

Unit 16 : Social Justice and Gender Justice

Introduction

The notion of social justice is an emerging theme in the domain of social science, though this idea acted as a catalytic forces in social revolution across the world since ancient times. Since ensuring Justice is the highest goal of a state it has to be looked from a broader perspective. In fact root of this doctrine stems from the idea of liberty and equality which human being cherishes most.

Social justice, in a broad sense, comprehends the allocation of both material and moral advantages of social life. It denotes a progressive concept and a model of development. The Indian Constitution, for instance particularly in its Preamble and the part dealing with the Directive Principles of State Policy, holds the promise of justice-social, economic and political. In common parlance, the term 'social justice' is usually applied to comprehend all the three aspects of justice in society – social, economic and political. It also implies reordering of social life in such a manner that the material and moral benefits of social effort are not cornered by a tiny privileged class, but accure to the masses to ensure the upliftment of alienated sections of the society and it should also be for collective solidarities.

Development has to be viewed from a different perspective altogether in which growth and distribution are integrated into the very same process, while breaking systematically the social barriers of discrimination and prejudices based on gender, caste, language, religion or ethnicity. This is what 'Development with Social Justice' must mean for us in India. Therefore, both development and dignity for the deprived and disadvantaged sections are equally important for charting out a new path of development. Neither economic equality nor political democracy alone is capable of giving dignity to all citizens. In fact, the two have to go together along with social equality. The ultimate aim of development with social justice is to ensure that all citizens of India live with economic, social and political dignity.

Theoretical Outline of Social Justice

It is said that justice is primarily a problem of discovering the right course of action. Since ancient times, political thinkers have been trying to formulate the concept of justice. With the rise and growth of modern world and modern consciousness, especially under the effective influence of the principles of democracy and socialism, this very concept has been thoroughly transformed. Social justice in the contemporary world is related with determining logical criteria

for the allocation of goods, services, opportunity, benefits, power and honours as well as obligations in society, particularly in a scarcity situation.

It is evident that political philosophers and scholars from Plato to Rawls have been engaged in a great debate of distributive justice or social justice. This rich body of work has given rise to diverse perspectives on social justice. Among these the following are more significant. (a) Liberal approach, (b) Socialist approach, (c) Subaltern approach and d) Feminist approach.

(a) Liberal Approach

The liberal model is rooted in individualism and is based upon a commitment to social mobility and a flexible pattern of inequalities as opposed to fixed and structural gradations in social position and wealth. D.N. MacCormick views equal well – being of individuals as basic to social justice. R.A. Pinker emphasised that social justice is concerned not only with the nature of equality but with the criteria by which inequality may be deemed to be just or unjust. D. Miller argues that inequality is rampant and becomes necessary evil and social justice is necessary for the worst – off individual in the society.

It is perceived that unlike liberal-utilitarian justice, John Rawls's liberal-egalitarian justice is marked by its concern for the equality and welfare of everyone, including, especially, the least advantaged members of the society. He argues for the prime necessity of distributive justice. He emphasised that all social primary goods-liberty and opportunity, income and wealth and the bases of self – respect – are to be distributed equally, unless an unequal distribution of any or all of these goods is to the advantage of the least favoured.

In the context there is a great deal of debate about how one look at this notion of Justice in a stratified society. In this regard it is worth to study contribution made by Ambedkar . He had envisaged that social justice could be brought when political democracy is extended in social and economic field as well. His idea of social justice is tantamount to the concept of social justice of Rawls who includes in his theory of distributive justice an element of difference principle which in Ambedkar's case it is the principle of special treatment.

(b) Socialist Approach

The socialist model of justice is rooted in collectivism and exhibits greater support for social equality and community. With socialists of all shades, justice exists where there is no injustice. The chief concern of all the socialists has been injustice meted out to the workers, peasants, poor, unemployed, the lowly and so on in the system that exists in the society in general, and the capitalistic one in particular. For the Marxists, justice in the class societies is always a class justice, justice for the capitalist and conversely injustice for the workers. Hence the Marxists find justice only in classless society. For them, justice is not merely just laws, but also just laws emanating from just society; it is merely economic or social in nature, but also socio-economic in its ramifications. The democratic socialists are both socialists as well as democratic, and therefore, for them, justice exists in a just order and in a just society. Democratic socialism seeks to provide for democratic rights and civil liberties as well as socio-economic rights of citizens – a difficult combination indeed. If this could be achieved, it would serve as an ideal scheme for social justice.

(c) Subaltern Approach

Subaltern approach considers that any group in the society who has been relegated to a subordinate position because of gender, age, vocation, class, caste, race, religion, language, culture etc. are in the category of subaltern groups. They are more or less placed in subordinate position because of various constraints inherent in the social structure. They are exploited, oppressed and marginalized groups. The subaltern perspective on justice demands social justice for the deprived and disadvantaged. It demands two – fold objective at the same time: a) elimination of all types of discrimination; and (b) provision for special care so as to attain social equality. The subaltern perspective of justice is not merely economic, but it is also social, cultural, educational, and even psychological.

(d) Feminist Approach

Feminist critique of justice maintains that women are disadvantaged in comparison with men, and that this disadvantage is not warranted by their natural and biological differences. Roots of this discrimination lie in the social arrangements which have perpetrated injustice against women. In the light of the growing social consciousness against various forms of injustice in society, the position with regard to the status women needs to be reviewed, challenged and changed. Indeed feminist theory and movement urge that women's situation and the inequalities between men and women should be treated as central political issues. All streams of feminist thought focus on the causes and remedies of women's inequality, subordination or oppression.

Because women is regarded unequal to man, she is made to suffer throughout her life: her subordination, powerlessness and oppression are the consequences of male dominance. Justice, in feminist perspective, demands escapism from woman's internalisation of female gender, and the low self – esteem, apathy and sense of helplessness that goes with it. What is needed, the feminists say, is not merely equal rights which man possess, but also, as the socialist feminists insist, communalization of domestic and childcare functions; the male superiority would have to be abolished; patriarchal culture would have to be demolished; gender socialization would have to be imbibed; women's liberation from male oppression would have to be fought out. The feminists do not regard law to be neutral in disputes between man and woman; the idea of justice is, by its very nature male – structured. The feminist perspective on justice means, among others, elimination of all male domination, equality of rights, bridging the public and the private spheres, and creation of society, culture and politics in new, rather non-patriarchal forms. Thus feminist perspective on justice calls for securing overall development of women, including improvement of their health and education as well as giving them adequate share in economic and political power along with social space.

Theoretical Outline of Gender Justice

Gender justice is often used with reference to emancipatory projects that advance women's rights through legal change, or promote women's interests in social and economic policy. However, the term is rarely given a precise definition and is often used interchangeably with notions of gender equality, gender equity, women's empowerment, and women's rights. Gender justice includes unique elements that go beyond related concepts of justice in class or race terms, which complicate both its definition and enactment. But three conceptions of gender justice can be examined to understand its meaning, dimension and nature to a large extent.

(a) Gender Justice as Entitlements and Choice

This approach, with roots in liberal feminist political philosophy, begins from a central dilemma of feminist politics: oppressed women themselves may not propose a version of gender justice that challenges male privilege because they have been socialised into acceptance of their situation. Familial and social conventions can disable women's agency (the ability to make choices) by limiting their capacities to reason and act independently, and by obliging them to put the needs of others above their own. In response to this dilemma of women's acquiescence in their own social and economic subordination, feminist political philosophers have debated the minimum economic, social, and even psychological conditions under which women might be able to refuse or renegotiate the social arrangements in which they find themselves. This 'minimum capabilities' approach has been most thoroughly elaborated by Martha Nussbaum, adapting Amartya Sen's 'capabilities' approach. 'Capabilities' are what people are actually able to do and to be.

Beyond the problem of the political challenges involved with implementation, particularly given national resource constraints, this approach has attracted a number of criticisms. The most serious comes from another liberal feminist political philosopher, Anne Phillips, who argues that the capabilities approach has at its heart a neo-liberal agenda. She says that because Nussbaum's capabilities approach focuses on minimum necessary requirements, it retreats from the profound challenges of the struggle for

human equality – not just between women and men, but across social groups both within or across nations. In fact, the material focus of the capabilities approach does not address end-state absolute inequalities and retreats from equal rights to basic entitlements.

(b) Gender Justice As Absence of Discrimination

The most formalized attempt to establish principles of gender justice is found in the 1999 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which makes the absence of gender-based discrimination as the indicator of gender justice. This approach could be labelled a ‘negative liberties’ approach – CEDAW enjoins states to prevent discrimination.

CEDAW sits squarely within a European legal tradition based upon establishing universally applicable principles of justice and applying them as impartially as possible. Critics charge that important and deeply institutionalized biases in legal systems will continue to go undetected because of this myth of impartiality. The most common criticism of CEDAW, however, is that it lacks viable enforcement mechanisms. Because it relies upon state parties to check the abuses they themselves commit.

(c) Gender Justice As Positive Rights

This positive conception of gender justice is part of a contemporary ‘rights-based approach’ to development thinking. Rights-based approaches have evolved over the 1990s following the end-of-century wave of democratization around the world, and they are based upon an understanding of the importance of political and legal institutions for economic development. In particular, they stress the relationship between the articulation of individual and collective preferences (‘voice’) and state responses, and they seek to establish the basic rights that citizens may legitimately claim from the state. They represent an acknowledgement that power relations affect the outcome of policies, and that a state of law and basic accountability is needed to advance human development – to enable people to make the most of their basic endowments in resources and skills. The recognition of politics and

governance is critical for gender justice projects because it can be applied to the relationships between women and men – a recognition that power imbalances can prevent women from acting to advance their interests, and a recognition that social, economic and political institutions must be made accountable to women – that involves rooting out institutionalized patriarchal power systems.

Gender equality claims have taken greater root in the area of political and civil rights than economic rights – the latter have found less support in a neo-liberal environment. Political and civil rights tend to be seen as ‘absolute’ and non – negotiable, whereas economic, social and cultural rights, because these can oblige resource –strapped states to provide concrete entitlements, have tended to be formulated as ‘relative’ and culturally specific; to be realized gradually.

The rights-based framework has been criticised on many grounds, as being an instrument of Western cultural imperialism, and as being tied to a specifically western liberal republican approach to constitutionalism and political democracy. Some critics even imply that it forms part of an expansion of capitalist markets in which human rights are the entry-point for reforms to systems of governance that are designed to integrate national economies into a global market.

Rights – based approaches have also been described as impractical and deceptively easy to promulgate while being deeply evasive on the matter of identifying the agents obliged to satisfy rights claims, and the degrees to which they should do so.

On the basis of the main contemporary perspectives on gender justice, it can be defined as the ending of – and if necessary the provision of redress for – inequalities between women and men that result in women’s subordination to men. These inequalities may be in the distribution of resources and opportunities that enable individuals to build human, social, economic, and political capital. Or, they may be in the conceptions of human dignity, personal autonomy and rights that deny women physical integrity and the capacity to make choices about how to live their lives. As an outcome,

gender justice implies access to and control over resources, combined with agency or the ability to make choices.

Social Justice and Gender Justice

Gender justice in the spirit of social justice is about more than simply questioning the relationship between men and women. It involves crafting strategies for corrective action toward transforming society as a whole to make it more just and equal and it means 'a place in which women and men can be treated as fully human'. Moreover, it implies moving away from arbitrary to well-reasoned, justifiable and balanced – that is, fair – social relations.

Development with social justice is seen as the only way possible to bring out a positive change in the status of women and change gendered exploitation. Economist Amartya Sen called development as freedom where development is the way to provide capabilities to women to bring out her fullest self. This is, as is argued, to be done through providing literacy, health and other basic facilities that give her the wherewithal to change her economic standing in the family and society and thereby improve her position in order to wrest decision making powers too. Third world development discourse from the very beginning believed that it was poverty and quite often the woman's economic and social exclusion that deprived her of any role in decision-making. This strengthened the patriarchy system and women's exploitation was accentuated due to the extreme poverty.

Indian Situation: Social Justice and Gender Justice

Introduction:

In South Asia including India, common patterns of structural constraints and resultant exclusion are evident. These structural constraints deny rights and agency to poor people more generally, and, to women more specifically.

India is characterized by high levels of female deprivation starting from the right to life itself. This is acutely manifested in the declining sex ratio in many states where the female population is declining. Indian societies are

highly unequal and that these inequalities are structural and historical. Inequalities based on caste, class, ethnicity and gender, for example, have created a virtual situation of apartheid in which access to justice and to equal citizenship remain unattainable for the majority of people.

High levels of inequality are kept in place by the social and economic dependence of marginalized groups. State protection and promotion of social and economic rights has been inadequate and for the most part absent. For women from marginalized groups, and especially those living in poverty, this has meant reliance on family (especially marriage), kinships and community to access social goods and economic opportunities. The result is that more women than men in poor groups are illiterate, are less likely to receive medical attention when sick and are recruited into the labour market on unequal terms. Gender discrimination is an all pervading phenomenon of Indian families cutting across the lines of caste, creed and class. The discrimination against women is spread widely in areas of education, employment and health. Most of the women's work, inside the house goes unnoticed and unremunerated. Even outside the family they remain underpaid.

Gender Discrimination in Indian Family

Gender discrimination can be seen in all walks of life cutting across the caste, class, ethnicity, race and religions. According to statistics from the United Nations “Women constitute 50% of the World population, do two-thirds of the work, get 10% of the total income and own 1% of the total assets”. While this is a global fact, the picture is much more pathetic in India.

Today female infanticide is being replaced by foeticide. Discriminating against women has reached such a climax that it has penetrated into the protective womb of the mother. Technological advancement instead of acting a beneficial to human being is impending the development of a equitable social order. Gender discrimination in family takes many different forms: denial of nourishment, health care, education, being pushed into domestic chores, a whole host of marriage related violence such as early marriage, dowry deaths-the list is endless. On the other hand in the nuclear family where the man and the wife reside together will give much more freedom and equality to women.

As a wife and as a mother, a woman is solely responsible for running the family, taking care of all the needs of every other member, with the least time and energy to take care of herself. Work and responsibility given to the woman are undue but when it comes to decision making, the man takes the upper hand. In decision-making process, she is relegated to the background as she is considered less knowledgeable. Children living in this environment and witnessing the differential role pattern of the man and the woman, learn the lessons of gender inequality right from their childhood and the pattern is bound to continue generation after generation.

Any attempt at eradication of gender discrimination will be a failure if the discrimination within the family is not attended to. Wiping out discrimination from the family will be an uphill task, as it cannot be achieved by legislation or any other forceful means. Change in the family will come about, only when the family members realize that it is not only the women but the entire family that suffers due to their unjust practice. With

empowerment, self-confidence and independent spirit, a woman can fight injustice. However, in recent years, with the impact of urbanization and modernization, change from unilateral to bilateral family decision – making or a shift toward egalitarian ideology is taking place.

Education

Education is the key to achieving equality, justice and democracy in every day life and a guarantee of a sufficiently broad basis for recruitment to decision-making positions. Education, both formal and non-formal, in schools, in the family, through mass media and social institutions, is the most important process by which people can gain the values, attitudes and behavioural patterns of a culture of peace. Education is the leading modality to promote a culture of peace, provided however, that the education include the excluded, is relevant to different socio-cultural contexts, is of high quality, is gender-sensitive, (i.e., recognizes the differences between women and men, honours their fundamental equality, seeks to overcome gender inequities) and encourages inter-personal, inter-cultural and inter-national dialogue.

Without equal educational opportunities or skills and qualifications, women of certain classes and social groups have over the years been condemned to inferior status, specially in their personal development, in their choice of work, as citizens, and in their power to influence government leadership, and decisions. One aspect of unequal relations of society, the world over and in our country, is the disadvantaged and marginalized position of women and girls in education, and specifically in higher education. One of the main reasons for the majority of the girls not being able to take up higher education is the weak base i.e. at the school stage, particularly in the rural areas. Added to this are, economic deprivation, lack of motivation and strong patriarchal attitudes against girls education.

In India, historically women's disabilities have been well-known social checks and retarding factors on the progress of society. In the current Indian debate on economic development and social change the importance of women's education has increasingly come to be realized. The nation can

ill-afford to neglect virtually half of its human resource. It is now empirically established that women's education is a single cure for a thousand societal ills. The inverse ratio between female literacy on the one hand, and population growth, infant mortality, maternal mortality, mal-nutritional, and lower productivity on the other has come to be accepted. Women's education has demonstrated the efficacy of the literacy-route to population-control. Education of the girl child has rightly been perceived as an indispensable and important component of social empowerment which alone would enable the civil society to exact due performance from the political society. Indeed, in a well researched and far-reaching study on India's economic development and social change, the role of female literacy in promoting basic capabilities has been forcefully presented indicating that liberated participation of women in the economy is an essential component of success. This element, according to Jean Dreze and Amartya Sen has made the State of Kerala a significant study in contrast with the State of Uttar Pradesh. There is striking inter-dependence between the role of the agency of women and expansion of literacy.

Adult education is crucial for women to keep up with new challenges and to compensate for past educational deprivation. Distance education has proved to be of particularly value to women, who often are less geographically mobile than men, due to family obligations and cultural factors. Despite recent improvements, the present gender imbalance in educational opportunities is a challenge to concepts of justice and development. It is equally a challenge to peace. India deserves literate women and men, critically and constructively participating in shaping our common future.

Health

Sound health is not a day's product. In India women generally neglect their health since the beginning due to negligence and ignorance. Gender plays a significant part in determining physical well-being and access to health care. The Indian women's health situation is quite different from that in the West, greatly due to their dietary habits, living standards, life styles and environmental factors. Her health status is affected by complex biological,

social, cultural and religious factors that are highly interrelated. India being predominantly patriarchal society women have lesser share and access to health care. They are discriminated in terms of nutrition, care recognition, treatment and prevention. All these factors culminate when women attain their old age.

Neglect of women, particularly girls, is a black mark on our society. As the Regional Health Report of WHO for 1998 points out, 74 million women in South Asia are simply missing. Equally, this is the only region in the world where men outnumber women in the total population. According to prominent economist Amartya Sen a detailed comparison of mortality rates, morbidity rates, hospital care and nutritional attention made in India confirm a fairly decisive picture of the systematical deprivation of women in large parts of the country especially rural India.

The health of women is worsened when it is associated with poverty, illiteracy, rural background, lower caste, widowhood, desertion, disability, single marital status or childlessness. This condition is worst in the northern states of India, where low female literacy, combined with low social status of women, has resulted in keeping them oppressed in the name of community, culture, tradition, family honour and religion. In areas where women and girls are neglected, their health status is obviously negatively affected.

Areas with low levels of female literacy have high rates of maternal mortality, infant mortality, birth and cases of female foeticide and dowry deaths. When gender discrimination has been socialized and internalized, it is no longer visible to the gender insensitive.

Efforts at building a gender perspective and gender sensitization in health care and development has repeatedly met with resistance from patriarchal structures. Men continue to control decision – making, limited family resources, women's sexuality, freedom of movement, access to the world outside the home, etc. Under these circumstances, women remain totally dependent and powerless, unless they find strength within, or support from the outside. Women need a supportive environment to ensure that they are

fed adequately, are educated and can make decisions regarding their life and their children.

Differences in nutrition, educational opportunities, freedom of movement etc., between children of different genders within the same family, are not seen in societies in which women are treated with dignity and accepted as equal partners. A high rate of female infant mortality, fertility, maternal mortality and low female literacy, female nutritional status, age of marriage, have been noted in places where women have a low social status.

Serious efforts have not been made to improve the physical, mental, social and economic health of women. In spite of overwhelming constraints, women have struggled to survive, raise children, build homes, provide health care and nurture their family. It has neither been recognized nor appreciated that it is the labour, the perseverance and the caring provided by its women that sustains the world.

Employment

The sexual division of labour is prevalent in the society. But, there is nothing “natural” about the sexual division of labour. The fact that men and women perform different kinds of work both within the family and outside has little to do with biology. Only the actual process of pregnancy is biological, all the other work within the home that women must do-cooking, cleaning, looking after children and so on – can equally be done by men. Unfortunately this work is considered to be “women’s work”.

This sexual division of labour is not limited to the home, it extends even to the “public” arena of paid work, and again, this has nothing to do with “sex” (biology) and everything to do with “gender” (culture). Certain kinds of work are considered to be “women’s work”, and other kinds, men’s, but more important is the fact that whatever work that women do, gets lower wages and is less valued. For example, nursing and teaching, particularly at lower levels, are predominantly female professions and are also comparatively ill – paid in relation to other white – collar jobs which the middle classes taken up. Feminists point out that this “feminization” of teaching and nursing is

because such work is seen as an extension of the nurturing work that women do within the home.

In terms of horizontal segregation, women are concentrated in low –paying positions such as secretary, typist, beautician, nurse, caregiver and assembly – line worker. “Equal work but unequal pay” is still a common practice in India’s private sector.

Employment of women in the unorganized sector has still not ensured them support services like child care, health care, equal remuneration and most of all promotional avenues. Women predominate the lower hierarchies of employment and rarely move up to managerial and decision making positions. These are yet areas of concern.

Even for women employed in the organized sector, child care service is very conspicuous by its absence. Very scanty service is available in some urban areas. The reproductive role of women and the frequency of child bearing pushes them out of the labour market in a substantial part of their productive period. This hampers their economic contribution very significantly. The increasing awareness of family planning will be a measure of empowerment for women, releasing them for activities of their choice for a longer period of their lives.

Another major deterrent for women’s employment is the lack of infrastructure for drinking water and fuel which occupies substantial part of their time for collection. Since water and fuel are essential for living, often they can consider employment only after their time is allotted for collection of water and fuel. These areas are slowly receiving attention. But we are far from any satisfactory solution.

Women form an important part of the informal economy in almost all countries – both in terms of the number of women engaged and in terms of their contribution to the output of the informal economy. Given the nature of activities (home based, street vending and other self employment ventures), women’s contribution in all likelihood gets underestimated.

In India, women comprise about one third of the working force. The number of women workers employed in the unorganized sector is higher in rural areas than in urban areas, a majority of them working in the agriculture sector. In urban areas women are engaged in a variety of occupations like petty trades such as vegetables sellers, flowers sellers, ironing, construction workers, domestic maids etc. Since most of the activities in the unorganized sector generally require less skill and education, and are of a traditional nature, a significant proportion of women workers in India are in this sector.

In urban areas, over 80 per cent are working in the unorganized informal economy where earnings are extremely low, hours of work long, no paid leave, no medical insurance or pension or any other social security benefits. Working in the informal economy often becomes hazardous for undernourished women workers, especially for children and adolescents.

Working as home based workers in household industries, domestic workers, petty trades, services, construction sector, etc. women contribute significantly to the national economic growth as also to family welfare. Yet, their contribution is not adequately recognized; neither are their gender specific problems adequately addressed. They remain largely unorganized, unheard, underpaid and under-represented.

General educational deprivation and social injustice are common to both men and women amongst the lower and deprived castes. While this is generally true, it is also equally true that when these castes are provided with affirmative laws to better their prospects, men, rather than women, are likely to take advantage of things like reservation in educational institutions and government posts for backward classes (as backward but not dalit castes are called). During the entire debate about reservations for the backward classes during the 1980s in India, not many asked if women from these castes would benefit equally from the proposed measure. It was assumed that social justice was a gender – neutral idea. In other words, the typical backward class person was imaged as male, in spite of the fact that one of the criteria for determining backwardness is the educational status of women in a particular caste or backward class group. Thus no one insisted

that a crucial component of affirmative action should be gender justice, so that as many women as men would benefit.

Violence : A Societal Analyses

Violence against women is a grave area needing immediate attention. Violence is not limited to domestic violence. Women at all times are exposed to abuse, mental and sexual harassment and even rape. Apart from individual violence, women and children continue to be the natural targets and worst sufferers both in the man-made and natural calamities. Thus famines, cyclones and earthquakes as well as communal riots, workers' struggles, poverty and indebtedness, fundamentalism, extremism, casteism and regional fanaticism, attack the women first. Women continue to live in an endangered environment. She is often a victim of physical violence not only outside her home but inside her home also. In India we have in recent years made far reaching changes in the law to prevent violence against women.

Sexual violence in a feudal – caste – religious context emerged where men held their honour and their community honour dear and inscribed these on the bodies of their women. Thus, protecting a woman's chastity or sexually assaulting a woman were seen as tantamount to preserving and desecrating male honour and caste or religious identity respectively. Caste and religious riots happened at regular intervals throughout the late 1980s and after, and women were often the locus of events – as victims, as points of reference in violent assertions of caste identity or religious fervour. Feminists working with the rural poor or with *dalits* or *adivasis*, or with victims of riots, saw in sexual violence a specific and gendered expression of authority that was committed to preserving a hierarchical and unjust social order. They pointed out that the bodies of women constituted the sites on which patriarchal quarrels about identity and power, oppression and resistance were fought out.

For all the talk of empowering women and providing security to the marginalized women, sexual harassment is blatantly on the rise. For today's working women, sexual harassment has become a menace they have to confront and in most cases, the victims do not make instances of harassment public. Ironically, women's position at home and the work place

has been undermined as a result of the development of the society. In the Indian context, although women have made forays into male bastions like politics or the civil services, their working environment is far from being comfortable. The Indian male has a long way to go as far as accepting the woman as an equal both at home and at office. Not a day goes by without one reading about a case of sexual harassment, be it in the secretariat, hospital or even academic institutions.

Crimes against women in the form of sexual violence, sexual harassment, etc., are definitely increasing. Epidemiological studies need to be undertaken to identify the cause, extent, nature, spectrum and forms of this pathology and its pathogenesis. Measures needed to deal with this phenomenon should also be identified. Health personnel are not training adequately and sensitively to recognize and address this problem medically, legally and psychologically. They are ill-informed and ill-equipped to give legal advice and counselling.

Gender, Human Rights and Role of Governance

Indian democratic system did not give women required opportunities to join mainstream governance system of the country. In recent years, Indian women have been able to experience a sense of the public, feel themselves an active part of it, because of the constitutional amendments which reserves 33 per cent of seats in local government for them. Every *panchayat* today has a significant number of women – while it is true that many of them are timid, mere alibis for their husbands or brothers, the fact that their presence is required in a *panchayat*, that they possess the power to decide on village concerns, have enabled the more articulate women actually to participate in the democratic process. It is possible that women's sense of themselves, their roles and functions may undergo a gradual transformation in the near future, should the system of local government continue to function.

According to the ideologues of the women's movement, much of the present maladies of the Indian political system and the growing political violence within the country requires a far more active participation of women in

larger numbers in the governance of the country. The proposed Women's Bill will not solve all of India's political problems including the problem of achieving a just system of representation for a multi-culturalist, multi-ethnic and highly inegalitarian society. But that is a problem facing most democracies today.

The complexity, challenges, violence and extra requirements had convinced the women that they can never come up under the existing process of nominations and that they needed some compulsion like quota and reservation. Under the UPA-II government women's bill could not be debated in Rajya Sabha properly and passed due to different pulls and pressures which is patriarchal and non-serious in nature.

Despite the wide campaigning and popular support for the political empowerment and participation of women, the attitudes of males to the emerging role of women is somewhat ambivalent. While agreeing theoretically, they find it difficult to get rid of the patriarchal thinking process and mindset. Often this emerges in the anxiety to preserve male domination by claiming male superiority in experiential knowledge, physical strength and wide information on things relating to gender justice.

Quite a few occurrences of violence during the election campaigning as well as in their functioning have come to light. Some women candidates were not allowed to file their nomination by males, on the ground that women should do only household chores. The villagers had in some cases accused them of having relations with men and tried to prevent them from contesting or winning.

Subjecting the women to all types of rumours and character assassination and harassing them is quite common. Many women belonging to SC were humiliated and discriminated; their capacity to chair the *panchayats* were particularly questioned and undermined. Even after being elected some women faced violence. Even the officials seem to tease the illiterate women members when the latter seek to get their work done. The officials in particular, often are not comfortable with elected women and try to dissuade them. In collusion with them the male members from opposition bring

frequent no-confidence motions against the women chairpersons and threaten them. Many women *pradhans* have said that the men cannot tolerate a woman as their chief. There are threats by political parties and also instances of members being sexually abused by close relatives and even officials. The election, thus, seemed to have created more problems for the women than before when they were a mere housewife.

At the same time there were many positive developments like the women discarding their veil system (*purdah/goonghat*), sitting with men, getting to be mobile, demanding their right to speak and protesting against injustices to them. Women's reservation has also been wholeheartedly supported not merely by women but also by many males. They believe that reservation had helped women to come out of the four walls of the houses, raised the awareness of women in the community and brought about changes in the social attitude. Being women, in many places, they are also respected and heard in the meetings. Some men even appreciate women's functioning as they sensed some sincerity and meaning when the women speak.

Many elected women speak about their prioritising developmental needs and activities for women, helping the women to fight for their rights against property disputes, dowry extortions, domestic violence and alcoholism. There are many who, however, could not do much due to the absence of adequate political and financial powers, family responsibilities and roles, patriarchal social norms and family controls.

Political empowerment, particularly at the local and rural level, thus need to be further reinforced with support mechanisms such as information, capacity building programmes etc. if such an empowerment process is to be taken to its logical end so as to lead to more of justice for women.

In the absence of such a gender justice and gender equality, the concept and rights of citizenship will remain denied to more than half of the Indian nation. The Constitution, the rights it grants to the citizens irrespective of caste, class and sex will remain falsified. Above all the commitment and the pledge in the form of its Preamble which solemnly pledges to justice –

Economic, Political and Social, will be proved as false, at least in the context of women.

Human Development and Gender Justice

There have been strong criticisms of the idea of development. The ideas of modern industrialism, nation-state, and the scientific world view are closely associated with the idea of development which was the newest of all. The criticism came that all of them have worked against women. They have, it is argued, increased inequalities and deprived women of whatever control they earlier had over the resources of community or family. It is the modern state and its agencies which were supposed to have taken over those rights and powers. Similarly, the critique pointed out that the massive industrial complexes are antithetical to the women's interests. Technical complexes and technological world militates against some of the basic features of women's nature and interest. Thus the stream of environmental activism and one stream of feminism mingled and created a strong critique which came to be known as eco-feminism. Some of the feminist authors have shown India's Green Revolution as a classic example of how development was anti-women.

Critics of the Green Revolution have pointed out that it has brought uneven distribution of benefits and its emphasis on new technologies in fact was creating more inequality between men and women. This also resulted in monoculture which meant less variety and therefore dependence on the market thereby making the lives of women more difficult than before. Similarly, with monocultures, crops also have become more vulnerable to pests, droughts, etc., and thus not only there is reduced food security at the local level but also environmental hazard such as increased salinity, etc. began to affect the life of the people. And in all this women were a major casualty.

Women and children are victims of domestic violence. Liquor consumption increased in green revolution area and domestic violence against women and children also increased. The wide spread practice of female foeticide in some

of the relatively more developed states like Punjab, Haryana and Gujarat in India is a great matter of concern.

Conclusion

Gender equity emphasises that all human beings be it men or women are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and political and other prejudices. Their different behaviour and aspirations should be valued and favoured equally and they would be treated fairly according to their respective needs. Social justice in the spirit of gender justice is seen as an important way to achieve this.

The present subordination of women arises, not from unchangeable biological differences, but from social and cultural values, ideologies and institutions that ensure the material and ideological subordination of women.

The significance of women as a category in development has been changing over the years. It is understood now that empowering women for development is necessary for increased output, greater equity and social progress. The participation of marginalized groups like women, in decision-making is seen as important. With empowerment, self-confidence and independent spirit, a woman can fight injustice. Gender discrimination is a problem that affects 50% of the population. Patrilocality is the central institution that is perpetuating gender discrimination. Patrilocality is the major factor behind the helplessness and resourcelessness of a women. On the other hand in the nuclear family where the man and the wife reside together will give much more freedom and equality to women.

Equality of sexes and gender justice have indeed made very slow progress. The subordination of women to men has subsisted through the millennia in all societies and countries without exception. It is only now at the end of the 20th century and at the beginning of 21st that these twin factors are being increasingly recognized and rectified.

The law works as a catalyst to change not only adverse conditions but also the attitudes of the people. In India, the courts, particularly the Supreme Court, have demonstrated sensitivity in every branch of law affecting the rights and protection of women including matters of marriage, guardianship, maintenance, residence and inheritance in civil matters. They have also played a role in abolishing unfair treatment to women in criminal trials involving offences against women including rape. But the law alone cannot do much. An attitudinal change in society is as important as legal reform. All sections of society have to work for this transformation and this is where N.G.Os, the media and the people's representatives have to play a major role.

Gender justice is genuine equality among human beings where neither man is superior nor woman inferior. Gender justice envisages the equality of sexes in each and every sphere. However, it does not claim any preferential treatment for women over men. Gender justice is not based on biological differences. Its object is to eradicate man-made differences in areas concerning economic, social, cultural, political and civil.

Discriminatory and derogatory practices take their own time to leave society. Sex equality and gender justice have made very slow progress. With apartheid and racial discrimination abolished and slavery slaughtered, the time is ripe to eliminate sex discrimination and sex inequality and to ensure gender justice in our society.

The upsurge for human rights and development must be enhanced. Let us, therefore, march into the 21st century and the next millennium with the full awareness that the key to peace, human rights and development is gender justice.

It is now the responsibility of all governments, international bodies and non-government organizations to intensively pursue action to create an environment of equality for women in the society, in the interest of social justice and social development.

References

Ahmad, Imtiaz and Shashi Bhushan Upadhyay (ed.) (2007), *Dalit Assertion in Society, History and Literature*, New Delhi : Deshkal Publications.

Bhattacharjee, Ajit (ed.) 1997), *Social Justice and the Constitution*, Delhi : Indian Institute of Advanced Society.

Bhandare, Muralidhar (ed.) (1999) *The World of Gender Justice*, New Delhi: Har-Anand Publications Pvt. Ltd.

Mukhopadhyay, Maitrayee and Navsharan Singh (ed) (2007), *Gender Justice, Citizenship and Development*, New Delhi : Zubaan, an imprint of Kali for Women.

Miller, D. (1999), *Principles of Social Justice*, Cambridge M.A. : Harvard University Press.

MacCormic D.N. (1982), *Justice : An Unorginal Position*, Oxford : Oxford University Press.

Pinker, R.A. (1974), *Social Theory and Social Policy*, London : Heinemann.

Rawls, John, (1972), *A Theory of Justice*, London : Oxford University Press.

UNIT: 17 NEGATIVE IMPACT OF GLOBALIZATION ON SOCIAL JUSTICE

17.1 Introduction

17.2 Objectives

17.3 Globalization and its Impact

17.4 The Synergy Required

17.5 Water Paradigms: Issues and Controversies

17.6 Globalization and Agriculture

17.6.1 Agreement on Agriculture

17.6.2 Recent Policy Initiatives

17.6.3 Impact of WTO Agreement on Agriculture

17.6.4 Hong-Kong Ministerial Level Meeting

17.7 Food Security

17.7.1 Sources that ensure Food Security

17.7.2 The Reform Measures and the External drive for Reform Measures

17.8 Plantation

17.1 INTRODUCTION

Globalization, in its primary sense, means expansion of economic transactions and the organization of economic activities across the political boundaries of nation states. So, it is not only a matter pertaining to *market economy*, but also to *political democracy* (Deepak Nayyar 2002). Globalization advocates doing away the borders and boundaries in order to ensure efficiency. The process of privatization, liberalization, and globalization has placed new players centre stage in the world economy. There are two main sets of economic players in this game: transnational corporations which dominate investment, production, and trade in

the world economy, and international banks and financial intermediaries which control the world of finance. This has induced a strategic withdrawal on the part of the nation state in some important spheres. That means the nation states remain political players but are no longer the main economic players. This is viewed as a problem because governments are accountable to their people, whereas markets are not (Deepak Nayyar 2002). The concept of globalization - being promoted by the WTO and its supporting organizations – is said to be a mixed blessing. Some say it is a blessing and others say it is a curse. It is a blessing because it brings in private finance to public domain, improves efficiency and output, enables consumers to get good quality product at the lowest possible price, opens up new employment opportunities leading to higher income and better standards of living. It is a curse because a large proportion of the population in poorer countries remains marginalized by the process of globalization (Jagdish Bhagwati 2004). Such exclusion or marginalization has had social consequences, environmental destruction and degradation of common property resources. There is wide-spread impression that the subject – globalization - is divisive and the concepts spread across are contentious (Joseph E. Stiglitz 2002). In this Unit we will discuss the negative impacts of globalization on few select sectors.

17.2 OBJECTIVES

After studying this Unit, you should be able to

- Describe the concept of globalization;
- Explain the process of globalization; and
- Analyze the consequences of globalization with suitable examples.

17.3 GLOBALIZATION AND ITS IMPACT

In India the globalization process started in the year 1991 through the policies of the State and Central governments when the new Economic Policy was initiated. The worst affected, are the agricultural labourers, fishers, rural artisans and women. Basic services such as medical, water supply and sanitation services are turning cost-based and are provided on the basis of the charges paid by the users. Natural resources, which are the lifeline of the poor, are being exploited for producing marketable commodities by multinational companies. Water is being bottled, sand is being lifted and blue metal is being quarried by companies. Communities at the local level are sporadically fighting against such kind of exploitation of natural resources. Panchayat leaders are widely fighting against this kind of exploitation with the support of the communities. In the coastal areas shrimp cultivation is going on a large scale, eroding the natural resources, by which several thousands of fishermen and agricultural labourers have lost their livelihood. They are fighting against these new initiatives as they affect their life and livelihood security. When silicon soil was lifted from Vanduvancheri Gram Panchayat area in Nagapattinam District, Tamil Nadu, it was stopped by the Panchayat with the support of the community. The matter is now in court. When water was lifted from Sivaganga, Tamil Nadu for bottling of mineral water, it was stopped by the local community which said that water is not a commodity but an entitlement of the people and the mineral water company should not be allowed to make it a commodity for the market to make profits. As the state government stopped its subsidy for khadi and handloom products, the weavers lost employment opportunity and, as a result, they started migrating to different places in search of employment.

Thus the havoc brought by globalization processes on the livelihood security of the people in the villages can be enumerated with the distress condition it has resulted in. The unskilled workers who were being used in the construction industry and road projects have been driven away as the activities have become totally mechanized and technology-driven.

As reform activities were initiated, the subsidy for electricity consumption by the small farmers has been cut and, as a result, the small farmers have had to give up their farm activities.

Globalization works in the society through the policies and programmes of the government, both at Centre and in the States. One obvious thing we need to understand along with this fact is that globalization has limited the ability of governments to respond (Joseph E. Stiglitz 2006). The impact of globalization will be felt at the grassroots and especially by the marginalized, weaker and poor segments of the society. It has to be mitigated through micro action in the field and macro action through policies and decisions. Grassroots leaders who manage local affairs have to be aware of the implications of globalization and hence they have to be sensitized.

17.4 THE SYNERGY REQUIRED

Globalization is a mix of challenges, threats and opportunities. In fact, People at the grassroots level hardly have the capacity to understand its complex process, tide over the threats and harvest the opportunities. Threats apart, even if globalization succeeds in bringing in resources such as capital, technology etc through FDI and opening up opportunities, do we have the ability to take advantage of the new opportunities? This is a major question - a factor determining how well a country will do is the 'quality' of the public and private institutions, which in turn is related to how decisions get made and in whose interests, a subject broadly referred to as 'governance'. India is half-way down the path of globalization. India is said to be one of the major participants in implementing the ideas that promote globalization. So to say, India is appreciated globally as one of the countries that is making the best use of globalization opportunities. It is very much evident from the growth of the service and industrial sectors in the past decade. So, now the debate is, to a large extent,

no longer “anti”- or “Pro” – globalization. It is about managing globalization or governing globalization so that benefits do not flow only to the rich, and it does not hurt the poor (Krishna kanat 2003; Bhagwati Jagdish 2004; Joseph E. Stiglitz 2006).

In the whole process of development and democracy, learning is very essential and, accordingly, individuals and collectivities can make use of the opportunities to achieve development and to protect themselves and others from the threats, if any, which stem out of these processes. Like globalization is on, economic growth, and human sufferings are also on the increase simultaneously. Mechanization of economic activities through the modern sophisticated technology has driven millions out of job. The growth of unemployment brings about acute social conflict. Aspirations for development and the desire to be in the democratic process are also on the increase in society.

17.5 WATER PARADIGMS: ISSUES AND CONTROVERSIES

Today, water tops the agenda on development dialogue all over the world. The problem human race faces with water is that either it is unmanageably abundant or critically scarce. However, the condition of water being plentiful is hardly for a few months in a year. Otherwise, it is ‘water crisis’ that India spells for the rest of the whole year. India, with 16 percent of the world’s population and 2.45 percent of the land mass has only 4 percent of water resources (Ramasamy R Iyer 2001). At least for a decade now, there is a competing demand for water amongst purposes such as drinking, irrigation, and industrial use.

During the last 60 odd years, India has invested a huge amount in harnessing water resources for irrigation, domestic use and non-agricultural activities. The public sector has invested some Rs.1000 billion in water resource development and it is reported that a whopping Rs.32,000 crore has been spent on Rural Water Supply since 1954 (Lennart Nilsson 2002). Plenty of water schemes in various matrices have been implemented by

Government of India and various state governments under bi-lateral and multilateral arrangements as well. Despite a large investment in water resources conservation, irrigation infrastructure development, and investment in bringing about sustainability of drinking water supply sources and systems, the net result is 'inadequate water supply for various needs'.

The imminent water crisis in India is being ascribed to, (i) the growing gap between the scarcity value of water and realized value under current pattern of water use and management; (ii) weak governance and mis-governance of water resources by the state; and (iii) the absence of clear cut property regime or ownership of water. Traditionally, water was perceived to be a free good available from nature. Existing institutional, legal and governance framework relating to acquisition, distribution and utilization of water have not helped in changing this perception. A stage has come where the sovereign right of the state on water or any natural resource for that matter is disputed, the role of a government to assume this right has become questionable and that it needs to be dispassionately defined through consensus among stakeholders (NAAS, 2005).

17.6 GLOBALIZATION AND AGRICULTURE

In the 1990s, the process of liberalization, privatization, and globalization under WTO agreement was set rolling. For example during the time of significant economic structural transformation in India, Agreement on Agriculture (AoA) came into force in 1994-95. To accelerate the process of agricultural growth, rapid and widespread adoption of modern technology backed by institutional and infrastructure development was the new mantra of government policy. Private sector participation is being promoted through contract farming and land lease arrangements to allow accelerated technology transfer, capital inflow and

assured market for crop production, especially, in oil seeds, cotton and horticultural crops. The proposed reforms are likely to improve the environment for private investment, structural change and efficiency gains in agri-business. India is moving towards a more liberal regime removing restrictions and emphasizing exports.

17.6.1 Agreement on Agriculture

The New Economic Policy of 1991 stressed both external sector reforms in the exchange rate, trade and foreign investment policies, and internal reforms in areas such as industrial policy, price and distribution controls, and fiscal restructuring in the financial and public sectors. In addition, India's membership and commitment to WTO in 1995 was a clear sign of India's intention to take advantage of globalization and face the challenge of accelerating its economic growth. The change in external environment for agriculture came with the setting up of the WTO on 1st January, 1995 and with the inclusion of agriculture under the multilateral trade discipline for the first time. With these developments and signing of AoA, it became inevitable that India has no option but to globalize its economy including agriculture. The gains to the farmers and rural community from the liberalization of agriculture are determined by three pillars of AoA: a) the interaction between the relatively competitive markets, b) market-friendly reforms in domestic agriculture, and c) subsidy reductions in developed countries.

17.6.2 Recent Policy Initiatives

Based on AoA, India has taken the following policy initiatives with regard to agriculture:

- Reforms in Food Corporation of India
- Decentralisation of procurement
- Relaxations in restrictions on private trade
- Emphasis on establishment of private markets
- Contract farming

- Forward trading allowed in several commodities
- Emphasis on public-private-partnership in agricultural research and extension
- Promotion of value added chains through consortia approach
- Reversing trend in public sector investments
- Emphasis on irrigation projects/watershed

Among the policy measures introduced with or after the new economic reforms, introduction of export promotional schemes like provision of Export and Import (EXIM) scrip in 1991, abolition of cash margins for Export Oriented Units (EOUs) in 1992, granting of tax concessions to export houses in 1996-97, setting up of Special Economic Zones (SEZs) in 2000, and exchange rate measures like the partial convertibility of the Rupee in 1992-93 and full convertibility in the trade account in 1993-94 are the notable ones to mention. The removal of quantitative restrictions through the licensing procedures on exports and imports and reduction of tariff rates on imports were anyhow done in stages in the EXIM policies and their amendments.

17.6.3 Impact of WTO Agreement on Agriculture

The likely impact of these agreements on Indian Agriculture reported from various sources (www.dsharma.org) is expected to be on the following:

- i) Influence the size, composition, competitiveness and direction of India's Agricultural Exports;
- ii) Influence the cropping pattern and productivity of Indian agriculture; the country's food security position, cost of inputs and their use rates are likely to be affected;
- iii) The shift towards export-oriented production may lead to certain environmental problems;
- iv) Domestic prices of agricultural commodities may change; and

- v) Issues of Trade Related Intellectual Property Rights will have considerable implications on agriculture especially on export and import of seeds, pesticides, cost and so on.

17.6.4 Hong-Kong Ministerial Level Meeting

Indian agriculture policy is still hesitant to govern its agriculture with WTO clauses and global policy environment on the grounds that the agricultural sector of developed countries are highly protected by subsidies. In the WTO's Ministerial Level Meeting held in Hong Kong from 13th–17th December 2005, the developed countries have agreed to eliminate export subsidies by 2013. The agreement hardly provides any protection or gains to millions of Indian farmers. The commitment by the advanced countries to ease out export subsidies by 2013 was no achievement since they constitute a small part received by agriculture. In the coming days, more pressures and trade distorting tactics can be expected which will adversely affect farmers and Indian agriculture. The special products and special safeguard mechanism proposed will not help India, since it has already agreed to further cuts in agriculture tariff.

Box 6.1

Falling Farm Income –UNCTAD Report

A recent United Nations Conference on Trade and Development (UNCTAD) report shows that the farmers are getting today is the same at which they were selling their produce 20 years ago. The UNCTAD report not only substantiates but also goes much beyond the computation done by the Union Ministry of Agriculture. A recent study by the Ministry had demonstrated that farm incomes have fallen in the past five years. Rice farmers in West Bengal, for instance, in 2002-03 earned 28 per cent less than what they earned in 1996–97. Incomes of

sugarcane farmers decreased in Uttar Pradesh by 32 per cent and in Maharashtra by 40 per cent during the same period.

Source: The Hindu Daily Newspaper, 10th October 2005, P.10

17.7 FOOD SECURITY

Food is one of the most basic human rights – achieving it should not be seen as ‘charity’ but as an obligation of the state (Stephen Jackson 2002). Going by the Constitution of India as well as by the Universal Declaration of Human Rights, food security is vital. Indian policy planners have treated food security as a national priority. The country’s total output of food grains, which was merely 50 million tonnes in 1950-51, has shot up over eight folds to cross 212 million-tonnes mark, according to latest estimates. The per capita food availability has risen during the same period from nearly 395 grams to nearly 500 grams per day despite unabated rise in population. Considering that the normative annual demand for food under the current scenario is only between 195 and 200 million tonnes and the actual demand is even less than that, the country appears to be not only self-sufficient in food grains but marginally surplus as well (Surinder Sud, 2004).

17.7.1 Sources that ensure Food Security

For example Focus Group Discussions conducted in several villages across five districts in Tamil Nadu put across that in a normal year a poor rural family in Tamil Nadu depends on PDS for about 90 – 120 days (spread across a year); wages received in kind (usually paddy in wet regions, and *chulam* or *ragi* in dry regions) ensures food security for 75 – 90 days; and the ‘informal markets’ (local private merchants who deal in essential commodities) cater to the rest of the 120 – 150 days in a year.

Public Distribution System (PDS) in Tamil Nadu can be attributed as one of the main reasons for non-occurrence of hungry deaths in Tamil Nadu, notwithstanding the corrupt practices PDS is known for. This is more so during slack seasons and at times of a lean harvest. Be that as it may in terms of nutritive value, with regard to making food articles physically available, the fact remains that PDS meets 25 – 40 percent of the food requirements of the ‘poor people in the state’. Thus, PDS is one permanent and stable source of rice, wheat, sugar and kerosene at prices that are affordable vis-à-vis the incomes the ultra-poor in the villages and urban slums earn. So, PDS is one necessary scheme for ensuring essential food articles to the rural and urban poor. Despite complaints, majority of the poor still depend on PDS to meet at least ten days’ food requirements (in a month) of the family.

One prime source of supply of essential commodities for both the *landed class* and the *working class* is PDS. PDS apart, the sources that effectively ensure food security for the landed class and working class are subtly different. For the ‘landed class’ the other sources that ensure food security are: (i) the paddy harvested in their land, and (ii) the cash income they earn after selling the agricultural produces. With cash income they go for exchange, of essential commodities required, from (a) the Fair Price Shops (on ration basis), and (b) obtain the rest from the informal open markets / merchants who deal in rice.

For the ‘working class’ the sources that effectively ensure food security are essentially two: (i) the cash income one earns as wages; and (ii) wages received in kind. The practice of paying in kind especially by farmers who harvest paddy is widely prevalent in many districts in Tamil Nadu. An average worker gets about 10 kg of paddy in exchange of one full day’s work. The wages received in kind (paddy) is considered significant because in one harvesting season an average family earns 4 – 5 bags of paddy which is the second source of food security – the first being PDS. Whatever may be the occupation one is involved in, during

paddy harvesting season, many a rural family has the practice of going for paddy harvest especially to earn wages in terms of paddy which sustains life of the entire family for 2- 3 months in a year.

17.7.2 The Reform Measures and the External drive for Reform Measures

The governmental measures such as shifting of FCI operations mostly to State governments, abolition of Essential commodities Act on the grounds that it is distorting trade, proposal to introduce Food Stamp Programme where private retailers would play the main role in place of PDS and, continuous mention of making food aid as a targeted programme instead of making it a universal one make critics of globalization state that these are thrust upon us by the WTO and the World Bank. Another alarm raised is that WTO through AoA negotiations threatens food security of the poor in India, and that it is making moves to close down the Food Corporation of India (FCI). They also state that the World Bank and other international organizations advise gradual phasing out of PDS because of the high food subsidy bill the government has to foot every year.

This comes up despite the fact that India has initiated with the WTO the need for a Food Security Box to be able to protect the food Security of the poor in developing countries. Statements that come from WTO also indicate that India plays only a defensive interest when it comes to issues such as agriculture, food security and poverty reduction. The way negotiations are made, India seems to be cautious with regard to safeguarding agriculture and food security from being affected by trade negotiations. The food security box asks that measures for poverty alleviation, rural development and diversification of agriculture, should be exempt from reductions. The problems with FCI and PDS are well known. They are high administration costs, unwanted transportation costs, storage loss, theft, and so on. These are

things India need to repair and revamp at the domestic level. The way FCI operates and PDS functions cannot be allowed to function it has been doing.

Another provision mentioned about food subsidy and poverty as far as WTO is concerned that there are legitimate provisions such as Special and Differential Treatment (SDT) on food security that provides safe-guards on a regular basis at subsidized prices for meeting the food requirements of the poor. However, provisions of the AoA are still under negotiation and it plays unfavourable role only to certain extent. What makes food insecurity predictable is the trade-oriented-culture that the AoA emanates in Tamil Nadu agriculture – many of them sponsored by the governments – either at the centre or at the state.

The general trend of neglect of food grain crops and promotion of commercial crops is a dangerous sign. It signals food insecurity. Neglect of irrigation infrastructure, water bodies, absence of management practices and rising in-put costs make agriculturists develop a tendency not to engage the younger generation in agriculture. The tendency to go for cash income rather than food security through subsistence farming is catching up in several places. That cash can buy food articles and trying to grow food-grains might end up as a futile exercise is a general impression spreading across.

This might require or has already made India to go in for import of wheat again after six years. There is domestic preparedness required in terms of building irrigation infrastructure, ensuring minimum support price etc, to be able to sustain self-sufficiency in food grains production and to ensure food security to the mass of this country.

17.8 PLANTATION

This section aims at tracking down the macro-level changes that have taken place in the tea sector after liberalization of Indian economy. Only those changes that have transpired from the moves of the WTO, or as a result of the reform measures of the Government of India have been covered here.

- **Collapse of the USSR:** One of the very prominent macro-level changes that emanated from outside India is the collapse of the USSR. This is considered as one of the major factors because USSR was one prominent buyer of Indian teas before the collapse of USSR in the mid 1990s. Indian Tea Industry was heavily reliant on the erstwhile Soviet market. This was facilitated by very favourable terms of trade between India and the Soviet Union. The cost of capital items and equipments received from the Soviet Union was paid for in commodities like tea and other agro products, based on rupee-rouble agreement. South Indian tea had a very secure market, until the disintegration of the USSR in the mid 1990s, resulting in a free market economy there also. Russian buyers started sourcing their teas from different markets other than India, in order to achieve the maximum cost advantage.
- **Liberalization Policy:** Liberalization policies resulted in new players like Vietnam, Indonesia and Kenya to name a few, emerging in the international tea trade. A situation arose where teas from those competing countries started being off-loaded in the Indian domestic market. This created a glut in the domestic tea market and price crashed to unsustainable levels.
- **Demand-Supply Imbalance:** Many countries of the world have started cultivating tea. Thus, world supplies of tea are on the increase. A projection made by

CommodityIndia.com in October 2005 indicated an increasing imbalance between supply and demand of 98,000 tons.

- **Price Competitiveness:** The inability of Indian tea, particularly the South Indian tea to match price competitiveness in the export market and consequent fall in exports have led to a glut in the domestic market. The import of tea through various permitted channels, under the trade liberalization policies further deteriorated the situation.
- **Indo-Sri Lanka Agreement:** Sri Lankan teas come into India under preferential arrangement. Sri Lanka, the second largest tea exporting country in the world, is expected to increase exports by 1.2 per cent annually to account for 25% of the global total in the year 2014.
- **Opening up of tea market:** The earlier legal requirement was that atleast 70 % of the tea produced by planters should be necessarily sold through the auction centres. With the advent of globalization and free-market economy, this restriction became irrelevant, as the producers demanded removal of the restriction so that teas could be sold privately at the best available price rather than the price realized at the auction centres which was driven more by market sentiment. Subsequently, this legal restriction of compulsory sale in the auction has been removed by the Government. Any buyer / trader can source his producer privately. This has made the e-auction a failure which was already suffering from certain technical snags. This has enabled the business of tea outside the auction system to thrive.

- **Additional Sales Tax (AST):** Teas worth more than Rs.10 crores sold through e-auction centers are charged Additional Sales Tax (AST). This has become one of the factors that discourages sale through e-auction and to opt for private sale of tea.
- **Excise Duty on Tea Withdrawn:** The Union Budget for 2005-06 of the Government of India has withdrawn excise duty on tea. After the duty free import of tea for re-export started, net Indian tea export has fallen from a minimum required level of 200+ million kgs to 160 to 170 million kgs.
- **Import for Export Policy:** Import of tea from other countries for re-export is legal in India. Import duty for tea has been brought down. This enables many traders to import tea on the pretext of re-exporting, after the purported value addition, replacing and reducing the net volume of exports of Indian tea.
- **Pepsi Cola:** In the global beverages marketplace the competition is large. The youth are being lured to think that taking pepsi and coke products are fashionable, rather than taking tea or coffee. This is the cultural aspect of globalization that spreads through media especially the TV and the magazines.
- **FDI:** Even though Foreign Direct Investment (FDI) has been permitted, there are no takers because of the bleak prospects of the Tea Industry.
- **India's Business share in world tea:** In absolute figures, the share of Indian tea business to total tea is on the increase, whereas the percentage of share of Indian tea to the world's share is declining.

- **No Level-Playing Field:** Plantation sector in India is regulated by the Plantation Labour Act – 1951. In addition to the wages paid based on periodical wage settlements arrived at between labour unions and planters association, there is a host of other social security benefits the planters have to offer to the plantation labourers, which planters in many of the competing countries such as Kenya or Sri Lanka either do not offer or are provided by the government. Their costs, and wages are reportedly much less. This increases the cost of production of Indian tea when compared to the competitor countries’.

Table – 8.1

India’s Share in International Tea Trade

(in MT)

Year	World	India’s share	Contribution in percentage
1995-1996	1095	168	15.34
1996-1997	1129	162	14.35
1997-1998	1206	203	16.83
1998-1999	1307	210	16.07
1999-2000	1263	192	15.20
2000-2001	1331	207	15.56
2001-2002	1391	183	13.16
2002-2003	1439	201	13.97
2003-2004	1390	174	12.52
2004-2005	1501	184	12.26

Source: *Plant Hort. Tech, (Bi-monthly), Bangalore*

Coffee

Coffee in India especially in southern states is a small growers' arena. About 98% of the coffee planters are small growers, who are satisfied at farm-gate price. They are unaware of what international coffee standards are. Coffee Board has wound up its marketing function. Coffee prices are determined at international levels by the International Coffee Organisation (ICO). Knowledgeable big players like the Tata Coffee make use of this, while small planters are contented selling it locally. Intercrops in coffee plantations have enabled them to sustain their income levels.

One of the major changes that the coffee industry in India underwent was in 1995 when Coffee Board got its marketing function wound up. The market became open to the coffee producers. It was good news for big players in coffee business such as the Hindustan Lever Ltd, and the Tatas. But for many of the small growers it was sweepingly drastic, for they did not know any other mode of marketing. Many of the coffee planters grow along with pepper, banana, orange, and beans. This fetches additional income or a cushion that can save the planters during drought.

The big estates owners have a tendency not to keep many permanent workers. They employ a handful of permanent workers, and hire casual labourers either locally or from the plains during peak seasons. The employers think: (i) this is economical for them, and (ii) they can

keep away from paying the statutory benefits they need to pay several permanent labourers whom otherwise they would have employed.

One of the major problems with coffee is over-production, creating a wide demand-supply disparity. Many farmers become over-ambitious and start producing coffee taking into consideration the fact that coffee is a marketable commodity and it has export potentials as well, then it creates a glut in the market. It has sometimes become global glut as well. The market conditions pull down the prices so badly that it becomes completely non-remunerative. In the past 10 – 15 years every country started growing coffee. Even Chinese, who until a few years ago have not tasted coffee at all, are also starting to cultivate coffee. Brazil and Vietnam, big players in coffee business, have expanded the area and have gone very vigorously. Whereas India is going very slowly, not doubling up the production.

After globalization the medium and large-sized planters as well as the company estates participate in trade fairs and in regional quality coffee awards etc. The trend in some parts of the world now is for 'estate branded coffee' that fetches a premium price. One of the obvious benefits of globalization and after participating in many trade fairs, many countries of the world come to know that India is also producing coffee. Participation in trade fairs and exhibitions enable them to penetrate the market and be able to position the coffee as a branded product, whereas small growers of coffee are still trying to sell coffee as a commodity. Globalization has made this market penetration possible for those who are knowledgeable and moneyed. The small growers are still contented selling their produce at the farm-gate price.

Rural artisans

1. Goldsmiths

- The number of people who approach the goldsmiths for making jewellery has drastically come down, and the trend to select ready-to-wear jewellery from showrooms is fast catching up. This is sending shock waves in the spinal cord of the goldsmiths;
- There used to be a small jewellery shop by the workplace of the goldsmiths. This arrangement changed when the goldsmiths sat by the side of small jewellery shops. In either way, the goldsmith had a place. In the former case goldsmiths assumed significance and in the later case it is the jewellery shop that assumed significance. After liberalization, jewellery showrooms have assumed the prime-place, where traditional goldsmiths go seeking employment.
- Small and medium-size jewellery shop owners needed either investment or finance to showcase ready-to-wear jewellery items, and so they started holding new business deals with gold traders and financiers from north India. In the bargain the goldsmiths who depended on local jewellery shops got sidelined.
- The goldsmiths as artisans who have hitherto been making a livelihood out of their capabilities suffer as they need money to invest in gold to supply to the customers or to the small jewellery shop owners.
- Business giants (such as the Tatas for example) who have never been in jewellery business are opening gigantic jewellery showrooms and showcase machine-cut designs, fashion jewellery and branded jewellery which sell like hot-cakes. The goldsmiths are mute spectators to these developments.

- There are also jewellery complexes opened in places like Chennai and Coimbatore which in reality, have confirmed that goldsmith have to find employment in such complexes and they are no more the main players in making jewellery items.

- Popular jewellery shops having their showcases for branded jewellery to be displayed.

That is somebody else's product upon which the jewel shop-owner has made no investment on the displayed items in showroom. The strategy of: '*doing business with others money*' is catching up even among the middleclass jewellery shop owners. You get a percentage of the profit. This is out and out trade mentality that has affected the local artisans.

2. Blacksmiths

- Blacksmiths face two different types of onslaughts. One is, due to shrinking agriculture, the quantum of work they used to get has come down tremendously; and the other is hi-tech factories have started taking over the production of spades, crowbars, plough-shares and so on.

- There are hardly any bullocks to pull carts. Neither are there bullock-carts nor are there bullocks to pull the carts. This has reduced the demand for horse-shoe nails which were supplied by the traditional blacksmiths.

- Working in a blacksmiths workshed requires a lot of muscle power and as the blacksmith grows old, he becomes unfit for the job. Although there is hardly any new takers of this occupation, those already involved in this are lurking in dark about what they would do to spend their old age, when they become physically weak.

- The younger generation is opting to work as rod benders in building construction works, and some even get technically qualified such as welders, fitters and join the companies making grills or car tinkering workshops. This is a healthy shift noticed amidst the blacksmith community.
- In Dindigul, Tamil Nadu there were several lock workers cooperative societies functioning and most of them are either dormant or have been wound up today. Dindigul lock-workers could not compete with company-made locks. Godrej has become a popular brand for locks. This is another case of tradition being marginalized modernity.
- People, today, have a wide variety of choices thrown before them for selecting vessels and domestic utensils. As '*the culture of wanting to have houses with the facilities of a hotel and hotels with the comforts of a house*' people choose, a whole array of household utensils and serving vessels, where elegance, the esthetic look and the presentability matters more than anything else. The brass vessels do not come anywhere near their choice of things. So, the demand for brass vessels has fallen sharply.
- Those involved in trading of vessels are thriving. Some from traditional business community who deal in raw materials for this industry, and in buying and selling stainless steel utensils are growing. Only the artisans who are involved in actual production are losing out. Traders benefit. The artisans or the producers are declining.

3. Carpenters

- Tamil Nadu is on the fast-lane in terms of urbanization. Construction industry is one that is booming. The paradox is carpenters - especially those with 'traditional

carpentry skills' - are not in high demand, while masons are in high demand, bar-benders, welders, and interior decorators are also in high demand.

- One of the reasons stated for carpenters not being in high demand is the way modern construction plans are made. There is not much work for wood. The other reasons could be that wood is costly because of the competing demand from industries such as wood pulp industry, plywood industry and sports industry.

- The main reasons for carpenters losing employment opportunities are:

- Alternative materials such as plastics, plywood, mica, glass sheets with aluminum frames, and iron materials have started entering the market. Use of wooden materials have naturally started declining.
- The influx of plastic chairs and light-weight materials in market has started side-lining the wooden furniture items;
- The comparative advantage that people have found out in terms of cost and handling in materials other than wood. One block of *neem* wood that sold for Rs.70 about twenty years ago costs Rs.400 today;
- The additional cost involved and time one has to wait for getting a wooden item decorated elegantly.
- The life of a wooden furniture goes beyond a generation and so demand does not increase frequently.
- For private, office and commercial complexes, people who want to buy wooden furniture go in for branded furniture items from companies such as the Godrej after perusing designs in a design catalogue rather than placing an order with the local carpenters.

- Arrival ready-to-fix doors, ready-to-fix-windows, grill-windows, false ceiling, and concrete roofing have considerably reduced the need for wood and wood works.
- The measure of the government to reduce felling of trees on environmental reasons also reduced the need for wood workers.
- At a time when chairs, tables, and furniture items were completely being made of wood, a trend of using iron pipes has reduced the weight of the materials as well as the cost. This necessitated the carpenters to get the pipe and iron works done from outside which took away a slice of the wood work and their share of profit.

4. Potters

- Technology that came from time to time has introduced a whole range of vessels and household utensils that pottery is gradually being marginalized from the mainframe utility items at the household level even in many of the villages.
- This change in the mindset of the people has resulted in poor off-take of pottery articles and poor income to the potters, except in a few places where local culture still remains in tact.
- One significant thing found in this research is that pottery articles from in-side the house have come out-side the house – meaning pottery articles are no more used as household utensils. In fact, the modern utensils made of stainless steel and other durable materials have shown pottery articles the way out.

- Potters are not completely blind to market trends as one thinks. Apart from producing glazed pottery and terracotta items, potters also introduce innovation to remain in the market. They make certain show piece items, which attract the attention when one passes by in an exhibition.

- As far as the technology is concerned, the only tool that the potters were identified with was “a *potters’ wheel*”. Support extended by agencies of the government such as the KVIC and international agencies such as the UNDP have helped introduce a whole range of improved tools, machineries and technology in pottery, which are made available to those organized into cooperatives or under KVIC. Those outside cooperative fold do not worry about not getting those machineries as these machineries have problems of operation and maintenance.

5. Sculptors

- There are three types of sculptors viz. stone, wood, and metal. Of the three types of sculptors stone carvers usually have a high demand, since demand for stone sculptures is in high.
- There is nothing that can be stated as influence of globalization processes as far as sculpture as a livelihood venture of a section of the population in Tamil Nadu. One of the main reasons is that there are no alternative or competitive materials available nor can one think of promoting one so easily merely by deploying funds and technology. They keep doing their work as always and the problems they state are very much internal and domestic, which have nothing to do with globalization or modernity.

■ Alternative materials produced through an up-graded technology could be used for sculptures. But the faith and belief that people have about certain things cannot be erased. The materials that the sculptors produce and supply are not viewed merely as materials but as an embodiment of certain values, spirit and godly-faith. It is valued not for the material but for what it embodies. There can be no alternatives to such things.

■ It is noticeable that among the sculptors there is a new-found tendency of becoming commercial. This is perhaps because there are no new entrants to this occupation taking into account the drudgery involved. Moreover, it is reported that people these days usually ask for idols and ready-made sculptures. This gives them an edge to ask for more money to pay of for the wages and making charges.

■ No women are engaged in stone carving works, perhaps because of the periods of menses and the associated belief that a woman should not touch deities nor should be involved in performing pooja while she is undergoing the menstrual period. Today's gender activist might oppose this but, this is a custom that prevails even now among the sculptors.

■ Capital is one of the main constraints faced by the sculptors. Availing bank loan is a tedious and long-drawn process and so, sculptors avoid seeking financial assistance from the local banks. They pledge jewels and borrow from informal moneylenders to make investments on proposals of expanding or repairing their workshed.

- The sculptors are not allowed to take up work from the temples because of the non-possession of a certificate issued by a government institution such as the Institute for Temple Architecture and Sculpture at Mahabalipuram. As per a G.O. issued by the State Government in 1972, the traditional wood carvers are denied the opportunity of taking up carving works on the grounds that they do not possess a certificate for having undergone training. This is an absurdity that the traditional sthapatis make fun about.

Fishery

Concerns in the recent Globalisation Process

In fact, the fishery sector has derived benefits which include improved quality and better access of fishery products to markets, increased export earnings, greater exchange of technology, increased productivity and efficiency and better supply of fish products to local populations through liberalization of imports. At the same time, there are some negative effects of globalization on fisheries which are given below:

- The fish production has been stagnating while pressure on coastal resources has been increasing.
- Even the artisanal fishery has become increasingly capitalized and fossil fuel dependent. This makes the fishery unsustainable.
- Investors and government have been targeting coastal resources disregarding fishermen's livelihoods and security in gross violation of the Coastal Regulation Zone (CRZ) norms. For example, as per the 1996 Tamil Nadu Coastal Zone Management Plan the entire Pulicat Lake is classified as Coastal Regulation Zone I and which means a fragile area and no development zone.

- The growing dependence on these marine resources due to over population and more number of mechanized crafts leads to over exploitation due to more number and conflicts among users.
- There is a serious concern that the increased market competition between the small-scale fisheries sector products.
- Another main issue of the recent globalization process is the greatest denial of market access for fish and fish products from developing countries indicating sanitary norms could be under the mantle of environmental concerns, hygiene, quality and food safety standard.
- As markets for fishery products become ever more globalised, it is required that the fisher folk must understand and meet international product quality and certification standards which are so weak in many places.

Globalizing is good rather than remaining a closed economy. Being closed obviously means stagnating. Globalizing without adequately preparing the domestic sectors on various fronts will throw the economy out of gear. What matters is that, if a development model is likely to leave behind a vast section of population in penury, benefiting only a few, it is obnoxious. The market and technology might leave the common man behind. But, a state cannot make decisions that make some blissful and leave others distressed. Whichever is the level of government--Central, State or Local--public (and private) actors at all levels with power to influence the outcome of globalization must be democratically accountable for the policies they pursue and the actions they take.

UNIT: 18 GENDER, MARGINALIZATION AND EXCLUSION

Structure

- 18.1 Introduction
- 18.2 Definition of the Concept Social Exclusion
- 18.3 The ‘Social Exclusion’ Problematic: Multiple and Overlapping Disadvantage
- 18.4 Mechanisms of Social Exclusion
- 18.5 Socially Excluded Groups and Categories
- 18.6 Social Exclusion and the MDGs: Some Empirical Findings
- 18.7 Social Exclusion and the Incidence of Poverty
- 18.8 Social Exclusion and Health Outcomes
- 18.9 Social Exclusion and Educational Outcomes
- 18.10 Responding To Social Exclusion
- 18.11 Let Us Sum Up
- 18.12 Glossary
- 18.13 Answers to Check Your Progress
- 18.14 References
- 18.15 Unit End Questions

18.1 INTRODUCTION

The concept of ‘social exclusion’ is of relatively recent origin. It gained currency in the European context in response to rising unemployment and income inequalities which characterized the closing decades of the 20th century, a period of considerable economic and social dislocation as countries sought to deal with the challenges of globalization on their labour markets, welfare states and prevailing ideas about citizenship. We can see ‘Social exclusion’ from the definition offered by the European Foundation to represent the other end of the spectrum to ‘full participation’

This unit argues that the primary value-added of a social exclusion perspective for development policy lies not so much in the ‘naming’ of a new problem, as it appears to have done in northern social policy studies, but in offering an integrated way of looking at different forms of disadvantage which have tended to be dealt separately in the development studies literature. In particular, it captures the experience of the certain groups and categories in a society of being somehow ‘set apart’ from others, of being ‘locked-out’ or ‘left behind’ in a way that the existing frameworks for poverty analysis had failed to capture. Consequently, it has insights to offer such analysis beyond those offered by these frameworks. It also allows a bridge between the concept of poverty, which focuses on absolute levels of deprivation, and that of inequality, which is concerned with distributional issues. Social exclusion helps to highlight inequalities in the distribution of deprivation of the poor.

This unit has three parts: a conceptualization of social exclusion, the empirical exploration of its relevance to the key MDGS related to poverty, health, education, the policy implications for linking poverty reduction strategies to the challenge of building more inclusive societies and the conclusion.

18.2 DEFINITION OF THE CONCEPT SOCIAL EXCLUSION

“[Social exclusion is] the process through which individuals or groups are wholly or partially excluded from full participation in the society in which they live.” Since the Social Summit in 1994, there has been increasing attention paid to the usefulness of the concept to concerns with poverty, inequality and social justice in the developing country context. Institutions are also used the concept of social exclusion are Institute of International Labour Studies, the Asian Development Bank, the Inter-American Development Bank and the World Bank.

However, the transferability to the different, and increasingly differentiated, context of developing countries was not immediately clear. There were question marks about the relevance of a concept formulated to describe the persistence of poverty in contexts characterized by general prosperity to contexts where the majority or significant minorities were poor. There were also concerns that the concept would be imported thoughtlessly to simply re-label long-standing, locally developed approaches to social problem.

Consequently, the value-added of the concept of social exclusion had to be demonstrated before it was incorporated into the lexicon of development policy. What would it add to the understanding of poverty, given that the characterization of poverty had progressed considerably from earlier income-based approaches to a greater recognition of its multidimensionality? How would it contribute to the analysis of inequality, now increasingly recognized as a critical factor in the translation of economic growth into poverty reduction? And if the poverty-reduction agenda was concerned with meeting basic needs, and the inequality agenda with the distribution of the means to meet basic needs, did they not suffice to ensure a concern with social justice?

18.3 THE 'SOCIAL EXCLUSION' PROBLEMATIC: MULTIPLE AND OVERLAPPING DISADVANTAGE

A useful starting point for the conceptualization of 'social exclusion' is to consider the different ways in which 'disadvantage' operates to limit the opportunities and life chances of individuals and groups in a given society. Economic theories have focused primarily on resource-based paradigms of disadvantage, generally taking the individual, or the individual household, as their unit of analysis. This, for instance, was the approach which influenced earlier conceptualizations of poverty within development studies which equated it with income or expenditure shortfalls. Even now, when poverty has come to be increasingly recognized to be a multi-dimensional phenomenon, encompassing income, assets, education, health, dignity and voice, yet continues to be *causally* understood in economic terms. The poor within this paradigm are believed to have little or no voice in determining resource allocations and institutional arrangements within a society *because they are poor*; they are rarely seen to be poor *because they have little or no voice* in determining resource allocations and social arrangements.

As Stewart points out, this has given rise to a 'vertical' model of inequality which ranks individuals or households by their income or assets and measures the inequality across this hierarchy. The Gini co-efficient is an example of widely used measure of inequality, primarily in relation to income distribution, but also to measure the distribution of individual education or health outcomes.

Sociologists, on the other hand, have paid greater attention to *identity-based* forms of disadvantage, disadvantage which reflects the cultural devaluation of groups and categories of people in a society by virtue of *who they are*, or rather, who they are perceived to be. The identity in question may relate to distinct and bounded groups of people who are defined by their distinct cultural practices and shared way of life. Caste, ethnicity and religion are examples of such group identities. Alternatively, it may relate to an unbounded *category* of people who are defined by a single shared characteristic (e.g. gender, disability or HIV-positive status). Members of such categories may share very little in common, aside from the discrimination they face.

Processes of cultural devaluation occur through the construction of the members of these groups or categories by dominant sections of society as persons of lesser worth through beliefs, values, attitudes and behaviour which belittle, stigmatise, stereotype, invisibilise and discriminate. These processes are effective because they draw on discourses which have legitimacy within a society (such as religion or 'tradition') or which speak to its fears (of 'the other' or of 'the unknown'). They can have deep effects on the sense of selfhood and social identity of those who are defined in this way, on their capacity for agency and on the terms on which they are permitted to exercise this agency.

Group-based disadvantages give rise to what Francis Stewart calls a 'horizontal' model of inequality where the inequalities in question cut across economically defined strata and differentiate the ability of different groups and categories within society to access valued resources and opportunities.

The two paradigms thus focus on quite distinct understandings of disadvantage: one relating to lack of resources ('what you have') and the other to identity-based discrimination ('who you are'). It is possible to be poor without facing cultural devaluation ('the deserving poor') just as it is possible to be discriminated against without being poor (most women face gender-based discrimination without necessarily being poor). A 'social exclusion' perspective draws attention to the overlap between these different experiences of disadvantage, in other words, to the experience of those individuals and groups who, in addition to their poverty, face discrimination by virtue of their identity, undermining their capacity to participate in the economic, social and political functionings of their society on equal terms.

There is one other dimension to social exclusion which may not be fully captured by the interplay between economic deprivation and social discrimination, which is the **spatial** one (*where you are*). Spatial disadvantage may lie in the remoteness and isolation of a location which makes it physically difficult for its inhabitants to participate in broader socio-economic processes or it may operate through the segregation of urban environments and the 'subcultures' of violence, criminality, drug dependence and squalor which often characterize the territorially excluded neighbourhoods.

The spatial dimension of exclusion is not entirely divorced from its resource and identity dimensions since it is usually culturally devalued and economically impoverished groups that inhabit physically deprived spaces. Consequently, in certain contexts, it may be possible to capture the causes and consequences of social exclusion through a two-dimensional model of social exclusion based on the intersection of deprivation and discrimination. In others, we may need a three dimensional model because location exercises an independent effect, over and above, those associated with economic or cultural disadvantage.

The analytical 'value-added' of this approach to social exclusion is that it allows insights from the literature on group identity, cultural devaluation and social discrimination to be applied to the analysis of economic deprivation. Thus we find that in many contexts, the extreme or the chronic poor are not 'just like' the rest of the poor, only poorer or poor for longer, but are additionally disadvantaged by 'who they are', aspects of their identity which set them apart from the rest of the poor. It also helps to make sense of why some sections of the poor find it harder than others to transform the resources at their disposal, including their labour, into the satisfaction of basic needs. While this 'transformation problem' may sometimes reflect differences in individual efficiency, when it is systematically experienced by distinct groups in a society, and when these groups occupy a distinctly disadvantaged position within the social hierarchy, it is likely to be a consequence of their socially excluded status.

Check Your Progress Exercise 1

1. Define social exclusion

2. Identify poor in your area and interact with them. List the disadvantages they are facing and its dimensions. Find out what are the types of exclusion are they facing?

18.4 MECHANISMS OF SOCIAL EXCLUSION

The explanation of social exclusion cannot therefore be reduced to the idiosyncratic preferences or aberrational behaviour on the part of some individuals towards others. It has to be seen as an institutionalized form of inequality, the failure of a society to extend to all sections of its population the economic resources and social recognition which they need in order to participate fully in the collective life of the community. The analysis of social exclusion is thus concerned with institutional rules, relationships and processes through which resources are distributed and value is assigned in a society, focusing particularly on the mechanisms by which 'access' and recognition is granted or denied. In this section we consider some of the ways in which this works.

Economic theory suggests the important distinction between 'open' and 'closed' groups as one way of understanding access and exclusion. Open groups (such as political parties, social movements) are those which achieve their objectives by expanding their membership because the benefits they seek increase with increased membership and outweigh the recruiting bringing new members. Closed groups (trade unions, cartels, professional associations), on the other hand, achieve their objectives by restricting their membership on the basis of some agreed set of rules. Olsen's work on 'distributional coalitions', for instance, draws attention to the use of restricted membership as a means by which certain groups seek to capture the 'rents' arising out of their agreement to simultaneously restrain competition between themselves while excluding non-members from the benefits. Buchanan's work on 'clubs' suggests that exclusionary mechanisms can come into play with any good whose value depends on combining non-rivalrous use among members with restriction on membership at the point where increased access to the good would diminish its value to the existing membership.

The use of membership rules to limit access to valued goods in a society is clearly likely to be an important mechanism in determining the distribution of advantage and disadvantage in a society. However, economic theories provide a largely *individualistic* and voluntaristic explanation of such group formation. They do not address group inequalities which are not necessarily generated by the conscious cost-benefit calculus of individuals but by forces beyond their control. Structuralist approaches, on the other hand, highlight the *systemic* nature of the processes which classify people into groups, categories and networks, privileging some at the expense of others. While such classifications may promote the material interests of those who are thus privileged, sociological analysis draws attention to power of social identity, of shared perceptions of 'us' and 'them', in helping to draw up and legitimate these classifications and to reproduce them over time. Indeed, identities based on such social affiliations may override considerations of economic interest.

Folbre's distinction between 'given' and 'chosen' groups is one way to disaggregate the distinction between open and closed groups in order to incorporate a more structuralist analysis of the processes of closure. While chosen groups are obviously ones which individuals join of their own accord, and which they are also able to exit of their own accord, they are not all equally 'open'. For instance, while the associational life of civil society is largely made up of 'chosen' forms of membership, a consideration of some concrete examples of such associations - such as OXFAM, the Self Employed Women's Association, the International Confederation of Free Trade Unions, the Freemasons and the Klu Klux Klan - suffice to show that they vary considerably in how open they are and to whom.

'Given' groups, on the other hand, are by definition closed groups with the additional feature that they are less easy to join and less easy to abandon. The socially ascribed character of certain group identities and memberships, which given them the appearance of being 'given' and unchangeable, reminds us that there are group-based constraints on individual choice and that not all such constraints are economic in nature. People are not always in a position to choose who they are, where they belong and how they wish to be perceived for reasons which have little to do with what they own or earn.

At the same time, however, it should be borne in mind that the boundaries between 'chosen' and 'given' are not always clear-cut nor are they always necessarily stable. A 'given' racial identity which is stigmatized by society may be embraced by members of that racial group over time and transformed into a source of pride. There are also 'conjunctural' forms of social exclusion which occur because of changes in the actual or perceived situation of individual member in the course of their life time.

Box1: Example for 'conjunctural' forms of social exclusion:

As Harris-White points out in her study of destitute groups in India, changes to the body as result of addiction, illness or disability often acts as a trigger for the exclusion of the individual from familial and community networks as does transgression of certain norms of inclusion – 'of pure clean practices, healthy states, normal sexuality and compliant behaviour'.

'Conjunctural' forms of social exclusion also occur in times of crisis. When families start to slide into greater poverty, cultural rules and categorisations come into play to determine who will be expelled from its support system. Certain categories of members - women, the elderly, the very young, the disabled – face socially-enforced restrictions into the range and types of economic activities they are able to do, rendering them dependent to a greater degree on other more advantaged members. These categories are most likely to become socially excluded when the family economy starts to deteriorate. Furthermore, because of restrictions on their ability to provide for themselves, the loss through death, desertion and abandonment of those who were meant to provide for them, can act as a mechanism for social exclusion.

The existence of conjunctural forms of social exclusion suggests that the relationship between identity and exclusion is not necessarily defined over the lifetime of the individual but may occur as the result of particular events. The distinction suggested by Ashwani Saithii between 'mutable' and 'immutable' identities reminds us that some forms of identity are harder to shed than others. 'Mutable' forms of social exclusion relate to temporary phenomenon such as the situation faced by migrants spending a limited period of time in an alien environment or to identities which can be transformed with relative ease, for instance, through religious conversion or acquiring formal citizenship. 'Immutable' identities, by contrast, refer to identities and affiliations which have evolved over an extended period of time, appear almost primordial in

nature and do not lend themselves easily to change. They tend to be associated with enduring forms of social exclusion, lasting over the life time of an individual or over several generations.

The ease with which individuals are able to opt into or out of, group membership, the 'switchability' of certain kinds of group identity (Stewart) has an important influence in determining the experience of group membership for its members. In particular, the possibility of movement out of devalued group status or up the social ladder will help to determine the extent to which different groups in a society 'think' and 'act' like citizens with a collective faith in the justice of its institutional arrangements and a collective stake in its future.

To sum up therefore, social exclusion as it has been conceptualized in this unit does not entail a binary model distinguishing between those who are 'in' and those who are 'out', but refers instead to the disadvantaged terms on which socially excluded groups and categories participate in the economic, social and political functionings of their society. Such disadvantage is manifested in a myriad different ways and in all arenas of life. For instance, it may operate through:

- High levels of exploitation so that socially excluded groups are to be found working in the worst paid jobs in the harshest working conditions and in the most insecure margins of the informal economy
- Asymmetrical patron-client relationships in which members of excluded groups exchange their labour, loyalty and independence in return for protection and security from more powerful sections of society
- Resort to criminal, illegal or stigmatised activities in the face of the barriers faced by excluded groups in accessing socially recognized forms of livelihood.
- hard-core forms of social exclusion produced by the "destructive synergies" between the extreme versions of disadvantage. Harriss-White's analysis of destitution in the Indian context found that, along with poverty and assetlessness, the destitute were characterized by 'stigmatised' identities (mentally ill, leprosy or AIDS-affected, addicts of various kinds, orphaned and abused children, the abandoned elderly and disabled), by the precariousness of their place in the community (many were homeless and lived on the streets) and by the demeaning nature of their livelihood activities which entailed either extreme levels of exploitation by others (as in bonded labour), extreme forms of self-

exploitation (the marketing of the body, as in sex work, or sale of body parts) or uncertain forms of charity (begging is commonly associated with destitution),

18.5 SOCIALLY EXCLUDED GROUPS AND CATEGORIES

Some examples of social exclusion from different parts of the world will serve to illustrate the variety of forms they take as well as the difference between socially excluded groups and categories. Ethnicity, caste and race constitute the most empirically documented examples of *group-based* exclusion in the development literature, although their significance varies by context. Religion is also an important axis of differentiation and takes on an exclusionary character in particular contexts or at particular times. Anti-semitism has a long history in the European context, evident in the ghettoization of Jewish communities in many of the countries of Europe and remains a virulent force today. While not all members of religious minorities in the Indian context are necessarily poor, those that are have to deal with the multiple disadvantages associated with economic deprivation and social discrimination.

The Indian caste system in many ways exemplifies the model of social exclusion sketched out in the preceding section. Divisions between different caste groups have evolved over time into increasingly entrenched and closed hierarchies based on rules of marriage endogamy, occupational restriction, limited social interaction and segregated residential patterns. While there is considerable variation in the actual configuration of castes across the region, and in the rigidity with which the rules of caste are observed, the lowest position within each local caste hierarchy is occupied by the 'untouchable' castes or dalits. Historically excluded from the ownership of land and key productive assets, dalits have been incorporated into the social system as providers of various kinds of labour and services that were considered to be polluting. It was members of these castes who had to carry out the removal of night soil and carcasses of dead animals. They continue to predominate in sweeping, leatherwork, manual scavenging and forced prostitution, all activities which are looked down upon by the rest of society.

Ethnicity is another form of group identity which has served as a basis of social exclusion across the world. 'Indigenous' ethnic minorities are often located in difficult or remote geographical

areas which has allowed their way of life to be preserved - or to be bypassed - through major periods of transformation. For instance, in the Asian context, Jorgensen points out that the mountain ranges which stretch from Afghanistan to the Gulf of Tonkin have been a refuge for indigenous communities who have, for various reasons, occupied a marginal position in relation to the dominant majorities in the valleys and plains.

In Vietnam, the ethnic minorities make up around 10% of the population. They are largely concentrated in the remote, usually upland and mountainous areas of the northern and central areas of the country with poor access to services and with little infrastructure. Many are nomadic or semi-nomadic in their way of life. The Hmong and the Dao, for instance, were originally from southern China (where the latter are known as Miao). They practiced swidden cultivation at high altitudes and continue to do so today, often walking more than a week to get to their fields which might be located across the national borders. Rainfall is low, the land is infertile and access to water for agriculture is highly irregular.

While indigenous ethnic groups in the Indian context are by no means homogenous, they are, or were, isolated from the rest of society, distanced not only by their distinct worldviews and way of life, but also the remoteness of their physical location or by their nomadic way of life. They generally tend to be concentrated in a limited number of geographical areas, rather than being spread across the country, like the scheduled castes. They are more likely to own some land than scheduled caste groups but their land is generally in difficult and unproductive terrain and hence many must seek wage labour in order to survive.

Social exclusion in the Latin American context follows largely racial and ethnic lines in the region. This is closely tied up with the colonization of the region by the Spanish and Portuguese, the suppression of its indigenous population and the import of slaves from Africa to work on its mines and plantations. 'Socially excluded' groups can make up significant proportions of the population in the region. For example, indigenous peoples represent about one-tenth of Latin America's population, but in Guatemala and some Andean countries they are one half or more of the population. Afro-descendants comprise perhaps 30% of the population overall, but they represent a majority in the states of North Eastern Brazil. There is a strong spatial dimension to exclusion. A study by Busso et al found that more than 45% of indigenous/Afro-descendants

lived in rural areas, with poorer services and communications, but the figure rose to over 80% in some countries. Indigenous groups are more likely to be engaged in subsistence farming in physically remote and difficult environments while Afro-descendants are more likely to be engaged in wage labor.

In sub-Saharan Africa, where different ethnic groups were arbitrarily, and often unequally, joined together in the territories of colonial states and subsequently into independent national entities, structural pluralism makes the association between ethnicity and social exclusion highly contested and hence unstable, with different ethnic groups often exercising dominance at different periods of history. The exclusionary implications of ethnic divisions are most stable and prominent where it took the form of racial stratification i.e. in those parts of Africa where colonial rulers not only settled in large numbers, displacing and dispossessing the local population, but continue to be a significant presence in their economy today. Post-apartheid South Africa remains one of the most unequal societies in the world as the result of a history of officially sanctioned segregation and separate development which radically reinforced socioeconomic inequalities along explicitly racial lines.

Other examples of ethnicity-based exclusion in the African context can also have religious dimensions. Andvig et al. (2001) refers to the existence of forms of 'slavery' in parts of Sudan where soldiers from the National Islamic front sell slaves, often children, captured in the animist and Christian (African) villages of the south to sell to (Arab) Muslims in the north. In Mauritania, Berber tribes raid and capture slaves from Tukulor, Fulani and Wolof ethnic groups. There is a racial dimension here but both slavers and slaves in this case are Muslims. According to Woodburn, differences in modes of subsistence are often co-terminous with ethnic difference and can operate as axes of exclusion. Three broad modes of subsistence characterize the sub-continent: agriculture, nomadic pastoralism and nomadic hunting and gathering. While each of these groups may attach negative values to others, he suggests that the severity of the stigma and negative stereotypes attached to hunting and gathering by others in their society place them at the bottom of the social hierarchy, even if they now earn their living through other means, mainly agricultural labour. Such groups are in a minority in most of the countries in which they are found but there are larger concentrations in parts of Zaire, Congo, Namibia and Botswana. They

are seen by other sections of the community to live in 'the bush' like wild animals, to eat meat from animals not eaten by others rather than 'civilized' food (meat from domestic animals, milk, grain, beer). They often play roles which confirm their inferior status in the eyes of those who discriminate against them: burying the dead or acting as circumcisers for those for whom circumcision is a polluting act.

Categorical forms of exclusion revolve around specific attributes of people who may share little in common apart from the discrimination they face. These again will clearly vary in different contexts, but age, gender, migration, illness and disability and stigmatised occupations recur frequently in the literature dealing with excluded categories. In sub-Saharan Africa, where access to land and other critical resources under customary law depends on membership of groups defined by common descent, common residence or some combination of the two, different categories of members have different – and tiered – sets of claims. Primary claimants, usually married male household heads, have direct access while women and unmarried men gain secondary access through the head. While 'strangers', those who do not belong to a locality, do not have the same rights of access to land as 'insiders', there are mechanisms through which they can acquire some access.

With the emergence of land scarcity in many parts of Africa, however, a 'landless' population is becoming evident, generally made up of secondary claimants within kinship groups, women, young unmarried men and 'outsiders'. Closed off from livelihood options on the land, they have had to seek work in the off-farm economy, as traders and wage labourers, often migrating to other areas or across borders. Scattered studies of these proletarianized groups suggest that age, gender and migrant status may be emerging in SSA as axes of differentiation, and exclusion.

Illness and disability offer other examples of categorical forms of social exclusion. Leprosy in particular has had near-mythical status as synonym for social exclusion of an extreme kind. As a poor informant from Ghana interviewed as part of the World Bank's consultations with the poor remarked: 'It is neither leprosy nor poverty that kills the leper but loneliness'. In many parts of the world, leprosy was associated with the outcasting of affected individuals by their families and communities and their decline into poverty and destitution. More recently, HIV/AIDS has emerged as a new form of stigma-related social exclusion. As Piot noted in the plenary session of

the World Conference against Racism in 2001: 'HIV stigma comes from the powerful combination of shame and fear...Responding to AIDS with blame or abuse for people living with AIDS forces the epidemic underground, creating the ideal conditions for HIV to spread'.

There are in fact strong similarities between the stigma-related discrimination evoked by AIDS and that associated with leprosy.

Finally, gender constitutes a specific form of categorical exclusion in conditions of poverty. While gender is a widespread basis of social discrimination, the intersection of gender particular category of the multiple-disadvantaged. Often, although not always, women and girls are at a disadvantage to men and boys in relation to literacy, education, earnings and employment while in some parts of the world, it also extends to physical well-being and life expectancy.

Gender is also emerging as a dimension of extreme poverty in certain parts of the world. Analyzing the characteristics of the poorest 15-20% of households in rural areas of Asia and increasingly Africa documented in a number of studies, Sender suggests that such households are likely to contain a high ratio of adult females to males and that many are unlikely to have had any access to the income of an adult male for several years because they are divorced, abandoned, widowed or because they live with males who are unhealthy, disabled or unable to earn or remit income for other reasons. The women in these households are likely have little or no education, many have had children very early in their lives and report high levels of infant mortality.

Check Your Progress Exercise 2

1. Find out open, closed and chosen groups in your area and interact with them. List the groups.
2. Please visit different communities in your area and observe the practice of 'Conjunctural' forms of social exclusion
3. Define mutable and immutable identities with an example derived from your place.
4. In the section 18.6 author talks about different groups and categories of social exclusion. Please recognize any one of the group who are placed in your area and how they are socially excluded?

18.6 SOCIAL EXCLUSION AND THE MDGS: SOME EMPIRICAL FINDINGS

We have already read Millennium Development Goals in the unit 1. Now we can see how the concept of social exclusion relevant to the development policy and how it is interrelated to Millennium Development Goals (MDG). One way to demonstrate the value-added of the concept of social exclusion to development policy analysis is to examine its relevance to the achievement of the Millennium Development Goals. These embody a set of concrete, time-bound commitments to reduce poverty and promote basic human capabilities which have been agreed by the majority of countries in the world and are likely to influence the development of medium term poverty reduction strategies by those countries which fall short of these goals. In this section, we examine the extent to which a social exclusion perspective can contribute to understanding inequalities in poverty, health and education outcomes - the focus of 6 of the 8 MDGs. We examine the extent to which shortfalls in the achievements of these goals can be explained in terms of the economic variables normally included in the analysis of poverty and the extent to which they also reflect aspects of group identity. And where the literature allows, we will also examine the extent to which these shortfalls are the product of group inequalities in resources available and where they also reflect the problems that groups face in transforming these resources into valued achievements.

18.7 SOCIAL EXCLUSION AND THE INCIDENCE OF POVERTY

Data from the 2000 National Sample Survey in India suggests that the Scheduled Castes (SC) constituted 20% of the rural population and 38% of them are poor while Scheduled Tribes (ST) made up 11% of the rural population and 48% of them are poor. In urban areas, figures were 14% and 37% respectively for SC groups and 3% and 35% for ST groups. In addition, estimates using the same data set suggest that poverty was around 30% for minorities (mainly Muslim) and 16% for non-deprived groups. There has been some decline in poverty among SC groups between 1993-94 and 2000, but very little among ST groups. Using state level data from the LSMS 1998 from Uttar Pradesh (UP) and Bihar, Lucas estimates that scheduled caste/tribal groups were 1.5 times as likely to be below the poverty line as the rest of the population, a gap of 25%.

The fact that, unlike the Scheduled Castes who are spread across the states of India, Scheduled Tribes are concentrated in certain parts of certain states means that national comparisons can be misleading. A more accurate picture is provided by focusing on states with high concentrations of Scheduled Tribes. One such State is Orissa where Scheduled Tribes constitute 24% of the population compared to 9% at the all-India level. The percentages of SCs approximate the national figure. Data from the NSS shows that in 2000, the incidence of poverty among STs was 44% at the all-India level, but 72% in Orissa.

A number of studies suggest that the poverty of socially excluded groups cannot be fully explained by group inequalities in assets and education. Using 2000 NSS data on rural India, Dubey found that, holding a variety of individual and household characteristics constant (such as education, occupation, age and gender of household head) scheduled tribe groups were 19% more likely to be poor than the rest while scheduled caste groups were 10% more likely to be poor, 'Other backward castes' were 5% and Muslims 3% more likely to be poor. Muslims tend to be at a greater disadvantage in urban area where as many as 40% of Muslims are found in the bottom 20% of the income distribution compared to 22% of Hindus.

Using 1993/94 data from UP, Kozel and Parker in 2003 found that half of the difference in per capita consumption between SC/ST households and other households could be explained by differences in assets while half was due to differences in returns to those assets. SC/ST households also suffered from lower returns to education. Gang et al in 2002 decomposed the differences in the poverty rates of scheduled castes, scheduled tribes and others and found half the difference could be attributed to differences in group characteristics (education, occupation, demography, location) and the rest by the effect that these characteristics had on the probability of being poor.

The relationship between gender and household income poverty is generally captured in the literature by the poverty of female headed households relative to male. In the South Asian region generally, female-headed households have been found to be associated with greater poverty. Analysis by Gangopadhyay and Wadhwa in 2003 shows that female headed households were poorer than male headed ones in urban areas but in rural areas, the association with greater poverty was only found for female heads who widowed or divorced. Studies are also found that

female-headed households, particularly those with no adult male members, together with households which had ill and disabled members were most likely to have remained in poverty over this period. The Participatory Poverty Assessment carried out in Pakistan in 2003 reported that female household heads and widows, particularly those with young dependents, were systematically identified as among the very poor in all the provinces.

In addition, recent estimates from Pakistan, where minority religions make up just 4% of the population, found that the incidence of poverty was 40% among religious minorities compared to 25% among the Muslim majority. Ethnicity may also operate as a factor of exclusion, given that poverty varies from around 32% in Punjab to 39% in the North-West Frontier Province. In Vietnam, national level estimates confirm that the ethnic minorities constitute a distinctly poorer group relative to the majority (the Kinh along with the Chinese are usually classified together as the majority). Estimates by Lucas show that they were 2.4 times as likely to be below the national poverty line in 2002 with a rate 43 percentage points higher than the rest of the population. Data from successive LSMS (1999, 1998 and 2002) show declines in poverty among the Kinh and Chinese from 54% to 31% to 23% while among the ethnic minorities it declined from 86% to 75% to 69%. Poverty levels are higher in the upland areas of the centre and northern Vietnam where the minority groups are concentrated as well as deeper in terms of the poverty gap measure. Studies also show that physical location interacts with ethnicity in explaining poverty outcomes. According to Swinkels and Turk, while ethnic minorities living in the northern upland regions have seen declines in their poverty in line with the overall trend for ethnic minorities, the Kinh people living in the same region has more than halved in ten years at a rate much faster than the overall rate for the Kinh population. A study by Van de Walle and Gunerwardena in 2001 confirms the interaction between ethnicity and location. Using 1992-93 VLSM on 2254 ethnic majority households (Kinh and Chinese) and 466 ethnic minority households living in 85 communes in the northern part of the country, they examined the effect of geographic location and ethnicity, along with a number of other explanatory variables, on per capital household consumption.

The results suggested that differences in consumption levels between ethnic groups partly reflect the fact that minorities lived in less productive areas, characterized by difficult physical terrain,

poor infrastructure and lower accessibility to market opportunities and off-farm work. In addition, however, it appeared that where households were located also affected the impact of various other explanatory variables on per capita consumption: while living in areas with less productive land, poorer infrastructure and so on reduced returns to various household characteristics for all groups, the effect was significantly stronger for ethnic minorities.

Evidence of administrative bias toward ethnic minorities is provided by Jorgensen's qualitative analysis of interactions between government officials and ethnic communities in northern highlands of Vietnam. He noted that while the Vietnamese government is committing to improving agricultural practices for all sections of the population, the language in which agricultural extension services was provided to minority groups in the upland areas (Vietnamese which few minorities spoke as well as highly abstract and complicated), the context of the training (often irrelevant) and its timing (a large gap between provision of training and its actual use) all served to undermine its efforts among these groups. In addition, the attitudes of many government officials are unlikely to have contributed to their effectiveness in providing the services. A key official interviewed gave his views on the problems of providing extension services to minority groups:

Box 2:

We have more than 75% ethnic minorities. People's brains are slow to start with and they even forget about issues like money. If this would change, our extension work would be easy.... They are not exactly stupid – if you remind them, then they can remember. I want to make three points; VMGs and CMGs have low level of knowledge. People are mainly ethnic minorities with slow and heavy brains. Things should be done slowly but firmly in this area.

(Jorgensen, 2004).

A survey of the literature provides other evidence of the interaction between gender, race/ethnicity and disadvantage in the Latin American context. Olinto and found that Black and Brown women in urban Brazil had less schooling, lower family income and poorer housing conditions than White women. Also in Brazil, women of African descent were disproportionately represented among poor female heads of households with young children. Duryea et al., 2001 found that indigenous women in Bolivia and Guatemala were much more likely to work in

informal occupations than non-indigenous women and to enjoy lower returns for any given level of schooling. In 9 out of 13 countries they studied, female headed families, particularly those with young children, were over-represented in the low. In the context of sub-Saharan Africa, where poverty is widespread, variations in the resources, including labour, available to poor individuals and groups, and their ability to translate the labour at their disposal into food or income creates considerable differentiation among the poor.

However, lack of disaggregated data on the social composition of the poor conceals the extent to which social exclusion plays a role in explaining the persistence of poverty, with the exception of the racially-stratified societies of South Africa and Zimbabwe. While South Africa has experienced a decline in inter-racial inequality since the fall of apartheid, this has not been reflected in overall measures of inequality because there has been a simultaneous rise in intra-racial inequality, particularly within the black majority, reflected in the widening gap between the wages of skilled and unskilled workers and rising unemployment. While class is no longer co-terminous with race, the relationship between race and poverty has not disappeared. (Nattrass and Seekings, 2001). The lowest income decile which was the destitute category. At the top of the economic hierarchy in South Africa are 12% of households who earn around 45% of the total income and are predominantly white. In the middle are an increasingly multiracial middle class and the African urban working class. At the bottom of the economic hierarchy in South Africa are households whose main earnings came from semi-skilled or unskilled labour in agricultural or domestic service together with those which had no one in employment or else relied on negligible earnings from entrepreneurial activity (1993 data). These accounted for 41% of all households but earned only 10% of total income. They were primarily black.

Studies from Zimbabwe suggest that its commercial farming sector has historically provided the lowest wages, the worst living conditions and the least secure forms of employment. Sachekonye, 2003. For many decades, the bulk of farm workers were migrants brought in from neighbouring countries of Mozambique, Malawi and Zambia, with indigenous Zimbabweans shunning this form of work. By 2000, however, they made up around 75% of the labour force, the rest being made up by migrants and their descendants. Fast-track land reform in recent years has led to around two-thirds of farm workers losing their jobs and with it, the little social security they enjoyed. Food insecurity has been exacerbated by steeply rising food prices in escalating inflation throughout the nineties and by the devastating drought in 2001-2002. An estimated 18%

in Matebeleland South, 21% in Mashonaland West, 31% in Manicaland and 39% in Mashonaland East could afford only a single meal a day in October 2002 (Sachekonye) while focus group discussions suggested malnutrition and starvation were spreading among farm workers.

In addition, Sachekonye suggests that the descent into chronic poverty of the majority of farm workers over the past decade has been greater among certain 'vulnerable' groups: migrants, casual female wage workers and particular age categories: children, youth and the elderly. Migrants are made up of those coming from poorer regions of Zimbabwe and neighbouring countries, sometimes a generation or two ago. Migrant workers from other countries are particularly vulnerable because they do not have homes in communal areas to fall back on, ties with their ancestral home from which their forebears came are weak or non-existent and many were migrating from areas where land was becoming scarce or degrade anyway. Reports suggest that they have been moved by the authorities to remote and marginal areas where there is little infrastructure and no services.

Children growing up in deprived household are most likely to drop out of school and hence face uncertain futures. Young people from poor households are also increasingly emerging as a socially excluded group. With limited education and skills and few opportunities for employment or self-employment, many are found to be following patterns of behaviour which would further damage their future: crime, drug abuse, alcoholism, early pregnancy and prostitution.

Elderly workers, who used to have some security in earlier times because they could remain on the farms on which they had worked after they could no longer work, can now no longer rely on this option. The absence of any social safety net (apart from a tiny pension) leaves them facing immediate material shortfalls and an insecure future.

Finally, Sachekonya reported that women labourers make up the bulk of seasonal, casual labour and the poorer sections of the agricultural wage labour. They are often perceived as supplementing the earnings of male breadwinners rather than workers in their own right. Yet, women head one in three households nationally as a result of separation, divorce, widowhood or as single women. As Adams detailed study of female labour in rural Zimbabwe shows, even in 1986-87, when she carried out her survey, women predominated among wage labourers, particularly those in low-paid casual agricultural work. Female headship was not necessarily a

correlate of poverty – many female heads were in receipt of remittances – but households headed by casual female labour were amongst the poorest in the population.

Adams found that while piece rates for casual male and female labour did not differ, women received lower wages than men and were more likely to be paid on a daily rather than monthly basis than men. They were hired for shorter periods, sometimes a few days at a time. Many had children to support but no male breadwinner to assist. Their wages paid for living and for children's school fees. Children of female casual workers were more likely to be underweight (33% compared to 23% of other women), with differences much greater in some regions, such as the communal lands of Masvingo district where it varied between 40% and 26%. In short, the poorest people in her study were women who faced desperate personal circumstances, had no male support and few options but to leave their children with a relative in order to migrate in search of work. There are some cases of stark ethnic divides, often taking a racial form, in some other parts of Africa, as in the case of Sudan. 'Slaves' were mentioned in poverty assessments in both Sudan and Mauritania as one of the groups particularly vulnerable to poverty. There are also examples of other less well publicized forms of ethnic inequalities which give rise to social exclusion. A study of 102 households in urban Cameroon carried out as part of the IILS programme found that 21% were classified as poor on the basis that they had fewer than two meals a day, ate meat less than twice a week and did not have their own water supply. Ethnicity was found to be correlated with various dimensions of household living standards. Compared to the Bamilekes, members of the Beti and other ethnic groups were generally poorer. The majority of unemployed household heads were Beti and 50% of Beti household heads were unemployed and they are casual workers.

Elsewhere in the African context, categorical forms of disadvantage appear to be reproducing old, and giving rise to new patterns of social exclusion. The IILS studies from Africa provided examples of some of these. For example, a sample of members of low income households in urban Tanzania found that a significant minority were beggars, that beggars were more likely to be homeless than the rest of the sample, they were also older than the rest of the sample and the majority of beggars (between 60-90% of those interviewed in two urban areas) were afflicted by leprosy (Kaijage and Tibaijuka, 1996). The overwhelming majority of the women in the sample

were single, divorced or widowed mothers with young children to support. There was also a predominance of ethnic groups from either geographically remote or semi-arid areas in the overall sample. The study also noted the extent to which both pastoralists and hunter gatherers had been dispossessed of access to the land and water they need for their livelihoods by the dominant agricultural groups. However, attempts to convert these groups to a sedentary way of life by the government were being resisted as an externally imposed set of values and practices. Disability features in the generation of poverty in a number of contexts. Data from Tanzania suggests that households with disabled members have a mean consumption of less than 60% of the average and a poverty head count 20% greater than the average found that hunger was higher in households headed by disabled people than the population as a whole, particularly among black South Africans.

The spread of HIV-AIDS appear to be combining processes of impoverishment with processes of marginalization. Based on research in Zambia, Baylis suggests that the impact of AIDS on rural households is not a 'shock' like any other. It removes the labour resources of young adults in the most productive period of their lives, conjugal and mother to child transmission exerts a cumulative effect on certain households so that there is a clustering of affected households. The stigma attached to AIDS inhibits those affected from disclosing their condition or seeking professional diagnosis so that the burden of care falls on family members. Combined with the cut-back in government health services, this can put an unsupportable burden on family carers, usually women.

One result of the spread of AIDS has been the rise of households headed by orphans or an elderly grandparent, a category identified in participatory assessments as a socially vulnerable group. While a study from Malawi warns against assuming that all AIDS orphans would be subject to exclusionary processes since this overlooks the role that extended family and community support can play, it also notes that such supports have come under increasing strain with the rise in the number of orphans.

The Tanzanian study provides evidence of strain on these traditional support systems in the finding that many of the street children it interviewed in Mwanza town were orphans, a 'good

number' as a result of AIDS. Even where responsibility for the care of orphans had been taken on by relatives, they suffered a great deal of hardship because of the pressure they represented on the family budget. Along with mistreatment and abuse, most orphans had been withdrawn from school or had left in order to earn money.

Sachekonye noted that the spread of HIV-AIDS had particularly implications for children in poor rural households in Zimbabwe. Estimates from the mid-nineties suggest 25% prevalence among sexually active population among farm workers, with higher levels among casual and seasonal workers. One effect of this has been a rise in the national orphan population to 8% of total (1 million), while local level evidence suggest that many are children of farm workers. There have been growing numbers of child-headed households. While 65% of AIDS orphans attend school, the rest have dropped out.

Check Your Progress Exercise 3

1. Find out the reports prepared by the government of India from 1990-2010 to estimate the percentage of population in the below poverty line. Out of these reports, select one report and list how much percentage of SCs, STs and women are in the trap of poverty in the states of Madhya Pradesh, Bihar, Haryana, Punjab, Tamil Nadu, Kerala, Orissa, Assam and Gujarat.

18.8 SOCIAL EXCLUSION AND HEALTH OUTCOMES

As might be expected, the greater poverty of socially excluded groups translates into poorer levels of health, particularly when their poverty is combined with locational disadvantages of remoteness and lack of infrastructure and social services. However, one unexpected finding from the Indian context relates to *gender inequalities* in mortality rates among socially excluded groups. Several studies have shown that gender inequalities are lower among ST groups across India and in some areas, also lower for SC group. Some recent evidence of this comes from Agnihotri in the year 2000 by using district level data from the 1981 and 1991 census. He reports low, 'sometimes alarmingly low' female-to-male ratios in the 5-9 age groups among upper and middle castes in the northern regions of India. Using a more finely-grained analysis than had hitherto been carried out, he found that the highly masculine sex ratios were concentrated in the north-western region. More favourable ratios prevailed in the northern mountainous states of India (Himachal Pradesh and Manipur) and in its south-eastern states.

The pattern for the scheduled castes was similarly differentiated by region, with evidence of gender discrimination greater among scheduled castes in northern India. By contrast, ratios for the scheduled tribes, the poorest social groups in India, were the most balanced. Murthi et al found that the higher the proportion of ST in a district, the lower the anti-female bias. However, while gender inequalities in child survival rates may be lower for STs, they are disadvantaged in other aspects of health outcomes. Maternal mortality rates in India are highest in tribal areas. Infant and child mortality is around 83 and 126.6 per 1000 births compared to 62 and 83 for the general population. About 80% of tribal children are anemic, 50% are underweight and only 26% receive all vaccines. 65% of women are anemic compared to 48% for the general population. 43% do not receive any ante-natal checkup compared to 28% for the general population. 17% of mothers have institutional deliveries and 15% are assisted by doctors compared to 40% and 37% in the general population. Other studies suggest that 54% of children aged 3 or less were underweight for their age among SC groups and 56% among ST groups compared to 44% for the rest of the population. 47% of SC children and 34% of ST children had measles immunization compared to 54% of the rest of the population; Infant Mortality Rates were 83, 84 and 68 per 1000 live births respectively while under child mortality was 119, 126 and 92. 36% of births to SC groups and 23% to ST groups were assisted compared to 47% for the rest of the population. In Orissa, 37% of scheduled caste women receive no ante-natal check up compared to 15% of women from non-deprived groups and rates of immunization for scheduled tribe children are about half of that of non deprived groups as discussed in Orissa Human Development Report which is analyzed de Haan in the year 2004.

Betancourt and Gleason in the year 2000 used district level data from a number of different sources to explore some of the determinants of health and educational provision by the state as captured in the number of state provided doctors, nurses and teachers per 10 persons in rural areas of the district. They found the most important source of variation at the district level related to religion and caste: the higher the percentage of rural scheduled caste and Muslims in the district population, the lower the provision of medical and educational services. Bharat et al provide qualitative evidence that helps to explain the relationship between social exclusion and health outcomes. They note that along with lack of respect for poorer patients, particularly women, public health service providers hold strong stereotypes of population groups which fuel the blaming of specific social groups for non-achievement of contraceptive targets. Acts of

discrimination against dalits were reported in the public health services in both poor and well performing states. The avoidance by health workers, particularly paramedic and nursing staff, of physical contact with dalits has been noted by Health Watch Trust in the year 1999 while the reluctance to visit dalit households explains some of the incomplete immunization coverage of dalit children. Both real and anticipated discriminatory behaviour and attitudes on the part of health workers deters dalits from using health providers, public and private, particularly for services which involve physical contact, such as giving birth.

In Bangladesh, as reported by Chowdhury et al. in the year 2002 that the Chittagong Hill Tracts, where most of Bangladesh's tribal groups live, had a much lower immunization coverage of children under 12 months than the national average: 22% compared to 54%. Within the Hill Tracts, there was further differentiation by ethnicity. The majority Bangali reported 34% coverage. Among the rest, coverage varied from 17% among Tripura people, 9% among Marma and Chakma and 8% among Mro. In Nepal, Lucas's estimates suggest that infant mortality rates among dalit groups was 1.4 times that of the rest of the population, an additional 32 deaths per 1000 births.

Gender inequality and poverty dimensions are clearly intertwined in some of the processes behind the spread of AIDS. The growing economic pressures which lead women to sell sex for subsistence have led a number of studies to suggest a link between gender, poverty and seropositivity. Studies from Zimbabwe and South Africa carried out by Bassett and Mhloyi in 1991 and Jochelson et al, 1991 pointed out that the decision by women to sell sex was usually in response to economic need, a way to supplement meagre salaries or replace them. As Doyal in 1995 points out, whenever sex is part of an economic exchange, women will be constrained in their attempts to protect themselves from STDs: 'the greater the degree of financial dependence, the greater the constraint'.

18.9 SOCIAL EXCLUSION AND EDUCATIONAL OUTCOMES

Recent publications by international agencies draw attention to the magnitude of the problem of getting all children to school and suggest that South Asia represents the biggest challenge in terms of sheer numbers as well as degree of gender inequality. According to UNICEF's 1999 report on the State of the World's Children : "...over 130 million children of school age in the developing world are growing up without access to basic education, while millions of others

languish in sub-standard learning situations where little learning takes place. Girls crowd these ranks disproportionately, representing nearly two of every three children in the developing world who do not receive a primary education.” Nearly fifty percent of these out of school children were in South Asia.

According to UNESCO’s report on Education for all in 2000, despite progress on the goal of universal primary education, ‘more than a 100 million children in the world are still deprived of access to primary education.....Nearly all out-of-school children live in developing countries and a majority of them are girls’ . While sub-Saharan Africa reports the lowest gross enrolment ratios in 1999 (81%), it is likely that the largest numbers of out-of-school children continue to be located in Asia, particularly South Asia. The other side of this policy failure is documented by ILO estimates which suggest there are a quarter of a billion working children aged 5-14 throughout the world, about half in full-time work, of whom 61% (153 million) are to be found in Asia.

More detailed in-country analysis suggests that socially excluded groups account for a disproportionate share of educational shortfalls and confirm the relevance of the gender dimension. For instance, using 1998 LSMS data from UP and Bihar, Lucas estimates that scheduled caste/tribes in the relevant age groups were 1.7 times (1.9 for males and 1.6 for females) as likely not to be in attendance at primary school, a gap of 21 percentage points (20 for males and 23 for females). They were 1.7 times as likely to be illiterate (2.0 for males and 1.6 for females), a literacy gap of 24 percentage points (18 for males and 30 for females).

Analyzing NFHS data (1998-99) in India, Nambissan in the year 2004 notes that the proportion of school-going children from dalit families communities had increased significantly in the 1990s but non-attendance continued to be higher among dalit children: 20% in the 6-10 age group compared to 16% more generally and 29% in the 11-14 age group compared to 23% more generally. Moreover, only 43% of dalit children completed primary schooling compared to 58% of other castes and only 42% completed middle schooling compared to 63% of other caste children in the respective age groups. World Bank estimates of primary school completion of rates of children aged 12-16 years shows considerable variation for dalit children from a high of 96% in Kerala compared to 100% for other castes to 30% in Uttar Pradesh and only 19% in West Bengal. There are thus clear caste gaps in educational attainment, but they vary considerably by state.

As noted earlier, the greater geographical concentration of STs mean that national level estimates provide a misleading idea of the extent of their disadvantage. In Orissa, for instance, which has one of the highest concentrations of scheduled tribe populations in India, 27% of the not-deprived population in the better-off rural coastal areas were illiterate (and 17% in urban areas) but around 82% of the scheduled tribe population in the southern areas were illiterate as cited in de Haan, 2004. According to the NFHS-2 as in 2001 by de Haan 88% of the female tribal population, 73% of scheduled caste women, 56% of other backward caste women and 34% of the rest of the female population were illiterate.

In 2000, the drop-out rate at primary level was 42% for all children in Orissa (similar for boys and girls), 52% for SC (substantially higher for girls) and 63% for ST cited in Orissa Human Development Report. Micro-level survey of 556 households in Koratpur, one of the poorest districts of Orissa with a largely tribal population, found much higher rates of illiteracy among girls in the age group 6-14 than boys: 31% compare to 18% .

There are various factors behind the poor educational outcomes of ST and SC children. One set relates to the extreme nature of their poverty. 64% of the scheduled caste labour force, and 50% of the scheduled tribe labour force, in rural areas worked in agricultural waged labour, one of the poorest paid occupations in the economy, compared to just 30% of 'other' groups. Both the former groups were also disproportionately represented among bonded labourers: according to government survey data, 66% of bonded labourers belonged to the scheduled castes and a further 18% to scheduled tribes as in Burra in the year 1995. According to a report published by the Anti-Slavery Society (2000), the overwhelming majority of approximately 3 million mine and quarry workers in the Indian state of Rajasthan belong to scheduled castes and tribal groups, many trapped in debt bondage.

Not surprisingly, such groups also account for disproportionate share of child labourers as well as of children out of school. Using 1993-94 NSS data, Thorat in 1999 found that the proportion of child labour was 2-3 times higher among scheduled caste and scheduled tribe groups than the rest of the population. Duraisamy in 1997 found that higher levels of SC/ST groups within the population of a state significantly increased child labour force participation rates. Since debt bondage can trap marginalized tribal households for generations, its implications on children's ability to go to school are significant. Nayak also in 2001 found that among Bondo households in

Orissa, children whose fathers die when they are young are particularly vulnerable since they have to take on responsibility for fathers' debts.

The gender dimensions of child labor and educational exclusion tend to be obscured by conceptual and methodological limitations in data collection. These have given rise to a category dubbed the 'nowhere' children, Children who were neither at school (and hence excluded from enrolment data) nor at work (and hence excluded from labour force data). According to the 1991 census, there were 92 million of such children. Closer investigation suggests that they were often engaged in forms of productive work which are not counted as 'economic activity' by formal data collection efforts (eg. fuel collection, rag picking, paid and unpaid domestic work) or else in socially stigmatised forms of occupations (prostitutes, beggars, vagabonds etc) which tend to go unreported.

The gender bias of these omissions are pointed to by Duraisamy in 1997 who estimated that nearly half of girls in the school-going age are engaged in such work and hence get excluded from both work and educational statistics. Micro level studies also suggest that there are many children, often girls, who are indeed neither at work nor in school as stated by Bhatta in 1998. There is a high rate of abduction of adivasi girls for sexual trafficking while a study of trafficking in girls for prostitution from Nepal, shows a high presence of ethnic minority groups. Household level studies provide other insights into the inter-generational transmission of disadvantages associated with social exclusion. Using all-India data on rural households, Borooah examined various possible determinants of school enrolment, and likelihood of continuing in school once enrolled. Along with the literacy of parents, household income, occupation of parents, presence of a school and other government services in the village, all of which played a significant role in predicting both independent variables, the study found that male children were more likely to be enrolled and continue at school than female and that children from Scheduled caste, tribal and Muslim households were less likely.

Dreze and Kingdon in 2001 analyze rural household data from Bihar, Himachal Pradesh, Madhya Pradesh, Rajasthan and UP and found that that children from scheduled caste and scheduled tribe groups were much less likely to go to school, even when household wealth, quality of schooling, parents' education and motivations were controlled for. Kingdon's study in 1996 based on data from urban UP, a state with higher than average percentages of children in private schools as well as with particularly poor public provision, reported that children from

wealthier households were significantly more likely to attend private schools, and less likely to go government schools, than those from poorer households. Boys were also more likely to go to private schools, and less likely to go to government schools. *Finally*, children from low caste households had a lower probability of attending both government and private schools than the rest of the population.

A study based on household data from two slum neighbourhoods in Calcutta found Muslim children were more likely to be at work, particularly if they were Hindi speaking (ie. migrants from outside West Bengal, often Bihar), compared to Hindu children. However, among Hindus, Scheduled caste children were more likely to be working than other castes. Despite the introduction of other explanatory variables, including household income, assets, mother's education and membership of a samity (organisation), all of which exercised a positive effect on the likelihood of children going to school, and female headship and reliance on casual labour, which exercised a negative effect, Muslims and Hindi speaking migrants, remained significantly less likely than the rest of the population to send their children to school and more likely to send them to work. However, the scheduled caste effect disappeared once female headship was factored into the analysis because of the much higher incidence of female headship among scheduled caste households.

In her review of the factors which explain the poor educational outcomes among SC children, Nambissan points to some of the ways in which caste identity plays a role. Teachers are predominantly upper caste and bring their own understandings of the legitimacy of caste relations into the class room. Dalit children are expected to run errands and are assigned menial tasks such as sweeping and cleaning the classrooms. Higher rates of teacher absenteeism were reported when children were mainly from scheduled caste and tribal communities. In West Bengal it was found to be 75% in such schools compared to 33% elsewhere. Such treatment has particularly negative effects for children who are likely to be first generation learners.

There is evidence from other parts of Asia of the interaction between social exclusion and child labour. A report on begging in Pakistan found children to be a particularly vulnerable group. There were reports of children being kidnapped for sexual trafficking exploited while it was also believed that young boys were being sold in Dubai as camel boys. There was also vulnerability to drug addiction. However, as the report points out, 'the caste-based nature of much of the

begging means that for children, their line of work is pre-determined to a large extent and their options are limited. This is especially dangerous for girls, who will find themselves – often but not always – used as sex workers by their families to supplement their income’.

While Latin America has higher levels of education than the other regions covered in this study (UNESCO, 2004), social exclusion continues to be evident in educational outcomes. This is illustrated by Lucas’s estimates. He notes that while school attendance rates in Bolivia were very high (93% primary attendance for ‘non-white’ females was the lowest) ‘non-white’ children were 1.4 times as likely to be non-attendees at primary school and twice as likely to be illiterate as white children. In Brazil, where again attendance rates were high, non-white children were 1.7 times as likely to be absentees from primary school and 5 times as likely to be illiterate. In Paraguay, non white children were 1.8 times (1.5 males and 2.3 females) as likely to be absentees from primary school, with attendance rates 4 percentage points (3 for males and 5 for females) less. Illiteracy rates for those 15-24 were 3.5 times as high with a gap of 5 percentage points.

18.10 RESPONDING TO SOCIAL EXCLUSION

We have used the concept of social exclusion in this paper to draw attention to one way in which poverty is linked to inequality: the concentrated nature of disadvantage among certain sections of the poor. The challenges presented by social exclusion to present policy concerns with poverty reduction, investment in human capabilities and the promotion of social justice suggest that the ‘business as usual’ approach to development has not proved adequate in the past and is unlikely to do so in the future. Socially excluded groups have been invisibilised in ‘normal’ forms of data collection which tend to define ‘the poor’ simply by their assets and income. The absence of disaggregated data has helped to invisibilise the problem of social exclusion. This report has tended to cite data from certain countries far more than others, not because the problem is worse in these countries but because the data is more likely to be available.

Socially excluded groups are less likely than the rest of the poor to benefit from the ‘normal’ processes of economic growth because not only do they own fewer resources of various kinds than other sections of the poor, but they also find it harder to translate their resources into income because of the discrimination they face in markets for labour and commodities.

Socially excluded groups are likely to be denied access to 'normal' forms of social provisioning, whether these are provided through private provision or by the state. They are unlikely to have the means necessary to purchase these services in the market place while, as the examples cited here show, the discriminatory attitudes prevalent in society at large are often reproduced by state officials responsible for service provision.

Finally, socially excluded groups are generally less likely to participate in 'normal' models of democracy. Particularly where they constitute a minority, there is no incentive for political parties competing for power to take their interest in to account since they neither represent enough votes nor enough organisational clout to exercise a great deal of influence. Nor are they likely to have the resources necessary to compete for political office. For instance, only 4.4% of the Brazilian congress was of Afro descent although this group represented around half of the Brazilian population. Women hold less than a fifth of senate and congressional seats across Latin America.

Policy responses to social exclusion therefore need to address the multiple and overlapping disadvantage that it represents. Multiplicity of disadvantage requires a multi-pronged approach to address, among other things, the cultural norms and values which underpin discrimination against excluded groups, to formulate policies which will address the intransigent nature of their poverty and to strengthen their capacity to exercise 'voice', not simply in the political domain but across the different processes of collective decision-making which impinge on their lives. The availability of statistics is clearly essential for a better estimate of the extent to which the socially excluded among the poor systematically report lower levels of income and capabilities than others while more detailed qualitative research can help to uncover the mechanisms by which exclusion is reproduced over time. The agencies responsible for collecting data at both national and international levels may need greater disaggregation of the poor than has hitherto been the case.

Cultural norms and values which lead to the persistent discrimination against excluded groups can be changed through the educational system, the media, public campaigns and setting up a legal framework which discourages discriminatory behaviour and strengthens the civil and political rights of excluded groups. The content of the educational curriculum, the language in which it is taught and the extent to which teachers are drawn from, or at least sympathetic to, social excluded groups will all help to determine the extent to which education promotes or

challenges the reproduction of social exclusion. The media plays an increasingly powerful role in shaping everyday perceptions about difference and diversity within a society and can be mobilized to educate, inform and entertain in ways which break down some of barriers which separate socially excluded groups from the rest of society.

The legal framework can help to ensure that discrimination on the grounds of race, ethnicity, disability, gender or age is rendered unacceptable within a society. It can also ensure that rights of excluded groups to land, credit, employment and benefits are secured, given the greater vulnerability of these groups. However, a legal approach to social exclusion necessitates that attention is paid to the systems through which people obtain justice. Strengthening the rule of law for the poor and marginalized means strengthening the judicial system at the level at which everyday justice is dispensed. There is now sufficient evidence to suggest that the institutions that represent the administration of justice in a society – the police, the law courts, the judges, and lawyers – all of these infringe on the lives of poor and socially excluded in ways which threaten their lives and their livelihoods.

Policies to address social exclusion may need to incorporate special provisions to address the multiple disadvantages associated with social exclusion and to break the inter-generational transmission of poverty that it has often entailed. Such provisions may entail special attention to geographical or group targeting. It may entail targeting the children of excluded groups to ensure that they face that limited life chances which their parents faced. It may also need addressing gender inequalities within excluded groups so that promoting respect for hitherto marginalized cultures does not necessarily promote the internal inequalities which such cultures may embody.

It may require the tailoring of social protection policies to address the particular forms of vulnerability of socially excluded groups. Given that the vast majority of such groups are to be found in the most exploitative forms of work in the informal economy, it is unlikely that forms of social protection devised with the full-time formal sector worker in mind is likely to be appropriate. Some form of basic security may be essential if those who are dependent on the personalized forms of clientilism or highly insecure forms of employment for their survival are to have the capacity to organize for their rights.

Addressing social exclusion will require changing the attitudes of those responsible for policy delivery, tailoring policy design to the pace at which change takes place in conditions of intransigent poverty, earmarking the resources necessary to ensure these provisions are implemented and, above all, creating mechanisms which allow those who have a stake in the success of these efforts to participate in their design.

Strengthening the voice of the socially excluded in policy and political processes may mean changing the way that these processes are done. The decentralization of governance structures would appear to be an essential element of this change. How decentralization is carried out, what powers and responsibilities are devolved may vary by context but bringing the power of the state within the reach of actors who cannot access more remote centralized structures of power must be an important precondition for building participation and accountability.

At the same time, given that a great deal of social exclusion is reproduced through local level hierarchies, the state is still seen by many as the only institution which has the capacity, however imperfect, to sidestep or bulldoze disempowering relations of both market but also custom and tradition. To that extent, the role of a central state that is not closely entangled from local power structures and is more likely to be able to challenge them remains relevant.

Finally, promoting civil society networks which help to mobilize socially excluded groups and which build their alliances with other organisations fighting for rights and social justice provides a bottom-up way of strengthening their capacity to exercise voice and to ensure their claims are addressed by policy and political processes. As we have tried to demonstrate in this unit, it is the marginalization of socially excluded groups, their inability to influence the processes of decision-making in their society, which partly explains why they remain poor over extended periods of time.

18.11 LET US SUM UP

It has been noted that the Millennium Declaration expressed far greater commitment to the principles of equality, freedom and rights than is evident in the MDGs. Bilateral agencies could do a great deal to ensure that the principles of the Declaration infuse the interpretation and implementation of the MDGs. They could also ensure that these principles are built into their policy dialogues with government. Most governments have signed the key international treaties

and covenants which commit them to respecting the political and civil rights of their citizens and promoting the progressive realization of their social, economic and cultural rights. In doing so, they have accepted the obligation to uphold these rights. Poverty reduction strategies which explicitly address excluded sections of society are one important way in which they can meet their obligations.

Check Your Progress Exercise 4

1. Do you aware NGO PRATHAM is publishing a status report on Education in India. Do visit any one of the NGO working on Education in your area and collect ASER report. Please prepare one page note on the primary education status of your district. Also list the indicators used for assess the status of education.

18.13 GLOSSARY

Gini-Co-efficient: Gini-coefficient is a measure statistical dispersion developed by the Italian statistician and sociologist Corrado Gini. The Gini-coefficient is a measure of the inequality of a distribution, a value of Zero expressing total equality and value of one maximal inequality. It is commonly used to measure inequality of income or wealth.

Decentralization: Decentralization is a process of delegating functions, functionaries and finance to the lowest administrative unit which is closer to the people.

NSS: National Sample Survey (NSS) is the nation wide survey conducted by the Ministry of Statics and Programme Implementation on various socio-economic issues in successive rounds. Each round covers subjects of current interest in a specific period.

18.14 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

1. “[Social exclusion is] the process through which individuals or groups are wholly or partially excluded from full participation in the society in which they live.” Since the Social Summit in 1994, there has been increasing attention paid to the usefulness of the concept to concerns with poverty, inequality and social justice in the developing country context. Institutions are also used the concept of social exclusion are Institute of International Labour Studies, the Asian Development Bank, the Inter-American Development Bank and the World Bank.

Check Your Progress Exercise 2

3. 'Mutable' forms of social exclusion relate to temporary phenomenon such as the situation faced by migrants spending a limited period of time in an alien environment or to identities which can be transformed with relative ease, for instance, through religious conversion or acquiring formal citizenship. 'Immutable' identities, by contrast, refer to identities and affiliations which have evolved over an extended period of time, appear almost primordial in nature and do not lend themselves easily to change. They tend to be associated with enduring forms of social exclusion, lasting over the life time of an individual or over several generations.

18.15 REFERENCES

Acker, J., 1990, 'Hierarchies, jobs, bodies: a theory of gendered organization', *Gender and Society*, Vol 2, No 4, pp. 139-158

Beall, J., and Clert, C., 2000 'Social exclusion and globalization: implications for social policy and urban governance', Paper prepared for the African Technical Families-Macroeconomics 2, Washington DC: The World Bank

Booth, D., et al., 1995, 'Coping with cost recovery: a study of the social impact and responses to cost recovery in basic services (health and education) in poor communities in Zambia', *Working Paper No 3*, Sida Task Force on Poverty Reduction, Stockholm: Sida

De Han, A., and Maxwell, S., 1998, 'Editorial: poverty and social exclusion in north and south', *IDS Bulletin*, Vol 29, No 1, pp. 1-9

Devereux, S., 1999, 'Making less last longer' informal safety nets in Malawi', *IDS Discussion Paper No 373*, October, Brighton: IDS

Folbre N., 1994, *Who Pays For The Kids? Gender and the Structures of Constraint*, London and New York: Routledge.

Fraser, N., 1989, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory*, Cambridge: Polity Press.

Fraser, N., 1997, *Justice Interruptus: Critical Reflections on the 'Post-socialist' Condition*, London and New York: Routledge.

Gore, C., 1993, 'Entitlement relations and "unruly" social practices: a comment on the work of Amartya Sen', *Journal of Development Studies*, Vol 29, No 3, pp, 429-460.

Gore, C., 1994, 'social exclusion and Africa south of the Sahara: a review of the literature', *Labour Institutions and Development Programme Discussion Paper No 62*, Geneva: International Institute for Labour Studies.

Gore, C., 1995, 'Markets, citizenship and social exclusion', in G. Rodgers, C. Gore and J. Figueiredo (eds), *Social Exclusion: Rhetoric, Reality, Responses*, Contribution to the World Summit for Social Development, Geneva: ILS

Gore, C., and Figueiredo, J.B., 1997, *Social Exclusion and Anti-Poverty Policy: a Debate*, Geneva: ILS/UNDP

Harriss-White, B., 1995, 'Economic restructuring: state, market, collective and household action in India's social sector', *The European Journal of Development Research*, Vol 7, No 1, pp. 124/47

ILS, 1997, 'Social Exclusion and anti-poverty policy: A debate', Research Series, No 110, Geneva: International Institute for Labour Studies.

Institute of Development Studies, 1998, 'Poverty and social exclusion in north and south', *IDS Bulletin*, Vol 29, No 1, Brighton: IDS

Jackson, C., 1999, 'Social exclusion and gender: does one size fit all?', *The European Journal of Development Research*, Vol 11, No 1, pp. 125-146.

Jordan, B., 1996, *A Theory of Poverty and Social Exclusion*, Cambridge: Polity Press.

Kabeer, N., 1994, *Reversed Realities: Gender Hierarchies in Development Thought*, London : Verso

Lucas, H., and Nuwagaba, A., 1999, 'Household coping strategies in response to user charges for social services: a case study on health in Uganda', *IDS Working Paper*, No 86, Brighton: Institute of Development Studies.

Lukes, S., 1974, *Power: A Radical View*, London: Macmillan.

Mackintosh, M., 1997, 'Public management for social inclusion', Paper presented at Conference on Public Management: Challenges for the Next Century (IDPM, Manchester, June 30 July2)

Mamdani, M., 1996, *Citizen and Subjects: contemporary Africa and the Legacy of Late Colonialism*, Kampala: Fountain Publishers.

- Nayak, P., 1994, 'Economic development and social exclusion in India' in *Social Exclusion and South Asia*, Labour Institutions and Development Programme DP/77/1994, Geneva
- North, D., 1990, *Institutions, Institutional Change and Economic Performance*, Cambridge: Cambridge University Press.
- Probe Team, 1999, *Public Report on Basic Education in India*, New Delhi: Oxford University Press.
- Parkin, F., 1979, *Marxism and Class Theory: A Bourgeois Critique*, London: Tavistock.
- Rao, S., 1996, 'Gender differentials in the Social impact of leprosy', *Leprosy Review*, Vol 67
- Silla, E., 1998, *People are Not the Same: Leprosy and Identity in Twentieth Century Mali*, Heinemann
- Silver, H., 1997, 'Poverty, exclusion and citizenship rights', in J. Figueiredo and C. Gore (eds), *Social Exclusion and Anti-Poverty: a Debate*, Geneva: IILS
- Taijage, F., and Tibaijuka, A., 1996, 'Poverty and social exclusion in Tanzania', *International Institute of Labour Studies/UNDP Research Series Paper*, No. 109, Geneva: IILS/UNDP.
- Vasavi, A.R., 1999, *Harbingers of Rain: Land and Life in South India*, New Delhi: Oxford University Press.
- Vlassoff, Carol et al., 1996, 'Double Jeopardy: women and leprosy in India', *WHO Statistics Quarterly*, Vol 49
- White, H., 1999, 'Africa poverty status report', 1999 Draft, Brighton: IDS.
- Wood, G., (forthcoming), 'Adverse incorporation: another dark side of social capital', University of Bath

18.16 UNIT END QUESTIONS

1. What do you mean poverty and define multi dimensional measurement of poverty?
2. How would social exclusion contribute to the analysis of inequality? What are the sectors discussed in this unit with regard to social exclusion? Explain inequalities with the help of NSS and NFHS data in the sectors of health and education?
3. How Social inclusion is helpful in achieving MDGs?

UNIT 19: LAW AS AN INSTRUMENT OF EMPOWERMENT AND DISEMPOWERMENT

Structure

19.1 Introduction

19.2 Objectives

19.3 Standard set by the Indian Constitution

19.4 Protection through Criminal Laws

19.5 Empowerment through labour Laws

19.6 Matrimonial Laws

19.7 Laws and Policies that lead to Disempowerment of Women

19.7.1 Matrimonial Laws

19.7.2 The Armed Forces (Special Powers) Act (AFSPA)

19.7.3 Ban Against Bar dancers in Maharashtra

19.7.4 Prohibition of Night shifts for women

19.7.5 Population Policies

19.7.6 Criminalising Homosexual conduct

19.7.7 Laws and policies on Land and Property Rights

19.8 Social and Legal Processes against Disempowering laws and Policies

19.9 Summing Up

19.10 Answers to Check Your Progress Exercises

19.11 References

19.12 Questions for Reflections and Practice

19.1 INTRODUCTION

Law plays an important role in setting norms and standards on acceptable and unacceptable acts on the issue of gender and development. You may wonder – we have had many laws on gender issues. However, gender discrimination has not reduced or

been eradicated; neither has gender-based violence. What is the relevance of such laws then? Even if standards set by such laws are not fully implemented, and are frequently violated, law remains significant as a standard whose implementation / enforcement can be demanded – individually and by groups. If the law did not exist in the first place, say, prohibiting domestic violence, how could women assert their right to live with dignity and peace in their homes? Apart from providing justice to aggrieved parties, law seeks to protect weaker, marginalized and vulnerable sections of society, including women, in order to bring about social justice and equality.

19.2 OBJECTIVES

After studying this Unit, you should be able to:

- Explain the role of law as an instrument of gender empowerment;
- Discuss various laws that operate, the issues they deal with and their significance in addressing issues of gender and development;
- Criticize the effectiveness of such laws;
- Demonstrate ways in which laws can also have the effect of disempowering individuals and groups; and
- Identify strategies used in countering the disempowering effect of law.

19.3 STANDARDS SET BY THE INDIAN CONSTITUTION

The Indian Constitution is a written legal, political and moral document. All our basic rights are written in and guaranteed by the Constitution. The Indian Constitution, being the most important law in India, sets certain standards with regard to women's rights. These standards and principles were subsequently elaborated through other laws. Some of the important values stated in the Constitution include justice (social, economic and political), liberty (of thought, expression, belief and worship) and equality (of status and opportunity). These values are intrinsically linked to empowerment of women.

The Indian Constitution contains a chapter on Fundamental Rights, which is a charter of rights that essentially protect an individual's life and liberty from arbitrary acts of the government, state organs and agencies. Similarly, another chapter titled Directive Principles of State Policy (DPSP) provides guidelines to the state for its governance in accordance with the principles it incorporates. The fundamental rights and DPSP together form the backbone of protective laws for women. Relevant provisions in the Constitution on women's rights include the following:

- The State shall not deny to any person equality before law or the equal protection of the laws;¹
- The State shall not discriminate against any citizen on grounds including that of sex;²
- The State can make affirmative action in favour of women, including through reservation and special laws;³
- The State shall not discriminate, in matters of public employment, on grounds including that of sex;⁴
- The State is duty-bound to protect the life and personal liberty of all, including women;⁵
- The State is prohibited from trafficking in human beings;⁶
- The State is directed to provide equal pay for equal work;⁷
- State is directed to make provisions for ensuring just and humane conditions of work and maternity relief;⁸ and
- A fundamental duty is imposed on every citizen to renounce practices that are derogatory to the dignity of women.⁹

¹ Article 14 of the Indian Constitution

² Article 15 of the Indian Constitution

³ Article 15 (3) of the Indian Constitution

⁴ Article 16 of the Indian Constitution

⁵ Article 21 of the Indian Constitution

⁶ Article 23 of the Indian Constitution

⁷ Article 39(d) of the Indian Constitution

⁸ Article 42 of the Indian Constitution

The Constitutional provisions related to protection of women are not empty words; they have a positive impact on aspects of women's social, legal and economic status through judgments of courts of law, state policies and enactments of law. For example, the guarantee of equality and non-discrimination has resulted in discriminatory practices in appointments, promotions, terminations and conditions of work being declared as illegal.¹⁰ Similarly unequal pay for equal work by women has also been struck down as unconstitutional. In accordance with Constitutional provisions on affirmative actions on behalf of women, reservation of seats have been made for women in municipalities, educational institutions, public employment and panchayats, soft loans and tax concessions are provided to women entrepreneurs, and special laws to protect women have been enacted - such as Section 498A of the Indian Penal Code (dealing with domestic violence) and the Protection of Women from Domestic Violence Act 2005.

The guarantee of right to life and personal liberty was applied in contexts of sexual harassment at workplace, where the Supreme Court issued guidelines for its prevention and redress;¹¹ the provision guided the Indian State to ban sterilizing drugs such as Quinacrine and Norplant which had harmful effects on women's health; the courts have directed the State to improve the conditions of women prisoners in jail, using the guarantee of right to life. The equal pay for equal work clause led to the enactment of The Equal Remuneration Act, 1976. The emphasis on just and humane conditions of work led to provisions in Factories Act and other labour laws, prescribing for separate toilets for women and provision of crèches, and the prohibition of employment of women in dangerous or arduous jobs and night employment. The direction to the State to provide maternity reliefs resulted in the enactment of The Maternity Benefits Act, 1961.

⁹ Articles 15 (A) (e) of the Indian Constitution

¹⁰ The judgments in *C B Muthamma IFS vs. Union of India* (1979) 4 SCC 260 and *Air India vs. Nargesh Meerza* AIR 1981 SCJ 348 are relevant on the issue of gender discrimination at the workplace.

¹¹ This was done through the judgment in *Vishaka and Others vs. State of Rajasthan* AIR 1997 SC 3011, subsequently reiterated by the Supreme Court in *Apparel Export Promotion Council vs. A.K.Chopra* AIR 1999 SC 625.

In accordance with the Constitutional provisions, the Indian government declared the year 2001 as the Year of Women's Empowerment (Swashakti) and formulated the National Policy for the Empowerment of Women in the same year.

Check Your Progress Exercise 1

Note: i. Use the space given below to answer the questions.

ii. Compare your answer with the one given at the end of this Unit.

1. Name three acts related to women that the State is prohibited from, through Constitutional provisions.

2. Name some duties of the State in relation to protection of women that the Constitution directs.

3. Name some protective laws in favour of women that have been enacted pursuant to Constitutional provisions.

19.4 PROTECTION THROUGH CRIMINAL LAWS

The Indian Penal Code (IPC) is the primary law that defines and declares specific acts as crimes, and provides for punishment for the same. Provisions under the IPC related to violence against women are summarized in the table below. In addition to the Indian Penal Code, criminal laws have also been enacted on specific issues. These include:

1. The Child Marriage Restraint Act, 1929;
2. The Immoral Traffic (Prevention) Act, 1956;
3. The Dowry Prohibition Act, 1961;
4. The Indecent Representation of Women Act 1987;
5. The Sati Prevention Act, 1987; and
6. The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1996 (PNDT).

TABLE 19.1: SUMMARY OF PROVISIONS IN THE INDIAN PENAL CODE (IPC) RELATED TO VIOLENCE AGAINST WOMEN

Category	IPC Section	Act	Punishment
	294	Obscene acts and songs	3 months or fine or both
	304 – B	Dowry death	Not less than seven years
Miscarriage	312	Causing miscarriage	3-7 years
„	313	Causing miscarriage without consent	10 years or life
„	314	Death caused while causing miscarriage without woman's consent	10 years or life
„	315	Act done to prevent child from being born alive or to cause it to be dead after its birth	10 years
	354	Assault or criminal force to a woman with intent to outrage her modesty	2 years or fine or Both
Kidnapping	363	Kidnapping	7 years
	366	Kidnapping women to compel marriage, seduction for illicit intercourse etc.	10 years
	366A	Procuring minor girl under 18 years of age	10 years
	366B	Importation of girl	10 years

	372 – 373	Selling and buying minor for purpose of prostitution	10 years and fine
Sexual Assault	356	Use of criminal force with intention to outrage modesty of woman	2 years
	375 and 376	Rape and punishment for rape	Not less than seven years
	377	“unnatural offences” – carnal intercourse	10 years or life
	376 read with 511	Attempt to rape	
	506	Word, gesture or act intended to insult the modesty of a woman	1 year or fine or both
Offences within Marriage	493	Cohabitation caused by deceitfully inducing woman under belief of lawful marriage	10 years
	494	Bigamy – marrying again during lifetime of husband or wife	Seven years and fine
	496	Going through unlawful marriage ceremony	7 years
	497	Adultery	Five years or fine or both
	498	Enticing, detaining a woman with a criminal intention	2 years
Cruelty to Woman	304B	Dowry death	7 years or life
	306	Abetment to suicide	10 years and fine
	498 – A	Husband or relative of husband of a woman subjecting her to cruelty	Three years and fine

The Supreme Court has given a number of significant judgments on women's rights in relation to criminal law. In *Vishal Jeet vs. Union of India*, the court issued directions to all state governments and union territories to prohibit and eradicate child prostitution, devadasi and jogin trade houses, and rehabilitate the victims.¹² In *Delhi Domestic Working Women's Forum vs. Union of India*, which involved sexual assault of four domestic workers by seven army officers in a moving train, the Supreme Court laid down a number of guidelines for increasing the victim's access to legal processes for justice.¹³ In *Upendra Baxi vs. State of Uttar Pradesh*, the Supreme Court ordered authorities of protective homes to protect the health of women inmates without conflicting with their right to dignity.¹⁴ In *Sheela Barse vs. State of Maharashtra*, the Supreme Court held that female suspects must be kept in a separate lock up in the police station and not kept where male suspects are detained.¹⁵ In *Rekha Kholkar vs. State of Goa*, the Bombay High Court awarded compensation to a woman who was charged with theft and physically assaulted and tortured by both male and female police, and issued directions for interrogation of women suspects.¹⁶

Check Your Progress Exercise 2

Note: i. Use the space given below to answer the questions.

ii. Compare your answer with the one given at the end of this Unit.

1. Name some aspects of violence against women on which the Indian Penal Code has provisions.

2. Name some judgments of courts that have addressed the issue of violence against women.

¹² AIR 1990 SC 1412

¹³ 1994 (4) SCALE 608

¹⁴ 1983 2 SCC 308

¹⁵ 1987 SCC (Cr.) 759

¹⁶ III (1995) CCR 470 (DB)

19.5 EMPOWERMENT THROUGH LABOUR LAWS

Labour laws aim at protecting and promoting workers' rights at the work place. Provisions of labour laws on women's rights have focused on improving the safety, health and welfare of women in factories and other places of work, minimum wages, equal pay for equal work, maternity benefits, child care facilities, provisions for adequate rest and leisure, prevention of discrimination and sexual harassment at the work place. Labour laws that protect women at the work place include:

- **The Equal Remuneration Act, 1976** – Provides for equal remuneration to men and women workers for same work or similar work, and prohibits discrimination is permissible in recruitment and service conditions except where employment of women is prohibited or restricted by the law.
- **Maternity Benefit Act, 1961** – Provides for maternity leave and benefit in order to protect the dignity of motherhood and gender justice.
- **The Factories Act, 1948** - The Act has many provisions protecting women at the workplace, including issues pertaining to occupational safety, provision of sanitation and crèche facilities.¹⁷
- **The Mines Act, 1952** – It prohibits the employment of women underground, and provides for restricted timings of work for women employed above the ground.
- **Other laws pertaining to rights of workers, which benefit women** – These include Minimum Wages Act 1948, Bonded Labour System (Abolition) Act 1976, Plantation Labour Act 1951, Payment of Wages Act 1936, Industrial Employment (Standing Orders) Act 1946, Workmen's Compensation Act 1923, Employees State Insurance Act 1948 and The Contract Labour (Prohibition and Regulation) Act 1970.¹⁸

¹⁷ See ss.19 22(2), 27, 42(1)(b), 48, 66, 79(1) and 114

¹⁸ For an elaboration of labour laws in general and those pertaining to women, please see Lalit Bhasin, *Labour and Employment Laws of India*, 24 August 2007, available at <http://www.mondaq.com/article.asp?articleid=50440> (accessed on 27 January 2009) and Parul Sharma, 'Split

Sexual harassment at the workplace is an important issue related to the safety and dignity of women at workplaces. Sexual harassment is an expression of male power over women that sustain patriarchal relations. It is often an extension of violence against women in everyday life, targeting and exploiting the vulnerability of women at the workplace. Studies conducted by National Commission for Women indicate that about 47% of working women in India have experienced some form of sexual harassment over the course of their work.¹⁹ The Supreme Court pronounced a landmark judgment on sexual harassment of working women in 1997²⁰ in *Vishaka and Others vs. State of Rajasthan*. In this judgment, the court stated that sexual harassment of working women amounts to violation of rights of gender equality. As a consequence it also amounts to violation of the right to practice any profession, occupation, and trade. The Court laid down the definition of sexual harassment²¹ as well as provided guidelines for employers to redress and prevent sexual harassment at workplace, and to provide a discrimination-free working environment for women employees. A separate law on the issue is being drafted.

It is important to remember that despite many provisions in labour laws that aim at empowering women, these would not have the desired effect unless the attitude of the employers towards women employees changes for the better. Since women get pregnant and are entitled to maternity leave and other benefits associated with pregnancy, employers tend to look at women as a burden rather than an asset to the company. For example, on 14 November 2009, the Vice Chief of Air Staff of the Indian Air Force announced that training women pilots is “cost-ineffective” as they get pregnant, leading to a 10-12 months’ leave, and that women could get married but not have a child till about 13-14 years of service – the time taken for the government to recover its investment on the pilot.²² Such sexist mindsets which

Legal Regime in India’s Labour Laws’, *Journal for Sustainable Development*, February – March 2007, available at <http://www.southasiaexperts.se/pdf/Indian%20Labour%20Law%20PDF.pdf> (accessed on 27 January 2009)

¹⁹ <http://www.ethicalcorp.com/content.asp?ContentID=6140&drss=ec-main.xml>. (accessed on 27 January 2009)

²⁰ *Vishaka and others vs. State of Rajasthan* AIR 1997 SC 3011

²¹ According to the definition, sexual exploitation includes “such un-welcome sexually determined behavior (whether directly or by implication) as physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, any other un-welcome, physical, verbal or non verbal conduct of sexual nature.”

²² For more details, see ‘Air Force: Pregnancy Makes Women Pilots Cost Inefficient’, in *NDTV.com* dated 17 November 2009, available at

look at women workers as a financial burden instead of an asset are not exceptions but are prevalent in a systemic manner, neutralizing the effect of laws that empower women

Check Your Progress Exercise 3

Note: i. Use the space given below to answer the questions.

ii. Compare your answer with the one given at the end of this Unit.

1. Name some laws that have specific provisions empowering women at the workplace.

2. Name some general laws that also benefit women at the workplace.

3. What has been the response of the law to sexual harassment at the workplace?

4. Name one factor that could neutralize the effect of laws that empower working women.

19.6 MATRIMONIAL LAWS

Matrimonial laws consist of a set of laws that govern family relationships and rights of spouses and children during and subsequent to marriage. It covers aspects such as entering into marriage, divorce, maintenance, custody, succession, inheritance, guardianship and adoption. Different matrimonial laws govern members of different religious communities, with the exception of Special Marriage Act, which is a law common to all religious communities. Matrimonial laws in India today are a curious mixture of laws drawn from religious texts, interpretation of those texts, customs, traditions and statutes and principles derived from British law. Almost all the laws are patriarchal in nature and have discriminatory provisions against women, prescribing an inferior status to women in family and society; and attempting to control women's sexuality in subtle ways. Implementation of matrimonial laws is through Family courts in cities where these have been set up, or by District courts in the absence of Family Courts.

Over the past several decades, the women's movements in India have focussed on demanding law reform in order to repeal discriminatory aspects of matrimonial laws. Though the effort has met with success to a large extent, some discriminatory provisions continue to exist and disempower women. These are discussed in the section below titled 'Laws and Policies that Lead to Disempowerment of Women'.

Some of the major ways in which matrimonial laws protect women's rights are through the right to divorce, alimony / maintenance, custody and access of children and inheritance / succession. For example, the court stated in *Kashinath Sahu vs. Smt. Devi and Others* that it was the responsibility of the husband to protect his wife from cruelty by in-laws and his relatives.²³ It was said in *Balbir Kaur vs. Dhir Dass* that a husband denying medical

²³ AIR 1971 Ori 295

treatment to his wife amounted to cruelty, for which the wife could seek a divorce.²⁴ In a landmark judgment of the Supreme Court, it was stated that a demand of dowry amounted to cruelty, entitling the woman to divorce.²⁵ In another landmark judgment, on aspects of Muslim matrimonial law, the Kerala High Court stated that failure of husband to maintain his wife entitles her to a divorce.²⁶ In a case where the husband claimed that he ceased to be impotent, and sought the court's order to compel his wife to submit herself to him for this purpose, the court refused to do so and protected the woman's dignity.²⁷ In a case where the man breached his promise to marry the woman, the court said that she was entitled to claim damages.²⁸ In another case where a Non-resident Indian (NRI) husband deserted his Indian wife, the Supreme Court suggestions for safeguarding the interests of women in such situations.²⁹ It was explained by the court in one case that under the Hindu Marriage Act, the amount of maintenance fixed for the wife should be such that she can live with reasonable comfort considering her status and the mode of life she was used to when she lived with her husband.³⁰ In a case where the Family Court refused custody of minor child to the mother on grounds including that she was a working woman and has to remain away from the house during duty hours, the Bombay High Court, on appeal, awarded the mother custody of the child, stating that there was no disqualification in the mother, who was more educated than the father, and independent.³¹ In *Gita Hariharan vs. Reserve Bank of India*³², the Supreme Court stated that under the Hindu Minority and Guardianship Act 1956, the mother could act as the natural guardian of the minor during the father's lifetime if the father was not in charge of the affairs of the minor.

Check Your Progress Exercise 4

Note: i. Use the space given below to answer the questions.

ii. Compare your answer with the one given at the end of this Unit.

1. What are matrimonial laws and what aspects of a matrimonial relationship do they cover?

²⁴ AIR 1979 P and H 162

²⁵ *Shobha Rani vs. Madhukar Reddi* (1988) 1 SCC 105

²⁶ *A.Yousuf Rawther vs. Sowramma* AIR 1971 Ker 261

²⁷ *Abdul Azeem vs. Fahimunnisa Begum* AIR 1969 Mys 226

²⁸ *Ramlinga Mudali vs. Natesa Mudali* (1990) 2 DMC 229

²⁹ *Neeraja Saraph (Smt.) vs. Jayant V. Saraph and Another* (1994) 6 SCC 461

³⁰ *Smt. Jasbir Kaur Sehgal vs. District Judge Dehradun and Others* 1997 (7) Supreme Today 642

³¹ *Palmira w/o Cruz Fernandes vs. Cruz Fernandes* 1992 MH LJ 1048

³² 1999 2 SCC 228

2. Name three distinguishing features between matrimonial laws and other general laws.

3. Name two judgments related to matrimonial law that empower women.

19.7 LAWS AND POLICIES THAT LEAD TO DISEMPOWERMENT OF WOMEN

Unlike protective laws that aim at preserving and protecting women's human rights, laws that disempower women legitimize the use of discrimination and state violence to address specific issues and contexts, chipping away at women's human rights in the "larger interests" of society and social institutions. Two types of laws with disempowering effect exist - those that have provisions that are unjust / unfair / unequal; and those laws that have the scope for unjust, unfair or unequal implementation due to a corrupt / biased / inefficient administrative apparatus. Some such laws do not necessarily target women; however, the consequence of such laws is disparate on women due to their gender.

19.7.1 Matrimonial Laws

In the last few decades, many law reform initiatives have been undertaken, particularly through the impetus of the women's movement in India. Despite these initiatives, some discriminatory aspects of matrimonial laws continue to exist in the statute books. One such aspect is the relief of '**restitution of conjugal rights**' (RCR), which is oppressive to women belonging to all religious communities. Married persons are expected to live with each other as husband and wife and cohabit with each other. If one spouse withdraws from the society of another spouse without any good cause, the aggrieved spouse can petition to the court for and obtain an order of 'restitution of conjugal rights' against the other spouse. The implications of this remedy are that the aggrieved spouse can force an unwilling spouse to return to matrimonial cohabitation through the coercive power of the court. Though theoretically, this remedy is available to both the husband and the wife, the consequences of a remedy against the wife are different and discriminatory. The wife against whom the court issues an order of RCR might be sexually assaulted by her husband through the coercive power of the court.

The validity of this provision has been challenged several times in courts as violative of the right to privacy and dignity, which are parts of the guarantee of right to life in the Indian Constitution. The provision was struck down as unconstitutional by the Andhra Pradesh High Court in *T.Sareetha v T.Venkatasubbiah*.³³ The court opined that the RCR "constitutes the grossest form of violation of an individual's right to privacy. It denies woman her choice whether, when and how, her body is to become the vehicle for the procreation of another human being... A State coercion of this nature can neither prolong nor preserve the voluntary union of husband and wife in the matrimonial home..." The Delhi High Court, in *Harvinder Kaur v Harmander Singh*,³⁴ disagreed with the A.P. High Court judgment. The Supreme Court, in *Saroj Rani v Sudhershnan Kumar Chadha*³⁵ overruled the A.P. judgment and said that the object of RCR was to bring about cohabitation between the estranged parties so that they can live together in the matrimonial home in amity, and that the remedy aims at "cohabitation and consortium and not merely sexual intercourse." With this reasoning, the remedy continues to remain in existence in Indian matrimonial law. Contexts in which courts have issued an order of RCR against women include those where women who refused to give

³³ AIR 1983 AP 356

³⁴ AIR 1984 Del 66

³⁵ (1984) 4 SCC 90

up their jobs which they had taken up away from their matrimonial home, taken up mostly due to the financial situation of the family and with the consent of the husband.³⁶

Another aspect of matrimonial laws that disempower women are the adoption and guardianship laws governing Hindus. Under the Hindu Adoption and Maintenance Act, in cases of married couples, only the Hindu male has the eligibility to adopt a child; the married woman cannot adopt, even with the consent of her husband, unless the marriage has been dissolved. Only women who are unmarried, divorced or widows have the right to adopt a child. Similarly if the husband is alive, he has the sole right to give a child in adoption, but with the consent of his wife. The wife cannot, of her own initiative, give a child in adoption, even with her husband's consent. Similarly the Hindu Minority and Guardianship Act treats the man alone to be the natural guardian of the child. Through beneficial interpretation, the Supreme Court has held that the mother could act as the natural guardian of the minor during the father's lifetime if the father was not in charge of the affairs of the minor.³⁷ Though this is a welcome judgment, this is not tantamount to women's equal right to guardianship under the Hindu matrimonial law.

Discriminatory aspects also exist in Muslim matrimonial law, particularly on issues of divorce, polygamy and succession / inheritance. Courts in general, and the Supreme Court in particular, have given many judgments that interpret legal provisions in favour of women.³⁸ For example, court judgments have placed conditions on the husband's right to unilateral and oral divorce, by stating that unilateral triple *talaq* must be preceded by attempts at settlement and must be for a reasonable cause, thereby constraining the man's right to divorce his wife at will.³⁹ However, information about such judgments fail to reach the community, as a result of which oppressive practices continue to exist; women accept such unjust practices of matrimonial law due to ignorance about the possibility of positive remedies through courts of law. The man's right to marry up to four wives, and succession and inheritance laws which

³⁶ *Tirath Kaur vs. Kirpal Singh* AIR 1964 Punj 28; *Gaya Prasad vs. Bhagwat* AIR 1966 MP 212; *Surinder Kaur vs. Gurdeep Singh* AIR 1973 P and H 134; *Kailash Wati vs. Ayodhia Parkash* ILR (1977) 1 P and H 642; and *Mirchumal vs. Devi Bai* AIR 1977 Raj 113

³⁷ *Gita Hariharan vs. Reserve Bank of India* (1999) 2 SCC 228

³⁸ For more details, see Saumya Uma (2007), *The Supreme Court Speaks: Judgments on Muslim Law and Women's Rights*, Mumbai: Women's Research and Action Group

³⁹ *Shamim Ara vs. State of U.P. and Others* AIR 2002 SC 3551

prescribe less shares to female heirs than male heirs are other aspects of the law that disempower women. Muslim women's movements, such as the Bharatiya Muslim Mahila Andolan and Muslim Women's Rights Network, have taken the initiative to bring together women and other concerned citizens' voices demanding gender-just reforms in Muslim matrimonial law.

19.7.2 The Armed Forces (Special Powers) Act (AFSPA)

AFSPA is a security legislation, which, though not intended to target women, has had a disparate impact of disempowering women. AFSPA is a law that has been in operation since 1958. It was first used in Nagaland in response to the Naga independence movement in the late 1950s. It was subsequently introduced in Mizoram and Manipur, and briefly in Assam. In 1972, it was extended to all the seven North Eastern states.⁴⁰ AFSPA grants power to the Central government and the governor of the state to declare any particular area as a "disturbed area" if it is of the opinion that the use of armed forces to aid civil power is necessary.⁴¹ Upon this declaration, the law sanctions the Indian armed forces with sweeping and arbitrary powers, including the power to shoot to kill civilians for the commission / suspicion of commission of specified offences, a license to destroy any property suspected to be used by insurgents, the power to arrest any person without a warrant and the power to enter and search any premises at any time of the day or night without any search warrant to recover arms, ammunitions, explosives etc.

The government finds AFSPA a necessary measure to prevent the secession of the North Eastern states. The army finds the law essential to fight insurgency. The Supreme Court upheld the validity of AFSPA in 1997, but placed checks on the armed forces' use of powers conferred on them by the law, and interpreted the provisions of AFSPA in a strict and narrow manner so as to reduce scope for abuse.⁴² However, numerous reports exist of alleged abuse of the law, pointing to extra-judicial killings, custodial torture, rape and deaths, enforced disappearances and other violations of human rights of civilians suspected to be engaged in

⁴⁰ These are the states of Assam, Manipur, Mizoram, Meghalaya, Tripura, Nagaland and Arunachal Pradesh.

⁴¹ Armed forces is defined as "the military and Air Force of the area so operating" in the 1972 version of the law. Para-military forces such as the Assam Rifles, created through a separate law but placed under the operational control of the army, also enjoy the powers and protection sanctioned by AFSPA.

⁴² *Naga People's Movement of Human Rights vs. Union of India* (1998) 2 SCC 109

insurgency.⁴³ Arrest, custodial torture, rape and murder of 33 year old Thangjam Manorama - a suspected activist of the banned Peoples Liberation Army – by members of Assam Rifles – in July 2004 is a case in point.⁴⁴

19.7.3 Ban Against Bar Dancers in Maharashtra

In July 2005, the state government made a move banning dance performances in bars across Maharashtra. The State's case for prohibiting dance in dance bars is that it is dancing which arouses the physical lust amongst the customers present. The move was made through an amendment to the Bombay Police Act, 1951, passed by both the Houses of the Maharashtra State Legislature. The ban came into effect on August 15, 2005. The law banning dance performances in bars had curiously allowed hotels with three stars or above as well as gymkhanas and clubs to hold such performances to 'promote culture' and 'boost tourism'. The ban led to an estimated 75,000 girls - mainly from the lower economic strata - losing their means of livelihood. The impact of the ban on bar girls has been devastating, with many girls forced to commit suicide and many more forced to do sex work for their survival and livelihood.

When bar owners' associations, bar girls' unions and non-profit organizations challenged the ban, the Bombay High Court struck down the ban as illegal. The state government appealed against the judgment to the Supreme Court. Members of civil society have reiterated that the ban against bar dancers violates their freedom of expression, freedom to practice an occupation and the right to life with dignity.

19.7.4 Prohibition of Night Shifts for Women

Women working in night shifts has been a point of contention among the Indian law and policy makers, as well as the judiciary, with a tug-of-war between the demand for women to work in night shifts versus a ban on it, and the right to work versus restrictions on the same. While women work in night shifts along with their male counterparts, women are vulnerable

⁴³ See for example Asian Centre for Human Rights, *The AFSPA: Lawless Law Enforcement According to the Law?* A representation to the Committee to Review the Armed Forces Special Powers Act, 1958, 21 January 2005

⁴⁴ Assam Rifles is a paramilitary force placed under the operational control of the army, and enjoys full protection of the AFSPA.

to sexual assault in ways that men are not. Employers are expected to take precautions and provide a safe working environment to women, which, in the case of call centres / BPOs, includes pick up from and drop to their homes. However, many private companies, while extracting as much work as they could from women employees, do not have the will to spend extra money to provide safety to their women employees. This has resulted in an increase in incidence of murder and sexual assault on young women working in night shifts, returning home late at night or early in the morning.⁴⁵

Time and again, state governments try to address the situation by banning women from working in night shifts. For example, in May 2007, the Karnataka government passed a legislation punishing employers for employing women in night shifts in the hotel industry, business centres, spas and other workplaces that involve night shifts.⁴⁶ Such a move is aimed at exonerating the government and the employers from their basic duty to provide safety to women employees, and has the consequence of adversely impacting the woman's opportunities for professional growth and even making the women jobless. The Madras High Court, in 2000, declared provisions in the Factories Act which ban women from working in night shifts, as unconstitutional, as it resulted in a denial of livelihood. The judgment further prescribed measures to be undertaken by the employer to provide safety to women employees during night shifts.⁴⁷ While the judgment is landmark in asserting the women's right to safety in workplaces during night shifts, it remains to be seen whether the spirit of the judgment is being implemented, and whether the additional duties imposed on employers would deter them from employing women, particularly in jobs that require night shifts.

19.7.5 Population Policies

In 1977, the forced sterilization programme that targeted on men created a furore. Since 1994, several states have launched similar coercive population programmes by adopting the two-child norm and a target-specific approach. Certain disincentive measures have been adopted to discourage people from having more than two children. These include

⁴⁵ For more details, see 'BPO Units Must Provide Safety to Women Employees', in *The Hindu Businessline* dated 17 December 2005, available at <http://www.thehindubusinessline.com/2005/12/17/stories/2005121702770400.htm>, accessed on 22 November 2009

⁴⁶ For more details, see 'Night Shift Ban on Women in Open Discrimination', in *The Expressindia.com* dated 9 May 2007, available at <http://www.expressindia.com/news/fullstory.php?newsid=86219#compstory>, accessed on 22 November 2009

⁴⁷ *R.Vasantha vs. Union of India*, decided by the Madras High Court on 8 December 2000 in Writ Petition Nos. 4604 to 4604/1999

- disqualifying persons married before the legal age of marriage from government jobs; (U.P. and M.P. policies)
- recommending the induction of contraceptives such as injectables and implants which are both unsafe and dangerous to the health of women; (U.P. policy)
- prohibiting persons with more than two children from contesting panchayat elections and other elected bodies such as cooperative institutions; (M.P. and Rajasthan policies)
- linking the provision of rural development schemes, income generating schemes for women, and indeed poverty alleviation programmes as a whole to performance in family planning; (M.P. policy)
- making the “two child norm” a service condition for state government’s employees; (Rajasthan policy)
- making the two child norm is a criteria for a range of incentives to weaker sections of society, such as education in government schools, access to the public distribution system, weaker section housing scheme, low cost sanitation scheme, subsidies, promotions and government jobs; (Maharashtra and A.P. policies)

Experts have emphatically stated that coercive population policies that consist of disincentives are anti-poor, anti-dalit, anti-advasis, and anti-women.⁴⁸ In the patriarchal Indian society, most women are not in a position to decide the number of children they wish to bear, when to bear them and do not have control over how many will survive. By debarring such women from contesting panchayat elections, government jobs, rural development, income generation and poverty alleviation schemes, the policies are bound to disempower women further. In some cases women have been disowned by their husbands and permanently sent to their natal homes to hide the third child. In addition, forcible imposition of the “two child norm” in a society that is prevalent with son preference, would indirectly encourage more and more women to resort to sex determination, sex-selective abortions and female foeticide, worsening the skewed sex ratio even further. Women’s groups have emphasized that policies of population control are targeted largely at women. For example, 97.7% of the sterilizations are done on women. Many such sterilizations have been done without the informed consent of the women concerned. Conducting sterilizations in

⁴⁸ See for example Dr. Mohan Rao, ‘Anti-People State Population Policies’ available at www.delhiscienceforum.net/public-health/154, accessed on 27 November 2009 and Laxmi Murthy, ‘The Population ‘Problem’: Exploding Myths’, available at www.boloji.com/wfs/wfs052.htm, accessed on 27 November 2009

unhygienic and unclean health conditions by medical practitioners under the pressure from the state, have claimed women's lives all across India. Serious mistakes and infections kill many and render them handicapped for life. Hazardous contraceptives such as Net En and Depo Provera had earlier been promoted and used on women in order to decrease the population in a hurry, despite its adverse effects on the health of the women concerned.

19.7.6 Criminalizing Homosexual Conduct

S. 377 of the Indian Penal Code criminalizes consensual sexual acts between adults of the same sex, and certain other sexual acts between consenting adults of opposite sex on grounds that it is “against the order of nature”. S. 377 is a British colonial law passed in the early 1860s to criminalize all non-procreative sexual behaviour (whether homosexual or heterosexual, including anal sex), which has remained in our statute books till date. The punishment for engaging in a homosexual relationship can go up to life imprisonment. As far as the enforcement of the law in India is concerned, the country has hardly noticed any convictions in the last 20 years. Although facially neutral, the law has effectively stigmatized and criminalized a section more than others, namely same-sex desiring people, including those who identify as lesbian, gay, bisexual and transgender (LGBT), *hijra*, *kothi* and other Queer people. Numerous studies and fact-finding reports document violations ranging from sexual assault and abuse in police custody, extortion, electroshock and drug-based reparative therapies in mental health institutions, and wide ranging social stigma and discrimination on a day-to-day basis.⁴⁹

The Delhi High Court pronounced a historic judgment on 2 July 2009, decriminalizing homosexual activity among consenting adults.⁵⁰ The appeal is pending before the Supreme Court, and a positive judgment of the Supreme Court would have effect on the law all over the country.

19.7.7 Laws and Policies on Land and Property Rights

⁴⁹ Voices Against 377, *Rights for All: Ending Discrimination Against Queer Desire under Section 377*, 2004, available at <http://www.voicesagainst377.org/content/view/13/27/> (accessed on 22 November 2009). For an indepth study of the issue, see also Arvind Narrain, *Queer – Despised Sexuality, Law and Social Change* (Bangalore: Books for Change, 2004)

⁵⁰ *Naz Foundation vs. Government of NCT of Delhi and Others*, W.P. (C) No. 7455/2001, judgment dated 2 July 2009

Laws relating to land and property rights are also heavily loaded against and disempower women. Bina Agarwal observes that when the government distributes land, it distributes in the name of the man, leaving women in the household vulnerable as they do not have fields of their own.⁵¹ In a recent judgment, the Delhi High Court found the provisions of Delhi Land Reforms Act discriminatory as its provisions prescribe that the property would first devolve on male lineal descendants and the female would be given property only when there is no male descendants. It said however, that it was unable to quash (cancel) the law as the law has been put beyond judicial scrutiny through the ninth schedule of the Constitution.⁵²

Government-led projects in the name of development have prioritized and trampled upon land rights of local people, including *adivasis*. Backed by the Land Acquisition Act 1894, the state attempts to acquire agricultural land for Special Economic Zones (SEZs), mineral-based industries, industrial infrastructure (rail, road, power, water etc.) and other forms of industrialization, at allegedly lower rates than the market value. Land acquisition therefore leads to peasants' losing their land and sources of livelihood and creates massive unemployment, apart from a devastating impact on the environment. The compensation provided under law is often hardly a substitute for the loss of property and livelihood. Adequate rehabilitation and proper relocation of land owners and their families who are displaced by the state's actions, is a crucial issue. Singur⁵³, Nandigram⁵⁴, Kashipur,⁵⁵ Kalinga Nagar⁵⁶ and Raigad⁵⁷ are examples of sites of violent clashes between the local people on one hand, and state agencies who act on behalf of corporate giants on the other. Many of these violent clashes have targeted women for sexual and gender-based violence. However, in the struggle for indigenous land rights in India, women have also been especially active and played a leadership role in the Narmada Bachao Andolan - a movement that has

⁵¹ Bina Agarwal, 'Are We Not Peasants Too? – Land Rights and Women's Claims in India', pamphlet series brought out by The Population Council Inc., available at <http://www.popcouncil.org/pdfs/seeds/seeds21.pdf>, accessed on 27 November 2009

⁵² For more details, see 'Land Laws are Anti-Women But We Can't Set it Aside: Delhi HC', *The Indian Express*, 11 September 2009

⁵³ The strife was over land acquisition by the state government on behalf of the Tatas for constructing an automobile factory.

⁵⁴ The clash related to land acquisition for the purpose of building a SEZ by an Indonesian company – Salim group.

⁵⁵ In Kashipur, based in Rayagada district of Orissa, the local people have been fighting the Birlas (Utkal Alumina Ltd.) since 1994

⁵⁶ In January 2005, several people were killed in police firing in Kalinga Nagar, Jajpur district of Orissa over parting of their lands to the Tatas and other corporates.

⁵⁷ In Raigad, Maharashtra, a powerful struggle is being waged against acquisition of 35000 hectares of land for SEZ, proposed by Reliance Industries.

been particularly active in using public interest litigation in the Supreme Court in support of their movement.

19.8 SOCIAL AND LEGAL PROCESSES AGAINST DISEMPOWERING LAWS and POLICIES

The role of the judiciary with regard to laws leading to disempowerment of women has been more or less consistent, with an inclination towards pronouncing such laws / legal provisions / policies as invalid. For example, the Bombay High Court held the ban against bar dancers in Maharashtra to be unconstitutional as it deprived the bar dancers of their right to livelihood.⁵⁸ Similarly a Madras High Court judgment declared provisions in the Factories Act which ban women from working in night shifts, as unconstitutional, as it resulted in a denial of livelihood.⁵⁹ The judgment further prescribed measures to be undertaken by the employer to provide safety to women employees during night shifts. The Delhi High Court pronounced a historic judgment declaring that S. 377 was both arbitrary and unreasonable,⁶⁰ and was violative of the fundamental right to life and equality.⁶¹ On the issue of population policies though, the courts have tended to uphold the validity of coercive policies that include disincentives for not adhering to the two child norm.⁶²

Social processes include campaigns by concerned members of civil society for repealing laws and policies that disempower women, through a variety of strategies. Campaign strategies include holding public meetings, demonstrations, *dharnas*, rallies, hunger strikes / indefinite fast, press conferences, letter campaigns, distributing brochures and pamphlets, presenting memorandum of demands to the government and dialoguing with policy makers. Some times, street plays, folk songs and dances, and other means of popular culture are also used in spreading word about a campaign issue. Whenever required, civil society has drafted

⁵⁸ Writ Petition No. 2338 of 2005 and two other writ petitions, judgment of Bombay High Court dated 12 April 2006

⁵⁹ *R.Vasantha vs. Union of India*, decided by the Madras High Court on 8 December 2000 in Writ Petition Nos. 4604 to 4604/1999

⁶⁰ *supra* 48 at para 92

⁶¹ *Ibid* at para 132

⁶² A case in point is *Javed and Others vs. State of Haryana* 2003 (8) SCC 369, where the Supreme Court upheld a policy of disqualification of gram panchayat member for not adhering to the 'two child norm'. The judgment pointed out how "the growth of population of India was alarming and posed a menace to be checked. It was in [the] national interest to check the growth of population by casting disincentives even through legislation".

alternative laws and submitted to the government. The use of varied strategies over a sustained period of time helps in expanding support of civil society to the issue. This often persuades the government to take note of public sentiments, dialogue with concerned persons and review the law / policy accordingly.

The campaign to repeal Armed Forces (Special Powers) Act is an example of a sustained campaign to repeal a repressive law. The campaign has used many strategies including indefinite fast, public demonstrations and advocacy with key policy makers. The campaign against S. 377 of the Indian Penal Code combines public action with legal strategies. The campaign against Communal Violence Bill focuses its efforts towards preventing a repressive law from being passed by the Parliament, through strategies including a media campaign and public meetings. Participation in such campaigns is open to all public-spirited and concerned members of society. Media plays a major role in such campaigns by way of disseminating information among a wide cross-section of people and mobilizing public opinion.

19.9 SUMMING UP

Law is like a double-edged sword. On one hand, it is a tool for empowerment of women and other marginalized / oppressed communities. It is up to each individual / campaign / movement to make use of empowering laws to assert their rights. Information about such laws is a first step towards assertion of rights through law.

On the other hand, laws and policies also exist which have the effect of disempowering women and other marginalized communities. Many such laws and policies are formulated based on a patriarchal mindset, partisan attitudes, prejudices against certain groups of people and certain practices, vested interests and mistaken notions of public morality. Social and legal processes exist to address and counter the effect of such laws and policies that, in effect, deprive women of their basic rights.

19.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

1. The State cannot deny to any person equality before the law or equal protection of the laws; it cannot discriminate on the ground of sex including in public employment; it cannot traffic in human beings.
2. The State can make affirmative action in favour of women, including through reservation and special laws; the State is duty-bound to protect the life and personal liberty of all, including women; it is directed to provide for equal pay for equal work; the State is also duty-bound to make provisions for ensuring just and humane conditions of work and maternity relief.
3. These include Section 498A of the Indian Penal Code (dealing with domestic violence), The Equal Remuneration Act 1976, The Maternity Benefits Act 1961 and the Protection of Women from Domestic Violence Act 2005.
4. The IPC has provisions on miscarriage, kidnapping, sexual assault, offences within marriage and cruelty to woman.
5. -Vishal Jeet vs. Union of India – on prohibiting, eradicating child prostitution, devadasi and jogin trade houses, rehabilitating victims
 -Delhi Domestic Workers case – guidelines for increasing victim's access to justice in situations of sexual assault
 -Upendra Baxi vs. State of U.P. – directions to authorities of protective homes to protect the health of women inmates without violating their right to dignity
 -Sheela Barse's case – separate lock up for detaining female suspects
 -Rekha Kholkar's case – compensation for physical assault and torture by police, directions for interrogating women suspects.
6. Some laws that empower women at the workplace include The Equal Remuneration Act and The Maternity Benefits Act. Provisions addressing women at the workplace also exist in other laws such as The Factories Act and The Mines Act.
7. These include Minimum Wages Act 1948, Bonded Labour System (Abolition) Act 1976, Plantation Labour Act 1951, Payment of Wages Act 1936, Industrial Employment (Standing Orders) Act 1946, Workmen's Compensation Act 1923, Employees State Insurance Act 1948 and The Contract Labour (Prohibition and Regulation) Act 1970.
8. The Supreme Court pronounced a landmark judgment on sexual harassment of working women in 1997 in *Vishaka and Others vs. State of Rajasthan*. Through this judgment, it provided a definition of sexual harassment at the workplace, guidelines for employers to redress and prevent sexual harassment at workplace, and to provide a discrimination-free

working environment for women employees. A separate law on the issue is in the process of being drafted.

9. One such factor is a patriarchal mindset that views women workers as a financial burden instead of an asset, due to their biological role in giving birth to and taking care of children.

10. Matrimonial laws consist of a set of laws that govern family relationships and rights of spouses and children during and subsequent to marriage. It covers aspects such as entering into marriage, divorce, maintenance, custody, succession, inheritance, guardianship and adoption.

11. Unlike the general laws which apply to all persons equally, different matrimonial laws govern members of different religious communities (with the exception of Special Marriage Act, which is a law common to all religious communities). Secondly, unlike other laws, matrimonial laws in India today have provisions that are drawn from religious texts, interpretation of those texts, customs and traditions. Thirdly, almost all such laws are patriarchal in nature and have discriminatory provisions against women, prescribing an inferior status to women in family and society.

12. *Kashinath Sahu vs. Smt. Devi and Others* - responsibility of the husband to protect his wife from cruelty by in-laws and his relatives.

Yusuf Rawther vs. Sowramma - failure of husband to maintain his wife entitles her to a divorce.

13. These include

Provisions in matrimonial laws that are regressive and discriminate against women;

The Armed Forces (Special Powers) Act which has provisions giving sweeping powers to the armed forces, found to have been misused against vulnerable women;

Ban against bar dancers in Maharashtra, violating women's right to work;

Prohibition of night shifts for women in selected areas of work, adversely impacting women's right to livelihood;

Anti-women population policies that provide disincentives for having more than two children;

Criminalizing homosexual conduct through S. 377 of the Indian Penal Code; and

Laws and policies on land and property rights.

19.11 UNIT END QUESTIONS

1. Give an account on the Constitutional Provisions for the empowerment of women in India

2. How legal laws disempower women? Explain with suitable example.
3. Write a short note on AFSPA?
4. What are the policies on land and property rights?

19.12 REFERENCES

Books

1. A.M.Bhattacharjee (1996), *Matrimonial Laws and the Constitution*, Calcutta: Eastern Law House
2. Amita Sahaya (ed.) (2008), *Women, Work and Health: Selected Readings*, New Delhi: Women Work and Health Initiative
3. Aparna Bhat (2003), *Supreme Court on Rape Trials*, New Delhi: Combat Law Publications (P) Ltd.
4. Arvind Narrain (2004), *Queer – Despised Sexuality, Law and Social Change*, Bangalore: Books for Change
5. Christine Chorine, Mihir Desai, Colin Gonsalves (1999), *Women and the Law*, Mumbai: Socio-legal Information Centre, Volumes I and II
6. Colin Gonsalves, Monica Sakhrani and Annie Fernandes (1996), *Prisoner's Rights*, Mumbai: Vidyullata Pandit and Human Rights Law Network
7. Durga Das Basu (1998), *Constitutional Law of India*, New Delhi: Prentice Hall of India Pvt Ltd, 7th edition
8. Flavia Agnes (1995), *State, Gender and the Rhetoric of Law Reform*, Mumbai: Research Centre for Women's Studies, S.N.D.T. Women's University
9. Flavia Agnes (1999), *Law and Gender Inequality: The Politics of Women's Rights in India*, New Delhi: Oxford University Press
10. Human Rights Law Network (2008), *Domestic Violence and the Law*, New Delhi: Human Rights Law Network
11. Jayashree Gupta (1999), *Human Rights and Working Women*, New Delhi: Publications Division, Ministry of Information and Broadcasting, Government of India
12. Justice Hosbet Suresh (2003), *Fundamental Rights as Human Rights*, Mumbai: Sabrang Communications and Publishing Pvt. Ltd
13. Monica Chawla (2006), *Gender Justice – Women and Law in India*, New Delhi: Deep and Deep Publications

14. The Lawyers Collective (2004), *Law Relating to Sexual Harassment at the Workplace*, New Delhi: Universal Law Publishing Co. Pvt. Ltd.
15. The Lawyers Collective (2005), *Practical Guide to the Laws Relating to Sexual Harassment at the Workplace*, New Delhi: Universal Law Publishing Co. Pvt. Ltd.
16. Roshmi Goswami, M G Sreekala and Meghna Goswami (2005), *Women in Armed Conflict Situations*, Guwahati: North East Network
17. Saumya Uma (2007), *The Supreme Court Speaks*, Mumbai: Women's Research and Action Group
18. Savitri Goonesekere (ed) (2004), *Violence, Law and Women's Rights in South Asia*, New Delhi: Sage Publications India Pvt. Ltd
19. *Women and Law in India – An Omnibus Comprising Introduction by Flavia Agnes* (2004), New Delhi: Oxford University Press

Articles

20. Asian Centre for Human Rights, *The AFSPA: Lawless Law Enforcement According to the Law? A representation to the Committee to Review the Armed Forces Special Powers Act, 1958*, 21 January 2005
21. Saumya Uma, 'Repressive Laws in India' in Saumya Uma (ed.) (2009), *Unpackaging Human Rights: Concepts, Campaigns and Concerns*, Mumbai: Women's Research and Action Group and Documentation Research and Training Centre, pp. 72-88
22. Shweta Shalini, 'Laws to Protect Human Rights' in Saumya Uma (ed.) (2009), *Unpackaging Human Rights: Concepts, Campaigns and Concerns*, Mumbai: Women's Research and Action Group and Documentation Research and Training Centre, pp. 51-71
23. 'The Armed Forces (Special Powers) Act – Repressive Law', *Combat Law*, Vol. 2, Issue 1, April – May 2003

Reports and Public Statements

24. Amnesty International, *India: Parliamentarians must repeal the Armed Forces (Special Powers) Acts*, ASA 20/022/2009, dated 10 December 2009
25. Amnesty International, *India's Ruling Against 'Sodomy' Laws Is First Step To Equality*, 3 July 2009
26. Human Rights Watch, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, August 2009

27. Human Rights Watch, *World Report 2010*, pp. 298-305

Resources from the Internet

28. Arvind Narrain, 'The Law: Congealed Colonialism', 23 October 2005, available at <http://www.boloji.com/wfs4/wfs469.htm> (accessed on 20 November 2009)
29. Bina Agarwal, 'Are We Not Peasants Too? – Land Rights and Women's Claims in India', pamphlet series brought out by The Population Council Inc., available at <http://www.popcouncil.org/pdfs/seeds/seeds21.pdf> (accessed on 27 November 2009)
30. Faizur Rahman, 'Preventive Detention as Anachronism', *The Hindu*, 7 September 2004, available at <http://www.hindu.com/op/2004/09/07/stories/2004090700101500.htm> (accessed on 18 October 2009)
31. Laxmi Murthy, 'The Population 'Problem': Exploding Myths', available at www.boloji.com/wfs/wfs052.htm (accessed on 27 November 2009)
32. Dr. Mohan Rao, 'Anti-People State Population Policies' available at www.delhiscienceforum.net/public-health/154 (accessed on 27 November 2009)
33. South Asian Human Rights Documentation Centre, *Armed Forces Special Powers Act: A Study in National Security Tyranny*, available at http://www.hrdc.net/sahrdc/resources/armed_forces.htm
34. Voices Against 377, *Rights for All: Ending Discrimination Against Queer Desire under Section 377, 2004*, available at <http://www.voicesagainst377.org/content/view/13/27/> (accessed on 22 November 2009).

Unit 20: FORM & EXTENT OF GENDER-BASED VIOLENCE

Structure

20.1 Introduction

20.2 Objectives

20.3 Forms and Magnitude of Gender Based Violence

20.4 Caste Based Violence

20.5 Communal Violence

20.6 Gender Based Violence by security Forces

20.7 Witch Hunting

20.8 Let Us Sum Up

20.9 Answers to Check your Progress

20.10 Unit End Questions

20.11 References

20.1 INTRODUCTION

The term **gender-based violence (GBV)** is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence by individuals and collectivities. It includes acts that result in, or is likely to result in, physical, sexual or psychological harm. A threat of such acts, coercion and arbitrary deprivation of liberty are also forms of gender-based violence. Such gender-based violence might occur within the family, in the community during “peace times” or times of conflict, or by state agents. It may be perpetrated by family members, acquaintances, strangers or intimate partners including husbands.

Gender-based violence is perhaps one of the most widespread and socially tolerated forms of violence prevalent in the world. Gender-based violence occurring in the family includes domestic violence, sexual abuse of children in the household, dowry-related violence, rape and incestual rape by family members, ‘honour killings’, female genital mutilation and other traditional practices that are harmful. Violence perpetrated in the community includes rape, sexual abuse, sexual harassment at workplace and other public

places, acid-throwing, ‘witch-hunting’, trafficking in women and children and forced prostitution. In addition, gender-based violence is also perpetrated by / in connivance with state agencies, or condoned by them, either through explicit / implicit policies or through actions of public officials. Further, it is perpetrated in contexts of war and internal armed conflict, where women are targeted for special forms of sexual and gender-based violence as a way of punishing the enemy or teaching the enemy a lesson.

While violence is a traumatic experience for anyone – man, woman or child – gender-based violence is predominantly inflicted by men on women and girls by reason of their gender. It impacts women’s dignity, security, sexuality, reproductive capacity and their right to control over their own body (autonomy), apart from its over-arching impact on physical and mental health of women. Gender-based violence stems from the power inequality between men and women, exacerbated by socio-economic, cultural and structural inequalities. Rooted in women’s subordinate status, it is linked both to the institution of patriarchy as well as the concept of masculinity. Violence against lesbians, gays, bisexuals and transgendered people is an illustration of how gender-based violence also results from the tension between mainstream and alternative understandings and practices related to sexuality.

Part I of this Unit focuses on witch-hunting and gender-based violence in contexts of mass crimes such as communal violence, caste-based violence and violence by security forces, while Part II of this Unit focuses on other forms of gender-based violence perpetuated by the family and community, including female genital mutilation, “honour” killings, domestic violence, sex-selective abortions, violence against *adivasis* and trafficking in women.

20.2 OBJECTIVES

The objectives of this unit are as follows:

- To illustrate forms of gender-based violence and the extent of their prevalence in India and elsewhere;
- To identify causes and consequences of such violence; and

- To highlight various ways of addressing and responding to such violence, including through law and social action.

20.3 FORMS & MAGNITUDE OF GENDER-BASED VIOLENCE

Gender-based violence has been shrouded by a culture of silence and tolerance for a long time. It is difficult to access reliable statistics on the same, as the violence is under-reported due to stigma, shame and fear of reprisal. However, some facts & statistics about gender-based violence are as follows:

- Domestic violence is the most common form of gender-based violence. Based on a survey, in various countries, 10% - 65% women are subjected to domestic violence;¹
- In Australia, Canada, Israel, South Africa and the United States, between 40 and 70 per cent of female murder victims were killed by their male partners, many of them when they try to leave an abusive partner or soon afterwards;²
- Worldwide, an estimated one in five women will be a victim of rape or attempted rape in her lifetime;³
- One in three will have been beaten, coerced into sex or otherwise abused, usually by a family member or an acquaintance;⁴
- More than 60 million girls are "missing" in Asia as per 2005 statistics, due to sex-selective abortions;⁵
- Sex selective abortions and female feticide are also prevalent in China, Eastern Mediterranean and a few East Asian countries;⁶

¹ Heise, Ellsberg, and Gottemoeller 1999. Cited in: UN Millennium Project 2005a, p. 113.

² Krug, E., et al. (eds.). 2002. *World Report on Violence and Health*. Geneva: WHO.

³ UN Millennium Project, 2005a. *Taking Action: Achieving Gender Equality and Empowering Women*. Task Force on Education and Gender Equality. London and Sterling, Virginia: Earthscan.

⁴ Heise, L., M. Ellsberg, and M. Gottemoeller. 1999. "Ending Violence against Women." *Population Reports*. Series L. No. 11. Baltimore, Maryland: Population Information Program, Johns Hopkins University School of Public Health.

⁵ The Hindu, 14 October 2005

⁶ Ibid

- Between 100 and 140 million girls worldwide have been subjected to female genital mutilation, by which external female genitals are partially or totally removed for non-medical reasons;⁷
- Between 600,000 and 800,000 individuals are trafficked each year for forced labour, the majority for commercial sexual exploitation; approximately 80% of them are women and girls, and 50% are minors;⁸
- ‘Witch-hunting’ is now an international phenomenon; women and children have been murdered, humiliated, tortured and persecuted after being accused of being witches, destroying lives of millions of people;
- In India, *adivasi*, *dalit*, single and elderly women are the worst-victims of witch-hunting, which is often a ploy to grab their property, camouflaged by superstition and traditional practices;
- At least 5000 ‘honour killings’ (where predominantly women are killed by family members in order to save perceived family honour) take place worldwide every year;⁹ and
- Sexual harassment at workplace is a form of gender-based violence prevalent in many countries; about 47% of working women in India have experienced some form of sexual harassment over the course of their work.¹⁰

Statistics derived from the National Crime Records Bureau (NCRB) give an indication of selected gender-based crimes against women in India over the years. Table 1 below gives the statistics for selected crimes against women in 2008. (Statistics of 2009 have not been published by NCRB yet). The table indicates that among various categories of

⁷ World Health Organization, <http://www.who.int/reproductivehealth/topics/fgm/prevalence/en/index.html> (accessed on 14 October 2009)

⁸ United States Department of State. 2005. *Trafficking in Persons Report: June 2005*. Washington, D.C.: United States Department of State.

⁹ [△] "A Human Rights and Health Priority". *United Nations Population Fund*. <http://www.unfpa.org/swp/2000/english/ch03.html>. Retrieved 2007-08-15.

¹⁰ Study conducted by National Commission for Women, referred to in <http://www.ethicalcorp.com/content.asp?ContentID=6140&rss=ec-main.xml>. (accessed on 27

gender-based violence, the highest number of cases have been reported of domestic violence (cruelty by husband and relatives), yet the conviction rate (rate at which the accused persons are held guilty of the crime by courts of law) is lower than most other categories. Table 2 below provides a snapshot of the incidence of selected crimes against women registered under various sections of the Indian Penal Code, in the years 2000-2007. The comparative figures reflect a steady increase in crimes against women over the years in most categories. This is further reiterated through Graph 3 below, which indicates the incidence of selected crimes against women in the years 2003-2007. The limitation with these statistics is that they reflect only the crimes registered with the police. Since there are many cases of crimes against women which go unreported / unregistered, the statistics are only an indication and not a true reflection of the extent and magnitude of gender-based crimes against women in India.

Table 1
CRIMES AGAINST WOMEN IN INDIA, 2008

Crime heads	Cases reported	% to total crimes registered under Indian Penal Code	Rate of crime	Charge-sheeting rate	Conviction rate
Cruelty by husband and relatives	81344	3.9	7.1	93.7	22.4
Rape	21467	1.0	1.9	93.9	26.6
Molestation	40413	1.9	3.5	96.1	31.7
Sexual harassment	12214	0.6	1.1	96.8	50.5
Kidnapping & Abduction of Women & Girls	22939	1.1	2.0	74.1	27.1
Dowry deaths	8172	0.4	0.7	92.8	33.4
Importation of girls	67	0.0	0.0	72.2	12.3
Total Crimes Against Women (IPC crimes + Special Laws)	195856	9.4	17.0	92.5	30.1

Source: National Crime Records Bureau, Ministry of Home Affairs, New Delhi

Note: These statistics are derived from complaints registered with the police; there are many more crimes under each category that are unreported / where complaints are not registered, which are not reflected by these statistics.

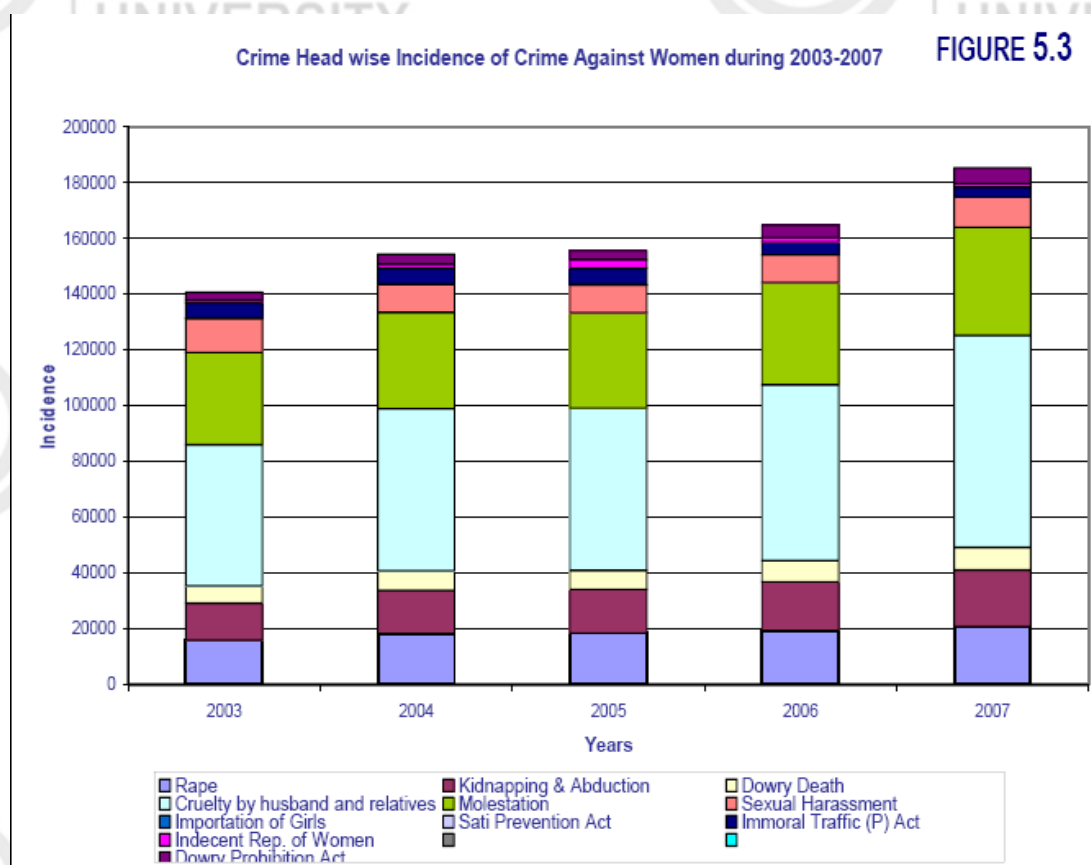
Table 2
INCIDENCE OF SELECTED CRIMES AGAINST WOMEN
REGISTERED UNDER THE INDIAN PENAL CODE, 2000-2008

Year	Cruelty by husband & relatives	Rape	Molestation	Sexual harassment	Dowry deaths	Importation of girls
2000	45778	16496	32940	11024	6995	64
2001	49170	16075	34124	9746	6851	114
2002	49237	16373	33943	10155	6822	76
2003	50703	15847	32939	12325	6208	46
2004	58121	18233	34567	10001	7026	89
2005	58319	18359	34175	9984	6787	149
2006	63128	19348	36617	9966	7618	67
2007	75930	20737	38734	10950	8093	61
2008	81344	21467	40413	12214	8172	67

Source: National Crime Records Bureau, Ministry of Home Affairs, New Delhi

Note: Crimes such as acid-throwing, honour-killing, sex-selective abortions and witch-hunting have not been categorized separately in the statistics of NCRB.

Graph 3: Incidence of Crimes Against Women 2003-2007



Source: National Crime Records Bureau, Ministry of Home Affairs, New Delhi

CHECK YOUR PROGRESS

1. How is gender-based violence different from other forms of violence?
2. What is the impact of gender-based violence on women?
3. Why does GBV occur?
4. Name some forms of GBV.

20.4 CASTE-BASED VIOLENCE

Historically, India has a highly stratified social structure with a hierarchy of castes. Though it may have started as a system for allocation of work, the caste system now has pre-determined and hierarchical division of rights. The ‘untouchables’ (*dalits*), placed at the bottom of the caste hierarchy, have been deprived of basic human rights including the right to live with dignity. Strong social and religious norms, including social ostracism, have supported such a deprivation of rights and enforced the caste system. Support for such caste-based and gender-based violence is often derived from Hindu religious texts such as the Manusmriti, which states: “A Brahmin, Kshatriya, Vaishya man can sexually exploit any Shudra woman.”¹¹

Violence has been used to prevent *dalits* from moving up the social, political and economic ladder and to maintain status quo. Further, for the vast majority of *dalits* who are agricultural labourers, inequitable distribution of land, and preventing them from tilling the land or taking its produce has resulted in flash points of violence, particularly when *dalits* try to assert their rights. In states such as Bihar and Uttar Pradesh, when the established and exploitative feudal systems were challenged, this met with violent and brutal resistance from the landlords, through formations of private militias of ‘upper castes’ such as the Ranbir Sena.

Dalit women, who constitute atleast 80 million and form about 48% of the *dalit* population, face brutal sexual assault due to a combination of their caste, class and gender identities. For

¹¹ Manusmriti IX.25

this reason, it has often been asserted that *dalit* women are a distinct social group who cannot be masked under the general categories of ‘women’ or ‘*dalits*’. *Dalit* women are often a soft target for violence, as they lack the power of retaliation. Apart from a denial of access to public places such as places of worship and wells, gender-based violence on *dalit* women include extreme filthy verbal abuse of a sexual nature, naked parading, dismemberment, forced to drink urine and faeces, branding, pulling out of teeth/tongue/nail, rape, rape in public and in the presence of family members, other forms of assault and violence including murder by proclaiming them as witches. Most economic, social, political, educational and personal avenues for *dalit* women’s empowerment are closed to them due to social structures and systems.

Major contexts for gender-based violence include demand for payment of wages, land and property disputes, bonded or forced labour, access to water, indebtedness, compulsion to perform traditional and degrading jobs. For example, at least 1.5 million women are involved in manual scavenging. Manual scavenging is the manual removal of human excreta from “dry toilets”, and is a degrading job. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition Act) 1993 is a law that bans manual scavenging and punishing offenders for employing manual scavengers and for construction of dry latrines. Despite the law, the degrading practice continues.

Gender-based violence has been further institutionalized through the *devdasi* and *jogini* systems, which perpetuate sexual exploitation of women from weaker sections of society, including *dalits*. Under such system, though the girls and women are notionally married to god, they are forced to offer sexual services to members of “upper” castes. According to a Human Rights Watch report of 1992, approximately 50,000 girls sold to Hindu organizations per year.

Perpetrators of caste-based violence against *dalit* women are largely members of ‘upper castes’, with the support of public officials including the police. Though the flashpoints of caste-based violence, particularly on *dalit* women, may sometimes be spontaneous and at other times planned, what generally follows is a pattern of police connivance with the dominant community, indicated by a failure to register cases, lodging false allegations and complaints against the victims / survivors and human rights defenders who support them. Such practices have made implementation of Scheduled Caste / Scheduled Tribe (Prevention

of Atrocities) Act (popularly referred to SC / ST Act) – a law that recognized the need for extra protection to vulnerable groups – weak and ineffective. While no perpetrator practised untouchability when it came to rape, ‘untouchability’ has often been used as a defence by the perpetrator during trials for such crimes.

Box:1 CASE STUDY 1: SEXUAL ASSAULT OF BHANWARI DEVI

Bhanwari Devi was a *saathin* worker – worker of the Women’s Development Programme of the government of Rajasthan. She educated villagers about the evils of child marriage, in a conservative society where child marriages were predominant and the caste system practiced rigorously. She belonged to a community of potters, considered low in the caste system. The “upper” caste men of the Gujjar community were angered by her work, and decided to teach her a lesson by 5 men brutally raping her in the presence of her husband in 1992. Instead of leaving her village, she fought for justice through the criminal legal system. The trial court judgment went against her and all 5 persons were acquitted, and the judgment said that since she was a *dalit* and the accused persons were “upper caste” men, they could not have possibly raped her. Later, the High Court judgment stated that it was a case of “gang rape committed out of vengeance”. As a part of the campaign, women’s groups filed a petition before the Supreme Court, leading to the historic judgment in *Vishakha vs. State of Rajasthan*, where the court issued guidelines for preventing sexual harassment at the workplace.

Her rapists offered her compensation to withdraw the case. Her reply to them: "Tell our village elders you raped me, restore my dignity." Her entire family withdrew support because they felt she should have compromised and withdrawn the case. Bhanwari was not able to get her rapist punished. But her fight has resulted in a law for sexual harassment against women all over India and she has become a source of inspiration for lot of rape victims. And she fought against her rapist all along, living in the same village with her head held high. Her husband stood by her throughout the process. Bhanwari Devi continues to have the courage and the humanity to continue her social work in her village, and to talk of rights and change and laws...

Bhanwari Devi’s traumatic experience in being targeted for gender-based violence by “upper caste” men for being an agent of change, and her subsequent struggle for justice, where she challenged patriarchal and castist mindsets with regard to violence against *dalit* women and the need for protection from the state, illustrates to us the enormity of the problem and the difficulties in addressing the same.

Box :2 CASE STUDY 2: THE KHAIRLANJI MASSACRE

On 29 Sep 2006 – 4 members of the Bhotmange family were killed in Khairlanji, a small village in Bhandara district in the state of Maharashtra. The victims were Surekha – the mother, aged 44 and Priyanka, daughter aged 18, and sons aged 23 and 21. The father – Bhaiyyalal Bhotmange – a dalit farmer – was the sole survivor of the attack. All four victims were stripped naked, dragged to an open ground, Surekha and Priyanka were brutally raped and sexually assaulted in a barbaric manner in full public view for over an hour, before all four victims were hacked to death. The sons too were stabbed repeatedly and their private parts mutilated. The family belonged to the Kunbi caste, considered a “backward” caste. Their bodies were thrown into a canal.

The barbaric attacks stemmed from the family’s act of resisting land-grabbing of five acres of land they owned, by “upper caste” members of the community they lived in. The family reclaimed the land that was encroached upon by the villagers, and farmed the entire five acres of their land in 2006. Surekha had testified against the villagers who had assaulted her cousin for supporting her fight in getting back their portion of land. This had led to the villagers’ arrest, who avenged the humiliation after getting bail. Bhaiyyalal is reported to have said that Surekha’s “fault” was that she challenged the village “upper-caste” landlords, who wanted their land to have a road built over it.

Although investigations by the Central Bureau of Investigations (CBI) revealed that the women were not raped, there are allegations of bribery of doctors who performed post-mortem, and that the local police shielded the alleged perpetrators in the ongoing investigation. The state Home Minister R R Patil admitted to initial lapses in police investigation and said that five policemen suspended in killings have been sacked. Though the crimes were committed in full public view, there were hardly any witnesses as the villagers were under strict orders not to speak about the incident. Despite this, the verdict in this case, pronounced on 15 September 2008 by the Bhandara sessions court, held eight people guilty of murder and acquitted three. Six out of the eight persons were subsequently awarded death sentence, while two others were given life imprisonment.. Appeal against the judgment is pending.

This case study highlights the following facts:

- Vulnerability of *dalit* families who challenge established norms and unjust practices by members of the dominant castes and classes;
- Brutality of attacks on *dalit* women, and the sexual nature of such brutalities;
- While predominantly women are targeted for attacks of a sexual nature, these are sometimes committed against men too, such as those against the sons whose sexual organs were mutilated in this case;
- Absence of witness protection laws makes further exposes victims to the risk of reprisal; and
- Connivance of dominant castes and the state administration in the crimes, including the police and the doctors, which makes justice more difficult.

CHECK YOUR PROGRESS

5. Why are dalit women considered a separate social category, distinct from ‘dalits’ and ‘women’?

6. Who is Bhanwari Devi? What does her experience teach us?

7. What happened in Khairlanji? Why is it an example of GBV?

20.5 COMMUNAL VIOLENCE

The common understanding of the term ‘communal violence’ is commission of crimes on a group of people based on their religious identity. There has been a historic neglect in making persons accountable for gender-based violence in contexts of communal violence in India. The Partition of British India in 1947, which created the two independent states of India and Pakistan, was followed by extreme violence, mass migration and ethnic cleansing. The religious fury and violence that it unleashed caused the deaths of some 2 million Hindus, Muslims and Sikhs. An estimated 12 to 15 million people were forcibly transferred between the two countries. Thousands of women were raped; many were tortured, abducted and looted. In totality, it left the whole population fully terrorized with chaos and confusion prevailing all over the place. In the context of the Partition, gender-based violence against

women, though individual in character, was mass in scale. No prosecutions have been initiated against the perpetrators and like in most cases, perpetrators have escaped with impunity. Justice for the crimes against women became impossible because many perpetrators were across the border, and the needs of women survivors came to be accorded a low priority. In the joy of independence, justice for gender-based violence was side-stepped.

The post-independent era has seen many situations of communal violence. In the Nellie massacre of 1983 in Assam, where Bengali-speaking Muslims were targeted and killed in thousands, women were attacked in barbaric ways. Mass crimes against women were also committed in the context of the anti-Sikh massacre in Delhi in 1984, which took place after the assassination of erstwhile Prime Minister Ms. Indira Gandhi. The struggle for justice has extended beyond two decades, with little justice being meted out. Even sixteen years later, survivors of sexual violence hoped for justice when the Nanavati Commission was appointed in 2000, and five specific affidavits on sexual violence were filed.

In 1992, subsequent to the destruction of Babri Masjid, communal violence erupted in many parts of the country, including in Mumbai and Surat, where again, women were targeted for specific kinds of brutalities. During the Gujarat carnage of 2002, gender-based violence and sexual violence were not only widespread, but also played a fundamental role as an engine for mobilizing hatred and destruction against religious minorities. The communal attacks in Kandhamal, Orissa, in 2007 and 2008, again illustrate the targeting of women for gender-based violence. The experience of a Catholic nun - Sister Meena - of being molested and gang-raped by a raging mob with police as by-standers illustrates to us the brutality of attacks against women in communal contexts, and the complicity of public officials in the same.

While there have been a few success stories of women survivors' struggle for justice, such as that of Bilkis Bano from Gujarat, for every woman survivor who speaks out, there are hundreds and thousands more who have suffered in silence and who have been unable to demand justice for the violations inflicted on them. Lack of political will to prosecute perpetrators, inadequacy of laws and procedures to deal with mass crimes, lack of impartial investigation and prosecution of such crimes and a lack of sensitivity to victims' experiences and needs have been among some of the major hurdles in women's access to justice in contexts of communal violence.

Gender-based violence in communal contexts that has been documented in recent times in India, include public and mass acts of sexual violence such as cutting off breasts and uterus, forced nudity, stripping and parading women naked, forcible pregnancy, exhibiting sexual organs in the presence of women and mutilation of women's genital organs. Against this backdrop, the existing criminal law has been found grossly inadequate as it does not capture the various kinds of violence inflicted on women in communal situations.

Further, in situations of communal violence, women's access to police stations (for lodging FIR), government hospitals (for medical examinations) and the confidence / ability to pursue legal procedures is substantially reduced during the period of the violence and until the return to a safe and non hostile environment for the survivors of the violence. Hence, appropriate evidentiary and procedural standards are imperative, including conducting of investigations in a gender-sensitive manner.

Pursuant to its assurance in the Common Minimum Programme in 2004 that a model legislation on communal violence would be enacted, the United Progressive Alliance (UPA) government had introduced two versions of the Bill – Communal Violence (Suppression) Bill in July 2005, which faced heavy criticism and was improved and re-introduced in the parliament as Communal Violence (Prevention, Control & Rehabilitation of Victims) Bill in December 2005. Due to severe public criticism, this latter version of the Bill was referred to a Parliamentary Standing Committee for Home Affairs for its consideration. The Committee gave its recommendations to the government, which were tabled in the Parliament subsequently. Meanwhile, civil society groups had a series of public meetings in many cities, rejecting the Bill in its present form. In January 2008 the Prime Minister's office requested some civil society groups which had been closely engaged with the Bill for a new draft of the law, which was then submitted to the government on 24 January 2008. The government is yet to formulate and present a new draft law on communal violence in the Parliament.

One of the major criticisms against the government drafts is that they make sexual and gender-based violence against women in communal contexts invisible, by failing to acknowledge, address or remedy the major hurdles that have contributed to women's poor access to justice in the context of communal violence. It has also been stated by members of civil society that the Bill has dealt with gender-based violence in general, and sexual violence in particular, in a callous and casual manner, despite the fact that gender-based violence has

played a fundamental role as an engine for mobilizing hatred and destruction against religious minorities in recent times.

Box:3 CASE STUDY 3: GANG RAPE OF BILKIS YAKUB RASOOL

Bilkis Yakoob Rasool alias Bilkis Bano, a resident of Radhikpur village in Dahod district of Gujarat, was 19 years old and five months pregnant in March 2002. She along with 16 others including her mother, sisters and three year old daughter, fled from their village on 28 February 2002 when rampaging mobs attacked the village. They hid in a field, hoping to escape, but were attacked the next morning by a mob of 20-30 men carrying swords and sickles. Bilkis, her mother and sisters were gang-raped. Her daughter was killed after being 'smashed' on the ground. She was gang-raped by fellow villagers - people she had known since her childhood. In the violence, she lost 14 family members. Bilkis survived the attack by pretending that she was dead. Then with the help of a home guard and along with her six-year old nephew and a three-year old boy who survived the attack, Bilkis courageously walked to a police station in a traumatized condition to lodge a complaint, borrowing clothes from an adivasi woman on the way to cover herself.

She filed a complaint with the police, accusing 14 men of rape, murder and rioting. Initially, she was coerced into withdrawing her story. When she refused, the police delayed the investigation, refused to believe Bilkis's complaint. Their laxity eventually resulted in the accused securing bail. Subsequently the Gujarat government closed the case citing technical reasons.

With support from various activists, organizations and the National Human Rights Commission, Bilkis petitioned the Supreme Court, seeking a probe by the Central Bureau of Investigation. Based on a report from a senior police officer in Gujarat, which pointed out several acts of negligence on the part of the local police, the Supreme Court directed the CBI to investigate the case. The CBI discovered that local policemen had buried some of her relatives' bodies with salt to speed up decomposition. In addition, after post mortem, the heads of some bodies had been severed to avoid identification. The agency exhumed the skeletons and sent them for forensic tests. Subsequently, 20 persons were accused and charge-sheeted by the CBI, including six police officials for tampering with the investigation and shielding the guilty, and two doctors for fabricating the evidence. In the meantime, taking cue from the Best Bakery case involving Zahira Sheikh, Bilkis sought a transfer of the case outside Gujarat saying that conditions were not suitable for a fair trial. In August 2003,

the Supreme Court transferred her case to Maharashtra, as it apprehended harm to the witnesses if the trial continued in the Gujarat courts. This was based on Bilkis testifying to the court that she, her relatives and other witnesses had been threatened by the accused and their supporters.

In January 2008, 12 persons were convicted by the sessions court in Mumbai, including a police official for lodging a false First Information Report (FIR). Bilkis, in a statement soon after the transfer of the case to Mumbai, said, "Today, along with a sense of hope I am also filled with sadness because I know the manner in which sexual violence was systematically used against so many women of my community in the Gujarat carnage of 2002. I am not the only one. There are many women out there whose names and faces I do not know but whose pain I can feel."

Many factors contributed to attaining justice in Bilkis' case, including the incredible courage and determination that Bilkis had, the continued support from her husband, relatives, friends, activists and organizations, the decision to hold the trial in camera (behind closed doors) which instilled confidence in the witnesses, and positive interventions by the CBI and the Supreme Court.

CHECK YOUR PROGRESS

8. Why is it so difficult for survivors to access justice and to make perpetrators accountable for gender-based violence in contexts of communal violence?

9. What are the shortcomings of the Communal Violence (Prevention, Control & Rehabilitation of Victims) Bill 2005, with particular reference to gender-based violence?

20.6 GENDER-BASED VIOLENCE BY SECURITY FORCES

The history of South Asia is marked with internal conflicts, in which women have often not been merely incidental targets. The Bangladeshi independence struggle in 1971 was sought to be crushed by Pakistani forces through an extermination of students, intellectuals and women. Women were targeted for systematic brutality, resulting in a mass rape of 200,000 – 400,000 Bangladeshi women. Reports state that 80% of raped women were Muslims, but Hindu and Christian women were not exempt. In Nepal, the decade long armed conflict between the government and Communist Party of Nepal (Maoist) was characterized by consistent patterns of impunity for serious human rights abuses, including sexual violence. In

Afghanistan, systematic rape campaigns and widespread sexual violence against women has been a feature in all recent stages of political upheaval in Afghanistan - the Afghan civil war between 1979 and 1989, the infighting among various mujahideen warlords after the Soviet withdrawal, during Afghanistan's civil war period in the early 1990s, and subsequently under the Taliban regime with its tyrannical policies on women. In Sri Lanka, rape has been used as a weapon of war in the conflict, both by government forces (to subjugate the Tamil population and in retaliation of the LTTE) and by LTTE. Many women are reported to have joined the LTTE to protect themselves against sexual violence. Moreover, the role of Indian Peace Keeping Forces (IPKF) from 1987 onwards in raping women in Sri Lanka, till the troops were withdrawn in 1990, cannot be forgotten. In Pakistan, in a long-standing simmering violence between Balochis (tribal militias) and security / paramilitary forces, the political demands of Balochis have been violently crushed by the government through various tactics that include sexual violence against women. The brutal rape of Dr. Shazia Khalid is one such example. In Burma, since 1990s, the Burmese military regime has given a license to rape, as indicated by systematic sexual violence by military against Chin minority women, against women in central Shan state, and in Karen state. The practice of conscription of women for sexual slavery and forced labour by Burmese military regime is reported to be rampant.

India is not without its share of gender-based violence by security forces, including the police, armed forces and paramilitary forces. There is a heavy deployment of armed forces in the state of Jammu and Kashmir, as well as the North Eastern states, in an effort to address insurgency. There have been violent confrontations between the poor - whose agricultural lands are sought to be acquired by the state in the name of “development” - and the rich and powerful corporations, backed by police – who appropriate such lands for industrial and mining purposes. Singur and Nandigram (West Bengal) and Kalinga Nagar (Orissa) are some sites of violence. In addition, an armed offensive takes place in the *adivasi*-dominant areas of Chhattisgarh, Andhra Pradesh and other states in the ‘Red Corridor’, purportedly to counter Naxal violence. In Chhattisgarh, many members of *Salwa Judum* – a state-backed local militia created purportedly to counter the Naxals – have been hired and armed by the state police as Special Police Officers (SPOs).

Though these contexts seem disparate, they share two commonalities: a) the use of state-initiated and state-backed violence against a section of India’s own people; and b)

targeted sexual attacks on women, more as a rule than an exception. Women are pitted, on one hand, against the might of the state, armed with physical, financial, military power as well as the power of the law, and on the other hand, against armed opposition groups that have a variety of demands ranging from greater autonomy within a state to secession and creation of an independent state. Women are often impacted by both the parties to the conflict. However, far from the notion of women being passive and helpless victims, women have been survivors and active agents exhibiting resilience, demanding justice and accountability, and negotiating peace with both sides to the conflict.

The state of Jammu and Kashmir and North Eastern states (Manipur, Nagaland, Assam and Tripura in particular) have witnessed a violent state repression of voices of political dissent for many decades now. In both these situations, the security forces as well as armed opposition groups have inflicted gender-based violence on civilian women. The rape, torture and custodial killing of Thagjam Manorama in Manipur on 10 July 2004, who was shot in her vagina, allegedly by members of Assam Rifles (a paramilitary force), is an example of the impunity with which security forces operate in North Eastern states. It was not an exception but part of a consistent pattern of violations. Torture and sexual abuse of women in the village of Oinam (Manipur) in 1987 and the gang rape of women of Ujanmaidan (Tripura) by security forces in 1988 are some of the widely known incidents in North eastern states. The abduction, rape and killings of two young women – Asiya and Neelofar - in Shopian, Kashmir, in May 2009, allegedly by the police or security forces, highlight the complicity of the police in shielding the perpetrators. The police, during the stage of investigation, deliberately destroyed / tampered / diluted the evidence, prompting the Jammu & Kashmir High Court to observe that either the concerned policemen were involved or know the guilty.

In recent years, India has seen an increase in *Naxal violence*. According to a report, upto November 2007, 1385 incidents of Naxal violence were recorded in which 418 civilians and 214 security personnel were killed. The degree of violence in Naxal-hit states in 2008 was reportedly higher than that witnessed in either Jammu & Kashmir or in North eastern states. While J & K recorded 1,092 terrorism-related incidents and 271 fatalities in 2007, North-Eastern states were relatively more violent with 1,316 incidents and 501 deaths upto November 15, 2007.¹²

¹² 'Chhatisgarh Government Defends Judum', Times News Network, 29 January 2008

While violence by Naxals and Maoists poses a serious threat in many states of the country, so is the issue of state-sponsored private army called the *Salwa Judum* – which is unleashing violence on the civilian population in the state of Chhattisgarh. Police and security forces, Salwa Judum as well as Naxals have committed widespread sexual violence on women and girls, including abduction, rape, gang rape, maiming, torture and illegal detention by security forces.¹³

**Box:4 CASE STUDY 4: RAPE, TORTURE & CUSTODIAL KILLING OF
THAGJAM MANORAMA**

On 10 July 2004, Thangjam Manorama, a suspected activist of the banned Peoples Liberation Army, an underground outfit operating in the state, was picked up for interrogation at midnight by a team from Assam Rifles, a paramilitary force. Her family members witnessed her being brutally assaulted in a corner of the house for almost half an hour after blindfolding and tying her hands and feet. The security personnel assured the family that Manorama would be handed over to the nearest police station the next morning. However, the next morning, before the family could approach the police, news came that Manorama's body with multiple signs of torture and bullet marks was found lying at a village nearby on the roadside. Post mortem reports indicated that she had been raped before being killed.

The Assam Rifles claimed she was associated with the outlawed People's Liberation Army (PLA) and was an incendiary expert. It claimed that during interrogation, she confessed to her links with the PLA and agreed to take the jawans to a hideout of the insurgents. On the way, she was allowed freedom to ease herself. She used the opportunity to run, forcing the jawans to open fire.

There are no takers for the Assam Rifles' story. For one, it does not explain the torture marks that her body bore. Also, she was shot from the front and not from behind. More importantly, Dr. Ksh Manglem, who conducted a second post-mortem in the case, testified before an official commission that Manorama had been shot in her genitals, and that bullets had been lodged in her vagina.

¹³ 'War in the Heart of India: An Enquiry into the Ground Situation in Dantewara District, Chhattisgarh', Independent Citizens' Initiative, 20 July 2006

The torture, rape and killing of Manorama led to a huge public protest in Manipur and extending beyond. Thousands of civilians, including men, women, school children, human rights and women's groups, took to the streets, demanding accountability for the heinous crimes, and a repeal of Armed Forces (Special Powers) Act (AFSPA). On 15 July 2004, many old women from the Meira Paibi women's movement of Manipur stripped themselves naked in front of the Kangla fort (the then headquarters of Assam Rifles) and carried a banner stating "Indian Army Rape Us". The extreme step taken by the Meira Paibi women is indicative of the level of desperation and frustration among them with repeated incidents of gender-based violence on women and the growing sense of insecurity among the women.

In response to the strong protests, the government set up a Commission of Inquiry into the incident. However there has been no positive outcome so far. It also set up a Committee to review AFSPA, headed by Justice Jeevan Reddy (retired). His report, submitted to the government in June 2005, recommended a repeal of the draconian law.¹⁴ However, the government has persisted in its failure to repeal the law despite the recommendations of a committee whose members were handpicked by it.¹⁵

Box:5 PROFILE: IROM SHARMILA

Irom Sharmila is an iconic figure and a symbol of the suffering and resilience of the people of Manipur against decades of state repression. Sharmila, a young poet, began her indefinite fast on November 2, 2000, in protest against the Malom massacre by the army, in which several civilians in a Manipur village were killed. She demands for a repeal of Armed Forces (Special Powers) Act (AFSPA) which is a draconian law that gives state agencies unfettered powers including the right to shoot to kill on mere suspicion, often abused and misused against innocent civilians.

For the past 9 years, she is imprisoned & force-fed a cocktail of vitamins, minerals, laxatives, protein supplements and lentil soup through the nose with a rubber pipe. Unlike other hunger strikers, she has not allowed even a drop of water to cross her lips all this while. She cleans her teeth with cotton and not water. She is continuously detained under various laws for her

¹⁴ A full report of Jeevan Reddy Committee that reviewed AFSPA is available at <http://www.hinduonnet.com/nic/afa/> as retrieved on 27 Feb 2008

¹⁵ See Siddharth Varadarajan, 'Does Anyone Care about Manipur?', The Hindu, 10 October 2006, where he powerfully argues for a public debate on AFSPA in the light of Justice Jeevan Reddy Committee's report.

“crime”. Time and again, courts release her, and she is re-arrested on charges of attempting to commit suicide and other such charges. Even in the hospital, she is kept a virtual prisoner as people cannot freely meet her. They have to take permission from government agencies, which may take several days. The attempt is to weaken her spirit, rather than take a serious note of the concerns expressed by her.

As part of these concessions, AFSPA has been repealed for certain parts of urban Manipur. Activists against AFSPA have rejected these concessions as inadequate and demand a complete repeal. On December 2, 2006, Irom Chanu Sharmila rejected Indian Prime Minister Manmohan Singh’s assurance to ‘dilute’ the AFSPA and announced her intention to continue with her fast until complete repeal of the law.

She was released from judicial custody on the eve of International Women’s Day – 7 March 2009. Sharmila’s protest is remarkable for its insistence upon the Gandhian ideals of *ahimsa* (non-violence) and *satyagraha* (insistence upon truth). Though her protest is ignored every day in the world’s largest democracy, Sharmila is determined and says: “Unless and until they remove the AFSPA, I shall never stop my fasting.”

CHECK YOUR PROGRESS

10. Which countries in South Asia have witnessed gender-based violence in situations of armed conflict?

11. Who is Irom Sharmila? What is she opposing?

20.7 WITCH HUNTING

Hunting of persons branded as witches in India is a phenomenon that reflects on a combination of oppression by patriarchy, subjugation by caste and repression by class, aggravated by socio-economic factors. The pretext for witch-hunting could be anything such as a bad crop or death / illness in the family. However, research studies highlight the fact that land-grabbing, property disputes and patriarchal vested interests of preventing adolescent girls and women from transgressing social norms are the major causes behind the crime. The crime is executed by exploiting the religious and superstitious beliefs of the people. Branding a girl or a woman as a witch is also used as a weapon of control in situations where she refuses sexual advances, attempts to climb the social ladder or to assert her rights as she is

seen as a threat to maintaining caste, class and gender hierarchies or local power equations. Though conventionally, elderly and single women have been the targets of the crime, adolescent girls are increasingly being targeted for refusing to marry at a young age and perform traditional roles in society, and for accessing education and aspiring to work in several capacities in villages – as teachers, *anganwadi* workers and *gram sevikas*. *Dalit* and *adivasi* women who have dared to contest elections, thereby directly challenging the political power of the landed caste-Hindus, have been branded as witches and attacked.

Extent of Prevalence of Violence: According to official figures 2,556 women were branded as witches and killed in India between 1987 and 2003.¹⁶ In 2006, about 700 women were killed in the country under suspicion of being a witch, according to news media reports.¹⁷ A survey conducted in 2006 has revealed that out of 32,615 villages in Jharkand, 20,000 women were reportedly branded as ‘witch’ and thousands of families were affected.¹⁸ More than 300 cases of witch-hunting and resultant deaths of more than 100 women have been reported since 2005 in Chhattisgarh.¹⁹ While these statistics give an indication of the extent of prevalence, this crime, like many other crimes against women, is considerably under-reported as it is sanctioned by the victim’s community. Hence the enormity of the offence is likely to be much more in reality.

Response of the Law: Bihar was the first to pass a law called the Prevention of Witch (dayan) Practices Act, 1999. After the state of Jharkand was created, the law was adopted by the state in 2001. Chhattisgarh Tonhi Atyachar (Niwaran) Act was passed in 2005. There have been efforts to formulate and adopt a similar law in Rajasthan, and a central law for all the states in the country. The significance of enacting a law on the subject is that it passes a message to the potential perpetrators that the state will not tolerate such crimes.

20.8 LET US SUM UP

¹⁶ www.religionnewsblog.com, July 2004, cited in ‘India’s Witch Hunt Leaves Children Orphaned’, 21 March 2007, available at http://www.theasiannews.co.uk/community/heritage/s/524/524855_indias_witch_hunt_leaves_children_orphaned.html, accessed on 8 February 2010

¹⁷ Swati Saxena, ‘Recourse Rare for Witch Hunt Victims in India’, 16 July 2007, available at <http://www.womensenews.org/article.cfm?aid=3241>, accessed on 8 February 2010

¹⁸ ‘Adivasis and Harijan Worst Victims of Witch-Hunting: Survey’, 29 October 2006, available at <http://news.oneindia.in/2006/10/29/adivasis-and-harijans-worst-victim-of-witchhunting-survey-1162125890.html>, accessed on 9 February 2010

¹⁹ Shib Shankar Chatterjee, ‘Dark Spell of Witch-Hunting’, 8 November 2009, available at <http://newsblaze.com/story/20091108150914shan.nb/topstory.html>, accessed on 8 February 2010

Inter-Linkages between Gender-Based Violence & Gender Development

We may think that gender-based violence is purely a criminal act, or a human rights / civil and political / social justice issue. However, while the pursuit of gender equity remains firmly embedded within the framework of human rights and gender justice, it is increasingly realized that GBV adversely impacts sustainable development in many ways. GBV negatively impacts women's fertility, morbidity and mortality, indicating that it needs to be recognized as a public health issue with an increased focus on women's health care. GBV at the workplace makes women vulnerable and adversely impacts their productivity and efficiency at work. Fear of violence deters women from asserting their right to land and property. It is a well-known fact that education of girls brings positive returns both to the girls themselves (as it enhances their earning capacities, opportunities in the labour market, decreases health risks associated with pregnancy and gives them a greater control over their lives) as well as the society at large. Incidence of GBV and the fear of GBV in contexts of communal violence, caste-based violence and armed conflict push many women and girls back to their homes, and makes education inaccessible for them, thereby forcing poor women and girls to become poorer.

Strategies to confront GBV – whether legal / social action / political – would be successful only when they address the root causes of the violence, in addition to meeting the needs of victims / survivors. This involves challenging the patriarchal mindset that provides a subordinate status to women in society, and re-negotiating power balances between men and women at all levels in society.

Box:6 SUMMARY OF LEARNING POINTS

The main learning points in this unit (Part I) are as follows:

- The term **gender-based violence (GBV)** is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence by individuals and collectivities. It includes acts that result in, or is likely to result in, physical, sexual or psychological harm, as well as a threat of such acts, coercion and arbitrary deprivation of liberty.
- GBV stems from the power inequality between men and women, and is rooted in women's subordinate status, exacerbated by socio-economic, cultural and structural inequalities.
- Many forms of GBV exist, including female genital mutilation, "honour" killings, domestic violence, sex selection, violence against *adivasis*, trafficking in women as well as gender-based violence in contexts of communal violence, caste-based violence and violence in situations of armed conflict.
- Domestic violence is the most common form of gender-based violence.
- Dalit women face brutal sexual assault due to a combination of their caste, class and gender identities, and are often a soft target for violence, as they lack the power of retaliation.
- There has been a historic neglect in making persons accountable for gender-based violence in contexts of communal violence in India, including GBV during the Partition, Nellie massacre of 1983, anti-Sikh massacres in Delhi in 1984, post-Babri Masjid demolition in 1992-93, Gujarat carnage 2002 and communal attacks in Orissa in 2007 and 2008.
- In situations of armed conflict, women are adversely impacted by the acts of the state on one hand, and of armed insurgency groups on the other hand.
- Women have not been passive and helpless victims in situations of armed conflict; they have been survivors and active agents exhibiting resilience, demanding justice and accountability, and negotiating peace with both sides to the conflict.
- The civil society has strongly demanded the repeal of the Armed Forces (Special Powers) Act (AFSPA) which is a draconian law that gives state agencies unfettered powers

including the right to shoot to kill on mere suspicion, often abused and misused against innocent civilians.

- GBV has many development implications including on poverty, health, education, livelihood, access to property rights and financial resources of women.
- Strategies to confront GBV would be successful only when they address the patriarchal mindset that attributes a subordinate status to women in society, in addition to meeting the needs of victims / survivors.

20.9 ANSWERS TO CHECK YOUR PROGRESS

1. While all violence results in, or is likely to result in, physical, sexual or psychological harm, the term ‘gender-based violence’ (GBV) connotes violence that targets individuals or groups of individuals on the basis of their gender.
2. GBV affects women’s physical and mental health, as well as women’s dignity, security, sexuality, reproductive capacity and their right to control over their own body (autonomy).
3. Gender-based violence occurs because of the power inequality between men and women that exists in society, which is further exacerbated by socio-economic, cultural and structural inequalities. Rooted in women’s subordinate status, it is linked both to the institution of patriarchy as well as the concept of masculinity.
4. Some forms of GBV include female genital mutilation, “honour” killings, domestic violence, sex selection, violence against *adivasis*, trafficking in women as well as gender-based violence in contexts of communal violence, caste-based violence and violence in situations of armed conflict.
5. Dalit women are considered a special social category as they are burdened with a combination of gender, caste and class identities.
6. Bhanwari Devi was a *saathin* worker – worker of the Women’s Development Programme of the government of Rajasthan. She educated villagers about the evils of child marriage. Her experience indicates how “low caste” women are vulnerable to gender-based violence by members of the dominant communities, the difficulties in making the perpetrators accountable in courts of law and the failure of the government to fulfil its obligation in providing security to women working on its projects.

7. Four members of a “low caste” family were killed in Khairlanji, as they resisted a take over of their agricultural land by members of the dominant community. It is an example of GBV as the women were targeted for specific brutalities, including stripping and parading them naked, and raping them in public before killing them.
8. Lack of political will to prosecute perpetrators, inadequacy of laws and procedures to deal with mass crimes, lack of impartial investigation and prosecution of such crimes and a lack of sensitivity to victims’ experiences and needs have been among some of the major hurdles in women’s access to justice in contexts of communal violence.
9. One of the major criticisms against the Bill is that it makes sexual and gender-based violence against women in communal contexts invisible, by failing to acknowledge, address or remedy the major hurdles that have contributed to women’s poor access to justice in the context of communal violence. It has dealt with gender-based violence in general, and sexual violence in particular, in a callous and casual manner, despite the fact that gender-based violence has played a fundamental role as an engine for mobilizing hatred and destruction against religious minorities in recent times.
10. Sri Lanka, Bangladesh, Nepal, Afghanistan, Pakistan, Burma and India are some of the South Asian countries that have witnessed gender-based violence in situations of armed conflict.
11. Irom Sharmila is a poet, whose indefinite hunger strike enters its tenth year. She demands for a repeal of Armed Forces (Special Powers) Act (AFSPA) which is a draconian law that gives state agencies unfettered powers including the right to shoot to kill on mere suspicion, often abused and misused against innocent civilians.

20.10 UNIT END QUESTIONS

1. Explain the different forms and magnitude of Gender Based Violence
2. Do you agree with Witch hunting? Why women are forced to do this? Substantiate your arguments with some examples.

20.11 REFERENCES

Books

1. Anuradha Chenoy, *Women and Militarism in South Asia* (2002), New Delhi: Kali for Women
2. Flavia Agnes (ed.) (2002), *Of Lofty Claims and Muffled Voices*, Mumbai: Majlis
3. International Initiative for Justice in Gujarat (2003), *Threatened Existence: A Feminist Analysis of the Genocide in Gujarat*, Mumbai: Citizens' Initiative
4. Kalpana Kannabiran & Ritu Menon (2007), *From Mathura to Manorama: Resisting Violence Against Women in India*, New Delhi: Women Unlimited
5. Manoj Mitta & H S Phoolka (2007), *When a Tree Shook Delhi: The 1984 Carnage and its Aftermath*, New Delhi: The Lotus Collection
6. Roshmi Goswami, MG Sreekala & Meghna Goswami (2005), *Women in Armed Conflict Situations*, Guwahati: North East Network
7. Siddharth Varadarajan (ed.) (2002), *Gujarat: The Making of a Tragedy*, New Delhi: Penguin Books India
8. Urvashi Bhutalia (ed.) (2002), *Speaking Peace: Women's Voices from Kashmir*, New Delhi: Kali for Women
9. Vrinda Grover (ed.) (2010), Saumya Uma, *Kandhamal: The Law Must Change Its Course*, New Delhi: Multiple Action Research Group

Articles

10. Barkha Dutt, Women's Panel, PUCL Vadodara and Shanti Abhiyan, 'Nothing New?: Women as Victims' in Siddharth Varadarajan (ed.) (2002), *Gujarat: The Making of a Tragedy*, New Delhi: Penguin Books India, pp. 214-245
11. Prem Choudhry, 'Enforcing Cultural Codes: Gender and Violence in Northern India' in Mary E. John & Janaki Nair (eds.) (1998), *A Question of Silence?: The Sexual Economies of Modern India*, New Delhi: Kali for Women, pp. 332-367
12. Roshmi Goswami, M G Sreekala and Meghna Goswami (2005), *Women in Armed Conflict Situations*, Guwahati: North East Network
13. Ritu Menon & Kamla Bhasin, 'Recovery, Rupture, Resistance: The Indian State and the Abduction of Women During the Partition' in Mushirul Hasan (ed.) (2000), *Inventing Boundaries: Gender, Politics and the Partition of India*, New Delhi: Oxford University Press, pp. 208-235
14. Shib Shankar Chatterjee, 'Dark Spell of Witch-Hunting', 8 November 2009, available at <http://newsblaze.com/story/20091108150914shan.nb/topstory.html>, accessed on 8 February 2010
15. Swati Saxena, 'Recourse Rare for Witch Hunt Victims in India', 16 July 2007, available at <http://www.womensenews.org/article.cfm?aid=3241>, accessed on 8 February 2010
16. Urvashi Bhutalia, 'Community, State and Gender: Some Reflections on the Partition of India' in Mushirul Hasan (ed.) (2000), *Inventing Boundaries: Gender, Politics and the Partition of India*, New Delhi: Oxford University Press, pp. 178-207

Reports & Statements

17. The International Center for Research on Women (2002), *Men, Masculinity and Domestic Violence in India – A Summary Report of Four Studies*
18. Committee Against Violence on Women (2006), *Salwa Judum and Violence Against Women in Dantewara, Chhattisgarh*, Report of a Fact-finding by an All India Women's Fact-finding Team, available at <http://cpjc.files.wordpress.com/2007/07/cavow-sj-ff-report.pdf> (accessed on 2 November 2009)

19. Amnesty International, *India: Government of Manipur Must Release Irom Sharmila Chanu*, ASA 20/003/2010, 29 January 2010
20. Independent Women's Initiative for Justice, *Shopian: Manufacturing a Suitable Story*, 14 December 2009, available at <http://www.kashmirtimes.com/shopian-report.pdf>, accessed on 15 June 2010
21. Human Rights Watch, *We Have No Orders to Save You: State Participation and Complicity in Communal Violence in Gujarat*, 30 April 2002

Annexure to Unit 17

Negative Impact of Globalization on Social Justice

Globalisation is riding on the back of millions of poor women and child workers in the margins of the economy. The structural adjustment programme has forced working women into the unorganised sector and deprived them of their rights

In response to a mounting burden of debt, leading to a balance of payment crisis, the Government of India embarked on a Structural Adjustment Programme (SAP) in the 1990s. This included reductions in public investment, devaluation, cutting food and fertiliser subsidies, dismantling the public distribution system, reducing budgets for the social sector, promoting capital-intensive and 'high-tech' production, and increasing bank rates and insurance charges. The SAP policies aim at capital-, energy- and import-intensive growth with the help of devaluation, deregulation, deflation and denationalisation. Mainstream economists call these processes "economic reforms". Globalisation also means that a new international division of labour has emerged. Economic globalisation, deep economic restructuring across countries and neo-liberal economic policies have led to informalised and decentralised processes of production that have transformed labour markets and the world of work in industrialised and developing countries. In the process, social security and statutory protection to workers have been dismantled.

Impact of SAP

Studies have shown that the burden of poverty falls more heavily on women than on men. The inequality in income and consumption levels between women and men has also been documented. At least 11% of households in India are supported solely by women's income. In other words, they are "female-headed households" (FHH) -- households run by widows, single women, deserted or divorced women. FHH are usually the poorest of the poor. The combined effects on these households of the new economic policies, which translate into (among other effects), reduced PDS (Public Distribution System) quotas, reductions in healthcare facilities and educational facilities are crushing. Children of FHHs suffer more due to nutritional deficiency, inadequate primary healthcare facilities, and cuts in expenditure for the education sector. In the National Perspective Plan (NPP) for Women (1988-2000), the government responded quite positively to demands from women's groups for State support to FHH. But the SAP works against the objectives of the NPP.

The inflationary impact of the SAP and the reduction in paid work reduces the purchasing power of a household, which, in turn, increases the unpaid labour of women. For example, buying cheaper food requires more time for procuring, cleaning and preparation. The unpaid

labour of women in cooking, cleaning, caring and doing chores that augment family resources (like collection of fuel, fodder, water, looking after livestock and poultry, and processing agricultural goods) is regarded as elastic by the SAP.

In response to the imposition of SAP and stabilisation policies, women's movements across national boundaries have challenged the neo-liberal development paradigm. Universal labour standards ensuring just wages, occupational safety and social security must become the central issues of the women's movement. The SAP has forced working women into the unorganised sector and deprived them of their rights. The women fall outside protective labour laws such as the Maternity Benefits Act (1961), Employees State Insurance Scheme, Factories Act (1948), Equal Remuneration Act (1976), Bombay Shops and Establishment Act (1984), Plantation Labour Act, and Child Labour (Prohibition and Regulation) Act, 1976.

Multinational corporations have long realised that the best way to reduce the wage bill and to enhance profits is to move parts of the production process to poorer countries like India, Sri Lanka, Bangladesh, Indonesia, the Philippines, Thailand, etc. The cheap labour of Asian women is regarded as the most lucrative way to enhance profits. Women in developing countries are a 'flexible' labour force. Their cheaper labour forms the basis for the induction of women into export industries such as electronics, garments, sports goods, food processing, toys, agro-industries, etc. Women are forced to work uncomplainingly at any allotted task, however dull, laborious, physically harmful or badly paid it may be. A large number of poor women looking for work within the narrow confines of a socially imposed, inequitable demand for labour have become ideal workers in the international division of labour.

The shift from a stable/organised labour force to a flexible workforce has meant hiring women part-time, and the substitution of better-paid male labour by cheap female labour. The new economic policies provide State support to corporate houses that are closing down their big city units and using ancillaries that employ women and girls on a piece-rate basis. Home-based work by women and girls gets legitimised in the context of increasing insecurity in the community due to a growth in crime, riots, displacement and relocation. Sub-contracting, home-based production, the family labour system, all have become the norm. This is being called an increase in 'efficiency' and 'productivity'.

The casual employment of urban working class women in the manufacturing industry (textiles is a glaring example) has forced thousands of women to eke out a subsistence through parallel petty trading activities (known as 'informal' sector occupations).

The government finds it difficult to dismiss permanent staff in public sector enterprises because they are organised, vocal and visible. A specious debate on the issue of part-time

work for women creates a justification for segmentation of labourers on the grounds of gender. Those in favour argue that working women shoulder the burden of domestic duties as well as remunerative/office work, so a reduction of working hours will give them some relief. This deprives women of promotions and responsible assignments and discriminates against women by projecting them as “supplementary earners”. Moreover, often the most strenuous part of work is commuting back and forth, and whether a person works part-time or full-time, the same amount of time and energy is spent on commuting.

The argument in favour of part-time work for women does not question the existing gender-based division of labour in the family. It throws the burden of childcare and housework on the individual woman. The long-standing demand for family work to be supported by the State is also negated. The women's movement in India has suggested that ways to reduce the double burden on women could include the provision of cheap and safe eating facilities, childcare centres that provide both custodial care and developmental inputs for children, and better transport facilities.

Worsening Economic Condition and Growing Sectarian Violence Against Women:

Any fundamentalist propaganda that concerns itself with identity makes use of the gender question to impose rigid norms on women who are identified as repositories of culture and tradition. These norms manifest themselves in

- Son-preference and female infanticide (quotation from Hindu scriptures- “Be thy the mother of 100 sons”. (Questions are asked to wife-“ Did any heroes of *Ramayana* or *Mahabharata* have daughters? That shows daughters are inauspicious!”),
- Glorification of sati (widow-burning)- thousands of sati temples have flourished all over India and Global Association for Glorification of Sati has its head-quarter in Chicago (USA),
- Witch-hunting of widows as they are perceived to be inauspicious; dress code, general demeanour and the social construction of the ideal woman who submissively accepts the patriarchal norm imposed by fundamentalists agendas. In the last *Kumbh Mela* 60000 women devotees were deserted by their brothers, sons and relatives. Allahabad police tried its best to reach them to their respective families but the family members refused to have known them. Now, the government has made a special budgetary provision for abandoned widows at the pilgrimage centres and women in difficult circumstances.

- Violence against women has escalated enormously, both in the private and public arena. Economic stress due to SAP (the mainstream economists call it 'economic reforms') manifests in the form of domestic and communal/ caste violence).

Some Areas of Concern

Globalisation & Women's Movement in India during 1995-2006

Southern Women's Movements' Perspectives

NGOs wedded to safeguard the entitlements of women have been trying to convince the international financial, economic and commercial institutions, namely, World Bank, International Monetary Fund, World Trade Organisation and Organisation of Economic Cooperation and Development to **withdraw** existing conditionalities and rules of economic globalisation, and covertly and overtly, promoting the interests of patriarchal class system, all over the globe, defending the interests of TNCs and MNCs and imposing unrestrained commodification, thereby resulting into concentration and centralization of economic, financial and political power in the hands of the few.

There is today a blurring division between the centre and the periphery as the economic and manufacturing situations are undergoing changes in our country. Globalisation has brought about structural changes that have been impacting gender. Apart from employment it affects sustainable development, leading to state withdrawing from commitments to social sector. This affects women adversely. The impact of WTO, taxation patterns and user fee concept are adversely affecting women.²⁰ The Second National Commission of Labour is furthering the neo-liberal agenda so far as the working class is concerned, though it has separate chapters on women in the informal sector and child-labour.

Alternatives to Economic Globalisation (G)

There have been two responses to G from the social movements:

- a. Humanise G by building in gender awareness. Think and act globally as well as locally. Promote multilateral trade and diplomatic relations to establish distributive justice and world peace. **Revitalising economy through South-south Networking**

²⁰ Vibhuti Patel, WDC, University of Mumbai E mail- vibhuti@vsnl.net

- b. **Build local alternatives and quit WTO.** E.g. Social movements rooted **only** in the local soil.

We must work with both tendencies, as the ultimate goals of both are the same- social transformation for a just, fair and caring society.

Women's rights organisations and social action groups were the most vociferous during the recently held Asia Social Forum against Trans National Corporation and Multinational Corporation driven G.

Through world Social Forum, Women for just, sustainable and caring trade are trying to reach out to thousands of women who are voicing the concerns of toiling poor. They have also demanded that, all efforts should be made by civil society groups, NGOs and the governments to divert its arms budget to health, education and employment programmes.²¹

Important issues for Global and local level Advocacy:

- a. **Strengthening of Food Security and Right to Food** Top down and bottom up initiatives to stop malnutrition and starvation deaths created by stabilisation programmes resulting into withdrawal of state from food security commitments.
- b. **Public Health issues** must be highlighted thro' a national network, People's Health Assembly. The Nation States should follow the UN mandate of 5 % of the GDP for budgetary allocation on the public health.
- c. **No to dumping of unsafe contraceptives** for coloured and poor women.
- d. **Ban sex-selective abortions of female foetuses** in South Asia and China.
- e. **State Support for Women's Education** not only at the primary school level but also at the secondary and high school level. Forum for Child Care has demanded that one room of the school should be converted into crèche so that girls who have to look after their younger siblings can also join the schools. More budgetary allocation and actual funding for girls' education.
- f. **Free Legal Aid and People's Court:** Justice and Peace Commission, a network of community organisations working in Mumbai provides free legal aid to poor women to deal with marital disputes, divorce, maintenance, custody of children, alimony, property, right to stay in the parental or matrimonial homes.

²¹ Women's Global Charter for Humanity, 2005-<http://www.marchemondiale.org/en/charter.html>.

- g. **Housing Rights** are the most important. The NGOs have demanded that in all housing societies and state supported housing schemes, 10 % houses should be reserved for female-headed households.
- h. **Sanitation, Public toilets:** There is an urgent need to take up the issues of urban sanitation in terms of higher budgetary provision from the state and municipal funding.
- i. **Safety nets for women in the subsistence sector** of the economy in terms of loans, infrastructure, storage and transport and state subsidy and support price for agriculture, animal husbandry, dairy development, horticulture and floriculture.
- j. **Environmental Issues:** Natural resources, being humankind's common heritage, must be preserved for the use of actual and future generation with the perspective each human being has an access to water, air, energy, etc. according to her or his needs. Commercialisation and privatisation of these resources must be stopped. Biological diversity (flora, fauna, forests, ecosystems) must be preserved and indigenous women's collective wisdom must be recognised, respected and valued.
- k. **Occupational Health-** Women scavengers and recycling workers under extremely hazardous circumstances. They should be given masks, hand gloves, gum- boots and free and quality medical care.
- l. **Crèches:** the state, employers and trade unions should provide more day care centres for the children of working mothers in the community and near the workplace.
- m. **Implementation of Labour standards:** Erosion of labour standards as a result of globalisation should be fought tooth and nail. **Let the nation states compete to give better wages and work-conditions to the workers.**
- n. **Global Code Against Commodification of Women's Body as a spare-part for sale, pornography and obscene portrayal of Women in Media:** Universal standards for decent portrayal of women in media must be evolved.
- g. **Community Oriented Media:** Social action groups need to interact closely with the mainstream media, and also generate their alternate media to highlight women's rights to dignified life.

Let us be realistic and accept the fact that Globalisation is a *Fate accompli*. Then let us make concerted efforts so that globalisation has a human face. This can happen only through the global solidarity and sisterhood of the toiling women all over the globe. We have to think globally and act locally to make all decision-making bodies accept that women's rights to survive are the human rights.

Decision Making for the Global Governance:

Gender parity through distributive justice has been one of the milestones of the Millennium Development Goals. We can see the human face of globalisation only when we are able to reduce the North South Gap in the quality of life, Women decision-makers across the globe must strive collectively and see to it that resources and fruits of development and economic prosperity are distributed justly among countries, within countries and among all human beings thereby eliminating poverty. This will ensure everyone access to food and nutrition, shelter, health services, safe transportation, right to information, education, justice, culturally rich leisure-time activities. To deal with this crucial task force, we will have to evolve high levels of participatory democracy in governance so that we can improve lives and freedoms of peoples in all parts of the globe.