

**CHAPTER - I**  
**INTRODUCTION**

## INTRODUCTION

The modern period is an age of radical, scientific and technical progress and outstanding discoveries over countries. People are exploring space and flying to the moon and diving to the depths of the ocean. Against the background of their wonderful achievements, humanity's unresolved social problems stand out with particular rigidity. One of these problems is the violation of human rights to women who comprise half of the population and one-third of its workforce. It is quite clear that the part played by women in all spheres of life today is constantly on the increase. But in many countries of the world, women remain subject to inequality and oppression. This has a harmful effect both on their own status and on the social climate in which they live. After all, the status of women acts as a kind of barometer registering the amount of democracy in any state and family. The degree of women's emancipation is the natural measure of general emancipation.<sup>1</sup>

### 1.1 Human Rights - A general overview

What are human rights? Human rights are the innate and inherent rights of all human beings.<sup>2</sup> Human rights mean the rights relating to life, liberty,

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<sup>1</sup> Banerji, Nirmala (1978), "Women Workers and development," *Social Scientist* 6, March 8, p.1-5.

<sup>2</sup> Encyclopedia of Social Science. Adam Kuper & Jessica Kuper ,p.283.

equality and the dignity of the individual guaranteed by the constitution or embodied in the International Covenant and enforceable by the courts of India.<sup>3</sup> Human rights are sometimes called fundamental rights or basic human rights, which cannot, rather must not, be taken away by any legislature or any act of the government and which are often set out in a constitution.

### **1.1.1 Human rights and gender dimension**

What are the human rights of women? Is there anything like human rights of women?

“Human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human right. The full and equal participation of women in political, civil, economic, social and cultural life at the national, regional and the international levels and the eradication of all forms of discrimination on the grounds of sex are the priority objectives of the international communities”<sup>4</sup>.

The World Conference on Human Rights<sup>5</sup> urged governments; inter governmental and non governmental organizations to intensify the effect for the protection and promotion of human rights of women and girl children. Discrimination against women is incompatible with human dignity and welfare of the society and constitutes an obstacle to the full realisation of the potentialities of women. Hence the U.N. General Assembly on November 7,

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<sup>3</sup> Protection of human rights Act, 1993, section (2) 1 (d) Government of India.

<sup>4</sup> World conference on human rights. 1993. Beijing Platform for Action. 1993.

<sup>5</sup> It provided a unique opportunity to place women on the human rights agenda.

1967 adopted the Declaration on the Elimination of Discrimination Against Women,<sup>6</sup> and convened a Convention on the Elimination of Discrimination Against Women (CEDAW) on December 18, 1979.<sup>7</sup> Discrimination against women means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field.<sup>8</sup>

### **1.1.2 Violation of women's rights**

The rights of women covers a wide field of equal opportunity, discrimination in employment, privacy, marriage, divorce, sexual preference, abortion etc. Though the legal position of women is better in most countries of the world, they face inequalities in various forms and are denied equal opportunities for personal growth and social development. They are burdened with discrimination, which in turn perpetuates their low status. Social customs, conditions, economic imbalance and religious influences have proved to be important extra legal factors that have made them second class citizens in real life. Millions of our women are ignorant or just unable to enjoy the many rights and the privileges that have been conferred on them. They remain paper laws confined to the statute book.<sup>9</sup>

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<sup>6</sup> General Assembly Resolution 2263 (xxii) of 7 November, 1967.

<sup>7</sup> U.N.Document No.A/Res/34/180.

<sup>8</sup> Article 1 of the CEDAW.

<sup>9</sup> Upendra Baxi, (ed.) *The Right to be Human*, Lancer International, New Delhi, 1987. P.11.

Today the rejection of the unwanted girl begins before birth. Prenatal sex determination tests followed by quick abortions eliminate thousands of female foetuses before they become daughters. Those girls who manage to survive till birth and beyond, find that the dice is heavily loaded against them in a world that denies them equal access to food, health care, education, employment and simple human dignity.<sup>10</sup>

The practice of gender discrimination brought about gender gaps in the society. It can be identified through the disparity between males and females on various demographic and sociographic indicators such as sex ratio, mortality rate, health status and work participation rate etc.

### **1.1.3 Indian Scenario**

In India, women occupy a far more lower position than men "in a culture that idealizes sons and dreads the birth of a daughter."

Even 57 years after independence, women continue to be treated as the single largest group of backward citizens of India. Gender equality and justice are guaranteed in the preamble of Indian Constitution itself as well as in the article 14, 15 and 16 with the emphasis on equality of men and women before law, prohibition of discrimination on the grounds of religion, caste, race, sex or place of birth or of these and equality of opportunity in matters of public employment, but the Constitution has implicitly accepted patriarchal assumptions as the world's largest and the most elaborately written constitution.

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<sup>10</sup> Jothy Mitra (1997) 'Equality and Empowerment' in Women and Society, Kanishka publishers, New Delhi, P.214.

It refers to women only six times, out of which, five times they are referred to together with men or children and only once and that too in the case of maternity leave in Article 42 are women alone referred to.<sup>11</sup> The gender inequality is aggravated in the fact that though the uniform civil code is enshrined in the Constitution as the ultimate reality, its principles of equal rights for the men and the women, the laws relating to marriage, divorce, adoption, inheritance and other factors were left by the government to the five personal law codes of the five religious communities, the Hindus, the Muslims, the Christians, the Jews and the Parsees.<sup>12</sup> "The gender bias noticeable is that when inequality is abolished between men and women in many matters, the domestic sector is left tragically untouched."<sup>13</sup>

The Preamble of the Constitution of India promises to secure for its citizens, justice, social, economic and political liberty of thought and expression, belief, faith and worship and equality of status and opportunity<sup>14</sup>. The Indian Constitution prescribes men and women as equals, but in practice, the plight of Indian women is quite disheartening if we analyse their status in Indian society. Judging by the sudden visibility of a number of women, mostly elite and middle and upper class, the overall progress of women looks impressive. Several indicators of social status, like longevity of life, maternal mortality, infant mortality, literacy, health, education, point to their general improved

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<sup>11</sup> Justice V.R. Krishna, Iyer (1984) *Human Rights and Law*, Vedpal Law House, Indore, P.87.

<sup>12</sup> Ibid.

<sup>13</sup> Bharathi, Roy (1998) *From Independence Towards Freedom*, Kali for Women, New Delhi, P.78.

<sup>14</sup> Indian Constitution—Preamble.

status<sup>15</sup>. But in comparative terms, women still remain behind men in all objective and material measures of well being and suffer mass violations of human rights in ventures of human rights, labour, education, nutrition, life expectancy etc. Further, the daily experiences of most women unfold the sphere of oppression based on patriarchal social structure and social and cultural ideas. "One is not born a woman, but become a woman."<sup>16</sup>

The Indian Constitution prescribes men and women as equals but in this sensitive society, many inequalities prevail.<sup>17</sup> Women need to be guaranteed equal protection under the law, equal rights and rewards in the workplace and home and equal access to basic social services. Undoubtedly, like any other country, India has the laws for the protection of women and yet not a single day passes without reports on the harrowing tales of sexual harassment, mental torture, marital fall-out such as dowry death and suicide of women. Even minor girls are not spared from molestation and rape, even by their own kith and kin. The most painful devaluation of women is when she is subjected to physical and psychological violence. Violence against her is seen not only as an assault against her body, but more importantly as a negation of her integrity and personhood.<sup>18</sup> The violence against women takes many forms including foeticide, infanticide, dowry, rape, incest and prostitution.

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<sup>15</sup> Amartya, Sen (1990) *Development as Freedom*, Oxford, p.18.

<sup>16</sup> Simone De Boviore (1961) *Second Sex*, New York: Bantam Books, .P.39.

<sup>17</sup> Dr. S.Sanyal (1999) 'Inequals among Equals' *Social. Defence*.Vol.49. No.141.July .

<sup>18</sup> Gahadially, Rehana, (Ed.) (1990) *Women in Indian Society, A Reader*, Sage Publications, New Delhi, p.301.

Government of India declared 2001 as the year of empowerment of women. Empowerment can be measured in the extent of women's economic independence and equality, in point of assertion and in being able to live a violence free life and in being able to break cultural and social barriers which keep them in subordinate positions. Indian history stands testimony to the degradation of women in society. The patriarchal Indian society has failed to safeguard the rights of women. Gender violence and discrimination are experienced by women even before their birth in this world. The various phases of discrimination can be detected from various stages of :

- (1) Prebirth- Like sex selective abortion; battering during pregnancy, emotional and physical effects on the women on birth outcome, coerced pregnancies, mass rape etc.
- (2) Infancy- Female infanticide, emotional and physical abuse, differential treatment especially with access to food and medical care, child marriage, genital mutilation, sexual abuse by strangers and family members, child prostitution etc.
- (3) Adolescence- Dating and courtship violence, economically coerced sex, sexual abuse in the workplace, rape, sexual harassment, forced prostitution, trafficking in women, abuse of women by intimate partner, marital rape, dowry abuse and murder; partner's homicide, psychological and sexual abuse in the workplace, etc.

- (4) Old Age- Abuse of widows and elder women. Elder abuse affects mainly women.<sup>19</sup>

It is to be noted that with the growth of population, opportunities have become limited and inequalities has persisted, though capabilities have expanded. Gender blindness acutely influences the mode of life in the family and the attitude of an individual in the workplace.<sup>20</sup>

#### **1.1.4 Kerala Scenario**

It is true that Kerala, a highly literate state, is also witnessing increasing cases of violence against women. There are probably three sets of issues that bring to the fore the complexity of gender based violations in contemporary Kerala: Low work participation, crime and property rights. Work participation of women in Kerala is among the lowest for all the states in India and unemployment rates of women in the state are the highest. Crime against women, stress related distress, and attempts at suicide are gaining visibility in Kerala. Women's' property rights<sup>21</sup> seem to be declining or growing weak, making women of different groups based on caste, class or increasingly dependent. Majority of the family related crimes like dowry, bride-burnings and rape are well organized crimes. State Crime Records Bureau keeps the records of crimes like molestation, sexual harassment, eve teasing, rape etc against women across the state. The records of the State Crime Records

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<sup>19</sup> Dr.Katarina Tomasevski (1991) *Women and Human Rights*, UN-NGO Group on Women and Development, Introduction, p.x.

<sup>20</sup> U. Kalpakam (1986) *Gender in Economics, Economic and Political Weekly*, Vol XXI, No. 43, October.

<sup>21</sup> *Mary Roy versus State of Kerala*, AIR-SC 1011.

Bureau and the daily news-paper reports are self explanatory as to the incidents. Apart from this, the number of dowry deaths and the suicides repeated are also available with them. Female foeticide claimed innumerable lives of unborn female infants. Domestic violence was reported as one of the top violations of women's rights. Caste violence figured prominently in a social setting of rights violations. Women trafficking is a grave problem caused by poverty and burden of dowry because larger families are burdened with unmarried and jobless daughters who cannot be married off swing to the problem of dowry.<sup>22</sup>

## **1.2 Research problem**

In this study, the researcher examines whether the concept of human rights can be applied to the situation of being a women, with special focus on working women in the informal sector, a marginalised group. We must accept the premise that women's rights are human rights and women have been at the receiving end of oppression in more senses than one. Women workers in the informal sector indeed do not enjoy the rights and freedoms to which they are entitled by the mere fact that they were human. The human rights of women as workers should be equal to those of male workers. The gender gap between the recognition and violations of human rights and fundamental freedoms is the main theme of this study. Problems in attaining the full recognition and enjoyment of all human rights and fundamental rights for women workers are the main aim of this research. What women have learned from history is that their

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<sup>22</sup> Here we may recollect the ancient system of sending daughters to Sirsi (Maharstra) and Sidhipur (Karnataka) for flesh trade.

needs and interests, and the violations of their rights are neither automatically recognised nor guaranteed unless they articulate them and fight for them.<sup>23</sup>

In short, the violation of human rights of women takes place in myriad forms through many deprivations, all over the world. India is not free from this menace. Five decades of freedom and development have not promoted gender equality for Indian women. In society, women are treated as secondary citizens in every walks of life, say, education, politics, economy, legal services and family. Sati, infanticide, female foeticide, child marriage, dowry death, rape, molestation, sexual harassment and what not are the common experience of majority of women. As Amartya Sen has reported "a hundred million women are missing because of high maternal and female infant mortality."<sup>24</sup> Creating a culture of human rights is a prerequisite for a proper implementation of women's rights. It is up to everyone to recognize the equal, inherent and inalienable right of all members of the human family as the foundation of freedom, justice and peace in the world.

Thus the target of this study is the status of women in Kerala so as to reveal their identity with human rights as declared in the Universal Declaration of Human Rights and the preamble and fundamental rights of our constitution, National Policy for the Empowerment of women-2001, CEDAW (Convention for Elimination of Discrimination Against Women) and Beijing Platform for Action 1995 and to focus the violations of human rights of women in Kerala. It is to arouse consciousness among all sections of society about women, their problems and

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<sup>23</sup> Mariame, Haslegrave (1988) *Women's Rights- The Road to Millennium*. Rutledge, New York. P.128.

<sup>24</sup> Amartya, Sen, *Development as Freedom*, Oxford, p.18.

possible remedies for them and to create awareness among women. The first step towards the protection of women's rights is awareness of what these rights are, how they should be protected and what remedies are available to women whose rights are violated or denied. Women have rarely sought to remedy these violations as they are unaware of their rights to be protected or information concerning available remedies. Making such information available and reacting accordingly is the major task in the process of empowering women to assert and demand their rights and freedoms as human beings.<sup>25</sup>

### **1.3 Theoretical Antecedents**

The present study aims at the portrayal of the human rights of women in Kerala, with its possession and violation in historical context. The status of women in any society is significant pointer of level of culture of that society. For women are most marginalized section in the society, especially poor working women in the informal sector, women issues should be examined in the light of broader framework of the sociological theory that was dealt with oppression, introduced by Antonio Gramsci<sup>26</sup> and E.P Thomson.<sup>27</sup> In many social situations, it was used by various scholars to show that social internalization makes domination and discrimination becomes natural and a way of life.

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<sup>25</sup> Radha Kumar (1993) *History of Doing, Kali for women*, New Delhi, P.112.

<sup>26</sup> Antonio Gramsci (1971) *Selections from Prison Notebooks*, Nowell Smith, London, p.54-55

<sup>27</sup> E.P. Thompson (1968) *The making of English Working Class*, Harmondsworth, p.9.

In this study of social gender history, perspectives come 'from below', trying to give voice to the people who usually do not leave behind written records.<sup>28</sup> To write the history of the marginalized and the subalterns is really inspired by the ideas of Antonio Gramsci and E. P. Thompson. The term 'subaltern' is borrowed from Gramsci and implies the existence of independent forms of consciousness and culture among the non-elite groups. The scholars of subaltern studies took "History from Below" in the spirit of Thompson as their point of departure, stressing the non elite as being the agents in history and not merely passive victims of oppressive structures.<sup>29</sup>

Social history built on empirical studies, archival sources and above all oral history, forms the basis of the present study. The intension of the study is to explore the lives of the subaltern from their perspective. Women of Kerala, especially workers, are affected by the legal systems in our country and the practices by which they have been treated. Their sense of identity must also have been influenced by their own experiences that have survived the reality of their daily lives in the work site and by the structure of labour relations, wages, marriages, social customs and the rights and privileges. Thompson's basic assumptions, his perspective from below, is concerned with "material realities", stresses the ability of unprivileged groups to achieve agency and his vision of emancipating people, has been adopted.

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<sup>28</sup> Ranajit Guha (ed) *Subalten studies1: Writings in South Asian History and Society* (New Delhi 1982) p 1.

<sup>29</sup> John Tosh. *The Pursuit of History: Aims, Methods and New Directions in the study of Modern History* (London) 1999, p.83 - 90.

Gender relations are explored from several perspectives: gender as practice, discourse, ideology and an identity. Gender relations are those by means of which sexual divisions and definitions of masculinity and femininity are constructed, organized and maintained.<sup>30</sup>

With an interpretative approach, the research aims at understanding the violation of their right to life, i.e.; right to livelihood and to live with dignity and decorum, by analyzing the working conditions of the poor working women in the construction industry. The experience and identity creating process of female construction workers based on class, caste and gender are also concerns of the study.

A problem oriented and exploratory methodology yields an interdisciplinary approach. The aim of the study is to explore a wider social context than is usually available within strict disciplinary boundaries in order to include diversity of aspects, which have had an impact on people's lives and identities.<sup>31</sup>

Feminist studies have gone through a substantial shift from 1970 onwards. It is a transformation which Michele Barret has called a shift from "things" to "words", from material realities (e.g.: low pay, rape, female foeticide)

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<sup>30</sup> Bradeley Harriet, *British Sociologist*(1995). *Fractured Identities*.London. P 19.

<sup>31</sup> Beteille Andre, *Society and Politics in India . Essays in Comparative Perspective* London 1991, P-121.

to discourses from social structure to symbols and representations: from Patriarchy and Women's equality to cultural meaning and diffeticide.<sup>32</sup>

The pioneering work of feminist historian and theorist Joan Wallace Scot, has advocated deconstruction methodology which seeks to disclose how discourses of masculinity and femininity thereby power are constructed.<sup>33</sup>

In the broader conceptual and definitional frame work, the main thrust of the thesis is to assess the violation of rights of women workers who are engaged in informal sector in various activities. However, to make it more specific, attempt has been made to present an empirical evaluation of violations of the rights of women who are engaged only in construction work. But before the analysis of the empirical findings of this piece of research, it is appropriate to mention the concept of human rights in a historical perspective and to look at the history of women labour and to correlate our findings with them.

#### **1.4 Objectives of the Study**

The objectives of the study are to analyze the human rights violation of women as to

1. The right to life, i.e.; right to livelihood and to live with dignity and decorum.
2. Right to work with dignity and economic self sufficiency and freedom

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<sup>32</sup> Barret Michele, "Words and Things. Materialism and Method in Contemporary Feminist Analysis" in Michele Barret and Annie Philips, *Destabilizing theory, Contemporary Feminist Debates* (Cambridge 1992, p-201 -219.

<sup>33</sup> Scot Joan Wallace (1994) *Gender and Politics of History*. London, P.87.

3. To assess the discrimination against women in relation to the male counterpart in terms of wages and lack of social welfare benefits.
4. To assess the violation of their right in the domestic sector.
5. To assess the role conflicts as a worker and house wife.
6. To assess the health problems of women workers.

Several studies have shown that survival of the poorest house-hold in India is dependent on the earnings of women, but she is the most vulnerable victim and has been exploited most. In support of this, the relatively low female labour force participation rate in Kerala explains the fact that there is 'under remuneration', unaccountability and invisibility of women's economic activities.

There is a clear sexual division of labour in construction work. All the skilled operations are done by men, even though women are quite skilled in those works by experience and expertise. The said to be unskilled work is really skilled work. Women carry loads on the head, carry bricks and other construction materials and water. Women stand at the bottom of the hierarchy, employed as assistants, but doing the most arduous work of lifting and carrying construction materials on the head through risky ladders and pathways. Above all, women workers are exposed to severe hardships and physical toils, work sites have no basic amenities such as toilet, crèches, drinking water and health care during pregnancies.

## 1.5 Hypotheses

For assessing the contours of violation of rights of women workers in the informal sector, hypotheses were developed.

1. There is real violation of human rights of women.
2. There is violation of right to life and livelihood and to work with dignity and decorum.
3. There is exploitation of women labour with low wages, discrimination in wages and long working hours, both in the labour market and the household.
4. Women have no economic independence or a say in decision making.
5. They have no right to education and health.
6. They have no freedom from violence, oppression, harassment, trafficking and sexual abuse- a dehumanizing act on the sanctity of a female. It is an offence to her self esteem and dignity.
7. There is discrimination against women in relation to the male counterparts in terms of wages.
8. There are gender division of labour, class and caste differences etc.
9. There is discrimination in the domestic sector.
10. Working women are more exposed to sexual harassment in comparison to those staying at home.

## **1.6 Methodology**

To test the above mentioned hypotheses, first hand information was collected from a hundred women workers—50 from rural and 50 from urban area around Cochin. Cochin, being the most ultra metropolitan city in Kerala and having all the features of structured society, would be a typical site for the selection of workers. A number of construction contractors like Jyomon construction, Mahindra and Mahindra, Silpa construction and Desai constructions, Kunnel constructions are making buildings like sky scrapers in Cochin and a lot of workers, both male and female are selected on trade union basis. Using a structured questionnaire, the women workers were interviewed personally both at work sites and residence. When they became quite informal with the researcher due to frequent visits and friendly approach, we had descriptive and open talks on almost all affairs of life and work. From these we could get the forms filled and almost all queries were responded to by them.

## **1.7 Significance of the study**

This study, being of social relevance, aims to unveil the real position of women from the historic past, their gradual deterioration and analyses the violations of their rights as a human being. 'The human right to be a woman'<sup>34</sup> in Kerala as revealed in limited sphere, is depicted in the study, which exhorts the states and the governing authority and even voluntary organisations to take steps for the eradication of these violations.

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<sup>34</sup> Justice Krishna Iyer (1993) " Human Rights to be a Women" in Womens March Towards Dignity Sociological Perspective, (ed.) Kusum, Regency Publications, Bombay.

This study aims to eliminate existing violations of women's rights and to encourage and organise them to join the work force in large numbers for the economic progress of the country. More participation in the economic activities can certainly bring a radical change in the economic progress.

In the present day society, criminal victimisation of working women is rampant in domestic sphere and in the outer world. While working in the site, she is considered as an uncommitted worker. She is being doubly squeezed due to her dual role of housewife and working women. To conclude, the eradication of violation of the rights against working class women and their protection in all spheres can only encourage large number of women to join the work force. In view of the prevailing economic crisis, our country can march towards progress by utilising the women power and their energy in main stream work force.

The main aim of economic reforms is to generate higher rate of economic growth. But economic growth in its own, does not lead to reduction in gender inequalities. "Achieving greater equality involves the process of active social change which has no obvious link with economic growth."<sup>35</sup> The economic reforms are neither gender neutral nor do they ensure a minimum fair status to women. The gender implications of economic reforms are difficult to analyse using a macro level data alone. A detailed data on household work and worksite, therefore, would disclose their gender implications adequately. Micro level studies of the present type, like empirical investigations assume added

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<sup>35</sup> Amartya Sen and Dreze Jean (1995) 'Widowhood and poverty in rural India', discussion paper 62 STICERD, London School of Economics, p.68

significance in revealing the discrimination and violations of women's rights and in assessing their status as an active economic participant.

### **1.7 Chapter Analysis**

The study is arranged in seven chapters. The introductory chapter shows the problem of the study, the violation of human rights of women, its nature, scope and methodology. In the second chapter, the concept of human rights and its historical evolution in the West and in India are traced. The second portion of the second chapter gives an analysis of human rights in the frame work of feminist discourse. The third chapter deals with the history of women in Kerala in general with the title 'unfinished history of women in Kerala'. The fourth chapter is the text and corpus of the study, analyzing society, women and labour. The Fifth chapter portrays the significance of the informal sector and the economic output given by women in this sector. The last portion of this chapter deals with the labour force of women in construction industry and the nature and structure of construction work in the milieu of social change and as the output of the growth of capitalism. The sixth chapter tries to emphasise the violations and deprivations of women workers in the construction sector on the basis of empirical study conducted among a hundred women workers in Cochin city, both in the urban sector and in the outskirts of the city. Migrant workers, about 20 in number, from Tamilnadu, mostly from Trichinapilly, staying now in Vathuruthy near Thevara are also included in it. A shocking picture of violations of the human rights of women in economic, social, domestic, trade union, labour and sexual spheres are pointed out in this chapter. Finally the study is concluded with findings which may help the future political and social activism.