

Understanding  
**Violence Against Women**

Vidya Bahuguna

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## Chapter 1

# Introduction

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### WOMEN VIOLENCE: AN OVERVIEW

#### VIOLENCE

In literal meaning, it is the expression of physical force against one or more people, compelling action against one's will on pain of being hurt. Worldwide, violence is used as a tool of manipulation and also is an area of concern for law and culture which take attempts to suppress and stop it. The word *violence* covers a broad spectrum.

It can vary from between a physical altercation between two beings to war and genocide where millions may die as a result. There are four modes in which violence may be inflicted: physical; sexual; and psychological attack; and deprivation.

It further divides the general definition of violence into three sub-types just as to the victim-perpetrator relationship:

1. Self-directed violence refers to violence in which the perpetrator and the victim are the same individual and is subdivided into *self-abuse* and *suicide*.
2. Interpersonal violence refers to violence between *individuals, and is subdivided into family and intimate partner violence and community violence*. The former category includes child maltreatment; intimate partner violence; and elder abuse, while the latter is broken down into *acquaintance* and *stranger* violence and includes youth violence; assault by strangers; violence related to property crimes; and violence in workplaces and other institutions.

3. Collective violence refers to violence committed by larger groups of individuals and can be subdivided into social, political and economic violence.

## **WHAT IS CALLED VIOLENCE AGAINST WOMEN**

Violence against women and girls continues to be a global epidemic that kills, tortures, and maims – physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Even though most societies proscribe violence against women, the reality is that violations against women's human rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets.

Moreover, when the violation takes place within the home, as is very often the case, the abuse is effectively condoned by the tacit silence and the passivity displayed by the state and the law-enforcing machinery. The global dimensions of this violence are alarming, as highlighted by studies on its incidence and prevalence. No society can claim to be free of such violence, the only variation is in the patterns and trends that exist in countries and regions. Specific groups of women are more vulnerable, including minority groups, indigenous and migrant women, refugee women and those in situations of armed conflict, women in institutions and detention, women with disabilities, female children, and elderly women.

This Digest focuses specifically on domestic violence – the most prevalent yet relatively hidden and ignored form of violence against women and girls. While reliable statistics are hard to come by, studies estimate that, from country to country, between 20 and 50 per cent of women have experienced physical violence at the hands of an intimate partner or family member. For the purpose of this Digest, the term “domestic violence” includes violence against women and girls by an intimate partner, including a cohabiting



partner, and by other family members, whether this violence occurs within or beyond the confines of the home.

While recognizing that other forms of violence are equally worthy of attention, this Digest does not cover the violence inflicted on women by strangers outside the home – in public places such as streets, workplaces or in custody, or in situations of civil conflict or war. It does not look at the issue of violence against domestic workers, as this is perpetrated by individuals who are not related.

In other words, the term “domestic” here refers to the types of relationships involved rather than the place where the violent act occurs. The Digest attempts to set out the magnitude and universality of domestic violence against women and girls, and its impact on the rights of women and children. It emphasizes the need for coordinated and integrated policy responses; enhancing partnerships between stakeholders; setting up mechanisms for monitoring and evaluating programmes and policies; implementing existing legislation; and ensuring greater transparency and accountability from governments in order to eliminate violence against women and girls. Women’s groups have long pushed for such responses, and have placed women’s rights firmly on the agenda of international human rights through their advocacy.

The 1990s, in particular, witnessed concentrated efforts on the part of the world community to legitimize and mainstream the issue. The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and girls are “an inalienable, integral and indivisible part of universal human rights.” The United Nations General Assembly, in December 1993, adopted the Declaration on the Elimination of Violence against Women.

It is the first international human rights instrument to deal exclusively with violence against women, a groundbreaking document that became the basis for many other parallel processes. In 1994, the Commission on Human Rights appointed the first UN Special Rapporteur on Violence against Women, entrusting her with the task of analyzing and

documenting the phenomenon, and holding governments accountable for violations against women. The Fourth World Conference on Women in Beijing (1995) included elimination of all forms of violence against women as one of its twelve strategic objectives, and listed concrete actions to be taken by governments, the United Nations, international and nongovernmental organizations.

While gender-based violence is not specifically mentioned in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in 1992 the Committee overseeing CEDAW implementation adopted General Recommendation 19, which states that it is a form of discrimination that inhibits a woman's ability to enjoy rights and freedoms on a basis of equality with men. It asks that governments take this into consideration when reviewing their laws and policies. Under the new Optional Protocol to CEDAW, adopted by the UN General Assembly in October 1999, ratifying States recognize the authority of the Committee to receive and consider complaints from individuals or groups within that State's jurisdiction.

On the basis of such complaints, the Committee can then conduct confidential investigations and issue urgent requests for a government to take action to protect victims from harm, bringing the Convention into line with other human rights instruments such as the Convention against Torture. This growing momentum has compelled a better understanding of the causes and consequences of violence against women, and positive steps have been taken in some countries, including reforming and changing laws that deal with this issue. Some regions have developed their own conventions on violence against women, examples of which are the Inter American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the African Convention on Human and People's Rights, including its Additional Protocol on Women's Rights.

### **SCOPE OF THE PROBLEM**

The family is often equated with sanctuary – a place where

individuals seek love, safety, security, and shelter. But the evidence shows that it is also a place that imperils lives, and breeds some of the most drastic forms of violence perpetrated against women and girls. Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power – husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives.

Domestic violence is in most cases violence perpetrated by men against women. Women can also be violent, but their actions account for a small percentage of domestic violence. Violence against women is often a cycle of abuse that manifests itself in many forms throughout their lives. Even at the very beginning of her life, a girl may be the target of sex-selective abortion or female infanticide in cultures where son preference is prevalent.

During childhood, violence against girls may include enforced malnutrition, lack of access to medical care and education, incest, female genital mutilation, early marriage, and forced prostitution or bonded labour. Some go on to suffer throughout their adult lives – battered, raped and even murdered at the hands of intimate partners. Other crimes of violence against women include forced pregnancy, abortion or sterilization, and harmful traditional practices such as dowry-related violence, sati (the burning of a widow on the funeral pyre of her husband), and killings in the name of honour. And in later life, widows and elderly women may also experience abuse.

While the impact of physical abuse may be more 'visible' than psychological scarring, repeated humiliation and insults, forced isolation, limitations on social mobility, constant threats of violence and injury, and denial of economic resources are more subtle and insidious forms of violence. The intangible nature of psychological abuse makes it harder to define and report, leaving the woman in a situation where she is often made to feel mentally destabilized and powerless. Jurists and human rights experts and activists have argued that the physical, sexual and psychological abuse, sometimes with fatal

outcomes, inflicted on women is comparable to torture in both its nature and severity. It can be perpetrated intentionally, and committed for the specific purposes of punishment, intimidation, and control of the woman's identity and behaviour. It takes place in situations where a woman may seem free to leave, but is held prisoner by fear of further violence against herself and her children, or by lack of resources, family, legal or community support.

### **MAGNITUDE OF THE PROBLEM**

The extent, validity and reliability of the data available are critical in determining the magnitude of the problem and in identifying priority areas for intervention. Prevalence studies with samples of representative populations are relatively new in developing countries. Such studies were initially conducted in industrialized countries – the United States, Canada, and Europe. For example, one very influential survey conducted in Canada in 1993 under the auspices of the Canadian government was developed in consultation with women's organizations and ensured adequate support and services for women participating in the survey.

When designing research on violence against women, it is important that the research itself does not put women at risk. *The World Health Organization (WHO)* has developed specific ethical and safety recommendations that take into account, among other issues, the safety of respondents and the research team, protecting confidentiality to ensure both women's safety and data quality, and specialized training of interviewers.

Most of the data available on violence against women are believed to be not only conservative, but unreliable. Studies vary in the sample size of women chosen, and the ways in which questions have been posed. It is difficult to compare these studies because of inconsistency in the definition of domestic violence and in the parameters used, which can range from physical abuse alone, to physical and sexual.

### **PSYCHOLOGICAL ABUSE**

Debate regarding the magnitude of the problem is also

clouded by the fact that domestic violence is a crime that is under recorded and under-reported. When women file a report or seek treatment they may have to contend with police and health care officials who have not been trained to respond adequately or to keep consistent records. On the other hand, shame, fear of reprisal, lack of information about legal rights, lack of confidence in, or fear of, the legal system, and the legal costs involved make women reluctant to report incidents of violence.

## PHYSICAL ABUSE

A growing body of research studies confirms the prevalence of physical violence in all parts of the globe, including the estimates of 20 to 50 per cent of women from country to country who have experienced domestic violence. Statistics are grim no matter where in the world one looks. Data from industrialized and developing countries as well as from transitional countries provide an overview of the global problem. The data in this table.

**Table 1 - Examples of Violence Against Women Throughout the Life Cycle**

Phase	Types of violence.
Pre-Birth	Sex-selective abortion; effects of battering during pregnancy on birth outcomes.
Infancy	Female infanticide; physical, sexual and psychological abuse.
Girlhood	Child marriage; female genital mutilation. physical, sexual and psychological abuse; incest; child prostitution and pornography.
Adolescence and Adulthood	Dating and courtship violence (e.g. acid throwing and date rape) economically coerced sex (e.g. school girls having sex with "sugar daddies" in return for school fees); incest; sexual abuse in the workplace; rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape; dowry abuse and murders; partner homicide;

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Elderly	psychological abuse; abuse of women with disabilities; forced pregnancy. Forced "suicide" or homicide of widows for economic reasons; sexual, physical and psychological abuse. (Source: "Violence Against Women", WHO FRH/97.8)
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Table - Examples of Violence against Women Throughout the Life Cycle Phase Type of violence Pre-birth Sex-selective abortion; effects of battering during pregnancy on birth outcomes. Infancy Female infanticide; physical, sexual and psychological abuse. Girlhood Child marriage; female genital mutilation; physical, sexual and psychological abuse; incest; child prostitution and pornography. Adolescence and Dating and courtship violence (e.g. acid throwing and date rape) Adulthood economically coerced sex (e.g. school girls having sex with "sugar daddies" in return for school fees); incest; sexual abuse in the workplace; rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape; dowry abuse and murders; partner homicide; psychological abuse; abuse of women with disabilities; forced pregnancy. Elderly Forced "suicide" or homicide of widows for economic reasons; sexual, physical and psychological abuse.

Table - Examples of Violence against Women focus only on physical assault. There are few comparable statistics on psychological violence, sexual abuse, and murder of women at the hands of intimate partners and other family members. Physical violence is usually accompanied by psychological abuse, and in many cases by sexual assault.

### **SEXUAL ABUSE AND RAPE**

In intimate relationships Sexual abuse and rape by an intimate partner is not considered a crime in most countries, and women in many societies do not consider forced sex as rape if they are married to, or cohabiting with, the perpetrator. The assumption is that once a woman enters into a contract of marriage, the husband has the right to unlimited sexual access

to his wife. Surveys in many countries reveal that approximately 10 to 15 per cent of women report being forced to have sex with their intimate partner. Some countries have begun to legislate against marital rape.

These include Australia, Austria, Barbados, Canada, Cyprus, Denmark, the Dominican Republic, Ecuador, Finland, France, Germany, Ireland, Mexico, Namibia, New Zealand, Norway, the Philippines, Poland, Russia, South Africa, Spain, Sweden, Trinidad and Tobago, the United Kingdom and the United States of America. Although provision of such laws represents considerable progress, it is often difficult for a woman to press charges because of the evidential rules concerning the crime.

## **PSYCHOLOGICAL AND EMOTIONAL ABUSE**

Because psychological violence is harder to capture in quantitative studies, a full picture of the deeper and more insidious levels of violence defies quantification. Victim-survivors report that ongoing psychological violence – emotional torture and living under terror – is often more unbearable than the physical brutality, with mental stress leading to a high incidence of suicide and suicide attempts.

A close correlation between domestic violence and suicide has been established based on studies in the United States, Fiji, Papua New Guinea, Peru, India, Bangladesh and Sri Lanka. Suicide is 12 times as likely to have been attempted by a woman who has been abused than by one who has not. In the United States, as many as 35 to 40 per cent of battered women attempt suicide. In Sri Lanka, the number of suicides by girls and women 15-24 years old is 55 times greater than the number of deaths due to pregnancy and childbirth.

## **FEMICIDE**

*Femicide* – Murder of women by their batterers – is another phenomenon that should be regarded as a separate category when recording domestic violence. Studies carried out in Australia, Bangladesh, Canada, Kenya, Thailand and the United States of America have documented the incidence of

femicide within the domestic sphere. In Southern Africa, women's groups have begun to document the increasing incidence of femicide, and data on this issue are available from Botswana, South Africa, Swaziland, Zambia, and Zimbabwe. A comparative analysis of spousal homicide, based on 1991 data, concluded that Russian women are 2.5 times more likely to be murdered by their partners than American women.

However, American women are already twice as likely to be killed by their partners than women in Western European countries. Sexual abuse of children and adolescents Considering the taboo in most countries that surrounds incest or the sexual abuse of children and adolescents within the family, this is one of the most invisible forms of violence. Because the crime is perpetrated most often by a father, stepfather, grandfather, brother, uncle, or another male relative in a position of trust, the rights of the child are usually sacrificed in order to protect the name of the family and that of the adult perpetrator.

However, studies have shown that from 40 to 60 per cent of known sexual assaults within the family are committed against girls aged 15 years and younger, regardless of region or culture. A recent study in the Netherlands showed that 45 per cent of the victims of sexual violence within the domestic sphere are under the age of 18. Of these, girls are far more likely to be victims of incest than boys.

## **FORCED PROSTITUTION**

Forced prostitution or other kinds of commercial exploitation by male partners or parents is another form of violence against women and children reported worldwide. Destitute families, unable to support their children, often hire out or sell their children, who may then be forced into prostitution. Very often the young girl is sent as a domestic worker, in which case she may be physically and sexually exploited by her employers. For example, in West Africa – from Senegal to Nigeria – tens of thousands of children of destitute families are reportedly sent to the Middle East each year, many of them ending up as prostitutes.



In South Africa, child prostitution is on the rise and has become an increasingly organized activity. In certain hill districts of Nepal, prostitution has become an almost 'traditional' source of income. Women and girls are tricked or forced by their husbands and relatives into being trafficked to India for prostitution. In the poor rural areas of Thailand, where poverty has given rise to the phenomenon of debt bondage, it is believed that it is the daughter's duty to sacrifice herself for the well-being of her family. Traffickers buy the "labour" of young women and girls in exchange for money. The high incidence of HIV/AIDS in the country has been attributed to this trafficking in young girls.

In Northern Ghana and parts of Togo, girls are "donated" to priests, and are forced to live as "wives" and submit sexually to the shrine priests in return for protection for the family. A similar practice exists in southern India where young women and girls (*devadasis*) are "donated" to serve a temple; and very often end up being prostituted. Sex-selective abortions, female infanticide and differential access to food and medical care In societies where a higher value is placed on sons, discrimination towards female children can take extreme forms such as sex-selective abortions and female infanticide.

In India, a recent survey reported 10,000 cases of female infanticide annually. An official survey in China revealed that, with its one-child policy, 12 per cent of all female embryos were aborted or otherwise unaccounted for. And in many countries the discrimination that leads to the neglect of girl children is the greatest cause of sickness and death among girls between the ages of two and five years. Girls in many developing countries receive less nourishment than boys, and they are more likely to suffer mental or physical disability or even die, as a result of poor nutrition. Less access to health care also exacerbates the much higher mortality rate among girls. Sex-selective abortion, female infanticide, and systematic differential access to food and medical care have led to the phenomenon known as the "missing millions" of women and girls. An estimated 60 million women are simply missing from the population statistics. In other words there are 60 million

fewer women alive in the world than should be expected on the basis of general demographic trends. The phenomenon is observed primarily in South Asia, North Africa, the Middle East and China. Traditional and cultural practices affecting the health and lives of women Around the world, women and girls suffer the harmful and life-threatening effects of traditional and cultural practices that continue under the guise of cultural and social conformism and religious beliefs. Examples include: Female Genital Mutilation (FGM): It has been estimated that nearly 130 million women worldwide have undergone FGM and that approximately two million undergo the procedure every year. FGM Killing in the Name of Honour The issue of killings in the name of honour began to appear on the political agenda in Pakistan in 1999 as a result of growing pressure from NGOs, the media, activists, and UN agencies including UNICEF.

On 21 April, 2000, at a National Convention on Human Rights and Human Dignity, General Pervez Musharraf, The Chief Executive of Pakistan announced that such killings would be treated as murder. "The Government of Pakistan, vigorously condemns the practice of so-called 'honour killing'. Such actions do not find any place in our religion or law." The killings continue, but steps are now being taken to address the issue. takes place in 28 countries in Africa (both eastern and western), in some regions in Asia and the Middle East, and in certain immigrant communities in North America, Europe and Australia. It can lead to death and infertility, and long-term psychological trauma combined with extreme physical suffering.

*Dowry-related violence:* Even though India has legally abolished the institution of dowry, dowry-related violence is actually on the rise. More than 5,000 women are killed annually by their husbands and in-laws, who burn them in "accidental" kitchen fires if their ongoing demands for dowry before and after marriage are not met. An average of five women a day are burned, and many more cases go unreported. Deaths by kitchen fires are also on the rise, for example, in certain regions of Pakistan. The Human Rights Commission of Pakistan reports that at least four women are burned to death daily by husbands and family members as a result of domestic disputes.

*Acid attacks:* Sulphuric acid has emerged as a cheap and easily accessible weapon to disfigure and sometimes kill women and girls for reasons as varied as family feuds, inability to meet dowry demands, and rejection of marriage proposals. In Bangladesh, it is estimated that there are over 200 acid attacks each year. Killing in the name of honour: In several countries in the world including, but not limited to, Bangladesh, Egypt, Jordan, Lebanon, Pakistan, and Turkey, women are killed in order to uphold the “honour” of the family. Any reason – alleged adultery, premarital relationships (with or without sexual relations), rape, falling in love with a person of whom the family disapproves – are all reason enough for a male member of the family to kill the woman concerned.

In 1997, more than 300 women were victims of these so-called “honour” crimes in just one province of Pakistan. In Jordan, the official toll is rising and in reality the numbers are higher because many such murders are recorded as suicides or accidents. Victim-survivors of attempted murders are forced to remain in protective custody, knowing that leaving custody would result in death at the hands of the family. The penal codes in Jordan that govern crimes of honour also sanction killing by making the penalty disproportionately lenient, particularly if the crime is committed by boys under 18 years of age. Early marriages: Early marriage, with or without the consent of the girl, constitutes a form of violence as it undermines the health and autonomy of millions of young girls. The legal minimum age of marriage is usually lower for females than for males.

In many countries, the minimum legal age for marriage with parental consent is considerably lower than without it; more than 50 countries allow marriage at 16 or below with parental consent. Early marriage leads to childhood/teenage pregnancy, and can expose the girl to HIV/AIDS and other sexually transmitted diseases. It is also associated with adverse health effects for her children, such as low birthweight. Furthermore, it has an adverse effect on the education and employment opportunities of girls.

## Chapter 2

# Violence Types and Responsible Factors

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Every form of violence threatens all women and limits our ability to make choices about our lives. Sexual violence is particularly insidious because sexual acts are ordinarily and rightly a source of pleasure and communication. It is often unclear to a woman who has been victimized and to society as a whole whether a sexual violation was done out of sexual desire or violent intent or whether these motivations are even distinguishable, because violence itself has come to be seen as sexual or erotic.

Thirty years ago, most forms of violence against women were hidden under a cloak of silence or acceptance. As more and more women talked with each other in the recent wave of the women's movement, it became apparent that violence against us occurs on a massive scale; that no woman is immune; and that family, friends, and public institutions have been cruelly insensitive about it. Over the past thirty years, women have mobilized to offer direct services to those who have encountered violence, to educate people about the range and nature of male violence against women, and to develop strategies for change.

This stage reflects the important work of some of these women. The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources. The family and its operational unit is where the child is exposed to gender differences since birth, and in recent times

even before birth, in the form of sex-determination tests leading to foeticide and female infanticide. The home, which is supposed to be the most secure place, is where women are most exposed to violence.

- Battering is the leading cause of injury to women aged 15-44 in the U.S.
- The FBI, which gathers data from law enforcement officials, indicated that 102,555 women were victims of rape in 1990.
- In contrast to the FBI data, the *Rape in America* study estimates that 683,000 women are raped every year.
- Approximately 50% of the homeless women and children in this country are on the streets because of violence in their homes.
- One-fifth to one-half of U.S. women were sexually abused as children at least once, most of them by an older male relative.

Nearly two-thirds of women who receive public assistance have been abused by an intimate partner at some time in their adult lives. Given these facts, it is not surprising that the Vienna Declaration and Programme of Action calls violence against women a violation of the human rights of a majority of the world's population. Women are statistically safer out on the street than they are in their homes.

These expressions of violence take place in a man-woman relationship within the family, state and society. Usually, domestic aggression towards women and girls, due to various reasons remain hidden. Cultural and social factors are interlinked with the development and propagation of violent behaviour. With different processes of socialisation that men and women undergo, men take up stereotyped gender roles of domination and control, whereas women take up that of submission, dependence and respect for authority.

A female child grows up with a constant sense of being weak and in need of protection, whether physical social or economic. This helplessness has led to her exploitation at almost every stage of life. The family socialises its members to accept hierarchical relations expressed in unequal division

of labour between the sexes and power over the allocation of resources. The family and its operational unit is where the child is exposed to gender differences since birth, and in recent times even before birth, in the form of sex-determination tests leading to foeticide and female infanticide. The home, which is supposed to be the most secure place, is where women are most exposed to violence.

*Radhika Coomaraswamy identifies different kinds of violence against women, in the United Nation's special report, 1995, on Violence Against Women:*

- Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non spousal violence and violence related to exploitation.
- Physical sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.
- Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

This definition added 'violence perpetrated or condoned by the State', to the definition by United Nations in 1993. Coomaraswamy points out that women are vulnerable to various forms of violent treatment for several reasons, all based on gender.

- Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society's construction of female sexuality and its role in social hierarchy.
- Because of her relationship to a man, a woman is *vulnerable to domestic violence, dowry murder, sati*. This reason relates to society's concept of a woman as a property and dependent of the male protector, father, husband, son, etc.

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- Because of the social group to which she belongs, in times of war, riots. Or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men.

Combining these types of abuse with the concept of hierarchical gender relations, a useful way to view gender violence is by identifying where the violence towards women occurs. Essentially, violence happens in three contexts - the family, the community and the state and at each point key social institutions fulfill critical and interactive functions in defining legitimating and maintaining the violence.

- The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources.
- The community provides the mechanisms for perpetuating male control over women's sexuality, mobility and labour.
- The state legitimises the proprietary rights of men over women, providing a legal basis to the family and the community to perpetuate these relations.

The state does this through the enactment of discriminatory application of the law. Margaret Schuler has divided gender violence into four major categories;

1. Overt physical abuse.
2. Psychological abuse.
3. Deprivation of resources for physical and psychological well being.
4. Commodification of women.

Adriana Gomez has also talked about two basic forms of violence, that is; structural and direct. Structural violence arises from the dominant political, economic and social systems, in so far as they block access to the means of survival for large number of people; for example, economic models based on the super-exploitation of thousands for the benefit of a few, extreme poverty in opposition to ostentatious wealth, and

repression and discrimination against those who diverge from given norms. Structural violence just as to her is the basis of direct violence, because it influences the socialisation which causes individuals to accept or inflict suffering, just as to the social function they fulfil. Open or direct violence is exercised through aggression, arms or physical force.

The Fourth Conference of Women, 1995 has defined violence against women as a physical act of aggression of one *individual or group against another or others*. *Violence against women* is any act of gender-based violence which result in, physical, sexual or arbitrary deprivation of liberty in public or private life and violation of human rights of women in violation of human rights of women in situations of armed conflicts. *Violence* is an act carried out with the intention or perceived intention of physically hurting another person. *Gender Violence is defined* as “any act involving use of force or coercion with an intent of perpetuating promoting hierarchical gender relations”.

Adding gender dimension to that definition amplifies it to include violent acts perpetrated on women because they are women. With this addition, the definition is no longer simple or obvious. Understanding the phenomenon of gender violence requires an analysis of the patterns of violence directed towards women and the underlying mechanisms that permit the emergence and perpetuation of these patterns.

Liz Kelly, *Surviving Sexual Polity* has defined violence as “any physical, visual, verbal or sexual act that is experienced by the woman or girl at the time or later as a threat, invasion or assault, that has the effect of hurting her or degrading her and/or takes away her ability to contest an intimate contact”.

Dr Joanne Liddle modified this definition as “any physical, visual, verbal or sexual act that is experienced by the person at the time or later as a threat, invasion or assault, that has the effect of hurting or disregarding or removing the ability to control one’s own behaviour or an interaction, whether this be within the workplace, the home, on the streets or in any other area of the community”.



## **CHILD**

### **FEMALE FOETICIDE AND INFANTICIDE**

Technologies like amniocentesis and ultrasound used in most parts of the world, largely for detecting foetal abnormalities, has been used in large parts of the Indian subcontinent for determining the sex of the foetus so that it can be aborted, if it happens to be a female. The information of the sex of the unborn was being extensively misused. To prevent female foeticide and to restrict this misuse, the Prenatal Diagnostic Techniques Act was passed on 20th September 1994. The Act forbids the communication of the sex of the foetus, but the enforcement of this act is not easy.

Medical Termination of Pregnancy Act 1971 allows abortion if the doctor is of the opinion that the continuance of the pregnancy would endanger the life of the pregnant woman or involve grave injury to her physical or mental health; or there is substantial risk that the child would suffer from disabling physical or mental abnormalities. The anguish caused by pregnancy as a result of rape, or as a result of failure of any device or method used by a married couple for the purpose of limiting the number of children, may be presumed to constitute a grave injury to the woman's mental health.

If the pregnancy is twelve weeks old, the opinion of one registered medical practitioner is sufficient; for pregnancy of between twelve and twenty four weeks, the opinion of two registered medical practitioner is required. The matter is thus purely between her and the medical practitioner and even the husbands' consent becomes unnecessary.

In reality, however, a woman's' right to abortion is very restricted and mostly it turns out to be a family decision. Various court judgements have held that aborting a foetus without the husbands' consent would amount to cruelty under the Hindu Marriage Act and hence a ground for divorce. The procedure gets rampantly misused with the collaboration of the medical fraternity, as an alternative in the case of couples who do not opt to practise family planning methods and who want to do away with the unwanted child.

The earliest known legislation against female infanticide was enacted by the British Government in 1870. Prior to this, there were regional regulations established by the British, such as the Bengal Regulation of XXI 1795 and Regulation III of 1807, that declared that infanticide amounted to murder. The Infanticide Regulation Act of 1870 was passed nearly a hundred years after the British discovered it officially. This Act acquired the compulsory registration of births and deaths to enable verification of female children a few years after birth.

Since Independence, the Constitution of India contains certain provisions that guarantee the welfare and development of children. The Indian Penal Code also has defined infanticide as murder. While the deliberate act of causing a miscarriage or injury to the new born child, exposure of the infant and concealment of births are covered under Sections 312 to 318 of the I.P.C, the intention of preventing a child being born and causing bodily harm to the infant are covered under I.P.C Section 315. Section 317 makes the concealment of the birth and secret disposal of the dead body an offence.

Miller categorises infanticide as a fatal form of child abuse. There are more passive forms of infanticide like neglect, sustained nutritional deprivation, delayed health care for female infants or, in other words, an unequal allocation of household resources detrimental to the health of the girl child. In fact, the passive forms of infanticide remain unrecorded as infanticide by health workers and sociologists.

Female infanticide and foeticide has occurred not only in several cultures across history, but is known to occur in contemporary societies as well. Several scholars have documented female infanticide for the period of British Colonial rule. In the period since independence, the practice has been reported as occurring in many parts of the country including Tamil Nadu where the practice was not known to exist before independence.

The first recorded instance in India, dates to 1789 when Jonathan Duncan, a British Resident at Benares, Uttar Pradesh State, North India, detected the practice among a Rajput clan. The British passed the Infanticide Regulation Act in 1870 and

subsequently, a special Census was taken in 1881 in the Western Provinces and Oudh to detect female infanticide.

Evidence from the British records and other historical sources shows that the practice was confined to Northern and Western regions of the country including present day Rajasthan, Punjab, Uttar Pradesh and Bihar. By contrast, female infanticide in Tamil Nadu is essentially a post independence phenomenon. In South India, the practise of female infanticide existed among the Toda tribe of Tamil Nadu. The only factual evidence to prove that it still exists among them, is the sex ratio data in the Nilgiri District of Tamil Nadu. The data that Chunkath and others analysed confirmed that, the practise of female infanticide is widespread in Dharmapuri, Salem and Madurai Districts.

They arrived at this conclusion after preparing a table on, distribution of Blocks by number of female infanticide deaths, as per PHC records. They observed that there is a contiguous cluster of blocks where female infanticide occurs and what should be a cause for particular concern is that the phenomenon is spreading from the core area to a much wider neighbouring periphery area and beyond.

In 1986, when the practice of female infanticide in Madurai District of Tamil Nadu first received major media attention, *the focus was on the caste group known as 'Piramalai Kallars'* and it was held that the practice was confined to this caste. Over the past two decades, the region has attracted wide attention due to the prevalence of the practice of female infanticide in Usilampatti taluka. This region has a predominant large population of Kallars.

In 1992, when female infanticide was found to be widespread in Salem District and the Gounder community was considered to be the one practising it. In a survey done by Chunkath and Athreyai, it was found that this practice has spread to many castes. The data they collected from one district alone - Dindugal, Tamil Nadu, show occurrence of female infanticide in 35 caste groups. They conclude that while the Piramalai Kallars and Gounders in their respective areas of numerical and social dominance may have initiated the

practice of female infanticide, it now appears to cut across all castes. They say that, probably the practice of female infanticide by the dominant peasant/ landlord caste of the local community served to legitimate and provide social sanction to the practice and contribute substantially to its spread among all castes. The value system and norms of ritual expenditure pattern of the dominant peasant/landlord caste of the region raise the perceived cost of bringing up female infants, for poorer members of the dominant caste in particular, and for all castes in general. Although this may be true in some areas, it cannot be generalised. Chunkath and Athreya in their study, also found that the practice is widespread among the scheduled castes and tribes.

George and others<sup>ii</sup> in 1992, out of the 18 cases of female infanticide that they came across, 17 were among the Gounders. The remaining one case occurred among the Arunthatis a scheduled caste. In Bihar, just as to a study done by Adithi, a local NGO in Katihar District, of 35 *Dais*, this practise originally began among Rajputs but spread to many castes including the Bumihars, Brahmins, Kayasthas, Yadavas and some scheduled castes. This, they say, is similar to the *case in Tamil Nadu, where it originally began with Gounder caste and has now spread to almost all castes*. What makes the practice important in the contemporary society is that there are indications of its increase in occurrence.

It is difficult to obtain carefully confirmed first hand data on infanticide cases and social variables related to infanticide. There is also a problem of gathering data on direct or indirect infanticide through any brief field work. It makes it even more difficult to obtain data when people remain tight lipped about the situation. Now that the practice has been recognised as a crime by law and the increase in awareness among the people, they have become cautious about revealing facts to investigators.

There are few clear indicators to identify the extent of female infanticide. However it is known that in any genetic group, the proportion of males to females is fairly equal. Studies based on hospital birth records show that boys

outnumber girls at birth under natural circumstances. Initially the mortality rate among boys is higher than among girls, so the ratio balances out in the long run. Hence an adverse sex ratio especially in the first few years of life, and gender differences in Infant Mortality Rate are significant pointers towards the possibility of female infanticide.

Agnihotri has worked out a statistical formula for disaggregating the 'missing females' in the overall population of the country and has computed the missing females in a demographic analysis based on sex ratio. He has used the census data for this purpose. Sex ratio data would undoubtedly include those who are victims of malnutrition, delayed health care and other forms of childhood abuse, including infanticide, and in recent years foeticide. His estimation is based on the total number of females required to be added on to reach the level of the male population over a period of years. This disaggregation can be done for the whole country, for any caste, class, age, or regional sub group to show which section is contributing largely to the 'missing females' in the population.

Chunkath and others in their report say that PHC provide information on pregnancies, deliveries, births, still births, early neo natal deaths, other neo natal deaths and post natal deaths gender-wise. The field staff of the public health network also obtains information on causes of infant deaths and one of the cause is 'death due to social causes'. This category refers to male/female infanticide.

The most significant indicator would be the neo natal mortality rate and it is here that the gender differences assume significance especially if the analysis is based on PHC records. What also needs to be found is the accuracy of this data. It may be possible that the registering of a neo natal death is done in the post natal period, in which case the data will be distorted. Tamil Nadu, in 1996, had decided to conduct the survey of 24 revenue districts divided into 41 health unit districts. The data that is easily accessible and available in Tamil Nadu, may not be in some other states. The National Family Health Survey found that the post neonatal mortality

is 13% higher for females than males, and child mortality is 43% higher for female than for males. But these are all India figures, which do not convey the regional differences. What is required is data on gender - neo natal, post natal and infant mortality rates for all India, State and District level.

The experience of Chunkath and others in their survey has been that, reliable data on vital rates is available through Sample Registration Survey, but only for the State as a whole. Hospital records are a major source by which, one can speculate that female infanticide has occurred. Negi states, in a number of cases, especially in hospitalised delivery, the female infants are sent home in good health.

Subsequently, within a few hours after reaching home, the family claims that the child has died due to various causes. This leads to speculate that, a case of infanticide has occurred. Even the ritual, that is normally observed on death in the family is never followed in cases of female infanticide. There are also survey findings to prove that the babies and mothers vanish from hospitals on knowing that a girl child has been born. George and others in their study recorded nearly 600 girls born into the Kallar caste in the Usilampatti government hospital every year. Out of these an estimated 570 babies vanish from the hospital, with their mothers. Hospital sources estimate that nearly 80 per cent of these vanishing babies become victims of infanticide.

The Registrar General of India, Mr Vijay Unnikrishnan says that each year there are 25 million births and 9 million deaths in the country, but only 40% of these events are registered. These non-registered births and deaths are untraceable by any secondary data. The hospital records can only report the births that take place in hospitals. It is a common practice in rural India that the delivery is done by the midwives and at home. It is also known through various surveys that midwives are pressurised to kill the children. Women may migrate to their paternal home for delivery. All these factors make it difficult to record the death of female babies. The people who actually kill the child are the *dais*, fathers, mothers or elder female members of the family. Adithi,

a local NGO in Katihar District, Bihar conducted a survey in four districts in Bihar. Katihar District alone accounts for over 1000 infanticides cases per year.

The survey, based on interviews with the 35 midwives in the district reveals that each of them kill at least three to four babies every month. A similar situation was found in Sitamarhi, Gumla and Purnia districts. In Bihar, the new born girls are killed primarily by the dais, at the behest of the parents. They receive an amount of Rs 25 to 30/- for the deed. The child is normally killed within the first three days or the first week of its birth, after which the chances of its survival increases.

It is only in rare instances that the child is killed after the first week. 17 of the 19 female infanticides occurred within seven days of birth, one on the ninth day after birth, and the remaining one on the 16th day. In the entire study population, there were a total of 18 female infant deaths during the first seven days after birth. One of the key points that emerged from the findings of Chunkath and others, is that, there is hardly any gender differential in post-natal infant death rates in most of the districts surveyed in Tamil Nadu. On the other hand, mortality rates are considerably higher for female as against male infants in the entire neo-natal phase.

This means that the babies are killed at a neo natal stage, which makes it more important to find out when the reporting of death is done in the PHCs. Modernisation has been cited by Negi as a reason for female infanticide, as there was a shift from growing traditional crops to cash crops. Madurai District was rainfed zone and both women and men used to be jointly involved in the process of cultivation. Women had the knowledge of how to cultivate seeds in the traditional way, when to start collecting them, when to sow them and how to store them.

They also had the knowledge of, what kinds of fertilizers are necessary and should be used and so on. With the construction of Vaigai dam in 1950, Madurai District came to be irrigated and with it came the introduction of cash crops. The local traditional pattern vanished and the knowledge of

women were no more needed or required. The skills and resources were external. The seeds, pesticides, loans, electricity and skills of management came from outside. The men started going out to government offices to get loans, to bring seed and pesticides, to sell the crops and overlook the irrigation and started making decisions. Over the period of time the land lost its fertility, the ground water has gone down. Women became mere liabilities with her knowledge having become redundant and men aspired to marry only those women whose family can afford to offer more dowry.

Sergent et al, 1996 has mentioned that, in the landless classes, the presence of sons ensures a higher labour participation and correspondingly a high financial support to the family, as a consequence, the family is likely to favour a male child, increasing the probability of female infanticide. Modernisation has brought about changes in the traditional systems and thereby lowering the status of women in the society.

Dowry, given at the time of the daughter's marriage, has influenced the status of women. The daughter is considered to be a liability as her contribution to the family is temporary upto the time she is married and sent to another family. Dowry is not the only transaction as far as the daughter's marriage is concerned. Krishnaswamy, 1988 has mentioned about a series of ceremonies in South India, Tamil Nadu, associated with the girls in the family.

Gifts in cash and kind to the husband's family during ceremonies connected with pregnancy, childbirth and ceremonies for piercing the ear of the girl child and so on. It is the inability to meet the dowry-related demands from the in-law's family, that is a major cause for female infanticide.

The fear of sexual abuse of the girl child is also a cause for female infanticide. The husbands' inability to do anything against the practice of sexual abuse of his wife by his father is due to the fear that he would lose his share of the property from his father. The father-in-law due to his own child marriage loses interest in his wife and finds it more convenient to find a bride for his son and to have his "sexual fulfilment"



through her. Mothers, sometimes, kill their babies as an act of 'mercy' that they may be saved from future excesses by husbands in the form of domestic violence. They feel justified in killing their girl child so that she is saved from all the suffering she may have to undergo all her life.

Harris-White has cited poverty as one of the reasons for female infanticide. The survey done by Chunkath and others, the occurrence of female infanticide is widespread among the poorer and socially disadvantaged community including the thevars, vaniyars and scheduled castes. In contrast, Adithi and Community Services Guild has mentioned several communities, including the wealthy Gounder community, the landed caste in Salem District, Tamil Nadu, also practice female infanticide. George and others in their study point out although the Gounders, live in remote villages, they own a significant proportion of land and are in the upper social stratum of their villages, in the North and South Arcot Districts in Tamil Nadu.

It has been proved through various studies that the practise cuts across all classes and caste. Negi in her report has mentioned, the society and families having used coercive tactics to ensure that female infanticide continues, limiting the scope for outside influences in arresting the problem. Experiences of Negi, 1997 and others who have researched on this issue, is that, there is a social sanction to the deed.

The familial and social situations seem to outweigh personal reactions and therefore women opt to kill their new born girl children. Indian Council for Child Welfare, Tamil Nadu has mentioned that the feeling of guilt and trauma is almost absent in the community that perpetrates the practise, although there is grief among the mothers. Social pressures play a vital role in bringing about changes in society for the better or worse situations.

George and others have also observed maternal motivation in their study as a factor affecting infanticide. They also came across one case of male infanticide just before the beginning of their study period where the mother lost her husband and killed the male child soon after birth, after which

the mother remarried. In case of the unwed mother, she tried to abort the pregnancy, which was unsuccessful and committed infanticide when it was born. Maternal motivations for infanticide may be said, therefore, to vary on the basis of marital status. The *dai* interviewed, in the survey conducted by Adithi, Bihar, "mothers are never willing, it is the men who force them". The same study holds that the male mainly take the decision to carry out the killing of the newborn babies with females being reluctant participants.

One mother justifies her action by saying that they have hardly any access to medical care. All deliveries take place at home and often the mother is left to bleed after a particularly difficult child birth. They categorically state that they do not wish to expose their girls to such harsh conditions.

A question that arises with regard to female infanticide is whether birth order influences the chance of survival of the female infant. The study by Chunkath and Athreya in Tamil Nadu, the first female infant is, in a majority of cases, not a victim of female infanticide even in the high female infanticide Health Unit Districts, although there are instances when it is. The second female infant has a much greater chance of escaping infanticide in Madurai HUD than she does in Periyakulam and Dharmapuri HUDs. While the third female is at much greater risk than the first in all three HUDs, both the second and third seem to be equally at risk in Periyakulam. The survey finding by George and others mentions 19 female infanticides and 18 of the victims had birth orders greater than one and one involved a first born daughter.

Each of these families had at least one surviving female child at the time and usually they had two. In their study they also found that no twin died as a result of direct infanticide, however, they also say that they are subject to more neglect than a male twin and a female infant born after a set of twins is very likely to be killed. The studies prove that birth order does influence the chances of child's survival.

Negi after conducting interviews and discussions with people and NGOs closely working in Madurai District point out to the prevalence of a superstition that, killing a new born

girl child increases the probability of a male child being born in the family. Some of the other findings in the survey conducted by George and others in 1989 is that, the villages in which female infanticide occurs tend to be even more remote and have less educated people than the villages with no cases of infanticide. Lack of scanning centres has also been cited as reason for infanticide. As people do not have this facility, they kill the child after it is born. Soma Wadhwa, every year 50,000 female foetuses are aborted in India. These people are not very different from those who kill the baby after she is born.

The latter, she says, simply do not have enough money or facility to kill her in the womb. Observation made by Kumarbabu, 1996, is that even in the so-called remote, less-developed areas, "scanning centres exist. Although it may be true in some cases, one cannot generalise whether remoteness of the village, education of the people, or lack of scanning centres have any correlation with the occurrence of female infanticide. Psychopathologists have also tried to analyse why people kill new born girl children.

Sabu George, Rajaratnam Abel and B.D.Meller have carried out research in 12 villages of K.V.Kuppam block, North Arcot Ambedkar District in Tamil Nadu State for four years beginning in April 1987 to September 1989. After creating a good rapport with the people, the father or other family members would tell the village worker that if the current pregnancy resulted in the birth of a female, it would be killed. They found that each village had an assigned village level worker whose primary function was to provide education about child care to village mothers.

The worker in all cases was a local resident of the village. The main findings of the survey conducted by George and others, was that in the study population of 13,000 there were a total of 773 birth outcomes recorded, involving 759 live births of which 378 were male and 381 were female. Among the cohort of live births, 56 died in the period of two and a half years and of these 23 were males and 33 females. Thus the female male ratio was about 3:4. Of the 23 male deaths, there was no infanticide. Among the 33 female deaths, there were

19 infanticides. Thus more than half the female deaths in the 12 study villages were due to direct or indirect infanticide. In the six villages in which all infanticides occurred, infanticide constitute 72 per cent of female deaths. In the 12 village study population, the overall sex ratio (female per males) at the time of the study was 977.5. In the village where female infanticide was practised, the sex ratio was 939.8, while in the other villages, it was 1018.6..

### **CHILD MARRIAGE**

A girl child is twice vulnerable for being a child and a girl. Discrimination against them begins even before their birth and continues as they grow. Their psychological, physical and economic dependence on the family makes them vulnerable to violence and child abuse within or outside the family.

Since 1872, the following efforts have been made to legalise the minimum age of marriage. The Civil Marriage Act of 1872 was passed as a result of the efforts made by Raja Ram Mohan Roy, before which, a provision of the Indian Penal Code rendered the consummation of marriage before the girl attained the age of 10, punishable with life imprisonment.

Social reformers of 19th and 20th century tried to counteract child marriage as they felt it was marring child's educational, physical and economic progress. Noted social reformer Har Bilas Sarada, from Ajmer District, Rajasthan authored and piloted a Bill in British Legislature to stop child marriage, which, in course of time became law. The Child Marriage Restrain Act of 1929 which fixed the minimum age for boys at 18 and girls at 15, extended only to British India.

The Act did not prohibit marriages nor did it declare these marriages invalid or illegal. With the codification of the Hindu Law, the Hindu Marriage Act passed in 1955 made the minimum age of marriage for girls at 15. In 1978, a further revision was made in the minimum legal age. With this last amendment, the law was finally brought nearer in line with the accumulated scientific medical evidence showing that the adolescent girl is at grave risk of her health, as also that of her children, until she has reached the age of 18 at least. Alongside,

the minimum age of marriage for boys also underwent an upward revision to 21 years. However, it did not empower the police to prevent the marriage by arresting a person without warrant or magisterial order. Under the amended provision of this Act the jurisdiction was given to metropolitan magistrates or to judicial magistrates. They have been empowered to try any case related to child marriage. Anybody including social organisations, the police or the any person can make a complaint to the police or to the magistrate directly. Acting on a complaint, any court can itself make inquiries.

However in practice this whole process is so complicated and so time consuming that by the time these authorities are in a position to take preventive action the marriage is already over and all proof of such a ceremony obliterated. Further, Section 12 of the amended Child Marriage Restraint Act empower the magistrate to issue injunctions prohibiting marriages in contravention of this Act, but before issuing injunction the affected parties have to be given a notice to enable them to present defence. An injunction issued without this notice is not valid.

This procedure is so time-consuming that marriages in contravention of this Act are completed before the court can pass an order preventing them. The court cannot even issue a general direction that marriage of a child shall not be solemnised within some particular time limit, say eight months or two years. The punishment under the amended Child Marriage Restraint Act remains mild, *i.e.* only simple imprisonment extended to three months and a fine of Rs 1000. The provisions of Section 5 of the Act whoever performs, conduct or direct child marriages shall be punishable.

Ancient Hindu religious manuals like the Manu Smriti and Grihayastra set the age of life partners at 13 for girls and 16 for boys. In the Vedic period early marriage of girls began to gain approval and it became obligatory to have a girl married before she attained puberty. The age was lowered still further in the Brahminical period, resulting in the abuse of children. In India, 37.48 per cent of the total districts have a mean age of marriage below the legal age of 18.

The phenomenon of child marriage prevails all over the country. Chattopadhyay, 1986, the phenomenon of marrying off minors persists in almost every caste and community of Rajasthan. This practice prevails in Gaduliya Lohars of Central, Western and South Eastern Rajasthan. It also exists among the Muslim converts and among higher castes of Pushkaran Brahmins.

Saxena, 1999, during the Akha Teej or Akshaya Trithiya, the most auspicious day for marriages, practically everywhere in Western Rajasthan - Bikaner, Tonk, Jhalwar, Jodhpur and Jaisalmer, marriages are performed en masse. Every street, house, tractor and even buses seem to reverberate with music and marriage guests. But in all marriages the bride and the groom are children, some just two or three years old and some babies barely able to walk. These brides and grooms are carried by their parents or are perched on a *thali* and taken around the holy fire for performing the most important ceremony of their life.

In communities like Dakot, Dhobi, Jatava, Kasai, girls are married between the age group of 11 to 13, and in case of boys it ranges from 14 to 16 years of age. The number of minor children married in a mass marriage, in Rajasthan was reported to be 25000 in 1984 and 30,000 in 1983, 40,000 in 1985 and unofficial sources confirmed no decline in 1986. On 29th April, 1998 the day of Akshay Trithiya, National Human Rights Commission deputed a senior officer to Bikaner and Jodhpur to report on the actual state of affairs.

A Senior Superintendent of Police from the Commissioner's Investigation Division, who was witness to the event, says several marriages were solemnised with great celebration and gaiety and without any obstruction from the authorities or members of the public.. Nair sites an example of Dumma Village in Deogarh District, Uttar Pradesh where almost all girls become brides before attaining the age of 10. There is not a single girl unmarried above 12 years of age in the village. The child-brides or grooms do not understand the solemnity of these ceremonies, but for elders it is the safest and most tested way of keeping property and money within

the family and innocent children become pawns in family business. Nair, the phenomenon of child marriage is linked to poverty, illiteracy, dowry, landlessness and other such social evils. There are several social factors that have contributed to the prevalence of child marriage. The girl is considered to be a burden of the household and thereby she is married in an early age. Marriages between cousins is common in South India. Sometimes marriages are settled even before the birth of the child. In Rajasthan communities like Balai, Bhangi, Bolal, Chamar, Dholi, Gujars, Malis and Meenas believe, that marriage can be performed in childhood days irrespective of their age and maturity. Sometimes betrothal takes place before the pair is born, commonly known as '*kotha tharpana*'. This custom ensures that the girl is secure as she has been married within the clan.

Parents believe that, it is easy for the child-bride to adapt to a new environment as well as it is easy for others to mould the child to suit their family environment and practices. Child marriage is also done to maintain pre-marriage chastity among the girls. Sex within or outside families, as a result of a chance encounter - willing or otherwise - happens oftener than one can predict. After having spoken to a number of parents of such girls, Kuala is convinced that this apprehension of their unmarried daughters getting pregnant is the single largest cause of parents being so eager to marry off their girls at a young age - 'lest they bring shame and scandal to the family'.

Ahuja's findings<sup>vi</sup>, among the 94 rape victims he studied, unmarried girls constituted 63 per cent, married girls 33 per cent and widows 4 per cent. Some parents believe that, it is easier to impose their will on their children while they are still infants. They believe that, once married, boys do not flirt around with village girls and the girls learn to take responsibilities. There is also a conviction that it is easier for the couple to adapt themselves to each other as the children stay with each other since childhood. Despite growing up together, the boys are not completely connected or committed to their wives and some even seek relationships outside marriage.

Firstly, there is no system of dowry in this agreement. Secondly, since the marriages are conducted for a number of children in the family simultaneously, it works out as group marriage, thereby cutting down the expenditure drastically. Finally, its seasonal, one time community occurrence operates as very convenient social logistics for the rural folk. The main arguments of the parents are that if a girl is married off early they will have to pay only Rs 500 or less as dowry. After girls attain puberty, the cost of marriage could go upto Rs 15,000.

However, a large amount is paid when the girl is sent to the groom's house. Nair, elders hold their poverty responsible for the prevalence of this phenomenon. In case of those who have landed property, irrespective of any caste, the preference to marry the son/daughter to the brother's/sister's children or maternal uncle was largely based on the economic principle that, the landed property would remain undivided and would not go out of the clan. To save the cost incurred, marriages are conducted at times when there is finance available with the people. It is also conducted jointly with other events which require feast to be given to all relatives.

On the eldest daughter reaching puberty, all the daughters are married at a time, regardless of their age. In the event of a death in the family, marriage of the girl, regardless of her age, is performed, so that the feast to be given during the marriage can be jointly given. Marriages are also conducted immediately after the harvesting since the finances would be available with the farmer.

In case of the joint families, the parents would want to perform the marriage of their daughter before the division of the property among the sons. Marriages within the clan is also arranged as the monetary adjustments are easier within the clan than an outside alliance where else, the socio, psychological and economic security is unpredictable.

The impact of child marriage over the young bride's future is enforced widowhood, inadequate socialisation, education deprivation, lack of independence to select the life partner, lack of economic independence, psychological as well as marital adjustment, low health/Nutritional status as a result of early/



frequent pregnancies in an unprepared psychological state of the young bride. Thousands of adolescent girls are at risk from child marriage and the implications are not only on their health but also on the right to fulfil their human potential unhampered by the premature assumption of adult roles and responsibilities. Boys suffer less in this male dominated society. Most grooms, once educated and grown up, migrate to urban areas and get better jobs. Many abandon their village brides for city women. Some continue to keep two wives.

In some cases the grown up boys, don't even bother to acknowledge their child marriage and the brides are forced to go back to their parent's house. The argument that it is easier for the couple to adapt themselves to each other may not always be true in reality. In case the husband dies before even the consummation of the marriage, these child brides are treated like widows and cannot remarry. The deserted and widows are invariably given in *nata* to some widower in the family. *Nata* is an obnoxious custom.

Officially, the child is the wife of some widower but in fact she becomes the common property of all the male members of the family. Roopa Shaha, who has stopped several child marriages says that child marriages are the root cause for many personality disorders and sexual problems later in life. Girls get a mental shock when their husbands force them to have sex and they develop a feeling of hatred because they cannot emotionally understand the changes in their body and feelings during pregnancy.

There have been arguments that child marriage does not lead to early pregnancies and child abuse. It has been argued that, the girl does not go to the in law's house immediately after marriage and she is sent only after she attains puberty. On the other hand there have been arguments that the norms and customs are highly flexible. Singh, since women work outside the home, the girl is an economic asset, and therefore her parental family tries to keep her with them for as long as possible. Kabra, the ceremony practised in the rural areas of India is only for social authentication of an agreement between two families to marry their wards at an opportune age much

later. He adds that, child marriages do not result in early pregnancies or more children as child bride never goes to the husband's house after the marriage. The real age at which the marriage is consummated is 17 to 19 years. While there is a widespread recognition that girls should begin regular cohabitation only after they attained puberty, the custom was customarily violated. Once the marriage had been performed, a lot of domestic, especially feminine pressures pull the wife into the husbands family much earlier than puberty.

In many cases, *gaunavii* is also done before the permitted age. The girl becomes a mother early. Herself a child, she is unable to look after another child. She is pressurised with multiple responsibilities of being a wife, mother and daughter-in-law. After marriage, in case of there being no daughter in the in-laws house, she is taken there to work, or to facilitate the work during the harvest season. Early child bearing that is, under the age of 20 years has serious consequences on the health of both mothers and children. Age differentials of risk are further sharpened in a society with poor health, low income, inadequate medical care and nutrition. Ravindran, 1995 says child marriage is one of the indirect causes of infant and maternal mortality.

An adolescent conceiving and giving birth to a child when her body is not fully developed and that too without adequate prenatal care, puts the lives of her child and herself in jeopardy. A study conducted by Family Planning Foundation, 1991, reported that mortality rates were higher among babies born to women under 18 and the rate two to three times higher among women suffering from malnutrition. The study covered 800 villages of 33 districts in Uttar Pradesh, Madhya Pradesh, Orissa, Karnataka and Maharashtra. Nearly 29 to 58 per cent girls from poorer sections married under age and also became mothers. There are other socio-economic factors that determine absolute levels of risk at any age, but it is the biological processes that determine the age pattern of risks. Medical research from all over the world shows that maternal age has an independent influence on relative risks and that childbirth is much more hazardous for mothers under 20 years than for

those in their twenties. In addition to those who die, many women suffer from serious illnesses related to pregnancy, abortion or childbirth. Maternal age also influences infant mortality.

Almost everyone is equally guilty, whether it is local MLA or the school teacher. They have either themselves married their children very young or have enthusiastically participated in such marriages. Besides administrative laxity, it is the rigidity and callousness of the local people, which has led to widespread and open practise of child marriages.

Despite the administration being fully aware of the custom, and sometimes even having advance knowledge about it, the crime against innocent children continues. As the administration has turned a blind eye to the problem, local people have no fear for law. Caste affinity and social pressure is so great that no one reports such cases or comes forward to give evidence. Past experiences have taught a lesson to many, that authorities don't respond in time of such crisis. Bhanwari Devi, a *Saathin* of the Women's Development Programme in rural Rajasthan, was gang raped as a punishment for her efforts to prevent child marriages in her village in 1992.

Joseph writes, "all she got for trying to implement the existing laws was harassment, humiliation and violation, not only from hostile sections of the local community but also, subsequently, from members of the official law enforcing agencies, including the police and the judiciary". A few years ago a cop who tried to stop a child marriage in Bharatpur, Rajasthan, was murdered and his body tossed into a nearby well. Of course, every year routine appeals for not performing child marriages are issued by the government and non-government organisations. *Sathins*, *anganwadi* workers, social organisations and the police are alerted and asked to take preventive measures. Yet the *baraatviii* with the baby groom arrives for the toddler bride. Festivities take place in the open. The tractor trolleys with the festive people even drive past the local police station but no action is taken by anyone. How can any person of the community or authority raise the issue, when everyone is guilty?.

## CHILD SEXUAL ABUSE

Sexual abuse is defined as “All sexually oriented conduct, commentary or gestures, intentional and repeated, not desired or accepted freely by their object, for whom it is an imposition, *a humiliation or attack on their dignity*”. The term *abuse* includes physical as well as non-physical acts. There is enough evidence to suggest that it often receives wider familial sanction. It is institutionalised in various forms, ranging from long hours of labour, often within and outside the home, denial of food, neglect of ailments and verbal abuse to physical violence by the husband and sometimes other family members. Far more difficult to acknowledge are problems caused by the narrow definition of sexuality as a means of perpetuating control over their minds and bodies in a conjugal relationship.

Legally child sexual abuse is interpreted as ‘rape’ of a child who is below 16 years of age and rape as defined in Indian Penal Code is penetration without her consent. However, in Indian law has interpreted and defined rape as penile-vaginal penetration. This definition is inadequate as in most of the child sexual abuse cases, Sakshi has worked with, there has been no sexual penetration.

*Child sexual abuse is the physical or mental violation of a child with sexual intent. Thus Narang, 1998 defines child sexual abuse as follows:*

- An adult exposing his/her genitals to a child or persuading the child to do the same.
- Adult touching a child’s genitals or making the child touch the adult’s genitalia.
- An adult involving a child in pornography which includes exposing a child to pornographic material.
- An adult having oral, vaginal or anal intercourse with a child.
- Any verbal or other sexual suggestion made to a child by an adult.
- An adult persuading children to engage in sexual activity.

Kemps sexual abuse is defined as “the involvement of dependent, developmentally immature children and

adolescents in sexual activities they do not really comprehend, to which they are unable to give informed consent, or that violate the social taboos of family roles

Schmit, Sexual abuse is defined as any sexual misuse of the child by a care-taking adult. Sexual abuse includes incest, oral-genital contact; sodomy, molestation, digital manipulation and so on. RAHI includes exploitative sexual activity, whether or not they involve physical contact, between a child and another person, who by virtue of his power over the child due to age, strength, position, or relationship uses the child to meet his or her own sexual and emotional needs to the definition of child sexual abuse.

The act though sexual in nature is also about the abuse of power and the betrayal of trust. A child's dependency needs for nurturance, touch, caring, caressing, and the like are not the same as adult sexual desires. The adult or older person completely disregards the child's own developmental immaturity and inability to understand sexual behaviours. The act, therefore, is not only a gross violation of the child's body but also of the trust implicit in a care giving relationship. Child sexual abuse, just as to the report is any sexual contact between a child and an adult.

The contact covers a wide range of behaviours. It may or may not involve physical contact, force or violence, but always involves coercion. It can also include fondling of the breast or genitals, rape, oral sex, and/or sodomy. It can also include an adult demanding that a child touch his/her genitals either directly or through clothing. Non-physical sexual contact also includes exhibitionism, obscene talk or pornography.

Child sexual abuse takes place in all cultures, races and in every strata of the society. Both males and females are sexually abused. Girls however, are abused more frequently and over a longer period of time. Findings based on research done at Sakshi as well as international statistics on child sexual abuse indicate that at least 2 out of 4 girls and 1 out of 6 boys are victims of sexual abuse. A study carried out by a Bangalore based NGO, Samvada, in 1994 of 348 girls from Karnataka, revealed that 83% of the respondents had experienced some

form of child sexual abuse. The preliminary report of an ongoing survey of Sakshi with about 650 girl students indicates that about 60% of the girls had experienced some form of abuse till the age of 15 years. Out of these 60%, about 20% had suffered abuse by close relatives. DCP S.B.K.Singh reported in a daily newspaper, 'The Pioneer', that 85% of the rape cases registered in the District during 1997, involved persons known to the victims.

In most cases, the abuser is known to the child family friend, sibling, relative, servant, teacher and so on. There have also been cases where the abusers have been very close relatives - father, grandfather, brother and uncle. The abuser is usually an older person who is in some position of trust and/or power vis-avis the child. Even though both men and women can sexually abuse a child, most abusers are male. The abuser violates a relationship of trust with the child.

They may use tricks or threats to persuade the child to take part in a sexual activity. The abuse generally takes place in the child's home or the abuser's home. Given that the abuser is often known to the child and usually has both access to as well as authority over the child, the abuse does not commonly involve physical violence and generally continues over a long period of time. The abuser uses threats or blackmail to warn the child against telling any one about the abuse. This may be the primary cause for the child's silence. Child sexual abuse is on the increase because of the responses to it and towards the victims.

One of the response being denial of its existence and disbelief: Many people with whom Sakshi has interacted, deny any existence of child sexual abuse especially within a family. The concept of Indian families is perhaps the most sensitive and revered. Therefore, it is difficult to believe that sexual abuse in the families really happens. For them, if at all the concept of child sexual abuse exists, it is limited to a particular class. The popular belief is that it is very rare and happens only in low class families. Even if some people believe that child sexual abuse exists, there is denial publicly as it is difficult for them to deal with the fact that it is prevalent in our

traditional Indian families. Due to ignorance, denial of its existence, and inability of adults to deal with the subject, the child is met with disbelief when he/she finally summons up the courage to confide in someone about the experience and trauma of being sexually abused. Thus the child is forced to suffer in silence giving the abuser greater power over the child. Sexual abuse is shrouded in shame and secrecy.

Sexual organs or any reference to sex is considered to be shameful. Children are not given proper answers when they ask questions about sexual organs. They get the messages that certain body parts are dirty and they should never be talked about. So, when a child is abused, there is total silence. The child knows that there is something wrong going on, yet the child does not have the language or the words to express it. There is loneliness because the child cannot talk about it to anybody and does not know whom to approach. This hampers disclosure and thus the abuse continues.

In families where parents/relatives accept and realise that a child has suffered sexual abuse, the child is forced into silence given the culture of privacy, family prestige and family unity. The child generally does not receive much support from the family as they do not want the matter to be disclosed and the family name exposed. Thus the abuser is not confronted and the child is encouraged to 'forget' the traumatic experience. The child and her future are sacrificed for the image of the family.

A healthy environment is a family situation where family communication is clear, direct and specific and rules are flexible. Children can freely approach elders or adults with questions or concerns about sexual experiences in the full knowledge that the adults concerned will address these issues with the child's welfare in mind. In this situation no trusted older individual violates the child's person and the child feels the freedom to say no to potential abusers and report the incident with full confidence that he or she will be protected. Families in which incest occurs often appear to be like any other family. However, they are riddled with secrets and psychological stress. Incestuous families tend to be closed,

inward families lacking in any real emotional connection to people outside the family. These families often have a history of problems for several generations, which increase the potential for incest. Frequently the mothers of abused children were themselves molested as children. Many victims assume that being dominated and treated poorly by the offender is just a fact of life and not something to be challenged.

However it is vital to note that, while family influences may contribute to incest, the dysfunction itself cannot cause an individual to become sexually abusive. However, the situation makes it easier for the symptoms to play themselves out. The offender is the sole person responsible for the abuse. In some cases, the mothers do not want to take action against the abused as they are constrained by the status of the abuser within the family, for example; a father.

Economic dependence, low self esteem, lack of power within the family, incapacity to accept the responsibility of single parent and moral shame of the act keep the mother quite Members of voluntary organisations says that a mother would often suppress and wish away the event, not only because of a sense of shame and outrage, but also out of fear of reprisals from her husband, son, or other relatives.

Wadhwa 1993, in 1992 - 93, there were eight cases of rape and molestation reported by mothers to Crime Against Women Cell in Delhi. Officials at the cell pointed out that this was a significant development as hardly any such instances were reported earlier. At the same time, wives expected the police to merely caution their husbands; filing a case against them would be unheard of. Society constantly judges women including young girls and children. They are made to feel responsible, guilty or persecuted. Girls are very scared of this judgement, and of being exposed, which forces them into silence. Abusers are aware of this societal attitude towards women and this becomes their power.

Society's attitude enables them to go scott-free. Child sexual abuse is usually dismissed because in most cases it is not 'rape' as defined by law. It is met with disbelief and girls are accused of being destructive when the complaint is against



a family member. In cases where there is no penile penetration or when rape cannot be proved due to inadequate evidence, the accused is charged for 'outraging the modesty of a woman' where they may be sentenced only for a period of six months or two years.

In most cases, the accused are acquitted in absence of adequate laws on child sexual abuse and inadequate interpretation of existing laws. The court room environment is hostile and girls are humiliated over and over again. This poses to be a major obstacle for girls who want to file a complaint against their abuser. The effects of child abuse are long lasting and are carried into adulthood leaving deep scars on the personality of the abused. Healing is an important process and must begin as early as possible. Singh has pointed out that child sexual abuse triggers a host of complexities in the child's psyche.

Periodic bouts of low self esteem, sexual dysfunctioning, guilt are some of the problems that arise out of child sexual abuse and which continue to haunt the individual well into adulthood. Sexual abuse is not the only childhood experience that causes difficulty for people as they mature. Long term effects are often identical to those of other early developmental setbacks. The difference however is that most of them can be talked about freely and without involving embarrassment.

The person who is sexually abused in childhood is faced with the taboo of talking about it. Most former victims keep their experiences a secret for many years. Consequently their emotions are likely to run very deep and when they eventually surface the effects can be devastating. The abuser conveys the message that the abuser's needs come first and so it destroys the basis for child-adult trust. Victims of sexual abuse grow up without a sense of protection and security, something that is essential for them to build inner strength and venture into new experiences. As a result, they also have difficulty in trusting others and forming relationships.

Survivor's sexual activity as children were dominated by perpetrators emotional needs and selfish orientation towards sexuality. Tension, fear, betrayal, pain and mistrust coloured

the victim's sexual awakening. Consequently, as adults, the sexual behaviour of survivors is severely impacted. They face issues such as sexual maladjustment, abstaining from sex or compulsively seeking it out. Adult women victimised as children are also more likely to manifest depression, self destructive behaviour, anxiety, feelings of isolation, low self esteem, a tendency towards substance abuse, over-eating and various other addictions.

The most disturbing effect of child sexual abuse is that the worst scars are on the emotional and mental health, which may show up as unidentifiable symptoms. Children are prone to a variety of psychological and behavioural disturbances caused by the trauma of abuse. These include bed wetting, nightmares, sleep disorders, depression, anxiety, running away from home, multiple personality disorders, low self esteem caused by guilt and shame.

Many children also develop a negative attitude towards their body as they blame themselves for the abuse. Renu, victim of sexual abuse began hating herself and her body. She started eating constantly, as she wanted to look ugly and so that she would not fall prey to abuse again. Thus it can lead to disturbing the child's relationship with her sexual identity/sexuality and she can fall anywhere in the spectrum, which extends from promiscuity to frigid.

It effects her self worth and the future interactions that she will have, especially with men. Shobha Srinath NIMHANS, points out to a fact that a young child below ten may not always be aware that her sexual violation is in fact qualitatively different from thrashing and abuse; it is only with the onset of puberty that she becomes aware of her sexuality. In fact in an environment where physical contact, both affectionate and abusive, by relatives of both sexes is not uncommon, child rape needs to be viewed a little differently from the rape of a post-pubertal girl. Not unexpectedly, the families rarely talk about the rape of their young daughter: when the rapist is a father or brother, the chances of reporting is even lower. Prasad, a victim of incest may attempt suicide, may have bouts of panic attack and depression.

The child may not even confide in the parents. He adds that, the wide prevalence of the crime can be gauged by the fact that just as to a study, 16 per cent of the patients being treated for genito-urinary symptoms in the dermatology and sexually transmitted diseases department of a public hospital in New Delhi, were below 14 years of age. The child feels three Ds just as to him - dirty, damaged and different. There is a lot of anger, shame and guilt involved.

There are suicidal tendencies, drug addiction and alcoholism. They also exhibit self-mutilating behaviour and have panic attacks and depression. Dr. Khetrapal, at times the impact plays itself out in certain compulsive behaviour like over-eating, bulimia, anorexia nervosa generally seen in abused girls. Ms Seema Prakash a counsellor at RAHI, there would be a slump in academic performance, increased temper tantrums, "different" conduct with some members, exhibition of sexual awareness in crude manner which are indicators of abuse. Singh Dhiraj, most often children do not have the language to describe sexual activity.

It is difficult for a child to articulate his or her experience. Moreover, they are extremely traumatised as they try to make sense of what has happened to them. Hurt and fear of disclosure or punishment are the initial responses that prevent a child from speaking out. Hence it is very important to cultivate openness within the immediate family where the children can confide in their parents without the fear of ridicule or reproach. Parents can look for certain telltale signs and reactions to find out how safe their children are, says Singh,

- The child tries to stay away from friends and people he was close to earlier. This could be due to guilt that has flooded his little conscience.
- He or she may seem depressed. Depression itself may not be easy to gauge in children but it is translated into more expressible emotions such as being irritable, withdrawn and listless.
- The child may resume bed-wetting if he or she has stopped it. Sometimes he or she can get incontinent while awake.

- He or she may avoid a particular individual and show fear when forcibly made to come face to face with this person. This person could be abuser or someone who looks like him.
- Difficulty in concentrating or failing tests at school
- Sudden use of sexual language and swear words.
- Sexual exploitation or exploration of other children.
- Irritation in throat and bladder infections.
- Sexually transmitted infections.

## **CHILD PROSTITUTION AND TRAFFICKING**

The UN Special Rapporteur on the sale of Children, Child Prostitution and Child Pornography defines Child Prostitution as the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organised by an intermediary. Thus the violence against the girl child acquires a new dimension in the sale of young girls below the age of 18 for prostitution and trafficking. To curb this, the Suppression of Immoral Trafficking Act, later modified to the Prevention of Immoral Trafficking Act has been passed.

Prostitution in India is a Rs 40,000 crore annual business. It has been estimated that 30% of the sex workers are children, who earn Rs.11,000 crore. This has been reported by a study by the Centre of Concern for Child Labour (CCL). At present the number of child prostitutes in India is between 270,000 and 400,000, with the number of children in "commercial prostitution" increasing at the rate of 8-10% per annum. The practice of child prostitution is in blatant contravention of the UN Declaration on the Rights of the Child, endorsed by the "National Policy for Children" of the Ministry of Social Welfare, Government of India. Principle 9 of the Declaration states: The child shall be protected against all forms of neglect, cruelty and exploitation. These shall not be the subject of traffic in any form."

Poverty and deprivation, coupled with a low status in society for girls is a primary factor for child prostitution. It is well known that prostitution exists in the Third World because of poverty. A UNICEF Report, children are often required to

work to supplement their meagre incomes. Thus in a country like India, child prostitution in most cases stems from child labour. Prostitution is often viewed as an avenue providing easy money, which seems attractive for families steeped in poverty. Dr. K.K.Mukhpadhyay from Delhi School of Social Work, University of Delhi, in his presentation based on surveys he conducted for the Government of India, said that young girls in India were taken away from their parents in poor backward and drought affected districts of the country for purposes of trafficking.

These were also states with gender inequality and low literacy rates. The trafficking network was well organised in these areas. He found in his survey that about eighty per cent of the girls who were in this profession entered it as children and due to difficult circumstances, such as poverty, illiteracy, ignorance, and deception. The increasingly consumerist society only further complicated the situation. Children are often hired out or sold by their families to agents who may or may not reveal the true nature of the work offered.

The agent may promise a job as a domestic servant or factory worker at a wage many times higher than is customary in rural areas. A sum which is large in the eyes of the family, may be handed over to them, and the child is obligated to work to pay off the debt. Some young girls are deceived by young urban boys who go to villages. The boys conduct fake marriages with these girls, bring them to the cities and sell them to the brothels. On the economic front, it must be noted that development policies and patterns of development promoting tourism, industrialisation, rural to urban migration particularly of males generate a demand for commercial sex.

In such a situation, the developing countries bear the brunt of the problem. Economic disparities within countries, and between countries and regions fuels the demand for trafficking from low income to high income areas. In addition, population mobility has been facilitated by globalization and liberalization as they have opened borders and relaxed controls. Such a scenario gives a spurt to tourism which leads to 'sex tourists' from the West journeying East with the purpose of exploiting

children. Goa has become one such haven for paedophiles and people indulging in child prostitution. There are at least 400 minors in the locality involved in the trade.

Further, there is no respite in the situation as the existence of minors is often hidden on receiving a tip off about the raids. There are also instances of the arrest of 25 odd girls and their being summarily released subsequently, once their ages have been found to be above 18. The exploitation is shown in the fact that a girl below the age of 16 is available for Rs 300- Rs 500, justifying for Goa the name of 'India's Bangkok'. Men who travel to the Third World for 'sex with children', argue that there is nothing new in going abroad to escape the moral strictures at home.

This phenomenon is further enhanced by the growing demand for very young girls with a premium on virgins. Ms. Prasanna, a research scholar with the Department of Criminology at Madras University, the fear of AIDS often makes the Western 'sex tourist' to seek virgins. Such a demand is catered to by large markets in Bombay and Hyderabad also. Child prostitution in India is further aggravated by the presence of social conventions and myths prevailing in society. It is popularly believed that sex with a virgin is a cure for venereal and other diseases. Moreover, a reason for the rise in child trafficking can be attributed to the myth that having sexual intercourse with a child would protect the client from AIDS. This was stated at a workshop organised by UNICEF on "The Rights of the Child". With the low levels of education and literacy, such myths are only perpetuated.

It is well known that the female sex is further disadvantaged due to the inadequate educational and employment opportunities, gender disparities in access to opportunities and the lack of social safety nets. Social conventions play an important role in the continuance of the phenomenon of child prostitution. These include child marriages, polygamy, dowry and social stigma against single, unwed, divorced women and girls who have been sexually abused. Children, especially young girls, in these circumstances are especially vulnerable to the prostitution

racket. There have been instances of girls being driven into the sex trade following traumatic sexual experiences during childhood, including rape. If, in the case of Shahida of Kozhikode, it was the violence inflicted by her father's younger brother followed by molestation by her cousin and then rape, Lakshmi's tale of woe began when she was raped by her step father at age 8 and her further sexual exploitation for food when she left home. Prostitution thus becomes a viable option for children who have been abandoned, for those from disrupted families and for those who are financially supporting their families.

The prevalence of traditional and religious practices in some communities that consist of dedicating girls to gods and goddesses serve to encourage child prostitution. The evolution of the *Devadasi* cult can be traced to a period earlier than the entry of *Aryans* in India. The cult appears to be a relic of the *Dravidian* matriarchal society. It exists today in India with many regional variations. This social convention condemns nearly 5 to 10 thousand girls every year to a life of sexual servitude and subsequently into prostitution. The *devadasi* girls form 15% of the total women in prostitution in India. In the border districts of Maharashtra and Karnataka states, their percentage in prostitution is nearly 80%. The striking fact is that all of them have entered prostitution in an extremely organised manner. This process involves first making the girl a *devadasi* and then legitimising her entry into prostitution with the help of 'religion'.

The practice receives sanction from mythology and was once supported by feudal land owning systems. Social backwardness is the most closely linked factors to both *devadasis* and prostitutes. It is known that ethnic minority, "scheduled castes" and "other backward classes", indigenous people, hill tribes, refugees and illegal immigrants are particularly susceptible to the racket. Interestingly, the "signs" used to identify the chosen child are those of ill health - white patches of eczema, leprosy and even mental retardation. Researchers now speculate whether prostitution was one lucrative way of making use of such otherwise "worthless

children". Among those involved in child prostitution, it is the street children who are most vulnerable to it. Dr. A.B. Bose, advisor in the Planning Commission, the problem of street children is primarily the outcome of four circumstances - poverty, nonexistence of a supportive social and economic structure, rapid urbanisation leading to chronic housing shortage and the growth of slums and an oppressive home environment. The prevailing situation is aggravated by the lack of awareness of legal rights, the exploited situation of the victims and the absence of a channel for seeking redress. In the presence of the growth of trans-national crime and expansion of drug trafficking networks, weak law enforcement mechanisms, exploitation by corrupt law enforcers and officials are the order of the day.

On paper, prostitution per se is not illegal and hence there are loopholes in the law that ensure a person goes scot-free even if he sells a minor girl to a brothel, provided there is a stamped receipt. The erosion of traditional family systems and values and the pursuit of consumerism encourages sale of children. The National Commission for Women identifies sexual glorification by the electronic media as one of the prime reasons for minors in prostitution. In 1991, the Central Social Welfare Board conducted a study on Child Prostitution. Among the causes of entry to prostitution, economic distress accounted for 41%; desertion by spouse = 24.5; deception = 11.9%; social customs = 5.35%; family tradition = 5%; kidnapping and abduction = 2.25%.

The study also indicates that many of the young girls join, emulating the example of girls who have joined the trade and as a consequence are living well. It has also been shown that most prostitutes are forced to remain in their professions due to police highhandedness and the clout of local henchmen. This makes chances of rescue and rehabilitation very slight. It has been found in 1994 that India has four lakh child prostitutes. Mr. K.T. Suresh of the Bangalore based NGO "Equations", about 20% of India's 2 million prostitutes are below the age of 15. Bombay city alone is believed to have 40,000 child prostitutes.



The flesh trade in India is liberally replenished from Nepal, which is believed to contribute an estimated 20,000 young girls every year. The survey conducted by the Central Social Welfare Board in 1991-92 in the cities of Bombay, Calcutta, Delhi, Madras, Hyderabad and Bangalore shows that 15% are below the age of 15 at the time of entry and 25% are minors in the age group of 16-18 years. However, among the various studies conducted, there does appear to be some discrepancy in their findings. A study on prostitution in Delhi has challenged the findings of a report by the National Commission for Women on child prostitution.

While the NCW says that children form 60% of the prostitutes in the Capital's main sex market at G.B. Road, the study by Jan Shakti Vahini figures it as low as 7%. On a similar note, very few cases of child sex workers have been reported in the state of Kerala. However, just as to the study conducted by Loyola College of Social Sciences on "Girl Children in Prostitution", this does not imply their total absence; it merely indicates that locating them is difficult. Violence against prostitutes is of two kinds, argued Mr Dasgupta, and relates to violence at the workplace. Girls are sold by their parents or procured by abductors. A good number, about 25% to 30% are known as chukris in Calcutta. These women who are sold by their parents or husbands are severely beaten and tortured into submission. As a rule they have to pass on all their earnings to the keepers and any deviation from this norm is also countered with violence. Lack of space accounts for the presence of keepers in a big way.

However those with a place of their own face yet another problem: Goondas forcefully seek entry into the women's houses and assume the role of the pimps. They live off their earnings and, in case of resistance, get violent. Data revealed that clients were the least prone to use violence. Mr Dasgupta's study showed that 75% of women in the prostitution industry are from West Bengal, of whom a third are from Murshidabad, Birbhum and Burdwan or the Radh area. The Radh are a traditionally sent girls to Calcutta for prostitution. What is important here is the prevalence of child marriage and child

widows. When they returned to their parent's home, as they were considered burdens, they were sent off to Calcutta to work as housemaids or prostitutes.

Earlier, these women came from Kulin Brahmin and Kayastha families, nowadays they are from all castes. Micro studies conducted by Prerana, Mumbai, conducted 10 focus group interviews of five children in each group reveals that the age of becoming a prostitute was under 18 for 90.3 per cent of the girls, the average age being 16 years. When dealing with child prostitution, the best possible available indicator as to its prevalence is the incidence of AIDS and sexually transmitted diseases in the age group below 18.

UNAID, one in every two women in Mumbai's brothels was infected by 1993 and one in every three attend STD clinics. Nationally, it estimates that the incidence of HIV was 25% among women in prostitution and 10% among clients. Sudden increases in the number of kidnappings and abduction of young girls and their subsequent adoptions could possibly be indicators of the practice of child prostitution.

The National Crime Records Bureau reported a 100% increase in kidnappings in the last two years. Often, young girls are kidnapped from their homes. 60% of these children are forcibly "married", and then hidden by the brothel owner until they reach the "profitable" ages of 9-13 years.

## **CHILD LABOUR**

Patil.B.R has defined child labour in two dimensions. If the purpose is to prevent child labour and to provide compulsory education, child labour would mean and include, all those who are below the age fourteen and who are neither in school nor in employment. If the concern is to withdraw children from all kinds of jobs and employment - whether hazardous or non-hazardous - and to bring them into main stream of the human society through education, training and rehabilitation we need to define child labour in a very different manner. One such definition is: the children, who have not completed the age of fourteen, employed for wages or no wages in occupations and employment, whether carried on

by the employer or by the family or by self, that interfere with their childhood and education and are injurious to their health and physical, intellectual, spiritual, moral and social development. Neera Burra has divided child labour into four categories - those who work in factories, workshops and mines, those who are bonded, street children and children who form part of the familial labour force areas.

Gupta has classified the child labour into five types, Child workers with their family; those working in home or cottage industry; those working in a factory or factory type production unit, commuting daily to the work site; Child workers not staying with their families; children sent by parents to work away from home; children who run away from home; destitute children, who have no home or parents. Children engaged in begging and prostitution are part of organised criminal exploitation of children. This is only a tip of the ice-berg, as several micro studies have proved the figures to be much higher.

Child abuse includes sexual aggression, beatings as well as extracting hours of labour from children who should be in school or at play. Laskar, 1999, child abuse can be economic, physical or psychosocial. The most vulnerable children in the society, just as to him are the child labourers, street children, bonded children, child prostitutes, child refugees, child soldiers, jailed children, unaccompanied children, orphans or beggars. In the domestic scenario many children are exploited and this generally does not get focused. A large number of children are forced to work in hazardous workshops or factories and are exposed to multiple health hazards.

Since schooling is not compulsory for any age group in India, there are no restrictions on when children can enter the labour force. Traditional Hindu notions of social rank and hierarchy are subtly incorporated into the ways educated Indians distinguish between education for children of those who do manual work than those who are in services, that is, middle class employment. The National Human Rights Commission has itself felt revolted that officers consider it necessary to permit a 'small justice' in the form of child labour

to promote the interests of earning foreign exchange in the export market. In fact the Government policy seems to promote the employment of children. Small scale industries are legally permitted to use child labour directly or to subcontract with the so called family owned workshops. There is no statutory protection for children in factories which employ not more than 10 workers. The government's support to cottage industries and the small sector promotes the employment of children in unregulated hazardous work. And through its centres for training children as weavers in the carpet industry, the government competes with schools to attract children. Government officials are frank in saying child labour helps sustain the otherwise uneconomic small industries by keeping the cost down so that the carpet, gems and brass-ware industries can expand their exports.

### **HEALTH HAZARDS FOR WORKING CHILDREN ACTIVITIES**

*Health Hazards:*

- Beedi Industry Tuberculosis, asthma, smooth and numb fingers, backaches, and body aches, stomach-aches, gas trouble, piles, rheumatic complaint.
- Brass ware Eye injuries, burns, respiratory problems, lung ailments.
- Bronchitis, anaemia, tuberculosis, asthma, and eye diseases.
- Construction Work Deformities in spinal column, pelvis, or thorax, flat feet.
- Cottage and Handicraft.
- Factories Hearing loss and injuries.
- Gem Polishing Loss of eyesight.
- Glass Bangles Lung diseases, burn marks on face, hands, and other part of body, loss of eyesight.
- Hotels Fever, typhoid, tuberculosis, jaundice, and injuries.
- Industries.
- Lock Manufacturing Lung ailments, respiratory problems, skin ailments, cough, injuries, accidents.

- Match and Fireworks Death due to explosives, charring and toxic chemical fumes.
- Mines Silicosis, asbestosis.
- Power-loom Byssinosis, bronchitis, tuberculosis.
- Rag Picking Worm infestations, lung infections, skin diseases, cuts, cough, watering eyes, sores, mumps, tuberculosis.
- Steel manufacturing Hearing loss, burns, bronchitis arpet Weaving Loss of eyesight, lung diseases, stiff and arthritic hand joints.
- Sweatshops Gastrointestinal diseases.
- Tanning Skin ailments and respiratory illness.
- Zari making Eye diseases.

In the absence of any stricter laws or any provisions for compulsory primary school education, less than half of India's children in the age group of 6 to 14 do not attend school. Either they are found at home caring for the cattle, collecting firewood, working in fields or engaged in cottage industries, tea stalls, restaurants. Some even work in factories doing extremely hazardous jobs. Some find employment as household workers in middle class homes. Some even end up as prostitutes or bonded labourers. Unfortunately nothing worthwhile is being done to improve the conditions of these children. The Centre for Concern for Child Labour, a Delhi Based NGO, in a study has divided the girl child in the domestic sector into two categories - one who did household tasks and the other who was engaged in outdoor economic work.

The study revealed that middle or upper middle class families with small children preferred to employ young girls because, the help from them, in that case not only came 'cheap' but was also considered safe. The study observed that like all other women workers in the informal sector, the child domestic workers are subjected to sword of false allegations. Working in inhuman conditions, often for a pittance, children are abused at work and within homes where their earnings become the property of the parents. Not unexpectedly, child labour has become an emotive issue resulting in a sense of moral outrage

in the international community and the boycott of products using any form of labour. However banning child labour is a simplistic response to a much deeper problem, which lies embedded in structures of power, availability of alternatives and schooling as well as the overall immiseration of at least a third of the population. For those children who do not work for wage but contribute to the family workforce, leisure, education and anything remotely regarded as the rights of the child need to be defined keeping in mind the cultural specifications of notions of childhood, play, learning and consequently exploitation and abuse.

Dr Neera Burra argues that the general argument favouring child labour gets justified by poverty or that children are put to work at a young age to learn the required skill or the traditional craft. Further Dr Burra mentions that child labour gets justified in less hazardous workplaces but the question is, what is the definition of hazardous? She quotes the example of a domestic servant in Hyderabad who was beaten up mercilessly by his employers. A child may be working in a non-hazardous environment, but might be subject to violence. The neighbour who saved him with the help of a women's organisation later got him enrolled in a school. Studies from *Bidi* industry show that children are mortgaged for money; the Supreme Court Commission of 1983-84 on children rescued from the carpet industry documented atrocities such as not allowing them to urinate and being hung upside down and beaten for making errors in weaving. State Development Corporation had come up with a scheme for young women who would be taught weaving.

However what has actually happened is that young girls instead of women were employed under this State-funded programme, and that too at the cost of having left school. These young girls are so young that they balance on their toes so as to reach the thread. They would be on their toes for hours together. Possibility of sexual abuse also could not be ruled out. Choudhary, it is the poor life situations in families that bring children into labour force. Studies show that child labour is on the increase, particularly for those who work as marginal

workers. Choudhary, the increase of girls has been dramatic in both rural and urban areas. Maxim Gorky, traditional factors may be a cause for child labour. Schoolbased education was meant for the privileged class. This tradition prevails even today among some segments of the have-nots. Many are not aware of the disadvantages of nonschooling. The children first join their parents to work and slowly get absorbed in the labour force. Stronger than tradition, he says is the factor of chronic poverty which is responsible for the prevalence and perpetuation of child labour. When disease, other forms of disability or unemployment upset the balance of the family budget, there may not be an alternative except to send the child to work.

Poverty and child labour thus beget each other and tend to reinforce themselves in families and communities. The most important cause, just as to Chandra, is widespread of absolute poverty due to which they are forced by the parents to seek employment. Disease and other contingencies may need extra money and the employment of children is resorted to an easily accessible method to earn money. The problem of child labour is inter-related to the problem of the inadequate wage of adult worker, which compels children to work, in return for compensation and the employer takes advantage of this weakness by providing work to them on low wages. Associated with poverty is the existence of large families. Large families with comparatively less income cannot give protected and encouraging childhood to their children.

If a family is limited and well planned, there would be no scope for sending their children to the labour market and the children could be educated. Illiterate and innocent parents think just contrary to this. Thus, if parents have a small family size, they can provide all facilities to their children which are necessary for their mental, physical and social growth. Maxim Gorky, child labour and non-schooling has a significant linkage among the poorer sections of population. A child is willingly sent to school in the age group 6 to 9 because at this stage he/she is more a nuisance at home than an asset, but as he/she crosses this age limit, the positions reverse. The child can now

work at home or earn something outside. This is especially true of girls who have to assist the over-worked mother at home. In many far-flung areas of the countryside, schooling facilities are scarce and inaccessible and parents do not feel motivated to avail them for their children. Many children are forced to stay at home as their parents cannot afford the prescribed minima of uniform, books and stationery. Schooling is perceived as something that would deprive them of the income. Against the backdrop of schooling, child labour thus has a double appeal; it saves the parents from spending on child's education, and is a reckonable source of income to the family. Educated unemployment highlights the futility of education.

Gupta has mentioned disintegration of family as a cause of child labour. This could occur due to separation, divorce or death. He also mentions the low status of women in the house as a key factor of child labour. This is because she does not get the job or income she deserves, she is under paid and badly exploited. A mother or elder sister will not like the child to work if she earns enough to support the family or to supplement the family income. Raj, the most common explanation for child labour is that parents are very poor and cannot afford to send their child to school.

In places where schooling is free, the explanation given is that the family is so poor that they need the money every family member, including the child, can earn. If child labour is stopped the family will become poorer. Many factory owners who employ children argue, "why blame us? We do not force the children to come. It is the parents who send their children willingly to work rather than to school since they need money". Child labour exists primarily because there are people willing to use children for a profit. A child is paid much less than an adult worker and so is cheaper to the employer. Children are more likely to be obedient and less likely to organise themselves into labour unions and create trouble for the management. A child's mind and body can be moulded for performing repetitive tasks. Chandra, with the advent of industrialisation, the tendency among the employers to have



quick and more profits at low costs has increased. Hence, in every country there is employment of children in large numbers in factories, who are paid very low wages, are subjected to excessive hours to work, and are made to work in terrible conditions. Some of the other reasons for child labour mentioned by Chandra is the absence of scheme for family allowance. He says there is conspicuous absence of schemes for family allowance, as can be given to family so that people may maintain an adequate standard and may not be forced to send their children to the labour market. This type of scheme comes under the social security measures which is in practice in many developed countries.

Chandra has also mentioned bleak employment opportunities, lack of physical and mental fitness sheer encouragement to take up jobs instead of going to school, inadequate inspection mechanism to check child labour and slow process of protective legislation as reasons of child labour. Lal has also mentioned migration as a cause for child labour. In search of job poor rural parents migrate, which leave no scope for education of their children. In this process parents face various problems like unemployment, under employment, lack of shelter, and so on, which force the parents to send their children to work.

*Children Who Witness Domestic Violence:*

- Each year, at least 3.3 million children are estimated to witness physical or verbal abuse in their homes. These children may develop problems such as excessive anxiety or crying, fearfulness, difficulty sleeping, depression, social withdrawal, and difficulty in school. Also, children may blame themselves for the situation. Older children may run away from home. Boys who see their father abuse their mother may be more likely to become abusive adults. Girls who see their father abuse their mother may be more likely to tolerate abuse as adults. The perpetrator may also physically hurt the children. In homes where domestic violence is present, children are much more likely to be physically mistreated.

## WOMEN IN FORE

- Domestic violence includes physical, sexual, and psychological abuse between intimate partners.
- The victim is usually a woman.
- Physical injuries, psychologic problems, social isolation, loss of a job, financial difficulties, and even death can result.
- Keeping safe—for example, having a plan of escape—is the most important consideration.

Domestic violence includes physical, sexual, and psychological abuse between people who live together, including intimate partners, parents and children, children and grandparents, and siblings. It occurs among people of all cultures, races, occupations, income levels, and ages. In the United States, as many as 30% of marriages are considered physically aggressive.

Women are more commonly victims of domestic violence than are men. About 95% of people who seek medical attention as a result of domestic violence are women, and perhaps 400,000 to 500,000 of women's visits to the emergency department each year are for injuries related to domestic violence. Women are more likely to be severely assaulted or killed by a male partner than by anyone else. Each year in the United States, about 2 million women are severely beaten by their partner.

Physical abuse is the most obvious form of domestic violence. It may include hitting, slapping, kicking, punching, breaking bones, pulling hair, pushing, and twisting arms. The victim may be deprived of food or sleep. Weapons, such as a gun or knife, may be used to threaten or cause injury. Sexual assault is also common: 33 to 50% of women who are physically assaulted by their partner are also sexually assaulted by their partner. Sexual assault involves the use of threats or force to coerce sexual contact and includes unwanted touching, grabbing, or kissing.

Psychological abuse may be even more common than physical abuse and may precede it. Psychological abuse involves any nonphysical behaviour that undermines or

belittles the victim or that enables the perpetrator to control the victim. Psychological abuse can include abusive language, social isolation, and financial control. Usually, the perpetrator uses language to demean, degrade, humiliate, intimidate, or threaten the victim in private or in public. The perpetrator may make the victim think she is crazy or make her feel guilty or responsible, blaming her for the abusive relationship. The perpetrator may also humiliate the victim in terms of her sexual performance, physical appearance, or both.

The perpetrator may try to partly or completely isolate the victim by controlling the victim's access to friends, relatives, and other people. Control may include forbidding direct, written, telephone, or e-mail contact with others. The perpetrator may use jealousy to justify his actions. Often, the perpetrator withholds money to control the victim. The victim may depend on the perpetrator for most or all of her money. The perpetrator may maintain control by preventing the victim from getting a job, by keeping information about their finances from her, and by taking money from her. After an incident of abuse, the perpetrator may beg for forgiveness and promise to change and stop the abusive behaviour. However, typically, the abuse continues and often escalates.

## **Effects**

A victim of domestic violence may be physically injured. Physical injuries can include bruises, black eyes, cuts, scratches, broken bones, lost teeth, and burns. Injuries may prevent the victim from going to work regularly, causing her to lose her job. Injuries, as well as the abusive situation, may embarrass the victim, causing her to isolate herself from family and friends. The victim may also have to move often—a financial burden—to escape the perpetrator. Sometimes the perpetrator kills the victim.

As a result of domestic violence, many victims have psychological problems. Such problems include posttraumatic stress disorder, substance abuse, anxiety, and depression. About 60% of battered women are depressed. Women who are more severely battered are more likely to develop

psychologic problems. Even when physical abuse decreases, psychologic abuse often continues, reminding the woman that she can be physically abused at any time. Abused women may feel that psychologic abuse is more damaging than physical abuse. Psychologic abuse increases the risk of depression and substance abuse.

## **Management**

In cases of domestic violence, the most important consideration is safety. During a violent incident, the victim should try to move away from areas in which she can be trapped or in which the perpetrator can obtain weapons, such as the kitchen. If she can, the victim should promptly call 911 or the police and leave the house. The victim should have any injuries treated and documented with photographs. She should teach her children not to get in the middle of a fight and when and how to call for help.

Developing a safety plan is important. It should include where to go for help, how to get away, and how to access money. The victim should also make and hide copies of official documents. She should keep an overnight bag packed in case she needs to leave quickly. Sometimes the only solution is to leave the abusive relationship permanently, because domestic violence tends to continue, especially among very aggressive men.

Also, even when physical abuse decreases, psychologic abuse may persist. The decision to leave is not simple. After the perpetrator knows the victim has decided to leave, the victim's risk of serious harm and death may be greatest. At this time, the victim should take additional steps to protect herself and her children. Help is available through shelters for battered women, support groups, the courts, and a national hotline.

## **RAPE**

- If possible, family members and close friends should meet with a member of the rape crisis team to discuss how to support a rape victim.

- Sexual transmitted diseases, including HIV infection, and pregnancy are risks.
- Treatment of physical injuries, antibiotics to prevent infections, emergency contraception, and counseling or psychotherapy may be needed.
- Victims may have tears in the vagina, cuts and bruises, upsetting emotions, and difficulty sleeping.
- Women who are raped should be thoroughly evaluated in a center staffed by specially trained people.

Rape is typically considered to be unwanted penetration of the victim's vagina, anus, or mouth. In victims younger than the age of consent, such penetration—whether wanted or not—is considered rape. Sexual assault is a broader term, including the use of force and threats to coerce any sexual contact and unwanted touching, grabbing, or kissing. The reported percentage of women who have been raped during their lifetime varies widely: from 2% to almost 30%. The reported percentage of children who are sexually abused is similarly high. Reported percentages are probably lower than the actual percentages, because rape and sexual abuse are less likely to be reported to the police than are other crimes.

Typically, rape is an expression of aggression, anger, or the need for power rather than sexually motivated. About half of women who are raped are physically injured. Men are also raped. Men are more likely than women to be physically injured and less likely to report the rape.

## **SYMPTOMS**

Physical injuries resulting from a rape may include tears in the upper part of the vagina and injuries to other parts of the body, such as bruises, black eyes, cuts, and scratches. The psychological effects of a rape are often more devastating than the physical. Shortly after a rape occurs, almost all women have symptoms of posttraumatic stress disorder, which can occur after any stressful event. Women feel fearful, anxious, and irritable. They may feel angry, depressed, embarrassed, ashamed, or guilty.

They may have intrusive, upsetting thoughts about or mental images of the assault, and they may relive the rape. Or they may stifle thoughts and feelings about the rape. They may avoid situations that remind them of the rape. Difficulty sleeping and nightmares are common. These symptoms may last for months, interfering with social activities and work. However, for most women, symptoms lessen substantially over a period of months. After a rape, there is a risk of infection with sexually transmitted diseases and hepatitis B and C. Infection with the human immunodeficiency virus (HIV) is a particular concern, even though the chances of acquiring it in a single encounter are low. Rarely, a woman becomes pregnant.

## **EVALUATION**

Having a thorough medical evaluation after a rape is important. Whenever possible, women who have been raped or sexually assaulted are taken to a sexual assault center that is staffed by trained, concerned support personnel. The center may be a hospital emergency department or a separate facility. After a rape, doctors are required by law to notify the police and to examine the victim. The examination provides evidence for prosecution of the rapist and is necessary before medical care of the victim can begin.

The best evidence is obtained when the rape victim goes to the hospital as soon as possible, without showering or washing, without brushing the teeth, without changing clothes, and, if possible, without even urinating. The medical record resulting from this examination is sometimes admissible in court as evidence. However, the medical record cannot be released unless the victim gives her consent in writing or a subpoena is issued. The record may also help the victim recall details of the rape if her testimony is required later.

Immediately after a rape, a woman may be afraid of undergoing a physical examination. If possible, a female doctor examines the woman. If not, a female nurse or volunteer is present to help allay any anxiety the woman may be feeling. Before beginning the examination, the doctor should ask the

woman's permission to proceed. The woman should feel no pressure to consent, although consent is generally in her best interest. The woman can ask the doctor to explain what will happen during the examination so that she knows what to expect.

The doctor asks the woman to describe the events to help guide the examination and treatment. However, talking about the rape is often frightening for the woman. She may request to give a complete description later, after her immediate needs have been met. She may first need to be treated for injuries and to have some time for calming down. To help determine the likelihood of pregnancy, the doctor asks the woman when her last menstrual period was and whether she uses a contraceptive. To help interpret the analysis of any sperm samples, the doctor asks the woman if she recently had sex before the rape and, if so, when.

The doctor notes physical injuries, such as cuts and scrapes, and may examine the vagina for injuries. Photographs of injuries are taken. Because some injuries such as bruises become apparent later, a second set of photographs may be taken later. A swab is used to take samples of semen and other body fluids for evidence. Other samples, such as samples of the perpetrator's hair, blood, or skin are collected. Sometimes DNA testing of the samples is done to identify the perpetrator. Some of the woman's clothing may be kept for evidence.

If the woman consents, blood tests are done to check for infections, including HIV infection. If the initial test results for gonorrhea, chlamydial infection, syphilis, and hepatitis are negative, the woman is tested again at 6 weeks. If results for syphilis and hepatitis are still negative, tests are repeated at 6 months. Blood tests for HIV infection may be repeated after 90 and 120 days. A Papanicolaou test is done to check for human papillomavirus infection after 6 wk.

Usually, a pregnancy test to measure the level of human chorionic gonadotropin in the urine is done during the initial examination to detect any preexisting pregnancy. If the results are negative, the test is repeated within 6 weeks to check for pregnancy that may have resulted from the rape.

## TREATMENT

After the examination, the woman is offered facilities to wash, change clothing, use mouthwash, and urinate if needed. Any physical injuries are treated. For preventing infections, the woman is given antibiotics, typically one dose of ceftriaxone injected into a muscle, one dose of metronidazole given by mouth, and doxycycline given by mouth for 7 days. If test results for HIV were positive, treatment for HIV is started immediately. If pregnancy is a concern, emergency contraception may be used.

A high dose of an oral contraceptive is given immediately, then repeated 12 hours. This treatment is 99% effective if given within 72 hours of the rape. Inserting an intrauterine device within 10 days of the rape is even more effective. The oral contraceptive or IUD is used only if results from the pregnancy test do not detect pregnancy. If pregnancy results from the rape, abortion can be considered.

Common psychological reactions to the rape are explained to the woman. As soon as feasible, a person trained in rape crisis intervention meets with her. The woman is referred to a rape crisis team if one is located in the area. This team can provide helpful medical, psychological, and legal support. For the woman, talking about the rape and her feelings about it can help her recover. If symptoms of posttraumatic stress disorder persist, psychotherapy or antidepressants can be effective. If necessary, the woman can be referred to a psychologist, social worker, or psychiatrist.

Family members and friends may have some of the same feelings as the victim: anxiety, anger, or guilt. They may irrationally blame the victim. Thus, in addition to her own feelings, the rape victim may have to handle negative, sometimes judgmental or derisive reactions of family members and friends, as well as those of officials. These reactions can interfere with the victim's recovery. Family members or close friends may benefit from meeting with a member of the rape crisis team or sexual assault evaluation unit to discuss their feelings and how they can help the victim. Usually, listening supportively to the victim and not expressing strong feelings



about the rape are most helpful. Blaming or criticizing the victim may interfere with her recovery. A support network of health care practitioners, friends, and family members can be very helpful to the victim.

## **DOMESTIC VIOLENCE**

Physical violence as well as explicit forms of aggression are used by the more powerful in the household as methods to ensure obedience of the less powerful and therefore related to power dynamics in a household. At every stage in the life cycle, the female body is both the objects of desire and of control. Domestic violence includes not only inter-spousal violence, but also violence perpetrated by other family members. Generally, an important part of the power relationship between spouses and their families relates to dowry and its ramifications. There is a wide societal tolerance for wife-abuse, which is very often even considered justifiable under certain circumstance: Disputes over dowries, a wife's sexual infidelities, her neglect of household duties, and her disobedience of her husband's dictates are all considered legitimate causes for wife-beating. It is only when the torture becomes unbearable or death appeared imminent that most women appeared willing to speak out. Glass defines domestic violence as "anything that is experienced as fearful, controlling and threatening when used by those with power against those without power (mainly women and children)".

Domestic violence includes, harassment, maltreatment, brutality or cruelty and even the threat of assault - intimidation. It includes physical injury, as well as "wilfully or knowingly placing or attempting to place a spouse in fear of injury and compelling the spouse by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse has a right to abstain". Confining or detaining the spouse against one's will or damaging property are also considered as acts of violence.

Domestic Violence in the Marital Relationship: Ahuja and Visaria have recently conducted studies on 'domestic violence' within marital relationship. *Domestic violence* has been defined

as " all actions by the family against one of its members that threaten the life, body, psychological integrity or liberty of the member. In identifying factors leading to wife beating, both Visaria and Ahuja, in their survey, have tested the co-relationship between wife beating and education. Visaria's survey in Gujarat, illiterate women face more violence than literate women. Relationship between abusive behaviour and level of education has been found to be statistically significant. Illiterate women and those with education up to primary level tend to be more subjected to violence as compared to those who had received education beyond the primary level.

However, one has to keep in mind that the percentage of literate women in Gujarat is overall only between 20% to 50%. In one district, Banas Kantha in Kutch, the total percentage of literate women is even lesser than 20%. In contrast a study by Ahuja shows that there is no significant relationship between beating and educational level of the couple. Educated women are beaten as much by their husbands as those who are illiterate or less educated. About one-fourth of the batterers (24%) in Ahuja's study were those who were moderately educated and about one-fourth (26%) were highly educated.

However, he added that men whose educational attainment is low, are more likely to beat their wife than men who are better educated. Study findings of Ahuja shows that although women of all ages are victims of wife-battering, a larger number of victims (72%) are among those with an age difference of upto 10 years between spouses. The survey findings of Visaria, women who experience domestic violence early in their marriage, continue to be subjected to it even with increase in age. His findings point out that family structure, the presence or absence of children, and the size of the family have little co-relation with wife battering.

The study also points out that family income, husband's occupation and employment of women are not co-related with wifebattering. Survey findings of Visaria joint family tends to offer women some protection or acts as a deterrent to husbands using physical force to subdue them. The forms of violence commonly found by Ahuja were slapping, kicking, tearing

hair, pushing and pulling, hitting with an object, attempting to strangulate and threatening. Forms of psychological abuse were also found to exist, for instance, verbal abuse, sarcastic remarks in the presence of outsiders, imposing severe restrictions on freedom of movement, totally ignoring the wife in decision-making processes, making frequent complaints against her to her parents, friends, neighbours, and kin much to the embarrassment of the wife.

Some of the reasons given by the women were financial matters, behaviour with in-laws, back-biting, talking to any male without the liking of the husband, asking for money, preventing him from drinking and husbands personality traits. Some of the worse forms of violence has been reported by Visaria in her study, for instance, beating with sticks or iron rod, knives, utensils, blades and ladles, throwing women against objects or bashing their heads against the walls, burning of breasts and vagina. In addition, sexual assaults in the form of both hitting women in the vagina by kicking or forcing her into sexual intercourse were reported by nearly 10% of the women. Some of the women who had become victim of this form of violence indicated that injury in their private parts cannot be noticed by anyone and they would be too ashamed to talk about it to others.

A couple of women also hinted that men know that their wives cannot report such punishment even to their own parents or seek medical treatment due to a sense of shame. Some of the reasons given by women, in the survey done by Visaria is, meals not served properly, economic constraints, financial matters, men wasting money at tea stalls, drinking of alcohol, men feeling that women are paying less attention to the children and vis-à-vis, men feel women have a lot of free time and so on.

One of the main cause why domestic violence prevails and continues is the lack of alternatives among the victims. Women and children may be economically dependent on abusers. Elderly people and children may feel too powerless to escape. Language or cultural barriers may isolate victims from seeking help. Victims generally feel, it is better to suffer in silence than

to be separated from loved ones. They keep hoping for improvement, but it is normally observed that, without help, violence gets worse. Victims may also feel helpless, guilty or worthless. They may feel ashamed of the poor quality of the relationship. Abusers may fear the consequences of seeking help, unaware that continuing as before may be even more dangerous. Family members may be unaware of the help that is available from the local agencies.

They may also be unaware of their legal rights. In India we have no provision for protection of a complainant, not even under the Prevention of Dowry Act. A woman who has complained of harassment goes back to the very people against whom she has complained. What security can she possibly feel in such a situation, and how can she continue to act on her complaint? She obviously continues to be victimised often paying the ultimate price. Many complainants are faced with eviction from the family home, are cut off without maintenance, and are unable to follow the complaint precisely because they have no means to do so. Frequent, unexplained injuries, reluctance to seek medical treatment for injuries or denial of their existence, fear in the presence of certain family member/s, social isolation, disorientation or grogginess, especially in elders indicating misuse of medication and decline in physical appearance and personal hygiene indicating increased isolation and a lack of desire to continue living are some of the indicators of violence.

## **DOWRY HARASSMENT AND BRIDE BURNING**

Dowry is a transfer of property from the bride's family to that of the bridegroom, at the time of marriage. The present practice, dowry usually subsumes material gifts and cash paid to the bridegroom and his kin. This practice continues even after marriage. The dowry given at the time of marriage is not the only transaction as far as the daughter's marriage is concerned. There is a series of ceremonies associated with the girls in the family. The practice of giving gifts to the husband's family in cash and kind and rituals connected with pregnancy, childbirth and ceremonies for piercing the ear of the girl and

so on. The gifts are no longer a token of affection from parents to the daughter, but instead an elaborate demand from the marital family.

The commonest elements of dowry in India include gifts for the bride such as clothes, jewels and other house-hold and luxury goods like a refrigerator and kitchen utensils and so on. These are ideally treated as the bride's *streedan* (wife's property) and form the nucleus of the conjugal estate. Dowry also includes gifts for the son-in-law and other luxury items like scooter, VCR, VCP, and such other gifts for the bridegrooms' parents and other relatives.

It includes hard cash paid as contribution towards the marriage expenses. In some cases, dowry is also paid as compensation for the expenditure incurred on the education and other training of the groom. The bridegroom's parents usually keep this money. Some state that this is kept by the parents as security against the bridegroom staying separately after marriage. Chatterji, the practice was a means of giving gifts to the daughter during the marriage, so that the couple can start a life on their own and to compensate her share of the property, as she is otherwise excluded from inheriting parental property.

The Dowry Prohibition Act 1961 was amended in 1984, 1985 and 1986. Dowry deaths constitute a special category of death that was for the first time defined in a section introduced into the Indian Penal Code (IPC) In 1986, Section 304(B) stipulates that death of a woman within seven years of her marriage by burns or bodily injury with evidence of cruelty or harassment by her husband or his relatives in connection with a demand for dowry is 'dowry death' and punishable with imprisonment for not less than seven years.

Three years prior to this, Section 498(A) was introduced in the IPC. This states that 'any form of cruelty, whether it is from a husband or the relative of a husband, to a woman is an offence that is punishable with imprisonment up to three years'. Cruelty, as defined in this section, includes 'any wilful conduct that could cause mental torture, physical injury, or drive the woman to commit suicide, whether in connection

with any unlawful demand for property or not'. Under sections 299, 300, 301 and 304(A), culpable homicide, murder and death by negligence are crimes. Section 302 lays down punishment for murder: death sentence or imprisonment for life. Sections 113(A) (presumption as to abetment of suicide of a married woman) and 113(B) (presumption as to dowry death) were added to the Indian Evidence Act and can be invoked in cases of dowry murder or suicide.

The Code of Criminal Procedure (mainly sections 174 and 175) lays down the procedure and principles of investigation into a crime. Despite a list of legislation protecting the rights of women, most importantly the prohibition of giving and taking of dowry under the Dowry Prohibition Act 1961, women in India are tortured physically and mentally and even killed or driven to suicide by their husbands and in-laws for not bringing sufficient dowry. Dowry related violence against married women by the families they marry into is a phenomenon that is on the increase in the country. However this data is only a tip of the iceberg, as most of these cases do not get reported unless it reaches an extreme case of death. The interplay of pre-capitalist values and modern forces with the accentuation of the free market economy and the consumer culture in the era of unequal development have thus become a part of the complex and contradictory fabric of our present-day society.

The traditional values of the necessity of marrying a girl for spiritual merit and the modern system of calculation and other considerations of the groom's family in a milieu of inequality and insecurity have brought to the surface a sense of competition and manipulation to the advantage of the bridegroom. Paul the treatment of a daughter-in-law depends very much upon the quantum of dowry she brings along with her before, during and after the marriage ceremony. However there have been cases when the status of the girl's parents has reduced after the marriage, or there is a loss in the business and the girl is illtreated in the husband's house thereafter.

The dowry normally continues for many years after the marriage. Often, the dowry brought by her is taken away after

marriage. In times of financial problems in the husband's house, her jewellery and dowry items are normally the first to be sold. For some people, paying dowry at their daughter's marriage is an investment for fetching high dowry through their son's marriage. Some others, including women discuss on 'marriage with high dowry', with pride.

Generally, marriages with pomp and show is preferred. The girls too think it is their right to take dowry with them when they go to the husband's house. People believe that the effective way of equipping women is to resort to dowry in arranging a marital alliance. Another feeling among the mothers-in-law is that when she herself brought dowry from her house at the time of her marriage, why shouldn't she take dowry for her son. Menon, dowry related crime is motivated mainly by greed.

## **SEXUAL HARASSMENT AT WORK**

Mac Kinnons sexual harassment of working women is primarily a problem faced by women, that men rarely face this problem and therefore it should be considered a form of sex discrimination.

*Sexual harassment as defined by the court stipulates:*

- "Such unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances,
- A demand or request for sexual favours, sexually coloured remarks,
- Showing pornography and any other unwelcome physical, verbal or non verbal conduct of sexual nature".

Burt says "unwanted sexual overtures", has the virtue of parsimony but necessarily concerns intentions and motivation, not just overt behaviour. Defining sexual harassment as unwanted sexual overtures has the same problem inherent in defining rape as unwanted sexual relations. In practise the woman has to prove that the sexual relations or the sexual overtures were unwanted. The male colleague will go out of the way to prove that the woman is of loose character. Quinn

defining sexual harassment means setting boundaries on the term and differentiating sexual harassment from expressions of sexual interest. Not all expressions of sexuality in the workplace could possibly be called sexual harassment. Men and women do meet dating partners and future spouses at work. Some people may even enjoy sexual jokes and flirting that can be ego enhancing and enrich their fantasy life. National Commission for Women has laid down the code of conduct at work place to prevent sexual harassment of women, which has been sent to all Government offices, Ministries, and Universities with the hope that employers would become more sensitive towards women.

The guidelines highlight that it shall be the duty of the employer to prevent or deter the commission of any act of sexual harassment at workplace would include unwelcome sexually determined behaviour by any person either individually or in association with other persons such as eve teasing, unsavoury remarks, jokes causing embarrassment, innuendo and taunts, gender based insults or sexist remarks and unwelcome sexual overtones in any manner, touching or brushing against any part of the body, molestation or displaying pornographic or other derogatory pictures or sayings. Recommendations to the National Commission for Women based on the view that the definition of sexual harassment is deficient and that "sexual favours.....sought by homosexual or lesbian employees of the same sex" also be included.

The Court places an obligation on employers in both the public and private sector to "take appropriate steps to prevent sexual harassment" and "provide appropriate penalties" against the offender. The criminal law should be resorted to where the behaviour amounts to a specific offence under the Indian Penal Code. The Court also recommends that a complaint made by the victim and that such a committee should be headed by a woman, and not less than half its members should be women.

However this guidelines does not specify any time limit for drafting the code. The Court provides that the employer is



responsible for drafting codes to prevent sexual harassment in the workplace. If the power to evolve these codes is to be in the hands of the employer, then given the conservative sexual climate in which we live, what is to prevent the employer from producing a code that encourages gender segregation in the workplace. The codes could be formulated so as to discourage gender interaction in the workplace, or encourage the establishment of same sex schools and universities instead of co-educational institutions.

Perhaps more specific guidelines are required which provide that such sex segregation is not an appropriate response for dealing with sexual harassment. In many cases, it has been found that the committees within the organisations were set up only when there were serious allegations of sexual harassment. Many working women point out that, even if there is an enquiry committee, does anyone really bother to find out what happens to the victim when the enquiry is going on? She is an object of curiosity, sympathy, disdainful glances or simply isolated by her colleagues. The situation at home is worse.

Instead of sympathising with her plight or standing by her, the attitude is one of distrust and suspicion or often humiliation and shame. The work environment where sexual harassment occurs has hierarchy, norms, rules and constraints that profoundly affect the way people behave in that setting. In particular, the formal rules and informal norms of managers affect both the managers and their subordinates. The top management has the power to influence the employee's work habits, style of dress, recreational interests and social behaviour. When the top management tolerates or condones sexual harassment of employees, the standard reverberates throughout the organization. Certain individuals use their positions of relative power to engage in sexual interactions.

This type of behaviour clearly constitutes sex discrimination. Male ego problems, sexual perversion, sexual obsession, widow-hood, pornographic materials and media portrayal is said to be some of the reasons for their harassment. Lawyers facing sexual harassment at work: A survey conducted by Sakshi, a Delhi based NGO, in a few major cities

reported that 65 per cent of women lawyers interviewed were always or often subjected to, or had observed, verbal or physical sexual harassment from other lawyers.

The harassment would take various forms just as to the survey. They include use of stereo-typed role characterisation, sexual innuendo, devaluation of women's work, use of obscene or vulgar language, and comments on appearances and character. The bar report narrates two incidents. In one case, a woman lawyer was openly punched by a male colleague in the High Court premises for refusing to join him for a cup of coffee. When she tried to report the incident, a senior member of the bar dissuaded the police from registering it, on the ground that "it would tarnish the reputation of the Bar". Forty-eight per cent of the women lawyers surveyed also stated that they had heard or experienced remarks or jokes that were demeaning to women. In a survey done by National Commission for Women of 1200 women, nearly 50 per cent complained of gender discrimination and physical and mental harassment at work.

While 40 per cent of the women said they "usually ignored" such provocation, 3.54 per cent said they reported these to their supervisors, 7.8 per cent to their colleagues and 1.24 per cent to the police. About 10 per cent said that they protested against such behaviour while 9 per cent said they warned the offenders. At least 20.17 per cent of the respondents said that no investigation was done on their complaints while 1.5 per cent said police harassed them again instead of making the enquiry. A majority of the respondents 84.97% were not aware of the supreme court judgement given in August 1997, for specific protection of women from sexual harassment at work.

## **SALE OF WIFE**

In traditional farming communities, women helped in farming and bridegrooms paid a bride price to her parents. In the past this used to be a token amount. If a widow or a married woman chose to enter into a live-in relationship with another man, the latter in turn paid the first husband the

amount he had spent at the time of the marriage. This system has, in the last decade become completely distorted with women being sold and resold for astronomical sums and the panchayats and police turning a blind eye to these goings on. With the bride price sometimes running into a lakh or more, '*nata*' brokers have mushroomed around Kotah, Bundi, Deoli, Ajmer and Tonk districts of Rajasthan, whose only job is to keep an eye on prospective women and force them to enter into a *nata* because the local brokers earned a hefty commission out of this deal.

The kind of money at stake can be gauged from the fact that one of the fathers admits to having spent Rs 62,000 in bringing her back. Realising the selling and reselling of girls had reached rampant proportions, a Deoli based NGO, 'Women's Rights Committee Against Atrocity' conducted a survey in Sandla and Bhanvarthala villages in Tonk District of Rajasthan and came up with some disturbing conclusions. Of the 517 households surveyed, the survival rate of marriages in the backward classes during the last five years was less than 50 per cent and in some cases as high as 70 per cent. *Nata* exits also in Rajgarh district of Madhya Pradesh.

It is the practise of the sale of the women to men in return for a handsome price. The largest beneficiary is the father of the girl who uses her to gain a neat sum. Closely connected to the issue of sale and resale of women is the custom of child marriage. Unless a boy is committed to child marriage, he cannot indulge in *nata*. Men are prepared to pawn their goats, cows and buffaloes and in well-to-do households, even gold and silver to get a woman. In all these transactions the woman is never in the picture - she accepts the deal as part of her womanhood.

Indira Pancholi, the Co-ordinator of the committee believes, "no household has remained unaffected, there is an unsuccessful marriage in every household here." The Panchayats have turned a blind eye to this jostling around. They are accused more often than not, of siding with the husbands and are blamed for pushing up the *nata* rates. The *jhagda* money is decided upon in presence of the Panchayat

with the amount being written on a document called *Kagli*. "Husbands are selling their wives to get more money and the Panchayats are doing nothing to protect these women", points out the Jaipur based women's rights activist, Kavita Srivastava. She cites an instance of Lalibai, an anganwadi worker, who was harassed to enter into a *nata* after her husband's death. She refused and had to seek intervention of social activists to escape harassment.

A Jaipur based DIG (CID), Sudhir Pratap Singh "lack of education and total ignorance of inheritance rights amongst women are the reasons why this practice has continued." Indira Pancholi, the Co-ordinator of the committee believes, "the inability of a bride to return to her marital home would be a triggering factor, especially in cases of *atta satta* agreement where two families exchange children in marriage when they are quite young. After marriage, the boy's family reciprocate by not sending their son to bring the bride.

Entire villages are at war with each other." For instance, Simla Ram, from the village Nappa Ke Kheda of Rajasthan is facing rejection from her college going husband who does not want an illiterate wife. Village custom demands that the husband either comes down himself or sends someone to fetch her. Four years into the marriage, Simla is still waiting to be escorted to her husband's home. Simla is completely against *nata*. She says she would like to settle down only with her husband. Marriages in villages have come under pressure for other reasons as well. Dowry and modern lifestyle demands, including incompatibility, are reasons cited for marital breakdowns and consequently the sale of women.

## **TEASING**

Eve teasing is an act of terror that violates a woman's body, space and self-respect. It is one of the many ways through which a woman is systematically made to feel inferior, weak and afraid. Whether it is an obscene word whispered into a woman's ear; offensive remarks on her appearance; an intrusive way of touching any part of a woman's body; a gesture which is perceived and intended to be vulgar: all these

acts represent a violation of a woman's person, her bodily integrity. Eve teasing denies a woman's fundamental right to move freely and carry herself with dignity, solely on the basis of her sex.

Some acts of eve-teasing mentioned by girl students interviewed are; indecent remarks, singing obscene songs, hitting, touching or pinching in crowded places, snatching dupatta and in some cases even forced kissing, mailing anonymous love letters and exhibiting male genital in front of women.. Eve teasing by itself is not an offence under any law, but Sections 294 and 349 of the Indian Penal Code cover substance of eve teasing.

*Sections 294 punishes "whoever, to the annoyance of others:*

- Does any obscene act in any public place,
- Sings, recites or utters any obscene song, ballads or words in or near any public place" is liable to be punished with imprisonment or with fine.

The section is very wide in nature and a person can be hauled up even if the acts forming part of the substance of the offence are addressed to the public at large, provided this cause annoyance. Clearly a girl or a woman who feels annoyed by any obscene song or words can take recourse to the provision of the section and put up a complaint before a police station.

The offence is cognisable, *i.e.* a police officer can arrest the offender without a warrant but it is bailable. A graver form of eve teasing is accompanied by the use of gesture indicating threat or use of force. 'Criminal force' has been defined under Section 349 of Indian Penal Code. 'A person is said to use force to another if he causes motion, change or cessation of motion to that other person'.

In such a case also, action can be taken against the person using it. The punishment in such cases are imprisonment for two years or fine or both. The offence is cognisable. Thus, simple eve teasing accompanied with gesture to use force are punishable under the existing provisions of the Indian Penal Code. A graver form of eve teasing is accompanied by the use of gesture indicating threat or use of force. In such a case also, action can be taken against the person using it Stereotypically,

men are conceived of as natural prey to uncontrollable lust. Women therefore have to protect themselves at any costs. In an ironic twist of responsibility, women then bear the burden of guilt for an act of violence against themselves. This is the basis for the second typical response to a violation of women's bodily integrity: to exhort women to censor their movements and appearance. Another misconception believes that men who abuse women are rowdy lower class elements.

In fact, men who violate a woman's space and body do not belong to any particular social group or class. Eve teasers are there in the family, the neighbourhood, in one's classroom and place of work. What is perceived as male lust in our culture represents a desperate and frantic inability to communicate with women. This inability often translates into acts that hurt and terrorise. Consider the fact that popular representations of romance, as in film, clearly link up eve teasing to love. This not only naturalises abuse as love, but also legitimises male power over women.

In the larger cultural context the man - woman relationships is simply not open to free, unfettered discussions of romance and sexuality. In such a context, communication between the sexes necessarily suffers. There is an influence of the cinema and cheap literature in which sex permeates. The current advertisements trying to promote sale of under garments, towels bed-sheets, etc. by indecently exposing the female anatomy also lead to degeneration of women as a commercial commodity in the mind of man. There is a rush to the urban area in search of adventure and employment. Away from the restraining influence of the families, the youngsters look for excitement and thrills which they seem to get in acts of eve teasing.

Infliction of pain on the eve acts as a stimulant to their sex desires. There is also a lack of fear of punishment or adverse publicity or social disgrace. The police with its insufficient strength and preoccupation with other problems of law and order and courts with their proverbial delays and intricate legal procedures fail to bring most of the perpetrators to book. There are no particular places where eve teasers congregate.

In this sense, no place is really “safe” and inviolate for women. Roads, buses, train, cinema halls, parks, beaches, even a woman’s home and neighbourhood may be sites where her self-worth is abused. It does not matter if a woman is alone, with a friend, in a group, or sometimes even with another man. Segregating the spaces that men and women occupy only compounds, not solves the problem.

### **VIOLENCE AGAINST THE OLD**

Singh defines elder abuse as ‘harm to an elder person caused by someone in a position of trust, who may have control over the victim. This includes material abuse such as financial exploitation, physical abuse, such as pushing, physical assault, psychological abuse, such as chronically threatening, swearing at or insulting the older person, and neglect or failing to provide necessary help such as meal preparation, housework or personal care.

In the past few years, the aged have frequently been the target of gang robberies or brutal killing by servants or outsiders. Old are attacked frequently due to their inability to put up a fight. Elders normally have to face up to the facts that, their energy and authority is eroding. To add to their woe is the death of any one of the spouse. Widows have to be dealt with specifically, as the death of a spouse for a woman in any age is a tragedy in itself, because of the norms and tradition and the manner in which she is treated after the death of her husband.

### **VIOLENCE AGAINST WIDOWS**

Closely linked with Sati and harassment of widows, is the custom of child marriage producing number of child widows, but not child widowers. Widow remarriage is not common and not sanctioned by society, however men were allowed to remarry. Sati idealised as sitting on the funeral pyre of the deceased husband; and those widows who did not go through this had to make themselves physically unattractive and absent from public functions. Widows are called inauspicious and are avoided, whenever possible. Sati just as to Giri was

recommended after 500 AD in the *dharmashastras* and spread across the country around 1000 AD. There are three kinds of widows. One is a young girl with no children, a woman who becomes a widow after some years of marital span and has children. The third is case of a woman who is widow of 50 years and above of age.

*Giri mentions three options for a widow woman just as to orthodox tradition:*

1. Sati,
2. Ascetic widowhood or,
3. Remarriage.

Widows are expected to lead an ascetic life by the society with restrictive codes of dress, diet and demeanour and of social ostracism from the religious and social life of the community. She is expected to remain in perpetual mourning, and give up eating 'spicy food', in order to cool her sexual energy, and remain celibate, devout and loyal to her husband's memory. Dreze J. the well being of widow is not just a question of economic security, but also one of dignity, self-respect and participation in society.

Many widows in the Chen sample suffered from different forms of social isolation, psychological abuse or emotional distress. Dreze J., the social marginalised of widows was frequently found to take one or more of the following forms: Rumours and accusations: Widows are often accused of being responsible for their husband's deaths, regarded as sexually threatening, and generally considered as inauspicious by the society. Widows are also accused often of immoral relations. Enforced dress and behaviour codes: Many widows are under strong pressure to observe restriction in codes of dress, appearance and behaviour.

Some of the traditional restrictions have become quite rare, even among the upper castes, but others remain widespread. Social ostracism: A widow is often excluded from the religious and social life of the community, due to her perceived in auspiciousness. Physical violence: violence against widows primarily takes the form of sexual harassment (young widows being considered as sexually vulnerable and/



or promiscuous) or property related violence (because widows are seen as unwanted claimants on ancestral, property). Emotional harassment: Sarcastic remarks in the presence of others, verbal abuse, beating and illtreatment of her children are some of the forms of emotional harassment. There have also been reports of homeowners sexually abusing widows who are living alone and cannot pay rent. Not all widows, just as to Dreze J. face these type of mistreatment.

Many older widows who live with their sons enjoy their respect and love. Some older widows are happily integrated in their daughters households. If is young widows who are most vulnerable to mistreatment, unless they have the support of their parents or brother.

### **COMMUNITY VOICE: THE EPIDEMIC OF WIDOWHOOD**

In many developing countries, a widowed woman faces dire economic and social conditions. Fifty per cent of the estimated 100 million widows in the developing world are impoverished, and 10% of widows' children will die before age 5 due to lack of access to resources. Upon the death of a husband, widows are often stripped of their property, given negligible access to the job market, and suffer harsh social stigma. Though these problems have reached epidemic proportions, they are hardly acknowledged by developed nations. Windows for Widows founder Heather Ibrahim-Leathers comments on the epidemic of widowhood and explains what can be done to help.

The economic participation of widows in developing nations is surprisingly low. While approximately 60% of women in the developing world are engaged in some form of paid labour, the statistic drops to 20% for widows. Widows suffer from a lack of empowerment, resources, and economic opportunity. As a result, they constitute a large percentage of the world's poor. Inspired by the life and struggles of my grandmother, who was a struggling widow in Egypt, I founded an organization that works against the emergent epidemic of widowhood. Widows fall into the poverty gap for

several reasons. First and foremost, they lack favorable inheritance rights. In many developing nations, the husband's brothers or sons become the primary beneficiaries of the estate. Often, widows don't even inherit ownership to their own homes or the land they farm.

In fact, despite being 52% of the global population and physically farming two thirds of the world's crop, women own less than 1% of the world's land. Even worse, in some countries, the widow actually becomes part of the estate, meaning that she can be forcibly married to her husband's brother. In many cases, even if the law entitles a widow to inheritance, in practice she is denied the assets or forced to surrender them. Given so few rights to assets, widows' low economic engagement is far from surprising.

Widows also receive little governmental support. Often, developing countries do not provide social support to widows in the form of public pensions or social security. And those that do often fail to adjust for inflation or the cost of living. For example, in Egypt, the average widow's pension from the government is approximately \$10.00 per month—only enough to purchase three simple street-fare meals.

Even when widows have a marketable skill set, three major factors make finding employment extremely difficult. In developing nations, the overall level of unemployment is often high. As such, limited job availability usually means nepotism is rampant, or individuals who do get hired tend to be severely under-employed. This limits job opportunities for widows. Second, the lack of daycare options leaves widows unable to seek employment because they must care for their children. Third, widows experience high levels of vulnerability in society at large. They report trepidation at leaving the house to commute to work, given their exposure to high risk situations such as rape. Widows seeking to participate in the economy must contend against all these daunting factors.

I was compelled to launch Windows for Widows after the death of my grandmother. Her life was rife with challenges, simple because she was widowed in her mid-30s in a small town in Alexandria, Egypt. Despite having assets awarded to

her by her own father, upon his death his brothers forced my grandmother to surrender all that she owned—land, jewelry, and even household appliances—leaving her and her four young children with only a roof above their head and a paltry government pension. They fell into poverty almost overnight.

Her story inspired me to researching widows' rights in developing countries, and in doing so I discovered that it's common for widows in developing countries to face these predicaments. And yet, very little global attention or resources is allocated to helping widows. As a result, I decided to work with my friend Elaine Barsoom to create Windows for Widows and help widows extricate themselves from poverty.

Windows for Widows is attempting to break the vicious cycle of poverty by investing in and empowering widows, as well as other women who are heads of households, by creating economic opportunity. Windows for Widows' programmes provide skills-based training programmes and by enrolling widows in workfare employment programmes. Widows with skills and business acumen progress into a micro-finance programme to further promote their businesses. Our programmes enable the widows to enter the workforce where no other economic opportunity exists. Ultimately, our goal is to ensure that all of our widows achieve financial stability, self-sufficiency, and self-accountability.

## **MARRIAGE AS AN ECONOMIC TRANSACTION**

Contrary to the contemporary Western ideal of marriage as an agreement based on love, historically and across cultures, marriage has been largely an economic transaction. Philosophers point out that rather than “a relationship of love, friendship, or companionship, marriage [has] functioned primarily as an economic and political unit used to create kinship bonds, control inheritance, and share resources and labour”.

People enter into legal commitments to cement relations between families, to keep and protect assets and to fulfill expectations in terms of gender and social roles. It's no surprise, then, that women have often received the short end

of the stick in these arrangements, economically and otherwise. Despite the tacit understanding that women will be “taken care of” as long as they fulfill their social, sexual and care responsibilities as wives, mothers and homemakers, women themselves frequently have no say in the matter and no guarantees.

Historically in the Western world, legal contracts associated with marriage effectively made women economically dependent, even if they weren’t already. For example, until the late 19th century, the doctrine of coverture in English and U.S. law suspended a wife’s legal personality in marriage, “covering” it with that of her husband and removing her rights to own property, make a will, earn her own money, make contracts, or leave her husband, as well as giving her little recourse against physical abuse. Unfortunately, single women didn’t fare much better: they were often shunned and ostracized.

Similarly, outside of the Western world, staying unmarried was not an option. In most cases, a marriage agreement took place between two families, not between individuals. These usually began with an exchange of money, turning women into something to be bought and sold. In some cases, a payment was intended to ease the burden of another family “taking in” a woman; in other cases, ironically, it was meant to protect her.

## **PUTTING A PRICE ON WOMEN**

Many cultures continue to practice dowry and other asset exchanges as part of their marriage rites. Whether these transactions increase or decrease women’s “value” is debatable; what is clear, though, is that they turn women into commodities. For example, in Africa, Central Asia and Southeast Asia, a groom pays a certain amount of money, jewelry, animals or property—the *bride price*—to a bride’s family upon their marriage. Some cultures view this as compensation for the family’s loss of the woman’s labour and fertility. Others see it as proof that the groom has enough resources to support the bride. In the present day, bride price

is also sometimes thought of as advance alimony in case the marriage dissolves or the husband dies. Meanwhile, in South Asian countries like India, Nepal, Pakistan and Sri Lanka, it is the bride's family that pays dowry—money, goods or property—to a new husband and his family. Women's rights activists tend to view dowry unfavorably, arguing that women should not have to provide an economic incentive to be considered marriageable or to bring assets with them to offset the "burden" they represent to their new families.

Historically, dowries in South Asia were a woman's safety net in case her husband died. Also, dowries have helped families make it through difficult economic times and sometimes even insured women against violence: the larger her dowry, the less likely a woman is to be beaten or abused. Dowry has also been used to let parents out of inheritance obligations; for example, if a father has already paid dowry in marriage, he is not required to provide inheritance to his daughter. Although a dowry can provide a financial starting ground for married couples and protect women against the loss of their husbands, it also implies that women are in need of this help or assistance from their families and have no economic contribution of their own to make.

## **EQUAL FOOTING**

Women's ability to survive financially should not be tied up with marriage. A first step is to allow women to choose how, why and if they enter into marriage in the first place. Once women are married, they need to be on equal footing with their spouses. Married women are more likely than their husbands to work in lower paid, part-time jobs or to give up paid work entirely, especially to meet the demands of child-rearing. Although the structure of legal marriage encourages many wives to become economically dependent on their husbands—for tax benefits, health insurance and income—this ultimately leave women in a weakened position following divorce or a husband's death. As a result, even those who have enjoyed a comfortable life are likely to end up with a lower standard of living or in poverty.

All women, regardless of their marital status, need access to education, good jobs, and support for domestic duties. Both widows and married women deserve freedom from culturally entrenched marital practices that degrade and commodify them as well as legal protection from their husband's debts. Although transforming long-held laws, beliefs and practices may be difficult, it is the only way to keep the "price tags" off women and ensure that they have dignity as well as true economic agency.

### **FACTS ON VIOLENCE AGAINST WOMEN ALL OVER THE WORLD**

Violence against women has been increasing at an alarming rate. UNIFEM, up to six out of every ten women experience physical and/or sexual violence in their lifetime around the world. It further maintains that violence against women and girls has far-reaching consequences, harming families and communities. "For women and girls aged 16-44 years old, violence is a major cause of death and disability," it states. It is estimated that 49.7% of the world population are women *i.e.* 3,132,342,000; men comprising of 3,169,122,000.

### **STATISTICS ON VIOLENCE AGAINST WOMEN ALL OVER THE WORLD**

The following are some of the facts of violence meted on women compiled by Amnesty International and various researches done by individuals and/or organizations all over the world:

- An estimated 50,000 women and children are trafficked into the United States annually for sexual exploitation or labour.
- One in five women will be a victim of rape or attempted rape in her lifetime.
- In USA a woman is raped every 90 seconds.
- Somewhere in America a woman is battered, usually by her intimate partner, every 15 seconds.
- Up to 70% of female murder victims are killed by their male partners.

## Understanding Violence Against Women

- In Kenya more than one woman a week was reportedly killed by her male partner while in Zambia, five women a week were murdered by a male partner or family member.
- In the Russian Federation 36,000 women are beaten on a daily basis by their husband or partner, just as to Russian non-governmental organizations.
- More than 135 million girls and women have undergone female genital mutilation and an additional 2 million girls and women are at risk each year.
- 82 million girls who are now aged 10 to 17 will be married before their 18th birthday.
- In India there are close to 15,000 dowry deaths estimated per year. Mostly they are kitchen knives designed to look like accidents.
- 4 million women and girls are trafficked annually.
- An estimated one million children, mostly girls, enter the sex trade each year.

A study in Zaria, Nigeria found out that 16 per cent of hospital patients treated for sexually transmitted infections were younger than five.

## Chapter 3

# Female Genital Mutilation

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### AN OVERVIEW

WHO estimates that between 100 and 140 million girls and women worldwide have been subjected to one of the first three types of female genital mutilation. Estimates based on the most recent prevalence data indicate that 91,5 million girls and women above 9 years old in Africa are currently living with the consequences of female genital mutilation. There are an estimated 3 million girls in Africa at risk of undergoing female genital mutilation every year. Types I, II and III female genital mutilation have been documented in 28 countries in Africa and in a few countries in Asia and the Middle East. Some forms of female genital mutilation have also been reported from other countries, including among certain ethnic groups in Central and South America.

Growing migration has increased the number of girls and women living outside their country of origin who have undergone female genital mutilation or who may be at risk of being subjected to the practice. The prevalence of female genital mutilation has been estimated from large-scale, national surveys asking women aged 15–49 years if they have themselves been cut.

The prevalence varies considerably, both between and within regions and countries with ethnicity as the most decisive factor. In seven countries the national prevalence is almost universal, (more than 85%); four countries have high prevalence (60–85%); medium prevalence (30–40%) is found in seven countries, and low prevalence, ranging from 0.6% to



28.2%, is found in the remaining nine countries. However, national averages hide the often marked variation in prevalence in different parts of most countries. 5 The type of procedure performed also varies, mainly with ethnicity. Current estimates indicate that around 90% of female genital mutilation cases include Types I or II and cases where girls' genitals were "nicked" but no flesh removed and about 10% are Type III.

### **ELIMINATING FEMALE GENITAL MUTILATION: THE IMPERATIVE**

The term "female genital mutilation" refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. Between 100 and 140 million girls and women in the world are estimated to have undergone such procedures, and 3 million girls are estimated to be at risk of undergoing the procedures every year. Female genital mutilation has been reported to occur in all parts of the world, but it is most prevalent in: the western, eastern, and north-eastern regions of Africa, some countries in Asia and the Middle East and among certain immigrant communities in North America and Europe. Female genital mutilation has no known health benefits.

On the contrary, it is known to be harmful to girls and women in many ways. First and foremost, it is painful and traumatic. The removal of or damage to healthy, normal genital tissue interferes with the natural functioning of the body and causes several immediate and long-term health consequences. For example, babies born to women who have undergone female genital mutilation suffer a higher rate of neonatal death compared with babies born to women who have not undergone the procedure. Communities that practise female genital mutilation report a variety of social and religious reasons for continuing with it. Seen from a human rights perspective, the practice reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women.

Female genital mutilation is nearly always carried out on minors and is therefore a violation of the rights of the child. The practice also violates the rights to health, security and physical integrity of the person, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death. Decades of prevention work undertaken by local communities, governments, and national and international organizations have contributed to a reduction in the prevalence of female genital mutilation in some areas.

Communities that have employed a process of collective decisionmaking have been able to abandon the practice. Indeed, if the practising communities decide themselves to abandon female genital mutilation, the practice can be eliminated very rapidly. Several governments have passed laws against the practice, and where these laws have been complemented by culturally-sensitive education and public awareness-raising activities, the practice has declined. National and international organizations have played a key role in advocating against the practice and generating data that confirm its harmful consequences.

The African Union's Solemn Declaration on Gender Equality in Africa, and its Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa constitute a major contribution to the promotion of gender equality and the elimination of female genital mutilation. 2 Eliminating female genital mutilation However, despite some successes, the overall rate of decline in the prevalence of female genital mutilation has been slow. It is therefore a global imperative to strengthen work for the elimination of this practice, which is essential for the achievement of many of the Millennium Development Goals. This Statement is a call to all States, international and national organizations, civil society and communities to uphold the rights of girls and women.

It also call on those bodies and communities to develop, strengthen, and support specific and concrete actions directed towards ending female genital mutilation. On behalf of our respective agencies, we reaffirm our commitment to the elimination of female genital mutilation within a generation.

## **WHY THE PRACTICE CONTINUES**

In every society in which it is practised, female genital mutilation is a manifestation of gender inequality that is deeply entrenched in social, economic and political structures. Like the now abandoned foot-binding in China and the practice of dowry and child marriage, female genital mutilation represents society's control over women. Such practices have the effect of perpetuating normative gender roles that are unequal and harm women. Analysis of international health data shows a close link between women's ability to exercise control over their lives and their belief that female genital mutilation should be ended. Where female genital mutilation is widely practised, it is supported by both men and women, usually without question, and anyone departing from the norm may face condemnation, harassment, and ostracism. As such, female genital mutilation is a social convention governed by rewards and punishments which are a powerful force for continuing the practice.

In view of this conventional nature of female genital mutilation, it is difficult for families to abandon the practice without support from the wider community. In fact, it is often practised even when it is known to inflict harm upon girls because the perceived social benefits of the practice are deemed higher than its disadvantages. Members of the extended family are usually involved in decision-making about female genital mutilation, although women are usually responsible for the practical arrangements for the ceremony. Female genital mutilation is considered necessary

## **THE CAUSES OF FEMALE GENITAL MUTILATION**

- Where FGM is a social convention, the social pressure to conform to what others do and have been doing is a strong motivation to perpetuate the practice.
- FGM is often considered a necessary part of raising a girl properly, and a way to prepare her for adulthood and marriage.
- FGM is often motivated by beliefs about what is considered proper sexual behaviour, linking

procedures to premarital virginity and marital fidelity. FGM is in many communities believed to reduce a woman's libido, and thereby is further believed to help her resist "illicit" sexual acts. When a vaginal opening is covered or narrowed, the fear of pain of opening it, and the fear that this will be found out, is expected to further discourage "illicit" sexual intercourse among women with this type of FGM.

- FGM is associated with cultural ideals of femininity and modesty, which include the notion that girls are "clean" and "beautiful" after removal of body parts that are considered "male" or "unclean".
- Though no religious scripts prescribe the practice, practitioners often believe the practice has religious support.
- Religious leaders take varying positions with regard to FGM: some promote it, some consider it irrelevant to religion, and others contribute to its elimination.
- Local structures of power and authority, such as community leaders, religious leaders, circumcisers, and even some medical personnel can contribute to upholding the practice.
- In most societies, FGM is considered a cultural tradition, which is often used as an argument for its continuation.
- In some societies, recent adoption of the practice is linked to copying the traditions of neighbouring groups. Sometimes it has started as part of a wider religious or traditional revival movement.
- In some societies, FGM is being practised by new groups when they move into areas where the local population practice FGM.

### **HUMAN RIGHTS VIOLATED BY FEMALE GENITAL MUTILATION**

Female genital mutilation violates a series of well-established human rights principles, norms and standards, including the principles of equality and non-discrimination on

the basis of sex, the right to life when the procedure results in death, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment as well as the rights identified below. As it interferes with healthy genital tissue in the absence of medical necessity and can lead to severe consequences for a woman's physical and mental health, female genital mutilation is a violation of a person's right to the highest attainable standard of health. The rights of the child Because of children's vulnerability and their need for care and support, human rights law grants them special protection.

One of the guiding principles of the Convention on the Rights of the Child is the primary consideration of "the best interests of the child". Parents who take the decision to submit their daughters to female genital mutilation perceive that the benefits to be gained from this procedure outweigh the risks involved. However, this perception cannot justify a permanent and potentially life-changing practice that constitutes a violation of girls' fundamental human rights.

The Convention on the Rights of the Child refers to the evolving capacity of children to make decisions regarding matters that affect them. However, for female genital mutilation, even in cases where there is an apparent agreement or desire by girls to undergo the procedure, in reality it is the result of social pressure and community expectations and stems from the girls' aspiration to be accepted as full members of the community. That is why a girl's decision to undergo female genital mutilation cannot be called free, informed or free of coercion. Legal instruments for the protection of children's rights specifically call for the abolition of traditional practices prejudicial to their health and lives.

The Convention on the Rights of the Child makes explicit reference to harmful traditional practices and the Committee on the Rights of the Child, as well as other United Nations Human Rights Treaty Monitoring Bodies, have frequently raised female genital mutilation as a violation of human rights, calling upon State Parties to take all effective and appropriate measures to abolish the practice. 10 Eliminating female genital mutilation Female genital mutilation has been recognized as

discrimination based on sex because it is rooted in gender inequalities and power imbalances between men and women and inhibits women's full and equal enjoyment of their human rights. It is a form of violence against girls and women, with physical and psychological consequences. Female genital mutilation deprives girls and women from making an independent decision about an intervention that has a lasting effect on their bodies and infringes on their autonomy and control over their lives. The right to participate in cultural life and freedom of religion are protected by international law.

However, international law stipulates that freedom to manifest one's religion or beliefs might be subject to limitations necessary to protect the fundamental rights and freedoms of others. Therefore, social and cultural claims cannot be evoked to justify female genital mutilation. Female genital mutilation is associated with a series of health risks and consequences. Almost all those who have undergone female genital mutilation experience pain and bleeding as a consequence of the procedure.

The intervention itself is traumatic as girls are usually physically held down during the procedure. Those who are infibulated often have their legs bound together for several days or weeks thereafter. Other physical and psychological health problems occur with varying frequency. Generally, the risks and complications associated with Types I, II and III are similar, but they tend to be significantly more severe and prevalent the more extensive the procedure. Immediate consequences, such as infections, are usually only documented when women seek hospital treatment. Therefore, the true extent of immediate complications is unknown. Long-term consequences can include chronic pain, infections, decreased sexual enjoyment, and psychological consequences, such as post-traumatic stress disorder.

## **DANGERS FOR CHILDBIRTH**

Findings from a WHO multi-country study in which more than 28,000 women participated, confirm that women who had undergone genital mutilation had significantly increased risks

for adverse events during childbirth. Higher incidences of caesarean section and post-partum haemorrhage were found in the women with Type I, II and III genital mutilation compared to those who had not undergone genital mutilation, and the risk increased with the severity of the procedure.

### **HARMFUL CONSEQUENCES**

A striking new finding from the study is that genital mutilation of mothers has negative effects on their newborn babies. Most seriously, death rates among babies during and immediately after birth were higher for those born to mothers who had undergone genital mutilation compared to those who had not: 15% higher for those whose mothers had Type I, 32% higher for those with Type II and 55% higher for those with Type III genital mutilation.

It was estimated that, at the study sites, an additional one to two babies per 100 deliveries die as a result of female genital mutilation. The consequences of genital mutilation for most women who deliver outside the hospital setting are expected to be even more severe. The high incidence of postpartum haemorrhage, a life-threatening condition, is of particular concern where health services are weak or women cannot easily access them.

In contrast to female genital mutilation, male circumcision has significant health benefits that outweigh the very low risk of complications when performed by adequately-equipped and welltrained providers in hygienic settings. Circumcision has been shown to lower men's risk for HIV acquisition by about 60% and is now recognized as an additional intervention to reduce infection in men in settings where there is a high prevalence of HIV. Health professionals must never perform female genital mutilation "It is the mission of the physician to safeguard the health of the people."

World Medical Association Declaration of Helsinki, 1964  
Trained health professionals who perform female genital mutilation are violating girls' and women's right to life, right to physical integrity, and right to health. They are also violating the fundamental medical ethic to "Do no harm". Yet, medical

professionals have performed and continue to perform female genital mutilation. Studies have found that, in some countries, one-third or more of women had their daughter subjected to the practice by a trained health professional. Evidence also shows that the trend is increasing in a number of countries. In addition, female genital mutilation in the form of reinfibulation has been documented as being performed as a routine procedure after childbirth in some countries. Among groups that have immigrated to Europe and North America, reports indicate that reinfibulation is occasionally performed even where it is prohibited by law. A range of factors can motivate medical professionals to perform female genital mutilation, including prospects of economic gain, pressure and a sense of duty to serve community requests.

In countries where groups that practise female genital mutilation have emigrated, some medical personnel misuse the principles of human rights and perform reinfibulation in the name of upholding what they perceive is the patient's culture and the right of the patient to choose medical procedures, even in cases where the patient did not request it. Some medical professionals, nongovernmental organizations, government officials and others consider medicalization as a harm-reduction strategy and support the notion that when the procedure is performed by a trained health professional, some of the immediate risks may be reduced.

However, even when carried out by trained professionals, the procedure is not necessarily less severe, or conditions sanitary. Moreover, there is no evidence that medicalization reduces the documented obstetric or other long-term complications associated with female genital mutilation. Some have argued that medicalization is a useful or necessary first step towards total abandonment, but there is no documented evidence to support this. There are serious risks associated with medicalization of female genital mutilation. Its performance by medical personnel may wrongly legitimize the practice as medically sound or beneficial for girls and women's health. It can also further institutionalize the procedure as medical personnel often hold power, authority, and respect in society. Medical licensing



authorities and professional associations have joined the United Nations organizations in condemning actions to medicalize female genital mutilation. The International Federation of Gynecology and Obstetrics passed a resolution in 1994 at its General Assembly opposing the performance of female genital mutilation by obstetricians and gynaecologists, including a recommendation to “oppose any attempt to medicalize the procedure or to allow its performance, under any circumstances, in health establishments or by health professionals”. Action taken at international, regional and national levels over the past decade or more has begun to bear fruit.

Increasing numbers of women and men from practising groups have declared support for discontinuing the practice and, in some areas, the prevalence of female genital mutilation has decreased. The reduction in prevalence is not, however, as substantial as hoped for. Therefore, it is vital that the work against female genital mutilation be intensified to more effectively counteract the underlying reasons behind continuation of the practice. Bringing an end to female genital mutilation requires a broad-based, long-term commitment.

Experience over the past two or three decades has shown that there are no quick or easy solutions. The elimination of female genital mutilation requires a strong foundation that can support successful behaviour change and address the core values and enforcement mechanisms that support the practice. Even though there have been few systematic evaluations of the many programmes being run by nongovernmental organizations, governments and others, there are reviews that provide some overall lessons.

## **MULTISECTORAL**

Concerted action from many sides and at different levels is needed, from local to global and involving sectors such as education, finance, justice, and women’s affairs as well as the health sector; and many different kinds of actors must be engaged, from community groups and nongovernmental organizations including health professional groups and human rights groups to governments and international agencies.

## **SUSTAINED BEHAVIOUR**

As behaviour change is complex, sustained action is essential to have a lasting impact. Although change may occur rapidly, the process leading to change can be slow and long.

## **COMMUNITY-LED**

Programmes that are led by communities are, by nature, participatory and generally guide communities to define the problems and solutions themselves. Programmes that have demonstrated success in promoting abandonment of female genital mutilation on a large scale build on human rights and gender equality and are nonjudgmental and non-coercive. They focus on encouraging a collective choice to abandon female genital mutilation.

### **A PROCESS OF POSITIVE SOCIAL CHANGE AT COMMUNITY LEVEL**

New insights from social science theory and the analysis of programme experiences indicate that abandonment of female genital mutilation on a large scale results from a process of positive social change. The conventional nature of the practice requires a significant number of families within a community to make a collective, coordinated choice to abandon the practice so that no single girl or family is disadvantaged by the decision. The decision to abandon must be collective and explicit so that each family will have the confidence that others are also abandoning the practice. The decision must be widespread within the practising community in order to be sustained. In effect, it will bring into place a new social norm that ensures the marriageability of daughters and the social status of families that do not cut their girls; a social norm that does not harm girls or violate their rights.

### **ACTION FOR THE COMPLETE ELIMINATION OF FEMALE GENITAL MUTILATION**

Programmes that include “empowering” education, discussion and debate, public pledges and organized diffusion have been shown to bring about the necessary consensus and

coordination for the sustained abandonment of female genital mutilation at community level. The activities encourage communities to raise problems and define solutions themselves regarding a variety of concerns, including sensitive ones such as female genital mutilation, without feeling coerced or judged. Different methods can be used to create a space for open and reflective dialogue, including intercultural dialogue that investigates cultural variations within and between communities as well as aspects of cultural change. Such methods have shown to be particularly effective when they raise and stimulate discussion on human rights principles. Programmes using these elements and principles have demonstrated a significant reduction in prevalence seven years after the original programmatic intervention.

## **EMPOWERING EDUCATION**

It helps people to examine their own beliefs and values related to the practice in a dynamic and open way, that is not experienced or seen as threatening. Educational sessions will be empowering if they serve not only to impart new knowledge but also to provide a forum for participants to exchange experiences, and help them reveal and share complex inner feelings and examine conflicting attitudes towards female genital mutilation in the community. Empowering education can be undertaken through various forms of training, including literacy training, analytical skills and problem-solving as well as through the provision of information on human rights, religion, general health and sexual and reproductive health. Classes and workshops can include the use of traditional means of communication such as theatre, poetry, story telling, music and dance, as well as more modern methods, such as computer-based applications and mobile phone messages.

Educational activities must be sensitive to local cultural and religious concerns or run the risk that the information provided will be regarded as morally offensive and result in negative reactions in communities. Information provided should be based on evidence, but at the same time build on

local perceptions and knowledge. Communitybased educational activities can also build on and expand their work with the mass media such as drama, video and local radio. “Champions” against female genital mutilation, such as public personalities, can also be used to relay information and messages about female genital mutilation. As female genital mutilation is a manifestation of gender inequality, a special focus on women’s empowerment is important.

However, educational activities must reach all groups in the community with the same basic information to avoid misunderstandings and to inspire inter-group dialogue. The format must be adapted so as to suit the realities of each specific group. It is also important to include young people both girls and boys – as they are often more open to change, and can themselves be important change agents.

Schools can offer a forum for learning and discussion about female genital mutilation if they can create an environment of confidence, trust and openness. Artists and others who provide positive role models can be brought into schools, and materials can be developed for teachers and integrated into school curricula and teacher training on subjects such as science, biology and hygiene as well as those in which religious, gender and other social issues are addressed.

Nevertheless, schools may not always be the ideal setting for learning about sensitive and intimate issues and, as many girls and boys are not enrolled in school, other outreach activities for young people are needed. As it is advisable to reach all groups of the community with the same basic information, all forms and spaces of learning, including intergenerational dialogue should be explored when designing initiatives to address female genital mutilation. To reach the collective, coordinated choice necessary for sustained abandonment of female genital mutilation, communities must have the opportunity to discuss and reflect on new knowledge in public.

Such public dialogue provides opportunities to increase awareness and understanding by the community as a whole

on women's human rights and on national and international legal instruments on female genital mutilation. This dialogue and debate among women, men and community leaders often focuses on women's rights, health, and female genital mutilation, and brings about recognition of the value of women in the community, thus fostering their active contribution to decision-making and enhancing their ability to discontinue the practice.

Intergenerational dialogue is another example in which communication between groups that rarely discuss such issues on an egalitarian basis is encouraged. Most importantly, such public discussions can stimulate discussions in the private, family setting where decisions about genital mutilation of girl children are made by parents and other family members.

The collective, coordinated choice by a practicing group to abandon female genital mutilation should be made visible or explicit through a public pledge so that it can be trusted by all concerned. Indeed, many of the approaches adopted by communitybased initiatives lead towards a public declaration of social change. This creates the confidence needed by individuals who intend to stop the practice to actually do so and is therefore a key step in the process of real and sustained change in communities.

## **EMPOWERMENT OF WOMEN**

As female genital mutilation is a manifestation of gender inequality, the empowerment of women is of key importance to the elimination of the practice. Addressing this through education and debate brings to the fore the human rights of girls and women and the differential treatment of boys and girls with regard to their roles in society in general, and specifically with respect to female genital mutilation. This can serve to influence gender relations and thus accelerate progress in abandonment of the practice. Programmes which foster women's economic empowerment are likely to contribute to progress as they can provide incentives to change the patterns of traditional behaviour to which a woman is bound as a dependent member of the household, or where women are

loosing traditional access to economic gain and its associated power. Gainful employment empowers women in various spheres of their lives, influencing sexual and reproductive health choices, education and healthy behaviour. Different mechanisms have been used to make public the pledge to abandon the practice.

In some contexts, public pledges have taken the form of written declarations, publicly posted, which are signed by those who have decided to abandon female genital mutilation. In West Africa, pledges are typically made in the form of inter-village declarations involving as many as 100 villages at a time. These are festive occasions that bring together individuals who have participated in the educational sessions, religious, traditional and government leaders and a large number of other community members.

Often, people from communities that have not been directly involved in promoting abandonment are invited as a way of spreading the abandonment movement. Media are typically present and serve to disseminate information about the fact that communities are abandoning the practice and to explain the reasons why. Among some populations where female genital mutilation is traditionally accompanied by a “coming of age” ritual, alternative rituals that reinforce the traditional positive values but without female genital mutilation, have been pursued. Such approaches have added new elements in the rituals, including education on human rights and sexual and reproductive health issues. Alternative rites have been found to be effective to the extent that they foster a process of social change by engaging the community at large, as well as girls, in activities that lead to changing beliefs about female genital mutilation. As with individual families, it is difficult for one community to abandon the practice if those around it continue. Activities at community level therefore must include an explicit strategy for spreading the decision to abandon the practice throughout the practising population.

This is typically done by passing information and engaging in discussion with influential members of other

communities that are part of the same social network. Through a strategy of organized diffusion, communities that are abandoning the practice engage others to do the same, thereby increasing the consensus and sustainability of the new social norm that rejects female genital mutilation.

### **INITIATIVES AT NATIONAL-LEVEL**

Social change within communities can be hindered or enhanced by activities at national level and across national boundaries. As at community level, activities at national level should promote a process of social change that leads to a shared decision to end female genital mutilation. Activities must engage traditional, religious and government leaders, parliamentarians and civil society organizations. Promoting the decision to abandon female genital mutilation includes national activities that bring the practice into the public discussion and debate.

The media can play a crucial role both in bringing correct information to households and in informing people about positive social change that may be taking place in communities. This is particularly important when discussion of female genital mutilation is considered taboo. Information activities should target local needs and concerns as well as provide information on a wide range of issues, such as human rights including child and women's rights, facts on female sexual organs and functions and consequences of female genital mutilation, as well as the ways in which individuals and communities can combat the practice. Activities must include the review and reform of laws and policies as well as sectoral measures especially within the health, legal protection systems, education, social and A number of countries have enacted specific laws or applied existing legal provisions for prohibiting the practice.

The effectiveness of any law depends, however, on the extent to which it is linked to the broader process of social change. Legal measures are important to make explicit the government's disapproval of female genital mutilation, to support those who have abandoned the practice or wish to do

so, and to act as a deterrent. However, imposing sanctions alone runs the risk of driving the practice underground and having a very limited impact on behaviour. Legal measures should be accompanied by information and other measures that promote increased public support for ending the practice. The amendment, adoption and enforcement of laws should be done in consultation with community and religious leaders and other civil society representatives.

Mechanisms should be established to review and assess the enforcement of the laws regularly. Ending female genital mutilation and treatment and care of its adverse health consequences should be an integral part of relevant health programmes and services, such as safe motherhood and child survival programmes, sexual health counselling, psycho-social counselling, prevention and treatment of reproductive tract infections and sexually transmitted infections including HIV and AIDS, prevention and management of genderbased violence, youth health programmes and programmes targeting traditional birth attendants (who may also be traditional circumcisers).

Medical ethics standards must make it clear that the practice of female genital mutilation upon children or women violates professional standards as well as a patient's human rights, in line with international human rights and ethical standards. Medical practitioners who engage in the practice should be subject to disciplinary proceedings and have their medical licenses withdrawn. Health service providers must be trained to identify problems resulting from female genital mutilation and to treat them. This includes procedures to treat immediate complications, and to manage various long-term complications including defibulation.

Defibulation should be offered as soon as possible (not only during childbirth) since it may reduce several health complications of infibulation, as well as providing impetus for change. Evidence suggests that improved birth care procedures just as to WHO guidelines can contribute to reducing the risks associated with female genital mutilation for both the mother and the child during childbirth.



## **RESPONSIBILITY FOR ACTIONS**

The responsibility for action lies with many players; but the accountability ultimately rests with the government of a country, to prevent female genital mutilation, to promote its abandonment, to respond to its consequences, and to hold those who perpetrate it criminally responsible for inflicting harm on girls and women. Governments have legal obligations to respect, protect and promote human rights, and can be held accountable for failing to fulfil these obligations.

Governments need to take appropriate legislative, judicial, administrative, budgetary, economic and other measures to the maximum extent of their available resources. These measures include ensuring that all domestic Laws for the elimination of female genital mutilation Constitutional measures to uphold the rights of women and girls, such as equality, non-discrimination and protection from violence, are critical and can shape the response of governments to eliminating female genital mutilation. Examples applicable to female genital mutilation include: "women's protection from harmful practices"; prohibition of customs or traditions that are "against the dignity, welfare or interest of women or which undermine their status", and abolition of "traditional practices" injurious to people's health and well-being. Such constitutional protections can provide guidance for drafting laws and policies and for implementing them. They can also require the revision or abolition of laws and policies that are not compatible with these principles. In some countries, the existing general provisions of criminal codes have been, or can be, applied to female genital mutilation. These may include: "intentional wounds or strikes", "assault occasioning grievous harm", "attacks on corporal and mental integrity" or "violent acts that result in mutilation or permanent disability".

Some governments have enacted laws that specifically prohibit the practice of female genital mutilation, many of which specify the categories of people who are potentially liable under the law. Traditional practitioners, medical personnel, parents, guardians and persons who fail to report a potential or already committed crime can be subject to

prosecution. The type of penalty also varies and includes imprisonment, fines or, in the case of medical personnel, the confiscation of professional licenses. The penalty may differ just as to the form of the mutilation, and often increases when this crime is committed against minors or results in death.

A number of countries have declared the applicability of child protection laws to female genital mutilation, while others have enacted and applied specific provisions for the elimination of harmful practices, including female genital mutilation. Child protection laws provide for state intervention in cases in which the State has reason to believe that child abuse has occurred or may occur. They may enable authorities to remove a girl from her family or the country if there is reason to believe that she will be subjected to female genital mutilation. These laws focus on ensuring the best interests of the child.

In countries with adequate mechanisms for adjudicating civil claims and enforcing judgements, female genital mutilation can be recognized as an injury that gives rise to a civil lawsuit for damages or other redress. Girls and women who have undergone female genital mutilation can seek redress from practitioners and/or others who participate in such an act. Other laws may be available and utilized to prevent the procedure from occurring in the first place, such as child protection laws.

It has been widely recognized that gender-based violence, including female genital mutilation, can amount to persecution within the meaning of the refugee definition of the 1951 Refugee Convention and its 1967 Protocol. Regional resolutions and specific national regulations require that women and girls who are at risk of undergoing female genital mutilation in other countries are granted refugee status or complementary forms of protection.

Furthermore, in some cases, immigration authorities are required to provide information to immigrants about the harmful effect of female genital mutilation and the legal consequences of the practice. Some of these regulations contain instructions that such information should be provided in a

sensitive and culturally appropriate manner. legislation is compatible with the international and regional human rights treaties they have ratified. Governments are also responsible for drawing up plans of actions and strategies to ensure that health facilities are available and accessible to girls and women for their sexual and reproductive health needs.

They should organize public awareness campaigns and education initiatives and ensure that sufficient resources are allocated for prevention and response. Several ministries should cooperate in such efforts, including ministries of health, finance, education and information, social services and women's affairs. Parliamentarians have a critical role to play in bringing the issue of female genital mutilation into policy debates as do the legal and judicial sectors in setting and enforcing norms.

Professional organizations, such as medical associations and nursing councils, can promote ethical guidelines in medical training and in practice. Associations for teachers, lawyers, social workers and others can also contribute towards eliminating female genital mutilation within their respective fields through activities such as lobbying, advocacy and conducting appropriate training activities. National and international nongovernmental organizations have been key actors in designing and implementing programmes for the abandonment of female genital mutilation.

The most successful programmes have been community-based with strong support from and involvement of the government and development cooperation agencies. Faith-based and inter-faith based organizations have also been important actors using established networks and structures to deliver advocacy messages within the community and influence the attitudes and behaviour of their fellow community members Experience shows that it is especially important to ensure that the governments and nongovernmental organizations work in cooperation with the local practising communities in formulating and implementing programmes. This is true in countries of origin as well as in countries where female genital mutilation is practised by

immigrant communities. Inclusion of leaders, both religious and secular, in interventions is important to secure a supportive environment for change. This is true at the level of the community as well as at national level. Such leaders who are at the forefront in advocating the abandonment of female genital mutilation play an important role in both providing arguments against the practice and generating social support for change.

Health care providers can play a key role in preventing female genital mutilation and in supporting and informing patients and communities about the benefits of eliminating it. This can be done by providing women with information about their own sexual and reproductive health, making it easier for them to understand natural body functions and the harmful consequences of female genital mutilation. Health care providers can also play an important role in community outreach, such as through school programmes and public health education programmes.

Traditional circumcisers are also key actors as their role will have to change. They might be resistant to such change as it can threaten their position, and use their influence within the community to continue to promote the practice. <sup>20</sup> Eliminating female genital mutilation or undermine efforts for abandonment. On the other hand, if they decide to abandon the practice they can be very forceful in convincing others to abandon it also. Although female genital mutilation has traditionally been seen by many men as a “women’s issue”, men are important for change.

In some settings they support the practice; however, research has shown that some men are concerned by the effects of female genital mutilation and would prefer to marry women who have not undergone the procedure. Young men in particular are more likely to oppose the practice. The United Nations plays a crucial role in providing international standards and promoting and undertaking research, in collaboration with academic and development partners, to ensure that standards are grounded in sound evidence. United Nations agencies are particularly well placed to promote

cooperation and coordination among all actors. Several United Nations bodies are tasked with monitoring the implementation of international legal commitments to protect and promote human rights for all without discrimination on any basis. The role of development cooperation agencies in supporting international and national initiatives by providing technical and financial support is also essential to achieve the common goal of ending female genital mutilation.

### **CAPACITY BUILDING, RESEARCH, MONITORING AND EVALUATION**

Lessons from the past decade show that strong and competent organizations are required to sustain programmes for the abandonment of female genital mutilation. This requires both financial resources and considerable capacity building. Training must be comprehensive both in the range of people trained and in the range of topics covered. In some places, three- to four-week courses have been held for programme implementers, health care providers and others to give them the information and skills required to plan, implement and evaluate a community-based intervention. As effective programme design and implementation must be based on sound data, continuous monitoring is required to document trends in prevalence and changes in the type and justifications for the practice.

There is international agreement on the use of five indicators in surveys on female genital mutilation: prevalence by age cohorts 15–49 years; status of daughters (as declared by mothers aged 15–49 years); percentage of “closed” (infibulation, sealing) and open (excision) female genital mutilation; the performer of female genital mutilation; and support of, or opposition to, female genital mutilation by women and men aged 15–49 years. Consistency in the use of indicators enables comparative analysis at national and international levels across different surveys. Evaluation, including base- and end-line studies as well as process evaluation, is essential for measuring feasibility and effectiveness.

Research continues to be needed on aspects that will contribute to the elimination and prevention of female genital mutilation and better care for girls and women who have been subjected to the practice. Topics that require further study Eliminating female genital mutilation 21 include: the dynamics of social and cultural change that lead to the abandonment of the practice, the prevalence of immediate health complications, girls' experiences of the practice, psychological consequences of female genital mutilation, care procedures for girls and women and birth care procedures that might reduce the harmful consequences of female genital mutilation for mothers and their babies, the impact of legal measures to prevent the practice, and its medicalization.

### **CAMPAIGN TO STOP VIOLENCE AGAINST WOMEN**

The experience or threat of violence affects the lives of women everywhere, cutting across boundaries of wealth, race and culture. In the home and in the community, in times of war and peace, women are beaten, raped, mutilated, and killed with impunity Studies on violence against women have been carried out by a wide variety of bodies, including government ministries, Nations statistical offices, Universities, International agencies, NGOs and Women's rights organizations. The results have provided compelling evidence that violence against women is a severe and pervasive human rights violation throughout the world, with devastating effects on the health and well- being of women and children.

Despite the progress in recent years, however, there is still an urgent need to strengthen the knowledge base on all forms of violence against women to inform policy and strategy development. Many countries still lack reliable data and much of the existing information cannot be meaningfully compared. Moreover, very few countries collect data on violence against women on a regular basis, which would allow changes over time to be measured. More data are urgently needed on how various forms of violence against women affect different groups of women, requiring that data be disaggregated just

as to factors such as age and ethnicity. Little information is available to assess the measures taken to combat violence against women and to evaluate their impact. Both policymakers and activists have called for the development of a comprehensive set of international indicators on violence against women. These international indicators would need to be based on widely available and credible data collected at the national level, using comparable methods to define and measure violence.

More and better quality data are needed to guide national policies and programmes and to monitor states progress in addressing violence. Ensuring an adequate knowledge base through data collection and publication of data under the framework of official statistics, including supporting NGOs, academics and others engaged in such work. State responsibility and accountability for addressing, preventing and eliminating violence against women is, however, not reduced because data is inadequate or unavailable.

## **INTERNATIONAL RESPONSE**

In 1997, the World Health Organization issued a joint statement with the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA) against the practice of FGM. A new statement, with wider United Nations support, was then issued in February 2008 to support increased advocacy for the abandonment of FGM.

The 2008 statement documents new evidence collected over the past decade about the practice. It highlights the increased recognition of the human rights and legal dimensions of the problem and provides current data on the frequency and scope of FGM. It also summarizes research about why FGM continues, how to stop it, and its damaging effects on the health of women, girls and newborn babies. Since 1997, great efforts have been made to counteract FGM, through research, work within communities, and changes in public policy.

*Progress at both international and local levels includes:*

- Wider international involvement to stop FGM;

- The development of international monitoring bodies and resolutions that condemn the practice;
- Revised legal frameworks and growing political support to end FGM;
- In some countries, decreasing practice of FGM, and an increasing number of women and men in practising communities who declare their support to end it.

Research shows that, if practising communities themselves decide to abandon FGM, the practice can be eliminated very rapidly.

## **WHO RESPONSE**

In 2008, the World Health Assembly passed a resolution on the elimination of FGM, emphasizing the need for concerted action in all sectors - health, education, finance, justice and women's affairs.

*WHO efforts to eliminate female genital mutilation focus on:*

- *Advocacy:* Developing publications and advocacy tools for international, regional and local efforts to end FGM within a generation;
- *Research:* Generating knowledge about the causes and consequences of the practice, how to eliminate it, and how to care for those who have experienced FGM;
- *Guidance for health systems:* Developing training materials and guidelines for health professionals to help them treat and counsel women who have undergone procedures.

WHO is particularly concerned about the increasing trend for medically trained personnel to perform FGM. WHO strongly urges health professionals not to perform such procedures.

## **GOVERNMENTS MUST STEP IN**

### **LEARN FROM EGYPT'S FOOD CRISIS**

What role should governments play in providing basic necessities for their people? And who fills the gaps when governments fall short? The aftermath of the 2007-2008 bread



crises that erupted in Egypt highlights that women compensate when governments and others can't supply basic necessities such as health care, education and social services. However, when social provisions are strengthened, women are able to thrive and make numerous contributions, including economic ones.

Egyptian Arabic, the word for bread is *aish*, which also means "life." For Egyptians, bread is more than a food staple; it's seen as a human right. Egypt is the world's second largest importer of wheat, and most Egyptians count on bread in their daily diets. When the price of wheat and other grains skyrocketed on the world market during 2007, it sparked a global food crisis.

The Egyptian government spent millions to subsidize the cost of flour for public bakeries, but supply shortages meant that people—mostly women—stood in line for hours every day to get bread for their families. Girls were pulled away from school and women from other responsibilities at home and at work to secure daily supplies of bread. Egypt's bread subsidy is one of the last universal food programmes in the world, providing the public with a basic staple. While Egypt should be admired for making sure no one goes hungry, the situation is complicated: there are reports of widespread corruption; the government uses the programme to prevent large-scale social and political unrest; and, as the price of wheat rises on the world market, the programme is costly to maintain and comes at the expense of other social needs.

## **WOMEN: COPING, COMPENSATING, CARETAKING**

Global shifts and economic volatility are making it increasingly difficult for governments to provide basic necessities, including food. Policies that encourage growing crops for trade and export rather than for local consumption, price hikes in staple foods and fuel, and worldwide environmental changes all increase this climate of uncertainty. Women - as the world's care-givers - are the ones who have to step in and compensate when basic provisions fall away. Rural women in developing economies produce half of the world's

food and 60% to 80% of the food in their own countries. In most families around the world, women are responsible for growing, purchasing and preparing meals. Often they must ration the household budget and each day's portion to make ends meet.

To feed their families when times are tough, women substitute more expensive foods with cheaper, less nutritious ones; spend more time in line waiting for rations; prepare things from scratch when pre-made options are too expensive; take small jobs for extra income and make do with less food, less sleep and little, if any, leisure time. It is usually women who go hungry when there is not enough food for everyone. In fact, even before the recent global food crisis hit, an estimated 7 out of 10 of the world's hungry were women and girls.

In addition to providing and preparing food, women worldwide are typically responsible for other domestic tasks. They walk miles for water and firewood when there aren't enough resources nearby. They care for sick relatives and friends when there is no money to pay for doctor's bills or hired help. They take care of each other's children when paid care is out of the question, and they tutor their own kids when teachers are overburdened. And many women do all of this as widows or single mothers, sometimes caring for large extended families.

## **THE RIGHT APPROACH**

The fact that household and care-giving challenges fall mostly on women has a huge impact on their economic participation, particularly because these responsibilities expand exponentially when crises hit. Solutions are needed on a societal, rather than an individual, level. While food subsidies help ensure that people don't go hungry, poor families need other building blocks to achieve social and economic independence— including access to education, living wages, job training and freedom from violence.

An often touted model is the Scandinavian blend of state capitalism and mixed market economies—which balances free

enterprise with government provision and regulation. In countries such as Denmark, Norway and Sweden, business and entrepreneurship are allowed to flourish, but not at the expense of the welfare of citizens.

In these nations, the governments levy higher taxes on citizens and, in exchange, provide many public sector jobs, free education and subsidized childcare, universal health coverage and adequate pensions for retirement. These provisions allow women to play a more active role in employment outside the home if they choose. While women's entrepreneurship also flourishes in traditional market economies, social supports nevertheless enable more women to manage companies, start and run small businesses, and lead public sector agencies as well as pursue traditional "care" jobs in hospitals, nursing homes and schools.

Some critics argue that Scandinavian countries have relatively small and homogenous populations and the model may not be replicable in more diverse nations. They also point out that, as basic costs rise, it's difficult to sustain benefits for the entire population. It's important to note that people's demands and expectations of their governments influence the types of policies that get enacted, and these vary widely from one country to the next. In the United States, for example, the rhetoric of individual responsibility trumps a more collective ideology, regardless of which major political party is in power. In Scandinavia, people pay higher taxes and expect a robust welfare state in return.

In Egypt and many other developing nations, citizens' relationship with their governments is best characterized as "ever skeptical and ever hopeful"—hopeful that their needs will be met, but skeptical that governments can or will do so. In such countries, fewer women are employed in the paid workforce, and the majority have been embedded in social welfare and care roles for generations. Regardless of approach, there is no question that the diversity of perspectives that women have to offer strengthens work environments and the economy as a whole and those women's economic participation increases when they are allowed to flourish.

## **PROVIDING FOR WOMEN PROVIDES FOR EVERYONE**

Fundamentally, governments are entrusted with the welfare of their people. Although they may not all be able to provide the same social services, they do have a role to play in helping citizens to fulfill basic needs and access short-term and long-term opportunities, whether through state agencies and programmes, the private sector or civil society organizations.

Where there is a common understanding that everyone has a right to certain basic necessities as well as the right to work and earn a living wage, citizens - and their countries in turn - will thrive. Imagine what people can do creatively, economically and socially when they have dignity and a sense of security. For women, this means receiving support for their role as caretakers in the home and also having the choice to step outside these traditional duties. They should not be left to fill the gaps when shortfalls occur.

Both women and men should have opportunities to contribute to the welfare of their families and countries. Support for child care, health care, food preparation and other domestic work should be provided; women or men should also be allowed to stay home as care-takers if they choose, free from fears of poverty, hunger and violence. In the long run, allowing both men and women to contribute to society in skilled, meaningful and balanced ways is one of the best methods of recovering from—and preventing—crises.

### **CONNECTING LOCAL AND GLOBAL**

#### **OPPORTUNITY FOR THE WOMEN AND MAKE THE WAY FOR CHANGE**

It has been said that women who are closest to the world's most pressing issues are best placed to solve them. In many countries, women are adjusting to large-scale economic changes through community-based, grassroots organizing efforts. But can women be expected to use local solutions to clean up, compensate for and fix larger economic problems without also being allowed to influence larger decisions?

## **The Power of Few Versus the Power of Many**

The current global economic crisis shows the danger of concentrating decision-making power in a few hands. Too often, decisions are made by experts in board rooms and on the trading floors of large cities like New York, London, or Tokyo without concern for their impact on women and families around the world. Grassroots projects led by women are exemplifying a different kind of economic problem-solving. Local, community-based initiatives and organizations exist nearly everywhere in the world, from urban centers to rural villages. They work to identify the needs of their constituents, advocate for rights and resources, empower members and broaden dialogue about how to use a region's resources.

### **Local Solutions**

Women have solved numerous community problems through grassroots measures. They have created ways for other women and themselves to earn a living, especially when traditional agriculture, mining and factory work are no longer available. Leaders of these projects recognize that income alone is not enough to alleviate poverty, so they often pair skills training with education, teach basic and financial literacy and give women information about their legal rights and social issues, including protection against violence and exploitation.

Beyond income-generating projects, women also influence local economies in other ways. In southern Mexico, women are playing leadership roles in the Zapatista revolutionary movement, a struggle by indigenous farmers for control over their resources, including land. The Zapatista movement is a home-grown experiment in equitable cooperation; participants are given a training ground for social activism and governance as they fight for economic justice. Women are redefining gender roles at the same time that they are helping to create political and economic systems that work better for both men and women in their communities.

In farming communities in India, women are at the forefront of the movement to save seeds—a form of resistance against multinational businesses that are trying to patent seeds

and profit by selling them to farmers at high prices. Drawing upon their knowledge of native plants and farming techniques, women have long sorted and saved the best seeds and passed them down through generations of farmers. When large corporations threatened to monopolize seeds using intellectual property laws, women organized to protest the laws and protect the livelihoods of local farmers.

In countries as diverse as Argentina, Canada, Denmark and Japan, women have formed worker-owned cooperatives that run small businesses and factories alike. In these models, the workers themselves own the majority of the business, and everyone has a vote in decision-making processes. Such a model promotes sustainable jobs and creates shared wealth, improving workers' quality of life and contributing to community and local development. These latter improvements have been particularly strong in women-led co-ops, as women have pushed for a balance of family life and work and of individual rights and community needs.

Even among more traditional corporations that are not cooperatively owned, some businesses are paving the way for women to take leadership roles and transform company culture. This includes skills building and mentoring programmes, family-friendly workplace policies and practices such as "flextime" and on-site childcare, targeted leadership development opportunities and open, transparent process for women's input in setting policies for employee guidelines, company practices, business ethics and corporate social responsibility.

### **A Place at the Table**

While women's community-based solutions are effective, they need to be paired with a voice at larger policy and decision-making tables in order to create lasting change. For instance, although women in India have been fighting to save seeds and using the clout of farming communities to protest, they are limited in their basic and legal literacy, and they face enormous disadvantages in fighting corporations with massive legal resources. Their own government is also reluctant to

upset its corporate partners, so it offers little or no support. Without the ability to affect decisions made at the state level or in corporate boardrooms, women's local efforts can only do so much.

Even though women's worker-owned collectives create positive solutions within their organizations, members still have to live within the larger reality of their countries, whose economic opportunities are often unbalanced in favour of large businesses, men, and those in power. And despite efforts towards equality in the workplace, women still receive less pay for the same work and take more responsibility for tasks at home.

Generally, grassroots solutions can address immediate needs and provide short-term answers. But grassroots efforts can only be truly transformative if they also provide a training ground for women and give them a place in larger decision making. Sometimes, women do break through these barriers with powerful consequences. For example, Wangari Maathai has spent years organizing women against massive deforestation in Kenya.

In the process, she has built a strong base of grassroots support for environmental issues. She encourages women to plant trees as a form of resistance, and in the process those women learned about how deforestation is connected to increased militarism, government corruption and limited economic opportunities. Women rallied to oust repressive leaders in Kenya, and Maathai herself was elected to Parliament and later appointed Assistant Minister for the Environment, Natural Resources and Wildlife. Her grassroots organizing experience helped her earn a key position as an influential decision maker on the national stage.

Similarly, in recent years, women have played key roles in determining how to spend tax revenues in the state of Kerala, India. There, left-wing parties have organized a participatory budget process, in which 10 per cent of the state's 3 million people are directly involved in deciding how to allocate nearly 40% of the state's budget. Women have organized at local levels to make sure more people have a say

in the process, and after feedback from the public, the government has given money to build houses, sanitary latrines, wells and public water taps.

The process has even included a Women Component Plan, which ensures that every project is evaluated for its gender impact and that 10% of the projects benefit women exclusively. It remains to be seen if these allocations are a short-lived exception or if they indicate a true sea change in decision-making structures that have excluded women and marginal groups in the past. These efforts indicate progress: those who are closest to the world's most pressing problems have the power to solve those problems, while earning respect, claiming resources for their community, and working in partnership with other influential members of society.

In the end, women aren't dependent solely on gaining access to the world's stock exchanges and board rooms to affect change. They can do so in myriad ways so long as they are given the respect and influence they deserve in the places—local, national and global—that matter most to their lives.



## Chapter 4

# Violence against Women: Time to ACT

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Violence affects women in every corner of the globe. The Pulse Wire community has already spoken out about the urgent need to end violence against women worldwide. Now it is time to take the message to the halls of power. The International Violence Against Women Act (I-VAWA)—The first comprehensive legislation to prioritize the issue of violence against women within US foreign policy—needs your support to pass through US Congress. This is a historic opportunity to take action and assert a global commitment to fight violence against women.

World Pulse calls on our global network of leaders and activists to write letters in support of the legislation and help push I-VAWA through. World Pulse will package your letters and deliver them directly to President Barack Obama, Secretary of State Hillary Clinton, and key US senators. As suggested, also select and publish the most powerful letters in a new editorial column of our online Magazine, throughout the 16 Days of Activism Against Gender Violence.

### **COMMUNITY VOICE: SMALL FARMERS, BIG SOLUTIONS**

### **INTERNATIONAL CENTER FOR RESEARCH ON WOMEN**

The International Center for Research on Women (ICRW) works to make women in developing countries an integral part

of alleviating global poverty. In this video from ICRW, David Kauck, a senior gender and agriculture specialist, explains why it's important to invest in women farmers. Investing in women farmers promises to yield a double dividend: better food security and greater economic growth. More than three decades of work on women and agriculture at the International Center for Research on Women suggests that improving women's access to resources, technology, markets and property rights will increase farm productivity, raise income and improve household nutrition.

From fetching water and feeding livestock to sowing crops and selling vegetables, women's contributions to agriculture are innumerable. But they often go unrecognized, and few of the world's women farmers are paid for their labour. Meanwhile, their ability to own land, access credit and buy farm equipment—all of which help them be economically successful—is limited. But there is a way forward. For instance, by giving women the ability to have their own savings accounts, they are better poised to buy valuable resources such as seeds and fertilizer to increase their agricultural productivity. And by including women in agricultural training programmes, they can learn innovative farming techniques that save time and money.

ICRW researches women's contributions as well as obstacles that prevent them from being able to fully participate in the economy and society. They use their research to create a path of action that honours women's human rights, ensures gender equality and creates the conditions in which all women can thrive.

## **GOALS, ACTIVISM, AND MAJOR PROJECTS OF WOMEN'S STUDIES**

Some of the major categories of goals and activism within the feminist community. Many of these categories include contradictory and diverse views of feminism and its aims.

### **SEXUALITY**

Promote free sexual expression; change existing sexual paradigms; elevate status of clitoris; promote non-penetrative

sex; include sex workers in feminist discourse about sexuality; protect sex workers' health and integrity; encourage more sexual pleasure for women; increase acceptance of non-heterosexual identities.

## **RAPE**

Raise awareness of sexual violence; fight for more legal protection of rape victims; change language surrounding rape; keep streets safe for women; change rape law; prosecute marital rape; demonstrate and march to show solidarity among women.

## **BODY IMAGE**

Change beauty standards; challenge thinness as single norm; accept all body types and sizes; fight rising epidemic of eating disorders; help women have better body self-esteem; encourage active lifestyles and healthy bodies; support athletic programmes for women; discourage useless and sometimes harmful beauty practices; encourage natural bodies.

## **PORNOGRAPHY**

Challenge laws about pornography; encourage healthy pornographic images; support women-made pornography; label pornography as a violation of women's civil rights; support censorship legislation; restrict distribution of pornography; encourage more dominatrix/woman-empowered pornography.

## **MARRIAGE/WEDDINGS**

Challenge existing wedding customs; look at subtext of marriage vows (domestic labour and sex in exchange for economic support); subvert the home as women's territory; subvert work as men's territory; change wedding customs that imply exchanging women between two men (*e.g.*, father walking daughter down aisle, bride's parents paying for wedding).

## **MOTHERHOOD/CHILDCARE**

Fight for equal childcare responsibilities; split domestic tasks evenly; fight for better maternity leave and illness

policies; promote paternity leave; remove taboo from motherhood; think beyond the “Mommy Track.”

## **SEX ROLES**

Fight sex-role socialization at an early age; do not allow/force children to fall neatly into gender categories; challenge toy companies to make gender-neutral items; fight sexist advertising; boycott industries that indoctrinate girls into body hatred; challenge parenting manuals.

## **DOMESTIC VIOLENCE**

Provide shelter for abused women; encourage community support for victims; raise awareness about prevalence of spousal abuse and rape; help women become economically independent; believe women when they report abuse; help women maintain a fair standard of living.

## **BODIES**

Give women full control over their bodies; view women’s bodies as active agents rather than passive receptacles; teach women to make peace with their bodies; educate young women about their changing bodies; protest beauty pageants; reject restrictive clothing; rethink negative cultural views of menstruation; challenge harmful body practices such as breast augmentation; challenge, in a self-reflexive way, harmful body practices outside the U.S. such as female genital mutilation and foot binding; educate about breast cancer; help women make decisions about their bodies in an educated manner; encourage body acceptance and body love.

## **BIRTH CONTROL**

Educate women about birth control options; spread correct information about the relationship between high birth rates and low sex education; challenge pharmaceutical companies to develop safer and more effective birth control products; make all options available to all women.

## **ABORTION**

Give women the right to choose an abortion; educate women

about proper birth control techniques; escort women who want an abortion into the clinic; protect doctors who perform abortions; encourage a climate of choice, allowing some women to be against abortion for themselves; challenge misinformation; protest anti-abortion legislation; fight for governmental funding for abortion agencies; protect reproductive freedom.

## **ECONOMY/WORK**

Value work traditionally done by women, including domestic labour and childcare; erase distinctions and value differences between kinds of work; allow women to work in all professions, including the military and all religious leadership positions; encourage women to work outside the home and men to work inside the home; challenge the fact that a woman makes 74 cents to a man's \$1.00.

## **WOMEN OF COLOUR**

Challenge racist tendencies of feminist movements; support and defend affirmative action; recognize key contributions by women of colour; recognize that feminism emerged from abolition work; encourage scholarship by women outside of the United States and Britain.

## **GLASS CEILING**

Fight against the competitive labour market that prohibits women from climbing the economic ladder; challenge capitalism and corporate culture; make equal opportunity a reality; end the "invisible barrier" between men and women in the workplace; challenge sexual harassment.

## **FIGHT BACKLASH**

Challenge anti-feminist views; educate about the feminist movement; appropriate and alter negative language about women and feminism; challenge mainstream media representations of women; fight against women's oppression both domestically and globally; accept all forms of feminism as legitimate; encourage multiple interpretations of feminism; remember where feminism has been and where it is going.

## **A STUDY FROM THE ANCIENT TO THE PRESENT AGE**

### **ANCIENT TIMES: 900 BCE–1300S CE**

Up to 900 BCE, human cultures are primarily nomadic. Some division of labor exists, but tasks are assigned equal social and cultural value. From 900–600 BCE, the Middle Assyrian Code of law limits women, enforcing fidelity, veiling, and arranged marriages. As farming cultures emerge over the period from 600 BCE–1300 CE, women become objects of trade, and their freedoms are restricted further.

### **THE FEUDAL SYSTEM: 1300–1700S**

Kings, nobles, and clerics rule over artisans, merchants, and peasants, while individuals support themselves through work done close to the home, primarily on farms. Women's labour differs from men's, but men and women work together. No designed value is placed on "women's work" vs. "men's work."

### **INDUSTRIALIZATION: 1700S**

The rise of manufacturing and larger cities separate work from home. The idea of a male "breadwinner" and the economically dependent "housewife" emerge, and new social classes form: laborers without land and urban middle-class landowners. Under English common law (coverture), women belong legally to their husbands during marriage and cannot own property.

- Voltaire, Locke, Jefferson, Montesquieu, and others make the quest for freedom their central intellectual focus. As these male scholars challenge tyranny and "divine rights," women begin to question the tyranny of men over women.
- The French Revolution challenges social inequalities and opens doors for women's fight for equality. In October 1789, 6,000 working-class women march on government offices in Paris demanding cheaper bread.
- Mary Wollstonecraft's *A Vindication of the Rights of*

Woman (1792) argues against domestic tyranny, saying that women's financial dependence on men is "legal prostitution" and that differences between the sexes should be abolished.

## **EARLY FEMINISM: 1800S**

As slavery in America becomes widespread in the early 1800s, many scholars and activists challenge its existence, and the Underground Railroad is set up to help slaves escape to freedom. Women in this period are largely confined to the home and are expected to marry in order to secure status and privilege. In the 1870s and 1880s, social purity feminism emerges, arguing against alcohol, violence, and sexual excess as masculine evils that threaten women and families. Victorian ideals of womanhood reign, emphasizing chastity, upkeep of the home, and raising of children.

- 1833: Lucretia Mott and others form the Female Antislavery Society.
- 1840: Elizabeth Cady Stanton and Lucretia Mott serve as U.S. delegates to the World Antislavery Conference.
- 1848: Stanton and Mott call the first Seneca Falls Convention for women's rights; draft the Seneca Falls Declaration of Sentiments, which calls for women's right to vote and states that all men and women are created equal. Married Women's Property Acts (New York State) give women more property rights.
- 1850–1860: 14 states pass property-law reforms, giving women some rights to own property and land (rights that earlier were forfeited upon marriage).
- 1851: Susan B. Anthony begins to campaign with Stanton for women's education, right to divorce, women's property rights, careers for women, and right to vote.
- 1852: First women's rights convention to list suffrage as its goal is convened.
- 1865: 13th Amendment emancipates slaves in the U.S.
- 1868: 14th Amendment guarantees that all Americans have equal protection under the law.

- 1869: Wyoming becomes first U.S. territory to pass a law permitting women to vote.
- 1870: 15th Amendment gives black men the right to vote, further inspiring the women's suffrage movement Wyoming allows women to serve on juries.
- 1873: Supreme Court rules that married women can be excluded from practicing law.
- 1874: Supreme Court upholds ruling that women should be denied the right to vote.
- 1880s: Darwin's theory of evolution offers alternative explanation for male-female inequalities, shifting from the "Adam's rib" explanation to a more scientifically based explanation of female inferiority.
- 1884: Friedrich Engels's *The Origins of the Family, Private Property, and the State* challenges ethnographic and historical evidence of women's inferiority. Engels argues that women and men were equal in prehistoric times and that gender inequality originated with the advent of private property.
- 1890: National American Woman Suffrage Association founded to work towards securing voting rights.
- 1890s: Psychoanalysis emerges as major theoretical and therapeutic movement.
- 1893: Colorado grants women the right to vote.
- 1896: National Association of Colored Women founded.

### **FIRST WAVE FEMINISM: 1900S–1920S**

By 1900, suffragettes are at the forefront of the women's rights movement, campaigning heavily for voting rights. By the 1920s, most girls in Europe and North America receive primary school education, while upper- and upper-middle-class women go to universities. Also in the 1920s, feminism takes the form of alternative style trends such as flapper dresses and short haircuts, and "masculine" behaviours like smoking and drinking alcohol.

- 1908: Supreme Court upholds Oregon's 10-hour workday for women.



- 1911: Term “feminism” first used.
- 1916: Jeannette Rankin (R-MT) becomes the first woman elected to Congress Margaret Sanger opens the first birth control clinic.
- 1918: Sanger wins court case allowing doctors to counsel women on birth control options.
- 1920: League of Women Voters formed 19th Amendment grants women the right to vote Women’s bureau set up in the Department of Labour.
- 1921: Sheppard-Towner Maternity and Infancy Protection Act.
- 1922: Cable Act guarantees a woman’s nationality independent of her husband’s.
- 1923: Equal Rights Amendment first introduced in Congress.
- 1924: Congress grants Native Americans citizenship.
- 1929: stock market crashes, sending financial world into chaos and beginning the Great Depression.

### **DEPRESSION AND WAR: 1930S–1950S**

In the 1930s, the Great Depression creates economic hardship, with unemployment, poverty, and unrest. Women who are employed face resentment for “stealing” men’s work. When the U.S. becomes involved in World War II in 1941, seven million women go to work for the first time while men go to war.

These jobs range from riveters (inspiring the image of “Rosie the Riveter”) to baseball players. After the war, 80 per cent of women want to keep their new jobs, but men force women out of the workplace and back into the home. Media images of the 1950s aggressively encourage women to stay at home and be happy, subservient housewives.

The 1950s also see the advent of mother-blaming, helped along by new developments in psychoanalysis. New theories blame “bad” mothers for alcoholism, crime, delinquency, rape, and a host of men’s problems (sexual inadequacies, fears, worries, or homosexual inclinations).

- 1932: Federal Economy Act forbids more than one

member of the same family from working for the government, causing many women to lose their jobs (enforced until 1937).

- 1935: Social Security Act gives federal benefits to widows and dependent children.
- 1938: Fair Labour Standards Act upholds minimum wage regardless of sex.
- 1942: Women's branches established in the military
- 1943: First government-funded daycare centers and nurseries founded.
- 1947: Supreme Court rules that women may serve on juries.
- 1950: Senate subcommittee rules that homosexuals should not be recruited to the U.S. government.
- 1953: Simone de Beauvoir becomes the feminist voice of the 1950s as she retraces the history of women in *The Second Sex* (first published in France in 1949) Alfred Kinsey publishes *Sexual Behaviour in the Human Female*.
- 1954: *Brown vs. Board of Education* bans school segregation.
- 1955: Rosa Parks's refusal to vacate a "whites only" bus seat in Montgomery, AL, prompts black and white women to join together to fight segregation.

## **SECOND WAVE FEMINISM: 1960S**

In the early 1960s, many middle- and upper-class white women begin to question their domestic roles—a phenomenon that becomes known as "the problem that has no name." In the late 1960s, a culture of revolution emerges, with protests against the Vietnam War, formation of the first lesbian separatist communities, student protests in Europe, guerrilla movements in Latin America, liberation struggles in Africa, a cultural revolution in China, and a tide of socialism and Marxism. This culture fuels the strength of the women's movement going into the 1970s.

- 1960:
  - Southern blacks found Student Nonviolent

- Coordinating Committee to protest civil rights abuses.
- Birth control pills approved for sale in the U.S.
- 1961:
  - John F. Kennedy establishes President's Commission on the Status of Women, chaired by Eleanor Roosevelt.
- 1963:
  - Betty Friedan writes bestseller *The Feminine Mystique*, which questions the "cult of domesticity" and asks women to reconsider their inferior social roles.
  - JFK appoints a permanent Citizens' Advisory Council on the Status of Women.
  - Equal Pay Act provides equitable pay for women
- 1964:
  - Civil Rights Act and Title VII prohibit employment discrimination based on race, colour, religion, national origin, or sex; Equal Employment Opportunity Commission is created to enforce Title VII.
- 1965:
  - Labour laws altered to allow more equal work conditions and more jobs for women.
  - Supreme Court rules that married couples can use birth control.
  - Helen Gurley Brown transforms *Cosmopolitan* into a women's magazine.
- 1966:
  - National Organization of Women (NOW) founded.
  - Lyndon B. Johnson's administration approves first federal family planning funding.
- 1967:
  - Conference on New Politics in Chicago drops feminist resolution from its agenda, sparking criticism.
  - Chicago Women's Liberation Group formed; likely the first to use the term "liberation" with regard to women

- New York Radical Women founded; first radical feminist group.
- Affirmative action first extended to women.
- American Civil Liberties Union challenges sodomy laws.
- California legalizes abortion.
- 1968:
  - Protests against Miss America pageant draw media coverage and reports of “bra-burning women’s libbers”.
  - NOW bill of rights published.
  - Women’s Equity Action League established.
  - First feminist publications appear in the U.S. (approximately 500 appear between 1968–1973).
  - Shirley Chisholm (D-NY) becomes first African American woman elected to Congress.
  - National Abortion Rights Action League formed.
- 1969:
  - Conference on Women held at Cornell University.
  - First large-scale women’s studies course offered (at Cornell University).
  - Woodstock Music and Art Fair in Sullivan County, NY.
  - Rita Mae Brown resigns from NOW in protest of group’s stance on lesbianism.
  - Women’s health book *Our Bodies, Ourselves* first published by the Boston Women’s Health Book Collective.

## **HEIGHT OF THE MOVEMENT: 1970S**

In the 1970s, women convene consciousness-raising groups to educate about gender oppression, create community, and share common experiences. The first women’s studies departments are developed at universities, and the United Nations designates the 1970s the “Women’s Decade.” However, some black women challenge the women’s movement as failing to acknowledge non-white concerns, and many become disillusioned.

Lesbian feminists challenge the women's movement to reconsider their attitudes towards the nuclear family, calling upon women to become "political lesbians" and stop "sleeping with the enemy."

- 1970:
  - Equal Rights Amendment reintroduced to Congress.
  - Kate Millet publishes *Sexual Politics*.
  - Sit-ins at Newsweek and Ladies Home Journal staged to protest discrimination against women workers.
  - Chicana feminists found Comisión Feminil Mexicana.
  - Betty Friedan resigns from NOW, calls for women's strike to mark 50th anniversary of 19th Amendment.
  - California adopts a "no-fault" divorce law.
  - Radical feminist groups "Redstockings" and "Radicalesbians" founded.
  - Germaine Greer publishes *The Female Eunuch*.
  - Robin Morgan publishes *Sisterhood Is Powerful*.
  - Pat Mainardi proposes "wages for housework".
- 1971:
  - New York Radical Women organize first public "speak-outs" on rape.
  - Ms. Magazine debuts as an insert in New York magazine.
- 1972:
  - Title IX prohibits sex discrimination in public education.
  - Supreme Court rules that right to privacy includes use of birth control by single people (couples won use in 1965).
  - Equal Rights Amendment (ERA) passes in the Senate.
  - Conservative activist Phyllis Schlafly forms Stop ERA.
- 1973:

## Understanding Violence Against Women

- Roe vs. Wade grants women abortion rights.
- Supreme Court bans sex categorizing in employment ads.
- American Psychiatric Association officially removes homosexuality from the category of mental illness 30 states ratify the ERA.
- 1974:
  - Equal Credit Opportunity Act forbids racial or sexual discrimination in the credit industry.
  - Women's Educational Equity Act establishes nonsexist and nondiscriminatory vocational programmes.
  - Maternity laws revised to prohibit discrimination based on pregnancy.
  - Ella Grasso elected first female governor (D-CT).
- 1975:
  - Susan Brownmiller publishes *Against Our Will: Men, Women, and Rape*.
  - First issue of *Signs* published.
  - Supreme Court rules that states must allow women jurors.
- 1976:
  - Court equalizes drinking age for men and women.
  - U.S. military academies open admissions to women.
  - Supreme Court rules that fathers cannot veto daughters' abortion decisions.
- 1977:
  - First National Women's Conference held in Houston.
  - National Women's Studies Association founded.
- 1978:
  - Congress passes Pregnancy Discrimination Act to prohibit job discrimination against pregnant women.
  - Massive march on Washington, D.C., in support of ERA.
  - First "Take Back the Night" march for rape awareness.

- 1979:
  - TV evangelist Jerry Falwell founds the Moral Majority.
  - 5,000 feminists march against pornography in New York.

## **BACKLASH ERA: 1980S**

The 1980s and the Reagan years saw a backlash against feminism and the defeat of the Equal Rights Amendment.

- 1980:
  - Republican Party platform drops support of ERA and denounces abortion.
  - Abortion drug RU-486 developed in France.
- 1981:
  - Supreme Court rules that women can be excluded from the military draft.
  - Supreme Court overturns law that husband is “head and master” of women’s property.
  - Sandra Day O’Connor becomes first woman appointed to the Supreme Court.
- 1982:
  - Carol Gilligan publishes *In a Different Voice*.
  - ERA fails and is not ratified.
- 1983:
  - Sally Ride becomes the first American woman in space.
  - Supreme Court rules that minors need parental consent before seeking abortions.
- 1984:
  - Supreme Court forbids sex discrimination in social and other organizations (such as Elks and Jaycees).
  - Geraldine Ferraro becomes first female VP candidate.
- 1986:
  - Meese Commission finds pornography “harmful” and a “social menace”.
  - Supreme Court rules that a hostile work environment qualifies as sex discrimination.

- 1987:
  - Supreme Court rules that legal decisions can account for sex and race.
- 1988:
  - Civil Rights Restoration Act restores full coverage of Title IX.
- 1989:
  - Supreme Court rules that states can deny public funding for abortions and abortion clinics.

### **THIRD-WAVE FEMINISM: 1990S**

In the 1990s, fierce abortion debates create deep partisan divisions about funding, counseling, late-term abortion, and the state's "compelling" interest in potential human life.

- 1991: Clarence Thomas accused of sexual harassment.
- 1992: Colorado, Oregon pass anti-gay laws (overturned in 1996).
- 1993:
  - Family and Medical Leave Act gives men and women protected unpaid leave to deal with family emergencies.
  - Shannon Faulkner admitted to the Citadel and later rejected after her gender is discovered.
  - Supreme Court rules that no serious psychological or physical injury is needed to prove sexual harassment.
- 1994:
  - Supreme Court rules that obstruction of an abortion clinic is a crime.
  - Violence Against Women Act provides services for victims of rape and domestic violence, and establishes a 24-hour hotline service.
- 1995: Wal-Mart removes a shirt that says "Someday a woman will be President" from its shelves on the grounds that it is "anti-family"
- 1996:
  - Supreme Court rules that the Citadel and Virginia Military Institute must open admissions to women.



## Understanding Violence Against Women

- Eve Ensler's Vagina Monologues first performed.
- 1997: Supreme Court rules that in order for schools to receive Title IX funding, equal numbers of men and women must participate in sports.
- 1998: Class-action lawsuit against Mitsubishi settles for \$34 million after multiple claims of sexual harassment.

### **2000S: 9/11 AND BEYOND**

- 2000: CBS agrees to pay \$8 million to settle a sex discrimination lawsuit on behalf of 200 women
- 2003:
  - Iraq War sees increase in female military involvement.
  - Congress passes partial-birth abortion ban.
  - Supreme Court overturns sodomy laws, legalizing consenting sexual behaviour between adults.
- 2004:
  - Massachusetts legalizes gay marriage.
  - March for Women's Lives in Washington, D.C., protests Bush policies on abortion and women's healthcare.

## Chapter 5

# Gender Based Approach to Public Health

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### WHAT IS GENDER- BASED APPROACH?

A gender-based approach to public health begins from the recognition of the differences between women and men. It helps us to identify the ways in which the health risks, experiences, and outcomes are different for women and men, boys and girls, and to act accordingly. In most societies, women have lower social status than men, producing unequal power relations.

For example, women have lower status in families, communities and society: They have less access to and control over resources and they have less of a say in decision-making than men. These factors have led to a systematic devaluing and neglect of women's health.

In the past, work on women's health was focused on the health problems of women during pregnancy and childbirth. A gender-based approach has broadened our understanding of women's health problems and helped identify ways to address them for women of all ages. Cardiovascular disease, for example, is now known to be a major cause of death among women. However, this is not well recognized, leading to delays in treatment-seeking and diagnosis among women. The identification of gender differences in cardiovascular disease has made it possible to develop more effective health promotion and prevention strategies that have improved women's health in many countries.

## **INTEGRATING GENDER PERSPECTIVES INTO PUBLIC HEALTH**

Integrating gender perspectives into public health means that the different needs of women and men are considered at all stages of policy and programme development. The ultimate goal is to achieve gender equality. Gender mainstreaming in public health means addressing the role of social, cultural and biological factors that influence health outcomes, and in doing so improving programme efficiency, coverage and equity. An example of the application of this approach can be seen in an HIV intervention in South Africa that addressed poverty, violence and the lack of power to negotiate safe sex as factors contributing to high HIV rates among women.

The project – Intervention with Microfinance for AIDS and Gender Equity – offered women access to microfinance to become economically self-sufficient, and to gender-sensitive HIV education to help them better negotiate sexual relationships and challenge negative attitudes within the community. The project contributed to a 55% drop in the incidence of intimate partner violence, a key factor in HIV transmission, among a group of poor South African women.

### **WHAT IS CALLED “GENDER MAINSTREAMING”?**

If health care systems are to respond adequately to problems caused by gender inequality, it is not enough simply to “add in” a gender component late in a given project’s development. Research, interventions, health system reforms, health education, health outreach, and health policies and programmes must consider gender from the beginning. Gender is thus not something that can be consigned to “watchdogs” in a single office, since no single office could possibly involve itself in all phases of each of an organization’s activities.

All health professionals must have knowledge and awareness of the ways gender affects health, so that they may address gender issues wherever appropriate and thus make their work more effective. The process of creating this knowledge and

awareness of - and responsibility for - gender among all health professionals is called "gender main-streaming".

### **WHAT DO WE MEAN BY "SEX" AND "GENDER"?**

Sometimes it is hard to understand exactly what is meant by the term "gender", and how it differs from the closely related term "sex".

- "Sex" refers to the biological and physiological characteristics that define men and women.
- "Gender" refers to the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women.
- To put it another way:
- "Male" and "female" are sex categories, while "masculine" and "feminine" are gender categories.

Aspects of sex will not vary substantially between different human societies, while aspects of gender may vary greatly.

*Some examples of sex characteristics:*

- Women menstruate while men do not.
- Men have testicles while women do not.
- Women have developed breasts that are usually capable of lactating, while men have not.
- Men generally have more massive bones than women.

*Some examples of gender characteristics:*

- In the United States (and most other countries), women earn significantly less money than men for similar work.
- In Viet Nam, many more men than women smoke, as female smoking has not traditionally been considered appropriate.
- In Saudi Arabia men are allowed to drive cars while women are not.
- In most of the world, women do more housework than men.

### **GENDER AND HEALTH IN DISASTERS**

In disaster situations, women and men, boys and girls are

affected differently. Available data suggest that there is a pattern of gender differentiation at all levels of the disaster process: exposure to risk, risk perception, preparedness, response, physical impact, psychological impact, recovery and reconstruction.

Due to social norms and their interaction with biological factors, women and children-particularly girls- may face increased risk to adverse health effects and violence. They may be unable to access assistance safely and/or to make their needs known. Additionally, women are insufficiently included in community consultation and decision-making processes, resulting in their needs not being met. WHO is committed to ensuring that gender considerations are adequately addressed in all of its relief, rehabilitation and reconstruction activities.

### **WHY GENDER AND HEALTH?**

The distinct roles and behaviours of men and women in a given culture, dictated by that culture's gender norms and values, give rise to gender differences. Not all such differences between men and women imply inequity - for example, the fact that in many western societies men generally wear trousers while women often wear skirts and dresses is a gender difference which does not, in itself, favour either group. Gender norms and values, however, also give rise to gender inequalities - that is, differences between men and women which systematically empower one group to the detriment of the other. The fact that, throughout the world, women on average have lower cash incomes than men is an example of a gender inequality. Both gender differences and gender inequalities can give rise to inequities between men and women in health status and access to health care.

*For example:*

- A woman cannot receive needed health care because norms in her community prevent her from travelling alone to a clinic.
- A teenage boy dies in an accident because of trying to live up to his peers' expectations that young men should be "bold" risk-takers.

- A married woman contracts HIV because societal standards encourage her husband's promiscuity while simultaneously preventing her from insisting on condom use.
- A country's lung cancer mortality rate for men far outstrips the corresponding rate for women because smoking is considered an attractive marker of masculinity, while it is frowned upon in women.

In each of these cases, gender norms and values, and resulting behaviours, are negatively affecting health. In fact, the gender picture in a given time and place can be one of the major obstacles - sometimes the single most important obstacle - standing between men and women and the achievement of well-being.

## **GENDER, WOMEN AND HEALTH**

### **NO ONE SHOULD BE SICK OR DIE BECAUSE OF GENDER INEQUALITY**

Women and men differ in terms of biological make-up, power, status, norms and roles in society. WHO Member States and international agreements stress that these differences must be acknowledged, analysed and addressed through gender analysis and actions. Without due attention to gender equality, health services, programmes, laws and policies will have limited effects. Women and men will not achieve their full health potential over the life-course. Furthermore, without achieving Millennium Development Goal 3 - gender equality and empowerment of women - the other MDGs will not be met by 2015.

### **ADVANCING THE FIELD OF GENDER, WOMEN AND HEALTH**

The goal of the WHO Department of Gender, Women and Health is to create, sustain and support evidence-based policies and programmes in WHO and Member States with partners to achieve gender equality, health equity and improve women's health. It does so by providing leadership in

advancing the field of gender, women and health based on the principles of gender equality and health equity.

## **WOMEN'S RIGHTS**

The pursuit of equal rights for women through international law has been a slow process. The principle that everyone is entitled to rights "without distinction of any kind, such as race, colour, sex...". However, the Declaration was non-binding and it took campaigners over 30 years to cajole the international community into concrete legal action against gender injustice. The Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) was adopted by the UN General Assembly in 1979.

CEDAW has been described as a bill of rights for women; it spells out the areas in which women experience discrimination and commits countries to amend their laws, construct national gender policies and create institutions to deliver them. Although CEDAW has been ratified by almost all countries, overall global progress remains disappointing. Over twenty states have exercised reservations in the ratification process, a formal device which permits exemption from contentious sections. Ineffective enforcement of national legislation has further restrained the pace of reform, as has the failure of the US to ratify the treaty.

A positive development in 2010 was the approval by the UN General Assembly of a new entity for Gender Equality and the Empowerment of Women, to be known as UN Women. This new body is designed to achieve greater impact by merging the four UN agencies previously engaged in gender issues, with access to a minimum annual budget of \$500 million, more than double the previous combined resource.

## **DISCRIMINATION**

The movement for women's rights has grown as the counterweight to strong historical beliefs that women should occupy a domestic environment and that men should enjoy exclusive rights to property. The process of ending discrimination against women is relatively advanced in

modern industrialized economies. Many countries in sub-Saharan Africa are amending colonial-era laws which prevent women from owning land and property. The HIV and AIDS crisis has accentuated the injustice, given that over 30% of households in the region are now headed by women. This transition to more equal rights is most problematic in Islamic countries where elements of Sharia law governing the behaviour of women remain in place.

In extreme examples, these ancient laws declaim that adultery is a crime when carried out by women, and make it virtually impossible for a man to be convicted of rape. Shirin Ebadi, the Iranian Nobel laureate, believes that discrimination against women in Islamic countries does not accurately reflect the teachings of the Koran. She advocates a reinterpretation of Sharia law to recognise women's rights.

## **ECONOMIC INEQUALITY**

A culture of discrimination denies equality for women by restricting access to the basic ingredients of economic status – education and decent work. Education is ultimately more effective than laws in empowering women to overcome the barriers to equality. Educated girls are more likely to resist pressures to marry too young, to have too many children and to resign themselves to unpaid work. They have greater competence as mothers and as active agents in their communities.

However, a 2010 UN progress report states that access to primary and secondary education for girls is “still out of reach for many developing regions” and that 36.5 million girls of primary age are out of school. Just over half of all women in developing countries perform unpaid labour, typically a demanding combination of subsistence farming and caring for an extended family. Beyond the domestic environment, women's livelihoods are predominantly in low paid, temporary and informal sectors. In Asia, there is a concentration of women's labour at the bottom of the production chain in factories, many offering poor conditions of work. Lacking security or safety nets, these “flexible pools



of labour” are vulnerable to recession or unstable prices of food and fuel, precisely the economic circumstances of recent years. The opportunity cost of denying women entry to business environments is illustrated by the success of micro-credit schemes, especially in South Asia. The pioneering Grameen bank of Bangladesh reports that over 90% of its borrowers are women, an inversion of mainstream banking profiles.

### **GENDER POLICY**

Laws and policy to promote the rights of women draw inspiration from the Fourth World Conference on Women, held in Beijing in 1995. Governments committed themselves to the Beijing Platform for Action, a detailed policy template for eradication of discrimination and poverty. The contribution of the Millennium Development Goals (MDGs) has been more controversial. Two of the goals are dedicated to gender issues; MDG3 aims to “promote gender equality and empower women” through parity for boys and girls enrolling in all levels of education - and through balanced membership of national parliaments.

MDG5 aims to improve maternal health by providing universal access to reproductive health and by reducing the maternal mortality ratio by three quarters by 2015. Campaigners observe that women are the key actors in almost every aspect of human development tackled by the Millennium Declaration. Rather than segregate gender issues, development policies should invest in the gender dimension of all the MDGs. Failure to mainstream gender has consequences such as the tendency to aggregate development data for both sexes, often concealing important trends. For example, the UN’s MDG progress update for 2010 reports that 1.4 billion people live below the international poverty line, without mentioning the gender split.

National laws which seek to advance women’s rights cannot succeed without policies which are sensitive to community and household cultures. For example, programmes to encourage girls to go to school have learned that the two most important steps are to remove fees (so that parents have less

reason to favour boys over girls) and to improve school sanitation facilities to allow appropriate privacy for girls. Social reform is especially challenging in respect of violence against women, an area which is omitted entirely from both CEDAW and the MDGs.

## **REPRODUCTIVE HEALTH**

The global shortcomings in reproductive health illustrate how rights-based policy for women's empowerment can make a critical contribution to development, yet is impeded by cultural and financial obstacles. CEDAW places an obligation on countries to ensure that women have the same rights as men to decide the "number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights." This vision gained a crucial boost at the 1994 International Conference on Population and Development. The outcome, known as the Cairo Consensus, established a target of universal access to reproductive health services by 2015, now embedded within the MDG programme.

Access to contraception has steadily improved leading to a welcome reduction in the rate of global population growth. The annual rate has almost halved since its peak of 2.4% in 1963 and the average number of children for each woman has fallen dramatically from 6.0 to 2.6 in this period. Lower population growth in poor countries enables poverty reduction strategies to be more effective. Overall progress on reproductive health has however been much slower than hoped, with devastating consequences for those women who remain beyond the reach of modern health care.

By 2008, only 63% of births in developing countries received skilled assistance. Over 350,000 maternal deaths occurred in that year, most of them from preventable causes. Although this represents a 34% reduction from the 1990 baseline, the MDG target calls for a 75% reduction by 2015. In a desperate attempt to regain lost ground, the UN launched its Global Strategy for Women's and Children's Health at the MDG summit in 2010. Impressive financial commitments for the period to 2015 were announced but these fall far short of

needs-based costings for universal access. Attempts to galvanize resources for reproductive health services must contend with the obstacle of religious conservatism.

The Catholic Church, which claims over 1.1 billion followers, resolutely opposes all forms of contraception, despite evidence of the consequent human distress. By contrast, Islamic teachings generally adopt a pragmatic interpretation of the Koran, supporting the right of women to space their children through use of family planning within marriage. The religious right in the US has been periodically successful in imposing its doctrine at the highest level.

Although President Obama has restored normal funding relations with the UN Population Fund (UNFPA), his efforts to repeal the Global Gag rule remain unfulfilled. This legislation prevents US aid agencies from supporting any developing country organisation whose programmes imply endorsement of abortion.

## **WOMEN AND CLIMATE CHANGE**

The three essentials of household management - food, water and energy – lie at the heart of the adaptation and mitigation responses to climate change. In developing countries, these resources are largely controlled by women. They collect water and firewood, dictate the methods of cooking and undertake most of the labour on subsistence farms.

It is surprising therefore that decades of international climate negotiations have been gender blind. Reference to women is absent from the detail of the UN Framework Convention on Climate Change and the Kyoto Protocol. Although uncertainty surrounds most aspects of current international climate change talks, campaigners are active in proposing appropriate gender recognition in the negotiating texts. Researchers also report dramatic gender differences in the impact of natural disasters. Women and children are 14 times more likely to perish, such is the significance of physical endurance in the most extreme situations. Disaster management plans prepared as part of climate change strategies should be influenced by such statistics.

## **WOMEN'S VOICES**

Principles of equality and empowerment lie behind the encouragement of greater representation of women in all levels of government. Women are more likely than men to keep sight of the human dimension in problem-solving and to favour peaceful resolution of conflict. Indeed, the most interesting developments in women's political participation occur in some post-conflict countries whose constitutions have been rewritten. The Rwandan parliament has the highest representation of women in the world with over 50%.

Ellen Johnson-Sirleaf, Africa's first female president, has been elected in Liberia, a country torn apart by conflict and corruption. The overall picture is however less encouraging. There were just 11 women amongst 192 heads of government during 2010 and average women's representation in national parliaments was only 19%. Nevertheless, there is evidence that quotas and elections through proportional representation can be effective mechanisms to achieve greater women's representation.

## Chapter 6

# Acid Throwing

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In a male chauvinistic world, woman is considered to be the property of man. Be it a spurned lover, a suspecting husband or a man who is shooed away when he wants an illicit relationship, each feels humiliated and wants to take revenge against the woman. The easiest way to hurt the woman in such instances is throwing acid on her. It makes the man feel immensely and rather sadistically satisfied if the woman is disfigured. Down the ages, this has been the major cause for atrocities against women. There are umpteen instances in history of how women were treated in times of war or conflict.

Rapes, maiming or disfigurement have been common since time immemorial. With the advent of industrialisation and inventions, acid has come handy to these egotists in their bid to disfigure women. Acid throwing could well be described as the attempt to control or subjugate women. Significantly, acid attacks have increased manifold since the 1980s. The victim profile is as follows: 20 per cent male, 80 per cent female, and of these 40 per cent are girls below eighteen years of age.

### **ACID ATTACKS AND CONSEQUENCES IN INDIA**

As stated earlier, acid attacks are a form of violence against women, where the perpetrator splashes a person with acid in order to deface or kill them. Although acid throwing is a form of violence known committed throughout history, there is a steep rise in the number of cases documented in recent years. Some of this increase has been attributed to better documentation, as also to the fact that the victims of such

attacks have begun to report the attack more often. However, there appears to be a substantive increase in the number of acid attacks that are being committed in recent times due to various factors.

Acid attacks are considered particularly vicious among crimes against women as they cause perpetual suffering to the victim. As acid melts the flesh and even the bones of a person, it causes an unparalleled degree of pain, leaving the victim mutilated and scarred as well as giving her permanent disabilities, for example, blindness. More often than not, these attacks by the perpetrators are viewed as retaliatory or meant for teaching a lesson to adamant women.

## **INJURIES AND PHYSICAL CONSEQUENCES**

Acid attacks have a catastrophic effect on human flesh and vital organs. In most of these attacks, hydrochloric and sulphuric acid are used. These corrosive substances cause the skin tissue to melt. The bones of the victims become exposed and, sometimes, the acid dissolves the bones too. Furthermore, if acid enters the eyes of the victim during an attack, as is common in acid attack cases, it damages these vital organs permanently. Many acid attack survivors have lost one or both eyes. As a result of disfigurement and disability, the victims are permanently debilitated and are forced to give up their public lives, work and education. In this regard, compensation to cover vital surgeries for victims who can no longer support themselves becomes imperative.

Acid eats through two layers of the skin—the fat and muscle underneath—and sometimes not only eats through to the bone but may even dissolve the bone. The deepness of injury depends on the strength of the acid and the duration of contact with the skin. Burning continues until the acid is thoroughly washed off with water. Thrown on a person's face, acid rapidly eats into the eyes, ears, nose and mouth. The eyelids and lips may burn off completely. The nose may melt, closing the nostrils, and the ears shrivel up.

Acid can quickly destroy the eyes, blinding the victim. Skin and bone on the skull, forehead, cheeks and chin may

dissolve. When the acid splashes or drips over the neck, chest, back, arms or legs, it burns every inch of the skin it falls on. The biggest, most immediate danger for victims is breathing failure. Inhalation of acid vapours can create breathing problems in two ways: (a) by causing a poisonous reaction in the lungs, or (b) by making the neck swell up, which constricts the airway and asphyxiates the victim.

When the burns from an acid attack heal, they form thick scars which pull the skin very tight and can cause disfigurement. For instance, the eyelids may no longer close, the mouth may no longer open, and the chin becomes welded to the chest.

*Following are details on the physical consequences:*

- *Skull:* May be partly destroyed or deformed. Hair is often lost.
- *Forehead:* Skin may shrink, as though stretched tightly, and be scarred.
- *Ears:* Shrivelled up and deformed. Deafness may occur immediately or later. Cartilage in the ear is usually partly or totally destroyed, exposing the victim to future infection and hearing loss.
- *Eyes:* Direct acid contact or acid vapours can damage the eyes, causing blindness. Even if the eyes survive the acid attack, they remain vulnerable to other threats which can cause blindness during the victim's recovery. Eyelids may be burned off, or may be deformed by scarring, leaving the eyes to dry up and go blind. This is very difficult to prevent.
- *Nose:* Shrunken and deformed. Nostrils may close completely because the cartilage is destroyed.
- *Cheeks:* Scarred and deformed.
- *Mouth:* Shrunken and narrowed, may lose its shape. Lips may be partly or totally destroyed. Lips may be permanently flared, exposing the teeth. Movement of the lips, mouth and face may be impaired. Eating can be difficult.
- *Chin:* Scarred and deformed. The scars may run downward, welding the chin to the neck or chest.

- *Neck*: Often badly damaged. It may have a thick cord of scarred flesh running down from the chin to the upper chest, or a wide, heavily scarred area on one side of the neck. The victim may be unable to extend the neck, or the head may constantly lean to one side.
- *Chest*: Often badly scarred. The chest may have narrow lines of scars or wide patches of scars from acid splashes or drips. In girls and young women, the development of breasts ceases, or their breasts may be destroyed completely.
- *Shoulder*: May be badly scarred, especially around the underarm, which may limit the victim's arm movement. In some cases, one or both of the victim's upper arms may be stuck like glue to the sides of their body.

## TREATMENT

The first thing that should be done when the acid gets in contact with the skin is to flush the burned flesh with water for at least 60 minutes and to wash off the acid with water for as long as possible. Emergency treatment at hospitals should include cleaning and bandaging the burns, and relieving any breathing problems caused by acid fumes. Infection is a major danger because the dead tissue surrounding the deep burns becomes easily infected and prevents the burns from healing. Infection may spread to the healthy part of the skin, and may even kill the victim.

Infection can attack the victim at any stage during the weeks and months right after the attack. Thus, the wounds need to be kept clean and antibiotics need to be given to fight infection. The eyes are very vulnerable to infection and can cause blindness. It is very important to ensure that the victims can close their eyes, preventing them from becoming dry and infected. Surgery may be needed to rebuild the eyelids, if they were destroyed by the acid, or to remove thick scars around the eyes as burns heal. Eating enough food is vital because victims' bodies require a lot of energy to fight infection and heal wounds. This may be difficult if the victim has burns



around the mouth and has difficulty swallowing, or cannot afford the necessary diet.

It can take three to twelve months for burn wounds to heal. Thick scars, which are painful and itchy, grow over the healed burns. The scars grow and change over one to two years. As the scars thicken and contract, they can cause permanent disability by stiffening joints and restricting movement. For example, the scarring on the neck and shoulders can prevent a patient from moving his head or arms. Doctors may need to perform multiple operations to release the scars and graft new skin over them. Scars may also grow over the nostrils or ear canals, and surgery is required to remove them.

Long periods of physical therapy are needed to minimise victims' lack of movement from scarring, and special elastic bandages can dramatically reduce the thickness and stiffness of scars. The final stage of treatment is to try and restore, as much as is possible, the appearance of the victim. By then, the wounds ought to have healed completely, and the full extent of scarring and deformities of the body visible. The victim may require multiple operations over a period of two to three years at this stage.

## **PSYCHOLOGICAL CONSEQUENCES**

Victims of attacks not only undergo severe physical trauma but also traumatic changes in the way they feel and think. Psychological trauma is caused by both what the terror victims suffer during the attack, as they feel their skin burning away, and what they suffer after the attack with respect to the disfigurement or disabilities they have to live with for the rest of their lives.

Victims suffer psychological symptoms such as depression, insomnia, nightmares, paranoia, and/or fear of facing the outside world, headaches, weakness and tiredness, difficulty in concentrating and remembering things, etc. They feel perpetually depressed, ashamed, worried and lonely. Usually, acid burn victims suffer severe psychological symptoms for years, if not forever, because they are constantly

reminded of the violent act by their physical scars. The feeling of lack of hope and worth may never leave them.

## **SOCIAL AND ECONOMIC CONSEQUENCES**

Acid burn victims face a lifetime of discrimination from society and they often become lonely. They are embarrassed as they think people may stare or laugh at them, and may hesitate to leave their homes fearing adverse reactions from the outside world. Victims who are not married are not likely to get married and those who have suffered serious disabilities because of an attack, like blindness, will not find jobs and earn a living. Discrimination from other people, or disabilities such as blindness, makes it very difficult for victims to fend for themselves and they become dependent on others for food and money.

It has, therefore, been argued that acid attacks need to be classified as a separate offence and harsher punishment needs to be prescribed. It has been further stated that the new law must include guidelines for handling/supporting victims economically, socially and psychologically, and provide compensation. In fact since acid is so readily available across the counter in medical and other stores, acid attacks are a relatively cheap and effective way of committing acts of violence against women. Buying hydrochloric acid is as easy and cheap as buying a bar of soap; a litre of acid costs anywhere between ` 16 and ` 25.

There is, however, no law to regulate acid sales except for the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 (amended in 2000), and this only applies to industrial situations. Furthermore, there are no regular inspections and stock checking for acid sales as there are for explosives. It has been argued by some that controlling or regulating acid sales is an impossible task, as acid is used for many things including car batteries, etc. Thus, the deterrence should come in the form of stringent laws that punish the perpetrators. However, Bangladesh, a country with the highest incident rate of acid attacks, has passed a law in 2002 to control acid sales. Thus, acid violence can be tackled on both fronts

simultaneously with harsher punishment on the perpetrator and control over the sale of acid to stop it from getting into the hands of criminals.

### **EXAMPLES AND EXPERIENCES**

It was a jolt to civil society when IAS officer Ms Chandra Kala in Chennai, Tamil Nadu, was attacked with acid in the 1990s. It was said that the attack was politically motivated, and was the result of the fallout between the IAS officer and the then head of the state government. Another incident in Warangal (Andhra Pradesh) caught the attention of the nation in 2008, when two engineering students—Swapnika and Praneeta—suffered severe burn injuries when acid was thrown at them while they were travelling on a two-wheeler.

The perpetrator was a young and rich man. He had befriended Swapnika and after some months of friendship, unable to tolerate his overbearing attitude, Swapnika had started distancing herself from him. The arrogant, spurned man tried to intimidate her by setting afire her father's motorcycle. The police booked a case against him but he was out on bail within a short time.

The ease of getting bail gave him courage and he decided to take revenge against Swapnika. He along with two friends practiced acid throwing at his home and later attacked Swapnika with acid. Praneeta also suffered acid burns simply because she too was travelling with her friend on the two-wheeler. What is even more horrifying is that the spurned young man recorded Swapnika's cries of pain and suffering on his cell phone so he could enjoy listening to them later. Swapnika died in the hospital while undergoing treatment and Praneeta is still not normal even after multiple plastic surgeries.

### **WOMEN PROTECTION CELL IG**

S. Umamathi, IPS, Inspector General of Police, Women Protection Cell, Andhra Pradesh, opines that the government is at liberty to add the relief amount to be paid to the victims of acid attacks in the form of a Government Order (GO). The

IG says that to date, the Andhra Pradesh Government has issued G.O.Ms.No.28 of Women Development, Child Welfare and Disabled Welfare dated 4 July 2003 for payment of various quantum of relief depending on the type of offence. For example, for an offence of sexual exploitation of women, ` 50,000 in each case is sanctioned by the government, 75 per cent after the registration of FIR and 25 per cent when charge sheet is filed after medical examination.

Similarly, for kidnapping and abduction of a woman or child as per Sections 360 and 361 of the Indian Penal Code (IPC), ` 20,000 will be paid to each victim if she is alive. If not, the head of family, as the case may be, will receive it. In the case of a dowry death, ` 50,000 is paid to the next of kin. On similar lines, the government can issue a GO for payment of a relief amount of ` 5 lakh or provide free treatment in a corporate hospital (not in a government hospital) for all the successive surgeries that the victim has to undergo to get back to normalcy or near normalcy.

Andhra Pradesh also has the Arogya Sree Project and Umapathi suggests that the government is contemplating to include acid victims into the fold of Arogya Sree so that they will get free treatment in corporate hospitals. However, the IG maintains that a minimum amount of liquid cash needs to be paid by the government to the victim for loss of wages and incidental expenditure incurred by the victim for maintenance of family, child, etc. Since there are about ten to fifteen cases each year, it does not cost the government exchequer much and any government can easily implement this. Simultaneously, the case has to be tried in a fast track court by taking video evidence of the victim or by conducting an in-camera trial in the presence of a Counsellor, the IG says. The IG adds that any dying declaration is to be recorded properly by the doctor and submitted to the investigating agency. Confessional Statement under Sec.164 of CrPC can be recorded by the court at the hospital itself to improve the justice delivery, he adds.

## **MEMBER, UNION PUBLIC SERVICE COMMISSION**

Purushottam Agrawal, Member, Union Public Service

Commission (UPSC), Government of India, opines that besides making an acid attack a specific legal offence, the activists must try to create a genuine feeling of revulsion against such attacks and their perpetrators. This can be done through local campaigns as well as by institutionally introducing young citizens to the idea of human dignity and rights, and 'individuality' of a woman. Making such things part and parcel of the pedagogic practices will go a long way. However, the temptation of advocating 'moral' education and media control must be resisted.

### **ADVOCATE FROM NEW DELHI**

New Delhi-based lawyer Anubha Rastogi says that once the case reaches the court a major hurdle is that an offence like an acid attack is categorised as grievous hurt, which does not justify the kind of violence that has been perpetrated on the woman. Even booking the accused under an offence like attempt to cause murder is not considered appropriate by the police or by the court. The lawyer adds that another aspect that makes this ordeal even more difficult is the cost involved and the complete lack of compensation being provided immediately or later.

### **SCHOLAR FROM UNIVERSITY OF MASSACHUSETTS**

Elora H. Chowdhury, Department of Women's Studies, University of Massachusetts, Boston, expresses regret that crucial evidence is often lost because of needless delays in the production of medical reports. Women face further delays in undergoing tests due to bureaucratic red tape. There is a complicated process of seeking justice under the current legal system in Bangladesh. The different groups involved in the process, such as investigating police officers, court officials, medical officials, witnesses and media representatives, are often in conflict with one another. Instead of cooperating, they end up obstructing acid cases from moving forward. Other recent interventions by women's groups such as Naripokkho have resulted in the Multi-Sectoral Project to Combat Violence

against Women that was developed by the Ministry of Women and Children's Affairs of the Government of Bangladesh in 1998. This project involves developing of institutional capacity to work with victims of violence including legal redressal and raising public consciousness. Health services play a role both in providing care and support to the survivors as well as in evidence collection to assist the legal process.

Elora feels that together with the Government of Bangladesh and with donor assistance, the Multi-Sectoral Project will aim to educate and raise awareness among medical and legal professionals, state officials and the public. Gender dynamics within adolescent relationships would be a high priority because so many of the survivors of acid violence were teenagers. This initiative proposed a campaign to work with parents and teachers nationally in order to raise awareness about adolescent behaviour patterns. Secondly, the collaboration included plans to work with young men to demystify socially constructed notions of masculinity, thereby hoping to build a climate where accepting rejection was not such a threat to their 'manhood'. Finally, this project would focus on changing the treatment of women as 'victims' in Bangladeshi society.

### **NEW DELHI-BASED CIVIL SOCIETY ORGANISATION**

Urmila Bendre of New Delhi-based The Vistaar Project says women's organisations should connect with some of the men's organisations that are working on issues of violence against women (VAW) and collaborate with these organisations to spread an understanding of gender and gender-based violence. The purpose would be to sensitise men on the issue and motivate them to take responsibility for these and other gender-based violence acts. She also points out the need to identify geographical areas where such crimes are reported in larger numbers through research and existing data to start a police helpline against stalkers. One has already begun in Delhi, though it would be good to have more information on how it works and whether the helpline takes into account the likely crimes that follow stalking, including

acid attacks. A police helpline that a girl can connect with (confidentially) could be the first place that could work towards preventing such attack/s. The helpline could also be a first place where identification of a stalker and action to stop further harassment along with necessary counselling could happen. The counselling could also be for 'stalkers' by non-governmental organisations (NGOs) who work with men who have perpetuated violence (there are a few NGOs who have worked on this issue in India).

### **WOMEN'S COLLECTIVE FROM ANDHRA PRADESH**

Kondaveeti Satyavati, Secretary, Bhumika Women's Collective, and Coordinator, Bhumika Helpline for Women in Distress and Civil Society Resource Facility in Andhra Pradesh says that in November 2009, Bhumika Women's Collective and Oxfam India jointly organised a conference in which a cross-section of people—lawyers, women's groups, government officials, legal experts and human rights activists—participated. The conference opined that rather than increasing the period of punishment, ensure sureness of punishment.

It was also held that the amount of compensation must be as much as required for recovery of normal life through medical treatment and that a separate fund be set up for that purpose. The government has to identify and declare certain hospitals for treatment to victims of acid attacks and bear all the expenditure. The conference favoured prosecution of police personnel for their criminal negligence wherever it is found that police acted in a callous manner in preventing the acid attacks (in cases of prior complaint of harassment) like in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Committees needed to be set up in colleges and workplaces against sexual harassment. It also asked for a serious media campaign (by the government). It also noted the need to develop gendersensitive curriculum in schools and colleges (to make boys gender sensitive and girls conscious of their rights). It highlighted the need of the electronic media to self-regulate its programmes (not to encourage depiction of violence against women).

## **HEAD OF CORPORATE SOCIAL RESPONSIBILITY OF JSL LTD**

Ashish Srivastava of JSL Ltd, Corporate Social Responsibility (CSR), New Delhi, states that the registration of complaints would be very difficult if the incident does not receive media attention or a civil society organisation intervention. Generally, police officers lack sensitivity towards the victim, which results in increased victimization of the wounded. If the victims belong to poor socio-economic sections of society they would be incapable of accessing the Indian judicial system.

## **CSAAW ON ACID ATTACKS**

Karnataka-based Campaign and Struggle Against Acid Attacks on Women (CSAAW) explains that acids are by nature highly corrosive, capable of causing irreversible alterations in living tissue on contact. The extent of burns caused by contact with the chemical is dependent on the nature of the acid, the level of concentration and the duration of contact. Acids not only burn the outer skin but also have a devastating impact on the underlying tissues and muscles, and in some cases the bone tissue as well.

The fluid nature of acids means that the area affected goes much beyond the initial area of contact. As the acid seeps further and further into the underlying issues, the affected area increases. During the last seven years, CSAAW has undertaken an extensive study of acid attacks and their implication on the lives of women in many parts of Karnataka. The CSAAW had to challenge people into action by placing this issue within larger frameworks of women's rights and systemic patriarchal violence.

CSAAW has compiled a book titled *Burnt Not Defeated*, complete with experiences and the case studies of acid attack victims. The book has exhaustively dealt with the problems faced by acid attack victims and the remedies to be undertaken. CSAAW has demanded a separate enactment to prevent such atrocities against women. It has also demanded the creation of a fund to look into the medical expenses for



undergoing multiple plastic surgeries. The government should pay the victims compensation and undertake measures for their rehabilitation. CSAAW has also demanded that acid burn cases be tried in special courts with a special prosecutor.

## **LEGAL FRAMEWORK**

### **LAW COMMISSION SUBMISSION**

Submitting a report to the Supreme Court of India in the Laxmi Writ Petition (W.P. (CRL) No. 129 of 2006), the Law Commission of India pleaded for inclusion of acid attacks as specific offences in the IPC, and a law for compensation for victims of crime. It also stated that the criminal law relating to grievous hurts in Sections 320, 322, 325 and 326 of the IPC is insufficient to deal with the phenomenon of acid attacks. The Laxmi Writ Petition prayed that an amendment be made in the IPC, Evidence Act and the Criminal Procedure Code for dealing with acid attack as a special offence.

It also prayed to frame guidelines and an Act be passed to attend to the needs of all acid attack victims in India. It also prayed that acid in all forms be made a scheduled banned chemical, not readily available over the counter. The Law Commission, headed by Justice A.R. Lakshmanan, proposed that a new section 326A be added to the IPC.

*The proposed Section 326A will read as follows:*

- **326A. Hurt by acid attack:** Whoever burns or maims or disfigures or disables any part or parts of the body of a person or causes grievous hurt by throwing acid on or administering acid to that person, with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punishable with imprisonment of either description which shall not be less than 10 years but which may extend to life and with fine which may extend to rupees ten Lakhs provided that any fine levied under this section shall be given to the person on whom acid has been thrown or administered.
- **Classification of offence:** Minimum Imprisonment of 10

years extendable up to imprisonment for life and fine. It should be made a cognizable, non-bailable, non-compoundable offence and triable by court of session.

- *Intentionally throwing or administering acid:* Whoever throws acid on, or administers acid to, any person with the intention of causing burns or maiming or disfiguring or disabling or causing grievous hurt to that person shall be liable to imprisonment of either description for a term not less than five years but which may extend to 10 years and with fine which may extend to ` 5 Lakh.
- *Classification of offence:* Minimum Imprisonment of five years extendable up to 10 years and fine. It should be made a cognizable, non-bailable, non-compoundable offence and triable by court of session.
- The Law Commission also proposed that in cases of acid attack a presumption be incorporated in the Indian Evidence Act as Section 114B. The proposed Section 114B of the Indian Evidence Act shall read as under.
- *Section 114 B: Presumption as to acid attack:* If a person has thrown acid on, or administered acid to, another person the court shall presume that such an act has been done with the intention of causing, or with the knowledge that such an act is likely to cause such hurt or injury as is mentioned in Section 326 A of the Indian Penal Code.
- The Law Commission also proposed that a law known as 'Criminal Injuries Compensation Act' be enacted as a separate law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like rape, sexual assault, acid attacks, etc., and should provide for their medical and other expenses relating to rehabilitation, loss of earnings, etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.

## **LANDMARK JUDGEMENT**

Referring to the compensation to acid victims, the Law Commission, headed by Justice A.R. Lakshmanan, quoted the landmark judgement of the Honourable High Court of Kerala in the State of Karnataka in the Jalahalli Police Station vs. Joseph Rodrigues case (decided on 22 August 2006) wherein the accused was convicted under Section 307 of the IPC and sentenced to imprisonment for life.

A compensation of ` 2,00,000, in addition to the trial court fine of ` 3,00,000, was to be paid by the accused to the victim's parents. The acid attack deeply scarred the victim's physical appearance, changed the colour and appearance of her face and left her blind. However, in many cases throughout India, punishment often did not take into account the deliberate and gruesome nature of the attack but only rested on technicalities of injuries.

It is apt to recall here that the Law Commission also proposed a law known as 'Criminal Injuries Compensation Act' to be enacted as a separate law by the government. This law intends to provide both interim and final monetary compensation to victims of certain acts of violence like rape, sexual assault, acid attacks, etc., and should provide for their medical and other expenses relating to rehabilitation, loss of earnings, etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.

## **POOR JUDICIAL ACTIVISM**

In spite of the landmark judgement, trial courts across the country failed to follow suit. A quick glance at various incidents and the judicial proceedings throughout India in acid attack cases reveals that the Indian judiciary has a long way to go to meet the exigencies of the victims of such attacks. The Metropolitan Sessions Court, Visakhapatnam, on 11 June 2010 pronounced and sentenced Tagiripalli Naveen (now twenty-three years old) to seven years rigorous imprisonment and imposed a fine of ` 1,000 for the dastardly acid attack on the then fifteen-year-old Amruta Sai, an attack that left her

disfigured. Naveen attacked Amruta after she spurned his overtures with a love proposal. Naveen hails from Eluru in West Godavari district and was studying for his Bachelor of Computer Applications (BCA) at Visakhapatnam.

The Sessions Court gave maximum punishment permissible under the Section 307 of the IPC and a fine of ₹ 1000. But the court did not award any compensation to the victim. The prosecution should have quoted the Kerala High Court judgement to facilitate the court to award a compensation of ₹ 5,00,000 to the victim. In another incident, in the second week of June 2010, television artiste Dimple of Hyderabad employed her assistant to throw acid against her lover, a television serial director Sridhar Varma, after he refused to marry her at an early date. What more, she even staged an attack on her person with the help of her assistant stating that someone attacked her throwing chilli powder on her face and beating her with an iron rod. However, police investigation revealed the plot and now Dimple is facing prosecution.

In *Revinder Singh v State of Haryana* before the Hon'ble Supreme Court in 1975, acid was poured on a woman by her husband for refusing to grant him a divorce. The husband was involved in an extra-marital affair. Due to the attack, the victim suffered multiple acid burns on her face and other parts of her body leading to her death. The accused was charged and convicted under Section 302 of the IPC. However, life imprisonment was not imposed even though the victim had died. In *Balu v State Represented Inspector of Police*, before the Madras High Court, a person suspected that his wife had developed an illicit relationship with one of his acquaintances. In a fit of anger he threw acid on her resulting in severe burns and death of the victim. The husband was convicted under Section 302 of the IPC and 313 of the IPC (causing miscarriage of a woman without her consent) with life imprisonment and a fine of ₹ 2,000. The fine was thus again a meagre amount.

In *Devanand v The State* (1987 (1) Crimes 314) a man threw acid on his estranged wife because she refused to cohabit with him. The wife suffered permanent disfigurement and loss

of one eye. The accused was convicted under Section 307 and was imprisoned for seven years. In *Ramesh Dey and Others v State of West Bengal* (decided on 16 May 2007), before the Calcutta High Court, the accused had made a previous abortive attempt to throw acid on the victim, succeeding on the second attempt.

The motive for the crime was revenge, as the victim had rebuffed the overtures of the main accused Ramesh. The accused along with two others went to the victim's house and threw a bottle of acid on the victim outside her house where she, her mother, her aunt and her little son were sitting. The victim, her mother, her aunt and her son sustained injuries. The victim, Padma, died due to extensive acid burns on the neck, chest, right alna, breasts, legs, knees and scalp. Her aunt received 25 per cent burns and her aunt's son received 11 per cent burns.

The additional sessions Judge awarded imprisonment for life and a fine for ₹ 5,000 under Section 302 and 34 of the IPC. The appellants were also convicted under S. 324/34 IPC and sentenced to R.I. for one year and to pay a fine of ₹ 1,000 each in default to suffer S.I. for two months. Both sentences were to run concurrently. However, the High Court on appeal set aside the conviction and sentence against the other two accused stating that there was no evidence to show they had a common intention and their presence with the accused on the scene of the crime was not enough.

In *Srimanthula Chinna Sathaiah and Another v State of A.P.* (998 (4) ALD 18), enmity developed between two men. The accused was suspicious that the other person had falsely implicated him in a case. He also suspected that his wife was having an affair with the victim's elder son. As revenge, the accused threw acid on the victim, which resulted in severe acid burns on the face and body. The accused was charged under Section 302 and 34 of the IPC and was awarded rigorous imprisonment for life. In almost all these cases, the conviction and the fine are not in conformity with the crime the accused committed. The judiciary should have taken the suffering of the acid victims into consideration while pronouncing the judgements.

## **WORLDWIDE PHENOMENON**

Acid attacks have been documented in different parts of the world, including Australia, Bangladesh, Cambodia, China, El Salvador, Ethiopia, Italy, Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA, and Vietnam. However, the number of incidences in Bangladesh, India, Pakistan, Cambodia and Uganda are much higher and are on the rise. Certain social and cultural issues responsible for these attacks include refusals of a relationship or marriage proposal, failure of a girl to bring dowry to her husband, marital disputes, family disputes, political rivalries, land disputes and the accidental presence of victims at the scene.

Most of the reasons are specifically related to gender and are common reasons in countries like Bangladesh, India, Pakistan, Cambodia and Uganda, where other crimes against women like dowry-related crimes, domestic violence and honour crimes exist. In fact, in India, it has been said that acid attacks on women are a systemic form of gendered sexual violence. Unlike acid attacks on men, these attacks are used as a weapon to silence and control women by destroying what is constructed as the primary constituent of her identity, her body.

It is important then for any campaign against acid attacks to mobilise public opinion towards recognising acid attacks as a form of gendered sexual violence and, more importantly, to recognise the patriarchal notions underlying these attacks.

## **LAW IN OTHER COUNTRIES**

In Cambodia, cases of acid violence occur in the household and it is proposed that the crime be addressed in their Domestic Violence Act. A similar approach was taken in Bangladesh in 1995 when the government initially thought acid attacks to be a gender-specific crime and passed the Cruelty to Women and Children Act. In 2000, the Prevention of Oppression against Women and Children Act, again, dealt with acid attacks on women and children. However, the rise in trends of acid violence against men that ensued in the late 1990s made it necessary for the Bangladeshi government to pass a law that dealt with the crime against both women and

men in specific terms. Hence, in 2002, two new laws, the Acid Offences Prevention Act 2002 and Acid Control Act, were enacted to address the growing problem. Bangladesh has set an example for other countries in how to address the growing problem of acid attacks and has passed two laws in 2002— Acid Offences Prevention Act and Acid Control Act—to deal with crime against both women and men in specific terms. Both are discussed ahead.

## **Bangladesh**

Bangladesh is rapidly earning the dubious distinction of being the country with the largest number of acid attacks in the world. Though it is difficult to obtain accurate statistics as these attacks occur mostly in rural communities that are relatively isolated, there is evidence to suggest that there is an increase in the number of acid attacks. In the mid-1990s, acid attacks in Bangladesh rose steadily from approximately twelve to fifty per year. An even more significant jump was observed in the late 1990s, when civil society organisations in Bangladesh reported up to 250 cases per annum.

In 2001, 340 cases were reported; in 2002, 336 cases were reported; and, in 2003, 335 cases were reported. Earlier attacks were almost always committed against young women and girls by men who were angered by their victims rejecting their sexual advances or marriage proposals. However, as the crime became more common the motives for attacks grew more varied and presently more than 30 per cent of victims are men, and land disputes are one of the biggest reasons for the attacks. Between 1999 and 2002, acid attacks in Bangladesh increased at a rate of 50 per cent per year, culminating in 485 attacks in 2002. In 2003, there was a 15 per cent decrease in cases to 410 per year.

*The Acid Offences Prevention Act 2002 of Bangladesh reads as follows:*

- *Section 4: Punishment for killing of a person by acid: Whoever kills anyone by acid shall be punished with, death or rigorous imprisonment for life and also with fines not exceeding One Lakh Taka.*

- *Section 5: Punishment for hurt by acid:* Whoever causes such bodily injury to a person, by acid, that a) His/ Her sight or ear is damaged fully or partly or face or breast or sexual organ is disfigured or damaged, he shall be punished with, death or rigorous imprisonment for life and also a fine not exceeding One Lakh Taka. b) Any member or joint of his/her body is disfigured or damaged or injured in any part thereof, he shall be punished with, imprisonment of either description which may extend to 14 years but not less than 7 years of rigorous imprisonment.
- *Section 6: Punishment for acid throwing or attempt to throwing:* Whosoever throws or attempts to throw acid on any other person even if such an act causes no damage or injury to that other person whether physically, mentally or otherwise, he shall be punished with, imprisonment of either description which may extend to 7 years but not less than 3 years of rigorous imprisonment also with a fine not exceeding Fifty Thousand Taka.

All offences under the Act are cognizable, non-compoundable and non-bailable. Although the crime is regarded as non-bailable under Section 13 of the Act, Section 14 of the act is a specific provision that gives the court some discretion as to when it can grant bail.

The Acid Control Act of Bangladesh deals with restricting and controlling the sale and supply of acid in Bangladesh. This Act attempts to control the sale and supply of acid in Bangladesh. Fifteen-member National Acid Control Councils have been established across the country. Each Council is headed by a District Commissioner. Members of the Councils are selected from government and also include lawyers, people from commerce, medical professionals, specialists in women's issues and members of the media.

The Councils make proposals to take action to enforce and monitor the laws regarding acid sale in their respective area as well as to assist in the proper reporting, treatment and rehabilitation of victims. The Councils raise public awareness



about the consequences of acid crime. In spite of the enactment of the new law the experience in Bangladesh has been that it is still very tough to restrict the sale of acid. First, it is difficult to find the source of the acid used during the attack and thus to prosecute the supplier. Second, it is also easy to disguise the reason for requiring acid by proposing legitimate excuses. Furthermore, covering up the real supply of acid in their records is an effortless task for suppliers, and as bribery is common in Bangladesh, acid is easy to obtain.

### **COMPENSATION IN OTHER COUNTRIES**

Different countries follow different procedures in awarding compensation for criminal injuries. While the UK Act provides for the setting up of a scheme, the Canadian statute sets up a Criminal Injuries Compensation Board to dispense compensation to victims of violence.

### **OBSERVATIONS**

It is important to note that since no special section in the IPC deals with acid attacks, the incidents are not even recorded separately. Section 326 of the IPC, which deals with causing grievous hurt by throwing of a corrosive substance, etc., is insufficient/inadequate to deal with the issue. First, the definition of grievous hurt is not broad enough to cover the various kinds of injuries which are inflicted during acid attacks. Second, the section does not cover the act of administering acid. Third, the section gives a wide discretion to the courts as far as punishment is concerned. The cases on acid attacks in India show that normally inadequate punishment is awarded in these cases. Fourth, the section in the IPC does not punish the intentional act of throwing of acid if no injuries occur. Lastly, the section also does not specify who should be fined.

A significant observation here is that if a person has thrown or administered acid on another person, a presumption must be raised against the person who has thrown or administered the acid that he has done so deliberately.

- The distribution and sale of acid should be banned

except for commercial and scientific purposes. Acid should be made a scheduled banned chemical which should not be available over the counter. The particulars of purchasers of acid should be recorded.

- Generally, the police faces the problem of time constraint, lack of resources and inadequate training in dealing with acid attack cases.
- The suggestion of the National Commission for Women (NCW) for setting up a board specifically for acid victims could also be examined. Since not only victims of acid attacks but other victims of different crimes also need compensation for rehabilitation—these include victims of rape—a law should be enacted to set in place Criminal Injuries Compensation Boards at the centre, state and district levels in our country.
- As suggested by the Law Commission it is a good proposal that a new Section 326A be added to the IPC.
- It is high time that the government enacted the Criminal Injuries Compensation Act as a separate law. This law should provide both interim and final monetary compensation to victims of certain acts of violence like rape, sexual assault, acid attacks, etc., and should provide for their medical and other expenses relating to rehabilitation, loss of earnings, etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.

## RECOMMENDATIONS

*To address the problem of acid attacks, line department/organisation-wise recommendations are as follows:*

- *Government Health Department:*
  - There must be a widespread awareness campaign in educational institutions, media, police personnel and primary health centres regarding the first aid to be administered in case of acid attacks. Proper first aid would prevent further damage to the body parts.
  - Medical aid should be provided as early as

possible. Paramedics and other medical professionals should be trained in treating acid burn cases.

- *Government Police Department:*
  - Police should take the initiative to file criminal cases against the accused. They should be encouraged to file criminal cases suo motu.
  - Improving the complaints procedures and police handling requires training and reform.
  - The police should react quickly in the case of stalking as they do in cases of eve-teasing.
- *State Government:*
  - The respective state governments should pay compensation up to ₹ 25-30 lakhs to the acid victims as it would be a life-long trauma for the dismembered victims as a rehabilitative measure.
  - The Government should also bear the expenses for undergoing treatment.
- *Legislature:*
  - Amendments to the IPC by including 326A, Indian Evidence Act by including 114B and Criminal Procedure Code should be expedited to try the accused under proper sections.
- *Judiciary:*
  - Prevention of violence necessitates that justice is administered in incidents of violence against women and that the cases are not unduly delayed. This also requires sensitization of the legal system and requisite monitoring.
- *Women's Commission:*
  - The NCW should play a pivotal role in bringing amendments to the existing laws.
- *Family:*
  - Parents should mentor their children, especially the boy child from childhood, to make them understand and respect the likes and dislikes of others. They must also make the child learn to absorb rejection in a positive way.

- Boys displaying chauvinistic behaviour should be identified at an early stage and given appropriate agespecific guidance and counselling.
- Stalking should be considered a serious offence by family members, the police and the judiciary, and stalkers should be brought to book at an early stage. Stalking must be viewed as a serious offence. In the West, stalking is taken seriously but in Asia it is not even considered a crime. A stalker is emboldened when no action is taken against him. Usually, family members blame the girl if she complains of stalking. If they take such complaints seriously, possible consequences can be avoided.
- *Civil Society Organisations (NGOs and Educational Institutions):*
  - Boys displaying chauvinistic behaviour, identified by family, must be provided with age-specific professional counselling.
  - Girls should be given training in identifying stalkers with personality disorder who can not tolerate rejection. It is always better to maintain a distance from such persons.
- *Media:*
  - Commercial television enterprises should be sensitized not to glorify male chauvinistic tendencies since they are potential role models for many a child.

## Chapter 7

# Female Foeticide and Dowry System in India

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### INTRODUCTION

The National Policy for the Empowerment of Women in India was a great achievement in the history of Indian women's human rights. It refers to many aspects of women's lives, and includes assurances that:

- 'Measures will be adopted that take into account the reproductive rights of women to enable them to exercise informed choices.' And 'All forms of discrimination against the girl child and violation of her rights shall be eliminated by undertaking strong measures both preventive and punitive within and outside the family. These would relate specifically to strict enforcement of laws against prenatal sex selection and the practices of female foeticide, female infanticide, child marriage, child abuse and child prostitution etc.'

Yet, gender bias is traditional in India, with some states noted for female infanticides and female foeticides. The incidence of female foeticide is rising. I wish to argue that both are due to traditional son preference and intrinsically linked to the dowry system, which has technically been illegal since 1961. The dowry system effectively commodified women, so they came to be seen as expensive, as well as less powerful in the economic exchange within the joint family system. As part of the development of women's rights, women now have the

right to choose abortion, yet attitudes of expectant mothers continue to be influenced by the dowry system. Women themselves get caught up in under-valuing girl children. Women often prefer not to have girl children, because they will cost the family too much. On the one hand women are blamed for having abortions, yet they participate in sex-selection related abortions because girls are less valued.

When daughters ARE born, families must hold back on economic resources to save for gifts to the woman's future husband and his family. For example, Girls are denied the right to education, since expenses on their education is not considered to be an investment of higher returns. Janice Raymond girls are breastfed for a shorter period of time, which denies their right to adequate health and nutrition. Girls are also not immunized, failure of which leads to poor health and sickness. There is suggestion that this can be a deliberate attempt to limit their lives.

Early marriages are favoured in some Indian states like Rajahsthan, because families favour younger brides. The biological family no longer has to support the girl. The husband's family may view her as cheap labour in the household and fields, and more accommodating, in that they do not question their husband's family. Trafficking in India is rising, and sometimes this, too, is driven by the value of dowry. Some of the girls who have been trafficked are from Nepal. They marry Indian men in exchange for dowry. The young wife might then be sold in to brothels as child-sex workers across India. The paper will briefly discuss the status of women in India; the dowry system and the rising use of sex-selection technologies in female foeticide, to further develop my argument.

## **WOMEN IN INDIAN SOCIETY**

India is a democratic republic with the second largest population in the world: 980 million total population in 1998 of, which 470 million consist of women. The sex ratio for the total population has increased from 927 females per 1000 males in 1991 to 933 in 2001. However the sex ratio for the population of female children up to 6 years has declined from 945 in 1991

to 927 in 2001. The status of women in India has been a chequered one as it has seen many ups and downs. In the VEDIC Age 1500-1000 BC, they were worshipped as goddesses. In the Muslim age 1026-1756 AD their status suffered a sharp decline and in the British regime they were looked down upon as 'slaves of slaves'. Women in India have made some progress in the fields of education, health or economics or as a result of technological developments, or because of a process of evolution. Though in very small numbers today India has women in almost all spheres of life. Women of today are doctors, engineers, pilots, journalists, teachers, administrators, judges including a woman Judge in the supreme court, state governors, ambassadors, members of parliament and ministers.

India has had a woman Prime Minister and a President of the UN Assembly. In spite of these achievements the fact remains that ordinary women's condition is a grim reality. The 1981 census report there were 933 women per 1000 men, and 47% literate men compared with 25% of women who were literate. Dowry deaths, child marriages, the perpetuation of widowhood and the preference for a son continue to have social sanctions. As for the child marriages, out of the total of 321 million females, 147 million or 47 per cent were married, and of these 2.63 million or 1.79 per cent were in the age group of 10-14 years. In the rural areas, out of 115 million married females, 2.42 million or 2.41 per cent were aged between 10-14 years. In the urban areas the figures are relatively smaller, out of 32.14 million, 0.68 per cent in the age group of 10-14 years.

### **THE DOWRY SYSTEM**

Traditionally, the custom of Dowry, long entrenched in male dominated society has attained alarming proportions over the last few decades. Goody, "Dowry can be seen as a type of pre-mortem inheritance to the bride". Thambiah defines Dowry as:

- "Wealth given to a daughter at her marriage for the couple to use as the nucleus of their conjugal estate, by and large we can say that dowry in India and

Ceylon the notion of female property which technically is her property and in her own control though the husband usually has rights of management”.

Dowry normally means gifts given during the marriage to the son-in-law or his parents either in cash or kind. From the point of view of women's status, however, dowry has to be looked at as constituting what is given to the bride, and is often settled before hand and announced openly or discreetly. The gift, though given to the bride may not be regarded as exclusively her property, but includes what is given to the bridegroom before and after marriage; and what is presented to the in-laws of the girl.

The practice of giving dowry was meant to assist a newly wed couple to start their life together with ease. However, now it has degenerated into a sordid commercial transaction in which monetary considerations receive priority over the personal merits of the bride. The Dowry system has always given rise to innumerable socio-economic problems of far reaching consequences and wide ranging ramifications. Of late, numerous incidents of bride burning, harassment and physical torture of the young brides and various kinds of pressure tactics being adopted by the husbands/in-laws pressurising for more dowry have compelled the social reformers and the intelligentsia to give serious thought to the various aspects connected with the very institution of dowry.

Legislation by itself cannot normally solve deep-rooted social problems. Nonetheless, legislation is necessary to exercise educative impact besides providing legal sanctions against this social evil of devastating consequences. It is in this context that while the Dowry Prohibition Act was enacted in 1961, the Dowry prohibition Act, 1984 was passed to further plug some of the loopholes in the original Act. It came in to force 2nd October, 1985, requiring that lists shall be maintained in writing and shall contain a brief description of each present, its approximate value, the name of the person who has given the present, and whether the person giving the present is related to the bride or bridegroom a description of such relationship, and shall be signed by both the bride and the bridegroom. The Dowry 'give and take'



phenomenon is practised widely throughout India irrespective of caste and class. In spite of the legal sanctions women have been victims of Dowry harassment and victims of violence due to insufficient dowry given by the bride's family to the groom's family. In India an average of five women a day are burned in dowry related disputes and many cases are never reported. This can be attributed to an internalization of prevailing attitudes, which view women as inferior and see them as having only themselves to blame for their predicament. It seldom sees them as victims a form of oppression or of socially prevalent sex biases.

### **SEX DETERMINATION: ABUSE OF ADVANCED TECHNOLOGIES**

Various techniques of sex determination and sex pre-selection have been developed during the last fifteen years. Techniques such as fonography, fetoscopy, needling, chorion biopsy and the most popular one, amniocentesis are increasingly becoming household names in India. Amniocentesis is a scientific technique that was supposed to be used mainly to detect genetic abnormalities, which has become very popular for the detection of the sex of the foetus. For this 15-20 ml of amniotic fluid is taken from the womb pricking the fetus membrane with the help of a special kind of needle. After separating foetic cells from amniotic fluid, a chromosomal analysis is conducted on it. This test helps in detecting several genetic disorders like mongolism, defects of neotube in the fetus, retarded muscle growth "Rh" incompatibility, haemophilia and other types of abnormalities. This test is to be conducted on women above 40 years because there are higher chances of Mongoloid children produced by such women. In some cases, a sex determination test is required to identify sex specific deformities such as haemophilia, retarded muscular growth, which mainly affect males. These tests have had serious implications, which is evident from the provisional results of the Census of 2001 that were released recently. The sex Ratio for the total population of the country has increased from. The decline is most prominent in relatively prosperous states such as Punjab and

Haryana. The combination of the system of patriarchy and feudalism inherent in the traditional dowry system and medical technology tends to perpetuate discrimination against girl babies. Taking cognizance of the link between pre-natal sex determination tests and the declining sex ratio among children, the Supreme Court, in a recent judgement, came down heavily on the central and state governments for having failed to implement the prenatal Diagnostic techniques (Regulation for the prevention of misuse Act 1994).

The act which came in to effect in 1996 January, Provided for the regulation of the use of prenatal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex –linked disorders and for the prevention of misuses of such techniques for the purpose of prenatal sex determination leading to female foeticide. While factors such as poverty and the dowry system play a crucial role in people's preference for the male child, the bias against the female child among people who are relatively well off needs an explanation. Better living standards do not necessarily ensure a better deal for the female child.

A documentary film entitled 'Let Her Die', produced for SBS on female foeticide "India is short of 25 million women". It starts by reporting 'Many individuals in Indian society consider that if in the first instance they have a baby girl it would be considered bad luck, in the second a disaster and in third a catastrophe'. In the South Indian communities they believe that 'Bringing up a girl is like watering a neighbours plant'. What is ironical is that Indian laws lack muscle to enforce them stringently in the community. Their husbands often abandon women if the appropriate amount of 'Dowry' as demanded is not gifted to his family and him. To be a single woman in India with a child is the worst stigma a woman could live with, that is the fate worse than death. With conditions such as these, Indian women justify female foeticide to be the only solution to discrimination that exists for the 'Girl child' from the minute she is born.

## Chapter 8

# Honour Killing

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### INTRODUCTION

Honour crime has been regarded as a complex issue which has been widely misunderstood for many centuries. The concept of honour crimes is elastic which changes just as to time, place and forms of articulation and expression in society. Honour crimes have been defined as patterns of conduct cutting across communities, cultures, religions and nations and manifested in a range of forms of violence directed, in the majority of cases, against women, including murder (honour killings) and forced marriages.

Honour killing is considered to be “a crime that threatens the unity and harmony of the community, and it acts as a barrier preventing women from progressing in their lives.”

The concept of honour crime has recently been open to debate within the United Kingdom (UK), and has recently been registered as a separate category of crime for the first time. Due to the growing awareness of honour crime a new task force was assigned in 2004 to re-examine 109 homicides over the past decade to determine how many of them were honour based, out of 22 cases that were analysed 18 of them have been classified as either ‘definite’ or ‘suspected’ honour killing. Honour killings are not rare, it has been estimated that 5000 honour killing takes place across the world each year.

The United Nations (UN) report ‘Living Together, Worlds Apart: Men and Women in a Time of Change’. They occur both in the rural areas, where age-old traditions, value codes and

modes of justice still hold sway, and in the cities, where newer tensions have sparked increasing violence towards women.

## **GENERAL RESEARCH AIM**

The main aim for this dissertation is to distinguish whether 'honour crimes' are encouraged by Islam or motivated by cultural beliefs. This research will distinguish the boundaries between religion and culture and whether they interconnect or are dissimilar?

## **RESEARCH QUESTIONS OR OBJECTIVES**

*The research will investigate the following questions:*

- The term 'honour crime' and the motivation behind it,
- Cultural issues that emerge when looking at honour crimes,
- the Islamic perspective on honour crimes and the Shariah law,
- The UK Legislation and the on honour crimes,
- The Human Rights Act 1998, and the Universal Declaration of Human Rights and honour crime.

Once the research has been carried out the following step would be to make a distinction to whether 'honour crimes' are justified by Islam or motivated by cultural beliefs. Whilst looking in to honour crimes it was obvious that there are many other factors such as psychological, criminological, sociological and biological theories that can contribute to understanding why these crimes are committed.

## **OBTAINING THE RESEARCH**

In order to collect information on honour crime primary and secondary data analysis will be used. The primary data will be collected by interviewing participants, and secondary data of academics existing work will be collected. The primary data will be compared to the secondary data in order to establish clear findings for the dissertation.

## **PRESENTATION OF THE RESEARCH**

This dissertation will consist of six different stages which

will be presented as the following: the Literature Review which will aim to provide an overview of the relevant literature that other academics have provided which has to contribute to the understanding of honour crimes within the subject of criminology.

the methodology section, which will consider the chosen method of the research, it will focus on how the data is going to be collected and analysed, the merits and drawbacks for the data collection, the sample that is going to be accessed, what data analysis that is going to be used, and ethical considerations in relation to this research. the results section, this will summaries all the finding that were collected as part of the primary research. the discussion, this is where the findings are going to be analysed, and the primary data that will be collected and compared to the secondary data that was found on this subject to come to an overall understanding of the research, the final conclusion stage where all the key findings will be elaborated, and conclude.

## **JUSTIFICATION FOR RESEARCH**

As a young Muslim girl living in a western country, I assumed that honour crime was taught by Islam as Muslims were the only people that I read about in the media and books that participated in honour crimes, a clear examples of this would be the case of Ruksana Naz, a 19 year old girls living in Derby, she became pregnant with her childhood sweetheart after she was married, her family did not accept this and killed her as she disgraced the family.

This topic made me curious to why these crimes took place, and over the years I started gain more knowledge in to honour crimes and Islam and found that no religion including Islam allows any form of honour crime. Even today many people have a misconception that Islam teaches honour crime, because these crimes predominantly takes place within Muslim countries, so I decided to do my dissertation to try and clear these misconceptions that many people have, and help them understand why many people comply still comply with these acts.

## **LITERATURE REVIEW**

The aim of this stage is to define honour crime and the main motivations: the cultural issues that emerge when looking at honour crimes: the Human Rights Act 1998, the Universal Declaration of Human Rights and honour crime: the UK legislation and the Shariah Law: and the Islamic perspective on honour crimes.

### **THE TERM HONOUR CRIME AND THE MOTIVATIONS BEHIND IT**

Before attempting to explain whether honour crimes are a cultural or religious phenomenon, it is necessary to define and understand the concept of honour crimes. Honour crimes are a wider category including honour killings but also other violence committed against women such as battering, acid throwing and rape in the name of honour. When speaking about 'honour' we must remember that understanding of the word 'honour' may vary from culture to culture, from language to language and all precise definitions would be difficult to establish.

Crimes of honour are actions that remove from a collectively of stain and dishonour, both gendered and locally defined, through the use of emotional, social and physical coercion over a person whose actual or imputed actions have brought that dishonour'. 'Honour killing, say activists, is just the tip of an iceberg of abusive practice towards women that also includes forced marriages, genital mutilation, domestic imprisonment, prescriptive dress codes such as hijab, and barred access to education and the workplace Mark Rice-Oxley.

In many Muslim societies it is still believed that masculinity is strengthened by the concept of honour, and the only way men can restore this honour is to remove the stain which brought the shame on him. 'Honour is generally seen as residing in the bodies of women'. Women, who are seen as the repositories of the man's or family's honour, and they must guard their virginity and chastity, women are killed, usually by their male relatives, because they are seen to have defiled

the family's honour. More than pride, more than honesty, more than anything a man might do, female chastity is as an indelible line, the boundary between respect and shame. An unchaste woman, it is sometimes said, is worse than a murderer, affecting not just one victim, but her family and her tribe. A man's ability to protect his honour is judged by his family and neighbors. Therefore he must publicly demonstrate his power to safeguard his honour by killing those who have damaged it and thereby restore it. It has been argued that family honour is tied to social standing and mobility and economic opportunities for example: 'Ghairat (what is sacred and inviolable) is Izzat (honour, dignity) and this comes with money and property.

This quote implies that women are men's property and if there property has been stained it is there duty to destroy it. The concept of honour changes from culture to culture. In cases of 'honour crimes', the dominant view of honour held by the perpetrators, most often shared by their immediate community, is one that some activists are seeking to challenge by asserting a different meaning of honour. For instance, in Pakistan, activists have named the killers of women as dishonorable.

The motivations for honour crimes vary from culture to culture, all having different purposes to commit this crime. The motivation or publicly articulated justification for committing such crimes is attributed to a social order claimed to require measures of enforcement; such as measures against women. Women's sexual conduct actual, suspected or potential, for the preservation of honour vested in male, family and/or conjugal control over women.

Honour crimes are executed for instances of rape, infidelity, flirting, rejecting forced marriages, dowry problems or any other instance perceived as disgracing the family's honour. Many women are killed based on suspicions of a family member and are not given the chance to defend themselves. The allegation alone is enough to defile a man's or family's honour and is therefore enough to justify the killing of the woman. "There is an internalized belief that the woman is the one responsible for shame, because she could have

resisted the seduction," said Zahra Sharabiti, a Jordanian lawyer who specializes in defending those accused of honour killings. Another motive for honour killings is covering up shameful incidents, such as extramarital relationships, rape, incest or other sexual abuse.

## **CULTURAL ISSUES THAT EMERGE WHEN LOOKING AT HONOUR CRIME**

Honour crimes have been regarded as a cultural phenomenon rather than a particular religion or race. Most "honour" killings of women occur in Muslim countries, the focus of this case study; but it is worth noting that no sanction for such murders is granted in Islamic religion or law, and the phenomenon is in any case a global one. Nebehay (2000), such killings "have been reported in Bangladesh, Britain, Brazil, Ecuador, Egypt, India, Israel, Italy, Jordan, Pakistan, Morocco, Sweden, Turkey and Uganda." Afghanistan, where the practice is condoned under the rule of the fundamentalist Taliban movement, can be added to the list, along with Iraq and Iran..

Honour killings originate in the ancient customs that have been incorporated into many cultures. Such tribal custom the woman is the repository of her family's honour and honour is closely related to respect and standing in society. The increased occurrence of honour killings can be seen as a reactionary trend, or so-called "reactive culturalism" An additional aspect of the problem are honour killings that occur amongst immigrant communities in societies where honour killings traditionally do not exist.

In these cases the dishonoring behaviour that the victims are guilty of is often adaptation to the culture which is seen as unacceptable by the woman's family. Honour crime happens across the board in the Asian community," insists Mr. Gidoomal (candidate for London Mayor). "People try to blame Muslim, Hindus or Sikhs but it tends to happen in families where there are the strongest ties and expectations. It's a very strong cultural issue." . Honour crimes take place due to the ignorance of people, and the way cultures have been structured,

- "The so-called "honour killing" is based on ignorance



and disregard of morals and laws, which cannot be abolished except by disciplinary punishments.” (Sheikh Atiyyah Saqr).

Honour killings are much more about male-dominated societies or communities that try to stop women making their own decisions. More recently, in the age of migration around the world, the murders have come where a family reacts violently to a son or daughter taking on a western culture. For instance, accusations of dishonour may emerge because someone from an older migrant generation remains utterly tied to the culture or code of their village - and fails to accept their children have been brought up in modern British society with all that goes with that.

In some countries, honour crimes are passed from customary law into formal legal systems and penal codes enacted by European colonialists. “Honour crimes” are often treated like so-called “crimes of passion” in western jurisprudence in that, sentencing is based not on the crime, but on the feelings of the perpetrator, for example they are given a lenient sentence for provocation and cultural basis. For crimes of passion the defence would be provocation, but again the defendant would have to ‘snap’ and lose their temper.

Historically the provocation defence was explicitly conceived as a situation in which it would be appropriate to find manslaughter an example of this would be the case of *Mawgridge* [1707] *Kel J* 119, 135; 84 ER 1107.1707 per Lord Holt CJ, ‘Fourthly, when a man is taken in ... adultery with another man’s wife, if the husband shall stab the adulterer, or knock out his brains, this is bare manslaughter: for jealousy is the rage of a man, and adultery is the highest invasion of property...’ (*Judgments - Regina v. Smith (On Appeal from the Court of Appeal Criminal Division)* (2000), this illustrates that provocation has commonly been viewed as a sexist defence. Men generally have the strength to snap and ‘knock out brains’ whereas women do not.

A distinction may be made between ‘crimes of passion’ and ‘honour crimes’. Some have voiced concern that only Muslim countries are seen as having the latter in culture whilst

murders of women are dignified by the terms of crimes of passion. The term crimes of honour are used in Middle East countries whilst crimes of passion are generally seen as a European and Latin American concept. This concept is recognised in certain south European Jurisprudence. Crimes of passion is a defence only available to a man, which are linked to a love relationship between the perpetrator and victim, an ex husband and ex wife.

The crime is not perpetrated to defend the family honour but the 'conjugal honour' or the honour of his individual masculinity. The term crimes of honour appears to be much wider as the perpetrator can include the victims blood relatives who do not have a sexual relationship with the victim and the motive (family honour/ own honour) of the crime committed against women in the name of honour, with regard to the punishment of the act. It is very important to note that both crimes "crimes of honour" and "crimes of passion" can be committed with or without premeditation.

### **ISLAMIC PERSPECTIVES ON HONOUR CRIMES, AND THE SHARIA LAW**

Honour crimes are assumed to be sanctioned by Islam, since it predominantly takes place in Muslim countries, but while perpetrators of honour crimes often cite religious justification for their acts, these crimes are not in any religious text. Honour crimes originated in customary law that pre-dates Islam and Christianity. They span communities, religions, and countries. The practice of honour crimes is prohibited in Islam. Islam upholds the sanctity of human life, as the Holy Qur'an declares that,

- "Killing one innocent human being is akin to killing the entire human race" (Qur'an 5:32, 6:151, 17:33),
- "Whoso slayeth a believer of set purpose, his reward is Hell for ever. Allah is wroth against him and He hath cursed him and prepared for him an awful doom." (An-Nisa': 93).

Committing murder in Islam carries a heavy punishment possibly justified to prevent people taking the law into their

own hands. While there is no Quranic justification for honour killing, it would appear that many of the perpetrators believe themselves justified by their faith. All religions are influenced by the patriarchal culture under which they were created and so codify some of the oppressive practices of their time. All religions are interpreted by reactionary elements who wish to defend and retain patriarchal dominance. The Qur'an is explicit in its emphasis on the equality of women and men before god, regardless of gender, ethnicity race or religion.

- "And their Lord has accepted of them and answered them, "Never will I suffer to be lost the work of any of you, whether male or female, you are members, one of another..." (Qur'an: 3:195; see also 33:35)

Zina is an act of adultery and fornication and is religiously sinful. Adultery is considered a sin in all religions. The Bible decrees the death sentence for both the adulterer and the adulteress. Islam also punishes both the adulterer and the adulteress (Qur'an 24:2).. Fornication is a sexual intercourse between a man and woman who are not lawfully married to each other. Adultery is voluntary sexual intercourse between a married person and someone other than his or her lawful spouse,

- The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes..." (Holy Qur'an 24:2)

The punishment for fornication and adultery is 100 lashes to both male and female. There are many debates in Islam regarding the issue of committing adultery and fornication as many scholars believe that adultery should hold a heavier punishment, than fornication where both male and female should receive 100 lashes and be stoned to death, by the Shariah courts.

These punishments have been taken up by the Shariah law in many countries, the Qur'an does not mention stoning as part of the punishment, there is incontrovertible evidence in the Qur'an which clearly says that for adultery or fornication the punishment is 100 lashes, but the hadith clearly states that adultery should hold a severe punishment than fornication and

therefore the person/s should be stoned to death but only if there's substantial evidence that adultery was committed. Islamic Law, the act of intercourse itself has to be witnessed simultaneously by four fair witnesses in order for a person to be charged with adultery. The act of "intercourse itself" means the act of "actual penetration". For example, establishing that someone was alone in bed with another person of the opposite sex does not satisfy the high standard of proof required for an adultery charge. This requirement makes it almost impossible for anybody to be accused of adultery unless they are committing the act in public, and hence corrupting public morality.

In the centuries following the prophet's death, scholars studied, pondered over and interpreted the basic sources of Islam, and sought to formulate the Shariah law. Unfortunately almost all of these scholars were men. Naturally, they approached their task from a male perspective and frequently overlooked aspects of the revelation and the prophets sayings and deeds which were favorable to women.

The word Shariah means "the path to a watering hole." It denotes an Islamic way of life not just a system of criminal justice. An-Naim argued that the Shariah was constructed by Muslim jurists and although derived from the Qur'an and Sunnah is not divine because it is the product of human interpretations of those sources (An-Naim) cited in (Ali, (2000) Gender and Human Rights in Islam and international Law).

## **UK LEGISLATION ON HONOUR CRIMES**

Honour based violence in this country is illegal and falls under the Government's definition of domestic violence. There is no direct legislation in the UK for honour crimes, but it is a global problem. Murder is murder and, as Mike O'Brien (2004) pointed out when he was Home Office minister, in the matter of honour killings, multiculturalism has too often become an excuse for 'moral blindness' (The observer magazine).

To the extent that legislation dealing with 'honour' crimes treats 'honour' killings as homicides, the UK government response to this form of gender based violence is well placed.

Nevertheless, 'honour' crimes that do not result in homicide are not recognised in UK legislation as having this dimension. Other crimes in the name of honour, such as restrictions on movements, fall within separate criminal provisions such as false imprisonment.

## **THE HUMAN RIGHTS ACT 1998 AND HONOUR AND THE UNIVERSAL DECLARATION AND HUMAN RIGHTS**

Honour crimes are a clear violation of women's human rights and states are bound to protect women from such violations. Crimes of honour may involve the violation or abuse of a number of human rights, which include the right to life, liberty and security of the person; the prohibition on torture or other cruel, inhuman, or degrading treatment or punishment; the prohibition on slavery; the right to freedom from gender-based discrimination; the right to privacy; the right to marry and found a family; the right to be free from sexual abuse and exploitation; the duty to modify customs that discriminate against women; and the right to an effective remedy.

The Human Rights Act 1998. Victims of honour crime have suffered abuse for many years, and have been deprived of their own individual human rights because of the sex they were born with. Noting that the UDHR affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and freedom set forth therein, without distinction of any kind including distinction based on sex.

Recalling that discrimination against women violates the principle of equality of rights and respect of human dignity, is an obstacle to the participation of women in the political, social economic and cultural life of their countries hampers the growth of prosperity of society and the family. There are 16 articles of the UDHR which give women full rights without any discrimination. Even though all these laws and acts have been put in to place for many years womens rights have been taken away from them, and many countries violate the Human Rights act.

## **METHODOLOGY**

### **RESEARCH STRATEGY AND DESIGN**

The purpose of this research was to gain an understanding of honour crimes. The information for this topic was collected in the form of interviews therefore a qualitative research strategy had been adopted for this study in order to address the objective of the study. Data was collected to gain an understanding of people's perception of honour crime, to understand whether it is cultural issue or if it's regarded as an Islamic phenomenon.

Certain characteristics such as the participant's ethnicity, age, and gender need to be observed using qualitative methods to avoid biasness. As qualitative methods have been used for the research strategy it was obvious that an epistemological position which is also described as interpretivist needed to be adopted 'the stress is on the understanding of the social world through an examination of the interpretation of that world by its participants'. Epistemology is a branch of philosophy that studies knowledge, it distinguishes adequate knowledge from inadequate knowledge.

Epistemology is based on the concept of knowledge and merely having an opinion. This theory was chosen for this topic as it is essential to gain knowledge of those who have broad understanding in the area and those who have worked closely with honour crime victims. If quantitative methods were used for this study it would have been difficult to gain a detailed account of this information. 'A qualitative treatment describes what processes are occurring and details differences in the character of these processes over time. A quantitative treatment states what processes are, how often they occur and what differences in their magnitude can be measured over time'. Due to the type of research strategy used and the subject of honour crime it was decided that the use of inductive theory was necessary as it would be possible to put forward a theory for the motivations of honour crimes as the information will come from interviewing people who have a broad understanding of the sensitive subject. Whilst carrying out this

research it is important to be objective and to accomplish that it is necessary that the researcher does not allow their personal opinions interfere with their research.

## **METHOD USED TO COLLECT DATA**

This research methodology adopted was primarily going to be based on secondary data in addition to some primary research; using both primary and secondary research will compliment one another. It was decided that semi structured interviews should be used as means of primary method of data collection. Using semi-structured interviews gives the participants flexibility to talk about honour crime to their full extent. Unstructured interviewing tends to be very similar in character to a conversation. The interviewer has a list of questions to be asked in the course of the interview.

The interviewer allows the conversation to flow comparatively freely but tends to steer it in such a way that he/she can introduce specific questions when the opportunity arises, open ended answers allow interviewees to say as little or as much as they choose. It was anticipated that through adopting this method it would have allowed interviewees to speak freely on honour crimes and give a clear perception and their understanding of the subject. All the interviews were tape recorded as note taking cannot ensure the same degree of accuracy of recording the actual words spoken and the important matters such as emphasis and pauses between utterances.

Most of the data collected for this study was secondary based 'Secondary analysis involves the use of existing data, collected for the purposes of a prior study, in order to pursue a research interest which is distinct from that of the original work; this may be a new research question or an alternative perspective on the original question.'

The following sources that were used to collect data were: books, journals, reliable internet sources and journal databases, as the information that was needed to compile this thesis required information based on different cultures, Islamic perspectives offer different insights to honour crime and reasons why people comply with these acts. It would have

been very difficult to collect all the information that was needed using primary research as it would have been to expensive and very time consuming, therefore secondary data was opted as another method.

### **STRENGTHS AND LIMITATIONS FOR SECONDARY DATA COLLECTION**

There are many advantages for using secondary data as it has already been collected, therefore it is cost and time effective with high quality data that has an opportunity for longitudinal and cross cultural analysis Dale. Prensky secondary data helps refine research and design further research as it provides a full context for interpretation of primary research. Whilst the benefits of secondary sources are considerable, their shortcomings have to be acknowledged. There is a need to evaluate the quality of both the source of the data and the data itself.

The researcher must be careful when using secondary data as it is collected for a different purpose and therefore it is unknown to the researcher. With secondary data there are a few limitation that come with it such as the there would be a lack of familiarity with data then when you collect your own as you become familiar with you data, and the data that is not yours you may also find the complexity of the data to be a problem or they may find that the data is missing a key variable, all these limitations were acknowledged by Bryman. The secondary data collection may neither be valid nor reliable. The data is also dated, which means new information will be published by the time this is used.

### **STRENGTHS AND LIMITATIONS FOR PRIMARY DATA COLLECTION**

Primary data collection method is the best source of information method as it is the research you generate by asking questions, conducting trials and collating results. Primary data allows the researcher more control over direction, type and depth of the information collected. Using primary data allows the researcher to collect precise data that is necessary to meet



the individual's research objective. Primary data is also unbiased and comes directly from the population. There are also many disadvantages for using primary data collection, the most obvious one is that it tends to be more time consuming and more expensive. As there is a large population the finding cannot be generalised as the research done is so small.

## **THE SAMPLE AND ACCESS**

Due to the sensitivity of the research in to honour crime it was not feasible to do the research using victims of honour crimes as this would have violated the ethical rules, it was therefore decided that the research was done on people who had a broad knowledge about the subject and people who have worked closely to honour crime victims. eight participants that were selected were those who work within organisations that deal with honour crimes themselves or those who have vast amount of knowledge on honour crime, these participants were found on internet sites and also victim support leaflets.

The initial contact was made over the phone by doing a telephone interview with each of the participants as they gave the researcher the time to call back. Convenience sampling was used to select the participants as all the participants that took place were available to take the interview therefore it was difficult to get an equal sample of both genders, as many organisations were reluctant on taking the interview, so the participants that were available were interviewed.

## **DATA ANALYSIS**

Once all the qualitative data was collected from the interview the content of each interview had to be transcribed in order to extract the information and find some connection to obtain relevant findings. Once all the information was collected the interviews were transcribed, which was then coded, after the coding was complete it was essential to summarise each question from each participant and put them under each subsection of the question that was asked, and the key points were extracted and used in the results, as all the information could not be used.

## **ETHICAL CONSIDERATIONS**

Ethics are guideline which researchers have to abide by whilst carrying out any research, Bryman argued that 'they relate directly to integrity of a piece of research' as they are their to protect the participant from any form of harm as well as the researcher themselves, 'All such situation demand that other human being should be treated with respect, should not be harmed in any way, and should be fully informed about what is being done with them' due to the sensitivity of honour crimes it was essential to comply with Bryman's 'check list of ethical issues to consider'. This checklist was to ensure participants privacy and prevent them from any harm.

As tape recording was used it was essential that the informed consent of the participant were obtained and the participant was given a debriefing before the interview on why the researcher wished to tape record the interview and how that recording will be used, and how the tapes were to be stored. The participants were reassured that the data will be transcribed and anonymity will be answered using fictional names.

It was important for the researcher, to elaborate that they may withdraw from the interview at any time without any given notice without an explanation. It was vital for the researcher to emphasize that the research carried out will be anonymous 'as anonymity in research encourages objectivity throughout the research process'. Anonymity allows participants to express their true feeling freely. In order to avoid violating any of the ethical considerations a participant information sheet and consent form was presented to each participant before the interview.

The participant information sheet explained everything about the purpose of the study, and all the necessary information to avoid breaching ethical rules which the participants kept. The consent form was to get official consent for the information to cover the researcher; the consent forms were signed and handed back to the researcher. It was also necessary after the interview that all deception is prevented.

## **END**

Qualitative and quantitative data collection both have strengths and limitations, but qualitative data collection was used for this research as it was essential for the researcher to gain an understanding of people perception to honour crimes and use their knowledge in order to complete the research. Quantitative data collection was unable to gain this perception therefore qualitative data collection was used.

All ethical procedures were carried out to avoid potential harm to the participants, and this was done using a participant information sheet and a consent form. The research was carried out using participant who had knowledge and experience of working with honour crime victims and not the victims themselves as this could have caused potential harm to the victim as it is difficult to relive the experience.

It is essential to know the reliability and the validity of the research. Overall if the research was conducted again the researcher should receive the same results if it was done accurately, therefore there is reliability and validity to this research, even though the amount of participants used for this study cannot be generalised for the entire population, but the researcher should still receive similar results.

## **RESULTS**

This stage will discuss the main findings that emerge from the interviews that were done within this study. This stage is split in to sections that will reflect these key findings. As a semi structured interview was done it would be difficult to use all the information therefore the key points will be summarised.

### **PERCEPTIONS OF HONOUR CRIMES**

The participants that were interviewed were all aware of the issue of honour crimes. One of the eight respondents agued that 'it is difficult to find a clear definition of honour crimes that all agencies are satisfied with' she noticed that honour crime was a term that is ambiguous and varies across the world, whilst six respondents defined it as violating the family honour/pride/Izzat, therefore a crime is committed against that

person. All of the participants acknowledged that it was a crime predominantly against females, which males were mainly the perpetrators of the crime.

One respondent recognised females were not the only victims of honour crimes 'honour crimes is basically crimes against any person, it can be male or female who have gone against the honour of the family' of the participants argued that honour crimes mostly take place within Muslim and Hindu cultures rather than western cultures, and that it is a tradition that has been carried through for many centuries.

One of the respondents highlighted that 'there is nothing honourable about honour crimes' and acknowledged that honour crimes gives a negative label to the term 'honour' and there for it should be categorised as a form of domestic violence. The main theme that emerged out of this was all of the participants only acknowledged the physical characteristics but no one mentioned other forms of abuse which are associated with honour crimes.

## **EXPERIENCES RESPONDENTS HAD WITH HONOUR CRIMES**

Honour crime is regarded as a very broad concept. Five out of eight respondents have had direct contact with victims of honour based crimes. One female participant aged 26 gave personal information about how she was subjected to honour based crimes as she was been forced in to an arrange marriage, but she fled from her home and is now running a well known organisations that deals with honour based violence, where she is using her own personal experience to help others, she also suffered the death of a close friend who was murdered by her father 'also a very close friend of mine was murdered by her father at the age of 15 whilst I living with my parents, as a result of her getting murdered her sister was murdered, her mum was murdered and so did her dad kill himself, and all because she was truanting school'.

The respondents have recognised a clash in culture where families of victims believe they are becoming too western by wearing western clothes' owning a mobile', talking to the

opposite sex whilst living within the UK, one respondent argued that 'a woman I know has been subjected to a great deal of honour abuse by her brothers, every time she comes home, they would cut her clothes off'. Some respondents argued that the majority of cases that they dealt with were due to forced marriages which they rejected.

## **MAIN MOTIVATIONS TO HONOUR CRIMES**

All the respondents acknowledged that the main motivation to honour crimes is to defend the family honour and the honour of the community, if one goes against the norms and values of the family it gives the family a motivation for an honour based crime, whilst one respondent argued that people are motivated because they don't want to be an outcast in society and conform to whatever the community wants 'I think it's a cultural thing where their cultural norms and their cultural values are basically changed in a way that actually affects peoples perceptions' One respondent commented that the motive to honour crime is to maintain authority and have power over women, 'honour crime I think is to maintain in an orthodox way, differential between the female and male power and gender'.

## **PREDOMINANT RELIGIOUS GROUPS INVOLVED IN HONOUR CRIME**

All the respondents acknowledged that honour crimes predominantly take place in south Asian countries, but four respondents clarified that it's a global problem and its not limited to one religion but goes across all different religions, 'I've done a search and honour crimes happen in South America, happens in places like Japan, um Italy and so fourth', its not just one culture its, its not just one religion, its much wider then that', but two respondents argued that even though it world wide, it is only highlighted in the media as it is predominant in Islam 'I think that the media has demonised a certain sect, and I think the have really demonised the south Asian culture. One respondent argues that 'it is very much parallel to domestic violence, in respect no particular

boundaries', just like domestic violence honour crime can take place in any culture or religion, its not specific to one culture or religion.

### **IS IT CULTURALLY OR RELIGIOUSLY MOTIVATED?**

All eight respondents argued that honour crime is culturally motivated, it has crossed all religions some point of time, 'Well honour crimes goes back in history in all religions', 'its not just one culture, its not just one religion, its much wider then that' all religions prohibit honour crime 'no religion condones the beating of the wife, partner or daughter, no matter how many interpretations you get it is wrong' the problems tend to start where people go against cultural norms and values.

### **ARE CRIMES OF PASSION AND HONOUR CRIMES THE SAME?**

Half of the respondents disagreed with honour crimes being the same as crimes of passion as crimes of passion your looking at 'intimate relationships between a potential victim and perpetrator' as when you looking at honour crimes 'your looking at a much broader spectrum of individuals involved in the process' where honour crimes involve sibling parents, grandparents. On the other hand half of the participants agreed that crimes of honour are the same as crimes of passion one participant argued that there's discrimination between 'a white man' and black/ coloured man' committing a crime. Four of the respondents argued that 'it's a different word but the same thing' and it happens everywhere.

### **HOW DO ORGANISATIONS DEAL WITH HONOUR CRIMES AND SUPPORT VICTIMS AND FAMILIES?**

Seven out of eight participants that were interviewed were all involved in organisations that help victims to honour based crimes, and all seven participants said they gave the participants counselling, support help lines, setting out schemes, providing the right contacts, providing a safe house, going to conferences, one organisation works alongside with

the metropolitan police to help deal with issues of honour crimes. Only one out of the eight respondents said that their organisation also help the victims family with the 'stepping stone' scheme, but 7 argued that is was difficult to help other family members as it is too dangerous.

### **ARE THE SECOND GENERATION INFLUENCED BY THE FIRST GENERATION TO COMMITTING HONOUR CRIMES?**

This is a debate has been questioned for many years. Five respondents agreed to this, and argued that the first generation of families that have come from abroad still have these cultures embedded in them and they highly influence the second generation of people born within the UK 'its mainly parental influences, they basically have come from abroad, and were not born in this country, the first generation are more predominant in committing honour crimes, they are in fact influenced by their parents or basically from abroad, and they bring their cultural values with them'. Three respondents argued against this and commented that the second generation did not need to be influenced by the first generation and that they commit these crimes due to the lack of education and understanding, and the culture that they have been brought up within, 'a lot of the time the perpetrators are the young lads, even though the parents don't have anything to do with it, they are the instigators and the perpetrators of domestic abuse'. The motivations behind this abuse was due to a culture clash 'because they don't like the way their sister dresses'.

### **HOW DO HONOUR CRIMES VIOLATE HUMAN RIGHTS?**

All participants agreed that honour crimes violate Human Rights, and all the respondents mentioned similar things that are stated within the Human Rights Act, 'taking away someone's liberties' 'oppressing someone' 'harming someone', 'torture' discrimination comes in to play as it is a 'gender based crime'. One respondent argued that 'equality comes in to force when talking about Human Rights' and where honour crimes

are concerned there is no equality between male and female. Taking away any of these Human rights is a crime within itself.

## **ARE THE POLICE DOING ENOUGH TO TACKLE HONOUR CRIMES**

Three participants do not think the police are doing enough work to tackle honour crime, as they need a lot of training to deal with these circumstances, and should not be treated like other crimes as there is a fear that it may cause a culture clash. 5 participants argued that the police have not pushed this crime to the side, but are working up towards 'I think their doing what they think is right, but what they have to do is basically understand'. One of the respondents that was interviewed worked alongside of the metropolitan police force and argued that the police have just recently started to acknowledge honour crimes and it is the first step on the stepping stone to tackle honour crimes 'so I think there's a lot that has been done, but there's an awful lot to be done'.

## **MEASURES TAKEN TO EDUCATE PEOPLE AWARENESS**

All the respondents gave their opinion on how to make people aware of honour crimes, 'advertising campaigns' 'partnership with other agencies' media coverage' 'news''television programmes'' posters' 'radios' 'dramas' 'working together with mosques temples, gudwaras'. One respondent argued that a Muslim perspective should be taken to make others aware that it is not accepted in Islam.

## **WOMEN'S INVOLVEMENT IN HONOUR CRIME? ARE THEY SEEN AS A DARK FIGURE**

Seven out of eight respondents argued that women have been involved in committing honour crime, but they are not usually involved in perpetrating the crime, but more involved in instigating it. There was one case which one respondent highlighted where the mother was the instigator and perpetrator, 'I think women also take part in these honour killings, you probably heard the case of Ruksana Naz, from



Derby she was killed by her mum and brothers, her brothers sat on her leg while her mum strangled her to death', honour crimes is predominantly perpetrated by males, but women are also sometimes involved in this crime. respondents commented that women are seen as a dark figure, as they usually instigate the crime and get the men to perpetrate it 'women are always excluded out of crimes, women who commit crimes especially honour crimes virtually give in, they are never highlighted, the only crimes that are highlighted are crimes like prostitution that's in every culture, any country you look in women are always the dark figure, for a man to commit a crime of honour is something to be proud of'. One respondent disagreed with this and argued honour crimes is a male dominated crime to gain power, and 'it's not something which has been portrayed as a female activity'

## **END**

From the responses from the interview it was highlighted that there were many similarities and some differences from question to question. All the respondents were aware of the phenomena of honour crimes as all the interviewees that were interviewed worked for different organisations that work alongside of honour crime victims. The sample of participants were randomly selected on who was available to take up an interview, the interviewees were selected by calling different agencies that were involved with honour crimes which were found on the internet, three male participants were interviewed and five females.

## **DISCUSSION**

This stage will analyse the primary research that was collected, and compared to the secondary data of academic workers. This stage will discuss people's perceptions of honour crimes, the motivations behind it, and the cultural issues that emerge whilst looking in to honour crimes, the Islamic perspectives, the laws involved in honour crimes, and also the criminological theories that apply to the concept of honour crimes.

## **DEFINITIONS PERCEPTIONS AND MOTIVATIONS OF HONOUR CRIMES**

Honour crime was perceived as violating the honour/Izzat of the family, 'Crimes of honour are actions that remove from a collectively of stain and dishonour, both gendered and locally defined, through the use of emotional, social and physical coercion over a person whose actual or imputed actions have brought that dishonour'. This definition is customary, amongst most academics, however the definition to honour crimes vary from culture to culture, so there is not one definition which is appropriate across the different cultures, 'it is difficult to find a clear definition of honour crimes that all agencies are satisfied with'.

The concept of 'honour crimes' is a complex issue it is defined as a crime that has been, justified or explained by the perpetrator of that crime on the grounds that it was committed as a consequence of the need to defend or protect the honour of the family. It has been distinguished that honour crimes are predominantly against females, but occasionally it can be a crime against males, 'females were not the only victims of honour crimes honour crimes is basically crimes against any person, it can be male or female who have gone against the honour of the family' The Kurdish women's Rights Watch '40 per cent of victims are female 18 per cent were male victims'.

Honour crimes has been regarded as a patriarchal crime, where a man must protect and maintain a woman's body, 'the motive to honour crime is to maintain authority and have power over women' it is believed that masculinity is strengthened by the concept of honour, and the only way men can restore this honour is to remove the stain which brought the shame on him. It has been argued that women are property of men, and therefore have the right to protect their property at any cost. 'Ghairat (what is sacred and inviolable) is Izzat (honour, dignity) and this comes with money and property. And if Izzat is violated – then it is justified to kill and die for honour.

Honour crimes mostly take place because the victim had been perceived as behaving in an unacceptable way, the

following examples are reasons why people are subjected to honour based violence: having a relationship, rejecting a forced marriage, to getting raped, pursuing a divorce, 'a teenager's throat was slit in Turkey because a love ballad was dedicated to her over the radio' these issues are just some of the things that are perceived to violate the family honour.

### **CULTURAL ISSUES THAT EMERGE WHEN LOOKING AT HONOUR CRIMES**

From all the information collected it is obvious that honour related crimes are cultural and are often explicitly condoned by the community. It has been argued that 'honour crimes goes back in history in all religions', but all religions have prohibited any form of honour crimes 'no religion condones the beating of the wife, partner or daughter, no matter how many interpretations you get it is wrong' the problems tend to start where people go against cultural norms and values of the community.

Interestingly, due to the recent age of migration, many honour based crimes have taken place because women are taking on a more western culture, moving from an eastern culture to a western one, has caused a culture clash in many families, especially because they're unprepared for the changed cultural environment.

Many have argued that honour crimes are the same as 'crimes of passion' but due to the different cultures they are worded differently but are regarded as the same thing. When looking at crimes of passion it is an 'intimate relationships between a potential victim and perpetrator' whilst honour crime tends to be much wider which includes any blood relative and spouse carrying out the violence. There are many cases where Asian men have killed their wives, but it is still regarded as an honour crime, for example Zahida Perveen 29 was brutally beaten by her husband and left for dead.

One of the respondents argued 'how come if a white guy killed his wife and children it's a crime of passion, whereas if it's a black person or a colored person it's labeled as honour crime? Why is there discrimination between the two?' honour

crimes have many similarities with crimes of passion, but honour crimes includes a wider concept, crimes of passion could be regarded as a subsection of honour crimes. Some have argued that crimes of passion are totally different from honour crimes, and therefore should be treated differently.

## **ISLAMIC PERSPECTIVE ON HONOUR CRIMES**

From all the literature that was collected it was obvious that honour killings are not condoned by Islam or any other religion. Honour crimes are predominant within many Muslim countries, but they are not at all condoned in any religious text. Crimes of honour are pre-Islamic practices, which have continued over the centuries across many different religions. Honour killing is a form of murder, Islam upholds the sanctity of human life, as the Holy Qur'an declares that:

- "Killing one innocent human being is akin to killing the entire human race" (Qur'an 5:32, 6:151, 17:33),

The Qur'an clearly states that any form of murder is against all Islamic rules, and killing one human is the same as killing the entire human race. There is no justification in Islam for murder and carries a severe punishment. The only killing which is allowed in Islam is the one of capital punishment. The eminent Muslim scholar, Sheikh Muhammad Al-Hanooti (2006), member of the North American Fiqh Council argued that:

- 'In Islam, there is no place for unjustifiable killing. Even in case of capital punishment, only the government can apply the law through the judicial procedures. No one has the authority to execute the law other than the officers who are in charge'

There is no law in Islam that permits honour killing. Islam holds every soul in high esteem and does not allow any transgression upon it. It does not allow people to take the law in to their own hands and administer justice, as this will lead to chaos and lawlessness. Honour crime is predominantly against women, and discriminates women in all forms, the Qur'an does not discriminate between men and women, it explicitly emphasizes on equality.

Mohsin (1992) made a careful study of the position of women in the Qur'an she noted that in the Quranic story of creation, the human species was created from a single nafs (soul) and in the fall from the garden, Adam and Eve were equally guilty and were equally forgiven by God. The Qur'an does not say that Eve was made from Adams ribs and thus came second and inferior in creation. There are many verses in the Qur'an which attest to the equality of men and women in terms of spiritual matters and religious duties for example having the right to own property.

Muslim Jurists have agreed that the Qur'an gave women equality but relying on the Qur'an's stress on modesty and prohibition on the of sexual relationships outside of marriage, they proceeded to divide the world into two spheres, firstly where women were in control of the domestic life at home, and secondly where men's sphere was everything outside the home. At this point many restrictions on women came in to play, such as segregation, dress code, education employment in the legal system, in religion life and in leadership. Women's rights were whittled away from them over time, after the time of the prophet. Zina is an Arabic term for fornication or adultery, and is considered a sin in all religions, this subject has raised many issues across many nations within Muslim countries as there is a debate to what the punishment for adultery is. Difference of opinion exists among Muslim jurists concerning the combining of both stoning and lashing.

The correct opinion (and Allah knows best) is that which the majority of the scholars have agreed to, and that is, the one who is to be punished by stoning should not be lashed (adultery). This is what has been mentioned by the two caliphs 'Umar and 'Uthman; Ibn Mas'ud also holds the same view. Hence an unmarried person guilty of fornication is to be lashed one hundred times just as to the above verse in addition to banishment for one year in the case of a man (Danoun).

## **THE UK LEGISLATION AND HONOUR CRIMES**

There is no legislation in the UK for honour crimes, they all fall in separate definitions within the legal system. If

someone was murdered in the case of honour crime it would be categorized as a homicide. "Honour" crimes that do not result in homicide are not recognised in UK legislation as having this dimension. Other crimes in the name of honour, such as restrictions on movements, fall within separate criminal provisions such as 'false imprisonment'. Honour crimes has however just recently been highlighted within the UK, the metropolitan police have assigned a new task force to deal with the wider issue of honour based crimes and not just forced marriages.

A specialist unit was given the task of researching honour crimes and 100 murder files spanning the last decade were re-opened in an effort to find common links to honour based violence. There are many cases which have been brought to justice in the UK for example the first person to be jailed for the so called honour killing was Abdalla Yones, who stabbed his only daughter Heshu Yones 11 times, slitting her throat, before trying to attempt suicide by cutting his own throat and jumping of the balcony of the third floor in London, her crime was that she had become to 'westernised' as she had a Christian boyfriend, and was killed. Mr Yones attempted every defence, from psychiatric and diminished responsibility to extreme provocation, but was given life sentence for murder. Combating honour violence is one element of the UK's struggle to assimilate its 1.6 million Muslims. Prime Minister Tony Blair recognized the clash of cultures during a Dec. 8 speech to educators in London titled "The Duty to Integrate."

"There can be no defence of forced marriage on cultural or any other grounds," Blair said. "We stand emphatically at all times for equality of respect and treatment for all citizens. Sometimes the cultural practice of one group contradicts this." Cited in. Police are struggling to identify honour crimes within the UK because family and neighbors just see them s a form of punishment.

### **THE HUMAN RIGHTS ACT 1998, AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND HONOUR CRIME**

All the research that was carried out it was established that honour crime is a clear violation of all Human Rights.

There are 30 Articles in the Human Rights Act and the Universal Declaration of Human Rights, these are universal rights of human beings regardless of jurisdiction, and other factors such as, ethnicity, age, sex and nationality. The Universal Declaration of Human Rights claims 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood'. Honour crimes consist of: forced marriages, oppression, murder, rape, torture and many other crimes which clearly violate Human Rights. As honour crimes are predominantly against females many women face discrimination across the world. Even though these Human rights acts are universal, yet many countries ignore them, and comply with their cultural norms.

## **CONCLUSION**

### **AIMS OF THE RESEARCH**

The main aim for this dissertation was to distinguish whether honour crime was taught by Islam or motivated by cultural beliefs. The information that was gathered through interviews and other academic researchers, established to be a very interesting subject to be researched, there are many other topics within this field that could have been looked at, as honour crime is a wide concept that consists of many different issues. Honour crime is a global problem, and there needs to be more research put in to it.

The participants that were chosen for the interviews worked within organisations that help deal with victims of honour related crimes, to help make comparison with academic writers. A better perspective could have been given if victims of honour related crimes were allowed to be interviewed, as the definition to honour crime varies from person to person, it would have given a clear understanding of what the actual definition consists of or similarities that were shown, but due to the sensitivity of the research, the researcher was unable to do this as it goes against all ethical considerations.

The use of primary research was compulsory for this subject as there was not enough existing relevant literature available on honour crimes, and majority of the existing literature on the subject was not reliable and therefore could not be used. It was difficult to do this dissertation due to the lack secondary information on this subject and therefore the primary research was carried out to get organisational perspective on honour crime.

In addressing the main aim the researched focused on answering a number of questions, first, the perception and motivations to honour crime. Second, the cultural issues which emerge when looking at honour crimes. Third, the Islamic perspectives on honour crime and the Shariah Law. Fourth, the UK legislation on honour crimes. Finally The Human Rights Act 1998 and honour crime in the UK and the Universal Declaration and Human Rights.

The grounded theory was the researcher's first option to use the data analysis, but due to insufficient time and lack of understanding it was decided that this was approach would not be ideal to use so simple method was used where the researcher summarised the information that was given from the interviews.

## **KEY FINDINGS THAT EMERGED FROM THIS RESEARCH**

From the primary and secondary research carried out, it became clear that honour crimes was not condoned by Islam but was actually motivated by cultural beliefs, and that once the community thought someone had violated the cultural norms and values, they should be subjected to violence and torture. It was clear that honour crime is not subjected to one religion or culture but takes place across the world, it's a phenomena which has been around for many centuries. This problem is a global problem, which has only recently been highlighted in the media, but there are many different organisations and new police forces assigned to help tackle the problem of honour crimes. The research gave a clear understanding of honour crime, even though there is not one



universal definition, it gave an understanding of what honour crime is perceived to be. However, from all the information that was collected on perceptions of honour crimes, they all defined honour based crime as a form of physical behaviour in order to gain power, but the other forms of honour crimes were not mentioned.

## **RECOMMENDATIONS**

There are many things that could be changed if this research was carried out again. Firstly as small scale study was done, and will definitely have some flaws mainly due the fact that the findings can not be generalised across the world as a small scale study was used. It would be better to do a research where a larger population could be used, and this time, the general public would be used in the sample, to get a broader understanding of the concept. Secondly a cross cultural research needs to be carried out to get a clear understanding of the different motivations of honour crimes, and the research would be done on people from different generations and to distinguish the differences in their perception of honour crimes. Thirdly more topics would need to researched, as the concept of honour crime is really broad. Finally the process of interviews was a long winded process, which was very time consuming, so in order to prevent this from happening again the research needs to be carried out in advance.

## Chapter 9

# Trafficking

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### CLARIFYING CONCEPTS

This stage tries to demystify certain concepts about trafficking which have often been misunderstood and distorted. The clarity of these concepts is essential for proper understanding of the trafficking situations and for taking appropriate response.

### TRAFFICKING VS. PROSTITUTION

Trafficking does not mean prostitution. They are not synonymous. In understanding trafficking, one should delink it from prostitution. As per the existing law, Immoral Traffic Act 1956 prostitution becomes an offence when there is commercial exploitation of a person. If a woman or child is sexually exploited and any person gains out of the same, it amounts to commercial sexual exploitation, which is a legally punishable offence wherein the culpability lies against all exploiters. Trafficking is the process of recruiting, contracting, procuring or hiring a person for CSE.

Therefore, trafficking is a process and CSE is the result. The 'demand' in CSE generates, promotes and perpetuates trafficking. This is a vicious cycle. Trafficking could also be a means for other types of violations such as for developing pornographic material, for promoting sex tourism, for sexual exploitation under the facade of bar tending, massage parlours etc, or even for exploitative labour where sexual abuse may or may not coexist. ITPA envisages only trafficking for CSE. Commercial activity need not be in a brothel, but could also

occur in places including a residential dwelling, a vehicle, etc. Therefore a police officer who is acting under ITPA has powers to take steps in all such situations where trafficking leads to or is likely to lead to CSE in any form, including those under the facade of massage parlours, bar tending, 'tourist circuit', 'escort services', 'friendship clubs', etc.

## **DEFINING TRAFFICKING**

The definition of trafficking can be found in the various sections of ITPA. Section 5 speaks about procuring, taking and even inducing a person for the sake of prostitution. Even attempt to procure and attempt to take or cause a person to carry on prostitution amounts to trafficking. Therefore 'trafficking' has been given a broad scope. A detailed definition of trafficking is available in the Goa Children's Act 2003. Though it is focused on child trafficking, the definition is comprehensive. Under section 2, "child trafficking" means "the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise".

### **Offence of Trafficking, Essentially, has the Following Ingredients**

- *Displacement of a person from one community to another:* The displacement could be from one house to another, one village to another, one district to another, one state to another or from one country to another. Displacement is also possible within the same building. An example will clarify the point. Presume that the brothel keeper controls several young women who are inmates and that one of the women has a teenage daughter staying with her. If the brothel keeper, by duress or bribe, manages to get the mother to agree to allow the teenager to be used for CSE, the

teenager has been moved out of the 'mother's community' and into the 'brothel community'. This displacement is adequate to constitute trafficking.

- *Exploitation of the trafficked person:* The ITPA and related laws envisage sexual exploitation of the trafficked person. The process of exploitation may be manifest, as in a brothel, or latent, as in certain massage parlours, dance bars, etc, where it takes place under the facade of a legitimate commercial activity.
- *Commercialization of the exploitation and commodification of the victim:* The trafficked victim is exploited as if she is a commodity. The exploiters generate revenue out of the exploitation. They may share a part of the revenue with the victim too. The victim who is getting a share of the money generated is often 'branded' as an accomplice and arrested/charge-sheeted and even convicted. The trafficked victim, whose freedom even to think, let alone move out, is dictated by the exploiters, should never be treated as an accomplice. Even if she gets a share of the 'earnings', the fact that she has been trafficked to CSE does not alter her status as a victim.

## **THE ORGANIZED CRIME OF TRAFFICKING**

Human trafficking is a crime of crimes. It is a basket of crimes. In this basket one can dig out the elements of abduction, kidnapping, illegal detainment, illegal confinement, criminal intimidation, hurt, grievous hurt, sexual assault, outraging modesty, rape, unnatural offences, selling and buying of human beings, servitude, criminal conspiracy, abetment etc. Therefore, multiple abuse and abusers located at different points of time and place together constitute the organized crime of trafficking.

A host of human rights violations like denial of privacy, denial of justice, denial of access to justice, deprivation of basic rights and dignity etc constitute other part of the exploitation. Therefore, there is no doubt that trafficking is an organized crime.

## **THE TRAFFICKED PERSON**

In the context of ITPA and related laws, a trafficked person could be a male or a female of any age who has been trafficked for CSE in a brothel or any place where CSE takes place. ITPA provides punishment even for attempt to traffic a person. Therefore, even before the person is physically trafficked, the law comes into operation.

## **CHILD**

Child is a person who has not attained the age of 18 years. Any child who is vulnerable to trafficking is considered a “person in need of care and protection” under the Juvenile Justice Act, 2000. Law enforcement agencies are duty bound to rescue such children, produce them before the Child Welfare Committee and extend all care and attention.

## **TRAFFICKED ADULT**

Regarding adults, the mere consent of the person does not exclude the possibility of trafficking. If the consent was obtained under duress, coercion, fear or any pressure, then the consent has no meaning and, therefore, all such instances amount to trafficking. Thus, even when an adult woman is ‘picked up’ from a brothel on the charge of ‘soliciting’, it cannot be presumed that she is guilty of soliciting unless and until the ‘mens rea’ is investigated. A woman trafficked for CSE is a victim of CSE and not an accused.

## **TRAFFICKERS AND OTHER EXPLOITERS**

Trafficking is an organized crime. There are several persons involved at several places, starting with place of recruitment, places of transit and places of exploitation. Therefore, the list of exploiters includes the following:

- The brothel in charge and other exploiters in the brothel, or the final place of exploitation, which would also include:
  - The brothel “madam” or the person in charge of the ‘dance bar’ or ‘massage parlour’ or such other place where exploitation takes place.

- The 'managers' and all other dramatis personae in such places.
- The hoteliers or persons in charge of hotels, etc where exploitation takes place. This includes keepers of places/vehicles used as a brothel, persons who allow premises to be used as a brothel, persons who detain victims in brothels and other places of exploitation, and those who allow public places to be used for prostitution.
- The "customer" or "cliente", who is the abuser of the trafficked woman, is undoubtedly, an exploiter. He is the one who perpetuates 'demand' and CSE and is, therefore liable under ITPA and other laws.
- *The financiers*: All those who finance the various processes involved in trafficking are part of the nexus. This may include those who finance recruitment, transportation, stay, accommodation, and even those who indulge in money lending and borrowing at the brothels.
- *The abettors*: All those who abet or support the exploitation or any process involved in trafficking are triable under ITPA.
- *Those who are living on the earnings of CSE*: Any person who knowingly lives, wholly or partly, on the earnings of prostitution is liable. This includes all those who have a share in the illegal benefits derived from the exploitation. The financiers who lend or collect money from the brothels and do business out of such transaction are also liable under this section. The hotelier who profits from the exploitation of girls is undoubtedly an accused u/s 4 ITPA.
  - The spotter, the recruiter, the seller, the purchaser, the contractor, the agent or anybody acting on their behalf.
  - The transporters, the harbourers and those who provide shelter are also part of the racket.
- *All conspirators*: In nearly all trafficking situations, several persons conspire at the various stages involved

in the process of exploitation, thereby constituting a case of conspiracy. If there is a meeting of minds, followed by an overt act in pursuance thereof, the law of conspiracy is attracted. Those who conspire to allow any premises to be used as a brothel or those who live on the earnings of exploitation, even partly, or those who procure or induce or take the person for prostitution are all considered conspirators.

Therefore, the list of exploiters and abusers is inevitably long, undulated and not always apparent at first glance. Only professional investigation can expose the linkages involved and bring all such persons to book.

### **CRIMINAL ACTS AND RIGHTS VIOLATIONS ON THE TRAFFICKED PERSONS**

In the existing scenario, trafficking is usually confused with prostitution and therefore, there is no proper understanding of the seriousness of trafficking. It would be appropriate here to list out the wrongs, violations, harms and crimes that are committed by various persons on a trafficked victim. These violations can be realized only during a careful interview of a trafficked person. Once the victim is allowed, facilitated and promoted to speak, the unheard story will reveal a long list of violating acts perpetrated on her. As a typical example, under the Indian Penal Code, a trafficked girl child has been subjected to a multitude of violations.

*She has been:*

- Displaced from her community, which tantamounts to kidnapping/ abduction.
- Procured illegally.
- Sold by somebody.
- Bought by somebody./
- Imported from a foreign country.
- Wrongfully restrained.
- Wrongfully confined.
- Physically tortured/injured.
- Subjected to criminal force.
- Mentally tortured/harassed/assaulted.

- Criminally intimidated.
- Outraged of her modesty.
- Raped/gang raped/repeatedly raped.
- Subjected to perverse sexual exploitation.
- Defamed.
- Subjected to unlawful compulsory labour.
- Victim of criminal conspiracy.

This list is only illustrative and not exhaustive. Undoubtedly, in every case, the trafficked person is a victim of at least one or more of the violations. Oftentimes victims become pregnant as they are subjected to non-protective sex. If the victim has been subjected to miscarriage then the liability of the offender falls under the Sections 312 to 318 IPC. In some cases, the process of exploitation has proven fatal wherein the victim succumbs to the direct effects of the harm or to the consequential problems arising thereof. This means that the offence of homicide/murder is also attracted. The offences envisaged under the ITPA are specific to the context of CSE.

- Keeping or managing a brothel or allowing premises to be used as a brothel.
- Living on earnings of prostitution.
- Procuring, inducing, trafficking or taking persons for the sake of prostitution. Even attempt to procure or take would constitute the offence.
- Detaining a person in any premises where prostitution is carried out.
- Anybody who carries on prostitution, or anybody with whom such prostitution is carried on, in the vicinity of public places.
- Seducing or soliciting for the purpose of prostitution in any public place or within sight of a public place.
- Seduction of a person in custody.

The Juvenile Justice Act, 2000 also has penal provisions. Anybody in control of a child who assaults, abandons, exposes or willfully neglects the child or procures him to be assaulted, abandoned or exposed causing the child unnecessary mental or physical suffering, is liable under S. 23 JJ Act. There are so many Human Rights violations that take place on trafficked person.



*The list includes the following:*

- Deprivation of the right to life.
- Deprivation of the right to security.
- Deprivation of dignity.
- Deprivation of the right to access to justice and redressal of grievances.
- Denial of access to health services.
- Denial of right to self determination.
- Denial of right to return to own community.
- Double jeopardy.
- Denial of right to representation.
- Denial of right to be heard before decision making.

The list of rights violations is long and several such violations can be listed out depending on the provisions of the Constitution/Protocols/Conventions etc.

### **WHICH LAW TO USE AND WHEN**

ITPA, being a special legislation, has comprehensive, stringent and effective provisions to address the issues in trafficking and consequent exploitation. However, there is no bar in utilizing the provisions of ITPA along with IPC etc. In any given context, the investigating police officer should file charge-sheet against the accused under the graver sections of all laws which are applicable. Do not hesitate to involve the provisions of ITPA along with IPC, JJ Act, and other legislations which would apply to the facts and circumstances of the case under investigation.

One has to be careful in applying proper sections of law. Never victimize a trafficked woman u/s 8 ITPA or any other section of any law. When investigation brings home the point that she has been sexually exploited against her informed consent, charge sheet be filed against all her exploiters not only under ITPA, but also under the relevant sections of IPC, dealing with sexual assault.

Consent obtained under lure, deceit, duress, coercion, compulsion, force etc is not 'consent' in the legal sense. Furthermore, if the victim is a girl child, the offence is complete even if there was consent.

## **THE STRENGTHS OF ITPA AND HOW BEST TO USE THEM**

ITPA is a comprehensive legislation which gives power and strength to the law enforcement/justice delivery agencies to combat and prevent trafficking. Since its enactment in 1956, the legislation was amended by the Indian Parliament twice, in 1978 and 1986. The latter amendment focused on prevention, a provision which is not so common in the legal regime across the world.

However, for various reasons, the different provisions of this special law are not being used and, furthermore are often misused and abused. One of the main reasons, as research has shown, is ignorance and lack of understanding of these provisions. Therefore this checklist is a reference guide to the law enforcement agencies and other stake-holders, providing answers to several frequently asked questions and frequently overlooked aspects.

## **THE LEGAL REGIME RELEVANT IN THE CONTEXT OF TRAFFICKING**

- Immoral Traffic Act, 1956.
- The Juvenile Justice Act, 2000.
- The Goa Children's Act, 2003.
- The Indian Penal Code, 1860.
- Procedural laws.
- Preventive Sections of CrPC.
- Other special laws relevant to the context.

## **THE INHERENT STRENGTHS OF ITPA**

### **General Provisions**

- The law applies to trafficking of males and females.
- Commercial sexual exploitation of anybody is an offence.
- The law gives specific attention to women's rights and child rights.
- The law provides a specific mandate for NGO's and civil society in addressing trafficking. Perhaps there

is no parallel where NGOs have been given powers in law enforcement on anti human trafficking.

- The thrust of the law is addressing trafficking and not prostitution, as is often misunderstood.
- This legislation gives specific powers to judicial magistrates and also to executive magistrates.
- This legislation gives special protection to the police officers and NGOs taking part in search, rescue etc from any criminal or civil proceedings against them.

### **The Offences under ITPA**

- S.3 ITPA: Keeping or managing a brothel or allowing premises including vehicles to be used as a brothel.
- S.4 ITPA: Living on the earnings of prostitution.
- S. 5 ITPA: Procuring, inducing, trafficking or taking persons for the sake of prostitution. Even attempt to procure or take would constitute this offence.
- S.6 ITPA: Detaining a person in any premises where prostitution is carried out.
- S.7 ITPA: Any body who carries on prostitution, or any body with whom such prostitution is carried on, in the vicinity of public places.
- S.8 ITPA: Seducing or soliciting for the purpose of prostitution in any public place or within sight of a public place.
- S.9 ITPA: Seduction of a person in custody.

### **Whether “Clientele” is Liable**

The answer is yes. Firstly, he should be booked u/s 5(1) (d) and u/s 7(1) ITPA. He is a person who ‘causes’ or ‘induces’ another person to carry on prostitution and is, therefore, liable u/s 5(1)(d). Moreover he is a person “with whom prostitution is carried on” and is therefore liable u/s 7(1). Further subsection 1A of section 7 ITPA makes it clear that if the offence of ‘prostitution’ is committed in respect to a child or minor then the person committing the offence is liable for a graver punishment and fine with a mandatory minimum imprisonment of 7 years. Besides these provisions of ITPA, he

is an abettor to all violations on the victim, which attracts S.114 IPC. If the victim is a child, S.376 IPC should be added to the charges against the “customer”. If the victim is an adult, S.376 IPC will come into operation if it can be established that she had not given informed or willing consent. Moreover perverse sexual acts on the victim invite liability under S.377 IPC.

### **Liability of Traffickers**

U/S 5 ITPA, trafficking committed, contemplated or even attempted is punishable, regardless of consent of the trafficked person. The modus operandi could include procuring, attempting to procure, inducing, taking, attempting to take, causing a person to be taken, causing or inducing a person to prostitute etc. If the offence of trafficking is committed against the will of the person, then the offender is liable for graver punishment. If the trafficked victim is a child, the minimum punishment is 7 years of rigorous imprisonment. Depending on the facts and circumstances of the case, the traffickers are also liable u/s 4, 6, 9 ITPA. Moreover as abettors and/or conspirators they are also liable under IPC.

### **Jurisdiction of Police and Courts**

In which police station can a trafficking offence be registered? Which Court has jurisdiction?

*Trafficking is a 'continuing offence' and therefore may be tried in either of the following places:*

- The place from where the person has been procured, induced to go, taken or caused to be taken or from where an attempt to procure or take the person is made. This means the place where trafficking took place i.e, the source point.
- At the place to which the person may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made. This means the destination point or the point of exploitation and the transit points where the exploitation continues.

Since the court of law has jurisdiction in the source, transit

and the destination points, the police stations in all these points also have jurisdiction. In this context, the following are the do's and don't's.

- In a case of trafficking, police agencies at the source point, the transit point and at the destination point have a duty and responsibility to register FIR in their police station.
- There is no legal bar in having FIRs registered both at the source point and destination point if the former is only on charge of trafficking and the latter is only on the charge of sexual exploitation. However, the best situation would be to have the FIR at one of the two places and, thereafter, the investigation should cover the entire spectrum of the offences from its origin to the last part.
- In the event of registration of two FIRs at both the source and destination points, the investigation can be clubbed together, as and when the linkage is established in evidence. Thereafter, police is free to file a charge report before the court of law at either place and simultaneously close the investigation in the other place, so as to avoid double jeopardy.
- Since attempt to trafficking is also a specific offence under this section, it gives very strong weapon to the law enforcement agencies to bring to book the traffickers as well as abettors and conspirators in trafficking.

Law of double jeopardy will not be attracted if the offences alleged are independently acted upon. For *e.g.*, there is no legal wrong if the FIR in one place is u/s 5 ITPA for trafficking and the FIR in another place is for exploitation u/s 7 ITPA, 376 IPC etc, both with respect to the same victim.

### **The Doctrine of Presumption as a good Weapon for Preventing and Combating Trafficking**

ITPA gives so much strength to the law enforcement agencies by virtue of the fact that the specific provisions of presumption casts onus of proof on the accused. The following are the provisions.

- Section 3 provides punishment for keeping a brothel or allowing premises to be used as a brothel. It shall be presumed, u/s 3 (2A), that the concerned person has knowledge of the same if:
  - A report is published in a newspaper with local circulation that the premises concerned are being used for prostitution, as revealed during a search.
  - A copy of the search list is made available to the person concerned.
- If any person A, over 18 years of age, is proved to have exercised control, direction or influence over the movements of another person B, in such a manner as to show that A is aiding, abetting or compelling B to prostitute, it shall be presumed that A is knowingly living on the earnings of prostitution of another person and is liable u/s 4 ITPA.
- If a person is found with a child in a brothel, it will be presumed that the person has detained the child for CSE and is, therefore, liable for the same u/s 6(2) ITPA.
- If the medical examination shows that the child, who has been detained in a brothel, was sexually assaulted, it will be presumed u/s 6 (2A) ITPA that the child was detained for CSE and was sexually exploited. This legal presumption is a good tool to establish liability of the person.
- Section. 6 (3) ITPA, a person shall be presumed to have detained a woman or girl (of any age) in a brothel or upon any premises for CSE, if the person withholds from her any of her property with intent to compel/ induce her to remain there. He is also liable if he threatens her with action if she takes away any such property lent/supplied to her by, or on the direction of, such a person.

### **CSE of Child/Minor**

*Law views CSE of children/minors as a grave offence and therefore, has the following special provisions u/s 7 ITPA:*

- Consent is immaterial.

- Enhanced punishment for prostituting a child/minor.
- Minimum punishment is rigorous imprisonment for 7 years.
- Mandatory fine along with jail.
- If sexual exploitation of a child takes place in a Hotel, the hotel license can be cancelled.

### **Who Can Order Rescue of a Trafficked Person**

S.16 ITPA authorizes rescue of any person who is made to carry on prostitution in a brothel. The powers are given to both Judicial Magistrates and Executive Magistrates. Therefore, any of these officials may be moved for an order for the rescue of any such person.

The Magistrate can order rescue of any person if he has reason to believe that any person is carrying on or is being made to carry on prostitution in a brothel. S.15 ITPA gives powers to Special Police Officers to search without warrant and carry out rescue u/s 15(4). This gives enormous powers to SPO.

### **Can any Civilian move the Magistrate and Seek orders for Rescue of any Person**

The answer is yes. u/s 16, the Magistrate has powers to direct any police officer to rescue any person if the Magistrate has reason to believe that the rescue is required.

*The source of information for the Magistrate could be government agencies or otherwise and, therefore, it includes any of the following:*

- Police.
- Any person authorized by the State Government.
- Any NGO.
- Any other source.

### **If a Notified Police Officer is not Available, is Rescue Possible**

Yes u/s 16 ITPA, the Magistrate can authorize any police officer provided the police officer is of the rank of SI of police or above.

## **How to Prevent/Combat misuse of Public Places**

The legal provisions u/s 7 ITPA envisage a very important role of law enforcement agencies in not only taking action against the offenders who misuse public places, but also in preventing such misuse. In this context, the following aspects be taken note of.

### ***What is a Public Place***

*Public place, u/s 7 ITPA, includes the following:*

- Any premises within an area notified by the Government.
- Any premises within a distance of 200 meters of any place of public worship, educational institution, hotel, hospital, nursing home or other official/public domain.
- Any hotel.
- Any transport or vehicle to which public has access.
- “Any place intended for use by, or accessible to the public” is a public place. “It is not necessary that it must be public property”, “Even if it is a private property, it is sufficient that the place is accessible to public”. Gaurav Jain vs UOI, AIR 1997 SC 3021.

### ***Can a Hotel Licence be Suspended if Prostitution is carried on in the Hotel***

Yes, u/s 7(2) (c) ITPA, if the public place which is misused happens to be a hotel, the hotel licence may be suspended for a period not less than 3 months and may be extended to one year. Therefore in such circumstances, the police officer should move the concerned court for the suspension of the hotel licence.

### ***Can the Hotel Licence be Cancelled***

Yes, u/s 7(2) (c) ITPA, if it can be proved that the victim of prostitution or CSE in the hotel happens to be a child or minor, then the hotel licence is liable to be cancelled. The police officer has to move the court of the District Magistrate for the same.

### ***Who are all Liable for Misuse of Public Places***

*U/s 7 ITPA, the persons liable are:*

- Any person who carries on prostitution.



- Any person with whom such prostitution is carried on.
- Any keeper of a public place who permits such misuse.
- Any tenant, lessee, occupier or person in charge of any premises who permits the place or part thereof for misuse.
- Any owner, lesser, landlord of any such place, or their agents, who lets the place or part thereof for misuse or is willfully a party to the same.

### ***Closure and Eviction of Brothels after Notice***

- The District Magistrate u/s 18(1) ITPA, can act on information from police or NGO or anybody else. The Commissioner of Police or any other official who has been vested with the powers of DM is also empowered to take action under this section of law.
- The information should be that any house, room, place or portion thereof, located within a distance of 200 meters of any public place is being used as a brothel by any person, or is being used for commercial sexual exploitation of anybody.
- DM can issue notice to the owner, lesser, landlord or their agent, as well as the tenant, lessee, occupier of, or any other person in charge of such house, room, place or portion thereof.
- The notice sent to them by the DM directs that show cause be filed within 7 days of the receipt of the notice stating why the property should not be attached for misuse.
- The DM should hear the party before taking a decision.
- After hearing, if the DM is satisfied about the misuse, he can direct eviction of the occupier within 7 days of the order and direct that prior approval of the DM be obtained before letting out the place again during the following one year.
- The order of the DM is non appealable nor stayable as per S. 18(3) ITPA.

- Since closure of brothel would entail loss of 'income' for the exploiters, and no relief is available by way of appeal, this is a stringent section of law which the administrators, police, prosecutors and NGO's can effectively utilize to combat and prevent trafficking.
- The Sub Divisional Magistrate (SDM) also can exercise all these powers.

### ***Closure and Eviction of Brothels without Notice***

Section.18 (2) ITPA, the court convicting a person of any offence under S.3 ITPA or S.7 ITPA, may pass orders of closure and eviction without any notice to any such person. Therefore in the event of a conviction u/s 3 or 7 ITPA, the police/prosecutor should immediately move the court for closure/eviction u/s 18 ITPA. However, the eviction order of the judicial magistrate is a sequel to the conviction of the person to be evicted, and cannot precede conviction.

### ***No Appeal Against order of Closure/Eviction***

Section. 18 (3) ITPA, orders passed by the DM u/s 18(1)ITPA and orders by the convicting court u/s 18(2)ITPA shall not be subject to appeal and shall not be stayed or set aside by any court, civil or criminal. Therefore, the finality of order by a competent court is a very powerful tool to combat CSE.

### ***Special Provisions Against CSE of Child (under 16) and Minor (under 18)***

Anybody involved in CSE of a child/minor is liable for conviction for a minimum term of 7 years imprisonment which may go upto life imprisonment, u/s 7(1A).

- In such convictions, along with imprisonment, fine is also mandatory.
- If the abuse takes place in a hotel, and the victim is a child or minor, the hotel license shall be liable to be cancelled u/s 7(2) (c) ITPA.

### ***Surveillance of Convicted Persons***

Section 11 ITPA, any person, who has earlier been

convicted under ITPA or relevant sections of IPC is again convicted under ITPA, for a period of 2 years or more, may be subjected by the court to notify, just as to the rules made by the State Government in this regard, of any change of his residence or any absence from such residence after release, for a period upto 5 years. If the State rules exist, this is a potent weapon for the law enforcing agencies to keep surveillance on the movement and activity of the convicted person so as to prevent any such crime in future. If there are no rules, the state government be moved for bringing out comprehensive Rules under ITPA.

### **Externment of Convicted Persons**

Section. 20 ITPA, the District Magistrate, Sub-Divisional Magistrate, or an Executive Magistrate authorized by the State Govt, has power to extern a convicted person to another place within or outside the limits of his jurisdiction. This is a powerful weapon against convicted exploiters so that they are prevented from carrying on further exploitation. The police has to move the concerned Magistrate immediately after conviction so that the Magistrate can start the externment proceedings.

### **Finality of Proceedings and Fast-track Mechanisms**

ITPA is a special legislation which has certain inherent provisions to ensure that the legal proceedings are not long drawn. These provisions and restrictions are meant to be invoked by the agencies concerned so that the trial is expedited and justice is delivered without delay. The following are the provisions.

- U/s 18 ITPA, there is neither appeal nor stay against the order of eviction by a Magistrate or Court.
- Any appeal against the order for protective custody u/s 17 (4) ITPA, issued by the Magistrate shall go to the Court of Sessions, whose decision shall be final. Therefore, there is no appeal beyond the Sessions Court.

- Special Courts for the trial of offences under ITPA can be constituted not only by State Government but also by the Central Government.
- *Summary Trial*: Whenever necessary, the State Government may authorize the Court to try cases summarily. However, the maximum punishment in Summary Trial is up to 1 year. If the Court thinks that enhanced punishment is called for, then the case can be reverted to regular trial.

### **Special Police officer of the State Government**

U/s 13 (1) ITPA the State Government can notify one or more police officers, not below the rank of Inspector of Police, as SPO having powers over a specific jurisdiction, which may include the entire state.

Since many trafficking cases have inter-district and even inter-state ramifications, it is better to issue such notifications, without jurisdictional restrictions. The jurisdiction of the SPO is to be at least co-terminus with "that of the offender" so that the SPO can carry out unrestricted investigation.

### **If there is a Shortage of Police Officers in the District, is there any Mechanism to overcome the Situation in Addressing Trafficking**

Yes, S.13 (2A) ITPA authorizes the District Magistrate to notify any retired police officer or any retired military officer as SPO. It is advisable that the Superintendent of Police identifies appropriate retired officials and moves the DM for notification.

### **Is Women Police Officer Essential**

U/s 13(3) (a) ITPA, the SPO notified by the State government shall be assisted by an adequate number of Subordinate Police Officers including women police officers, wherever practicable.

The best situation would be to notify a combination of male and female police officers for each unit. Wherever women police officers of the rank of Inspector or above are available, they should be notified as SPO. If woman police official is not

available, the SPO should take assistance of woman NGO/ social worker.

### **Can Government of India notify Special Police Officers under ITPA**

*U/s 13(3) (4) ITPA, Govt. of India can notify Anti-trafficking police officers with powers throughout India. Such ATPO can be appointed for investigating offences:*

- Under ITPA.
- Under any law dealing with sexual exploitation of persons committed in more than one State. Therefore, a notified ATPO will have powers to investigate, crimes relating to not only trafficking but also other such crimes, relating to pornographic rackets, 'sale' and 'purchase' of women etc., which have inter-state and international ramifications.

The Government of India has appointed officers of and above the rank of Inspector of Police in CBI as Trafficking Police Officers having jurisdiction throughout India to investigate any offence under ITPA or any other law dealing with sexual exploitation of persons committed in more than one State.

### **How to Invoke CBI Investigation**

Since CBI derives its strength under the DSPE Act, and since law and order is a 'State subject' under the Constitution of India, the State Govt has to issue notification u/s 6 DSPE Act authorizing CBI to take over such crimes. This is to be followed by a notification of Govt. of India u/s 5 DSPE Act, extending the powers of CBI to carry out the task. Therefore, despite the notification dated 28 August 2001 by the Govt. of India, CBI takes over investigation of a crime of trafficking when the State Police, having original jurisdiction over the case, hands over the case file to CBI. However, if there is an order by the Supreme Court or any High Court, directing CBI to take over such a case, CBI cannot and will not wait for the notifications by the Govt. Often such directions of the High Court or the Apex Court arise out of Public Interest Litigation.

## **Role of NGOs in Law Enforcement and Justice Delivery under ITPA**

*ITPA is a social legislation which envisages a large role for NGOs/CBOs and social workers. The following are noteworthy:*

- *Advisory Body:* The State Govt. may notify, u/s 13(3) (b) ITPA, a nonofficial advisory body of leading social workers including women social workers. This body has powers to advise the SPO on questions of general importance, regarding the working of ITPA. Therefore, this body can advise and facilitate the police to carry out rescue, ensure that the rights of rescued persons are protected initiate steps for victims' best care and attention, keeping in view victims' best interests, take steps for empowerment and rehabilitation of victims take steps for stringent action against traffickers and other exploiters and initiate and implement steps for prevention of trafficking and network with all concerned government and non government agencies.
- *Accompanying Police during search:* The SPO while carrying out search for victims or even accused persons should arrange two or more respectable persons of the locality (one of whom should be a woman, as provided u/s 15(2) ITPA to attend and witness the searches. NGOs are the appropriate agencies to be contacted by police in such situations. The male witness should be from the locality, whereas the female witness could be from any where, vide proviso to S.15 (2) ITPA. It would be better to take a lady social activist along. Police officials should maintain a list (ready reckoner) of women activists and NGO's, whose services can be called upon in such situations. This section gives a legal right to NGOs to be part of the rescue process.
- *Interviewing rescued/removed persons:* U/s 15(6A) ITPA, any female person rescued or removed during a search can be interviewed by the police officer only in the presence of a female police officer or a female member

of NGO. This gives a legal right to NGOs to be part of the investigation process.

- *Home verification of rescued persons:* A mandatory duty is cast upon the Magistrate u/s 17(2) ITPA to cause home verification of the rescued person before taking a final decision regarding her rehabilitation. Direction is to be given to the Probation Officer. The Magistrate can call upon NGOs to carry out the task. Even the Probation Officer who has been tasked for the same can, in turn, entrust the job to NGOs. This gives a legal right to NGOs to be part of the rehabilitation process.
- *NGOs to advise Magistrate on rehabilitation:* The Magistrate may, as provided u/s 17(5) ITPA. Summon a panel of five respectable persons, three of whom shall be women, to assist him in taking decision in home verification and rehabilitation of the rescued person. It would be better that the Magistrate is provided with a list of NGOs who are working in the field so that their services can be utilized at the appropriate time. This section also gives a legal right to NGOs to be part of the justice delivery process and an opportunity to ensure that the processes conform to the principles of human rights and the decisions are in the best interest of the rescued person.

### **Can a Witness refuse to Cooperate with Police in Search and Rescue**

As per S.15 (3) ITPA, any person who, without reasonable cause, refuses or neglects, to attend and witness a search when called upon to do so by an order in writing, delivered or tendered to him, shall be deemed to have committed an offence u/s 187 IPC. Though, it is a non-cognizable and bailable offence, it entails punishment upto 6 months imprisonment and fine.

### **How to Carry out Home Verification of the Rescued Persons**

As per the mandatory requirements u/s 17(2) ITPA, Home

verification of the rescued person needs to be carried out. The points of verification include the correctness of age, character and antecedents, the suitability of the parents/ guardian/ husband for taking charge of the person, the nature of the influence which the condition in the home is likely to have on the person if she is sent home, the personality of the person and the prospects of rehabilitation u/s 17(5) ITPA.

Since the task of verification can be entrusted to NGO's, the law enforcement officials need to network with appropriate NGO's and bring to the notice of the Magistrate the name, address and other details of the NGO's. Once the task is assigned to the NGO's, it needs to be facilitated and followed up so that the verification is expedited. Objectivity is called for in the process of verification.

The verifying authority should consult the victim, her well-wishers, friends, parents, guardians, neighbours and all persons who can share information. There are instances where the guardians themselves have indulged in trafficking. Therefore extreme care is called for in arriving at conclusions.

### **Protection and Safety for Police Officers and NGOs Against Litigation**

S. 15(6) ITPA provides a safety clause for bonafide work. The authorized police officer, the witnesses, and the NGOs who take part, attend, or witness a search shall not be liable to any litigation, civil or criminal proceedings, against them for any bonafide work in connection with or for purposes of the search being carried out u/s 15 ITPA.

### **POLICE RESPONSE TO TRAFFICKING IN WOMEN AND CHILDREN: DOS AND DON'TS**

#### **RESCUE: DOS AND DON'TS**

- Special police officer can search without warrant u/s 15 ITPA and carry out rescue. Therefore the SPO is free to act on his own and promptly.
- The Magistrate can authorize any police officer u/s 16



ITPA to rescue anybody any time. If SPO has not been notified, the available police officer should feel empowered under this provision. He/she should go to the Magistrate, get orders and then move for rescue.

- Do not delay rescue at any cost. Delay denies justice delivery and also exacerbates exploitation. Do gather intelligence and act in time.
- Information source for rescue could be anybody, although NGOs play a significant role.
- Magistrate can take cognizance of report by anybody including NGO.
- Magistrate can be anybody from the categories of JM/ MM/SDM/DM having jurisdiction over the area.
- The search/ rescue party should have two women police officers as required u/s 15(6A). Maintain a list of WPOs residing in the jurisdiction of the PS, neighbouring PS and other nearby locations. If there is shortage of WPO, get retired WPO notified as SPO u/s 13 (2 A) ITPA.
- Two respectable persons are required as witnesses during search and one of them shall be a women u/s 15(2) ITPA. Utilize the services of local NGO's. Do network with NGO's in the area.
- Interview of rescued person should be done only in presence of or by WPO or woman from an NGO, as per Section u/s 15 (6A) ITPA. Maintain list of NGO's in the P.S.
- Rescued persons are to be produced before the Magistrate forthwith.
- Keep the victims segregated from the accused and suspects, so that they do not intimidate or violate the rights of the victims.
- Rights of rescued persons are to be ensured during rescue and post rescue situations.

*This includes the following:*

- Facilitate the rescued person to carry along with her all her possessions like clothes, money, jewellery, etc.

- If the rescued person has children, they should be allowed to accompany her. Extra care should be taken to see that the children are not left behind in the brothel.
- One should be careful in the use of language/ gestures/demeanors. They should not be abusive or intimidating and should no way violate her rights.
- Avoid publicity of the victims so that anonymity is maintained.
- Carry out a brief interview of the victims at the place of rescue to know their age and to locate their assets and possessions. One or two officials should be earmarked exclusively for this purpose.
- Ensure proper handing over of victim's possessions to her at the appropriate place and time.
- Provide counselors for trauma counseling. Keep a list of NGOs and trained counselors who are willing to work in this field.
- Legal counseling be provided to the victim. Keep a list of lawyers willing to work for the victims.
- Immediate medical relief be provided. Medical relief should include mental health as well. As per s.15(5A) ITPA, the Magistrate has to order medical examination for:
  - a. Age determination.
  - b. Injuries.
  - c. Sexual assault.
  - d. Presence of STD.
- Children are to be dealt under JJ Act. Therefore while rescue is going on, please do segregate the children from the adult victims and proceed with them under JJ Act. They are children in need of care and attention and, therefore, are to be handled by the Child Welfare Committee set up under the JJ Act.
- The police officers need to know before hand as to where the Rescue Home is available. If there is a need

for such Homes, it should be taken up with the concerned authorities. Of late many NGO's have set up such Homes. Keep a list of their address, telephone, contact person, etc.

- As and when the rescue is done, please notify the authorities of the concerned Home regarding the number of persons going to be lodged so that they could be prepared to receive them and organize themselves.
- Rescue Party should have adequate number of vehicles so that the rescued persons could be transported without publicity and glare. Accused and suspected persons should never be allowed to mix up with the rescued persons.
- Search and seizure of all material evidence, including documents in the brothel, is an important job. This should be done at the first available opportunity so that evidence is not destroyed or made to disappear by anybody, especially the exploiters.
- Training of police officials on victim protocols is a pre-requirement to see that they are aware and sensitized to the issues concerned.
- Ensure accountability of all the officials taking part in the rescue. Brief them well in advance on all the points and ensure compliance. Accountability demands appreciation of good work as well as condemnation of all wrong-doings, including acts of omission and commission. Utilize the services of reputed NGOs, as independent agency, to understand and assess how things are and were during the search so that appropriate steps could be taken accordingly.

### **POST RESCUE: DOS AND DON'TS**

- Interview the rescued persons to know about their personal details like age, nativity, health status, family history, etc and also to identify their best interests so that actions can be oriented accordingly. Interview is essential in the investigative process to identify the

traffickers and other exploiters so that they can be brought to book. NGOs and trained counselors are useful in de-traumatizing the person and helping in ice breaking so that the police officials can carry on with the interview. Interview must be carried out by a female police officer or in the presence of a female NGO worker as mandated u/s 15(6A) ITPA.

- There can be one or more statements u/s 161 and 164 CrPC. Hence do record statements as the story unfolds and when the victim is comfortable to speak, especially after counselling.
- Do not delay production of the rescued persons before the Magistrate.
- SPO can produce the rescued person before any Magistrate.
- Intermediate custody can be obtained for a period not exceeding 10 days by which time the person has to be produced before the appropriate Magistrate.
- Rescued children should be produced before the Child Welfare Committee constituted under the JJ Act.
- During the pendency of verification the person can be kept in a recognized rehab institution after obtaining orders from the Magistrate concerned.
- Home verification is to be done by Probationary Officer, who can utilize services of NGOs.
- Suitability of the rehabilitation home should be verified before the person is lodged.
- Magistrate may utilize the services of five NGOs for home verification and also consult with them in the process of decision making u/s 17(5) ITPA.
- For trauma counseling of victims, it is ideal to utilize the services of NGOs. A list of such volunteers/NGOs, who have specialization in this field, be maintained at the police station. The Family Counseling Centres available at certain police stations in certain states have trained counselors whose services can be utilized.
- For legal counseling, networking with lawyers/NGOs is advisable. A list of willing lawyers should be

maintained at the police station. Contact Bar Council and District Legal Services Authority for the same.

- Medical care and attention should be provided immediately after rescue. Also make arrangements for expert care, if required. Besides specialist doctors in hospitals, Medical Associations can be contacted for such services.
- Network with appropriate agencies for rehabilitative steps.

### **Can an Adult Person be Sent to Protective Custody**

The answer is yes. S. 17 ITPA applies to children and adults. If the inquiry reveals that the person, irrespective of age, is in need of care and attention, the Magistrate, as provided u/s 17(4) ITPA, should direct protective custody in a protective home.

### **REGISTERING THE CRIME (FIR) AT THE POLICE STATION (PS): DOS AND DON'TS**

- There should not be any delay in registering FIR.
- The FIR has to be on the statement of the complainant. The statement cannot be altered or amended by the police. If the complainant is the victim herself, she may be traumatized and, therefore, may not be able to recall the events which constitute specific offences. The police officer can help her to recall such events. Even otherwise, the statement of the victim u/s 161 or 164 CrPC, recorded in due course, should bring in all details, including those which have been missed out in the FIR.
- Anybody can be the complainant. If nobody comes forth, the police official should be the complainant.
- Jurisdiction of the PS need not be disputed. As trafficking is a continuing offence, the FIR can be lodged at the source or destination. Both courts have jurisdiction. This has been specifically provided u/s 5(3) ITPA. However if two or more FIRs are lodged at different PS on the same issue, the police officials can consult each other and transfer the evidence and case

documents to one of the PS, who can follow it up thereafter.

- The copy of the FIR has to be given free of cost to the complainant.
- Female witnesses/victims are to be interviewed at the place of their choice. Police should go to them for the interview, and not vice versa.
- No female witness should be summoned to the police station after sunset.
- Do not deny the right of the victim/complainant to know the progress of information.
- Do maintain proper and regular contact with the victim and her well wishers, including the NGO who is attending to her.
- FIR is the first document in the process of justice delivery. The steps that follow are mostly dependent on the FIR. Distorted FIR where the victim has been shown as accused entails further violations and harm to the victim. Therefore, victim must be projected as victim and this be done loud and clear from the FIR onwards.
- Do register cases under the relevant provisions of ITPA and other laws which are applicable, viz IPC, special legislations like Bonded Labour System Act, 1976, Child Labour Act 1986, Children Act 1933, Maharashtra Control of Organised Crime Act 1999 etc.
- All cases of trafficking be treated as 'Grave Crimes' or 'Special Report' Crimes and be investigated and supervised by senior police officials, specially those who are sensitized and trained for the same. The SP/DCP can take initiative in this.
- Do understand the abuser-abused dynamics involved. All steps should be oriented accordingly.

## **INVESTIGATION OF TRAFFICKING CRIMES: DOS AND DON'TS**

### **Salient Features**

- Distinguish victim from the suspect/accused by a

process of intelligence collection and interviewing. Do not treat victims as suspects or accused.

- While ensuring that the rights of accused are protected, do not forget to ensure that the victim's rights are ensured.

*This includes the following:*

- Do not allow suspects and accused to mix up with victims.
- Do not intimidate or abuse victims by words/action/gesture/demeanor.
- No publicity should be allowed. Ensure anonymity.
- Support the victim. Validate the harm done to her. Make her feel and realize that she is a victim, that she has been harmed and that she is never at fault.
- Empower the victims. Make them aware of their rights so that they can also ensure that their rights are not violated further.
- See that the victim gets possession of all her belongings, assets, etc and without any delay.
- See that the children of the victims are provided due care and attention and are not separated from the mother, if they were living together before rescue.
- Help the victim to get all her dues and rightful claims, as most brothel keepers are reluctant to part with her earnings.
- Ensure physical safety of victims during rescue and post-rescue transfers and movements.
- Get the medical examination of the victim done without delay. Utilize the services of female doctors/para medical staff, as far as possible. Do provide lady constables to accompany the victim. Age verification is also a part of the medical exam. If any malafide is suspected, especially with reference to age assessment, do get the matter referred to a Medical Board after obtaining orders of the competent judicial authority.

- Utilize the services of female social workers/NGOs in these activities. Do get them notified in the Advisory Body as envisaged u/s 13(3) (b) ITPA. Even if they are not notified, nothing stops the police in associating them in their activities.
- Considering the social stigma attached to prostitution, there is a tendency to look down upon trafficked persons by branding them as 'prostitutes'. This should be condemned and not allowed to happen, as the victim of trafficking is neither accused, accomplice nor abettor. The victim's status should be maintained and ensured all through. All protection and care be extended for the same.
- The process of investigation should not be intimidatory or violative of victim's rights. For example, avoid repeated interviewing by several levels of police officers as the victim is made to recall and relive the trauma repeatedly.
- If the statement of the victim is to be recorded u/s 164 CrPC, do it at the earliest so that restoration/repatriation is not held up. Additional statements u/s 161 and 164 CrPC are possible, hence do not hurry to close down, especially when the victim is still in trauma.
- Investigation be based on a plan of action which is to be drawn up, keeping the victim's rights in focus.
- Dissect the law and list out the elements of the offence. Thereafter attempt to check out the contents of each of these elements. Carry out investigation into each element so that none of the elements is missed out. The evidence be marshaled element-wise so that the presentation is cogent and convincing. The elements vary with the offence alleged, though there are certain common points in all the offences. A check list will ensure that no aspect is omitted.

### **Scene of Crime Investigation: Dos and Don'ts**

The investigating officer should see that the investigation



is not perfunctory or superficial. Usually the SOC is perceived to be a room in a brothel. This is incorrect. The scene of crime extends to the place from where the person was trafficked, the places where she was taken to, the transit places, the final destination where she was exploited, etc.

*Therefore the SOC should include:*

- The source point.
- The trafficking routes.
- The transit points.
- The destination point.
- The points of exploitation.
- The places where the 'products' of exploitation were transferred to.
  - A trafficking map should be developed and kept as part of the case diary. The map should link up the source-transit-demand places.
  - *Documents at the SOC:* Investigation should be caused into the records maintained in the various SOC. Role of the various exploiters whose names may find mention in the register are to be investigated and evidence extracted against them. These documents have tremendous value, informatory and evidentiary, if investigated properly.
  - *Photograph/video graph of the SOC:* Electronic documents can make a visible impact of the extent and intensity of exploitation and therefore, are advisable. Care should be taken to see that the photographs and videographs do not violate the rights of the victims.

### **Identification and Arrest Of Offenders: Dos and Don'ts**

Investigation should bring to book all the exploiters. Their roles are linked and, therefore, sustained investigation will open up the linkages one by one and will bring out the role of each. Do use the 'organized crime approach' and investigate into the cross linkages of crimes in the past and elsewhere. It is a real challenge for investigators to dig out evidence, present

them in the charge sheet and get them convicted in the court of law. Conviction, no doubt, is the true test of professional investigation. In this context, the following are the dos and don'ts.

*Who are the exploiters who should be investigated:*

- The traffickers.
- The transporters.
- The conspirators.
- The abettors.
- The financiers.
- The abusers.

These are only some examples of the many exploiters involved. As and when investigation unfolds, further linkages of these persons and many others will also come up. The task of the investigator is to go into the depth of the case, covering all aspects and to dig out the evidence.

*This calls for the following efforts:*

- *Search of SOC:* The scene of crime provides a lot of evidence for a discerning eye. Search should be systematic and scientific. Secure the place beforehand to avoid disturbance. The victim can lead the IO to the various locations especially the places where trafficked persons are kept hidden. Chain of custody has to be ensured while seizing, labeling and transporting.
- *Linking up role of suspects:* Statement of victim and other witnesses are to be recorded in detail to link up the role of the various suspects involved in the entire process of trafficking and exploitation. Record the statement in the language in which the person speaks. Do not miss the emotions, feelings and other expressions conveyed by the person.
- *Medical examination of the suspects be carried out at the earliest:* In a crime where the accused has been caught in a compromising position, the medical examination can reveal the level of exploitation. Medical examination should be followed by other scientific examination such as forensic examination of the materials recovered from the SOC.

- *Interview of the suspects:* Interviewing helps to identify the suspects' background, and to understand the strengths and weaknesses of the person, which can be utilized to develop themes during interrogation. Interrogation should be scientific to lead the accused through the various events. As per the Indian Evidence Act confession before police officer is not admissible in the court of law unless it leads to a recovery. Therefore IO should strive for recoveries and discoveries during interrogation. However admission and confession of accused before police do provide a lot of inputs for further investigation. The alibi of the accused should be further verified and, if found wrong, should be negated by facts. Evidence to rebut the same, including oral statement of witnesses, should be incorporated in the case diary.
- Interrogation of suspects should be in detail, with an aim to bring out the role of other suspects, the extent of the crime, involvement in other crimes, the various dimensions of not only the process of trafficking, but also the exploitation, the money generated, the expenditure, the assets created and the investments made etc. All these should be brought on record so that in the event of conviction, these illegal assets could be forfeited and confiscated. Therefore, the IO should question the suspect on all dimensions of the crime.
- Arrest of offenders should be done at the appropriate time. There is no point in rushing to arrest, as it will delimit the time available for filing a charge sheet. As per S. 167 CrPC, if the charge sheet is not filed within 60 days of arrest, the arrestee will be bailed out. It is worth mentioning here that in most of the cases, CBI carries out arrest only at the end of the investigation. If the evidence could be adequately built up and marshaled before arrest, it would be useful for opposing his bail in the court of law. However, in certain situations, arrest has to be done without any delay.

Under ITPA, even attempt for trafficking is an offence. Therefore the IO has a long list of persons who can be brought into the trafficking net. Anybody who is involved in any act, even partly, or contributes to, or leads to the process of trafficking, should be investigated and brought on record. The offender's intention and knowledge are two relevant aspects to establish the offence. Even if the person had no intention, but had the knowledge that the act indulged in by him contributes to trafficking, it would suffice to bring him under the realm of offender. Therefore investigators should probe not only into the acts of omissions and commissions by the suspects but also into the frame of mind behind such acts.

### **Arrest of Accused: The Legal Provisions in ITPA**

- The cognizable offences are S.3, 4, 5, 6, 7, 8 and 9 ITPA. Utilize appropriate sections of ITPA and also IPC as well as other laws which are attracted. Graver sections of law will act against easy bail. Invoke the provisions of special laws wherever applicable.
- A notified SPO is fully empowered to arrest without warrant (u/s 14(i) ITPA).
- SPO can authorize and order any police officer in writing for arrest (u/s 14(ii) ITPA).
- SPO can authorize any police officer u/s 14(iii), even without a written approval, in case of urgency if:
  - The accused is likely to escape.
  - The identity of the accused is suspect.
- The grounds for authorization should be specifically recorded in police documents.
- The authorization should be by name and not a general authorization.
- Authorization for arrest is distinct from authorization for investigation.
- Only the competent and notified official can take up the investigation of the crime. Technical errors often lead to discharge of the case in the court.
- The arrest of the accused is guided by the provisions of CrPC and Evidence Act, as it applies to any other offence.

## **Mapping the Harm Done to the Victims**

This is an area usually neglected in the present day investigation process. Do map and document the entire harm and damage done to the victims. This includes.

- Injuries of physical assault.
- Injuries of rape and other sexual assaults.
- Injuries consequential to the various act of exploitation.
- Injuries consequential to the denial of medical care and attention.
- The medical status including STD, HIV etc..
- The psychological harm not only due to exploitation, intimidation, and denial of privacy and dignity but also as a result of neglect of oneself, one's children, and abuse of children).
- Physical and mental harm to the children of the victim, especially those who are staying with them.

The mapping of harm could be professionally done with the expert assistance of doctors, forensic experts, psychiatrists, and psycho-social experts. However, documenting the victim's own experience and the observation of the NGOs, counselors, etc associated with the victim are also relevant. They should be well recorded and presented in the case records.

Record the statement in the language spoken to by the victim. Do not ignore the emotions, the feelings, etc conveyed by the victim. Do document them all. As regards child victims, their own version of the events be appropriately recorded without editing the language and content.

## **Mapping the Exploiter's Profit**

This is another investigative component, usually neglected. In cases of trafficking, the exploiters gain monetarily and otherwise, while the victim continues to be harmed and exploited. Additionally younger the girl, higher the level of exploitation and, consequentially, more 'earning' for the exploiter. The NHRC study has brought out the unbelievably high profits that the traffickers and other exploiters have made at low or no cost to themselves. Therefore it is essential to map

these assets and take appropriate action to prevent and combat trafficking.

*The following are the dos and don'ts in this context:*

- Investigate into and bring on record all assets, incomes, earnings, profits and expenditures related to trafficking.
- Establish the linkage of the crime of trafficking to the “fruits of crime” through documentary and oral evidence.
- Collect intelligence regarding these aspects from the trafficked victims, their parents/wards, etc through careful interviewing.
- Conduct sustained interrogation of the accused and suspects to bring out the details of profit, places of deposit, utilization of money/assets, etc.
- Investigate into the assets and profits of the traffickers to expose the linkages with other exploiters and profiteers. This will also bring to focus the gravity and extent of the exploitation.
- The case diary should specifically list out the details of investigation in this regard and should invite the attention of the court during trial so that in the event of conviction, the court could be moved to attach and confiscate the properties.

### **Interviewing Victims: Dos and Don'ts**

- Female victims should be interviewed by WPO. If WPO is not available, involve women NGO's or counselors during interview.
- Ensure that the accused/suspected offenders are nowhere in the vicinity.
- Conduct the interview at a place where she is comfortable. It should be a place of her choice.
- Keep the ambience child friendly, if the victim is a child.
- Do associate the person whom she is comfortable with. A 'child minder', a counselor etc would be appropriate.

- Avoid onlookers, interventions and interruptions during interview.
- Include psychiatrists and forensic experts, as and when required.
- Avoid repeated interviews, unless essential. Senior officers and supervisory officers should ensure that they participate in the interview alongwith the IO. Repeated interviews be avoided so that the victim does not have to relive the trauma.
- Effort should be made to help the victim come out of trauma so that she is able to recall events properly, logically and fully.
- Support the victim. Validate the harm done to her. She should be made to feel and realise that she is a victim, that she has been harmed and that she is never at fault.
- Listen to the victim carefully and empathetically. Do understand her from her perspective. A child victim may not know the adult language and terminology. I.O has to go to her level of understanding.
- Avoid making value judgements, comments and criticisms.
- Remember that the victim is the best witness to speak about all aspects of trafficking and exploitation. Therefore her statement should be logical, detailed and should incorporate all aspects of the trafficking process, such as the exploitation, the role of various persons involved and the entire chain of events.
- Prepare a check list of events, facts and themes on which the victim needs to be interviewed. As the interview progresses, new events, facts and themes will emerge and the interview has to be logically oriented to bring out all the relevant details.
- Interviewing of victims must be carried out with care and caution. See that the investigative processes do not traumatize her any further. It is essential to adopt sensitive techniques to help the victim recall all the facts which are of evidentiary value. The victim may

not know about the significance of these facts, whereas the police officers ought to know. The interview processes should be done keeping in mind her best interest and not anybody else's.

- With the victim's informed consent, electronic documentation of the recording of the statement can be arranged which can be eventually used in the court of law. However, every effort should be made to protect her anonymity.
- Facilitate the victim to ask questions and raise doubts. It will open up the conversation.
- Record statement in the victim's language. Translation can be done later. Do not forget to include the emotional content and body language as displayed during the interview.
- The police officer recording statement should sign and record his full name, designation and address.
- There should be no publicity of the victim and her statements. Ensure anonymity at all occasions, including the period of transfer to court and back.
- If re-examination is required, do seek her consent and convenience.
- Do not delay in recording the statement of the victim u/s 161 and 164 CrPC as it would delay restoration/repatriation. However one should not be in an unusual hurry. There is no bar in having additional statements recorded, as and when the victim desires to speak.
- Provide proper escort by WPO at all places of stay and movement.
- Do look after victim's comforts. Ensure that there is place of rest, easement, etc. Provide food, water, tea, etc. as and when required. Child victims need special attention regarding choice of food.
- Ensure that the actions taken by police are in the best interest of the victim. The thumb rule for decision making should be "victim's best interest".
- Do not forget to thank the victim after interview.



### **Medical Care and Attention of Victims: Dos and Don'ts**

- All examinations should be done by a female doctor. If no female doctor is available, do associate other female persons like nurses/counselors/NGO workers during medical examination.
- Male police officers and attendants should keep away, if female officials are available.
- The doctor should do a mapping of not only physical injuries but also the psychological harm. If required associate a psychiatrist.
- Medical exhibits should be carefully preserved and the chain of custody be ensured.
- Do not delay medical attention. Timely care helps to de-stress and detraumatise the victim.

### **Psychosocial care of victim: Dos and Don'ts**

Mental health care is an area often neglected by the police and other after-care agencies, despite its crucial role in victim care and rehabilitation. Do associate appropriate government/non-governmental agencies to attend to this issue. As an untrained counselor can cause further damage and trauma to the victim, it is very important to associate a trained and qualified expert, from the very beginning itself. Trauma counseling should be ensured even at the home/lodging house. This should be a continuous process as the victim will take time to get over the trauma.

Moreover the counselor/psychiatrist will be an important witness in the court of law. Hence he/she should be cited as an expert witness in the charge sheet filed against the accused persons. There are many strategies available for psychosocial counseling. However the focus should be to empower the victim. Therefore it needs to be ensured that all steps and initiatives are Rights-based and are in the best interest of the victim.

### **Age Verification/Assessment**

The Magistrate, before whom the rescued person is produced, shall u/s 17(2) ITPA, cause verification of the age

of the person. Age is crucial in deciding on the application of IPC Sections like 372, 323, 375, 366 A, 366 B etc and that of JJ Act. If the person is less than 18 years of age, JJ Act comes into effect and the Magistrate should refer the person to the appropriate authority, ie, the CWC. Therefore, correct assessment of age of the rescued person is an important step. Though u/s 49 JJ Act the competent authority is authorized to take steps in determining the age, in practice, it is left to the rescuing officials to take a prima facie decision as to whether the rescued person is an adult or a child. The following are the dos/don'ts in this regard.

- Presumption of age, at first sight, be drawn in favour of the rescued person.
- Interview the person to arrive at objective yardsticks, like date of birth in school records etc. There are several events in the life of a person which can reveal her age.
- Associate social workers, CWC members etc, in assisting the police official in age determination.
- Do not go by the age spoken to by the brothel 'madam' or the exploiters. They will confuse.
- The victim may be under pressure by the exploiters to speak out wrong age. Careful interviewing of the victim can bring out the truth.
- Age verification by the medical/professionals and forensic experts involve ossification test and other parameters. Do involve these professionals as early as possible.
- If the expert is not able to categorically state the exact age, but opines it to be falling under a range the benefit of doubt should go to the person.

### **Investigating the Organized Crime of Trafficking**

Trafficking is an organized crime. Therefore all principles of investigating other organized crimes should be invoked into the investigation of trafficking.

*In this context, the following are important:*

- Intelligence on traffickers and exploiters in one case

of trafficking can be appropriate inputs for investigating another crime of trafficking. One case can lead to another. Therefore, such intelligence should be shared at once with all concerned and, as far as possible, documented.

- Data base on traffickers, and exploiters, including their modus operandi, origin, place of activity, movements and influence, the communication linkages, the income generated, transmitted, invested etc, the expenditure patterns, the operational linkages among the exploiters, the linkage between the source area the transit area and the demand area etc., be developed.
- Searches conducted earlier at the scene of crime, documents in this regard including police documents and even media reports are relevant not only as evidence but also as clues for investigation into the organized linkages.
- In case of inter district crime, the SSP should take initiative for follow up. In case of inter state crimes, the police managers and CID wing should take initiative to provide support to the investigators. Nothing legally stops an IO to investigate anywhere in India.
- Involve NGOs for intelligence collection. As of today, NGO networks like ATSEC, CBATN, SAPAT etc have developed net works across the boundaries and do have intelligence sharing on trans-border traffickers. Their services could be effectively utilized by the Law Enforcement Agencies. Nothing prevents the Law Enforcement officials from associating competent NGOs.
- Recording of statements of witnesses: Do get the witness statements, especially the important ones, recorded and/or video-recorded by a Magistrate u/s 164 CrPC, so that do not turn hostile. If they do so, it would invite prosecution for perjury.

In case of a transnational crime like AHT, investigations may have to be caused abroad. For legal and officials transfer

of evidence, Letters Rogatory are to be prepared, sent and followed up. Electronic documentation of the material exhibits will be of immense help in transfer of evidence in such crimes. However, the services of NGO networks having linkages across the borders could be utilized for collection and collation of information which can, if required as legal evidence, be brought over through official channels, by sending LR.

### **PROSECUTION OF TRAFFICKING CRIMES: DOS AND DON'TS**

#### **EXPEDITING TRIAL**

- Ensure timely intimation to witnesses and facilitate their appearance in the court. Delayed trials are mostly due to non-appearance of witnesses.
- Witness care requires that transport and other contingencies are taken care of.
- Provide protection to the witnesses against undue publicity.
- To encourage experts to appear in the court as witnesses, it is essential to maintain their address, contact telephones, e-mail and networking. Maintaining regular personal contacts is advisable.
- Police officials who are witnesses do get transferred out. Therefore, keep an update of their addresses and contact numbers.
- Ensure liaison with the prosecutors and court staff for timely redressal of the problems and issues which come up in trial.
- Liaison between the Presiding Officer of the court, the Prosecutor and the Police official concerned is a *singua-non* for removing all bottlenecks and ensuring early and prompt delivery of justice. Prosecutor is the officer of the court and, therefore should take initiative in ensuring this liaison.
- Prosecutor has a large role to play in the delivery of justice by bringing to the notice of the court any major flaw or deficiency in investigation. This would

facilitate the court to take an appropriate decision whether to proceed further or to refer the case back to police for further/fresh investigation or draw the attention of senior police officers/or refer the case to specialized agency like CID etc for investigation.

- S.22 ITPA provides for special courts to be constituted by the State Government or the Central Government. Prosecutor should take initiative in this direction as this is an important step in delivering justice expeditiously.
- Ensure that all facts are brought to the notice of the court. " It is as much duty of the prosecutor as of the court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice".

### **VICTIM AND WITNESS CARE AND PROTECTION DURING TRIAL: DOS AND DON'TS**

- Victims are wary of the court ambience. Do orient and counsel them. Assure them that their rights will not be violated and that their truthful version of all facts is essential for delivery of justice which is in their interest and also in the larger public interest.
- Victims require briefing on the facts of the case, especially to recall the events in a logical way. This should be done before she is put in the witness box.
- Prosecutors ought to ensure that the defence-side does not violate the rights of the victim. Embarrassing questions need to be avoided. Intervention of the court should be sought immediately to prevent any such violations.
- All efforts should be made to ensure the anonymity of the victim. Anonymity provides strength and confidence to the victim.
- Move the court for allowing in-camera trial. The Supreme Court of India has directed that in-camera trial should be extended to all cases of sexual assault on children. A screen has to be provided in the trial

court so that the child victim is not exposed to the suspect and accused persons. A child counselor should be provided to assist in the court. Adequate recess should be allowed during trial proceeding so that the child victim gets rest. This is a landmark judgement in ensuring child rights and, therefore, needs to be implemented in letter and spirit. The police and prosecutors should move the trial courts for the same. \_ Video conferencing is an ideal mechanism to prevent victimization of the trafficked victim. It should be done whenever possible. The Supreme Court, in its landmark decision, in State of Maharashtra vs Dr. Praful B. Desai 2003 (4) SCC 601, has underscored the validity of video conferencing and enumerated the safeguards to be ensured during the trial of cases.

- *Victim care and protection also requires the following:*
  - Depute a sensitive liaison officer with the victim, preferably a WPO.
  - Brief the victim on the facts of the case before trial starts.
  - Orient the victim to the court scenes before the trial.
  - Debrief the victim immediately thereafter.
  - Follow up on the debriefing and make required amendments.
  - If the victim speaks a different language, make arrangements for appropriate translators.
  - Ensure transportation of the victim to and fro.
  - Provide for contingency expenditures. Court has funds for this. In some states like Tamil Nadu, Government has provided special funds for this work.
  - Take care to return the victim to the concerned destination.
  - Do look after other logistics and contingencies such as providing facility for rest, easement, etc.
  - Do not forget to thank the victim/witnesses and all those who assisted in getting the victim to the court. Do ensure their safe and comfortable return.

- Post Conviction Matters requires special attention by the prosecutor. This includes the following major steps:
- Seeking enhanced punishment for repeated offences/offenders.
- Moving the court to impose fine alongwith punishment.
- Seeking compensation for the victim from the offender.
- Seeking compensation from the state.
- Taking steps for closure and eviction of brothels u/s 18 ITPA.
- Taking steps for surveillance of convicted person.
- Initiating steps for externment of the convicted person.

## **VICTIM/ WITNESS PROTECTION SYSTEMS**

There are several constitutional, legal and administrative provisions in India for ensuring the rights and protection of witness/victim.

- Right to anonymity is a legal right.
- In camera trial, u/s 327 CrPC is essential in rape crimes. The provisions of in camera trial have been extended to all crimes of sexual assault against children. Therefore in camera trial should be invoked in all crimes of trafficking of children for CSE.
- Video Conference is allowed in the trial of crimes. This ensures not only anonymity but also protection to the victims and witnesses.
- Provision of free atmosphere: In *Sakshi vs UOI*, it was held that “the whole inquiry before a court is to elicit the truth. It is absolutely necessary that the victim or the witnesses are able to depose about the entire incident in a free atmosphere without any embarrassment. A screen or some such arrangements be made where the victim or witnesses do not have to undergo the trauma of seeing the body or the face of the accused”.
- Recess during court proceedings: In *Sakshi vs UOI* the

Supreme Court directed that whenever a child or a victim of rape is required to give testimony, sufficient breaks should be given as and when required.

- Legal representation is a legal right. In *Delhi Domestic Working Womens Forum vs UOI*, 1995 (1) SCC 14.) The requirement of legal representation and counseling has been extended to the victim right from the Police Station itself.
- Victim can have Private Lawyers who can assist the Public Prosecutor and even submit written arguments, nevertheless functioning under the public prosecutor, vide Section 301(2) CrPC.
- Victim is never an accomplice.
- Right of accused to cross examine the victim/witness, though a legal right, is restricted by *Sakshi* judgment, in such a way that in a case of sexual assault of children, the defence cannot question the victim directly, but has to furnish the questions to the court and the court will, in turn, communicate it to the victim.
- Compensation is an entitlement of the victim for injury/loss, u/s 357 CrPC.
- Compensation can be awarded to the victim from the convicted person even if there was no fine as part of the sentence.
- Compensation can be awarded to the victim even without conviction and even during pendency of trial.
- Age assessment of the victim should be done, when in doubt, in favour of the victim. In *State of Karnataka vs Majamma*, it was held that even if the prosecution has not proved that the girl was less than 16 years, her own statement should be trusted and accepted.
- Delay in reporting of the case will not affect the case if reasonable explanation is given/brought out during investigation.
- *Defective Investigation*: Flawed investigation is no ground to deny justice to the victim. "It would not be right to acquit an accused person solely on account of defect; to do so would tantamount to playing into the



hands of the investigating officer if the investigation is designedly defective”.

- *Prosecutrix need not be examined:* in State of Himachal Pradesh vs Mohan Misra, 1995 CrLJ 3845, the Supreme Court held that “merely because the victim girl is not examined, this can never be a ground to acquit an accused if there is evidence otherwise available proving the criminal act of the accused.
- Character and antecedents of the victim has no bearing or relevance and can never serve either as mitigating or extenuating circumstance. No stigma should be implied against the victim/witness. ‘After all it is the accused and not the victim of sex crime who is on trial in the court’.
- *On reliability:* The evidence of a victim of sexual offence is entitled to a great weight, absence of corroboration notwithstanding The rule of prudence that the evidence of a victim of sexual assault must be corroborated in material particulars has no application.
- *On corroboration:* In Punjab vs Gurmeet Singh it was held that the statement of the rape victim who was between 15-17 years, inspired confidence for acceptance and, therefore corroboration of evidence was not needed. Held that there is no legal compulsion to look for corroboration of the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. There is no rule of practice that there must in every case be corroboration before a conviction can be allowed to take place.
- *On discrepancy in the statement of victim/witness:* In cases involving sexual assault minor contradictions or insignificant discrepancies in the statement of the witnesses should not affect the case. It was held that the court must appreciate the evidence in totality of the background of the entire case and not in isolation.
- *On medical report:* In Rampal vs State of Haryana,

1994 Supp(3) SCC 656, conviction was based on the sole testimony of the prosecutrix. Though the doctor did not find any visible injuries, the court held that, there was no reason to suspect the testimony of the victim and upheld the conviction of the accused.

- Expeditious trial is an essential ingredient of reasonable, fair and just procedure guaranteed by Article 21. It is the constitutional obligation of the state to devise such a procedure as would ensure speedy trial.
- Courts need to take participative role to deliver justice to victim. "The Courts have to take a participative role in a trial. They are not expected to be tape recorders to record whatever is being stated by the witnesses. S.311 of CrPC and S.165 of Ev. Act confer wide and vast powers on presiding officers of Court to elicit all necessary materials by playing an active role in the evidence collecting process".
- *Witnesses to turn up in trial*: In order to ensure fair trial, a duty has been cast on the prosecution to produce witnesses on time. "The presence of the Investigating Officer at the time of the trial is must. It is his duty to keep the witness present. If there is a failure on the part of the witness to remain present, it is the duty of the court to take appropriate action".
- *Right to be rescued*: Section 16 ITPA provides powers to Executive Magistrates and Judicial Magistrates for directing any police officer of the rank of SI and above to rescue a person based on information received from any source. This accrues a right to the victim to notify the Magistrate, by whichever means possible, and a duty is cast on the Magistrate to ensure steps for rescue.
- *Right to restoration to a safe place after rescue*: Section 17 ITPA provides that a rescued person shall not be restored to or placed in the custody of a person who may exercise a harmful influence over the person. This section of law calls for Home verification to verify

whether the original home of the rescued person is safe enough for her return.

## **ROLE OF PROSECUTOR IN PREVENTION OF TRAFFICKING**

The prosecutor has a large role to play in preventing trafficking.

- If the trafficker is convicted and kept behind bars, as a corollary, the trafficker is being deprived from indulging in trafficking. Therefore, by aggressive law enforcement, prosecutors can ensure prevention of trafficking.
- If the post conviction measures are taken properly against the trafficker and other exploiters, it will make a tremendous impact in preventing trafficking.
- Eviction of brothels and such other places of commercial sexual exploitation carried out effectively, is another method of preventing trafficking. Prosecutor should take initiative u/s 18 ITPA.
- Post rescue care and attention of victims and survivors, if carried out properly, in such a way that they are rehabilitated just as to their best interest, would mean prevention of re-trafficking. Prosecutors can play a role in such post rescue activities by involving the government department or the civil society either directly or by taking up with the concerned Magistrate depending on the issues concerned and getting an appropriate direction issued by the Magistrate to the concerned government agency/NGO.

## **PREVENTION OF TRAFFICKING: DO'S AND DON'TS**

Prevention is the sumum bonum of all activities that one can do to address trafficking. It includes prevention of re-trafficking too.

- Law enforcement processes should be integrated and comprehensive. There should be a combination of

steps for Prosecution, alongwith Protection and Prevention. An integrated P-P-P model is essential. Adequate attention should be paid to all the three legs and the efforts should be dove-tailed.

- Prevention of trafficking requires attention at all the scenes of crime. They can be classified into three:
  - Prevention at the demand point: This requires proper investigation, prosecution, conviction, addressing the demand effectively and all post conviction measures. This also involves proper care and protection of victims to ensure prevention of re-trafficking.
  - *Prevention at the transit area*: Trafficking when carried out from one place to another involves transit places. The major hub of such transit are railway junctions, bus stops, ports, border entry posts etc. 'Rights intervention centre' started by the NGO 'SEWA' of Gorakhpur at Sanauli, with the partnership of local police, is a classic example of prevention of trafficking. In a span of nine months, 65 girls could be prevented from exploitation, by interception at the transits place. Effective surveillance and watch on suspects at the transit places by deputing spotters in association with NGOs can be a good method. The details of transit routes, mode of transport and the names of persons involved could be gathered on careful interviewing of victims and interrogation of suspects.
  - Prevention at the source point requires several steps, like addressing vulnerabilities, attending to missing persons, networking with the civil society and Panchayati Raj institutions, empowering the vulnerable sections along with other police strategies on prevention.
    - a. Do ensure conviction, punishment and stringent action against traffickers and all exploiters.

- b. Do ensure post conviction steps. This includes closure and eviction of brothels and other places of exploitation, externment of the convicted persons, surveillance and dossiers on convicted and suspected persons, confiscation of illegal assets etc.
- Address the demand factor effectively. This calls for a strategic intervention, depending on the persons who 'demand'.
  - All traffickers and intentional abusers, who are usually called "customers", should be prosecuted and firmly dealt with. Further, all those who perpetuate the demand, including financiers, colluders, conspirators, abettors etc be prosecuted.
  - Adolescents/youths also come in as 'customers' and contribute to the demand. They require a different treatment, as they have the knowledge but may not have the intention to exploit. Advocacy and orientation of such persons, with the help of NGOs, on issues of sexuality, gender, women's rights, child rights, etc. be carried out to address the demand in this sector.
- Protection and care of victims commence with proper rescue processes. Do not criminalize them. FIR should be only against traffickers and abusers, but never against the victims. All further steps in investigation and justice delivery should follow this principle. Simultaneously, do see that the victims are empowered and properly rehabilitated. Often police officials think that they have nothing to do with the rehabilitation of the victims. This is a mistaken notion. Prevention of crime is a mandate to police under the Police Act. To prevent re-trafficking, it is essential to rehabilitate the trafficked victim.
- Preventing re-trafficking The NHRC study has established the fact that a large number of rescued persons are re-trafficked. The reasons are many. Victimization of the victims, arrest of trafficked

persons as accused and their criminalization are some of the reasons. Improper/inadequate rehabilitation/empowerment lead to lack of livelihood options which, in turn, make these persons highly vulnerable and subjects of prey by traffickers.

- Therefore the following can be done to prevent re-trafficking.
  - Provide proper counseling, right-based empowerment and appropriate livelihood options, including adequate resources, skills and marketing facilities, to the rescued persons.
  - Police should network with other departments of government as well as with NGOs and INGOs working in the related fields, in addition to Corporates who would like to be associated, and involve them in the various processes of empowerment.
  - Ensure that the repatriated/ rehabilitated person is reintegrated properly by taking regular feedback.
  - Accountability be cast on the village-level functionaries to monitor the same. Do involve Panchayat Raj Institutions in this task.
  - Do remember that re-trafficking is more often done by known traffickers and their coteries. Hence strict action/surveillance on such persons can be an effective tool to prevent re-trafficking.
- Addressing vulnerable persons/areas is an important strategy in the prevention of trafficking. Police should develop synergy with the concerned governmental and non governmental organizations and undertake the following steps:
  - Identify the vulnerable persons/areas and focus attention on them. Empower them. Let this be a priority.
  - Pay special attention to the most vulnerable persons. This needs to be top priority.
  - Mount surveillance for suspects and look-out for

- victims at possible transit/transfer points like bus stands, railway stations, wayside hotels, beach resorts, etc.
- Facilitate empowerment programmes by networking with government departments, MNCs etc.
  - Involve multiple agencies to provide sustainable livelihood options.
  - Adopt a “Human Rights approach” in all activities and programmes and discard the “welfare act” orientation. This requires change of mind-set. Proactive policing, with the support of NGO’s, can stimulate such a change.
- *Networking with other government agencies:* Partnership with the departments of women and Child Development, Social Welfare, Paramilitary agencies manning the borders, viz., BSF, SSB, ITBP etc is essential, depending on the area of functioning. In fact, it should be a process of mutual assistance. Agencies like BSF should have anti-trafficking cell with its network extending to State Police Systems, Human Rights agencies, NGO’s etc. Similarly police agencies should network with Human Rights Commission, Women Commission etc so that preventive steps could be meaningful, effective and institutionalized.
  - *Networking with Civil Society Members:* Since concerted efforts are called for, the law enforcement officials should develop synergy with NGO’s, CBO’s, Social activists, academia, lawyers etc. Panchayat Raj Institutions can play a large role in identifying and addressing vulnerabilities, keeping surveillance on exploiters and in public awareness/empowerment programmes. Tamil Nadu has developed a good model in this direction.
  - *Issue of Missing Persons:* There is a strong linkage between ‘trafficking’ and ‘missing persons’. The research report of NHRC on trafficking shows that in one year more than 30,000 children are reported

missing and one-third of them remain untraced. This study has established with examples that many of these 'missing children are, in fact, trafficked.

*Hence prevention of trafficking requires the following:*

- Do realise the linkage between 'missing' persons and 'trafficked' persons, because many who are 'reported missing' have been, in fact, trafficked.
- Do cross-check the list of persons rescued from brothels and other places of exploitation with the list of persons reported missing from anywhere in India.
- The linkage will also help to expose the traffickers, trafficking routes and trafficking processes.
- Do follow up missing women and children till a logical conclusion is arrived at. Constitute special teams to go into the root of the issue and ensure rescue/return/recovery of the missing person. Follow-up all the leads in this process to ensure that those responsible for making the person missing are brought to book. Any slight suspicion should immediately be taken cognizance of a proper FIR registered, followed by sustained investigation.
- It is often seen that the trafficked person is blamed 'as if he/she is responsible for being 'missing'. One should realise that more often children who were missing are from the vulnerable sections of the society and are essentially 'children in need of care and protection'.
- Provide the details of missing children to the police agencies and NGOs who are working in the rescue of trafficked persons so that they could also follow up.
- Network with NGOs/Helpline/Child line, etc. to identify the linkage. Expand the database of missing persons to link it up with trafficked and rescued persons.
- Do a mapping of missing persons for a specific



time in a particular place and undertake special operations to locate them. One linkage to a brothel elsewhere in the country could be a clue for locating many who are still missing.

- *Utilizing preventive sections of CrPC:* Section 110 CrPC provides enough scope for preventing offences. Executives Magistrates are vested with the powers. The Magistrate can bind down the persons for ensuring good behaviour. Steps u/s 111, 116, 121, 122 CrPC will further affirm the preventive actions against likely offenders.
- *Helplines:* The Police Managers should establish proper and functional networks with the existing help-lines like child-line, Women's helpline etc. Such help-lines should be linked up to the police control rooms and police stations for prompt response.
- *Strengthening Police Stations:* Institutionalization of the response systems requires that the police stations, being the fundamental unit of police administration and public service, be strengthened. Besides empowering the police stations with the required human and material resources, their capabilities need to be enriched by regular training and discussions. The methodology prescribed for the functioning and training of STF are applicable here too.
- *Involving local self government agencies:* The Panchayat Raj Institutions have lot of sway over the local public. Therefore their services can be effectively channelised towards the prevention strategies. Tamil Nadu has started this process through a Government order issued in 2002 followed by training/orientation programmes for PRI members on preventing trafficking. This model could be adopted by others too. Police officers should network with the PRI's, orient them, sensitize them and involve them in the anti trafficking processes. District level and village level Monitoring Committees could be set up by the DM/SP, involving all stake holders and PRI's.

- *Data-base:* One of the essential ingredients of crime management is to develop a proper data base. It is utmost essential for not only combating trafficking but also prevention of trafficking. As of today lack of database is one of the major impediments in law enforcement. Since the Investigating officials are more or less confined to their limited jurisdictions, the police managers like SP/DCP and other higher formations should take initiative in developing the data base, not only on traffickers and exploiters, but also on victims and survivors. The data should include the profile of the offenders, the area of operations of the traffickers, their networks, the details of source, transit, destination etc. This should be regularly updated. The second aspect of data base is data analysis. This would facilitate in developing criminal intelligence. The third aspect of data base is sharing of criminal intelligence with all concerned and initiating appropriate action for combating and preventing trafficking. Collation, analysis and dissemination of data and intelligence are professional aspects of policing and therefore the responsibility for the same is with the police managers. It is advisable to involve appropriate NGOs working in the field and associate them fully in all activities.
- *Anti Human Trafficking Unit:* An in-depth understanding of the dimension of trafficking will clearly bring to focus the essentiality of multi stake holder partnership in preventing and combating trafficking. The law enforcement agencies need to have close association with other departments like health, social welfare, labour, department of women and child, department of correctional administration, development department, panchayati raj institutions etc. These government agencies need to have symbiotic partnership with the NGOs working in this field. The police managers especially the SP/DCP should take initiative in setting up an AHTU by developing close partnership of the police with all

these responders. Such an AHTU will be the best mechanism in the given situation to prevent and combat trafficking. The officials and NGOs who are put in the AHTU should be specially trained and oriented. Protocols should be drawn up to demarcate the role of each stake holder. The scope of AHTU can be widened to include Corporates so that they could lend the services of their corporate social responsibility for not only funding the programmes but also giving appropriate back up support in empowering the survivors, utilizing the services for productive activities, marketing their produces etc.

## Chapter 10

# Domestic Violence Against Women and Girls

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### OVERVIEW

Violence against women and girls continues to be a global epidemic that kills, tortures, and maims – physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Even though most societies proscribe violence against women, the reality is that violations against women’s human rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets. Moreover, when the violation takes place within the home, as is very often the case, the abuse is effectively condoned by the tacit silence and the passivity displayed by the state and the law-enforcing machinery.

The global dimensions of this violence are alarming, as highlighted by studies on its incidence and prevalence. No society can claim to be free of such violence, the only variation is in the patterns and trends that exist in countries and regions. Specific groups of women are more vulnerable, including minority groups, indigenous and migrant women, refugee women and those in situations of armed conflict, women in institutions and detention, women with disabilities, female children, and elderly women.

This Digest focuses specifically on domestic violence – the most prevalent yet relatively hidden and ignored form of violence against women and girls. While reliable statistics are hard to come by, studies estimate that, from country to country, between 20 and 50 per cent of women have experienced physical violence at the hands of an intimate partner or family member. For the purpose of this Digest, the term “domestic violence” includes violence against women and girls by an intimate partner, including a cohabiting partner, and by other family members, whether this violence occurs within or beyond the confines of the home.

While recognizing that other forms of violence are equally worthy of attention, this Digest does not cover the violence inflicted on women by strangers outside the home – in public places such as streets, workplaces or in custody, or in situations of civil conflict or war. It does not look at the issue of violence against domestic workers, as this is perpetrated by individuals who are not related. In other words, the term “domestic” here refers to the types of relationships involved rather than the place where the violent act occurs.

The Digest attempts to set out the magnitude and universality of domestic violence against women and girls, and its impact on the rights of women and children. It emphasizes the need for coordinated and integrated policy responses; enhancing partnerships between stakeholders; setting up mechanisms for monitoring and evaluating programmes and policies; implementing existing legislation; and ensuring greater transparency and accountability from governments in order to eliminate violence against women and girls.

Women’s groups have long pushed for such responses, and have placed women’s rights firmly on the agenda of international human rights through their advocacy. The 1990s, in particular, witnessed concentrated efforts on the part of the world community to legitimize and mainstream the issue. The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and girls are “an inalienable, integral and indivisible part of universal human rights.” The United Nations General Assembly, in December 1993, adopted the

Declaration on the Elimination of Violence against Women. It is the first international human rights instrument to deal exclusively with violence against women, a groundbreaking document that became the basis for many other parallel processes.

In 1994, the Commission on Human Rights appointed the first UN Special Rapporteur on Violence against Women, entrusting her with the task of analyzing and documenting the phenomenon, and holding governments accountable for violations against women. The Fourth World Conference on Women in Beijing (1995) included elimination of all forms of violence against women as one of its twelve strategic objectives, and listed concrete actions to be taken by governments, the United Nations, international and nongovernmental organizations.

While gender-based violence is not specifically mentioned in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in 1992 the Committee overseeing CEDAW implementation adopted General Recommendation 19, which states that it is a form of discrimination that inhibits a woman's ability to enjoy rights and freedoms on a basis of equality with men. It asks that governments take this into consideration when reviewing their laws and policies.

Under the new Optional Protocol to CEDAW, adopted by the UN General Assembly in October 1999, ratifying States recognize the authority of the Committee to receive and consider complaints from individuals or groups within that State's jurisdiction. On the basis of such complaints, the Committee can then conduct confidential investigations and issue urgent requests for a government to take action to protect victims from harm, bringing the Convention into line with other human rights instruments such as the Convention against Torture.

This growing momentum has compelled a better understanding of the causes and consequences of violence against women, and positive steps have been taken in some countries, including reforming and changing laws that deal

with this issue. Some regions have developed their own conventions on violence against women, examples of which are the Inter- American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the African Convention on Human and People's Rights, including its Additional Protocol on Women's Rights.

### **SCOPE OF THE PROBLEM**

The family is often equated with sanctuary – a place where individuals seek love, safety, security, and shelter. But the evidence shows that it is also a place that imperils lives, and breeds some of the most drastic forms of violence perpetrated against women and girls. Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power – husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives. Domestic violence is in most cases violence perpetrated by men against women. Women can also be violent, but their actions account for a small percentage of domestic violence.

Violence against women is often a cycle of abuse that manifests itself in many forms throughout their lives. Even at the very beginning of her life, a girl may be the target of sex-selective abortion or female infanticide in cultures where son preference is prevalent. During childhood, violence against girls may include enforced malnutrition, lack of access to medical care and education, incest, female genital mutilation, early marriage, and forced prostitution or bonded labour.

Some go on to suffer throughout their adult lives – battered, raped and even murdered at the hands of intimate partners. Other crimes of violence against women include forced pregnancy, abortion or sterilization, and harmful traditional practices such as dowry-related violence, sati (the burning of a widow on the funeral pyre of her husband), and killings in the name of honour. And in later life, widows and elderly women may also experience abuse. While the impact of physical abuse may be more 'visible' than psychological scarring, repeated humiliation and insults, forced isolation,

limitations on social mobility, constant threats of violence and injury, and denial of economic resources are more subtle and insidious forms of violence. The intangible nature of psychological abuse makes it harder to define and report, leaving the woman in a situation where she is often made to feel mentally destabilized and powerless.

Jurists and human rights experts and activists have argued that the physical, sexual and psychological abuse, sometimes with fatal outcomes, inflicted on women is comparable to torture in both its nature and severity. It can be perpetrated intentionally, and committed for the specific purposes of punishment, intimidation, and control of the woman's identity and behaviour. It takes place in situations where a woman may seem free to leave, but is held prisoner by fear of further violence against herself and her children, or by lack of resources, family, legal or community support.

### **MAGNITUDE OF THE PROBLEM**

The extent, validity and reliability of the data available are critical in determining the magnitude of the problem and in identifying priority areas for intervention. Prevalence studies with samples of representative populations are relatively new in developing countries. Such studies were initially conducted in industrialized countries – the United States, Canada, and Europe. For example, one very influential survey conducted in Canada in 1993 under the auspices of the Canadian government was developed in consultation with women's organizations and ensured adequate support and services for women participating in the survey.

When designing research on violence against women, it is important that the research itself does not put women at risk. The World Health Organization (WHO) has developed specific ethical and safety recommendations that take into account, among other issues, the safety of respondents and the research team, protecting confidentiality to ensure both women's safety and data quality, and specialized training of interviewers. Most of the data available on violence against women are believed to be not only conservative, but unreliable.



Studies vary in the sample size of women chosen, and the ways in which questions have been posed. It is difficult to compare these studies because of inconsistency in the definition of domestic violence and in the parameters used, which can range from physical abuse alone, to physical, sexual and psychological abuse.

Debate regarding the magnitude of the problem is also clouded by the fact that domestic violence is a crime that is underrecorded and under-reported. When women file a report or seek treatment, they may have to contend with police and health care officials who have not been trained to respond adequately or to keep consistent records. On the other hand, shame, fear of reprisal, lack of information about legal rights, lack of confidence in, or fear of, the legal system, and the legal costs involved make women reluctant to report incidents of violence.

### **PHYSICAL ABUSE**

A growing body of research studies confirms the prevalence of physical violence in all parts of the globe, including the estimates of 20 to 50 per cent of women from country to country who have experienced domestic violence. Statistics are grim no matter where in the world one looks. Data from industrialized and developing countries as well as from transitional countries provide an overview of the global problem. The data focus only on physical assault. There are few comparable statistics on psychological violence, sexual abuse, and murder of women at the hands of intimate partners and other family members. Physical violence is usually accompanied by psychological abuse, and in many cases by sexual assault.

### **SEXUAL ABUSE AND RAPE IN INTIMATE RELATIONSHIPS**

Sexual abuse and rape by an intimate partner is not considered a crime in most countries, and women in many societies do not consider forced sex as rape if they are married to, or cohabiting with, the perpetrator. The assumption is that

once a woman enters into a contract of marriage, the husband has the right to unlimited sexual access to his wife. Surveys in many countries reveal that approximately 10 to 15 per cent of women report being forced to have sex with their intimate partner.

Some countries have begun to legislate against marital rape. These include Australia, Austria, Barbados, Canada, Cyprus, Denmark, the Dominican Republic, Ecuador, Finland, France, Germany, Ireland, Mexico, Namibia, New Zealand, Norway, the Philippines, Poland, Russia, South Africa, Spain, Sweden, Trinidad and Tobago, the United Kingdom and the United States of America. Although provision of such laws represents considerable progress, it is often difficult for a woman to press charges because of the evidential rules concerning the crime.

## **PSYCHOLOGICAL AND EMOTIONAL ABUSE**

Because psychological violence is harder to capture in quantitative studies, a full picture of the deeper and more insidious levels of violence defies quantification. Victim-survivors report that ongoing psychological violence – emotional torture and living under terror – is often more unbearable than the physical brutality, with mental stress leading to a high incidence of suicide and suicide attempts. A close correlation between domestic violence and suicide has been established based on studies in the United States, Fiji, Papua New Guinea, Peru, India, Bangladesh and Sri Lanka. Suicide is 12 times as likely to have been attempted by a woman who has been abused than by one who has not.

In the United States, as many as 35 to 40 per cent of battered women attempt suicide. In Sri Lanka, the number of suicides by girls and women 15-24 years old is 55 times greater than the number of deaths due to pregnancy and childbirth.

## **FEMICIDE**

Femicide – murder of women by their batterers – is another phenomenon that should be regarded as a separate category when recording domestic violence. Studies carried

out in Australia, Bangladesh, Canada, Kenya, Thailand and the United States of America have documented the incidence of femicide within the domestic sphere. In Southern Africa, women's groups have begun to document the increasing incidence of femicide, and data on this issue are available from Botswana, South Africa, Swaziland, Zambia, and Zimbabwe. A comparative analysis of spousal homicide, based on 1991 data, concluded that Russian women are 2.5 times more likely to be murdered by their partners than American women. However, American women are already twice as likely to be killed by their partners than women in Western European countries.

### **SEXUAL ABUSE OF CHILDREN AND ADOLESCENTS**

Considering the taboo in most countries that surrounds incest or the sexual abuse of children and adolescents within the family, this is one of the most invisible forms of violence. Because the crime is perpetrated most often by a father, stepfather, grandfather, brother, uncle, or another male relative in a position of trust, the rights of the child are usually sacrificed in order to protect the name of the family and that of the adult perpetrator.

However, studies have shown that from 40 to 60 per cent of known sexual assaults within the family are committed against girls aged 15 years and younger, regardless of region or culture. A recent study in the Netherlands showed that 45 per cent of the victims of sexual violence within the domestic sphere are under the age of 18. Of these, girls are far more likely to be victims of incest than boys.

### **FORCED PROSTITUTION**

Forced prostitution or other kinds of commercial exploitation by male partners or parents is another form of violence against women and children reported worldwide. Destitute families, unable to support their children, often hire out or sell their children, who may then be forced into prostitution. Very often the young girl is sent as a domestic worker, in which case she may be physically and sexually

exploited by her employers. For example, in West Africa – from Senegal to Nigeria – tens of thousands of children of destitute families are reportedly sent to the Middle East each year, many of them ending up as prostitutes.

In South Africa, child prostitution is on the rise and has become an increasingly organized activity. In certain hill districts of Nepal, prostitution has become an almost 'traditional' source of income. Women and girls are tricked or forced by their husbands and relatives into being trafficked to India for prostitution. In the poor rural areas of Thailand, where poverty has given rise to the phenomenon of debt bondage, it is believed that it is the daughter's duty to sacrifice herself for the well-being of her family. Traffickers buy the "labour" of young women and girls in exchange for money. The high incidence of HIV/AIDS in the country has been attributed to this trafficking in young girls.

In Northern Ghana and parts of Togo, girls are "donated" to priests, and are forced to live as "wives" and submit sexually to the shrine priests in return for protection for the family. A similar practice exists in southern India where young women and girls (devadasis) are "donated" to serve a temple; and very often end up being prostituted.

### **SEX-SELECTIVE ABORTIONS, FEMALE INFANTICIDE AND DIFFERENTIAL ACCESS TO FOOD AND MEDICAL CARE**

In societies where a higher value is placed on sons, discrimination towards female children can take extreme forms such as sex-selective abortions and female infanticide. In India, a recent survey reported 10,000 cases of female infanticide annually. An official survey in China revealed that, with its one-child policy, 12 per cent of all female embryos were aborted or otherwise unaccounted for. And in many countries the discrimination that leads to the neglect of girl children is the greatest cause of sickness and death among girls between the ages of two and five years. Girls in many developing countries receive less nourishment than boys, and they are more likely to suffer mental or physical disability or even die,

as a result of poor nutrition. Less access to health care also exacerbates the much higher mortality rate among girls.

Sex-selective abortion, female infanticide, and systematic differential access to food and medical care have led to the phenomenon known as the “missing millions” of women and girls. An estimated 60 million women are simply missing from the population statistics. In other words there are 60 million fewer women alive in the world than should be expected on the basis of general demographic trends. The phenomenon is observed primarily in South Asia, North Africa, the Middle East and China.

### **TRADITIONAL AND CULTURAL PRACTICES AFFECTING THE HEALTH AND LIVES OF WOMEN**

Around the world, women and girls suffer the harmful and life-threatening effects of traditional and cultural practices that continue under the guise of cultural and social conformism and religious beliefs.

*Examples include:*

- *Female Genital Mutilation (FGM):* It has been estimated that nearly 130 million women worldwide have undergone FGM and that approximately two million undergo the procedure every year. FGM takes place in 28 countries in Africa (both eastern and western), in some regions in Asia and the Middle East, and in certain immigrant communities in North America, Europe and Australia. It can lead to death and infertility, and long-term psychological trauma combined with extreme physical suffering.
- *Dowry-related violence:* Even though India has legally abolished the institution of dowry, dowry-related violence is actually on the rise. More than 5,000 women are killed annually by their husbands and inlaws, who burn them in “accidental” kitchen fires if their ongoing demands for dowry before and after marriage are not met. An average of five women a day are burned, and many more cases go unreported. Deaths by kitchen fires are also on the rise, for example, in certain regions

of Pakistan. The Human Rights Commission of Pakistan reports that at least four women are burned to death daily by husbands and family members as a result of domestic disputes.

- *Acid attacks*: Sulphuric acid has emerged as a cheap and easily accessible weapon to disfigure and sometimes kill women and girls for reasons as varied as family feuds, inability to meet dowry demands, and rejection of marriage proposals. In Bangladesh, it is estimated that there are over 200 acid attacks each year.
- *Killing in the name of honour*: In several countries in the world including, but not limited to, Bangladesh, Egypt, Jordan, Lebanon, Pakistan, and Turkey, women are killed in order to uphold the “honour” of the family. Any reason – alleged adultery, premarital relationships (with or without sexual relations), rape, falling in love with a person of whom the family disapproves – are all reason enough for a male member of the family to kill the woman concerned. In 1997, more than 300 women were victims of these so-called “honour” crimes in just one province of Pakistan. In Jordan, the official toll is rising and in reality the numbers are higher because many such murders are recorded as suicides or accidents. Victim-survivors of attempted murders are forced to remain in protective custody, knowing that leaving custody would result in death at the hands of the family. The penal codes in Jordan that govern crimes of honour also sanction killing by making the penalty disproportionately lenient, particularly if the crime is committed by boys under 18 years of age.
- *Early marriages*: Early marriage, with or without the consent of the girl, constitutes a form of violence as it undermines the health and autonomy of millions of young girls. The legal minimum age of marriage is usually lower for females than for males. In many countries, the minimum legal age for marriage with

parental consent is considerably lower than without it; more than 50 countries allow marriage at 16 or below with parental consent. Early marriage leads to childhood/ teenage pregnancy, and can expose the girl to HIV/AIDS and other sexually transmitted diseases. It is also associated with adverse health effects for her children, such as low birthweight. Furthermore, it has an adverse effect on the education and employment opportunities of girls.

### **CAUSES OF DOMESTIC VIOLENCE**

There is no one single factor to account for violence perpetrated against women. Increasingly, research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within different cultural contexts. Several complex and interconnected institutionalized social and cultural factors have kept women particularly vulnerable to the violence directed at them, all of them manifestations of historically unequal power relations between men and women.

Factors contributing to these unequal power relations include: socioeconomic forces, the family institution where power relations are enforced, fear of and control over female sexuality, belief in the inherent superiority of males, and legislation and cultural sanctions that have traditionally denied women and children an independent legal and social status. Lack of economic resources underpins women's vulnerability to violence and their difficulty in extricating themselves from a violent relationship. The link between violence and lack of economic resources and dependence is circular. On the one hand, the threat and fear of violence keeps women from seeking employment, or, at best, compels them to accept low-paid, home-based exploitative labour. And on the other, without economic independence, women have no power to escape from an abusive relationship. The reverse of this argument also holds true in some countries; that is, women's increasing economic activity and independence is viewed as a threat which leads to increased male violence. This is

particularly true when the male partner is unemployed, and feels his power undermined in the household.

Studies have also linked a rise in violence to the destabilization of economic patterns in society. Macroeconomic policies such as structural adjustment programmes, globalization, and the growing inequalities they have created, have been linked to increasing levels of violence in several regions, including Latin America, Africa and Asia. The transition period in the countries of Central and Eastern Europe and the former Soviet Union – with increases in poverty, unemployment, hardship, income inequality, stress, and alcohol abuse – has led to increased violence in society in general, including violence against women.

These factors also act indirectly to raise women's vulnerability by encouraging more risk-taking behaviour, more alcohol and drug abuse, the breakdown of social support networks, and the economic dependence of women on their partners. Cultural ideologies – both in industrialized and developing countries – provide 'legitimacy' for violence against women in certain circumstances. Religious and historical traditions in the past have sanctioned the chastising and beating of wives.

The physical punishment of wives has been particularly sanctioned under the notion of entitlement and ownership of women. Male control of family wealth inevitably places decision-making authority in male hands, leading to male dominance and proprietary rights over women and girls. The concept of ownership, in turn, legitimizes control over women's sexuality, which in many law codes has been deemed essential to ensure patrilineal inheritance. Women's sexuality is also tied to the concept of family honour in many societies.

Traditional norms in these societies allow the killing of 'errant' daughters, sisters and wives suspected of defiling the honour of the family by indulging in forbidden sex, or marrying and divorcing without the consent of the family. By the same logic, the honour of a rival ethnic group or society can be defiled by acts of sexual violence against its women. Experiences during childhood, such as witnessing domestic



violence and experiencing physical and sexual abuse, have been identified as factors that put children at risk. Violence may be learnt as a means of resolving conflict and asserting manhood by children who have witnessed such patterns of conflict resolution.

Excessive consumption of alcohol and other drugs has also been noted as a factor in provoking aggressive and violent male behaviour towards women and children. A survey of domestic violence in Moscow revealed that half the cases of physical abuse are associated with the husband's excessive alcohol consumption. The isolation of women in their families and communities is known to contribute to increased violence, particularly if those women have little access to family or local organizations. On the other hand, women's participation in social networks has been noted as a critical factor in lessening their vulnerability to violence and in their ability to resolve domestic violence.

These networks could be informal (family and neighbours) or formal (community organizations, women's self-help groups, or affiliated to political parties). Lack of legal protection, particularly within the sanctity of the home, is a strong factor in perpetuating violence against women. Until recently, the public/ private distinction that has ruled most legal systems has been a major obstacle to women's rights. Increasingly, however, States are seen as responsible for protecting the rights of women even in connection with offences committed within the home.

In many countries violence against women is exacerbated by legislation, law enforcement and judicial systems that do not recognize domestic violence as a crime. The challenge is to end impunity for the perpetrators as one means of preventing future abuse.

Investigations by Human Rights Watch have found that in cases of domestic violence, law enforcement officials frequently reinforce the batterers' attempts to control and demean their victims. Even though several countries now have laws that condemn domestic violence, "when committed against a woman in an intimate relationship, these attacks are

more often tolerated as the norm than prosecuted as laws....In many places, those who commit domestic violence are prosecuted less vigorously and punished more leniently than perpetrators of similarly violent crimes.

## **AGAINST STRANGERS CONSEQUENCES**

### **DENIAL OF FUNDAMENTAL RIGHTS**

Perhaps the most crucial consequence of violence against women and girls is the denial of fundamental human rights to women and girls. International human rights instruments such as the Universal Declaration of Human Rights (UDHR), adopted in 1948, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, and the Convention on the Rights of the Child (CRC), adopted in 1989, affirm the principles of fundamental rights and freedoms of every human being. Both CEDAW and the CRC are guided by a broad concept of human rights that stretches beyond civil and political rights to the core issues of economic survival, health, and education that affect the quality of daily life for most women and children.

The two Conventions call for the right to protection from gender-based abuse and neglect. The strength of these treaties rests on an international consensus, and the assumption that all practices that harm women and girls, no matter how deeply they are embedded in culture, must be eradicated. Legally binding under international law for governments that have ratified them, these treaties oblige governments not only to protect women from crimes of violence, but also to investigate violations when they occur and to bring the perpetrators to justice.

### **HUMAN DEVELOPMENT GOALS UNDERMINED**

There is a growing recognition that countries cannot reach their full potential as long as women's potential to participate fully in their society is denied. Data on the social, economic and health costs of violence leave no doubt that violence against women undermines progress towards human and economic development.

Women's participation has become key in all social development programmes, be they environmental, for poverty alleviation, or for good governance. By hampering the full involvement and participation of women, countries are eroding the human capital of half their populations. True indicators of a country's commitment to gender equality lie in its actions to eliminate violence against women in all its forms and in all areas of life.

## **HEALTH CONSEQUENCES**

Domestic violence against women leads to far-reaching physical and psychological consequences, some with fatal outcomes. While physical injury represents only a part of the negative health impacts on women, it is among the more visible forms of violence. The United States Department of Justice has reported that 37 per cent of all women who sought medical care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse or partner. Assaults result in injuries ranging from bruises and fractures to chronic disabilities such as partial or total loss of hearing or vision, and burns may lead to disfigurement.

The medical complications resulting from FGM can range from haemorrhage and sterility to severe psychological trauma. Studies in many countries have shown high levels of violence during pregnancy resulting in risk to the health of both the mother and the unborn foetus. In the worst cases, all of these examples of domestic violence can result in the death of the woman – murdered by her current or ex-partner.

Sexual assaults and rape can lead to unwanted pregnancies, and the dangerous complications that follow from resorting to illegal abortions. Girls who have been sexually abused in their childhood are more likely to engage in risky behaviour such as early sexual intercourse, and are at greater risk of unwanted and early pregnancies. Women in violent situations are less able to use contraception or negotiate safer sex, and therefore run a high risk of contracting sexually transmitted diseases and HIV/AIDS. The impact of violence on women's mental health leads to severe and fatal

consequences. Battered women have a high incidence of stress and stress-related illnesses such as post-traumatic stress syndrome, panic attacks, depression, sleeping and eating disturbances, elevated blood pressure, alcoholism, drug abuse, and low self-esteem. For some women, fatally depressed and demeaned by their abuser, there seems to be no escape from a violent relationship except suicide.

### **IMPACT ON CHILDREN**

Children who have witnessed domestic violence or have themselves been abused, exhibit health and behaviour problems, including problems with their weight, their eating and their sleep. They may have difficulty at school and find it hard to develop close and positive friendships. They may try to run away or even display suicidal tendencies.

Witnessing and experiencing violence as a child can also result in internalizing violence as a form of conflict resolution. Girls who witness their mother being abused may be more likely to accept violence as the norm in a marriage than those who come from non-violent homes. While many children from violent homes do not grow up to be violent, those who have witnessed violence in childhood are more likely to become adults who engage in violent behaviour both inside and outside the home.

### **CALCULATING THE SOCIO-ECONOMIC COSTS OF VIOLENCE**

Calculating the costs of violence is a strategic intervention to make policy-makers more aware about the importance and effectiveness of prevention. Studies carried out in Canada, the United States, Switzerland, the United Kingdom, and Australia calculate costs using different parameters. The Canadian study, which estimated the costs of violence against women in the larger context of violence both within and outside the home, concluded that the state spends over CDN\$1 billion annually on services, including police, criminal justice system, counselling, and training. For the United States, just as to one study, cost estimates range between US\$5 and US\$10 billion

annually. These studies, it should be noted, refer only to direct service-related costs and do not address the human costs of violence.

In 1993, the World Bank estimated that in industrialized countries health costs for domestic violence and rape accounted for nearly one in five disability-adjusted life years\* lost to women age 15 to 44. The health costs of domestic violence and rape are the same in industrialized and developing countries, but because the overall burden of disease is much higher in developing countries, a smaller percentage is attributed to gender-based victimization.

In developing countries, depending on the region, estimates range from 5 to 16 per cent of healthy years lost to women of reproductive age as a result of domestic violence. The Inter-American Development Bank (IDB) has recently carried out studies in six countries in Latin America – Brazil, Colombia, El Salvador, Mexico, Peru and Venezuela – taking a more holistic look at the socio-economic cost of domestic violence.

*For analytical purposes, the IDB has divided the costs of domestic and social violence into four categories using the following framework:*

- Direct costs take into account expenditures on psychological counselling and medical treatment (emergency room care, hospitalizations, care in clinics and doctors' offices, treatment for sexually transmitted diseases); police services including time spent on arrests and responding to calls; costs imposed on the criminal justice system (prison and detention, prosecution and court cases); housing and shelters for women and their children; and social services (prevention and advocacy programmes, job training, and training for police, doctors, the judiciary and the media).
- Non-monetary costs that do not draw upon medical services, but in themselves take a heavy toll on the victim-survivors by way of increased morbidity and mortality through homicide and suicide, increased

dependence on drugs and alcohol and other depressive disorders. These are the intangible costs that are comparable, just as to World Bank estimates, to other risk factors and diseases such as HIV/AIDS, tuberculosis, cancer, cardiovascular disease, and sepsis during childbirth.

- Economic multiplier effects include, for example, decreased female labour participation and reduced productivity at work, and lower earnings. In the United States, it has been reported that 30 per cent of abused women lost their jobs as a direct result of the abuse. A study in Santiago, Chile estimates that women who do not suffer physical violence earn an average of US\$385 per month while women who face severe physical violence at home earn only US\$150 – in other words, less than half the earnings of other women. The study also focuses on the macro-economic impact as a result of loss of women's earnings. Another effect under this category is the potential impact of domestic violence on the future capacity of children to obtain adequate employment. Apart from the loss of human capital, there are direct costs on the school system as children from violent homes may perform badly and have to repeat grades. An IDB study in Nicaragua, 63 per cent of children from families in which women are subjected to domestic violence repeat a grade at school, and on average drop out at age 9, compared with age 12 for children of women who are not victims of severe abuse.
- Social multiplier effects include the inter-generational impact of violence on children, erosion of social capital, reduced quality of life and reduced participation in democratic processes. These effects are difficult to measure quantitatively, but their impact is substantial in terms of a country's social and economic development.

It is clear that all sectors of society are deeply affected by, and bear the consequences of, violence against women. More

studies need to be carried out in both developing and industrialized countries to estimate the costs of domestic violence in order to advocate for national policies to eradicate this largely preventable crime. A major knowledge gap also exists on the cost-effectiveness of interventions for domestic violence. This is an important area of research that would provide guidance on effective, workable and replicable programmes, and thereby help channel resources and energy in the right direction.

### **STRATEGIES AND INTERVENTIONS: AN INTEGRATED APPROACH**

Domestic violence is a complex problem and there is no one strategy that will work in all situations. To begin with, violence may take place within very different societal contexts, and the degree to which it is sanctioned by a community will naturally influence the kind of strategy needed. Considering the interconnections between the factors responsible for domestic violence – gender dynamics of power, culture and economics – strategies and interventions should be designed within a comprehensive and integrated framework.

A multi-layered strategy that addresses the structural causes of violence against women while providing immediate services to victim-survivors ensures sustainability and is the only strategy that has the potential to eliminate this scourge. When planning strategies and interventions, there are a variety of stakeholders that should be borne in mind. Partnerships with these stakeholders can operate on several levels at once.

- At the level of the family, the stakeholders include women, men, adolescents and children.
- Within the local community, partnerships have to be developed with traditional elders, religious leaders, community-based groups, neighbourhood associations, men's groups (*e.g.*, village farmers' associations), local councils and village level bodies.
- Within civil society, the range of partners include professional groups, women's and men's groups, NGOs, the private sector, the media, academia, and trade unions.

- At the state level, strategies must be designed in partnership with the criminal justice system (the police, judiciary and lawyers); the health care system; parliament and provincial legislative bodies; and the education sector.
- At the international level, the stakeholders include international organizations (such as the United Nations agencies, the World Bank, and the regional development banks).

Domestic violence is a health, legal, economic, educational, developmental and human rights problem. Strategies should be designed to operate across a broad range of areas depending upon the context in which they are delivered.

*Key areas for intervention include:*

- Advocacy and awareness raising.
- Education for building a culture of nonviolence.
- Training.
- Resource development.
- Direct service provision to victim survivors and perpetrators.
- Networking and community mobilization.
- Direct intervention to help victim survivors rebuild their lives.
- Legal reform.
- Monitoring interventions and measures.
- Data collection and analysis.
- Early identification of 'at risk' families, communities, groups, and individuals.

These areas are not mutually exclusive; interventions may touch upon several areas at once.

*Five underlying principles should guide all strategies and interventions attempting to address domestic violence:*

1. Prevention.
2. Protection.
3. Early intervention.
4. Rebuilding the lives of victim-survivors.
5. Accountability.



This section of the Digest attempts to formulate a framework for coordinated action at the policy and programme level. An effective strategy is one that is designed to be culture- and region-specific, providing victim-survivors easy access to wide-ranging services, and involving the community and individual stakeholders in the design of interventions. By focusing on the stakeholders and by highlighting responsibilities of the family, the local community, the civil society, the state, and international organizations, this framework points to relevant areas of action.

## **THE FAMILY**

### **Women**

Because their life and dignity are at stake, women have emerged as the most significant agents of change in the struggle against gender-based violence. While women's organizations have played a critical role, the collective strength and courage of individual women has been notable in fighting many forms of violence. Poor and often illiterate, these women have managed to mobilize hundreds of other women, raised resources, designed strategies and forced policy-makers to revise laws and policies. A systematic effort has to be made to listen to the voices of grassroots women and survivors of domestic violence, and to incorporate solutions they have to offer. Their perspectives will provide valuable lessons in making programmes and services effective and targeted to their needs.

Women need to be empowered through education, employment opportunities, legal literacy, and right to inheritance. Human rights education and information regarding domestic violence should be provided to them because this is a matter of their absolute rights. Integrated supportive services, legal intervention and redress should be made available in situations of domestic violence. Assistance to help women rebuild and recover their lives after violence should be part of the intervention strategy, including counselling, relocation, credit support, and employment.

Consistent support for women must be provided by all relevant sectors – the criminal justice system, health, welfare, and the private sector. Support must also be available to women via informal networks such as family, friends, neighbours, and local community groups. Community groups and government institutions should be trained to identify women, men, adolescent boys and girls, and children at risk of domestic violence, and to refer them to confidential and accessible services. Where such services are not available, communities must be helped to establish local culturally appropriate mechanisms to support women.

## **Men**

There are a growing number of male professionals designing and facilitating training events on gender inequality, including the issue of violence. Some are working with other men to review male behaviour and to develop new models of masculinity. There are examples of male leadership on gender violence in most parts of the world and the involvement of men is critical in changing behaviour.

Men should receive one consistent message from all sectors and levels of society – that those who perpetrate violence will be held accountable. The criminal justice system must act to reinforce this message by taking action against perpetrators, as well as providing rehabilitation options for those who offend. Services need to be developed that provide the possibility to change violent behaviour.

These services, offered at the local level, also need to address associated issues of drug and alcohol problems. Men need to challenge other men to stop abusing women, and to change the norms that encourage this violence. This requires support for men to act as healthy role models to younger men, and the raising of boys in a non-violent climate to respect women.

## **Adolescent Girls and Boys**

Adolescent girls need all the protection and support that should be available to adult women. They need clear messages

about their rights from society and the educational system. Educational programmes that equip girls with self-esteem and negotiation skills, and enhance participation of girls in leadership roles should become part of the school curriculum. Adolescent boys need positive role models and clear messages from the men in their families and society in general that violence against women is not acceptable and that they will be held accountable. Like adult men, adolescent boys need access to services to help them deal with any violent behaviour they may have.

Support services need to address associated behaviour patterns such as drug and alcohol problems, or the risky sexual behaviour in which adolescent girls and boys may indulge as a result of being victimized themselves. Children need to be identified as victims of domestic violence, and their safety has to be ensured. This requires ensuring the safety of their mothers and making childcare facilities available to women in shelters. Appropriate programmes should be developed by the community and the state to assist children to recover from the violence and abuse they have suffered and/or witnessed.

## **LOCAL COMMUNITY**

In traditional societies, families have relied upon community-based support mechanisms to resolve issues of conflict. The local community therefore needs to be mobilized to oppose domestic violence in its midst. Actions taken by local people may include greater surveillance of domestic violence situations, offering support for victim-survivors, and challenging men to stop the violence.

Complacency needs to be replaced with active intervention and education. Community information and education programmes regarding the nature and unacceptability of domestic violence should be developed. Such programmes should address cultural forms of behaviour that uphold male aggression, beating, punishment and abuse of women as acceptable. Traditional cultural practices, such as FGM, that violate women's integrity need to be re-examined and challenged. Culture is not static, and newer forms of

cultural norms need to be developed that respect women and promote their dignity and safety.

Community elders and religious leaders have the responsibility to demonstrate leadership in this area. For example, religious leaders should be encouraged to reexamine doctrines and cultural practices that lead to the subordination of women and violation of their rights. Local council bodies (e.g., the 'panchayat' system in India) should play a strong role in creating a culture of non-violence, in setting up sanctions, negotiating appropriate local cultural responses to preventing violence, and monitoring respect for, and implementation of, the sanctions that are in place.

Creating awareness about the impact of domestic violence on communities conveys the importance of preventing such violence against women and children. Developing integrated responses to domestic violence through involvement of local community groups, community health workers and women serves to create sustainability and accountability, which in itself is a significant step. However, since adapting to change is difficult, protection should be provided to activists, human rights advocates and community workers. Ultimately, human and financial resources are key to any programme development and delivery.

## **CIVIL SOCIETY**

### **Women's Organizations**

For nearly a quarter of a century, women's organizations have provided leadership in boosting the visibility of violence against women; giving victim-survivors a voice through tribunals and personal testimonies; providing innovative forms of support to victims of violence; and forcing governments and the international community to recognize their own failure to protect women. From local, collective action, women have transformed their struggle against violence into a global campaign. Women's advocacy has prompted the formal sectors (legal and judicial system, criminal justice system, and the health sector) to begin to

respond to the needs of women who suffer violence. Women have pushed for policy change and institutional mechanisms to be set up – be it legal reform, training of police, or providing shelter to women and their children. In attempting to address the structural causes of such violence, women’s organizations have sought to empower women through human rights education, credit programmes, and linking women to larger networks. It is crucial that women’s advocates continue to lead the process, particularly in playing a monitoring and accountability role, and that governments increase partnerships with them.

### **Men’s Organizations**

Men's Organizations can also provide leadership in the local community to oppose violence against women, working in collaboration with women’s organizations that have expertise in this area. Service organizations can use their resources and networks, and men’s national and local sporting organizations have a particular place in raising men’s awareness of this issue.

### **Professional Associations**

Professional Associations for doctors, lawyers, psychologists, nurses, social workers, welfare workers and other professionals are key players in opposing violence against women. Their members may come into contact with situations of domestic violence on a regular basis, but may not recognize the signs because of their own biases, background or lack of training.

It is critical that such organizations build domestic violence and human rights curricula into their professional training, and that professionals in the field receive regular training on these areas. Such associations need to develop protocols for identifying and referring cases of domestic violence to appropriate bodies, and screening measures for detection and early intervention. These protocols must be developed in collaboration with experts in the domestic violence field.

## **Non-Governmental Organizations (NGOs)**

Non-Governmental Organizations (NGOs), like women's organizations, have worked in partnership with government agencies and international organizations to provide a diversity of services, and education and awareness programmes. Their capacity to continue to deliver a range of services should be strengthened, particularly in collaboration with state agencies. NGOs have a fundamental role to play in bringing pressure on governments to ratify, or withdraw their reservations to, the international human rights instruments such as the UDHR, CEDAW and the CRC.

NGOs have played a critical role in monitoring implementation of non-treaty instruments such as the UN Declaration on the Elimination of Violence against Women, the Vienna Declaration and Programme of Action, and the Beijing Declaration and Platform for Action. NGO leadership has to continue in its role of lobbying and advocating for legislation that protects the rights of women, girls and children.

## **The Private Sector**

The Private Sector has a vested interest in addressing this problem since the costs of domestic violence to society, and industry in particular, are phenomenal in terms of low productivity, absenteeism, and staff turnover. The private sector would benefit by identifying and supporting staff suffering from, or perpetrating, domestic violence. It should build gender and domestic violence awareness into corporate training, and develop organizational cultures free of abuse, including sexual harassment, in the workplace. The private sector should also be encouraged to finance preventive and support services in the local community.

## **Trade Unions**

Trade Unions must support these actions by the private sector, using their resources to promote non-violence towards women among their members and encouraging members to seek appropriate support and assistance.

## **The Media**

The Media plays a pivotal role in both influencing and changing social norms and behaviour. Repeated exposure to violence in the media has been associated with increased incidence of aggression, especially in children. In the area of domestic violence, media campaigns can help to reverse social attitudes that tolerate violence against women by questioning patterns of violent behaviour accepted by families and societies. Collaboration with the media needs to focus on creating new messages and new responses to reduce domestic violence. Hence a conscious effort to make media professionals aware of the issues, can play an important role in addressing violence against women. Alternative media channels such as theatre groups, puppeteers, community radio stations, musicians and performers of all sorts have a role to play in raising public awareness of the issue, and creating role models for men and young people in the community.

## **Religious Leaders and Scholars**

Religious Leaders and Scholars need to re-examine interpretations of religious texts and doctrines from the perspective of promoting equality and dignity for women. Many men who abuse women justify such behaviour on a religious basis, and many cultural practices that abuse and violate women are justified in the name of religion. Religious leaders at all levels have a responsibility to ensure that religious interpretations are not used to oppress women.

## **Academia And Research Organizations**

Academia and Research Organizations should address the chronic lack of statistics on domestic violence that acts as a barrier to policy change on this issue. The lack of adequate data and documentation about violence against women, and domestic violence in particular, reinforces governments' silence. In the absence of concrete data, governments have been able to deny the fact of, and their responsibility to address, such violence. In the area of research, there are several priorities. Reliable data on the magnitude, consequences, and

the economic and health costs of gender-based violence will help to place the issue on the policymakers' radar screen. Researchers need to identify best practices in prevention and treatment, and evaluate them for effectiveness and replicability.

Greater collaboration is required between research and academic institutes, women's organizations, NGOs, and service providers when conducting qualitative research to deepen understanding of the causes of domestic violence, and its physical and psychological impact on women. Such research needs to be fed back to the community so that it can lead to awareness and transformation.

## **THE STATE MACHINERY**

Violence against women cuts across all government sectors, with implications for all programming. It demands new levels of coordination and integration between a variety of government sectors including the criminal justice system, health, education, and employment.

### **The Criminal Justice System**

#### ***Legal Reform***

It is the responsibility of governments who have ratified international conventions and human rights instruments to harmonize their national laws in line with these instruments. One step towards upholding the right of women to equal protection under the law is to enact domestic violence legislation that specifically prohibits violence against women. Under this legislation, a woman should have protection from threats and acts of violence, safety and security for herself, her dependents and property, and assistance in continuing her life without further disruption.

In conformity with their obligation under the Convention on the Rights of the Child (Article 24.3), governments should also denounce and reform all laws, practices and policies that allow harmful cultural practices such as female genital mutilation, crimes committed in the name of honour, and



discrimination based on son preference. Once such legislation is passed, implementation and enforcement become a priority. Enforcement requires the cooperation and sensitization of the police and the judicial system.

### ***The Police***

The Police are particularly well-positioned to provide assistance to victim-survivors, but very often their own prejudices, lack of training, and reluctance to intervene hinder them from dealing with domestic violence. Training and sensitization of police at all levels must be instituted, and guidelines must be developed to monitor police response. Police must be held accountable for their own behaviour towards victim-survivors in order to prevent secondary victimization of women at their hands.

### ***The Judiciary***

The Judiciary can strongly reinforce the message that violence is a serious criminal matter for which the abuser will be held accountable. The judge sets the tone in the courtroom and makes the most critical decisions affecting the lives of the victim, perpetrator, and children, and must therefore be sensitive to the dynamics of domestic violence in order to pass equitable verdicts. Sensitization of the judiciary to gender issues is, therefore, critical and law schools should include relevant courses in their programmes.

### ***Protective Measures***

The protection and safety of victim-survivors should be the prime focus of legal systems. It is important that protective measures are provided so that victim-survivors are not left without adequate protection, and are not re-victimized. In industrialized countries, women's shelters have provided support to victims of domestic violence since the 1970s, usually providing a 24-hour hotline, support groups for the victims, basic child-care, and social and legal services. Similar centres have been created in many developing countries since the early 1980s, mostly run by NGOs. Given that shelters are expensive,

NGOs in developing countries are hard-pressed to provide shelter for victims, and focus instead on providing legal advice and psychological and social support.

This is an area where support from municipal and provincial governments is needed to provide viable, short-term and long-term shelters, referral services to other sectors (health, justice, police) and assistance in related needs such as housing, employment, and child care. Increasingly, governments are creating such support services in partnership with NGOs as part of an integrated response to domestic violence.

In Namibia, for example, women and child protection units have been established in partnership with the Namibian police, ministries of health and social services, and NGOs. The role of social workers stationed at the units is to ensure the protection and safety of the abused women and children during and after the crisis; and assist in preparation of court reports, appearance in court, and medical examinations needed for evidentiary purposes.

Helping women rebuild their lives and self-esteem has been a particular focus of NGO efforts. Many adopt an empowerment approach for women through education, legal literacy, and economic selfreliance programmes within shelter homes to help women take charge of their own lives and personal security. Such programmes also provide counselling and a connection to existing networks of women.

It is clear that when victim-survivors have the opportunity to interact with other women experiencing the same problems, they are able to escape their isolation, shame and fear, and are able to rebuild their lives at a faster pace. Telephone hotlines, usually set up by NGOs, have also expanded in many countries of Latin America (Argentina, Chile, El Salvador, Uruguay) and in South Asia. However, given the scarcity of telephones in most rural areas, such hotlines can only reach the urban population. It is critical that every woman who has been abused or who is at risk has immediate and ongoing access to support services that provide non-judgemental and nondirective service. At all times, the woman must be helped to be an active agent in her interaction with the civil and

criminal justice systems so that she can examine options available to her and make choices about her safety.

### **The Health Care System**

The health care system is well-placed to identify women who have been abused and refer them to other services, as the vast majority of women visit a health facility at some point in their lives – during pregnancy, for example, or to get treatment for themselves or their children. The reality, however, is that far from playing a proactive role, the health care system has usually been unresponsive to women suffering from domestic abuse. Training for health care providers is necessary to guide them on the early screening and identification of women who are suffering domestic violence. Such training, as far as possible, should be integrated into existing training programmes rather than be created as separate programmes.

*WHO has identified the following issues that need to be addressed in sensitizing health care providers:*

- Their possible negative feelings, including inadequacy, powerlessness and isolation, particularly in areas with few referral services;
- Some cultural beliefs, including the idea that domestic violence is a private matter;
- Possible misconceptions about victim survivors, including the belief that women provoke violence.

Training should be supplemented with protocols to guide health care providers to implement standards. Protocols should include procedures for documentation for legal, medical and statistical purposes; legal, ethical and privacy issues; and upto- date information on local referral services. Protocols need to be culture-specific with special attention paid to respecting the rights of women.

### **Education**

Curricula that teach non-violence, conflict resolution, human rights and gender issues should be included in elementary and secondary schools, universities, professional colleges, and other training settings. Violence against women

can be prevented and eliminated only when the underlying causes of violence are addressed and cultural norms and attitudes are challenged. Curriculum reform that works towards eliminating the gender stereotyping in schools (teaching about women's contributions in history class, eliminating sexstereotypes in textbooks, promoting girls' participation in sports) are important steps in achieving gender equality.

A more fundamental problem – that of girls' enrolment in schools – has to be addressed by governments alongside curriculum reform. In South Asia, the Middle East and Africa, for example, girls' enrolment in primary schools is well below that of boys, a phenomenon that perpetuates female subordination.

## **INTERNATIONAL ORGANIZATIONS**

International organizations such as the United Nations, its bodies and specialized agencies, the World Bank, and the Inter- American Development Bank have placed the issue of violence against women on their agendas. Their programmes articulate the links between human rights, health, and women's participation in political and economic arenas within the larger context of violence against women as a development issue. These organizations can play a critical role by using their expertise and credibility to garner support for eliminating violence against women. By advocating with national governments, and by supporting programmes run by both government and non-governmental organizations, these organizations are already working at many levels to prevent and reduce domestic violence in different regions of the world.

*The following examples outline some initiatives led by these inter-governmental organizations:*

- UNICEF works with different partners to address domestic violence in many countries. Examples include: facilitating creation of Bolivia's National Plan for the Prevention of and Eradication of Violence Against Women (1994) and the adoption of Law 1674 against Family or Domestic Violence (1995); work with

the National Jordanian Television to develop TV spots on violence against women; and support for the development of an active movement against gender based violence in Afghanistan and other countries in South Asia. The United Nations regional campaigns, coordinated by UNIFEM, to eliminate violence against women have spurred new partnerships between a number of UN agencies (including UNICEF), governments, national and regional NGOs, and community-based groups and media organizations since 1998. UNFPA supports research on the prevalence of domestic violence and has helped to create women's health centres in areas where such violence is common. It also works in partnership with governments, NGOs and local communities to support programmes to eliminate FGM.

- WHO is coordinating a multi-country study on women's health and domestic violence, which aims to develop methodologies to measure violence against women and its health consequences cross-culturally in six countries. The Pan American Health Organization (PAHO) and the Inter-American Development Bank (IDB) are collaborating to pilot a coordinated, multi-sectoral response to violence against women in Latin America. The Trust Fund in Support of Actions to Eliminate Violence against Women, established at UNIFEM in 1996 by a UN General Assembly resolution, has supported innovative projects around the world that address all forms of gender-based violence.