REVIEW OF LITERATURE
Women in India from a socio-cultural perspective

The status of women during the Vedic era was at par with men. She was adored, respected and recognized. She had the identity of her own and received same respect as was given to males. In every social and religious ceremonies, she was associated with and actively involved. The Aryan society regulated the social and domestic life on eternal logic and spiritual consideration. They regulated marriage and family life. Domestic happiness and conjugal affection find constant allusion in the Vedas. A great emphasis on chastity and fidelity was laid. The ideal became a ‘never parting’, ‘united pair’, ‘sharing the same married pleasures’. There was complete surrender on the part of the wife to which the husband responded and which he returned in full measure. Vivah (marriage) and kutumb (family) become essence to start his or her life in Grihasthasrama (the householder’s life). The objectives of marriage were defined to be dharma, praja (progeny) and rati (sex). Patni (the wife) came to be considered one who shared in the sacrifice. But the value of son could not be denied in the vedic society to the extent that sons were useful to them than daughters. In the post-Vedic era, the status of women gradually deteriorated and she was regarded as subservient to her counterpart i.e. male in all social and cultural activities.

The role of women in later vedic India began to be reduced to perform only one job namely to bring progeny for men. The then society being mostly an agricultural society, required more men than women. Sons came to be viewed as essential to performing sacrifices to the family ancestors and daughters came to be considered of no use for this function since they left their families to enter the families of their husbands. Woman’s function was reduced to producing sons and restrictions were placed on female behavior to ensure the legitimacy of sons. Only through giving birth to a son did a woman redeem herself in this patriarchal system. If a woman did not give birth to a son, it was a license for her husband to remarry. Son was important than daughter for the reason that he alone could serve the father in this world as well in the next world, so why bother for a daughter, who could be of no use to him.

Manusmriti is full of paradoxes of respect and neglect of woman. Manu keeps woman in high esteem when he says that “woman must always be honoured and respected by the father, brother,
husband and brother-in-law who desire their own welfare.” And, “where women are honoured, there the very Gods are pleased (Naryastu Yatra pujyante, ramante tatra devata), but where they are not honoured, no sacred rite even could yield rewards. A look to Manusmriti creates the following impression that is: “Manu was not prepared to allow any kind of independent activity to women without consultation or permission of the male members of the family. She was subjected to guardianship of the father during her childhood, of her husband during her youth, and of her sons after the death of her husband. She was not allowed to do anything independently even in her own home (Upadhyaya and Pandey, 1990).

The position of women in Buddhism was different. They elevated the status of women, the inequality between man and woman was wiped out in matters of religion, both sexes were charged with duty of uphold. This condition could not improve even during the British rule. In the later part of the 19th century, national leaders and social reformers tried their best to improve upon the status of Hindu female. After independence, the Constitution of India envisaged socio-economic equality to all Indian citizens, irrespective of caste, creed or sex. No efforts have been spared in passing non-discriminatory legislation for the upliftment of socio-economic status of Hindu woman by the Indian parliament.

Justice to men and women is the abiding creed in Constitution of India. It is our faith in the dignity of woman governed by moral, natural and written laws. Social justice to woman defines our full view of life. It establishes beyond doubt a woman’s inalienable rights which belong to not only educated women but also the illiterate ones. Social justice provides strength to a woman, because she is no more a prisoner of customs and history.

Women in India as a group are more vulnerable than men to the extremes of exploitation and subjugation. The discrimination being a female are obvious in the Indian society, such as the lower expectancy, minimum education, poorly paid jobs, lower status expectations and very few rewards than men in comparable situations. Sex role differentiation and ideological assumptions about “Women’s place” is linked to the unequal distribution of resources, rewards, rights and authority between men and women which in turn influence patterns of family and workplace.
The conditions of Indian women are very much shocking. There are certain special limitations due to India’s cultural and familial background— the social, economic and political conditions are also responsible for women’s oppressions. They are the victim of the circumstances which have been created due to gender discrimination which persist in India from cradle to grave. This phenomenon, however, takes its rise from the decline of the Hindus, reaches its apex during the Muslim rule but gradually tends to loosen its grip during British rule. Even in Independent India this situation persists, although much efforts have been directed by men and women reformers, the activists, and other self-less persons to bring the situation under control.

**Rule of the Thumb**

Legal and cultural traditions the world over historically granted men permission to beat their wives, and even kill them in certain circumstances. Blackstone in his ‘Commentaries on the Laws of England’ (1775) stated that husband was empowered to correct his wife “in the same moderation that a man is allowed to correct his apprentice or children”. Blackstone’s codification “limited” a man’s right to chastise his wife with a stick no thicker in circumference than his thumb, and this right came to be known in popular parlance as the ‘Rule of Thumb’. Husbands were also given the right to sexually abuse their wives and could prosecute anyone who committed adultery with or seduced their wives, though no action could be brought against a husband who forced his wife to have sexual intercourse against her will.

In India, the wife’s position was no different as the code of Manu decreed that she be considered of no more importance than a chattel of the husband. A wife was regarded as subordinate to and the property of her husband with no autonomous experience. She could not own, inherit or deal with property, she could not sue, she had no legal status apart from her husband. Wife battery was treated as private privilege of marriage which did not warrant any state interference. The law till today presumes that the man has total sexual rights over his wife: hence it is unwilling to consider marital rape as crime, unless the spouses are legally separated under a decree of Judicial separation. Over the centuries, and even today, society shamelessly condones violence in the home. It is only in the last two decades that there has been an attempt, however fragile, on the part of our legislators towards accepting the concept of the family as a partnership of mutual trust.
and affection between equals, rather than an enterprise subject to patriarchal control which was indissoluble (The Lawyers, April, 1991).

**Changing Institution of Marriage and Family in present India**

According to Dr. Ranjana Kumari, Centre for Social Research the process of globalization sweeping the world is exerting its unnoticed forces to redefine ‘marriage’ and ‘family’. The forces of globalization and market are influencing the family structure and marriage norms to a large extent in India recently. Institution of marriage and the existence of a ‘family’ as a unit have found a new meaning. This new meaning is very often dictated by the market forces. The notion of family is shrinking, from large joint families, to nuclear families to individual or ‘autonomous family’ constituted by single person. This move that has been precipitated by the process of globalization has both positive and negative fallouts. On the one hand, this new found freedom promotes acceptance for such a process and allows the nuclear family to democratize and negotiate better living conditions. Women find their freedom to enter job market and earn enough for buying all material needs. Modernity has promoted women’s empowerment through education, legal reforms, political power, economic and personal autonomy, and social mobilisation for gender justice.

Women, though allowed to earn, are incapacitated by lack of control over their own resources and earnings and suffer discrimination and violence. Thus the changes are more superficial than penetrating. The women may have entered the public arena, but the family values dominate and family violence is kept as a closely guarded secret. In the private arena, at the level of the family, the family is still dominated by patriarchal norms.

**Domestic Violence – A World Wide Social Problem**

**United Nations definition of domestic violence**

that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”. It encompasses, but is not limited to, “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs”.

NCW in its report, “A Decade of Endeavour”, Vol. II, 1990-2001, rightly states, “Domestic Violence is a serious human rights threat to women in every society- rich and poor, developed and industrialized. Particularly in patriarchal societies, it is used as a weapon for subjugating women and suppressing their rights as equal partners in the family structure”. Domestic Violence is widespread and cuts across caste, creed, class and all educational levels. Around the world, on an average, one in every three women has experienced violence in an intimate relationship. It strikes in various forms- physical, sexual, emotional and psychological. It is not only damaging to women but causes deep psychological effect on their children, too, because of constant fear of humiliation they live with. Largely viewed as a private matter, neighbours, friends and even the relations of battered women rarely interfere in situations of domestic violence, because a wife is regarded as her husband’s property and there is a social acceptance of his rights to chastise her, if she has displeased or disobeyed him in any way, howsoever minor.

The menace of domestic violence is beyond description as it is like an iceberg and whatever we see outside in public, it is negligible (Goel Aruna, 2004). If we take up the definition of domestic violence in a broader sense then hardly any house is saved from its clutches. However, here we may take a narrow definition when domestic violence take physical form and results in torture, beating, causing physical and mental tensions to women so that they get tired of their life. The women are denied food and good place to sleep etc. It is not restricted to a particular area or types of people. Its tentacles are spreading in every area. However, the gravitation of violence
against women in rural areas are more prevalent as compared to cities. The interesting feature of this is that it is found even among educated religious-minded people as well. Such a horrible situation causes havoc and makes life of woman miserable.

**Legal Definition of Domestic Violence in India**
Omission or commission or conduct of a person that causes; harm, injury or endanger the health, safety, life, limb or well-being, whether mental or physical of any women or her children in a domestic relationship and it includes **Physical, Verbal, Emotional, Sexual, and Economic Abuse.**

**Physical Abuse:** - Which means any act or conduct of such nature which cause bodily pain, harm or danger to life, limb or health or impair the health or development of the aggrieved women.

  e.g. -Beating, Biting, Shoving, Pushing, Hitting, Causing bodily pain that includes criminal intimidation and criminal force.

**Verbal Abuse:** - Which means using such words which cause mental agony.

  e.g – Insults, Name calling, ridicule, Taunting for not having male child, Humiliating, Taunting for dowry.

**Emotional Abuse:** - Means repeated threats to cause physical pain to any person in whom the aggrieved woman is interested.

  e.g – Preventing you and your child from attending educational institutions, not letting to take up job, preventing you from meeting any person, forcing you to marry, threaten you to commit suicide.

**Sexual Abuse:** - Which means any conduct of sexual nature that abuse, humiliates, degrades or otherwise violates the dignity of a woman.

  e.g. – Forced sexual intercourse, Forcing to watch pornography, Child sexual abuse.
**Economic Abuse:** - Deprivation of all or any financial resources to which aggrieved person is entitled under law or custom.

E.g. - Depriving you of entitlement under law, custom, Court order or otherwise, using your stridhan, depriving you of joint ownership, disposing household assets, depriving aggrieved women & children of household necessities, Alienating moveable or immovable property in which you and your children have an interest entitled by way of relationship.

Violence against women is defined as any physical, emotional, sexual, or psychological abuse or violence committed against women by intimate partners or acquaintances, including current or former spouses, cohabiting partners, boyfriends, or dates. Although this definition is broader than ones adopted by many practitioners and narrower than others, it captures the scope of women’s victimization at its most fundamental level. Regardless of how it is socially or legally defined, women’s experiences of violent victimization are dominated by victimization by people they know (Browne and Williams, 1993; Lentzner and DeBerry, 1980; Mercy and Saltzman, 1989; Tjaden and Thoennes, 1998a). Moreover, although the law distinguishes between sexual assault, domestic violence, and stalking, research shows that these types of victimization often occur simultaneously or sequentially (Browne, 1987; Caputi, 1989; Eby et al., 1995; Frieze, 1983; Shields and Hanneke, 1983; Zillman, 1984).

Researchers and practitioners have yet to develop a complete consensus on what constitutes violence against women, but many include the following:

- Acts carried out with the actual or perceived intention of causing physical pain or injury to another person (Gelles and Harrop, 1989).
- Acts that are, or potentially are, physically and emotionally harmful (O’Leary and Browne, 1992).
- Physical, visual, verbal, or sexual acts that are experienced as threatening, invasive, assaultive, hurtful or degrading, or controlling (American Psychological Association, as cited in Koss et al., 1994).
Legally and historically, these behaviors have been distinguished as physical violence, sexual assault, and, most recently, stalking. Physical violence includes fatal and nonfatal physical assault. Consistent with the definitions most commonly used by researchers, physical violence is defined herein as any act of physical aggression intended to harm one’s partner. These acts include pushing, grabbing, and shoving; kicking, biting, and hitting (with fists or objects); beating and choking; and threatening or using a knife or gun.

Legal definitions of rape and sexual assault differ from State to State, although their common element is the lack of victim’s consent to sexual acts. Many States have ceased to use the term “rape” in their criminal codes, substituting more general definitions of sexual assault and abuse.

Emotional or psychological abuse includes any act intended to denigrate, isolate, or dominate a partner. Emotional abuse is intended to control victims by limiting resources and social contacts; creating actual and emotional dependence; and reducing victims’ sense of self-worth, competence, and value. Emotional maltreatment can include verbal abuse, such as insults, criticism, ridicule, name calling, discounting, and discrediting; isolation of the victim; control of social and family contacts; denial of access to finances or transportation; demonstration of extreme jealousy and possessiveness; the monitoring of behavior; accusations of infidelity; threats of harm to the victim’s family, children, or friends; threats of abandonment or infidelity; and damage to or destruction of personal property (Davis and Swan, 1999; Follingstad et al., 1990; Marshall, 1999). Health care, mental health, and legal researchers have not reached full agreement on a definition of emotional abuse, and less is known about this form of abuse than others (O’Leary, 1999).

Stalking has been defined by the National Institute of Justice as “a course of conduct directed at a specific person that involves repeated visual or physical proximity, non consensual communication, or verbal, written implied threats, or a combination thereof, that would cause a reasonable person fear” (Tjaden and Thoennes, 1998b, p. 2). Examples include behavior such as following the victim, conducting surveillance, threatening the victim or victim’s family, harassing the victim through phone calls or letters, appearing at the victim’s home or place of business, or breaking into the victim’s home. Although high-profile cases of celebrity stalking
have attracted media and public interest, the majority of stalking victims are ordinary people who are pursued or threatened by someone with whom they have had a relationship. Almost 80 percent of stalking cases involve women stalked by persons they know (Tjaden and Thoennes, 1998b). In recognition of this problem, 48 States and the District of Columbia passed anti-stalking statutes between 1990 and 1994.

Reasons for increasing Domestic Violence in India (Goel Aruna, 2004)

1. Joint families disintegrated into nuclear families. Joint family system has disintegrated resulting into lack of guidance, control and affection to newly married. Joint family system was a shock absorber.

2. Husband dominates wife causing irritations. The husband dominates wife which is not acceptable to her. It becomes more serious when wife is also employed. There is nobody to help them to sort out differences.

3. Husband and wife start doubting about extra-marital relations causing quarrels, fights and even suicides. It is very difficult to amicably settle such issues.

4. Interference of the parents of the girl in the husband’s family- Frequent visit of parents and other family members of girl’s side cause tension and interference. This makes the husband and his family angry resulting into quarrels and disputes.

5. Husband if in business or service is starved of funds, he asks the wife to make arrangements from her parents causing domestic violence. This is not one time activity but a long term problem. This results into all sorts of domestic violence.

6. Drinking habits of the husband make the life of the wife a hell. The drinking is becoming a common phenomenon. This results into wastage of money, poor health and bad habits like beating wife and children causing domestic violence.

The Complexity of Domestic Violence:

Compared with many other violent crimes, the legal and social dimensions of domestic violence present several complications for effective legal control. The reasons for seeking to deal specifically with domestic abuse and not with abuse in general are as following:

- Domestic abuse is a serious social problem, which has drastic and devastating effects on
its victims;

- There are numerous systemic barriers to victims of domestic abuse accessing the legal system, which arise out of the intimate nature of the relationship and the inability to escape from that environment.
- It is assumed that individuals experiencing abuse in non-domestic relationships will not experience the same kind of barrier to escaping the perpetrator or accessing legal remedies and therefore such individuals may have recourse to the criminal and civil remedies already in existence.

**The Cycle of Violence**

Domestic violence occurs when a relationship is based on power and control. The abuse can be physical, verbal, emotional, or sexual. Often, one or more violent incidents are accompanied by an array of other types of abuse. They may not be as obvious, but help to firmly establish a pattern of intimidation and control in the relationship.

Abuse may include one or more of the following types of mistreatment--physical, sexual, and emotional/psychological. These kinds of abuse occur in every race, class, and educational background, from doctors to truck drivers. It is extremely prevalent with 3 to 4 million women being battered each year in the United States.

Domestic violence usually follows a cycle that repeats itself continually. This cycle consists of the following three stages.

The cycle of violence was developed by Lenore Walker in the 1970s. She worked with a great number of abuse survivors and found a common pattern which is now known as the cycle of violence. The cycle of violence is sometimes useful to demonstrate for women the pattern of violence. Be aware that the cycle of violence does not apply to all violent partnerships. The length of each phase is an individual factor, some couples may experience the entire cycle several times in a day, others may take weeks to complete one cycle.
Gender-specific language is used in these following examples as Walker’s model is based on the observation of women being the target of male violence within the home.

**Build-up phase**

This time is characterised by increasing tension between the couple.

**Stand-over phase**

The offender uses aggression and violence to frighten and control his partner. Following the assault the offender moves into the remorse phase.

**Remorse phase**

The offender feels ashamed of his behaviour, tries to minimise it and blames it on the survivor eg “She knows I get mad when she does that” or “It was only a bit of a shove”. The woman may go along with her partner because to do otherwise could mean acknowledging the terror and the danger with which she is living.

**Pursuit phase**

The offender attempts to convince his partner that he needs her. If the buy-back attempts seem not to be working he is likely to resort to threats and violence. This can be a life-threatening time for women as many are murdered in this phase.

**Honeymoon phase**

There is a high degree of intimacy, as the couple cling to each other after the near separation. Eventually, and sometimes very quickly, the cycle resumes itself.

**Most common pattern of an Abuser's behaviour**

It is a common misconception that domestic violence is prevalent only in the lower sections of society. The fact is that domestic violence is a malaise that can strike any household, irrespective of caste, religion, or financial status. When domestic violence is targeted only at the partner, it is referred to as spousal abuse.
Most victims of abuse often do not even realise that they are being abused. This is because perpetrators of domestic violence follow a particular cycle of behaviour. In this cycle, there will be periods of violence interspersed with times when the abuser will behave normally. Here are some of the most common stages involved in the domestic violence cycle.

Abuse
This is the first stage in the domestic violence cycle. The abuser will display some form of violent or aggressive behaviour towards his victims. Abuse is not always physical. Some abusers derive greater pleasure from mentally torturing their victims rather than actual physical pain. This could involve insulting the victim or damaging her self-esteem. In all forms of domestic violence, the abuse is a type of power struggle. The abuser seeks to control his victim or demonstrate who is in charge of the relationship.

Guilt
An abusive session is almost always followed by feelings of guilt. In the case of an abuser, this guilt is usually not because of the harm he has caused. It is more out of fear that authorities may apprehend him and he will have to face the consequences of his actions.

Even victims experience feelings of guilt. These feelings are largely related to thoughts like 'What wrong have I done?' or 'Why can't I do things correctly?' This is classic behaviour displayed by a victim. She will usually try to put the blame for the abuse on herself rather than her abuser. This is especially true for situations where the victim is financially dependent on her abuser.

Excuses
This is the third stage of the cycle. To assuage his feelings of guilt, the abuser will try to rationalise his behaviour. He will make all sorts of excuses to himself and to his victim. The most common excuse is to blame the victim for making him resort to abuse. The abuser does not want to believe that he is responsible for his own behaviour. He prefers to think that his actions are in response to a situation that left him no other alternative.
**Pretence**

The next stage is to fall into a pattern of 'normal' behaviour. The abuser will pretend as if nothing has happened and will go about his daily routine. This behaviour is largely to allow the abuser to regain some control over his emotions. This is also to reassure the victim that an abusive incident will not happen again.

During this period, an abuser may sometimes go out of his way to be nice to the victim. He may turn on the charm by buying the victim a gift or taking her out to dinner at a fancy restaurant. This is why this stage is also called as the 'honeymoon stage'. By being extra nice, the victim gets lulled into a false sense of security. She may feel as if her abuser has really reformed. However, this stage can be compared to the calm experienced before a storm.

**Planning**

This stage occurs simultaneously with the 'pretence' stage. Even while the abuser is pretending to be a good person, he is busy planning his next attack. An abuser will often fantasise about the next attack on his victim. Though he is being nice and extra attentive to the victim, he is simultaneously making a list of all her mistakes and wrong doings.

When the abuser has his list ready, he will begin preparing a plan of attack. Planning can be simple or part of an elaborate set-up, depending on the abuser. In the abuser's mind, his actions are justified because he is merely making the victim pay for her mistakes.

**Set-up**

Once a plan is ready, the abuser sets it into motion. Based on his plan, the abuser will seek to create a situation where his victim will make a mistake. Once this occurs, he can then pounce on her mistake and use it as a reason to attack her. A victim must remember that an act of violence is usually premeditated. No matter how hard she tries to avoid making a mistake, her abuser is not going to let her go.

The cycle of domestic violence repeats itself after every attack. The only difference is that the duration and intensity of the attacks may keep increasing. It is imperative that a victim seek help as soon as possible before she is permanently disabled, or worse, killed.
Violence across the life span

Violence has a profound effect on women. Beginning before birth, in some countries, with sex-selective abortions, or at birth when parents who are desperate for a son may kill female babies, it continues to affect women throughout their lives. Each year, millions of girls undergo female genital mutilation. Female children are more likely than their brothers to be raped or sexually assaulted by family members, by those in positions of trust or power, or by strangers. Women, who become pregnant before marriage may be beaten, ostracised or murdered by family members, even if the pregnancy is the result of rape. After marriage, the greatest risk of violence for women continues to be in their own homes where husbands and, at times, in-laws, may assault, rape or kill them. When women become pregnant, grow old, or suffer from mental or physical disability, they are more vulnerable to attack. Women who are away from home, imprisoned or isolated in any way are also subject to violent assaults. During armed conflict, assaults against women escalate, including those committed by both hostile and “friendly” forces.

Theoretical Perspectives on Domestic Violence against women in Indian context

There are several theories on why people resort to violence (Aliyamma Vijayan, 2004). Some focus on the individual aggressor, with psycho-pathological explanations that hinge on personality traits; others take the socio-pathological view that argues that the external environment plays a large role in an individual’s behaviour. Feminist analyses of violence point to power relationships between men and women that deny women equal access to power and resources thereby making them vulnerable to violence at the hands of men. The cause of violence here is traced to patriarchy -the ideology that bestows on men the power and authority over women’s lives and their bodies.

Cultural conditioning, rapid social changes and resultant frustration leading to aggression, perceptual discrepancy regarding the status of women, institutional structure of the society and to some extent women themselves are responsible for the increasing trend of domestic violence in families of India (Niroj Sinha, 1988).
(1) **Cultural Conditioning**: Violence is an acquired phenomenon. It is learnt in the society during the course of socialization through the technique of imitation and identification. When a child takes birth he remains completely raw. He learns whatever he observes in the society and that constitute his personality. A boy finds that he is getting preferential treatment by the society so he learns only the immediate gratification of his needs. He fails to get the opportunities to learn the use of such defensive mechanisms as repression and suppression in controlling his desires more frequently so they remain weak. A boy also identifies himself with his father. He imitates his reactions, aggression and hostility shown towards his wife. He also observes that his father is leading an independent life, being the master of life. So he develops an anticipation of individual existence or separate entity which ultimately generates self-confidence, assertiveness, encouragements and initiation in him. All these characteristics are associated with dominance. In fact boy learns to develop authoritarian attitude towards his surroundings. On the contrary a girl learns to control and suppress her desire. She observes that her father and brothers are enjoying all the privileges and whenever she tries to revolt, her parents teach her to develop tolerance, sacrifices, cooperation and submission. In this way she is forced to accept the dominance of males. The reasons may be the following:

a. Discrimination exists from childhood itself. Brownmiller (1976), a well known sociologist has written that from the childhood a male is encouraged to build his muscles and toughen his fits and a female is encouraged to value, soft skin and slender wrist.

b. Our sick rituals and customs are also responsible for this faulty conditioning. A son is expected to become an heir and perpetuate father’s name. Daughter is expected to leave her home after marriage. So no more expectations are associated with her.

(2) Our socio-religious norms have affected the women’s status which has become another causative factor. Right from the post-vedic era down to the modern times, the religious practices, rituals, scriptures, precepts historical force which have created for women their existing secondary status in Indian society. The chief apologists for lowering the status of woman was Manu. As psychologists suggest our beliefs and values condition our behavior. In terms of reinforcement, it can be said that, if violence succeeds, there will be
temptation to make use of it. Women perceive themselves inferior to men. A woman who is beaten is often told that it is probably her fault as if her husband has a right to beat his wife. In case of dowry deaths which are usually burnt cases, we lack adequate punitive measures to prove them. All these make the revolt silent which strengthens the authoritarian mentality of the males. In this way, violence became a way of life, an accepted mode of behavior, sanctioned by folkways and conventional morality, a subculture. Males are unaware of the fact that they are doing something wrong, so they do not have any guilt feeling.

(3) **Rapid Social Changes:** Increasing trend of social change and resultant frustrations leading to aggression is another contributing factor. To-day many developmental changes are taking place and people are trying to catch them and to get them but the means are limited. The aspirations and goals are increasingly disproportionate to these available means and so people are facing strong competition where often they have to face failures. Frequent failures generate frustration, a painful and uncomfortable state, acuteness of which may threaten ego boundaries. In order to overcome it one may unconsciously or consciously develop aggression which strives to be projected against some weaker object, outside himself and a female weaker sex, always available before him becomes the scapegoat or target of his aggressive impulses. Berkowitz (1977) makes an important distinction between deprivation and frustration. A person is deprived if he or she is unable to get an object which is desired but is frustrated only when he had been anticipating the pleasure to be gotten from the object and he cannot fulfill his expectations. The statement that violence is related to rapidity of social change may mean that such changes bring with it new frustrations leading to violence. Gurr (1970) summarises that violent conflict is greatest in developing nations, least in modern nations, intermediate in the least-developed, most traditional nations.

Indian males are more egoist, and self-centred. They develop feeling of superiority over females and so they perceive themselves as more powerful. They cannot tolerate their failure before women so they try to overcome their lackings by reacting more and by showing hostility and aggression towards themselves. Dowry deaths may result from the
frustration deprived by in fulfillment of expectations, which most of the in-laws used to have regarding their sons who have spent sizeable part of their earnings in educating them.

(4) **The Institutional Structure of the Society** also victimizes women. The organized institutional and structural patterning of the family and the economic, cultural and political systems that determine that some individuals shall be victimized through the withholding of social benefits, and be reduced more vulnerable to suffering and death than others. Women experience violence more sharply than men because social definitions of their biological equipment assign them to a special secondary descriptor as a limitation of their social status at every level in a given social hierarchy. Women carry a heavier workload than men responsible for the triple production loads of breeder, feeder and producer of the family unit, where men have only single production role. The women are kept deprived of many things for patriarchal family structure itself. Vulnerability of women to the vicissitudes of the male temperament within the household is one aspect of the structural violence inherent in the institution of patriarchal family. Broadly speaking, the patriarchal imprint keeps women from sharing in economic, cultural and political roles according to their abilities, because of stereotype notions about what is appropriate for women.

(5) **Stereotyped image of women in our society** is another causative factor. They are kept on two ends of a continuum indicating extremely good or bad images. Thus on the one hand, position is exalted to the Goddess and on the other hand, lowered to the slave. It is told that women have fickle and uncontrollable mind. Bhishma and Yudhishtara, two highly respectable figures of Mahabharata, regard woman as the vilest creature on earth and root of all evil. Even in Holy Bible, the story of Adam and Eve portrays Eve as a woman who tempts Adam to eat forbidden apple, thereby doing sin. That’s why people believe to treat woman as a slave. As if woman is a sub-species. These two stereotyped image of women have made them suffer a lot.
(6) **Self-image of women:** The women themselves possess negative self-image which also helps to maintain the very structure that victimize them. The deep rooted factor is their wrong socialization. Our social norms and values are such that women learn to misperceive themselves. Usually women are being evaluated on a scale having three dimensions- sexuality, fertility and labour. Their ideal image and role expectations are judged on these dimensions. Conformity with these social norms and values distort their perceptions and so they themselves become their worst enemies. What is wrong with Indian women is that there is basic difference between how men view themselves and how women view themselves. Usually women understand who they are, in terms of their relationship with their husband, while men understand themselves in terms of work they do (Aazmi Shabam, 1988). Women in their roles as wives and mothers give vital reinforcement to military structure of socializing battle ready sons and docile daughters. By forcing male children to repress tears and expressions of emotion of pain, mothers directly contribute to the emotional infantilism of the adult male, who has grown up without adequate techniques for working through his feelings.

Elise Boudling (1988) clearly points out that ‘patriarchal ethics’ brings in different kinds of socialization practices for the male and female in the family which ultimately lead to turn the male child into an ‘oppressor’ and the female child into a ‘victim’ when they become adults.

In order to understand the roots of violence against women, Niroj Sinha (1987), in a recent paper presented at a workshop at Patna Women’s College, held the patriarchal social order responsible for discriminations and violence against women. She held men and the patriarchal system responsible for all the ills and firmly believed that unless men and their attitudes changed, violence and discriminations against women will continue to exist.

According to Sinha, violence may include specially in relation to females both the physical violence against women and exploitations of all kinds. But she does not feel satisfied with such a definition. To her, any group of persons may be identified as ‘victims of violence’ if they are shown the threat of use of force against them if they do not act as per the desires of the group of persons identified as oppressors.
Gelles (1972) categorized family violence into three varieties:

(a) Normal Violence- Routine, normative and necessary

(b) Secondary Violence- when the use of violence to resolve a conflict is contrary to family norms, it creates additional conflict over violence which produces further violence.

(c) Volcanic Violence- Occurs when the offender has reached end of line-has run out of patience; it is illegitimate violence that is explained as arising out of the building of stress and frustration- the stress builds up to the point where the offender “erupts” into violence.

According to Maria Mies, 1980 root cause behind domestic violence is the concept of patriarchy. In principle, almost complete social subordination marked the position of wife (Archana Sinha, 1989). Patriarchy is cross-cultural and cross-national, existing differently in different societies through the institution of sexual hierarchy (Susheela Kaushik). Thus there are several socio-cultural, historical, and psycho-pathological reasons to the domestic violence being committed against women in the society. Each one is deeply embedded to our way of life, to our mode of thinking and the socialization process. Any plan to improve the condition of women, therefore must take into consideration these deep-rooted causes of violence and degradation of women.

**Links of Domestic Violence with Human rights, Social rights and Economic rights of Women**

**Domestic Violence as a Human Rights Issue**

Violence against women, including domestic violence, is a human rights abuse. It exists in every country and culture in epidemic proportion, and is disproportionately committed against women. The irony is that international human rights instruments and many domestic laws prohibit and condemn such violence. And still, it occurs. Violence against women is experienced in myriad forms from restrictions to discrimination to physical, sexual and mental abuse. Women experience violence in both conflict and non-conflict areas. In civil conflict areas like Kosovo, Rwanda, Sierra Leone and East Timor, sexual violence has been used as a means of domination and control over ethnic populations by military and paramilitary forces. Women in refugee camps also suffer from rape and sexual violence. Further in conflict and post-conflict societies
domestic violence is widely prevalent. In non-conflict areas there is an epidemic of violence against women. Population-based surveys from a range of countries indicate that 10 to over 50 per cent women report physical assault in intimate relationship. Of these women 33 to 50 per cent also report sexual abuse or coercion (Heise, Ellsberg, et.al, 1999). Moreover, discrimination in the enforcement of law, denial of equal opportunity in education and employment, exclusion of women from political representation, and the use of physical and psychological violence to intimidate and subordinate women in public spheres all constitute violations of the right to gender equality. The effect of such violence is devastating. It not only harms the woman, it destroys the family, limits a community’s workforce, and perpetuates an atmosphere of fear, insecurity, and impunity. It also is connected to other devastating human rights abuses such as suppression of the right of speech, association and more importantly liberty. Violence against women has also significant impact on health of the woman and community. For example, violence against women is now recognized as a lead factor in the spread of the Human Immunodeficiency Virus (HIV), which invariably results in the Acquired Immune Deficiency Syndrome (AIDS). Progress against HIV requires that women are able to protect themselves against all forms of violence, including domestic violence, rape, and sexual abuse. The disease has also placed many women at greater risk of further violence.

The roots of violence against women are located in the unequal balance of power between men and women. The low value some cultures assign to women and girls and the norms that discriminate against women contribute to violence and prevent women from defending themselves. Unequal access by women and girls to education, economic resources, and decision making authority are the central outcomes of gender inequality and this limited access undermine the ability of women to negotiate both public and private acts of violence. Overall the denial of equal rights to women through cultural and social norms and practices in fact perpetuates and reinforces violence against women. The recognition of violence against women, and specifically domestic violence, as a human rights violation is first articulated in Vienna Declaration and Programme of Action adopted at the 1993 United Nations World Conference on Human Rights. Although CEDAW does not explicitly address violence against women, it recognizes that discrimination is a root cause of violence against women and that the denial of equal rights to women reinforces and perpetuates violence against women. The UN Convention to Eliminate
Violence against Women is the first protocol to specifically focus on the full continuum of violence experienced by women.

Fundamentally the human rights approach focuses on those whose rights are being violated, allowing developing solutions that keep victims experiences and needs at the forefront. International standard continue to evolve in recognition of the pervasive nature of violence against women under circumstances ranging, for example, from domestic violence, to coercive sex work, to rape as a weapon of war. There are three critical approaches within the rights framework that have contributed enormously to facilitate the placing of domestic violence on the international and national agendas – namely due diligence, equal protection and domestic violence as torture. These three distinct legal approaches are discussed below.

**Legal Approaches to Domestic Violence**

Under international human rights law, the concept of state responsibility has been enormously expanded. The state now has a dual role to play. First, the state should not indulge in human rights violations. Second, more importantly, if violations occur in the private spheres, the state has a clear obligation to prevent those violations and protect the victims. Currently, there are three approaches of state responsibility for dealing with the issue of violence against women by private actors.

1. **Due diligence**

The legal concept of “due diligence” describes the minimum effort a state must undertake in order to fulfill its responsibility to protect individuals from abuses of their rights. The committee charged with overseeing implementation of CEDAW in 1992 adopted General Recommendations which emphasizes that “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”. In 1993, the United Nations Declarations on the Elimination of Violence against Women (DEVAW) also calls on States to “pursue by all appropriate means and without delay a policy of eliminating violence against women” and further to “exercise due diligence to prevent, investigate and, in accordance with national
legislation, punish acts of violence against women, and whether those acts are perpetrated by the State or by private actors”.

2. Equal protection of the law

This approach is based on the principle of the equal protection of law. If discrimination in law enforcement is demonstrated in case of violence against women, then the State may be held liable for violating international human rights standard of equality (Thomas and Beasley, 1993; O’Hare, 1999). For instance, Article 26 of the ICCPR provides that “all persons are entitled without any discrimination to the equal protection of the law”. This has then led the basis for states addressing victims of domestic violence, a group usually outside law enforcement. Here lies the significance of the Optional Protocol to the CEDAW which was adopted in 1999. The proposed inquiry procedure under that protocol can be approached, following complaints from individuals or groups. Individual women can bring claims against a government, which fails to take measures to punish or prevent domestic violence. There is provision for international prosecution against individuals who perpetrate domestic violence.

3. Domestic violence as torture

Convention against Torture defines torture as “an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” for a purpose such as obtaining information or a confession, punishment, intimidation, or coercion, “or for any reason based on discrimination of any kind”. Domestic violence is a violation of a woman’s rights to bodily integrity, to liberty, and often right to life itself. Therefore, this approach argues that domestic violence is a form of torture, and should be dealt in line with other human rights instruments. Article 7 of the ICCPR states that “no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. When states fail to provide protections through legislation and other measures, they hold responsibility for the abuse. The failure of a government to prohibit acts of violence against women when they are of the nature and severity envisaged by the accepted definitions of torture constitutes a failure of state protection. Proponents of this approach believe that application of a human rights framework by recognizing domestic violence as torture and by insisting states to fulfill their responsibility to protect women, can be a powerful tool in eliminating violence against women.
These three approaches to address domestic violence suggest that women’s rights groups have been successful in deconstructing the false dichotomy between public-private divide which has so long restricted efforts to put domestic violence in the national agenda. Marcus (1994) makes a strong legal case for the reconceptualization of domestic violence as a human rights issue, given the similarity and close parallel between abuse and terrorism. She contends that people or group wishing to terrorize others use three basic tactics: (a) surprise and seemingly random (but actually well-planned) acts of violence, (b) psychological and physical warfare to silence protest and minimize opposition, and (c) the creation of an atmosphere of intimidation in which there is no way to escape. In the similar manner as terror can be directed at a community, it can also take the form of violence perpetrated in a women’s home by her partner. In similar ways to terror, violence is designed to maintain domination and control, to increase advantages, and to defend privileges. She argues that the term terrorism as an alternative to domestic violence carries a connotation of privacy and thus minimizes or diminishes its importance and seriousness. Thus, significant language now exists to advance the status of women, and it is critical to capitalize on these advances. In recent years, women’s human rights groups are pressurizing governments to implement CEDAW, and take positive measures to end legal, social and economic gender inequality.

**Domestic Violence and Social and Economic Rights**

Domestic violence is rooted in gender power balance, gender identity, and gender-specific roles and responsibilities. First, since women and men often have different roles and responsibilities, they have different needs and priorities. For instance, women tend to carry the primary responsibility for maintaining household, like collecting water, fuel wood, preparation of food, care for children and elderly. These activities not only increase women’s daily burden of work (time poverty), they also restrict women’s participation in community activities and decision-making processes, employment, physical mobility etc. Further the perceived non fulfillment of these responsibilities is often a precipitating trigger for domestic violence. Second, women tend to have limited access to and control over productive resources such as land, house, credit, agricultural extension, water etc. Women’s limited access to land means less access to agricultural extension services, credit and water. Women are particularly threatened by loss of
land, house and other property, and ownership rights because of the prevalence of statutory law and other forms of discrimination. This inhibits women’s rights within marriage, leading to threat of divorce and violence against them. Women also face additional obstacles to develop coping strategies. Third, the pervasive nature of gender-specific violence not only affects the individual victims directly, it also indirectly limits women’s mobility and participation in social, economic and political activities. Women in many societies are afforded little recourse against domestic violence.

Finally, women are far less likely to participate in formal decision making processes. Unequal control over economic resources not only inhibits women’s autonomy in household decision-making; it also inhibits participation in public institutions and to break the shackles of poverty and deprivation. Gender inequality is the most pervasive manifestation of inequality of all kinds in any society because it typically affects half of the population. Moreover, women more than men in most countries face structural barriers that impede women from having rights, capabilities and capacity to choose. Women also face institutional barriers and discrimination in law. Women’s participation in decision-making are low at all levels. As a result they lack power and voice. Therefore an enabling environment is necessary to remove the structural and institutional obstacles.

**Links of Domestic Violence with Children’s Education, Participation and Employment**

**Domestic Violence and Education:**

Children who witness violence are at a higher risk not only for a range of emotional and behavioral problems, they also exhibit poor performance in schools (Ellsberg et al, 2000; McCloskey et al., 1995; Edleson, 1999; Jaffe et al., 1990). Researchers have shown that violence is now established as an influential factor inhibiting the access of girls to education in both South Africa and Jamaica (Chisholm and Malange, 1999; Kurz and Johnson-Welch, 1994). It is not surprising to argue that if women are routinely being harassed by their husbands, they cannot properly look after themselves and their children, including attending to children’s education and care.
Domestic violence is a factor in limiting the realization of right to education for young girls and boys. This is absolutely critical as education is also a protective factor for domestic violence. Increased education of men and women leads to less likelihood of perpetrating and experiencing violence.

**Domestic Violence and Participation:**

Living in a violent relationships affects a women’s sense of self esteem and her ability to participate in the decision-making processes, both within the households and outside in informal (family and neighbor) and formal social networks (community organization, women’s self help groups or affiliation with political parties) (Heise et al., 1999; Sen, 1998). Violence against women also inhibits political participation (Heisei et al., 1994). Violence or the threat of violence often hinders women’s ability to use contraception, to answer personal interview questions directly or honestly, or to leave the house long enough to participate in community projects (Rao Gupta and Weiss, 1998).

Domestic violence sometimes may act as a hindrance to the momentum of community projects. For instance, evidence from micro credit activities in Bangladesh suggests that violence occurs at home due to conflicts in the division of labor and also distribution of money earned by the women participants and their husbands (Kabeer, 1998; Schuler, Hashemi, and Bada, 1998). Due to domestic violence, women stopped participating in a revolving fund of the Working Women’s Forum in India and the project almost collapsed (Carrillo, 1992). Women’s participation in formal and informal social networks has been identified as critical factor in lessening their vulnerability to violence and in their ability to resolve domestic conflicts (Sen, 1999). Overall, domestic violence impacts self-esteem of women and limits their ability to be conscious agents of change.
Domestic Violence and Employment:

Domestic violence may prohibit women to be engaged in gainful outside employment (India SAFE, 1999). Domestic violence increases women’s risk of unemployment, affects job performance, and reduces earnings (Morrison et al., 1999; Browne et al., 1999; Lyord and Taluc, 1999). Low education, low skills combined with restricted mobility will affect the quality of women’s employment. There is some evidence that abused women are more likely to seek work because of the need to secure resources and independent networks. While women’s limited economic independence may inhibit them to escape from an abusive relationship, it is also true that women’s economic activities and independence may be a threat to increased domestic violence. In the context of domestic violence, Burton, Duvvury and Varia (2000) argue rightly that domestic violence against women prevents and inhibits women’s ability to realize other rights. For instance, a woman cannot exercise her rights to livelihood, education, mobility, health or participation in governance, if she is prevented from leaving her home under threat of violence or death. Similarly, a woman cannot fulfill her right to choose whether, when or how often she will have children, if she is routinely denied the opportunity to consent to sexual relations, or to choose whether and whom she marries. Clearly, gender violence is a barrier to equality (Cook, 1994; Peters and Wolper, 1995).

Women’s entitlement to economic rights like employment, ownership of assets like land and house, and access to credit will provide women power to exercise their rights. This will change the existing structure and distribution of power. These changes will enhance women’s autonomy in household decision-making, and participation in community activities. The idea is that empowerment attends to power, and power difference is the basis of unequal gender relations. Women’s empowerment could be achieved by enacting and enforcing anti discrimination laws, providing genuine protection against domestic violence, reducing socio-economic and gender disparities, and altering divorce, property, and estate regulations. Women’s economic vulnerability is a crucial factor of their powerlessness and voicelessness. Therefore, women’s access to and control over economic resources are believed to be necessary condition to attain social power, autonomy and empowerment. In this context, women’s access to financial services like micro-finance credit schemes is an important factor in enhancing income. Researchers around the globe have demonstrated that women’s ability to control income enhances their
empowerment through increased self-confidence, greater power in marital relationships and increased decision-making in the household (Blumberg, 1988, 1991; Rao, 1993). Moreover, women use the resources more efficiently than men. Also, women devote a higher proportion of income to family well-being, especially children’s nutrition (Beneria and Roldan, 1987; Blumberg, 1988). Blumberg (1991) in her general theory of gender stratification posits that relative economic power, specified as control of strategic resources such as income and property, is the key factor affecting gender stratification at a variety of “nested levels” ranging from the household to the state level.

Women’s ownership of productive assets, especially land, is a very crucial determinant of women’s well-being and empowerment in agrarian societies (Agarwal, 1994). Women’s ownership of productive assets can provide them protection against economic shocks and social risks (Agarwal, 2000). She also shows that women’s access to social support from the state, kin network and women’s organizations also enhances their bargaining power. Moreover, control over productive assets, social support and control over income are the critical factors for women’s participation in political activities. Therefore, promotion and protection of these critical rights can not only prevent violence against women, they will also empower women. In the long run, the realization of these economic rights along with reduced violence will help advance for overall empowerment.

**Health Consequences of Domestic Violence**

Violence began to be addressed as a public health and medical care issue in the early 1980s (Waller, 1994). In 1985, Surgeon General C. Everett Koop formed the Workshop on Violence and Public Health to focus professionals on the nature and consequences of violence. The three factors that have contributed to the inclusion of violence against women as a public health problem were increased knowledge on the prevalence and effects of partner violence, the efforts of advocacy groups (Hagen and Postmus, 2000), and growing awareness of the impact of violence against women on health care utilization. As a result, the Public Health Service’s priority-setting document *Healthy People 2000* includes six objectives directly related to violence against women.
Women who have experienced physical, psychological and sexual violence are at higher risk of unwanted pregnancy, high risk pregnancy, and adverse pregnancy outcomes and of contacting sexually transmitted diseases including HIV/AIDS (Maman et al., 2000; Martin et al., 1999a). In fact, there is a strong link between domestic violence and HIV prevention strategies. Public health practitioners may educate women about the risks of sex and drug abuse, or, they may even distribute the means for behavioral changes (e.g., condoms and sterile injection equipment). But, if women are physically and psychologically abused by their husbands, they remain powerless to reduce their risk of HIV (Mann et al., 2000). Physical violence leads to injuries, fatal outcomes (less common) and functional disorders (most common) such as chronic pain syndrome, gastrointestinal disorders etc. Domestic violence leads to stress and stress-related mental illnesses among women such as post-traumatic stress syndrome, depression and low self-esteem. These mental health problems have a higher risk for suicide and suicide attempts (Astbury, 2000, INCLEN 2000).

Violence during pregnancy is an important cause of maternal deaths in India (Ganatra et al., 1998), Bangladesh (Fauveau et al., 1988), and the US (Dennenberg et al., 1995; Harper and Parsons, 1997). Recent evidence from Nicaragua and India suggests that violence may also directly or indirectly affect child mortality (Asling-Monemi et al, 2002; Jejeebhoy, 1998a). Numerous studies have revealed how a woman’s sexual and reproductive autonomy may be compromised by her fear or experiences of violence (Heise et al., 1999; Petchesky and Judd, 1998). All these short-term and long-term health consequences of violence across the countries clearly indicate that “right to health” cannot be fully realized without providing adequate protection against domestic violence. Studies suggest that the incidence of domestic violence is high during pregnancy. One study reports, for example, that of the 40 per cent women reporting physical violence, 50 per cent experienced violence during pregnancy, an experience that is uniformly reported by women across all socio-economic strata (INCLEN, 2000). Foetal and infant deaths have also been associated with the experience of domestic violence during pregnancy (Jejeebhoy, 1998a; Ramasubban and Rishyasringa, 1998).
The application of a traditional public health perspective to the problem of violence against women involves identifying its prevalence, pattern variations within a population, and risk factors; developing causal models; and developing and testing preventive intervention strategies at the individual, social, and physical environment levels (Chalk and King [1998]; Moracco, Runyan, and Dulli, 2003). This research approach is based on public health’s considerable success in studying and responding to infectious and chronic disease. However, the usefulness of this approach in understanding and intervening in intimate partner violence has not been proven.

The focus on community health promotion has led to the development of largely school-based interventions aimed at preventing partner violence by targeting potential abusers and victims (Foshee et al., 1996; see also Cascardi and Avery-Leaf, 2000).

In the medical care arena, the focus on violence against women is generally limited to screening, identifying, referring, and treating victims of partner violence (Campbell and Boyd, 2000). This reflects the medical care system’s historic focus on the diagnosis and treatment of individual patients rather than on the larger social problems and forces that create the problems (Randall 1990). Thus, there has been a proliferation of interventions aimed at improving screening and referral with limited evaluation of and unclear effect on violence against women.

Because the majority of violence against women cases consists of less severe forms, most women who are the recipients of these acts are not physically injured and do not require medical intervention (Stets and Straus, 1990). The National Violence Against Women Survey found that 36 percent of rape victims and 42 percent of physical assault victims reported injuries and between 28 and 31 percent of them received medical care. The most common injuries are scratches, bruises, and welts (about 72 percent of rape victims and 76 percent of physical assault victims who are injured); lacerations and knife wounds (9 to 15 percent); and broken bones and dislocated joints (6 to 11 percent). Perpetrator substance abuse is a significant predictor of injury (Tjaden and Thoennes, 2000). However, injuries do not appear to be the most common health related after effect of violence against women.
Physical Complaints and Symptoms

Abused women have generally poorer health and more symptoms than non abused women (Attala, 1994; McCauley et al., 1995). Among the symptoms commonly associated with physical violence are gastrointestinal disorders, chronic pain, fatigue or low energy, dizziness, loss of appetite and eating disorders, and gynaecologic and urologic disorders. Alcohol and drug abuse and other risky health behaviors are also after effects of physical violence. Both abused pregnant women and their fetuses are at risk for a number of negative outcomes, including miscarriage, preterm labor, and neonatal death (Webster, Chadler, and Battistutta, 1996). In addition, violence against women may influence pregnancy outcomes through its effect on health behaviors, such as smoking and substance abuse (Martin et al., 1996).

Like victims of physical abuse, victims of sexual assault have higher rates of both medically explained and unexplained symptoms compared with non victims (Kimerling and Calhoun, 1994; Golding, Cooper, and George, 1997). In general, victims of sexual assault are at higher risk for all the symptoms and health outcomes associated with physical violence. Gynaecological symptoms may be even more prevalent among victims of sexual abuse, including increased risk of sexually transmitted disease infections (e.g., Murphy, 1990), pregnancy (e.g., Koss, Woodruff, and Koss, 1990), and sexual problems and dysfunction (Campbell, 1989; Eby et al., 1995). Women assaulted by someone known to them are more likely to have sexual problems than those assaulted by strangers (Becker et al., 1984). Although many sexual assault survivors recover within 6 months, at least 20 percent (Resick, 1993) and as many as 70 percent have reported long-term problems (Burgess and Holmstrom, 1974).

The link between perpetration of violence and experience of symptoms of infection has been observed. Studies have hypothesised that women who suffer physical violence are less likely to be in a position to negotiate safe sex or condom use with their husbands. There is also evidence that men who admit perpetrating violence on their wives also admit multiple partner sexual relations and non-use of condoms (Verma and Collumbien, 2003). Data reveal that abusive men are more likely to engage in extra-marital sex and have symptoms of STIs, thereby placing their wives at risk of acquiring infection (Martin et al., 1999; Verma and Collumbien, 2003).
Mental Health Effects

Physical abuse has consistently been found to be associated with several adverse mental health outcomes, such as depression (Campbell, Sullivan, and Davidson, 1995; Plichta, 1996; Stets and Straus, 1990), suicide and suicide attempts (Gelles and Straus, 1990), posttraumatic stress disorder (PTSD) (Astin, Lawrence, and Foy, 1993; Saunders, 1994), other forms of anxiety (Follingstad et al., 1991; Mecauley et al., 1998), and alcohol and drug abuse and dependency (Kilpatrick et al., 1997; Miller and Downs, 1993; Plichta, 1996). The negative mental health effects of sexual assault and rape have been extensively documented and substantially overlap with the effects of physical violence. Short-term emotional reactions to sexual assault include “shock, intense fear, numbness, confusion, extreme helplessness, and/or disbelief, in addition to self-blame” (Goodman, Koss, and Russo, 1993, p. 82). Mental health effects associated with sexual assault include fear, PTSD, anxiety disorders (including phobias and obsessive-compulsive disorder), depression, suicide attempts, sexual dysfunction, reduced self-esteem, relationship problems, and substance abuse (Collins, 1998; Goodman, Koss, and Russo, 1993; Kilpatrick, Edmunds, and Seymour, 1992; Resick, 1993; Teets, 1997; Zweig, Barber, and Eccles, 1997). One research review found that symptoms begin to subside for most victims after 3 months, but little spontaneous recovery occurs after 1 year. Thus, a subset of victims experience problems such as fear, anxiety, PTSD, depression, suicide attempts, sexual difficulties, and substance abuse on a chronic level (Resick, 1993).

Although it has not been thoroughly researched, emotional abuse also appears to be associated with compromised psychological well-being. Both overt and subtle psychological abuse have been found to influence a range of mental health and well-being outcomes, even when the effects of physical and sexual abuse are considered (Marshall, 1999). Psychological abuse is regarded by many women and researchers as more distressing and harmful than physical abuse (Follingstad et al., 1990; Marshall, 1994). Emotional abuse is associated with lower self-esteem (Aguilar and Nightingale, 1994; O’Leary and Jouriles, 1994; Orava, McLeod, and Sharpe, 1996), depression (Rollstein and Kern, 1998), somatic problems (such as headaches), and post traumatic effects (Arias and Pape, 1999; Loring, 1994). Results from the National Violence against Women Survey suggest that victims of stalking experience considerable distress, and stalking typically activates a protective or help-seeking response. Almost 33 percent of self-reported
stalking victims sought counseling, 25 percent lost time from work, 22 percent took extra precautions, 18 percent sought help from friends or family members, and 17 percent acquired a gun (Tjaden and Thoennes, 1998b).

Evidence on the links of violence to mental ill-health in India is limited but studies from other countries suggest that perhaps the most long-lasting and persistent effects of violence are such mental health outcomes as depression and post-traumatic stress disorder, as well as sexual dysfunction and suicidal behaviour (Patel, 2002).

The more severe, frequent, and long-lasting the abuse is, the more likely it is that the victim will experience symptoms and the more severe those symptoms are likely to be (Follingstad et al., 1991; McCauley et al., 1998; Stets and Straus, 1990). The harmful effects of abuse may linger significantly beyond the end of the abuse. For example, a rape that occurred 10 or more years ago can be associated with current overall health status (Leserman et al., 1997). In addition, a history of childhood physical and sexual abuse, common in women abused as adults (McCauley et al., 1997), exacerbates the effects of current physical violence (Plichta, 1996; Weaver and Clum, 1996) and has especially deleterious effects on adult victims of sexual assault (Becker et al., 1984).

**Violence, injury and related treatment-seeking**

Studies have underscored that injuries resulting from domestic violence are widespread and severe. A multi-site study reports that almost half (45.3 per cent) of women who faced violence reported injuries that required treatment, and only half these women reported receiving health care. Of these, 23.5 per cent required treatment on more than five separate occasions, and 187 women out of a sample of 9,938 required hospitalization as a result of their injuries (INCLEN, 2000). A similar study in Gujarat found that only 10 per cent reported requiring medical attention for injuries, and only 38 per cent of these women actually sought treatment (Visaria, 1999b).

The main reasons underlying women’s reluctance to seek care relate to gender norms and power imbalances, embarrassment and shame, preference for relying on home remedies, and lack of control over economic resources required to seek care (INCLEN, 2000). Women’s inability to
seek redress at the health system level is compounded by provider attitudes and skills. Many health care providers do not recognise a case of domestic violence, are not trained to assess or probe suspicious injuries in a sensitive manner, and consequently opportunities to identify and provide support to battered women are lost. This lack of skill and sensitivity is reflected in under-reporting of domestic violence in facility records and reports, and in treating and managing such cases (Jaswal, 2000).

**International studies on Domestic Violence**

Internationally, the subject of domestic violence has moved to the forefront of research and policy. Domestic violence has become an issue of increasing importance and a number of studies have been conducted in recent decades. In the analysis of data from the 1985 National Family Violence Re-survey, it was found that there were no differences in reports of domestic violence between pregnant and non-pregnant women, after controlling for age (Gelles, 1988).

Strauss (1980) had reported that 11.6 to 12.6 percent of couples beat up each other at some time during their relationship; but he did not find long-term prevalence of violence against individuals, in the national probability samples that he examined although 28 to 30 percent of couples had experienced some domestic violence during the course of their marriage life. Generally a mean of six violent episodes were reported a year. Frequent alcohol use by the male partner has been found to be associated with increased likelihood of violence in the home.

Historically, socio cultural risk factors establish a broad context that has made many forms of violence against women socially acceptable. Sexism in American society and sex-role stereotyping contribute to both physical and sexual victimization of women. A recent review of research attributes social acceptance of violence to “historically male dominated social structure and socialization practices teaching men and women different gender-specific roles” (Kantor and Jasinski, 1998, p. 13). Research comparing rates of marital violence across States has concluded that rates are highest “in those [American] states where structural inequality in economic, educational, political, and legal institutions is greatest,” thus supporting patriarchy as a contributing factor (Yllo and Straus, 1990, p. 397). Research on cultural explanations for rape rates across States has reached the same conclusions (Baron and Straus, 1989). The impact of
cultural values has also been examined at the individual level, but findings have been inconclusive. Some studies find that men who sexually assault women are more likely than other men to see sexual violence as acceptable (Burkhart and Stanton, 1988), although other researchers have not consistently reached this conclusion (Neff, Holamon, and Schluter, 1995; Sugarman and Frankel, 1996). Sugarman and Frankel (1996) concluded that assaultive men had more positive attitudes toward violence than non violent men, but violent behavior was not associated with the trait of masculinity. In addition, they found that abused women hold more traditional gender role orientations than non abused women, which may account in part for the difficulty some women experience in extricating themselves from abusive relationships. Thus, research is inconsistent regarding whether traditional sex roles are a risk factor for violence against women (O’Leary and Cascardi, 1998).

Race and ethnicity have been widely researched as possible risk factors for violence against women, but the results have been inconclusive. Some studies show that black women experience higher rates of physical violence than white women (Neff, Holamon, and Schluter, 1995; Sorenson, Upchurch, and Shen, 1996). Other research reports higher rates for whites than for Hispanic women (Neff, Holamon, and Schluter, 1995; Sorenson and Telles, 1991) or no racial or ethnic differences (Bachman and Saltzman, 1995; Tjaden and Thoennes, 1998a). Many of these studies have not considered the effects of socioeconomic status, which is correlated with race and ethnicity, so they may overestimate the effect of race on violent victimization. For example, when Straus and Smith (1990) controlled for age, income, and urban residence, the apparently higher rate of spouse abuse for Hispanic families disappeared.

Two kinds of social structural risk factors have been investigated: economic status and community factors. Domestic violence occurs in households of all income levels, but researchers agree that low income is a risk factor for partner violence (Bachman and Saltzman, 1995; Greenfeld et al., 1998; Plichta, 1996). It is not only severe poverty and its associated stressors that increase the risk for partner violence. Higher income correlates with lower reported intimate violence rates. For example, in a large national sample, Sorenson, Upchurch, and Shen (1996) found that families with incomes below $40,000 were at higher risk. Several studies have also found unemployment of the male partner to be a risk factor (Straus and Gelles, 1986). Low
income has also been found to predict the continuation of violence over time (Aldarondo and Sugarman, 1996), with higher income a predictor of cessation (Aldarondo and Kantor, 1997). Economic status may increase the risk of violence in two ways. First, insufficient income can affect the perpetrator. Second, researchers have documented that poverty or economic dependency on the abuser can also be a barrier to the victim’s ability to terminate an abusive relationship (Horton and Johnson, 1993; Strube and Barbour, 1983; Sullivan et al., 1994; Woffordt, Mihalic, and Menard, 1994). The most compelling finding regarding community-level risk factors is that rates of intimate partner violence are highest in urban areas (Greenfeld et al., 1998; Plichta, 1996; Sorenson, Upchurch, and Shen, 1996). Little has been written about how urban life may increase the risk for violence, but associations between urban residence and poverty may account for the relationship. This finding has significant implications for prevention and intervention efforts.

A second community-level risk factor relates to the availability and quality of prevention and intervention services. A lack of services increases the risk that a victim will stay in an abusive relationship or be unable to address the consequences of physical or sexual abuse. In the past, the lack of services was a major barrier that prevented women from addressing the consequences of violence against women, and abused women were often “frustrated in their efforts to obtain help from traditional institutions such as the criminal justice, legal, and mental health systems” (Mitchell and Hodson, 1983, p. 633). Since the 1970s, services, especially domestic violence programs and rape crisis centers, have grown dramatically (Chalk and King, 1998); however, victims were often dissatisfied with the help they received from community agencies through the middle 1980s (Gondolf and Fisher, 1988).

Although it is often assumed that factors such as poor problem-solving and communication skills and unilateral power and decision making are significant risks for partner violence, there is little research comparing violent and non violent couples on these dimensions. Based on data from the 1975 National Family Violence Survey, Kalmuss (1979) concluded that highly dependent wives were significantly more likely to experience marital violence because “wives who are highly dependent on marriage are less able to discourage, avoid, or put an end to abuse” than wives in more egalitarian relationships. Victim substance abuse and serious mental health problems can
increase dependency and interfere with a woman’s ability to prevent violence or leave an abusive relationship once it has developed (Hilbert, Kolia, and VanLeeuwen, 1997).

Research also suggests that conflict is an important risk factor for partner violence. An early study showed that both male and female dominance were associated with marital conflict, which was in turn predictive of violence unless the wife believed that the husband should be dominant (Coleman and Straus, 1990).

A study in mainland China has examined the extent to which wife-abuse exits under the Communist regime. An attempt was made to delineate the prevalence of and the changing trends in wife-abuse and to establish the linkages between wife-abuse and the underlying social mechanisms. Survey data on marriage and family relations in Chengdu, not collected specifically for a wife-abuse study but contained useful information, were utilised for the purpose. The sample comprised 586 ever-married women between the ages of 20-70 years, via a random sampling procedure. Another survey of Hebei province from Baoding had a sample of 636 ever-married women. Both these samples were compared to see the prevalence of and changing trends in wife abuse. A composite index of wife-abuse, following the Strauss and Gelles model, was obtained and statistical models were used for obtaining results. It was found that urban China was not free of family violence. In the Chengdu sample, husbands were seen to have abused about 57 percent of their wives at some point of time or the other during the course of married lives. The incidence of non-physical abuse appeared more frequently than physical abuse. Patriarchal family system and gender inequality within the family are responsible for the prevalence of wife-abuse. Close-knit kinship ties and living with parents were found to be effective in lowering wife-abuse (Xu, 1995).

Given the current level of public concern and policy reform surrounding domestic violence, sexual assault, and stalking, it would be easy to overlook the fact that much of what is called violence against women today was classified in the domain of private, interpersonal relationships a few decades ago. Historically, limitations on women’s activities, legal protections, and political rights were justified in terms of women’s presumed delicacy and emotionalism. Men presumed
role as leader and decision maker in both public and private life was another important factor (Dobash and Dobash, 1979; Pleck, 1987).

Ramfrez and Vazquez (1993) conducted a cross-sectional study, on the epidemiology of violence within the home against women and girls older than 12 years, in the state of Jalisco in Mexico. The findings show that 44 percent of the 1163 rural women and girls and 57 percent of 1228 urban women and girls reported being physically abused in their homes. They reported that husbands inflicted the abuse in 60 percent of the cases and parents in 40 percent. Among the demographic variables examined, low levels of education and families with seven children or more were associated with domestic violence.

In Pakistan also, domestic violence is found to have emerged as a reproductive health and rights issue. A study was carried out in three out-patient clinic facilities catering for the low and middle income population of Karachi. The criterion for selecting the respondents was: currently married; living with their husbands for at least past one year; and permanent residents of Karachi. The results of these cross sectional study of 150 women revealed that they are subject to violence at an alarming proportion with serious consequences to their physical and mental health. Nearly one-third of the women had experienced physical violence at least once in marital life, the reasons being financial constraints, children or in laws, although these factors were not significantly associated with anxiety/depression. The study suggests that appropriate intervention strategies should be undertaken to generate awareness about the health consequences of wife-battering (Fikree and Bhatti, 1999).

The results of the first large-scale, community-based study conducted in rural South Africa show that intimate partners has assaulted 25 percent of women. The 1306 women interviewed were randomly sampled from Eastern Cape, Mpumalanga, and the Northern Province. It is estimated that during the final year of the survey, physical injury to women in these provinces cost the health system about US$4.86 million. And it is found that women appeared to contribute to their abuse by supporting patriarchal beliefs. A third of the women in Northern Province, for example, believe that being beaten by their partners is an expression of love. In the second study, interviews with 1394 male council workers in Cape Town in the Western Cape Province showed
that about 50 percent of workers admitted to having physically abused their female partners in the past decade.

A population-based survey was carried out in 1993 in Nicaragua on the issue of wife abuse. The study aimed at measuring the prevalence, frequency, and severity of physical abuse of women by current or former intimate partners and to identify associated risk factors. A cross-sectional survey was performed in Leon, Nicaragua’s second largest city. A representative cluster sample of 10867 women (15 to 49 years old), was developed for a household survey on reproductive and child health was used to obtain a sub-sample of 566 women. Of these women, 488 were identified and interviewed. No woman refused to be interviewed. The findings show that one-half of ever-married women of childbearing age in Leon had experienced physical violence from a partner at some point in their lives and one out of five women had received severe beatings within the past one year. However, it is unknown whether this association and the one between violence and urban/rural zone are due to actual variations or whether they simply reflect a greater reluctance of both rural women and women of higher socio-economic status to disclose violence. The association found between violence and a history of violence in the husband’s family is consistent with research findings in other countries suggesting that violent behaviour may be learned from childhood experiences. The study concludes that wife-abuse represents a significant public health concern in Nicaragua, in terms of its high prevalence as well as its frequency and severity, and that Nicaraguan women experience the risk for spousal abuse, regardless of age and educational background.

In order to study the incidence of domestic violence against women in pregnancy, women attending the ante natal clinic of a local teaching hospital in China Tsan Yuk were interviewed by a designated research nurse in a private setting with the husband or male partner absent. Verbal consent was obtained from the woman before the interview. The questionnaire was derived from the Abuse Assessment Screen. Of the 631 women interviewed during their first antenatal visit, 113 (17.7 percent) had a history of abuse. Domestic violence occurred during the current pregnancy in 27 women (4.3 percent). About 23 women (3.6 percent) said that they were afraid of their partner: 17 of them belonged to the abused group (17.2 percent). The husband was the perpetrator in the majority of cases, 86.9 percent of the abused group as a whole, 77.8 percent
of violence during pregnancy, and 96.6 percent of sexual abuse. The mean age was 29.1 years for
the abused group and 29.6 years for the non-abused group. The incidence of abuse was
significantly higher among the Chinese (17.2 percent) than among the non-Chinese (6.6
percent); and higher among single/divorced/widowed women, and smokers, drinkers and
unemployed women, although the difference was not statistically significant. Risk factors for
abuse that were statistically significant included unplanned pregnancy (P=0.002) and women
with husbands/partners who were manual workers or unemployed (P<0.05). No difference was
found between the abused and the non-abused groups in terms of the number of years of
marriage, parity, gestation at first antenatal booking, drug abuse, and total family income.

A similar study was undertaken in Bangladesh to examine three occasions of sexual violence
within marriage – namely, violence during menstruation, pregnancy, and neonatal periods. The
reference period was one year. Data for this research were collected from an intensive
monitoring system known as Watch 3 in 70 villages located in 10 regions of Bangladesh. A team
of 10 resident female researchers who stayed in the study villages for more than two years
conducted in-depth interviews. A structured questionnaire was used to collect detailed
information of their socio-demographic characteristics and their involvement in credit
operations. The interviewers kept intimate relationships with the participants as they visited the
women once a month for two years consecutively as part of a larger study. Nearly one-third of
the sample women were found to participate in credit-based income-generating projects, whereas
the other two-thirds were not.

The study focused on the association between the participation of women in credit-based
income-generating programmes and the prevalence of sexual violence in rural Bangladesh.
About 27 percent reported that they had been victims of sexual violence at least once in the past
year. Nearly eight percent had encountered situations in which they were forced to engage in
sexual acts during their menstrual period, although the menstrual period is regarded as an
unhygienic condition of a woman, from a religious point of view. The occurrences of sexual
violence by socio-demographic characteristics suggest that prevalence of violence varies by age,
education, and economic status. In general, sexual violence declines with age of both the
spouses. For example, forced sex during menstruation and neonatal period is very high among
young women (15-19 years). Marital rape during pregnancy remains high until women become 30 years old. It is interesting to note that sexual violence during pregnancy and neonatal periods drops significantly when husbands reach the age of 40 years. Older women are less likely to be abused than younger women. It is quite possible that older women achieve a respectable position in the family as a result of becoming the mother of adult children. The prevalence of sexual violence is reasonably high, and it might have already created significant health problems among women in Bangladesh. Although a negative association between the behavioural aspects of micro-credit programmes and the prevalence of sexual violence is established in this research, it is clear that credit programmes alone cannot do much to have a significant impact on reducing violence against women (Abdullahel Hadi, 2000).

Using a large-scale survey among women of reproductive-age in rural Bangladesh, an attempt was made to present evidence on the prevalence of domestic violence in this population. Subsequently the determinants of domestic violence within this population were explored for the effects of both individual and community-level factors. Data for the study came from the MCH-FP Extension Project of the International Centre for Diarrheal Disease Research, Bangladesh (ICDDR, B). At the time of the study, the Extension Project was located in two separate areas of rural Bangladesh - the Sirajgonj area in the north central region of the country, and the Jessore area in the south-western part of the country, adjacent to the Indian border. All currently married women aged 15 to 49 years in existing SRS households were included in the sampling frame. A total of 10,368 women were successfully interviewed over the period June through December 1993, representing over 90 percent of the sample of women eligible for inclusion in the survey. The questionnaire included a range of issues related to the household: socio-economic and demographic characteristics, health and family planning service utilisation, and women’s status and mobility. The module also included a limited subset of questions on domestic violence. With regard to household characteristics, a highly significant and strong inverse relationship between landholdings by women and the risk of domestic violence is found in both the areas. Women in non-Muslim households, those married to educated husbands, and women married for longer durations (20 years or more) all experienced significantly low levels of domestic violence. Contrary to expectations, a larger number of living sons is not protective condition for women against violence; it is only weakly associated with higher risks of violence. With respect to
parental support variables, either proximity of parents’ residence or substantial assistance from parents is significantly protective against violence. In both the study areas, education of the wife was found to exert a highly significant inverse relationship with the risk of violence. In culturally conservative settings physical mobility of women into activities regarded as almost exclusively belonging to the male space’ and resulting in increased contact with men, is likely to generate grounds for conflict within the family. Higher maternal education was found to be inversely related to domestic violence in both the study areas. The presence of women’s savings and credit groups confers significant protection against the risk of domestic violence. This effect appears to operate largely at the community rather than at the individual level (Koenig, et al, 1999).

In East Asia, while national economies grew, the human costs of the gain included continued social stress and fragmentation. Increasing domestic violence, street crime, and suicides have been reported in Malaysia, Thailand, and Korea. In Korea, a hotline for women received an escalating number of calls from women suffering from domestic violence – seven times as many as during the year 1998 (UNDP 1999). To quote a WHO study, the study reports that violence against women exists in epidemic proportions in many countries around the world. The study reports, that domestic violence rates varied between 15 percent of women having been a victim of domestic violence during their lifetimes in Japan to 71 percent in Ethiopia. Previous research has found rates of about 20 percent in the United States and Sweden and 23 percent in Canada and Britain (Researcher, Lori Heise PATH). In surveys conducted in various countries, between 10 and 69 percent of women reported having experienced domestic violence. By region, 10 - 35 percent of women in Latin America and 13 - 45 percent of women in sub-Saharan Africa have experienced physical intimate partner violence at some time in their lives.

Violence is an interpersonal process (Busby, 1996), or an act carried out with the intention or perceived intention of causing physical pain, or injury to another person (Gelles and Strauss, 1988). Violence exists within the family. This is called Family violence or Domestic violence. Domestic violence is a pattern of coercive behaviour that involves physical abuse or the threat of physical abuse. It also includes repeated psychological abuse, rape, sexual assault, sexual abuse, incest, progressive social isolation, deprivation, intimidation, economic coercion, and so on. It is now politically recognized as one of the most entrenched and pervasive forms of violence in our
society (James, 2004). It is a form of violence perpetrated by adults or adolescents against their intimate partners in current or former dating, married or cohabiting relationships of homosexuals, gay men, lesbians, bi-sexuals and transgender people (Nevada Domestic Violence Prevention Council, 2004). Domestic violence may be against women (wife battering), children (physical abuse) or against elderly individuals (abuse or neglect of older persons). A lot of factors contribute to domestic violence. These include, hunger, difficulties with sleep, menstrual cycle mood changes, feelings of frustration and inadequacy, personality disorder, substance abuse (abuse of alcohol), brain tumor, head injury and personality change.

The National Organization for Women (NOW) played an active role in the formation of the first task forces on woman abuse, and by the middle 1970s, the first shelters had been formed in Boston, Ann Arbor, San Francisco, and Minneapolis (Okun, 1986). At the same time, NOW was instrumental in some communities in the development of rape crisis centers (Koss and Harvey, 1987). Although not coordinated or integrated, the rape crisis and battered women’s movements had several important similarities. Both efforts were social change movements that emerged in the early 1970s. Both were strongly grounded in a feminist awareness and analysis of the problem. (This fundamentally social analysis perceived violence against women as inevitable given the position of women in society and the treatment of women historically.) Both movements believed that the solution was not to change individual women but to change the society that socialized men to believe they were entitled to control and dominate women. Both movements embraced the twin goals of providing support and assistance to victims and community education aimed at preventing violence against women. As social movements, both challenged traditional, male-oriented organizational structures and were committed to forming new organizational structures, such as collectives, that were not patriarchal and were less hierarchically organized (Harvey, 1985; Koss and Harvey, 1987). Both began with few resources and were financed primarily by volunteer contributions. Over time, both movements increased and diversified their funding structures, professionalized their staffs, and in some cases became more conventional and less alternative organizations (Harvey, 1985; Koss and Harvey, 1987; Roberts, 1981, 1998).
Individual Risk Factors—Perpetrators

Individual risk factors affecting perpetrators have been studied extensively. Age is among the best documented individual risk factors for physical and sexual violence for both victims and perpetrators, with younger age being at greater risk (Bachman and Saltzman, 1995; Koss, Gidycz, and Wisniewski, 1987; Pan, Neidig, and O’Leary, 1994; Plichta, 1996; Sorenson et al., 1987; Tjaden and Thoennes, 1998a). Substance abuse, especially alcohol use and abuse, has also been found to be associated with both partner violence (Aldarondo and Kantor, 1997; Kantor and Jasinski, 1998; Leonard and Senchak, 1996; Pan, Neidig, and O’Leary, 1994; Woffordt, Mihalic, and Menard, 1994) and sexual assault (Ullman, Karabatsos, and Koss, 1999). Between 33 and 66 percent of sexual assaults are reported to be alcohol related (Ullman, Karabatsos, and Koss, 1999).

Numerous perpetrator personality characteristics or traits have been studied as antecedents of physical or sexual abuse, although findings have been inconclusive. It is clear that there is no single male personality type that is prone to sexual or physical violence. Kantor and Jasinski’s (1998) review of research concluded that the following are personality risk markers for male partner abuse:

- Emotional dependence and insecurity.
- Low self-esteem, empathy, and impulse control.
- Poor communication and social skills.
- Aggressive, narcissistic, and antisocial personality types.
- Anxiety and depression.

Some research has attempted to identify different types of batterers (Holtzworth-Munroe and Stuart, 1994). These studies have concluded that there may be several different types of abusive men. At least two types—one that is violent only toward intimates and another that more generally is violent toward others—may require different types of interventions. Because emotional or psychological abuse typically precedes and accompanies physical abuse (O’Leary, Malone, and Tyree, 1994), emotional abuse should also be considered a risk factor.
A history of violence in the family of origin has been extensively researched, with most researchers concluding that exposure to violence between parents and being the recipient of violent punishment are risk factors for violence toward intimates as an adult (Aldarondo and Kantor, 1997; Barnett and Fagan, 1993; Leonard and Senchak, 1996), but not all studies have supported this conclusion (MacEwen and Barling, 1988; Riggs and O’Leary, 1996).

Although stress is assumed to be a risk factor for violence against women, there is limited research support for this assertion. One study found that men who were violent toward intimate partners reported more stressors (Barnett and Fagan, 1993), but another found that work and marital stressors were not predictive of partner violence (Pan, Neidig, and O’Leary, 1994). The relationship between stress and intimate partner violence is complex and may be affected by other important factors, such as social isolation, the husband’s belief that he should be dominant or his approval of violence, and his exposure to violence as a child (Straus, 1990).

**Individual Risk Factors—Victims**

It is difficult to study risk factors for victimization because most studies do not identify victims until after abuse has occurred. Consequently, what appears to be a risk factor might actually be a consequence of victimization. This is especially true for social isolation and substance abuse. There is strong research support for the assertion that earlier victimization, especially childhood physical and sexual abuse, and witnessing violence between parents increases the risk of sexual assault and partner violence in adulthood (Collins, 1998; Gidycz and Koss, 1991; Maker Kemmelmeier, and Peterson, 1998; Miller and Downs, 1993; Weaver et al., 1997).

Substance abuse has also been studied as a risk factor for victimization, especially sexual assault. Several studies have documented the association between alcohol or drug abuse and physical (Hilbert, Kolia, and VanLeeuwen, 1997; Plichta, 1996) and sexual victimization (Collins, 1998; Miller and Downs, 1993; Teets, 1997). Kilpatrick and colleagues (1997) attempted to disentangle substance abuse as a cause or effect of violent victimization in a 2-year longitudinal study that concluded that substance abuse, especially drug use, is both a predictor and an effect of violent victimization, affecting young women and minority women in particular. Abuse of alcohol or
drugs, which may have origins in childhood victimization and the ongoing distress it causes, appears to be associated with the kind of lifestyle and male relationships that increase women’s risks for victimization and makes it more difficult for women to terminate abusive relationships (Hilbert, Kolia, and VanLeeuwen, 1997; Kilpatrick et al., 1997; Weaver et al., 1997).

Social isolation of abused women has been documented by researchers. Although it can be a consequence of abuse, it may also serve as a risk factor. It is plausible that women with greater social support are less likely to be physically or sexually assaulted, and thus social support may be protective. The research of Nielsen, Endo, and Ellington (1992, p. 381) suggests that social isolation both precedes and follows partner violence. Research suggests that abusive men often attempt to control their partners by cutting them off from meaningful social contacts. In addition, isolated women and families may be less closely monitored by others, allowing abuse to occur more easily (Nielsen, Endo, and Ellington, 1992). Although social isolation has not been widely studied as a risk factor for sexual assault, Zweig, Barber, and Eccles (1997) found that it was one predictor of sexual coercion in young adults.

**National studies**

In India, domestic violence is emerging as a major social problem. However, until recently, the documentation on the prevalence and correlates of domestic violence against women has remained scant. In India, most of the studies focused on dowry-related violence and deaths (Vindhya, 2000; Waters, 1999; Parameswaran, 1996; Fernandez, 1997), childlessness (Kohher-Reissman, 2000) and the gender and agency dimensions of domestic violence (Hegde, 1996). Wife-beating alone has been the subject of research in two important studies by Jejeebhoy and Cook (1997) and Rao (1997).

In the study conducted by Rao (1997), ethnographic and econometric methods were used to study the determinants of wife-abuse in a community of potters in the Karanataka State in South India. The study used a mix of qualitative and quantitative data to examine the inter-connections among socio-economic conditions, status of women, marriage markets, family decision-making
processes, fertility, and health and nutrition. In-depth interviews and focus group discussions were conducted to draw hypotheses which were then tested with survey data collected from the same population using econometric techniques. The qualitative analysis based on interviews with 70 women and 30 men revealed that wife beating is a common practice, especially in mild forms, and that it is acceptable behavior in the community. It is not considered a problem. The causative factors of abuse, as revealed in the qualitative survey, included excessive liquor consumption by husbands, hostilities connected with dowry, female sterilisation, and the number of living male and female children. This indicates that the qualitative results and the quantitative evidence conform to each other.

It was found that sterilisation leads to fear on the part of husbands that their wives would turn unfaithful. On the other hand, female sterilisation indicates the end of a wife’s reproductive phase and lowers the husband’s costs of sexual violence towards her. While the number of living female children has a positive but insignificant effect, the number of male children reduces the incidence of wife-beating.

Visaria (1999) found in Kheda district of Gujarat that two-thirds of the women had undergone some form of psychological, physical or sexual abuse. Each form of abuse cut across all ages, castes, and education all levels. The most frequently reported types of violence against women were abusive language (80 percent), beating (63 percent), forcing women back to their parental home (52 percent) and threats to thrown them out (51 percent). Women from Scheduled and other backward castes reported much higher incidence of physical abuse than others. The causes for violence were related to complaints about meal preparation and childcare and economic stress. An important finding in this study is that women living in nuclear families reported more violence than women living in extended or joint families and that higher proportions of women married for long periods of time reported more episodes of physical violence than newly married women.

A study on women’s autonomy conducted in 1993-94 in two districts, each in Tamil Nadu and Uttar Pradesh addressed issues closely related to wife-beating, women’s decision making authority, personal freedom of movement, and wife-husband relations. A total of 1842 rural
women aged 15-39, constituted the sample. The respondents consisted of both Hindus and Muslims. Wife-beating was found to be widely prevalent in all settings, the most often stated cause of beating being ‘disobedience’ of the husband’s orders, or failure to meet husband’s expectations. Violence was justified because it was husband’s ‘prerogative’. The study held the state accountable for its failure to punish perpetrators (Jejeebhoy and Cook, 1997).

It is also found from various studies that close relatives, especially members of the husband’s family play important roles perpetrating violence against women (Devi Prasad, 1990; Fernandez, 1997). In a vast majority of cases, the perpetrator is the husband, assisted by the mother-in-law. Other members of the husband’s family such as brother-in-law and sister-in-law also are found to actively participate and abet the violence (Devi Prasad, 1990). In an enquiry which made 15 case studies in Bombay during 1985-99 it was found that domestic violence by extended family members in India constituted interplay of gender and generation. A young daughter-in-law is subordinate not only to men but also to older women in the family as well. Mothers-in-law and sisters-in-law contribute to the violence. The study concludes that Indian women’s experiences with violence vary by their generations or life cycle stages, social class, caste, and region.

A study by Sen (1998) examined violence in intimate relationships, namely women’s experiences of male violence at the hands of husbands (or male partners) in the city of Calcutta. Information was collected from 52 relationships by interviewing women about their histories including educational experiences, migration patterns, paid employment, and physical and sexual violence. It was found that in general, women suffered extreme physical abuse and for long durations. Employment of women was not found to be unassociated with violence, indicating that irrespective of whether a woman is an earning member or not, she faces hostility and violence.

An important dimension that has not been explored adequately is domestic violence against childless women. An attempt in this direction was made by Kohler-Reissman (2000) by analysing married women’s experiences and the processes of resistance and stigma. Childlessness is marked by profound psychological trauma and the role of the family and the community in the creation of such trauma is important. Rohler-Reissman interviewed 31
childless married women in the age group of 22-27 years in the State of Kerala. The narrative method was used to collect the data. Women described their experiences as shameful and distressed and considered their fate of childlessness abominable. They did not have a respectable status within the family; and it was difficult for them to attend family gatherings or festivities with humour. They are discriminated against in all social forums. Poor women become all the more detestable. But the strength of resistance to discriminatory behaviour is found to be more.

Domestic violence is also seen to be associated with the state of health of women, especially their reproductive and sexual health. The data come from a community-based survey in two culturally distinct sites of rural India, Uttar Pradesh and Tamil Nadu. The results suggest that wife-beating is deeply entrenched habit and that attitudes uniformly justify wife-beating. It was found that health consequences of domestic violence in terms of infant and foetal mortality are considerably high. The women who have suffered beatings appear to be significantly more likely than other women to have experienced foetal wastage or infant deaths irrespective of religion or residence. The association between wife-beating and foetal and infant mortality are found to persist, even after controlling for other factors. The results also suggest that wife-beating and mortality levels are higher in Uttar Pradesh where women are actually powerless than in Tamil Nadu where women have some measure of autonomy, and as a result of marriage and residential patterns, some support from kinsfolk.

As with family violence in western societies, violence within the Indian home has long been considered a private matter. However, towards the end of the 20th century the Indian women’s movement brought the problem of domestic violence to the forefront of feminist dialogue (Ray, 1999). These feminist analyses focused not only on the patriarchal ideology that supported the subordination of women in the family, but also on the extent to which such cultural norms differed by region, family systems, and class. Although there is evidence to support tremendous state variability in the status of women and the structure of the family (Bharat, 2001), there has not been a large-scale study of wife battery done in India (Vindhya, 2000). Miller (1999) believes that there is a need to get a more holistic view of the violence in India as “it is difficult to judge the extent of the problem, or which areas and sub populations are at risk”(Miller, 1999). Official estimates from the Ministry of Law, Justice and Company Affairs speculate that over
60% of urban households experience domestic violence (defined by the Indian Legal system as physical or mental torture), out of which 5% report the matter to the police and prosecute the perpetrator of the abuse (Jaising, 2001). While these figures have not been found in any national large-scale study, a few small-scale studies have documented high rates of violence (Visaria, 2000; Mahajan, 1990; Daga, 1998).

In a large multi-site household survey INCLEN recently estimated the intensity of domestic violence in India and its correlates and outcomes. The community, family, and individual factors associated with family violence were examined. A uniform sampling strategy was drawn and families in which at least one woman aged 15-49 (years) and who has at least one child (<18 years of age) living in the household were considered. A woman was randomly chosen from all eligible women within the household irrespective of whether she was currently married or not. The participation rate was 90 percent in the rural stratum and 76 percent in the urban slum and 67 percent in the urban non-slum. About 50 percent of the sample reported as having experienced at least one of the behaviours outlined above at least once in their married life. About 44 percent reported at least one psychologically abusive behaviour and 40 percent reported experiencing at least one form of violent physical behaviour. Dowry harassment was seen to have been one of the major precipitating factors of violence within the marital home. The gender gap in employment status emerged as an important risk factor for violence. More than half (58 percent) of the women respondents reported that the members of their immediate family were aware of the violence. In addition 41 percent of them reported that their neighbours also knew of the violence. However, only less than 10 percent had left their husbands; surprisingly, more than 55 percent of the women perceived violence as a normal part of marriage life.

Researchers studying violence in Chandigarh, Uttar Pradesh, Gujarat and Karnataka produce varied estimates of domestic violence that range from 33% to 66% (Magar, 2001; Mitra, 2000; Rao et al., 2000; Bhatti, 1990; Visaria, 2000; Poonacha & Pandey, 2000). Also, because of the severe social sanctions on women for even acknowledging that violence persists in the house, women do not generally come forward to report the violence. Examinations of health records reveal that women who are hospitalized because of beatings by their husbands refuse to identify or report the perpetrator (Vindhya, 2000).
Compared to Hindus, the odds of being beaten are higher if the woman is Muslim (1.15). Women from all other religions seem to fare better than Hindu women (Nivedita, 2000); the odds of being beaten for women living in a non-nuclear setting are actually less than those of women living in a nuclear household. Compared to respondents in families in which women made the decision themselves, those who lived in families in which the decision involved people other than their husbands had lower odds of being beaten. Natal family violence does have a strong relationship with likelihood of being beaten by one’s husband. All the results seem to show that the indicators of jointness (family structure, and decision-making), are associated with lower instances of domestic violence perpetrated by the husband. The zero order relationship between education and domestic violence reveals that education reduces the chance of domestic violence. The zero-order relationship between labor force participation and domestic violence reveals that the odds of being beaten are greater for women who work, especially so for women who work for someone outside the family. The odds that women who were allowed to have money set aside would be beaten are less than those of women who do not have that independence. The acceptance of justifications for violence increases the odds of being beaten by one’s partner.

A similar study by Martin, et al, has examined relationships between men’s reports of wife-abuse and reproductive health issues in Uttar Pradesh from the PERFORM survey in 1995-96. A total of 6632 married men aged 15 to 65 years who lived with their wives and completed all survey questions for the study variables were considered. The main measures used were physically and sexually abusive behaviours toward wives, sexual activities outside marriage, sexually transmitted disease (STD) symptoms, contraception use, unplanned pregnancies, and socio-demographic characteristics. The results indicate that 54 percent of men reported not having abused their wives; 17 percent reported physical but not sexual abuse of their wives; 22 percent reported sexual abuse without physical force; and 7 percent reported sexual abuse with physical force. Abuse was more common among men who had extramarital sex. Similarly, men who had STD symptoms were more likely to abuse their wives. Unplanned pregnancies were significantly more common among wives of abusive men, especially sexually abusive men who used force.
The study concludes that wife-abuse appears to be fairly common in northern India and that abusive men were more likely to engage in extramarital sex and have STD symptoms. It also suggests that the men who have STD symptoms might have acquired them from their extramarital relationships, and placed their wives at risk of STD acquisition sometimes via sexual abuse. These abusive sexual behaviours also would result in increasing the number of unplanned pregnancies (Martin, et al, 1999a and 1999b).

A study of domestic violence against women based on an investigation of hospital casualty records in Mumbai was undertaken by Daga, et al (1998). Data on all women whose cases were recorded in the emergency police register of the JJ Hospital during the year 1996 were examined. As many as 23 percent women came under the category of victims of domestic violence. They had either suffered assaults by a family member or a known person or, in a minority of cases, attributed the burns they suffered to their husbands or other family members. Another 44 percent women appeared to have been victims of violence; 19 percent refused to name the perpetrator of the assault; 9 percent attributed the burns they suffered to accidental stove burst; 16 percent were clear cases of attempted suicide. An important finding is that over one-fifth of the injuries took place during the late hours of the night, raising doubts about reports of accidents. Most women were of the 20-34 years age group. The results do indicate that violence is an invisible public health problem.

Swapna Majumdar in her article “Sexual Control and Violence” states that violence against women is neither culture nor region specific, it cuts across community and class, making no distinction. Shocking though it is, the fact is that violence against women is acceptable norm of life. Statistics reveal that 45 per cent of Indian women are slapped, kicked or beaten by their husbands. About 74.8 per cent of the women who reported violence have attempted to commit suicide. Based on a sample size of 10000 women, these figures are from a study conducted by the international Centre for Research on Women (ICRW) in collaboration with the International Clinical Epidemiologists Network in seven cities of India in the year 2000. The study also found that disrespect towards the husband was a key factor in linkages between violence and masculinity. According to study conducted in Rajasthan, Tamil Nadu, Punjab and Delhi 77 per cent of the men felt their masculinity was being threatened if their wives didn’t listen to them.
Neelam Heyzer, Executive Director UNIFEM said that one-third of the women in the developing world are daily subjected to domestic violence.

Given that women’s lives in India are to a large extent defined by the family, family characteristics such as the family’s religion, family type (nuclear or non-nuclear), socio-economic status, decision-making structure, and previous abuse in the natal family are inspected. Niveditha Menon and Michael P. Johnson of Pennsylvania State University conducted a study in Rural India explored the personal characteristics of women and its interconnection with the environment and family characteristics to give rise to women’s own individual experience of violence. Recognizing this interconnection, we will also examine personal characteristics of the individual women. These personal characteristics include women’s level of education, labor force participation, financial independence, and personal attitudes towards domestic violence. Thus, the question asked by this study is: How do regional, family and personal characteristics affect a woman’s likelihood of being hit by her husband?

In recent years, domestic violence is being increasingly recognised as a human rights and social and public health concern. Although the estimates of prevalence of domestic violence vary widely, prevalence rates generally range from 20 percent to 50 percent (Heise, et al, 1999). In the current literature on domestic violence, different explanations have been given for its occurrence: (1) cultural systems legitimise violence, legal authorities fail to protect women, economic structures subordinate women, and political systems marginalize women’s needs (Heise, et al, 1994); (2) marital violence is more prevalent in societies in which patriarchal systems are strong and women have few options outside of marriage due to divorce restrictions and low access to economic resources, and where violence is an accepted means for conflict-resolution (Levinson, 1989); (3) violence against women is a reflection of the power relationships between spouses (Strauss, Gelles, and Steinmetz, 1980); (4) violence against women is linked to woman’s lower self-esteem, severe depressive symptoms with minimal personal resources, and little institutional support (Strauss, 1980); (5) society encourages husbands to exercise their rights to dominate and control wives (Dobash and Dobash, 1992). Some studies in India have shown that violence is common among families with more children (Jejeebhoy, 1998b; Martin et al. 1999b).
Although violence takes place within households, it affects women in all the spheres of their life. It affects their autonomy, their productivity, their capacity to care for themselves, and their children and their quality of life (Moreno, 1999). It includes domestic violence, trafficking in women, forced sex, sexual violence, and dowry-related killings. Domestic violence is rarely an isolated event. In a study of 4,005 women reporting physical violence, 63 per cent reported the experience more than three times (INCLEN, 2000). A study of men indicates that 50 per cent reported perpetrating sexual violence, of whom 39 per cent reported perpetrating violence more than ten times in the 12 months prior to the study (Duvvury, Nayak and Allendorf, 2002).

**Studies on correlates of domestic violence**

Evidence on the factors underlying the experience of domestic violence among women suggests that socio-demographic factors and, more consistently, gender norms and power imbalances continue to justify and perpetuate its occurrence.

**Socio-demographic factors**

Although domestic violence affects women of all classes, ages, religious groups and castes, socio-demographic variations are observed. NFHS 2 evidence suggests that more recently married women (those who have married within the past 5 years) are less likely to have suffered violence than women married for longer durations (14 per cent vs 21-23 per cent), but this may be a reflection of the fact that women married for a shorter duration are less exposed to such episodes. Studies also suggest that women residing in nuclear households may be more likely to experience domestic violence than women in joint families (IIPS and ORC Macro, 2000; Jejeebhoy, 1998b; Visaria, 1999b).

While better-off women are generally less likely to report an experience than other women (IIPS and ORC Macro, 2000; INCLEN, 2000), this variation should be interpreted cautiously as women who are better educated and from a higher income group may be less likely than others to disclose such experiences (INCLEN, 2000). Findings from NFHS 2 also suggest that women residing in urban areas are less likely to report the experience of violence than those residing in rural areas (17 per cent and 23 per cent, respectively). Educational disparities are even wider: women with no education (26 per cent) are three times more likely to experience beatings than
women who have completed high school (9 per cent) (IIPS and ORC Macro, 2000). Other authors speculate that there may be a transition and women who have begun to exert their autonomy—the urban, better educated and economically active, for example—may in fact suffer more violence than other women precisely because of the greater agency they exert in their own lives, thereby challenging existing gender norms (Jejeebhoy, 1998b; INCLEN, 2000).

**Gender norms and power imbalances**

There is considerable evidence that domestic violence against women is widely accepted and justified in India, and perceived by both women and men as normal in married life (Duvvury, Nayak and Allendorf, 2002; IIPS and ORC Macro, 2000; INCLEN, 2000; Jejeebhoy, 1998b). Studies have inquired into the justification of wife-beating under a variety of circumstances, ranging from disobedience and disrespect to in-laws, to infidelity and alcohol abuse. Among the most persistent circumstances in which violence is justified by women are those related to perceptions of non-performance of domestic duties or non-compliance with expectations (IIPS and ORC Macro, 2000; INCLEN, 2000; Jejeebhoy, 1998b; Visaria, 1999b).

Evidence suggests some variation in responses. NFHS 2 findings show for example that 40 per cent of women justify violence if a wife neglects the house or children, but only 7 per cent justify it if the wife’s natal family did not comply with the husband’s demands for money or jewellery. Better educated and urban women are less likely to justify wife beating than are other women. Adolescents aged 15-19 years – presumably comprising those with least autonomy – are more likely to justify violence than older women (IIPS and ORC Macro, 2000).

Findings of studies of men suggest that men justify wife-beating for similar reasons. In a study in Uttar Pradesh, almost two-thirds of the men felt that wives should follow the instructions of her husband and one in every four felt that physical violence was justified if the wife disobeyed the husband (EVALUATION Project, 1997). In another study, men agreed that violence is justified if the wife is sexually unfaithful (79 per cent), disrespectful to family elders (77 per cent) and disrespectful to the husband (75 per cent) (Duvvury, Nayak and Allendorf, 2002). In short, evidence points to the fact that men and women in India justify and accept violence for various reasons that are embedded in existing social norms.
Norms justifying violence extend beyond the home setting as well. Studies have noted that health facilities, for example, discount cases of domestic violence as a private or domestic affair that does not merit outside intervention (Daga, Jejeebhoy and Rajgopal, 1998; Jaswal, 2000).

Prevalence of Domestic Violence in Indian Society

According to NCRB report, 2006 crime against women of India touched a new high in the year 2005 with incidence of 1, 55, 553 crimes against women and the rate of crime was 14.1 per cent whereas in the year 2006 there was a steep increase to 1, 64,765 at a rate of 14.7 per cent. Andhra Pradesh reported 13.0 percent of total such cases in the country (21,484 out of 1, 64, 765). Tripura reported the highest crime rate (28.1) closely followed by Delhi (28.0) as compared to the National average rate of 14.7. Under the head of cruelty by husband and relatives 63128 cases were reported in the year 2006. Incidence of crimes under Domestic Violence from the year 1995 upto 2006 is displayed below (Before 1995 there were no reported crimes dowry deaths and cruelty by husband and in-laws) - Source NCRB Report, 2005.

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Year</th>
<th>Dowry Deaths</th>
<th>Cruelty by Husband or Relatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1995</td>
<td>4648</td>
<td>28579</td>
</tr>
<tr>
<td>2</td>
<td>1996</td>
<td>5513</td>
<td>35246</td>
</tr>
<tr>
<td>3</td>
<td>1997</td>
<td>6006</td>
<td>36592</td>
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<td>4</td>
<td>1998</td>
<td>6975</td>
<td>41375</td>
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<td>5</td>
<td>1999</td>
<td>6699</td>
<td>43823</td>
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<td>6</td>
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<td>6995</td>
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<td>7</td>
<td>2001</td>
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<td>8</td>
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<tr>
<td>11</td>
<td>2005</td>
<td>6787</td>
<td>58319</td>
</tr>
<tr>
<td>12</td>
<td>2006</td>
<td>7618</td>
<td>63128</td>
</tr>
</tbody>
</table>
Jammu & Kashmir, Haryana, Delhi, Rajasthan, Madhya Pradesh, Assam, Tripura, Andhra Pradesh and Kerala are top 9 states of India where there is highest rate of crimes against women in the year 2006. Under Dowry Prohibition Act, total cases for investigation including previous year cases was 6636 and it is interesting to note that in the end of the year 2006, 2895 cases were pending for investigation. Section 498A of IPC which deals with cruelty by husband and relatives has to its credit 243371 cases in the year 2006 for investigation and at the end of the year 206431 cases were still pending for trial according to NCRB report, 2006. Similar is the case of dowry deaths as 29713 cases had to be investigated at the beginning of 2006 whereas shockingly 24183 cases were yet to be trialed at the end of year.

A national conference of special significance for women in this country was conducted recently in Delhi by the Lawyers Collective Women’s Rights Initiative. The occasion was the first anniversary of the passing of the Protection of Women from Domestic Violence Act 2005 (PWDVA) and the release of the first monitoring and evaluation report on this piece of legislation, aptly named ‘Staying Alive’. This may be the first time in the country that a law is being evaluated on its first anniversary. The report (Lawyers collective, 2006) states that 7,913 cases totally were filed under the Protection of Women from Domestic Violence Act 2005 in the one year since its enactment. The figures are based on information received by the Office of the Chief Justice of India from different high courts in the country. According to the report, the greatest number of cases have been filed from Rajasthan (3,440), where no protection officers have been appointed or any infrastructure put in place. Second comes Kerala, with 1,028 cases registered under the Protection of Women from Domestic Violence Act.

In a recent study conducted by Centre for Social Research, it has been found that nearly five crore married women in India suffer from Domestic Violence. Just 1 out of 1000 cases of domestic violence case gets reported. And out the 100 cases that are investigated under 498A of the Indian Penal Code (IPC), the accused gets conviction only in 2 cases.

An ICRW (International Center for Research on Women) report indicates that if women believe that a justification could be given for a violent act, emotional or physical, they do not perceive it to be violent and do not report the incident as violent. Thus, the statistics about the prevalence of domestic violence are merely “the tip of the iceberg” (Dagar, 1998). Also, violence is shaped by
the normative experience of the individual in the society, and within the home. According to a study done by International Center for Research on Women (ICRW), domestic violence depends on not only the characteristics and situation of the woman, such as her place of residence, her religion, her family type, or her socio-economic status, but also on the “norms of acceptable behavior” (ICRW, 2000). Given the tremendous variability in the fabric of Indian society, this study examines regional variability in the prevalence of domestic violence and the effect of family and personal characteristics that might help explain the regional variability of domestic violence in India.

Thus reported cases of domestic violence in India represent only the tip of the iceberg which means vast majority being socially and institutionally invisible. As the “iceberg” image suggests, recorded or official cases represent only a minimal portion of the problem of family violence in society. The majority of cases of violence fall “below the water line”, invisible both socially and institutionally. In India, this iceberg theory has been reiterated by several studies, research papers and experience of NGOs working for the victims of domestic violence. For example, according to NFHS-2 Study, which was conducted in 1998-1999, where 90,000 married women in the age group of 15-49 years were interviewed, 18.9 percent i.e. 17,102 experienced domestic violence from their spouse. In the same study it was reported that more than one in five women report having experienced at least some form of violence at some time in their married life. In India safe 2000 multi-site study of nearly 10,000 households, 40 percent of the women reported experiencing at least one form of physical abuse and 26 percent reported severe physical abuse, including being hit, kicked, or beaten. UNFPA also reports that 40% of the women in India suffer domestic violence and abuse from male partner. Those that come forward often do so only after abuse have escalated to a point of severe, life-threatening violence. Records from the Special Cell for Women and Children in Mumbai, established by the Police Commission to provide a range of support services to women and their families, revealed that 43 percent of women endured domestic violence for 3-17 years before complaining to police (Dave and Solanki 2000).

Regional Variations in the Prevalence of Domestic Violence indicate that compared to Meghalaya, the state with the lowest reported incidence of violence, the variation amongst the
other states is tremendous (ICRW, 2000). The odds of being beaten by one’s husband in Tamil Nadu (a southern state) are 19 times the odds of being beaten by one’s husband in Meghalaya (a north-eastern state).

According to Census 2001 data, a total of 2,367,72,617 women are married and according to NFHS -2 data, if one out of five women suffers domestic violence, then we can infer that at least 4,73,54,523 must be suffering some form of domestic violence. Also, NCRB 2003 data shows that approximately 50,000 cases of domestic violence were reported in India in year 2003.

**The context of Kerala- review of studies**

From a social and human development perspective, the state of Kerala is held up as an example for other regions to emulate, as to what a comparatively high quality of life can be achieved with a comparatively low income level. Kerala has done exceptionally well in terms of all human development indicators: very low level of infant mortality rate (less than 15 per 1000 live births); high longevity of males and females (69 years for males and 75 years for females); below replacement level of fertility (1.7 children per woman); near universal literacy rates of males and females (94 percent for males and 88 percent for females); and high levels of health and nutritional status of women and children. Researchers and policy makers have been engaged in gauging these remarkable achievements, the so-called Kerala model of development (Dreze and Sen, 1995; Heller, 1995; Kannan, 1998; Lieten, 2002). The reasons for this enormous human development in Kerala are many. The implementation of comprehensive redistributive land reforms in early 1970s transformed the agrarian relations and facilitated social change in Kerala. The ownership of land titles by hutment dwellers, small artisans and agricultural laborers liberated them from feudal subservience and enhanced their bargaining power and human dignity. Local level struggles and broad-based social mobilization from below provided the excluded people institutionalized bargaining power to claim their rights for minimum wages, better working conditions, social protection and other welfare entitlements including food subsidies.

Legislative and institutional changes in labor market through responsive government interventions paved the way for wage increase and employment security. In fact, Kerala has a
comprehensive pension and social security measures, especially in the informal or unorganized sectors, which include agricultural laborers and head load workers, among many others. Political mobilization and collective action around educational reforms played a major role in creating an enabling environment for mass literacy. The liberal policies are also linked to the advancement in the status of women especially the socially and economically deprived groups. The social movements of yesteryears were also found to play significant roles in enhancing and creating a liberal attitude towards girls’ and women’s education. And the system of matriliny in powerful and influential communities such as the Nairs where women controlled the property and other important duties of the household had an influence on the society in their appreciation for women’s higher status.

The educational policies pursued in erstwhile Travancore and Cochin, however, are extremely significant in history. In fact, the public policy of enlightenment and diffusion of education was articulated by the Queen of Travancore, Rani Gowri Parvathi Bai way back in 1817. This progressive policy contributed in many ways to the development of the health sector as well as the health care in terms of more people demanding health services and also utilization of existing health services. The twentieth century witnessed many social movements although not fighting exclusively for women’s rights but that benefitted women in myriad ways such as information and education on the various oppressive tactics being used by upper caste and elite in society against the poor, landless and lower caste people. The radical political traditions in Kerala and the mass mobilization of the backward castes for affirmative action also had their influence on the overall creation of the stage for voicing rights. Women’s status in the process had been enhanced with participation in these movements, exposure to education and also liberal ideas that were floating freely and recognition of their own rights. The question here is “are these tendencies and the struggle for rights and pictures of emancipated women true?” “Are they visible today?” Women’s rights in the context of today’s Kerala are a different story.

The facets of poverty and unemployment that have risen sharply in the face of economic reforms have rendered poor women much poorer with the men folk indulging in alcoholism and violence. The commercialization of agriculture has reduced female labour and many women are left out of the labour force. Even those who are employed are paid a paltry sum compared with male labour.
The government cuts in social spending are also found to affect women. The gender relations have not changed despite all the progress in the education and health sectors.

**Overview of status of women in Kerala**

An overview of the situation of women in Kerala presents a paradoxical picture. Laudable achievements in the socio-demographic realms notwithstanding, such as favourable sex ratio, and high levels of literacy, unseen in other parts of the country, issues of economic impoverishment, low participation in political activity, malnourishment and low labour force participation rates are rampant among women in Kerala. Harassment of women in the domestic sphere and the workplace is also observed to be quite common in the State. What are the causes for this malady and what has happened to the Kerala model of development? Why are women conspicuously absent at the centre-stage of development, in spite of high social development?

Let us look at the positive aspects first and then the crises. The sex ratio of Kerala according to the census of 2001 is 1058 females per 1000 males, which is the highest in the country. It is considered to be an indicator of the status of women. It is well known that female education has been a hallmark achievement in the state. The latest census data (2001) shows 87.8 per cent female literacy that is the highest in the country. It may be noted from the NFHS II (National Family Health Surveys, 1998-99) data that 31 per cent of females have high school level of education. About 94.5 per cent of female of household population aged 6-17 years in the urban areas are attending school while 90 per cent are attending school in the rural areas. Infant and child mortality rates are the lowest in Kerala amongst the Indian states at 16.3 and 2.6, which are found to be coinciding with expected trends where women have higher literacy levels; there is less of infant and child mortality.

The overall health scenario in Kerala is quite encouraging with very low levels of anemia and higher body mass index compared with other states. About 22.7 per cent of ever-married women in Kerala are found to have any anemia as compared to 51.8 per cent in India as a whole. Also the percentages of women suffering from mild (19.5%), moderate (2.7%), and severe anemia (0.5%) are the lowest in the country. The nutritional status of women is assessed by mean height
and mean body mass index. It is found from the NFHS data that women in Kerala are having a mean height of 152.6 cms, slightly higher than the national average. The mean body mass index is 22, which is also higher than the national average.

The paradox of social development and economic backwardness was documented about two decades ago. What is not often discussed is the “gender paradox”, where women have high levels of education but low levels of participation in the labour force and in the political activities. For example, women’s work participation is lower than in other south Indian States with less than 25 percent of women in the work force. Researchers are unanimous in their view that women’s education, access to resources, health care and food, high age at marriage, and low fertility levels are requisites for high status of women. Yet in Kerala overcoming of the constraints in these aspects has not led to a situation in which women have a controlling “space” of their challenging of patriarchal attitudes. There is obviously an “invisible” crust within the public domain that operates in an obnoxious manner to keep women away from bargaining (in terms of power and influence) and also avoiding confrontation between men and women, for another “kind” of development. Therefore to enable and to create an identity amongst women and for recognition of their rights, several women’s organisations have emerged and are actively addressing the issues of gender imbalances in Kerala society (Devika and Kodoth, 2001). In the context of rising domestic violence and harassment of women at the workplace and in public places, a renewed vigour is in evidence in recent years in attempts to understand and foreground “gender subordinations” (of all hues) alongside caste and class. The movements of yesteryears were based on caste and class and power relations defined in those terms. The gender perspective was not on the agenda of the movements. The gains that accrued to women were the indirect fallout of the movements against class and caste oppression.

Especially in the context of the domestic violence and the rising cases of women’s harassment at workplace and in public spaces, there has been renewed vigor in attempts to understand and foreground “gender subordinations” (of all hues) alongside caste and class. The movements of yesteryears were based on caste and class and redefined power relations on those terms. Gender perspective was not on the agenda of the movements. The gains that accrued to women were the indirect fallout of the movements against oppression. Some critics point out that the so-called
Kerala Model of Development has virtually ignored the gender dimension (Saradamoni, 1994). The fact that women’s health and education indicators in Kerala are good has led to a certain complacency, blinding scholars and activists alike to the increasing marginalisation of women from traditional sources of employment, the disappearance of matrilineal family forms that had buttressed the status of women in the household, the steep rise of dowry practices, and the decline of other forms of women’s inheritance. We argue that considering the possibility of violence against women in Kerala from such perspectives might shed useful light on a little explored but very important dimension of women’s status.

**Domestic Violence in Kerala: Prevalence and Correlates**

Why does a state that boasts India’s highest literacy levels and excellent social development indicates a 300% increase in violence against women? Possibly because literacy and education do not change mindsets. In a deeply patriarchal society, education teaches women only to be good wives and mothers.

Kerala is one among top 9 states of India where there is highest rate of crimes against women in the year 2006(NCRB, 2006). Conviction rate of Dowry death (Sec 304 B IPC) is 24.0 and Cruelty by husband and relatives (Section 498A IPC) is 11.1.

Despite cent per cent literacy, achievements in the health sector and low infant mortality and fertility rates, domestic violence against women is on the rise in Kerala. The most common form of violence against women is physical, followed by psychological harassment, economic neglect and sexual abuse based on the study, conducted by 'Sakhi', a non-governmental organization for the state Health Department on gender-based violence in Kerala in year 2004. About 40 per cent of women interviewed admitted that they were victims of domestic violence. The study brought out that about 11 per cent of mothers said they had been subjects of sexual abuse in their childhood and nearly 12 per cent of their daughters had also been victims of childhood sexual exploitation. The respondents said most of them were victims of violence unleashed by their husbands and a sizeable number of women were injured badly enough to be rushed to the casualty wing in hospitals.
In a landmark study, the International Center for Research on Women (ICRW) in partnership with the International Clinical Epidemiologists Network (INCLEN), have provided reliable estimates on the prevalence of domestic violence as well as its correlates (INCLEN, 2000). The study is based on 10,000 households across seven sites in India, encompassing rural, urban slum and urban non-slum areas. Respondents were women 15-49 years of age with at least one child 18 years old currently living with them. The measured violence outcomes were discrete physical behaviors (such as being slapped, kicked, hit, or beaten) and psychological abusive behaviors (such as being demeaned, threatened, abandoned, insulted or having the husband be unfaithful). The data were collected for two time periods, lifetime and current. Lifetime violence includes behaviors which women experienced throughout their married life. Current violence includes behaviors which women experienced in the last twelve months.

The results suggest that about 50 percent of women reported experiencing at least one of the behaviors outlined above at least once in their married life; 43.5 percent reported at least one psychologically abusive behavior and 40.3 percent reported experiencing at least one form of violent physical behavior. The study also documents the multiple forms and frequency of occurrence of violence (INCLEN, 2000). As regards the correlates of domestic violence, the study found that the lifetime experience of both physical and psychological violence was negatively associated with socio-economic status of the household, education and employment levels of the women and their husbands and social support. According to study, Thiruvananthapuram, the capital city of Kerala, ranks first among five cities in India in prevalence of domestic violence. Violence in Thiruvananthapuram is about 64% in urban non-slum areas and 71% in rural areas. This is higher than Bhopal, Lucknow, Nagpur and Vellore. However, gender gap in education (wife more educated than husband) and better type of employment is positively associated with the lifetime experience of both physical and psychological violence (Duvvury and Varia, 2000; Duvvury and Allendorf, 2001). Domestic violence was positively associated with women’s childhood experience of family violence and alcohol consumption of husband.
Regarding the prevalence rates of domestic violence in Kerala, the figures vary. The recent National Family Health Survey 3 seems to suggest that domestic violence affects only 16% of families. But another study on gender-based violence in Kerala, undertaken by Sakhi in 2004 for the Kerala government’s department of health, revealed that 40% of respondents had experienced violence in the home at some point in their lives.

Alcoholism, suspicion, financial worries and dowry-related quarrels usually provided the spark for family violence, (Aleyamma Vijayan, 2004). Nearly 900 housewives were interviewed for the study, which was conducted between October 2003 and February 2004 in randomly selected panchayats in Ernakulam, Kozhikode and Palakkad districts.

Women were subjected to domestic violence regardless of their caste, religion, educational status, social and economic background, the study said. There was no marked variation with regard to experience of violence in the previous one-year among the respondents between the three districts and "it may be inferred that incidence of violence is rising in other districts and that the trend is becoming fairly uniform in the state," the report said. The report pointed out that the state's public health system was lacking in support services for survivors of domestic violence.

Of the families covered by the study, Hindus constituted 70.3 per cent, Muslims 16.9 per cent and Christians 12.7 per cent. Having been subjected to dowry demand before and after marriage and having no say in matters related to contraception and sex emerged as factors most significantly associated with lifetime experience of violence, the report said. An interesting aspect of the study was that almost one-third of the women believed that a husband had a right to beat his wife. All the same, the majority believed that they had a right to react as well.

In a study conducted in Kerala titled Rights based strategies in prevention of domestic violence by Pradeep Kumar Panda for ICRW in 2002 following results were noted. Data for this study come from a household survey in three rural and three urban settings in Trivandrum district of Kerala state. These settings represent different geographical areas in the district. A total of 10 wards (6 rural and 4 urban) were selected from these six settings. From each ward 50 households were selected at random. Thus, a total of 500 household (300 rural and 200 urban) were selected.
The study participants were ever-married women aged 15-49 years. The survey included 502 women (302 rural and 200 urban). The strong negative relationships between women’s experiences of both physical and psychological violence and women’s ownership of property were maintained even after controlling for a host of other well-known correlates including woman’s education, per capita income, level of social support, husband’s risk behavior and a history of violence in wife’s family during her childhood. The most important result is that even some access to ownership of asset (land or house) compared to women without ownership reduces dramatically the risk of both physical and psychological violence. Overall, 35.7 percent of women reported experiencing at least one of the physical behaviors at least once in their married life, and 64.9 percent reported experiencing at least one form of violent psychological behavior at least once in their married life. At least one of the physical or psychological behaviors in lifetime is reported by 64.9 percent of the women – the same level as lifetime psychological violence. Both physical and psychological violence were relatively higher in rural areas compared to urban areas. Nearly 15 percent of the total sample of women reported one or more incidents of forced sex during the previous 12 months. Several different types of “reasons” have been reported by women as possible causes or triggers of violence. Women cited typical gender roles and expectations as precipitating factor for violence. These include: ‘not looking after children properly’ (78 percent); ‘not attending to household’ (72 percent); ‘not cooking properly’ (54 percent) etc. Among women who reported being harassed due to dowry (149 women), women reported being beaten (46 percent), threatened (46 percent), sent back to their natal home (13 percent), and treated like a servant (21 percent).

More than 61 percent of the women who reported their husbands got drunk at least once a week reported their husbands hit, kicked, slapped or beat them. More than 65 percent of the women who reported substance abuse by husbands reported their husbands hit, kicked or beat them. In addition, substance abuse and excess drinking by husbands are very strongly related with women being threatened, threatened someone they care about, made them feel afraid and being abandoned.
A study on domestic violence against women, conducted by the Professional Social Workers Association (PSWAK), Ernakulam, says that alcoholism and related psychological problems and financial crisis were the major causes for domestic violence against women.

The study, conducted for the United Nations Fund for Development of Women (UNIFEM) in four districts of the state covering 6,000 people, found that the incidence of domestic violence was 38 percent in Kollam followed by 36 percent in Ernakulam. It is 33 percent in Kasargod and 22 percent in Malappuram district. Key informants related with the issue like doctors, police officials, councilors, relatives and NGO representatives were consulted. The sample population comprised members of joint families, nuclear families, couple who got married after falling in love and those who had arranged marriage. Almost 70 percent of the victims of domestic violence were in the age group of 20-35 years and most of them belonged to nuclear families. The domestic violence in love marriages is as high as 79 percent and that in arranged marriages is 32 percent. While majority of the victims belonged to middle class families (71 percent), 22 percent belonged to lower class and 19 percent belonged to higher class. 81.3 percent of the victims were unemployed. Most of the victims lived in individual houses (80.2 percent). 64 percent of the respondents stated difference in socio economic status between the two families. 72 percent of husbands have drinking habits of which 35 percent are moderate alcoholics and 37 percent total alcoholics, the study says.

The study, conducted for Ministry of Human Resource Development by Rajagiri College of Social Sciences reveal that alcoholism was the main cause of domestic violence in 48.7 per cent of victims followed by extra-marital affairs, suspicious nature of husband and dowry related abuse. 1540 respondents (1400 respondents + 140 key persons) came under the purview of the study based on an enlistment survey. In most cases (78.5%) it was the husbands who inflicted domestic violence the husbands and in - laws jointly inflicted violence according to 11.7% of the victims, beating figured prominently with 27% as the most common mode of physical attack 21% each however stated hitting and kicking as the frequent manifestation of domestic violence. Among the others 11% and 1.6% mentioned slapping and forced sex as the most frequent mode of violence they had to suffer.
Why do the figures vary so much?

Firstly, because of the general misconception that gender-based violence constitutes only physical violence. The UN Declaration on Elimination of Violence Against Women defines gender-based violence as “any act of violence against women that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private spaces”. This violence could take the form of physical violence, sexual violence, threats of physical or sexual violence, psychological or emotional abuse, or economic violence.

Then again, our understanding of the causes of violence also differs. Domestic violence takes place within the four walls of the home, and women are conditioned to accept this as part of their lives. They are conditioned to believe that their husbands have every right to beat them or punish them. In the Sakhi study, 36% of women admitted as much, and it’s a view shared by most people in India. According to the third National Family Health Survey, covering the period 2005-06 and released during the second week of October 2007, about 40% of ever-married women have experienced violence, and over half the sample believes that “wife-beating” is justifiable. So if a woman goes to a police station complaining about violence by her husband, she is told to “adjust” and that the occasional beating could not be called violence. Or that she must have done something wrong to justify the violence!

The true facts about domestic violence emerge only when the interviewers in a study have the right attitude and perspective and are able to establish a good rapport with the women. In fact, they require special training and sensitivity to be able to understand the various dimensions of the problem (Aliyamma Vijayan, 2004). In most families, it’s the head of the family who meets the interviewers. Or the women have to speak in the presence of other family members. This often forces them to give inaccurate answers. Sakhi found that one of the main hurdles in conducting the study was to speak to the women alone. When they did get the opportunity, the women were extremely willing to share their problems.
What is clear from all these studies, however, is that there continues to be a high prevalence rate of gender-based violence in Kerala. The state government’s Economic Review 2004 admits that atrocities against women in the state have increased 300% in the period 1991-2001.

**Petitions received by Kerala Women’s Commission from 1996 onwards**

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<tr>
<td>1</td>
<td>Harassment of women</td>
<td>163</td>
<td>878</td>
<td>1880</td>
<td>1017</td>
<td>1052</td>
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<td>558</td>
<td>648</td>
<td>785</td>
<td>634</td>
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<tr>
<td>2</td>
<td>Dowry harassment</td>
<td>39</td>
<td>279</td>
<td>421</td>
<td>194</td>
<td>124</td>
<td>273</td>
<td>165</td>
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<tr>
<td>3</td>
<td>Harassment by husband</td>
<td>102</td>
<td>692</td>
<td>941</td>
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<td>Against Police</td>
<td>24</td>
<td>72</td>
<td>121</td>
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<td>91</td>
<td>103</td>
<td>100</td>
<td>92</td>
<td>959</td>
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**Reason behind increase in no of cases of cases of domestic violence in a highly literate State**

The Kerala State Women’s Commission is flooded with cases. In one year after the implementation of domestic violence act, 1,028 cases have been filed under the Protection of Women from Domestic Violence Act. Most people have a glorified image of Kerala as a matrilineal society that boasts several positive social indicators. However, the matrilineal system existed only among the Nairs and a few other communities. And none of the social or political movements that contributed to great change in Kerala (class, caste, etc) ever took up gender issues or upheld the dignity of women, as did Periyar in Tamil Nadu or Jyotibai Phule and others in Maharashtra.

Literacy and education do not change mindsets. In a deeply patriarchal society, education teaches women to be good wives and mothers. This attitude has been supplemented by missionary education, which brought with it a Victorian morality.

In this context, one must remember that Kerala is at the forefront of suicides in the country; around 36% of them are a result of family or marital problems. One would assume that large-scale migration out of Kerala to other countries has resulted in a change in attitude. But most people from this state go to work in the countries of the Middle East which are extremely traditional in their outlook towards women.
The women of Kerala are organised by political parties that have their own agendas. So, although there are a number of mass-based women’s organisations, specific gender-related awareness-building and leadership-building is taking place only very slowly. There is little autonomous political space for women to organise around their own issues, and the autonomous feminist movement in Kerala is weak.

**Review of Socio-Legal Support System available for victims of Domestic Violence**

Often, for a victim of violence limited options are available in the existing social structure. Society, in general, considers institution of marriage as only viable solution. State, family or others in her support network often ends up creating a situation where a woman hardly can exercise autonomy or think of possible available alternatives. For them there are options that exist even if these are not acceptable by the larger society. These women, therefore, are paving ways to transform society by challenging the existing social structure, which has discriminated, oppressed and subjugated them. For centuries, states have viewed domestic violence against women as a private matter not relevant to state policy. During the past decade, however, the issue of domestic violence against women has become one of the preeminent issues in the women’s international human rights movement. A large variety of countries now have accepted some responsibility to help prevent violence in the home and to prosecute offenders. To prevent and reduce domestic violence, government, non governmental and inter-governmental organizations are already working at many levels (Schuler, 1991; UNICEF, 2000; UNIFEM, 2000; WHO, 2002). The strategies that are being adopted include: home visitation, collaborative efforts of domestic violence service providers, prevention efforts that address violence both in homes and in communities, school based programs, and public education campaigns. India, like many other countries, has enacted legislation that codifies domestic violence as a crime – Protection of Women from Domestic Violence Act, 2005 along with the creation of national media campaigns designed to raise consciousness about the issue, and establishment of women-only police stations intended to encourage reporting of domestic violence crimes. To respond to the needs of the victims, protection and support systems must be available. Religious and social institutions that could assist victims need to be trained in appropriate responses. Since the existing legal framework is inadequate to fully address women’s needs, political advocacy
should be mobilized to change particular elements within the laws that continue to be unresponsive to issues of gender-based violence (Singh, 1994; Lawyers Collective Women’s Rights Initiative, 2000).

Laws, policies and programmes of the government have increasingly acknowledged the pervasiveness of domestic violence. A number of policy commitments and initiatives exist to tackle the health consequences of domestic violence, though there may not be a direct reference to recognising or addressing the issue (National Population Policy, 2000, Reproductive and Child Health Programme) (MOHFW, 1997). In contrast, the National Policy for the Empowerment of Women (MHRD, 2001) directly addresses domestic violence and makes commitments to set up institutions and mechanisms to assist women and increase their access to comprehensive, affordable and quality health care.

Socio-legal support system is the system comprising of Judiciary, Police, Lawyers, Protection Officer, Social workers, Counsellors apart from the natal family and neighbours. Research on violence undertaken in India and elsewhere has made evident that women turn first to their immediate family or neighbourhood for help and that informal, local level networks are crucial in providing a site of first response to those experiencing domestic violence (ICRW, 2000 and IMMIFAP, 1999). Two potential sources of social support have been considered as important for woman’s ability to negotiate conflict in marriage (Panda, 2004). These sources are natal family and neighbor. In the literature, the number of potential sources is considered to be more important than any individual source. Therefore, we consider three levels of social support: (a) no potential source; (b) natal family as a source of support; and (c) two sources of support (both neighbor and natal family). In the sample of study conducted by Panda for ICRW in Kerala in 2004, 54.4 percent of women reported at least one of these sources as support, and the remaining 45.6 percent of women reported no social support from any source. Nearly one-fourth (23.5 percent) of women reported social support from both the sources (neighbor and natal family) and 30.9 percent of women reported natal family as a source of support. Level of social support is negatively associated with the reported experience of physical and psychological violence, more significantly so for the physical violence. The main pillars in State protecting women from
Domestic Violence and Judiciary

From the studies abroad, we can understand that Domestic violence has a somewhat different legal history, although it is rooted in similar assumptions about relationships between women and men. Although history shows sporadic efforts to criminalize wife-beating (Pleck, 1987), such laws were seldom called into use and many States did not have them. As a result, judges were rarely confronted with assault charges involving spouses, but when they were asked to rule on cases of criminal wife-beating, they often explicitly condoned the behavior as a form of family discipline and male responsibility (Bonsignore et al., 1989; Allison and Wrightsman, 1993). Women’s claims were also rebuffed in civil court, where common law rulings declared that if beatings did not cause lasting injury, they were insufficient to constitute the “extreme cruelty” that justified divorce. Throughout most of history, rape was a difficult accusation to sustain in criminal court because the standards of factual proof were set so high. Assault on a wife was an almost impossible criminal allegation to sustain because physical assault on a wife was not against the law and was at most seen as a matter of civil law. Not surprisingly, rape of one’s wife was a legal impossibility: Rape statutes specifically excluded husbands from the charge under almost all circumstances because marriage was assumed to constitute a standing consent to sex, and a husband’s physical retribution for a wife’s disobedience was accepted (Denno, 1994; Ryan, 1996).

Although these laws may be viewed as relics of the past, some of their core elements remain intact in many States and prosecutors and judges recognize that the beliefs that underlie them are still held by many people, including potential jurors. Research suggests that many people, including some practitioners, are still reluctant to label violent incidents between partners as crimes (Ellis, 1984; Schmidt and Steury, 1989), even when they strongly disapprove of the behavior (Johnson and Sigler, 1995; Klein et al., 1997; Stalans, 1996). Research also suggests that, regardless of their own attitudes, prosecutors consider this reluctance when deciding
whether, and how, to process these cases in court (Schmidt and Steury, 1989; Spohn and Spears, 1996).

Research in six States that adopted different packages of reforms during the early 1980s indicates that few changes in these outcomes followed the legal changes, but it concluded that in the most progressive jurisdictions, prosecutors, judges, and defense lawyers had already adopted more victim-sensitive practices (Bachman, 1998; Bachman and Paternoster, 1993; Horney and Spohn, 1991).

Reforms have also occurred in the area of domestic violence. Domestic violence is now criminalized in all States in the sense that exemptions from assault statutes for wives are no longer entertained by appellate court judges, and many States have created code categories for offenses involving family members. The more important target of reform, however, has been enforcement and prosecution practices. Police departments that historically adopted a hands-off approach to domestic incidents or that subscribed to the crisis intervention approach widely promoted in the 1960s (Bard and Zacker, 1971) were encouraged by advocates to arrest offenders. The real impetus for most pro-arrest policies adopted in the 1980s was the threat of civil liability for failing to protect victims, especially victims of repeat violence who were well-known to the police. Some jurisdictions and States have taken an even stronger stand, mandating arrest in certain circumstances, although the effectiveness of such policies remains a topic of debate (Bachman, 2000; Hirschel and Dawson, 2000; Worden, 2000a). Just as arrest policies were expected to take the onus off victims, prosecution reforms were intended to clarify victims’ roles as victims and witnesses, not disputants, in court. No-drop policies, evidence-based prosecution, and routine issuance of temporary protection orders were aimed at minimizing the need for victims’ active participation to secure conviction and improve their own safety (Lerman, 1981; Mickish and Schoen, 1988), but whether they achieved those aims is still in question (Ford, 1991; Ford and Regoli, 1993). Research has addressed only some of these reforms (Ford and Breall, 2000; Worden, 2000a). Sentencing innovations, especially court-mandated counseling, reflect a rehabilitative but controversial approach to offenders (Saunders and Hamill, 2003).
In India, it was only as late as 1983, following the public outrage against ‘dowry deaths’ coupled with a strong advocacy for legal reforms by various women’s organizations that domestic violence in India came to be recognized as a criminal act. Prior to 1983 only the general provisions of the IPC (Indian Penal Code) could be invoked to book and penalize the offenders. These provisions however were not sufficiently sensitive to the special circumstances of a woman facing violence in patri-local setting. Consequently it could rarely be applied against the husband and / or his relatives. These and other circumstances compelled the Government to initiate some amendments to the existing laws. While violence against women within a marriage has been a crime, the narrow scope of existing laws and lack of legal measures for victims led women’s groups to campaign for a new and broader civil statute. In 2005, they successfully pushed through the **Protection of Women from Domestic Violence Act 2005**. The new law protects all members of a household, and it embraces the definition of violence adopted by the United Nations as being any form of abuse, whether emotional, physical, sexual or verbal. It also offers a wide range of new protection measures: injunctions, protection orders, and maintenance and custody orders.

The common practice of throwing a married woman out of her home is now illegal, and while there is still no law making marital rape a crime, the 2005 Act opens the door to make it so. “We wanted to build on but also expand the existing legal framework,” says Indira Jaisingh, a long-term activist and lawyer with the Lawyers Collective. “It is absolutely path-breaking, for example, that we were able to include sexual abuse under the definition of violence”. A lot of reproductive rights will be strengthened. The new law calls upon members of the legal system to think and work differently. There are not many existing parallels to a statute that has both criminal and civil components: The violation of a protection order, for example, can be followed by arrest. The act also introduces a new category of court staff — the protection officer. Ideally this person should be a social worker with expertise in handling domestic violence, but Jaising points out that the tendency is to believe this is a job for the police. New law has already sparked a nationwide debate in the media.
With the coming into force of the Protection of Women from Domestic Violence Act 2005, this campaign has achieved a landmark victory. However the task is only half done. The next level of campaign is working and advocating for the effective implementation of the law through public awareness, sensitization & trainings and ensuring that the mechanisms provided in the law are in reality put in place and made accessible to women (Jaisingh, 2006). It is only when women are empowered to negotiate from a position of equality, will the campaign of Lawyers Collective reach its logical conclusion.

**The Need for a Law on Domestic Violence**

For women in India facing domestic violence, the remedies available prior to 2005 were under the civil law for divorce and under the criminal law provision of Section 498A of the IPC. Under the civil law, a woman can initiate proceedings for divorce and judicial separation on the ground of cruelty in the Family Court. But this fails to provide any kind of immediate relief to the woman, besides leading to problems of costs and delays in litigation. Since the existing legal framework is inadequate to fully address women’s needs, political advocacy should be mobilized to change particular elements within the laws that continue to be unresponsive to issues of gender-based violence (Singh, 1994; Lawyers Collective Women’s Rights Initiative, 2000).

Further, the breakdown of a marriage in our society with its attendant discrimination means a virtual civil death for a woman. In the absence of any adequate recourse under civil law for emergency relief and immediate protection from violence, Section 498A IPC therefore, provided women with the only means for such protection prior to this Act. But the reluctance of women to approach the criminal justice system and the inadequacy of the criminal remedy itself are important realities of our social context.

Again, in India, a prominent manifestation of domestic violence is first for the woman to be made a prisoner of the house and then to be thrown out of it. Therefore, there was an urgent need for a law, which could address this phenomenon of depriving women of their Right to Reside in the shared household.

Hence, a more concerted legal strategy to combat domestic violence consisting of a judicious mix of both civil and criminal law remedies, which is sensitive to the experiences of women
facing violence at home, the reasons and nature of the violence, the immediate requirements of
the woman, and which addresses existing inequalities in domestic relationships was urgently
required.

The Constitution of India guarantees substantive equality to women. Such guarantees of
substantive equality include not just declaration of rights, but also facilitate access to justice to
realize these rights. Therefore, a legislation that combined protection of women from domestic
violence with mechanisms, which ensure access to justice in case of violation of this protection,
was necessary.

At the start of the Lawyers Collective campaign, it was decided that the law should be primarily
civil in nature, with important crossover elements of criminal law. However, the foundation of
this effort was and still remains the recognition of the agency of the woman. “The protection of
Women from Domestic Violence Act, 2005” implemented on 26 October 2006 is most
significant achievement and honour for the entire women of India. This new provision
criminalized domestic violence and protected women from violence at homes. Physical, verbal,
emotional, sexual and financial abuse inflicted on women by her husband and relatives was
recognized as a cognizable and punishable act.

A national conference of special significance for women in this country was conducted recently
in Delhi by the Lawyers Collective Women's Rights Initiative. The occasion was the first
anniversary of the passing of the Protection of Women From Domestic Violence Act 2005
(PWDVA) and the release of the first monitoring and evaluation report on this piece of
legislation, aptly named 'Staying Alive'. This may be the first time in the country that a law is
being evaluated on its first anniversary! The report states that 7,913 cases totally were filed under
the Protection of Women from Domestic Violence Act 2005 in the one year since its enactment.
The figures are based on information received by the Office of the Chief Justice of India from
different high courts in the country. According to the report, the greatest numbers of cases have
been filed from Rajasthan (3,440), where no protection officers have been appointed or any
infrastructure put in place. Second comes Kerala, with 1,028 cases registered under the PWDVA.
Protection of Women from Domestic Violence Act- A snapshot (HRLN, 2005)

Petitioner

Only a woman can file a complaint of domestic violence under the Act

Against whom?

Complaint can be made against any adult male person or his relations (also women) who have been in a domestic relationship with aggrieved women. For example, husband or male partner or mother-in-law.

Whom to Complain?

- Protection Officer
- Police Officer
- Service provider
- Judicial Magistrate of First Class or Metropolitan Magistrate.

How to Complain?

- Over telephone/ E-mail to the protection Officer/ Service Provider
- Written Complaint to Protection Officer/ Police Officer/ Service Provider/ Magistrate.

When can you Complain?

- When the incident of Domestic Violence has happened
- When the incident of Domestic Violence is happening
- When there is probability that it will happen
Who can help a victim of domestic violence?

(a) Protection officer (PO)

The Protection Officer functions under the control and supervision of the Magistrate and there can be more than one PO in a district appointed by respective State Governments. It is the primary duty of Protection Officer to inform the aggrieved persons of their rights under the Act and

* Help to prepare and file a complaint about the domestic violence to the Magistrate.
* Visit home and prepare a Domestic Incident Report and file it in the Court.
* Inform the aggrieved person of her right to free legal aid, availability of counselors, medical facilities and shelter homes.
* Maintain a list of service providers.
* Get the victim medically examined if she has sustained injuries and forward a copy of medical report to the concerned police station and the Magistrate.
* Ensure compliance of Protection orders obtained from Magistrate.
* Assist the Magistrate in discharge of his duty related to the Act.

(b) Service Provider

Service Providers are registered societies or companies notified by State Governments. The main tasks of them are as follows:

* Will assist victim to get medical treatment
* Will ensure shelter for the victim
* Will prepare domestic incident report and submit the same to Magistrate, Protection Officer and Police station.
## RELIEFS AVAILABLE UNDER THE ACT

<table>
<thead>
<tr>
<th>Sections</th>
<th>Orders</th>
<th>Nature of Orders</th>
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<tbody>
<tr>
<td>Sec. 18</td>
<td>Protection Order</td>
<td><strong>Prohibiting the respondent from</strong></td>
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<tr>
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<td></td>
<td>• Committing acts of Violence</td>
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<td>• Aiding and abetting in the commission of domestic violence</td>
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<td>• Entering place of employment or school in case of a child</td>
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<td>• Alienating assets, bank accounts, stridhan or any property they hold separately or jointly.</td>
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<td>Sec. 19</td>
<td>Residence Order</td>
<td>• To remove the abuser from the shared household’s</td>
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<td>• Restraining the abuser from entering any portion of the household where the victim resides.</td>
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<td>• Direct the respondent to secure alternate accommodation</td>
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<td>• Restrain the abuser from alienating or disposing off the shared household</td>
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<td>Sec. 20</td>
<td>Monetary Reliefs</td>
<td><strong>The victim is entitled to</strong></td>
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<td></td>
<td>• Expenses incurred</td>
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<td>• Losses suffered</td>
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<td>• Medical Expenses</td>
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<td>• Loss to property</td>
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<td></td>
<td>• Maintenance for herself and children</td>
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<td>Sec. 21</td>
<td>Custody Order</td>
<td><strong>The Court can grant</strong></td>
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<td>• Custody of child or children to the aggrieved person during the pendency of any application.</td>
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<td>• Magistrate can deny visitation rights to the respondent if such visit is harmful to the child.</td>
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<td>Sec.22</td>
<td>Compensation Order</td>
<td>In addition to any other reliefs the Magistrate may also grant compensation orders for</td>
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<td>• Damages for injuries, including for mental torture and emotional distress caused by the act of domestic violence.</td>
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<td>General Order</td>
<td>Stop the domestic violence complained or reported.</td>
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<td>Special Orders</td>
<td>• Remove himself/ stay away from your place of residence or workplace</td>
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<td>• Stop making any attempts to meet you</td>
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<td>• Stop calling you over phone or making any attempts to communicate to you by letter, e-mail etc.</td>
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<td>• Stop talking to you about marriage or forcing you to meet a particular person of his/ her choice for marriage.</td>
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<td>• Stay away from the school of your child/ children or any other place where you and your children visit.</td>
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<td>• Surrender possession of firearm or any other weapon or any other dangerous substance and not to be in possession of any similar article.</td>
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<td>• Not to consume alcohol or drugs with similar effect which led to violence in the past.</td>
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<td>• Any other measure required for ensuring yours and your child’s safety.</td>
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The period for getting relief under PWDVA Act is within 2 days after issuing the notice to respondent, the victim can get interim relief orders. Despite other legal enactments, this act has a shorter duration for the case disposal. The entire proceedings should be closed and final orders has to be passed within 60 days. Under DV Act if the respondent disobeys the orders of Magistrate he is liable to be punished. The punishment for breach of protection order or of any interim order by the respondent is imprisonment which may extend to one year or with fine.
which may extend to Rs. 20,000 or with both. Having cases in other Courts does not bar the aggrieved woman in claiming reliefs under this Act. In cases of emergency the Protection officer or the Service provider shall seek immediate assistance of the police, who shall accompany the protection officer or the service provider, as the case may be, to the place of occurrence of domestic violence and record the domestic incident report and present the same to Magistrate without any delay for seeking appropriate orders under the Act.

It has to be noted that till the implementation of Domestic Violence Act, another act which was of special significance in addressing domestic violence was the Criminal Law Amendment Act of 1983 and the enactment of Section 498A in the IPC. Some of the legal reforms with certain recognition of the seriousness of the problem of domestic violence in India were as follows:

- Under the Criminal Law (Second Amendment) Act, 1983, Section 174 Criminal Procedure Code was suitably amended to provide for investigation by the police, of cases of suicide committed by women within 7 years of marriage or where their death occurs under suspicious circumstances within 7 years of marriage.
- Under the Criminal Law (Second Amendment) Act, 1983, a new section, namely 113 A, was inserted in the Indian Evidence Act. Under this section when a woman commits suicide within a period of 7 years from the date of her marriage, due to ‘cruelty’ by her husband or his relatives, the court may presume that such suicide had been abetted by her husband or by his relatives.
- The inclusion of Section 304 B in the IPC in the Dowry Prohibition (Amendment) Act, 1986, and the introduction of ‘dowry death’ as a new offence.
- A new section, 113B was inserted in the Indian Evidence Act through the dowry Prohibition (Amendment) Act, 1986. Under the provision of this Section, when a person has been responsible for the dowry death of a woman and it is established, that such a woman had been subjected by such person to cruelty or harassment prior to her death, the Court shall presume such person had caused the dowry death.
- Section 8A in Dowry Prohibition Act, 1961, was introduced by the Dowry Prohibition (Amendment) Act, 1986. The new section lays down that where any person is prosecuted
for taking or abetting the taking of any dowry, the burden of proving that he had not committed such offence, shall be on him.

The principal thrust of the campaign of women’s organizations against domestic violence was towards effective legal reforms. The enactment of Protection of Women from Domestic Violence Act represented an important milestone in this regard. Domestic Violence Act is a bold and progressive legal provision, in that any woman can technically register a case in a Court without having to produce any proof. Offences committed under this offence are cognizable and non-bailable. By criminalizing domestic violence, Domestic Violence Act, it had the much needed space for a distressed woman facing violence in her marital home. As the two vital arms of the State, the Police and the Judiciary are responsible for the successful implementation of these laws. The effectiveness of police and Judiciary in dealing with domestic violence and in safeguarding women is of primary importance.

**Issues in implementation of legal provisions protecting women from Family Violence**

There is wide divergence between the legal provisions and the perception of those associated with its implementation. Domestic violence is not accorded the importance it deserves. The legal system gives pre-eminence to the notion of homogenous family, thus disregarding the subordinate status of women within the family, and of her experience of violence that this entails.

Domestic Violence Act is just two years old and it is too early to generalize about the pros and cons of Act. However the researcher has tried to summarise the opinion of different key personnel. ‘Protection’ is a two-edged weapon. The very fact that protection is the principal focus of the PWDVA Act for women within marriage or out-of-marriage relationships only reinforces the view that women, by and large, are vulnerable to all kinds of violence in their relationships with men. This view also recognizes and accepts that women are the weaker sex - physically, emotionally and sexually. This is already an unwarranted stereotype that handicaps many women; those who are professionally more successful than their husbands or male partners are often forced to tone down their achievements for fear that the relationship might either weaken or break because patriarchy has designed men to have egos that could burst with women partners who are more successful.
Besides, if the woman ever needs 'protection' from the man she is living with, would it not be simpler for her just to terminate the relationship. The question paused is will her male partner take kindly to her later if she files a complaint against him under whatever ground. The law is also short-sighted in a different sense; it forgets that not all domestic violence is perpetrated by men against women, and targets only the male partner as the perpetrator of violence. Kolkata-based lawyer Joymalya Bagchi states that no woman can file a complaint against another woman or women under Domestic Violence Act.

Whether the broad provisions of the Domestic Violence Act become protective instruments for women or merely words in law that have little bearing to reality, remains to be seen. The practical difficulties are countless. How can a woman prove emotional and economic violence in a marriage that has already seen twenty summers. No wife can be expected to move about with a tape recorder around the house. Taped recordings are in any event not always accepted as evidence in a court of law. No neighbour, friend or relative from the in-laws' family will back up the victim as a witness.

The infra-structural requirements that need to be completed are also an uphill task. "The framework of the new law calls for the appointment of protection officers, service providers and counselors," says lawyer Shibsankar Chakrabarty of Kolkata. "This needs facilities to train existing personnel, room for appointing new personnel and thus, a large amount of funds flowing into the legal and judicial channels of the State. The State’s funding source to support this programme is a question.

Feminists welcoming the law are ignoring the fact that this will place all man-woman relationships within and without marriage at risk. The law will be closely watched by many, but even before its power has exerted itself, it is apparent that there are many challenges. Lack of resources, lack of political will and entrenched systems of patriarchy challenge the human rights movement's ability to protect the rights of women. Most women are not even aware of their rights and, when they are, they often don't place great stock in what human rights can do to help them. To many women, human rights - leave alone women's human rights - are foreign to their
culture, and challenge deeply held notions of individual and community identity. Moreover, women are frequently too preoccupied with their daily struggles to invest much hope in abstract ideals or identify with a complex new law that would be difficult to implement and execute in practical life.

Many lawyers opined that a lot of effort has gone into this Act and the rules have been framed with a lot of care. But a problem is that the rules have to be implemented by the State Government and their concern is that this should not become like the Dowry Prohibition Act, where the prohibition officers were supposed to be appointed by the State Government but never were. It has a very comprehensive definition of violence; it is not defined just as physical abuse, but also as sexual, verbal, emotional and economic abuse.

This act is applicable not only to the wife, but other female members in the family too viz daughter, sister, mother and any other resident. Basically because for married women there is nowhere to go as we have no Matrimonial Property Act, which even Asian countries like Sri Lanka and Philippines have, apart from the western countries. Since we have no such Act there is no legal safeguard to right to residence. That's why this Act has been enlarged to include women in all relationships. For instance, a brother who inherits the family house cannot throw his sister out because he wants to sell it. If she has been resident there for long and has no other place, she has a right to stay or to go to a protection officer if he threatens to vacate her.

It also includes women in live-in relationships i.e. relationships other than that of blood or a legal marriage, if they have existed for a sufficiently long period of time. This is because these women too need some protection on the basis of shelter; a 'mistress' has no right of maintenance but she should not be arbitrarily thrown out. She has a right to resettle herself and the right to safety of residence. Many of us who run counselling centres are aware that in some cases the marriages are not legal because the man is married earlier and has concealed it; particularly in the case of NRIs.

Another legal measure for family violence is section 498A. Cases booked under section 498A suffer not merely for want of sufficient evidence but also the form in which it is admissible in
Courts. Situated in a patrilocal setting the bride is in a particularly disadvantageous position for garnering the necessary evidence. The problem is compounded by the fact that the battered women often are unaware of their legal rights. Ignorance of the law is pervasive among the general population and especially women.

Section 498 A of the IPC has been largely ineffective in criminalizing acts of domestic violence and in punishing the male abuser. This is primarily the outcome of a combination of factors such as police reluctance to register cases under section, the routing of cases to police counseling cells, its misinterpretation as being only as dowry related etc. However the legislation is important in terms of its deterrent value that acts to protect women’s interests.

Judicial bodies are not successful in the pious intentions as is borne out by the track record of Family Courts and Lok Adalats in providing justice to battered women. Family Courts have, undoubtedly, ensured quick delivery of Justice and high rates of recovery of maintenance for women. The emphasis of family counseling in these Courts has resulted in making the family virtually inviolable. Also, the numbers of such Family Courts are too few to effect a market change.

Constrains and Complications faced by women to Seek Justice

Barriers exist at various levels within the legal as well as in social domain. Hurdles arise at initial level when a woman decides to bring ‘private’ matter into ‘public’ as well as during the period when a case is pending before the court. Perhaps, the situation is complex and it is difficult to compartmentalise women’s concerns and problems, but for the purpose of present study and with the object of explaining the issues in comprehensible manner, women’s experiences are visualised into three broad stages.

These are:

i). Constraints at the stage of initiating action of making the ‘private’ family matter ‘public’.

ii). Impediments when the matter is in the domain of social relations.

iii). Problems in the arena of state
Discussed below are the impediments women encounter at various levels that obstructs the process of seeking justice. This is based on analysis of the data supported by the verbal expressions of respondents and statistics wherever possible (Nigam Shalu, 2004).

A) Constraints at the Stage of Taking Decision to Initiate Complaint

Analysis of data from the research study conducted on *Perspective of Women Litigants as Victims of Domestic Violence in India* by Nigam Shalu, 2004 revealed that at the initial level, problems arise when a woman facing violent situation decides to 'speak out' against the perpetrator of violence. Bringing the private matter into the public domain is not an easy task and requires a volume of courage on part of a woman. Often, lack of options available to stay clubbed with dependence on husband frequently compels women to continue to stay in a violent relationship. Another issue relates to concern of children which often forbids a woman to transgress the boundaries of marital home. Fear and insecurity to stand against their own family members impede their way to seek justice. Perhaps, limited choices available to women and their constrained circumstances impel them to approach the social relation network and once they found that kinship ties failed to bring justice, they may decide to appeal to the state. Possibly, the 'personal' becomes 'public' or 'political' only in extreme situations when all other mechanisms to ensure 'dignity' and to seek 'justice' have failed (Nigam Shalu 2004).

A) Availability, Accessibility and Utilization of Socio-legal support system

Major impediments in women’s access to justice include availability of resources in terms of finance, knowledge and information about her rights and legal procedures. Majority of women (92%) claimed that initially they lack access to information about the procedure of filing the complaint. Legal content, legal jargon, concept and the context was alien to them and it is only after they had contacted lawyers and others and had experiences in the court over a period, they gradually became familiar with the system (held by 68% informants). The study by Nigam Shalu reflects on lack of legal literacy and awareness among women. For majority of women law is a 'mystique' and a 'complex subject' which they failed to understand because it is 'too complicated'. 76% claim that they were not aware of their right to file a complaint against their husband though 20% said that they have heard of other cases where other women have taken action in such cases. A few of them said that they were aware of the fact that women’s concerns
are better heard of these days. 76% respondents claimed that their natal family, neighbours (16%), friends or colleagues (23%), employers (2%), community leaders (2%) or NGOs (12%) were their source of information about filing a complaint. Perhaps, education or employment has not made any impact in terms of enhancing legal knowledge or information. Non-availability of residence is considered as a major 'block' by majority of informants. Most often a woman is thrown out of the marital house either before she files a complaint or is not allowed to enter the marital home after she initiates legal proceedings. Returning back to natal home was not seen as a viable option initially by majority. None of them except one went back to marital home, 58% managed to obtain the support of natal family, 26% were supported by friends, relatives or colleagues, 4% gathered support of neighbours, community or even sympathetic members in the marital family. Ironically, none of them was aware of shelter homes or other such services provided by the state or the nongovernmental organisations.

Access to financial resources impedes majority of respondents to seek justice. Most women (78%) reported that they hardly had access to financial resources while they were staying at their matrimonial home. Gifts being given to them at the time of marriage i.e. streedhan, consisting mostly of jewellery, cash or other items, were 'in the control' of husbands or in-laws. 70% women who were employed reported that while they were staying in their matrimonial home their earnings were taken away by their husbands or in-laws. Often, they claimed that they were coerced, either, physically, mentally or emotionally to part of with their earnings. This indicates that women hardly had control on earnings, acquired or earned, after marriage. Often the power relation determines the authority of 'financial control' within matrimonial relationship. Women, therefore, were frequently deprived of the control over financial resources, which make their task of seeking justice more arduous. Around 72% opined that filing complaint is a complex process therefore they felt that it was essential to consult a lawyer before they initiated legal proceedings. Resources in terms of monetary capacity to pay lawyer’s consultation fee, transport charges frequently appeared as a block to continue with the long drawn battles in the court. Only one out of 50 respondents was aware of the provision of free legal aid. Still another problem arise where a woman is a daily wage earner or employed on contract or otherwise where she has to loose a day's salary each time she appears for a hearing. Her emotional strengths and capacity to continue with the struggle to seek justice is yet another requirement to proceed besides her
information and knowledge about the legal process. Besides this, for 54% women, custody and concern for children became a major issue. Preventing their husbands and in-laws to inflict injury to the children emerged out as a factor that often compels women to register their protest (28% cases).

Often the common perception is that courts and police stations are meant only for ‘different’ set of people and not for persons living in a familial situation. Further, walking out of the conjugal tie often has its own connotations and is not considered as normal by the majority of people.

**B) Social Relation Network as Patron in Marital Dispute**

A woman in situation of marital conflict initially raises her ‘private’ grievances within the larger ‘public’ arena of social relations comprising of her immediate family members, kinship network, friends, colleagues etc. in order to seek their support. Probably, financial, social and emotional support by the social relations helps victims in long run to sustain courage to seek justice within larger socio-legal matrix. Majority of litigants therefore initially relied on their kinship and family network to negotiate with their husbands. However, the task of mustering support of social relations in the support network is often arduous. Usually, these relations compel her to ‘reconcile’ or ‘compromise’ with the situation of violence. This compulsion by family and friends to ‘adjust’ often prevents women to register their protest against violence. Often victims were advised to ‘forgive and forget’. Common assumption that dominates the discourse is that marriage is a sacred tie. Preserving marriage is frequently prioritised by the family and kinship network rather than protecting the interest of women (88% informants). Parents, relatives and friends of women who are harassed seldom act on the initial complaints. Often, they pretend, as the problem does not exist. Perhaps, their perception is the artifact of traditional ideology that perceives violence as ‘normal’ affair in a marital situation (in 76% cases). They get anxious about ‘spoiling relations' overlooking the fact that relationship is already wrecked. As long as violence remains under the wrap of ‘common day-to-day altercations’ in marital relationship nobody is compelled to acknowledge it. Family as a unit remains concerned about preserving its so called ‘family honour'. Thus, often, at the altar of preserving the institution of marriage women's concerns are relinquished by social relations in women’s support network.
It is when the women’s support network gets convinced that ‘things are beyond their control’ they recognise a victim as a wronged wife. On the one hand, a woman when resist in marital relationship is discerned as a defiant, but at the same time she is also construed as a ‘wronged wife’ by her support network who then acknowledge her claim. She is then transformed from a ‘wronged wife’ to a person with ‘rights’ and her social relations may lend her aid to seek state interventions. In the study by Shalu Nigam in majority of instances, the decision to approach the State was ‘sanctioned’ or ‘authorised’ by stakeholders. Here 50 women were contacted and out of these none of them claimed that they had not been through the lengthy process of negotiation mediated by relatives, friends or others before they appealed to the state. Often, the process of negotiation with their husbands was lengthy and at times it involves other stakeholders in society including community leaders. Majority of them (98%) resorted to State apparatus only when they felt that all other mechanisms to bargain with their opponents have failed. Ten respondents took the assistance of local agencies while negotiating with their husbands. Twenty-Nine approached the CAW Cells. This also indicates that their own support network including family, kinship, community leaders and others including the non-governmental organisations construed their claim in a manner that failed to safeguard their interests. Or in other words, women find little maneuverability over her social relations. These respondents also stressed that their rights were denied and could not be established by the arbitration in the family or kinship network. Therefore, in order to actualise their rights they step out within the larger public domain - the state. This is in spite of problematic of women and state relationship where state fails in distinguishing women's claims as citizens from women as gendered subjects enmeshed in social relations.

Why do Women Appeal to the State?

One of the reasons emerged out of the study (Nigam Shalu 2004) is that state is a forum available for women above the family, kinship or community ties which may act as a neutral arbiter in resolving disputes. It may construe their interest differently from social relations. Often, a woman when appeal to the state believes that she is addressing a formal authority that governs citizens and is different from the informal authority vested with the family or kinship tie that is determined by the social norms. Power and authority vested with the state lends it credibility to
act as an arbiter between the disputing parties or to intervene in the matter that is ‘private’. Theoretically, a person appealing to state is construed as a neutral citizen irrespective of his/her sex, religion, caste, class or other identities. State apparatus, thus apparently, helps women to negotiate at par with their opponents when other available fora like social relations, kinship ties or community networks failed to treat them as individuals with rights. An appeal to the state implies refusal to conform to the norms of family and kinship. It contemplates re inscribing the logic of independence and autonomy by these women outside their ‘private' domain into the arena of state.

Ambiguities and contradictions within the formal legal system become apparent when a woman approach the State as citizen but the State construes her identity as a wife. Twin axes of conservative tradition and patriarchy ossify women’s identity in the arena of state. Perhaps, it is only once women entered within the realm of law and justice do they recognize that the platform provided by the state is no different as an arbiter than their family and kinship tie. The State therefore, is hardly seen as a practical and political choice by these women to bring about desired change in their lives as described below.

C) Experiences in the Arena of the State

Women litigants in the study (Nigam Shalu 2004) opined that state offers them a politico-legal space to negotiate their claims. Majority (86%) of them felt that it is when they entered the legal domain their ‘voice is being heard’. They opined that once they made their grievances ‘public' within the arena of state did their matrimonial and natal families or others have begun taking them seriously. Perhaps, this has helped women to assert their status as wives which has been so far ignored by their husbands. These women recognized the fact that state provides them a platform to bring down their husband at the level of negotiation. Earlier, their claims have been ignored which in the space offered by the state, are at least, recognised. It gave their ‘private' complaint legitimacy within ‘public' domain. The process of appealing to the state, thus, has benefited women, if not in direct, than in indirect terms.
Legal Terrain: Barriers and Hindrances

It has been found (Nigam Shalu 2004) that majority of women were not satisfied with the legal system. Results indicate that often respondents resort to law with different expectations rather than what law offers them. Ironically none of the informants were in favour of the remedy provided under Section 498-A except 11 who agreed that their husbands should be imprisoned and fined. Others do not see the solution in terms of penalising their husbands or compound the offence and seek divorce which in turns bring more difficulties or paltry sum of alimony. Rather they want specific solutions like end of abusive situation. In fact, one-fifth of respondents held that they were utilising law to bring their husband to the negotiation table which they have been unable to do through familial and kinship network. Respondents were of the view that litigation is not offering them solutions but in fact end up in victimising them. Technicalities of law frequently neglect the fact that a woman who is a victim of violence over a period of years often lack the capacity to represent her case, and, at times may need medical, psychological, emotional, legal, financial or social assistance to continue with her struggle for survival and justice. However, law offers them piecemeal solutions without taking into account the holistic account of their situation.

For victims of violence the situation further becomes complex because legal process impedes the process of gaining ‘normalcy’ in their lives. Majority of women said that they want to forget their past and wanted to start afresh but their visit to court often remind them of their ‘scars’. Often, a woman in order to start her life afresh needs to come out of the violent situation and to repress her traumatic past experience but the legal process never allows her to do so. Perhaps, the process of obtaining remedies under the law thus became the process of tyranny and oppression for victims. These sets of barriers thus often make the process complicated, tiring and arduous.

Another complexity of legal system is that it operates on the basis of geographical location, remedy sought and the process involved. It fragments a problem into that of being civil or criminal in nature and offers solutions accordingly. A complicated life situation is therefore compartmentalized into different ‘legal cases’. This multiplicity of laws and multifarious process of litigation creates problems for both the parties involved in litigation. Often litigants end up
being caught into web of litigation from which escape is difficult if not impossible. Reason being
that frequently accused husband counter-reply a complaint under Section 498-A, IPC with a
petition for divorce, restitution of conjugal rights or custody suits. Informants in the present
study were also found to be attending proceedings in several courts simultaneously. Often these
courts are located within different geographical locations and each court follows its own set of
procedures without taking into account the proceedings being held at other forums. Proceedings
in criminal court dealing with complaints under Section 498-A, IPC or Section 125 Cr PC is
often in no way associated with that of civil court dealing with the divorce or custody suit
between the same parties. Often, these are earmarked in different courtrooms at different
locations with different judges hearing the complaints on different dates fixed for hearing. Thus
litigating parties found themselves running around concurrently in various courtrooms on varied
dates. Perhaps, litigation, therefore, does not offer an option but becomes a compulsion for men
and women resorting to it. The Court system is a vicious cycle, once you enter it escape becomes
difficult.

Courtrooms and Victims of Violence

Experiences in the courtroom act to deter majority of respondents to continue with their ordeal to
seek justice. Atmosphere prevalent in the courtrooms was found to be unfriendly and hostile by
82% informants. Small sizes of courtrooms as compared to large number of people it has to
accommodate during the day's proceedings further complicate the situation. Most respondents
reported that at times, they have to stand outside courtrooms waiting for their turn in the
premises along with perpetrators of violence. 64% reported to have ‘heated arguments’ outside
the courtroom with their opponents. 72% women claimed that encountering with their violent
husbands has led to increase in hostility, anger and frustration in them. 46% respondents found
that the attitude of judge was not women-friendly. Most felt that their case was not being heard
properly by the court. Moreover, the courts have their own procedures and practices to deal with
victims. A victim is often not allowed to participate in proceedings except when she is called as a
witness to testify her case. Though as a complainant she is entitled to attend the hearings and
appear before the court on the given dates. 68% respondents felt totally alienated from the
system because of this. A few reported that often they could not make out what is happening. It
was also observed that during the time when courts make efforts for `reconciliation' in the judges chambers, the presence of the husband - the perpetrator of violence and lawyers prevent women to speak out (74% respondents).

Adversarial nature of trial practised in India has played a significant role in shaping the practice of law. Assumption behind the current system is that truth is best discovered by presence of impartial judges and best arguments are given by lawyers who are neutral and working for the establishment or explanation of truth. The present system of justice delivery is thus based not on dispute resolution but is based on the assumption where `solutions are dictated by an outsider, won by a victor, and imposed upon loser'. Criminal trials are frequently referred as `fights' and 'battles' and judges are referred as `umpires' or `referees'. Parties become `winners' or `loosers' while the courtroom becomes the `battlefield'. In particular, many victims criticize the adversarial process for producing an atmosphere that is hostile and stressful. Often, the intimidatory and possibly inefficient nature of legal proceedings also flows from its adversarial nature. 26% women felt had they been given chance to speak up they could have argued their case differently and 10% accused the court for not giving them any chance to reply to their opponents or his lawyer’s arguments. 82% complained that their opponents have been using `dirty tricks’ like denying truth, falsely implicating complainants, accusing their character, involving their (women’s) family members when they have no role to play etc. About 78% reported that they felt depressed every time they visit the court and this is reported to hamper their normal life. Perhaps, the deeper structural and strategic imperatives of adversarial trial process deter women to continue with the legal proceedings in courts. Women claimed of having been asked irrelevant and unfair questions. This is frequently done by invading her private life, alleging her character, typical questioning techniques adopted by the defense lawyer which is hostile, confusing and distorting and repeating the traumatic episode in a manner which is humiliating for a victim.

**Intervention of Lawyers- A Retrospection**

Further, matrimonial litigation is considered as `different’ from other forms of litigation and often less seriousness is devoted to it. It is considered as litigation in perilous conjugal tie within
an emotive situation where ‘parties often change their moods and minds frequently’. A desperate litigant often goes on knocking doors to consult a number of lawyers. Yet, justice remained an elusive goal because frequently a few lawyers work for their own vested interest of making money, name of fame. The lives of women, their feelings and desires, their aspirations: these counted for nothing at all. Moreover, the occupational role specificity of the lawyers in India prompt them to prolong dispute processing, for once the dispute ends it results in the occupation being redundant. Lawyers therefore largely confine themselves to that of dispute processing rather than playing the role of negotiator, advisor, counsellor etc. Respondents complained that often lawyers took the fee but had not appeared before the court, or they send their juniors who are ignorant about the facts of the case, or at times, lawyers themselves appeared unprepared for the proceedings. At times, advocates appearing for a particular case disappeared without any notice. Often, there are complaints of corruption in legal profession. Perhaps, they feel that there is nothing in this case and it is not worth pursuing, or, often, they realized they have earned enough out of a particular case and decide it is not worth putting in more effort. Practice of ethics and principles in the legal profession is rarely being raised as an issue. The component of trust in relationship between professional and their clients is often found to be missing. A few respondents reported harassment by the lawyers. Besides financial aspects, three respondents also reported of being sexually or otherwise harassed by the lawyers. The law, its system and its process, thus apparently help lawyers rather than victims. “It is the system where lawyer gain at the cost of victims. People sell their house to pay lawyer’s fee and lawyers build their houses from that money”, explained a respondent. Often, cases drag on for years, and for victims this becomes a tiring and a frustrating ordeal. In courts, a victim has to sit for hours and wait for their turn. Sometimes the magistrate does not turn up or the defense lawyer seeks adjournment on some pretext or the other. Repeated adjournments dampen the faith of victim in the legal system. And as time passes and initial shock of grief lessens and the daily routine of life reasserts itself and often less importance is accorded to pursue the case. The accused is also aware of this fact and bank upon it. In the beginning they attempt to seek bail. Once the bail is granted, it is well known that they can get the hearing postponed on one pretext or another. Frequently, accused persons being released on bail manage to buy off the witnesses or intimidate them into silence.
Mostly, judges show a pro-male prejudice. Probably they import their own 'values of life', customs, manners, prejudices and beliefs'.

**Myths of Misuse and Abuse of Section 498-A IPC**

Allegations of misuse and abuse of Section 498-A by women has been voiced consistently by the state and its allies. However, often, sweeping statements are made without any substantial evidence to substantiate the claim. For instance, the Malimath Committee which submitted its report in April 2003 while ostensibly discussing the reform of the Criminal Justice System discussed the 'heartless provisions' of Section 498-A and recommended to make the offence bailable and compoundable. The Committee observed that it makes "reconciliation and returning to marital home almost impossible" (Para 16.4) Similarly, the 'Shinghal Report' sponsored by Bureau of Police Research and Development, Ministry of Home Affairs premised itself on the assumption of misuse (exaggerated complaints) and abuse (false cases) of this law. The Government to further prevent the alleged 'abuse and misuse' of Section 498-A IPC introduced the Criminal Law Amendment Bill 2003 (Rajya Sabha on 22nd August 2003) to make Section 498-A IPC compoundable with the permission of court.

Thus, it may be said that the police, judiciary and the legislature, all organs of the state had invested their energies and resources to justify the fact that this law is being abused and misused by women. Officials within these institutions like men informants in the present study argued that women make false complaints to extort money. Another allegation is that low conviction rate in these cases is a result of 'settlement' of the case and a motive of filing complaints is greed of the complainant. However, often these allegations are made without any substantial evidences. Hardly any attempt has apparently been made by the agencies to look into the reasons of compounding the offences under this law. Constrains women face into the arena of state are hardly being talked about. One of the fact that is being neglected in the above construction is the manner in which the interpretation of words 'misuse' or 'abuse' is carried out. The word 'misuse' or 'abuse' may imply 'filing a false case or exaggerating claims or allegations made with the intention to extract money or harass the other party’ as being interpreted by the state agencies described above. However, looking at it differently may insinuate that something within
the marital relation is wrong for which there are no other remedies available and therefore women were compelled to lodge complaints under this law. Logically, a person uses legal recourse when there is a concern about an issue. This may or may not find legal expression yet it may be causing distress to the complainant for which s/he seeks remedy. Thus the terms ‘misuse’ and ‘abuse’ need to be seen in wider context. In this context, as also evident from the discussions above a woman may use a legal platform when she founds no other workable remedy for the situation of violence or matrimonial wrong.

An argument that may be raised against the statement that ‘women exaggerate the complaint’ is that a woman as a complainant has a little role to play in the criminal proceedings i.e. from recording the complaint till the judgment is delivered. It is the duty of police to record the complaint, the lawyers present the facts and argue the case and a judge decides the matter. The role of a woman as a complainant or as a litigant is often restricted to that of passive observer of legal proceedings. She is allowed to give her evidence as a witness but that too in a fragmentary style as shaped by the defense lawyer or public prosecutor as explained above. Technicalities within the legal system leave a little space for women to maneuver the process. The manner in which a subjective experience of women is interpreted also holds significance in this context.

Another justifications given by the state is that the conviction rate in these cases is low because often cases are ‘settled’ by women for their vested interest. However, findings here reflect that reason for ’settling’ the case is different. Frequently, the complexity of circumstances or socio-economic compulsions compels women to compound the offence. Coercion by stakeholders in the legal system as well as in the larger social structure is one of the reasons that often lead women to accept ‘whatever is offered’. In the research work it was observed that the reason for quashing FIR lies in women’s complex situation ranging from the concerns for children, absence of support network or depletion of social, mental, emotional and financial resources to continue with the proceedings. Thus, the statement that law is being misused or abused needs to be reconsidered. In fact, the findings of the present study reflect that the often provisions of law remain ‘under-utilized’. Moreover, it has been observed that the criminal law offers limited solution to the victims of violence. Legal proceedings take place in a manner that disqualifies
their experiences. Thus, it is imperative to reconsider the content, context and implementation of domestic violence law from gender perspective.

**Myths of Misuse of recently enacted law- Protection of Women from Domestic Violence Act, 2005 in the year 2008.**

Many men are against PWDVA Act, 2005 stating that it is one sided. Since the act is both civil and criminal proceedings, a strong reluctance is seen on the side of Judges to pass such punishment as arrest. It is perceived that the Act can be misused to win the property or for any selfish motives by women. Another fact is that it is not always a man's fault when there is a distressed marriage, and whoever has the upper hand in terms of financial resources becomes the oppressor. Live-in relationships is a culturally sensitive issue and that it can be a cause of domestic violence in many families, so protecting that relationship is another contradiction of the Act. Hence recently Lawyers Expert Committee is appointed for introspection. The hard earned rights of women that safeguard women under the PWDVA act will be in vein if there are amendments in this Act.

**Domestic Violence and Police**

Data obtained (Nigam Shalu, 2004) reflect that at times, out of sheer embarrassment victims find it difficult to share their actual experience of violence in marriage with their family, friends or lawyers. Thus, the complaint being lodged as FIR often lacks the basic substance or experience of violence which victims underwent. Also, at time, a victim is not in situation to narrate the incidences in coherent, consistent or continuous manner as demanded by the law. Incidences are narrated by a victim as per her own priorities and gravity is accorded to each episode of violence as per her own understanding rather than the manner in which law expects her to do. Technicalities of law often misconstrue the victim’s experience of violence. A victim narrates her version of violence, but, how it should be processed legally so that 'facts' becomes a 'legal complaint or a case' is designed technically by the procedural laws. Police and lawyers suggest what constitutes 'complaint'. Language deployed by the police and court is different from the language in which victim narrates her version. Frequently, facts and experiences are
distorted by the police and lawyers to shape these into the manner recognized by the legal discourse. Often appraisals of facts are not based on logical and atomistic fashion or holistic assessment of narratives. For instance, in most of the cases mentioned above, the police have attempted to link dowry though the woman has alleged of mental or other forms of cruelty. Thus it may be said that neither police record the victims' version as reported nor the court attempts to understand the true version of victims' experience. Often, they have a little time to hear the 'victim's story'. A victim often lacks awareness about the procedure and technicalities of law. She has a little role to play in designing the complaint as per technicalities involved except to narrate incidences of violence.

Providing citizens a sense of security is a raison d'etre for the existence of police. In the present study majority (78%) of women seeking justice viewed the role of police as significant in their ordeal. However, only 28% of respondents found them helpful. 78% opined that police did not respond efficiently and took a great deal of time to respond to their complaints. More specifically, the data illustrates that cases pertaining to domestic violence are treated as 'private' family matter by the police. Therefore, even in cases of drastic assault, the complaints were not seriously taken (felt by 70% informants). Generally, common sense knowledge and attitude of police and other law enforcement agencies about differential rights and obligations of a wife and husband are brought to bear on deciding the legitimacy of claims. The process of law, far from trying husbands as criminals, often normalizes the husband’s violent actions as the reasonable behaviour. Reluctance by police to intervene positively in the matter of family dispute adds to the anguish of women. 64% opined that they were dissuaded by police officials to register their complaints. 66% respondents felt that police authorities used coercive powers and compel them to 'compromise' with their opponents. 2% reported to bribe or sought the interventions of local politicians or senior police officials to get their complaints registered. A majority of respondents said that the facts stated by them were not correctly recorded by the police. One–fourth reported that their medical examination was not done and the police did not advised them to do so. One respondent claimed that she herself asked police officials to get her medical done when she initially approached the police station to register her complaint but was dissuaded by the duty officer on the ground that 'it is a personal case and is not a serious offence’. Often, procedural lacunae during investigation make it is easier for the accused to seek bail or even acquittal.
Usually, time taken by the crime investigating authority is long and in the process victims suffer. A sizable number of respondents felt that their opponents were not arrested promptly by the police. A large number of women (74%) reported that they were released on bail due to the inefficiency of police. 64% respondents opined that police did not accord fair and impartial treatment to them. Slightly more than half the respondent felt that they were treated with downright hostility and suspicion. They believed that police was discriminatory siding their husbands as their opponents are 'rich, powerful and influential'. More than two-fifth felt that police personnel took money from their opponents and 36% opined that their opponents have used political power to influence the police. Majority of them found police behaving rudely, indifferently and unsympathetically. 46% reported of harsh language used by police. 38% observed that they were made to sit for long in the police stations. Police stations are viewed as unfriendly places with hostile environment. 76% women reported frequent visit of police personnel to their house for the purpose of carrying out investigations. One complained of being stigmatized because of frequent visit of police personnel to her parent's house resulting in withdrawal of support by the parental family. Another complained of harassment by the police. Credibility of police was often questioned by respondents. Often, patronizing attitude adopted by police acts to erode victim’s faith in law enforcement mechanism. Police figures of 498 A cases do not reflect ground reality. Some times, insensitive officers do this juggling of figures to show declining crime rate though wrong in the long-term context, it brings laurels to individual police officers (Senior police official, Madhya Pradesh, 2000).

The nature of police intervention in cases of domestic violence is crucially important in determining the outcome of the case. Flawed investigation weakens the woman’s case and jeopardises her chances of securing justice. In such a situation, evidence becomes crucial in determining the merits of the case and the extent and the nature of penalty to be awarded to the offender. This problem was appropriately summed up by J. Hanmer et.al.: The evidentiary standards for penal laws, such as general assault and battery provisions, fail to recognize particular circumstances of domestic violence. Domestic violence usually takes place in seclusion over an extended period of time. Injuries are frequently not properly recognized and documented by the medical and law enforcement officials. Standards of corroboration ignore the unique character of this type of abuse.
Women’s Police Stations and Police Cell

Women’s Police Stations, another initiative of the State, while renewing the faith of some women in the Police, have fallen short of their potential. This has much to do with inadequate infrastructure and lack of adequate training and exposure of its staff (Nishi, Mitra, TISS, 2000). Police forces in most countries are male dominated institutions. The policing of men’s violence against women is thus, largely permeated by patriarchal ideology. The situation outside India wasn’t very different, as the study by Hanmer and Elizabeth reveals that the treatment abused women receive is always mediated through experience with men, those who abuse, and those who make up the part of the state that has the mandate to intervene through the use of criminal law. Women’s police stations were set up in several Indian states to help women gain access to the police machinery for the redressal of their grievances. Given the shared life experiences of women, it was believed that women police personnel would be more sensitive and empathetic to women’s problems. As one woman police inspector in Madhya Pradesh put it: A woman understands the other woman and her problems. In states where women’s police station exists, cases relating to crimes against women gets automatically transferred to the women’s police stations, even if registered in other police stations. However given the shortage of staff and infrastructural facilities, inquiry and investigation of cases is often carried out by the general stations from which cases originate. This practice is questionable and defeats the attempt to handle women’s cases with greater sensitivity to their realities. Women who would otherwise keep quiet out of shame, frequently referred cases of unnatural sex to these police stations (Woman station in-charge, MP, 2000).
Cases reported and detected at Kochi City (Police records, Kochi 2007)

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Cases filed under section 498A in Kochi city (Police Records, Kochi, 2007)

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Domestic Violence and Social Welfare

This session will focus on two schemes of the Central Social Welfare Board that directly address women victims of domestic violence, namely the Family Counselling Centres and Short Stay Homes. These schemes are major illustrative of the major response of the Government to domestic violence.
The Central Social Welfare Board

The Central Social Welfare board (CSWB) was set up as far back as 1947; this was long before the concept of state intervention in women’s development assumed importance nationally and globally.

The Board’s principal functions comprised the fostering and supporting of voluntary initiatives by means of grants. It envisaged the bringing together of a number of women’s organizations across the country for the purpose of reconstruction and social change. This networking was operationalised through state level boards, which scrutinized the individual organization’s proposals for financial support.

The Social Welfare Boards (SWB) grants can be availed of for a range of NGO activities such as Mahila Mandal, hostels for working women, community development and welfare extension projects in rural and urban areas, crèches, pre-schools, awareness generation programmes, nutrition programmes, vocational training, legal literacy and science exhibitions. Of direct relevance for this study are the grants for Family Counselling Centres and Protection Homes for Women.

The programmes of Central Social Welfare Board which specifically relate to violence against women include:

1. Field Counselling
2. Protection Homes for Women

When we analyse the expenditure pattern for field counseling and protection homes in five year plans of the Government, allocations have averaged below 10 per cent of the total allocation of the Board, a pitifully low and insignificant amount.

Family Counselling Centres

The Family Counselling Centres (FCC) arose out of the Board’s concern regarding rising atrocities of women. The Board saw the FCCs as agencies with the potential for promoting
harmony and thus prevent break-up of families. Under this scheme, voluntary agencies running welfare schemes for women and children at the grass root level, are provided financial grants for setting up FCCs.

Grants are given for a range of preventive, curative and rehabilitative services to the women. Distressed women can approach these cells for intervention, investigation, dowry death cases, counseling in family maladjustment, reconciliation in cases of separation, out of court settlement in family disputes or even for referral services like short run or supported short stay homes, free legal aid and police assistance and so on. Organizations applying for financial assistance under this scheme need to be registered and engaged in social welfare work for a minimum of three years; they are required to have a proper managing committee with adequate representation of women and should also have facilities, resource, personnel and skill in initiating the scheme.

Family Counselling Centres exhibited qualitative differences in the approach to counseling depending on the ideology, convictions of the counselors and the objectives of the parent organizations. Thus counseling could aim at reconciliation or reuniting a breaking family, or rehabilitation of women, or achieving self awareness and regaining a sense of one’s identity or merely as a technique in case work. Counselling cells operating from a number of women’s organisations showed remarkable versatility. Combining work and philosophy and involved in a multitude of activities, some of these organisations extend more ‘holistic’ help to distressed women who approach them (Mitra, 2000).

**Process of Counselling in cases of Domestic Violence Cases based on the findings of the study (TISS, 2000)**

Most organisations reported an average registration of 10 to 20 cases of domestic violence a month.

Upon a victim approaching the cell, the concerned case would typically go through the following stages:

- Registration of complaint with case history
- Interview with complainant
- Calling the other party
- Interview with the other party
- Home visits and investigation
- Joint meetings with conflicting parties
- Arrival at compromise
- Follow-up home visit

The organization entertains complains from both husband and wife, if they so choose to approach the cell. The first meeting is primarily intended to hear out the complainant’s case and to assess the complexities involved in the client’s expectations. Most organizations felt that most problematic stage was the handling of the ‘other party’. Typically, the counseling cells followed a routine schedule of serving three notices to the other party, requesting the latter to come and meet the counselor. In most cases, parties did respond. In case of default, the social worker/counselor was required to make home visits. Following a closed door meeting with the second party where his/her side of the story is heard, a mutually convenient date for a joint meeting is fixed. When a compromise is reached, these are usually recorded. With a view to formalizing this understanding some organisations resort to the practice of recording it on a stamp paper. The fear of consequences of breach of a formal and supposedly ‘legal’ contract is said to have a restraining influence on these parties. Most Counsellors confirmed that this process of resolution takes on an average of 3 – 5 sessions. It varied from case to case.

Apart from counseling, these cells are also involved in referral services. This involved sending grievously injured women to government hospitals, helping women to file cases under the free legal aid scheme or even in registering complaints with the police and asking for police action. All organisations were firmly of the view that recourse to police and legal action was usually the last option. A few said that they do not take up the cases in court and where the dispute between spouses has been on account of property. Similarly, they are also unwilling to handle the cases where the wife has made a complaint with the police under section 498 A. the reasons for non-intervention in such cases was said to be the very low possibility of reconciliation and compromise.
A brief profile of cases of domestic violence that came to counseling centres

Alcoholism, extramarital relations of the husband and sexual incompatibility were reported by the organisations to be the chief reasons for violence in marriages. Dowry was unanimously held to be of relatively less significance in the cases that came to the counseling cells. Counsellors broadly agreed that Indian women continue to live in violent relationships due to lack of parental support in violent relationships and consideration for their children. Interestingly, only a few counsellors mentioned economic dependence as a reason for accepting violent relationships. From the study of Mitra, 2000 it was found that majority of cases were from women from lower and lower-middle income groups. Educated women from the middle classes were said to have approached counseling cells for the purpose of discussing their problems, getting a sympathetic hearing and experienced advice on how to handle the situation. Counsellors admitted that while violence is very much in evidence in middle class homes, neither men nor women were forthcoming seeking more active help from the social workers.

Some victims of domestic violence while approaching counseling cells mainly sought moral and emotional support. Only a few organizations mentioned that women also wanted to seek economic alternatives at this stage. The organizational response to these expectations depended to a very large extent on the counsellors own views on the issue. The services available to women victims of violence in practice are less than those professed under the scheme. Though it professes to help victims access other relief rendering services, it ends up focusing on reconciliation and rehabilitation within the family.

The role of such counselling that focuses on the practical rather than the emotional and therapeutic, cannot be underplayed. There is a faulty assumption that women who approach counseling cells are psychologically healthy women who need resources such as information, a safe place, economic alternatives and so on. A victim’s fears of further abuse, her dilemmas due to beliefs about the value of keeping the family together and her own personal safety, her negative emotions such as lack of self-worth, self-confidence and despair largely go unaddressed. These are the issues that ought to constitute the agenda for most of the SWB counseling cells. The counsellors should be trained specially implement this.
Short Stay Homes for Women and Girls

Short stay homes is a part of social welfare board fund scheme, and were intended to enable voluntary organizations to provide short duration institutional support for rehabilitating women and girls in difficulty. Apart from guidance and counseling, this programme was also aimed to cater to the medical and psychiatric needs of such women. The focus is on short duration stay/support. These homes are primarily meant for those women and girls who are either exposed to moral danger or are victims of domestic violence and family discord. The permissible period of stay in these homes extends from 6 months to 3 years. Prolonged stay is to be discouraged.

The scheme provides for specific treatment including medical care, psychiatric treatment, case work services, occupational and diversional therapy and facilities for educational, vocational, recreational and cultural activities. Organisations were advised to follow up discharged cases to ensure their smooth reintegration in the family and society. Follow-up records for up to five years after discharge is mandatory. The scheme suggests maximum use of existent community resources including training centres, employment bureau, recreation clubs, hospitals and dispensaries for fulfilling both day to day requirements and rehabilitation needs of inmates. Vocational guidance programme funded by State Social Welfare Advisory Board were also to be introduced.

Government run Protection Homes

Mahila Mandir, Mahila Rajya Griha and Mahila Sweekar Kendra are run by the Government for homeless, destitute women above 18 years of age. Under the scheme Maher Yojana, the shelter homes receive from Government grant-in-aid of Rs.500 per beneficiary per annum. In addition, the women in the shelter home receive a cash assistance of Rs. 250 per month during the period of her stay, subject to a maximum period of one year. In case she has any children with her in the shelter home, she receives an additional Rs. 150 per month for the first child and Rs.100 per month for the second child.

The studies indicate that more than 50 per cent vacancies are there in shelter homes in India. The following important questions arise are whether there is no need for shelter services in India for women because families never abandon them or domestic violence victims find alternate shelter
in natal homes or are there any short comings in the institutional shelter services that are presently available.

Admission and rules pertaining to stay in these shelter homes are restrictive and work to exclude certain sections of women. Shelters managed by Government-funded voluntary organizations are relatively less restrictive than Government run homes. The shelter homes run by Government have spacious buildings and clean surroundings while those run by voluntary organizations had to contend with limited space that was typical of rented accommodation. Inadequate infrastructural facilities are prevailing in short stay homes.

Rehabilitation in the form of alternate housing has not even been visualized by the Government. Rehabilitation through reconciliation is the only real ‘choice’ that is left to the shelter homes to focus on. For the battered women at the shelter homes, it means going back to a battering husband or to marry another man whom she can only hope will not drive her to the same situation. What is extremely disturbing is that through their study in such shelter homes, no empowerment strategy to redefine their self from victim to survivor has been attempted. The shelter home ideology of treating women as deviant, helpless, destitute, has contributed to the non acceptance of these women as responsible adults who require support and guidance to cope with their problem.

Institutional responses are conditioned by patriarchal control over mobility and sexuality of women who access these shelter services. Adult women loose their individuality, are deprived of their choices and find themselves trapped in four walls with abysmal living conditions and with little prospect of change when they leave its precincts. The rehabilitation package offered by these shelters provides little respite for them.

**Concluding Statement**

The processes and functioning of Socio- Legal support system and women's engagement with these agencies is the major focus of this study. Earlier studies indicate that though apparently, state has advocated for equality and social justice, yet, in its institutionalised and contextualised form it has eternalized patriarchy and reinforced women's victimization. Especially in the case of
domestic violence, the family ideology underpinning the content and process of implementation of law plays a major role in impeding access to and delivery of justice. Findings reflect that legal terrain has provided a space for women to negotiate their claims and assert their identities, yet, on the other hand, it disqualifies their experiences of violence.

Protection by the legal machinery is virtually non-existent in the cases of domestic violence because it is geared to protect marriage rather than victims. Protection of women from domestic violence Act, 2005 provides speedy action by giving interim protection orders to the violence victims, at the risk of a marital discord or divorce in the future. Even though the Act propagates that marriage as well as women victims of violence have to be saved, in reality it is not possible. A wife filing a complaint in the police station and seeking legal action against the husband is true evidence of hate and anger they share. Section 498-A, is also difficult to operationalize because of resistance to its use by the law implementing agencies. Police, judiciary, lawyers and others are found reluctant to pursue cases under this law because it generally implies breaking up the marital bond. The legal as well as social system reinforces the tradition that tolerates the abuse of women. Norms that perpetuate silence and stigma around domestic violence in families and communities permeate the formal institutional response too. Further, procedural lacunae often act to re-victimize the complainant. Once an individual enters the arena of formal legal system, s/he becomes powerless and is compelled to surrender herself before the authority of law. State defines nature and quantum of claims while the process of adjudication delineates rights and responsibilities of the contesting parties and in the process it reiterates the power relation between men and women. Subjectivity of agents of the state determines the course of operation of law as they shape the techno-legal course of action. Agency of women is overshadowed in the process. Women’s experiences of violence are filtered through the institutional lens of what is socially and legally acceptable. The system provides for punishment but not the practical solutions to the problems women faced. Yet, the state provides major fora for a woman to seek remedies against unjust marital ties.

Women Police Stations and Women Police Cell, while renewing the faith of women in the police, have suffered from infrastructural inadequacies and lack of inadequate trained staff. The setting up of women police stations and women police cells cannot, in itself, make the police
more responsive to the issue of domestic violence. Women police can themselves be a part of patriarchal institution and often internalize the male oriented values that come in the way of sensitive handling of domestic violence. Unless they are trained and equipped with skills to deal with battered women, doubts about their impact will continue to be raised.

With respect to Family Counselling Centres, the most important lacuna has been the absence of a comprehensive training programme for counselors. With little therapeutic element, counseling has been reduced, at worst, to good old advising, and, at best, to facilitating access to support services. Regarding Short Stay Homes, a matter of some concern is the low occupancy rate of the shelter homes, especially those run by Government. Often safety has been interpreted in a manner that restricts the individual’s mobility. It would not encourage the evolution of a woman from victim to a survivor of domestic violence.

Although disturbing proportions of women experience violence, programmes and laws not been sensitive and redress continues to be limited. Therefore it is imperative to reassess the situation from a victim’s perspective and a reconsideration of various aspect of socio-legal system from context to procedural aspects to identify its constraints and strengths. The principal limitation of State intervention has been that it has treated the family as a web of homogenous interests and one that is beyond critical inquiry. Largely, it implies that reducing victimization will rely on fundamental structural reform. In other word, to resist victimization it is essential to evolve a victim friendly mechanism. In the sphere of domestic violence there has been a call to greater use of experiential discourse on the reality of domestic violence rather that the pseudo-science of socio-legal technicalities. A woman friendly mechanism is imperative to achieve the goal of gender justice. The state’s response, in terms of health service provision, access to the police and legal opportunities are, in effect, limited. Community norms justifying domestic violence and social acceptance need to be addressed through programme and research responses.