CHAPTER - III

VIOLATION OF HUMAN RIGHTS
WITH REFERENCE TO WOMEN IN SOUTH ASIA

"While growing up in South Asia is a perpetual struggle, to be woman in this region is to be a non-person. Women bear the greatest burden of human deprivation in South Asia"

Mahbub ul Haq

In the preceding chapter a number of theoretical and conceptual ideas which were thought to be relevant to the study of human rights of women in general and those under the South Asian context in particular were discussed. The kind of theoretical concepts narrated therein and the conceptual ideas evolved lead to certain major assumptions and convictions that could form a broad basis for their observation and analysis. This analysis will help in the present chapter to make a comparative study of human rights in the SAARC countries. The task in this chapter is to extend the discussion to explore some of the important issues and factors responsible for human rights violation with special reference to violence against women as gross violation of their human rights. The study also attempts to examine how far women’s human rights have been realised in these countries, to accomplish such a task and to understand the violence against women as the human rights abuse in the SAARC countries, the study should explore violence against women in the international context which will provide a comparative picture.
INTERNATIONAL RESPONSE TO VIOLENCE AGAINST WOMEN AS A HUMAN RIGHTS ABUSE

It has taken decades of hard work and persistent struggle of women's movement advocates to see that violence against women was recognised as an issue meriting serious concern. It has been observed that violence against women both violates and impairs or nullifies the enjoyments of various human rights and freedoms of women. The Oxford English Dictionary describes an act of violence as one of physical force inflicting injury or damage on persons or property. Violence is the use of destructive force that offends norms of civilised behaviour. The problem with violence against women however, is that it is sanctioned explicitly or implicitly by most norms of civilised behaviour. And while we can produce numerous examples of exhortations to eschew violence, we need to reckon with the fact that there are not enough prohibitions against such violence.¹

Violence against women is as old as recorded history, and cuts across all societies and socio-economic groups. There are few phenomena as pervasive yet so ignored and are regularly dismissed as established cultural traditions. Violence against women has been naturalised into acceptable social practice. Only recently has the world community recognised that abuses against women, previously characterised as cultural and traditional behaviour are abuses against the human rights of women.

It was in 1991 both the UN Economic and Social Council and the Commission on the Status of Women (CSW) decided that the problem of violence against women was important enough to warrant the development of further international measures. Following these decisions a group of experts
recommended that violence against women be included in the reporting under the women's convention. It also suggested that a special Rapporteur on Violence Against Women be appointed, and that a Declaration on Violence Against Women be drafted. As a consequence, in 1992 the CEDAW Committee issued General Recommendation No. 19, which states that gender-based violence is an issue of gender discrimination, and that states should comment on this matter in their reports to CEDAW Committee. Violence against women was thus formally recognised by the international community as a human rights issue.

The major turning point however was the UN Conference on Human Rights in Vienna in 1993. The women's groups and NGO's had an important impact. Their lobbying effort succeeded. The formal expression of this can be found in the 1993 UN Declaration on the Elimination of Violence Against Women (DEWAV). In 1995 UN General Assembly appointed a Special Rapporteur on violence against women. This was the major victory for the determined women's lobby. Women's rights were recognised as human rights and two UN mechanisms were in place to deal specifically with violence against women. These instruments have been widely welcomed as major indicators of the shift within the human rights community towards recognition of the need to address these issues that deny women access to their human rights.

According to the Special Rapporteur

"Women are vulnerable to violence because of their female sexuality (resulting in inter alia, rape and female genital mutilation); because they are related to a man (domestic violence, dowry deaths, sati) or because they belong to a social group, where violence against women becomes a means of humiliation directed at the group (rape in times of armed conflict or ethnic strife). Women are subject to violence in the..."
family (battering, sexual abuse of female children, dowry related violence, incest, deprivation of food, marital rape, female genital mutilation), to violence in the community (rape, sexual abuse, sexual harassment, trafficking in women, forced prostitution) and violence by the state (women in detention and rape during times of armed conflict)."

The Declaration on the Elimination of Violence Against Women provides the normative framework of all international action in the field of violence against women. The Declaration is the first international instrument to express international political consensus that states have human rights obligations to prevent gender-based violence and to redress the harm caused. The aims of the Declaration are to answer the “need for a clear and comprehensive definition of violence against women, and a clear statement of the rights to be applied to ensure the elimination of violence against women in all its forms”. It also aims to establish a “commitment” by states and by the international community to eliminate violence against women.

The Declaration defines 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 women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life’. The Declaration identifies the site of violence as violence in the family, violence within the general community and violence perpetrated or condoned by the state wherever it occurs. It prohibits violence against women by rape, sexual abuse, sexual harassment, and intimidation whether at work, in educational institutions or elsewhere as well as through trafficking and forced prostitution. The definition of violence is broad and all-inclusive and
acquires a certain transformative character. This broadness of scope and vision is reiterated in the mandate of the Special Rapporteur where there is a call for the elimination of violence against women in the family, in the community, and by the state.

The Declaration on the Elimination of Violence Against Women is a significant step towards building the normative framework applicable to violence against women. It underscores the connections between gender-based violence and women’s subordination in public and private life. This is finally a recognition by the international community that violence against women is an impediment to all development (not only women’s) and an infringement of the human rights of half the world’s population. It is a manifestation of historically unequal power relations between men and women. The understanding of gender-based violence is not sporadic acts of a few men, but symptomatic of the structural inequality in society. This is crucial to create awareness within the global community of the systematic violence against women. Likewise, the broad definition of violence employed in DEVAW is significant as it embraces acts of violence committed against women at three levels, within the family, within the wider community, and that perpetrated or condoned by the state.

The Vienna Conference not only marked an acceptance of the importance of asserting the indivisibility of human rights for women, but also of strengthening the enforcement mechanisms for protecting women’s human rights. There are several other international machineries to monitor and promote the human rights of women like the Commission on the Status of Women (CSW). This is primary international organisation, which deals with the advancement of women. One of its primary concern is human rights of women.
The committee on CEDAW is another important instrument for protection and promotion of women's rights. A number of recent developments of the committee on CEDAW are designed to enhance the effectiveness of women's convention. Besides, women's groups have long recognised that human rights need a broad constituency. Innumerable Non-Governmental organisations (NGOs) and other sectors of civil society have thus played a vital role in informing and educating women in terms of their rights. It helped in exposing violation of women's human rights and campaigning for legislative and other changes at the national, regional and international level.

Women's human rights begin to find a "political maturity of expression" and great achievements have been made for the human rights of women since the adoption of Universal Declaration. However, the traditional marginalisation of women's human rights is an accurate reflection of the subordinate position, which women continue to occupy in many parts of the world. Gender-based violence such as wife-battering and other domestic violence, sexual abuse, sexual slavery, rape, international trafficking in women and children, forced prostitution and other kinds of harassment against women are on the rise throughout the world. The list of gender-based violence is vast and horrifying. The mechanisms in place for enforcing women's human rights remain weak. The mainstream human rights bodies have consistently failed to respond to issues of concern to women thus leaving women's issues "ghettoized" within the United Nations. In comparison with other treaty-based bodies, the CEDAW has been under resourced and suffers from a serious backlog of work. The CEDAW is confined to monitoring state compliance with the women's convention by way of a reporting procedure. Its task is not made easier by the unusually high
number of reservations lodged to the convention. The committee on CEDAW suffer from the inability to consider individual communications or complaints against state hence severely limits its effectiveness in promoting the rights embodied in CEDAW.

DEVAW also suffer from limitations and fails in a number of important respects. Difficulties lie in the obscurity surrounding the extent of state responsibilities to eliminate violence against women. DEVAW obliges states to exercise due diligence to prevent, investigate, and punish acts of violence against women. But it only obliges states to do so in accordance with national legislation. By permitting states to operate within the scope of their own legal system, with all its imperfections, these provisions detract from the possibility of any serious international scrutiny of domestic provisions. Moreover the failure to assert a discrete right to be free from all forms of violence as violation of women’s right to life, liberty and security of the person, or of her right to be free from torture, is unfortunate. This is because, intimate violence has not yet been defined as a violation of “mainstream” human rights standards. Such a nexus would be instrumental in encouraging the mainstream human right bodies to reconsider the limits of their mandates. Moreover the approach in the Declaration of understanding violence against women as a form of discrimination vests responsibility for monitoring state complaints with DEVAW in the hands of CEDAW. If the norms in the Declaration are to have any practical impact on state practice, then the international community will have to take serious efforts to improve operational efficiency of the CEDAW. On the international level, the Special Rapporteur on violence against women lacks efficient technical and financial support from the UN to carry out her work.
From the above discussion it can be analysed that despite the progress made in the recent decades to promote women's human rights, the dismal record on preventing abuse persists. There is a need for strengthening implementing machinery and removal of substantive reservations. What is needed is developing innovative activities at all levels to increase women’s awareness of their human rights. International condemnation of violence as a form of discrimination that deprives women of their enjoyment of human right is crucial, especially because violence against women is so often justified on cultural grounds. At a normative level, the importance of analyzing violence against women as an issue of human rights concern opens up the possibility of “transforming” human rights discourse to embrace issues previously considered beyond its reach.

**SOUTH ASIA: VIOLENCE AGAINST WOMEN AS HUMAN RIGHTS ABUSE: CAUSES AND COMPULSIONS**

Violence and crimes against women are as old as civilization and equally ancient are the efforts to combat and arrest them. These efforts have not succeeded and crimes are still maintaining their upward trend. The situation is still not very different in spite of the march of civilization and enactment of special laws to protect women against such crimes. Violence against women is a major human rights concern in South Asia. In many parts of the SAARC countries women are still considered to be a burden some appendage. She is considered as an economic drain. She must be exploited or dispensed with as a non-person because she crushes her family with marriage and dowry expenses. Her birth in many parts of the country is greeted with silence, even sorrow.
Comprehensive studies conducted by UNICEF as well as social scientist in the region shockingly reveal an organised pattern of discrimination against women.

Women in the region can be burnt for not bringing enough dowry, tortured and harassed for not providing money to their alcoholic husbands, raped to satisfy the lust of males, or just to teach them a lesson for being bold and outspoken. This is the reality inspite of constitutional assurance of its belief in the 'equality and dignity of all human beings. It guarantees 'that state shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them or subject them to any disability, liability or restriction on that count. It assures everyone of 'equality before the law and equal protection of law. It directs people to renounce practices derogatory to the dignity of women because its aim is to set up social order in which 'justice, social, political and economic shall prevail."

The constitutions of the SAARC countries authorised the legislatures to pass special protective laws in favour of women to undo the injustices done to them for ages. A large number of such laws actually been passed under the constitution can misguide anyone. They create an illusion that women enjoy a privileged position in our society and have special rights at the cost of men. This illusion is short-lived and vanishes the moment one starts delving into facts. It is then that the real picture emerges and we realise that whole bulk of this protective legislation is a very modest attempt to combat the deep-rooted and all pervasive evil of horrendous crimes that are committed against women everyday.

In recent years with the emergence of South Asian Association for Regional Cooperation (SAARC) efforts have been made to tackle commonly
shared problems. Issues related to needs of women and children including their Human rights where also the focus of SAARC conferences. However, any concrete steps in the field of human rights\textsuperscript{17} have yet to be undertaken.

Gross and persistent abuses of human rights in most parts of the sub-continent have given birth to innumerable non-Governmental organisations. They are working hard to improve the living situation and realisation of human rights of women. A variety of human rights organisations of a statutory and voluntary nature have been established in South Asia. In India there exists a constitutional commissioner for Scheduled Caste & Tribes and Statutory bodies such as press council, the Minorities Commission, the National Commission for women, the Commissioner for Linguistic Minorities. Most recently National Human Rights Commission is established. Pakistan has a very active non-Governmental human rights commission. In Nepal the non-Governmental Human Rights organisation of Nepal (HURUN) played a key role in the establishment of multi-democracy in 1991. Bangladesh's throbbing NGO Community has also established a co-ordinating council for Human Rights in Bangladesh (CCHRB). In Sri Lanka there exists a constitutionally entrenched ombudsman and a statutory commission on Elimination of Discrimination. These NGOs struggled hard to secure democracy, rule of law and respect for human rights in the region and continue their struggle to uphold human rights in the region.\textsuperscript{18}

The South Asian Forum for Human Rights (SAFHR) set up in 1990 is a regional public forum for the promotion of respect for universal values of human rights, the interdependence of rights and the indivisibility of rights. The establishment of SAFHR has fulfilled the long-cherished dream of creating a
focal point for discussion of human rights issues. Its establishment was a direct response to what NGOs in the region believed was a delinquent effort by SAARC to promote observance of and respect for international human rights. Human rights, peace and democracy are the main areas of concern of SFHR. In the strife torn region of South Asia, SAFHR is committed to the promotion of these values through the development of a culture of substantive democracy. SAFHR is a human rights organisation with 'peace as value' as its corner stone. Its vision of peace is that of a space for the enjoyment of the rights of all people.

SAFHR's programme address some of the core concerns of the Human Rights agenda, which included women's rights and violence. As a part of its Regional Consultation Series, holds conferences and meetings with the human rights activists, representatives of women groups and eminent personalities in the field of human rights from South Asia to explore the states of human rights of women.

Despite all these progress and commitment made by these organisations violation of women's human rights continue to occur. The existence of significant on going human rights abuses simply is not acknowledged by the South Asian governments. One can not help but question whether South Asian Government really care about their citizens interest in having human rights enforced by domestic law.

An organisation like SAFHR is not the complete answer, but it gives a voice to the needs of the people. If concerned human rights organisations in South Asia continue to unite their efforts, SAFHR has the potential to act as a powerful watchdog. It could effectively pressure individual governments to implement policies respectful of internationally accepted rights. The South
Asian NGOs commitment to protect women from gross violation of human rights have been intensified in recent years and reinforced international efforts to safeguard human rights. The efforts of the NGO community to help to develop a human rights culture in the region have also started paying substantial dividends and building public awareness and assertiveness for these concerns.

Women in South Asia have been subjected to many forms of violence reflecting cultural and social differences for centuries. There is a high degree of official and social tolerance, which constitutes a major human rights problem. The major forms of violence against women like wife-beating, rape, bride burning, prostitution, international trafficking, sexual harassment has followed an upward trend in the region.\textsuperscript{21} She has been a victim of oppression and atrocities in the region considered as the weaker sex undue advantage has been taken of their helplessness.

In the causation of violence against women a complex mixture of political, socio-economic, cultural, biological and legal factors that accounts for the rising violation against women rights. Hence it is needless to say human rights of women in SAARC countries cannot be evaluated in isolation. They have to be examined under these background conditions. Hence, to study attempts to analyse various causes, political, socio-economic, cultural factors that are responsible for the violence against women based on discrimination and denial of their human rights.
POLITICAL CONDITION OF SOUTH ASIA

The historical perception in the preceding chapter revealed that the concept of human rights in South Asia is neither entirely western in its origin, nor so modern. It is a crystalization of the values and concepts that held dear in South Asian varied and rich cultural heritage. The recognition, protection and implementation of human rights in the constitution of the SAARC countries having its roots deep in the motivational forces of the national struggle for independence.

The political history of South Asia in the post-independent era has been a turbulent one. The break up of Pakistan and the subsequent formation of Bangladesh are the most conspicuous examples of this turbulence. This turbulence cannot but divert the countries away from their human rights obligations for a long time. Nevertheless, over the last fifty-two years South Asia has made strides towards stability and peace. Most South Asians are now citizens of democratic states. There has been increased decentralisation in political power. These are important steps forward for a region characterised by diversity of religion, ethnicity, class, caste and language.

In the SAARC countries the political systems range from multi-party democracies in India, Pakistan, Nepal, Sri Lanka and Bangladesh to one party region in Maldives. Bhutan continues to be ruled by an absolute monarch. As such most of these countries meet one of the basic requisites essential for the promotion and protection of human rights i.e., a democratic government with fair and free elections. It's therefore worth noting that India, Sri Lanka and Bangladesh at present are democratically ruled and in Nepal the movement for democracy finally led to a democratic system of government with the king of
Nepal as constitutional head. Pakistan recently reverted to Military rule after 11 years of elected government. At present having an interim military government, hopes to be heading back towards democracy in the near future. Nevertheless these countries too have spent the majority of the last decade under some form of democratically elected government. At eventually acquired constitutional government. What implied here is while no system of government is perfect, democracy is the closest to humanity's essential nature. As observed earlier undoubtedly concept of human rights has always been regarded as the backbone of every democratic set up.

As examined in the preceding chapter, constitution of all SAARC countries ensure protection of human rights for their citizen and a guarantee of system of justice in line with the concept of Rule of law. The enforcement of these rights can be revised through an independent judiciary, empowered with the extra-ordinary jurisdiction to protect such rights by issuing writs. The constitution is the fundamental law of the land, providing that any law inconsistent with the provisions of the constitution shall be null and void. Besides these rights, the Directive principles of state policy set guidelines for the states to pursue a free and an egalitarian social order based on the rule of law. It encourages the female population participation, to a greater extent, in the task of national development by making special provisions for their education, health, employment and by providing legal aid.24

Thus, theoretically women in SAARC countries have been guaranteed all the fundamental rights. However, the provisions sanctimoniously enshrined in the constitution is one thing and their observation and protection is all together a different matter. Rights whether fundamental or human-demand certain pre-
condition if they are to be implemented and there is always a gap between what is guaranteed under the constitution and what is achievable. The irony lies in the fact that despite their solemn reaffirmation, the SAARC countries human rights situation is in a bad shape and the fundamental freedom and basic human rights of their citizens in general and that of women in particular continues to be violated with impunity. No one can deny the fact that SAARC countries have a long way to go in order to fully realise human rights for their citizens.

As far as the political field is concerned women are marginalised as the political activity is monopolised by men in most of the SAARC countries. Despite the fact that a handful of women in the region have achieved place of distinction, particularly as political leaders and rulers and yet the vast majority of women play a subordinate role. The countries of South Asia claim credit for giving the world of its first women President (Sirimao Bhadarnayake). India, Pakistan, Bangladesh and Sri Lanka have had women heads in the country. Bangladesh is having women both as the Prime Minister and the Leader of the Opposition. Sri Lanka witness both mother and daughter occupying the offices of the President and Prime Minister. They all have inherited their position as daughters or wives of men leaders. However, none of these women leaders have been or are mere puppets whilst in office. Rather they have been instrumental in bringing about changes especially concerned for women and left their marks on the histories of their countries. Women in the villages, the country side and cities, in their hope for better deal in life were instrumental through their votes in bringing these women leaders to power. This, however, does not reflect the status of women in these societies. The question remains as to how much these
leaders can achieve or could have been achieved for their women folk. The representatives of women in Indian parliament, especially the Lok Sabha, reveal that the percentage of women representatives never reached to two digits. It was just 2 per cent in 1952, remained under six up to the eighties. It was highest in the eighth Lok Sabha when it was 8.1 per cent. During the tenth Lok Sabha it was 7 %. As such women's political representative is very poor in South Asia. Only seven per cent of South Asian parliamentarians are women.

SOCIO ECONOMIC AND CULTURAL FACTORS

The social causes of violence against women's include causes like inferior status of women due to social conditioning, patriarchal structure of society, unwholesome family atmosphere, lack of proper training, broken homes, drunkenness, immorality, addiction to drugs etc.

Patriarchal Structure of Society and Social conditioning

The social structure prevailing almost in all the SAARC countries is in a sense by-product of history of thousands of years in terms of mixing of different races, religions and communities. Discrimination prevails against women and their subordinate position in society in general and in family in particular. This inspite of several reform movements launched at different stages of history and the present crusade launched by the various women's organisations, is common in all the South Asian countries. This probably is the outcome of the patriarchal system of society and the associated attitudinal values inculcated and transmitted through religious customs, traditions and social norms. These norms have gone deep into the social psyche of the region according to which a
woman is and supposed to be preserver of the institution of marriage and family. She will probably make all sorts of sacrifices and bear all victimization in the name of ‘adjustments’. Very rarely she decides to desert her family and children, which is quite in contrast to western values.\textsuperscript{27}

Most of the SAARC countries have dominant patriarchal culture. Women face discrimination from cradle to coffin. A woman is never an entity in her own rights. She is “first the daughter, next the wife, and last the mother of a man”. Men are consciously taught to be aggressive and tough while women are conditioned to be submissive and docile. The constitution and the protective laws assert justice and equality to be the goals. However the given concepts and shared understanding assign different kinds of resources, opportunities and expectations to the two genders, each of which sought to be governed by its own distinct code of fairness and justice. This concept of equality and justice results in gross injustice to the women and is the cause of their exploitation and their low social status. The male superiority and female inferiority is an accepted social norm in these countries. Women may work from dawn to dusk, but their economic contribution is scarcely acknowledged at the national level and they remain far behind it enjoying the basic rights.\textsuperscript{28}

The statistical data reveals a pathetic picture despite all the rhetoric. As a region, South Asia has both the lowest literacy rates and the largest gap between the rates of male and female literacy - 64.1 per cent and 37.2 per cent respectively in 1997. While South Asian women make up about 21 per cent the world female population, 44 per cent of the world’s illiterate women are South Asian.\textsuperscript{29} South Asia has one of the most distorted sex ratios in the world there are only 940 females for every 1000 male. South Asia also has the special
aspects of domestic violence as expressed in dowry deaths, the gross inequality in nutrition and literacy. India has the largest number of ill-treated women, i.e., 64.6 per cent of male literates compared to 39.29 per cent female literates. In comparison, the female literacy rate in Pakistan is even lower i.e. only 23 percent, which is 36 per cent in the case of male. Official statistics in South Asia show women's economic participation as a mere fraction of that of men. As the majority of South Asian women work in the informal sector and as unpaid family helpers, their work goes unrecognised in national system of accounting.30

The culture of patriarchy is so deeply entrenched in the region and gender biases are held not only by men but also by women. Women are often convinced that the work they do for their family is their duty and as such women do not expect any recognition, monetary or otherwise. The work that men do is recognised truly valuable, both socially and economically. Similarly many women do not participate in decision-making believing it to be the realm of men. Attitude shifts in society as a whole are required to break out this culture of patriarchy.

The South Asian women face problems in various fields like Economic, Legal, Education and health. Added to this family and community life with cultural factors and religious fundamentalism leads to violation of their human rights. The legal system practiced in the region is heavily biased against women and often victimised rather than protects them. Education indicators of South Asian women, although recording improvements in recent years, are some of the worst in the world. At an early age girls in South Asia continues to face barriers to obtain education, which worsen at every level. The vast majority of South Asian women lack even the most rudimentary health facilities resulting
in high maternal and mortality rate. Further in the heterogeneous South Asian countries
diversity exists between and within the and overtime that poses constant threat
to the realisation of women's human rights.\textsuperscript{31}

Without exception all the world's major religions strive to advance the
dignity of the individual, without any gender discrimination. The UN bodies
dealing with the human rights of women have pointed to problems when
culture or religions are used as an excuse to sanction violence against women
or other abusive traditional practices. Many extremist religious organisations
have established measures to enforce subordination and obedience from women
and deny them their rights to equality.\textsuperscript{32}

Fundamentalists issue all kinds of edicts such as the extent to which
Muslim women cover themselves, the extent of the rights to education and to
employment etc. They strongly oppose Muslim women's participation in sports,
single women taking up foreign services, and even entering into cinema halls.
Panthic communities ordered sikh girls to do their hair in particular style and
not wear skirt or sarees. Hizbe-Islam ordered Kashmiri women to wear burkha
which they have never worn. There is a barriage of propaganda among Hindu
women to observe long extinct rituals and customs to project and preserve the
Hindu identity.

The Shah Bano and the Roop Kanwar murder brought into sharp focus
the reality that fundamentalists of different communities though ostensibly
hostile towards each other, share a common antagonism to women's rights. The
rulings in the 1985Sha Bano case where a divorced Muslim woman was granted
maintenance by the court. This evoked strong opposition from the Muslim
fundamentalists who vehemently protested it as an anti-Muslim and against their personal law. The resistance was so powerful leading to the withdrawal by Shah Bano of her court petition.

The Hindu fundamentalists defended and glorified the immolation of Roop Kanwar in Rajasthan, in 1987 in the name of tradition and identity of a Hindu woman reviving the 160-year-old debate around voluntary Sati. In this case the collusion of the governments, both control and state with the fundamentalists was obvious. Under the garb of custom and tradition government succumbed to the pressure of Hindu fundamentalists there by failing to invoke existing legislation.

The case of Taslima Nasreen the boldest writer of Bangladesh received tremendous worldwide media attention in 1993. Taslima known for her bold views on Islam and Koran was allegedly demanded revision and reforms in the Koran and Shariah, the Islamic code of conduct. This was blatantly opposed by the Muslim religious leaders and Mullahs in Dhaka who demanded her arrest and execution for criticising the Koran. This was followed by the court order to arrest her. Taslima denied the allegations, but admitted bravely that she was calling for change and reforms in the Shariah. Due to the threat against her life, she fled the country in August 1994 and lived in Sweden, Germany and U.S.A. Recently she returned to Bangladesh with lot of support from the women’s organisations and intellectuals.

Taslima’s latest novel Lajja published in 1993 is a story of atrocities on minorities and it is against communalism. She has also raised the pitiable condition of the women and children and their oppression under Islam in the
novel, at the risk of her life, dignity and honour. Lajja infuriated Muslim fundamentalists not only in Bangladesh but also all over the world.

Despite all the resistance, Taslima, the true defender of Women’s rights, won a lot of support from the advanced sections of Bangladesh but also from many other countries.

The above-mentioned cases confirm the close links between politics and fundamentalism on one hand and opposition to the gender equality on the other. This is a potential danger to women’s struggle for their independent identity and denies them the right to equal justice.32

The overall picture then is one of overlapping and complementary forms of exclusion. Because of traditional base of South Asia, cultural and religious practices is enshrined in legal codes, measures that discriminate against women are normalised in the legal sphere. Because mothers realise that their female children will face such discrimination all their lives, many of them make the painful decision to abort the foetuses of girls rather subject them to lives of hardship. Hence women and girls in the region often become victims of some oppressive and rigid customs that perpetuate their disadvantage. There is an overall structure of patriarchy, which allows men, in general more mobility, authority and control, than women in general. And as emerged in the seminar described in box 3.1, it is the women who pay the price in a much more obvious way. The clearest example of this are the various forms of violence, systematically meted out against them resulting in gross violation of their human rights. Up and down the line the network of invisibility, exclusion and inequality is constantly reinforced.
While there is growing recognition that gender issues cannot be sufficiently addressed through focusing only on women, the transition from WID to GAD has occurred with limited reference to men. There has been an overall lack of understanding of male issues at both the policy-making and grassroots levels and few concrete interventions regarding male roles. Important exceptions include UNFPA's work on men's role in reproductive decision-making, and...

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**Box 31**

While there is growing recognition that gender issues cannot be sufficiently addressed through focusing only on women, the transition from WID to GAD has occurred with limited reference to men. There has been an overall lack of understanding of male issues at both the policy-making and grassroots levels and few concrete interventions regarding male roles. Important exceptions include UNFPA's work on men's role in reproductive decision-making, and the UNICEF's research on fatherhood in 1998, in order to initiate discussions surrounding men's issues and development, the UNDP Gender Unit in Islamabad hosted a seminar on 'The Other Gender.' Seminars touched upon the relationships between sons and mothers, and husbands and wives, the socialisation of boys into acceptable male roles, the sexual abuse of boys, and male violence. During discussions, participants identified several types of problems faced by males due to the gendered and patriarchal nature of society. The group also identified several privileges generally afforded men within the same patriarchal systems.

Source: UNDP 2000
The above analysis of socio-economic, political and cultural conditions in the SAARC countries reveals that violation of women's human rights is common across the region. It is well recognised and established fact that there is much oppression and discrimination against women. By virtue of being both 'South Asian' and 'Women', there are several factors that transcend class, religion, culture and locality, and the lives of all South Asian women. These include responsibility for housework and childcare, vulnerability to domestic violence, and the economic vulnerability that reflects women's unequal legal and social status. These commonalties are based upon a shared sub continental history, based upon layers of religious, cultural, economic and political structures shaped by centuries of immigration and colonialism, combined with patriarchal structure which oppress women.

The human costs of poor governance, regional economic non-cooperation and military confrontation are heavier on women of the region. Women have been subjected to socio-economic and cultural deprivation for such a long time that there is a general indifference and lack of awareness for crimes and violence against them. Crimes like murder, dacoity, and robbery are universally accepted crimes, but crimes against women are justified and condoned by women themselves. Women are reared in an atmosphere, which slowly but positively helps in the development of a feeling of inferiority. They become used to the institutional legitimation of their low status and find nothing wrong in some of the crimes committed against them.

This attitude can be attributed to three factors: lack of awareness of the seriousness of the problem, the general acceptance of men's superiority over
women, and the denial of violence by women themselves due to their cultural conditioning and social attitudes. In the wider socio-economic political cultural sphere, violence and its perpetration is related to issues of caste, class, ethnicity, fundamentalism and terrorism and they have negative impact on women.

Based on the above discussed background conditions the study proceeds to critically examine some major forms of violence committed against women. The most painful discrimination of women is the physical and psychological violences perpetuated on them. The threat of violence on women in the SAARC societies manifests right before their life begins. It continues to scare the early life, follow in the married life as domestic violence, endangers as victims of rapes and worse than that end in murder or suicides in some cases. The recent UNDP report states that even under law, the equality of women is not yet assured in many societies let alone in practice. It further adds 'Although violence stalks women lives, laws can do little unless present cultural and social values change'. In this context the issue of violence against women is a serious social concern.

Traditionally violence against women has been considered a women’s issue to be addressed through counselling, legal aid, shelters and organising. In other words it was considered the concern of women’s groups only. The shift in perceptions to violence as a human rights issue is quite recent. It is ironical that this systematic violence against one half of the human race has remained a social reform issue through centuries. Experience has proved that it is only when the social evil is defined as a political issues and fought politically that it moves centre stage.
The spectrum of abuses faced by women in the SAARC countries is a vast area, which is beyond the scope of this thesis. In view of this an attempt has been made to explore some of these areas of major concern to show how violence has become a major human rights abuse in these countries. Women in the SAARC region face violence both within the public and private sphere. The systematic rape and violence committed by state authorities on women during the armed conflict, the ill treatment and torture of women detainees in many states, the public beatings of women discrimination and harassment at work etc - all bear testimony to the extent of state-sponsored violence against women. In the present study however the attempt is to explore specifically the less visible, but more pervasive intimate violence and certain oppressive customary violence committed against women that blatantly violate women's human rights.

DOMESTIC VIOLENCE

Around the world, violence against women that occurs in the domestic sphere is the most brutal manifestation of women's oppression and the most pernicious. It primarily affects women and operates to diminish women's autonomy and self-worth. Domestic violence usually involves the infliction of bodily injury, accompanied by verbal threats and harassment, emotional abuse or the destruction of property as means of coercion, control, revenge or punishment on a person with whom the abuser is involved in an intimate relationship. The assailant frequently blames the attacks on the victim and her behaviour. It is not only damaging the women physically, but also liable to have serious psychological effects on both - women and their children because
of the constant humiliation and fear they live with. A battered woman may become isolated with little community or family support and be afraid to leave her home. She may also begin to believe that her inability to avoid abuse in an intimate relationship demonstrates that she is a failure and deserves or is powerless to escape the abuse.\textsuperscript{39}

In order to assess the magnitude of this problem it should be examined in each of the SAARC countries where it is increasingly on the rise over the last decade. However it would be appropriate to analyse the extent of abuse and the existing legal provisions in India and them on other SAARC countries in order to put them into a comparative perspective.

In India the woman's celebrated and privileged position was referred to by the ancient scriptures during the Vedic age. The gradual erosion of the same in the later Vedic period, the dispensation of Manu with severe restrictions on woman's rights and privileges even at the cost of their life in certain cases and had been a tell-tale account of women's predicament. The most acrimonious practice of 'sati system' completed their woe-begone story. The concomitant feudal social order of the medieval period leading to the crystallization of patriarchal system, sanctioning of several social evils. Child marriage, female infanticide, emergence of dowry system, prohibition of inter-caste marriage and widow-remarriage presented a gloomy picture of woman's position, wherein the religious leaders played a super-dominant role. As a follow-up, polygamy as well as the system of 'Devadasis' further relegated women to the background. The two epics, Ramayana and the Mahabharata also accorded a pitiable position to women.
The 18th and the 19th centuries saw a handful of social reformers working for the rehabilitation of woman aiming to emancipate woman from illogical superstition, blind customs and traditions. The freedom struggle opened up new vistas for women in India. It not only provided scope for fighting against imperialism and foreign oppression, but also did include issues for creation of awareness of women’s status.

Independent India saw men and women on equal pedestal with the constitution of India declaring, in unequivocal terms, the right to equality for all citizens irrespective of caste, creed, sex or place of birth. It is an eloquent example of India’s deep commitment to human rights. The constitution not only proclaims the basic human rights and fundamental freedoms and guarantees their enjoyment but also makes special provisions for women. A series of laws have been enacted from time to time to raise the status of women. Mechanism for change are being introduced as a result of enhanced consciousness about the trend of increasing violence against women as well as its unfortunate long term consequence. However, the public-private dichotomy in the performance of the traditional wife-mother role continued to remain as strong as ever. There is gradual rise in the number of educated woman as well as formal jobholders in the organised and unorganised sectors. The elevation of a handful of them to topmost rung of the technological, administrative and legislative sphere have not transformed the general dismal situation of women in general and their illiterate counterpart in particular. Religious practices, traditional social norms and the socialisation process of the girl child have continued from generation resulting in the violation of women’s human rights.
Domestic or family violence has become a salient feature in the male dominated society of India. Specific gender-based oppression has its roots in a patriarchal model of family life in India. It is therefore, not surprising that much of the violence women suffer is executed within the family, the primary unit responsible for maintaining the social order, has increased. Violence within the family starts in childhood itself and is accompanied by explicit forms of discrimination and continues to be maintained and reinforced throughout the life of a woman. In the last few decades various forms of violence experienced by women within the home have been exposed by women's movements. The more visible domestic violence includes wife battering, female foeticide and infanticide, harassment for dowry etc.

Perhaps the most endemic form of domestic violence against women is wife abuse. Study after study has shown that wife beating is prevalent in all societies and crosscuts all racial, cultural, and socio-economic lines. Wife beating syndrome is quite common in India. It is clearly associated with social pattern of the society where family feud, excessive alcoholism and frequent demands of subsequent dowry instalments are common. Wife beating is in fact one of the most accepted crimes committed against women. Though it exists mostly in slums and amongst working class, in fact, now it is gradually creeping amongst middle class and rich families. Discrimination leads to common occurrence of wife beating as a means of enforcing subordination. Although, often the act of violence committed after a drunken bout, it would be wrong to see alcoholism as the underlying factor rather than as an additional factor. Transgression of prescribed norms of female behaviour, or accusation along these lines is often an excuse to sparkle violence.
A recent study on domestic violence by doctors at JJ Hospital, Mumbai trying to explore the patterns and determinants of violence against women find that one in five women among reported cases were assaulted by a husband or family member. In “possible” domestic violence, 44% of cases, women have refused to name the person or attempted suicide. Injuries recorded at the hospital were a result of kicking, beating, punching, biting or strangling. 19% were assaulted with stick or rod or blunt instrument, 16% with a knife or blade. Other forms include poison, pesticide, chemicals and stove bursts. The life of a beaten women is isolated and under constant fear. So far as this has been an unspoken problem, hidden behind the shame and embarrassment for which there is yet no solution, no place for the women to go, no understanding, no legal support.

The law dealing with wife beating has been defined in Sec.498 A as “who ever being the husband, or the relative of the husband of a woman, subjects such women to cruelty, shall be punished with imprisonment for a term which may extent to three years and shall also be liable to fine.” But the question arises, is who will bell the cat? No body is going to volunteer to walk to a police station to lodge a complaint about a neighbour or a relative beating his wife. Even if one goes to the police station, it is doubtful whether police will take the trouble to investigate the matter with required promptness and dedication.

It is hard to make accurate estimate of the frequency of wife assault because it is grossly under reported and crime statistics are seldom kept by sex. Despite its prevalence, wife abuse is largely a secret crime. The legal system and the public are reluctant to get involved in what is seen as essentially a “private” matter. Moreover, societies collude in keeping marital violence invisible because
its existence contradicts the idealized image of the family as a heaven for love, security and loyalty.

**DOWRY:**

In India dowry has been identified as one of the worst killers of women. Bride burning for insufficient dowry is a field in which India can claim to be the undisputed champion. Countless women die in India as a by-product of the system in which a bride's parents have to provide gifts to the groom as a part of a marriage settlement. Dowry is a major factor contributing to domestic violence in most of the SAARC countries. In several parts of India, baby girls are killed as soon as they are born and thus the liabilities of paying dowry are nipped in the bud. In Tamil Nadu, such parents do not consider giving up their unwanted baby girls even for adoption. 'Instead of seeing them killed after bringing them up to their youth, they prefer to kill them as babies'. The 'community services guild' of Madras found 51 per cent of the families belonging to Gounder, Vanniar, Naicker, Nadar and Thevar communities kill their second and later female babies within the first week of their birth since they did not want to fragment their property.\(^{44}\)

Today the frequency of newly married woman being burnt to death in many urban areas in rapidly rising. The frequency of deaths from unnatural causes of housewives in Delhi alone has increased from one death in 14 days to one every 12 hours.\(^{45}\) Although most of the cases dowry death had been synonymous with the brutality of the in-laws, the parents of the bride also could not be absolved of such crimes. In almost all the cases they force their daughters to keep themselves shackled to an oppressive marriage. Girls with
their supportive parents were found to get out of violent marriages and rebuild their lives although such cases had been few and far.

The high incidents of dowry violence in India led to a legislative intervention to prohibit this practice. The dowry prohibition Act of 1961 has been strengthened by later amendments. Despite amendments to the Dowry Prohibition Act (1961) in 1983, 1984 and 1986, the incidence of dowry death had been on the rise and dowry remains a constant feature in the Indian society. The question repeatedly asked is - how can deaths be on the decline when the arm of law is not long enough to punish the guilty party and to imprison the grooms people not only for making dowry demand, but also for either instigating her deaths by provoking her to commit suicide?

The efforts of the modern phase of the women's movement campaigning against dowry deaths brought in changes in the Indian Penal Code. As per the change every death of a women within seven years of marriage should be investigated as a crime before it could be assumed to be a natural causes, and where a husband could be charged for beating up his wife. These were major achievements in providing women the mechanisms to stop and punish domestic violence. Domestic violence could no longer pass for accepted social practice and the knowledge of these rights have provided tremendous relief to countless number of women. However from this one cannot claim that it has put an end to or reduced domestic violence as a whole.46

Violence in the family rarely arouses the social concern. Aggressive behaviour on the part of the husband towards his wife is largely over looked and even tolerated owing to the traditional notions. The patriarchal family structure added with social pressure, unemployment frustrations all have
adverse effect in women escalating violence against women. Age old social customs like bride price that is dowry in all its insidious forms is essentially an social evil originated from material greed. Even with the passage of time and spread of education, the cancer is showing no signs of abatement.

It is against all these entrenched evil a moral crusade has to be launched. Women particularly illiterate and downtrodden, have to be made aware of their legal rights. Change will only come when police, prosecutors and judges begin to take violence against women seriously.

**FEMALE INFANTICIDE AND FEMALE FOETICIDE:**

For the mass of Indian women the struggle begin in the womb itself. For instance unfortunately in the Indian society we find serious human rights violation on account of female foeticides and female infanticide, which are legitimised by the consent of the whole community. The cruel anti-female practice was perpetrated under the cover of the latest methods of sex-determination test and the Medical Termination of Pregnancy. This played havoc with the girl child, since these methods loom large as the Damocles' sword on their very chance of coming to the world. The main reason behind this is the acknowledged preference for a male heir in the Indian society.17

It is a known fact that sex-determination tests leading to female foeticide has been harmful to the society from the demographic, social, cultural and moral point of view. Since 1976 onwards the women's movements in India had been consistently campaigning to create public opinion against the barbarous practice. Such blatant violation of the right to life is but a telltale account of their sordid state of life. In certain states of India like Gujarat, Maharashtra,
Madhya Pradesh, Uttar Pradesh and Bihar, the tests have been popular since these tests bring relief to the parents from the problem of paying dowry to their daughters at the time of their marriage. The problem with these violence is that it is not defined or recognised as violence but is internalised and accepted as social practice.

It may be necessary to explore why domestic violence has increased despite the self-image that India has sought to project of itself as being the land of Gandhi, the apostle of peace. There is an even greater need today for 'apostles' who may stem the tide of violence. However, the possibilities of any apostle succeeding are dimmer today. This is simply because the social crisis and the inherent conflict between classes, castes and communities and at the level of gender-based discrimination is far more intense and all pervasive today. The violence we experience is very much rooted in the material reality of this world. This has to be combated both conceptually and pragmatically by the experience of mass-based social struggle. Thus it is the organised strength of the women's movement, which alone can ensure that mechanisms are evolved to check the myriad form of violence being imposed on us.

**Bangladesh** is a country of gross inequalities. Although the most important part of the constitution of Bangladesh guarantees equal fundamental rights to all, in practice women of Bangladesh are a disadvantaged group. Women in Bangladesh constitute almost 50 per cent of the population, they are more vulnerable to violence and human rights abuse - Bangladesh is the least developed and poorest country. Women are discriminated and their underprivileged legal and social status perpetuates their poverty. Social, economic, cultural, and traditional structures create conditions for discrimination against
them especially in the rural Bangladesh. These conditions play such an important role in the lives of people of Bangladesh, it perhaps little wonder that violence, exploitation and discrimination are internalised and accepted in the country.\textsuperscript{49}

Like other SAARC countries male superiority and female inferiority is an accepted social norm in Bangladesh. Female inferiority and dependence emanate from the social belief that woman is physically weak, intellectually poor, mentally inconsistent, timid and irrational and psychologically emotional. Such a creature cannot exist except under constant protection and supervision of man who is supposed to be physically strong, assertive, rational, intelligent and calculative. Seclusion is a method by which the inferior position of women in Bangladesh is secured which deprives her of enjoying her human rights. By seclusion it is implied that she should not be visible in public and her beauty should not be displayed. Virtues of softness and submissiveness are inculcated in a girl from puberty, her mobility is restricted within the close kin group. She cannot appear in public without purdah. Even though it has been observed that it is on the decline, polygamy is allowed in Bangladesh, while polyandry is not only prohibited, but also considered a crime. Marriage itself does not necessarily offer women security. Poverty remains a great threat to the stability of many families. Men often leave their homes, never to return, because of their inability to maintain their families. Women in such cases engage themselves in whatever labour is available and more vulnerable to physical abuse.\textsuperscript{30}

Domestic violence against women in Bangladesh is difficult to quantify because of unreliable statistics, but wife beating appears to be widespread. In recent years human rights groups and the press reported many incidents of
violence against women. Only in some of which the perpetrators were reportedly prosecuted. Much of the violence against women is related to disputes over dowries. Failure to meet the demands could mean physical and mental violence for the women. Human rights groups and press reports indicate that incidents of vigilantism against women - sometimes led by religious leaders - are common occurrences, particularly in rural areas. These include humiliating, painful punishments, such as whipping of women accused of moral offences and disobedience.

The case of twenty-five year old Noorjahan Begam who was stoned to death for refusing to marry the Imam of a mosque in eastern Bangladesh is a typical example. Her father brought Noorjahan of Chatak Chara village in Maulvibazar district back since her husband was missing for years. The Imam wanted to marry her who was turned down and she was married to some other persons in the village. The infuriated Maulana Abdul Maman, the Imam declared Noorjahan's marriage illegal. As per the verdict of the Gram Saalish (a form of village court not officially authorized), Noorjahan along with her parents stoned 101 times on January 10, 1993. Several such cases in Bangladesh evoked growing awareness against women's oppression. The voice of protest is slowly but surely being raised in the country. They are becoming more and more vocal asserting their rights, and are being supported by many Bangladeshi intellectuals, writers and lawyers.

The Government has enacted laws specifically prohibiting certain forms of discrimination against women, including the Dowry Prohibition Act of 1980, (and its Amendment of 1986) has made the custom of dowries an offence punishable by fine and imprisonment. The cruelty to women law of 1983, and
the Women’s Repression Law of 1995 are also enacted by the government. The women’s Repression law enacted has been greeted with scepticism by women’s groups, which argue that enforcement of existing laws rather than promulgation of new ones should be the priority.51

Bangladesh being a multi-religious country, the personal status of a citizen is governed by his or her respective religion. Whether the religion is Islam or Hinduism, women have been found to be in a discriminated position. For instance, there exists no divorce under Hindu Law. Under Muslim religious law the husband has the right of unilateral divorce, the wife has no such right or may divorce only when these rights is delegated to the wife by the husband in the marriage contract. The Shariah (the personal law of the Muslims) curtails women’s rights in marriage, divorce, inheritance, custody and guardianship. Men however, have the right to polygamy, unilateral divorce, twice the share of inheritance, and guardianship over wife and children, including the right of physical chastisement. In practice, laws aimed as eliminating discrimination are not strongly enforced especially in rural areas and the government seldom prosecutes vigorously those cases that are filed. Even though successive governments have laid special emphasis on promoting educational opportunities for women in order to bring women at par with men traditional practices continue to interrupt this. Only 20 per cent of women are literate, compared to 35 to 40 per cent of general population. Women are often unaware of their rights, owing to high illiteracy rates and unequal educational opportunities.

The Muslim Family Law Ordinance 1961 with its amendment of 1986 has to some extent limited the scope of the rights men enjoy.52 It provides that a
husband has to obtain permission from his wife before entering into a second marriage. However, according to the 1961 ordinance female heirs receive less inheritance than male heirs, and wives are more restricted in divorce rights. Though these laws provide some protection against arbitrary divorce, the protection generally applies on the registered marriage. Marriages in the countryside are often not registered because of high fees.

From the foregoing discussion it is clear that despite the government's commitment and concern about the magnitude of the problem and the efforts of non-governmental organisations women continued to be victims of violence and oppressed in Bangladesh. They often fail to avail themselves of their rights because of their underprivileged status and the traditional roles. As analysed, a Bangladeshi woman's life is shaped by her depending on her father, her husband and her son and is not expected to be exposed to any other person other than her close relatives. This reflects their position in the household and in the society and in many ways makes them extremely vulnerable to violence. Strong social stigma, lack of economic means to obtain legal assistance, ignorance of the law and their general powerless position, predetermined by their socio-cultural circumstances, women, in Bangladesh are not in a position to get protection from the law despite protection is available.

**Bhutan**, cut off from the rest of the world until 1950, and its isolation preserved its value systems and traditions. Bhutanese people are today at a different level of development from other countries of SAARC region. The Bhutanese government is proud of its history and claims that Bhutan entered the twentieth century with "value systems and traditions" which are rare in the world at large. The period when modernisation has been actively pursued in
Bhutan has been brief, compared to the course of modernisation in other countries of the region. This must be taken into consideration when comparisons with other SAARC countries are made.

Bhutan's isolated existence brought about very limited information about the country and the status of women. It is reportedly mentioned that the term “discrimination” is alien to traditional Bhutanese culture. Men and Women have different roles but they are interchangeable and the thought of one gender dominating the other does not exist. Women’s role in the household is respected. The overall interest in the family is more important for the Bhutanese and here the women play a significant role.

Literature available on legal matters indicates that the Bhutanese Government has established equal rights for women in marriage laws like divorce, rights to children, and equal pay for women. In the case of inheritance, women and men received varying share, depending on their relative needs and not on their gender. In fact, in some communities, matrimonial property rights exist where the daughter inherits the property and the son moves in with the bride’s family. Women have the free choice of a partner. They have the right to divorce and are not traded for dowry.

Rape is a serious offence in Bhutan, and since 1993 is punishable with imprisonment or payment of compensation. When a minor is involved the punishment's are harder and the offender can be sentenced from five to seventeen years or even to life imprisonment. In contrast with some of its neighbours, Bhutan has not developed either a rigid caste system or customs which sequester or disenfranchise women. That is not to say that Bhutan is without discrimination, in fact disparities in education and medical care have
yet to be addressed adequately by the Bhutanese government. Bhutanese traditionally place girls in a lowest status than boys because of their lesser importance to the family economy. This kind of discrimination is not uncommon in traditional societies, and is true for much of South Asia. Regrettably, it is reflected in mortality rates and levels of education in many of these countries.54

It must be acknowledged here that that violence against women and human rights violation seems to be very rare in Bhutan and women enjoy equal rights and are respected in the country. However, it is not possible to make any judgement or to draw comparison with other SAARC countries on the basis of available information.

The Republic of the Maldives is a Muslim country and the laws of the country therefore are based on the Islamic Shariah. This has had its impact on the role and expectations of the women of the Maldives - depending of course on how the Shariah is interpreted. Many laws based on Shariah afford women equal opportunities in nearly every sphere of society. In the country it is very difficult to find human rights violation in general as there is little room for ethnic and cultural conflict to arise because its homogeneous and peace-loving nature. However despite this violence resulting from frustration and economic poverty has been on the increase.

Violence against women in Maldives has not been an open issue. Dissatisfaction arising from the pressures of an increasingly modern economy, insufficient incomes for people to meet the rising cost of living, congested living conditions, and decaying traditional values, has begun to surface as violent deeds directed particularly against women. The dependence of most women on
their husbands makes them more vulnerable to such brutality. Divorce is a common occurrence, which can occur overnight and leaves women stranded in an instant. This is another form of violence and is more often mental frame of violence. A most critical area of vulnerability is the financial insecurity, women face upon termination of marriage. Little has been undertaken to protect the women either legally or in terms of provisions of shelter, as violence of this type remains very much covert and does not appear in government records as a problem.\textsuperscript{55}

Recognition of the basic rights of women is guaranteed through the constitution. Other than holding the office of head of state, women can participate and compete in all spheres of public life and have the right to acquire or inherit, manage or dispose of property. The rights of the women in marriage and divorce are guaranteed. She can demand a divorce through the court of law in a case where there is marital neglect or abuse. Even for a limited period she has the right to alimony payments and child support on divorce. The reality however is somewhat different. There are crucial areas where women are subject to discrimination, which violates their constitutionally guaranteed rights. Marriage can be a source of violence and insecurity. In the case of divorce without showing any specific cause, merely by word of mouth a man can divorce his wife, while a woman has to go to a court of law. This makes the lives of women extremely vulnerable. A woman is entitled to only three months alimony after a divorce. Her contribution to the family income is never assessed and therefore, has no claim to it. This situation forces her to take decisions, which may not serve her interests in the long term. It also makes her weak.
leading to a helpless situation where there is no way of supporting herself and her children lead to oppression and vulnerability to violence.\textsuperscript{56}

However, Maldives has made its links with the global efforts in order to achieve equality for women. Maldivian women were represented in the international conferences where UN decade for women was being discussed. The establishment of National Women's committee since 1979 has despite many difficulties been an impetus to these activities. It is clear there is much more to be done. The inclusion of a chapter on Women and Development in the National Development plan, where participation in social and economic activities was stressed and where women were called upon to be self-reliant. This is an indicator of the Government's interest in forward-looking strategies for women to make them aware of their rights. This will enable better realisation of their human rights to live a life of dignity and self-reliance.

The Constitution of the \textbf{Kingdom of Nepal} (1990) under chapter 3 guarantees "right to equality" to all the citizens as a fundamental right. It advocates equal treatment to all irrespective of their caste, creed, sex region etc and also gives special power to the state to make special provision for the advancement of women. Nepal is one of the few SAARC countries to ratify CEDAW without any reservation (April 22, 1991) and committed to eliminate all forms of discrimination against women. Besides the constitution enshrines as its underlying principles the basic human rights, the directive principles of state policy also set guidelines for the state. As per this the state to "pursue a policy encouraging the female to participate to a greater extent in the task of nation development by making special provision for their education, health, employment and by providing legal aid". A gender equality and women's
empowerment was formulated in November 1997, which detailed out policies and programme on the critical area of concern. A number of government institutions and NGOs are working for women related activities and to protect women’s human rights.

Despite all these progress and achievement women in Nepal as in most of the SAARC countries face discrimination from cradle to coffin. The patriarchal values are deeply embedded in the society. These values treat women as inferior and weaker than men. They grow up in a gender-based culture right from childhood and considered as emotional as well as physically weak and she internalises the socially acceptable norms of behaviour. Hence her whole personality development is dominated in society giving little chance for her own preferences. Her life takes a turn for even worse fate after marriage where she has to bear both physical and mental torture. Due to the societal pressure and economic dependence she cannot leave her husband even after continuous abuse from her husband and in-laws.57

Thus in the context of Nepal, the situation of women is extremely pathetic and grave in specific issues. They are still treated as second class disinherited citizens. Religion, culture and politics have conspired to keep them silent and suppressed. The present status of women mirrors all those reality, which is neglected in the fact that Nepal has one of the highest maternal mortality rates, one of the lowest female literacy rate and lowest per capita income. Women participation in decision-making bodies are also lowest in the country.

Various types of violence against women and girls are prevalent in Nepal. The existence of common violence such as domestic violence, polygamy, sexual
harassment, rape and traditional form of violence like the custom of ‘deuki’ and ‘badi’ are widespread.

Lack of women’s economic rights is one of the major factors that has exacerbated domestic violence against women in Nepal. Property and inheritance laws are particularly harsh for Nepali women, with negative effects on them in terms of domestic violence and economic insecurity. The legal status of women to inherit property is determined by their marital status and sex. Daughters are denied equal inheritance rights. Limited and conditional inheritance rights are given to wife, widow or divorce. Due to economic inequality, many women have become victims of trafficking or are compelled to be involved in flesh trade. Even under severe mental and physical abuse women are unable to get out of such relationships mainly because of their economic dependency.58

Box 3.2

<table>
<thead>
<tr>
<th>Discriminatory property and inheritance laws in Nepal</th>
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<tbody>
<tr>
<td>• A daughter can only inherit paternal property if she is unmarried and over 35 years, and she cannot inherit tenancy rights</td>
</tr>
<tr>
<td>• A wife can only inherit her husband’s property if she is over 35 and has completed 15 years of marriage</td>
</tr>
<tr>
<td>• If she obtains her partition share before his death, and lives separately, he is allowed to take a second wife without divorcing his first wife</td>
</tr>
<tr>
<td>• A divorced woman can claim neither a share in her husband’s property nor in her paternal property</td>
</tr>
<tr>
<td>• A widow must return her share of her husband’s property if she remarries, discouraging widow remarriage</td>
</tr>
<tr>
<td>• A widow living with her in-laws is not entitled to a separate share as long as the latter provide her with food, clothing and religious expenses until she is 30 years old</td>
</tr>
<tr>
<td>• Contrary to constitutional guarantees, a woman effectively must get permission from her father or adult son before disposing of her immovable property (e.g., selling land or a house)</td>
</tr>
<tr>
<td>• At the same time, while a man is legally bound to look after his sons and wife, the law is silent on the maintenance of daughters</td>
</tr>
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<td>Source: FWLD 1999, UNDP 20000</td>
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</table>
A situational analysis of violence against women and girls in Nepal indicates that 37 per cent reported dowry related violence among traditional forms of violence against women. 73 per cent cited financial dependency as the reason that prevent women from reporting incidence of violence. Victims of domestic violence have insufficient options for coping with such violence. Unfortunately, although the minor and major injuries are regulated by the assault chapter under National Civil Code, when it comes to domestic violence police usually dismiss them as domestic conflict. Mental violence is not taken into consideration at all. The other option is to invoke the Public Offences Act, but as the title implies, it require the crime to be committed and witnessed in public. Special legislation is therefore a priority.

Box 3.3

Cause of Domestic violence

- Social pressure: 25%
- Financial dependency: 73%
- Fear of repercussions: 38%
- Lack of support system: 23%
- Lack of education: 49%
- Children: 49%

Source: FWLD - 2000
A number of government institutions are set up for the implementation of women-related activities in Nepal. Among which The Ministry of Women and Social Welfare has been defined as the lead agency to follow up and take necessary actions to meet Nepal's Commitments in all UN conventions and Declarations related to women. It has recognised violence against women as a key area of concern for women. It also identified laws related to inheritance rights, which are discriminatory against women and has recommended that they be amended. Drafting of Domestic Violence Concept Bill is the other initiation taken by the Ministry of Women and Social Welfare. Nepal's National Development Policy (Ninth Plan 1997-2002) encourages NGOs, Governmental organization, and local bodies to take an active role in preventing all forms of violence against women so that the protection of women's human rights can be achieved. However, the examination of the existing legislation pertaining to violence against women make it clear that despite various initiatives, strong legal reforms and enforcement is still required to deter and eliminate violence against women in Nepal. The study explores that Domestic Violence is rampant now a days at Nepal. As Nepalese women's rights to dowry property are recognised, dowry violence is rarely referred to as a problem in writings on law and the status of Nepalese women. There is no law that specifically prohibits dowry.

It must be acknowledged here that repeated mention is made that mainly due to economic dependency, women in Nepal face problems like domestic violence, harassment for dowry leads to gross human rights violation. They have hardly any choice during their marriage, which in many cases, results in
unequal or child marriage. As women they do not have an independent identity, and no inheritance right. They face discrimination right from childhood in matters of nutrition, health, education and distribution of family resources. This discrimination continues against them all throughout their life till death. It affects various aspects of women's life and denies them of enjoying their human rights and ultimately hinders their overall development.61

The foregoing analysis reveals that lack of strong actions against gender-based violence, low priority accorded to women's issues by politicians, decision-makers and planners, weak institutional framework, discriminatory laws added with patriarchal norms, Hindu fundamentalism, social and cultural value system are all have adverse impact on human rights of women in Nepal. However the government is committed to take various measures to promote and protect human rights of women. Commitment has made to repeal all discriminatory laws, to initiate critical awareness building campaign against various forms of gender based violence, access of women to justice etc. The civil society in Nepal has been vibrant and dynamic partner of the government in working towards ensuring human rights of women.

As observed in other SAARC countries the Constitution of Pakistan provides for equality before the law for all citizens and broadly prohibits discrimination based on race, religion, caste, residence or place of birth. In practice however, there is significant discrimination on these factors. Women in general continue to suffer from systematic inequalities, the entrenched regimen of discrimination, and fraility of person and status forced and reinforced by custom and tradition. Along with the children women are the worst victims of the country's socio-economic ills and deprivations, including poverty,
malnutrition, paucity of health care and range of violence. Social and institution barriers against women’s rights threatened to die-hard. The violations are in many forms and from a variety of sources.\textsuperscript{62}

There are significant barriers to the advancement of women, beginning at birth. In general, female children are less valued and cared for than, the male children. The birth of a girl child is often viewed with a sense of despair and guilt and considered an inferior being who must be kept hidden from the outer world. The only exception to this attitude is the perception of her usefulness in reproducing and serving as a sexual object. Women in Pakistan are also viewed as financial liability with nothing to contribute towards the welfare of the family. Marriage is therefore viewed as the only outlet and early marriage is an common practice in Pakistan despite the legislation prohibits the marriage of girls below 16. This practice with the problems of giving a dowry resulted in many cases of abuse and bride burning, although is not as rampant as India, are also found in Pakistan. Remaining a spinster carries with it a stigma which affects all spheres of their lives.\textsuperscript{63} Women in Pakistan suffer discrimination in education, employment and legal rights. They are subjected to a range of human rights abuse due to her dependence and the cultural norms, values and myths surrounding their lives.

The worst violation of women’s human rights continued to be use of violence against her. This was not only because of their physical frailty but also due to the social and legal vulnerability imposed upon them.

Domestic violence is a widespread and serious problem in Pakistan. It is very difficult to get reliable information on the extent of domestic violence, primarily because it is viewed as a private matter and many women do not
acknowledge that it a serious problem. It was far more routine than reported and exposed only when it led to extreme consequences. The Ministry of Women’s Development estimates that 80 per cent of women are victims of domestic violence. A survey of burn victims at two hospitals in Rawalpindi and Islamabad conducted by the Progressive Women’s Association from March to October 1994, reported 35 cases of burned women, only four of whom survived. So far the government has taken legal action against perpetration in seven cases and obtained two convictions. The assaults were mostly on account of suspicion of immortality, or over dowry or other family related disputes. Most of the victims are burned to death, allegedly in kitchen-stove accidents. The police rarely visit the scene for investigations.

While abusive spouses may be charged for assault, cases are rarely filed. Police usually return battered wives to their abusive husbands. Women are reluctant to file charges because of societal mores that stigmatise divorce and make women economically and psychologically dependent on their husbands and male relatives. In order to protect family reputation, relatives are also reluctant to report cases of abuse.

There are increasing number of reports of women killed and mutilated by male relatives for adultery. In 1996 there were scores of incidents involving violence against women. For example, in one period of 33 days (May 11 to June 13) 212 cases of violence against women were reported in newspapers, sixty-one women were killed by husbands, in-laws, and relatives. Forty-six women were burned seriously, out of which 9 were burned to death by their husbands and in-laws. For domestic reasons. Of the 272 cases reported in Lahore’s National Daily newspapers during 11 months of 1999 of which 163 resulted in death, the
police registered only 22 cases and not a single person was convicted. A government study concluded that at least 50 per cent of such deaths were murders, while doctors at a Lahore hospital estimated 60 percent. The medical facilities for the treatment of burn victims are also inadequate with only three burn centres in the whole of Pakistan. The survival rate of burn was estimated to be less than 10 per cent. The police resist registration, nor are there proper investigation techniques contributing to a lack of action and endless delays.

Noting the increasing number of stove burning and domestic violence against women, the press continued to draw attention to murders of married women over dowry or other family related violence. Increased media coverage of cases of wife burnings, spousal abuse, spousal murder, and rape cases as helped to raise awareness about violence against women in Pakistan to certain extent.

Human Rights monitors and women's groups believe that the Shariah's law has had a harmful effect on the rights of women, reinforcing popular attitudes and perceptions and contributes to an atmosphere in which discriminatory treatment of women is more readily accepted. Some Islamic leaders continue to stress a conservative interpretation of Islamic injunctions to justify against women. Many citizens interpret the Koran's injunctions on modesty to mean that women should remain either at home or veiled. It remained an accepted practice to assign women subordinate roles in the civil, political, and managerial hierarchies.

The personal laws of Pakistan effects on governing marriage, divorce, rights of inheritance are all loaded against women and have negative effects on
them, making them vulnerable to violence. Thus a woman in Pakistan is caught in a vicious circle in which she lives completely dependent. Any departure from this towards being an independent person of self-reliance could mean that her life could be made a living hell. If women are to progress in society, they must first of all be given equal status within the family unit, which these laws do not give. The family laws required to be reformed and made more consistent with the circumstances of today.\textsuperscript{68}

It is hoped that government in Pakistan would take effective specific measures to ensure that women in Pakistan gain equal status and dignity with men and enjoy their human rights, which is a basic necessity for her, all round development.

The \textbf{Sri Lankan Constitution} guarantees the fundamental rights to all citizen and the right to gender equality before the law. Sri Lanka was among the first one of the few South Asian countries to ratify CEDAW in 1981 without any reservations. The Women’s Charter of Sri Lanka was formulated an accepted in March 1993 as the Government’s policy document on women. It is based on the CEDAW, but has been adopted to focus on priority concerns in Sri Lanka. It includes a new focus area of women’s rights in the context of gender-based violence against women. A National Plan of Action was formulated in 1996 after the Fourth World Conference on Women at Beijing. This document is widely regarded as setting out the implementation of the policies identified in the women's charter.\textsuperscript{59} It focuses on violence against women and human rights, along with other important issues, several NGO's also promote women's human rights in Sri Lanka.
Women in Sri Lanka have equal rights under national civil and criminal laws. However, issues related to family laws, including divorce, inheritance rights, etc. are adjudicated by the customary law of each ethnic or religious group. These legal practices often result in discrimination against women, which makes them vulnerable to violence. Sri Lanka's secular general laws on matrimonial property and customary Tamil and Sinhala law, recognise a woman's separate rights to her dowry property of a women received from her own family on marriage. No effort has been made as in other SAARC countries to prohibit the dowry system.

However, in comparison with other SAARC countries, Sri Lanka is in many respects more advanced. The family and community are not as rigidly patriarchal as in other SAARC countries. The increase in female literacy, family planning, birth control and life expectancy indicates that significant development has taken place which has supported a more humane system. Yet widows, single women and unwed women do not play a major role in conventional rural societies. In most such cases the women's worst enemies are they themselves. From childhood they are conditioned to believe that they are subservient, must be wives and mothers to fulfil their true potential and therefore quite ignorant of their rights.

Any assessment of the human rights situation in Sri Lanka generally must be discussed against the backdrop of ethnic conflict and military operation, during which many human rights violations continued to be committed. The effects of the war in the North and East have been particularly hard on women and children. However, the present study is concerned
specifically on domestic and spousal violence against women affecting their human rights.

Sri Lankan society places high value on the institution of the family. Domestic violence has emerged as a key area of violence against women in the country. This can be seen particularly as more and more women become independent and may even earn more than men - thereby changing the familiar impression of the male breadwinner supports and maintains the household. Violence within marriage appears to be increasing, while there have been occasional reports of violence connected with social practice of dowry, in Sri Lanka dowry violence has not surfaced as a significant problem, and there is the legislation that prohibits the practice.

Despite the fact that most often societal and cultural pressures prevent many victims from making such incidents public, the monitoring of newspapers reports reveals that these incidents occur with disturbing regularity. It has to be noted that reports would only appear in the press if it has been considered important by the reporter and editor, hence many such incidents would still be largely undocumented. In the year 1998, from January to December, the Women’s Rights Watch recorded 129 murders of women within their homes. In 82 of these cases the perpetrator of the crime was the husband. Within the same period, 85 incidents of domestic assault on women were monitored of which in 46 instances, the husband of the victim was the perpetrator.\textsuperscript{72}

Despite the growing visibility of such crimes committed against women within the sanctity of marriage and the family, there is no specific law, which addresses the issue of domestic violence except the penal code. Several NGO's working on to promote women's human rights and protect them from the
violence believes that spousal violence is a serious problem. Since there are no laws on spousal violence the government has established a National Committee on Women in 1993, which will recommend appropriate legislation. To date the committee has identified as grave problems like sexual assault, rape and other forms of violence particularly directed against female domestic servants since Sri Lankan law does not in general provide a framework to protect domestic servants.

Discrimination and violence against women like other SAARC countries continue in Sri Lanka though comparatively in a lesser degree. The NGOs have had to respond and should be seriously concerned with the human rights violence against women. However it must be noted that women of Sri Lanka are becoming increasingly conscious of their rights and responsibilities. This can be observed in the ways they are organising themselves to effect the changes that are necessary for them to realise their potential.

The foregoing comparative analysis of domestic violence against women as human rights violation in the context of SAARC countries reveals that prevalence of violence against women in he domestic sphere in almost all the SAARC countries evokes images of horror and brutality. It is not only damaging the women physically, but also liable to have serious psychological effects. A lot of these human rights violations can be attributed to long-standing cultural and societal patterns in the countries. Its eradication will take a long time.
Largely viewed as a private family matter, neighbours, friends and often even the wife's family rarely interfere in situations of domestic violence. Wives are generally regarded as 'belonging' to their husbands. Thus there is social acceptance of his right to 'correct' her if she has displeased or disobeyed him in anyway, howsoever minor. Normal standards of right or wrong are suspended when the victim of the abuse is a wife, indicative of the sharp divide between social perceptions of 'public' and 'private' spheres. So prevalent is the existence of wife abuse that woman who protests rarely find support, often being told this is a reality with which they must learn to live.73

The study also explored that women in all the SAARC countries rarely report incidents of domestic violence to the police, believing that this will bring shame and dishonour to the family and leave a life long stigma on her. Even when they do, usually only in serious situations, the police tend to
treat incidents of domestic violence as marital conflict and often refuse to register the case. In Sri Lanka for instance, domestic violence tends to be reported at women’s desks at police stations, while rape and other crimes outside the home are reported to the male-dominated crime decision, maintaining the private-public division. The only time cases of wife abuse receive attention are when they take an extreme forms of heinous injury - a stage when serious damage has already been done. Even then, cases are rarely prosecuted with zeal. The same attitudes are reflected in the judiciary, which seldom recognises cruelty as a ground in cases of dissolution of marriage filed by wives. It often gives lenient sentences to men in criminal cases involving domestic violence.

Thus cases of domestic violence under the general penal provisions of the law are rarely registered, prosecuted or adequately punished. But the other kinds of violence, torture and cruelty that women undergo in their 'sanctuaries' on a daily basis, without being able to escape are not even recognised by law. At present no SAARC countries have specific legislation dealing with domestic violence. Unlike the other SAARC countries, Nepal does not even have adequate domestic violence provisions in its penal code, although it is said to be formulating a domestic violence specific code. Several reports have recommended that specific legislation on domestic violence needs to be enacted, which recognises the various forms of domestic abuse as crimes and provides adequate penalties for them.
SEXUAL ABUSE AGAINST WOMEN AS HUMAN RIGHTS VIOLATION

Rape

Women undergoing all forms of sexual violence is recognised as an integral part of their destiny almost across the world. Widely committed and seldom denounced, the issue of rape has been focussed on extensively by the contemporary women's movement in the SAARC countries especially in India as well as in other countries of the world.

Rape has been described as the primary instruments of control in a patriarchal society and often used as a mechanism of revenge or punishment. Within the SAARC societies, Rape is viewed first and foremost as an offence against the honour of the male members of the family, and only secondarily as an offence against the dignity of the woman. At the same time, rape is commonly perceived as the fault of the victim, because of her provocative behaviour or dress. In reality, many rapes are committed in women's own homes, often by people known to them, including their own husband (marital rape).

The male view of rape is therefore, the fundamental reason why such crimes are rarely reported to police, even if the victim and her family know the offender. Despite laws, perpetrators of rape continue to go free for three major reasons:

1. There is a huge social stigma attached to rape, and the very real chance that the future of the victim will be affected, especially if she is young and unmarried. This influences her willingness to testify as well as the views of her family, her community, legal and judicial bodies, and the media.
Intimidation of witnesses by the police, family and authorities is a problem in all the SAARC countries.

2. The accused is often the more powerful party, facilitating the use of bribery and threats.

3. Discriminatory laws, particularly in terms of evidence, and legal loopholes remain.

Rape and rape related murders are on the rise in India. While marital rape has never been defined in India, rape was one of the first issues on which women expressed and articulated organised resistance to gender specific violence. The Supreme court judgement acquitting the accused policemen involved in the rape case of a minor tribal girl called Mathura in police custody is one of the most visible and strongly articulated issues in the women’s movement in 1979-80. The agitation sparked off by the Mathura case led to the significant change in the Evidence Act, the Criminal Procedure code and the Indian Penal Code including the introduction of a category of custodial rape. Exposure of custodial rape has hence formed an important element of women’s organised resistance to crimes against them.

Rape as a weapon used to terrorize and brutalise disadvantaged section of society as part of structural violence. It is directed specifically by men from privileged section against women of weaker section- lower caste, dalits, tribals and the landless more openly as an instrument of subjugation. There is an increase in the incidents of stripping and parading of women from lower caste, a blatant display of caste-based prejudice and violence.
A case study which has received a great deal of media attention regarding a woman social activist from Rajasthan powerfully illustrates the difficulties of women who have been raped and gives insights into the status of women in India.

Bhanwari Devi, a backward caste voluntary worker from Bhateri village in Rajasthan filed a complaint with the police in 1992 alleging that she had been gang raped. Members of a rich high-caste family had allegedly raped her on September 22nd 1992, when she had attempted to report for organising a child marriage. She had carried out a vigorous campaign against child marriage as part of her job in the state sponsored Rajasthan’s women’s development project. Following its transference from the local police to the state criminal investigations Department, and then under pressure from women’s groups, to the Central Bureau of Investigations (CBI), the district and session court in Jaipur dismissed her case and acquitted all the accused. The judgement was so biased that according to the verdict an “innocent, rustic man” brought up in the Indian culture would not stoop so low as to indulge in “evil conduct”. Hence it had to be the victim Bhanwari, who was abnormal;". The establishment of the accusers abnormality by the judiciary automatically absolves the accused from guilt.

While nothing can really compare with the physical injury to which young women are being subjected, equally disturbing is the entrenched values of some of the judges. It was evident from these examples that legal system could recognise as the bearer of rights only one that it defined as a chaste and virtuous upper caste-class women. Any other kind of woman ran the risk of being designated as a prostitute or abnormal, and not entitled to redress from
the court’s ruling. Although rape laws do not come under the purview of
personal laws, the rulings in rape cases should alert the women’s movement to
the ways in which culture and ideology determine the interpretation of law and
the nature of what is regarded as justice.  

Legislative reform and judicial developments in India have strengthened
the law on sexual offences. The criminal Law Amendment Act of 1983 has
brought substantial changes in the existing laws of rape. These changes
introduced 15 years as the age of statutory rape. This amendment also
strengthened the law by severe punishment in the case of rape in custodial
situations, gang rape and rape of a pregnant woman. These changes to the rape
law were accompanied by amendments to the Evidence Act that placed the
burden of providing that the women consented in the case of custodial rape on
the man. The Act provides for trial in camera. The amendment also introduced
the concept of marital rape in the event of judicial or customary separation. The
Indian Penal code also makes the disclosure of the identity of the victim an
offence punishable with imprisonment for two years.

These significant changes mainly due to the efforts of women’s movement
in India who have tackled to every instance of violence against women through
campaign during the decade 1980 to 1989. Though resulted in legislative
changes and strengthened laws to protect women’s human rights, they are not
sufficient. Significant loopholes nevertheless remained, both with regard to the
law and implementation. Not only has the implementation of laws remained
partial and conservative but since the changes have mainly involved the
incorporation of more stringent punishments, there have been fewer convictions
than before. At the same time each new law vests more power with the state
enforcement machinery. The unwillingness and apparent inability of the state machinery to collect evidence in order to prove rape have resulted in extremely poor conviction rate. Despite the efforts of the women's movement to make rape 'visible' to create awareness among people and to campaign for amendments to the law, rape continues to be one of the most common and frequent of crimes. It can be seen by the enormous number of forms, in which it is committed.

The plight of women of Vrindavan Ashram, Lucknow, is one such glaring example of such heinous crime. About 5000 to 6000 widows have taken shelter in Vrindavan. Almost all of them were from West Bengal. A report by U.P Social Welfare Board makes the following shocking observation. It gives graphic details of their living conditions, exploitation by ashram and trusts and cites instances of women being treated worse than animals. The gurus of Vrindavan have been sexually exploiting and blackmailing young widows. The vice ring in the ashram is so powerful that the administration cannot break it. Three widows were raped by some of the town's elite and the local administration is aware of it. But the police who turned a deaf ear to the victims plight lodged no FIR. The caretakers of the ashram harassed young widows even denying them food if they do not cooperate to satisfy their lust. These widows are forced to prostitution by the ashram authorities. The victims can hardly complain as they are threatened with dire consequences by the gurus. Their world has no value and they silently suffer under this oppression. Unable to bear hunger some of the widows are lured to the ashram with the promise of food and shelter. They are left alone with the gurus in the pretext of giving religious initiation. The gurus emotionally and physically exploit them and later turn them out to fend for themselves.
There are several such incidents, which reveal the ineffective existing laws, failure of implementing machinery and administration in providing protection to women. Such situations have led to the rethinking of the efficacy of the law and its enforcement. However it can be argued here that laws cannot ignore social reality. The legal changes cannot transform patriarchal power structure in society overnight. But it needs a concerted effort to take the problem in a holistic approach.77

Islam is the first religion to give women their rights. Islam's holy prophet emphasized that the mother is three times more important than father. Yet, in Bangladesh, Muslim men rape Muslim women. The uncorroborated evidence of the victim in the court of law is viewed with a certain amount of suspicion, making cases of rape hard to prove. In Bangladesh, the rule that an independent witness is required to confirm a victim's statement is echoed in a majority of the cases of rape that come to court. Another drawback is that unlike Sri Lanka, these cases are not heard in camera: the victim has to face the humiliation of repeating her ordeal and answering embarrassing questions in front of an eager and unscrupulous court audience. In Bangladesh, of those rape victims who go to the hospital for a medical examination, 90 per cent go at least seven or eight days after the crime has been committed. Further, understandably a rape victim will often attempt to remove all the traces of the crime from her person, unknowingly loosing all evidence of the crime. If no evidence is found and there is no corroboration, there is very little chance of a conviction even if the case goes to the court.

In Bangladesh, after many years of protests by women's rights activists, the Repression Against Women and Children (special provision) became law in
January 2000, repealing antecedent laws and ordinances from 1983, 1988 and 1995. This new piece of legislation provides punishment for rape, as well as trafficking in women and children, kidnapping, acid throwing, giving and accepting dowry and dowry deaths. According to this Act, all the offences mentioned above will be non-bailable ones. The law provides for the setting up of special tribunals, fixed deadlines for investigations and trials in absentia for perpetrators of violence against women and children.\textsuperscript{78}

In Pakistan, rape, abduction, prostitution and Zina (extramarital sex with consent) are all punishable under law. Zina encompasses adultery, fornication rape and prostitution. In Pakistan the failure to prove rape can lead to presumptions of consent and consensual extra and pre-marital sex (zina) are crimes in law, thereby making the women liable to punishment. Often therefore, victims do not come forward. Thus, under the Hudood ordinance, announced on 22nd February 1979 all consensual extramarital sexual relations are considered violation of Hudood ordinances. In a majority of rape cases in Pakistan the victims are pressured to drop rape charges because of the threat of Hudood adultery charges being brought against them.

The sword of Hudood ordinances is an example of discrimination continued to hang over the lives of Pakistani women. Several hundred innocent women go through the rigor of imprisonment because of this law. Sexual violence against women is on the increase simply because this ordinance protects the criminal. It virtually puts the onus of proof on the victims of rape. Even in principle the law is discriminatory in that it awards punishments disproportionate to the crime. The law is also irrational. The gang men may rape several persons in a women’s hostel or a church and yet not to be awarded the maximum punishment since the law requires the evidence of four adult, pious Muslim male witnesses. The end result of this is that the offence of Zina remains by and large unproved and protects rather than punishes the criminal.\textsuperscript{79}
From Victim to accused - the Zina Ordinance in Pakistan

Introduced in 1979, the Hudood laws, particularly the Zina Ordinance, are often described as the most damaging laws in the context of Pakistani women. Under the Zina Ordinance, cases of rape often have been converted to cases of sexual relations outside marriage, which are considered offences under the ordinance.

Thus, the risks for women reporting rape are manifold. In a society where there is already extreme reluctance to report rape because of social stigma and dishonour, women are further threatened by the law itself. The attitudes of police are heavily gender biased, with the general presumption that women who report rape are immoral or shameless. Thus, women become burdened from the beginning with proving their own innocence - if the police are not convinced, the women can be charged under the law as a co-accused in the crime of Zina.

Studies show that almost half the women in jails today have been accused of Zina, most of them awaiting trial. The vast majority are poor women. Interestingly, before the Hudood Ordinance when only men could be punished for adultery there were only two reported cases. But since women have become liable under the law, several hundreds of cases have been reported. Apart from the fact that the law is used to penalise rape victims as those who have indulged in extramarital sex, it has also been used by men to control and punish women in their own families, giving them a tool to enforce their own notions of women's conduct and to punish any deviations. Thus, a large proportion of women in jail on Zina charges have been put there by their own fathers, brothers and husbands. These include girls who refuse to marry according to parental wishes, wives who wish to separate or terminate their marriages, women who leave their homes because of abuse and women who refuse to go into prostitution.

Even more ironic is that a girl's child - who will never at any age be considered a valid witness for awarding full penalty, even if she herself is the victim of rape - is considered an adult for the purpose of fixing criminal responsibility and maximum punishment. Girls as young as 12 have received the penalty of imprisonment and lashes under the Zina Ordinance, and even younger ones have been charged.

The provisions of the Zina Ordinance are also in violation of the constitutional guarantees of equality and non-discrimination, since for the imposition of the maximum penalty the testimony of female witnesses, as well as that of non-Muslims if the accused is a Muslim, is excluded. Even the victim's own testimony is not acceptable because of her sex.

Moreover, the law makes the Quranic requirement of four adult Muslim eyewitnesses for proof of adultery against a woman applicable to rape, and interprets the rule as requiring male witnesses. Thus, what was seen to be a protection for women under Islamic law against frivolous allegations of adultery has been used to deny them justice for rape. This essentially ensures that no rapist can ever receive the full penalty, as it is virtually impossible that a woman would get raped in front of four adult males of good character.

Finally, the Zina Ordinance dilutes the nature of rape as a male specific violent crime against women in two ways: by treating it as a criminal activity of comparable magnitude to adultery, and by assuming that rape can be committed by either sex.

Source: UNDP 2000
Marital rape is not a crime in Pakistan. The Hudood Ordinance abolished punishment for raping one’s wife. However in Islamic countries like Pakistan and Bangladesh some laws are made to diminish the worth of women. Violence against women specially crime like rape inflicts social stigma and a social disability on the victim rather than the perpetrator. Since the laws offers little redress the crime was usually suffered in silence by the affected and hushed up by the family.

Similar disturbing trends were seen in Sri Lanka in relation to incident of rape. In the year 1998 145 incidents of rape committed on adult women were recorded between January and December 1998. Most of such incidents appeared to have been committed by persons outside the victim’s household. There were a few reported cases of rape by the uncle, grandfather, ex-husband, lover, father or brother-in-law of the victim. The rape of minors also emerged as an issue as of grave concern during this period. A total number of 230 incidents of rape of girl children were monitored during 1998. Of these 45 of the perpetrators were found to be relatives of the victims.

Changes were brought about by to Sri Lanka’s Penal Code Amendment Act 1995. The age of statutory rape (for non-Muslim only) was raised from 12 years to 16 years in the Sri Lankan amending law of 1995. As in Indian law, gang rape, rape of pregnant women and custodial rape were defined as crimes that attract higher penalties. A broad definition of marital rape was not adopted, and following the approach in Indian law marital rape was confined to situations of judicial and customary separation. This definition does not
address the problem of sexual violence during marriages or during defacto seperation.

Positively, however, in Sri Lanka the definition of rape has significantly altered by only requiring proof of absence of consent. Further, this law recognised for the first time that forms of sexual violence other than rape could constitute the crime of grave sexual abuse.

It is worth mentioning the Krishanthi Kumaraswamy rape and murder case of 1996. The 17-year-old schoolgirl had been raped and murdered by several members of the armed forces on duty at the Chenmani checkpoint in Jaffna. Her mother, brother and a neighbour who had gone in search of her has also been murdered. The trial was conducted amidst high publicity with women's groups establishing with others a "vigil coalition" to exert pressure on the state to conduct the investigation expeditiously and prosecute those charged with the offences. The case was completed in relatively short period of 20 months. The accused, six soldiers and one-reserve policemen are found guilty of the murder of Krishanthi and other family members. They were sentenced to death, the maximum sentence for grave human rights violation. It is regarded as a landmark case where, for the first time, members of the armed forces and the police have been given maximum sentences. The international community as well as the local human rights community welcomed the verdict. It is hoped that such judgement would send a clear message to the armed forces and the police that impunity will no longer be tolerated.

In 1998, in Colombo, the gang rape and murder of Rita John, a young Indian Women, married to a Sri Lankan brought the issue of insecurity into the public arena. While the media concentrated on highlighting the sensational
aspects of this case protest about the lack of security of women and the negligence of state and police agencies in providing protection to women was highlighted in pickets and demonstrations by women's groups. The suspects in this gruesome rape and murder were arrested.

The sentences meted out in some of the rape cases reflect the changes brought about by the penal code reform of 1995. However the rising incidents of rape, custodial rape, gang rape etc. calls for urgent action to address the issue both at social and policy level.

The above observation reveals that in most of the SAARC countries rape is considered as a horrendous crime of serious concern. The danger of sexual assault or rape has become a part of women in the SAARC countries. In many ways it goes to restrict her mobility and cramp her style of living. The traditional belief in the South Asian society about rape as an offence against the honour of family and the social stigma and shame attached to the victims, rape remains one of the most misunderstood and under reported crime. Rape is a crime, which has devastating effect on the survivors, which has been described as a beginning of a nightmare. The aftershocks include depression, fear, guilt-complex, suicidal action etc. Because of the stigma attached to rape, the victim indeed faces virtual ostracism. For an unmarried girl in the SAARC countries like India such an ignominy would shatter the chances of even getting married.

The Aruna Shanbaug's rape case of 1973 depicts the devastating effect of the horrendous crime on the victim. In November 27, 1973, in a case that made the headlines nationally, twenty-four years old nurse Aruna was brutally raped and assaulted at Mumbai's KEM Hospital. Aruna survived, and as she steps into her 55th year, not quite alive, and yet not brain-dead she leads a vegetative
Me. Sohanlal, cleaner of the latrine at KEM hospital, raped Aruna, as he was upset that Aruna wouldn't talk to him "properly". While raping he had wound a dog's chain around her neck to cut-off her screaming. The savagery of that twister chain coupled with viciousness of the rape killed several of her brain cells and Aruna fell into coma for over three years. Since being raped so savagely that all she is capable of now are howls like those of grievously wounded animals. Can there be another case like Aruna Shanbaug's in this world? The accused after serving seven years imprisonment has been released. But the victim still live in a helpless and hopeless position alternated between hysterical bouts of laughter and hyenaish howls of agony.

Kerala Suryanelli sex scandal a recent case is another barbaric incident in which more than fifty people sexually assaulted a fifteen-year-old girl for four months. Some days she is savagely beaten up, some days raped in front of others, sometime she is gang raped for added fun unmindful of getting sick and her body collapsing. It is like packs of wild dogs chasing down a deer, then tearing its flesh apart as they go into a feeding frenzy. Wild animals kill only for survival against hunger, man is the only animal who attacks, mauls and kills for fun. The junior conductor of a bus in which the girl went to school everyday had befriended her. He managed to take her out of the town and sold her in a well-preplanned conspiracy. Thereafter the saga of oppression unfolded. She has been taken from town to town, from lodge to guest house, to private homes and hire her out to eager customers. She has been hospitalised several times. Even when she was writhing in pain the exploiters would just whisk her away to the waiting customers - among them leading political figures, businessmen, railway officials and so called social workers. The deteriorating health condition
Finally made her exploiter to free her from their clutches. The girl and her parents though shattered are so courageous that they went public with their case and fought bravely for justice. Despite political pressure, social isolation, humiliation and threat to their life as with determination they boldly fought the case. Majority of the culprits have now been sentenced to various terms of imprisonment. However can there be any justice for the irreparable damage caused to the young girl ruining her future? 82

Over the years genuine efforts by several N.G.O.'s created growing awareness of the graveness of the crime. Increasingly greater numbers of women in the SAARC countries are coming forward to report attacks on them. This is an encouraging sign, which has to be backed up by vigorous investigation and deterrent punishment for the perpetrator. Mere amendment of law would not help in significant gains to women. There should be simultaneous process of sensitising the state machinery and civil society to ensure a decent living to women in SAARC society.

**SEXUAL HARASSMENT**

Several forms of sexual abuse other than rape are also common in the SAARC countries. Sexual harassment can be defined as, whoever by assault or by the use of force sexually harasses another person or by the use of words or actions causes sexual annoyance or harassment commits the offence of sexual harassment. In the work place and in public, women undergo sexual harassment in the forms of sexual propositions, songs, jokes, gestures, comments, pictures, over attention, accidental touching and pushing, molestation etc. Incidents of public humiliation, including public stripping have
become more common in recent years. This often occurs when the perpetrators wish to punish the entire family by humiliating the women of the family.

Sexual harassment in the street is common in the SAARC countries, with little attention given unless some serious incident occurs. Where attitudes even towards cases of serious domestic violence is biased, the chances of success in cases of other forms of violence are not likely to meet with success. Cases of sexual harassment and abuse are, therefore, rarely reported unless they take an extreme form. Most of the time the need for survival drives women repeatedly to what has been referred to as 'rape situations' i.e., where the scope for sexual harassment is built into the pressure on the women to somehow earn a living. Young girls lured by the glamorised profession has been forced into compromises which then lead to blackmail for fear of scandal breaking out. Despite the fact that such incidents are on the increase, attempts to focus on the problem have not met with possible response from the government. When women have come forward to report specific incidents lack of any action against the guilty persons has an adverse reaction, this reinforces the belief that raising a voice against crime only causes further harassment, trauma and a revictimisation.

In the workplace, women can find that promotions, benefits and job security are offered or withheld on the basis of sexual favours granted. Though found to be present in almost all hierarchies, workplace harassment particularly targets those workers like domestic workers, factory and garment workers and bonded labour - with relatively little power vis-à-vis their employers. Young, single and low-income women in the private sector are the worst victims. Sexual harassment can present very real physical and
psychological dangers but its primary victims are women's mobility and access to educational and employment opportunities. Workplace harassment is also rarely reported, as this would put the victim's job as well as reputation at risk. Recently, India and Sri Lanka have taken the positive step of legally recognising workplace sexual harassment as a crime. Under Sri Lankan penal code Amendment Act (1995), the offence of sexual harassment was recognised as a crime. The inclusion of the offence into the Penal Code has been a welcome development. The press report states that in 1998, 46 complaints were recorded with the police and as legal cases in the courts, which can be attributed to this amendment. In most of the cases, the harassment occurred outside the domestic sphere and victims have filed complaints in court.

In India the grave nature of some of the cases of sexual harassment brought changes in the Indian Penal Code. The case of Rupal Bajaj vs. K.P.S. Gill was one such example. The Director General of Police K.P.S. Gill was alleged by civil servant Rupal Bajaj for sexual harassment in workplace. The Supreme Court felt that the matter was not trivial and the procedure adopted by the trial court was improper. It directed the trial court to take up the prosecution against the accused.

The Supreme Court interpreted certain constitutional guarantees, including the right to life and equality, within the context of international human rights and CEDAW standards, and recognised a right to freedom from sexual harassment in the workplace. It laid down guidelines for the states to follow, including setting up complaint cells in all departments, and these guidelines have been approved in 1999. The National Women's machinery has issued these guidelines to all government agencies and academic institutions.
These changes have had a tremendous impact on raising awareness around the issue, and also created a mechanism where these issues can be easily brought into the open.

Sexual harassment in SAARC countries should be perceived with a holistic approach. The relatively small number of complaints recorded and reported in the press brings out several problems related to the issue of sexual harassment. For instance, many women in the SAARC society still remain unaware that it is an offence. The onus is on the victim to prove that sexual harassment did take place and her rights were violated is rather a difficult task. Judicial activism is the need especially in protecting the rights of women, where adequate safeguards are not guaranteed by the constitution. The implementing authority should have sympathetic and gender sensitive approach. The change is taking place slowly but that such a change is taking place cannot be denied. It is taking place not only because of the pressure of women's movement but also because generally a climate more favourable to human rights in emerging

**TRAFFICKING IN WOMEN**

Trafficking in women and children manifest commodification of them and violence against them in one of the most extreme forms. South Asia has emerged alongside South East Asia as a major centre of both intra-and international trafficking of women and girls. This is primarily for purposes of prostitution and also as domestic and bonded labourers, beggars and smugglers. Major international flows include from Nepal and Bangladesh to
India, from Bangladesh and Burma to Pakistan, and from Pakistan and India to the Middle East.86

The broad economic, social, political, religious, and cultural conditions along with the globalisation process have contributed significantly to the process. In the context of acute poverty and gender discrimination, South Asian women and girls are increasingly vulnerable to economic exploitation. The attraction and temptation of big cities, better paying jobs and a better life causes women and girls who have fewer options at home to accept alleged job or marriage offers far away. Preference for sons with economic necessity and the promise of immediate payments often lead families to sell their daughters.87 In some areas of India and Nepal, women’s vulnerability to trafficking for prostitution is further facilitated by the traditional practices of dedicating them to temple deities. In many cases the tacit co-operation or active collusion or border guards, law enforcement agents and others in positions of power seem to be central to the lucrative trafficking trade.

Accurate information on the number of women and girls trafficked is impossible to obtain, and estimates vary widely. It has been suggested that one can count the number of trafficked Bangladeshi women and girls living illegally in Pakistan or Nepal in Indian brothels, in the hundreds of thousands. It has been estimated that between the ages of 12 and 20 are trafficked out of Nepal each year to big cities across the international borders mainly for prostitutions.

In Asian region studies reveal that India is the major destination of the trafficked women. According to the statistics of the Social Central Welfare Board of India there are at least 500,000 women in India who are engaged in prostitution. Among them the percentage of Bangladeshi women in India is 2.7
Concentration of women from Bangladesh engaged in prostitution is highest in Calcutta where 13.54 per cent women are sex workers. In Bombay it is 0.2 and in Delhi 2.6.

The problem of Bangladeshi women being lured, sold trafficked or kidnapped is a serious human rights problem in the country. In Bangladesh during the last 10 years an estimated 200,000 women have been trafficked. According to the report published by UNICEF and SAARC an average of 4,560 women and children from Bangladesh are being smuggled to Pakistan alone in one year. Over half a million foreign women including Bangladesh are working in India, as prostitutes. Every month 120 to 150 Bangladeshi women are trafficked to Pakistan and sold to brothels.

The trafficking of women and girls for commercial and sexual exploitation is one of the major problems in Nepal. Every year a large number of Nepali girls who are vulnerable due to poverty and hardships are lured to the brothels of India and other parts of the world. About 200,000 Nepali girls are said to be working as prostitutes in many brothels of India and around the world and are fully exploited. Women trafficking and prostitution is socially unacceptable behaviour in Nepalese society but it is a fact that they have been gradually increasing and became a serious threat for the women. In Sri Lanka there has been a small scale cross border trafficking of women and children. However, within the country, from rural villages to cities, from the hinterland to the town, women and children are trafficked on a significant scale.

Although trafficking of women and children is illegal and prohibited in all the SAARC countries, a permissive and regulatory approach to prostitution makes trafficking laws difficult to enforce. Trafficked women and children are
extremely vulnerable to the abuses of the legal system. Not only these women face prosecution under immigration laws, but in Pakistan, are also often charged under the Hudood ordinances with Zina. In India about four times as manyomen than men in the sex trade are arrested. Procurers, guardians, pimp and clients are rarely untouched. Without local social support network or access to the legal system foreign women and girls imprisoned in any South Asian country are particularly vulnerable to prolonged detention and custodial violence. Further, women and girls often do not report trafficking due to fear of retaliation and recrimination. The stigma associated with HIV/AIDS has undermined attempts both to repatriate trafficked women, as well as rehabilitate them.

While legal and social measures against trafficking do exist in South Asian countries (see box). Enforcement of existing protective law is law. Further, due to its cross border nature, trafficking in people sits alongside environmental degradation, arms smuggling and the drugs trade as problems that demand international co-operation. Much trafficking is undertaken on a large, organised scale involving regional gangs with links to law enforcement agencies. Sadly, ratification of the proposed SAARC Convention on Trafficking and Sexual

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Exploitation on Women and Children adopted at the Ministerial meeting in Colombo 1998 has been stalled due to the postponement of SAARC summit.

National and international NGOs are increasingly involved in anti-trafficking education, advocacy, legal aid and social health. They also support for the rehabilitation of trafficked women, and socio-economic development projects. Indeed it was NGO work that brought trafficking and prostitution to the SAARC table. However, bi-and multi-lateral NGO networks within the region are still lacking. Faced with a problem of such scale the governments of most of the SAARC countries expressed concern about the serious nature of these problem.90

The issue of trafficking in women is a major problem and critical issue of violence against women in the SAARC region. Extreme poverty, low literacy rate among women, low social status accorded to women and girls, conservative values, polygamy, early marriage, and an all pervasive discrimination against women can be considered as the contributing factors related to trafficking of women. A collective view of law, legal institution and the implementing structure is necessary to achieve homogeneity in the region. Bilateral and regional dialogues should be initiated to prevent the problem of trafficking between receiving and sending countries. Awareness about the graveness of the issue, strict administrative policies, employment opportunities, equal property rights to women, enforcement of existing laws and political commitment can suppress all forms of trafficking in women and exploitation of prostitution of women.
CUSTOMARY VIOLENCE

Certain oppressive social customs have relegated woman to the position of next-to-nothing in the SAARC countries. In India many practices such as the devadasi system of forced prostitution, and Sati were prohibited but still prevalent. The custom of Devadasi - a custom of dedicating the girls to the goddess of Karnataka. This custom forces nearly 80 per cent of them into forced prostitution. It is estimated that every year 12,000 girls had been dedicated in Karnataka as Devadasis.

Despite a long-standing ban on sati, the 1999 self-immolation of a woman in Uttar Pradesh and subsequent worship by villagers at the site, has rekindled debates surrounding the status of Indian widows. Sati, arguably based in Hindu cultural tradition rather than religion, is the practice by which widows kill themselves on their husband's funeral pyre. The last reported case of forced sati, in Rajasthan in 1987, led Parliament to enact a law making the failure to prevent sati a crime. The 1999 case, on the other hand, was considered as a suicide by authorities, allegedly in order to avoid having to charge every witness with homicide. Women's groups say that whether labelled sati or suicide, the incident illustrates the desperation often felt by rural widows when they are left without economic or emotional support in a traditional social environment still hostile to widows.

In other SAARC countries like Bangladesh social customs have been very strict. Separated or divorced women in Bangladesh are socially unacceptable and remarriage is also impossible. In Nepal both deuki and Badi are customary forms of prostitution. Deuki is the practice of placing young girls in temples and offering them to gods. When girls grow up they are forced to
become prostitutes. Badi is the practice of an ethnic group of the same name, where all young women are trained to become prostitutes. The constitution and the National code are silent about these practices. However Deuki was prohibited by the legislation in Nepal as recently as in 1993. A specific provision was introduced in the Children's Act according to which Deuki should not be practiced and five years of imprisonment is assigned.

In the name of honour over the past few years an increased incident of Karo-Kari 'blackened man' blackened women' in Sindh has further deteriorated Pakistanis already fragile women's rights record. Rooted in patriarchal and cultural perceptions of women as male property, Karo-Kari ostensibly takes places to avenge family 'honour' when a woman violates tribal or cultural norms. Karo-Kari is carried out when a woman and man have illicit relationship or are even suspected of having one, since public perception of the woman's guilt is considered sufficient to taint family 'honour'. Inevitably, the practice targets women who are never given the opportunity to defend themselves against the allegations. Thus, all reports indicate that far more women than men are victims of Karo-Kori killings.
Box 3.6

In the name of the honour

Of the 266 'honour killings' cases reported in Lahore's national daily newspapers (1 January-30 November 1999)

- Of the victims were minors
- Of the murders were committed by a relative of the victim - 31% of the murderers were brothers and 21% were husbands
- While reports were filed in 75% of the cases, only 35 persons were ever held in connection with these crimes. Not one was tried.
- Almost 40% of all reported murders of women were classified as 'honour killings', 36% of women were murdered on the basis of suspicion of character or disapproval of a friendship, 32% of women were murdered due to a domestic dispute.
- A 1997 report noted 176 'honour killings' in 6 months, of which 70% of the victims were women.
- A 1998 report reported 286 'honour killings' of women in Punjab.
- An organization in Sindh reported 132 'honour killings' in the province in just 3 months of 1999.
- Targets of the practice have included an 85-year-old woman and a 3-year-old girl.

Source: HRCP 2000, UNDP 2000

While honour killings were originally restricted to particular areas, particularly tribal ones, and the concept related to the existence or suspicion of an illicit relationship, the situation has changed over the years. Honour killings are increasingly reported from towns and cities and the reasons for committing the murders have grown to include any violation of social norms. As with other cases of domestic violence, the police often conform to the existing cultural norms and rarely enforce the law. Many also succumb to financial inducements. Judicial decisions in case of honour killings are equally, if not more, alarming. Despite constitutional guarantees to the contrary, courts often give customary traditions and social norms of morality precedence over the laws.
in murder cases if the plea of honour is raised and have issued extremely lenient sentences for the murders of women.

The so-called 'honour killings' fell into the national and international spotlights when Samia Sarwar was murdered by her relatives in the Lahore office of a prominent lawyer and women's rights activist. The murder of Sarwar, who had married against her family's will, was sanctioned by mother. This was vehemently protested and bravely taken up by women's rights activists and women lawyers.

Following this protests government finally declared 'honour killings' as murder in April 2000. No ordinance to this affect has been issued, however, and the extent to which the police and the judiciary will crack down on this practice remains to be seen.

Studies indicate that low caste and dalit women continue to be exploited as devadasis and deukis. Caste-based violence in India or Nepal has been raised as an issue of concern during several national and international forums. Constitutional guarantees and laws that prohibit caste discrimination do not seem to protect low caste dalit women against violence. Acts of cruelty and violence against them do not merely reflect their disempowerment but also a disturbing manifestation of societies unwillingness to accept the fundamental human rights of all people.92

In Sri Lanka due to the ongoing ethnic conflict and military operations human rights violations continued to be committed. In the North and East over the past two decades as well s South in the late 1980 - early 1990s due to the military action it is estimated approximately 60-70% of indisplaced population. Reports from the east indicates that due to the ongoing conflict, an estimated
10,000 to 15,000 women have been widowed in the last 6 to 8 years most of whom living below poverty line. The continued conflict in the north and east has been found to have specific impact on the lives of women with little recognition of their rights at the official level. The visibility and invulnerable of women in suicide squads of the LTTE has resulted in increasing pressure on Tamil women civilians by the State security machinery.

From the foregoing examination it becomes evident that although the degree and form may vary according to class, region and culture, gender-specific violence against women occurs across all strata of SAARC society. The analysis reveals that many of these forms of violence are not even recognised as such, but rather ignored, condoned or justified by invoking religion, culture or traditional beliefs. Within this context, legal and judicial institutions have failed to provide adequate safeguards to women against violence. State institutions lack both sensitivity and capacity to deal with gender specific violence. Law enforcement seldom comes into action to aid women victims. Judicial pronouncements have frequently reflected biases that indicate the strong influence of prevalent social attitude. Women in the SAARC countries thus become the victims of violence they suffer as well as of social and legal attitudes often in different to their plights, sometimes holding responsible for it.

Further, throughout the region, except in the Maldives and to a large extent in Nepal, different religious and cultural communities are governed by separate personal laws. Those civil laws, which deal with marriage, dowry, divorce, children's custody, inheritance rights are all discriminatory against women. When it comes to women's human rights many government's take a
different view. In Nepal, the legal framework is based on the combination of ancient Hindu sanctions, customs and British-Indian type common law. Personal laws are uniform, although in cases where the code is silent, community customs prevails.

In the rest of the region, lack of a uniform civil code in which fundamental human rights take precedence over gender discriminatory religious customs. This remains a main obstacle to the achievement of women’s equal rights. Hence discriminatory laws are justified in the name of religion by conservative and dogmatic forces in many cases backed by state. There is a lack of strong implementation of laws related to violence occur within the private sphere. Even though all the SAARC countries have ratified CEDAW some of them did so wide reservations. Reservation because certain clauses of the convention would be in contravention of the personal laws practiced in the respective countries. Even when with all goodwill, laws are promulgated, their implementation tends to get stultified. Constitutional and legal provisions granting equality have not been accepted by society in many sphere, whether it be family matters and inheritance of property, giving and receiving dowries or marriage of children below the legally permitted age. Because of the tradition, the patriarchal structures of the family, and the low economic status of women, there is a strong possibility that these laws will be on the statute books, but will remain unknown, unaccepted and unimplemented.

The critical comparative analysis of human rights issues confirm the initial hypotheses that violence against women in the SAARC countries is perhaps the most yet least recognised human rights abuse. Despite the constitutional guarantees and several legislations, women in almost all the
SAARC countries continue to be victims of domestic violence, violence in the community and workplace. Illiteracy, ignorance, lack of awareness, poverty added with traditional oppressions and customs, place women in the SAARC society at uneven status, results in violence that violates her human rights. The dominated patriarchal SAARC society is abysmally gender biased. So deep is the hold of patriarchal values, that the perception of women's role at home, society and their attitudes towards them have been shaped, set, reinforced and perpetrated by it.

South Asian women face discrimination both because of laws and despite them. Women's vulnerability to violence and economic insecurity based on gender discriminatory law and practice has negative implications for the human development of the region as a whole. Thus, SAARC governments have both the responsibility and the need to promote the basic rights of women as entrenched in their own constitution and in the international conventions to which they are party.

Women in the SAARC countries have still been fighting for their basic human rights even at the dawn of 21st century. The most important step for women in the region is to recognise their common oppression. Those battered or raped need to know that they are not alone, and society needs to know the extent of women's victimisation. Violence persists in part because it is hidden. If government, women groups and NGOs expose its magnitude then ignorance may no longer be an excuse for inaction. It is an established fact that in most of the SAARC countries it is the NGOs that have pioneered and sustained the campaign to combat violence against women. Recognising the strengths and
capabilities of these NGOs for generating public response to violence, much
greater support should be provided to them.

Changing the legal framework and ensuring effective implementing
machinery is especially important. Also critical is challenging the social
inequalities and cultural beliefs that leave women economically dependent. By
strengthening women's role in economic, social, political life and providing
equal opportunity and share in the fruits of development only can raise the
status of women in the region. Any measure without raising their social status
and 'equality' as enshrined in the Universal Declaration of Human Rights would
hardly facilitate any further reduction in the crime against women. Women
must be informed of their rights and given means to exercise them. Untill
economic alternatives are available, they will remain trapped in abusive
relationship.

Action against violence however must precede from the international
community down as well s from the gross roots up. It is unlikely that
governments in traditional bound nations will spontaneously take up the
banner of women's rights. However the increase focus on gender violence
resulted in women raising their voice against violence, in equality, patriarchal,
values. The NGOs have become active not only raising awareness on these
issues but also in working for change. Important legislative reforms,
innovations in the structure of police-force, measures to sensitive the law
enforcement machinery, coupled with media coverage on these issues as wella s
corrective action has led to a hither to taboo area gaining importance in
discourse and action. Such endeavours are being supported and strengthened.
Women have now been helped to come out and share their pain. At the
collective level it is the organised strength of the mobilisation of women has facilitated a dialogue on how the growing problem of violence against them can be faced. May be because of these efforts and the efforts of the international community, this century will see less violence against women. And it is hoped that when women like Bhanwari Devi work to make change in their community, they will be rewarded by recognition, not rape.

Attitudes of the society towards women should be changed and cultural alternatives to be brought about through education. Removal of the myth of son-preference and anti-dowry movement should be launched throughout the region with the help of NGOs and media coverage; to enactment of necessary laws. Lobbying for formulation of Domestic violence Act which would enable women victims to obtain legal redress, top priority to education, especially of the depressed classes are all found to be utmost necessity for women in the SAARC countries. It has been slowly realised that “battered dreams” can only push half of humanity into further depths of degradation, thereby making the goal of a more human social order more and more distant. Therefore, confronting the ideology of patriarchy and breaking the existence of fetters of inequality are not only moral imperatives but imperatives without which human rights and human development will remain empty promises. Though it is a long way to go to modest beginning should inspire and motivate all those who are concerned with the preservation of human rights.

NOTES AND REFERENCES


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37. Here the term intimate violence is used to denote violence against women committed by those in a close family relationship with the woman, including a spouse, a partner, boy friend, father, brother or other family member. See Amrita Sen, More than 100 million women are missing in Henry Steiner and Philip Alston (eds.) International Human Rights in context: Law, Politics, Morals, Cleamdon Press Oxford, 1996, p.896.

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73. OP.cit., 22, p.93.

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81. Ibid., p. 128.


83. OP.cit., 22, pp. 96-97.


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