Chapter-II

Review of literature

2.1 Violence against women

Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result. (Adriana, 1996) These expressions of violence take place in a man-woman relationship within the family, state and society. Usually, domestic aggression towards women and girls, due to various reasons remain hidden.

Cultural and social factors are interlinked with the development and propagation of violent behavior. With different processes of socialization that men and women undergo, men take up stereotyped gender roles of domination and control, whereas women take up that of submission, dependence and respect for authority. A female child grows up with a constant sense of being weak and in need of protection, whether physical Social or economic. This helplessness has led to her exploitation at almost every stage of life.

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

Violence against women has been clearly defined as a form of discrimination in numerous documents. The World Human Rights Conference in Vienna, first recognized gender-based violence as a human rights violation in 1993. In the same year, United Nations declaration, 1993, defined violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a woman, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life”. (Cited by Gomez, 1996)


a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non spousal violence and violence related to exploitation.

b) Physical sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

c) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.
This definition added ‘violence perpetrated or condoned by the State’, to the definition by United Nations in 1993. Coomaraswamy (1992) points out that women are vulnerable to various forms of violent treatment for several reasons, all based on gender.

1) Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society’s construction of female sexuality and its role in social hierarchy.

2) Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, sati. This reason relates to society’s concept of a woman as a property and dependent of the male protector, father, husband, son, etc.

3) Because of the social group to which she belongs, in times of war, riots. Or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men. Combining these types of abuse with the concept of hierarchical gender relations, a useful way to view gender violence is by identifying where the violence towards women occurs.

Essentially, violence happens in three contexts - the family, the community and the state and at each point key social institutions fulfill critical and interactive functions in defining legitimating and maintaining the violence.

1) The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources.
2) The community (i.e., social, economic, religious, and cultural institutions) provides the mechanisms for perpetuating male control over women’s sexuality, mobility and labour.

3) The state legitimizes the proprietary rights of men over women, providing a legal basis to the family and the community to perpetuate these relations. The state does this through the enactment of discriminatory application of the law.

Margaret Schuler has divided gender violence into four major categories;

1) Overt physical abuse (battering sexual assault, at home and in the work place)

2) Psychological abuse (confinement, forced marriage)

3) Deprivation of resources for physical and psychological well being (health/nutrition, education, means of livelihood)

4) Commoditization of women (trafficking, prostitution)

Adriana Gomez (Domestic violence act 1996) has also talked about two basic forms of violence, that is; structural and direct. Structural violence arises from the dominant political, economic and social systems, in so far as they block access to the means of survival for large number of people; for example, economic models based on the super-exploitation of thousands for the benefit of a few, extreme poverty in opposition to ostentatious wealth, and repression and discrimination against those who diverge from given norms.

Structural violence according to her is the basis of direct violence, because it influences the socialization which causes individuals to accept or inflict suffering, according
to the social function they fulfill. Open or direct violence is exercised through aggression, arms or physical force. (Larrain and Rodrigue, 1993)

The Fourth Conference of Women, 1995 has defined violence against women as a physical act of aggression of one individual or group against another or others. *Violence against women* is any act of gender-based violence which results in, physical, sexual or arbitrary deprivation of liberty in public or private life and violation of human rights of women in violation of human rights of women in situations of armed conflicts. (Conference on Women, Beijing 1995 Country Report).

*Violence* is an act carried out with the intention or perceived intention of physically hurting another person (Gelles and Straus, 1979). *Gender Violence* is defined as “any act involving use of force or coercion with intent of perpetuating promoting hierarchical gender relations”. (APWLD, 1990, Schuler, 1992)

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

Liz Kelly (1998), Surviving Sexual Polity has defined violence as “any physical, visual, verbal or sexual act that is experienced by the woman or girl at the time or later as a threat, invasion or assault, that has the effect of hurting her or degrading her and/or takes away her ability to contest an intimate contact”.

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

2.3 Female Feticide and Infanticide:

Technologies like amniocentesis and ultrasound used in most parts of the world, largely for detecting fetal abnormalities, has been used in large parts of the Indian subcontinent for determining the sex of the fetus so that it can be aborted, if it happens to be a female. The information of the sex of the unborn was being extensively misused.

To prevent female feticide and to restrict this misuse, the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act was passed on 20th September 1994. The Act forbids the communication of the sex of the fetus, but the enforcement of this act is not easy (Negi, 1997:26).

Medical Termination of Pregnancy Act (MTPA) 1971 allows abortion if the doctor is of the opinion that the continuance of the pregnancy would endanger the life of the pregnant woman or involve grave injury to her physical or mental health; or there is substantial risk that the child would suffer from disabling physical or mental abnormalities. The anguish caused by pregnancy as a result of rape, or as a result of failure of any device or method used by a married couple for the purpose of limiting the number of children, may be presumed to constitute a grave injury to the woman’s mental health. If the pregnancy is twelve weeks old, the opinion of one registered medical practitioner is sufficient; for pregnancy of between twelve and twenty four weeks, the opinion of two registered medical practitioner is required. The matter is thus purely between her and the medical practitioner and even the husbands’
consent becomes unnecessary. In reality, however, a Woman’s’ right to abortion is very restricted and mostly it turns out to be a family decision. Various court judgments have held that aborting a fetus without the husbands’ consent would amount to cruelty under the Hindu Marriage Act and hence a ground for divorce. (Ramaseshan, 1998: 46).

The procedure gets rampantly misused with the collaboration of the medical fraternity, as an alternative in the case of couples who do not opt to practice family planning methods and who want to do away with the unwanted child (Negi, 1997:26).

In 1986, when the practice of female infanticide in Madurai District of Tamil Nadu first received major media attention, the focus was on the caste group known as ‘Piramalai Kallars’ and it was held that the practice was confined to this caste. Over the past two decades, the region has attracted wide attention due to the prevalence of the practice of female infanticide in Usilampatti taluka. This region has a predominant large population of Kallars. (Negi, 1997: 4)

2.4 Child marriage

A girl child is twice vulnerable for being a child and a girl. Discrimination against them begins even before their birth and continues as they grow. Their psychological, physical and economic dependence on the family makes them vulnerable to violence and child abuse within or outside the family. Since 1872, the following efforts have been made to legalize the minimum age of marriage. The Civil Marriage Act of 1872 was passed as a result of the efforts made by Raja Ram Mohan Roy, before which, a provision of the Indian Penal Code rendered the consummation of marriage before the girl attained the age of 10, punishable with life imprisonment. Social reformers of 19th and 20th century tried to counteract child marriage as they felt it was marring child’s educational, physical and economic progress. Noted social reformer Har Bilas Sarda, from Ajmer District, Rajasthan
authored and piloted a Bill in British Legislature to stop child marriage, which, in course of
time became law. The Child Marriage Restrain Act of 1929 (popularly known as Sarda Act)
which fixed the minimum age for boys at 18 and girls at 15, extended only to British India
(Rajan, 1997: 31).

The Act did not prohibit marriages nor did it declare these marriages invalid or illegal
(Saxena, 1999). With the codification of the Hindu Law, the Hindu Marriage Act passed in
1955 made the minimum age of marriage for girls at 15. In 1978, a further revision was made
in the minimum legal age. With this last amendment, the law was finally brought nearer in
line with the accumulated scientific medical evidence showing that the adolescent girl is at
grave risk of her health, as also that of her children, until she has reached the age of 18 at
least. Alongside, the minimum age of marriage for boys also underwent an upward revision
to 21 years (Chhabra et al, 1986)

The girl is considered to be an additional labour as she is involved in unpaid jobs
within or outside the house in the rural as well as urban scenario. This is another reason
why the parents are worried about the girl’s chastity before marriage (Rajyalakshmi, 1990:
42).

There are various economic factors that lead to the prevalence of child marriage. In
some parts of rural India, mass marriages are conducted and the marriage celebrations
become less expensive if the girls are married on this occasion. Elders are convinced that
child marriages, since they are solemnized in groups are cheaper and easier to perform
(Saxena, 1999)

2.5 Domestic Violence:
Physical violence as well as explicit forms of aggression are used by the more powerful in the household as methods to ensure obedience of the less powerful and therefore related to power dynamics in a household. At every stage in the life cycle, the female body is both the objects of desire and of control (Thapan 1997).

Domestic violence includes not only inter-spousal violence, but also violence perpetrated by other family members. Generally, an important part of the power relationship between spouses and their families relates to dowry and its ramifications (Karlekar, 1995).

There is a wide societal tolerance for wife-abuse, which is very often even considered justifiable under certain circumstance: Disputes over dowries, a wife’s sexual infidelities, her neglect of household duties, and her disobedience of her husband’s dictates are all considered legitimate causes for wife-beating. It is only when the torture becomes unbearable or death appeared imminent that most women appeared willing to speak out (Karlekar, 1995).

Glass defines domestic violence as “anything that is experienced as fearful, controlling and threatening when used by those with power (invariably men) against those without power (mainly women and children)” (Ravindran, 1991).

Domestic violence includes harassment, maltreatment, brutality or cruelty and even the threat of assault - intimidation. It includes physical injury, as well as “wilfully or knowingly placing or attempting to place a spouse in fear of injury and compelling the spouse by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse has a right to abstain”. Confining or detaining the spouse against one’s will or damaging property is also considered as acts of violence (Bedi K, 1999).
2.6 Domestic Violence in the Marital Relationship:

Ahuja (1998) and Visaria (1999) have recently conducted studies on ‘domestic violence’ within marital relationship. The findings of their study have been discussed below. Domestic violence has been defined as “all actions by the family against one of its members that threaten the life, body, psychological integrity or liberty of the member. (Anthony and Miller, cited in Adriana Gomez, 1996)

In identifying factors leading to wife beating, both Visaria and Ahuja, in their survey, tested the co-relationship between wife beating and education.

According to Visaria’s (1999) survey in Gujarat, illiterate women face more violence than literate women. Relationship between abusive behaviour and level of education has been found to be statistically significant (Visaria 1999:12).

Women and those with education up to primary level (class 4) tend to be more subjected to violence as compared to those who had received education beyond the primary level. However, one has to keep in mind that the percentage of literate women in Gujarat is overall only between 20% to 50%. In one district, Banas Kantha in Kutch, the total percentage of literate women is even lesser than 20%. In contrast a study by Ahuja (1998) shows that there is no significant relationship between beating and educational level of the couple. Educated women are beaten as much by their husbands as those who are illiterate or less educated. About one-fourth of the batterers (24%) in Ahuja’s study were those who were moderately educated and about one-fourth (26%) were highly educated. However, he added that men, whose educational attainment is low, are more likely to beat their wife than men who are better educated. Study findings of Ahuja shows that although women of all ages are
victims of wife-battering, a larger number of victims (72%) are among those with an age difference of unto 10 years between spouses.

According to the survey findings of Visaria (1999), women who experience domestic violence early in their marriage, continue to be subjected to it even with increase in age. His findings point out that family structure, the presence or absence of children, and the size of the family have little co-relation with wife battering (Ibid.:157). The study also points out that family income, husband’s occupation and employment of women are not co-related with wife battering.

According to survey findings of Visaria (1999) joint family tends to offer women some protection or acts as a deterrent to husbands using physical force to subdue them.

The forms of violence commonly found by Ahuja (1998) were slapping, kicking, tearing hair, pushing and pulling, hitting with an object, attempting to strangulate and threatening. Forms of psychological abuse were also found to exist, for instance, verbal abuse, sarcastic remarks in the presence of outsiders, imposing severe restrictions on freedom of movement, totally ignoring the wife in decision-making processes, making frequent complaints against her to her parents, friends, neighbors, and kin much to the embarrassment of the wife. Some of the reasons given by the women were financial matters, behaviour with in-laws, back-biting, talking to any male without the liking of the husband, asking for money, preventing him from drinking and husbands personality traits.

Some of the worse forms of violence have been reported by Visaria in her study (1999), for instance, beating with sticks or iron rod, knives, utensils, blades and ladles, throwing women against objects or bashing their heads against the walls, burning of breasts and vagina. In addition, sexual assaults in the form of both hitting women in the vagina by
kicking or forcing her into sexual intercourse were reported by nearly 10% of the women. Some of the women who had become victim of this form of violence indicated that injury in their private parts cannot be noticed by anyone and they would be too ashamed to talk about it to others. A couple of women also hinted that men know that their wives cannot report such punishment even to their own parents or seek medical treatment due to a sense of shame. Some of the reasons given by women, in the survey done by Visaria is, meals not served properly, economic constraints, financial matters, men wasting money at tea stalls, drinking of alcohol, men feeling that women are paying less attention to the children and vis-à-vis, men feel women have a lot of free time and so on. One of the main causes why domestic violence prevails and continues is the lack of alternatives among the victims. Women and children may be economically dependent on abusers. Elderly people and children may feel too powerless to escape. Language or cultural barriers may isolate victims from seeking help. Victims generally feel, it is better to suffer in silence than to be separated from loved ones. They keep hoping for improvement, but it is normally observed that, without help, violence gets worse. Victims may also feel helpless, guilty or worthless. They may feel ashamed of the poor quality of the relationship. Abusers may fear the consequences of seeking help, unaware that continuing as before may be even more dangerous. Family members may be unaware of the help that is available from the local agencies.

In India we have no provision for protection of a complainant, not even under the Prevention of Dowry Act. A woman who has complained of harassment goes back to the very people against whom she has complained. What security can she possibly feel in such a situation, and how can she continue to act on her complaint? She obviously continues to be victimised often paying the ultimate price (Bedi K, 1999).

Many complainants are faced with eviction from the family home, are cut off without maintenance, and are unable to follow the complaint precisely because they have no means to do so. Frequent, unexplained injuries, reluctance to seek medical treatment for injuries or denial of their existence, fear in the presence of certain family members, social isolation, disorientation or groggingness, especially in elders indicating misuse of medication and decline
in physical appearance and personal hygiene indicating increased isolation and a lack of desire to continue living are some of the indicators of violence (Aravamudan G, 1995) 3.a.2.

### 2.7 Dowry Harassment and Bride Burning

Dowry is a transfer of property from the bride’s family to that of the bridegroom, at the time of marriage (Negi, 1997: 14). According to the present practice, dowry usually subsumes material gifts and cash paid to the bridegroom and his kin. This practice continues even after marriage (Paul; 1993).

The dowry given at the time of marriage is not the only transaction as far as the daughter’s marriage is concerned. There is a series of ceremonies associated with the girls in the family. The practice of giving gifts to the husband’s family in cash and kind and rituals connected with pregnancy, childbirth and ceremonies for piercing the ear of the girl and so on (Negi; 1997: 15).

The gifts are no longer a token of affection from parents to the daughter, but instead an elaborate demand from the marital family (Negi; 1997: 16). The commonest elements of dowry in India include gifts for the bride such as clothes, jewels and other house-hold and luxury goods like a refrigerator and kitchen utensils and so on. These are ideally treated as the bride’s streedan (wife’s property) and form the nucleus of the conjugal estate. Dowry also includes gifts for the son-in-law and other luxury items like scooter, VCR, VCP, and such other gifts for the bridegrooms’ parents and other relatives. Over and above, it includes
hard cash paid as contribution towards the marriage expenses. In some cases, dowry is also paid as compensation for the expenditure incurred on the education and other training of the groom. The bridegroom’s parents usually keep this money. Some state that this is kept by the parents as security against the bridegroom staying separately after marriage.

According to Chatterji, the practice was a means of giving gifts to the daughter during the marriage, so that the couple can start a life on their own and to compensate her share of the property, as she is otherwise excluded from inheriting parental property (Chatterji; 1992: p7).

The Dowry Prohibition Act 1961 was amended in 1984, 1985 and 1986. Dowry deaths constitute a special category of death that was for the first time defined in a section introduced into the Indian Penal Code (IPC) in 1986, Section 304(B) stipulates that death of a woman within seven years of her marriage by burns or bodily injury with evidence of cruelty or harassment by her husband or his relatives in connection with a demand for dowry is ‘dowry death’ and punishable with imprisonment for not less than seven years. Three years prior to this, Section 498(A) was introduced in the IPC. This states that ‘any form of cruelty, whether it is from a husband or the relative of a husband, to a woman is an offence that is punishable with imprisonment up to three years’. Cruelty, as defined in this section, includes ‘any willful conduct that could cause mental torture, physical injury, or drive the woman to commit suicide, whether in connection with any unlawful demand for property or not’.

The first part of Chapter XVI of the IPC (Sections 299 to 311, which are offences affecting life) can also be invoked in case of dowry death or suicide. Under sections 299, 300, 301 and 304(A), culpable homicide, murder and death by negligence are also crimes.
Section 302 lays down punishment for murder: death sentence or imprisonment for life. Sections 113(A) (presumption as to abetment of suicide of a married woman) and 113(B) (presumption as to dowry death) were added to the Indian Evidence Act and can be invoked in cases of dowry murder or suicide. The Code of Criminal Procedure (mainly sections 174 and 175) lays down the procedure and principles of investigation into a crime (Menon; 1999).

Despite a list of legislation protecting the rights of women, most importantly the prohibition of giving and taking of dowry under the Dowry Prohibition Act 1961, women in India are tortured physically and mentally and even killed or driven to suicide by their husbands and in-laws for not bringing sufficient dowry. Dowry related violence against married women by the families they marry into is a phenomenon that is on the increase in the country. The following table gives an indication of the increase in dowry related violence against women. However this data is only a tip of the iceberg, as most of these cases do not get reported unless it reaches an extreme case of death.

In an investigation done by Vimochana, (a Bangalore based NGO), the category of dowry deaths in a technical sense only include those cases that had been booked by the police under the relevant sections of law. The cases that have been closed for want of evidence however are largely due to stove-bursts or kitchen accidents (Menon; 1999: p 66).

There are rarely any eyewitnesses who are prepared to give evidence against the murderers as the crime is committed within the four walls of a home and those who are present inside are those who are committing the crime.
According to Menon (1999), the large number of these deaths is an indication that the law is not a sufficient deterrent for those who commit these crimes. The following are some of the reasons why these gruesome murders are registered under accidents. There are pressures on the woman to conceal the truth about the reality even if they are on the verge of dying. Her husband’s family often threatens to harm her natal family or her children if she does not declare that it was an accident. Relatives and family members of her natal family also sometimes remain silent, as they fear the husband’s family. The victim’s dying declaration, which is supposed to be taken in private by the policeman in the presence of a doctor, is invariably a public procedure. While on one hand the family does not want to get involved in the time-staking and laborious process of legal proceedings, on the other hand the police do not take interest to penetrate this community resistance to look for evidence of what really could have happened (Menon, 1999:p69).

According to Damodaran (1997), exposure to the media has resulted in an increasing trend towards consumerism. People cannot afford the luxuries that are thrust upon them through advertisements targeted at the urban population. They see dowry as an avenue to fulfill their otherwise impossible dreams (Negi; 1997: p15).

The interplay of pre-capitalist values and modern forces with the accentuation of the free market economy and the consumer culture in the era of unequal development have thus become a part of the complex and contradictory fabric of our present-day society. The traditional values of the necessity of marrying a girl for spiritual merit and the modern system of calculation and other considerations of the groom’s family in a milieu of inequality and insecurity have brought to the surface a sense of competition and manipulation to the advantage of the bridegroom (Paul; 1993:p37).
According to Paul the treatment of a daughter-in-law depends very much upon the quantum of dowry she brings along with her before, during and after the marriage ceremony (Paul; 1986:p 26). However there have been cases when the status of the girl’s parents has reduced after the marriage, or there is a loss in the business and the girl is ill-treated in the husband’s house thereafter. The dowry normally continues for many years after the marriage. Often, the dowry brought by her is taken away after marriage. In times of financial problems in the husband’s house, her jewelers and dowry items are normally the first to be sold. For some people, paying dowry at their daughter’s marriage is an investment for fetching high dowry through their son’s marriage. Some others, including women discuss on ‘marriage with high dowry’, with pride. Generally, marriages with pomp and show are preferred. The girls too think it is their right to take dowry with them when they go to the husband’s house. People believe that the effective way of equipping women is to resort to dowry in arranging a marital alliance. Another feeling among the mothers-in-law is that when she herself brought dowry from her house at the time of her marriage, why she shouldn’t take dowry for her son. According to Menon (1999), dowry related crime is motivated mainly by greed.

2.8 Sexual Harassment at Work

According to Mac Kinnons (1979) sexual harassment of working women is primarily a problem faced by women that men rarely face this problem and therefore it should be considered a form of sex discrimination (Sikri, 1999: p128). Sexual harassment as defined by the court stipulates:

i) Such unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances, A demand or request for sexual favors, sexually colored remarks, Showing pornography and any other unwelcome physical, verbal or non verbal conduct of sexual nature.
Burt (1980) says “unwanted sexual overtures”, has the virtue of parsimony but necessarily concerns intentions and motivation, not just overt behaviour. Defining sexual harassment as unwanted sexual overtures has the same problem inherent in defining rape as unwanted sexual relations. In practice the woman has to prove that the sexual relations or the sexual overtures were unwanted (Sikri, 1999: p128). The male colleague will go out of the way to prove that the woman is of loose character (Ibid. 40).

According to Quinn (1977) defining sexual harassment means setting boundaries on the term and differentiating sexual harassment from expressions of sexual interest. Not all expressions of sexuality in the workplace could possibly be called sexual harassment. Men and women do meet dating partners and future spouses at work. Some people may even enjoy sexual jokes and flirting that can be ego enhancing and enrich their fantasy life.

National Commission for Women has laid down the code of conduct at work place to prevent sexual harassment of women, which has been sent to all Government offices, Ministries, and Universities with the hope that employers would become more sensitive towards women. The guidelines highlight that it shall be the duty of the employer to prevent or deter the commission of any act of sexual harassment at workplace would include unwelcome sexually determined behaviour by any person either individually or in association with other persons such as eve teasing, unsavory remarks, jokes causing embarrassment, innuendo and taunts, gender based insults or sexist remarks and unwelcome sexual overtones in any manner, touching or brushing against any part of the body, molestation or displaying pornographic or other derogatory pictures or sayings (Hindu, Sept 16, 1998).
Recommendations to the National Commission for Women based on the view that the definition of sexual harassment is deficient and that “sexual favours……sought by homosexual or lesbian employers of the same sex” also be included (Hindu, April 26, 1998).

The Court places an obligation on employers in both the public and private sector to “take appropriate steps to prevent sexual harassment” and “provide appropriate penalties” against the offender. The criminal law should be resorted to where the behaviour amounts to a specific offence under the Indian Penal Code. The Court also recommends that a complaint made by the victim and that such a committee should be headed by a woman and not less than half its members should be women (Hindu, April 26, 1998). However this guideline does not specify any time limit for drafting the code.

The Court provides that the employer is responsible for drafting codes to prevent sexual harassment in the workplace. If the power to evolve these codes is to be in the hands of the employer, then given the conservative sexual climate in which we live, what is to prevent the employer from producing a code that encourages gender segregation in the workplace. The codes could be formulated so as to discourage gender interaction in the workplace, or encourage the establishment of same sex schools and universities instead of co-educational institutions. Perhaps more specific guidelines are required which provide that such sex segregation is not an appropriate response for dealing with sexual harassment (Hindu, April 26, 1998).

In many cases, it has been found that the committees within the organisations were set up only when there were serious allegations of sexual harassment. Many working women point out that, even if there is an enquiry committee, does anyone really bother to find out what happens to the victim when the enquiry is going on? She is an object of curiosity, sympathy, disdainful glances or simply isolated by her colleagues. The situation at home is worse. Instead of sympathizing with her plight or standing by her, the attitude is one of distrust and suspicion or often humiliation and shame (Sikri, 1999: 40).
The work environment where sexual harassment occurs has hierarchy, norms, rules and constraints that profoundly affect the way people behave in that setting. In particular, the formal rules and informal norms of managers affect both the managers and their subordinates. The top management has the power to influence the employee’s work habits, style of dress, recreational interests and social behaviour. When the top management tolerates or condones sexual harassment of employees, the standard reverberates throughout the organisation (Sikri, 1999: 129)

Certain individuals use their positions of relative power to engage in sexual interactions. This type of behaviour clearly constitutes sex discrimination (Hindu, April 26, 1998). Male ego problems, sexual perversion, sexual obsession, widow-hood, pornographic materials and media portrayal is said to be some of the reasons for their harassment.

2.9 Lawyers facing sexual harassment at work:

A survey conducted by Sakshi, a Delhi based NGO, in a few major cities reported that 65 per cent of women lawyers interviewed were always or often subjected to, or had observed, verbal or physical sexual harassment from other lawyers. The harassment would take various forms according to the survey. They include use of stereo-typed role characterization, sexual innuendo, devaluation of women’s work, use of obscene or vulgar language, and comments on appearances and character. The bar report narrates two incidents. In one case, a woman lawyer was openly punched by a male colleague in the High Court premises for refusing to join him for a cup of coffee. When she tried to report the incident, a senior member of the bar dissuaded the police from registering it, on the ground that “it would tarnish the reputation of the Bar”. Forty-eight per cent of the women lawyers surveyed also stated that they had heard or experienced remarks or jokes that were demeaning to women (Rameshan G, Hindu, July 19, 1998).
In a survey done by National Commission for Women of 1200 women, nearly 50 per cent complained of gender discrimination and physical and mental harassment at work. While 40 per cent of the women said they “usually ignored” such provocation, 3.54 per cent said they reported these to their supervisors, 7.8 per cent to their colleagues and 1.24 per cent to the police. About 10 per cent said that they protested against such behaviour while 9 per cent said they warned the offenders. At least 20.17 per cent of the respondents said that no investigation was done on their complaints while 1.5 per cent said police harassed them again instead of making the enquiry. A majority of the respondents 84.97 % were not aware of the Supreme Court judgment given in August 1997, for specific protection of women from sexual harassment at work (Bhatnagar.R., August 19, 1998)

2.10 Sale of Wife

In traditional farming communities, women helped in farming and bridegrooms paid a bride price to her parents. In the past this used to be a token amount. If a widow or a married woman chose to enter into a live-in relationship with another man, the latter in turn paid the first husband the amount he had spent at the time of the marriage. This system has, in the last decade become completely distorted with women being sold and resold for astronomical sums and the panchayats and police turning a blind eye to these Goings on. With the bride price sometimes running into a lakh or more, ‘nata’ brokers have mushroomed around Kotah, Bundi, Deoli, Ajmer and Tonk districts of Rajasthan, whose only job is to keep an eye on prospective women and force them to enter into a nata because the local brokers earned a hefty commission out of this deal. The kind of money at stake can be gauged from the fact that one of the fathers admits to having spent Rs 62,000 in bringing her back.

Realising the selling and reselling of girls had reached rampant proportions, a Deoli based NGO, ‘Women’s Rights Committee Against Atrocity’ conducted a survey in Sandla and Bhanvarthala villages in Tonk District of Rajasthan and came up with some disturbing
conclusions. Of the 517 households surveyed, the survival rate of marriages in the backward classes during the last five years was less than 50 per cent and in some cases as high as 70 per cent (Rashme Sehgal, The Sunday Review, June 13th 1999, Pg 3). Nata exits also in Rajgarh district of Madhya Pradesh. It is the practise of the sale of the women to men in return for a handsome price. The largest beneficiary is the father of the girl who uses her to gain a neat sum. Closely connected to the issue of sale and resale of women is the custom of child marriage. Unless a boy is committed to child marriage, he cannot indulge in nata. Men are prepared to pawn their goats, cows and buffaloes and in well-to-do households, even gold and silver to get a woman. In all these transactions the woman is never in the picture - she accepts the deal as part of her womanhood (Chandrasekhar, 1996).

Indira Pancholi, the Co-coordinator of the committee believes, “no household has remained unaffected, and there is an unsuccessful marriage in every household here.” The Panchayats have turned a blind eye to this jostling around. They are accused more often than not, of siding with the husbands and are blamed for pushing up the nata rates. The jhagda money is decided upon in presence of the Panchayat with the amount being written on a document called Kagli. “Husbands are selling their wives to get more money and the Panchayats are doing nothing to protect these women”, points out the Jaipur based women’s rights activist, Kavita Srivastava. She cites an instance of Lalibai, an anganwadi worker, who was harassed to enter into a nata after her husband’s death. She refused and had to seek intervention of social activists to escape harassment.

According to a Jaipur based DIG (CID), Sudhir Pratap Singh “lack of education and total ignorance of inheritance rights amongst women are the reasons why this practice has continued.” Indira Pancholi, the Co-ordinator of the committee believes, “the inability of a bride to return to her marital home would be a triggering factor, especially in cases of atta satta agreement where two families exchange children in marriage when they are quite young. After marriage, the boy’s family reciprocates by not sending their son to bring the bride. Entire villages are at war with each other.” For instance, Simla Ram, from the village Nappa Ke Kheda of Rajasthan is facing rejection from her college going husband who does
not want an illiterate wife. Village custom demands that the husband either comes down himself or sends someone to fetch her. Four years into the marriage, Simla is still waiting to be escorted to her husband’s home. Simla is completely against nata. She says she would like to settle down only with her husband. Marriages in villages have come under pressure for other reasons as well. Dowry and modern lifestyle demands, including incompatibility, are reasons cited for marital breakdowns and consequently the sale of women.

2.11 Eve Teasing

Eve teasing is an act of terror that violates a woman’s body, space and self-respect. It is one of the many ways through which a woman is systematically made to feel inferior, weak and afraid. Whether it is an obscene word whispered into a woman’s ear; offensive remarks on her appearance; an intrusive way of touching any part of a woman’s body; a gesture which is perceived and intended to be vulgar: all these acts represent a violation of a woman’s person, her bodily integrity. Eve teasing denies a woman’s fundamental right to move freely and carry herself with dignity, solely on the basis of her sex (Hindu, August 2, 1998).

Some acts of eve-teasing mentioned by girl students interviewed are; indecent remarks, singing obscene songs, hitting, touching or pinching in crowded places, snatching dupatta and in some cases even forced kissing, mailing anonymous love letters and exhibiting male genital in front of women. (Ashraf, 1997: 89)

Eve teasing by itself is not an offence under any law, but Sections 294 and 349 of the Indian Penal Code cover substance of eve teasing. Sections 294 punishes “whoever, to the annoyance of others (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballads or words in or near any public place” is liable to be punished with imprisonment or with fine. The section is very wide in nature and a person can be
hauled up even if the acts forming part of the substance of the offence are addressed to the public at large, provided this cause annoyance. Clearly a girl or a woman who feels annoyed by any obscene song or words can take recourse to the provision of the section and put up a complaint before a police station. The offence is cognizable, i.e. a police officer can arrest the offender without a warrant but it is bail able (Ashraf; 1997)

A graver form of eve teasing is accompanied by the use of gesture indicating threat or use of force. ‘Criminal force’ has been defined under Section 349 of Indian Penal Code. According to this section ‘a person is said to use force to another if he causes motion, change or cessation of motion to that other person’. In such a case also, action can be taken against the person using it. The punishment is such cases are imprisonment for two years or fine or both. The offence is cognizable. Thus, simple eve teasing accompanied with gesture to use force is punishable under the existing provisions of the Indian Penal Code. (Ashraf; 1997: 89)

A graver form of eve teasing is accompanied by the use of gesture indicating threat or use of force. In such a case also, action can be taken against the person using it stereotypically, men are conceived of as natural prey to uncontrollable lust. Women therefore have to protect themselves at any costs. In an ironic twist of responsibility, women then bear the burden of guilt for an act of violence against themselves. This is the basis for the second typical response to a violation of women’s bodily integrity: to exhort Women to censor their movements and appearance. Another misconception believes that men who abuse women are rowdy lower class elements. In fact, men who violate a woman’s space and body do not belong to any particular social group or class. Eve teasers are there in the family, the neighborhood, in one’s classroom and place of work. What is perceived as male lust in our culture represents a desperate and frantic inability to communicate with women. This inability often translates into acts that hurt and terrorize. Consider the fact those popular representations of romance, as in film, clearly link up eve teasing to love. This not only
naturalizes abuse as love, but also legitimizes male power over women. In the larger cultural context the man-woman relationships is simply not open to free, unfettered discussions of romance and sexuality. In such a context, communication between the sexes necessarily suffers.

There is an influence of the cinema and cheap literature in which sex permeates. The current advertisements trying to promote sale of under garments, towels bed-sheets, etc. by indecently exposing the female anatomy also lead to degeneration of women as a commercial commodity in the mind of man. There is a rush to the urban area in search of adventure and employment. Away from the restraining influence of the families, the youngsters look for excitement and thrills which they seem to get in acts of eve teasing. Infliction of pain on the eve acts as a stimulant to their sex desires (Hindu; 1998).

There is also a lack of fear of punishment or adverse publicity or social disgrace. The police with its insufficient strength and preoccupation with other problems of law and order and courts with their proverbial delays and intricate legal procedures fail to bring most of the perpetrators to book (Ashraf, 1997: 93).

There are no particular places where eve teasers congregate. In this sense, no place is really “safe” and inviolate for women. Roads, buses, train, cinema halls, parks, beaches, even a woman’s home and neighborhood may be sites where her self-worth is abused. It does not matter if a woman is alone, with a friend, in a group, or sometimes even with another man. Segregating the spaces that men and women occupy only compounds not solves the problem (Hindu; 1998).

2.12 Violence against old
Singh (1998) defines elder abuse as ‘harm to an elder person caused by someone in a position of trust, who may have control over the victim. This includes material abuse such as financial exploitation, physical abuse, such as pushing, physical assault, and psychological abuse, such as chronically threatening, swearing at or insulting the older person, and neglect or failing to provide necessary help such as meal preparation, housework or personal care.

In the past few years, the aged have frequently been the target of gang robberies or brutal killing by servants or outsiders (Mitu; 1998). Old are attacked frequently due to their inability to put up a fight. Elders normally have to face up to the facts that, their energy and authority are eroding. To add to their woe is the death of any one of the spouse. Widows have to be dealt with specifically, as the death of a spouse for a woman in any age is a tragedy in itself, because of the norms and tradition and the manner in which she is treated after the death of her husband.

2.13 Violence against Widows

Closely linked with Sati and harassment of widows, is the custom of child marriage producing number of child widows, but not child widowers. Widow Remarriage is not common and not sanctioned by society; however men were allowed to remarry. Sati idealized as sitting on the funeral pyre of the deceased husband; and those widows who did not go through this had to make them physically unattractive and absent from public functions. Widows are called inauspicious and are avoided, whenever possible (Lopataz, 1987: 13).

Sati according to Giri (1999), was recommended after 500 AD in the dharmashastras and spread across the country around 1000 AD. There are three kinds of widows. One is a young girl with no children; a woman whom becomes a widow after some years of marital span and has children. The third is case of a woman who is widow of 50 years and above of
age (Ahuja, 1996: 84). Giri (1999) mentions three options for a widow woman according to orthodox tradition; (i) sati, (ii) ascetic widowhood or, (iii) remarriage. Widows are expected to lead an ascetic life by the society with restrictive codes of dress, diet and demeanor and of social ostracism from the religious and social life of the community. She is expected to remain in perpetual mourning, and give up eating ‘spicy food’, in order to cool her sexual energy, and remain celibate, devout and loyal to her husband’s memory (Giri; 1999).

According to Dreze J. (1995) the well being of widow is not just a question of economic security, but also one of dignity, self-respect and participation in society. Many widows in the Chen sample suffered from different forms of social isolation, psychological abuse or emotional distress.

According to Dreze J. (1995), the social marginalized of widows was frequently found to take one or more of the following forms: Rumors and accusations: Widows are often accused of being responsible for their husband’s deaths, regarded as sexually threatening, and generally considered as inauspicious by the society (Dreze; 1995: 2443).

Widows are also accused often of immoral relations (Srivastava; 1999) Enforced dress and behaviour codes: Many widows are under strong pressure to observe restriction in codes of dress, appearance and behaviour. Some of the traditional restrictions (eg, shaving of head) have become even among the upper castes, but others (eg, not wearing ‘bindi’ or kumkum) remain widespread.

2.14 Employment restrictions:

Aside from these general restrictions, widows face specific difficulties in seeking gainful employment opportunities. These include: lack of access to indivisible productive
assets owned by the deceased husband’s family (e.g. wells, ploughs and bullocks): weak bargaining power vis-à-vis male partners in economic transactions, frequent absence of a literate member in the household: limited access to institutional credit, and, particularly in the case of widows with young children, the burden of domestic work (Chen and Dreze, 1995: 2442).

2.15 Social restriction of living arrangements:

One of the clearest and most important findings of Chen’s and other studies is the overwhelming dependence of widows on themselves and their own sons. The proportion of widows who live in households headed either themselves or by one of their sons are well over 85% in the Chen sample. The proportion of widows who live in a household headed by a brother-in-law or parent-in-law is below 3% and the number of widows who live in a household headed by a brother of the father is also below 3% (Chen and Dreze, 1995: 2442).

2.16 Legal inheritance rights:

Formally according to contemporary Indian law, a widow has an unequivocal right to a share of her husband’s property, including his land. This is in addition to the legal rights she has irrespective of her marital status to a share of her parents’ property. Field studies, however, indicate that these legal rights are comprehensively violated, and that a large majority of widows have very limited and insecure property rights. This deprivation of property rights not only represents the loss of a potential source of independent income, but also diminishes the bargaining power of a widow vis-à-vis her in-laws, sons and other potential supporters (Dreze & Sen, 1996:174).