- 2.4 Identity Politics
- 2.5 Summary
- 2.6 Check your progress
- 2.7 Questions
- 2.8 References

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### **2.0 OBJECTIVES :**

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- To study the nature of sexual division of labour in patriarchal societies and its consequences for men and women and the theoretical debates
- To understand the meaning of public and private dichotomy in societies that are patriarchal.
- To study feminist movements and the nature of identity politics in relation to these movements.

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### **2.1 INTRODUCTION :**

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Some more concepts are discussed in this unit as an introduction to the paper on Gender Studies. These concepts help us to analyse behaviour of men and women in the society.

The concept of sexual division of labour explains the division of labour in society based on sex differences. The work done by women has always been treated as less important than men, which in turn was dependent on the cultural, social, economic and historical context of the society. The concept explains why men do some kind of work and why women do other kind of work.

The public private dichotomy is another concept which explain the dominance of men in the public domain and the restriction of women to the private. All that men do is valued, while women sphere of activity is devalued.

The politics of identity the differing points of view of different women's groups within the women's liberation movement. These concept provide the framework for studying gendered social constructions of men and women in the society.

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## **2.2 SEXUAL DIVISION OF LABOUR :**

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The concept of Sexual division of labour emerged as a central concern in feminist debates and writings quite recently, only a few decades ago. In early feminist discoursed on patriarchy and the native of patriarchal societies concerns were with descriptions of gender inequality both at the family and household level and secondly, at the level of the community and society. In other words, feminist writers were mainly concerned with explaining the roles of women in domestic life and insignificant role in the public domain of the society.

Industrialization and modernization brought about several changes in the social and economic spheres of activities. These changes had a direct impact on the roles of men and roles of women in the society. Feminist writers began writing on the changing structures of the society. The changing patterns of division of labour and its consequences for women. These writers explained how the transition from household to factory production had adversely affected the sexual division of labour and the status of women in the society.

Feminist writers began to agree on two points : one, throughout history most of the time, both men and women treated the work done by women as less important than the work done by men. Second, the division of labour was basically categorized on the basis of sex which was different and dependent on the social, cultural economic and historical context of the society and carried different meanings dependent on the context.

Feminist writers began to search for theoretical explanations for the universal fact of gender inequality as seen in the sexual division of labour. Questions and discussions took place whether the sexual division of labour was the cause or the effect or both of the subordination of women in the society. At the same time was felt an increasing need for a clear theory to understand the concept of sexual division of labour.

The dominant school of thought among Western Social Scientists in the 1920s was positivism and functionalism, which did not concern itself with finding answers to the origins of unequal and hierarchical relationships in the society and the unequal division of labour between men and women in the society. The neglect of this question is a part of the overall campaign against Marxist theorising especially in the West.

Women actively involved in women's struggle against oppression and academicians have begun to search for answers unequal sexual division of labour in patriarchal societies. Feminist groups inspite of their ideological differences are united in their rebellion against this hierarchical relationship and reject. The explanation as their biological destiny. The search for social origin of the sexual division of labour is an important part of the strategy for the emancipation of women. Many women's groups feel that without understanding the foundation and the functioning of the sexual division of labour. It is not possible to overcome it. Therefore, there is an immense need to analyse and interpret the universal fact of sexual division of labour in order to overcome it.

The answers to the question about the social origins of the sexual division of labour were sought from the existing sociological theories. However, these theories whether evolutionary or positivism or functionalism explain the sexual division of labour as biologically determined and hence unchangeable. The explanation for unequal or a symmetrical division of labour based on sex as basically biologically determined is perhaps a major obstacle for the analysis of the causes of women's oppression and exploitation. At the same time women who were engaged in struggles against women's oppression and exploitation found it very difficult to establish that the unequal hierarchical and exploitative nature of division of labour based on sex is due to social and historical factors.

Biological determinism or the biological explanation for social inequalities between men and women seen in sexual division of labour as natural, urban and as part of a women's biological makeup. The creation and maintenance of life is usually defined as a function of women's biology or nature. Nature has provided women with a uterus. It is a physiological fact that women give birth to children which is a part of women's biological make up, a fact of nature. All the labour that goes into the production of life, including the labour of child birth, is seen by feminist writers is seen as a conscious interaction of human beings with nature, that is as a truly human activity rather than as a part of biological make up or as nature. When the activity of production of life and childbirth are seen as activity of nature, nature produces plants and animals and there is no control over these processes. This definition of

women's interaction with nature – including her own nature as an act of nature has several implications for women.

This mystified biologically determined concept of nature thus makes what is natural and inborn beyond the scope of change. Secondly, due to the biological biologicistic definition of women's interactions with nature her labour does not stop with childbirth. Child rearing is also regarded as a part of her biology. By extension the rest of the domestic work that goes along with childrearing is seen as natural to women. Thus, women cook, wash, clean, care for and serve the family as an extension of her biological makeup of child bearing and child rearing.

The sexual division of labour in societies is categorized on the basis of female biology and male biology. Women stay at home give birth to children, rear children and undertake all the domestic chores. Men on the other hand, undertake arduous and strenuous work as a part of their biology. In traditional patriarchal, Indian society men were engaged in productive agricultural activity, while women especially in upper castes stayed at home cared for the family and attended to the domestic tasks. The work thus done by women was not regarded as 'labour' but as natural to her. The work that men did was "labour" as it resulted in the production of goods and services. It was productive labour. The concept of sexual division of labour categories the work of women as a part of her biology and the work of men as productive work and therefore valued as "labour".

Feminist writers explain this as the dominance of the (male) human being over the (female) nature. They further state that the biologically determines concept of nature is a relationship of dominate of men over women and exploitation of women.

Under the capitalist condition, the concept of labour is usually reserved for men's productive work, which means work for the production of 'surplus value'. Women also perform such "surplus value' generating labour, but under capitalism the concept of labour is generally used with a male bias. Under capitalism women are typically defined as housewives, that means as non-workers. The instruments of this labour, or the bodily means of production implicitly referred to in this concept of labour, are the hands and the head, but never the womb. Thus not only are men and women differently defined in their interaction with nature but the human body itself is divided into truly 'human' parts (head and hand) and 'natural' or purely 'animal' parts (genitalia and womb). This division is not purely male sexism but a consequence of the capitalist mode of production. The capitalist mode of production is interested only in those parts of the human body which can be

directly used as instruments of labour or which can become an extension of the machine.

This concept of labour, explain feminists can also be seen in the concept of sexual division of labour. Though overtly this concept seems to suggest that men and women simply divide different tasks between themselves, it conceals the fact the men's tasks are truly human (that is productive, rational, planned, creative, conscious and so on) whereas women's tasks are seen as basically determined by their 'nature'. The sexual division of labour, according to this definition is explained as one between 'human labour' and 'natural activity'. Moreover, this concept obscures the fact that the relationship between male (that is human) and female (nature) workers is a relationship of dominance. Men exercise dominance over women and thereby also exploitation of women. Therefore, when we analyse the social origins of sexual division of labour it refers to this asymmetric, hierarchical and exploitative relationship between men and women.

This dominance relationship is also implicit in the concept of labour when applied to women. The biologicistic definition of women's makes her closer to nature. As a result her 'labour' both in giving birth and raising children and the domestic work that she does not appear as "work". The term labour is generally applied to men's productive work which implies work for the production of goods and services. Under capitalism labour is for the production of surplus value. Men produce, men work for the production of surplus value. Women also perform such surplus value generating labour. In capitalism women are typically defined as housewives that means non-workers. The concept of labour is generally used with male bias.

The same hidden asymmetry and biological bias that is observed in the concept of labour is seen in the concept of sexual division of labour. Overtly, this concept seems to suggest that men and women simply divide different tasks between themselves, it conceals the fact that the labour of men is categorized as productive and therefore of value. The labour of men contributes to the productivity of the society. The labour of women is not regarded as productive work and is therefore devalued. The sexual division of labour is an asymmetrical division of work between men and women. This division of labour based on sex promotes the dominance of men over women, and of their exploitation. It makes women dependent on men.

The basic concepts we use in our analysis of society are of the dominant sexist ideology. Feminist writers have been work at these concepts and theories "from below" and from the point of

view of the historical experiences of women who are oppressed exploited and subordinated.

Secondly, it is necessary to reject a narrow definition of the concept of productivity of labour. It is necessary to show that labour can be productive not only in the sense of producing “surplus value”, but also labour which is spent in the “production of life”.

Production of life is the perennial condition of all other historical forms of productive labour, including under conditions of capitalist accumulation, it has to be defined as work and not as unconscious activity natural to women. Human beings not only live, they also produce their life.

Feminist writers explain that we must not treat sexual division of labour as a problem related to the family, but rather as a structural problem of the whole society. The hierarchical division of labour between men and women and its dynamics forms an integral part of the dominant production relation in society throughout history.

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### **2.3 PUBLIC PRIVATE DICHOTOMY :**

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In a very basic and general way, the concept of public and private portrays social relations as comprised of two largely, separate realms. The public realm is characterized by activities individuals undertake in wider society and in common with others, such as engaging in productive or paid work, and exercising political, democratic rights, under the overall jurisdiction of the government and the state. On the other hand, the private realm is characterized by activities undertaken with particular others, relatively free from the jurisdiction of the state. It is the realm of the household, of home and of personal or family relationship within gender studies, this interest in the public private dichotomy arises from its gendered nature, from the association of masculinity and the public and of femininity and the private.

Historically, men acted within the public realm and have moved freely between the public and the private realm. On the other hand women (and children) have been mostly restricted to the private realm and subjected to the authority of men within it. According to David off, within contemporary society, the public and the private remain a concept with “powerful material and experiential consequences”, as a basic part of the way our whole social and psychic worlds are ordered.

The liberal political origins of the public private concept lie in the writings of the social contract theorists who attempted to explain the generic of the legitimacy of government and the state. In such writings the new social order that emerged from social contract comprised two spheres : one, public and political and the other, private and removed from politics. According to Pateman, in classical social contract theory, these spheres were gendered spheres. Only men were deemed to possess the capacities for citizenship and so the public realm was necessarily a masculine one. While women were beings whose sexual embodiment prevented them from having the same political standing or men. Therefore, women were incorporated into the new social order differently from men the private sphere was for women.

In the classical writings of the social contract theorists, is a clear example of the ideological function of public – private concept. In other words, of the way in which ideas about gender, the public and the private have together formed a justifying rationale for the development and maintenance of social relations in which most men are privileged over most women.

Feminist writers debating public – private dichotomy have undertaken historical or anthropological analyses of its origin and development. For example, David off analysed the concept of the public and the private as it was understood in nineteenth century England. She further examined the gendered nature of various concept related to the public and the private and shows how these have structure women's relation to the public sphere. In another study by Ortner who explains women's association with the private domestic sphere in terms of the ways femininity is constructed as being closer to nature and is devalued, whereas masculinity is constructed as closer to the more highly valued culture. The concept of the public and private has also had a role in the development of theories of women's subordinated status. Some feminist writers we Marx's theory to explain women's secondary status in the public sphere. Similarly theories of patriarchy explain the nature of women's subordination and her activities being confined to the private sphere.

Other feminist writers like Walby use the concepts of public and private to explain the changes in the status of women in Britian. According to Walby in private patriarchy, the oppression of women is based around. The household and involves individual men exploiting individual women. Under this form of patriarchy, women are excluded from participation in wider society. In the public form of patriarchy, the formal barriers to women's participation in paid work and politics are removed. Women may no longer be excluded from participation in wider society, but patriarchal segregation (for example in paid work) and subordination of women (for example

sexual harassment) means that they face inequality and discrimination within it. Walby, explains “women are no longer restricted to the domestic health, but have the whole society in which she moves and is exploited”.

Many other studies have explained the several different ways in which the ideology of the public and the private continuous to construct the lived experiences of women and men as gendered beings. For example, notions of public and private are drawn upon by criminal justice professional in the investigation of domestic violence. Researchers such as Dobash and Dobash (1992), Space (1995), Wright (1995) and others explain that while processing the cases on domestic violence by the police and the courts, notions of the privacy of marriage, home and family mean that violent masculine behaviour is often discriminalised and even condoned because of it occurance in the private sphere of the home and the family. In studies on labour market, researchers have shown how ideas about the public and the private act to structure the experiences and opportunities of women and men whether in relation to forms of paid work, occupational groupings and promotion.

These empirical studies on a range of issues reveal that the public and the private are not to be taken as separate realms, as binary opposites, but that the public and private are mutually interdependent set of social relations. Studies on gender, household work, and paid work have shown that men’s advantaged position in paid work cannot be understood separately from the fact that women continue to perform the bulk of housework and childcare.

Research studies have analysed the effects that construction of the public and the private have on women’s and men’s experiences and opportunities. In a study by Lister in 1997 examines how the ideology of the public and the private has effectively served to exclude women from the category of citizen, with consequences for their political participation (for example, representation in parliament) for economic dependency (for example paid work), and for their bodily integrity (for example, in cases of domestic violence, rape or sexual harassment).

Many writers are critical of the constructions of the public and the private in the perpetuation of gender inequalities. The traditional liberal formulation of the public and the private has itself undergone critique. The first criticism is the depiction of the two spheres the public and the private as separate rather than as mutually interdependent realms whose boundaries are fluid and changeable that are defined and redefined in day to day social relations and through long term processes of political struggle. A

second criticism arises from its narrow conception of politics as formal and institutional and as taking place only in the public realm. This limited view makes irrelevant all activities and relations in the private realm (of marriage, sexuality, motherhood, household labour etc.) and conceals the gendered relations of power and domination that takes place in the home and family.

Feminist writers have shown that the private is not free from politics. Laws and policy formulated through formal institutional political processes of the public sphere directly impact experiences in the private sphere. When the notion of politics is rearticulated away from formal institutional processes, then the political nature of gendered relations in the private realm becomes evident and the way in which women remain outside the public sphere. The relationship between politics, gender, public and private clearly explains the nature of dichotomy and the masculine presence in the public sphere and the feminine in the private.

The public private dichotomy thus plays an important role in reproducing gender inequalities. Feminist writers argue that there is a need for rearticulation of the concept. Lister identifies three main elements to the reconstruction of the public private dichotomy, and the relationship between them. First, it is necessary to deconstruct the gendered qualities and attributes associated with the public and the private, so that the terms are no longer associated with masculinity and femininity; and the relation of power between them. For example, Sypnowich explains the patriarchal concept of the private as a domain of natural authority can be given up and view the concept of the private as a sphere of freedom important to all individuals, men and women.

Second, the multiple and complex interpenetrations of the public and the private must be acknowledged, along with their role in structuring gendered inequalities.

Third, it is necessary to recognize the changing boundaries of the public private dichotomy, and the very act of classifying activities as either public or private is an "exercise of power".

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## **2.4 IDENTITY POLITICS :**

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In the Women's Movement was the utopian vision of "sisterhood", collecting of all women under the same political banner. This utopian vision was partly responsible for the growing interest in feminism and the emergence of the Women's Liberation Movement in the West. However, this Movement was dominated by the university educated, white women, who were middle class and heterosexual. There were women from different backgrounds who

were not white, not middle class and not heterosexual who faced forms of oppression that were very different. For example black women faced oppression on account of their race which was not experienced by white women. In the Indian context the kind of oppression dalit women face is not experienced by upper caste women. The difference between women became evident, so also did the differences in the nature of oppression. The difference between women came to be seen as of equal importance as did their similarities.

Identity politics is the term used to describe, at times, bitter disputes between different feminist groups and their struggle for women's liberation. According to Evans, "The rage, the sensitivity and the overwhelming, omnipresent nature of the 'enemy' drove parts of the women's movement into ideological rigidities, and the movement splintered as it grew who could say what was the central issue : equal pay? Abortion? The nuclear family? Lesbianism? Welfare politics? Capitalism? Groups formed around particular issues, constituencies and political styles, many sure they had found the key to women's liberation. After 1970's women's liberation groups in different parts of the world suffered painful splits...

As Evans goes on to explain differences in opinion on what is the core issue of women's oppression split the group and eventually the movement. Women were divided on the basis of class, race, education, religion and caste and each category of women had experiences and forms of oppression that differed vastly. The women's liberation movement began to divide on the basis of issues they felt defined women's oppression. Everyone's opinion became equally important and valid. It became difficult among the different women's group to form a common agenda. Each group splintered and separated. This was explained by an influential British feminist magazine : "Everyone is encouraged to have their own ideas about how the movement should be run, and what it is to fight for". Though this attitude did encourage women to express themselves that resulted in the power of forceful debate, many women began to withdraw as they could not express their opinions as forcefully as the others. This resulted in conflicts that split the group and eventually the Women's Liberation Movement.

For some feminist groups, the politics of identity is about making a direct challenge to the dominance of other interest groups within the feminist movement. "This concept of our own oppression is embodied in the concept of identity politics. The most profound and potentially the most radical politics comes directly out of our own identity, as opposed to working to end somebody else's oppression. According to Nicholson the politics of identity now dominates the women's movement where each feminist group has

its own particular ideology and works for women's liberation on the basis of their ideology. As a result one women's group is in conflict with another because of ideological differences.

According to Bell Hooks the concept of sisterhood dominated early Women's Liberation Movement which was based on the erroneous idea of common oppression of women. The early Women's Liberation Movement was dominated by University educated, middle class white women and their perception of women's oppression. This emphasis on "sisterhood" is seen as an emotional appeal masking the manipulation of the middle class white women. Bell Hooks further states that the notion of sisterhood is seen "as a cover up hiding the fact that many women exploit and oppress other women". Therefore, it was inevitable that women groups whose members had similar background come together and struggle against their oppression.

Bell Hooks explains for a number of black women, racism was intertwined with sexist oppression and if white feminists were not struggling against racism, they were denying the terms of their own privileges that were denied to black women. The racist attitude and socialization of white women began to be questioned. The inevitable fall out was identity politics and resultant conflict and separation of women's groups on the basis of ideological differences.

Another example is of lesbian feminists who had to struggle between two oppressed identities. Their struggle was between vying a sexual identity framed by the discourses of social constructionism versus a biological one and the notion of "gay culture". The lesbian feminists are challenging their marginalization in the women's movement, but also their sense of sexual identity that is itself fraught with difficulty.

These issues raise the question of what the feminist identity should be. It therefore, seems that feminism was not really marked by consensus at any point of time. Delmer states the effects of difference has been interpreted in more or less negative terms as the movement matured. By the 1980s, identity politics dominated the women's liberation movement. Identity politics began stifling feminist movement as many women's groups began to announce their own identity and announced their oppression when they were denied the right to speak. Rather than celebrate heterogeneity, the women's movement began to see the differences among the women's movement as a stumbling block to feminism's future.

The fact of differences between women was not the only issue, but also how they were interpreted, used, and how it made people feel. There emerged a competition whereby some people

were seen as more legitimately oppressed than others. There also resulted infighting between groups with opposing issues. According to Segal the increasingly torturous debates around heterosexuality produced the final and fundamental rift between feminists at the end of the 1970s. This shattered any potential unity about the nature, direction and goal of feminism. The closing down of the range that the debates also gave a feeling that the women's movement had taken a wrong turn.

The endless cycle of identity politics that women's movement faced troubled the feminists. However, post modern and post structuralist theories began to question the idea of an "essential identity" which became the dominant discourse. From a post structuralist point of view, diverse women were trying to lay claim to an identity which itself is never stable in its range of meanings. Identity came to be viewed as changeable and culturally historically diverse. Therefore, having a single identity for the Women's Liberation Movement did not really matter.

Secondly, the radicalism of the lesbian social position is that they can refuse to be a "woman". "Woman" is there to confuse us, to hide the reality "women". According to Witting "we have to kill the myth of "woman" including its most seductive aspect". Moreover, denying the "woman" involves acknowledging the existence of "women" in all their plurality.

More recently, feminist groups have contained representations from women of colour, working class women, and lesbian / bisexual women, yet many became increasingly disenchanted by the way in which their involvement in the movement rendered their own identities and concerns invisible, despite rhetoric of reflecting the needs of all women. According to Judith Butler establishing a foundational identity to mobilise feminists politics is actually to restrict the possibilities of new unthought of identities that feminism might explore. In the 1990s queer theory also challenged the politics of identity by denying the need for fixed sexual identities. Queer is a way of denying the normalcy of heterosexuality by blurring gay / straight binary opposition and celebrating the plurality of responses and disrupts old boundaries.

Bell Hooks explains identity politics is avoidable. "Women do not need to eradicate differences to feel solidarity, do not need to share common oppressor to fight equally to end oppression."

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## 2.5 SUMMARY :

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We have studied the concepts of sexual division of labour, public private dichotomy and identity politics.

The sexual division of labour emerged as a central concern in feminist writings. Feminist writers agreed that throughout history, both men and women treated the work done by women as less important than the work done by men.

The sexual division of labour was explained as a women's biological destiny. Childbirth was explained as a part of a women's biological make up. Women stay at home rear children and undertake all the domestic chores, while men undertake all the arduous tasks as a part of their biology. The work done by men created the production of goods and services. The work of men was productive and valued as 'labour'. The concept of sexual division of labour conceals the fact that the relationship between men and women is a relationship of dominance feminist writings centre around the issue of dominance of men over women through the sexual division of labour.

The concept of public and private portrays the social relations in these two realms. The public realm is characterized by activities individuals undertake in society such as productive work in the economy and in the polity. The private realm refers to work in the household and family. Historically men acted in the public realm and have moved freely between the public and the private realm. While women (and children) have been restricted to the private realm and subjected to the authority of men within it. Men's advantaged position in paid work must be understood in relation to women's disadvantaged position in the private realm of the house. Feminist writings have shown how the public private dichotomy has played an important role in producing gender inequalities.

Identity politics is a term used to describe the better disputes between different feminist groups and their struggles for women's liberation. The differences in opinion among different women's groups on what is the core issue of women's oppression and liberation. Women are divided by class, race, education, religions caste and co on and so also the reasons for oppression of women. The endless cycle of identity politics that women's movement faced troubled feminists. The post structuralist view that identities are never stable but culturally and historically diverse enabled the Women's Liberation Movement to realise that they need not eradicate the difference among women to feel solidarity.

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**2.6 CHECK YOUR PROGRESS :**

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- 1) Discuss sexual division of labour in patriarchal society.

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- 2) What do you mean by private – public dichotomy?

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**2.7 QUESTIONS :**

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1. Explain the meaning of sexual division of labour. Bring out its implications for women's subordinate status in society.
2. Explain the concept of public private dichotomy. Discuss its significance for patriarchy.
3. Write a short note on identity politics.

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## FEMINISM

### Unit Structure:

- 3.0 Objectives
- 3.1 Introduction
- 3.2 What is Feminism
- 3.3 Definition of feminism
- 3.4 Some questions regarding feminism
- 3.5 Summary
- 3.6 Check your progress
- 3.7 Questions
- 3.8 References

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### 3.0 OBJECTIVES :

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- 1) To acquaint students with gender problems and their secondary status in India.
- 2) To make students aware with not only women's problem but also social reality of society from women's point of view.
- 3) To be familiar with feminism and their struggle for equality.

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### 3.1 INTRODUCTION :

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Feminism is a broad based philosophical perspective which accommodates various approaches. It is a value system which gives us an alternative way of looking at things. Feminism views the world in a constrict mannerist recognizes diversity in the world it promotes Equality. Within feminism power is used to denote Employment with access to Education health Employment. Feminism displays a respect for nature feminism is an ideology philosophy and attitude of mind. It is not unitary concept but instead a diverse and multi-faced grouping of ideas and action. Feminism is mainly concerned with women's inferior position in a society and with discriminative en-counterred by women because of their sex. Hence all feminists call for change in social, cultural, religious, political and Economic fields. They work to reduce inequality and eventually overcome it. It is an awareness of women oppression

and explanation in society at the place of work and within the family, an awareness of patriarchal control. Exploitation and operation of the material and ideological level of woman labour fertility and sexuality, in the family at the place of work and in society in general feminism is an attitude of mind which needs to be developed or cultivated among men and women in society. Hence the first aim is to spread awareness make people sensitive about women issues. This awareness is necessary for both men and women it is not enough to know or to be aware what is required is change in the social conciliations.

It is seen that all over the world women experience discrimination unequal treatment in terms of food, nutrition healthcare, Education, Employment and mainstream decision activities. It is not enough for recognize those conditions or to be aware this has to be accompanied by active for E.g. A women may decide to Educate her daughter or let her pursue a career. In other words one does not have to be a part of feminist group, Even as a single person one may oppress it, feminism is a action oriented ideology a belief system. It is a body of knowledge though and theory.

Feminism is not and should not be a typical urban middle class concept. It touches all aspects of social life patriarchy and women oppression are found in all class castes, religion, group and culture, historically speaking feminist movement occurred in to waves. The first wave refers to the late 19<sup>th</sup> century where feminist movements were mainly concerned with gaining equal rights for women. They mainly demanded Equal legal and political right, second wave feminism refers to feminist activities in the late 1960's and 1970's. Here women protest contended around women inequality, specially in family and workplace. Finally in the last 10-15 year years there is a third wave referring to differences and inequalities among women themselves.

As the awareness regarding women issues develop, cultural differences are observed new ideas; the one's approaches come up.

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## **3.2 WHAT IS FEMINISM :**

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Before we study different feminist theories or approaches it is necessary to understand the term feminism. There are two words one is feminism and other is feminist. Feminism refers to approach theory while feminist is a person to believes in and act according to feminist theory or theories.

Common sense meaning of feminist is “man hating”. Careeist, middle class, academic westernised etc. Media also portrait similar image. However this heat true. According to feminist thinkers, feminist is a person who believes in Equality and justice for women. Feminist may be activists, social scientist, academic, poet, social worker who express their feminism in different way.

Feminism is an ideology, philosophy an attitude of mind, a way of looking at anything. It is not one unitary concept but instead of decrease and multi faced grouping of ideas and action. Feminism is mainly concern with women’s inferior position in a society and with discrimination encountered by women because of their sex. Hence all feminists call for change in social, cultural, religious, political and economic fields. They work to reduce in equality and eventually to overcome it

A simple meaning of the term feminism is “looking at world from women’s point of view” It implies women’s point of view’s is relevant and effective for women, their perception and participation in social life.

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### **3.3 DEFINITION OF FEMINISM :**

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“Feminism is an awareness of women’s oppression and exploitation in society at the place of work and with the family and the conscious action to change this situation.

“Feminism is an awareness of patrician control, Exploitation and oppression of material and ideological levels of women’s labour fertility and sexuality in the family, at the place of work, and in society in general and conscious action by women and men to transfer the present situation.

Both there definitions are elaborate and fell as many things. Common points in both the definations are many. Firstly feminism is at attitude of mind which needs to be developed or cultivated among men and women is society. Hence first aim is to spread awareness make people sensitive about women’s issues, their oppressions to sensitize people, it is necessary to observe social facts collect data, analyze it and communicate it to general public. Secondly both the definition call for action. It is not enough to know or to be aware of social reality. People activists, should work to change the social condition. Hence some kind of action plan and participation in the action plan is required. The conscious efforts to change the present situation. Thirdly both the definitions talk about women’s oppression and exploitation take place within a family, at place of work, in political field etc.

The second definition further states that this oppression takes place because of patriarchal control. Hence awareness of women takes place at both level material and at ideological level. This oppression may be done by men or by women.

For both there definition it is clear that all over the world. Women experience discriminal unequal treatment in terms of food, nutrition, health care, education, employment, main-stream decision-making activities. Further is not enough to recognize those condition or to be aware of than; this to be accompanied by action. The action can take place anywhere. E.g. a women may decide to educate her daughter or let her pursue, a career as a mother may stand by her daughter.

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### **3.4 SOME QUESTIONS REGARDING FEMINISM :**

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Feminism is something evolved, learnt by person through personal, firsthand experience, it is not something forced an individual from outside. Hence women's study is not just on academic paper or disciplined to be studied to be studied to score marks in the examination. It is something to be understood experienced and implemented. Finally that study helps to reexamine society, re-interpret social theories from women's perceptions.

Feminism is not and should not be typical urban middle class concept. It touches all aspects of social life. Patriarchy and women's oppression are found in all castes, classes religions, group and cultures. Hence feminist perspective is found in medicine, science film making, leaching, curriculum text-book etc. At different age level women may think differently, from child to old women experiences may be different, yet feminism influences personal life experiences at all levels.

There is general notion that feminist are against marriage, peaceful names and household work. This is not correct, because many feminist are married. Further, what we do, we mean by peaceful names. Are our families really peaceful ? There are many forms of domestic violence. A women may be choice b a house wife. What is important here is do women really have choice or most of them are forced to remain at home. Finally, feminist prefer the term "home maker" to house wife because it suggest positive role of women.

There are two other concepts often used in this context. One is sexism and other is sexist. Sexism refers to unequal treatment of women because of their sex. A person who takes up a position of domination over and against woman, by virtue merely of his stands as a man is called sexist.

There is a yet another question often raised in this context is feminism a western concept ? Implied idea is weather it is relevant in India or do we blindly, limited west. This question is supported by the argument that in India we have laws to protect women. It is true feminism as a concept used today is developed in the western world, but so also democracy, industrial revolution, bureacracy etc. Just because it is first used in western society does not mean it is not relevant here. Further in India efforts are made in 19<sup>th</sup> century by social reformists to improve the states of women. Though the word feminism is borrowed from the west, the idea was these very much in this country. Finally the law remain in the pages of low books, what is imp in the extent to which these laws are followed in the society. Today women in India and south East Asia are raising issues very close to their culture. Most of them are working in informal sector, have low paid job, child marriage dowry death still continued. So we do not blindly imitate western society but raise issue relevant in out society. Though we had women prime minister does not mean status of ordinary women is high.

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### **3.5 SUMMARY :**

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To summaries this discussion of feminism we state the following points:

- 1) Feminism is not just an academic exercise but action oriented.
- 2) It is an ideology, belief system, an ideology against oppression and exploitation of women. It is a doctrine social, political, economic rights for women.
- 3) It is a body of knowledge, thoughts, theories, perspective way of looking at present available knowledge from workers point of view.
- 4) It is women search for self-identify.
- 5) Feminism as a philosophy shares with all traditions of progressive thoughts and principle of equal worth of all human beings.
- 6) Feminism is a movement. It is a struggle against women's exploitation and oppression.
- 7) It is an inner - struggle both for men and women.

Women's studies of feminism as a discipline emerged from few basic questions like what about women ? Where are they ? If they are absent why they are absent ? If they are present, what do they do ? Whatever is the role of women,

why is it like that ? Answer to these questions help to describe and analyze women's status and role in society. Are women equal ? What about differences among women based on caste, class, race, religion etc. Invisibility of women means inequality. Women are not just different but they are hierarchically placed. Several such questions were raised. Answer to these questions gave rise to different approaches to feminism.

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**3.6 CHECK YOUR PROGRESS :**

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- 1) Elaborate women position all over the world in terms of health and education.

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- 2) What are the common sense meaning of feminism ?

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- 3) What are the sociological meaning of feminism ?

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- 4) How feminism has evolved ?

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### **3.7 QUESTIONS :**

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- 1) Women all over the world experience discrimination. Discuss.
- 2) Define feminism and views on women oppression.
- 3) State various general notion against feminism.

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## DIFFERENT APPROACHES TO FEMINISM

### Unit Structure

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Different approaches to feminism
- 4.3 Post modern feminism
- 4.4 Summary
- 4.5 Check your progress
- 4.6 Questions
- 4.7 References

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### 4.0 OBJECTIVES :

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- 1) To acquaint students with feminist movement.
- 2) To understand different approaches to feminism
- 3) To learn different perspective on women problems.

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### 4.1 INTRODUCTION :

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Some look at this concept from historical point of view. They talk about strong feminist movement of different times in history. This is known as waves. Thus, first wave refers to late 19<sup>th</sup> and early 20<sup>th</sup> century feminist movements that were mainly concerned with gaining equal right for women. They mainly demanded equal legal and political rights. In other words, women's equal status in the outside world second wave feminism refers to feminism activities in late 1960s and 1970s. Here women protest centered around women's inequality specially in family and work place. It helped to re look at many basic institutions in society like marriage, family and work place tic. Finally in last 10 or 15 years there is third wave referring to differences and inequalities among woman themselves. This classification of women's movement is useful, but this may give false impression that outside, those three waves there are no feminist activities. This is not true. Perhaps women activists were invisible in this period of time. It is true feminism movements have been more active and have required more

members of certain historical period. However, it would be more accurate to look at feminism at a continuum of thoughts and action.

In Indian context, we find social reform movements of 19<sup>th</sup> century influencing improving status of women. Then women's participation in the nationalist movement under the leadership of Mahatma Gandhi. After independence for some times women's activities were invisible. Again from 1970s women's movement against started. In 19<sup>th</sup> century reform movement, it was educated men who started movements to improve the status of women. However in 20<sup>th</sup> century in the second wave women themselves have come out and started organized and participated in women's movement. Here women fought for liberation within family, law status of work, double burden of work and household duties etc. women are victims of exploitation. Present day feminism is a struggle for achievement of women's equality, dignity freedom of choice so for as control bodies and lives within and outside home.

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## **4.2 DIFFERENT APPROACHES TO FEMINISM :**

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All feminists are concerned with improving women's status within society. They are committed to analyze women's present position, understand its cause or conditions responsible for it and think and plan course of action to improve this. However, within this common framework these are differences. These differences are regarding the cause of present situation and plan to change it. All feminist groups agree on the fact change in women's status. Must take place the difference are regarding how to bring change there are differences like

- 1) Liberal feminism.
- 2) Radical feminism.
- 3) Socialist feminism.
- 4) Marxist feminism.
- 5) Eco feminism.
- 6) Condition feminism.
- 7) New-wave feminism etc.

As the awareness regarding women's issue develop, cultural differences are observed new ideas, theories, approaches, come up. We are going to study three main approaches viz. liberal feminism, radical feminism and socialist feminism.

Liberal feminism has its roots in 18<sup>th</sup> century philosophy called Enlightenment period. It was the time when two strong values developed viz. rationality and individuality. It is also called as age of reason. It was against religious dogmas and automatic government. Institutions, ideas which could not stand the critical test of reason have to be changed. Hence many topics come up

discussion on of the main topic was role of women. This role should critically studied with the help of prominent values of rationalism and individualism. Individualism means individual's freedom to do what one wishes to do without interference from other. Feminist writer Mary Wollstonecraft wrote in this a book called "Violation of the rights of women". The critical theme of the book is "women are first and foremost human being rational creatures and not sexual being. They are capable of governing themselves by reason. Hence, if women are to be denied natural right, then it must be proved that they are not rational creatures". Another liberal philosopher wrote on "the subjection of women" Legal subordination is wrong and harmful form human development. Accordingly to him, it is contradiction between democratic value of liberalism and subjection of women.

In America, liberal feminist believes, America constitution has given rights and freedom to women which is more than many other countries. Equal opportunity recognized by the constitution is not practiced because of sexist attitudes. Hence the contemporary society and attitudes of people must change. They suggested several measures. All these suggestions are within the existing framework and legal channels. Liberal feminist do not talk about breaking the network. Three major themes come up like equal pay for similar work, equal distribution of household work and reproductive choice. We find similar ideas in 19<sup>th</sup> century Indian reform movement. Most of the reforms had accepted basic social framework and have suggested to bring changes within the framework.

Liberal feminism is widely diffused approach in contemporary women's movements. There are many issues taken up by women activists such as careers for women, equal parenting, gender free education etc. One of the topic widely discussed is public and private spheres of activities. Men are for public sphere there is money, power, status, freedom, choice, opportunities to grow, self-worth and other rewards of social life. Women are for private sphere which has no particular value. It has endless round of demanding, mindless, unpaid and undervalued tasks associated with house work. Child care and emotional practical serving to men. All this restrict women's access to public sphere, burden them with family responsibilities and isolate them into individual household, so that they cannot come together and unite themselves. This distribution of social rewards is unfair and unequal. The main reason for this is sexist attitude. This consists partly of prejudices and discrimination practices against women and partly taken for granted belief about the "natural" differences between women and men. These biases are transmitted through family socialization and school educational system.

Liberal thinkers have accepted common arrangement. Manners family income and women supervise domestic expenditure. Indian concept of "Gruhalaxmi" what follows from this is :

- 1) Wife should not go out to work because then she will not be able to do her domestic duties properly.
- 2) Wife should contribute her labour and household his money or capital.
- 3) Both men and women are accepted as equal but both have different roles or duties to perform.
- 4) Women should have civil right to vote, right to education etc.
- 5) Indian social reform of 19<sup>th</sup> century were influenced by this idea. Hence, they started movements for abolition "Sali" practice, widow remarriage, women's education etc. so these women become better wife and mother.
- 6) According to these social reformer and liberal feminist the basic structure of the society should be reformed and not restructured.
- 7) Accumulation of reforms will bring transformation.
- 8) It become imp political weapon.

Liberal feminism dominated till 1960s. Yet did not provide any explanation or roots of women but accepted the existing social order as valid. The advocated for improvement of social customs, institution, laws, attitudes without altering social structure. The strongly believed that progression reforms will lead to real and substantial equality for women as individuals. Liberal feminists state that democracy and democratic structure constitute essential condition for successful reform. Radical change could only diminish the available freedom and justice for both men and women.

### **Socialist Feminism:**

This is a very broad term and included different shades. It is a diverse cluster of writings, referring to different cultural situations. All these types of socialist feminisms share theoretical background though three different ideologies viz. Marxian, radical and phenomenological. Socialist feminism has its roots in Marxian thoughts and it is linked with radical feminism. Like any other type of feminism, socialist feminism also stresses women's perspective. Hence, it is close to phenomenology stating women's subjective construction of social reality.

Socialist feminists set three main goals for themselves. These are :-

- 1) To achieve a combination of breadth and precision, so that all forms of oppression are explored and that exploration is anchored in women's experiences. Hence the stress is on finding out different forms of oppression of women; either within the family or outside. Then to develop a common agenda for women's movements.
- 2) To develop explicit and adequate methods for social analysis by standing in an expanded notion of historical materialism. All types of socialist feminisms rely on historical materialism. Throughout history material culture, systems of production are owned by one class and used it as a weapon to exploit labour class. This labour also includes labour class women. Hence, socialist feminists aim to find out different methods to gain information and to use it.
- 3) To treat ideas as equal to material production in determining human affairs.

An important idea of socialist feminisms is that in a capitalist society marriage and patriarchal family is like a capitalist unit on a smaller scale it reproduces conflict and contradiction of wider society. Wives are like labour class and the patriarchal head of the family is like an employer or owner of the unit. Yet socialist feminists do not look of men as their enemies. This is because they say like women are exploited in capitalist society and men act as agents of the system. In the process, men are also oppressed. Hence men and women should unite together to fight against the system.

This is general socialist movement within this separate socialist feminist movement was felt necessary because in the existing movement men activists were not interested in women's problem or issues to them class conflict and labour movement were more important. They ignored the double oppression of women as workers and housewives.

Socialist feminists stress two main areas of work one is wage labour. Society is a root cause of all economic exploitation and oppression. Given is socialist society women's inequalities continued. Like other oppressed groups, women provide labour for low pay do all routine, unpleasant domestic work and they are politically docile. Their work within the family and outside is seen as secondary. Therefore, they can be hired and fired according to economic conditions of patriarchal husband or employer. Women in an exploited section of society. Hence, the liberal feminist position is that women are discriminated against because of flaws in the system that should change. The socialist feminist claim that women are exploited because of the system itself the capitalist

days gain from exploitation of working class and worked acting as against and exploiting women in their families.

Socialist feminist argue family needs to be transformed. They have focused on something ignored by earlier economist's theorist. That is to say the family functions as a private domain of work. House work is a form of labour which is unpaid and hence has no status. This give rise to stereo type image of women is petty minded, jealous, irrational, emotional.

### **Types of Socialist Feminism :**

As stated before there are different types of socialist feminisms. One such group focuses of women's operation and understands it by combing together knowledge of class and gender oppression. Though this they try to map out communalities and a variation is women's experiences of domination. The second group describes and explains, all forms of social oppression using knowledge of class, and gender hierarchies as a base from which to explore oppression in class, gender, race, ethnicity, religion etc. The word they use is domination.

Women remains in the centre in socialist feminism in two ways.

- 1) Oppression of women becomes primary topic of analysis. They describe various forms of domination or oppression.
- 2) Women's location and experience of world serve as an essential vintage point of domination in all its forms. They also talk about women dominating another women e.g. upper caste women dominating lower-caste or while women dominating black women.

Both the focuses are linked with historical materialism Marxist idea. The basic idea is maternal condition of human society including activities; ideas and relation that produce these conditions are the key factor that pattern human experiences, personality, ideas and social arrangement. The conditions change over time and so also human experiences. Yet socialist feminists go beyond Marxist ideas. They do not talk only about market condition and class domination, but domination with in family over women's body, sexuality, reproduction and child case etc. Further socialist feminist also talk about mental and ideational phenomena, consciousness, motivation ideas social definition of situation, knowledge a will to act in one's own interest etc.

These aspect are produced by social structure. This social structure, though abstract and non-material : still is as elaborate

and powerful as economic goods. Finally for socialist feminist develop a patriarch of social organization in which public structure of economy policy and ideology interact with the intimate private process of human reproduction. These are expressed in many subtleties of social relation. Their strategy for change is to discover this expression of domination involving oppressed group viz. women. They hope in this process both individual and group will leave to act in their own interests.

As women become involved in socialist debate and theory; certain problem began to emerge in the movement. Feminist who were devoted to social good found it inadequate explanation. According to socialist activists subordination of women in a capitalist society arises because of capitalism. This is not absolutely correct because even in communist societies, societies like USSR, China, Cuba and East European countries, women are subordinated. It means Marxist explanation of capitalism as a cause of oppression is not adequate explanation. Marxist approach has limitations regarding women oppression through class system. Socialist feminist are struggling to understand reality of gender oppression in a society by formulating patriarchy as a process in dialectic interaction with in a class society. Yet no unified theory has so far developed.

According to socialist view, “women is inferior position is rooted private property and class decided society family structure in such society maintains women’s inferior status exploitation is a part of oppression. Yet oppression is a large complex process. Power is divided in sex and class & this is manifested materially and ideologically in patriarchy and class relation. The major task is to discover inter-dependence between patriarchy and class structure. Socialist feminist believe the overthrowing of capitalist system by itself will not transform patriarchal ideology. Hence, it is necessary to organize struggle simultaneously against capitalism and patriarchy from private family life to public social life oppression of women take place.

According to socialist feminist, the powerlessness of women in society is rooted in four basic structures production, Reproduction, sexuality and socialization of children. Family and economy should not be looked upon as separate systems, but as vitally interacting systems. Socialist feminists have raised debate over households where women’s oppression is based on unpaid work, child bearing child care house work are material activities resulting in products. Such products have use value but not exchange value.

Yet another important issue is whether there is scope for women’s movement. What is the relation between women’s

movement and wider socialist movement like radical feminist socialist feminist are not anti-men. They believe in collaborations with men if men support their cause. They also believe that women's issues are specific and need focused attention and analysis. However one cannot ignore the other struggles of oppressions. In India majority of women activists are socialist feminists. They had background of activism in socialist movement. They rely on Marxist concept of class, class-conflict and social of change.

### **Criticisms of socialist feminist approach :**

The important criticism of socialist feminism and indeed all varieties of feminism that despite their emancipator claims they tend to be located in the assumption and aspiration at urban middle class women. There is growing concern within feminist theory over practical and theoretical problems passed by the exploitation of women of one class, rare ethnic group and religious community by another group

To conclude this discussion on socialists feminism, we can say, this is most active group amongst feminist. Using Marx and Engel's frame work they have observed & analyzed women's problems. Oppressed women's involvement in the struggle is achieved by socialist feminist.

### **Radical feminism :-**

Radical feminism is also known as revolutionary feminism. It is difficult to distinguish between radical and socialist feminism. Many times radical feminist movement emerged because radical of the bad experiences women had in the socialist movement. Liberal feminist blame the system and/or socialization process. Socialist feminism but blames an economic and cultural exploitation and capitalism, while radical feminism blame men and patriarchy.

Both radical and socialist feminists have their roots in Marxist concepts at class-conflict and exploitation. Engel in his book, "the origin at family, private property, and the state" provide a starting point by explaining that women's oppression originated in the first division at labour between men and women a division that has been sharpened by the women a division that has been sharpened by the advent at capitalism and the biological family from this socialist feminist get their theoretical backing radicalist develop revolutionary ideas.

Radical feminist's main demand is destruction of patriarchy. There are three emotionally charged beliefs stated by radicalists:-

- 1) Women are of absolute positive value as men this belief is asserted against what they claim to be universal devaluation at women.
- 2) Women are everywhere violently oppressed by the system at patriarchy.
- 3) Roots at women's subordination are in the biological family, the hierarchical sexual division at society & sex roles. Biological differences are linked with social distribution at power, wealth and status.

According to radical feminists, patriarchy is an autonomous historical fact, preserved through marriage and family. It is expressed in variety at ways in various institution, however in all these institutions, power is always with men and every institution and in society's most basic structure some people dominated other e.g. caste class ethnicity etc. In all these system of domination the most fundamental structure of oppression is gender, the system of patriarchy starting from the patriarchy family system men learn to dominate or to oppression.

According to radical feminists, patriarchy is the least noticed and yet the most significant structure of inequality. Even men activities in socialist movement are not clear about gender inequality.

Violence exists whenever are group control's its own interest the life chances, environment, action and perception of another group. Rape, Sexual abase, enforced prostitution, sati practice, child marriage are the example of physical violence.

Patriarchy exists in a near universal form because man can muster the most basic power resource, physical force. Men create and maintain patriarchy because it is in their own interest. Violence may be hidden in more complex practices of exploitation and control in fashions, beauty contest, films and media. Men create and maintain patriarchy because they have real interest in women and necessary for reproduction. For this men keep women under control.

Radical feminist given us both an explanation of universal gender oppression and a model for understanding cross cultured variations.

Radical feminists provide solutions to these problems. Women should be made aware of this made domination, solidarity among women self-reliance should be develop among women, so that they are not dependent on men. Basic reworking at women's consciousness is necessary. Each women should recognize her own valves and strengths and should reject patriarchal pressure.

**Two strategies are suggested by radicalists :-**

- 1) Critical conformation with any fact of patriarchal domination whenever it is encountered.
- 2) A degree of separation as women withdraws into women run business, household and communities of artistic creation.

Some radical feminists say there are two system of social class :

- 1) Economic class system which is based on radiation of production and
- 2) Sex class system which is based on relation of reproduction. The second system is responsible for subordination of women and physical and emotional dependence on men. However it is the consistency and community of men's power and controls over women's reproduction capacities which revolutionary radical feminis argue constitute the unchanging basis of patriarchy contribution of Radical feminists :
  - 1) Radical feminists have contributed in developing theories regarding violence and patriarchy.
  - 2) They have given some insight into the nature of women's subordination.
  - 3) These feminists reveled different social reality.
  - 4) According to radical feminists men control women's body and force into motherhood.
  - 5) They developed the idea of other mall dominant institution like education, Economy policy etc.
  - 6) They talked about women's psychology trapped in the institute.

**Criticism :-**

- 1) Radical feminists have treated economic class and sex class.
- 2) They are criticized for accepting biological difference as natural.
- 3) Radical feminists have faulted in their exclusive focus on patriarchy. This focus seems to simplify the realities of social organization and inequalities.

We conclude this discussion an radical feminism starting that they have done significant cross-culture research to support their theory. They also have action plan to deal with the issues.

Theoretically radical feminism combines both, Marxist and Psychoanalytical feminism probing the reasons or causes of women's subordination.

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### **4.3 THIRD WAVE FEMINISM OR POST MODERN FEMINISM :**

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No discussions on feminists theories is complete unless we take about third wave feminism. This is a new stage in feminism developed 1980's.

Since 1980s third wave feminism can still one of the most dynamic and central area of intellectual growth within feminism. This is gain of success of women's movement at global level which touches women at all within a nation and international.

The main concern is differences among women. The third wave feminism has derived from radical and socialist feminism. The third wave feminists re-evaluate and extend the issues taken up by the second wave. They also critically re-assess themes and concepts of record wave feminism. They don't take up "women" as a general category but focus on the factual and theoretical implication of difference among women. The difference not biological but those that resulted from the unequal distribution of socially produced goods and services on the basis of position in global system, caste, class ace ethnicity religion, age and affectional preference. These factors interact with gender stratification.

The third wave feminist, have realized no amount of academic questing of genders, difference, oppression bring out unequal pain suffered by different groups. Unless we touch this grass root level of differences every discussion a women remain academic exercise. In fact the speed of pain is interested between one's individual life and other dimensions of stratification. Hence several studies have come up with topic like "gender and race" gender and global location", gender and caste etc. There studies show an intricately inter-waves system of caste, class, race, gender and global expression and privileges. This oppressive system produces pathological attitude, actions and personalities such pathological personalities came up in new feminist movement. Hence this is called as global movement and futurist movement of the 21<sup>st</sup> century.

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### **4.4 SUMMARY :**

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All the approaches talk about women's subordination and strategies to establish women's equality of all the approaches, the first three (liberal, socialist and radical) are at micro level while the

forth third wave feminism reaches to the micro level or grass root level of activism.

In India context so for domination approach is liberal feminism where action is organized talking existing structure for granted. Some of the ideas and concepts used by radical and socialist feminists have to carefully and critically used in India, where poverty, illiteracy, unemployment insufficient development prevail. The family may not be viewed as abstraction but as a security issues regarding sexual freedoms, aggressive indiaciicism are not as serious as poverty, hunger, deprivation. It is necessary to recognize unique position of India in global situation and no identity concepts applicable here and/or to develop new concepts specially useful to understand our situation. This is a good justification to develop more research in theoretical areas.

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#### **4.5 CHECK YOUR PROGRESS :**

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1) What do you mean by feminism ?

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2) Discuss different between liberal and radical feminism.

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3) Why the approaches of feminist differ from one another.

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4) Highlight post modern feminist as third wave feminism.

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5) How socialist feminist differ from radical feminist.

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#### **4.6 QUESTIONS :**

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- 1) Discuss feminism and how they differ from each other.
- 2) Explain in detail any two approaches to feminism.

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## HISTORY OF WOMEN'S STRUGGLE - I

### Unit Structure :

- 5.0 Objectives
- 5.1 Introduction
- 5.2 Reform and Nationalist Movement in the context of women rights
- 5.3 Forms of Resistance
- 5.4 Agitation against certain dreadful experience
- 5.5 Growth of the reform movement
- 5.6 Female education
- 5.7 Agitation by women
- 5.8 Muslim women and social reformer
- 5.9 Women and Nationalist Agitation
- 5.10 Gandhi and Women's rights
- 5.11 Nehru and Women's rights
- 5.12 Check your progress

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### 5.0 OBJECTIVES :

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- To understand the status of women in India.
- To study the role of education and legislation in bringing change in the status of women.

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### 5.1 INTRODUCTION :

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The word feminism itself originated from the French word *feminisme* in the 19<sup>th</sup> century, either as a medical term to describe the feminization of a male body, or to describe women with masculine traits. When it was only used to refer to one group of women, namely that group which asserted the uniqueness of women, the mystical experience of motherhood and women's special purity. It soon became understood to denote a political stance of someone committed to changing the social position of women. Since from the term has taken on the sense of one who

believes that women are subjugated because of their sex and that women deserve at least female equality in the eyes of the law – Despite the fact that the usage of the term is relatively recent, it has become common practice to refer to early writers and thinkers – for example the 18<sup>th</sup> century writer Mary Wollstonecraft – as ‘feminist’ in acknowledgement of the connections between their arguments and those of modern feminism.

Feminist writers and activists, even those who were in existence long before the term feminism came into popular usage, shared the will to imagine a world where women were able to realize their potential as individuals. In doing this, they had to conceptualise ideas that were, when women had no legal identity as individuals, literally unknowable. Feminist knowledge then has long been regarded as informal or illegitimate in some way and for modern feminism it became important to make feminist ideas legitimate by circulating their ideas as widely as possible and inviting the contributions and responses of other women. It was also important that other women would not encounter boundaries in terms of gaining access to feminist ideas, especially by feeling they lack the entitlement to call themselves ‘feminist’ for any reason. This assumption that, effectively, any woman who chooses to call herself feminist is one, disallows the production of a feminist dogma or unitary position and it also accounts for the multiplicity of positions that can be held under the umbrella of this title, for good and bad reasons it becomes ultimately impossible to talk about feminism in terms other than the plural.

With the overthrow of industrial capitalism and changing relations of the worker to the means of production for them, revolution is the only answer, although as time has gone on socialist feminists have become more cynical about the prospect of a socialist revolution effecting a change in the lives of women, given the tenacious ideological grip of the current meaning of gender differences. Nonetheless socialist Marxist feminists are always mindful of the ways of society are riven by class and race distinctions as well as those of gender & that it is more useful to consider oppression as multi pronged and inter-related rather than arguing that one form is more destructive than others. In common with liberal feminism, socialist feminism, because of its link to Marxist thought, suggests a necessary link with men and an acceptance perhaps that men are part of any movement for change.

This assumption that men as part of the problem should be part of the solution was a theme in early radical feminism even though radical feminism is usually associated in the popular consciousness with separatism and men-hating. Radical feminists, particularly in the USA emerged largely from new left and civil rights political groupings. Their politics was broadly radical left, but

they become hugely disenchanted with the male – dominated power play witnessed in left – wing radical groupings and formed the women's Liberation movement in order to allow a space for the consideration of women's oppression outside the confines of male-oriented knowledge & politics. This politics of radicalism, while drawing political lessons from the new left and civil right movement, wanted a political formation freed from the taint of maleness and therefore espoused leaderless groupings, job sharings and structurelessness well beyond the parameters of contemporary democracy. Many of their aspirations have been ridiculed or misunderstood by other and radical feminists are all too often set up as dungareed, man hating lesbians, totally obsessed with the politically correct, partly because the way in which they wanted to shape their own movement was intended to reflect their rejection of anything that smacked of the male political imperative.

Feminist groupings have always representations from women of colour, working class women yet many become increasingly disenchanted by the ways in which their involvement in the movement rendered their own identities & concerns invisible, despite the rhetoric of reflecting the needs of all women for example the Combahee River collective 'A Black feminist statement'. First published in 1979 demonstrates a sense of belonging to feminism and yet being alienated from some of the principles embraced – such as separatism, but also the sense that gender determines oppressions more than race, class or sexual orientation. This sense of inclusion and marginalization simultaneously, the need to make one's own feminism to counteract the blindness of the mainstream became a common place in 1970's and 1980's feminisms testimony to their own epistemological richness as well as less positively to the ways in which identity politics prevented feminist groups from speaking to each other and moving on.

Post-modern and post-structuralist interventions in the field bring to bear even greater diversity to what can be understood as 'feminist' are ideas about being a 'women' and 'inequality' are held up for scrutiny as the idea of an essential female political identity or a transparent oppressor relationship of power are problematised by broader questions about how meanings & truths are generated in social discourse. Throughout all these discussions feminism as a term has endured and been found useful and the fruits of feminist challenges to the social order are evident in social policy – making today. For these reasons – the popularity of discourses which can be held to be 'feminist' today may be the key to its strength – its refusal to be pinned down, condensed to a single set of ideas is what makes feminist knowledge abiding in its appeal to women as well as a source of support in their daily material existence.

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## 5.2 REFORM AND NATIONALIST MOVEMENT IN THE CONTEXT OF WOMEN RIGHTS :

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The issue of women's emancipation in India under British colonial rule was closely linked with two important movements, one a political movement of challenge and resistance to imperialism and the other, a social movement to reform traditional structures.

The religious base on which these traditional structures rested was Hinduism, which had more or less acquired its present form in the 5<sup>th</sup> and 4<sup>th</sup> centuries BC. Hinduism has some characteristics that set it apart from other religions. It is not derived from a historical person nor does it spring from any divine revelation. Some of these cults had their origins in the Vedic religion practiced by the first immigrants into India from the north – west. Others had flourished among the people and were gradually absorbed into organized religion.

Hinduism was basically monotheistic but this was expressed in a tri-murti or trinity of gods. Brahma who creates the universe, Vishnu who preserves it, and Shiva who destroys it when it becomes degenerate and has run its course. This concept was a reflection of the natural order with its cycle of birth, life and decay. However, at a later period, Brahma lost his prominence & Hindu devotees were followers of either Vishnu or Shiva both seen as manifestations of the Absolute. Together with this trend, there also evolved the cult of bhakti or personal devotion to the god.

The doctrine of karma is of central importance of Hinduism. Whether an action is morally correct and results in good is dependent on its conformity with dharma, the sacred law. If one does one's duty as prescribed by the dharma, then the result is good. The social organization of Hinduism was based on the four caste structures, Shatriyas, Brahmins, Vaisyas, Shudras.

As society developed, various sub-castes grew up in association with different types of work. The continuance of the system was ensured by caste being made hereditary & the performance of one's caste duty being synonymous with righteous action. Inter-caste commensality and marriage were forbidden. The accent on heredity made the family the unit of society. Since the family was patriarchal, women were generally subordinate to men. Male children were greatly prized for important religious rituals could be carried out only by a son. The practice of self-immolation by a woman on the death of her husband seems to have been merely symbolic at the early stages, for these are references to widow remarriage, but later, the practice of a widow burning herself on the husband's funeral pyre became real and

widow remarriage was forbidden, women appear to have had some degree of choice in marriage in the early periods, as the story of Sita choosing Rama at a Svayamvara would appear to indicate. Later develop however, restricted this practice and made the choice of husband subject to caste and ritual practice and made the choice of husband subject to caste and parental control. However, it cannot be forgotten that a sizeable section of the population of India was not window having converted to Islam.

By 1823, almost all of India had either been directly annexed by the British or was under their indirect control through their alliances with princely states. The last aggression were the subcontinent might be more easily exploited and controlled, the British army was strengthened, roads & railways are built, a civil service was formed to administer the country and the infrastructure of a colonial economy was established. The administration of these vast territories required local officials, and on English educational system was introduced to create this class. The first province to be subjected to these policies was Bengal, where the Hindu college was established in Calcutta in 18<sup>th</sup>.

That English education and involvement in government would favour the creation of a westernized elite was to be expected to quote Macaulay in 1835. We must do our best to form a class who may be interpreters between us and the millions we govern; a class of persons Indian in blood but English in taste and opinion : Two factors worked against the whole – hearted adoption of this policy. First, job opportunities for the British had to be kept open, and second the British feared that education of Indians would in the long term be determined to the continuation of their own control.

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### **5.3 FORMS OF RESISTANCE :**

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Resistance to British imperialism was long and continuous, lasting almost 200 years. In 1757, the rural of Bengal attacked the foreign aggressors & the British under Robert Clive won their first major victory at the famous Battle of Plassey. In 1764 the princes of Bengal & Oudh joined in unsuccessfully challenging the British, & in 1780 the king of Mysore also tried to oust them. In the late 18<sup>th</sup> and 19<sup>th</sup> centuries, there were frequent skirmishes under the leadership of the Mahrathas who opposed foreign rule, and bitter warfare between 1846 & 1848 in the Punjab which ended in its annexation. But resistance against the imperialists climaxed in the 1857 Indian 'Mutiny' – first war of independence – which started when Indian soldiers in the British army mutinied and then spread to a large to a large area of North India covering Meerut, Delhi, Cawnpore, Lucknow and Allahabad. However, also it was opposed by many of the landholders and tax-gatherers who had been

appointed by the British. The struggle was cursed by the British who retaliated severely and brutally against combatants and civilians alike, there was general and indiscriminate burning & pillaging of village and numerous executions. One result of this struggle was the end of the East India Company, the Indian Act of 1858 abolished the company and established the direct rule of the British government.

The challenge of imperialist domination and the attempted imposition of an alien culture ideology and religion on India produced, in its turn several movements of religious and social reform among Hindus and Muslim. These reformist movement such as the Brahma Samaj which started in Bengal in 1828 – were intended to cleanse Hinduism of certain corrupt and decadent practices and to counteract missionary propaganda by presenting the Hindu religion as one that was compatible with progress and change. Social reform also become a popular issue among Indian intellectuals, who inspired either by liberal view of social change or in the hope of preventing drastic social change, were to launch movement to abolish or correct.

The political response to imperialism was initiated late in the 19<sup>th</sup> century with the growth of Indian nationalism, centred on the Indian National Congress in the early years, the congress was led by moderates, but by 1900 more militant elements, inspired by B.G. Tilak in Maharashtra and Aurobindo Ghosh in Bengal, had become influential. Mass-based nationalist agitation spread throughout Bengal after it partition in 1905, including a campaign for Swaraj and Swadesh; and a boycott of British-English institution and British goods the militants in Bengal also had recourse to violent actions, labeled 'terrorist'. In the following years there were several waves of agitation notably after Gandhi's return to India in 1915 and his assumption of the leadership of the rejected reforms proposed by the British.

Gandhi launched a campaign of non-cooperation which included hartals, the boycott of all legislators, foreign goods and official functions and the refusal to pay taxes. The subsequent repression including the massacre of an unarmed crowd at Amritsar in 1919 and the imprisonment of Gandhi. Nehru and other leader in 1921 – 22, served only to strengthen to movement in the 1920s. By the beginning of the next decade, the agitation climaxed again over the issue of Swaraj. Gandhi led the famous salt March in 1931 thereby launching a movement of civil disobedience, non-cooperation and non-violent resistance. From the unit independence was achieved in 1947, the nationalist struggles were continuous and involved large masses of men and women.

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## 5.4 AGITATION AGAINST CERTAIN DREADFUL EXPERIENCE :

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The status of women in India has varied in different historical and in the different regions of the country, and has also been subject to differentiation according to class, religion and ethnicity. The general situation, however, was one of suppression and domination within the bounds of patriarchal system whether the women in question belonged to a peasant family and was compelled to drudgery in the field and home or to a high-caste family and living a life of leisure she was the victim of a set of values that demanded implicit obedience to male domination, and of many other social practices that circumscribed her life.

The Europeans emphasized the low status of Indian women as a reflection of the general backwardness of the country, but the Indian reformer were keen to show that, whatever the current position, women's status had been high in ancient India and many outstanding women had made their mark on Indian history. These include the warrior queens. Sultana Razia, who succeeded to the throne of her father, the king of Delhi, in the 13<sup>th</sup> century and led her troops into battle, and Nur Jehan who exercised real power and led the army to war in the early 17<sup>th</sup> century during the reign of her husband the Emperor Jehangir. The best known, however, was the legendary Lakashmi Bai, the Rani of Jhansi who, during the war against the British in 1857 rode on horseback in fierce battles against the foreigners and died in combat.

Movements of reform against the social evils that affected women began in India in the early 19<sup>th</sup> century.

The issues tackled by the reform movement – including sati, widow remarriage, polygamy and Women's property rights – were problems of a certain stratum of society, being mainly confined to Hindus of the higher caste and classes.

Some reformists also felt that middle – class family structures were endangered by the prevailing social evils. The fact that some high-caste widows who had been ill-treated and prevented from remarriage had turned to prostitution was an example of such a threat.

This concern to prevent the disintegration of family life, which existed among the English educated and also among the non-westernized intelligentsia, was a theme in the literature of North and South India.

With success measured by each legislative act that was passed, since all areas of social reform concerned the family, the effect of the reforms may have been to increase conservatism, and for form liberating women, merely to make concisions within the family structure less deplorable, especially for women of the bourgeoisie. It is clear that, while some Indians fought for social reform on he principle of liberal vives, many conservatives felt other wise, for example, the famous reformer, M.G. Rande (1841 - 1901) who was a lawyer, judge and legislative councilor in Bombay, expressed the view that social reform was in the 'Great Hindu Traditional' of seeking out ancient principles in order to restate them. Instead of destroying the structure, the reformer should lop off the diseased overgrowth and excrescences and restore vitality and energy to the social organism. Moreover, many social reformer themselves condoned child marriage and opposed widow remarriage in their own families. Even before the nationalist movement had become politically active in India, the social reformer had started to agitate on two of these issues – the practice of sati and the ban on widow remarriage. These could safely be tracked because they had not existed in very early times, were confined to the upper castes and classes and if remedied, would given India the appearance of being 'civilized' without endangering the traditional family structures.

### **Raja Ram – Mohan Roy :**

The pioneer in the agitation for women's rights in India was Raja Ram Mohan Roy, a Bengali who had been influenced by western liberal thought and had attempted to reform and revitalize Hinduism. His family were Radi Brahmin, a group which had for several generations been involved in administration and higher learning and were to figure prominently in the 19<sup>th</sup> century social reform movements. Roy's early classical education had included Sanskrit, Arabic and Persian and by 1800, he was fluent and well-read in English. He was exposed not only to the dissident Calcutta British radicals, Unitarians and advocates of free-trade, but also to liberal political thinker of Europe – Locke, Bentham, Montesquieu and Adam Smith among other. This was a period when the question of women's emancipation was eagerly discussed in Europe, especially by the radicals and Unitarians in Britain, while the British radical were directly influenced by the philosophers of the Enlightenment in France and by the events of the French Revolution, the Unitarians who believed in the single personality of hod the father as opposed to the advocated reason and tolerance in the religious Sphere and Civil liberty in politics, and were at the forefront of reformist and democratic movements. Associated with radicals Unitarians was Mary Wollstonecraft, the bet-known feminist of the time who had made an impact with her famous book vindication of the rights of women. It is interesting that Mukharjee

who describes Roy's argument on women's status were like those of Mary Wollstonecraft, and one can only speculate that, living at that period, he had been exposed to her writings.

Roy's mobilization of Hindu through against the system of sati created the necessary public opinion to enable the government, which was also under pressure from missionaries on this issue, to make the practice a criminal offence in 1829. Although ancient Hindu law had made provision for widows to remarry in certain circumstances, by the medieval period of Indian history the higher castes had prohibited remarriage. The issue come up between the 1830s, for and 1850s and agitation for a reform of the law was taken up in many parts of India. The young Bengal movement, founded in the 1830s, for example, was a proponent of social reform and women's emancipation it's journal.

The reform of Hinduism become a vital issue if the Indians were to counter the attacks and criticisms of the British, and ultimately if they were to resist British domination. In 1828, Roy and other enlightened Bengalis formed the Brahma Samaj which drew inspiration from many religions and aimed at changing the debased form of Hinduism that prevailed. The Brahma, as they were called, challenged all forms of obscurantism and ritual as well as female oppression associated with orthodox, beliefs, and many of the later activists who took up issues of women's emancipation were form this group of Brahma Samaj reformers.

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## **5.5 GROWTH OF THE REFORM MOVEMENT :**

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The reformist campaign increased in fervour during the 1850s – the most active campaigners on widow remarriage during this period were Iswar Chandra Viday Sagar, a Bengali who, in 1856, published a pamphlet "Marriage of Hindu Widows" and presented a petition to the government on the issue. Debendranath Tagore, an activist of the Brahma Samaj, who formed an organization to campaign for widow remarriage and against other evils affecting women another movement for the purification and revival of Hinduism with supported from the press & British officials, the agitation led to the Act of 1856 which legally permitted the remarriage of widows. Social custom was difficult to change by legislation, however, and it was only the very daring who defined tradition.

As in many Asian countries at this time, the reformers ideal was the monogamous, nuclear family. Polygamy in India was practiced by both Muslim & Hindu of high caste and class, the Muslim being allowed four wives; the kulin Brahmin for example were permitted on indepenite number of wives. The campaign was

continued, especially by Vidyasagar who, in the 1870s wrote tracts exposing the evils of polygamy. Govt policy at that time, however, was against too much interference in traditional practices affecting family life.

The issue of child marriage was also taken up by social reformers of the 19<sup>th</sup> century. Unlike sati, polygamy and the ban on widow remarriage which affected the upper segments of society, child marriage was widespread among Hindus. The practice was considered a religious and social obligation by 'higher' castes and a means by which to protect their daughters from men with economic power by the 'lower' castes. It was also an economic saving since male children commanded a lower dowry. The reformers best known for their agitation on this issue were Keshab, Vidyasagar, and Gopal Hari Deshmukh. K.C. Sen argued that the practice of child marriage was a corruption of the scriptures and wrote the custom of premature marriage as it prevails in this country, is injurious to the moral, social and physical interests of the people and is one of the main obstacles in the way of their advancement. Vidyasagar pointed out in 1850 that child marriage was linked to the problem of Indian widows because many of the child brides were widowed at an early age. Dayananda Saraswati argued that girls should be educated and only allowed to marry at 16 or 18, because of child marriage, the Hindu were the Children of Children.

In 1872, some success was achieved with the marriage Act which set higher age limits for marriage, 14 for girl and 18 for men. Further agitation and publication by reformers like Behramji Malban, who had used the press for the campaign against child marriage, led to the age of consent Bill of 1891, which raised the legal age of consent for sexual intercourse from 10 to 12 for girls. Even this was achieved only after bitter controversy since it was opposed by political radicals like B.G.Tilak as being an unwarranted interference by the British in local customs.

Another area of agitation for the social reformers was that of property rights for Hindu women. Existing unwritten practice was particularly harsh on the Hindu widow who had no claim on her husband's property except the right of maintenance, as a result of which she was at the mercy of her husband's relatives. In 1874, the right of property Act gave a widow a life interest in her husband's share of the property and a share equal to that of a son, however the act did not give a widow the right to own or dispose of this property and daughters continued to be excluded from right of inheritance.

Owvedt has pointed out that the subordination of women is crucial to the general hierarchical organization of caste society and the anti Brahmin movement in India was consequently also linked

to the women's struggle one of the first to make the connection between caste oppression and women oppression's was the most radical social reformer of the 19<sup>th</sup> century.

Jotirao Phule (1827-90), a Maharashtrian of 'low' caste who led the anti-Brahmin struggle, also opposing polygamy and child marriage and advocating women's education and widow remarriage. In the 1850s Phule had set up a school for girls in Pune and two schools for 'untouchables', and in 1863 he started a Home for the prevention of infanticide, to care for the unwanted children of widows. Phule's forceful writings in Marathi had an impact, especially works like *Gulamgiri*, published in 1872. In opposing sati, Phule speculated about whatever any husband would become a sata by being immolated on the funeral pyre of his wife Omvedt has written on Phule's concern for women's rights.

The Marathi and Gujarati reformers of the 19<sup>th</sup> century were in the forefront of several controversies over women's rights, and imp public debates on caste and women's oppression raged in western India. An influential Gujarati reformer was Darsonds Mulji, who had a newspaper, *Satya Prakash*, which led an attack on the immorality of Maharajas and Hindu Priests and supported widow remarriage, women's education and foreign travel. Another of the early Maharashtrian reformer was Gopal Heri Deshmukh, known as 'hokahitwadi, who in the 1840s had begun to attack Brahmin traditional practices, including the caste system, child marriage and the treatment of widows. Deshmukh urged these of English texts or translations to foster scientific thought and advocated the rejection of Brahmin learning writing in Marathi he said; I think that the misery of women is so great that when I remember it my hair stands on end.

These Brahmins instead of killing their daughter put them into greater misery. The women question remained an important issue in the non-Brahmin movement of later years. In 1920, for instance the non-Brahmin movement of later years. The nationalist leader Tilak was violently opposed and driven away from the meeting when he argued that there were funds only for male education.

Another element in the continuing expansion of education for women was in the creative fields. Rabindranath Tagore had transformed Shantiniketan into an institute for the regeneration and revival of Indian culture and art, while being open to influences from all other cultures. Shantiniketan was open to women and Rabindranath placed great emphasise on the conditions, necessary for the release of creative potential in women. This was evident, not only in his educational work, but also in his well-known poems and short stories. He come out strongly against traditional custom and

practices, while adopting a modern attitude to the role and status of women in society. The women in his creative writings are 'drawn more vividly and with a firmer hand than the male character. An example in his story 'Devi' later made into a film by Satyajit Roy. Where a woman is driven to insanity by a tradition ridden father-in-law, who believes, on the basis of dream, that she is the reincarnation of godless.

In south India too the non-Brahmin movement had oriented against Brahmin hegemony 'questioning the right of the Brahmins to dominate top-class jobs and to perpetuate the myth of a superior culture'. The 'self-respect movement' in the 1920s against the Brahmins, led by E.V. Ranaswami Naicker, known popularly as periyar attacked the caste system and all forms of religious ritual and idol worship. Equal rights for women were advocated and marriages based on 'self-respect' were popularized. This meant that there should be equal consent between the man and the woman and that there should be no priests present to officiate at a marriage.

There were several male writers and poets in South India who were forceful proponents of women's emancipation. One was the leading Tamil poet Subramaniya Bharathi, who belonged to that stream of radical thought in Asia and the middle east which advocated modernity and reform. While asserting a cultural identity against imperialism. He was active in many areas of political and social reform, and was influenced by foreign radical and revolutionary movements, welcoming the Russian Revolution in 1917. He championed Indian independence while denouncing caste oppression ill-treatment of immigrant Tamil workers in Fiji, the inequitable distribution of wealth in India and the subordination of women.

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## **5.6 FEMALE EDUCATION :**

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Since the reform of 'social evils' was linked to the issue of preserving and strengthening basic family structures and creating good wives and mothers, the question that frequently arose was that of female education, a policy supported by both progressive and orthodox reformers. There had been many educated women in the upper classes, including famous women writers and poets, but no general education was available to women. This became an issue on which there was broader agreement than on such issues as widow remarriage, which had touched religious sensibilities. Many liberal reformers campaigned in favour of female education. Conservatives also joined the campaign for female education. Ramakrishna Paramhansa, the Hindu philosopher who popularized the concept of a 'supreme mother' and her worship in the form of the goddess Kali, said: ' I realized the mother of the universe in

every women's from Ramakrishna renowned disciple Vivekanand, however, a radical on many issue believed that a women should not be educated in the modern sciences but should be trained to achieve fulfillment with in the family.

In the 19<sup>th</sup> century, as in other countries, Indian reformer thought that social evils could best be eliminated through education: however, the concept of education was limited to producing good home-maker and perpetuating orthodox ideology education could not form the women away from their familial roles, but improve their efficiency as wives and mothers and strengthen the held of traditional values on society, Since women are better carriers of these values.

By the 1870s, women had begun not only to write literary works in English, but also to translate works from other European languages, a notable example being Toru Dult, born to a wealthy, literary family of Bengali Christians. In 1870, they went to England, where the poems of the family published that year by Longmans, Green and co, under the title the Dult family Album. In 1871, the Dults went to Cambridge where Toru and her sister sedulously attended the Higher Lectures for women, with great zeal and application and also took French lessons. Returning to Bengal in 1873.

However, education enabled some women to break into avenues of employment that had previously been denied to them. Cornelia Surabjee a Parsee was the first Indian, nurses and midwives Cornelia Surabjee, a Parsee was the first Indian women to graduate in law at oxford in 1882. although it was not until 1923 that women were allowed to practice law. Another category of pincers were the Indian women who challenged convention by shying medicine, either in India or by going abroad to medical colleges in the west. Where women were accepted among the early women doctors were Anandibai Joshi who graduated in 1886 from the women's medical college in Philadelphia and worked as a physician in the women's ward of the Kohlapur hospital:

Kadambini hanquli who had been educated in Britain and was the first women graduate of Calcutta university and Bengal's first women doctor. Annie Jagannadhan who studied in the newly founded Edinburgh school of Medicine for women in 1888 and in 1892 become a house surgeon in a Bombay hospital and Rukmabai who obtained a medical degree from London University in 1895 and later worked in the women's Hospital in Rajkot.

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## 5.7 AGITATION BY WOMEN :

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### **Pandita Ramabai:**

Although the leading social reformers in the 19<sup>th</sup> century were males whose objectives were to cleanse and reinforce family life, the women themselves started to overstep the home and family limits envisaged for them by the reformers.

There were several women activists and pioneers in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, the majority of them linked by birth or marriage to families in which the men had participated in religious or political reform movement. Many example of protest by women have been lost to history however, Omvedt has written: Phule had referred to a Marathi Book written by a non-Brahmin women, Tajabai SHinde, "the comparisons of Men and women" but both this 19<sup>th</sup> century women and her writings have disappeared from available records.

One of the most notable pioneers among the women we do know of was Pandita Ramabai a reputable Sanskrit scholar, whose courageous and independent activities on behalf of women's causes made her the foremost female agitator of her time. Although orthodox on other issues; he took an uncompromising attitude towards the education and the marriageable age of girls. Because of such views, the family was hounded from place to place and lived the life of nomadic scholars, wandering all over India. As a child. Ramabai not only acquired mobility and experience, but learnt Sanskrit and theology from her parents. The family went through many misfortunes and it was said of Ramabai that 'the persistent social persecution that ultimately led to the death of her parents and sister reinforced by the famine of 1874, steeled her heart against the Hindu religion and society, neither of which she could ever forgive.

In 1878, Ramabai went to Calcutta together with her surviving brother, her critique of Hinduism made her known in Bengali reforming circles and because of her knowledge of Sanskrit, she was given the title of Pandita, she also went on a tour of Bengali and Assam, lecturing social injustice for a women to be well-versed in theology, in a society where religion is all-pervasive, has always been an advantage when challenging social evils that are disguised as religious orthodoxy and Ramabai used her knowledge in the cause of women.

Using the argument that women had held high positions in ancient India, Ramabai made an all-out attack against the orthodox priests. Having been widowed with a new born daughter, she had to find for herself and to face criticism for not conforming to the traditional department of a widow. She wrote a book Shri

Dharma Neeti, which advocated women's emancipation and attacked traditional practices harmful to women. By this time she had also learnt English, having come into contact with Christian missionaries in Pune. In 1883, she traveled to Britain, where she met Dorothea Beale a pioneer women educationalist and principal of Cheltenham ladies college, where Ramabai spent some time studying and teaching. She went on the USA and Canada in 1886, where she studied and lectured, returning to India in 1889 via Japan.

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## **5.8 MUSLIM WOMEN AND SOCIAL REFORMER :**

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The most prominent Muslim reformer was syed Ahmed Khan, who pioneered Muslim higher education and in 1875 founded a Muslim University college at Aligarh. Believing that the decline of the Muslim was due to their reluctance to adopt western-style education Khan advocated modern education for both men and women. He also opposed polygamy, taking the view that since a man could not treat all his wives equally polygamy must be absolutely and definitely restricted monogamy should be the rule. He also challenge the orthodox view that Islam advocated purdah for women or that it discouraged women's education. Other Muslim male reformers included Badruddian Tyabji a Bombay businessman who campaigned against the Purdah system; syed Imam who financed a Muslim girl's school in Patna, believing that the country's progress was linked to women's education and Hydari, a well known writer, who expressed the prevailing views on the need for educating girls. While the education of a boy helps him only, the education of a girl lifts the whole family to a higher state of mental and moral life.

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## **5.9 WOMEN AND NATIONALIST AGITATION :**

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It was in the political struggles against imperialism that India women began actively to participate in life outside the home; and in doing so, they had the support of many nationalist political leaders. The expansion of women's educations and their admission to universities had produced a number of English educated, middle class women by the late 19<sup>th</sup> century and they made their presence felt in political activity.

Bengal had been exposed to British influence from the 18<sup>th</sup> century and was in the vanguard of both westernization and political and reform movements linked to national revival and nationalism. The women of the Bengali bourgeoisie were also among the earliest pioneers of reform and political agitation. In 1882, she started the ladies theosophical society for women of all religions during a period when Indian intellectuals had shown some interest in the theosophical movement founded by colonel okcott

and Helena Blavatsky. In 1886, Swarnakuman also began a women's association which was concerned with promoting local handicrafts made by women. In an unfinished song, the heroine is westernized and marries a doctor who has studied in England and is supportive of women's rights, but she adheres to certain orthodox value and to the traditional ideal of female religious devotion.

Women continued to participate in congress politics in the 1890s including activity like Pandita Ramabai and women professionals such as Dr. Kadambini Ganguli, in the early 20<sup>th</sup> century women become more involved in politics with the increase in nationalist activities. Mass struggle of self-rule including the boycott of British goods, took place during this period. These was also increased militancy, bomb throwing and assassinations, especially in Punjab and Bengal violence occured after the participation of Bengal in 1905 and event such as the deportation of the extremist leader B.G. As part of campaign a pamphlet a vow for Bengali women was circulated, ex-planning the Swadeshi movement to village women. Calling upon them to participate in certain rituals which had political significance and to boycott foreign goods. Protest meetings were held throughout Bengal, some of them exclusively for women. The most active women leader of this period was Swarnakumari's daughter Garala Devi, who started physical exercise clubs and a Swadeshi store for products made by women.

Many foreign theosophists also participated in the nationalist and women's movements the foremost being Annie Bezzant (1847-1933), feminist and fusion who, in the 1880s had created a stir in Britain with her campaign for birth control and her leadership of the match girls strike. Other theosophists who were concerned about Indian women's status included Margaret Cousins. An Irish feminist who arrived in India in 1915 and participated in many of the social and political reform movements of the time, being one of the founders of the all India women's conference in 1927, and Dorothy and Jinarajadasa, who together with Bezzant and Cousins formed the women's Indian Association in 1917. Margaret Noble (1867-1911), who arrived in India in 1895, and under the influence of Swami Vivekananda, took on the name of Sister Nivedita and worked in Bengal. She is said to have had links with Irish revolutionaries and her work in education cultural activities and agitation for Swaraj was characterized by revolutionary zeal.

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## **5.10 GANDHI AND WOMEN'S RIGHTS :**

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The congress leaders saw the advantages of mobilizing women and always exhorted them to join the nationalist struggle as equals. We shall examine in some detail the ideas of Mahatma Gandhi and Jawaharlal Nehru as they pertain to the role and status

of women; the similarities and differences of their idea reflect the many currents of thought that were then prevalent on the issue of women's emancipation.

Gandhi basic ideas on women's rights were equality in some spheres and opportunity for self-development and self-realization. He believed that women is the companion of men, gifted with equal mental capacities and realized that her contemporary subordinate position was the result of domination by man.

In this connection, Gandhi said, 'men have not realized this truth in its fullness in their behaviour towards women. They have considering them as their friends and co-workers. Gandhi was equally aware that the position and role of women differed from class to class and that, for example in the village generally they hold their own with their men folk and in some respects even rules them. But he was convinced that the legal and customary status of women is bad enough throughout and demands radical alteration.

However Gandhi is view of women's equality was located within a religious sense of the ward and within the patriarchal system, projecting a concept of women's role as being complementary to that of men and embodying virtues of sacrifice and suffering.

Gandhi believed that every man and women had a duty to perform in the interest of self-realization and social well-being while arguing that she should labour under no legal disability not suffered by men and denouncing the 'sheer force of vicious circumstances' by means of which even the most ignorant and worthless men have been enjoying a superiority over women which they do not deserve and ought not to have, he still thought that there was a particular sphere appropriate for women. This is most clearly illustrated in his ideas on female education. He was all in favour of educating women, but the emphasis must be different for men and for women.

He had similar ideas on female morality and divorce, and in 1926 spoke against double standards for men and women and why is there all this morbid anxiety about female purity? We hear nothing of women's anxiety about men's chastity. Why should men arrogate to themselves the right to regulate female purity? To Gandhi, self-restraint in sexual matters was a great virtue, but it had to come from within the individual. Marriage was a sacrament; the dowry system should be abolished because it debased marriage, reducing it to an arrangement for money. Divorce was preferable to the continuance of a marriage which had ceased to be a vehicle for self-realization.

Gandhi's ideal women was the mythical Sita, the self-sacrificing monogamous wife of the Ramayana, who guarded her

chastity and remained loyal to Rama in spite of many provocations. Sita was 'promoted' as the model for Indian women. Gandhi was perhaps hardly conscious of the fact that his ideal of womanhood, which he considered to be a revival of the Hindu ideal, contained in fact many traits of the puritan. Victorian ideal of women, as it was preached by the English bourgeoisie.

Gandhi, however, was very conscious of the power that women could have in a struggle based on the concept of non-cooperation. He stressed the importance of their participation in political and social matters and exhorted them to join the nationalist struggles. In order to play her full and destined role in world affairs. In the solution of conflict by non-violent means, women must extend their hearts and interests beyond the narrow confines of their homes and family and embrace the whole of humanity.

Gandhi placed particular stress on the issue on the issue of non-violent struggle, claiming that women had great ability to endure suffering and could therefore play a key part in the movement. He claimed that the principle of non-violence and political non-violent resistance was suited to women as they were by nature non-violent. I do believe he wrote in 1938, that women is more fitted than man to make ahimsa. For the courage of self-sacrifice women in any way superior man. It was suggested that being used to forms of passive resistance in their daily lives, they could the more effectively participate in socially organized passive resistance and non cooperation.

Moreover, Indian women themselves were soon to take up the Gandhi an ideology and to advocate Satyagraha as a form of struggle particularly suitable for women. A women's journal. Stri Dharma, started in 1930: 'Because the qualities which this new form of warfare is displaying are feminine rather than masculine, we may look on this life and death, struggle of India to be free as the women's war.

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### **5.11 NEHRU AND WOMEN'S RIGHTS :**

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He particularly emphasized the necessity for women to work outside the home, to be economically independent, and not to regard marriage as a profession. Freedom depends on economic conditions even more than political and if a women is not economically free and self earning. She will have to depend on her husband or someone else and dependants are never free. He realized that this economic bondage was the root cause of the troubles of the Indian women and clearly perceived that superficial reforms would not serve the cause of their emancipation. The joint family system of the Hindus, a relic of a feudal age utterly out of keeping with modern conditions, must go and also many other

customs and traditions. But the ultimate solution lies only in complete refashioning our society.

Nehru's more progressive attitude is also revealed in his about female education. He did not agree that there was a fixed sphose for women and that education for women should therefore have a different emphasis.

He took part in the foundation laying ceremony for a women's college at Allahabad, but discovered that its prospectus laid down that women's place was in the home, that her duty was to be a devoted wife, brining up her children skillfully, and dutifully obedient to her elders. He was quite outspoken in his criticism of these ideals.

Nehru also argued women to participate in the nationalist struggle. In 1931 he stated in a national war, there is no question of either sex of community. Whoever is born in this country ought to be a soldier. Nehru spoke with great enthusiasm about the women who took part in the nationalist movement, of the thousands who braved police charges and prisons. However, he was quite conscious that women had to engage in a double struggle, against imperialism and against oppression by men and that these struggles were intimately linked.

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## **5.12 CHECK YOUR PROGRESS :**

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1) Discuss reform movement?

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2) Highlight the role of Muslim women in reform movement?

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3) Explain role of Gandhiji for struggle of women's rights.

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## HISTORY OF WOMEN'S STRUGGLE - II

### Unit Structure :

- 6.1 Women in political action
- 6.2 Sarojini Naidu and her political campaign
- 6.3 Kamaladevi Chattopadhyay a radical reformer
- 6.4 Women and revolutionary Nationalism
- 6.5 Summary
- 6.6 Check your progress
- 6.7 References
- 6.8 Questions

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### 6.1 WOMEN IN POLITICAL ACTION :

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#### Introduction:

Despite the many pronouncements of good intent by the male leaders, however most of them still saw a women's role basically as that of a housewife within a conservative family structure. Women activists become subsumed in the political struggle, women were landed for being good Satyagraha but the real issues that concerned them as women were regarded by the men as of secondary importance. What is more, the few women's issues that were taken up were those that interested the middle-class women's organization, such as the suffrage questions. In 1917, for example, Sorojini Naidu, Margaret Cousins and a deputation of women met the viceroy and put forward demands for female franchise and in 1919, Sorojini Naidu was part of a deputation of the Home Rule League who went to Britain to lobby for reforms and franchise rights. In 1918, the Indian National Congress supported the granting of the vote to women. In 1921 Madras province, where the anti-Brahmin Justice party had a majority was the first to allow women to vote: other provinces followed and in 1926, women were also given the right to enter the legislature- Dr. S. Nathulakshmi Reddi becoming the first women legislative councilor in Madras that year. Her struggle, however, to introduce social legislation such as the Devdas Bill, banning temple

prostitution of young girls, met with opposition and was unsuccessful.

In the mass movements of the 1920s and 1930s women's participation was much in evidence in certain acts such as the Khadi campaigns, in the pocketing of shops selling foreign goods, and in the salt March of 1930, as well as in the general political demonstrations and mass agitations which resulted in the call by congress for civil disobedience. Kamaladevi Chottopadhyaya, a militant congress activist was among the first to break the salt law.

Women all over India joined the struggle for independence and many thousands were jailed of the 80,000 arrested during the salt Satyagraha, 17,000 were women. In 1931, the congress delegates at the sessions held in Karachi congratulated the women 'who rose in their thousand and assisted the nation in the struggle for freedom' two women associated with this period of struggle were Sarojini Naidu and Kamaladevi Chattopadhyaya.

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## **6.2 SAROJINI NAIDU AND HER POLITICAL CAMPAIGN :**

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Sarojini Naidu was the daughter of Aghorenath Chattopadhyaya, a Bengali, who had studied chemistry at Calcutta university and had obtained a D.Sc. degree from Edinburgh in 1877. He was in the Brahmo Samaj movement for Social reform as well as in congress activities and was the principal of a college in Hyderabad. Sarojini was educated in madras and later studied in Cambridge, returning to India in 1898. She married a south Indian, Dr. G. Naidu, that year, thereby breaking barriers of both province and caste. In 1914, she met Gandhi in England and in subsequent year was his devoted follower, also becoming one of the Chief speakers of the Indian National congress. In 1920, Sarojini joined Gandhi's non-cooperation movement and campaigned all over India on this issue. During the nationalist upsurge of the early 1930s. She worked with Gandhi and was with him on the salt March of 1930 at the Round table conference in London in 1931 and during subsequent congress agitation, being jailed in 1942 during the 'Quit India' movement.

Sarojini Naidu, during these years of political activity also campaigned for women's right. In 1917, she was involved in the campaign for women's right's lecturing on women's emancipation and petitioning the secretary of state on women's franchise rights, but her views were conservative as she had a traditional view of the ideal woman. Moreover, her emphasis was on harmony and comradely cooperation between man and women in the common struggle for freedom and progress, not an confrontation in 1926,

she become the first women president of the congress, an event that received much publicity outside India. In the 1930, she was active in the all India women's conference, and represented the moderate current of reformers who, while campaigning against discrimination against women, were more preoccupied with the nationalist political struggle, by passing the issue of women's subordination within the family.

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### **6.3 KAMALADEVI CHATTOPADHYAYA A RADICAL REFORMER :**

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More radical than Sarojini Naidu was her sister-in-law. Kamaladevi Chattopadhyaya. Whose life reflected the many strands of activity in the women's movement of that time. She was born in South India in 1903, the daughter of a Govt official in a wealthy orthodox family. Her husband died soon after their marriage and Kamaladevi, instead of adopting the secluded life of a Tamil widow, shocked conservative society by going to Maoras to study and by marrying the Bengali playwright, Harindranath Chattopadhyaya. Though her marriage she became linked to a distinguished family. Chattopadhyaya's siste was Sarojini Naidu and his brother Virendranath, who had grouped the communist. Indian political exiles in Berlin, was the common law husband of Agnes Smedley, whom Kamaladevi had met in the 1920s.

In 1926, Kamaladevi was the first women in India to win for the legislative council, but she was defeated by 200 votes. Apart from her activities in the Indian nationalist movement, which resulted in her being jailed for participating in the salt March and Satyagraha. She had been influenced by feminists in Europe in the early 1820s. She joint the congress socialist party in the 1930s and presided at the Meerut sessions of the party; in her presidential address she made the point that rather than running away from the congress, calling it bourgeois.

Divorced in 1933, Kamaladevi traveled widely in Europe. China and Japan to propagate the cause of Indian independence on returning to India in 1942 she was jailed, but used the occasion to write extensively. In 1946-47 she was on Nehru's congress working committee and in subsequent years concentrated her activities on developing a national theatre and reviving the handicraft industry.

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### **6.4 WOMEN AND REVOLUTIONARY NATIONALISM :**

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Although the Indian National congress, which had adopted a policy of non-violence under the leadership of Gandhi, was the dominant nationalist organization, there were some India nationalist

groups which followed a more militant policy of revolutionary and violent action. These groups were active within India as well as abroad, where they were able to canvass and organize support. Several foreign women were linked with these revolutionaries and communist, among them Evelyn Roy (wife of N.V. Roy) and Agnes Smedley, who worked with Indian revolutionaries in exile in New York and Berlin.

### **Bhikaji Cama:**

The best known Indian women in revolutionary circles in Europe was Bhikaji Cama, who came from a wealthy Bombay family of Parsee Social reformers. In 1885, she married Rustomji Cama, a lawyer, who was pre-British. She left her husband at the age of 2% and become active in nationalist politics, attending the congress sessions in Bombay. She went to Britain in 1901 for medical treatment; there she came under the influence of Indian revolutionary Nationalist Krishnavarma.

Her militant speeches attracted attention and she left for Paris to avoid being arrested, remaining there in exile. In 1907, when the Indian nationalist Lala Lajpat Rai was arrested, She spoke at a protest meeting in Paris, and called for a boycott of the British.

In 1907, Cama was part of the British delegation to the international socialist congress at Stuttgart, where she spoke against British imperialism and unfurled the Indian National flag. She made an impassioned speech on this occasion.

In Paris, Cama became the focus of Indian revolutionary activity in Europe. She was also closely associated with the more radical and revolutionary Indians specially Krishnavarma and Vir Savarkar, both of whom the British regarded as anarchists and terrorists when Savarkar swam ashore in Marseilles from the British ship in which he was being deported to India and was returned by the French police to the British authorities, Bhikaji Cama organized the protests in France and mobilized the French left against this breach in international law, Cama was also responsible for two revolutionary papers. Which were published in Geneva and Smuggled in to India? The British intelligence service was alert to Cama's influence, Reporting in 1973 that she was 'one of the recognized leaders of the revolutionary movement in Paris', with contacts with revolutionary groups in exile from other countries.

During these years several young Parsee women who were reported to have been her influence were kept under police Surveillance, one of her associates being Paris Captain, the grand

daughter of the moderate nationalist, Dadabhai Naoroji. She came to Paris in 1905 to study at the Sorbonne and in 1910 along with Cama, attended the first Egyptian National Congress held in Brussels. In later years she was active in the Indian National Congress.

In India, two women were involved in militant and violent activity during the various periods of agitation. For example, Sarladevi Chaudhurani, who worked with the Suhrid Samiti, supported the male revolutionaries and another woman, her Devi, collected funds for the revolutionaries in Lahore. In the late 1920s there was another phase of violent action in India in which women participated in Delhi. Roopati Jain, aged 17 was in charge of a factory which produced chemicals for bombs. The Punjab revolutionary Bhagat Singh had several times, and Durga Devi who had joined the freedom movement at 16 and had shot a policeman in Bombay. In Calcutta in 1928 a group of women students recruited and trained women revolutionaries, organized study circles and gave lessons in cycling, driving and armed fighting. Some of them lived in a hostel where bombs were hidden and delivered to revolutionaries. The members of this group included Kalpana Dutt, who often put on male attire and was arrested and deported for life for her role in the Chittagong Armoury raid of 1930 and Preeti Waddedar for her role in the Chittagong Armoury raid on a railway officer w/b in 1932.

During the late 1930s and world war II communist women were active in the nationalist struggle and in relief work during the Bengal famine, sometime jointly with the All-India women's conference. Particularly active were the women of Bengal, a province that had been in the forefront of the nationalist agitation. In 1938, there was a strong movement in Bengal for the release of political prisoners who had been arrested by the British for 'terrorist' activities and imprisoned in the Andaman Islands. Women of various political groups in Bengal came together in this agitation; the first attempt at building a United Women's Organisation in which political women were at the forefront.

At this time the All-India student federation set up a Girl students committee to mobilize militant young women in all parts of the country in a separate organization, support being the most enthusiastic in Bengal, Bombay and the Punjab. In 1940 the girl students held a conference in Lucknow which was presided over by Renu Chakravarty, an active communist who had recently returned after graduating in Cambridge (where she had been secretary of the Indian students federation).

In 1942, some of the active women of the left, Kamala Chatterjee, Manikuntala Sen, Renu Chakaravarty and Ela Reid,

formed the Mahila Atmaraksha Samiti which grew rapidly throughout Bengal. MARS put forwards slogans for the defense of freedom for the release from Prison of Gandhi and other national leaders and engaged in relief work doing the famine. Humanitarian work and political work become one and indivisible. They fought women that the terrible sufferings of the people in famine or in war could never be solved unless they had a popular government.

The tragic events of the Bengal famine of 1942-44 brought women of all classes into relief work and political agitation. For example in 1943, the Calcutta NARS organized a hunger March of 5,000 Hindu and Muslim women to the Assembly to demand food and to protest about price raise.

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### **6.5 SUMMARY :**

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Nevertheless, the example of women's militant participation in political struggles as well as their movement in strikes and working class protests and peasant rebellion all show that Indian women have played a prominent part in anti-imperialist, anti-capitalist and democratic movements of protest over a long period. In contrast to the traditional ideal of women have another traditional of militancy and courageous activity in movements for social and political charge.

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### **6.6 CHECK YOUR PROGRESS :**

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1) What do you mean by women in politics?

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2) Discuss the role of Sarojini Naidu in reform movement.

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- 3) Highlight role of Kamaladevi Chattopadhyay for struggle of women's rights.

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- 4) State the role of revolutionary women in India.

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### **6.7 QUESTIONS :**

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- 1) Elaborate the role of reformers and nationalist movement in bringing change in the status of women in India.
- 2) Discuss the role of social reformers for empowerment of women in Indian Society.

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### **6.8 REFERENCES:**

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## **CAMPAIGNS WITHIN THE CONTEMPORARY WOMEN'S MOVEMENTS**

### **Unit Structure:**

- 7.0 Objectives
- 7.1 Introduction
- 7.2 The roots of the contemporary women's movements
- 7.3 Feminist consciousness since the 1970s
- 7.4 The challenges of the 1980s
- 7.5 The challenges of the 1990s
- 7.6 Strategies and programmes of autonomous Women's groups
- 7.7 Summary
- 7.8 Check your progress
- 7.9 Questions
- 7.10 References

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### **7.0 OBJECTIVES :**

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- To bring awareness among students about the welfare programmes and women's rights for development of women.
- To acquaint students with women struggles and concern for themselves.

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### **7.1 INTRODUCTION :**

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Feminist is essential because of the current challenges of a globalized economy and paradoxically of fragmented ethnic and religious identities. Consequently feminist politics has no longer confined itself to gender politics. It has critiqued community, national and global concerns from the standpoint of women. This brings us to the critical question of how do we define a women's movement? Is it one in which only women participate? Or is it one, which includes men and women, but focuses on gender issues? And how do we view women's participation in people's

movements? Is there a possibility of forging links with other people's movements?

The answers to these questions are not easy; and may fundamentally alter our conception of movements. It would require feminist politics to address the socio-economic and political concerns of women from grassroots. An understanding of the nature of these women's struggles is important if we are to gain a perspective on the women's movement that represents of the aspirations of the majority of women. Moreover, are there ways in which the various people's movements are insidiously transformed by the large-scale participation of women? Have their participation made it necessary for the male leadership to recognize and accommodate (albeit informally and not necessarily through changes in the party manifesto) the gender dimensions of rights / entitlements to family / community resources?

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## **7.2 THE ROOTS OF THE CONTEMPORARY WOMEN'S MOVEMENTS :**

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As in the west, the decade of the 1950s was a period of tremendous optimism; the assumption was that the Constitutional guarantee of equality would in some way improve the lot of women. The All India Women's Conference, formed in 1927 through an amalgamation of various regional parties to campaign for women's rights, became less radical. Many of its members were integrated into the government's social welfare programmes. They assumed that, through the government initiated social welfare and development programmes for the restructuring of the nation, the issue of gender equality would be realized. This did not mean that there was no simmering discontent among women or that women did not feel the need for more drastic measures to change the status quo. They were in particular disillusioned by the ways in which women's voices were silenced and the ways in which legislative measures tended to get diluted when perceived to be against male self-interest. The Hindu Code Bill (1955), for instance, was passed only after the proposal to ensure equal coparcenary rights (i.e., inheritance rights in ancestral / parental property acquired by birth) for women was deleted; while the proposal for a uniform civil code was shelved to an indetermined future. They realized that so long as the issue of equality between the sexes remained an abstract principle, it was rarely contested. But when concrete measures were suggested to make that principle a reality, there was opposition from men as it meant curtailing male privileges (GOI 1974:8). This dissatisfaction led to the setting up of other women's organisations such as the National Federation of Indian Women (NFIW) 1954 and the Samajwadi Mahila Sabha (1959). These organisations were mass – based

and closely involved in trade union activities. Among their demands included the reservation of jobs for women in government and quasi – government organisations (Gandhi 1988 : 35 – 42).

The mid – 1960s was a period of overwhelming social upheaval followed by State repression. Impatient with the slow pace of social transformation, mass movements emerged on the political landscape; peasants, industrial workers, and tribals began to organize and protest against the prevailing development models sponsored by the State and other welfare oriented bodies. The movements grew out of the growing disenchantment with the development policies that were impoverishing tribal / peasant communities and industrial workers. As the opposition to these development trends (that emphasized heavy industrialization and agricultural capitalism) within the framework of electoral politics was lukewarm, many people's movements emerged. Spearheaded by both the radical Left and Gandhian / Sarvodaya groups, these political struggles were brutally repressed by the state. Meanwhile, inspired by the successes of the Sarvodaya leader Jayaprakash Narayan, seemingly apolitical groups such as the students and even housewives in Western India organized themselves to protest against the escalating prices in 1974 (Gandhi & Shah 1992 : 18-20,22). Nevertheless, it was in these alternative political forums that the marginalized groups (including women) found a forum to express their political aspirations.

For one of the fall-outs of this mobilization of women through various tribal / peasant movements in different parts of the country was that it also brought into the open the prevailing systems of sexual exploitation of lower-class / caste women by the landlords. As rape was used as a method of political intimidation, it came to be defined in the context of class struggles. In the course of time, the focus of discussion, however, broadened to include women's sexual exploitation in their intimate relationships. The militancy of some of their attempts to counter male sexual aggression was perhaps fuelled by the overriding apathy of the community and the state. Indubitably, male leadership determined the nature of women's political participation. Nonetheless, the participation enabled women to become aware of their struggles and organizational potential. It contributed significantly to the development of the autonomous women's movements in the 1970s (Sen 1990 : 1-18).

It was in these alternative development struggles and agitation that the middle class and working class women found space to express their political leanings. Indubitably, the leadership, circumstance and the manner of their involvement was still dictated by male leadership; nonetheless, it helped women to become aware of their strengths and organizational potential. The mobilization of women through the tribal and peasant movements in

Dhulia, Naxalbari and Srikakulam brought into the open the prevailing systems of sexual exploitation of lower class / caste women by the landlords. As rape was used as a method of political intimidation, it came to be defined in the context of class struggles. In course of time, the focus of the discussion broadened to include women's sexual exploitation in their intimate relationships. The militancy of some of their attempts to counter male sexual aggression was perhaps fueled by the overriding apathy of the community and the State. The tribal women, who were part of the Shramik Sanghatana in Dhulia, an organisation set up by Magova (a radical group based in Pune and Mumbai), garlanded sexual offenders with slippers and paraded them on donkeys. Wife beaters were thrashed with brooms and forced to take a pledge that they would not beat their wives (Patel 1988 : 120-121, 24).

At the outset, the left political parties supported the empowerment of women. In 1975, the Lal Nishan Party, a splinter group of the Communist Party of India (CPI) mooted the idea of holding a women's conference which was organized by the Joint Women's Committee. The Communist Party of India (Marxist) also organized a national seminar on women in Thiruvananthapuram, Kerala. At about the same time, several other shibirs or camps for women were organized in various parts of the country on a such smaller scale. In these shibirs (as was the case in Shahada, Maharashtra) issues of domestic violence and alcoholism came to the forefront. With the exception of women representatives of left political parties such as the Communist Party of India and the Communist Party of India (M), the overwhelming opinion was that women needed separate organisations to take up their issues and concerns (Gandhi & Shah 1992 : 18-20).

Along with the mobilization of women through mass-based political organisations, there were several parallel currents flowing, which finally coalesced into what is today described as the new women's movement. Among these are included : The Chipko movement (to save the sub-Himalayan region from deforestation); the protest politics in university campuses (against the growing corruption, unemployment and educational mismanagement) and the critical questions raised by academic women about the lack of information on women. The existing data on economics for instance, did not reflect the condition of women in the unorganized sector who constituted 94 per cent of the working women in the country. It was from one such concern that the Research Centre for Women's Studies, SNDT Women's University was established in 1974 (SNDT 1990 : 1-5).

In response to this growing concern for women, the Government of India set up the Committee on the status of Women through a resolution adapted to the Ministry of Education and

Social Welfare in 1971. Adopting the Constitution as its frames of reference, the Committee indicated beyond the most pessimistic predictions that the ongoing process of development since independence, had exacerbated the existing gender inequity. The transformation of the economy from an agrarian, community – based system of production to industrialization – hastily introduced through centralized planning – adversely affected women who were unable to enter the new labour market. Similarly, educational policies and programmes had failed to check the growing gap between the male and female literacy rates. Apart from presenting irrefutable statistical and qualitative data on women’s low status (as seen from their mortality and morbidity; economic and political participation as well as their access to the resources of the community etc.) the Towards Equality report identified the erroneous assumptions about women’s lives which informed development policies and programmes. Instruments of change designed through legislation, executive action and communication, tended to ignore the differential and often contradictory impact of development on women’s lives (GOI 1974 : 8).

Meanwhile, following the Allahabad High Court Judgement in 1975, indicting Mrs. Gandhi or electoral malpractice, she declared the country to be in a state of emergency : civil rights were suspended and draconian laws imposed. Underlying the decree was an attempt to contain this upsurge of socio-political unrest caused by drought, migration and the political activities of parents, workers and various other groups organized on regional and cultural identities (Gandhi & Shah 1992 : 18-20). The declaration of emergency kept political activities at bay : Progressive groups (including women’s groups in Mumbai, Vadodara, Hyderabad and Bihar) were under surveillance and their leaders clamped into jail.

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### **7.3 FEMINIST CONSCIOUSNESS SINCE THE 1970s :**

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In the post-Emergency period (1977) civil liberties groups, progressive organizations and political parties brought to light numerous instances of police atrocities, torture and lawlessness. Around the time, an open letter written by four lawyers questioned the Supreme Court verdict in the rape of a 14 – year old tribal girl called Mathura by two policemen while in custody (Baxi et al. 1979, cited in Gandhi & Shah 1992 : 38). The judgement had set aside the conviction of the policemen by the Bombay High Court on the rather ambiguous notion of consent, based on the past sexual history of the victim. The letter triggered a nation-wide protest, initiated by a group of women, from different organisations. Their effort culminated in a national conference in December 1980 and the establishment of the Forum Against Rape. This coming together of 32 women’s groups from across the country for the first

time, revealed other similar cases such as Rameezabee in Hyderabad, Andhra Pradesh (A.P.) and Maya Tyagi in Bagapat, Uttar Pradesh (U.P.) as well as the escalation of dowry deaths. Since then, organisations such as the Forum Against Rape (now Forum Against Oppression of Women), Mumbai and Forum Against Rape, Nagpur as well as organizations in Kanpur, Patna, Ahmedabad, Vadodara, Raipur, Pune, Calcutta, Madurai, Arkonam, Delhi, Hyderabad, Chennai, and Bangalore began taking up issues of violence against women. Among them were included : the Mahila Dakshata Samiti, Samtha Manch, Stree Sangharsh Samiti (Delhi); Stree Mukti Sangathana, Socialist Women's Groups, Feminist Network Collective (Mumbai); Purgami Sangathana (Pune); Stress Shakti Sangathana (Hyderabad) and Pennurimai Lyyatana (Chennai). These organizations attracted a host of professional women such as lawyers, doctors, professors, as well as students and working women. With the growing strength and visibility of women, political parties hastened to strengthen their women's wings. Various feminist journals and newsletters in Hindi, English and regional journals such as : Stree Sangharsh, (Hindi) Manushi (Hindi and English) Sachetana, Sabala and Mitreyi (Bengali) and Apni Azadi ke Liye (Hindi) were published. The idea was to make feminism acceptable to the masses (Patel 1988:124). Rallying around specific instances of violence against women, the feminists sought to create public awareness through protest marches, sit-in strikes and media publicity.

The women's movement since the 1970s comprised a loose-knit conglomeration of autonomous groups, which specifically addressed the issue of women's subordination under patriarchal systems across national, geopolitical and historical boundaries. The emerging feminist voices, because of their different ideological and theoretical underpinnings, developed in multiple and different directions. Despite differences, these voices have broadly located women's subordination in the prevailing production, reproduction and sexual relationships. From the very beginning there was resistance to any attempt to bring the movement under one umbrella organisation. Despite differences, these groups continued to remain united through an underlying commitment to women's empowerment and supportive actions on specific issues. This was a carefully deliberated decision to avoid any kind of hierarchies, power struggles or rigid structures which could affect the essentially democratic spirit of the movement.

Over the years, feminist discourses have become increasingly complex : this is partly because of the theoretical locations of these discourses and partly because of rapidly changing socio-political and economic milieu confronting feminist politics. Some of the critical feminist debates in the 1970s centred on the roots of women's subordination. Was it biologically ordained

or rooted in the process of gender socialization? Also, what was the economic basis of women's subordination and sexual division of work? These ideas arising out of western feminisms infused the women's movements across the world. Feminist political action internationally sought to ensure better legal protections for women and stringent implementation of law while dealing with gender specific crimes of rape, domestic violence and dowry deaths; it also aimed at enabling women to access the existing goods and services in society. The political confrontations of the women's movement aimed at making the state more accountable for the welfare of women. As evident in the landmark towards Equality (1974) report from India, it also articulated a critique of the ongoing development process, which marginalized women.

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#### **7.4 THE CHALLENGES OF THE 1980s :**

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In the 1980s, these battles became more complex because of the prevailing socio-political and economic upheavals. Feminist theorizing increasingly critiqued the prevailing masculine ideology; it pointed to the interconnections between women's subordination and the destruction of the environment. These ideas infused the various environmental, peace and anti-nuke movements across the world. The rich variety of feminist thought during this period percolated into art, culture, religion and literature. Feminism was increasingly resonating through multiple voices. Women of colour and from developing countries were pointing to the ways in which race, class and gender were intersecting in complex ways to modify their lives. These ideas breached the private / public, mind / body, nature / culture divide in western theorizing. It indicated that the habit of thinking in binary opposites was in many ways responsible for the "othering" of women, races and ethnic minorities.

The politics of the women's movement during this decade aimed at dismantling state patriarchy by addressing poverty and development issues from the standpoint of women. Based on a conscious attempt to articulate the multiple voices of women, feminist politics critiqued the notions of dominance encoded in the construction of masculinities, which was responsible for the destruction of the environment, and armed conflicts across the world. In its confrontations in India, feminists noticed the inconsistencies in the responses of the state to the issues raised. They found that the state was quick to enact stringent amendments to the existing laws against rape and dowry deaths and legislate against amniocentesis; yet it also succumbed to political expediency and vacillated about justice for women in the Shah Bano (1985) and the Roop Kanwar Sati (1987) incidents. Contrasting with these inconsistencies were some conscious

measures by the state to address gender issues in its development policies.

This tilt is evident in its development policy statements (such as the Shramshakti Report of the National Commission on Self Employed Women (1987), and Challenge of Education (1985) revised and updated as a National Policy on Education (1991) and The National Policy on Health (1983); it is also evident in the attempts made to address women's grievances by setting up the National / State Commissions for Women, the All Women Police Stations and Family Counselling Cells. These developments signaled to the women's movement the importance of participation in electoral politics and in the ongoing development processes.

At the same time, it found that contrary to the demands by women's groups, the Criminal Law (Amendment) Act (1983) retained the patriarchal definition of rape; it did not recognize marital rape. Further, it introduced a clause, which made the revealing of a victim's name a criminal offence. The only plus point was that the law instituted more stringent punishment in cases of custodial rape. Similarly, the Criminal Law (Second Amendment) Act (1983), intended as a deterrent against domestic violence, was narrow in its scope and referred mainly to dowry harassment. Under the Act, the husband and his family were liable to prosecution in case of suicide by a woman within the first seven years of marriage; it empowered a police inspector to make a thorough inquiry into such cases (Agnes 1995 : 51,121).

These factors led to a growing realization within the women's movement that the State is usually eager to pass ostensibly pro-women laws which increase its punitive powers; but it does not have the same commitment to implement social legislations that would help to change gender relations. The Dowry Prohibition (Amendment) Act (1986) did not ban dowry per se, but merely made provisions for the aggrieved person or a recognized welfare organization to file a case under the Act (Agnes 1995 : 102).

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## **7.5 THE CHALLENGES OF THE 1990s :**

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The 1990s have brought radical challenges : Women's issues were increasingly articulated in international fora, such as the Vienna Congress on Human Rights (1994) and the Fourth World Conference for Women at Beijing (1995) and feminist theorizing acquired a degree of acceptance in the academia. Influenced by post-modern discourses, feminist theories began to dismantle notions of power / powerless, sexuality and the notions of fixed gender identities. It was also a period, when free market economies were deified and the political basis for a welfare state

undermined. The decade witnessed the increased importance of IMF (International Monetary Fund) and the World Bank in determining national policies. At the outset, the various Structural Adjustment Programmes and the new trade regimes of GATT (General Agreement on Tariffs and Trade) weakened state authority and regulatory powers in the name of free trade. The subsequent founding of the World Trade Organization (WTO) in January 1995 to replace the GATT dismantles state monopolies in key sectors such as telecommunication, railways, natural resources, investments in all direct industries and services. The instrument to achieve this is the Multilateral Agreement on Investment (MAI). As a result, nation states are becoming answerable to multinational corporate interest rather than to their citizens.

Along with other progressive groups, feminists are drawn to protests against these trends, which erode wages for the majority of workers, expand temporary / piece work, displace farmers / tribals by agribusiness, timber and power sectors, undermine existing labour laws and environmental regulations. For apart from the economic costs of development borne by poor women, these trends are lending credence to religious, racial and ethnic fundamentalist movements round the world. The rise of global conservatism is because of the economic and cultural insecurities of the people. Fundamentalist movements are identifying the decline in traditional values as at the heart of the problem. Drawing on these traditional values (Which clearly relegate women to the home), these movements detract attentions from the failures of the present economic processes. Additionally, the state / international policies are also explaining their failures by resurrecting the bogie of the "population bomb" which targets women from poor developing countries in the various population control programmes.

Paradoxically, the 1990s also saw the enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments aimed at the progressive devolution of political powers to local communities. Through these enactments, more than one million women for the first time in history enjoyed political power within local communities. And yet, despite the success of these experiments, the women's movement has not been able to muster enough support to ensure that passage of the 81<sup>st</sup> or the 84<sup>th</sup> Amendments through which women could represent their interests as a "critical mass" in the Parliament and state legislatures. Nonetheless, even if women were to get sufficient representation in electoral politics, the situation would not be easy. Given the ways in which caste, class and gender identities intersects, the question would remain as to how to make women elected representatives accountable to the women's movement. In other words, who should speak for whom? This situation is made more complex with the political reality of fragile

coalitions, the rise of regional and OBC / Dalit assertiveness in party politics.

Grappling with these diverse factors, feminist politics is in a state of flux; past strategies aimed at the state have proved less effective. Confronted with an increasingly unresponsive state, which no longer maintains the fiction of social commitment, it needs to develop new political strategies and theories. We need to understand how the system works – not just the impact of liberalization, privatization and globalization policies – but also rather the processes of decision making which results in the sudden privatization of certain key sectors. This understanding of policy – making processes and implementation will enable us to intervene / mitigate and if necessary alter the negative trends in development. It is not enough to theorize on alternative people – centered development paradigms, but rather to pragmatically examine the current processes to devise workable strategies. This would require that instead of merely looking at the impact of economic reforms on women and documenting reduction in social sector, expenditure or employment, feminist politics must grapple with institutional changes that have occurred and the new reformulations within them. This would require that we re-examine our beliefs, our theories and to develop conceptual clarity on strategies what will energize people’s collective power. A moot question would be whether the feminist agenda of gender justice would be best achieved by aligning with other oppressed groups, or by maintaining a distinct identity?

This would also mean a critical assessment of feminist politics and theory in the past three decades, to understand the gains and shortfalls. This introspection would also require a fresh assessment of the state policies that have had negative implications for women. So far documentation on the feminist movement has revolved around its history and the key issues it took up. In this symposium, we propose to chart the underlying premises of feminist action to assess their implications in the light of the present political reality.

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## **7.6 STRATEGIES AND PROGRAMMES OF AUTONOMOUS WOMEN’S GROUPS:**

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Consciously different in strategies and programmes from women’s organizations established in the pre-independence days, the autonomous groups have consistently attacked the anti-women bias in society. They have undertaken gender sensitization programmes, provided support to women in distress and remained vigilant against sexist bias in national policies and implementations. These include : invasive reproductive and family planning

technologies; discriminatory practices in education and employment; laws that countervail gender equality. Through their activism, research, documentation and writing, these groups have been able to place issues of gender justice firmly on the public consciousness. In their organizations they have preferred the flexibility and creativity of non-hierarchical organizations to formal structures. However, because of the extent and diversity of women's issues, sub-committees are formed to grapple with different interest areas. By and large, the members are educated and professional women, subscribing to different political ideologies. Since these groups are structurally similar to the feminist organizations in the west, they have been able to network with international feminist groups (Desai & Patel 1985 : 62 – 72; Gandhi 1988 : 168 – 172).

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## **7.7 SUMMARY :**

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Women's organizations have existed since pre-independence times. But the issues which were involved then and now are different. Today women's organizations are involved in agitations, propaganda since oriented work and research on women's issues. They adopt direct and indirect method of bringing awareness. They are active in launching struggles, against price – rice, unemployment, low – wages, dowry, violence in the family, alcoholism, sexual discrimination at work place etc. several independent organisations have come up all over the country tackling issues regarding women. They have even succeeded in bringing about amendments in laws.

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## **7.8 CHECK YOUR PROGRESS :**

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- 1) How gender inequality and gender oppression has given birth to women's movement.

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- 2) Describe contemporary movements of 1990s.

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3) State the meaning of autonomous women's group.

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### **7.9 QUESTIONS :**

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- 1) Discuss in detail various women's movement in India.
- 2) Analyse Women's movement in independent India.

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### **7.10 REFERENCES :**

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2. Desai N. and Krishnaraj M., Women and Society in India (2<sup>nd</sup> revised edition), Ajanta Publication, Delhi 1980.
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## **VIOLENCE AGAINST WOMEN - I**

### **Unit Structure :**

- 8.0 Objectives
- 8.1 Introduction
- 8.2 Concept of Violence
- 8.3 Violence within Home
  - 8.3.1 Girl Child Abuse
  - 8.3.2 Wife Beating & Wife Battering
  - 8.3.3 Mental Abuse
  - 8.3.4 Female Foeticide & Infanticide
- 8.4 Summary
- 8.5 Check your progress

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### **8.0 OBJECTIVES :**

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1. To introduce to the students the nature of violence faced by women.
2. To discuss the various types of violence inflicted on women, within & outside home.
3. To understand the consequences of these crimes on the status of women.

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### **8.1 INTRODUCTION :**

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Women constitute half of our population and play specific and crucial role either visible or invisible, in society and history. A woman creates life, nurtures it, guards & strengthens it. In this tasks as a role player they have a vital role in the development of the nation.

It is a matter of great pride for all of us to live in a country which is the world's largest democracy, a sovereign socialist republic with a comprehensive charter of rights written into its constitution, a signatory to most treaties for struggle against colonialism, imperialism and racism.

It is ironical that in a country where womanhood has been put on pedestal for worship, incidence of wife battering, molestation of women in various forms like rape, eve-teasing, abduction and bride burning among women keep as increasing year to year. Women find no security in home, where they are ill-treated by husbands and in-laws, they have no security in streets & work place where they are vulnerable & fall prey to police, antisocial, moneylenders & men colleagues, bosses & are subjected to innumerable indignities perhaps in higher frequency than is most civilized society. Today the general perception among the people is that the crime against women has increased to such an extent that women are not able to move freely & participate in the community.

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## **8.2 CONCEPT OF VIOLENCE :**

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According to United Nations Declaration of Elimination of Violence against Women in the book "Women in the Third World" (1998); Violence is defined as any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty whether occurring in public or private life. It shall be understood to encompass but not be limited to physical, sexual & psychological violence occurring in the family & in the community including battering, sexual abuse of female children, dowry violence, marital rape & other traditional practices harmful to woman.

Violence can be further classified in two categories :

### **VIOLENCE**

- | <b>Within home</b>         | <b>Outside home</b> |
|----------------------------|---------------------|
| • Girl child abuse         | • Witch Hunting     |
| • Wife Beating / Battering | • Rape              |
| • Mental Abuse             | • Molestation       |
| • Female Foeticide         | • Eve-teasing       |

We will discuss them in detail as follows.

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## **8.3 VIOLENCE WITHIN HOME :**

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### **8.3.1 Girl child abuse :**

**Introduction :**

- 1) It is one area in which very little amount of evidence is available. Girl child abuse within the home takes place in various forms.
- 2) The various forms are sexual aggression, beatings and child labour.
- 3) All available studies on girl child abuse have shown that the abuse is of physical and emotional nature.
- 4) The causes of the girl child abuse are the environment at home, social environment as well as life situations. All these three factors are significant in nature.
- 5) One of the most common forms of girl child abuse at home is sexual molestation and rape.
- 6) Families rarely talk about issues such as rape very openly. If a daughter has been raped, there is a tendency to suppress the matter. If the rapist is a family member such as father, brother or an uncle, the chances of reporting the rape case is almost nil.
- 7) In this situation, the child does not get the necessary support even from her mother. The mother may try to suppress the event in order to protect her own family members.
- 8) However a few cases of molestation and rape of their girl child were reported by mothers to the Crime against women cell in Delhi. This was a significant step taken by the mothers. However, the mothers expected the police to merely give a warning to the offending family member and not file any case against him.
- 9) Young girls became easy targets or victims of sexual violence. Out of the 10,000 reported cases in 1990, 2.5% of the victims were girls below the age of 16 and about 1/5<sup>th</sup> of the victims were below the age of 10 years. This clearly indicates the seriousness of the problem of sexual violence against girl child.
- 10) One important aspect related to sexual violence of very young girls is that since the victims are very young, they are not able to understand the meaning of this sexual violence. It means they are not able to differentiate between beatings and sexual violence. As a result, the girl child rape has to be understood from a different point of view as compared to the rape of a girl of a higher age.
- 11) Girl child abuse is also common. It can include sexual violence by a relative and more often by immediate neighbor.
- 12) It has been noted that girls of a very young age like 4 – 5 years are more often raped by their neighbors and such incidents are on a rise.

- 13) One of the main reasons of increasing sexual violence is the social environment. It means sexual relations are characterized by secrecy and suppression. Hence sexual crimes committed against girl child also get characterized by secrecy and suppression. This attitude of the society increases the problem of sexual violence.
- 14) Life situations also play an important role in girl child abuse. Example can be given of child labour. Child labour may be a forced event due to poverty. It has been noted that there has been an increase in the incidence of child labour. Moreover, child labour within girls has increased more, both in rural areas and in urban areas.
- 15) Sociologists have pointed out the fact that there is a vast difference between the abuse experienced by the boys and that by the girls. According to them, when a young boy experiences abuse like child beating, he may become violent as an adult and inflict violence on others. However, when a girl child experiences abuse like child beating, she may react differently. As an adult, she may become a victim of violence in her marital life. This shows that the effects of child abuse are different on boys and on girls.

It is one of the most heinous & inhuman crimes against the humanity. It means to maltreat a child physically, psychologically or emotionally. Thus, any commission or omission of an act by any individual which leads to a harm or possibility of harm to the girl child can be categorized as girl child abuse. Here not only the parents but also those who happen to be in the next circle of a child can be a cause of this ill treatment. Ironically a majority of girl child abuse cases occur in the home, school or the neighborhood next door.

Girl child abuse can be differentiated into four major categories :

- Physical abuse
- Emotional abuse
- Neglect
- Sexual abuse

These above types of abuses traumatize a child in various ways. From not providing required environment for a healthy growth, inflicting physical torture, mental trauma to sexually maltreating a child in any possible way, girl child abuse has many dirty unveiled facets. It may also include not providing required food, shelter, clothing, education & an environment that is necessary for an overall development of a child's personality.

Physical abuse may include hitting, choking, burning & striking and above having any type of sexual relation.

Causes are ample & also are very important to help fight against girl child abuse in any form. Cultural norms, unsuccessful marriage, drug addiction comprise as the main cause of abuse. It can be both intentional or unintentional. The offense of child abuse is highly grave in nature & since the present law & order has many loopholes in it, the situation of girl child abuse has got a long way to improve.

### **8.3.2 Wife Beating and Battering :**

#### **Introduction :**

Wife beating and battering is one of the most common forms of violence within home. Indian women are socialized to be submissive and inferior. Hence a significant number of them accept wife beating and battering as a normal process. This form of violence does not take place only in the case of poor and illiterate women but also in the case of educated, middle and upper class women. Feelings of guilt and shame prevent women from sharing their problem. This is more commonly observed in the case of educated, middle and upper class women. Hence they silently bear the trauma.

#### **The causes of wife beating and battering**

- a) When a woman is incapable of adjusting to the emotional, intellectual and most importantly the physical needs of her husband, it can result in violence.
- b) Bad habits in a husband such as alcoholism, drug addiction are the common cases.
- c) Certain personality types in husbands may also result in violence. For e.g. if a husband is extremely jealous, this may create insecurity in marriage and can result in violent behaviour.
- d) If a husband has excessive ego and if the wife happens to be more successful than him, the husband can develop inferiority complex. He may want to show his power and superiority over his wife through wife beating and battering.
- e) When the wife is extremely submissive, under confident and totally dependent on her husband, she may become a victim of violent behaviour.
- f) If a husband has been a victim of child abuse, this can cause emotional disturbance. He may become violent towards his wife.

- g) Wife beating and battering can have serious consequences for the victims. It indicates aggressive behavior not only to the physical body but also towards her self-respect and her self confidence.
- h) If a woman is financially independent, wife beating and battering can lead to separation and divorce. However if she is totally dependent on her husband, the situation can be very problematic.
- i) Wife beating and battering is a criminal offence and the husband can be punished to 3 years of imprisonment and a fine.
- j) It has been observed that the attitude of the Indian women is to accept male domination and hence cases of wife beating and battering are not always reported.
- k) This type of violence within home is considered as minor by the women themselves as well as by the society. Hence not much seriousness is attached to it.
- l) In a study conducted on wife beating and battering, it was noted that women rarely reported this form of violence. It was also found out that only when the beatings became very severe that the women considered themselves as abused. It means a single slap or a single blow once in a while were regarded as routine husband – like behavior.
- m) It has been observed that the social atmosphere and socialization of women give a kind of justification to the problem of wife beating and battering. The general attitude is that men have absolute control over their wives and can treat them in any way that they think is the most suitable.
- n) To conclude, it can be said that wife beating and battering is common among all classes. This is because it shows the power relationship between husbands and wives. However the pattern of violence is different from one class to another. When a slum-dweller beats his wife, the whole neighboring area becomes a witness. However, wife beating and battering in a middle class or upper class takes place in the most private manner. Similarly the women of the lower class may feel less traumatic about this violence as compared to the women belonging to the higher classes.

### **Wife Beating :**

There have been very few attempts to deal with and understand the problem of violence against women in the family. In order to understand the nature and extent of wife beating in Indian society, it would naturally imply that marital violence is mostly

directed by the husband against the wife causes of wife beating may be stated as under:

- i) Arguments over money
- ii) Jealousy and suspicion regarding wife's character.
- iii) Instigation by in-laws
- iv) House work
- v) Alcohol
- vi) Wife's desire to work outside the home or wife's high self-esteem
- vii) Dispute over children
- viii) Extra marital affairs on the part of the husband.

The form of violence may include :

- Beating with hand and fist.
- Beating with articles like iron-rod
- Kicking the abdomen while the women is pregnant.
- Using knives or blades to cause cuts and bruises.
- Causing burns with any hot objects or cigarette buds.
- Throwing women against objects and banging her head against the wall.
- Excessive sexual demands or sexual perversions.

The injuries caused would range from deep cuts requiring stitching, broken bones, miscarriages, nervous breakdown and above all a feeling of helplessness.

### **Wife Battering :**

A common name given to wife battering is silent crime. It is the most under-reported crime in India. No woman wants to relate the agony of her personal life to court room and throw herself open to having her bonafides questioned & her character maligned. She would rather prefer to cling on to a broken marriage. Here, two points emerge at once: that the violence is located at home and the attacker is the husband. The fact that the violence is located at home & the attacker being the husband has distorted, confused & is responsible for the gross trivialization of the crime. Violence by man against their partners is not a new problem, it is assumed by some to have begun with the first monogamous pairing. What is new, is that the fact that the public admission of violence against women occurs in a civilized society & the insistence by the government &

responsible citizens that such violence is no longer acceptable; therefore we are compelled to discuss such a problem & search for solution to alleviate it.

The following may be attributed as the causing of wife battering :

- a) The unquestioned authority of man in his home / marriage.
- b) The consequent subservient role of the wife.
- c) The wife's total dependency on her husband because of which she is neither able to rebel or escape the situation.
- d) The social sanctions which the husband provides to his wife.
- e) Male arrogance – a man's sheer confidence that he can make a woman forget and forgive the worst with a show of love & gifts.
- f) Of all adults, a wife is least likely to show resistance to her husband's batterings.
- g) If a man has witnessed wife battering in his childhood or has been physically abused as a child, he is likely to assume that physical violence is the acceptable way of resolving marital problems. Child abuse also leads to the belief that one who loves also has the right to be offensive.

Man, on the other hand does not need to fear that if he batters his wife, she will leave him with the responsibility of looking after the children. So he can continue to abuse his wife with relative impunity. He can be relatively confident that she will not leave him because :

- She is not economically independent.
- She has no place to go.
- She has the burden of bringing up the children because society feels that child care is exclusively a mother's job & women who leave children behind because social outcasts.

#### **Consequences of wife Battering :**

- a) Emasculation
- b) Permanent deprivation of sight or hearing of either eye or ear.
- c) Deprivation of any organ or joint.
- d) Destruction or permanent impairing of the power of any organ or any joint.
- e) Permanent disfiguration of the head or face.
- f) Fracture or dislocation of a bone or both.

- g) Any hurt which endangers life or which causes the sufferer to remain for twenty days in severe bodily pain or unable to follow the ordinary pursuits.

### **Myth And Reality About Wife Beating / Battering :**

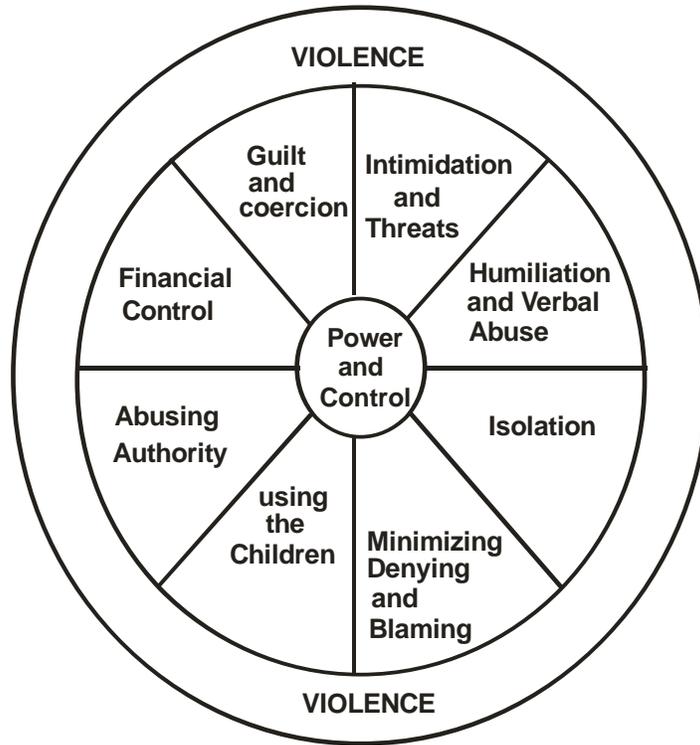
- 1) The first myth is that middle class women do not get beaten. The women come from all sections of the society, belonging to different religions, educational levels & from all socio – economic classes. If we hear more about wife battering in slums or in chaw's, it is because these women have less privacy. The middle & upper class women are battered behind closed doors. They live in total isolation & are oppressed further because they have to keep up the pretence of a successful marriage.
- 2) Another myth is that the victim of violence is a small fragile, helpless woman belonging to the working class. But in fact, women holding responsible jobs as doctors, lecturers, journalists & models get beaten by their husband. So there is no stereotype of a battered woman.
- 3) Another myth is that of provocation. This myth victimizes the women further. The burden of guilt falls on women & increases her shame & degradation. This myth also conveys the message that women who get beaten are masochistic & they want to get beaten.
- 4) Another after exploited myth is that, long standing battering relationship can change for better. In a survey it was found that at best, with marriage of time the violent assaults are reduced in severity & frequency but the women continue to live in a state of fear and uncertainty because they can never predict when, where & under what circumstance the violence may suddenly erupt.
- 5) The myth that the loving husband does not indulge in wife beating is also false. In the survey it was found that the husband can be extremely kind & loving especially after a violent assault.
- 6) Another myth there is that since women do not leave their husbands, they do not mind the beatings or they actually like it.

### **8.3.3 Mental Abuse :**

Mental or emotional abuse is as damaging as physical abuse, though it is often harder to recognize and therefore even to recover from. Mental abuse causes long term self esteem issues & profound emotional repercussions for the partners of abusers.

Abusive relationships are characterized by extreme jealousy, emotional withholding, lack of intimacy, raging, sexual coercion, infidelity, verbal abuse, threats, lies, broken promises, physical violence, power plays & control games.

When people think of domestic abuse, they often picture battered women who have been physically assaulted. But not all abusive relationships involve violence. Unfortunately, emotional abuse is often minimized or overlooked-even by the person being abused. The extent of mental abuse can be explained much clearly with the following diagram.



A women may be mentally abused by either her husband or in-laws or both. It may occur in the following way :

1. **Dominance** : It is the abuser who wants to take charge of the relationship. The women will be expected to obey the command without any questions.
2. **Humiliation** : Insults, name calling, shaming & public put downs are all weapons of abuse designed to erode the self-esteem & make the women feel powerless.
3. **Isolation** : In order to increase the wife's dependence, the abusers will try to cut off the women from the outside world. She may not be allowed to see family, friends or even neighbors one may also be prevented from going out of the house for work. Permission may be required to do anything which may include simple eating or drinking.

4. **Threats** : Abuser commonly use threats to keep the women from leaving them or to scare them using false charges, she may be threatened to hurt, Kiel any family members or abuse their children.
5. **Intimidation** : The abuser may use a variety of intimidation tactics designed to scare the women into submission. Such tactics include making threatening looks or gestures, smashing things in front of them, destroying property, hurting or putting weapons on display. This clear message is that if the woman does not obey there will be violent consequences.
6. **Denial & Blame** : Abusers are very good at making excuses for the inexcusable. They will blame the behaviour on the women.

Domestic violence & mental abuse can happen to anyone, yet the problem is overlooked, excused & denied. This is especially true when the abuse is psychological rather than physical Mental abuse is often minimized, yet it can leave deep & lasting scars. Noticing & acknowledging the warning signs & symptoms of mental abuse is the first step to ending it. No women should live in fear of the person they love. If one finds the above signs of abuse happening to them. They should not hesitate to reach out for help.

### **8.3.4 Female Foeticide and Infanticide :**

#### **Introduction :**

This form of violence within home is the one which brings shame to humanity. It is the cold-blooded murder of a baby girl (infanticide) as well as female fetus (foeticide). In the male-dominated Indian society, the birth of a boy is always welcome but the birth of a girl is looked down upon as a burden.

#### **Several religious and social causes of female infanticide and foeticide**

- a) The son is important to carry forward the family name and the family lineage. Girls are married into different families and hence can not carry forward the family name.
- b) The son is important to lit the funeral pyre of the parents as well as to perform the Shradha ceremony which will give salvation to the souls.
- c) A son is important to look after the parents in their old age.
- d) A very important reason which is related to girls being considered as a burden, is the practice of dowry. Due to

this, birth of a girl is associated with financial burden whereas boys are treated as post-dated cheques.

- e) A combination of all these religious and social factors led to the practice of female infanticide. The killing of baby girls was sometimes done immediately after birth and sometimes over a period of time. This practice is prevalent in rural India to a significant extent even today.
- f) Education and modernization have not created significant changes in the attitudes of the society. Even today boys are given more preference over girls.
- g) The practice of female infanticide has taken a new form in the modern society and it is called as female foeticide. It means terminating the pregnancy if the pregnant woman is carrying a female foetus. The sex of the foetus can be known through a medical test known as Amniocentesis. It is also called as sex-determination test. The main intention of using this test is to detect abnormality in the foetus. However the test has been misused to detect the sex of the foetus. If the foetus is a female foetus, then it is aborted sometimes with the consent of the mother and most of the times without her consent.
- h) Due to practices of female infanticide and female foeticide, the sex ratio in our country has been affected tremendously. Following is an example with reference to certain states over a period of time :

	<b>States</b>	<b>1991</b>	<b>2001</b>
1	Punjab	875	793
2	Haryana	879	820
3	Gujarat	928	878
4	Maharashtra	946	917

- i) The consequences of female infanticide and foeticide are extremely serious. The table mentioned above clearly the imbalance in sex ratio which is in favour of men.
- j) If there is a constant and continuous decline in the number of females as compared to the males, it can lead to several social problems. For e.g. there can be some places which can experience a severe shortage of females in the marriage market. Brothers may have to share a wife and this situation can lead to major moral and value degradation. The problem of sexual violence against women will also increase.
- k) Many a times it is noted that female infanticide and female foeticide are carried out without the consent of the mother.

This can result in feelings of server guilt, depression and helplessness for the mother.

- l) Studies conducted have shown that the threat of desertion, divorce and ill-treatment force the women to agree for female infanticide and female foeticide. If the woman is completely dependent on her husband, these threats have a more strong impact on the women.
- m) The question we need to ask is can we allow Indian women to become an endangered species? There are people who believe that it is better to kill a baby girl or abort a female foetus rather than allow her to grow and spend on her dowry later on.
- n) There are open advertisements such as “Better Rs.5,000 now that Rs.5 Lakhs later”. This advertisement clearly promotes the message that it better to spend less amount of money on female foeticide than spending a large amount on the daughter’s dowry.
- o) An awareness is extremely important to change the mindset of the male – dominated society. Social evils such as dowry as well as age – old religious practices favouring only a son, should be completely eliminated. It is more important to invest in a daughter’s education and health to make her self – reliant rather than killing her brutally.

Female infanticide practiced in the 19<sup>th</sup> c & more modern counterpart Female Foeticide – are common ways of getting rid of a daughter & thereby minimizing the family’s burden of bringing up & sawing up a dowry for her marriage.

Various techniques of sex determination & sex preselection have been discovered 1970’s onwards. Techniques such as sonography, foetoscopy, needling & the most popular one amniocenteses are increasingly becoming very popular. Amniocenteses, a scientific technique that was supposed to be used mainly to detect genetic deformities, has become very popular in India for detection of the sex of the foetus. The detection of the sex of the foetus through amniocenteses & aborting it selectively if it was declared to be female with the MTP [Medical Termination of Pregnancy] Act, is the procedure that is followed. The procedure for amniocentesis test is as follows :

15 to 20 ml of amniotic fluid is taken from the womb by pricking the foetus membrane with the help of a special kind of needle. After separating the foetus cell from the amniotic fluid, a chromasoma analysis is conducted on it. This test helps in detecting several genetic disorders like mongolism, defects of neo

tube in the foetus, retarded mental growth, 'Rh' incompatibility, haemophilia & other types of abnormalities.

This test became very popular in the last few years though earlier it was conducted in the government hospitals on an experimental basis. Now this test is conducted in private clinics, private hospital & government hospital mainly for sex determination & thereafter ex-termination of female foetus through abortion. This pervert use of modern technology is encouraged & boosted by money-minded private practitioners who are out to make a woman a male producing machine.

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#### **8.4 SUMMARY :**

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The controversy around amniocentesis started as a result of several investigation reports published in popular English magazines & other regional language journals. What shocked everyone, from academicians to activists, was that between 1978 to 1983 around 78000 female fetuses were aborted after sex-determination tests in India. What can be the long term implication if such a trend continues? Will it not aggravate the already disturbed sex ratio? There has been a continuous decline in female male sex ratio between 1901 to 2001.

Girl child mortality or infanticide stands at 135 per thousand live births in rural & 85 in urban areas which is 40 times higher than in USA, Western Europe and Countries & Japan. 95% of all deaths of girl children in India are caused by (1) infanticide (2) malnutrition (3) lack of immunization facilities (4) being breast fed for a shorter period of time as compared to their male brothers, thereby affecting future health (5) inadequate sanitation (6) superstition (7) neglect.

Due to the above mentioned causes thousands of girls, even before attaining their puberty are subjected to sexual exploitation by close relatives & enslaved by society for the pleasures of males.

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#### **8.5 CHECK YOUR PROGRESS :**

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1) Explain violence.

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2) What do you mean by girl child abuse?

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3) Discuss causes for wife beating.

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4) What are the consequences of wife battering?

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5) Highlight the difference between female infanticide and female foeticide.

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## VIOLENCE AGAINST WOMEN - II

### Unit Structure :

- 9.1 Introduction : Communal Conflict
- 9.2 Impact of Communal Conflicts on women
- 9.3 Witch Hunting
- 9.4 Rape
- 9.5 Molestation
- 9.6 Eve-teasing
- 9.7 Summary
- 9.8 Check Your Progress
- 9.9 References
- 9.10 Questions

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### 9.1 COMMUNAL CONFLICT :

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#### Introduction :

Communal conflict affects the women in a significant manner. It has been observed that sexual violence or rape is the most common form of violence against women during wars or during communal conflict. Rape is a terror tactic that is used against the women. It not just an attack on an individual woman's body, but more importantly it is an attack against an entire social community. Rape is committed on a mass scale during communal conflicts. Many times women are abducted and are used as sex-slaves. Rape is often committed in public places in the presence of family members and other people. Hence this particular act not only humiliates the individual woman but it also humiliates the entire community to which the woman belongs.

**Studies have been conducted on the rape victims of communal violence and they have put forward extremely shocking details. It has been revealed that the act of rape was committed in various ways :**

- a) Husbands were forced to witness the rape of their wives which, most of the times, was a gang rape.

- b) In some cases, the husbands were used as mattresses upon whom the wives were raped.
- c) There were also instances where women were sexually molested by children of their own community.
- d) Husbands were also forced to participate in raping their own wives.
- e) All these pervert ways of committing rape clearly indicate the fact that this type of sexual violence is purposely carried out to victimize not only the women and their families but also their communities.
- f) The effects of rape on women are severe in nature. They face rejection from in-laws if the husband has been killed during the communal violence.
- g) Women were given different types of punishments if they had kept company with the enemy. It is necessary to point out that the helplessness of the women was never highlighted. Focus was shifted to the aspect that the women had been in the company of the enemy.
- h) If the rape victims unfortunately became pregnant, the onus was placed on the helpless women. Many times they were deserted by their husbands.
- i) Many times, the rape victims were without any social support and survival became a major concern. Hence many of them turned to prostitution due to rejection by the family members and the helpless circumstances.
- j) Studies were also carried out in order to understand the reactions of the rape victims. These were of various kinds.
- k) It has been observed that self – blame is one of the most common reaction of the victims. Women blame themselves because they feel that they are socialized into victims' roles and hence accept the responsibility of rape.
- l) Another common reaction is the extreme emotional suffering which the victims experience. Feelings such as shame, fear, depression are commonly experienced by the victims.
- m) Many times the women were turned into sex-slaves. They were forced to provide sexual pleasure and to perform domestic work. Due to this, the women felt as active participants in their own ii-treatment as well as in the attack on their own community.
- n) However it has also been observed that some reactions of the victims did not involve self-blame or any guilt feeling. They considered negative external factors as the cause of rape and hence did not accept any responsibility for rape. It means the

situation in which the act of rape was committed, allowed the victims to reject the responsibility of rape.

- o) Since rape was committed on a mass scale on almost all the women in the community, it allowed the victims to avoid privatization of this sexual violence. It allowed them to understand and recognize the social factors provided during communal conflicts.
- p) When studies were carried out on the responses of women during the communal riots in Mumbai between Hindus and Muslims in 1992-93, several significant findings were noted.
- q) It is wrong to assume that women are always the helpless victims during communal conflicts. They are often willing to participate and are prepared to respond with violence if they are attacked. This violent behavior is often shown to protect their family members.
- r) At the time of communal conflict, the poor women understand the need for peace more readily. They are ready to negotiate for peace. Peace is not an academic theory for them – it is the question of their survival.
- s) To conclude, communal conflicts expose women to sexual exploitation. Women are considered as easy victims to hit back on the other community.

The menace of communalism since partition has been aggravated during the last 2 decades. The partition leading to the uprooting & dislocation of people was accompanied by the story of rape, abduction & widowhood of thousands of women on both sides of the newly formed borders.

After India become independent, communal tension continued. After the assassination of Indira Gandhi in 1984, violence erupted primarily between Hindu & Sikhs. The major holocaust occurred after the demolition of Babri Masjid in 1992, followed by riots in various part of the country, culminating in bomb blasts in Mumbai in 1993. these events not only led to a violence & unrest in the country but to some serious problems on women's status and role in society. These events have raised some serious questions for secular academics & activists some of the premises of Indian Women's movement.

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## **9.2 IMPACT OF COMMUNAL CONFLICTS ON WOMEN :**

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The impact of communal politics on women, a brief mention about communalism & secularism is essential to understand as

communalism has been defined in numerous ways. It is as a discourse based on the belief that because a group follow a particular religion, they have as a result common social, political & economic interest. It is a discourse that constitutes subject through community attachments subject through community attachments, particularly religious communities.

The notion of communalism affects women's status & role. There are certain underlying assumption of the Right Wing:

1. Women are seen as a homogenous group, without distinguishing between caste or class, though predominantly the women who are addressed are upper caste, middle class & urban.
2. Women are mothers & wives first. They are the custodian of family honour. They are the 'matri- shakti', therefore they must be honoured & protected. As one of the leaders of the Mahila Morcha said "we maintain that the family & its unity must be maintained too much of freedom for women would break the nuclear family & we resist this."

This for the right if the image of modern Hindu woman is not that of traditional, subservient but is seen as Durga Shakti, the destroyer of Evil, an angry & rebellious women. This new woman comes out on the street to register her protest on both communal & secular issues.

Another aspect of communalist approach is the generation of identity. Thus a woman's identity is not merely based on sex but also on aspects such as caste, religion & class on aspects could be based on religion such as Hinduism, Islam, Christianity, on language such as Tamil, Marathi or Hindi. There is another identity that of tribal & non-tribal. Another very serious challenges to woman's status & problems has been the issue of Dalit identity.

When we talk of violence within the community, we turn to the material bases of caste, the most important form of inequality in the caste system, the unequal distribution of resources & exploitative relations of production, can be understood only through an enquiry into the principles of kinship governing allocations of resources, devolution of rights to property, rights to services & entitlements. A jati or caste group then functions through its constituent familial units or large –scale kinship units. It is not the jati as a whole but the lineages or familial units which hold material resources. This has crucial implications for gender since within these units there are clear distinctions in respect of the rights & entitlements of their male & female members.

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### 9.3 WITCH HUNTING :

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#### Introduction :

One of the most important examples of violence in communities against women is witch-hunting. Incidents of women being labeled as witches or as keepers of evil spirits and the violence against them were large scale in nature. These incidents of labeling as witches and of witch-hunting are mainly associated with the tribal communities. Witch-hunting is common in a tribal group called as 'santhals'. The Santhal tribe is found in central – eastern part of India in the state of Jharkhand. Witches among Santhals can only be women and they are considered as the main danger to the Santhal community. The Santhal society has some definite rules about women. Women were totally prevented from participating in the worship of family spirits. They were not allowed to perform any religious rituals. Women were also excluded from the village group rituals. It means women were not allowed to participate in any family and public rituals.

#### **There are some myths about the origin of witchcraft**

In the Santhal society, the story goes, the women tricked their men and the wise old man to learn the religious rituals. Hence in order to make the men more powerful, the men were taught the power of witch-hunting. It means the women who performed the religious rituals were labeled as witches and the men became the witch-finders.

- a) Thus women's participation in the religious rituals was associated with evil powers. A categorization of women into witches and men into witch-finders was an essential process of establishing the authority of men over women. This indicates that at some point of time, men and women have had equal status. Women also had the same spiritual power. The type of society must have been matrilineal in nature.
- b) Men must have wanted a change and wanted power only to them. Hence women were stopped from participating in religious rituals and those who participated were treated as witches. There must have a change from a matrilineal society to a patrilineal society.
- c) Every Santhal woman faced the risk of being declared as a witch. This blame which was put on women was more intense at the time of crisis. It means if the Santhal society faced any serious problem such as an epidemic, the women were labeled as witches and were held responsible for the problem.

- d) Sociologists have tried to give an explanation about the witchcraft in the Santhal society. According to them, men were allowed to participate more openly in the religious rituals and this gave them authority. However the women could not participate openly and hence had to carry out secret worship. Their participation in a secret manner was associated with evil powers and hence the women were treated as witches.
- e) If women were treated as witches, men became the witch-finders. There is a certain process through which witches are identified and punished. The witch – finders gather information from the people who complain. The identification of the witch takes place on the basis of this information. Initially the names of the witches are not mentioned openly. But the whole village knows the person who is going to be named as a witch. It is at the right time that the name is openly declared.
- f) The witches are punished as per the situation. If the problems are mild, the woman named as a witch, may be fined or be given a warning to behave properly. However if the problems still continue or if they become severe in nature, then the punishment given to the witch also becomes severe. The women can be thrown out of the village, excommunicated or even killed.
- g) The practice of witch-hunting clearly indicates violence against women. This is mainly because only women are treated as witches and men become witch – finders as well as the exorcists. Four kinds of violence against women can be identified through witch – hunting. They are :
- 1) Physical Violence : Women, who were labeled as witches, were physically assaulted or killed.
  - 2) Social Violence : Women were kept away from religious rituals. When they were labeled as witches, it was done to 'devalue' the women socially. Wherever women have social authority, they would be labeled as witches to take away this authority from them and give the full authority to men.
  - 3) Psychological Violence : Women constantly faced the risk of being labeled as witches. Hence they lived in constant fear. The punishment given to them after labeling them as witches also led to emotional trauma.
  - 4) Economic Violence : One of the main interests of men was to take away any form of property from the women. Hence those women who had considerable property were generally labeled as witches.
- h) To conclude, women in the Santhal community are targeted to establish the superiority of the men.

A witch hunt is a search for witches or evidence of witchcraft, often involving moral panic, mass hysteria & lynching. The term “witch-hunt” is often used by analogy to refer to panic induced searchers for perceived wrong-doer other than witches.

Today, in India, the practice of witch hunting is present in many states of our country. These are generally the regions located in central & eastern India. It generally happens in places where there is almost no economic development with little or no access to basic education & health care in India. In this kind of an atmosphere, people tend to develop very strong superstitious beliefs. And anything bad that might befall these villagers like bad crop, diseases, sudden & unexplained death of someone in the family, or drying of well tend to be considered the work of some evil ‘witch’. Thus begins a witch hunt to locate the person responsible.

It has been seen that nine times out of ten, it is a woman who is branded a witch. The reasons for this are socio-economic. Mostly these witch – hunts are just a ploy to grab land & property, sometimes even to settle any grudge that some person with a say in politics might nurse against that woman. Or they may be directed as punishment for turning down sexual advances. The people who are at biggest risk of being labeled witches are generally single women or old couples with land. In a majority of cases the women have to suffer silently as most are unable to reach out for help, given the lack of education & poverty. The result is that they either have to flee the village leaving their house & land behind or be subjected to humiliation, insult, torture & in many cases death at the hand of the villagers.

It is very depressing that in India, only a handful of states have laws against witch-hunting. In most cases it constitutes an attempt to murder. But because of lack of laws that specifically targets this practice, the people involved with witch hunting are booked under article 323 of the IPC. Under this offense is a jail term upto one year & a fine of Rs1,000/-.

NGO’s like Free Legal Aid Committee have done a lot in order to bring about an end to the practice of witch hunting. However until & unless there are strict laws devised that aim directly at the crime of witch hunting, even they will not be able to do much. Another very shocking fact related to this practice is that even after the media coverage of incidents of witch hunting & the growing awareness of such practices in the more developed parts of the society.

The only solution to this problem would be to educate the people & also to frame laws for the protection of women of people belonging to the ‘lower’ classes of the society, who also constitute

another target group of such witch hunts. Until then, superstitious beliefs in the existence of black magic & 'dians' will prevail along with the prevalence of tribal doctors or 'ojhas' who have a very big influence in village life & more often not take advantage of or hoodwink the gullible villagers.

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## **9.4 RAPE :**

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### **Introduction :**

- 1) One of the most serious crime committed against women and whose effects are extremely painful is rape. Rape can be defined in various ways.
- 2) The legal definition of rape is as follows : According to section 375 of the IPC (Indian Penal Code), a man is said to commit rape on a woman under any of the following circumstances :
  - a) Against her will
  - b) Without her consent (permission)
  - c) With her consent, when her consent has been obtained by putting in her fear of death or harm
  - d) With her consent, when the consent is given because she believes the man to be her married husband
  - e) With her consent, if she gives consent because of intoxication or unsoundness of mind.
  - f) With her consent, if she is under 16 years of age.
- 3) The feminist have defined rape in the following manner :
  - a) Rape is violence and not sex
  - b) Rape is violence but a different from of violence because of its sexual character.
- 4) Rape is not just a physical violence against a woman but it is more of psychological and emotional violence. It is the ultimate humiliation for a woman in which her self-respect and her dignity are attacked.
- 5) There are various situations in which rape is committed.
- 6) Rape can be committed by a total stranger that is a person who is totally unknown to her.
- 7) In many cases, a girl or a woman is raped by a family friend, a neighbor or any person who is known to her. In such a situation the amount of disbelief and shock is more strong. Most of the victims in these cases are very young girls. In a shocking incident a baby girl of six months was raped by her neighbor. Hence this type of rape is very brutal and unimaginable.

- 8) Another common type of rape which is rarely reported is marital rape. It is basically rape within marriage when a husband rapes his own wife. Girls in our society are socialized to accept male domination and accept the fact that the husband has total rights over them. The husband has the right to use her body to satisfy himself. Due to such societal attitudes, many women can experience marital rape. However it is not reported or discussed.
- 9) One of the most shameful forms of rape is incest. It is rape committed by a father on his own daughter or by a brother on his sister or by a maternal or paternal uncle on his niece. This type of rape is the most traumatic because it shatters the value system and the trust of the victim. The victim may develop permanent feelings of fear and hatred against men in general. There are cases where the mother is unable to protect her daughter inspite of being aware of the truth. This leads to a total loss of faith and trust by the victim towards her family members.
- 10) There are several important causes of rape which are as follows:
  - a) When a man needs to show his superiority over a woman, he does it by physically dominating her. He feels that this is the only way of indicating his domination.
  - b) Sometimes young girls or small girls act as easy targets and they become victims of rape.
  - c) If a husband has excessive ego, he cannot tolerate the success of his wife. He may want to show his superiority in some way and this can lead to marital rape. In this situation, rape is not for physical pleasure but more to assert his domination over his wife.
  - d) Emotional disturbance in a man can also lead to rape. Sometimes the man himself may have been a victim of violence or molestation. This can develop a sense of sadism in him. He may enjoy giving physical and psychological pain to others and to women who are easy victims.
  - e) Violence and vulgarity shown through media can influence the younger generation to a great extent. Those with aggressive tendencies may commit rape to give vent to such tendencies.
  - f) A weak legal system can act as an important cause for rape. The rapist may roam about scot-free and it is the rape victim who becomes the target of social humiliation and rejection.

- 11) There are significant consequences of rape which are as follows:
- a) The rape victim is completely shattered and experiences the feelings of guilt, depression and helplessness.
  - b) There is also the feeling of loss of self – esteem and self – respect.
  - c) In spite of being innocent, it is always the victim who faces the humiliation, social rejection and isolation.
  - d) Many times the victims commit suicide in order to save herself and her family from more humiliation by the society.
  - e) There are instances of rape victims losing their mental balance completely.
  - f) The victim may develop permanent feelings of fear, anger and hatred towards all men. This can affect her ability to function normally in the society.
  - g) The effects of rape are not only faced by the victim alone but also by her family. The victim and her family are either pitied or criticized by the society.
  - h) If the victim wants to register a police complaint against the rapist, she may be discouraged by her family to do so. This is because the prestige of the family has to be guarded. Even if she is able to register a complaint and manages to reach the courts for legal justice, there is no guarantee of justice. The victim is asked vulgar and probing questions about the rape. This causes additional emotional trauma for her to relive the unfortunate incident. The case can go on for years and it is not necessary that the victim gets justice.
- 12) The newly substituted sections – 375, 376, 376A, 376B, 376C and 376D of the IPC deal with rape. A minimum of 7 years of imprisonment along with fine is imposed as punishment on the rapist.
- 13) If the rapist is a police officer, any government servant, staff of jail or a hospital who has taken advantage of his official position, then the punishment imposed is rigorous imprisonment for a minimum period of 10 years along with a fine.
- 14) A similar punishment is imposed if the victim is a minor or is pregnant at the time of rape or is gang-raped.
- 15) However only having laws is not enough. As long as the women are treated as inferior, as objects of lust or as sex objects, the problem of rape will continue. Moreover the onus of the act should lie on the rapist and not on the victim. A change in social attitude is important.

The Oxford Dictionary defines the word rape as “forcible or fraudulent sexual intercourse imposed on women”. According to section 375 on the IPC rape is committed when a man has sexual intercourse with a woman:

- Against her will
- Without her consent
- With or without consent when she is under 18 yrs of age.

The scourge of rape continues to wreak havoc on the nation's thousands of innocent women. We read or hear about such stories in newspapers, magazines or on TV channels almost everyday which in itself goes on to prove the widespread prevalence of this crime.

Rape may be grouped in the following types :

1. **Rape by police** : Rape in police station or in prison is the most notorious form of crime against women. It is being reported with distressing regularity & increasing frequency over the last few years. The police also use rape as a very effective weapon in the suppression of an improved existence. In these cases the police & the landlords are embroiled in a complicated system by which they all support each other & benefit from the suppression.
2. **Rape of Dalit & Tribal Woman** : Dalit & tribal women are oppressed by society at large, rape is simply one of the tools of oppression. Dalit & tribal women are raped for a variety of reasons not least of which is the fact that they are vulnerable women & raping them is not likely to result in any punishment. They are also raped as a way of demoralizing them in their struggle for an improved existence.
3. **Rape by the government workers & the military** : It has become increasingly common for the state to use rape as one of its accepted tools in suppressing people's movement. Some government servants go on to rape or demand forceful sexual pleasures to get the work done for women in return. In the north – eastern states of Nagaland & Mizoram, the Indian army is engaged in a similar systematic terrorizing campaign to suppress certain struggles.
4. **Rape on the job** : The rape of working women is a national scandal which is at least as widespread as custodial rape yet it does not receive as much attention. They are harassed by their bosses & male workers. Domestic servants are molested by employer or the relatives or friends of employers.

5. **Rape by strangers** : Neither the streets nor the fields are safe for women. Even they are not safe within the four walls of their own homes which is considered to be one of the so called "safest places".
6. **Rape of minor** : This is particularly horrifying & it is not an uncommon crime. Newspapers regularly print accounts of the rape of minor girls. As little girls are innocent & do not understand the happenings on them, they fall easy prey to members within or outside family resulting in demand of sexual favors every now & then without uttering a word from their mouth.  
  
**Rape in journey** : Women are not safe even in journey. Be it bus stops, railways, within the vehicle or even of airhostesses in flights young women often prey to passengers.
8. **Rape of Sick** : Even women suffering from TB or other ailments undergoing treatment, pregnant, blind women, women suffering from leprosy, mentally retarded or even those in a comma in ICU'S are the victims of rape.
9. **Rape within family** : Women are not safe even in their own family. Cases have been heard where the birth giver the father acts as a rapist. Even the brother or near relatives & even the father – in law or brother - -in – law are not exuded from this crime against women.

#### **Factors Underlying Victimization :**

Crimes against women, particularly rape, is a universal phenomenon. Its etiology is complex & the manifestations are extremely varied according to time, Place & person. It also varies with historical periods, modes of life, economic conditions & social attitudes contributing to rape can be seen as follows :

- The sex instinct indeed has been a very powerful motivation since the beginning of time. Through psychoanalytic studies it has been revealed that the rapists are persons with poor judgement & inadequate impulse control.
- Rape is also attributed to unhappy family life which may be due to various in capabilities such as potency, temperament, habit & economic conditions as a result of which marital life Turns annoying & frustrating.
- Broken homes & constant friction in family turns children into sex delinquents.

- Pornographic literature & the modern movies depicting crude rape, bathing or nude scenes are also contributing to the desire to rape among adolescents & youth.
- Sometimes sex crimes occur due to psychological factors like desire to rape, exhibition of potency, experience of pleasure in the pain of others, taking revenge on a woman & like.

### **Suggestions :**

1. One of the most important suggestions need to be introduced is amending the law in favor of women.
2. Rape victims should not be maltreated at the hands of the police whose assistance has been sought during the crisis. They should not be submitted to the countless questions about her own sexual mores & behaviour by the police investigator.
3. In the hospital, the victims should be thoroughly examined by an expert doctor & immediate cure of physical injuries, prevention of venereal diseases & prevention of pregnancy should be taken.
4. The victims of rape should not be treated like the offender.
5. Report of rape victims should be recorded by women police officers & women investigators are to be appointed to investigate such cases.
6. Rape stigma should not be attached with the victim & his family rather it should be shifted from the victim to the offender.
7. Victims of the rape deserve emotional support & sympathy by family members for post – rape adjustment.
8. Sex education should be imparted to adolescents & youths in order to prevent the crime against women.

If the society wants to escape from sex anarchy of rape of women, changes must be brought in the mind, heart & behaviour of men & women in the various compartments of our culture & in our social institutions.

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## **9.5 MOLESTATION :**

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### **Introduction :**

- 1) Both molestation and eve-teasing are considered as crimes against women and they fall under the category of sexual harassment.
- 2) Earlier rape and kidnapping were the only important crimes which were focused under sexual harassment. It means other forms of sexual harassment in public places were not given any consideration.

- 3) However efforts were made by the women's organisations to focus on other forms also which the women commonly experienced in public places. It was in 1980's that the other forms of sexual violence against women were recognized.
- 4) As a result, molestation and eve-teasing were accepted as important forms of violence against women in public places.
- 5) Molestation can be understood as a crime which makes use of forced assault to outrage the modesty of the women. It means it is physical in nature.
- 6) Eve-teasing can be understood as a crime that outrage the modesty of the women in public places by words or gestures. It means it is verbal in nature.
- 7) Section 354 of the IPC deals with molestation and section 509 of the IPC deals with eve-teasing.
- 8) Though both molestation and eve-teasing are forms of sexual harassment, it is generally observed that molestation is considered as a more serious crime as compared to eve-teasing. This is mainly due to their nature. Since molestation involves physical touch, it becomes serious. On the other hand, since eve-teasing involves a verbal assault its seriousness is downplayed.
- 9) Women's organisations have strongly objected the mild attitude that the society has towards eve-teasing. They also object to the word 'eve' as it denotes women as temptress.
- 10) Several causes of eve-teasing can be identified as follows :
  - a) A male-dominated patriarchal society is a significant cause of eve-teasing. Men consider themselves as superior and hence take the freedom to humiliate or insult any woman according to their wish.
  - b) Influence of media is another important cause. Different forms of eve-teasing are shown through our films and television serials. This can influence the boys and the men. They consider eve-teasing as harmless when they see their favorite actors indulging in the same behavior on the screen.
  - c) Eve-teasing is considered as the easiest way to attract attention of the girls. Since it is only verbal in nature, boys also consider it as the most safe way to attract attention or to humiliate the girls.
  - d) One of the most important causes of eve-teasing is the fact that girls or women are considered as temptresses. It means men feel that it is the women who like to attract or invite their attention by the kinds of clothes and the kinds of attitudes they carry. Thus men conveniently put the blame

on women and justify eve-teasing and even molestation to a great extent.

- e) Because of its non-physical nature, eve-teasing is considered as insignificant, mild and funny. Hence it is treated as a normal behavior of men with women. It means violence is normalized and not considered as an offence.
  - f) In the modern society, many aspects of the value system have degenerated. The kind of modern life style which is followed by both boys and girls can encourage eve-teasing and molestation. Example can be cited of date-rape.
- 11) There can be various effects or reactions to the problem of eve-teasing as follows :
- a) Eve-teasing is considered as a normal male behavior. Such an attitude normalizes this form of violence. Hence girls generally ignore it or overlook it. They do not report it in the police station. This further encourages eve-teasing.
  - b) Girls may also feel shy or awkward to react. Even if they react, their behavior is considered as an over reaction.
  - c) Eve-teasing is done in a public place and many times in a crowded place. Hence the girls are unable to identify the real culprit. As a result, reporting the incident may seem meaningless.
  - d) Sometimes the girl may be aware of the culprit. But she may feel scared to react to the incident.
  - e) The humiliation of girls in eve-teasing is not given much importance and is not considered as something which is extra-ordinary.
  - f) We cannot ignore the fact that since eve-teasing is non-physical in nature, girls also may not treat it seriously and view it as a mild incident.
- 12) To conclude, the attitude of the society has to change with respect to molestation and eve-teasing. Both are serious offences against women and hence the culprits deserve punishment.

Molestation is the sexual exploitation of a child or a woman by an adult for sexual gratification or for profit. Molestation may include :

- Fondling of private parts like breast & genitals
- Mutual masturbation
- Coitus
- Pornography & Prostitution.

Thus molestation is the act of subjecting someone to unwanted or improper sexual advances or activity especially for women & children. When an adult women is molested, there are certain signs which may suggest that molestation took place.

**Physical signs :**

- a. Bruises or lacerations on parts of the body
- b. Un explained injuries
- c. Torn, strained or bloody clothing or undergarments.
- d. Irritation or pain in the genital area.
- e. Symptoms of a sexually transmitted disease or a venereal disease.
- f. Difficulty in urinating
- g. Symptoms of pregnancy.

**Behavioural Signs :**

- i Depression or loneliness
- ii Self abuse or suicidal behaviour
- iii Drug or alcohol abuse
- iv Nightmares
- v Unexplained or unpredicted behaviour patterns
- vi Sudden loss or increase in sexual behaviour

In case of children, it is difficult to identify because they may be scared to talk about such an incident. It is important to be very supportive of them as they might feel that it is their fault & would shudder from the experience.

Molestation is a heinous crime, it shows the mentality of the men living in the society. Stricter laws should be made against women's violation to keep women safe & maintain a healthier environment. If the Union Women & Child Development Ministry has its way, molesters will face a hard time as the government is planning to make the laws stricter for the culprits.

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**9.6 EVE – TEASING :**

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**Introduction:**

Eve – teasing is not a myth but a reality. It exists & exists everywhere. It has been a serious menace in our society. The commission of this crime is an indicator of how far the women folk

are in secured in our society. Eve-teasing which involves the verbal & physical harassment of women is the scourge of the urban society. A woman cannot go out in the street without the fear of being harassed by strange men. In busy crowded areas the women get pawed & pressed, jostled, rubbed & squeezed, the miscreants taking advantage of the press of the crowd & indulging in whatever physical intimacy the situation permits. The miscreants hurl indecent remarks. In daily life if not all men are potential eve-teasers, all women are potential victims. All women suffer from the fear of being teased, irrespective of her age, health, appearance, mental state etc. This has affected the peace of mind of women & they are not able to move freely & participate in the public life of the community.

This evil is no longer confined to students, unemployed & un-married youth only. Even the so - called educated & cultured & affluent families boy's are also involved in this type of crime. Some recent news report eve-teasing committed by people from professional like lawyers, teachers, policemen & civil servants. Of-course, the elite class is a bit sophisticated in nature. They play with their subordinate working women in lighter form & watch the response of the opposite sex in this regard. Eve-teasers are generally in the age bracket of 15 to 40 & some of them are married too.

**The eve-teasers disposable deeds cover the following :**

1. Indulging in cat-calls, waving, wolf, whistling, winking & uttering indecent remarks about female anatomy or singing obscene songs in such a way so as to be heard by women. Songs are deliberately chosen from popular film so that these could appear innocuous if it came to an argument.
2. Nudging past hurriedly, pressing against women. Trying to pinch the bottoms or the breasts & disappearing in the crowd. If caught they pretend that rubbing was all accidental. They get a free hand during the breakdown of power. In the process sometime even the aged women are not spared from this kind of menace.
3. Eve-teasers got up in crowded buses & trains, prefers to stand or sit next to ladies & depending on the situation, the teaser sometimes gets himself sandwiched with her in the crowded & leans on her.
4. In recent years, in some universities these forms of eve-teasing have replaced with brazen acts as dupatta snatching, back patting & in some cases even forced kissing.
5. Eve-teasing has also taken the form of telephoning a girl & uttering obscene & suggestive words.

6. Mailing anonymous love letters in the most filthy languages.
7. Exhibiting male genital in front of women & thereby deriving strange perverted sexual pleasure of it.

**Suggestions :**

- There is a need to create an awareness in society so that the attitude of general public may be more sympathetic towards the victim.
- The girls have to be bold on their own & must get themselves trained in art forms like judo or karate for self defense.
- Whatever the incident, it must be reported to the police as an eve-teaser who remains un-reported gets encouraged in his exploits & this encourages other also.
- The public has to also play an important role in curbing the evil. Public opinion also has to build up against the eve-teasers.
- It is also worth while for the parents to discuss sex with the children & remove from their mind the unhealthy curiosity about it.

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**9.7 SUMMARY :**

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There is a continuous increase in the cases of violence against women. The burden of tradition, a prevailing ideology of male superiority & a society that condones violence creates a chamber of horrors where even angels would year to tread. Spreading of Education & creating social awareness can be two important measures taken against violence. The media should play an important role in enhancing the status of women by outlining the contribution of female child & a woman would make to the family & to society at large.

Only when a many pronged attack is launched against the evil the menace can be minimized considerably, if not eradicated absolutely.

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**9.8 CHECK YOUR PROGRESS :**

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Q.1 Discuss the concept of violence.

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Q.2 What is the difference between wife beating and wife battering?

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Q.3 What are the various means of coping up with the evil crime of eve-teasing?

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### **9.9 REFERENCES :**

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2. Ashraf Nehal, Crimes Against Women, 1998
3. Devasia V.V. and Leelamma Devasia, girl Child in India, 1991.
4. Radford Jill & Diana E>H> Russell, Femicide : The Politics of Women Killing, 1992.

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### **9.10 QUESTIONS :**

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- Q.1 Discuss the different types of violence against women.
- Q.2 Why is rape considered to the most heinous crimes against women?
- Q.3 How will the status of women improve if the crimes against women are aptly dealt with?



## WOMEN'S LABOUR - I

### Unit structure:

- 10.0 Objectives
- 10.1 Introduction
- 10.2 Gendered Definition of Work
- 10.3 Types of Women's And Men's Work
- 10.4 Division of women's & men's work today
- 10.5 Wage Differentials
- 10.6 Check your progress

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### 10.0 OBJECTIVES :

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1. To examine the status of women workers vis-à-vis male workers in urban / informal sector with special reference to education, employment, income & work pattern.
2. To access the level of women participation in work force due to evils like wage differentiation & sexual harassment at workplace.
3. To suggest ways & means to combat sexual harassment.

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### 10.1 INTRODUCTION :

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The role of women in employment scenario of India is increasing day-by-day. The analysis of occupational structure shows that they are prominently engaged in all activities of the economy, in agriculture & industry, in transport & communication, in banking & insurance, in education & health & in all organized & unorganized sectors of the economy. They are wage earners & they are millionaires. They are educated & they are uneducated. They are in rural areas & they are in urban areas. There is hardly any avenue where women are not present. Their productive role in economy is increasing day-by-day.

They are growing, they are progressing, they are advancing, they are marching. But still there are some hurdles, some problems, some discriminations, some constraints, some bias, which make us to think & analyze the position of educated &

uneducated employed women & the differences that they face at workplace as compared to their male counterparts.

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## **10.2 GENDERED DEFINITION OF WORK :**

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### **Introduction :**

Work is an activity which can be economic or non-economic in nature. However, when work as an activity is defined, understood, recognized, value and distributed according to genders, that is it is differentiated as per males and females, then it is known as a gendered definition of work. A distinction is made between the types of women's work and men's work. Following are some of the important characteristics of gendered work :

- 1) It had always been accepted that any activity or task which was done by men was considered as work and men had the right to work.
- 2) On the other hand, all activities or tasks which were done by women within the house were not considered as work and hence were never given any value. These were not considered as economic activities.
- 3) It was observed that household work always took more than 16 hours of women's day. However this work was not recognized as work but was only considered as their duty. This housework was unpaid work and hence it led to visibility of women's work.
- 4) It essentially meant that only men's work which was carried outside the home was treated as visible work. Hence men became the bread-earners and women who did household work were treated as dependents.
- 5) Thus work was gendered within the home. This gendered understanding of work was also carried forward when women became workers outside the home.
- 6) Women are preferred for those activities and tasks which require skills that women use in housework and in serving the family. When women are involved in such activity, it is rated as low, poorly paid and also termed as feminine work. In a study that was carried out on women working in the prawns unit, several important aspects related to work were observed. They are as follows :
  - a) The women had to clean the prawns, grade them and pack them. This work was considered as appropriate for women. Thus women were employed in 'wet job' whereas men were employed to sit in offices and supervise the women.
  - b) Women were not made as permanent employees.

- c) The activity of cleaning the prawns was not included in the list of activities issued by the state government for payment of minimum wages. Thus it became easier for the employers to manipulate the wages of the women workers and pay them less.
- 7) Women are preferred for jobs which are highly repetitive, unskilled or less skilled and which required continuous concentration.
  - 8) Women are preferred because they are highly productive and highly task-oriented. However they are unorganized, vulnerable and their work is considered as secondary. Hence they can be forced to work for low wages.
  - 9) When technological changes are introduced, men are preferred for such jobs which include more control and more amount of decision making.
  - 10) Women are preferred for home-based work. This is because it is considered that women can contribute to the family income from the home itself without going out of the house. However in this situation women do not consider themselves as workers. This increases their invisibility as a worker.
  - 11) Women are preferred in jobs which have secondary status, low wages and male disinterest in the job. This clearly indicates the kind of prejudices that work against women.
  - 12) Men are preferred in jobs which have automation and which require a certain amount of skills.
  - 13) It is observed that whenever a new technology is introduced, it is the males who are encouraged to take training and upgrade their skills. Women are not encouraged to participate in any training programme and upgrade their skills. This kind of gender discrimination makes it difficult for women to remain in employment in the organized sector where skills are given importance.
  - 14) This gendered understanding of work is also observed in the agricultural sector. Women are removed from the activities when modern technology is used in agriculture.
  - 15) To conclude, gender plays a very important role in determining the type of work that is handed over to males and females.

Women, who constitute almost 50% of humanity, contribute significantly to the country's economy & its social life. Today they have acquired their own role in the growth & development of an economy. In the past women were not treated as an integral part of the labour force. They entered the labour market after the introduction of machine. Economic conditions forced women workers to seek employment in the modern industry to supplement

the earnings of their families. In times of labour shortage they were employed in large numbers. But when the demand for labour contracted they were first to be retrenched. Thus, they constituted 'reserve labour force'. They were largely employed in work which required little / semi-skill & their wages were low. By & large their significance was marginal.

In the Indian society wherein transition from traditionalism to modernism is taking place, working of women outside home is being gradually encouraged. Although modern industry came to India after it was well established in other countries, the women in the name of weak sex were abused & exploited as in other countries. Whenever an attempt was made to bring about an improvement in their working conditions, it was resisted. The condition of women in India today leaves much to be desired & they are still far away from the status of equality with men. Though our constitution has guaranteed certain fundamental rights & special protection of women, yet they in reality are relegated to as inferior status, economically, socially & politically. This is specially true of the vast majority of women in the rural areas; who are illiterate & ignorant of their rights under the law. In the urban areas, with the spread of education & the increase in the number of women working outside their houses, the situation is however turning to a bit better.

The demand for women labour has been increasing consistently which has resulted in rising proportion of women to enter the total workforce all over the country. Thus, development of Indian economy cannot be possible by neglecting the women who constitute large segment of Indian population.

To examine the trend of women employment, the economy has been broadly divided into two sectors viz, organized sector & unorganized sector. The data in organized sector has been defined by the Directorate general of Employment & training [DGE & T]. It consist of the following;

- All public sector establishments which include all government services at the central, state & local government levels.
- All public sector undertakings in the field of agriculture, industry, credit financing, public utilities / services etc &
- All non-agricultural private establishments which employ 10 or more persons.

Employment outside the above mentioned categories is defined as employment in the unorganized sector.

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### 10.3 TYPES OF WOMEN'S AND MEN'S WORK :

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#### Traditional Division of Women's & Men's Work :

Women's work contributes substantially to the occupational continuity of a caste group. It is, of course, true that the growth of new professions & open recruitment to occupations have been important aspects of social change in Indian society. The picture of inalienable unchanging links between traditional occupation & caste was in any case vastly overdrawn. At the same time, there are significant continuities in the link between caste & occupation. Agriculture – although now open to all castes – still gives a distinct identity to a large number of castes of “traditional” cultivators. Equally, some other occupations remain the exclusive privilege of particular castes. A Brahmin, for instance, still performs the functions of the purohit (priest), for upper & middle level castes. Among artisan castes of goldsmiths, blacksmiths, potters & weavers a few members of the group at the very least are imparted the necessary skills & make a living by the traditional craft. Finally, most ritually polluting occupations – the curing & tanning of hides, the removal of dead animals, scavenging & the activities of the barber, the washerman & the midwife retain their association with specific castes.

In these occupations, closely tied to caste, the work of women carried out as members of households – the basic units of production – is indispensable. It is difficult for weavers & potters to carry on the complex processes of their craft without the continuous help of the women & children of the household, who in turn have well-defined tasks. Women can also take on aspects of men's work : it is not unusual for women from a potter's family to establish contacts with clients & go to the market to assist with the selling of goods. Similarly, basket weaving is a joint activity of men & women. In horticulture, women often carry the major burden of work. In rural areas & small towns it is common for women from households of petty traders & shopkeepers to grind spices & prepare fries, fritters & preserves for sale in the family shop. Despite regional variations, these illustrations underscore the fact that occupational continuity in a large measure depends on women. It is telling that a man who run away with another man's wife is censured for both “breaking another man's cooking pot” & “breaking a household”. The forsaken husband, after all, is left without help to carry out the business of living.

Jajmani relations, short term contractual affiliations between artisans & service castes and land owners, cultivators & traders &

relations of exchange among occupational castes, a feature of many rural & semi-urban areas, function once again at the level of the family. Both men & women render services & receive remuneration – in cash & kind – for their work. Among service, castes such as barbers & washermen, women's work in relation to the jajman's family is indeed well defined. To the north of the Vindhya a barber woman render personal services to the women of the jajman's family or a family which engages the barber woman on cash payment – which include the cutting of nails, the decoration of feet [with special coloured solutions], a special oil massage & a bath for a new born baby & its mother, the supplying of leaf cups & leaf plates for feasts & the role of companion to the bride during the wedding ceremony.

In South, a washer – woman's ritual functions are indispensable for the washing of soiled clothes during the ceremony that goes with the first menstruation. In every region there are specific 'untouchable' castes whose women work as midwives these women, along with men of their castes whose women work as midwives : these women, along with men of their castes, share the essential task of removing pollution of upper & clean castes. Finally, in many parts of the country, the bond or contract which ties labourers to their masters is understood to include the services of both the husband & the wife.

The cultural recognition of the significance of women's work in the continuity of caste – linked occupations is clear. At the same time, in order that women pursue these traditional occupations, they have to be trained in them from childhood & have to be socialized into accepting them as proper work which, within limits, is destiny. It has been found that parents may restrict the education of girls to avoid a potentially uncomfortable situation in which the daughter develops a distaste for the traditional occupation of her caste. It then becomes difficult to get her married into an appropriate family. Not formal education but the capacity & willingness to do traditional work tends to make a girl useful in the husband's family.

In situations of change, women often have to take on the responsibility for continuing caste – based occupations & maintaining the household. When men give up their traditional occupation on account of its low ritual status or inadequate returns, the entire burden of occupational work often falls on the women. Many men migrate to towns leaving behind their families. Women continue their contribution in terms of services or craft, but for want of male help they face the choice of losing their clientele or coping with a doubled work burden. Wives of migrant men often have to work under the authority of their husband's kin who surround them within the neighbourhood locality. Thus, women's contribution to

occupational continuity is carried out within patrilineal limits & the impositions & controls of caste.

Women were also expected to support the males of the household who were trying to acquire skills for entering new occupations or explore independent sources of income. Boys were being sent to school while girls joined their mothers at work at an early age. If women were to search employment they would take up work as domestic helps in private homes for washing clothes & utensils & cleaning the house. This was so expected as women were used to doing this type of household work in their own homes. The men, on the other hand, generally consider it below their dignity to do such jobs. Among the migrant groups women are often the principal supporters of the family : women's experience of multifaceted housework become the basis for maintaining the household. The controls are retained. Social & ritual matters are discussed & decided upon by the males of the caste within the neighbourhood.

Usually the women's employment in farm sector is called as "off – season unemployment", but women are not employed even during the peak season. Again, in the farm sector both men & women do not play equal or similar role. Man may plough, prepare the land & do certain types of irrigation work when women were entrusted to seedling, weeding, harvesting etc. Therefore, the demand for labour is not identical for both sexes in rural job market. The following table illustrates the different roles played by a rural women.

#### **Roles of women in Agriculture / Rural Sector :**

<b>Name of the Sector</b>	<b>Nature of the Activity / Operations</b>
Agriculture	Sowing, winnowing, transplanting, thinning, weeding, irrigation, application of fertilizers & pesticides plant protection, harvesting, preservation etc.
Domestic Activities	Cooking, child rearing, water & fuel collection & other household activities.
Allied & other activities	Cattle management, fodder collection, milking, marketing, cottage industry, poultry farming etc.

#### **10.4 DIVISION OF WOMEN'S & MEN'S WORK TODAY :**

Women's participation in employment is not only mediated by gender, but also by caste, ethnicity, age & marital status. Dalit & tribal women have significantly higher work force participation rates

than the rest of Indian women. In the upper caste & Muslim households women are withdrawn from the labour force as soon as their economic status improves. The export processing zones being promoted under the new economic policy women's entry into the labour market is also determined by age. Employers prefer to employ young single women. Marriage results retrenchment because it is assumed that they cannot work for long hours, especially after child – birth.

In spite of such significant contribution in agricultural production process, women are yet to be perceived as participants rather than beneficiaries of development programme. Women are primarily treated as consumers of social services [like health care education & nutrition] rather than producers. Moreover, women's work is considered auxiliary even though the rural women are involved in numerous unpaid domestic as well as family agricultural enterprises. The subordinate status of women has made as head of the household.

India is a big nation & it accommodates many variations in conventions regarding these rights of women. But the majority is deemed properly rights at least on par with their male partners. Several factors account for this situation. Among these are the absence of appropriate skills. Women also tend to get easily displaced by new technologies & are either pushed out or pushed down when job requirements call for skilled & trained persons. With the introduction of new macro economic policies skill & vocational training for women assume key importance.

The urban labour market in India was slowly getting feminised through flexible labour over the eighties. Women are now increasingly absorbed by the urban economy but mostly in low – paid & insecure employment. In most jobs where they were replaced by men, they were forced to accept wage discrimination. Yet their incomes though low were precious for their subsistence. At times they lacked education or skills or both & were forced accept any work either at home or outside. A large majority of the new entrants to urban female workplace are likely to have been absorbed in jobs in manufacturing & services.

A closer observation of the present trends suggest that there are positive signs that has brought about a qualitative improvement in the position of women in the labour market. Today Indian women though being low paid in certain jobs, have assumed great heights in the labour market.

Though, for the modern educated women, the dual role of home making & career building contributes a tough task to women everywhere in the world. Although occupational choices of working

women are changing in the present decade, still most employed women are found in relatively small clusters of occupations like education, health professions, administrative & secretarial works. The female work participation in the tertiary sector of India shows an upward trend comparatively to that of the industrial sector. But their dependency ratio is higher in consumption based services but not in the production oriented services of the employment structure. As compared to men, women generally under presented in administration & management than in professional & technical occupations. By contrast, they are generally predominant in clerical, sales, nursing, teaching etc & other such jobs. These were earmarked as 'women-specific jobs' by Mrs. Nirmala Banerjee.

The occupational trend in India is bleak regarding the women's participation in administration & management services. Although there is a slight rise in the employment in the last decade it may be noted that they are employed in almost all fields today. Many women have set great examples to follow in each field. Today even the multinational corporate world is unbiased in employment of women. They even prefer to remain unmarried & also delaying their child birth. All this has now given women an equal status in employment with men.

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## **10.5 WAGE DIFFERENTIALS :**

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### **Introduction :**

Differential means any kind of difference, discrimination or disparity. Wage differentials mean the differences or discrimination that is made in payment of wages to males and females in relation to work or jobs. It means women are paid less that is there is unequal pay for men and women. Wage differentials have been a common occurrence and it is observed in different societies and in different economies.

### **Causes :**

- 1) Women's real work place is considered to be within the house. When women go outside the house to work, their work is treated as secondary. Less amount of importance is attached to her work. Hence she is paid less.
- 2) Women's work is associated with either no skills or less skills whereas men's work is treated to be highly skilled. Hence it is considered that women do not deserve equal pay with men.
- 3) There is invisibility related to women's work. In a study that was conducted it was observed that certain activities which were performed by women at work place were not listed in the

notification issued by the state government for payment of wages. Hence women were paid less.

- 4) Many times women workers are not made permanent and are appointed only as temporary and contractual workers. Hence it became easy to exploit them and an important form of exploitation is paying less wages to women workers.
- 5) The women workers did not have an organisation as they are scattered. They did not unionise amongst themselves and were a part of the men's union. This affected their strength in the labour market. It contributed to their exploitation through wage differentials.
- 6) Women participated at the lower levels of employment because of economic problems. Since the demand was less and the supply of labour was more, the women workers could be easily manipulated to work for lower wages.
- 7) There is a gender gap in education, skills and opportunities for the women because of the patriarchal attitude. This affected the bargaining power of the women to ask for higher wages. They had to remain satisfied with lower wages.
- 8) No encouragement as well as opportunity was given to the women workers for upgrading their skills. It means they were intentionally at a lower level in the job. This was how the lower wages of the women workers were justified by the employers.
- 9) The values in the society regarding gender differentiation also act as an important cause. Gender inequality has been a common practice which reflects itself in the labour market also. Hence women workers are paid less.
- 10) Absence of a positive action by the government as well as the trade unions for the women workers also has resulted in the continuation of the problem of wage differentials.

#### **Effects :**

- 1) Wage differentials create a disadvantage in the labour market for the women workers. It means the women workers are not given much importance.
- 2) Since women are paid less, their work is treated as secondary. Further, since their work is secondary they are paid less. Thus women workers are caught in this vicious circle.
- 3) In spite of working as much as men, women workers are denied equal wages. This leads to a loss of self-esteem of self-confidence for them.
- 4) Many times, financial problems force women to take up employment. Though they are paid less, they put up with this discrimination. They do not protest for the fear of losing

whatever little wages they are earning. Hence there is no motivation to go against the system.

- 5) Wage differentials further encourage the subordination of women in their work place, family, community and public life.

Gender equality in all spheres of life has been accepted in India through fundamental rights. The constitution of India also guarantees equality of opportunity relating to employment & directs the state to secure equal livelihood, equal pay for equal work & just & humane conditions of work for all. Despite the concerted efforts of the state, the economic status of women is lagging far behind their male counterparts.

Women work the most, paradoxically they earn the least in life. Their special social responsibilities, subordinate status in society, family patriarchy, socio-economic backwardness & proneness for occupation in the unorganized sector with low products & marginalization in employment opportunities account for their poor / low earning capacity. Even as young girls or after marriage women's income is always considered only as a support income. Gainful employment constitutes only a part of the aggregate work performed by a woman day in & day out. Women contribute immensely to the social economy. Women's productive work consists of both unpaid work & gainful employment.

Given the labour market condition & the existing socio-economic environment most of the women work force is the informal sector. The women labour force in the informal sector is characterized by a high incidence of casual labour mostly doing intermitted jobs at extremely low wages or are doing their own account work at very uneconomical returns. There is a total lack of job security & social security benefits. The areas of exploitation are high resulting in long hours, unsatisfactory work conditions & occupational health hazards. The female labour force is actually working for a pittance.

The labour market is not neutral for men & women. It favours men against women. Gender inequalities exist in almost all sectors. The division of labour is highly gender biased in urban informal sector. The discrimination is further manifested in male & female earnings. The operations that fetch higher returns are male preserves, whereas work of arduous nature bringing in lower returns is done by women. The women are assigned unskilled & semiskilled work. They are paid less even in skilled operations. In the urban informal sector, some of the lowest paid occupations have a disproportionately high percentage of women. The invisibility is thrust upon them by confining them to the so-called subordinate roles. They are classed as the weaker gender,

confined to strenuous & monotonous work & withdraw voluntarily from the labour force as & when the situation so demands.

The nature of work performed by working women in urban informal sector denies them the opportunities of organizing on work related issues. In fact, in spite of the effects by many organisations, in spite of the manifestations of trade unions & political parties & other local organisations, the mass of the women workers in urban informal sector remain unorganized.

The average earnings of women labourers are highly depressed. The disparity in the earning of piece – rated & own account women workers are far more pronounced than of the males. It is ironical to note that a very less proportion of women workers were found in the high income group. The gender disparities in earnings are more pronounced in own – account small enterprise than piece – rated home – based work. There is another aspect of gender discrimination in earnings, which needs serious attention. It is reported that female workers are exploited as piece – rate workers doing manual labour for traders middlemen & contractors. These women accept wage rate which potently do not cover their cost. It is difficult to understand why they accept them. In any case, a significant chunk of the women workers in urban informal sector is engaged in providing cheap labour intensive services to the rich.

The low rates of wage for the women farm labour are due to the unorganized nature of employment, the ease with which lined labour can be substituted by family labour, the seasonal nature of the demand for labour & the traditional classification of certain jobs as the monopoly of women. The machinery of wages fixation & enforcement of minimum wages fixed under the Minimum Wages Act, is not uniform, & many areas have still not been brought within the ambit of the Act. Farm labourers, particularly who are handicapped by poverty, illiteracy, ignorance of the law & the casual nature of employment are not able to employ methods now common to industrial labour. The wage fixing machinery in some states maintain wage differentials between men & women for the same operations & prescribes lower rates for the jobs traditionally done by women. Another factor consisting to low wages for women in the practice of identifying a work day as equivalent of 7 to 9 hrs. Women reporting even half an hour late because of domestic responsibilities are paid wages for a half day only.

### **The Present Situation :**

- 1) Women earn 2/3<sup>rd</sup> of the males income on an average.

- 2) This gap in wages or earnings is due to differences in education and job experience. But this factor is only a minor factor. An important reason is the discrimination against women.
- 3) There is mixed evidence about wage differentials both in the developed countries as well as in the developing countries.
- 4) In some developed countries such as U.S.A. for eg., the wage gap has become less. But in a developed country like Japan, the wage gap has increased.
- 5) Similarly, in some developing countries such as Srilanka for e.g., the wage gap is less. But in countries like Burma or Myanmar, the wage gap has widened.
- 6) Certain changes have taken place in women's labour. Due to liberalization, there has been an increase in the demand for female workers. This can lead to better wages for female workers.
- 7) However, it is noted that only the organized workers have a better bargaining power. Majority of the women workers are unorganized which means that they don't have a bargaining power. Hence this affects their wages.
- 8) Wage differentials are highly noticed in those developing countries which are more export oriented.
- 9) Women are paid less because they are involved in particular types of jobs such as clerical jobs, secretarial jobs, assistants, teaching and nursing. These jobs are treated as typically feminine jobs. They are paid less, have lesser status and advancement prospects.
- 10) However, it has also been noticed that the wages of male workers have also decreased because of increasing international competition.
- 11) There have been some instances of improvements having taken place with respect to wage differentials. It means that certain changes have taken place and now-a-days women workers are not always paid less.
- 12) In developed countries, the women employees working at high positions are earning a good income as compared to men employees.
- 13) The wage differentials are less in countries such as Australia, Germany, Norway and Sweden which have centralized collective bargaining that gives emphasis to equal pay for both male and female workers. However in countries such as Canada and U.S.A. the wage differentials are relatively high because the wage bargaining is decentralized, market-oriented and enterprise level.

- 14) Large enterprises tend to pay higher wages to women and also give more employment opportunities to women.
- 15) There are some areas in which the wage differentials are less such as public sector, organized sector, industrial sector and urban areas. However, the change has not taken place to a significant extent.
- 16) To conclude, despite the rapid and global increase in female paid employment in recent years, occupational segregation by sex remains a worldwide phenomenon. It is an important indicator of women's disadvantaged position in labour markets. It leads to lower pay, lower status and limited career opportunities. Thus wage differentials are an important source of discrimination against women.

### **Suggestions :**

The following suggestions would a long way in organizing the female workers & improving their status & earning capacity vis-à-vis their male counterpart :

- Whenever women workers in informal sector organize, the government should unequivocally support & side with them. By doing so, government programmes will actually reach the poor.
- Centres where women workers in informal sector can obtain information on their legal rights, existing government policies & programmes & the implementation agencies for these should be established by the government. This would assist the organizing efforts of workers by providing access to information. These centres could also be a mechanism for obtaining feedback with regard to women's problems in & needs for organizing.
- Existing legislating pertaining to forms of organisations should be reviewed & changes should be made accordingly.
- Workers should determine the kinds of training programmes to be developed, so that they would be suitable & oriented to their organizing efforts.
- The government should on its own take action to create a positive atmosphere in the country for their women to organize themselves to know, demand & enjoy their rights given by the government itself, to defend their rightful place in the economy against forces that erode their means of livelihood, to play an active role in decision – making & thus participate in the various development process.

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### **10.6 CHECK YOUR PROGRESS :**

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1) Discuss gender definition of work.

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2) Highlight the way in which men and women work was divided in traditional society.

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3) Analyse division of work between men and women in todays society.

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4) State factors responsible creating wage differences between men and women.

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## **WOMEN'S LABOUR - II**

### **Unit structure:**

- 11.1 Sexual Harassment at Workplace
- 11.2 Classification of Sexual harassment at workplace
- 11.3 Sexual harassment & law
- 11.4 Summary
- 11.5 Check Your Progress
- 11.6 References
- 11.7 Questions

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### **11.1 SEXUAL HARASSMENT AT WORK PLACE :**

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#### **Introduction :**

- 1) Sexual harassment at work place (SHW) is one of the important issues that is focused by the women's movement since 1980's.
- 2) During 1980's there were several complaints of SHW by women working in certain professions such as –
  - a) Nurses faced SHW by patients and their male relatives, ward boys and other hospital staff.
  - b) Airhostesses by their colleagues and passengers.
  - c) Teachers by their colleagues, male principal and management representatives.
  - d) Ph.D. students by their male guides.
- 3) All these incidents were considered as trivial and did not receive any serious attention. However the women's groups kept working to take systematic action against SHW.
- 4) It was during 1990's that an important legal case changed the understanding towards SHW. This case was Vishakha versus the State of Rajasthan. Vishakha is a women's rights group. It filed a PIL (Public Interest Litigation) in the Supreme Court to fight for justice for a victim of sexual harassment.
- 5) In 1997, the Supreme Court passed the landmark judgement in the Vishakha case. This judgement required guidelines to be followed by establishments while dealing with SHW.

- 6) The Government of India requested National Commission for women (NCW) to draft legislation on SHW. Several women's organisations and women lawyers helped NCW to draft the legislation.
- 7) It was in 2004 that the bill on SHW was introduced in the parliament. This bill is called as the Sexual Harassment of Women at Work Place (Prevention and Redressal) Bill.
- 8) As the name suggest, the bill provides for the prevention and redressal of sexual harassment of women at work place keeping the focus on the principles of equality, freedom, life and liberty for women.
- 9) The Supreme Court, in 1997, had given a clearcut definition of sexual harassment. According to it, sexual harassment includes any unwelcome sexual behaviour such as –
  - a) Physical contact
  - b) A demand or request for sexual favours
  - c) Sexuality coloured remarks
  - d) Showing pornography
  - e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature, for e.g., leering, dirty jokes, sexual remark about a person's body etc.
- 10) This definition clearly indicate that the Supreme Court has established sexual harassment as a serious crime against women and given a wide definition to include various forms of sexual harassment-physical verbal and non-verbal.
- 11) There are several misconceptions or misunderstandings about SHW which can be contradicted with concrete facts and case studies.
  - a) Myth : Women enjoy eve-teasing / sexual harassment  
Fact : Eve – teasing / sexual harassment is humiliating, painful and frightening.
  - b) Myth : Women ask for SHW. Only those women who are provocatively dressed are sexually harassed.  
Fact : Women have the right to act, dress, move around freely without the fear of harassment.
  - c) Myth : Women who say 'no' actually mean 'yes'.  
Fact : This is a common myth used by men to justify one – sided sexual advances.
  - d) Myth : Sexual harassment is not really an issue. It does not hurt anyone.

Fact : Sexual harassment leads to several physical, psychological as well as economic problems for the victim.

e) Myth : Sexual harassment is a natural male behavior.

Fact : Men are not born with the idea of sexual harassment. They learn it in a patriarchal, male – dominated social environment.

f) Myth : Women keep quiet that means they like it.

Fact : Women keep quiet to avoid the stigma and the retaliation from the harasser. They are afraid that they will be wrongly accused of provoking sexual harassment, of being called liars and of being made the subject of gossip.

g) Myth : If women go to places where they are not welcome, they should expect sexual harassment.

Fact : Discriminatory behavior and abuse is unlawful. Women have equal access to all work facilities. Safe work place is women's legal right.

12) SHW is a serious problem. Women belonging to different categories experience it commonly. In order to curb this problem, it is very necessary for the employers to assume responsibility in protecting their women employees.

13) The responsibility of the employers is of two types –

- a) To adopt preventive steps for controlling SHW.
- b) To have a proper complaints mechanism when SHW has occurred in the organisation.

14) The preventive steps are as follows –

- a) Sexual harassment should be discussed at the employer – employee meetings.
- b) Awareness about the rights of women workers should be openly displayed on notice board.
- c) The names and contact numbers of the complaint committee must also be openly displayed.
- d) The employer must recognize sexual harassment as a serious crime and accordingly formulate an anti-sexual harassment policy.

15) Complaints mechanism should be as follows –

- a) A complaint committee has to be formed in order to investigate, counsel and resolve cases of SHW.
- b) A woman must head the complaints committee and at least half of the number of members should be women.
- c) The committee should include a NGO dealing with the issue of SHW.

- d) The complaint procedure must be time-bound.
- e) Confidentiality must be maintained.
- f) The complaints or witnesses should not experience victimization or discrimination during the process.
- 16) The role of media is also equally important in SHW. Since SHW is a common problem faced by women, the media should create positive awareness regarding the legal rights of women as well as the support systems that are available for the women. It can play a constructive role in bringing the culprit into the public gate. However the media should take care about protecting the identity of the victim.
- 17) The bill to prevent SHW has already been introduced in the parliament. Women's organisations are trying hard to convert this bills into an act.
- 18) To conclude, SHW is a serious offence against women. To prevent it effectively, the combined efforts of government, employers, trade unions, women's organisations and most importantly the women workers themselves, is necessary.

Sexual Harassment, according to the Supreme Court definition is any unwelcome sexually determined behaviour such as:

- Physical contact
- A demand for requires for sexual favor
- Sexually coloured remarks
- Showing pornography
- Any other physical, verbal or non-verbal conduct of a sexual nature

**Sexual harassment takes place if a person :**

1. Subjects another person to an unwelcome act of physical intimacy like grabbing, brushing, touching, pinching, fondling etc.
2. Makes an unwelcome demand or request [whether directly or by implication] for Sexual favours from a women & further makes it a condition for employment / payment of wages / increment / promotion etc.
3. A male coworker makes an unwelcome remark with sexual connotations like sexual explicit compliments / cracking cheap jokes aloud & making other such remarks.

4. Shows a women any sexually explicit visual material in the form of pictures / cartoons / pin-ups / calendars / screen savers n computers / any offensive written material / pornographic e-mails etc.
5. Engages in any other unwelcome conduct of a sexual nature which would make the women uncomfortable by making offensive gestures, kissing sounds etc.

Sexual harassment affects all women in some form or the other. And working women are no exception. In fact, working women most commonly face the backlash to women taking new roles which belong to men domains within patriarchy. Sexual harassment of work is an extension of violence in everyday life & is discriminatory, exploitative, thriving in atmosphere of threat, terror, reprisal.

Sexual harassment of women at workplace is all about expression of male power over women that sustain patriarchal relations. It is used to remind women of their vulnerability & subjugated status. In a society where violence against women, both subtle & direct, is borne out of the patriarchal values operating in society, force women's conformity to gendered roles. These patriarchal values & attitudes of both men & women pose the greatest challenge in resolution & prevention of sexual harassment. This type of harassment at workplace against women is still endemic, often hidden & present in all kinds of organisations. Yet it is still not always viewed as a problem, which has to be systematically tackled. The issue is of concern for both women & the employers as this problem touches & violates the lives of nearly 40 – 60% of working women.

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## 11.2 CLASSIFICATION OF SEXUAL HARASSMENT AT WORKPLACE :

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This can be more generally classified into two distinct types :

- A. Quid pro quo :** It means seeking sexual favours or advances in exchange for work benefits & it occurs when consent to sexually explicit behaviour or speech is made a condition for employment or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work condition.
- B. Hostile Working Environment :** It is a more pervasive form of sexual harassment involving work conditions or behaviour that make the work environment 'hostile' for that women to be in. certain sexist remarks, display of pornography or sexist / obscene graffiti, physical contact / brushing against female employees are some examples of hostile work environment, which are not made conditions for employment.

Any employer who have a female workforce must know the following:

1. First & foremost acknowledge that it is the employers responsibility to provide a safe working environment for women free from sexual harassment & discrimination & that he can be held liable for it.
2. The employer should know that this type of an act can have a devastating effect upon the health, confidence, morale & performance of those affected by it. The anxiety & stress produced by sexual harassment commonly leads to those subjected to it taking time off work due to sickness, being less efficient at work or leaving their job to seek work elsewhere.
3. They must understand the reasons why women remain silent about sexual harassment. An absence of complaints about sexual harassment commonly or does not necessarily mean an absence of sexual harassment. It may mean that :
  - Nothing will be done about it
  - It will be trivialised
  - The complaint will be subjected to ridicule
  - They fear reprisals
  - Fear of being labeled by men with different names
4. The employer must recognize the tangible & intangible expenses & losses the organisations experience :
  - Costly investigation & litigation
  - Negative exposure & publicity of the organisation
  - Increased absenteeism
  - Lowered employee morale
  - Reduced productivity
  - Decreased efficiency
  - Higher employee turn over
  - Erosion of organisations goodwill & public image
  - Negative impact on stock price

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### **11.3 SEXUAL HARASSMENT AND LAW :**

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Sexual Harassment has been recognized as most intimidating, most violating form of violence since long in countries like UK, USA & many others have not only taken note of how

degrading experiences of this crime can be for women as well as employers but have adopted legislative measures to combat the same.

In India, it has been only six years since sexual harassment was for the first time recognized by the Supreme Court as human rights violation & gender based systematic discrimination that affects women's right to life & livelihood. The Court defined sexual harassment very clearly as well as provided guidelines for employers to redress & prevent. This type of exploitation against women.

While the Apex Court has given mandatory guidelines known as Vishakha guidelines for resolution & prevention & sexual harassment enjoining employers by holding them responsible for providing safe work environment for women.

Vishaka guidelines apply to both organized & unorganized work sectors & to all women whether working part time, on contract or in voluntary / honorary capacity. The guidelines are a broad framework which put a lot of emphasis on prevention & within which all appropriate prevention measures is to adopt a sexual harassment policy, which expressly prohibits sexual harassment of women at workplace & provides effective grievance procedure, which has provisions clearly laid down for prevention & for training the personnel at all levels of employment.

The best way to prevent sexual harassment is to adopt a comprehensive policy. Thus combating sexual harassment involves developing understanding of what is sexual harassment & change of attitudes in all – be it employees, colleagues, friends, administrators, employers or the law makers. Women should not be silent spectators & must learn to speak up for the wrong doings against them. Until & unless they themselves do not take the initiative to curb this violence against them no laws or any court will be of any help to them.

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#### **11.4 SUMMARY :**

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Need for assuring social securities protections & for granting equal rights to women cannot be ignored. In the years of past independence era in India many social security acts had been enacted & implemented to a greater extent. Following measures had been applied for providing social securities & equal rights to the women participants in employment as :

- a. Measure providing employment of women in jobs involving rights shifts, underground working, lifting of heavy objects or any other work liable to be dangerous to health.

- b. Provision of maternity leave
- c. Provision of creches, if a given number of women are employed in that particular industry.
- d. Equal Remuneration Act

These special laws meant for women paved the way for women’s social, political & economic empowerment enabling the women in all spheres of life. This acts enabled them to provide the right to share in the property of their fathers, husbands & sons. Women now have equal opportunity for employment & protection at the workplace as far as remuneration & performance of the women is concerned.

Today, women are engaged in all activities of the economy, in agriculture & industry, in transport & communications, in banking & insurance, in education, health housing & in all the organized & unorganized sectors of the economy. They are wage earners or they are entrepreneurs. There is hardly any avenue where women are not present. Their productive role in the economy is increasing day-by-day.

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**11.5 CHECK YOUR PROGRESS :**

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Q.1 Give the gendered definition of work.

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Q.2 Discuss the role of women in agriculture & rural sector.

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Q.3 Define the term ‘sexual harassment.’

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**11.6 REFERENCES :**

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1. Murthy, S. – Women & Employment, 2001.
2. Rao Anupama, Gender & Caste, 2003.
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**11.7 QUESTIONS :**

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- Q.1 How has the concept of “women’s work & men’s work” undergone a change over a period of time?
- Q.2 How are women differentiated in the labour market in terms of wages?
- Q.3 What provision does the law give for protection to women against sexual harassment at workplace.



## GENDER AND CITIZENSHIP

### Unit Structure:

- 12.0 Objectives
- 12.1 Meaning of constitutional guarantees
- 12.2 33% reservation for women in Parliament and Panchayats
- 12.3 The necessity for reservation
- 12.4 The recurring issue
- 12.5 Raising some questions
- 12.6 Summary
- 12.7 Questions
- 12.8 References

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### 12.0 OBJECTIVES :

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- To make student understand the reasons for lesser number of elected women in politics.
- To study the issue of reservation which has been on the political agendas from the early days of nationalist movement.
- To understand whether the reservation is the only way that women will get justice?
- To acquaint students regarding the need for reservation of seats in Panchayat in rural areas.

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### 12.1 INTRODUCTION : CONSTITUTIONAL GUARANTEES

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The Maharashtra Act No. XIII of 1990 proposes that 30% of the total number of seats to be filled by direct elections are to be reserved for women. While doing so 30% of the total number of seats reserved for scheduled caste and scheduled tribes are to be reserved for women belonging caste and scheduled tribes respectively. For ex. Solapur Municipal Corporation has 67 electoral wards, out of which 6 electoral wards are reserved for the scheduled caste, according to Act and out of this 6 wards will be reserved for scheduled class women out of the 67 electoral wards,

20 wards are to be reserved for women since 41 wards are to be reserved for women belonging to scheduled caste, this means that 10 wards out of 61 general wards are to be reserved for women.

Today the Bombay Municipal corporation has 6 women corporators, out of 170, with 30% reservation it will have 51 women corporators which is a 10fold increase. The reservation of 33% seat in Maharashtra will mean that more than 3000 women will be part of decision making in the states. 11 Municipal Corporation, 228 Municipal Councils, 29 Zilla Parishads and the many village Panchayats.

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## **12.2 33% RESERVATION FOR WOMEN IN PARLIAMENT AND PANCHAYAT :**

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Reactions to 33% reservation of seats for women were varied and sharp. The 1<sup>st</sup> to speak out were the opposition parties namely the Bhartiya Janta Party and Shiv Sena. They voiced their suspicion that this was a clever move on part of the congress – 1 to politically and maneuver them.

The only support of this move came from different women politicians belonging to political parties.

### **Panchayati Raj Institutions :**

The grass roots units of self government have been proclaimed as the vehicles of Socio-economic Transformation in rural India effective and meaningful functioning of these bodies would depend on active involvement, contribution and participation of its citizens both male and female .

The term 'panchayat raj' is relatively new, having originated during the British administration 'Raj' literally mean governance or government. Mahatma Gandhi advocated Panchayati Raj, a decentralized form of Government where each village is responsible for its, own affairs, as the foundation of India's Political system. His term for such a vision was "Gram Swaraj" (Village self governance).

It was adopted by state governments during the 1950's and 60's as law were passed to establish Panchayats in various states. It also found backing in the Indian constitution with the 73<sup>rd</sup> amendment in 1992 to accommodate the idea. The Amendment Act of 1992 contains provision for devolution of powers and responsibilities to the panchayats to both for preparation of plans for economic development and social justice and for

implementation in relation to twenty nine subjects listed in the eleventh schedule of the constitution.

The Panchayat system has a three tier structure, viz. (i) The Village Panchayat or the Gram Panchayat. (ii) The Panchayat Samitis and (iii) The Zilla Parishad.

These bodies, which are legally local government, have pyramidal structure. At the base in the gram Sabha the entire body of citizens in a village of "Grama". This is the general body that elects the local government and charges it with specific responsibilities. This body is expected to meet at specific times and approve major decisions taken by elected body. (Above this basic unit of democracy, is) the Gram Panchayat, which is the first level elected body. The middle rung institutions are the Panchayati Samitis, which function as the Block Level' each Block consist of many villages.

Finally, there are the Zilla Partishads that functions as the district level. The purpose of these two institution is mainly to co-ordinate the activities of the Gram Panchayats and to provide them with such capacities that can not be created solely at the micro level. The powers that these Panchayats enjoys are enshrined in the laws enacted by each state, and in India, there is considerable variation across states.

The aim of Panchayati raj system is to empower the rural masses, including the women and the marginalized groups by alleviating poverty, generating self – employment, promoting, education and making them aware of their social and political rights.

73<sup>rd</sup> Amendment of constitution in the year 1992 reserved 33% seats for women in Panchayats. The experience of women's reservation at the Panchayat level has been very encouraging. A million women are being elected to the Panchayats in the country every five years. This is the largest mobilization of women in public life in the world. Advocates of the reservation policy have argued that the reservation of seats for women Panchayats has done enormous good for women in India. However, it should be remembered that in both UP and Rajasthan, where gender equality statistics are among India's worst, women Panchayats are often blantly proxies for their husbands. It is easy to point out numerous examples of women who have worked entirely according to what they were told by their husbands or other male members of their families. In some cases elected women remained at home while their husbands attended the panchayat meeting and carried out official transactions on their behalf. Some of the elected women were approached by men only when their signatures (or thumb impressions) were needed. In most of the cases when a

Panchayat seat is reserved for woman, husband of the elected woman becomes the de facto elected representatives, who tries to control the affairs in name of his wife. It is alleged that since many are first timers and are illiterate, they depend on their men folk for running the panchayat. In other words, the women follow their men folk without understanding implications.

Prior to the reservation bill, statistics regarding women's participation in PRIs were significantly lower (between four and five percent) today 33% of candidates participating in the PRIs are women. "In general, participation at local level can be viewed from two angles – quality and quantity. As far as the qualitative aspect concerned, there are 3 levels of quality of participation : passive participation, active participation and decision – making participation". But women representatives lack this aspect of qualitative participation. A constitutional provision is only a necessary step which should be followed by effective measures for women's upliftment in the rural areas. To make women's participation in society and politics a reality, enormous work remains to be done given their present socio-economic conditions.

Despite reservation for women, effective participation in PRIs has failed due to misuse and manipulation by the local power – brokers. Ignorance of women about their rights and procedures and about their potential and responsibilities has kept them far behind men in the local bodies. It is very much doubtful – that mere increase in the number of reserved seats for women in local bodies is likely to increase a participation of women. Unless structural changes are brought about, a sincere effort is made to educate women and the power structures existing in rural areas are neutralised nothing much can be achieved.

### **Psychological Barriers :**

Women representatives often run into barriers (especially of family and society) and are hindered from participating effectively. They feel inhibited to speak especially when they are in large male dominated assemblies. Those who muster up enough courage and strength to speak receive very little respect or attention. It has been observed that women are invited only to complete the quorum. Further, the official also pay heed to the needs of upper class women in preference to the needs of peasant women. The rights of women, thus, get systematically nullified by the local bureaucracy.

### **Individual Weaknesses of Women that come in the way of effective functioning of PRI :**

The family, community and the State (represented by the officials / have together created a situation where in elected women representatives are facing many operational constraints while playing their roles and discharging their functions in the PRIs. Women representatives have some individual weaknesses :

- Illiteracy and low education levels of the majority of the women elected to the PRIs.
- Overburdened with family responsibilities.
- Introversion due to the lack of communication skills.
- Poor Socio-economic background with which the women have come into the system and poor capacity building.
- Patriarchical system indirectly controls and directs their participation.

There are some other limitation regarding women's qualitative participation in PRIs :

- Male family members and also leaders from the caste group / community come in the way of the affairs of the Panchayats.
- Indifferent attitude and behaviour of officials working in the system.
- Misguidance by the local bureaucracy.
- Apprehension of no – confidence motion by the other elected members of the system.
- Mounting pressure from the political party which has vested interests in the gender reservation for positions in the PR system.

Women representatives face problems at every stage of their participation – from the Gram Sabha to Zila Parishad. In an open forum organized by the Rural Litigation and Entitlement Kendra for 300 elected women representatives of PRIs of Uttar Pradesh, the following observations were made by the participants :

- Government orders on devolution of powers to PRIs were a mockery.
- There was a blatant practice of 'commission' demanded by Block level staff.
- Women were branded as 'incompetent' in the eyes of villagers and were forced to quit through the passing of no-confidence motions.

- Under interference by the husband (post sarpanches) of women representatives treating them as mere dummies.
- Widespread use of corrupt practices among the male members and local bureaucrats.

It is clear that mere reservation is not enough because a woman representative lacks qualitative participation due to both internal and external factor. Woman's empowerment is not something which can be handed over to women only. This is a process which involves sincerity, earnestness and capacity and capability on the part of both men and women. It is a challenging task in village India as even today she can not take any independent decision. She feels subordinate to her husband and even to her son.

### **Remedy to Increase Women's Participation in the Panchayati Raj Institutions :**

Some problem and their remedies are as follows.

- **Low Status and Morale : Need of Upgradation :** Most of the women in rural areas feel inferior to male members of family / panchayats. This attitude needs to change to make women as part and parcel of the family as well as Panchayats. They should retain their confidence levels. There is another major problem with the women representatives. Women hailing from SC and ST categories may find it difficult to misc with representatives of general categories. To cope with this problem, it is necessary to inculcate confidence among them and to bring attitudinal changes through training in the psyche of the upper classes stern action should be taken against such persons who foment communal feelings.
- **Dependence upon Men since Childhood :** Need of Independence from early stages : In Indian villages, girls remain dependent upon the father, brother or cousin and this very feeling continue in their married life. We must give capacity building training to girls in schools to be independent. The programmes of free universal education upto the age of 14 should be vigorously implemented. The courses of studies should inculcate the values of gender equality, self-respect, courage, independence, etc., which would help to develop the personalities of girls / women. 'In all kinds of public participation, the primary responsibilities of women for looking after home and children always come in the way, unless arrangements are made for child care and other domestic responsibilities sustained participation of women in the public sphere is not possible.

- **Women Elected Representatives of PRIs give way to their Men folk : Need of taking Independent Decision :** Women representatives in PRIs must be trained in the art and science of decision making so that they are not influenced by extraneous factor. They must develop leadership qualities. They should discuss among other women and take their opinion! All women member of Panchayats and other executive bodies must be trained and empowered to exercise their authority. Particular attention must be paid to be development of interpersonal communication skills among the community leaders. Efforts are required to elicit participation of women by establishing links between the elected, representatives and the development functionaries. The prevailing male dominated power structure in the village is not ready to accept women as chair persons (Sarpanches, Pradhans of Block Samiti and Chairperson of Zila Parishad) of the Panchayats. This problem can be solved by persuading women to come forward to assume responsibilities. This requires special orientation camps for the rural elite.
- **Lack of Interest and Knowledge : Need of Enthusiasm and Training :** Women lack interest in PRIs on account of lukewarm attitude to PRIs by the union and state governments. They must generate enthusiasm within themselves by making a goal and attach themselves to the altar with a spirit of dedication and reverence. The women participants must be mutually able to communicate in order to be able to exchange ideas. They should be given proper training in the working of the politico – administrative institutions. It is also suggested that PRI's prepare publicity material in local languages – Audio – visual and print media can contribute significantly by the dissemination of information on women related issues and prospects.
- **No Forum to Exchange Ideas : Need for all Women Forum :** Elected women representatives of three tiers should meet once in three months and formulate integrated plans. In this way, they would be more participative while deliberating on important issues.' The empowerment process requires social change by organising and mobilizing the women's groups for struggle Mahila mandals should be formed in all villages and get the full support of National Commission for Women (MCW) and other women's welfare based NGOs.
- **Women MLAs and MPs do not take interest in them : Need of Motivation by their own examples :** Women MLAs and MPs should visit frequently the elected representatives of PRIs to solve the problems faced by the rural women members. They should encourage them to take decisions independently. The national and regional political parties can play an important role in making them aware about the process, values and working of democratic institutions.

Empowerment has multi dimensional focus and its success depends on environmental forces in the given society. For that a healthy environment is a must for women empowerment at the grassroots level. Drawing lessons from experiences and case studies at the local, national and international levels is important.

In the end, it can be said that 33% reservation for women in PRIs is good step but it should be supplemented with effective measures that ensure the qualitative aspect of women's participation. Reservation needs to be accompanied by considerable amount of affirmative action programme. Empowerment of women can be made possible not only through reservations but it also requires removed of the causes of disempowerment whether social, political or psychological and an attitude change among the general masses towards women.

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### **12.3 THE NECESSITY FOR RESERVATIONS :**

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The left party women have expressed a concern for the declining number of women candidates. Only a handful of women form the generation of freedom fighters like Mrinal Gore, Ahiliya Rangnekar, Manju Gandhi, Pramila Dandavate are still active in politics. All of them actively feed the lack of younger women to take their place, lead their organizations and keep alive their struggles. This trend in declining number is confirmed by statistics. The last Maharashtra State Legislature election of 1989-90 has a total number of 288 seats which were constested by 6268 male candidates and 148 female candidates i.e. 2.3%.

Women politicians put the blame for this sad decline on the laps of their parties was it not the support of the Nationalist Movement and political parties which encouraged women to struggle for franchise and participate in the electoral process and how are the parties now facilitating women's entry into the political process today. Ironically these same parties for the 1<sup>st</sup> time since their inception have made the most lavish promise to women. All of them speak about removing gender discrimination and providing economic opportunities. The Janata Dal manifesto promises to reserve 30% government jobs for women. The Bhartiya Janta Party would like to make a wife a co-sharer in her husband's wealth and income. The congress-1, besides 30% reservation for women in local self-govt, promises to include women's name in land and house ownership and to spread consciousness amongst women about their rights.

Most parties are reluctant to field women candidates, women are considered liabilities, inexperienced and resource less. They

usually not considered to electoral politics unless they are supported by some god father or party bigwig and have the patronage of political families. Many a time they are given difficult constituencies with little chances of winning or asked to step down during electoral adjustments. In short women except for imp leader have felt like unwanted relatives or reserve waiting in the wings for an opportunity.

Some women may with converges determination overcome the physical constraint of domestic and other work and the restrictive patriarchal notions which generally detour them from politics. But all of them are vulnerable to references and charges of a sexual nature character assassination is a sore way to destroy a women politician's progress. They have to keep disproving rumours of affairs. Secret marriages or relationships. Instances of molestation or rapt, which may have happened against their will, can make them public controversies and disqualify them from electoral politics. However, political parties are not so squeamish in fieling wife beaters, raised or molesters as their candidates, these rigid and moralistic double standards hamper women in yet another way unlike man, they have to more careful in taking very confrontationist struggle as a way to get political prominence. The potential of serwat assault as political revenge is a shambling black, whereas for men courting arrest in jail and fights with authorities are 'sacrifices' which lend to greater political prominence.

Now that women's activism and militancy has become visible the questions being asked is why should it be that women should hold the protests and men hold the positions of power? Women are now ready to contest for leadership positions. Rural women attending a series of seminars organized at the Dandekar school for political economy (1982-84) in Lonavala spoke of bossism and corruption in the local level governments for asked why they could not contest for those positions? Forty women activists sat for 4 days discussing various aspects related to electoral politics like functioning of the panchayat raj system, the criteria for selecting candidates need for a women's front, etc of a training shibir in Ambethan. Women in many villages of Maharashtra have organized women's panels in the gram panchayat elections. The sahakari sanghatana had put up all women panels for gram swaraj elections in July 1989 of which 7 case successful.

On the other hand some ask will not reserved seats isolate women from mainstream politics? Women have replied that SC and ST reservation have not isolated them from mainstream politics by in fact added as a pressure on the political system without which the delits and their issues might have remained outside the filed of public debate most women view reservation as a stepping stone to join general politics.

Saroj Kashikar, a Janta Dal NLA said, "Reservation should not be like 'Lakshmanrekha where in women will be kept away from general constituencies. What the party is likely to do is field a women in a reserved ward, when it is de-reserved ward, when it is de-reserved the standing women corporator will most probably be shifted to another reserved constituency. This would mean that she will have no one constituency and continuity in an area. They should not be stopped from contesting from general constituencies.

#### **Debate on reservation for women in politics :**

- 1) The Indian Constitution provides certain rights to its citizens as well as puts forward definite rules and regulations which are binding on the citizens.
- 2) The rights which are provided are called as the constitutional Guarantees. Following are some of the important constitutional guarantees.
  - a) Article 14 - Equality before law.
  - b) Article 15 - No discrimination between citizens.
  - c) Article 16(1) - Equality of opportunities for all citizens relating to employment or appointment to any office under the state.
  - d) Article 16(2) - Forbids discrimination in respect of any employment or office under the state on grounds of caste, religion, race, sex etc.
  - e) Article 21 - It grants right to life and liberty and to means of livelihood to all.
  - f) Article 39 - Equal pay for equal work for men and women.
- 3) As per the constitutional guarantees, it is evident that all women enjoy the same rights as the men in the society. Emphasis is given on equality, no discrimination and equal opportunities.
- 4) It has been realized that the representation of women in politics has not been very encouraging. This situation brings out the question of whether reservation for women in politics can change or improve the participation of women in politics.

#### **Debate on reservation :**

- 1) The issue of reservation is an old issue. It has been strongly accepted by some and equally strongly rejected by others.
- 2) It was as early as 1929 that women's groups wanted the women to be given the right to vote as well as the demand for reservation of seats in politics.

- 3) This shows that the issue of reservation has always been present even in the pre-independent India and has continued to be a major source of debate even today.

#### **Situation in Maharashtra :**

- 1) It was in March 1990 that the Sharad Pawar Government in Maharashtra announced that 30% seats in all Municipal Corporations, Municipal Councils, Zilla Parishads, Panchayat Samitis and Village Panchayats will be reserved for women candidates.
- 2) This announcement made by the Maharashtra Government was a sudden announcement.
- 3) The women's groups, the opposition party as well as many of the members of the ruling party itself were surprised by this announcement. They were totally unprepared for it.
- 4) A bill was passed regarding this reservation in April 1990. According to this bill, 30% of the total numbers of seats, to be filled by direct elections, are to be reserved for women. Along with this, 30% of the total numbers of seats reserved for the SC's and ST's are to be reserved for the women belonging to the SC's and ST's respectively.

#### **Reactions to reservations :**

- 1) There were varied and sharp reactions to the 30% reservation of seats in politics for women.
- 2) The main opposition to this reservation announcement came from significant opposition parties mainly the BJP and the Shiv Sena. They put forward their suspicion that the reservation was a clear act on the part of the Congress-I Government to turn the opposition held constituencies into reserved categories for women and delay the election.
- 3) The BJP and Shiv Sena maintained that they were not against the reservation of seats for women but they objected the motives of the Congress-I Government.
- 4) This bill was also opposed by some Congress-I corporators because they feared that they might have to hand over their wards to the women candidates.

- 5) The only support for this 30% reservation came from women politicians belonging to different political parties. Following are some quotes –
- a) Mrinal Gore (JD)- “With the decline of women elected candidates and the party’s apathy to field more women, we actually do not have any choice but to accept reservation for women. Reservations in the local bodies will be a good training ground for women politicians”.
  - b) Ahilya Rangnekar (CPM)- “It is a shame that in this day and age we have to speak of reservation. But if that is the only way that women will get justice, then why not?”
- 6) Such clear positions did not emerge from the rest of the women’s groups specially the newly formed groups which have emerged since 1975 in the post-emergency period.

#### **The real situation in politics :**

- 1) There has been an increasing concern for the declining number of women candidates.
- 2) It has been noted that there is a wide gap between the number of male and female politicians, both at the state level and the central level.
- 3) It has been observed that there has been an increase in the female voters. Hence the women form an important vote bank which cannot be ignored. In spite of this, the women candidates are few in number.
- 4) Women politicians put the blame of low proportion of women candidates on the faulty policies of their party. During the elections, each party had promised 30% reservation for women. But this promise remained unfulfilled most of the time.
- 5) The idea that a woman candidate would necessarily get women’s votes initially attracted the attention of the political parties. However this was not a sufficient factor to have more number of women candidates.

#### **Reasons for low candidature of women :**

- 1) Most political parties are reluctant to field women candidates. This is because women are considered as inexperienced and resource less. Hence women are given difficult constituencies and are treated as unwanted.

- 2) Even today the women's roles as wives and mothers are encouraged by the society. Hence it is considered that a woman's best place is within her house.
- 3) Politics is considered as a place full of corrupt practices and dirty political games. Hence majority of the men try to protect their women from entering politics.
- 4) According to political parties, women do not have the time and capacity to be seriously interested in politics.
- 5) The women often have a double burden of work at home and at work place. Political activity will be an additional burden. This restricts women's participation in politics.
- 6) Almost all women politicians are vulnerable to references and charges of a sexual nature. Character assassination is a sure way to destroy a woman's political progress. Hence women avoid politics to protect themselves from scandals.

**Need for reservation :**

- 1) Women should be given a chance to enter politics and win a political seat. This way they can understand the finer points of politics and prove their capacity. Hence reservation is necessary for women.
- 2) Women are ready for leadership positions. Hence they should be provided with adequate opportunities to contest and win elections.
- 3) It has been observed that women politicians have made a stronger political impact. The general women public find them more approachable as compared to the male politicians.
- 4) Women politicians have also learnt the abilities of decision making and policy making in a quick manner.
- 5) Reservations at the lower levels will definitely help the women to gain entry into the political field and prove themselves. It will also make it easier for them to tackle the elections at the state and the central levels.
- 6) Reservations are necessary to stop the declining trend in the number of women legislators and to help women gain confidence for participating in the political field.
- 7) Women elected through the system of reservation will have a greater sense of responsibility and concern towards their job as well as their voters.

- 8) Reservation for women in politics is closely related to the concepts of equality and democracy.

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## **12.4 THE RECURRING ISSUE :**

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The issue of reservation is an old one which has been with us since the Nationalist Movement. It has been strongly propagated by some of equally vociferously rejected by others.

When the right to vote was given to propertied men, the question passed was should women also be given this right and should the same criteria be applied to them. A group of women leaders went in a deputation to appear before the simon commission. "It was foolish to think". They argued "that women owned property, paid income tax and house rent". The deputation recommended that all men who were properly owners and all literate women be give the rights to vote. And to ensure women's actual participation in the electoral process there should be reservation of sets. This dialogue continued till after the second Round table conference when two opposing points of view emerged between the two nominated members where Begum shah Nawaz disagreed whereas Mrs. Subbarayan maintained that without reservations of seats. Indian women would found it difficult to contest elections.

However, the atmosphere of the Nationalist Movement, the decision to support Mahatma Gandhi and to pressurise him to give up his fast against communal awards for elections seemed to have had a considerable impact on thinking of these women on the franchise question. It was then with the rejection of communal wards and to abide with Gandhi wished that all women's organizations i.e. All India women's council, National council for women in India, Women's India Association demanded Adult franchise for women with joint mixed election, No reservation of seat for woman no, appointment by nomination and no-cooperation.

In 1988, even though there was no demand for either the report writers or women's group, the National perspective plan formulated by the Rajive Gandhi movement recommended 30% reservation of seats for women in local self Govt, Panchayat samities and Zilla Parishads even as the women's groups were debating its pros and cons the Janta Dal implemented it in Karnataka. And not the congress Government of Maharashtra seeks to bring in for the next Municipal elections.

### **Just a Political Gimmick**

It is only the opposition parties but also many women's groups which have opposed the introduction of reservation of seat for women. The former have mainly attracted it in the grounds of political maneuvering as they unlike the congress party do not have many women members to field for elections. They have raised specific doubts on its actual functioning like the rotation system will be so manipulated that wards which are under the influence of the opposition party will be reserved to put them at a disadvantage secondly the male corporator of the reserved wards are likely to lose interesting their constituency.

Thirdly percent reservations will force the parties to recruit women or lose the particular reserved constituency. The question is what sort of women will the parties recruit? News paper articles have reported the disgust of opposition leaders at the introduction of reservation for women and have applied for permission to field wives and relatives.

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### **12.5 RAISING SOME QUESTIONS :**

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Undoubtedly it is a political gimmick coming from Sharad Pawar a Chief Minister who has never shown much concern for women in his long political career. But the use of 30% reservation at this juncture reflects simultaneously the frenzied state of real politics in Maharashtra as well as the recognitions and women's groups need to debate this issue and share with each other our thoughts and experiences. What is the ideological base from where we draw our arguments and what do we perceived as our strategy for the women's movement?

What we can do to make Reservations work?

The women's movement has usually allied itself with social minded women rather than these belonging to rightist one who do not believe in the existence of a systematic oppression of women. Nor do they have any vision of a new society based on a changed and more egalitarian relationship between man and women. The classes and casts there is a common thread of hope, justice and equality which binds all left and progressive women's organizations which require them in spite of their differences to support each other.

When local government elections are declared we can:

Find out which constituencies are declared for women and who are the likely women candidates from each party.

Make an appeal to all political parties to not put up women candidates. Other information about the background and political careers of each candidates and make sure that they are genuine candidates and not proxies for the sitting corporator.

Organise public meeting and dialogue with these women candidates about their responsibility to the women's movements electorate.

Support independent women who are sympathetic to the plight of women and seek to make favourable changes for poor women. We can e.g. campaign for them, propaganda etc.

Conduct a negative propaganda campaign for these candidates, women and men who have taken anti-women stands or have been accused or perpetuating crimes against women. This can be done by exposing them through pamphletting door to door propaganda or street to street.

We should put forward our expectations in the form of demands and a list of services required by women in distress and for their survival.

For example, elected women can play vital role in seeing that women are given Preference in issuing hawking licenses, more special police cells for women are set up, there are shelter homes in each ward, that municipal clinics and hospitals have equipped female wards or that banks give soft loans to women for housing etc.

Provide a public platform for all women candidate standing in election to alertness their constituency and specially the women voters.

Create a platform for women party members, activists of organizations. The public to debate issues of concern to women.

We should demand that the elected women candidates are given imp position of power within the local bodies. Women candidates should be placed in standing committees and made deputies.

Create structures of accordability in each ward by forming women voters vigilance committees. These could meet every few months for debate and reporting.

One can propagate these and many other aspects and can guide other women as well as conscious citizens about 'our' candidates who come to us for propaganda and also demand

answers to their promises once they are elected but for this one need to build a strong pressure group and united strength.

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**12.6 SUMMARY :**

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Most of the women's organization and women politicians have considered reservation for women in politics as a significant step towards upliftment of women. If women have access to potical power, they can being about positive changes in the general states of women in the society.

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**12.7 CHECK YOUR PROGRESS :**

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1) Discuss on debate of reservation for women politics.

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2) Explain situation of reservation problems in Maharashtra.

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3) State why reservation is necessary?

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**12.8 QUESTION :**

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1) Write a note 33.1% reservations for women in politics.

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**12.9 REFERENCES :**

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## FAMILY LAWS

### Unit Structure :

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Laws as an instrument of social change
- 13.3 Marriage
- 13.4 Reinforcement of provision against Bigamy under the Hindu Marriage Act
- 13.5 Family Laws
- 13.6 Family Courts
- 13.7 Uniform Civil Code
- 13.8 Summary
- 13.9 Check your progress
- 13.10 References
- 13.11 Questions

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### **13.0 OBJECTIVES :**

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- 1) To make the students aware of Indian Constitution and its role as an instrument of social change.
- 2) To familiarise the students with the process of enacting, social legislative for the betlement of women in India.
- 3) Hindu and Muslim Law – equality of women has been promoted and protected by obligating the state to minimize the inequalitites, which have enabled Hindu women to avail some social justice but Muslim women have not yet got them.

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### **13.1 INTRODUCTION :**

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The legal status of women from all points of view and especially with reference to marriage, divorce, adoption and guardianship of children maintenance & in heritage of certain relevant issues such as matrimonial property, family courts uniform civil code & reforms in criminal law relating to nationality. Our findings of recommendations are given in the paragraphs that follows.

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## 13.2 LAWS AS AN INSTRUMENT OF SOCIAL CHANGE :

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During the British period the general policy of non-intervention in social and religious matters perpetuated multiple systems & by preventing normal adjustment to social-economic changes led to stagnation and hardening of differences between the various religious communities and even within the sub sections of the communities. The 19<sup>th</sup> century social reforms attempted some marginal adjustments arising from humanitarian considerations of social demands. Their most significant achievement being the law against the practice of Sati. Such social legislation however was not attempted after 1857. With the strengthening of the national movement & the efforts of Mahatma Gandhi, a demand began to be put forward for bringing about major changes in law & for removing the legal inferiority of women & ending the discrimination against them in matters like marriage, divorce, inheritance or guardianship of children. Which affected their life & personality. Reform of Hindu Law was those initiated even before independence although because of conservative resistance. It could only be given effect to during the 1950's in a piecemeal fashion.

Over dependence on legislation to bring about social change in a characteristic, not only of our country but of several modern societies, particularly those emerging from foreign rule. There is no doubt that law does. Serve some useful purpose in promoting social change. But it must be emphasised that legislation by itself cannot change society. The judiciary has often failed to give effect to the principal underlying legislation as for example in cases of bigamy or cases including the wife's right to work. The executive has also failed to implement these laws or to spread awareness about them through the mass media. If legislation reflects the social value of a country, the degree of women's emancipation is the measure of its general culture advance.

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## 13.3 MARRIAGE :

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The major issue relating to marriage that need careful attention & polygamy, effective enforcement of the provisions against bigamy under the Hindu Law, age of marriage, compulsory registration of marriages and dowry.

### 1) Polygamy :-

Full equality of the sexes is hardly possible in a legal system which permits polygomy & a social system which tolerates it. Fortunately the institution of polygamy which prevailed to additionally in India has been declining in the last few decades.

Monogamy has been accepted in the laws for the Christians, Hindus, Parsees and Jews. So that 88% of the Indian population is legally governed by this principle. It is only Muslim law which has remained unaffected by the changing trend towards monogamy.

- 1) Muslim Law on Polygamy – 3 different sets of views were expressed by muslim women interviewed by us.
  - a) The educated middle classes in U.P., were opposed to any change whatsoever.
  - b) The proper women of the some state expressed a desire for monogamous marriages and denounced the inequalities of polygamy and
  - c) There was a uniform & emphatic demand from women in Kashmir for the banning of polygamy.

Muslim Law regards marriage as a contract. Some jurists have advocated the adoption of a standard contract. Providing, inter alia that the wife shall have the power to divorce her husband if he takes a second wife. Although this remedy is advocated for the prevention of polygamy. It will not obviously provide any substantive relief to the 1<sup>st</sup> wife with children no seriously affect the position of the husband, because the 2<sup>nd</sup> marriage would remain valid and then act of bigamy would not be legally wrong. It would also be ineffective to prevent take conversions to Islam to evade the prohibition of bigamy under other laws.

While the desirability of reform in muslim law is generally acknowledge and polygamy has been prohibited in most other muslim countries. The Govt. of India has taken no steps in this direction on the ground the public opinion in the muslim community does not favour this change. Ignoring the interets of muslim women is denied of equality and social justice & therefore there can be no compromise on the basic policy of monogamy being the role for all communities in India.

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### **13.4 ENFORCEMENT OF PROVISION AGAINST BIGAMY UNDER THE HINDU MARRIAGE ACT :**

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While Bigamy has been made an offence for the Hindus and the 2<sup>nd</sup> marriage is void in laws. Such marriage are still prevalent as evidenced by a census study in 1961 and cases brought to the notice of the committee during its tours in the state of Manipur, Andhra Pradesh, Bihar, U.P., West Bengal and M.P.. Uneducated & economically dependent women find it difficult to go to court and are not always supported their families in lodging prosecutions. Technical interpretation of the ward solemnization of the marriage also poses difficulties. It is therefore necessary to make the

following changes in the law to make its enforcement more effective.

- a) With the permission of the court, the right to institute prosecution for bigamy should be extended to persons other than the girl's family to prevent the widespread violation of the law.
- b) In section 4 of the Hindu Marriage Act, 1955, the words solemnized should be replaced by the words goes through a form of marriage. Further an explanation should also be added to the effect that the essential ceremonies by parties shall not be construed to mean that the offence of bigamy was not committed if such a ceremony of marriage gives rise to a de facto relationship of husband and wife.
- c) A provision should be introduced in section 6 of the Hindu Marriage Act, 1955 to the effect that nothing in the Act should prevent a court from granting an injunction against a proposed bigamous marriage.

### **Maintenance :-**

#### **1) Criminal Law**

The Criminal Procedure Code, 1974 continues to reflect the old attitude to women and provides the right to demand maintenance to divorced wives and indigent parents. The obligation has been placed on men only, this is irrational in the changing social situation when many women are economically independent with a view to achieving equality of status between husband and wife and son and daughter. We recommend an amendment of the law to oblige the economically independent women to maintain their dependent husband, to share with him the duty to maintain their children, and with her brothers, the duty to maintain their indigent parents. We also recommended removal of the ceiling of Rs.500/- p.m. which has now placed wives who have received some money payable under customary or personal law excluded Muslim women who are divorced. This unjust exception should be done away with.

#### **2) Hindu Law**

Unlike criminal law, where the wife's claim for maintenance depends on the husband's having sufficient means, under Hindu Law this right is absolute but is lost if the wife becomes unchaste in assessing the amount of maintenance the court takes into account the position and the status of the parties. The reasonable wants. The claimant and the obligations of the husband. It also judges the justification for the wife's living separately. This Act does not also limit the obligations of maintenance to the man only.

### **3) Muslim Law**

While maintenance of the highest obligation of the husband in Muslim Law, the wife must be accessible to the husband and obey his reasonable commands. A divorced Muslim wife has no right to maintenance beyond 3 months. There is no justification for such a discrimination and recommend that the right to maintenance should be extended to divorced Muslim wives.

### **4) Parsees and Christians**

The right of maintenance for parsees and christians are very similar both concede the right only to women. In fixing the quantum of maintenance the courts bear in mind. The husband's ability, the wife's own assets and the conduct of the parties. The Indian Pivorce Act, 1989 which governs Christians gives discrelion to the court to order the settlement of the wife's property for the benefit of the husband or the children if the divorce has been obtained by the husband because of the wife's adultery. If the court has been decread damages to the husband against the adultery it may order to the settlement of the whole or part of this amount for the benefit of the children or maintenance of the wife.

In order to minimize the hardship caused by the non-payment of main leniene and to ensure certainty of payment, we recommend that all maintenance amounts should be deducted at the source of the employer as in the case of income tax. Where this is not possible arrears of maintenance should be recovered as arrears of land revenue or by distress as in the case of fines under the Criminal Procedure Code. The best solution lies in entrusting the entire question of maintenance to specialised courts like family courts which could take into consideration the income and degrees of financial dependence of both spouses in setting such matters.

### **5) Inheritance**

The Indian Succession Act, 1925 which governs Christians, Jews, Parsees and those married under the Special Marriage Act confers no restriction on the power of a person to will away his property; and the protection enjoyed by a Muslim widow to a share of the estate and by the Hindu widow for maintenance is denied to other widows under the law, it is desirable to place some restrictions on the right to testation similar to that prevailing under Muslim Law to prevent a widow from being left completely destitute.

The amended law provides that, in cases of inter state succession, the widow with no lineal descendant is enenlifted to the whole property if its value does not exceed rs.5,000/- in cases where it exceeds this amount. This provision is not extended to Indian Christians and Hindus, Buddhists or Jains. Succession to

whose property gives rights to childrens, widows its denial to these groups cannot be justified.

### **Hindu Law :-**

Pre-independence India had several system of succession among Hindus, in most of which the position of women was one of dependence with barely and proprietary right. Even where they enjoyed some rights, they had only as life interest and not full ownership. The Hindu Succession Act, 1956 made some radical changes. The most imp being equal right of succession between male & female heirs in the same category it also simplified the law by abolishing the different system prevailing under the Mitakshara and Devabhaga School and extended the reformed law to persons in South India previously governed by the Marumma Katiayam. The class 1 heirs of a man who take the property in equal share or absolute as absolute owners are the widow the ??? son, daughter, widow of predeceased son, and sons and daughters of predeceased son's daughter's.

Unfortunately, traditional resistance led to some compromises in the original intentions. For instance the one major factor responsible for continuing the inequality between sons and daughters is the retention of the Mistakshare coparcenary, whose membership is confined only to males. A Number of decisions and laws like the Hindu Women's Right Property Act and the Hindu Succession Act have made in roads in the concept of the coparcenary. The Hindu Code Bill, 1948 as amended by the select committee had infact suggested abolition of the coparcenary i.e. the male right to birth, but traditional resistance was too strong. The compromise which the law no incorporates ensures that the female heirs of a male member of the coparcenary get a share of his property which is demarcated by a national partition. In consequence the sons get a share of the father's property in addition to their own interest as coparceners. Under the Dayabhaga System the daughters get equal shares with the brothers as there is no right by birth for sons. The right of a coparcener to renounce his share in the coparcenary and to transform his self acquired property into joint family property is frequently used to neglate or reduce the share of a female heir. We therefore recommend the abolition of the male right by birth and the conversion of the Mitashara coparcenary in to a Dayabhaga one.

Section 23 of the Hindu Succession Act, 1956 relating to the right to inheritance to a dwelling house had also resulted in same discrimination between unmarried, widowed and married daughters. While supporting the main object of the family against that of an individuals restricts partition we are not happy about the indious distinction between married and other daughters. Since the right of residence is restricted only to those daughter who are

unmarried or widowed and are deserted by or separated from their husband. We therefore recommend the removal of this discrimination so that all daughters enjoy the same right.

The unrestricted right of festation of ten results in depriving female heirs of their rights of inheritance. We, therefore, recommend the restriction of this right under the Hindu succession Act, 1956.

We come across large number of women who were ignorant about their of inheritance and so conditioned that they opposed the idea of sisters depriving brother of the property. The proposed the consolidated and general law would therefore be defeated unless adequate publicity is given to its provision and women are educated about their rights. In the absence of social security and adequate opportunity for employment, right of inheritance in property provide financial security and prevent destination of women. While it is said that property rights will benefit only all limited section there is no about that they will make women independent and help them to improve their status effectively checking the feeling. That women area burden to the family.

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## **13.5 FAMILY LAWS :**

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Family laws deal with marriage, divorce, inheritance, property rights etc. which matter to the family members. They are also called as personal laws. Family laws are based on religious beliefs and women. Hence there is a chance of there laws being misinterpreted. Various inequalities are found in these laws with respects to marriage, divorce, maintenance, property rights etc. Family laws of all communities are discriminably. This is because almost all religion believe that women are inferior to men and hence they cannot be equal. Family laws are the only laws which are met uniform to all the people in our country.

Marriage in the vedic society was considered as a sacrament. In the modern society marriage is considered as a contract. The Hindu Marriage Act of 1955 has reformed the Hindu laws of marriage. Following are the impart aspects.

- 1) Marriage has the characteristics of both a sacrament and a contract. The sacrament characteristics is evident in the various sacred ceremonies such as saptapads, canyadan etc. The contract characteristics is evident on cosent of both the parties is of some importance, though met of an extreme importance.
- 2) Both the parties must be of Hindu religion.
- 3) The marriage must be monogamons, Bigamy is punishable.

- 4) The Hindu Marriage Act does not make registration of marriage compulsory. However registration of marriage is a proof of marriage.
- 5) Physical relation with a 3<sup>rd</sup> party after marriage.
- 6) Physical and mental cruelty.
- 7) Desertion for a continuous period of 2 years or more.
- 8) Conversion to other religion.
- 9) Suffering from a contagious and incurable form of leprosy.
- 10) The couple has not cohabited for the period of 1 year after judicial separation.
- 11) A wife can seek divorce on grounds such as marital rape.
- 12) Bigamy is an important reason for seeking divorce.

### **Maintenance**

- 1) In the Hindu law, the term maintenance has been used in a wide sense. The Hindu Adoption and Maintenance Act 1956 defines maintenance as a provision of food, clothing, residence, education and medical attention. In the case of unmarried daughter it includes reasonable expenses of her marriage.
- 2) It is a direct obligation of the husband to maintain his wife. This obligation begins with marriage but does not end even after the end of the marriage. It means the wife is entitled to maintenance even after the dissolution of marriage.
- 3) The wife's right to maintenance may arise in the following 3 situations-
  - a) When the wife lives with her husband. In fact even an unchaste wife who lives with her husband can claim maintenance.
  - b) When the wife lives apart from her husband with his consent.
  - c) When the wife lives separately from her husband either through judicial separation or through divorce.
- 4) There are other elements of maintenance which are related to the daughter. The following daughters can claim maintenance-
  - a) Unmarried daughter, legitimate or illegitimate daughter, widowed daughter etc. The claim to maintenance is limited to their maidenhood. As soon as the daughter is married she cannot claim maintenance from her father.
  - b) The daughter cannot get maintenance if they cease to be Hindus.

- c) A widowed daughter cannot claim maintenance after remarriage.

**Property-** Related to succession, the property of a Hindu female has the following categories-

- 1) Property inherited by a female from her father or mother. This does not include the property which she acquires at the time of her marriage from the father or mother. Such property is her 'Stridhan'.
- 2) Property inherited from her husband or father-in-law. Under the Hindu Succession Act 1956, a daughter-in-law inherits from her father-in-law only when she is a widow. It means she cannot inherit if her husband is alive.
- 3) Property obtained from any other source by inheritance or otherwise.
- 4) A person who dies without making a will is intestate. The property of a Hindu female died intestate shall be distributed as follows-
  - a) Upon the sons and daughters, husband and children of any predeceased son or daughter.
  - b) Upon the heirs of the husband.
  - c) Upon the father and mother.
  - d) Upon the heirs of the father.
  - e) Upon the heirs of the mother.

**Guardianship:** A guardian is a person responsible for taking care of a minor or of his property or of both person and property. A minor is considered to be person who is physically and intellectually imperfect and immature and hence needs someone's protection. Certain important aspects of guardianship are as follows:

- 1) Father is the natural guardian of his minor children both sons and daughters.
- 2) Where a father is alive but he is a non-functioning natural guardian, the mother can act as a natural guardian.
- 3) The mother is the natural guardian of her minor legitimate children only if the father is dead or is incapable of acting as a guardian.
- 4) The mother is the natural guardian of the minor illegitimate children even if the father is alive.

- 5) The Hindu Minority and Guardianship Act lays down that the custody of a minor below the age of 5 years shall be with the mother unless the welfare of the minor requires otherwise.
- 6) Step-parents are not entitled to guardianship unless they are specially appointed by the court.
- 7) The natural guardian has the right to protect the property of the minor.
- 8) Remarriage of the mother is no longer a disqualification and a mother who has remarried does not lose her right of guardianship.

### **Muslim Family Laws:**

**Marriage:** A Muslim marriage (Nikah) is a contract made between 2 persons of opposite sex with the physical relationship, procreation and the legalizing of the children born out the union. Following are the essential elements of marriage-

- 1) Marriage is considered as a civil contract.
- 2) A priest or Qazi is necessary for its performance.
- 3) Every Muslim who has attained puberty and who is of a sound mind can enter into a contract of marriage.
- 4) Presence of 2 witnesses who are sane and adult Muslims is essential for the validity of the marriage.
- 5) A Muslim woman cannot contract a valid marriage except with a Muslim.
- 6) Under the Muslim law, a man can have a maximum number of 4 wives at the same time provided he treats them equally. However a Muslim woman is entitled to have only one husband at one time.
- 7) The registration of marriage is not compulsory.
- 8) Muslims follow the practice of Mehr. Mehr is a sum of money or other property which the wife is entitled to receive from the husband in consideration of marriage. This amount may be fixed either before the marriage, at the time of the marriage or after celebration of marriage.

**Divorce:** A Muslim marriage can be dissolved by divorce in 2 ways-

- A) Without recourse to courts.
- B) By recourse to courts.

A) Following are the important aspects of this type-

- 1) When the divorce proceeds from husband and through his will without giving any cause, it is called as 'talaq'. It may either be irrevocable or revocable.
- 2) Talaq may either be by spoken words or by a written document called as 'talaqname'.
- 3) It is not necessary for the wife to be present when the talaq is pronounced but the wife must be informed about it.
- 4) Divorce may take place by mutual consent of husband and wife.
- 5) It is lawful for a Muslim Husband to give his wife the power to divorce him on certain conditions.

B) Following are the important aspects of this types-

- 1) The act related to divorce is called as the Dissolution of Muslim Marriage Act 1939.
- 2) A woman married under law shall be entitled to divorce her husband on grounds such as insanity of husband, impotency of husband, neglect by husband, cruelty by husband both physical and mental.
- 3) On divorce, Mehr has to be paid immediately.
- 4) Physical relationship between the divorced couple is unlawful after the divorce has become irrevocable. The children of such relationship are considered as illegitimate.

**Maintenance:** Following are its important aspects-

- 1) In a valid marriage, it is a husband's duty to maintain his wife even though she may have the means to maintain herself.
- 2) The wife loses her right to maintenance if she refuses to cohabit with her husband on unjustifiable grounds.
- 3) She can claim her right to maintenance if she is forced to leave her husband's house on account of cruelty.
- 4) After divorce, a Muslim woman is entitled to maintenance from her husband during the period of 'iddat' but not after the expiry of the period of 'iddat'

- 5) A widow is not entitled to maintenance from the estate of her late husband.
- 6) The Muslim Women (Protection of Rights on Divorce) Act 1986 has been formulated to protect the rights of divorced Muslim women.

**Property:** Following are its important aspects-

- 1) A significant form of property is the Mehr that the Muslim married woman is entitled to receive from her husband before, during or after marriage. It can either be money or property.
- 2) A widow can claim possession of her husband's property in exchange of the Mehr payable to her.
- 3) Mehr is given immediately to a Muslim woman at the time of divorce. It includes money and gifts that she has received from her relatives and her husband's relatives before, during and after the marriage.

**Guardianship:** Following are its important aspects-

- 1) Under the Muslim law the father is considered as a natural guardian.
- 2) The mother is entitled to custody of the male child upto 7 years of age and of the female child until she attains puberty. This right of the mother is maintained even after separation and divorce.
- 3) The father has to provide maintenance for his children even after divorce and this can be claimed by the wife.

**Christian Family Laws-**

**Marriage-** The Indian Christian Marriage Act 1872 deals with the laws of marriage. These laws are comparatively outdated. Following are its important aspects-

- 1) Marriage is regarded as a sacrament.
- 2) For the Christian marriage to be considered as valid, minister of religion and marriage registrar need to be present.
- 3) The registration of marriage is compulsory.
- 4) It is not compulsory for both the parties to be Christians. Only one party needs to be Christian.
- 5) Monogamy is strictly prescribed.

- 6) The minimum age necessary for a boy is 21 years and for a girl is 18 years.

**Divorce:** The Indian Divorce Act 1869 deals with the laws of divorce. Following are its important aspects-

- 1) The husband may claim divorce on the grounds of adultery by his wife after marriage.
- 2) There are various grounds on which a Christian married woman can seek divorce from her husband. They are-
  - a) The husband has converted himself from Christianity to another religion.
  - b) Is guilty of incest
  - c) Is guilty of bigamy
  - d) Is guilty of cruelty
  - e) Is guilty of marital rape
  - f) Desertion for a period of 2 years or more
- 3) Any Christian husband or wife can claim for divorce on the grounds of insanity and impotency.

**Maintenance:** Following are its important aspect-

- 1) A Christian women can claim maintenance from her husband through criminal or civil proceedings.
- 2) A divorced woman who cannot support herself can apply for alimony and maintenance under section 37 of the Indian Divorce Act 1869.
- 3) The husband will have to pay alimony till her lifetime. This can either be paid on an annual basis or on a monthly or weekly basis.
- 4) A Christian woman who has independent means of income can still claim maintenance from her husband after the dissolution of marriage.

**Property:** After divorce, the wife can claim share of the property. A settlement regarding this issue has to be decided between the husband and the wife.

**Guardianship:** During the proceedings of divorce, the guardianship of children is maintained by the court itself. Once the divorce proceedings get over, the court gives specific orders regarding the custody and maintenance of the children.

**MATRIMONIAL PROPERTY:**

In the socio economic situation prevailing in the country, the contribution of the wife to the family and economy is not recognized. A large number of them participate in the family effort to earn a livelihood and even when they do not do so the economic value of their effort in running the house, assuming all domestic responsibility and thus of relieving the husband for his evocation is not accepted in law, either directly or indirectly, married women who do not an independent source of income or give up employment after marriage to devote all their time to family obligation are economically dependent on their husbands. In the majority of cases. Movable and immovable property of cases, Movable and immovable property acquired during marriages is legally owned by the husband. Since it is paid for out of his earnings. In case of divorce or separation, women without any earning or savings of their own are deprived of all property which they acquire jointly. Even property received by them at the time of marriage from the husband or his family is denied to the women in same communities. The principles of determining ownership on the basis of financial contribution thus work in equitably against women and the fear of financial and social insecurity prevents them from resorting to separation or divorce even when the marriages are happy. It is therefore necessary to give legal recognition to the economic value of the contribution made by the wife through house work for purposes of determining ownership of matrimonial property instead of continuing the archaic test of financial contribution.

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**13.6 FAMILY COURTS:**

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The salutary law in all matrimonial matters follows the adversary principal for giving relief i.e. the petitioner seeking relief all age certain facts and the respondent refutes them. In addition most of the grounds in these status are based on the fault principle instead of on the breakdown theory. As a result strong advocacy rather than family welfare is often the determining factor in this cases. The absence of distinction between matrimonial cases of other civil suits leads to inordinate delay which stand in the way of conciliation and further embitters the relationship of the parties conciliation which thought to be the main consideration in all family matter is of the guiding principle in the status dealing with them. We, therefore, strongly recommend the abandonment of the establishment adversary system for settlement of family problems and the establishment of family court, which will adopt conciliatory methods and informal procedure in order to achieve socially desirable results.

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**13.7 UNIFORM CIVIL CODE:**

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The absence of a uniform civil code even 50 year after independence is an incongruity which can not be justified, especially in view of all the emphasis that is placed on secularism, science and modernization. The continuance of various personal laws which discriminate between men and women Violates the fundamental rights of the preamble to the constitutes which promises equality of status of all citizens. It is also against the spirit of National integration and secularism.

Out recommendations regarding amendment of existing laws are only indicators the direction in which uniformly has to be achieved. We also recommend expeditions implementation of the constitutional directive of Article 44 by the adoption of a uniform civil code.

**Reform in Criminal Law:****1) Consent to sexual intercourse:**

Consent to sexual intercourse is strictly interpreted and excluded consent given by the women order duress or fraud. It should also exclude consent obtained by threatening someone else in the presence of the women, as recommended by the law commission. In our view consent to have sexual intercourse required more maturity than to have an abortion. The same age limit should therefore be applied in both cases.

**2) Bigamy:**

The present law restricts jurisdiction of the court to be place where the bigamous marriage was performed or where the husband and wife last resided. This causes difficulties to the wife who may have to more away after being abandoned by her husband. We recommend that in addition to the two jurisdiction under the criminal producer clause. Provision should be made for inquiry and tribal for bigamy in a court with in whose jurisdiction the wife is residing.

**3) Adultery:**

Adultery in our opinion should be regarded only as a matrimonial offence. The remedy for which may be sought in divorce or separation. Retention of this as a criminal office brings out clearly the values of the last century which regarded the wife as the husband's property. It also prevents lawyers and other from giving necessary help to an oppressed wife. We recommend that

continuing to regard adultery as a criminal offence is against the dignity of an individual and should be removed from the penal code.

**NATIONALITY:**

In the absence of any provision in the citizenship Act, 1955 leading with the case of Indian women marrying foreigners, many of them have become stateless. We recommend that the Act be amended to provide a special rule for Indian women marrying aliens to the effect that she will in no case lose her Indian nationality as a result of her marriage to a foreigner.

The present rule prevents to children of Indian women who have married aliens from being considered as Indian citizens. Where the father and mother are separated and the mother is guardian, there is no justification for the rule that the child's nationality will be transmitted through the father. We, therefore, recommend the amendment of section 4(1) of the citizenship Act, 1955 to read as following:

A person born outside India on or after the 26<sup>th</sup> January, 1980 shall be a citizen of India by descent if his father or mother is a citizen of India at the time of his birth.

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**13.8 SUMMARY :**

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Divorce is another gender issue that make the women had a stigmatized existence 16 implies dissolution marriage, causing mental fortuse, economic deprivation, loss of status and security, loss of child or children to women more then man. Prevailing social attitudes against women going in for divorce and torturous lengthy legal procedure are two important factors that make divorce a problem for women. The consequences of divorce are dissolution of marriage and family life, financial loss, remarriage etc.

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**13.9 CHECK YOUR PROGRESS :**

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- 1) What are the objectives of India constitution? Why has the constitution failed with regard to women?

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2) What are family and laws? Why has the constitutions failed with regard to women.

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3) What do you mean by Hindu code Bill? Make an attempt to compare the Hindu family laws and Muslim families law.

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**13.10 QUESTIONS:**

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- 1) Explain law as an instrument of social change.
- 2) Discuss polygamy among Muslims which leads to inequality.
- 3) What do you mean by Bigamy?
- 4) State the meaning of maintenance.
- 5) Explain family Laws.
- 6) Discuss uniform civil code?

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**13.11 REFERENCES:**

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## FEMINIST CRITIQUE OF LAWS - I

### Unit Structure :

- 14.0 Objectives
- 14.1 Introduction
- 14.2 Feminist critique of law as strategy
- 14.3 Sameness vs Differences
- 14.4 The Biology debate : Sex and Gender
- 14.5 Beyond equality – Difference debate
- 14.6 Check your progress

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### 14.0 OBJECTIVES :

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- 1) To acquaint students with feminist laws who fought for equal rights and emancipation of women.
- 2) To bring awareness among students though the law creates a series of new legislations, its implementations remains unsatisfactory.

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### 14.1 INTRODUCTION :

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The experience of feminist politics in the arena of law not only raises questions about the capacity of the law to act as a transformative instrument but more fundamentally, points to the possibility that functioning in a manner compatible with legal discourse can radically refract the ethical and emancipatory impulse of feminism itself.

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### 14.2.A FEMINIST CRITIQUES OF LAW AS STRATEGY :

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Feminist theories of laws have developed considerably over the last two decades. Early feminist work (from the 1960s onwards) saw laws in instrumental terms as the potential source of equal rights and the emancipation of women. Society being steeped in patriarchal values practices, the law and the state were seen as the only agents with the power and the legitimacy to bring about egalitarian social transformation. Gradually, especially by the

1860s, the experience of women's movements all over the world has led to an increasingly critical engagement with legal discourse. Four interlinked strands of argument can be discerned in this engagement.

- a) Most legal systems have features which are actively discriminatory to women, denying them equal rights to property, to certain kinds of employment, and so on.
- b) Even where there is equality in principle, law in its actual functioning discriminate against women because legal agents interpret laws in patriarchal ways.
- c) Even when law treats men and women equally it is discriminatory to women because men and women are located in an unequal and hierarchical manner in cultural social and economic formation. In other words, it is unjust to treat unequals equally.
- d) The law and the state render invisible women's subjective experience of oppression since objectivity is installed as the norm. In this sense the law is essentially male and can only ever partially comprehend the harms done to women.

This kind of critical analysis of the law underlies feminist campaigns all over the world. The goals are to redress the discriminatory nature of particular laws, to create new laws, in areas of judicial void that is, in the 'Private' realm of the family, and consistently to expose the patriarchal bias in the interpretation and implement action of existing laws.

In India there has been over a decade of feminist engagement with the law on the issue of violence against women. Particularly in the 1980s the women's movement reacted to almost every instance of violence against women by demanding legislative action. These efforts have been successful in that every campaign resulted in legislative changes such as the Criminal Law Amendment Act, 1983, Dowry Prohibition (Amendment) Act 1984, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act 1987. Thus success however, raised new set of questions : why did the implementation of these laws main conservative and partial? In fact, as Flavia Agnes points out, since most of the new laws provide for more stringent punishment, there have been fewer convictions than before.

The legal campaign as strategy has always been accompanied by debate within the Indian Women's movement and the major lines of criticism against law or a strategy that have emerged are :

- a) That the law is not enough. Nandita Gandhi and Nandita Shah for example told that no part of the women's movement is under any illusion that the law is a genuinely transformative instrument. At most, women's groups see legal campaigns as a broad strategy to achieve legitimacy, to create public awareness on specific issues and to secure some short – term legal redress. The struggle to transform the patriarchal nature of existing laws can only be part of a wider struggle. Similarly, Nandita Haksar urges the incorporation into legal practice of an understanding of the political and social bases for gender injustice. Without this, no law reform can be effective.
- b) That constant recourse to the law creates a series of new legislations which often mean the increase of state control, while implementation remains unsatisfactory. This misgiving has been consistently expressed by Madhu Kishwar, Ruth Vanita and Flavia Agnes.

Another notable recent intervention is an essay by Vina Mazumdar, one of the Matriarchs of the Women's Movement in India, who charts her own and the movement's journey over the last five decades. The essay reflects the confidence and optimum that characterized social movements in the early years after independence, but is even more remarkable for its honesty and evident rethinking over the years. In a significant footnote, discussing the confidence that the new constitution give women of her generation, she talks her father, 'a self-confessed conservative', resolving her dilemma over the conflict between material and professional responsibilities. He introduced a missing third factor – her responsibility not to waste the resources the country invested in her training. This sense of responsibility to the nation – state, and correspondingly, the expectation of progressive transformation through it, is characteristic of the generation which came of age through the anti-imperialist struggle. This confidence began to unravel after the Emergency years, and as Mazumdar tracks, the changes, gradually the women's movement began to focus on economic issues, particularly from the 1980s. Thus a new identity was asserted by the movement, breaking out of dominant perceptions of women's issues as mainly social not political and economic. What is notable is that this new identity was posited in opposition to the state, not in the spirit of partnership of the early years. In the course, of this journey, says Mazumdar, I may have lost the sense of certainty, which I shared with the earlier generations of the India women's movement. According to her legislation as the major instrument for ushering in changes in social order. Later in the same essay she tries to limit her criticism to a particular movement, holding that the law's historical failure at a

particular point of time should not be generalized to an impossibility.

Thus the legal campaign as strategy has always been accompanied by doubts and questions among Indian feminists, all the more so in recent years. So, it is untenable to hold as Archana Parasher does that feminist critiques of law reforms only come from societies where women already have won formal equality in legal rights.

Feminist writers who point to the drawbacks of law reforms all live in societies in which women have already gained formal equal legal rights. Their concerns shifted beyond law reforms and equal rights only after they had virtually achieved legal equality with men. Parasher thus suggests a simple hierarchy – first, formal legal rights for women which must historically precede demands for autonomy to control their sexuality or the right to inviolability of their bodies. Further, Parasher evidently sees this as a process which would proceed by similar stages in all societies, i.e. legal equality followed by other kinds of transformation.

The Emergence of this modern language of rights certainly empowered many subaltern sections against indigenous elites, but contrary to claim of this language to universality, was not unambiguously emancipatory for all. Indeed, it had devastating consequences for many subaltern sections which were drastically marginalised & disciplined by operation of modern codes of identity & governance.

Despite misgivings, however, women's movement, like other social movements in India, continues to retain vision of law as transformative & emancipatory instrument, Vina Mazumdar as we see above, despite her rethinking over decades, continues to retain faith in regenerating laws transformative role.

### **The Pre-Natal Diagnostic Techniques :**

(Regulation & Prevention of Misuse) Act [1994] [PNDT Act]

The Pre-Natal Diagnostic techniques (PNDT) Act, first, introduced in 1991 as Bill No. 155 was sent to a Joint Select Committee of Parliament, & after subsequent discussion, was unanimously passed in July 1994. Its only focus of regulation & control is technique of pre-natal sex determination not access to abortion in any form i.e. act does not concern itself with selective abortion of female fetuses as such but rather with medical procedure to detect sex of fetuses which can lead to femicide. Thus, unlike draft earlier discussed, there is no definition of what constitute femicide of fetuses. As Act stands therefore it seems that access to abortion in general has been kept entirely clear of its scope. This certainly resolves one of political contradiction for feminism discussed earlier, although the inconsistency at level of

philosophy remains which we will go into later in this chapter. However, it is precisely narrow focus of this Act at protect Medical termination of Pregnancy Act from coming within its scope – but this has left legislation incapable of tackling effectively problem of evens SD tests. Both these contentions will be explored later in this section.

The Act specifies that pre-natal diagnostic tests can be conducted for detection of five type of abnormalities – chromosomal abnormalities, genetic metabolic diseases, hemoglobin apathies, sex-linked genetic diseases, & congenital anomalies. It also lay down certain conditions under which these tests can he conducted if pregnant woman is thirty five, if she has history of two / more spontaneous abortions, if there is family history of mental retardation (physical deformities) if she has been exposed to potentially teratogenic agent such as drug infection / chemicals. The Act lays down that no person conducting prenatal diagnostic procedure shall communicate to woman / her relative's sex of foetus. There are similar rules for medical practitioners who can be deregisteredly Medical Council for two years for first offence & permanently for subsequent one. The woman under going test will be presumed to have been compelled to do so unless contrary is proved in which case she too is liable for punishment. Women's groups were dissatisfied with hill in permit was passed & in August 1994 urged President to send it back for reconsideration to parliament the points that their memorandum raised were as follows.

- a) Registration of private clink will only regularize them & they can continue to determiners of foetuses by misusing tests meant for purposes permitted by Bill.
- b) All ultrasound machines & other equipment which can be used for SD tests should be registered. Joint committee had earlier considered this suggestion & rejected it as unfeasible because such equipment is used for various purpose other than prenatal testing.
- c) Future technique for sex determination as well as for sex pre-selection should be brought within ambit of Bill.
- d) Punishing woman is misguided even on presumption that she was coerced unless proved otherwise.
- e) Knowledge of sex of foetuses is to be kept only from woman & her family & relatives.
- f) No minimum punishment has been specified which mean that actual punishment can remain only nominal.

These dejection were not taken note of & bill became law in form it was passed by Parliament in 1994 years since Act have

passed without effect. Another important question arises from memorandum of women's groups to President in 1994. It is true that women may be implicated by families & end up being punished when they rarely are in position to make choices. Nevertheless, what are implications of denying agency altogether to women on grounds that they are never responsible for their decisions & therefore, should not be considered culpable at all? Within realm or legal discourse, it is dangerous for feminists to construct women as incapable of taking autonomous decision – consequences for women's struggle against legally sanctioned discrimination in other sphere could be fatal.

Finally, the new legislation and feminist responses to it establish that we remain unable to confront ethics, of condoning abortions on grounds of 'abnormalities' in fetuses.

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### **14.3.B SAMENESS VS DIFFERENCES : (EQUAL OR DIFFERENT) :**

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It is debate over whether women should struggle to be equal to men or whether they should valorize their differences from men. But the terms equality and difference are themselves contested terms with a multitude of meanings and so the equality – difference debate is a highly complex one. If women are claiming equality with men, then with which men should they be claiming equality? And on what issues? Should they claim equality of opportunity or equality of outcome? And if women want to valorize their differences, then are these natural, biological differences or differences that are the result of particular social and economic conditions?

These are just a few of the many questions that are provoked by the equality – difference debate and they illustrate why it is such a difficult debate for feminists and why it has led at times to a seeming impasse between feminists on opposite sides of the divide some have tried to overcome this divide by using postmodernist or post structuralist critiques to argue that the binary division between equality and difference should itself be deconstructed. This idea (which will be discussed further), or that of a 'third way' between equality and difference may seem to be attractive in that it promises to rid feminism of one of its perennial conflicts. However, other feminists maintain that the division between equality and difference is one that is here to stay and that in any practical discussion of women's position in society there is no escaping the divide. In discussions on how to treat women's claims for maternity rights, for example, feminists are divided between those who think that maternity benefits should be special rights granted to women on the basis of their specific biological capacity to have children and the particular social role of maternity that they

have been assigned in western societies, whereas others argue that maternity benefits should be subsumed under the general category of sickness benefits so that pregnant women are treated the same as men who have an illness which prevents them from working for a period of time. (Bacchi 1991 : Bock and Thane 1991).

Clearly, this debate is also complicated by differences among themselves, differences of class, race, age, sexual orientation and so on. And an additional complicating factor in this debate is the fact that women's supposed differences from men have been used over the centuries to justify discrimination against women and their exclusion from full social and political citizenship. Thus, those feminists who argue for difference risk seeming to support the theoretical tools of patriarchal exclusion. As Segal (1987; xii) contends. There has always been danger that in re-valuing our notions of the female and appealing to the experiences of women. It means that the ideas of sexual polarity which feminism, originally aimed to challenge are encouraged.

So, what is meant by sexual difference? Feminists have pointed to the way in which, historically, natural differences between men and women was assumed, and have analysed the ways in which this difference was given various social, political and economic meanings in different societies and civilizations. They argue that one constant of this differentiation, however, has been that women have been given an inferior or secondary status in societies because of this assumed natural sexual difference. As Sherry Ortner (1998 : 21) argues :

The secondary status of women in society is one of the true universals, pan-cultural fact where as women have been seen as 'closer to nature, men have been perceived as 'closer to culture', more suited for public roles and political associations. For this reason, women have been relegated to a secondary status in society, often confined to roles in the home rather than able to accede to powerful public positions. It is understandable, then, that as soon as feminists began to campaign against women's secondary social status, they began to question the assumed natural differences between men and women, and the consequences of these assumed differences on social organisation. They questioned then arose of how to challenge this assumptions of difference should women deny sexual differences and claim equal rights on the basis that they are the same as men? Or should they, on the other hand, argue that they are equal but different, and that their specific, 'feminine' qualities are as valuable and as important as 'masculine' attributes. This equality difference debate is one that has remained central to feminism, and has become even more complex and varied with modern social and scientific developments. The development of effective means of contraception and of new reproductive technologies, for example,

has meant that women are no longer tied to the biological function of reproduction in the same way as they once were, and for some this may signify the opening up to new possibilities for the attainment of 'equality'.

A key problem that feminists identify in this continuing perception of difference is that it is almost impossible to escape the formation of social hierarchies based on these perceptions and representations of difference. In fact, feminists argue, the idea of difference is never neutral in its effects on social structure. Contemporary social policy and the structuring of welfare, for example, involve discussions about whether men and women should be treated identically with respect to benefits or whether relevant differences should be taken into account. Although some people argue that men and women are equal but different, it seems impossible to argue for difference without creating some kind of hierarchy feminists have, therefore, had to develop different strategies to cope with this question of difference either denying it, or emphasizing it and giving it a positive value. As Hester Eirensstein and Alice Jardine remark in the introduction to their book *The Future of Difference*.

This debate over equality and difference has been couched in various terms over the history of feminist activism. Ann Snitow poses question as a tension between needing to act as a woman and needing an identity not over determined by gender (1990). She then goes on to describe the way this tension has been theorized as a divide between 'minimizers' and 'maximizers' where the minimizers are those who wish to undermine the category of women by minimizing the difference between men and women, and the maximizers are those who wish to reclaim the category of women and revalue it in order to empower women, between radical feminists and cultural feminists, between essentials and social constructionists, between cultural feminists and post structuralists, and between motherists and feminists. As Snitow (1990), argues, this divide is fundamental at various levels of analysis – material, psychological linguistic.

Here, we find the heart of the problem for feminists; in trying to fight for women's emancipation and for 'equality' for women, feminists identify women as a specific social group with a collective identity that forms a basis for struggle. In pointing to a collective identity among women, however – an identity that is different from that of men – feminists risk reproducing, albeit in differing forms, the definitions of difference that have kept women subordinated for so long.

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#### **14.4.C THE BIOLOGY DEBATE : SEX AND GENDER :**

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One central factor in this equality – difference debate is the question of the relevance of biological differences between men and women. For centuries, biological difference has been the starting point and justification for the creation of different social roles for women and men. Differentiation between men and women is now almost universally acknowledged as worthless.

The use of gender, and more specifically the distinction between sex and gender, as a tool of analysis has clearly helped feminist theory to advance on the question of difference, separating the biological from the social and arguing that the two are distinct categories. This has enabled feminists to argue against biological determinism of all kinds and to move the emphasis away from physiological differences between men and women and on to the social processes that shape masculinity and femininity. This process of social construction was a principal focus for many classic feminists text of the 1970's and 1980's.

Thus the concept of gender seemed to open up whole new avenues of through and analysis for feminists, bringing with it the hope of huge theoretical advances in the analysis of women's oppression.

However, despite the many advantages that the use of the concept of gender and the theoretical operation between gender and biological sex have provided for feminists, gender is still a problematic term that seems to have lost some of the 'revolutionary' potential it once possessed as it has become accepted into common usage. 'Today, gender slips uneasily between being merely another word for sex and being a contested political term.'

Thus, feminist psychologists such as Gilligan have argued that women do have different moral standpoints, and that acknowledging these differences and incorporating women's different approach into our moral and political schemata is important. This argument in favour of difference is perceived by some feminists as dangerous, as it reinforces the idea of a separation between the sexes and so hampers women's quest for equality. Others believe that it is important to express such differences and to give back value to the 'feminine' values that have been denied their true place by the male definition of the norms of morality. However, for those who agree that women do have a different moral stand point, a further question is how this difference develops. Although some feminists have suggested that innate biological differences between men and women lead to differing moral viewpoints, others point to social factors that influence men and women's development in varying ways. One of the key issues discussed in this regard is women's role as mothers.

If mothering is seen as central to the difference between men and women, it is then vital to explain why women mother. This is the subject tackled by Nancy Chodorow in her book *The Reproduction of Mothering* (1978). Chodorow sets out to explore why women choose to mother. She rejects the idea that mothering is an innate, natural instinct and equally the idea that it is merely the result of social conditioning, for, as she argues, this would imply that women had a free choice in the matter of whether to mother. Instead, by the time people are old enough to make any kind of rational choice, there is already a clear gender difference and a splitting of roles between women who mother and men who do not. Chodorow argues that the desire to mother is part of the desire to be feminine, which girls pick up at an early age. In fact, this happens so young that it cannot be part of a conscious choice but must be mainly an unconscious choice. The sexual and familial division of labour in which women mother and are more involved in interpersonal and affective relationships than men are, leads to a division of psychological capacities in daughters and sons. Because of this division of psychological capacities, these daughters and sons then go on to reproduce the sexual and familial division of labour of their parents. These qualities of mothering have been undervalued in the public sphere, but Chodorow argues that if both men and women mothered equally, then girls and boys would not grow up with these different qualities; men would be more loving and connected to others, and women would be more autonomous and competitive.

This solution of 'dual-parenting' and for sharing the roles and values of mothering between men and women has, like Gilligan's argument for promoting an ethic of care, been criticized by other feminists. Those who disagree with Chodorow argue that, apart from focusing on white middle class families and thus falling into the trap of ethnocentrism, her theory centres too closely on the psychosexual workings of the family and ignores or underestimates wider social forces. But as Rose Marie Tong argues, despite the drawbacks evident in both Chodorow and Gilligan's analyses, they, like other feminists who have looked for the roots of difference in women and men's psychological development, have picked out issues which 'mesh with many of our ordinary intuitions about sexual behaviour, mothering and moral conduct.'

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## **14.5 BEYOND EQUALITY – DIFFERENCE DEBATE ?**

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Some of the many ways in which feminists have talked about difference; and the means with which they have tried to overcome traditional views of sexual difference in order to promote women's emancipation. For some, the whole equality – difference debate is now one that does more harm than good to the feminist cause. Joan Scott, for example, argues that the two opposing poles of

equality and difference have been fixed in a binary opposition and that this opposition is one of those that feminists must deconstruct.

Scott's argument for the deconstruction of the binary opposition between equality and difference is convincing if we understand this division as that between an argument that women are the same as men and an argument that they are different. And although Scott and others see the ongoing debate as somehow harmful to the feminists cause, diverting attention away from the real issues perhaps it is time to view this debate as something which is in fact valuable and which forces feminists to interrogate themselves as to where they stand in relation to particular issues. Equality difference must not be perceived as a debate whose terms are fixed in stone, and a debate on which one has always to take the same side; I way or another, be talking about issues in terms of equality and difference, and that this debate may infact prove positive in many cases.

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**14.6 CHECK YOUR PROGRESS :**

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1) Highlight a debate on sameness vs Differences.

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2) Analyse biology debate on sex and gender

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3) Discuss feminist critique of laws

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4) State the meaning of beyond equality difference debate.

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# 15

## FEMINIST CRITIQUE OF LAWS - II

### Unit Structure :

- 15.1 Legislative
- 15.2 Women's Property rights
- 15.3 Laws on domestic violence
- 15.4 Substantive Equality
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### 15.1 LEGISLATIVES :

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#### Property Right :

**Introduction :** Property laws are a vivid example of inert and merely cosmetic legal reform. What maintains women's disenfranchisement is not legal barriers but cultural constructions of gendered entitlements on the part of both male and female heirs as well as on the part of judges. Extrajudicial ideas of family responsibility (who does eldercare? Who supports the family?), resource distribution (what really constitutes dowry and how does it measure against total family resources?), and meanings of access to property (what does it mean for women to "have" affinal family property?) determine how property gets divided. The realm of inheritance is particularly appropriate for examining how cultural constructions of gender, family, religion and nation saturate the allegedly impartial milieu of legal decision making in India.

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### 15.2 WOMEN'S PROPERTY RIGHTS :

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Contemporary Indian law, while purporting to extend rights and opportunities to all who would be enfolded within its new nationhood, is still strongly marked by the shadow of its colonial origins.

As many historians have argued, colonial lawmakers inscription of the (Indian) female body as a site of reform was a mechanism of social control. A combination of “rationalist” sensibility and the selective interpretation of chosen “ancient” texts by certain British – picked Indian spirit of British – made laws. Yet the very opposition of concepts such as “native” Indian law versus “modern; western” law is falsely constructed.

The most prominent example of this contradictory approach to gender equality is in the aborted Hindu Code bill (resubmitted in the form of several bills that now constitute the Act of Hindu “personal” law), presented as being in accordance with the spirit of the new Constitution.

The first Hindu Law Committee recommended that daughters be simultaneous heirs along with wives and sons of Hindu males who had died intestate, and refused to distinguish between married, unmarried, and widowed daughters’ shares. However, the second Hindu Law Committee gave daughters only a half share as compared to sons, righteously claiming that this was double the quarter share recommended in the smritis, and that daughters would get double the sons’ shares in the mother’s property (Parashar 1992, 124).

Even the then Law Minister, who had been the prime proponent of the Hindu Code and who resigned in protest of it failing to pass in the original comprehensive form, revealed the limits of his reformist vision : when the select committee of the constituent Assembly suggested that daughters and sons be treated as equal with respect to the quantum of inheritance for intestate succession. “Ambedkar, the great champion of Hindu law reform, described this alteration as an effort by his enemies to make the entire reform process appear ridiculous and thereby cause the entire reform process to be abandoned.” In response to suggestions that the Mitakshara coparcenary to be drastically reformed, the law Minister also claimed that this could perturb many families, promising that subsequent legal reform would target the coparcenary (which has not happened to date.) He opined that “it would not be proper ‘in the name of doing justice to women’ that action should be taken to alter such transactions’. Those who wanted to retain male privilege in joint family property were thus reassured that legal loopholes had been left to ensure that the status quo would not be unduly disturbed, and that wills could be written to disinherit women if so desired.

While the reform of Hindu law was propelled by using the tropes of modernity, individual rights, and the egalitarian nature of the nation – state, the none reform of inequalities in other personal laws was justified through the language of non interference and freedom of religion.

**A) Different spaces for Daughters, Sons & Wives :**

Judgements of property cases showcase numerous routes of deploying gender difference and justifying differential rights. They show judges invocation of women’s helplessness and yet their belief in women’s economic dependence and entitlement to lesser resources than men. Moreover, judges frequently use culturally prevalent ideologies about women’s rights and responsibilities to justify women’s widespread disentanglement from family property, such as property being a reward for eldercare giving by sons, dowry being a form of property, or daughters entitlement being confined to affinal family property only, despite the irrelevance of these standards in “reformed” law.

In many cases, judges depicted themselves as being sympathetic to women raising property concerns in court. Notably, however, such women were interpellated as being morally righteous, unretaliating, simple, or helpless – that is, constructed as deserving “feminine” candidates of patronage. Thus, in *Joti Dadu Navale vs. Monikabai Kashinath Mohite* the judge openly rebuked a brother for trying to oust his sister from their parents property, “The defendant has not succeeded in painting a very glorious picture of himself before the court. On his own showing, he is a grabber. He has no regard for the rights of his own sister, that she wants only a quarter share but he was not inclined to give even that pittance.” The moralistic tone here clearly spilled beyond legal boundaries. By referring to the potential illegality and manipulative intent of the brother’s adoption as an adult, his sister’s plea for less than her fair share, and his attempt to carry out a legal ouster to deprive her entirely, the judge portrayed the defendant as someone grasping the wealth of his adoptive family all for himself. By not having demonstrated any taken attempts to support the sister with her wedding expenses or otherwise, the defendant had done nothing to show that he had balanced his privilege of a greater share of inheritance (as a male heir) with the corresponding symbolic responsibility (as a man) of taking care of those who inherited less, and thus had no favorable ideological excuse that the judge could use to justify his legal claims.

Similarly, some widows were depicted as deserving the court’s extra protection because of their age or their lack of legal knowledge, while their opponents attempts to maneuver them out of their property was treated harshly. In *A. Venkappa Bhatta vs. Gangamma*, the widow who sought a share from the brothers-in-

law controlling joint family wealth was described as, “an old lady in late sixties and literate, not well versed in the ways of the world... leading the sheltered life of a widow in an orthodox family... very much under the influence of the first defendant, Kartha of the family and brother of her late husband. She had no sons or support to look to.” Again, the court assumed the favored garb of protector of the most vulnerable. It is no coincidence that the lack of sons was added to her sources of weakness (she had two daughters), because the judge assumed that sons are invariably responsible for the financial and social support of parents. A similar role for daughters, who were presumably virilocally married and retained no interest in property, was not even brought up, and a conclusion that the mother had “no support” was drawn.

Decisions dealing with property distributed on the basis of eldercare received more mixed reactions from judges, with support swinging between the validation of strong inequities in Hindu property law on the one hand, and on understanding of inheritance as a reward for care giving on the other. In *Sushila Bala Saha vs Saraswati Mandal*, the judge declared the validity of a will where a mother left her property to one daughter; it was decided that the distribution was not unnatural as alleged, because the daughter had resided with the mother but had also stolen from her, tried to defraud her and forced her to leave her home in fear of her life. The judge clearly supported eldercare as a possible basis of property division rather than gendered rights. Yet, even here, the trace of entitlement patterns differentiated by gender was seen in the reference to the son’s duties to maintain the parent and thereby deserve a share property, although the reward in this case was deflected because of the son’s neglect and criminality.

## **B) Defining Religion, Faith and Custom :**

In the absence of a uniform civil code in India, gendered rights to property vary by religion. Hence, defendants need to construct or claim a particular religious identity in order to ask for property, and judges further this process of interpellation, determining the religion of legal subjects in terms of seemingly transparent markers. The legal reasoning involved in negotiating such identities reveals the arbitrary social parameters used to denote religion.

A vivid example is *K. Devabalan vs. M. Vijayakumari*, where the case hinged upon whether the property at issue belonged to a Hindu or Christian man. The sons in this case questioned their later father’s right to bequeath a piece of land to one of his daughters as part of her dowry, claiming they were a Hindu joint family and that the father as Kartha could only, alienate land in the best interests of the other coparceners (males). On the other hand,

this daughter claimed that her mother was Christian and her father had converted upon marriage, making the property personal and not part of the joint family, his to dispose of at will. The implications were that religion could be read off from choice of spouse or possible conversion, and could posthumously alter the effect of one's financial decisions or multigenerational contracts about property.

In this case, "proof" of religious identity came not from specific faith – related icons or choice of deity but from extraneous signifiers associated with religion, the alleged religiosity of the names "Adichan Nadar" (annotated as Hindu) versus "Yesudas" (Signifying Christian), and their appearance in school, marriage or business records, determined religion, and hence property decisions. On the basis of the conclusion that Adichan Nadar remained Hindu, the judge then debated whether the marriage with a Christian woman was valid, and if so "whether a son born to a Hindu in marriage with a Christian woman COULD BE CONSIDERED AS A MEMBER OF THE FAMILY." The family in question was, of course, the Hindu coparcenary, but in terms of the legal debate it was the only relevant one because it brought membership to property.

Among the cases discussed, women's rights to property within Hindu, Muslim, or Christian law were broadly recognized and supported by the courts, indicating that the legal realm was not entirely inhospitable to women pursuing legal claims. However, these not unfavorable hearings occurred at the appellate or Supreme Court level, indicating that there was a higher chance for women to get expansive or sympathetic treatment when they had the time or resources to persist with cases. With no available data about the majority of cases that never get to become case law, or even reach the appellate courts, the typical hearing received by an average woman can only be a matter of conjecture.

Furthermore, some of the most supportive hearings for women involved the judges' portrayal of themselves as wise patrons of helpless, blameless women, or "secular" proponents of a national ethos represented by "reformed" Hinduism, thus enforcing gender and religious hierarchies in the very act of "protecting" women through law. Even with those professed sympathies, there were persistent male privileges that had survived reform, and moreover the judges included in their calculations customary practices of property division meant to be overridden by the new laws. The worst obstacles for women remained the intransigent sexist bases.

Moreover, because family law is the space where the remnants of kinship – based privileges, often based on patriarchal

notions of family, duty and labor, are most jealously safeguarded within the “modern” state, these may be among the transformations that are hardest to achieve.

### **C) Property & Propriety :**

Various socioeconomic parameters reinforced women’s reliance on marriage as the path to acquiring economic assets. Women’s unequal wage status in the labor market (the gap being even higher in non-“white – collar” jobs), & the lower rates of workforce participation in the formal sector, made it much more difficult for most women to acquire substantial savings or property independently. As they rarely got any property from their natal families, they could not rely on inheritance for building up their fund of resources either.

The idea of marriedness as the prime form of women’s property is buttressed by two popular notions of ways in which women get property : the phantom equivalence of dowry with inheritance, and the idea that women “get” affinal property.

Women’s reliance on marriage as the path to property & on dowry as a natal inheritance reflects their understanding of the stronghold of structures of privilege, of the conflation between hegemonic idea and the economic status quo. However, while women did not overtly resist the customary distribution of resources, they did not internalize the ideological construction of their needs either, rather, they made room for some of their needs & desires by negotiating the meanings of those ideologies. For example, while most women were unable to do anything to alter extant property relations, they strongly contested dominant notions that marriage ended their ties with the natal family, both by helping & taking help from their families in some cases, and more prevalently, by claiming to forego property shares in order to keep the natal connection alive.

The notion that women declined natal property shares in order to maintain more profound ties with their natal families involves a more problematic conception of ideological contestation. Many women claimed to have refused property in order to help the natal home prosper, to prevent angering their brothers & sister-in-law, and to preserve the natal home as a space of emotional wealth contrasting with the quotidian realm of work, duty & abnegation in married life. Because this symbolic enrichment was achieved at the cost of their individual material impoverishment, and against their own overwhelming preference for distributing property equally between sons and daughters in an idea situation, it is harder to portray such gestures as beneficial cultural bargains. If this were to

be denoted as resistance, it consists of women renaming their affinities & duties & being cognizant of how systems of power operate, but doing so by implicitly supporting the notion of brothers' anger against property-seeking women. However, knowing that this anger would be for from illusory left them few other satisfactory options.

The lessons for feminist jurisprudence here are that legislation cannot be the sole focus for social change, because the advantage of favourable laws can only be appreciated in the context of other socioeconomic empowerment. Moreover, the mere encoding of laws cannot effect changes in cultural practice substantially unless there is a concerted state effort to achieve widespread LEGAL literacy, to explain the benefits of greater equity and address the fears of undoing customary privileges. The terms under which women's rights get written into law and are subsequently invoked in judgements, for instance in terms of male patronage and female dependence, are also deeply troublesome concepts about which feminist jurists need to be vigilant.

Customary notions of property distribution continue to dominate in post colonial India, establishing not an ancient or mythical social distribution of resources but commenting contemporary structures of gender & class privilege. Divisions invoking rationales of dowry as inheritance, virilocality determining care giving, and the joint family living together off the land, depict a world where usufructuary rights seem reliable, wages in the market place have little effect on subsistence or assets, joint family residence is viable, and daughters married as infants to far-off places retain limited connections with families of origin.

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### **15.3 LAWS ON DOMESTIC VIOLENCE :**

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#### **Domestic Violence and Criminal Law Reforms :**

**Sec.498 was the first law in IPC that recognized violence against married women's homes :**

Criminalization of domestic violence in India was brought about in the early 1980s after a sustained campaign by feminist groups and women activists all over the country. Great impetus was imported to this movement, especially after the much-criticised judgment of the Supreme Court in the Mathura rape case. The demand for the criminalization of dowry death and domestic violence was a culmination of all these struggles ending successfully in the enactment of Sec 498 A in the IPC in 1983, Sec 304B in 1986 and corresponding provisions in the Indian Evidence Act, 1872.

### **Section 304B : Dealt with Dowry Deaths :**

These criminal law reforms held great promise at the time of their enactment. The criminalization of domestic violence in the form of Sec 498A and 304B (dowry death) sought to increase the certainty and severity of legal responses, thereby correcting historical, legal and moral disparities in the legal protections afforded to abused women. It sought for the first time to bring the issue of domestic or family violence out of the protected private realm of the family and into the public-domain in India.

But despite these legal reforms, societal responses to domestic violence still largely exclude legal intervention. Advocates for women who face violence within the home claim that male batterers are rarely arrested, prosecuted, or sentenced as severely as other violent offenders and studies done by several organisations and NGOs show that these claims are accurate. The police often exercise discretion in avoiding arrest while responding to domestic violence incidents when there are complaints. In many police stations, policies for domestic “disputes” actively discourage arrest focusing instead on responses such as calling the abuser to the police station for “conciliation” among other measures. Public prosecutors fail to actively pursue cases of domestic violence under Sec 498A, as often women turn hostile during the prosecution and agree to drop the charges. Sentences tend to be less serious for those convicted of domestic violence. The result of these processes has been a higher dismissal rate for domestic violence cases at the prosecution stage, compared to other violence cases, and less serious sentences.

### **Section 498A : Some Significant Problems :**

Any critical analysis of Sec 498A would be without understanding the history of criminal law reform in India. The demand for criminal law reform came about because of the large number of women that were dying in their matrimonial homes due to dowry-related harassment. Therefore, the initial demand was for a law to prevent only dowry related violence. Sec 498A was thus introduced in the IPC in 1983 closely followed by Sec. 304B which defined the special offence of dowry-related death of a woman in 1986 and the related amendments in the Indian Evidence Act 1872. It is believed that Sec. 498A and Sec 304B were introduced to complement each other and be part of a scheme, since Sec 304B addresses the particular offence of dowry death and Sec 498A sought to address the wide-scale violence against married women for dowry.

#### **1) Protection only for married women :**

Since the important campaign issue for feminist groups was dowry – related harassment, all violence faced by women within homes was attributed to dowry both by activists and by the state. [Agnes 1998]. This resulted in their articulating a demand for a law on domestic violence only for married women. The IPC was thus amended in 1983 and Sec 498A was added. It reads as follows :

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

Whoever being the husband or the relative of the husband of a woman, subjects her to cruelty shall be punished with imprisonment for a term, which may extend to three years and shall also be liable to a fine. Explanation – for the purpose of this section, “cruelty” means :

- (a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demands for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

This campaign of the women’s groups turned out to be a narrow, short-sighted and wrongly formulated programme as it placed dowry – related violence on a special pedestal. Fortunately, although conceived as a protection against dowry harassment, the text of Sec 498A was wide enough to apply to other situations of domestic violence. However, it applies only to violence faced by married women at the hands of their husbands or husband’s relatives. The definition therefore neglects and delegitimises the every day violence faced by married women at the hands of other relatives and by unmarried women and children in their homes, for it is a fact that women and children face violence at the hands of other male relatives as well – their fathers, brothers, uncles, boyfriends, live-in partners or other household members.

## 2) Vague Definition of Cruelty :

Another significant problem with Sec 498A is that its definition of cruelty is vague and limited and does not include all forms of violence experienced by women within the home. While the text of Sec 498A contains one part that specifically addresses cruelty as harassment for dowry, the ambit of the section is meant

to be much wider than that as it seeks to address all forms of cruelty that cause grave injury or danger to life, limb or health whether mental or physical. Domestic violence in Sec 498A is therefore articulated in terms of “cruelty” and cruelty is defined to mean :

- (a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demands for the property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Section 498A does not address these different forms of violence specifically, and addresses “cruelty” very generally, as any act that is likely to drive the woman to commit suicide or to cause grave injury or danger to life, as mentioned earlier. As a result, it often is at the discretion of the police officer to assess whether the sexual abuse or verbal and psychological abuse faced by a woman from her husband or in-laws would qualify as cruelty under Sec 498A or not.

### **3) Sec 498A and the Allegation of Misuse :**

In the last 20 years of criminal law reform a common argument made against laws relating to violence against women in India has been that women misuse these laws. The police, civil society, politicians and even judges of the High Courts and Supreme Court have offered these arguments of the “misuse” of laws vehemently. The allegation of misuse is made particularly against Sec 498A of the IPC, and against the offence of dowry death in Sec 304B. One such view was expressed by former Justice K T Thomas in his article titled ‘Women and the Law’, which appeared in The Hindu. The 2003 Malimath Committee report on reforms in the criminal justice system also notes, significantly, that there is a “general complaint” that Sec 498A of the IPC is subject to gross misuse; it uses this as justification to suggest an amendment to the provision, but provides no data to indicate how frequently the section is being misused. It is important therefore that such “arguments” are responded to, so as to put forth a clearer picture of the present factual status of the effect of several criminal laws enacted to protect women.

Study done by TISS on Sec 498A complaints received in four police stations in Mumbai in 1999 revealed that 40 per cent of these were filed by family members after the women were dead.

This shows that in almost half of the cases of domestic violence, the women's family only approaches the police after she is dead.

Therefore, justice K T Thomas' allegations that "the conviction rate of the offence of Sec 498A and Sec 304B is comparatively high and its punishment is by no means light", is factually incorrect. Even the 2003 Malimath Committee report on reforms in the criminal justice system which alleges the Sec 498A is subject to gross misuse, provides no data to indicate how frequently the section is being misused. This suggests that the committee was acting on conjecture rather than research or independent study.

#### **4) Interpretation of 'Cruelty' by the courts that have not been advantageous to women**

Not only is the definition of cruelty in Sec 498A vague, it has been subjected to interpretation by the courts in ways that have not been advantageous to women. In several cases, the judges of the high courts and the Supreme Court have given a narrow definition to cruelty and to what acts constitute such behaviour. In many cases the courts have held that the definition of cruelty in Sec 498A IPC should be the same as that of the meaning of "cruelty" within the Hindu Marriage Act 1955 and have borrowed from that definition. On the other hand, some judges have held otherwise.

The Supreme Court in a recent decision in Arvind Singh vs State of Bihar held that : "cruelty" denotes a state of conduct, which is painful and distressing to another. The legislative intent thus is clear enough to indicate that in the event of there being a state of conduct by the husband to the wife or by any relative of the husband which can be attributed to be painful or distressing, the same would be within the meaning of the section." This interpretation is equally, if not more vague than wording of the Sec 498A! No effort was made to include different forms of cruelty such as verbal, psychological or sexual or economic violence.

#### **5) Difficulty of Proving Cruelty 'Beyond Reasonable Doubt':**

While the courts have held that acts of mental and verbal harassment, complaints, taunts, etc, are equally considered as acts of cruelty under Sec 498A, one of the most significant problems faced by lawyers, activists and survivors of domestic violence is the ability of the prosecution to prove the same. Although both civil and criminal law address violence against women as "cruelty" and considers the definition to be the same, the requirement of proof in civil and criminal law is very different. Sec 498A of the IPC

necessitates that the “cruelty” of the husband and his relatives be proved “beyond reasonable doubt” – a requirement of criminal law.

In cases of mental cruelty, evidence of the same is very difficult to produce and different criteria need to be evolved to measure injury and hurt in a domestic situation. In most cases of Sec 498A which reach the courts, the woman is dead and the charge of Sec 498A is made along with the charge of dowry death, murder or abetment to suicide, and in such cases it is even more difficult to gather evidence to prove cruelty, unless the victim has written letters specifying acts of cruelty or given a dying declaration.

**Problems with the above. Protection of Women from Domestic Violence Act, 2005 enacted to plug the loopholes.**

#### **Civil Law Remedies :**

Lastly, for effective implementation of Sec 498A and other criminal law remedies in terms of providing protection to women victims of domestic violence, it is crucial that civil law remedies in the form of protection orders, injunctions, non-molestation orders, etc, are in place as well.

In India till date, a woman has not been able to obtain a restraining order against a violent husband unless she was willing to file for divorce or judicial separation at the same time. Even in such cases, when injunction orders are available their enforcement is weak with absolutely no penalties for violations. Also injunctions and protection orders are rarely granted by the courts on an emergency basis. This ancillary nature of an injunction in India is one of the most serious flaws in civil laws in India today as it forces a woman into legal action of the kind that she may not have wanted.

Reforms in protective and restraining order civil legislation is needed to enable emergency, ex parte relief that includes not only ‘no contact’ provisions but also economic and other tangible reliefs for battered women. These reliefs, and the application of criminal laws should be extended to women in unmarried cohabiting couples and to divorced or separated women.

To address this gap, the new civil law on domestic violence, the Protection of Women from Domestic Violence Bill, 2005 which was approved by the cabinet and passed by both houses of Parliament in the monsoon session of 2005 is extremely significant. It provides for emergency and ex parte injunctions and non-molestation orders, whether or not any other relief is sought in the proceedings by the victim. Most notably, the law seeks to protect all women and children facing violence at the hands of their family

members such as husbands, fathers, brothers, live-in partners, etc. and not merely from their husbands. Having a civil law which provides emergency protection and tangible relief in addition to criminal law remedies of arrest would be necessary to give complete protection and safety to women facing violence.

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## **15.4 SUBSTANTIVE EQUALITY :**

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### **Introduction :**

Confronted with the challenge of rationalizing and accommodating the ideological divide and the caste, class, race difference between women feminism has been characterized conflicting ideas about sexuality and gender. As a result there are divergent view points on the kinds of law, and social policy, which would enable women to enjoy gender equity. Among several other measures for women's upliftment, the plan proposes to introduce the concept of part-time work, contract work, within government and semi-government organizations as well as relaxation in the existing rules governing service conditions for women so as to enable them to fulfill their "biological and social roles" (GOM 1994 : 19). Falling to challenge the root of gender disparity or its continued existence, emancipation of women is possible) through special protections and not through equal rights. If on the other hand, men and women do not conform to masculine and feminine character models, or more precisely if sex cannot be considered a reliable predictor of behaviour, then justice requires a sex neutral approach to law which may not take into account the existing differences in the condition of men and women. The advocates of protective legislations for women are suggesting is that as the human condition is not gender – neutral, and as women face constraints in their lives, true equality cannot be attained without protective laws and social policies, equal rights advocates feel that the according of special protections for women in some ways reinforce the existing discriminatory stereotypes. To establish true gender equity the apparent differences between the conditions of men and women are not important. What is more important is that women be given a fair chance and have equal access to the resources of society.

### **Some Conceptual Issues :**

#### **The Right to Privacy :**

The right to privacy is both appealing and unappealing to women. Its appeal lies in that it allows scope for women, long oppressed by the moralistic controls of society over their sexual expression to claim their freedom and autonomy. At the same time, the feminists, have long challenged the artificial dichotomies that

exist between the private and the public domain on the grounds that they. In fact, subordinate women by relegating them to the private sphere. The efforts made by the early feminists was directed towards questioning those customs and policies which sought to restrict women to the private domain, while the later day feminists carried the argument further to challenge the entire ideological divide. The conceptual divisions between the private and the public sphere they hold ignores the serious power unbalance within the private sphere, which is exacerbated by the state policies. A point to the effect is the reluctance of the state to interfere in matters of domestic violence on the grounds of privacy, conceptually confused to mean the private sphere. This non interference of the state in the private sphere tantamounts to maintaining male power (Kaminer 1991 : 389 – 399).

The real complexity of the issue emerges in the discussion within the feminist movement of the west, about the basis on which to claim abortion rights of women, which so far has been grounded on women's rights to privacy and bodily integrity. Similarly in India one could question the aggressive family planning programmes of the state which specifically targets women. The on-going controversies lead to considerable rethinking of the issues of privacy, autonomy, personhood and gender neutrality in the formation of laws in particular (Sinow 1989). On the one hand, fertility control is as much as private matter as any other which the court needs to protect. Its privacy springs from the fact that the issues involve the use of woman's body and her bodily integrity. Anti-abortion laws in the west just as much as family planning programmes in India, limit women's ability to decide on their protection and thus reinforce a situation in which women cannot reasonably enjoy sex, are inhibited from making full use of their sexuality as a realm of shared pleasure or as an expression of intimacy. By undermining the notion about women's sexual agency, they are reinforcing the idea that women are objects of sexual gratification. It, in the ultimate analysis, devalues the autonomy and ability of women to make a rational self – choice.

The argument of privacy rights has the tendency to place the topic of abortion in the broader context of each individual's interest in controlling his or her reproductive capacity. This context re-establishes the connection between abortion and birth control which helps to counteract the tendency to treat abortion in isolation rather than one aspect of woman's ability to control her reproductive capacity. In the Indian context, the right to privacy argument could help to ensure at least a minimal measure of protection for women from state interference in what should remain entirely a woman's decision to control her fertility (Olsen 1991 : 377 - 382).

By and large privacy, like rights in general, is often thought to be an individual matter, though a privacy analysis of abortion can also be more group – based; instead of beginning the argument from a position of concern for an individual pregnant female and asking whether she should be allowed to abort rather than carry her pregnancy to term, the argument could proceed from the point that women constitute a group and question the authority of the state to control their fertility. Women as a group ask what limits the state may put upon their efforts to control their reproductive capacity and how the state justifies these limits. If birth control is Constitutionally protected. Why should abortion be excluded from Constitutional protection because every form of contraception is known to fail (Brill 1991 : 395 – 399).

The limitation of the privacy argument is that it too protects from scrutiny the abuse of women that takes place within the so-called private realm of the family. Much of the violence which women experience within the homes goes unaddressed due to the right to privacy. Argument is that in making abortion a private right, it could with equal measure, curtail the state funding of abortion on the grounds of its privacy. The absence of funding would substantively curtail the rights of women who could ill-afford the exorbitant expenses of undergoing a private abortion. Furthermore, the position would also lead to a reinforcing of the private / public dichotomy that exists.

### **Equal rights or Special Benefits :**

This basic dilemma in feminist thought is neatly encapsulated in the family laws which have become highly controversial in the last two decades. Child custody, spouse abuse and surrogate motherhood are the issues most likely to capture the public eye. But these are not the only troubling issues in the realization of gender equity. A more basic issue of how to ensure gender parity emerges at the point of the break-up of a marriage. True equality, by this I mean that the law treat both men and women impartially, would require that the system provides leeway for a no-fault divorce, but the differences in the economic condition of men and women make it impossible to ensure real equality between the former partners. It therefore becomes necessary to take into consideration the economic impact of divorce on men, and women with children. The problem of single parents the majority of whom are poor working women has raised a controversy among feminists as well as non-feminists. Some claim, that in order for diverse settlement to be fair and to save divorcing women and their children from poverty, women need special treatment not just equal rights. Treating divorcing women just the same as men, they claim, is not a solution : rather, it is a large part of the problem. Because of women's special capacities and their customary role as mothers,

alimony for women is justified just as maternal preference is given in custody disputes. Yet equal treatment, requires that the law should be sex blind, and not claim that such laws reaffirm the very role assumptions that have caused so many problems for women in the first place (Cornell 1991 : 3.71 – 3.76)

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### **15.5 THE CONTROVERSIAL NATURE OF WOMEN'S RIGHTS :**

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The real paradox of the women's rights movement is that it occasions more controversy, particularly from within the group which it is purported to benefit than any other movement. Not only men but also women oppose rights for women. This comes in the form of opposition to contraception and in the form of the pro-life debates in matters of abortion rights. (Cohen 1991) The perhaps lied in the ideological construction of women. To clearly given example of how the ideology operates is the recent polarization of public opinion following the hysterectomies performed on menially retarded girls commended to state care in Pune. What also get problematized were the concepts of human dignity, control over one's body and reproduction, selling the limits of the guardianship class particularly when vested on the state. But at a deeper level, it problematizes the feminist position on the gender ideology. In briefly encapsulate the arguments put forth :

1. The legal position questioned the rather nebulous grounds on which the law recognized the right of parents and guardians to take decisions on behalf of other people. The central point according to them was whether the state was justified in appropriating for itself the rights that were by vested only on the guardian, as the state was only a custodian of these girls and if the elaborate procedures laid for such appropriation under the Mental Health Act 1993 was followed by the state. These measures included the obtaining of judicial as well as medical clearance.
2. The larger human rights dimension of the debate rested on the protection of vulnerable sections of society who were maintained by the state.
3. The feminist position was informed by the context in which a patriarchal state has always tried to control women's fertility through the introduction and promotion of reproductive technology, which specially target women's natural bodily cycle as unhygienic while turning a blind eye to, the overall fifth in which these women lived. They questioned the rationale which did nothing to control the sexual drives of male retarded inmates in various institutions and the ideology which specifically targets women's sexual behaviour as needing control. They also pointed out that the state took no measures to protect these

women from sexual assault but merely sought to absolve itself of its responsibility by eliminating the visible evidence of their negligence. Insofar as this remained the real motive for the hysterectomies, the state could be deemed as being rapist friendly.”

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## **15.6 DOMESTIC VIOLENCE AS A PUBLIC ISSUE IN INDIA :**

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Domestic violence is one of the central issues for contemporary women's movement in India. At various movements in the last two decades, it has been understood a dowry – violence, wife – beating and / or a human rights violation. During the first phase, dowry was the dominant paradigm for understanding violence in the family. The public discourse was dominated by analyses of dowry, its pattern, spread, effects, impact etc. As many critics (Kishwar 1988, Agnes 1992) pointed out, this emphasis helped to shift the focus away from the power relations in the family. “Dowry” an external agent coming through “modern desires & consumerist values” was relatively easier to believe than critiques of the family itself. By the early 1990's the focus on “dowry violence” gave way to the broader notion of “wife beating” or “domestic violence” as a result of the increasing realization that women are subjected to numerous forms of abuse in families. Campaigns for changes in law were important sites for articulating this shift.

### **Violence as a category :**

One of the first analytical reports on domestic violence in India (Agnes 1988) understands violence as physical & sets out to identify certain factors as causes of this violence: arguments over money, jealousy & suspicion, instigation by in-laws, house-work, alcohol, women's desire to work or women's self-esteem, disputes over children, extra-material affairs of the husband. Identification of causes & reasons became a regular feature later. By late 1990's, however, the reasons & the context for the violence have begun to take a back seat.

### **Victim – women as a category :**

Speaking out against women's unnatural deaths in the family not only meant breaking the barriers of privacy, but also exposing them as forced suicides or murders. Combined with the lack of alternatives in a married woman's life, her inaccessibility to her natal home, her resourcelessness & inability to face the world outside the four walls of the home with the concept of 'pativrato' or the supreme duty of wife towards her husband & the sum total is

such a grim situation that death many well be preferable (Gandhi & Shah 1992)

Theoretically, central to this process was the figure of the victim – women” whose rights were being articulated. What remained invisible in the process of forging the figure of the victim – women, however, is the figure of “empowered women” as the desired goal. While the former carried the attributes of innocence, dutifulness & obedience, the latter would mean autonomy, freedom & rights.

What happens when women begin to inhabit this victim position & act? The apparent incongruence between the inhabited position & her actions is what, for instance, the bogey of “misuse of Sec 498A” raises. Women filing complaints under this section have been accused of abusing & misusing the scope of this law by bringing. Complaints that are frivolous, exaggerated, driven by material interest & Vengeance. It is easy to dismiss this as a backlash, but, in an oblique manner, it foregrounds the problematic of victim – women’s agency – how to make sense of victim women’s actions in the face of domestic violence. It would be useful to revisit the much – documented complaints that women bring to institutions & ways in which they have been interpreted.

Women often complain about alcoholism lack of economic support, extra-material affairs, problems with in-laws, suspicion, sexual incompatibility usually, the resolutions that they seek are. Separate household, better financial support for the household, ending alcoholism & the promiscuity of the husbands. These certainly give us the picture of the factors triggering violence. What gets dived in the exercise of mapping the “factors” is the sticky issue of women’s desire for a better marriage, husband & family life, whether we like it or not, central to women’s negotiations seems to be the “project of reforming the husband” making him into a considerate & responsible being this project, for them is crucial to keeping the marriage & family going. Women’s tendency to accomplish such a task has often surprised women’s groups [Vanita 1999] How do we understand this tenacity? Can we continue with explanation that it is women’s social responsibilities of “wife” & “mother” alone that guide their actions? Doesn’t this explanation take us back to the dyad to victim / empowered women?

There is another problematic assumption that underwrites interpretations of women’s actions in the studies on institutional responses. Most studies assume that women “break – the silence” only when they approach these formal or public institutions.

It appears to use that when we set up the law / public institutions as the primary site of “action” for women, two processes get obscured. One, women’s efforts to regain “the affective ties of the family / husband”. Two, her actions outside the realm of law & institutions. As in evident from the abase, these two processes are crucial to understand women’s action in the face of violence. Accounting for these processes needs paying critical attention to “our modern” notions of family, cruelty & interventions through law. We are not attempting a full discussion of these issues in this paper. The issue that we won’t to highlight here is the multiple journeys of “victim women” to improve their familial lives alongside their Contestation with familial power.

### **Mediations in the Women Police Station :**

The Criminal Procedure Code (CrPC) classifies S 498A as a serious offence. The functioning of this law is plagued by difficulties of registering & pursuing a complaint & the minuscule number of Convictions. Not surprisingly, most studies regard these as evidence of the failure of this law.

When we examine the processes of women’s complaints to the police station. These two aspect become clearly visible. The questions that arise are : How does a women’s complaint travel? Do all women seek registration of Complaint? What do women week? How do police process the Complaint? The investigation that we adopted to understand the implications of these questions included detailed discussions with women who approached the police station, mediating women’s access to police stations & Courts & interviews with the police personal over the last few years in Hyderabad.

What kind of expectations do women come with to the police station? Two popular assumptions underlie a police Compliant : one, that every Complaint should result in investigation & prosecution; two, that all women seek such a course of action for their complaint. Interestingly, neither of these assumptions is held either by the police or the women. A majority of women, come to the police station with expectations that range from giving a sound beating to the man, a day or two in a police lock – up, a warning to the in – laws, a promise of good behaviour. A second category of women approaches the police with a determination to end the relationship. A third category, seeks to pursue the criminal case to its logical end.

Going to the police station is most often not the women’s decision alone. The natal family & community play a significant role often seeking external help such as women’s groups, lawyers, local leaders, etc. Not surprisingly, the police action on the complaint

directly, dependent on the force of the Natal family's connections & ranges from an arrest, warning to a compromise document, etc. Women without "empowering" attributes like education, caste, family & money face more difficulties. Here, their perseverance sometimes results in some action.

### **Experience in Citizenship Discourse :**

Women have not only continued to live in "violence families" but also are not keen on breaking up from these families. This disjuncture between "what women want" & the discourse of women's emancipation is something is discussed here. Usually, the registers in which this disjuncture is read are – women's acceptance of violence" as normal; absence of non – familial living arrangements in the society & inadequacy / failure of law & other institutions. These explanations have gained such a currency allowing for a convenient eliding, of the question of what may be described as "women's desire to live in the family." One notices a certain resistance to acknowledge, let alone attempt to understand this question. This "resistance".

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## **15.7 JUDICIARY : SEXIST COURT RULING :**

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The term Sexism and Sexist are often used to refer to discrimination against women. It is actually a term used to refer to Discrimination based on gender, especially discrimination against women. It also refers to attitude, conditions or behaviours that promote stereotyping of social roles based on gender. In many cases of crimes against certain sex, specially women and or men the issue of sexist court rulings have been raised. It is not only women who are prejudiced against sexist court rulings but even men, to a great extent have been put to disadvantageous positions as a result of such an attitude held by the members of the judiciary or court officers including advocates.

Sexism is not limited to women but even many men are victims of it as a result of the growth of the feminist movement. The growing misuse of many of the women centric laws such as section 498A of IPC, Domestic Violence Act as well as increasing number of false cases of Sexual harassment and increased number of judicial acquittal of the accused indicate that there is an increased element of sexist attitude in the handling of very many of such cases. Three important issues with respect to sexist attitudes, against men, that has received considerable attention are as follows.

- 1) Stereotyping : Wendy McElroy refers to male stereotyping who she claims that in some “gender feminist” views, all men are considered irreconcilable rapists, wife-beating, brutes, and useless as partners of or fathers to women. McElroy and Cancille Paglia claim that certain feminist, they refer to as “gender feminists” view women as innocent victims who never make irresponsible or morally questionable choices. Other feminists such as Kate Fillion have questioned the idea that women are always innocent victims and men always the guilty victimizers when the interests of each collide with those of the other.
- 2) Marginalisation : in 1997, The Canadian Advertising Foundation ruled that a National Ad Campaign that featuring Nicole Brown Simpson’s sister Denise with the Slogan, “Stop violence against women” was in fact portraying only men as aggressors, and that it was not providing a balanced message and was in fact contributing to gender stereotyping. (The murder of Nicole Simpson also included the murder of Ronald Godman)
- 3) Inequitable treatment : of men and women who are employed part time, female earn more an average.

Both men and women have been victims of sexist attitudes. Sexist stereotypes are persistent in all countries and are the root cause of many forms of discrimination against women. They consist in the traditional thinking which confines women and men to rigid roles, functions and capacities, and attributes them different ambitions and expectations in life. It is perhaps one of the most difficult forms of discrimination to eliminate because it is deeply rooted in culture and tradition.

Some important sexist issues of concern with reference to judiciary are as follows :

- 1) Judges still using sexist stereotypes to give light sentences to those who rape prostitutes. In a recent USA case, A judge gave a lighter prison term to a rapist who raped prostitutes at gun – point. As the judge sentenced the rapist, according to the appeals court ruling, the judge said the sex acts were against the victims will only because they didn’t get paid, and prostitutes were “a for cry from the innocent rape victims” that lawmakers envisioned when deciding the severe penalties for the crime. The appeals court rejected the appeal on the ground that “... prostitutes are not as traumatized by rape as other victims.”
- 2) Many a times the Magistrate’s Court do not give bail to accused especially in cases such as matrimonial disputes, dowry allegations etc, which has laws which are pro-women.

- 3) Judicial statements and attitudes in the area of domestic violence have been instrumental in perpetuating racist and sexist stereotypes which marginalize Aboriginal women. In cases where a community is perceived to regard an offence as less serious than under the criminal law judges have been prepared to award a lighter sentence than the norm.

In India there is an urgent need to sensitise judges and judicial officers. Judges are gradually beginning to realize the need to adopt gender neutral language, avoid sexist remarks, renounce double standards wherever they exist and to respect women's dignity particularly of those belonging to minority sections of the population.

A study published in the Independent (Wednesday, 3 November 1999) has concluded that many of Britain's judges are racist and sexist, cannot grasp technical detail and are particularly sleepy after lunch. A survey of expert courtroom witnesses has found.

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## **15.8 SUMMARY :**

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The problem of violence against women is not new. Women in the Indian society have been victims of humiliation, torture and exploitation for as long as we have written records of social organisation and family life. Ideologies, institutional practices and the existing norms in society have contributed much to their harassment. Some of these behavioural practices thrive even today. In spite of the legislative measures adopted in favour of women in our society after Independence, the spread of education and women's gradual economic independence, countless women still continue to be victims of violence. They are beaten, kidnapped, raped, burnt and murdered.

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## **15.9 CHECK YOUR PROGRESS :**

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- 1) What do you mean by women's property rights?

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- 2) Discuss why we have different spaces for daughters, sons and wives?

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3) Highlight problems of domestic violence.

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4) What do you mean by substantive equality?

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5) Analyze briefly controversial nature of women's rights.

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6) Analyze domestic violence as public issue.

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**15.10 QUESTIONS :**

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- 1) Write a note on feminist critique of laws to domestic violence.
- 2) Briefly explain sexist court ruling on rape.
- 3) Explain domestic violence in India.

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**15.11 REFERENCES :**

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**Syllabus**  
**GENDER & SOCIETY (APPLIED COMPONENT)**  
**PAPER – VI**

**Objectives :**

- To trace the evolution of Gender as category of social analysis.
- To trace the mergence of women's movement in India and abroad.
- To sensitise the students on gender issues.

**1. Introduction****12 Lectures**

Basic concepts

- Sex and Gender
- Masculinity & Femininity
- Patriarchy
- Sexual division of labour
- Public private dichotomy
- Identity polities

**2. Feminisms****10 Lectures**

- Liberal
- Socialist
- Radical
- Post modernism

**3. History of Women's Struggles****10 Lectures**

- Reform and Nationalist Movement in the context of women rights
- Campaigns within the contemporary women's movement

**4. Violence Against Women****10 Lectures**

- Violence within the home : girl child abuse, wife beating and battering, mental abuse, female foeticide and infanticide
- Within and between communities : communal conflict, witch hunting
- Public places : Rape, molestation and eve-teasing

**5 Women's Labour****10 Lectures**

- Gendered definition of work
- Types of women's and men's work
- Wage differentials
- Sexual harassment at work place

**6 Gender and Citizenship 10 Lectures**

## Constitutional Guarantees

- a) 33% reservation for women in Parliament
- b) Reservation in Panchayats

## Family Laws

- a) Rights within marriage
- b) Property rights
- c) Children custody and guardianship

**7 Feminist Critique of Laws 13 Lectures**

- Sameness vs difference debate
- Substantive equality
- Legislature : Rape law, laws on domestic violence, dowry laws, property rights, PNDT Act
- Judiciary : Sexist Court rulings

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**QUESTION PAPER****(3 Hours)****(100 Marks)**

- N. B. :** (1) Attempt any **four** questions from **Q. No. 1 to 8**.  
(2) Answer **one** more question from **Q. No. 9 and 10**.  
(3) In all answer **five** questions.  
(4) **All** questions carry **equal** marks.
1. Highlight the feminist debates in the development of the following concepts :-
    - (a) Masculinity and Femininity.
    - (b) Identity Policies.
  2. Explain the Socialist and Post modernist feminist perspectives.
  3. Discuss the major campaigns within contemporary feminist movement.
  4. Explain the different forms of violence that women face within and between communities.
  5. What is generated definition of work? Illustrate with examples the difference in men and women work within industries.
  6. Do you think reservation in Panchayats will lead to empowerment of women? Discuss.
  7. Write a note on feminist critique of laws relating to domestic violence.
  8. Write short notes on any **two** of the following :-
    - (a) Sex and Gender.
    - (b) Female foeticide and infanticide.
    - (c) Sexual harassment at work place.
    - (d) Sexist court ruling on rape.
  9. Briefly explain Liberal and Radical Feminism.
  10. Explain the Hindu Personal Laws from a gender perspective.



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