Chapter I

INTRODUCTION

1.1 Introduction:
Violence against women is age-old. Human history is replete with violence against its own kind. Nationality, ethnicity and gender have been the cornerstones of discrimination and violence between man and man. However, violence based on gender within the confines of the community and home is perhaps the most degrading of all other forms of violence. However, the increase in reported incidences of violence against women over the past several decades has firmly established the issue of concern for the women's movement globally. The need for protection of the rights of women gained global recognition during the International Decade of Women (1975-1985) and was steadily gaining momentum since then. This recognition became international law in 1979, when the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). India became signatory to the Convention in 1993 and ratified CEDAW and committed itself to work for the elimination of all types of discrimination against women. The most painful of discrimination of women is the physical, mental and psychological violence perpetrated on them. The threat of violence on women manifests right before their life begins, continues to scar the early life, follows in the married life as domestic violence, endangers them as victims of rape and worse still, in murders and engenders suicides in other cases.
First, it is important to define and identify the different forms of violence against women. Whereas definition of violence itself is often contested, it is clear that there are several forms of violence that constitute clear violation of the rights of women to live with dignity and respect (Subrahmanian, 1995: 146). It is also clear that the generic "gender-blind use of the term violence" obscures the gender specific forms of cruelty and attacks experienced by the woman alone. The definition of violence also includes all forms of mental torture and other acts that have the same effects as physical violence on women. Violence against women includes rape (including marital and custodial rape), domestic violence, 'widow burning' (sati), female infanticide and foeticide (amino-cintosis through ultra-sound techniques—that is legally a criminal offence in India now), trafficking of women and minors, sexual harassment and molestation and 'eve-teasing', witch-hunting, dowry death, (Krishnaraj, 1991:4), and obvert assault on the dignity of women and other forms of social ostracism.

Although women maybe victims in any of the crimes, be it 'murder', 'robbery' or any other, the crimes in which women are the victims and which are directed specifically against women as "women" are denoted as "Crimes Against Women". They are broadly classified under two categories: crimes identified under the Indian Penal Code (IPC) and crimes identified under Special Laws (SLL) (National Crimes Record Bureau, Govt. of India: 1997).

Crimes against women are as old as civilisation and equally ancient are the efforts to combat and arrest them. These efforts have not succeeded and crimes persist. The overall picture, as presented through an information sheet brought out in data on violence
against women in India by the Union Government is as follows: ‘... a woman is subjected to criminal assault every 54 minutes, a molestation takes place every 26 minutes, a dowry death every 102 minutes, kidnapping and abduction every 43 minutes, an act of eve teasing every 51 minutes and an act of cruelty on a women is perpetrated every 33 minutes (Indian Express, 1994: September 21). The All India crimes rate for the recorded crimes against women during 1995 was 11.6. Based on the crime rate at national level, State/U.T, have been categorised as "more crime prone" and "less crime prone" areas for crimes that are perpetrated against women. Though Assam was categorised as 'less crime prone’ area, its all India rank has gone up from twenty-first in 1992 to tenth in 1995, a great change indeed. Greater Guwahati registered the highest numbers of crimes against women of all the urban centres of Assam (Crime Branch, Guwahati City S.P. Office: Records).

1.2 Review of Literature:

1.2.1 Changing Status of Women from Vedic to the Recent Time:

Women's studies have moved from being a vague extra-disciplinary status to an interdisciplinary subject discussed in the universities of most countries. The compelling reasons for this shift is the conviction held by the sociologists that women in the society have been relegated to an inferior position and have been victims of different forms of violence. In a world inhabited largely by more women than men, this is unethical, to say the least. To study the reasons for this situation in depth, it is important to look at the very beginning of social practices that discriminates and ostracises women.
It is evident from all available accounts that in the early *Vedic* society (in India, 1500 BC); women occupied the same position as men. Reference to complete gender equality is found in all parts of *Vedic* literature (Upadhaya, 1942: 123). Women reached high standard of learning and culture, and made all-round progress. *Sati* (live cremation of widowed women, a tradition of medieval times in North-western India and was subsequently banned by the British) did not exist in the *Vedic Age*. Women had absolute control over their *parinaya* (gifts and property received at the time of their marriage), and it was considered a sin if relatives took away the *stridhana* (property exclusively belonging to the wife) (Banerjee 1944: 180).

During the period of the *Smriti* (*Manu*, 1st Cen. A.D.) ---the period of codification of social laws---women got bracketed with ‘*Sudras*’ (the ‘untouchables’) and were denied the right to study the *Vedas*. This pivotal transformation in women’s position within the span of a millennium is baffling. Historians and sociologists attribute this to the emergence of ‘private property’ (specific feature of Maurian period, 3rd Cen. B.B.) and equation of women with “*artha*” (wealth). The fertility of woman was monopolised by a vigorous patriarchal system in an emerging prosperous agrarian society where “sons” produced wealth and provided protection to family and the clan, key to which was the women, the mother—a manner of ownership of the womb. Marriage or domestic life was the only goal in life for women and unquestioning devotion to, and self-effacing service of their husbands and family, their only duty. Women, of course, were protected at home and in society (Altekar, 1956: 69).
The contact with Islam in 11\textsuperscript{th} century further aggravated the already worsening situation of women in India. The culture of an overtly patriarchal society of warlike nomads from the west, led to a series of new forms of fetters for women like the \textit{purdah} and the child marriage. The horrid act like female infanticides had to be performed for self preservation, and even a marriage had to be celebrated secretly at the dead hours of the night to pre-empt the new bride on the way to her new home from being abducted by alien rulers and war-lords (Sood, 1991: 35).

During the British Raj, initially the East India Company and then, the Government were pressurised to accept views of social reformers like Raja Ram Mohan Roy and Swami Dayanand and enacted several laws to improve the position of women. Some of these enactments were the Act prohibiting the practise of \textit{Sati}, 1850, Caste Disabilities Removal Act, 1850, the Hindu Widow Remarriage Act, 1856, the Special Marriage Act III of 1872, the Married Women's Property Act, 1874, the Child Marriage Act, 1929, the Hindu Gains of Earning Act, 1930, the Hindu Women's Right to Property, 1937, the Christian Marriage Act, 1872 etc. The acts in themselves were very good but, since there was no matching enforcement, they were largely on paper and were not reflected in the actual society at large. During the British period women's education was ignored and so mass illiteracy among the female population was common (Sood, 1991:42).

With the emergence of national freedom movement, a number of women decided to join it. Mahatma Gandhi did tremendous work for women emancipation and vigorously canvassed for women's education. He linked women's participation in the freedom movement with economic rehabilitation and the social reforms, which gave much force to
their participation. Mass participation under Gandhiji’s leadership gave women a sense of
equality with man--equality unheard of in the tradition-bound Indian society. Gandhi
catapulted women to a greater visibility more quickly than any other leader of the time. He
supported women’s induction into public life, while also asking that their domestic role be
fully honoured and valued. His tool of mass agitation policies served him well in getting
women out of their private into public life (Sharma, 1981:47).

The Constitution of India guarantees equality, freedom, opportunity and protection
to women and various social legislations gives them several exclusive rights. Yet they
enjoy an unequal status. This may be due to the social conditions in our society like
illiteracy, poverty, social customs, ignorance and lack of awareness of rights, while others
are related to their personality characteristics like feeling of helplessness, inferiority
complex, poor self-image, lack of self-confidence, self-reliance and resourcefulness.
Added to these is their unrecognised output in domestic sphere and help to male family
members in their economic pursuits.

Recently, incidents of violence against women are reported to be escalating
alarmingly in our country, and on the other hand, awareness of rights among women has
increased, leading to the rise of feminist movement, resulting in a new sensitivity to all
forms of subjugation of woman. Rise in the rate of crimes against women have been
reported in all types of crimes (National Crimes Record Bureau, Govt. of India, 1992-
2003). The numbers of registered cases have spiralled alarmingly in the past few years; the
actual number of cases unreported is estimated to be many times more than the number
registered and this in itself is a sufficient cause of concern (Kohal, 2003: 61)
1.2.2 Feminist movement:

"Feminism" as a term gained widespread usage in the western world in the 1890's. It emerged at the time as a way to identify individuals who supported not merely an increased public role for women but also women's right to define themselves as 'autonomous beings'. However, throughout the past century, as women's private and public role have expanded and altered, the definition of feminism has also broadened to include political, cultural, economic, sexual, racial, and ethical dimensions (Elliot 1995:4).

A full understanding of the ideological bases of women's organisation necessitates an identification of the conditions under which women's movements occur and their connection with the wider processes of social change and with other social movements. Women's movements are those which raise conscious, organised efforts of groups of women to change this system of economic, cultural and political inequities. Their efforts often centre on connections and/or replacement of existing social, economic and political institutions in order to serve the needs of their new perspectives and priorities. The importance of pre-movement phenomena lies in the fact that, though not explicitly armed at goals of equality or liberation, they reveal the power of women as a force in society; allow women opportunity to bring forward their own needs (Mathew 1986: 5).

From the first, then, the rights of women were refracted not merely through political claims but also through domestic analyses. And from the first too, the long debate about equal or different emerged. The period before the suffrage movement (in the USA) saw feminist campaigns that were premised on women's difference--women's moral superiority. It was, thus comparatively easy for women to use their presumed virtues as
'leave pass' to go beyond the house—to the slums, to the settlements and even to the social purity campaigns. However, in this fulfilment of their specific mission, women learned organisation, skills and battled with men to establish their own 'space for public life'—"Women's sphere". This adaptation of the ideology of female virtue encouraged to develop feminism, a sense of women's shared humanity, that later allowed and provoked them to struggle for 'women's right', demands that were measured against the privileges of men (Bulbeck, 1988:7).

Just as women do not form a homogenous group, the women's movement in India is also not homogeneous and within the movement there are different perceptions, ideologies and politics. However, in the course of work among women of all sections in India, these different trends have also increasingly found common ground and a framework within which wider united actions have been possible. While accepting that differences do exist, sometimes expressed sharply, the Indian women's movement has been able to work out a common approach on many of the critical challenges facing Indian women. It is also worth noting that the common ground extends to the movement's critiques of macro-policies as well as to the diverse issues (like, e.g. the "chipko" movement in Garhwal, Uttaranchal). This process of working towards a consensus on issue based struggles has been an on-going one for the last decade and a half.

1.2.3 Crimes against Women: Types and Causes

In the Indian context, it is essential to appreciate the term crime, as a changing concept and as is specified by legislation that change from time to time, according to the changing
needs of the society. In ancient times, crime was considered as a violation of the code of
*Dharma* and morals, and till the time of the famous jurist Manu, justice was linked with
religious 'Sin' (sacrilege) in criminal justice system (Tripathy, 2000:242). "Sociologically,
crime is the infraction or violation of established or codified custom or public opinion at a
given time" (Pandey, 1982:29). Crime against women can be classified as: (1) social
offences, (2) sexual offences, (3) offences under IPC, (4) tortures (both mental and
physical) etc. In the modern classification of crimes against women, it is divided as (1)
physical, (2) mental and (3) sexual crimes (Tripathy, 2000:243).

Debates continue about the extent to which indecent representation of women in
the media, pornography and prostitution can be uniformly considered to constitute crimes
against women (Subrahmanian, 1995:147). It has taken years of struggle to visualise
domestic violence and battery (of women) within the family as specific form of crime
against women. This visibility has also exposed a variety of forms of violence that have
traditionally been hidden within the four-walls of the home including physical abuse,
especially battery as defined by the UN (like, kicking, spitting, beating with hands or
objects like bottles, pulling hair, throwing acid or boiling water, shooting, strangulation,
burning with cigarettes or other objects, pushing and pinching as well as verbal abuse and
mental torture and cruelty (United Nations, 1989: 13). It is an established fact that woman's
life is often in the greatest threat within the home (Subrahmanian, 1995:147).

Crimes against women can again be broadly divided as two types.
(i) Crimes Occurring Inside Home:

*Atrocity by Husband and In-laws:* Both modern and ancient history is replete with a generalised domination of women by men. Husbands were always allowed to beat, torture, and even kill their wives (Martin, 1976: 66). Though no clear definition of spousal abuse exists but different authorities have established levels of spousal abuse. Spousal abuse maybe classified as physical, sexual or emotional abuse. Physical aggression may take the form of minor acts that escalate over time. It may begin with an arm being grabbed, a dish thrown, or a slap to the arm or face. Emotional abuse is far more than a husband simply calling his wife degrading names. This form of spousal abuse has far-reaching consequences for the victim and leaves scars that require long term treatment. Emotional abuses include many different acts that all contribute to a feeling of helplessness and inability (Douglas, 1982: 105). Instances like persistent denial of food, insistence of perverse sexual conduct, locking a woman out of the house, repeated physical violence, taunting her infertility or her producing only female children, are pointed as acts of mental abuse (Gandhi, 1998: 9).

Though women in general and more so Indian women in particular have a tendency not to report crime in the police for the fear of spoiling the family name, there is an evidence of increase in the number of reported crimes.

*Dowry Death and Dowry Harassment:* Dowry practices were prevalent amongst the different communities in India as well as in the other parts of the world from a very ancient time. It was the custom of giving presents to the groom’s family or vice versa. In certain communities there is exchange of presents between the two families. They gave
what ever they could, rather what their economic status permits. This custom gradually
took the shape of an offence once the groom’s family started demanding for the gifts which
could be in the form of cash or kind. Subsequently, this custom turned out to be a severe
crime when a bride who fails to bring an adequate or promised dowry is subjected to
beatings or even death. The payment of money and gifts to the bride-groom’s family has
been made illegal in many countries, but the practice continues. Dowry practices have been
linked to violence against women in India and other countries including Bangladesh, China
and Papua New Guinea (Barua and Singh, 1999). As has been established by numerous
studies, as well as elsewhere, that the incidence of the crime has continued to rise, despite
consistent campaign against it.

(ii) Crimes Occurring Outside Home:

Rapes: There are certain types of acts of actions that are specific to women and contribute
to violence against women both within and outside the family. They are very distinctive
and important. Rapes are abusive actions perpetrated by strangers as well as by the persons
with whom women have professional rather than personal relationship. Still others involve
forced sexual activities either by a stranger or a person known to the women.

Sexual violence against women traditionally has been viewed as stranger rape, a
violent forceful sexual assault on a female. A legal definition of sexual violence focuses on
certain conduct that is prohibited and strictly defined. A medical definition views sexual
violence as injury to the body. A psychological evaluation of sexual violence examines the
effect on the mind and the emotions of the victim. Each of these approaches has certain
strengths and weakness (Brownmiller, 1975: 123). Sexual violence can take the form of a single act or a long and protracted series of incidents. It is an intentional act or omission that results in physical and emotional injury to women.

Rape is defined as penile-vaginal penetration (Bienen, 1981: 171-213). Black’s Law Dictionary defines carnal knowledge as “Coitus; Copulation: the act of a man having sexual bodily connections with a women; sexual intercourse” (Black, 1990: 213). Many statutes now provide that the crime of rape is defined as “an unlawful act of sexual intercourse with another person against that person’s will by force, fear or trick” (Wallace and Robinson, 1994: 187). The expanded definition is that “rape is not a sexual crime rather it a violent assault on the victim (Koss, 1993:198).

Molestation and Sexual Harassment:

A number of definitions of sexual harassment exist. From a traditional perspective, sexual harassment is a demand that a subordinate, usually a woman, grant sexual favour to retain a job benefit (Lindemann and Kadue, 1992: 54-56). A more encompassing definition defines sexual harassment as the imposition of any unwanted condition or any person’s employment because of the person’s sex. Under this definition, harassment included jokes, direct taunting, disruption of work, vandalism or destruction of property, and physical attack (Tangri, Burt and Johnson, 1982: 33-54). Sexual harassment occurs in a wide variety of forms including rape, pressure for sexual favours, sexual touching, suggestive looks or gestures, sexual joking or teasing, and the display of unwanted sexual material.
Sexual harassment may occur in either of two forms. The first form of harassment occurs when an agent or supervisor of the employer uses his position to induce a female employee to grant him sexual favours. It is an exchange of continued employment or job benefit for sex. The second form is when unwelcome conduct of a sexual nature creates a hostile working environment. Here an individual is forced to work in an environment that although not causes direct economic detriment, results in psychological or emotional harm or humiliation (Tangri, Burt and Johnson, 1982: 33-54).

Sexual harassment does not always exist in the workplace. Some professors and teachers have used their positions of power to obtain sexual favour from students. Dziech and Weiner list the following actions that they consider as inappropriate behaviour by professors:

- staring, leering, ogling;
- frequently commenting on the personal appearance of the student;
- touching out of context;
- excessive flattery and praise for the student;
- injecting a male versus female tone into discussion with the students;
- persistently emphasising sexuality in all contexts (Dziech and Weiner, 1993: 323-327).

Trafficicking in women

The term trafficking, appeared as early as 1885 in Paris at the first international conference on the prevention of trafficking in women (Marion and Chew: 1977). The 1949
Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others combines trafficking as procurement with prostitution as exploitation. However, consensus is lacking on the precise definition of trafficking. The expression in 1994 United Nation General Assembly is widely used: “The illicit and clandestine movement of persons across national borders, largely from developing countries and some countries with economics in transition, with the end goal of forcing women and girl children into sexually and economically oppressive and exploitative situations for profits of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking such as forced domestic labourer, false marriage, clandestine employment and false adoption”.

Trafficking and prostitution are analytically two different concepts. However, since trafficking usually leads to prostitution, trafficking is dealt with close relation to prostitution. Moreover domestic prostitution is no longer limited in their national boundary. Foreign female labourers are continuously moving around by the illegal mediating channels. Trafficking of women and children are conducted through a worldwide network (Park, 1999).

*Kidnappings and Abductions:*

The causes and purposes of kidnapping and abduction are to take ransom or revenge, to murder, terrorise, get release the persons from the government, for some gain, sexual purposes, marriage, prostitution, sale, begging etc. The mode of operation of kidnapping and abduction is basically forcefully, false promise like to give job, for marriage, or real
promise for marriage, stimulating the children on the point of knife or gun, by instinctive. (Bhushan: 1995).

Eve Teasing

Eve teasing may not be considered as a serious offence, but sometime turn out to be a serious one. This type of crime usually goes unregistered.

1.2.4 Research on Gender Issues:

Social scientists and especially geographers are interested to know the pattern and trend of crime as well as the bases of their occurrences (Bhushan, 1995:15), as it varies over space on ethnic or economic lines. Many studies on the history of women exist in the western literature. In India, as well, there have been a good number of studies conducted on crimes against women. Much has already been written on women and a mass of literature is being produced in the form of books, articles, research papers, newspaper reports, comments and criticisms. The debate on gender based crimes has been raging almost over the last few decades. A large volume of books have appeared making in-depth study on various crimes against women (Chakraborty, 1999:2). Currently, child marriages, denial of widow remarriages, caste based discrimination in marriages, Sati, Devadasi systems, denial of equal wages to women, dowry system, torture of women, infanticides/ foeticides (of female child), immoral trafficking of women are the most important forms of crime against women in India (Tripathy, 2000:224). Although women are the victims of any of the above crimes, the crimes in which women are specifically victims because of their gender, and
which are especially against women are denoted as "crimes against women" (National Crimes Record Bureau, 1997: 201).

A number of studies have been carried out on the factors responsible for the occurrences of various crimes. Such studies vary from topical to regional and from macro-to micro-levels (Bhushan, 1995:15). Victims of crimes against women, as pointed out by Aiyisha (1988) is due to a variety of factors such as historical, cultural, social, political and economic. Crimes are caused by a combination of factors, interrelated with and supplementing each other. Likewise, a social environment conducive to such crimes is important and also perpetrators of such crimes may suffer from some weaknesses of mind or lack of organisation of personality in such environments. It is a complex mixture of social, economic, cultural, and legal factors that account for the crimes against women. These crimes can be studied under three clusters: social, personal, psychological and legal (Saxena, 1999:23). In India, women are guaranteed equality, freedom, opportunity and protection by the Constitution and several progressive and "affirmative" legislations. Nonetheless, women continue to be victims of domestic violence, violence in the community and at work place. Illiteracy, ignorance, lack of awareness, poverty, combined with traditional oppressive customs, places Indian women in specific disadvantages.

Extensive research on women has been carried out by various disciplines in social sciences. Geography has lagged far behind other social sciences in its appreciation of the importance of gender. Zelinsky, Monk and Hanson (1982) suggest two reasons for this, both related to the nature of the subject. Much of the research on women is done by women scholars, and the proportion of women in geography is rather low and more akin to
the situation in the physical geography than in the social sciences and humanities (Henshall and Momsen, 1980). Second, many geographers work in cartography and physical geography where they are unlikely to come face to face with women's issues in their research. Women remain invisible to geography until very recently. But "once our perspective shifts away from a preoccupation with spatial structures to a focus on process in society, the political economy and the ecosystem then, rather magically, great new vistas of unexplored territory open up" (Zelinsky, Monk and Hanson, 1982). For most of the components of physical well-being that are specific to women, it seems that international data simply do not exist. Violence against women is a central feminist theme and appears to vary geographically in form and incidence, being clearly a fundamental aspect of culture (Townsend and Momsen, 1982:35).

Despite a flurry of researches in the area of 'gender geography' in recent times, the aerial perspective that geography provides to events and processes to some extent hinders in viewing woman that is at the 'individual perspective'. But once this theoretical bottleneck is overcome a 'gendered' geographical perspective of the society can emerge. The position of women can be viewed, (a) by their physical location in the society, i.e. rural or urban, (b) their location in the family structure, (c) their ethnic background, which provides a cultural perspective to their situation and which necessarily has a spatial connotation and (d) finally, their economic position, skills, occupations, work and earning—which undoubtedly can provide possibilities of economic independence. The conceptualisation of crimes against women therefore, from the perspective of geography, in someway has to accommodate the above positions.
The social situation the woman is placed in a village is quite different than when they are placed in the urban situation. In a typical Indian village the women is relatively more secured physically, unless there is unease at home—but more in-secured economically since there is restrictions on women’s participation in economic work or at least discouragement to that effect. A village sociologically a consanguine unit, families related by blood—a face-to-face community where everyone knows everyone else. With modernity and rapid urbanisation, many women migrate to the cities with their families for better economic opportunities. But the city breaks down the social order of the village, from blood based network to work/profession based networks. The new migrant families will, necessarily may be subjected to the negative effects of change in the social organisation, till the time the new social associations emerge, invariably that takes a generation. Exposure of women to work/occupation outside home may also expose many of them vicissitudes of city life, crimes, drunkenness etc. and therefore to forces of social misdemeanours as against the social security that the village community provided. The aim in the current study to understand the position of crime against women in the Greater Guwahati Urban area is towards that direction.

Second, ethnicity can create differentiation in types of crimes against women because of values attributed to women from differences in cultural perspectives. For example, it is generally observed that tribal societies are more egalitarian in gender terms, also arising from the fact there is greater work participation of women, thus greater economic independence of women. The marital relationship could be more flexible; also the responsibility of the children that essentially lies with women, irrespective of the fact
whether the community practises patriarchy or matriarchy. In the urban areas, particularly in big cities, people with similar ethnic and cultural backgrounds are likely to live in close proximity for social and psychological security, especially in multi-ethnic societies (Bronx and Brooklyn in New York: Italian and Iris neighbourhoods, Chittaranjan Park in New Delhi: Bengali neighbourhood etc.). Thus, crime against women that can have a cultural meaning also at the same time may express itself in spatial patterns.

Third, residential segregation on economic and professional lines has been well-known in all modern cities, both in developed as well as in developing societies. At one level, different income classes may obtain different attitudes and behaviours towards the women, whereas on the other, women of different income classes may have different educational and financial background that might enable them with different options under adverse marital situation. For example, women in the lowest economic class (daily-wagers and slum-dwellers) mostly work in informal activities and participate in the workforce and suffer the least inhibitions about the drunken husband or abusive in-laws. The marital relations could be flexible, the woman or the man may leave at a short notice out of a failed marriage. On the other hand, the middle-class is the most conservative, low income, non-participation of women in workforce and fear of social ostracism, may add to the owes of a suffering woman but with little options to move out of the marriage, especially in traditional societies like in India or Asian countries. The rich have different attitudes and different options available. Since, residential segregation is a fact of life in most large cities, the type and quality of crimes against women may also vary over these localities.
1.3 Legal Provisions under Indian Law:

1.3.1 Indian Penal Code (IPC):

(1) Rape (376 IPC), (2) Kidnapping and Abduction for different purposes (366-366A IPC), (3) Homicides for Dowry, Dowry Death or their attempts (304 B IPC), (4) Torture, both mental and physical (498-A IPC), (5) Molestation (354 IPC), (6) Sexual Harassment (309 IPC) and (7) Importation of girls (up to 21 years of age) (366-B IPC).

1.3.2 The crimes identified under Special Laws (SLL):


For details of IPC and SLL see Appendix A.

1.4 Statement of the Problem:

Is woman specially disadvantaged because of her gender? It does not seem to be so biologically or physically. However, social and cultural specificities have given her the age old disadvantaged position, so also the economic structure where the role of women in the economic activities was undermined; therefore, her economic position of dependence on man. The former two create a conducive basis of her psychological undermining; thus both, perception as well as a sense of 'insecurity' in women play a role in home or in larger social life.

Crime against women that arise because of her socio-cultural, economic and psychological insecurities is a fact in both the developing and the developed world. This, of course, is despicable and must be rooted out from all societies and they must reach an
equal footing as those of men, in all spheres of life. However, do crimes against women have cultural specificities? Are there variations along ethnic boundaries? Do crimes take specific forms between the rural and the urban spheres? Does modernity or even 'development' take its pound of flesh on gender crimes? How much of the crimes committed against women relate to their lower economic and social status and how much, because they are women? These are some questions one would like to investigate in the proposed study.

Urban areas do provide better economic and social opportunities to women as compared to the rural areas because it allows women to pursue different professions. They are also relatively more gender-equal. However, such opportunities create also opportunities of specific crimes, like eve teasing, sexual harassment at work place and greater number of rapes. Urban areas also have a larger number of nuclear families than the rural areas. Nuclear families are also replete with domestic violence--in great prevalence in developed countries. In urban areas also the ethnic boundaries are often distinct and take specific spatial locations, so also those of the economic classes (residential segregation). It would be interesting to study spatial variation in types of crimes along ethnic and economic classes and explain such variations.

As compared to the all India situation where one of the most important crimes against women is dowry related, in Assam this is not the case, because cultural specificity of the Assamese society where dowry is not a prevalent custom in marriages. However, modernisation of the society also brings in new values and imitations from other cultures. It would be also interesting to study if dowry related crimes are emerging in the Assamese
society or not? There are also other forms of crimes that are development related, like domestic stress related ones. They are the best observed in the urban situation. It would also be interesting to analyse their extent and causes.

1.5 Objectives:

The primary aspects to be investigated in the present study are:

1. To study the types and patterns of crimes against women in Greater Guwahati Urban Area;
2. To identify specific social areas in respect of locations of diverse ethnicities in the city and to identify crimes against women those are in general or those specific to ethnic background of the communities;
3. To identify areas of broad economic classes as expressed in their location and to study specificities of gender crimes along economic strata;
4. To examine if crimes against women are growing? If so, what types of crimes and etc; explain for what reasons?
5. To examine if the crime against women has relation with modernising forces, i.e. rise in income levels and material comforts or conversely, deprivation, unemployment have anything to do with crimes against women;
6. To examine connections between crimes against women have and the levels of literary and education of women?; (Therefore, the objective would also to study the relationship of educational level with type and intensity of crimes.) and
7. To examine the relation between crimes in general in a society and those gender related, (in the sense, what happens to CAW in response to increase or decrease of crime in general.)

1.6 Hypotheses:

The following hypotheses are tested in the study:

1. Hypothesis one:

"Crimes against women tend to increase or decrease in response to changes in overall crime rates in a society".

Justification: International experiences indicate that in societies where overall crime rates are higher tend register more crimes against women (the US) and conversely, in societies where overall crime rates are lower incidence of gender crimes too are lower (the Scandinavian countries). The logic is that men who in general are prone to more vicious crimes could carry the same to their homes. Alcoholism, drug abuse or other social deviances correlate well with general crime profile of a society and these do correlate with crimes perpetrated at home, against women and children.

2. Hypothesis two:

"Crime rates and types vary across economic classes".

Justification: Contrary to the general belief crime is not need driven, rather is value and habit driven. Along the economic spectrum, the lowest economic classes may not value moral and legal behaviour either because of lack of awareness or because
"rejection" of values of the society that has failed to provide economic and social security to them. On the other hand, the highest income classes may while be aware of legal behaviour, lack morality boosted by their ability to circumvent law. It is the middle-class - that generally would be more restrained in their social behaviour, relative insecurity and of course, the fear of God and the State. They would be expected to be less crime-prone. However, the nature of crimes could vary over the income classes. It would be interesting to study if crime against women remains uniformly similar against variations in types and intensifies of crimes across income classes.

3. Hypothesis three:

"Types of crimes against women vary along ethnic diversities".

Justification: Different linguistic and cultural groups do obtain different value systems that may influence the behaviour in public or in private-public or private moralities. Differences in faiths may also influence the individuals' decision of what is wrong or right - say about monogamy or polygamy. Therefore, there is justifiable reason to view that crimes against women could vary (in types) between such ethnic or cultural groups and communities. In a large city like Guwahati where many such cultural groups live and also live in identifiable localities it may be feasible to test the hypothesis in respect of crimes against women along the areas/localities representing the ethnic or cultural groupings.
4. Hypothesis four:

"Modernisation of society influences intensifies and types of crimes against women".

Justification: At least for the time being, one could choose four indicators of modernisation, (a) urbanisation, (b) rise in incomes and affluence, (c) change in activity pattern of people-occupations, and (d) the rise of nuclear families. Urbanisation changes the value system of the individual in terms of (a) a new view of life as "progress" and (b) in breakdown of the social network and security and rise of the "individual". Changes in income do follow at least in form of cash income and access to habits and behaviours that otherwise a rural life (traditional) would not allow. The occupational changes follow, i.e. both for the man and also the women in form of participation in organised or informal non rural pursuits that could give rise to occupation related crimes against women, like sexual harassment at work-place. The family structure also changes from a joint-family or extended family framework to nuclear families with little scope of moderating influence of family and relations on domestic violence that in general is found to be more common in nuclear families.

1.7 Justification of Greater Guwahati Urban Area for the Study:

Guwahati is located on the crescent shaped south bank of river Brahmaputra in the Kamrup district, Assam. Greater Guwahati covering an area of 298 sq. km. has been selected as the study area for this study. The city is located by 91°34' E to 91°51' E longitudes and 26°5' N to 26°12' N latitudes. As per the 1991 census, the city had a population of 584342 persons.
During the Census of 2001 the population size of Guwahati has gone up to 811905 persons.

Guwahati holds a commanding position in the form of the gateway of the North East India. Guwahati as an administrative and commercial city occupies a unique position in the capital cities of the region. It has been performing the functions of the largest urban centre in the region and has been attracting people from the surrounding areas. Guwahati, as an urban centre, provides better economic and social opportunities as compared to the surrounding rural areas. On the contrary such opportunities also create opportunities to specific crimes specific to urban areas. The justifications of the selection of Greater Guwahati for the study arise as follows:

(1) A large city like Guwahati attracts people of many faiths, ethnic background and also these social diversities are manifest in various social areas and localities specific to ethnic affinities or diversities.

(2) On another plane, a large city has clear economic stratification of population especially as expressed in slums and poor neighbourhoods, middle-class localities and upper-class neighbourhoods. This may not be clearly discernible in smaller towns and cities. This provides an opportunity in studying gender crimes in respect of economic classes and ethnic divides. For example the questions like, are gender crimes specific to some ethnic groups? Or are there specificities along economic classes?

(3) In rural settlements and villages extended or joint families are relatively common. Such family structures have salutary effect on married couples. In urban areas,
nuclear family is the most common feature. In nuclear families domestic violence are more common than in joint and extended family structures. Therefore, the urban situation provides a better opportunity in studying domestic violence as a gender crime against women.

(4) In the urban situation there are other forms of crimes that are development related, like domestic stress related ones and those related to the workplace (sexual harassment). These are new features in societies are quickly modernising with increased impetus on female work participation in organised sectors of the economy. Study of such crimes can only be done in the context of urban areas.

(5) It is also reported that the overall reported crime rate (gender related) has increased phenomenally in Assam within recent years. This further justifies selection of the premier city of the state, Guwahati.
Appendix A

I. Legal Provisions under Indian Penal Code:

1. Rape (Section 375 IPC):

“A man is said to commit “Rape” who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following description:

1. against her will;

2. without her consent;

3. with her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt;

4. with her consent, when, the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married,

5. with her consent, when, at the time of giving such consent, by reasons of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent, and

6. with or without her consent, when she is under 16 years of age” (Chandrachud, 2005: 678-679).
2. Kidnapping and Abduction for different purposes (Section 366-366A IPC):

The Section 366 requires:-

1. Kidnapping or abduction of any woman:

2. “Such a kidnapping or abduction must be-

   (i) with intent that she may be compelled or knowing it to be likely that she will
       be compelled to marry any person against her will; or

   (ii) in order that she may be forced or seduced to illicit intercourse, or knowing it
        to be likely that she will be forced or seduced to illicit intercourse; or

   (iii) by means of criminal intimidation or otherwise by inducing any woman to go
        from any place with intent that she may be, or knowing that she will be forced
        or seduced to illicit intercourse” (Chandrachud, 2005: 664).

The Section 366A states:

“Whoever, by any means whatsoever, induces any minor girl under the age of 18
years to go from any place or to do any act with intent that such girl maybe, or knowing
that it is likely that she maybe, forces or seduced to illicit intercourse with another person
shall be punishable with imprisonment which may extend to ten years, and shall also be
liable to fine” (Chandrachud, 2005: 670).

3. Homicides for Dowry, Dowry Death or their attempts (Section 304B IPC):

Section 304-B in the IPC relating to dowry death has the following essential ingredients.
1. “The death of the women should be caused by burns or bodily injury or otherwise than under normal circumstances;
2. Such death should have occurred within seven years of their marriages;
3. She must have been subjected to cruelty or harassment by her husband or any relatives of her husband soon before her death;
4. Such cruelty or harassment should be for or in connection with the demand for dowry; and
5. Such husband or relative shall be deemed to have caused her death” (Chandracbud, 2005: 557).

4. Torture, both mental and physical (498A IPC):

According to Section 498-A:

“Whoever, being the husband or the relative of the husband of a women, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine. For the purpose of this section ‘cruelty’ mean-

1. any will-full conduct which is of such a nature or is likely to drive the women to commit suicide or cause grave injury or danger to life, limb or death (either mental or physical) of the women; or
2. harassment of the women where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”
Section 498 A, till date, remains the only provision which abused women can take refuge to. The offence under this section is cognisable and non-bailable. Further, the onus lies on the man and his relatives to prove that they are not guilty (Gandhi, 1998:9).

5. Molestation (Section 354 IPC):
According to this section molestation means: “Whoever assaults or uses criminal force to any women, intending to outrage or knowing to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both” (Gaur, 2005:550).

6. Sexual Harassment and Eve Teasing (Section 509 IPC):
Section 509 states: “Whoever, intending to insult the modesty of any women, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by any such women, or intrudes upon the privacy of such women, shall be punished with simple imprisonment for a term which may extend to one year, or with fine or both” (Chandrachud, 2005: 971).

7. Importation of girls (up to 21 years of age) (Section 366-B IPC):
The Section 366-B states: “Whoever imports into India from any country outside India or from the state of Jammu and Kashmir any girls under the age of 21 years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit
intercourse with another person, shall be punishable with imprisonment and shall be liable to fine” (Chandrachud, 2005: 670).

II. Legal Provisions under Special Laws (SLL):

1. Commission of Sati (Prevention) Act, 1987:

It is an act to provide for the more effective prevention of the commission of Sati and its glorification and for matters connected herewith or incidental thereto.

Definitions: - In this Act, unless the context otherwise requires,

a) ‘Code’ means the Code of Criminal Procedure, 1973 (2 of 1974);

b) ‘Glorification’, in relation to sati, whether such sati, includes, among other things,-

(i) The observance of any ceremony or the taking out of a procession in connection with the commission of sati; or

(ii) The supporting, justifying or propagating the practise of sati in any manner; or

(iii) The arranging of any function to eulogise the person, who has committed sati, or

(iv) The creation of a trust, or the collection of funds, or the construction of a temple or other structure or the carrying on of any form of worship or the performance of any ceremony thereat, with a view to perpetuate the honour of, or to preserve the memory of, a person, who has committed sati;

c) Sati” means the burning or burying alive of,
(i) Any widow along with the body of her deceased husband or any other relatives or with any article, object or thing associated with the husband or such relatives; or

(ii) Any woman along with the body of any of her relatives, irrespective of whether such burning or burying is claimed to be voluntary on the part of the widow or the woman or otherwise;

d) "Special Court" means a specially constituted Court under Section 9;

e) "Temple" includes any building or other structure, whether roofed or not, constructed or made to preserve the memory of a person in respect of whom sati has been committed or used or intended to be used for the carrying on any from of worship or for the observance of any ceremony in connection with such commission (Awasthi, 2005: 1249-1250).

2. Dowry Prohibition Act, 1961:

The first attempt by the Government of India to recognise dowry as a social evil and to curb its practise is the Dowry Prohibition Act of 1961. The Act was modified with the Dowry Prohibition (Amendment) Act of 1984 and 1986.

The 1961 Act defines dowry and makes the practice of the both giving and taking dowry, a punishable offence. Any agreement on dowry is void. If it is given at all, it will be the women’s property.

The Dowry Prohibition (Amendment) Act, 1984 makes the offence cognisable by enlarging the meaning of the term ‘Dowry’. The 1984 amendment however makes it a
cognisable offence and empowers recognised welfare institution or organisations to take cognisance of the offence.

The main features of the Amendment Act are as follows:

Any property given or agreed to be given, directly or indirectly, in connection with a marriage to the bride or bridegroom or any other person is considered as dowry.

Any person giving or taking dowry or arbitering the giving or taking of dowry is also punishable with imprisonment which is not less than six months, but which may extent to Rs 10,000 or amount of the value of the dowry whichever is higher.

Neither the bride nor the persons giving presents to her at the time of marriage is liable for punishment if the presents have been given to her without any demand on that behalf and the presents are entered in the list maintained in accordance with the rules (Kahol, 2003: 132-133).

3. Immoral Traffic (Prevention) Act, 1956:

The Act states:

Detaining a person in premises where prostitution is carried on-

(1) Any person who detains (any other person, whether with or without her consent),

a) in any brothel, or

b) in or upon any premises with (that such person may have sexual intercourse with a person who is not the spouse of such person) shall be punishable.
(2) Where any person is found with a child in a brothel, it shall be presumed, unless the contrary is proved, that has committed an offence under subsection (1).

[(2 A) Where any person is found with a child in a brothel is on medical examination, detected to have been sexually abused, it shall be presumed unless the contrary is proved, that the child or minor has been detained for purposes of prostitution or, as the case maybe, has been sexually exploited for commercial purposes.]

(3) A person shall be presumed to detain a woman or girl in a brothel or in or upon any premises of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there-

a) withholds from her jewellery, wearing apparel, money or other property belonging to her, or

b) threatens her with her legal proceedings, if she takes away with her any jewellery, wearing apparel, money or other property lent or supplied to her by or by the direction of such person.

(4) Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against such women or girl at the instances of the person by whom she is detained, for the recovery of any jewellery, wearing apparel or other property alleged to have been lent or supplied to or for such woman or girl or have been pledged by such woman or girl or the recovery of any money alleged to be payable by such woman or girl

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4. Indecent Representation of Women (Prohibition) Act, 1986:

It is an act to prohibit indecent representation of women through advertisement or in publication, writing, printing, figures or in any manner and for matters connected therewith or incidental there to.

Definition of this act:-

‘advertisement’ includes any notice, circular, label, wrapper or other documents and also includes any visible representation made by the means of any light, sound, smoke or gas;

‘distribution’ includes distribution by way of samples whether free or otherwise;

‘indecent representation of women’ means the depiction of any manner of the figure of a women; her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigration women or is likely to deprave, corrupt or injure the public morality or morals;

‘label’ means any written, marked, stamped, printed or graphic, matter, affixed to or appearing upon, any package;

‘package’ includes a box, a carton, tin or other container;

‘prescribed’ means prescribed by rules made under this Act.

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