Chapter - IV

Prevention of Domestic Violence
PREVENTION OF DOMESTIC VIOLENCE

The Encyclopedia of American defines crime as,

‘Crimes are acts that are legally forbidden by a society’.1

The Encyclopedia Britannica explains crime in this way,

‘The intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited and punishable under the criminal law’.2

Similarly, the new Webster International Encyclopedia describes crime in such a manner,

‘Violation of rules of behaviour as laid down in a code of law, crime are directed against people. They include murder, assault, rape and robbery. Property crime include burglary, theft and violation of ownership laws’.3

Conventional definition of crime includes,

‘Criminal behaviour is behaviour in violation of the criminal law. No matter what the degree of immortality, reprehensibility, or indecency of an act, it is not a crime unless it is prohibited by the criminal law’.4

Since crime is not a homogeneous type of behaviour, efforts have been made to classify crimes. Bonger classified crimes by the motives of the offender as economic crimes; sexual crimes, political crimes and miscellaneous crimes.5 Crimes are also classified for statistical purposes as crime against the person, crime against property and crime against public decency, public order and public justice.
Thus, it can be said, crime is the backwash of each and every culture. ’Tannenbaum’ states the same,

“Crime is the web and woof of society. It is not an accident – not just an accident”.

The seriousness of the social problem of crime hardly needs to be described. The general public is, by definition, always the victim of crime. The victim of crime may lose anything that has value, personal safety, money and property. Therefore, criminals need not only be penalized rather efforts should aim at prevention and deterrence of crime. It is highly unfortunate when crime is committed against women it is harsher, severe, brutal and cruel. With the advancement of technology, even more sophisticated techniques have been used for women’s victimization. Various socio-cultural and religious practices are playing major role to deprive a woman from their right to life, liberty and equality. In such a scenario prevention of crime against women is highly required. Legal punishment should more act as a deterrence.

Prevention of Violence/Crime

The need to address crime is as old as civilization itself. Best alternative to illegal behaviour is prevention. Crime prevention is the attempt to reduce the victimization and deter crime and criminals. It is applied specifically to efforts made by governments to reduce crime, enforce the law and maintain criminal justice.

Crime prevention is any initiative or policy which reduces or eliminates the aggregate level of victimization or the risk of individual criminal participation. It includes government and community based
programmes to reduce the incidence of risk factors correlated with criminal participation and the rate of victimization, as well as efforts to change perceptions. To speak in general terms prevention aims at dismantling those conditions/factors which are responsible for the victimization of an individual or else factors that encourage the perpetrators to commit crime. Preventive measures may be social, economic, cultural or legal. Many times it may be related to sensitization of people to change this orientation and mental propensity. Thus, crime prevention is a comprehensive approach that covers all the strategies (like social and cultural transformation, economic and political empowerment, use of legal punishment as a deterrence) to avoid the occurrence of crime.

**Role of United Nations for the Prevention of Crime against Women**

The recognition of United Nations that violence against women is a violation of their human rights can be considered as a significant turning point in the way to curb/prevent domestic violence against women throughout the globe. The linkage between women’s rights and human rights was effectively made in the U.N. Charter 1945 in its introduction and in four separate articles which condemned any discrimination on the basis of sex. The Universal Declaration of Human Rights 1948 strengthened women’s condition by stating ‘All human beings are born free and equal in dignity and rights, and every one is entitled to all the rights and freedom without any distinction of sex. The two International Covenants such as International Covenant on Civil and Political Rights and International Covenant on Socio, Economic and Cultural Rights (1966) also provided various rights to women.
Besides this, efforts were also made by United Nations through various instruments especially to safeguard and protect women against crime. 'Declaration on the Elimination of Discrimination against Women 1967' emphasized for women's equality, Convention on the Elimination of All Forms of Discrimination Against Women CEDAW 1979 bound the state parties for the full and complete development of women in political, social, economic and cultural fields, world conference on Human Rights, Vienna 1993 officially recognized women rights as human rights. Similarly Declaration on the Elimination of Violence Against Women 1993 for the first time gave internationally agreed definition of domestic violence or violence against women.

In the same way the four world conferences on women Mexico 1975, Copenhagen 1980, Nairobi 1985, Beijing 1995 along with Beijing +5 emphasized for women equality, development and peace through economic, social, political and cultural rights. Conference Beijing +5 also urged governments to address violence against women seriously, like dowry related violence, violence against widows, marital rape, forced and early marriages.

Most of the agencies of United Nations also accept that violence against women is an obstacle to the achievement of the objectives of equality, development and peace, as well as crime against women violates and impairs enjoyment of their human rights and fundamental freedoms. Violence against women not only effects the victims but the entire family and the society. Thus, to save the masses from the devastating consequences of violence against women and for the empowerment of their socio-
economic development a number of bodies, offices and agencies are also working within United Nations, for example.

**United Nations Children's Fund**

The United Nations Children's Fund (UNICEF) is committed to the protection, empowerment and promotion of women and girls and recognizes that women's rights are fundamental for the fulfillment of children's rights. UNICEF works on gender based violence through prevention, protection, and recovery and reintegration. Recent activities include the campaign "Stop Raping Our Greatest Resource, Power to the Women and Girls of Democratic Republic of Congo", which called for an end to impunity for sexual violence and full implementation of laws that protect and empower women. Working in areas of armed conflict where girls and women are specially vulnerable to sexual violence, activities include capacity building, with emphasis on the training of police, judiciary and teachers, as well as women and girls themselves. UNICEF works for the elimination of all harmful traditional practices, including female genital mutilation/cutting and early marriages, supporting community-based interventions and working to institute change through legislative reform. It provides support for the implementation of all of the recommendations of the Secretary-General's Study of Violence against Children, with special focus on gender-based violence, and has produced the publication from Invisible to Indivisible: Promoting and Protecting the Right of the Girl Child to Be Free from Violence.
United Nations Development Programme:  

The United Nations Development Programme (UNDP) supports governments in the development of national strategies and development plans which are in line with international commitments on eliminating violence against women. Through multi-sectoral, targeted interventions, UNDP supports the capacity-building of policy makers, law enforcement agencies and communities to end gender-based violence. UNDP works on development of databases and sex-disaggregated data, so that there is necessary empirical evidence on gender-based violence to formulate accurate and targeted policy interventions. UNDP invests in counseling and legal services, mediation and rehabilitation, as well as micro-enterprise activities for survivors of gender-based violence. It also focuses on engaging men and boys as partners in the prevention of gender-based violence. By working with UN agencies and groups such as faith-based organizations, traditional leaders, civil society and the media. UNDP contributes to galvanizing action for ending gender-based violence. Recent activities include the Human Development and Violence against Women study in Mexico, the joint Asia-Pacific regional programme of the UN System and its partners called “Partners for Prevention: Working with Boys and Men to Prevent Gender-Based Violence”, and the capacity-building project in Albania titled “Violence against women – no longer a family issue”.

United Nations Population Fund:  

The United Nations Population Fund (UNFPA) is committed to ending gender-based violence and has consistently advocated against violence against women and girls as a human rights violation. It aims to keep the issue in the
spotlight as a major health and human rights concern, including in conflict situations, and to advocate for legislative reform. UNFPA promotes zero tolerance of all forms of violence against women and works for the eradication of traditional practices that are harmful to women's reproductive and sexual health, such as female genital mutilation/cutting. UNFPA supports training of medical professionals to address the health and psycho-social needs of women. Other strategies include strengthening advocacy in conjunction with UN partners and non-governmental organizations, advocating with parliamentarians and women's networks and mobilizing communities to end gender-based violence. Recent media and advocacy initiatives include supporting a series of documentaries on gender-based violence to be aired first on BBC, and producing a special exhibit for global display entitled "CONGO/Women".

World Health Organization:23:

The World Health Organization (WHO) considers gender-based violence to be a major public health and human rights problem, which has profound implications for health. For the Secretary-General's Campaign, WHO's niche will be to concentrate on violence against women as a public health issue. WHO is in a strong position to provide the evidence base for the campaign, in particular using the extensive database assembled for the multicountry 2005 study, Women's Health and Domestic Violence against Women. WHO is currently working on a campaign against the medicalization of female genital mutilation within the context of violence against women. In late 2008, WHO has released its new global prevalence estimates for intimate partner violence against women.
Division for the Advancement of Women:

The Division for the Advancement of Women (DAW) of the UN Department for Economic and Social Affairs (DESA) supports the work of inter-governmental bodies, such as the General Assembly, the Economic and Social Council and the Commission on the Status of Women (CSW), in developing policy recommendations for gender equality. DAW was responsible for the preparation of the 2006 Secretary-General’s In-depth Study on All Forms of Violence against Women, and now supports the follow-up to the study, including work mandated by General Assembly resolution 61/143. Activities include supporting an expert group meeting on “Indicators to measure violence against women”, compiling an inventory of UN System activities on violence against women; developing a coordinated database on violence against women; and regular reporting to the General Assembly and the CSW. DAW and UNFPA are co-conveners of the Task Force on Violence Against Women of the Inter-Agency Network on Women and Gender Equality. The Task Force is spearheading a pilot effort on joint programming on violence against women in 10 countries.

Office of the Special Adviser on Gender Issues and Advancement of Women:

The Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) of the UN Department of Economic and Social Affairs (DESA) provides leadership, interagency coordination and support to the UN System in gender mainstreaming of policies and programmes. The Office advises the Secretary-General, including for the Campaign on Violence against Women and supports the Deputy Secretary-General in her capacity as chair of
the Steering Group for the Campaign. OSAGI is the convener of the Inter-Agency Network on Women and Gender Equality, responsible for conceptualizing the Campaign, implementing policy and monitoring the work of its Task Force on Violence against Women. The Task Force manages joint programming initiatives in 10 pilot countries. OSAGI works with UN entities to ensure the national implementation of Security Council Resolution 1325 (2000), focusing on the use of rape and other sexual violence against women and girls in armed conflict and post-conflict societies. OSAGI collaborates with nongovernmental organizations on various issues, including the role of men and boys in ending violence against women.

**United Nations Development Fund for Women:**

United Nations Development Fund for Women (UNIFEM) is mandated by the General Assembly to work towards achieving gender equality goals and commitments through providing financial and technical assistance to innovative programs and strategies that promote women's human rights, political participation and economic security. In fulfillment of its mandate, UNIFEM partners with governments, civil society organizations and regional bodies. Within the UN system, UNIFEM promotes gender equality and links women's issues and concerns to national, regional and global agendas by fostering collaboration and providing technical expertise on gender mainstreaming and women's empowerment strategies.\(^{26}\)

The United Nations Development Fund for Women (UNIFEM) provides financial and technical assistance to innovative programmes and strategies to foster women’s empowerment and gender equality. UNIFEM has implemented various campaigns to fight violence against women, including the “Say NO to
Violence Against Women” campaign. This internet-based advocacy campaign invites people to add their names to a virtual book as an expression of public support and call to action. The UN Foundation is donating $1 for each of the first 100,000 signatures. The campaign runs through 25 November 2008, the International Day to End Violence against Women, when signatures will be handed over to the Secretary-General. Plans for 2008 include an International Women’s Day event in early March where Avon Global Ambassador Reese Witherspoon, UNIFEM and Avon will announce a partnership to advance women’s empowerment and rights, and launch the Avon Empowerment Fund. This new fund will contribute to the UN Trust Fund to End Violence against Women, managed by UNIFEM, for initiatives working on the implementation of laws and policies.27

In 1996, the UN General Assembly established the UN Trust Fund in Support of Actions to Eliminate Violence against Women. This Trust Fund is the only global multi-lateral grant-making mechanism exclusively devoted to supporting local, national and regional efforts of government and non-governmental organizations to combat gender-based violence. Since it began operations in 1997, the Trust Fund has awarded more than US$19 million to 263 initiatives to address violence against women in 115 countries. UNIFEM, the United Nations Development Fund for Women, administers the Trust Fund.

With grants ranging from US$100,000 to US$300,000, UN Trust Fund projects support public education and awareness campaigns and provide much-needed services for survivors of violence. Guarantees help to train judges and police to better respond to and prevent violence. Many projects strive to alter community attitudes and involve men as allies. To build efforts that strengthen
enforcement and accountability, the UN Trust Fund is focusing on projects that work to implement national policies and laws to end gender-based violence. A second focus lies on addressing the linkage between violence against women and HIV and AIDS. UNIFEM, as the administrator of the UN Trust Fund, reaches out to governments, the private sector, non-governmental organizations, and individuals to encourage voluntary contributions to reduce gender-based violence. In India, the narrow scope of existing laws and lack of legal measures for victims of domestic violence 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. The Lawyers Collective, one of the groups that led the campaign got support and a grant by the UN Trust Fund to End Violence against Women to help the Indian legal system adjust the ways it handles domestic abuse cases.28

Similarly, the ‘Pan American Health Organization (PAHO) and the ‘Inter-American Development Bank (IDB) are collaborating to pilot a coordinative multi-sectoral response to curb violence against women.29

Thus, there is no dearth of international instruments to provide women equality, liberty and justice and provides for the prevention of Domestic Violence against them by making them socially, economically and politically strong. Efforts made by United Nations for the prevention of domestic violence against women are really a matter of great appreciation. There are also various resolutions and guidelines, introduced by U.N. for the prevention of crime against women such as, ‘the United Nations Congress on Crime Prevention and the Treatment of offenders 1985, 1990, and 1995’, ‘General Assembly Resolution on Crime Prevention and Criminal Justice
Measures to Eliminate Violence against Women 1997, and 'U.N. Guide Lines for Crime Prevention 2002'. All these guidelines and resolutions urges member states to ensure that women are treated fairly by the criminal Justice system, calls for research on the causes and consequences of violence against women, outlines preventive measures and includes model strategies for eradicating violence. Moreover, in response to the alarming growth in the number of cases of domestic violence against women throughout the world, the UN Commission on Human Rights adopted resolution 1994/45 of March 1994 to appoint the 'Special Rapporteur on violence against women. Its main task is to protect the rights of actual and potential victims. The Rapporteur has a mandate to collect and analyze comprehensive data and to recommend measurement at eliminating violence at the international, national and regional levels. The mandate recommended the following measures:

- To collect information on violence against women and its causes and consequences from sources such as governments, treaty bodies specialized agencies and inter-governmental and non-governmental organizations and to respond collectively to such information.

- To recommend measures, ways and means at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences.

- To work closely with other special Rapporteurs, special representative working groups and independent experts of the Commission on Human Rights.
Similarly, some international organizations have also suggested different preventive measures to curb violence against women. The World Health Organisation Guide (2004)\textsuperscript{32}, the World Report on Violation and Health (2002)\textsuperscript{33} and the 2003 World Health Assembly Resolution 56-24\textsuperscript{14} suggest certain measures for governments. Following are nine such recommendations:

1. Create, implement and monitor national action plan for violence prevention.

2. Enhance capacity for collecting data on violence.

3. Define priorities for and support research on the cause consequences cost and prevention of violence.


5. Strengthen responses for victim of violence.

6. Integrate violence prevention into social and educational policies and thereby promote gender and social equality.

7. Increase collaboration and exchange of information on violence prevention.

8. Promote and monitor adherence to international treaties, laws and other mechanism to protect human rights.

9. Seek practical internationally agreed responses to the global drugs and global arms trade.

In spite of the fact that there are numerous international instruments to curb/ prevent domestic violence against women, they are still the worst
victim of all kinds of violence and atrocities in one form or another (public/private). The rising graph of domestic violence against women throughout the world is still an issue of great anxiety. Thus, it is matter of great concern that despite having so many International instruments why domestic violence against women is still rampant throughout the world? The main reason prevailing behind this is the problem of non-implementation. International instruments are the victims of non-implementation. Governments are reluctant to follow these instruments fully or partially. One of the most important reasons of non-implementation is also the existing fault in these instruments itself. International instruments are 'soft laws'. These laws have little or no mechanism to make the signatory implement them. States' duties under international law may be derived from diverse international law instruments that contain words and expressions such as 'obligation' to 'ensure rights' to 'provide a remedy' or the obligation to 'prosecute, punish or extradite'. These words and expressions mostly are in a requesting form usually unable to give any impression of threat to individual states to take positive actions for the prevention of crime against women. States have no fear that the negligence of these international instruments may harm them. For example Convention on the Elimination of All Forms of Discrimination against Women 1979, is the most widely ratified international human rights treaty, one of the great milestones in the protection of women's human rights, which talks for women's social, economic, political and cultural rights, affirms the reproductive rights of women and targets culture and traditions for shaping gender roles and family relations and which true implementation can easily prevent domestic violence against women, also face the problem of non-implementation. Most
of the countries argued that they will abide the articles of CEDAW according to their convenience without harming their socio-cultural and religious practices of the country (these are the same practices, which most of the times highly responsible for domestic violence against women). So, the reason behind the pathetic state of women is that, there are only few countries in the world which abide international conventions by having national laws against sexual assault and domestic violence. For example in Australia there are laws against sexual assault, marital rape and domestic violence. In Costa Rica Rape in marriage is covered under the domestic violence legislation. Czech Republic also condemns forced sexual intercourse, spousal rape and domestic violence through various legislations. Denmark government under Penal Code, section 216 defined forced sexual intercourse the crime of rape. Marital rape is also covered under rape legislation. Similarly penal code, section 244-246 declares domestic violence punishable in Hong Kong, Mozambique, Philippines, and Poland they all also have national law against sexual assault, marital rape and domestic violence. Switzerland prohibits forced intercourse with a woman; marital rape is covered under sexual assault legislation. Article 123 and 126 were amended in 2004 to include mandatory prosecution of assault in domestic situation. 37 Though protection of women from Domestic violence Act 200538, and Supreme Court Guidelines on Sexual harassment of women at work place 199439 are the two positive steps taken of by Indian government to abide CEDAW but India also ratified CEDAW in 1993, with some reservation by declaring that it shall abide by certain articles in conformity with its policy of non-interference in the personal affairs of any community without their initiative and consent. 40 Indian government despite
various campaigns is still reluctant to criminalize marital rape in the
country. Such attitudes of governments show a lack of will to prevent crime
against women because making the society clean from crime and violence
should not be the matter of personal affair of any community, and there is no
need to get prior permission from any group of people for its removal. Such
attitude of many governments is also the result of prevailing deficiencies in
CEDAW itself. This convention is also suffering from lack of mechanism
for its implementation at domestic level. For example Article 5 of the
Convention holds state responsible for removing cultural stereotypes in such
a polite manner like ‘State parties shall take all appropriate measures’.
Similarly in 1992 CEDAW committee issued recommendation 19 in which
states were asked to include information about violence against women and
measures introduced to deal with it in such a humble tone ‘state should take
effective measures to overcome all forms of gender-based violence whether
by public or private actors’. Using such words give an expression to
governments that by abiding the convention they will give a favour to the
international instruments rather fulfilling their own duties.

The existing lacunas in the international law are responsible to a great
extent for their non-implementation at domestic level. Domestic violence
against women can never be prevented until the strong mechanism is
adopted by U.N. agencies through it conventions and declarations. Under
international laws, state must be compelled to implement it, otherwise
severe punishment must be given to non-abiding states in the form of social
boycott by international community. A resolution must be passed by United
Nations with the firm motives that non-implementation of international laws
will pose a great threat to socio-economic and political development of
accused nations by adopting a non-cooperation policy at the time of prosperity as well as crisis. Strict measures should be taken by international laws to make the state realize that taking care of its citizens is the fundamental duty of any state, the only purpose for which it came into existence. As According to Aristotle,

‘State comes into existence for the sake of life and continues for the sake of good life’.43

Besides this at international level strong campaigns should be made to make the people aware that citizens are in no way under the absolute subjection of state, rather than they have a claim and demand on the state. State is responsible for the prevention of domestic violence against women, on the denial of which it can be held culpable in the court of law. If state fails to fulfill all these obligations it must be punished, as ‘Locke’ went to that extent,

‘if monarch ever behaved in a despotic manner the people had the right to remove him from the authority’.44

Thus, severe actions and punishments should be legalized under international laws for the countries not preventing domestic violence against women. The recently introduced protocol under International Covenant on Economic, Social and Cultural Rights (1966), which will take up the complaint measures against the countries promoting violence and crime can be seen as a very positive step in this direction.45

The issue of security of Indian women’s (within public as well as private domain) is directly related to their socio-economic empowerment. Prevention of violence against women can’t be unilateral phenomenon. As
violence is rooted in socio-economic, political and cultural reasons/conditions the solution as well lies in challenging and altering the existing socio-economic political conditions. There have been studies revealing direct relationship between women’s status (socio-economic) and violence against them. Certainly a socially and economically strong woman is less vulnerable to violence. Therefore protecting women against violence does not require the delegitimization of the acts of violence only rather there is need to focus on the overall development of women. State comes to play a pivotal role in the content of the development of women. If the women are undeveloped or socio-economically weak then obviously they are more vulnerable to all kinds of exploitation and violence in ‘public’ as well as in ‘private’. The issue pertaining to the women, state and development (socio-economic, political and legal) can be examined under following heads – welfare approach, development approach and empowerment approach. The classifications are on the basis of the policies of the state vis-à-vis women’s issue/problem/requirements and place of women within planned economy.

The issue of women and development can be examined under following three phases characterized by the state’s approach towards women’s issues and problems: (i) Welfare approach, (ii) Development approach, and (iii) Empowerment approach.

Welfare approach: The period from 1st five year plan to sixth five year plan (1951-78) can well be called as a period of welfare approach towards the problems and issues of women. ‘Woman’ was perceived not as an object of development but only of welfare. The various public policies and schemes of state were meant only for the welfare of women, that too not for the welfare of
woman as an ‘individual’ rather woman as ‘mother’. The plans during this period emphasized their roles in the household and community. Most of the government schemes aimed at providing maternal care and maternal benefits. However, in the second and third five year plans, some problems of women workers were recognized resulting in some major recommendation like,

- To protect them from hazardous work for which they were physically unfit.
- Equality of opportunity.
- Equal pay for equal work.
- Reduction in income and disparities.

But these recommendations remained confined to the plan papers and the Government did ‘little to implement them through public policy. Women failed to get their due place in the agricultural, industrial and labour policy.

The governmental approach to the problems of women was more in terms of charity rather than empowerment. There was no plan or policy for training them in a manner that may enable them to be self dependent. In most of the welfare schemes amount disbursed was too meager for sustenance.

Economic viability of women in terms of their contribution towards the economy of household, community and the national economy was not acknowledged. Also, neither their present nor their future economic role was identified. Despite a large number of women workers employed in unorganized* sector no efforts were made to provide them any legal protection. This sector is characterized by:

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*Unorganized sector in rural areas includes agriculture, fisheries and other allied activities in urban area – building and construction.
• Low wages
• No service benefits
• No fixed working hours
• Absence of workers’ unions/organizations.

Consequently, a sector where more than 90% of female workforce is employed is the most exploitative sector of the economy. This indicates the non-acceptance of women as viable economic force as various economic policies/schemes of the government are still drafted from a mercy/charity perspective.

Another trend noticed in the government policy approach is gender stereotyping of jobs where women were perceived to be most suitable for certain types of the jobs like - air-hostess, receptionist and in the army only as doctors and nurses. Number of women in high echelon jobs enabling them to be decision-makers continued to be very low.

Not only the economic policies and plans but also the laws drafted during this period are a reflection of the indifference and insensitivity of state towards womens’ issues. State legalized the job stereotyping (mentioned earlier) by legally prohibiting womens’ entry into certain jobs/sectors like in defense forces (except as doctors and nurses); discriminatory service conditions for female employees (Air India Employees Service Regulations 46 & 47 provided for compulsory retirement in the event of air hostess’s marriage within four years. Also as per the rules in Indian foreign service (conduct and Discipline) Rules 1961 and IFS (Recruitment, cadre seniority and promotions) Rules required women member to obtain permission of the government before she gets married and denial of right to employment to married women. Both were declared discriminatory.
Only positive step taken by the state during this period was to bring equality in property rights by drafting the Hindu code bill. However, a close analysis of Hindu Personal law reflects the gap between rhetoric and reality. The code relied on Mitakashara School of Hindu law as far as property inheritance is concerned rather than Dayabhaga. The former rests on male coparcenary that allowed the prevalence of male dominance. Only the senior most male (in a Hindu Undivided family) is ‘karta’ i.e. manager or operator. Daughters lose their rights if they marry. Hindu joint family thus runs in male descent and descent through females is excluded.\textsuperscript{48} Similarly, many states have laws which deprive married women of their inheritance rights in the land for example U.P. Zamindari Abolition Act 1951 that allowed the owner to will his land to whomever he chose in the name of preventing sub-division of land. This created a situation where daughters were likely to be the loser of their property rights.\textsuperscript{49} In the matter of dowry related crimes, Dowry Prohibition Act 1961 was more a protection to the culprits rather than the victim of dowry harassment and death.\textsuperscript{50}

Thus, one may observe Indian state was more inclined to support patriarchy rather than implement the ideals of gender equality and social justice. Not only the state was acknowledging women as productive units of the economy but also in contrast to its’ constitutional commitment to gender equality and social justice, state was drafting discriminatory laws (service, property as well as criminal) and also denying any legal protection to women dominated sectors. State was only concerned with the welfare of women without thinking about women’s development. Consequently this period is characterized by the absence of any specific policy or plans/schemes to facilitate womens’ development.
Development Approach:

Positive changes in the attitude of the state however started making their appearance by the end of fifth five year plan. There was a shift from welfare to development approach. The concept of development was undergoing a change. ‘Development’ which was, until then, understood in terms of economic growth or economic development, now included additional dimensions in the form of human development criteria and sustainable development criteria. This new concept of development got reflected in the various international and national policy documents prepared in the wake of the U.N. Decade for Women in mid-1970s (1975-85) development now included sustainable ‘Human development’. Various international declarations during the 1970s (which was also ‘International Womens’ decade and at the national level in India, the report of CSWI) facilitated the shift in the approach towards women – from welfare to development. Women were now accepted as critical inputs for national development rather than the targets for welfare policies. The report of CSWI explained the pathetic state of women defined in terms of serious imbalances and disparities such as declining sex ratio, lower expectancy of life, higher infant and maternal mortality, declining work participation etc. Consequently ‘National Plan of Action’ was designed in 1976 that called for a planned action by government in the areas of health, family planning, nutrition, education, employment etc. Also, womens’ welfare and development bureau was set up in 1976. In fact it was an integration of both welfare approach as well as development approach.  

It was only in 6th five year plan that women could get enough space to be included as a separate chapter. Also, a working group on employment of
women at the Planning Commission was set up that made several recommendations to improve the productivity of women's traditional occupation. 'Lack of access to resources' was identified as one of the major obstacles in the way of development.

While in welfare approach women were invisible members of the entire social milieu, in development approach women received separate visibility.

In the context of the government policies and programmes, special schemes were launched for enhancing women's employment status from 1978-83. In 1978-79 IRDP (Integrated Rural Development Programme) was initiated as a pilot project in fifty district. In principle it was a sound scheme but could not yield much particularly for women. Women beneficiaries under National Rural Employment Programme (NREP) in 1980 and Rural Landless Employment Guarantee Programme (RLEGP) in 1983 were merged into a larger programme called JRY (Jawahar Rozgar Yojana). Under JRY, 30% of employment opportunities were reserved for women. In 1990-91 share of women in employment generation was 24%. Similarly under Development of Women and Children in Rural Areas (DWCRA) in 1982 (special scheme that aimed at strengthening the gender component of IRDP) - 28000 women groups were formed. In 1989 out of 68.85 lakh members of dairy cooperative societies 14% were women. A reference has to be made to the states of Gujarat and Andhra where milk and dairy cooperatives of women were formed. Women cooperative societies were also set up in fisheries sector. Moreover programmes like 'Lab to land' and setting up of 'Krishi Vigyan Kendras' benefitted women in agriculture and allied sector. Training of Rural Young for
Self Employment (TRYSEM) — under this scheme 4.59 lakh women were trained for the development of women and children in Rural areas DWCRA was initiated but it failed to identify activities that could generate sustained incomes. Public policy now focused on schemes facilitating self employment among educated unemployed youth with priority to women. Ministry of Labour launched a new scheme for providing Rants-in-Aid to state Government for setting up women ITIs.\(^5\)

As a result of changing national and international scenario the economic development of women was not the only issue demanding attention but the legal protection of social and personal security of women were also on the agenda. National campaigns were organized by women organizations for amending the criminal law. Decade of 1980s can well be designated as the decade of pro-women legislations. In 1982, for the first time antiquated Rape law of 1890 was amended; Dowry Prohibition Act of 1961 was amended twice, in 1984 and 1986.\(^5\) However, the submission of state in 1985 in the famous Shah Bano case and the consequent ‘Muslim women (Protection of rights on Divorce) Act, 1986\(^5\) showed the non-seriousness of the government towards womens’ issues and their subordination to patriarchal and fundamentalist forces. Despite constitutional and legal protections crimes against women continued to increase (in the year 1989, 9752 rape cases wherein 369 cases victims were less than 10 years of age; 4205 reported cases of dowry related deaths). It was not completely the failure of laws that was responsible for the rise of crimes against women, there are socio-economic, cultural reasons, as well which are not properly addressed by the society and the state.\(^5\)

There were changes in the statistics for the good, e.g. number of women worker in organized sector increased from 13.7 lakhs in 1962 to 35.7 lakhs in
1989 (from 11.3% to 13.7%). However, percentage of women in higher echelon jobs was still not very high, e.g. percentage of women holding gazetted post in 1988 was only 4.9%. In 1987 share of women in IAS – 7.4% or IFS – 9.9% and IES (Indian Economic Service) 12.9%. This reflect womens’ under-representation in decisions making positions.

**Empowerment Approach:**

The Eighth Plan (1992-1996) recognized ‘human development’ as the core of all development efforts. Health, education, literacy and fulfillment of basic needs (like drinking water, housing) and welfare programmes for weaker sections were the new indices of development. Moreover, the plan recognized the need to involve people in the process of development. Plan reflected the intention of the State to change the attitude of passive observance and total dependence on the Government for developmental activities and to encourage pro-active attitude of people. Thus the concept of development has undergone change in two ways: firstly development is being measured not only quantitatively (in terms of income and employment) but also qualitatively (in terms of facilities and securities enhancing human quality like health, education etc.). This change in the concept of development and integration of people in the process of development which is now perceived as a two way process was a consequence of the RTD (Right to development) as elaborated by the Vienna Declaration of 1992. Notwithstanding all these efforts, the public policy has remained inadequate to address the problems of women in respect of their unemployment and under-employment.

One positive step towards the empowerment of women was 73rd and 74th amendment that provided for women’s reservation in local self government.
Inappropriate political representation in legislature at various stages is one of the reasons for the absence of pro-women or women centred public policy. Though representation of women at grassroot level may not be enough for their development leading to empowerment but nonetheless a good beginning.

Development, as perceived in the earlier plans, continued in the Tenth Plan as well together with emphasis on good governance facilitating the empowerment of women. ‘Civil society’ was acknowledged as one of the major player in the process of development, disbursement of benefits and integration of various public institutions like Panchayat, village education committees and local health committees. Special emphasis was on the rural sector and social sector. Women and children were recognized as vulnerable groups. Importance of female literacy was particularly acknowledged. The Plan also referred to increasing gender bias in our society, declining sex ratio and also decreasing women’s share in labour force which again reflects reinforcing ongoing gender bias. Considering these facts, gender equity was to be made an integral part of development. Therefore, a number of development and employment oriented schemes were designed for women. To effectively deal the problem of domestic violence against women and to positively respond the international instruments signed by India and to protect and safeguard women within the boundaries of home, several initiatives have also been taken by Indian government in the form of developmental policies and programmes which are directly related to women.

Central Social Welfare Board: The Central Social Welfare Board (CSWB) was set up in 1953 with the objective of promoting social welfare activities and implementing welfare programmes for women. The CSWB is
unique in the sense that it was the first organization in post independence era to achieve people’s participation for implementation of welfare programmes for women, through Non-Governmental Organisations (NGOs). Presently more than 18,000 NGOs are receiving financial assistance and guidance including socio-economic programmes for needy/destitute women, condensed courses of education and vocational training courses of education and vocational training courses for women and girls, awareness generation projects for rural and poor women, family counseling centres/voluntary action bureau, crèches and hostels for working women, etc.

In addition to women specific and women related policies enunciated in various plan documents the government has also been creating an enabling policy environment in which women’s concerns can be reflected, articulated and redressed by the government, the voluntary agencies and the corporate sector. As part of this effort, many policy instruments have been brought forth, over the years, leading to Action Plans and programmes in several spheres.

The National Plan of Action for Women (NPA)\textsuperscript{62} : This plan adopted in 1965 became a guiding document for the development of women till 1988 when a National Perspective Plan for women was formulated.

The National Perspective Plan for Women (NPP) (1988-2000)\textsuperscript{63} : This plan was drafted by a core group of experts is more or less a long term policy document advocating a holistic approach for the development of women.

‘Shram Shakti’\textsuperscript{64}: The report of the National Commission on Self-Employed Women and Women in the Informal Sector (1988) examines the
entire gamut of issues facing women in the unorganized sector and makes a number of recommendations relating to employment, occupational hazards, legislative protection training and skill development, marketing and credit for women in the informal sector.

The National Expert Committee on Women Prisoners 1986: This Committee examined the condition of women prisoners in the criminal correctional justice system and made a series of recommendation regarding to necessary legislative reform, prisons reforms and reforms of other custodial institution and rehabilitation of women prisoners.

The Schemes supports for Training and Employment Program (STEP) 1987: This scheme aim to raise the income of rural women by updating their skills in the traditional sectors, such as dairy development animal husbandry sericulture handloom and social forestry since its inception in 1987, this programme has benefited 4,48,000 women.

The Jawahar Rozgar Yojana JRY (1989-90): This aims at providing additional gainful employment for the rural unemployed and under employed through training. 30% of the employment opportunities are reserved for women. Of the total employment generated under JRY, the share of women has been 533.84 lakh person days till November, 1998. Under Employment Assurance Scheme 639.46 lakh person days of employment have been generated during April to November, 1998.

Indira Awas Yojana (1985-86): Under the Indira Awaas Yojana (IAY), there is a provision for giving houses free of cost to the rural poor. Under this programme, priority is given to widows and unmarried women.
The National Commission for Women 1992: In January 1992, the National Commission for Women Act came into force. NCW was formed to take up women’s issues at the National level. This body is autonomous and not under the control of government. The Act made it mandatory for the government to discuss every issue regarding women with the NCW and its recommendations have to be tabled in the parliament. NCW was set up by government with the mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, for reviewing existing legislation and suggesting amendments where necessary and for looking into complaints involving deprivation of the rights of women. NCW has been organizing PMLAs since 1995 in association with NGOs to complement the judicial system. The National Commission for Women had initiated in 1996 a country-wide legal awareness programme to impart practical knowledge about basic legal rights and remedies provided under various laws. During the year 2003-04, the Commission modified the programme to make it more participative and provide an opportunity to the participants to come together to form SHGs to avail the advantages of development schemes and to enable them to fight for their legal rights as a group. The Commission inspects jails, remand homes, women institutions and other places of custody where women are kept as prisoners. The Commission has regularly visited the various jails and have suggested that women jailors should be appointed in women jails instead of male jailors. Other suggestions made are that ambulance facility should be provided. The Commission also points out that women courts should be established for expediting existing cases for women who are in jails, without establishment of any crimes against them. It has also recommended that State Commission
for women (SCW) be asked to hold Parivarik Mahila Lok Adalat with the cooperation of Local legal and cell, district judge, district court, NGOs and the National Commission for Women.

**Legal Literacy Manual**: It was brought out in 1992 with the aims of educating women about the laws concerning their basic rights. These manuals have been in a simple and illustrated format and cover a wide range of subjects, namely, laws relating to working women, child labour, contract labour, adoption and maintenance, Hindu Muslim and Christian marriage laws and rights to property.

**The National Human Rights Commission (NHRC) 1993**: India has set up in pursuance of the protection of Human Rights Act of 1993 in section 2(d) of this Act defines human rights as right to life, liberty, equality and dignity of individuals guaranteed by the constitution or embedded in the international covenants and enforceable by courts in India. Thus, NHRC can play a major role to protect women facing domestic violence. NHRC in association with the Department of Women and Child Development, UNIFEM and the Institute for Social Sciences(ISS) completed a survey in 2004 on trafficking which throws light on the causal and behavioural aspects of all agents in trafficking. The study also took steps in the following regard:

- Sensitization of officials creation of public awareness and generation of accountability.
- Facilitation of individual or group activities on prevention, protection and prosecution.
- Setting up a national network of government officials (nodal officers) in all states and linking them with the NGOs and INGOs across the country.
• More than 34 training programmes involving more than 2000 police officials, seven training programmes of judicial officers and 41 training sessions for NGOs and civil society have been facilitated.73

Ministry of Human Resources Development, Government of India74: In response to the U.N. initiatives, the Government of India refocused its development programmes to benefit women. A separate department (Department of Women and Child Development) in the Ministry of Human Resource Development was established which was later raised to a full-fledged Ministry, Ministry of Women and Child Development. This Ministry funds the Central Social Welfare Board to expand their programmes. The Ministry also plans and execute programmes for women, besides monitoring programmes for women in other ministries/departments. Another strategy was the setting up of various women’s development corporations in several states. For example in Maharashtra, there is Mahila Arthik Vikas Mahamandal (MA VIM), Support for Training and Employment Programme (STEP), Training cum Production Centres for Women, Awareness Generating Camps for Rural and poor women. Women Training centres/ Institute for Rehabilitation of women in Distress, Short Story Homes for Women and Family Counselling Centres, Free legal aid and paralegal training working women’s hostels etc. were set up for assistance. The Department of Women and Child Development in 2001-02 launched ‘Swadhar’ a scheme for holistic rehabilitation of women in difficult circumstances. The target group includes destitute women, widows deserted by their families, women released from prison, trafficked girls or women rescued from brothels, victims of sexual crime, etc.75 In 1998 the Department of Women and Child Development drew up a Plan of Action
and Constituted a Central Advisory Committee to combat trafficking, rescue and rehabilitate victims of trafficking and commercial sexual exploitation and activate legal and law enforcement systems to strengthen the implementation of the ITPA (Immoral Trafficking Prevention Act). State Advisory Committee on Trafficking have been set up and guidelines issued for effective implementation of the Plan of Action. The existing legal framework for tackling trafficking, including the Immoral Trafficking (Prevention) Act, is presently being reviewed. Committing awareness and community involvement being essential for prevention of trafficking, the involvement of Panchayati Raj Institution in anti-trafficking work has produced good results in some states.

The National Nutritional Policy (NNP) 1993: This policy articulates nutritional consideration in all important policy instruments of government and identifies short term and long term measures necessary to improve the nutritional status of women and children and the country as a whole.

Mahila Samridhi Yojana 1993: Another initiative to empower women by raising their economic status is the scheme of Mahila Samridhi Yojana (MSY) launched in October 1993. This scheme aims to promote the habit of saving among rural women with the objective of improving their financial assets. The government offers an incentive of 25% on a deposit of 300 kept for a lock in period of one year.

Rashtriya Mahila Kosh 1993: A National Credit Fund for women in 1993 is yet another innovation. The fund aims to reach the poorest of the poor women who are in need of credit but cannot reach the formal banking
or credit system. This credit fund has helped in the development of a national network of credit services for women in the informal sector.

**Indira Mahila Yojana (IMY) 1995**: This was launched in 1995 in over 200 blocks of India, for the holistic empowerment of women. IMY is being implemented in 238 blocks and till now, 40,000 women's groups have been formed.

**Balika Samriddhi Yojana 1997**: Balika Samriddhi Yojana (BSY) is a scheme to raise the status of the girl child. The first component of the scheme of BSY was launched with effect from October 2, 1997. Under this scheme the mother of a girl child born on or after 15, 1997 in a family living below the poverty line was given a grant of Rs. 500. The post-delivery grant of Rs. 500 per girl child (upto two girls in a family living below the poverty line) will be deposited in bank account in the name of girl child or in post-office if there is no bank nearby. In the same account will be deposited annual scholarships ranging from Rs. 300 for class 1 to Rs. 1,000 for class X when girl starts going to school. The maternal value of the deposits will be repayment to the girl on her attaining the age of 18 years and having remained unmarried till then.

**The Trade Related Entrepreneurship 1998**: This scheme was launched by the government in 1998. It was designed to generate self-employment for 45,000 women in rural and urban areas. The package involves financial assistance and services through NGOs in the non-farm sector.

**Rural Women's Development and Empowerment Project (SWA-Shakti Project) 1998**: This project was launched in 1998, for strengthening the process of empowerment of women in six states through the establishment
of self help groups. The United Nation’s Global Fund for Women and the Stree Adhar Kendra 1998: This project which started in 1998 has worked together to highlight and combat violence in Pune and Maharashtra. Two counseling centres have been set up in Pune and Mumbai which seek to strengthen the interaction of social workers with rural women.\textsuperscript{84}

**Swarna Jayanthy Gram Swarozag Yojana Scheme (SGSY)\textsuperscript{85}**: The amended and merged version of the erstwhile Development of women and Children in Rural Areas (DWCRA), Integrated Rural Development Program (IRDP) and Training of Rural Youth for Self-Employment (TRYSEM) were launched for women empowerment as one of the major objectives.

**The National Bank for Agriculture and Rural Development (NABARD)\textsuperscript{86}**: This scheme links banks with self-help groups with the objective of meeting the credit needs of the poor. As many as 85% of the groups linked with the banks are women’s groups.

**Mahila Vikas Nidhi (MVN)\textsuperscript{87}**: This scheme is specially designed fund for economic empowerment of women. Training and employment opportunities are provided to them through creation of necessary infrastructure. Besides supply of improved inputs, production and technological improvements are also covered under the MVN scheme. The progress of this scheme has been noteworthy. By March 2005, 345 NGOs were supported benefiting over 34,000 women with an aggregate assistance of Rs. 872.69 lakh.

**Health and Nutrition\textsuperscript{88}**: Apart from the extensive network of primary health care infrastructure, India has also the world’s largest Integrated Child Development Services (ICDS) programme which offers a package of supplementary nutrition, immunization, health care, growth monitoring, pre-
school education and health and nutrition education. Along with special initiatives like the Universal Immunization Programmes (UIP), these interventions have helped India substantially reduce the infant mortality rate and also bring malnourishment under control.

**Education for All**⁹⁹: Recognizing the fact that it is the girl child who is compelled to leave school at an early age, special efforts are being made to increase enrolment and retention of these children in school. Combining a programme of non-formal education for the working children and supported with a massive adult literary effort, India is geared to meet the target of education for all by the end of current decade.

**Self-help Group (SHGs)**⁹⁰: The self-help group model has been identified as a potential pathway to alleviating poverty. The number of poor women and men also enrolling in SHGs all over rural India has been increasing remarkably. They are not only active in the drift and credit management but are also taking up other activities, such as natural resources management and development work, literacy, knowledge management, nutritional security etc. SHGs lay the foundation of self-reliance through building up of institutions, which have the capacity to generate employment opportunities for the rural poor, and the poorest, and lead to job led economic growth.

The major form of microfinance in India is that based on women’s Self-Help Groups (SHGs), which are small groups of 10-20 members. These groups collect saving from their members and provide loans to them while the term ‘Self-Help Group’ or SHG can be used to describe a wide range of financial and non-financial associations. In India it has come to refer to a form of Accumulating Saving and Credit Association (ASCA) promoted by
government agencies, NGOs or banks. These groups manage and provide accumulated saving and externally leveraged funds to their members.

By 2005, over 700,000 groups had obtained over Rs. 20 billion (US $ 425 million) in loans from banks benefiting more than 10 million people. Delinquencies on these loans are reported to be less than 5% saving in these groups estimated to be atleast Rs. 8 billion (US $ 170 million).

In India self-help groups are the backbone of microfinance services. In 2003, the government of India announced that more than 2.5 million poor families had gained access to credit and other financial services through 150,000 self help groups.

**Stree Shakti Camps, 2002** : The Delhi government launched stree shakti, a project for the empowerment of women in February 2002. The project which is launched under the Bhagidari Scheme will stress on health, literacy and income generation for women between the age of 14 and 45 years. Delhi chief Minister Sheila Dikshit launched the project in all the nine districts of Delhi. She said,

> ‘Health cards are being issued to women and girls at various health awareness camps. Cards holders will get special preference in government hospitals to ensure that women take their health seriously’.\(^{91}\)

Stree Shakti camps are being held all over the city and will target women from the economically weaker sections. Dikshit said, ‘the project will reach women all over the city within two years. The government has also taken the help of NGOs to ensure that the benefits reach the right people.’\(^{92}\)
Thus, the governmental programmes to protect women from violence within the home after raising their status could be classified into three sections such as developmental programmes, welfare programmes, and Income-Generation Programmes. The developmental programmes viz. Mahila Mandals, Applied Nutrition programmes, Integrated Child Development Services, Integrated Rural Energy Programme, etc which provide welfare or income generation along with increasing awareness and improvement in the quality of life. The welfare programmes dealt with old age pension provision for the handicapped, widows, hostels for girls etc. The Income-generation programmes such as Development of Women and Children in Rural Areas (DWCRA), Jawahar Rozgar Yojana (JRY) Mahila Samriddhi Yojana (MSY) gave facilities in the income levels of women.\(^{93}\)

Some other initiates taken by Indian government to protect women from domestic violence are the establishment of state Commission for Women, women police cells in police stations and ‘all women’ police stations, etc. Its other course of action centres around running projects that provide support to vulnerable women, rehabilitation of victims of violence through schemes like Swadhar, and setting up of helplines for women in distress. Family court have been setup in some states to adjudicate cases relating to maintenance, custody and divorce. An important initiative is the development of a community based strategy of neighbourhood committees to create zero violence zones. This new approach to control violence concentrates on activating Mohalla Committees (neighbourhood groups) to tackle domestic violence. A significant experiment on similar lines is the Z scheme, a scheme that attempts to integrate enforcement machinery within
people's effort. One of the key features of this scheme is the way it is encouraging different actors to participate in the programme.

The emergence of community level responses to violence against women initiated and sustained by grassroots collectives is especially heartening. For example Nari Adalat and Mahila Panch have emerged out of the collective formed under the Mahila Samakhya Programme in selected districts of Uttar Pradesh and Gujarat. They function outside the formal legal system and use community pressure and informal social control and mechanism to punish perpetrators of violence and restore women's rights within the family. Case of domestic violence rape, child sexual abuse, and harassment are handled. Some other examples of such collectives are Sahara Sangh the support groups in Tehri Garhwal district of Uttranchal and Shalishi, which is the traditional system of dispute resolution prevalent particularly in West Bengal. Additional examples of organized advocacy efforts include community policing initiatives such as Mahila Suraksha Samiti and women state committee in Gujarat which operate at the district and the state level, to promote prevention, pressures state bodies and mobilise public awareness programmes.

Although, in many of the programmes assessed, welfare measures are mingled with purely economic approaches, the main focus of this section is to assess the government programmes which are aimed at helping them to move out of poverty. Besides all these efforts, these programmes are not much successful to remove the vulnerability of Indian women due to existing loopholes into it. The poor performance of the programmes is due to the following reasons of poor implementation,
• inadequate training and half hearted attitude.
• Most of the functionaries are male oriented
• Corruption
• Lack of co-ordination and communication gaps between departments at the state and district level.

In addition to these developmental programmes, the Government is also working towards the strengthening of existing legislations through review and amendments as well as enacting new laws and legal decisions in favour of women. Leaving aside the government sponsored schemes, one such major step is the enhancement of women's property rights and social security towards gender equality is Hindu Succession (Amendment) Act, 2005, which addressed gender inequalities on several fronts such as agricultural land, Mitakshara joint family system, parental dwelling house and certain widow's rights. Firstly, it brings all agricultural land at par with other property and makes Hindu women's inheritance rights in land legally equal to men, overriding any inconsistent state laws. Second major change lies in including all daughters, especially married daughters as co-partners in joint family property. Thirdly, it gives all daughters (married or not) the same right as sons to reside in or seek partition of the family dwelling house. Fourth the Act allows widows to inherit property of the deceased even if re-married. The Amendment no doubt can have far reaching implications not only for women but for her whole family and increase her livelihood options, enhance prospects of education, health and reduce domestic violence etc.

Similarly, recent years have been witness to some landmark interpretations and directives related to sexual harassment at work place,
maintenance rights of women, divorce, guardianship and benefits of work. For instance, in a landmark case of rape of a minor (*Gurmit Singh vs. State of Punjab, 1996*)\(^8\), the Supreme Court held that the failure of the investigating officer to conduct the investigation properly and arrest of the accused could not be the grounds for discrediting the victim. The court pointed out that in case of sexual offences, concerns of the victim and of the family about questions of honour could delay the registration of the formal complaint. It further stated that the trial court should not be a silent spectator during the cross examination of the witness: it must ensure that the cross-examinations do not become means of humiliation and harassment for the victim.

**Sexual harassment of women**

The Supreme Court in the *Vishakha Vs. State of Rajasthan*\(^9\) case in August 1997 considered provisions in CEDAW to address sexual harassment at the workplace. It laid down guidelines on ‘sexual harassment at the workplace by holding that actual molestation or even physical contact is not required for it to be construed as sexual harassment if the background of the entire case establishes the genuineness of the complaint. The significance of the Supreme Court ruling was that CEDAW, though not directly part of domestic law, could be used by the Indian courts to shape national laws.

The Supreme Court of India has passed order in April 2004 according to which the Complaints Committee as envisaged by the Supreme Court in Vishakha judgement will be deemed to be an inquiry authority for the purposes of Central Civil Services (Conduct) Rules, 1964 and the report of the Complaints Committee shall be deemed to be an inquiry report. Taking into account the Supreme Court's judgement in the Vishakha case, the Government
of India is actively considering enactment of a law for prevention and redressal of sexual harassment of women at the work place. Rape laws are under scrutiny following the report of the Justice Malimath committee (2003).

Progressive legislation in the context of personal laws has endeavoured to make Indian family law more gender just. Positive developments include the passing of the:

- **Indian Divorce (Amendment) Act, 2001**: amended to remove gender inequality and to do away with procedural delays in obtaining divorce;

- **Marriage Laws (Amendment) Act 2001**: enabling the applicants to apply for maintenance and education of minor children to be disposed of within 60 days from the date of service of the notice to the respondent;

- **Marriage Laws (Amendment) Act 2003**: aggrieved wife may file petition in the district court within local limits of whose jurisdiction she may be residing;

- **Indian Succession (Amendment) Act, 2001**: enables a Christian widow to get a share in the husband's property even in the absence of a will.

The Hindu Succession Act is also being amended to grant coparcenary rights to women.¹⁰⁰

**Trafficking**

The Government of India in 2000 has signed the UN Convention against Transnational Organised Crime (UNTOC), which includes the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.¹⁰¹ The Government is spearheading active advocacy against
trafficking in partnership with NGOs, and has formulated a detailed media campaign using TV, radio and print.

The Government has formulated a model grant-in-aid scheme for assistance to NGOs to combat trafficking in source areas, traditional areas and disturbed areas through prevention, rescue and rehabilitation. Emphasis is placed on awareness generation, networking amongst stakeholders, counseling, non-formal education and vocational training for prevention of trafficking. Another development in favour of women is the 'Protection of Women from Domestic Violence Act', 2005.

Act is significant in many ways. Firstly it acknowledges domestic violence as a crime. Domestic violence that was perceived until now as a part and participle of culture has finally been recognized as a crime. It broadly defines the crime to include physical, mental and other kinds of cruelties and also widens up the definition of perpetrators. It is perhaps one of the acts that can really be called as being pro-woman because it also seeks to cover single women in a live in relationship with the abuser, where both parties have lived together, in a shared household and are related by consanguinity, marriage and adoption.

Their relationship with family members, living together as a joint family is also included. Even those women who are sisters, widows mothers, single women or living with the abuser are entitled to legal protection under the Act. Harassment by way of unlawful dowry demands made to woman or her relatives is also covered by the Act. This Act also seeks to protect the rights of women to secure housing and to reside in her matrimonial home or shared household whether or not she holds any title and rights. This 'Act' also
empowers the magistrate to pass a protection order in favour of the victim to prevent the abuser from aiding or committing an act of domestic violence or any other specified act. It also provides for appointment of protection officers and legislation of Non-Governmental organizations as service providers for providing assistance to the abused with respect to her medical examination, obtaining legal aid and safe shelter.\ref{ref}

Despite, all these measures taken by Indian state to protect and safeguard women from violence within the home and for the prevention of domestic violence, it is highly unfortunate that, violence is still prevailing within the home. The worst kinds of abuses and violence are used against women within the boundaries of home. The graph of all kind of domestic violence and atrocities is rising higher day by day (as it has been discussed earlier in the previous chapter). Despite delegitimization, giving and taking of dowry is not only continued but increasing at a very fast pace and dowry related harassment is becoming more brutal. Women are burnt and raped within the home, female foeticide and infanticides are commonly in practice. Case of Pooja Chauhan who walked in semi-nude condition on the streets of Rajkot to protest against harassment (physical and sexual) by her husband and in-laws shows the indifference of state and its institution towards the issue. She was also a victim of domestic violence and had undergone sexual exploitation since she was a child.\ref{ref}

Law is important in protecting the victims of violence but that is not sufficient. Besides delegitimization, one needs to focus on socio-economic, cultural and mental transformations (as discussed in detail earlier). Though the Domestic Violence Act 2005 is a comprehensive act, with very broad
definition of domestic violence as well as the perpetrators, but it seems as if the law has not been very successful in being a deterrence to the domestic violence against women. The number of rising incidence (as given below) indicates that law has not really been much effective without other related variables (socio-economic, cultural and mental transformation).

In fact, a year after the enforcement of the much hyped Act, records suggest, there has been a steep rise in the cases reported. A total of 2,921 cases of domestic violence against women were registered in the country in 2007.106 ‘Women and Child Development Minister’ Renuka Chowdhury said that, statistics available with the National Crime Records Bureau indicate that the number of cases being registered under the Protection of women Against Domestic Violence Act, 2005, shows an increasing trend.107 It means this law is also not helpful to curb the practice of domestic violence against women. In Allahabad district, a case is reported at most on a daily basis. It is also stated by Ila Pant, District Protection officer that,

“As many as 405 cases have been reported since November 2006, when the Domestic violence Act was enforced, when 145 cases were reported last year, over 20 cases have already been reported in the first quarter of 2008”.108

Similarly, lawyers collective, a non-governmental organization (NGO) which was largely involved with this law in its formative stages, undertook the task of evaluating enforcement using available data. Its’ report shows that the main users of this law are only women in matrimonial relationship. A few widows have used it to prevent dispossession and some young girls have prevented forcible marriages by fathers. Indira Jaising of lawyers collective wrote in an article published in Indian Express on
October 26 that “this provision suffered a major setback at the hands of the judiciary”. The Supreme Court declared in a judgement *S.R Batra v. Tareena Batra*\(^{109}\) that a woman could claim this right only in relation to a household owned and rented by her husband. This means if her husband lives with his parents and she has her matrimonial residence, then she cannot claim right to residence there. The judgment not only oversights the law itself but it also overlooks the existing social realities of the joint family which continues to be the predominant pattern. The report prepared by lawyers is collective documents on the basis of this judgment. It demonstrates that in India women have lesser protection than tenants who cannot be evicted except by the procedure established by the law.\(^{110}\)

Therefore, women’s rights groups are not contend with the pace at which domestic violence law is implemented in India. Girija Vyas, Chairperson of National Commission for Women said, “the law has failed to protect women from domestic violence due to poor implementation and a number of loopholes”. She also said while speaking at the national meet convened by ‘Women Power Connect’ (WPC) that,

‘While the law has been enacted in a number of places, it has failed to have much impact, as in 90% of the states, no protection officers have been appointed’.\(^{111}\)

‘Women’s Power Connect’ (WPC) president Rajana Kumari also considered it as a beautiful piece of legislation, which needs a centrally sponsored scheme for effective implementation. She highlighted,

‘Apart from Andhra Pradesh where 2,000 cases have been registered, the figure in other states are dismal’.\(^{112}\)
A representative from a women's organization noted that in Maharashtra, police officers have been appointed as protection officers. This also has made implementing the law difficult. Similarly, Deepa Jain Singh, Secretary of the 'Women and Child Development' (WCD) ministry said, protection officers have been appointed in a few states like Arunachal Pradesh, Lakshwadeep, Madhya Pradesh and Delhi. Officials to help victims to fight their cases have been appointed in Goa and Lakshwadeep, and Gujarat has even translated the law into regional languages for creating more awareness. According to her, mobile courts and more accountability would ensure effective implementation of the Act. Positively the WCD ministry has started reviewing the law and has asked state governments to submit reports on its implementation.\textsuperscript{113}

Thus ineffectiveness of the newly introduced Act in the parliament is the saddest part of the whole story. Legislation on domestic violence is critically important in addressing the problems and agonies faced by Indian women. Besides, the fact that women need better and more effective laws and their appropriate implementation to protect themselves from violence within the home, investigating agencies and judiciary need to keep in step with the larger issue of women's rights.\textsuperscript{114}

To combat domestic violence, the first and foremost is to treat it as a societal problem rather than personal affairs. This can only be possible with the elimination of public and private domain dichotomy, which needs transformative action to change the patriarchal society to a society free from gender inequalities. Efforts should be made to bring attitudinal change towards gender roles and gender stereotyping.
Being the weaker and suppressed section of the society women deserve special treatment specially in the cases of domestic violence i.e. dowry deaths, physical and psychological hurt, assaults, rapes and other atrocities against perpetrators of violence. But legislations may not deliver the good unless they are effectively administered by the police and judiciary. The police system is an integral part of criminal Justice Administration, as it represents,

‘The coercive power of the state against criminal and the unsocial elements which disturb the piece of society’.\(^{115}\)

Similarly, the ideal code defining the duties of law enforcement officers in the police has been laid down in the International Code of Enforcement Ethics as follows,

“As a law enforcement officer, my fundamental duty is to serve mankind, to safeguard lives and property, to protect the innocent against deception, the weak against oppression and intimidation, and the peaceful against violence and disorders and to respect constitutional rights of all men to liberty, equality and justice”.\(^{116}\)

Similarly, police have unlimited power and authority to protect and safeguard women within the home or to prevent domestic violence against women. But in practice this power and authority of police instead of providing safety and security to women is used for their exploitation and violation. The worst example of it is the rape of a nun on 25.8.2008 in Kandhamal district during the ‘Orissa Bandh’. Besides helping the nun to get her an speedy justice, five policemen, assistant sub-inspector Rasananda Mallick, Havildar S.K. Hamin, J.S. Khan and B.K. Mohanty have been suspended for misconduct and negligence of duty.\(^{117}\)
Similarly police still has stereotyped attitude regarding domestic violence. The responding officer instead of providing women remedy, advise her to behave as a better wife or leave the house of the husband. Since domestic violence is more a socio-cultural practice, a change of mindset is essential for the successful implementation of any law. This factor has been emphasized earlier also. Policemen, who are also the product of the same socio-cultural setup not only accept but justify and even glorify wife battering, cannot appreciate the delegitimization of the practices. Even a liberal pro woman law cannot do much until and unless accepted by enforcement agencies by heart and mind.

According to Buzawa and Buzawa the primary problem with the police officers has been simply that they do not believe that responding to domestic violence calls an appropriate police responsibility. They clearly prefer law enforcement functions where the prospects for action and arrest are higher.118

Thus, it can understand the response to a domestic violence call has little occupational value to a police officer. One major reason for this attitude is that there are few formal organizational incentives for adequately handling a domestic assault case.

It is precisely because of the mal-functioning of police and its involvement in cases of crime that justice A.N. Mulla of the Allahabad high court in a judgement of 1963 dealing with an appeal by a police officer of Uttar Pradesh observed,

"... there is not a single law less group in the whole of the country whose record of crime comes anywhere
near the record of that organized unit which is known as the Indian police force...\textsuperscript{119}

Thus, the role of police in dealing with the cases of domestic violence is not commendable. Often they avoid registering such cases as first information and harass the victims and then family members, unless they happen to be influential ones. Even if they register the cases anyhow, it is often alleged that the police deliberately avoid proper investigation to reach the real culprit. Besides, political connection, pressures and the role of money (bribes etc.) further worsen the probability of justice to the victim. If the opposite party happens to be acquainted with the investigation officers they succumb to the pressures executed by them and their influential approaches due to which the proper investigation is often hampered. Then the witnesses are difficult to be found in cases of domestic violence, and if there are then they often avoid to testify before the police simply because they don't want themselves to be dragged in such cases. Moreover, the people have also lost their faith in police force mainly because of their dubious roles in handling family violence cases.

Thus in such a dismal state, NGOs are expected to work actively and seriously, to curb the problem of domestic violence against women's. Sensitization of masses against violence and change of attitude and the mindset of people is one important task that can be performed by NGOs. For a long period, NGOs confined their role to charity relief and welfare activities but the second half of the seventies the complexion of NGOs got changed. Role of NGOs has undergone metamorphism. They are now believed as one of the major non state actors in implementing the entire package from welfare to empowerment.
Fortunately, in India there are few genuine NGOs operating for emancipation of women in the country. These NGOs collectively prepare an action plan for overall development of Women. Exclusive Schools and boarding hostels for girls, women’s old age homes organizing self-help groups, conducting health camps and adult education to women, taking up issues like child marriages, polygamy, polyandry, and bringing awareness among women about their position in society. Education and economic upliftment are the major goal in their overall objective of women’s empowerment.

The NGOs are also helping women economic empowerment by providing them training, skill upgradation, provision of backward and forward linkages etc. Besides, they provide various services to improve health, education, child care and creation of social awareness and awakening. Some of the NGOs have earned world-wide acclaim for their support to socio-economic empowerment of women.\textsuperscript{120} SEWA, Ahmedabad, an NGO, has promoted a bank exclusively for women and is engaged in financing income earning activities of women. \textit{Friends of Women Bank} (FWWB), Ahmedabad an affiliate of \textit{Women’s World Banking} (WWB), New York is networking with smaller NGOs for financial assistance to women’s groups. \textit{Annapurna Mahila Mandal Mumbai} is engaged in providing credit for income generating activities to women. \textit{RDO, Manipur and SHARE}, Hyderabad, are experimenting the \textit{Grameena Bank Model} of Bangladesh for improving access of credit to poor women. The Working women’s Forum, Madras has organized women’s co-operative societies for income generating economic activities and facilitated their empowerment.
The Sri Mahila Greeha Udyog, Mumbai, has promoted home based satellite units run by women for production of Lijjat papad, which has today, captured the global markets.

Self Help Groups of women have been actively promoted, nurtured and supported by NGO’s for socio-economic empowerment of poor women. Such groups are encouraged to be linked with the formal banking system for better accessibility of resources to them at much lower rates of interest, reduction in transaction cost both for bankers and the groups of borrowers etc.

Progressive organization of Women, Hyderabad – this organization fought against the economic subordination of women, dowry demand and male-harassment of women. Similar movements in Maharashtra have also seen a heavy involvement of rural women in anti-feminine agitations from 1971-73, anti-price movement by middle class and working class housewives.\textsuperscript{121}

All India Democratic Women's Association (ADWA) also aimed at creating awareness on issues like the anti-dowry movement, integrity of people and youth rights.\textsuperscript{122}

The All India Women's Conference (AIWC) 1927 – It opened several girl schools all over India. Special schools for Muslim girls, centres for adult education. It worked to raise the literacy of women. The AIWC also realized that education should be employment oriented and therefore recommended new trade schools for girls, and throwing open professional education such as Engineering, Journalism, architecture commerce etc. to girls.\textsuperscript{123} The All India Women’s conference (AIWC) has also expressed concern over the growing sense of insecurity among women in our society. It also insist
government to take strong measures to protect the dignity and image of women which is distorted by media and their image as projected in films and T.V. serials. AIWC also highlighted the fact in its one-day conference that women themselves are highly responsible for their plight.124

Education plays an important role in bringing about awareness in women's rights. Empowerment of the women is the prime objective of all developmental programmes and policies. Thus in India Self Employed Women's Association (SEWA) of Gujrat, Working Women's Forums (WWF) of Madras, Mysore, Resettlement and Development Agency (MYRADA) of Karnataka and a large number of organization are successful in empowering women in terms of enhancing awareness related to their education as well as their exploitation.125

However mobilization of community is indispensable in protecting women against violence protest in the form of demonstrations, dharna, social boycott, community patrolling against the occurrence of any act of domestic violence, which will operate as a deterrent to domestic violence.

Free legal aid, speedy trial and helplines are another way to prevent domestic violence against women. In this direction, positively health ministry is planning to tackle female foeticide in India. A longer jail sentence along with a higher financial penalty and a 24 hours toll free number to record complaints against doctors conducting sex determination tests are among the measures. Other measure includes having designated courts to hear cases against violators of pre-conception and pre-Natal Diagnostic Techniques Act, appointing special public prosecutors to efficiently file court cases against the guilty and sensitizing the judiciary to
ensure faster conviction rates. MTNL has granted the health ministry a 10-digit toll free number 1800110500 which will be managed by a call centre. When a complaint of sex determination is received, the call centre will forward the information to the state concerned which, assisted by the National Monitoring Cell, will then conduct raids, carry investigations and prepare the legal case against doctors and institutions found to be at fault. Similarly, the website http://pndt.gov.in gave useful information about how and where to complaint. The ministry is planning to amend the PC and PNDT Acts and introduce a graded punishment system of three months to three years imprisonment. The financial penalty, which is at present between Rs. 10,000 to Rs. 1 lakh, is being enhanced to anywhere between Rs. 3.7 lakh. The ministry is also planning to bring in a mandatory clause which will only allow gynaecologists, obstetricians and radiologists with a DNB degree to use ultrasound machines.  

**Role of Media in Sensitization**

Though, media can play a major role to sensitize the masses to curb the problem of domestic violence. But it is highly unfortunate that world over women suffer from misrepresentation and marginalization in media. India is no exception as pointed out by Government of India itself,

'In India the dominant stereotype images of women, and girls are that of (i) Less competent human being, (ii) Instruments for exploitation by men and (iii) key to commercial success in this age of advertising' (GOI, 1988).  

Similarly, The Report 'Towards Equality' (GOI, 1974) comments,

"incidental studies on the impact of man media indicate, however that women’s exposure to the media is often very inadequate and unsatisfactory. It appears
that the man media has not been an effective instrument to inform and prepare women to play their new roles in society”.  

Culture propagated by media influences people’s thought, process ideas, perceptions and even their identities. Media can set the trends for socio-cultural life in society. Awareness of women’s issues and careful planning among producers, directors and script writers can lead to the portrayal of women as strong, capable, professionals, independent and responsible citizens. Husbands and wife could be shown as equal partners nurturing and respecting each other. Continuous monitoring and campaigning against the more objectionable portrayals can create a gender consciousness. Advertisement can also play a vital role to raise the status of women. Media people have to develop sensitivity towards projecting the constructing and strengthening image of women. Policy makers must urgently address the question of new media influence and its cultural implications. The increasing space for women’s programmes on women’s issues and their problem on television can also make the masses aware related to the problem of women. Recently ‘Home Ministry’ has planned to telecast a serial on ‘Doordarshan’ called ‘Atmaja’ to dramatize issues related to gender discrimination, dowry and domestic violence to raise social consciousness and catch people doing sex-determination tests that lead to female foeticide. Similarly, now-a-days the channel ‘colours’ telecast programmes/serials like ‘Bilaka Vadhu’ and ‘Is Desh mein Na aana Ladoo’ to raise the awareness regarding the prevailing custom of child marriages and female foeticide, and its worst impact on the girls as well as on society.

Women-oriented films can also be a major source to sensitize the masses. Fortunately, from the 1990s the trend has changed to a more heroine oriented movies addressing the real feminine issues. For example
‘Mrityadand’ by Prakash Jha told the story of a Bihari women’s fight against feudalism in a male chauvinist society. Basu Bhattacharya’s ‘Astha’ dealing with sensitive subject of marital relationship of a women’s consumerist desires. Similarly, ‘Tamanna’ Pooja Bhatt enacted the life story of a girl dumped in garbage by her father. Shyam Bengal’s Sardari Begum is about the life of a girl who braves the wrath of her strict father to learn thumri form a mirasin. Similarly Nandita Das, Konkana Sen Sharma and Sushmita Sen are challenging the male dominated society with serious women oriented films.129 Recently Bollywood celebrities Amitabh Bachchan, Javed Akhtar, Raj Kumar, Santoshi and Alka Yagnik have joined hands to spread the message ‘save the girl child’. They have come up with a movie ‘Main Janam Lungi’ produced by the Federation of Obstetric and Gynaecological Societies of India (FOGSI). The movie which has been shot at different locations in Agra will be shown across the country to spreading awareness on female foeticide. Similarly, a documentary dealing with issues like sex-determination and female-foeticide was also shot in Agra and appreciated by the United Nations Population Fund (UNPF) as a special work. The UNPF has also decided to make the film titled ‘No country for young Girls’ likely to be released in the end of 2008 as an important part of its worldwide campaign against sex-determination. Therefore, Agra as a major tourist destination is used by the enlightened people to draw people’s attention and getting the message across to the global audience to prevent domestic violence against women.130

Concludingly, all the efforts made by different organisations, agencies governmental and non-governmental, will be useless until women themselves will awake regarding their problems and issues. None can give safety and protection to any one until the person (victim) itself takes
initiatives for own protection. It is highly unfortunate, that majority of Indian women whether literate or illiterate are ignorant of their legal rights. Thus, such attitude can never be the cure of their problems and make them socially, politically, culturally and economically empowered. As the same is also observed by Indira Gandhi,

'Women’s emancipation or equality is part of our general development plans but government action can be neither effective nor adequate unless women themselves become more aware of their rights.'

To conclude, protection of women against violence in general and domestic violence in particular requires a multi-dimensional approach. Looking into the political economy of domestic violence, one may realize that it is not merely a legal problem but has explicit roots in socio-economic, religio-cultural and political factors. Infact, the problem of domestic violence is largely a product of women’s poor socio-economic political condition added to the patriarchal notions resulting in her subordinate status. Therefore, it is necessary to ameliorate her socio-economic condition. Socio-economic and political empowerment simply does not mean a job and economic/financial independence but it means ‘freedom of choice’. Empowerment also means taking away the surplus power from the powerful i.e. dismantling patriarchal notions that believe in subordinate status of women that has to be maintained at any cost – even by the use of force. Thus a change in the attitude of people towards women has to be altered. Delegitimization of violent practices is essential but awareness about law, rights and the will to fight against the exploitation has to be there in the victims. At the same time there has to be a training of law enforcement agencies to sensitize them towards the issue.
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