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**Training Module on
GENDER ISSUES IN DEVELOPMENT**

READING MATERIAL

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What is Gender?

Gender differs from biological sex in important ways. Our biological sex is a given; we are born either male or female. But the way in which we become masculine or feminine is a combination of these basic biological building blocks and the interpretation of our biology by our culture. Every society has different "scripts" for its members to follow as they learn to act out their feminine or masculine role, much as every society has its own language. From the time that we are tiny babies until we reach old age we learn about and practise the particular ways of being male and female that our society prescribes for us. Gender is a set of roles which, like costumes or masks in the theatre communicate to other people that we are feminine or masculine. This set of particular behaviours--which embraces our appearance, dress, attitudes, personalities, work both within and outside the household, sexuality, family commitments and so on--together make up our "gender roles".

We begin to learn our gender roles as soon as we are born. In one laboratory study of gender, mothers were invited to play with other people's babies who were dressed either as girls or boys. Not only did the perceived gender of the baby evoke different responses from the women, but the same behaviour of a baby was treated differently, depending on how it was dressed. When the baby was dressed as a boy, the women responded to the baby's initiatives with physical action and play. But when the same baby appeared as a girl and did the same things, the women soothed and comforted it. In other words, at only six months the children were already being responded to according to gender stereotypes.

As adults we tend to believe that we live with a significant degree of freedom, that we are free to choose the way we behave, the way we think; the gender roles that we adopt. We also subscribe to a commonsense view of the world that our way of being feminine or masculine is "natural"--a direct result of being born biologically male or female. Obviously, a society may have many different scripts, many different costumes, but the core values of a culture, which include gender roles, are passed on from generation to generation like language.

One of the most interesting things about gender roles is that they change over time, and differ from culture to culture. They are also strongly influenced by social class, age and ethnic background. In nineteenth century Britain it was considered inappropriate for women to work for wages outside the home. But a closer look shows that this only applied to middle and upper-class women. Working-class women were expected to work as servants for those women who were not supposed to work themselves. Parallel situations exist today in many parts of the developing world. In Bangladesh, for example; many Muslim women would consider it inappropriate to join the paid work force; yet there are plenty of other Muslim women who are forced into work--often as domestic servants--as a matter of economic survival. In other words, class has almost as much to do with deciding appropriate gender roles as has biological sex.

The fact that different societies have a wide range of different ideas about appropriate ways for women and men to behave should make it clear just how far removed gender roles are from their origins in our biological sex. While every society uses biological sex as a starting point for describing gender, no two cultures would agree completely on what distinguishes one gender from another. Some societies are more prescriptive of gender roles than others, who have more scripts or possibilities for acceptable feminine and masculine behaviour. A Sahelian farming woman will have far fewer choices than a middle-class white American woman, who may be presented with a range of gender choices that vary from joining the armed services to training for some profession, to becoming a full-time wife and mother supported financially by her husband. Gender is not a permanent definition of the "natural" way for women and men to behave, even if it is often presented, or experienced, as such.

Our gender determines the different life experiences we will be exposed to. It may determine our access to education, to work, to the tools and resources needed for industry and craft; it may determine our health, our life expectancy, our freedom of movement. It will almost certainly determine our sexuality, our relationships, and our ability to make decisions and act autonomously. Our gender is perhaps the single most important factor in shaping who we become.

Cross-cultural gender comparisons

In every society that has been studied, men and women have different gender roles. The work they perform in the community is different and their status and power within their society may be different. The way in which gender roles evolve in different societies is due to many different factors, from the natural environment, to the stories and myths used to solve the puzzle of sex differences, why they came about and how the two kinds of people resulting from sex differences can best relate to one another and to the natural resources around them.

Whilst all societies have a gender division of labour, there is an extraordinary variety of work that men and women do. Some societies, such as the Balinese, and the Mbuti from Africa, have considerable overlap of gender roles. Among the Mbuti pygmies, hunting may involve both men and women; men pick mushrooms and nuts when they find them; and both men and women are actively involved in child care. Among the Amhara people, on the other hand, the norm is for fathers rarely to touch their children during the first two years of life, and to expect complete obedience from them thereafter.

A number of studies of work in different societies have been carried out which show that there are very few activities which are almost always performed by men, and even fewer that are always performed by women. In some societies women do the ploughing and men the cooking; in others men make most of the clothes and women build the houses. In one study of 50 different forms of work in 186 societies, only 14 activities were performed strictly by men in nearly all the societies. These were things like smelting ores, metal working, mining and butchering. No one has offered any really convincing explanations as to why these particular roles tend to be reserved by men.

One of the problems about using cross-cultural material on gender roles is that, until comparatively recently, most anthropologists were trained in the West and tended to see all other societies in terms of the patterns of male dominance common in Western societies. Women were seen as subordinate and peripheral, regardless of what they were

actually doing; there is far more information about what men do in different cultures because, by definition, the men do the important things, so only men were observed!

How we experience gender

When we are introduced to a stranger, the first thing that we do is to attribute a gender to them on the basis of all sorts of bodily and behavioural clues. We look at their dress, their hair, their way of moving, their beard growth, and the shape of their body, taking the information in and processing it instantaneously and often unconsciously. This information forms the basis for the way that we will subsequently interact with that person. Communicating gender to others is vitally important ; any ambiguity is very disturbing, because it is seen as 'unnatural' - a deviation from the clear-cut sexual message that people are expected to transmit. Just as ambiguity in physical appearance unsettles our assumptions, so also do forms of behaviour which cross traditional gender roles. When men stay at home to look after small children and women become long-distance lorry drivers, there will always be some people who feel uncomfortable with such a reversal of traditional roles. In nineteenth century Britain, women's struggle to enter higher education was seen as so 'unnatural' that eminent scientists predicted that the women's reproductive organs would be destroyed in the process!

Our gender defines us and pre-exists us; we are born into it just as we are born into our families, and it operates at a level beyond our individual intentions. For this reason we tend to experience our gender roles as true; natural and good. The gender roles that we play in every day life are part of the foundation of our culture, and not easily changed. As one anthropologist has written, 'human beings do not invent new paths for males and females to follow from one generation to the next. Rather, young people are inexorably bound by the sexual life-styles of their parents. No matter how hard they try to be different, young males and females eventually experience the tidal pull of their culture and history'.

Over time, most of us learn to like ourselves in the 'costume' that is considered appropriate to our gender, so that most of us eventually choose acceptable gender roles for ourselves. Things have to change when environmental or political pressures are such that the system would fall apart if gender roles were not modified. a good example of this was the sudden eruption of women into the UK work force during the Second World War, when there were simply not enough men to operate the war-time economy.

Why 'gender' and not 'women'?

Why do we talk about 'gender and development' rather than 'women and development'? Talking about women as a group raises a number of difficulties. The concept of 'women's position' in society suggests that there is some universal position that all women occupy in all societies. The truth is that not only can there be no simple statement of a universal 'position of women' but that even within most societies it is not possible to speak of women as a group sharing common interests. Women share in the stratification's of society. There are rich women and poor women, and the class background of women may be as important in deciding their position in society as their gender. In a multicultural society, a woman's ethnic background may be even more significant than class. Black women in white societies may feel they have far more in common with black men than with their white 'sisters'.

The term gender is also useful because it covers the social roles of both women and men. The relationship between men and women is often crucial in determining the position of both. Equally, the kinds of relationship that can exist between women and men will be the consequence of a society's definition of appropriate gender behaviour. The work that women and men do in a particular society is determined by class, gender and ethnicity. But most women also live in families, and gender relations in the family represent an extremely important aspect of the way in which women experience the world. Decision making, access to resources, division of labour, and relations outside the family may all be decided by the gender relations within the family unit itself. One of the 'discoveries' of the last decade of development is that it is not possible to assume that the interests of

everyone in the family are the same. The interests or needs of the women in a family may be quite different from the interests of the men. These interests are not based on the biological roles of women and men but on their social roles and the power and differences of status vested in these social roles. For this reason, such interests are sometimes referred to as 'gender interests'.

Above all, we talk about 'gender and development' because this emphasises the fact that any development initiative will affect the lives of both women and men. It is simply not possible to alter the dynamics of a society in such a way that only men or women are affected. Any development project, whether it be the building of a large dam or the provision of small-scale credit to poor (male) farmers, will affect both women and men. The fact that it may affect them in different ways is a result of the positions they occupy in their society. By being aware of their different interests and roles we will be in a much better position to understand the process of social change. To talk about gender also implies the need for men to become involved in understanding and supporting the changes in gender relations which will be necessary if a more just and equitable balance is to be achieved between the sexes in society.

GENDER

The key to understanding how development and relief work affects men, women, girls and boys is grasping the concept of gender.

What is gender? The word was used by Ann Oakley and others in the 1970s to describe those characteristics of men and women which are socially determined, in contrast to those which are biologically determined. This distinction between gender and sex has very important implications, which are elaborated throughout this manual.

Essentially, the distinction between sex and gender is made to emphasise that everything women and men do, and everything expected of them, with the exception of their sexually distinct functions (childbearing and breast feeding; impregnation) can change, and does change, over time and according to changing and varied social and cultural factors.

The term gender can meet with resistance, amongst both native English speakers and speakers of other languages. Language and culture shape each other, and it says much about deeply based cultural assumptions that a term to describe the possibility of change and variety in men's and women's roles has been introduced so recently! But while the term itself may sound alien to many people, the concept resonates powerfully with the lived experience of both women and men. It is this concept that is important, and the early sections of this manual offer ways of making it real through experiential learning.

A working definition of gender; people are born female or male, but learn to be girls and boys who grow into women and men . They are taught what the appropriate behavior and attitudes, roles and activities are for them, and how they should relate to other people. This learned behavior is what makes up gender identity, and determines gender roles.

- **Gender is a dynamic concept** : gender roles for women and men vary greatly from one culture to another and from one social group to another within the same culture. Race, class, economic circumstances, age - all of these- influence what is considered appropriate for women and men. Furthermore, as culture is dynamic, and socio-economic conditions change over time, so gender patterns change with them. Sudden crises, like war or famine, can radically and rapidly change what men and women do-although sometimes (as women ex-combatants in liberation struggles have found) after the crisis, the old attitudes may return. But sometimes the changes have a permanent impact.
- **Gender helps us to understand other differences** : understanding gender differentiation and gender discrimination helps us to understand differentiation and discrimination on other grounds. Different roles and characteristics are assigned to people not only on the basis of their gender, but of their race, caste, class, ethnic background and age. Our social analysis becomes finer, our social interventions more finely tuned, when we are aware of all the complex ways in which society slots people into different categories and roles, and of the ways these roles can be the basis of both co-operation and conflict. For, neither women nor men form a homogeneous group in any society. Women may come into conflict with each other because of racial difference or women of different nationalities or class groups may find solidarity in their gender identity.

Aspects of gender differentiation

The social construction of differentiated gender roles has profound implications for women and men :

- **In relation to work** : both women and men have roles in the spheres of production (of goods and services) and public life, from the community to the governmental level. However, the tasks associated with the reproduction of society (ensuring basic needs at family and households level are met, homes and children are maintained and cared for) fall almost entirely on women's shoulders.

One of the results of this is that the world over, women have longer working days than men.

- Another key issue is the way work is valued. For all its enormous importance, reproductive work is undervalued-its lack of value is expressed by the failure to recognise that it is 'real' work. Women who labour in the home commonly say 'oh, I don't work' , because their work is not recognised and remunerated. In the UK, for example, if the reproductive (or domestic) work of women were valued at current market rates, women would earn in the region of \$ 12,000 to # 15,000 a year for it.
- The productive work of women is often seen as an extension of their reproductive work-and likewise -undervalued. While men's agricultural work is often cultivating cash crops, for example, women's food production for family consumption is unpaid and taken for granted. Women, effectively, pay themselves, through self-provisioning, But, their work is often not considered by themselves, as well as by others, to be 'real work'.
- In the public sphere, at all levels, with a few notable exceptions, it is men who hold the high-status positions and have decision-making power : women tend to fill the roles of support persons and organisers. While men's work in this sphere is highly rewarded, women's work is often under-valued.
- **In relation to sharing the world's resources and benefits** : gender inequality is very evident. The often-quoted UN statistics still hold true:
 - *women perform 2/3 of the world's work;*
 - *women earn 1/10 of the world's income;*
 - *women are 2/3 of the world's illiterate;*
 - *women own less than 1/100 of the world's property.*

Access to resources and benefits, and control over them is allocated according to gender in both obvious and quite subtle ways. In some societies, for example, women may not own land and their access to it for growing food may depend on a male relative or husband. In other cases, there may be no explicit reason why women should not attend, say literacy classes--but their access will be limited by their workload and lack of extra hours or energy to take advantage of the so-called equal opportunities.

- **In relation to human rights** : the world over, women are denied their human rights. Gender differentiation is about inequality and about power relations between men and women. Half the world's people is subordinate to the other half, in thousands of different ways, because of the sex they are born with. Despite international human rights law which guarantees all people equal rights, irrespective of sex, race, caste and so on, women are denied equal rights with men to land, to property, to mobility, to education, to employment opportunities, to shelter, to food, to worship, and over the lives of their children. Women are denied the right even to manage, control and care for the health of their own bodies, and their reproductive functions. In many cultures, women's bodies are ritually maimed and mutilated, and women are routinely beaten and even murdered in the name of cultural tradition, despite the fact that international human rights law prohibits cultural practices which are damaging to women. Violence against women is an abuse of human rights.
- **In relation to culture and religion** : women face the same discriminations as they do in other spheres, and both religion and culture are sources of gender oppression and inequality. While religions may teach equality between people, in practice women usually have a subordinate role and may be excluded altogether from the religious hierarchy. Different interpretations of religious texts, and different religious traditions within the Christian church, for example, have different implications for women. Religion, nevertheless, holds out the promise of equality and justice, and this is why despite its role as a powerful form of male control over the lives of women, it continues to be a source of hope and support to many women. There are many culturally sanctioned practices such as genital

mutilation, and preferential feeding of boys which damage women and make their lives more difficult and painful. Culture, however, like religion, can also be the source of cohesion and solidarity amongst women, and amongst women and men.

Gender oppression takes a multitude of forms, and is an added dimension to oppression based on race, ethnic identity, class and caste. Its forms also vary with these factors, and we should never make assumptions about forms of gender oppression in cultures or social groups we do not fully understand. However, it is universal that women's experience of male domination is felt by them in every sphere of life-in political office, in the courts and judicial system, in the marketplace, in the classroom, in the clinic, in the trade union, in the community organisation, in the household, and in the bedroom.

On the road to social equity, gender is the last barrier, because it involves transformation of attitudes and practice in all societies, for all people: it touches all of us, all the way to our most intimate relationships. For this reason it arouses very strong feelings among both women and men and these feelings are often brought out by gender awareness training.

Gender and development analysis

Development approaches

Gender and Development (GAD) and Women in Development (WID) are often used interchangeably and programming with a gender focus is often thought to mean supporting more projects for women. It is important to remember that while these terms only incorporate 'development', they apply equally to relief in emergencies.

The WID approach usually seeks to integrate women into development by making more resources available to women, in an effort to increase women's efficiency in their existing roles. Very often, this approach has increased women's workloads, reinforced inequalities and widened the gap between men and women.

The GAD approach seeks to base interventions on the analysis of men's and women's roles and needs, in an effort to empower women, to improve their position relative to men in ways which will benefit and transform society as a whole. GAD is thus driven by a powerful motivation to work for equity and respect for human rights for all people.

Gender awareness

Gender cannot simply be 'stitched on' to existing development models, nor added into development and relief programmes as an extra component. Gender awareness is not a separate or additional issue to be addressed; it is a way of seeing, a perspective, a set of insights, which informs our understanding of people and society. As we have seen, gender is at the heart of human identity and all human attitudes, belief and actions. We take it for granted. Yet, when we begin to look into it, and question our assumptions, we find that the world looks different.

Gender awareness means looking with new eyes, in a way which is constantly open to learning more. Looking into development and relief work with these new eyes reveals what is now well - documented in countless examples from all over the world: that women's needs, as distinct from men's, have been invisible in most agency planning until very recently, with the result that many development and relief programmes have not only failed to bring any improvements to women's lives, but have made them worse. It was this realization, which led to the closer examination of the impact of development on women, and to the beginning of GAD analysis.

GAD analysis and planning

GAD analysis challenges development models which measure benefits, in purely economic terms and which are based, one way or another on the old 'trickle down theory'. This theory proposed that benefits fed into the top of social structures (like the household or family) or community organisations would 'trickle down' to everyone

belonging to them. However, this has been shown over and over again not to work because the relationships within communities and the household are not egalitarian, but based on complex systems governed by power and status.

Thus we cannot assume that 'community development will-benefit all the people within the community; within this social group there are always differences in power, determined by gender, class, caste, race, or religion, and combinations of all of these factors. Within the household, the favoured social unit of development and relief interventions, women do not have the same rights as men, and benefits at the household level are seldom shared equally between males and females.

Neither can we assume that emergency relief, delivered to people in extreme circumstances, will benefit women, men and children equally. In refugee camps, for example, where women and children are usually the majority of the population, distribution of food is often controlled by men and is seldom allocated equitably between the sexes. Patterns of unequal resource distribution between women and men at community or household level are likely to persist even where these social units have been severely disrupted by conflict or by natural disasters.

The analytical tools of gender and development desegregate or take a part, these familiar conceptual units such as the community, the household, the family, and look at the relations and distribution of resources within them. 'Gender-desegregated data' is information collected in a way which distinguishes between the different activities, aspirations, needs, and interests of women and men.

GAD tools and framework of analysis form the basis for gender- sensitive project appraisal and planning from a gender perspective.

GAD tools and analysis and analytical frameworks

The gender division of labour

This refers to the different kinds of work done by men and women and the different value ascribed to the work. The gender division of labour varies from one society and culture to another, and within them; it also changes with external circumstances and over time. Analysing the gender division of labour in any group can clarify the interdependence and co-operation, on one hand, and the inequalities and conflicts, on the other, in the work relationships of women and men. It is the understanding of these relationships, which is fundamental for planning; we have to know how our support will affect the work done by women and by men, and how our interventions affect the relationships between women and men and the way female and male tasks are related to each other.

Women's triple role

This is a way of classifying the kind of work done by women. As discussed above, it usually refers to reproductive, productive and community work. Women have a 'triple role', because it is predominantly women who carry out reproductive work. In this manual, we take 'community work' to include all activity in the public sphere from organising festivals and caring for the sick to lobbying authorities for services, forming a trade union or holding political office. It can be useful to distinguish between two forms of community role. The way these forms of work are valued affects the way women and men set priorities when it comes to planning programmes or projects. Childcare provision, for example, is not likely to be a priority for men in project planning; but it can make or break women's chances of taking advantage of development opportunities.

'Practical' and 'strategic' needs

This distinction between practical and strategic needs and the analysis of women's triple role are part of what is called gender planning. This is a framework for gender analysis

and planning developed by Moser, based on the distinction by Molyneux between women's and men's practical and strategic gender interests.

It is useful to think about this distinction in relation to the condition of women—the immediate, material circumstances in which they live—and their position in society relative to men, which is the way gender determines power, status, and control over decisions and resources.

Practical needs are related to the condition of women and their present workloads and responsibilities. They refer to, for example, the need for a clean and nearby water supply, stoves for more efficient cooking, credit schemes or seeds. These needs can be addressed by practical and short-term development interventions but are in themselves unlikely to change the unequal aspects of gender relations. Also, if practical needs are not seen within the context of strategic interests, addressing them in isolation can actually worsen women's situation in the long run.

Strategic needs arise from the analysis of women's subordination to men, and are related to changing women's position. These needs may include equal access to decision-making power, getting rid of institutionalised discrimination in the areas of labour, land ownership, and education, measures to eradicate male violence against women, and shared responsibility with men for child-rearing. It is critical that women themselves identify what the strategic issues and paths of action are for them. Response to practical needs, however, may be an important entry point into work with women, and needs to be done in a strategic way. For example, distributing food, relief aid through women supports them in their customary authority over food, and also gives them a measure of control over its allocation. Addressing the strategic needs of women requires long-term planning, and changes in the attitudes of men. The issue of men's practical and strategic needs and interests raises a number of complex questions in relation to gender inequalities and power.

While these two categories of needs are a useful analytical tool, in practice they often overlap. For example, women's felt and immediate need for basic numeracy and literacy skills in order to operate in the local market may bring the longer-term strategic advantage of enabling them to participate more effectively in community organisations or training courses. On the other hand, there are dangers in supporting projects which address practical needs-say, for income-in ways which do not take strategic needs into account. Thus, projects which support income-generating activities without components for training in accounting skills, management of organisations, and control over primary resources, may reinforce existing gender inequalities, and rob women of control over the benefits of the project.

Gender and Development

Why gender is a development issue?

The issues concerning women and their part (or not) in the development process have been increasingly examined over the years. However, the ways of addressing these issues have varied as understanding of women's position in development, and of gender roles themselves, has grown. Although the principle of equality of men and women was recognised in both the UN Charter in 1945 and the UN Declaration of Human Rights in 1948, the majority of development planners and workers did not fully address women's position in the development process. Several researchers have shown that development planners worked on the assumption that what would benefit one section of society (men) would trickle down to the other (women).

The ways of defining women's position in development has changed through the years:

In the 1950s and 1960s, women's issues in development were subsumed under the question of human rights, and women were viewed as objects to protect or make recommendations for but not necessarily to consult. The UN Conventions of particular concern to women included:

1949 Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others

1951 Equal Remuneration for Men and Women Workers for Work of Equal Value

1952 Convention on the Political Rights of Women

In the 1970s, although women were still not necessarily consulted, their key position in the development process became more widely recognised. This was especially so in connection with population and food issues. Women were viewed as useful resources to be integrated into the development process, thus rendering the particular projects more efficient and more successful:

'These are the women (more than 500 million women illiterates) upon whom the success of our population policies, our food programmes and our total development efforts ultimately rely. The success of these policies depends, in other words, on those who are least equipped to carry them out.' (Helvi Sipilä, *The Times*, 23.4.75)

In 1972 it was decided to declare 1975 the 'International Women's Year', which led into the UN Decade for Women.

In the 1980s there has been a growing trend towards seeing women as agents and beneficiaries in all sectors and at all levels of the development process. It is partly through an understanding of gender roles that this trend has emerged.

In 1985 the UN decade culminated in a conference in Nairobi which, after a period of intensive discussions involving women from all over the world, resulted in the adoption of the 'Forward-Looking Strategies'.

The Forward-Looking Strategies took the main themes of the Decade for Women (equality, development and peace), with the sub-themes (health, education and employment), and set out the obstacles facing women in each of these areas; proposed general strategies for overcoming them, and made recommendations to governments and other bodies for creating greater opportunities for equality for women at all levels.

What is gender?

The conceptual distinction between sex and gender developed by Anne Oakley is a useful analytical tool to clarify ideas and has now been almost universally taken up. According to this distinction, sex is connected with biology, whereas the gender identity of men and women in any given society is socially and psychologically (and that means also historically and culturally) determined.

Biological and physical conditions (chromosomes, external and internal genitalia, hormonal states and secondary sex characteristics), lead to the determination of male or female sex. To determine gender, however, social and cultural perceptions of masculine and feminine traits and roles must be taken into account.

Gender is learnt through a process of socialisation and through the culture of the particular society concerned. In many cultures, boys are encouraged in the acts considered to display male traits (and girls vice versa) through the toys given to children (guns for boys, dolls for girls), the kind of discipline meted out, the jobs or careers to which they might aspire, and the portrayal of men and women in the media. Children learn their gender from birth. They learn how they should behave in order to be perceived by others, and themselves, as either masculine or feminine. Throughout their life this is reinforced by parents, teachers, peers, their culture and society.

Every society uses biological sex as one criterion for describing gender but, beyond that simple starting point, no two cultures would completely agree on what distinguishes one gender from another. Therefore there is considerable variation in gender roles between cultures.

Division of labour in society

The division of labour between the sexes is best explained by gentler but, because reproduction is based on a universal biological difference between the male and female

sex, societies use this as a basis for allotting other tasks. These tasks are allotted according to convenience and precedents in the particular culture, and determine masculine and feminine roles.

'Professor George Murdock has surveyed the data 1'or 224 societies (mostly preliterate) and shows that the tendency to segregate economic activities in one way or another according. to sex is strong. Taking a list of 46 different activities, he suggests that some are more often masculine than feminine, and vice versa. For example, lumbering is an exclusively masculine activity in 104 of his societies and exclusively feminine in 6: cooking is exclusively feminine in 158 and exclusively masculine in 5. Hunting, fishing, weapon making, boat building and mining tend to be masculine, while grinding grain and carrying water tend to be feminine. Activities that are less consistently allocated to one sex include preparing the soil, planting, tending and harvesting the crops, 'burden bearing' and body mutilation.' (Oakley 1972, p. 128)

Even in child-rearing, men play a substantial role in some societies:

'The Arapesh, for example, consider that the business of bearing and rearing a child belongs to father and mother equally, and equally disqualifies them for other roles. Men as well as women 'make' and 'have' babies, and the verb 'to bear a child' is used indiscriminately of either a man or a woman. Childbearing is believed to be as debilitating for the man as it is for the woman. The father goes to bed and is described as 'having a baby' when the child is born.... The Trobriand Islanders are renowned for their ignorance of the father's biological role in reproduction, but they stress the need for the father to share with the mother all tasks involved in bringing up children.' (Oakley 1972,'p. 134-135)

We see, then, that tasks and the division of labour do not relate to the sex of the individuals concerned, and so are not common to one sex from one culture to another, but are culture specific. Thus, gender is culture specific.

Gender not only varies from one culture to another but also varies within cultures overtime; culture is not static but evolves. As societies become more complex, the roles played by men and women are not only determined by culture but by socio- political and economic factors.

The roles that women play are different in any given society, and their situation is determined by the legislation, religious norms, economic status or class, cultural values, ethnicity and types of productive activity of their country, community and household. Women are usually responsible for domestic work; the care of children, family health, cooking and providing food and other household services. In most societies, they also play a major role in the productive activities of the family, in farming, paid domestic labour, services, industries and income-generating activities. In some societies, they also have clear community roles.

In each of these areas - reproduction, production and the community - women have often been adversely affected by the development process. There is a wide gap between women's high, yet unrecognised, economic participation and their low political and social power, and development strategies have usually taken the needs of the most vocal and politically active as their starting point. To understand gender, the activities of men and women need to be addressed separately. The reproductive, productive and social or community roles women are playing must be looked at as well as the roles played economically and socially by men. By examining men's and women's roles, a greater understanding of their needs and involvement in power and decision-making around specific tasks and issues will be reached.

Historically, development workers have used notions of gender imported from the North. The majority of projects were - and still are - based on the false assumption that the nuclear household supported by a non-productive wife dependent upon a male head, is universal. This is not the pattern for many cultures. In *The Family Among the Australian Aborigines*, Malinowski wrote:

'A very important point is that the woman's share in labour was of much more vital importance to the maintenance of the household than the man's work ... even the food supply contributed by the women was far more important than the man's share ... food collected by women was the staple food of the natives ... economically [the family] is entirely dependent upon women's work.' (Malinowski 1963 as cited in Oakley 1972,p.139)

Studies of women's roles in agriculture from a sample of African peoples living in Senegal, Gambia, Uganda and Kenya show that women contribute between 60 per cent and 80 per cent of the total agricultural work done.

How to approach gender in development

It is of vital importance in development work not to use imported notions of gender, nor regard 'the community' and 'the household' as the basic units . One must go beyond the household and break it down into its component parts . By assessing and understanding the gender roles in a given society, the specific needs of women (and men) can be ascertained and addressed within projects (Moser and Levy 1986).

The primary practical requirement for incorporating a gender analysis into development is to consult with and listen to women so that their roles and resulting needs are better understood. How the issues of gender are actually addressed depends upon the policy direction envisaged. One approach is to design projects and programmes to make life 'easier' for women and help them in their given gender tasks. For example, an agricultural project could include provision of support for female agricultural tasks, as well as those carried out by men. Women's needs for better equipment, improved seeds, and advice would be taken into consideration. In' health projects, the particular concerns of the women would be elicited from them and their priorities addressed in the project. On the domestic front, projects could aim to alleviate the drudgery and heavy physical demands of women's work by providing more efficient grinders or stoves, or improving women's access to water. Whether 'working with women alone or within the community as a

whole the primary objective would be to enable women to perform their existing roles better.

An alternative but complementary approach is to challenge the *status quo* or address the perceived inequalities between men and women. This could involve, for example, working for change in laws that discriminated against women; increasing women's access to land; giving women decision-making power within projects, etc. The aim is social change and the empowerment of women. For agencies such as Oxfam, which espouse social change, justice, and empowerment in their rhetoric, meeting women's needs for more radical change should be within the adopted policy approach to gender.

Why is it that addressing gender inequalities is taboo and yet tackling inequalities in terms of wealth and class is not? It is often argued that by addressing gender the traditions or culture of a society are being tampered with. This is not necessarily the case and the attitudes to gender may be no more 'traditional' than attitudes to class or power. When the traditions and cultural attitudes to gender are clarified, then the actual gender relations can be assessed and addressed within a programme or project. Development is a process that should involve all members of a society to the same extent, according to their individual needs.

Source: Based on 'Why gender is a development issue', by April Brett in *Changing Perceptions*, Oxfam

Status of Women A Statistical Profile

SEX RATIO

Sex ratio : 1991
Females per 1000 males
India : 927

Source : Census 1991

No. of Children ever born & currently living : 1992-93 : India

	Children ever born			Children living		
	Male	Female	Total	Male	Female	Total
India	1.6	1.5	3.1	1.4	1.3	2.6
W. Bengal	1.5	1.5	3.0	1.30	1.2	2.6

Source : International Institute for Population Sciences (1995) : National Health Survey, India p. 107.

WOMEN AND HEALTH

Infants reaching their first birthday fully immunized : 1994 : India

Female		Male	
Urban	Rural	Urban	Rural
47.5	46.0	50.0	48.5

Source : National Council of Applied Economic Research

Percentage of children under five years who are malnourished : 1995 : India

Female		Male	
Urban	Rural	Urban	Rural
55.4	33.6	60.3	57.2

Source : Human Development in South Asia, 1998

Anaemia prevalence in women 15-49 years : 1998 : India

Urban	Rural
70.2	89.6

Source : Annual Report : Ministry of Health & Family Welfare

Pregnant women immunized with tetanus toxoid (%) : All over India

Age group	(%)
13-19	63.0
20-34	62.2
35+	37.4

Source : The State of World's Children 1999, UNICEF

Deliveries with trained attendants (%) : All over India

Year	Urban	Rural
1992	28.0	21.8
1993	31.6	23.3

Source : Women in India : Statistical Profile 1997

Deliveries occurring in health facilities (%) : All over India

Year	Urban	Rural
1992	54.8	18.0
1993	56.5	20.2

Source : Women in India : Statistical Profile

Maternal mortality rate : 1991 : India

	Maternal deaths per 1,00,000 births
West Bengal	389
All over India	453

Source : International Institute for Population Sciences (1995) : National Health Survey, India p. 107

WOMEN AND EDUCATION

Literacy rates - India : 1951-1991

Year	Female	Male
1951	27.16	8.86
1961	40.40	15.34
1971	45.95	21.97
1981	56.50	29.85
1991	64.13	39.29

Source : Census of India

Sexwise and areawise school enrollment :

Distribution for age groups 6-8 : India 1991

Age	Rural		Urban	
	Female	Male	Female	Male
6	14.4	17.9	29.9	31.8
7	42.5	53.2	70.2	74.7
8	43.1	57.2	72.4	78.1

Source : Census of India 1991

Percentage distribution of dropouts by reason for discontinuance : India : 1991

Reason	Rural		Urban	
	Boys	Girls	Boys	Girls
1. Not interested in education/ further studies	26.57	33.25	23.62	28.47
2. Participated in household economic Activity	26.80	9.38	22.80	6.71
3. Other economic reasons	20.63	14.97	24.15	15.42
4. Domestic chores	2.01	14.25	2.20	15.93
5. Failure	18.43	16.68	21.28	18.77
6. Others	5.56	11.47	5.95	14.70

Source : Sarvekshana, Vol. 14, No. 3 & 4, Jan.-June 1991, Issue 46, NSS 42nd Round Table.

Percentage of children (aged 6 & above) never enrolled by reason for non enrollment in schools in India : 1986-1987

Reason for non enrollment	Rural		Urban	
	Boys	Girls	Boys	Girls
Economic factors	50.0	32.6	51.9	29.4
Domestic chores	1.3	9.9	0.9	10.7
No schooling facilities	9.9	10.5	5.9	99.0
Not interested	25.2	32.3	23.5	32.9

Source : National Sample Survey Organization, 1991.

WOMEN AND WORK

Work participation rate : India

	1983	1987-88	1993-94
a) Male	53.5	53.0	54.5
a) Female	29.3	28.0	28.6

	Census	1981	1991
b) Male		52.6	51.6
b) Female		19.8	22.3

Source :a) NSS Organization Survey, Sarvekshana b) Census of India 1981 & 1991.

Work participation rate (percent) by sex : India

Year	Rural		Urban	
	Female	Male	Female	Male
1972-73	31.8	54.5	13.4	50.1
1977-78	33.1	55.2	15.6	50.8
1983	34.0	54.7	15.1	51.2
1987-88	32.3	53.9	15.2	50.6
1993-94	32.8	55.3	15.5	52.1

Source : National Sample Survey Organization, New Delhi.

Profile of males & females in the workforce, India : 1991

	Female	Male
Total population (in millions)	435	403
Total workforce (in millions)	224	90
Work participation rate	51.6%	22.3%
Employment in urban areas (1987-88)	24.7%	13.5%
Employment in rural areas (1987-88)	75.3%	86.5%
Self employment (1987-88)	53.8%	53.1%
Regular salaried employment	18.0%	8.3%
Casual wage employment (1987-88)	28.2%	38.6%

Source : Based on Census 1991, NSSO & Annual Report 1996-97; Ministry of Labour, Govt. of India.

No. of school level teachers by sex : India 1995-96

Primary		Middle		High/Higher Secondary	
Male	Female	Male	Female	Male	Female
1187	553	756	409	982	511

Source : Selected Educational Statistics 1995-96; Deptt. of Education, Ministry of Human Resource Development.

No. of doctors by sex & qualification registered with State Medical Councils 1995 : India

Graduates		Licentiates	
Male	Female	Male	Female
436287	127496	65590	4342

Source : Women in India : A Statistical Profile 1997

WOMEN AND POLITICS

Percentage of women voting to Lok Sabha

Year	Female	Male
1991	52.56	47.43
1996	62.47	53.41
1998	66.06	58.02

Source : Election Commission of India

Percentage of women contestants elected to Lok Sabha

Year	Contestants	Elected
1991	3.7	7.16
1996	6.5	7.18
1998	16	8.0

Source : Election Commission of India

Members of Lok Sabha by sex in 1996 & 1998

1996			
	Male	Female	% of women members
West Bengal	38	4	9.532
Total no. of seats & members from all states & territories	501	39	7.22

1998				
	No. of contestants			No. of women members of Lok Sabha
	Male	Female	Total	
Total no. from all states & union territories	4708	271	5117	43 (7.95%)

Source : Lok Sabha Secretariat, New Delhi.

Percentage of women candidates fielded by 5 major political parties : 11th Lok Sabha Elections in 1996 & 1998

Name of the political party	Total contestants		No. of women contestants		% of women contestants		Successful women candidates	
	1996	1998	1996	1998	1996	1998	1996	1998
Indian National Congress	530	474	49	44	9.20	16.2	16	9
BJP	42	384	23	26	5.92	9.6	13	14
Janata Dal	319	190	13	10	4.07	3.6	4	-
CPI (M)	76	71	5	7	6.57	2.5	2	-
CPI	43	58	4	3	9.30	1.1	1	1
Others & Independants			500	142	-	52.3	1	17
Total no. of Contestants	14274	4708	599	271	4.3	5.7	39	43
			(4.3%)	(5.7%)			(7.1%)	(7.95%)

Source : Compiled by Dr. Kaushik Susheela : Women's Political & Public Participations.

Women & men members in party executives in 1995

Party	Women	Men	% of Women
Congress (I) Working Committee	2	17	11.7
BJP National Executive	8	62	12.5
JD Central Office Bearers	3	25	12.0
CPI (M) Central Committee	3	58	5.1
CPI National Executive	2	18	11.1

Source : Co-ordination Unit Report for Beijing Conference 1995

Positions of women in Trade Unions in India : 1995

Trade Unions	Women	Men	% of Women
INTUC	1	21	4.76
Bharatiya Mazdoor Sabha (National Office Bearers)	3	45	6.6
CITU (National Office Bearers)	0	17	-
AITUC	2	25	8.00

Source : Co-ordination Unit Report for Beijing Conference 1995

WOMEN'S PARTICIPATION IN POLITICAL & PUBLIC DECISION MAKING

	Data	Year
<ul style="list-style-type: none"> Ministerial positions held by women as a % of the total ministerial positions 	10.0	Oct.'98 Source : XII Lok Sabha
	Data	Year
<ul style="list-style-type: none"> All India & Central Services 	8.4%	1995-96 Source : Women in India : A statistical profile
	Data	Year
<ul style="list-style-type: none"> Percentage of women judges in Supreme Court 	4.0	1996 Source : Deptt. of Justice, Ministry of Law & Justice, New Delhi.
	Data	Year
<ul style="list-style-type: none"> Percentage of women judges in High Court 	3.0	1996 Source : Women in India : A statistical profile
	Data	Year
<ul style="list-style-type: none"> Percentage of women Chartered Accountants 	5.8	1996 Source : Women in India : A statistical profile
	Data	Year
<ul style="list-style-type: none"> Registered women medical practitioners 	20.8	1995 Source : Medical Council of India

VIOLENCE AGAINST WOMEN

Proportion of crime against women (IPC) towards total IPC crime : India

S.No.	Year	Total IPC Crimes	Crime against women (IPC)
1.	1994	163521	101657
2.	1995	1695696	109259
3.	1996	1709576	115723

Source : Crime in India, National Crime Records Bureau, Ministry of Home Affairs 1998.

Incidence of crimes against women : India

Crime	Year		
	1994	1995	1996
Rape	12351	13754	14846
Kidnapping & Abduction	12998	14063	14877
Dowry Death	4935	5092	5513
Molestation	24117	28475	28939
Sexual Harassment	10496	4756	5671
Trafficking	7547	8447	7706
Foeticide	45	38	39
Infanticide	131	139	131
Child Rape	3986	4067	4083
Selling of girls for prostitution	34	17	6
Buying girls for prostitution	4	19	22
Child marriage	53	57	89

Source : Crime in India, National Crime Records Bureau, Ministry of Home Affairs, 1998.

Victims of Child Rape : India

Year	Age Group Below 10 years	10-16 Years	% of share of child rape victims to total rape victims
1994	727	3259	30.2
1995	747	3320	29.5
1996	608	3475	27.5

Source : Crime in India, National Crime Records Bureau, Ministry of Home Affairs, 1998.

GENDER VIOLENCE

1. The Facts about Gender-Based Violence

This section provides a definition of GBV and includes some statistics on the world-wide magnitude of GBV. Furthermore, it details the different forms of violence that women face every day ranging from sexual harassment to female genital mutilation (FGM) and rape. Finally, it examines the impact that GBV has on women's sexual and reproductive health, illustrating the severe nature of the problem, women who have been subjected to violence in many cases experience trauma, depression, unwanted pregnancy or infertility and often chronic and fatal consequences like HIV /AIDS or death.

1.1 The United Nation's definition of Gender-Based Violence.

The UN 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'. (Economic and Social Council, UN, 1992). This includes physical, sexual and psychological violence such as wife beating, burning and acid throwing, sexual abuse including rape and incest by family members, female genital mutilation, female feticide and infanticide, and emotional abuse such as coercion and abusive language. Abduction of women and girls for prostitution and forced marriages are additional examples of GBV. GBV does not only occur in the family and in the general community but is sometimes also condoned or perpetuated by the state through a variety of policies and actions.

1.2. The Global Cost of Gender Based Violence

Studies from WHO indicate that between 16% and 52% of women world-wide are physically assaulted by an intimate partner at least once in their lives.

The Inter-American Development Bank's Special Report on Domestic Violence states that GBV results in the direct loss of millions of dollars in health care, police and court costs and productivity- in Canada this cost averages \$1.6 billion annually, in the US this

ranges between \$10 - \$67 billion. In Chile this is \$1.56 billion in loss of battered women's wages.

Violence has been identified as a contributory factor to maternal mortality. It is estimated that rape and domestic violence "account for five percent of the healthy years of life lost to women of reproductive age in demographically developing countries" (World Bank, 1993).

Abused women are less likely to seek pre-natal care and more likely to give birth to low-weight babies (Heise et al, 1994).

According to a WHO report, among women aged 15-44 years gender violence accounts for more death and disability than, cancer, malaria, traffic injuries or war put together.

Studies in India, Bangladesh, Fiji, the USA, Papua New Guinea and Peru show a high correlation between domestic violence and suicide rates. Women who are victims of domestic violence are 12 times more likely to attempt suicide than those who do not experience such violence.

1.3 The Global Magnitude of Gender-Based Violence

Statistics published in 1997 by the World Health Organisation (WHO) revealed that, according to 40 studies conducted in 24 countries on four continents, between 20% and 50% of the women interviewed reported that they suffered physical abuse from their male partners. Also, according to '*Where Women Stand - An international report on the status of women in 140 countries, 1997-1998*', the number of women reporting physical abuse by a male partner during the period 1986-1993 were between 21% to 60%.

Chile	60%	Ecuador		60%
SriLanka	60%	Zambia		40%
Tanzania	60%	Malaysia		39%
Japan	59%	Canada	27%	- 36%
Guatemala	49%	UnitedStates		28%

Uganda	46%	Norway	25%
Kenya	42%	Netherlands	21%

Source: Neft and Levine (1997) *Where Women Stand: An International Report on the Status of Women in 140 Countries*, Random House, New York.

Examples of statistics from specific countries and regions are provided below.

Africa

In South Africa, one adult woman out of every six is assaulted regularly by her mate. In at least 46% of these cases, the men involved also abuse the women's children. On the average, a woman is raped in South Africa every minute, totalling approximately 386,000 women each year (Russell, 1991).

It is estimated that about 1 in every 3 women will be a victim of rape in their lifetime. This translates to more than 1000 women being raped daily. A report in the 17th September edition of *The Daily Dispatch*, a local newspaper for the East London area of South Africa, states that more than 100 cases of child abuse (97% of them being girls) are reported daily (NGO Shadow Report to CEDAW 1998).

In an Ethiopian refugee camp in the Sudan, women were so afraid of being raped when they went to collect wood that they cooked fewer meals and thereby underfed their children (LaPin, 1992).

A study in northern Nigeria found that 16% of female patients seeking treatment for STDs were children under the age of five (Kisekka & Otesanya, 1988).

It is estimated that over 130 million girls and women have undergone some form of female genital mutilation. Annually over 2 million girls are at risk of this practice, which happens in 28 African countries and a few countries in the Middle East and Asia. (WHO Fact sheet, 1997).

In a representative sample taken from two districts of Uganda, women between 20-44 years reported that 41% had been beaten or physically harmed by a partner (Blanc et al, 1997).

Arab World

In Alexandria, Egypt, domestic violence is the leading cause of injury to women, accounting for 28% of all visits to area trauma units (Graitcer and Youssef, 1993).

A systematic random sample of 1,826 married Arab women (excluding Bedouin) in Israel revealed that 32% had been beaten by their husbands at least once over a period of 12 months (WHO, 1997).

Asia

60 million females, mostly from Asian countries are "missing"- killed by infanticide, selective abortion, deliberate under nutrition or lack of access to health care (Panos Briefing No. 27, 1998).

51% out of a sample of 600 families in a survey in southern Asia reported having killed a baby girl during her first week in life (Neft and Levine, 1997).

Evidence from Sri Lanka shows that 60% of 200 women interviewed said they were beaten by their partners, 51 of the women said their partner used a weapon during the physical assault (Sonali, 1992).

A study in the Punjab estimated that for each rape case reported to the police, 70 went unregistered. Similarly, for each case of molestation filed, 375 were not registered. These were unregistered cases that were documented by victims to *panchayats*, municipalities, *mahila madals* and voluntary organisations (Johnson, Cate et al, 1996).

In Bangladesh, 50 % of wives murdered are killed by their husbands (Stewart, 1989).

A New Delhi study on violence showed that in almost 94% of cases, the victim and the offender were members of the same family. In nine out of ten cases, husbands murdered their wives (Action Aid India 1994).

A study in one clinic in India showed that out of 8,000 aborted fetuses, 7,997 were female. In one year, 40,000 female fetuses were aborted in Bombay alone (Indira

Jaising, 1995, in J Peters and A Wolper (eds.), *Women's Rights,/ Human Rights: International Feminist Perspectives*, New York: Routledge).

In Malaysia, a study revealed that 39% of adult women reported being physically abused by their husbands, while 68% of battered women were abused while they were pregnant (Rashidah, A et al, 1994).

Almost one million children in Asia spend each night providing sexual services for adults. Most of these children are coerced, kidnapped or sold into this multi-billion dollar industry (Asia Today).

Caribbean

In Jamaica, where rape is not a criminal offence, 1,088 cases of rape and carnal abuse were reported in 1989 (The Tribune Newsletter No. 46, 1991).

A study in Barbados found that 30% of women reported being battered as adults and 50% of women reported that their mothers had been beaten (Handwerker, 1993).

Europe

In France, 95% of the victims of violence are women, 51% of them are at the hands of their husbands.(The Tribune Newsletter No. 46, 1991).

In Switzerland, out of a random sample of 1,5000 women between 20-60 years in a relationship, it was reported that 20% had been physically assaulted (Gillioz et al., 1997).

In a random sample of women in the London Borough of Islington in the UK, 25% of women indicated that they had been punched or slapped by a partner or ex-partner (Mooney 1995).

Latin America

It is estimated that in Costa Rica, 1 out of 2 women can expect to be the victim of violence at some stage in their lives. A Costa Rican organisation for adolescent mothers found that 95% of its pregnant clients under the age of 15 years were victims of incest (Treguear and Carro, 1991).

In 1994 a random sample of women in Peru showed that nearly half the women reported sexual fondling in childhood and adolescence, the majority on more than one occasion; more than 1 in 10 reported being raped. (Stewart, et al., 1994).

In Chile, a study revealed that on average 60% of women living with partners are subjected to some form of violence and more than 10% can be classified as serious physical abuse (Inter-American Development Special Report, 1997).

Studies in Ecuador revealed that their partners have assaulted 60% of female residents in Quito's poorer areas. (Inter-American Development Special Report, 1997).

In Argentina, a study showed that 37% of women who had been assaulted by their husbands have had to tolerate this abuse for more than 20 years (Inter-American Development Special Report, 1997).

In Columbia about 20% of women have experienced physical abuse, while 10% have been sexually abused, and a further 34% been abused mentally (Inter-American Development Special Report, 1997).

95% of Mexican female workers are victims of sexual harassment according to a report by the Mexican Federation of Women Trade Unions (The Tribune Newsletter No. 46, 1991).

Government estimates from Bolivia indicate that about 95% of 100,000 acts of violence against women go unpunished (Neft and Levine, 1997).

In a random sample of over 300 women in Mexico, 33% of the women have lived in violent relationships lived in a violent relationship; 6% had experienced marital rape. Of the abused women 66% had also experienced physical abuse, 76% physiological abuse and 21% sexual abuse (Shrader, Cox and Valdez Santiago, 1992).

North America

In Canada, 1 in 4 women can expect to be assaulted at some point in their lives, one half of these before the age of seventeen. Evidence shows that over half of all women murdered are killed by a current or former partner (The Tribune Newsletter 46, 1991).

In a nationally representative sample of 12,300 women above 18 years, 29% of those ever married or in common-law relationships indicated that they had been physically assaulted by a current or former partner since the age of 16 (WHO, 1997).

In the US, surveys of rape among women indicate that 14-20 percent of women would have experienced a completed rape during their lifetime (Panos Briefing No. 27, 1998).

South Pacific, Oceania

In Papua New Guinea, 60% of the persons murdered in 1981 were women, the majority by their spouses during or after a domestic argument (The Tribune Newsletter 46, 1991).

In a random sample survey of 314 women from five districts in New Zealand 20% reported being physically hit or abused by a male partner (WHO, 1997).

The Impact of Gender-Based Violence on Women's Health

The health consequences of GBV include short-term health effects that have non-fatal outcomes such as minor cuts, headaches, pains and bruises. The more long-term health outcomes include organ damage, chronic disabilities, mental disorders, depression and adverse pregnancy outcomes. Fatal consequences such as suicide and murders are common. For a majority of women the persistent insults, abuse, confinement, harassment and deprivation of financial and physical resources may prove more harmful than physical attacks and result in women living in a permanent state of fear and sub-standard, mental and physical health.

Table 1: The health consequences of Gender -based Violence

Health Risks	Health Effects
Childhood Sexual Abuse	Gynaecological problems, STDs, HIV/AIDS, early sexual experience, infertility, unprotected sex, unwanted pregnancy, abortion, re-victimisation, high-risk behaviours, prostitution, substance abuse, suicide.
Rape	Unwanted pregnancy, abortion, pelvic inflammatory disease, infertility, STDs, partial or permanent disability, HIV, suicide, loss of 4.7 million years of productive life, death.
Domestic Violence	Poor nutrition, exacerbation of chronic illness, substance abuse, brain trauma, organ damage, partial or permanent disability, chronic pain, unprotected sex, PID, gynaecological problems, low birth weight, miscarriage, adverse pregnancy outcomes, maternal mortality, depression, suicide gestures or attempts, loss of 4.7 million years of productive life, death.

The WHO information tool on violence notes that women have reported that the mental torture and living in fear and terror was undoubtedly the worst and most profound and long-lasting aspect of GBV. It has become increasingly clear that GBV adversely affects women's lives and well being. However, the manifestations of GBV often go undetected and for a large number of women they may continue living through repeated abuse and assault without any recognition of their ordeal or adequate provision for care or support. Table 1 provides a matrix of the health risks of different forms of GBV and the health effects on women.

Available information on the linkages between violence and psychological ailments comes primarily from research conducted in developed countries. Clearly a lot of scientific evidence is required from developing countries, especially in the area of FGM, early marriage, violence in polygamous relationships, son preference as well as dowry related abuse etc. However, because women from different cultural contexts tend to define violence and abuse differently, it is essential that cultural definitions be before any meaningful research, diagnosis, treatment, support or rehabilitation can be done.

1.4 The Ethical Dimension of Gender- Based Violence

The issue of GBV also has an ethical dimension. Researchers, policy-makers and health workers working with survivors of GBV may, in order to raise awareness of GBV, unintentionally increase the risk of violence experienced by women. Without sensitivity and attention to confidentiality and safety of the individual, survivors of violence may be put in both physical and psychological danger. It is essential that all research on GBV prioritise a woman's safety, thereby ensuring that it is carried out in an ethical and sensitive manner. A publication launched by the Centre for Health and Gender Equity (CHANGE), The International Women's Health Coalition and The Population Council identifies three core ethical principles that provide a valuable guide when researching GBV. These are spelt out below:

Core Ethical Principles

Respect for Persons: Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents; second, that persons with diminished autonomy are entitled to protection. The notion of 'informed consent' derives from this principle.

Beneficence: Two general conditions have been formulated as complementary expressions of beneficent actions. These include to (1) minimise harm (2) and maximise benefits for the individual.

Justice: Justice refers to the equitable distribution of both the burdens and the benefits of research.

1.5. Global Advances in Addressing Gender-based Violence

Recent international conferences and campaigns have resulted to a large extent in increasing awareness and breaking the wall of silence that surrounded gender-based violence. The Convention on the Elimination of All Forms of Discrimination against

Women (The Women's Convention) has several provisions which are applicable to GBV, however, to date thirty countries have not signed the convention. A third of these countries have signed with reservations while 24 others have specifically opposed Article 16, a key provision that guarantees equality between men and women in marriage and family life (UNFPA, 1998).

Nevertheless, globally, women's groups and feminist movements have lobbied and put pressure on governments to enact legislation and policies that punish, prevent or protect women against GBV. In response concerned non-governmental organisations have also established programmes and services to either support, care or inform women who have been abused. Programmes that target changing community attitudes towards GBV have proved most beneficial (Neft and Levine 1997).

Specialist services like residential shelters and refuges, special courts, women's police stations and special desks set up at local police stations have also proved beneficial to women who have survived abuse from their partners. Countries that have specialist shelters and refuges for battered women include the following:

Argentina	France	Netherlands	Thailand
Australia	Germany	New Zealand	Trinidad & Tobago
Austria	Honduras	Pakistan	Turkey
Bangladesh	Ireland	Peru	United Kingdom
Bolivia	Israel	Philippines	United States
Canada	Italy	South Korea	
Costa Rica	Japan	Sri Lanka	
Ecuador	Malaysia	Sweden	

Source: Neft and Levine, 1997: Where Women Stand: An International Report on the Status of Women in 140 Countries.

There are fewer specialist refuges for women in developing countries. Clearly the costs of operating such services require funding beyond the means of most NGOs who tend to do

most of the innovative work on GBV in developing countries. Inter-agency collaboration is key to any effective and ground -breaking work in this area.

Most cultures continue to condone, accept or perpetrate GBV, and societal norms often blame women and hold them responsible for provoking violent behaviour from their partners. Every culture has some proverbs, sayings or jokes that reinforce GBV as a man's prerogative. Sometimes even the law condones GBV.

SEXUAL HARASSMENT AT WORK PLACE THE SUPREME COURT GUIDELINES

(Vishakha & Others vs State of Rajasthan & Others)

In a landmark judgement on August 13, 1997, the Supreme Court of India issued guidelines which recognize the long existent but mostly unspoken harassment that women face at the workplace. Sexual harassment at workplace is real & pervasive. Jokes with sexual undertones, obscene behaviour with sexual overtures, direct Sexual harassment- all of them combine to make the atmosphere in the workplace unhealthy and discriminatory for women. It also seriously affects women's psychological and physical well being. Sexual harassment at work is not a 'personal' problem It is rather a form of gender specific violence which discriminates against women on the basis of their sex. It is a violation of women's human rights, for it violates their freedom and personal dignity. Sexual harassment is extremely widespread: It touches the lives of 40-60 % of working women and a similar proportion of students in colleges and universities. Yet, sexual harassment remains unnoticed, unquestioned and unchallenged.

The incident of the gang rape of a women field worker in the early 90 s in a village in Rajasthan brought this issue to the forefront of the women's movement in India. This village level field worker, employed in the government sponsored Women's Development Programme, was raped by members of an upper caste family as 'punishment' for her efforts to stop a child marriage in that household. Before the actual rape, the field worker had complained about sexual harassment by the accused; complaints which went unheeded by the local authorities, leaving the field worker to fend for herself. One question which arose from the case was, whether apart from the incident of gang rape, the state could camouflage its own prior accountability in the matter? The state's failure to have any functional policy on sexual harassment for its village department workers appeared to cast some degree of liability on the state. This amongst other issues became the basis of a public interest litigation filed by women's organizations in the Supreme Court of India. Following this, the Supreme Court of India passed a judgment establishing guidelines regarding sexual harassment at work.

WHAT IS SEXUAL HARASSMENT AT THE WORKPLACE?

- It is unwanted sexual conduct in a workplace, the forms of which are diverse and numerous.
- It is discrimination against women, for it denies them the right to work in a healthy and rewarding atmosphere.
- Sexual harassment at work is a sex discrimination issue since a person is targeted for harassment because of his or her sex. By requiring a person to exchange sexual favours for economic survival, sexual harassment denigrates the victim, most frequently women, and relegates employment opportunities and promotions that are available to others without sexual considerations. Sexual harassment emphasizes the sexuality of victims over their role as workers and thereby imposes less favorable working conditions upon them’.

Sexual harassment has traditionally been divided into two well-known forms:

- Quid pro quo and
- Hostile work environment
 - i. ‘Quid Pro quo’ literally translated means ‘this for that’. Applying this to sexual harassment, it means seeking sexual favours or advances in exchange for work benefits such as promises of promotion, higher pay, academic advancements etc. ‘He seemed to imply that if I went along with his advances, I would get better opportunities to report stories. This type of sexual harassment holds the women to ransom as her refusal to comply with a ‘request’ can be met with retaliatory action such as dismissal, demotion, memos, tarnished work record and difficult work conditions. “ Not long after I refused to sleep with my supervisor, negative remarks began to appear on an otherwise exceptional work record.”
 - ii ‘Hostile work environment’ is a less clear yet more pervasive form of sexual harassment. It commonly involves conditions of work or behaviour towards a women worker which make it unbearable for her to be there. While the women worker is never promised or denied anything in this context, unwelcome sexual harassment occurs simply because she is a women.

The new sexual harassment guidelines attempt to capture both these forms of sexual harassment through an exhaustive definition, which includes

Unwelcome:

- i. physical contact and advances
- ii. a demand or request for sexual favours
- iii. sexually coloured remarks
- iv. showing pornography
- v. any other unwelcome physical, verbal or nonverbal conduct of a sexual nature

So if someone's words or actions-

- are unwelcome or offensive to you
- make you feel uncomfortable or threatened
- affect your job performance-it is probably sexual harassment.

Impact and Consequences of Sexual Harassment

Sexual harassment at the workplace can have cumulative effects on the whole organization; Its impact on individual women are multiple and all add up to losses for the organization as a whole.

Where sexual harassment has become so unpleasant as to make a workers' life miserable, she will most often seek alternative employment. The employer will on its part incur significant costs in recruiting and replacing such workers, Generally therefore it is in the interest of employers that the working environment ensures that workers are treated with dignity. For society as a whole sexual harassment impedes the achievement of equality; it condones sexual violence and hinders both productivity and development.

Effects on women complainants

The following is a summary of the range of effects sexual harassment can have on a complainant.

Emotional

- revulsion
- anger
- disgust
- fear
- shame
- guilt
- confusion
- powerlessness

Psychological

- anxiety and nervousness
- depression
- feeling of low self-esteem

Physical

- sleeplessness
- headaches
- nausea
- high blood pressure
- ulcers

Consequences for the Employer

For an employer, in addition to sick pay and medical insurance, consequences also include reduced efficiency and increased costs. Less productivity and low motivation of affected women will result in poorer work performance. Costs of recruiting and training new people may also emerge as additional costs especially where an employer has failed to undertake any effective intervention. According to the Commission of European

Communities therefore, in pure economic terms “preventing sexual harassment will save more money than the cost of permitting sexual harassment to continue”

In sum, for employers, sexual harassment can result in :

- lower productivity and employee morale
- increased costs for hiring and training of new employees
- high legal costs and fines
- poor public image

What should you do if you have been sexually harassed?

Below are some suggestions which while not appropriate in many work contexts may provide some direction in terms of what a person affected by sexual harassment might do

- **Tell the harasser to stop.** Given our social context and conditioning, some men as well as women may not recognize that certain kinds of behaviour are harassing at the same time many women are unable to inform a harasser that his attentions are unwanted. Keeping this in mind it is surprising how effective such a statement can be to end harassment before it escalates. It requires an affected women to make clear that she finds the behaviour offensive. If the behaviour persists, a memo may serve the purpose.
- **Keep a record or talk to someone.** Even if you are unable to say anything to harasser, and if it's practical, try to keep a 'diary' of everything he has said and done- messages, cartoons, off- colour comments, inappropriate comments about your appearance etc. Keep a record of dated and as meticulous a record of everything that was said and keep this with you at home. If you are not in a position to keep your record in writing or work in an informal sector, try and relate it to someone in charge in your union. If the harasser is your superior, try to talk to his superior or a trustworthy co-worker. Where NGO groups are assessable and equipped to know about sexual harassment, consult one for advice. It is important for any potential inquiry to be clear about the exact nature of the harassment and when it occurred.

- **Keep your evaluations.** If periodic evaluations of your work have been done, make sure you have copies of them. If your personal file shows that your performance was good before the harassment began, and that it subsequently deteriorated, keeping such documentation will be of help.
- **Get a medical check-up.** If you have been raped or physically assaulted take a friend along and go for a medical check-up. Obtain a medical report. This is important should you decide to pursue a legal case. Once your organization has a policy according to the Supreme Court's guidelines, your employers would have to take on the responsibility for arranging this.
- **Informally raise the issue at work.** Talk to other women in the office, and find out if any of them have had similar experiences at the workplace. It is not uncommon to find others who may have experienced the same but chose to keep silent, fearing the social as well as economic repercussions. Encourage them to talk and support the issue. The new guidelines prohibit victimization of a complainant.
- **File a Complaint.** If there is a complaints mechanism in place then follow the procedure and file a complaint. If one does not exist then encourage your colleagues and others at the workplace to lobby for one with details about the complaint mechanism and members of the Complaints Committee.
- **Remember, the guidelines require the process to be confidential.** Raising the issue or complaining about sexually offensive behaviour that an employee knows of is one step towards creating a largely healthy and safe work environment for all.
- **Guidelines to combat sexual harassment at the workplace.** The guidelines have just begun to receive visibility at the workplace especially in light of a subsequent decision of the Supreme Court of India which reaffirms sexual harassment as human rights violation. Strategies in different work contexts are only beginning to emerge but are not as yet sufficiently broad based to allow for general examples. Whatever the context therefore, strategies should include

examining social messages that do not fit today's work environment. To do so it is important that organizations\ employers undertake the following critical steps.

- An effective policy which defines as well as illustrates the meaning of sexual harassment at work
- Effective & creative preventive mechanisms
- Education/training programmes for all levels \ members of an organization
- Establishing a sexual harassment complaints committee.

The Preventive Mechanism

1. Recognise and Acknowledge Sexual Harassment as an Issue

Behavior that many women or courts can now label as sexual harassment has often been accepted as normal in the workplace. Women have been expected to tolerate off color jokes, demeaning remarks, sexual innendoes, obscene remarks and visuals. In some organizations they may even have faced some activities as offensive as pornography. Such behaviors are often the result of our socialization. It is therefore important as a health and safety issue at the workplace before any kind of education can begin. To do this an employer may begin by a simple but clear statement about the issue to be circulated to employees. This will lend some degree of seriousness to the issue and alert employees to concern about sexual harassment at the workplace.

- * Express prohibition of sexual harassment as defined should be notified, published and circulated in appropriate ways.
- In-house policies on sexual harassment that are communicated at the workplace should be developed. Such policies should be regularly reviewed and circulated to all concerned.
- Affirmatively raise that issue of sexual harassment and its consequences at trainings meetings or any other such gatherings.
- Inform employees of how to exercise their right to raise and talk about sexual harassment both through formal and informal procedures.

- Develop educational methods, such as training programs to sensitize all concerned about sexual harassment at the workplace.
- Amend existing codes of conduct and service rules to include sexual harassment as an Offence and provide for appropriate discipline against the offender.
- Include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946 to cover private employers.
- Provide appropriate work conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at the workplace.

2. Management / Senior level support

- Senior management support and commitment to a harassment-free workplace is a critical strategy to ensure effective training or awareness raising programs. In the absence of such commitment and support it will be difficult for any awareness programs to succeed.
- Most importantly, if a workplace has not established a sexual harassment policy, there is a need to encourage it to do so in compliance with the Supreme Court guidelines. Initiating training is one way to ensure some degree of awareness about the law and organizational liability under it. It may not always be possible to have the policy in place prior to training, but initiating the process of creating such a policy is critical to ensure long term benefits of such training.
- A letter or statement from a senior person or team should go out to members of the workplace announcing an upcoming sexual harassment program. It should indicate senior level commitment to eliminating sexual harassment at the particular workplace, the goals and broad outline of a training programme and whether attendance is mandatory (this may vary according to context). This should then be followed up with subsequent detailed information about the program itself.
- Management support can also be demonstrated by having senior members of the management open different training sessions. It provides a strong display of management commitment and its stand on the issue.

Complaints Mechanism

The complaints procedure involves a complaints committee which may either directly or indirectly take on investigation of the case. Mandatory prerequisites for such a committee are that it

- Be headed by a women
- Have half of its members as women
- Include a third-party representative from an NGO or any other agency conversant with the issue of sexual harassment (to prevent undue pressure from within the organization with respect to any complaint)
- It handles complaints in a confidential manner and within a time bound framework
- It prepares an annual report on sexual harassment cases to be submitted to the appropriate government department and report on action taken by the committee.

Additional practices to be undertaken by the complaints committee include

- ensuring prominent display of the names and contact numbers of the members of the complaints committee
- creating awareness about the issue
- dissemination of information material about the issue
- Lobbying for a policy on sexual harassment at workplace & working towards an equal, safe and health work environment.

A GENDER PERSPECTIVE ON HEALTH DEVELOPMENT

MEERA CHATTERJEE**

A Gender Perspective in Health

A gender perspective on health recognizes, first, that there are differences in the health status of women and men- in the nature and extent of illness and disability suffered by each, and variations in their ensuing patterns of mortality. Second, a gender perspective appreciates the diversity of reasons underlying these differentials. The reasons arise not only from the biological separateness of women and men, but also from their disparate social and economic situations. Social and economic factors, such as knowledge, income, or physical isolation, determine people's health-seeking behaviour-whether they perceive that an illness needs treatment: whether they seek treatment: what treatment they seek; and whether they persist until they are cured or relieved . Socio-economic factors also influence the value people attach to preventive health measures and health education, and whether they practice them.

In the Indian context, where women are known to be socially and economically disadvantaged compared with men, a gender perspective in health is not a luxury. It is the very essence of ensuring 'health for all'. Health planning must take into account not only the distinct biological nature and roles of women and men, as health and biology are closely related, but must consider as well as the social and economic constraints faced by each in acquiring health, knowledge and care. Thus, to achieve equitable health development, which is our national goal, it is necessary to have a holistic approach to women's health, in addition to children's health and men's health.

What is a 'holistic approach to women's health'? Such an approach stems from a realization that women play multiple roles in India's economy and society. They are

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workers, both in the economic sphere and in the domestic arena; they are wives, mothers, community members and leaders. Good health is essential to ensure their economic productivity, active social and political participation, and reproductive success.

Thus, health care for them must encompass the prevention and treatment of common illness, major diseases, and socially-induced problems; environmental health, occupational health, nutrition, and reproductive health.

Globally, recognition of women's 'multiple roles', and hence of their 'entitlements' has evolved significantly over the past 20 years, since the First World Conference on Women. During this period, paradigms in the health sector also have shifted considerably. To what extent have the changes in each of these areas been complementary? What have been the significant gains for women, and lamentable losses? What is the future likely to hold, and for what does it call? This article explores these questions, with the objective of urging the health and family welfare sector in India on to a more gender-sensitive course. This would increase its gender equity and, hence, benefit society at large in terms of health and development.

The First World Conferences on Women

In 1975, the First World Conference on Women promulgated 30 principles on the equality of women, and on women's contribution to national development and international peace (United Nations 1975). A Decade of Women, 1975-1985, was declared by the United Nations, and among the 14 minimum objectives to be achieved by member countries in the first five years of the decade was: 'Increased provision of comprehensive measures for health education and services, sanitation, nutrition, family education, family planning and other welfare services.' The development-oriented list of objectives included: improving women's literacy, vocational training, employment opportunities, terms and conditions of employment, participation in policy-making, and civil, social and political rights.

Within this agenda the health objective was weak. Health was not recognized as a right, nor was it seen as fundamental to women's ability to avail of social, economic and political opportunities. Health services, sanitation, nutrition, family planning and health education were grouped together in one brief point, even though, in most countries, several implementing sectors would be involved. Thus, this first international document for women would have to be considered inadequate in bringing attention to the important role of health in enhancing women's participation in development or calling for holistic health for women.

India's Effort 'Towards Equality'

India went to the Mexico Conference with its own substantial oeuvre, 'Towards Equality', the 1974 Report of the Committee on the Status of Women in India (CSWI; GOI 1974). The CSWI had studied the changing status of women since Independence, examined the impact of social change on them, and recommended measures to enable women to play their rightful role in nation-building. Concerned greatly with the continued subjugation of women under prevailing social attitudes and practices, the committee devoted considerable attention to legal provisions requiring reform. The report had a comprehensive chapter on the economic participation of women which recommended improvements in women's work opportunities, conditions and wages. The chapter on education was similarly far-sighted, advocating universal elementary education, non-formal education, removing gender bias in curricula, co-education, and the teaching of 'equality of the sexes' as a value.

In a vein similar to the UN Declaration, this report treated health and family planning separately from the issues of economic and social participation. Its analysis did have a gender perspective, calling attention to the poorer health status of women compared with men, and to women's low access to medical care. It pointed out that maternal and child health (MCH) and general public health services were being neglected due to 'over-concentration on efforts for family planning.' It therefore supported the proposal of the Draft Fifth Plan to re-integrate family planning (FP) with general health services,

affirming that improvements in life expectancy among women and children would provide greater impetus to the adoption of family planning than reliance on 'motivation' and 'incentives'.

The CSWI report was far-reaching in many respects but, in 'gender hindsight', its approach to health suffered from a major flaw: it viewed women's health largely as a maternity and contraceptive issue, focusing on MCH, FP and Medical Termination of Pregnancy. Despite its focus on women's productive roles in the Indian economy, it looked only at their reproductive roles when considering health needs. Although it recognized that women's access to health care was poor, it did not deal squarely with the need to improve this, to reduce their susceptibility to disease, cure them of illness, lessen disability and enhance productivity. Thus, while the 'women's development' paradigm had shifted to focus greater attention on economic roles, there was no commensurate shift in the 'women's health' paradigm.

Health Developments in the First Decade for Women

In the 1975-85 Decade for Women, while declared health policy began to favour women, its implementation experienced several ups and downs. The period from mid-1975 to early 1977, the declared 'State of Emergency', is associated most with the use of pressure tactics by health administrators and workers to increase family planning acceptance. This was to the detriment of almost all other health activities. A gender perspective on this period might suggest that women were better off than men under the circumstances. Men were the main targets of the family planning drives and camps. It is widely believed that many who were not 'eligible'-ie.not married to women in their reproductive years, but considerably older or younger-were sterilized. 'Acceptors' had virtually no choice between methods because of the urgency to meet method specific targets. Many were subjected to unhygienic camp conditions; and operation failures due to poor technique were reported. Although the 'excesses' of the Emergency are known to have been greater in the North than in the South, the family planning programme suffered nationwide as a result of this experience.

Women's health also lost ground on account of the Emergency because family planning completely overtook health care, including maternal and child health services. While MCH activity had increased in the early 1970s when immunization, anaemia prophylaxis and vitamin A administration were included among the services, women's access to public health services was still quite limited. An attempt has been made in the mid-70s to correct the imbalance between family planning and MCH work by assigning ANMs (Auxiliary Nurse Midwives) MCH targets. However, this was unsuccessful-possibly because there were no penalties for defaulting on MCH targets while failure to meet FP targets was met by strong censure. In practice, therefore, the disjunction between MCH and FP continued. Further, the debacle of the Emergency left the family planning machinery paralysed for some years before these distortions began to be rectified. Thus, even the recommendations of the Committee on the status of Women, to improve and expand MCH services, were not followed at the beginning of the UN Decade of Women.

Some positive Health Developments

However, some processes that were underway and developments later in the decade were potentially beneficial to women. These included several efforts to provide health services close to village homes. In 1974 a significant step had been taken towards rationalizing health services at the village level: the inception of the Multi-purpose Workers' (MPW) Scheme. A key objective of this scheme was to integrate health and family planning services. It was planned to have a male and female worker at each sub-centre (catering to 5000 people), with the female MPW taking care of MCH and family planning work, and the male worker performing other public health tasks and motivating male acceptors for family planning. Importantly, this approach addressed some problems which female workers (ANMs) in the health system were facing-heavy work burdens, inability to cover large catchment areas because of a lack of mobility, and poor physical safety in isolated rural areas. By 1985 almost 85,000 sub-centres had been established, but the male of MPWs were functioning poorly because of administrative and legal bottlenecks and training inadequacies. Many of these problems have yet to be resolved.

An on-going programme that served maternal health needs directly at the village-level was the Dai Training Scheme. In 1974 this was revamped with the aim of significantly reducing illness and death due to pregnancy and childbirth among women and infants. It was proposed to have at least one trained dai in every village by the end of the Sixth Plan (1980-85) to carry out basic pregnancy care and hygienic deliveries. Indeed, by 1985 about five lakh dais had been trained. Unfortunately, however, evaluations conducted during the period pointed to some problems. The most serious of these was that the trained dais were not being adequately supported by health staff at higher levels with supplies and 'continuing education'. Thus, many reverted to their traditional practices, thereby depriving women of proper care and referral advice. After some uncertainty, this scheme was revived and efforts made to correct its deficiencies.

In 1975, the Government piloted the Integrated Child Development Services (ICDS) Scheme. This programme had the potential to cover women and children with health and nutrition care because it was based in villages, with women from the communities providing these services, as well as pre-school education and non-formal health and nutrition education to mothers. The work of ANMs was to be integrated systematically as they liaised with and supported the health activities of the Anganwadi Workers to ensure complete MCH coverage of their populations. ICDS was extended to 1000 blocks (out of over 5000 in the country) by 1985. It showed great promise in terms of addressing some major causes of child mortality, such as severe malnutrition and diarrhoeal diseases. However, its benefit to pregnant and lactating women remained low as it was not accompanied by adequate communication efforts to address traditional resistances to women eating more during pregnancy, or ignorance about the need for care during pregnancy.

Among MCH services provided by ANMs and at anganwadis is immunization. In 1978, after the success of the small pox eradication campaign, the Government initiated an Expanded Program of Immunization. Until then, fewer than 3 out of 17 million pregnant women were protected against tetanus each year, and less than 6 million doses of DPT

vaccine were being administered to young children. By 1985, the number of pregnant women receiving DPT doubled to about 12 million. Among other MCH services, prophylaxis against anaemia in women is of great importance as this health problem is very widespread, affecting at least a third of all Indian women. However, upto 1985 fewer than 6 million women in the country received treatment annually.

Another village-level effort, the Community Health Worker(CHW) Scheme, was initiated in October 1977 in a major move to vest responsibility for health within rural communities. This scheme was potentially very valuable to women, confined to their homes and villages. The guidelines for the scheme provided for CHWs to be selected who were community residents, of either sex, under 30, literate , and acceptable to all groups within the community. They were to be part-time workers, trained in the major diseases, environmental health and hygiene, MCH and FP, nutrition, first aid, treatment of minor ailments, some indigenous medicine and mental health. By 1985 over three lakhs CHWs (later called Health Guides) had been trained. Some difficulties which had come to light early had been default with in revisions of the scheme. In particular, recognition that MCH activities were neglected where workers were men, a decision was taken in 1981 to recruit women preferentially and later to replace male guides with women. In 1985 less than a fifth of the trained Health Guides were women. In the 1981 revision, greater emphasis was placed on community management of the workers, and a provision made to establish Village Health Committees which would play an active role in MCH and FP. Unfortunately, even by 1985 many administrative problems had arisen which virtually rendered the Health Guide's scheme inoperative. Yet, it remains important to have village health workers who can provide simple care and treatment, especially to women.

Health Policy Shifts during the Decade

In 1978, India signed the Declaration of the World Health Assembly promising 'Health for All by the Year 2000' through improved and expanded Primary Health Care. This government subsequently developed this commitment into proposals through two reports.

The first of these, prepared by a joint committee of the Indian Council for Social Science Research and the Indian Council for Medical Research, advocated radical change in the path that India had been following to health (ICSSR-ICMR 1981). It proposed a more community-based structure for health services, and gave nutrition and environmental health concerns unusual and long overdue - attention. However, for women, the focus on maternal and child health services continued. While emphasizing the family planning should become a 'people's movement', this report nevertheless set high targets for the achievement of greater couple protection and lower fertility rates. It also proposed, and that too so soon after the Emergency, that emphasis on terminal methods should continue, intensive family planning efforts should be made with men, and incentives used widely. This document was followed by the report of a working group of the Ministry of Health and Family Welfare which detailed out aspects of the service system for the future (GOI 1981a). Prominent among its recommendations was a proposal to introduce an additional layer in the health structure, a Primary Health Centre (PHC) for every 30,000 people.

On the family planning front, following the induction of the new government in 1977, the programme was renamed the Family Welfare Programme. In policy documents issued around this time, a shift away from population control to individual and community needs and aspirations, quality of life, and overall development, is clearly discernible. This was a return to the 'development-is-the-best-contraceptive' philosophy which had been enunciated by India at the 1974 World Conference on Population at Bucharest. It was believed that demand for contraceptive services would result from successful development efforts. This policy direction was affirmed by the sixth Plan (1980-85) document in which the principles of voluntarism, choice among methods, services close to the doorstep, information sharing, participation, integration of FP with health and other socio-economic development efforts, and the importance of female literacy were clearly stated (GOI 1981b).

However, unstated by policy, a major change occurred as a result of the backlash to the emergency family planning drives. After 1977-78 women became the main 'targets' and acceptors of family planning. The pressure exerted on them was motivated more by

population control objectives than by their health or life cycle needs. The separateness of family planning and maternal health care had already diminished the potential of family planning to be delivered in a gender-sensitive way, taking account of women's needs and families' aspirations. Further, the isolation of FP from general health services meant that women's health needs were not dealt with even when they adopted family planning.

Improvements in Health during the 1975-85 Decade

There are few statistics available to judge the health of women during this period other than macro health indicators. The country's overall death rate declined about 25 percent, from 15.3 deaths per 1000 people in 1975 to 11.8 in 1985. However, the female death rate remained higher than that of males throughout the period, due to higher mortality among female children, adolescents and women up to 35 years of age, compared with men of the same age. Only after the age of 35 did women survive better than men. Infant mortality, which had been stagnating at high levels until 1975, also dropped significantly during the decade, from 132 deaths per 1000 live births in 1975 to 97 in 1985. The female infant death rate which was initially much higher than that of males achieved near parity. Because of these features of mortality decline, and the slight upward turn in the sex ratio recorded by the 1981 census (from 930 females per 1000 males in 1971 to 933 in 1981), it was generally believed that the historical situation of worse health status among women was reversed. However, data gathered subsequently, have shown that women are still disadvantaged compared with men in matters of health and survival.

Little can be said about gender differentials in aspects of health such as disease rates, because most such health statistics are not available disaggregated by sex. However, from health care utilization surveys conducted during the period we know that women had very low access to general health services. Mostly, their common health complaints remained unattended or treated by home remedies. If they sought outside assistance, it was most often from a local, traditional practitioner. About 8 percent of women respondents in several large-scale surveys said they used government primary health services, and a further 17 percent said they utilised higher level hospital facilities. In

effect, public health services catered to only a quarter of women's health needs. These surveys also revealed that only about 13 per cent of pregnant women in rural areas registered for ante-natal care at public facilities, and only eight to ten per cent of deliveries were attended by trained government personnel. While the coverage of eligible couples with family planning was higher at about 32 per cent across the country, even this was below expectations, given the tremendous emphasis that had been placed on this function of the public health system over several decades.

Indeed, between 1975 and 1985 fertility rates declined only slightly. The Total Fertility Rate (the number of births per woman on average in a lifetime) declined from 5.2 to 4.8 and the birth rate (number of births per 1000 people per year) fell from 35.2 to 32.7. In each case the decline was about eight per cent. Because these declines were not commensurate with reported FP acceptance figures and Couple Protection Rates, demographers began to point out that family planning efforts did not seem to be bearing fruit in terms of reducing fertility. These findings led to the realization that the quality of both family planning services and statistics needed improvement in the years ahead.

Forward-Looking Strategies for the Second Decade

The 1985 Nairobi Conference for Women saw employment, health and education as the three critical needs for women to achieve 'equality, development and peace' (United Nations 1986). It framed 'forward-looking strategies for the advancement of women' on the basis of experience in the First Decade. In health, it called for the promotion of 'the positive health of women at all stages of the life cycle, bearing in mind the productive role of women and their responsibilities for bearing and rearing children.' Attention was to be paid to all of women's health needs, particularly by improving their access to health facilities. It emphasized the importance of women as health care providers both within and outside the home, and therefore called for attention to the working conditions of women health workers and for more women managers of health care. Women's participation in local health organisations was also viewed as important. Nutrition, treatment of common and endemic diseases, maternal health, occupational health, fertility

control, and greater sharing of family responsibilities by men were other important areas identified.

India's Country Paper drew attention to the continued poor health status of mothers, their low access to pregnancy-related care, and malnutrition among women in the reproductive age group (GOI 1985). However, it recognized that the wider problem of malnutrition among women was related to their special vulnerability in poor households, and hence called for poverty-alleviation through women's employment and improved purchasing power. It saw health (as well as child care services) as essential to women's participation in the labour force. It positioned family planning clearly in the context of improving women's access to employment, seeing the bi-directionality of these two areas. The paradigm had changed somewhat, with family planning (rather than health, as in the Nairobi document) being viewed as one prong of a three-fold strategy for women's development, the others being economic independence and education.

These approaches were expanded upon in the National Perspective Plan for Women, 1988-2000, whose preparation began in 1987 (GOI 1988). This document states: 'To improve women's health status, there is no doubt that the general health services have to be made to respond to women's specific problems.' It saw improved access to basic health services by making these available close to homes as most important, along with pregnancy care and amelioration of malnutrition. A separate section was devoted in its recommendations on health to the needs of non-pregnant women-women with chronic or serious illnesses, mental illness, and subjected to occupational hazards. The recommendations for family planning stressed the role of contraception in ensuring women's control over their bodies, the need for choice, counseling and follow-up of contraception, and increasing availability and acceptance of spacing and of male methods. For the first time, this report drew attention to their needs of younger girls and adolescents, because of existing gender disparities in the health of these age-groups, and because it was recognized that many health problems of older women were rooted in problems experienced at younger ages.

This move to a more holistic approach to women's health, taking into account both the productive and reproductive roles of women, was reflected in another important report tabled at about the same time, Shramshakti the Report of the National Commission on Self-employed Women and Women in the Informal Sector (GOI 1988a). This document drew greater attention to occupational health issues; the need for all women to have access to health, nutrition and family planning services; and the need to address health problems which are induced by social abuses such as alcoholism, rape, sexual molestation, prostitution, and so on.

Health Advances in the Second Decade

The Second Decade for women began with the 1983 National Health Policy on the anvil of implementation (GOI 1982). The policy aimed to provide 'health for all' by making basic health care widely available. It gave pride of place to the community health worker and dwelt on community participation in health care. It recognized the importance of social and economic development to health, giving responsibility for health improvement to several sectors of development. Thus it made clear promises to reach out to those who had remained beyond the pale of formal health services, to give people control over health care, and to improve living conditions which affected health. Women would clearly be among the major beneficiaries of these policies.

However, during the decade, the path to health deviated considerably from that mapped out by the policy, with some developments rendering 'Health for All' a distant dream. Prominent among these was the continued stalemate with the Health Guide's Scheme. Very slow progress in raising living standards and continuing lack of education for vast numbers of people, especially women, stymied the contribution of the social and economic development vector to health. Despite economic growth, almost 40 percent of the population continued to live in poverty; and despite increases in food production, there was little improvement in the nutrition of the poor, whose women and children are at greatest risk of malnourishment. On the other hand, some developments in the health sector increased women's access to health care for themselves and for their children,

contributing to improvements in health. These included: increases in rural health infrastructure, the Universal Immunization Programme, the inception of the Child Survival and Safe Motherhood programme, and the further expansion of ICDS.

During the Seventh Plan period (1985-90) the number of rural health centres increased remarkably, in large part due to the introduction of the 30,000 PHCs, and by the opening of over 45,000 additional sub-centres to meet population norms. However, the focus on meeting numerical targets for the establishment of facilities was perhaps at the expense of attention to their quality. There is still much to be done in terms of ensuring adequately trained staff or sufficient equipment, drugs and supplies. Many health centres are consequently inefficient and under-utilized. At the same time, outreach services from PHCs and Sub-centres are inadequate on account of poor management and inattention to 'software' such as training and communications.

1985 marked the start of the 'universal' immunization programme (UIP) which aimed to cover every pregnant woman with tetanus toxoid and at least 85 per cent of infants with complete immunization against six major childhood diseases. The major difference between this programme and the earlier Expanded Programme of Immunization was the UIP was implemented on an intensive area basis. Each year from 1985-86 a number of districts were selected, district-specific plans were prepared for improvements in facilities, provision of supplies, and work schedules, until the entire country was covered in 1989-90. While the number of mothers covered by EPI had increased from about 1.5 million in 1975 to 9.4 million in 1985, by 1990 under UIP the number increased to 17.8 million. Since 1990, UIP has been in a consideration phase to further improve its coverage. The number of pregnant women covered in 1992-93 reached 21.4 million, which is still short of the estimated 27 million women who give birth every year. While families have come to appreciate and accept immunization for their children, they are still reluctant to immunize women. Similarly, acceptance of iron supplements to guard mothers against the severe effects of anemia during pregnancy is low. Anaemia is one of the leading causes of maternal mortality, accounting for one-fifth of maternal deaths in the country, and underlying deaths due to three other major causes. Poor acceptability

and deficiencies in the delivery system meant, however, that fewer than 30 percent of pregnant women received this assistance annually up to 1992.

An important effect of UIP has been that it established a system of contact between ANMs and 'target' mothers and children. This system has been used to extend other services to them under the Child Survival and Safe Motherhood (CSSM) programme, which was launched in 1992-93, and aims not only at improving child health but, importantly, at restoring the 'M' in MCH. To the services that existed earlier (immunization, oral rehydration treatment for diarrhoea, and nutritional prophylaxis), the CSSM programme has added: hygienic delivery kits to pregnant women and trained dais; an enhanced fee to the dais to report births; sub-district First Referral Units (FRUS) for emergency obstetric care; improved newborn care; and control of acute respiratory infections in young children.

The Child Survival measures are being introduced in a phased manner to cover all districts in the country by 1996-1997, while the Safe Motherhood components are being introduced with Central support in up to 218 districts, also in phases. The CSSM programme aims to expand coverage of pregnant women with iron prophylaxis, and reported that in 1992-93 about 59 per cent of pregnant women were given the recommended number of tablets. However, coverage of deliveries with trained birth attendants remains low, and the establishment of FRUs has been delayed. In general, the Safe Motherhood components lag behind the Child Survival interventions.

As the Second Decade has advanced, India has made additional progress towards better health, judging by overall demographic indicators. General mortality fell a further 15 per cent between 1985 and 1992 to 10.0 deaths per 1000 people; and infant mortality by almost another 20 per cent to 79 deaths per 1000 live births. Fertility declined by 11 per cent to 29.0 births per 1000 people. It is difficult to say, however, how much of these improvements benefited women directly-particularly as the 1991 Census showed some disturbing trends. Not only had the overall sex ratio declined further from 933 females per 1000 males to 927, but substantial gaps were found among younger age-groups, and

drastic declines had occurred in a large number of states and districts. These trends demonstrate deepening gender disparities in matter of health and survival.

Summing Up the Past Two Decades for Women

In sum, there have been many conflicting trends in the past two decades. While rhetoric pertaining to national policy-making for women evolved substantially from a focus on their maternal role to highlighting other social and economic aspects of their lives, in the health sector the preoccupation continued to be on motherhood and family planning. While espousing principles of community-based care which would reach women with services to deal with their common health problems and serious illnesses, the health sector continued to expand fixed-location facilities with inadequate attention to outreach services. Available outreach services focused on immunization-with children served better than mothers-and family planning. Despite the achievement of a fairly high couple protection rate by 1993-43.4 per cent, family planning continued largely to exclude men-96.5 per cent of sterilization operations were performed on women in 1992-93, even though the male method is simpler, cheaper and safer. These 'Technology-based' and 'single-operation' type of outreach services fall short of the broad-based care which would address the major health needs of women.

Looking to the future

In 1994 the International Conference on Population and Development (ICPD) brought about another 'paradigm shift' in the field of health. First, it reasserted the philosophy that development is critical to bringing about population change-development encompassing poverty reduction, women's empowerment, reduced social inequities, and economic growth. Second, it affirmed that reducing ill-health and suffering is fundamental to development; and that alleviating poverty and improving the status of the socially disadvantaged, especially women, are essential to improving health. Third, it brought into the realm of population the concept of women's rights, including their right to better health and to choice and safety in reproduction. Thus, it advocated that family planning

programmes be widened into reproductive health care. In this context, it emphasized a fourth point: that men need to be made more responsible for and involved in changing sexual and reproductive behaviours.

Reproductive health care encompasses a range of services, many of which are already included in the CSSM programme and family planning services in India. These are: Safe Motherhood services; infant and child care; a range of contraceptive methods, including male methods; safe abortion; and a referral system for problems which require treatment at a more advanced level of medical care. However, reproductive health calls for some services and approaches which have not been part of (or have been neglected in) health care in the past: information and counseling for couples to make an informed choice of contraceptives method, with screening for contra-indications, follow-up and treatment of side effects; information, education and counseling on sexual development and sexual relations to both men and women; screening, diagnosis and treatment of reproductive tract infections and sexually-transmitted diseases(which, except for efforts related to HIV transmission, have been limited); and adolescent health care and education in matters related to sexuality, reproduction and health.

Implementing the reproductive health approach is synonymous with delivering better quality services, paying attention to the rights of clients to personalized care. Services must be made available in an atmosphere in which gender relations are well understood and properly addressed. Two significant needs to create this environment are: (1) to involve men more in matters of health, child-rearing and family planning; and (2) to sensitize health staff and managers to the social situation and needs of women, thus giving them a suitable 'client-orientation'. These requirements call for better training, especially in communications, counseling and management of outreach work. All personnel, including doctors, who deal with clients and sensitive matters such as sexual behaviour, reproductive infections and family planning need to be oriented to gender issues: the differentials that exist in health and survival between men and women; the underlying socio-cultural reasons for the differences; and the complete health needs of women.

Several government efforts in recent years have prepared the ground for the reproductive health approach. In 1992, an Action plan for Revamping the Family Welfare Programme was framed (GOI 1992). The main thrust of the Action Plan is on improving the quality and outreach of family welfare services-focusing on consolidation rather than expansion, improving maintenance, supervision, worker (especially ANM) support systems, and training staff, especially in motivation and counseling; and reorienting Information, Education and Communications (IEC) efforts to focus on interpersonal communication. It proposes that FP services should extend coverage of younger couples; introduce better quality and new contraceptives; strengthen urban delivery systems; sustain UIP and strengthen MCH services; possibly revitalize the CHW scheme; and involve non-governmental organizations to promote people's participation in the programme.

The Government has also proposed to do away with method-specific contraceptive targets and incentives (including cash compensation for acceptors of sterilization). These are most welcome steps. Eliminating targets will be helpful in rectifying the imbalance between FP and the provision of MCH and other health services, especially by ANMs who have borne major responsibility for targets to date. The Government has already embarked on an experiment to do without targets in one district in every state, following success with the approach in a district of Tamil Nadu. Similarly, eliminating cash incentives would ensure that clients are not enticed by the incentive payment on account of economic compulsions, and want and get the contraception they choose.

The government recently announced the establishment of a Technology Mission for Family Welfare, focused on the four Hindi-speaking state (Bihar, Madhyapradesh, Rajasthan and Uttar Pradesh) which include 83 of the 90 'poorest performing' districts in the country. The objectives of the mission are to achieve 50 per cent couple protection in each state by 2001 and reduce each state's birth rate to 26. This is to be done by generating universal awareness of and providing universal access to family planning services, MCH and reproductive health care. It is proposed to focus on younger women-15-19 year-olds, and 20-29 year-olds, who account for over 77 per cent of births in the country but have been low acceptors of family planning. This focus will clearly call for

family welfare services to take a broader view of women's lives and needs-as delaying births among the youngest age group, and inculcating the 'small family norm' among women in their peak reproductive years requires attention to their familiar and social situations, knowledge base and alternative opportunities. As the four states have very low levels of female literacy, work participation and low women's status in general, it will be necessary to address gender issues and wider aspects of women's development for the programme to succeed. To this end, close co-ordination is called for between at least the departments of family welfare and education, Women and Child Development (for nutrition), and Rural Development (for income generation).

In order to succeed, the Family Welfare Programmes needs to generate widespread community support, perhaps building on the 'unmet demand' that exists among women for its benefits. For this purpose the scheme to form women's health groups, Mahila Swasthya Sanghs (MSS), which was initiated in the Eighth Plan, should be intensified because the group approach can empower women broadly. Through groups, service providers such as ANMs can interact with a large number of women simultaneously to increase women's access to information and services. The women themselves can share information, help dispel fears, assist individuals decide what is best for them, and provide each other social support and assistance, for example, to go to health centres in emergencies. Women's groups can also increase awareness of other health matters, development programmes and women's rights. Thus, they can play a role in reducing the abuse of women, including domestic violence, rape and prostitution. Further, they can be the nuclei of community-based care, involving village health workers, dais, link workers, mobile clinics, and so on. The collective mobilization of women around their needs and interests is a way to promote gender equity. By fostering their formation and supporting initiatives to address women's health and development more broadly, health policy-makers can play an important enabling role in women's empowerment.

In this connection, it is worth referring to the Report of the Expert Group on Population Policy on a Draft National Population Policy which was tabled in 1994 (GOI, 1994). This report strongly advocated a decentralized planning approach to population activities and

intensive local involvement in implementation. This 'local specificity' is largely necessitated by the differing conditions of women across the country. Local planning and implementation would involve panchayati raj institutions, and particularly the women elected to them (a total of one million throughout the country when all state elections have been held). This will be an important means to bring about gender equity in plans for health and family welfare, provided the women in the panchayats are socially and professionally empowered. Together with community women's groups including mahila mandals, DWCRA groups, and groups associated with other government programmes such as Mahila Samakhya, women members of panchayats could bring a gender perspective to health and family welfare programmes.

The proposal also advocates that ANMs (Female MPWs) and Male MPWs be supervised by gram panchayats, with Medical Officers and LHVs (Lady Health Visitors) from PHCs providing technical back-up. Ultimately, the MPWs are the key to providing health services to women 'at the doorstep'. ANMs could, indeed, improve health care for all women. However, to bring this about the health system will need to address some gender issues which arise within it. In addition to societal gender inequities which have constrained women's interactions with the health system, gender bias within the health system has affected the provision of services to women. For example, while ANMs and LHVs (Lady Health Visitors) shoulder the major burden of outreach care and its supervision, they have been poorly assisted in terms of mobility and security, inadequately trained to perform their jobs efficiently and comfortably, and provided little supportive supervision. There are few women at higher levels of the health service hierarchy. The paucity of female doctors has had the further effect of limiting women's access to health care as the Indian social context restrains women from approaching male health providers. Both the medical profession and health administration have been dominated by men, which is perhaps another factor in the neglect of women's health and 'targeting' of women for family planning. To increase the institutional responsiveness to women's needs, many more women need to be involved in policy-making, and decision-making, particularly at intermediate levels such as the district, where program planning is done. An affirmative action approach is needed to ensure adequate-not just token-

numbers of women, as critical mass is important in bringing about change for gender equity. Rectifying these problems to give ANMs and LHVs the status and support they require, and increase the number of women doctors and health administrators poses a major challenge in the years ahead.

The Expert Group on Population also advocated integrating MCH and FP with other health services, as part of its holistic approach to health. It called for redressal of the current situation in which the brunt of sterilization is borne by women, by inculcating a 'culture of joint responsibility' for family planning decisions, shifting the onus away from 'women only'. One of the more important steps to achieving this would be the revitalization of the male MPWs who could increase public health activities at the village-level and educate and motivate men for both *family health* and family planning. This would in turn leave female MPWs more time to concentrate on women's health. Thus, an important strategy to achieve gender equity is to increase the role of men in health and family welfare.

Going beyond the reproductive health approach, India's Country statement at the ICPD pointed to the importance of women's empowerment (GOI 1994). It stated that 'raising the status of women' is a national imperative which should be reflected in our population policies, along with eradication of poverty, provision of minimum needs, and improving productivity. The document dealt at length with development efforts and legislation needed to empower women to make their own decisions in the spheres of reproduction, economics and politics.

In the end--and for the future--it is most important to realize that gender and social equity are critical to achieving national health and population goals. Experience to date with family planning has shown that 'targeting' women without considering the broader social relations in which they live stymies the achievement of family planning goals, let alone improvement of their overall health and quality of life. Thus, the health and family welfare sector must adopt strategies to increase gender awareness and sensitivity in the system, and encompass efforts to address the social conditions in which health behaviour

is formed. Similarly, policies must promote a positive social perception of women by recognizing their multiple roles and responsibilities, and their potential to assist one another as workers, leaders and group members. More gender-aware policies would focus on creating conditions which improve women's access to health services and to the wider benefits of development.

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GENDER BIAS IN LAW

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Laws are rules made for the smooth conduct of the society. These rules subscribe to be equitable, fair and just. The hallmark of a civilised society is that it believes in practicing rule of the law. However there exists a great hiatus between theory and practice. In this paper I do not attempt to give a detailed account of each and every law that fosters gender-bias overtly or covertly. This paper instead attempts to give a general overview of gender-bias in criminal, personal and labour law and describes how when they want to, women can use law to effectively take control of their lives.

The stories of those women who have been able to access their rights under the law flow out of my interaction with them in the course of conducting Legal Literacy Workshops (LLW) with grass root women workers of various NGO's in northern India. The stories were collected in the course of evaluating the efficacy of LLW's as means of empowering women by helping them to assert their rights.

Before the various provisions under which the Personal Law, Criminal Law and Labour Law are discussed, it is pertinent to mention the relevant Constitutional mandates. The Constitution of India is the fountain-head from which all legislations flows. The Preamble to the Constitution solemnly resolves to secure to all citizens equality of status and opportunity, and also justice-social, economic and political. Article 14 of the Fundamental Rights confers "equality before the law and the equal protection of the laws" and Article 15 (3) permits, "any special provision for women and children". What this means is that the state can make laws, Policies and issue directives that will give women a special treatment than men without being violative of the mandate of Article 14. Article 15 (3) seeks to remedy the discrimination that women have suffered over the years by providing avenues that will bring them at par with men.

Chapter IV deals with Directive Principles of State Policy which are intended as guidelines that a social welfare state must keep in mind while making laws. One of the three women specific Directive Principles of State Policy directs the state to ensure equal pay for equal work for both men and women, protecting the health and strength of workers-men and women (Art 39); just and humane conditions of work and maternity relief (Article 42) and Article 44 which requires the state to take steps to establish a uniform code incorporating equal rights for women and children. The fundamental duties of citizens include "to renounce practices derogatory to the dignity of women."

Having said that, let us look at how the existing laws fulfil or fail to fulfil the constitutional mandates. There are numerous reasons why this is so, but perhaps the most important reason is the adherence to religion and its dictates. No where is it more prominent than in personal laws.

Personal Law

Personal laws deal with marriage, divorce, maintenance, custody of children and adoption. In our country the personal laws are based on religion. Accordingly Hindu, Muslims, Christians and Parsis have separate laws covering marriage, divorce etc., in doing so, the legal system has formalised many practices in the name of religion and custom, that perpetuate suppression of women.

Section 9 of The Hindu Marriage Act 1955 for instance provides for restitution of conjugal rights. This is valuable to both men and women. This section provides for one party asking the court to order the partner who has left the matrimonial home without any reason, to join back the matrimonial home. A perusal of the case law shows that this section has been used regularly by husbands to have their wives join them back in their matrimonial home. When the wife has been working and refuses to join the husband at the place where he has been transferred.

Similarly, the grounds for divorce available to Christian women smack of blatant discrimination against women. Under section 10 of the Indian Divorce Act 1869 while a husband can divorce his wife on grounds of adultery, cruelty, desertion etc., the wife has to establish aggravating circumstances like incestuous adultery or adultery coupled with desertion or cruelty. It operates to ensure that a Christian woman cannot free herself of a Violent marriage if her husband is not adulterous. The Bombay High Court has held that the twin grounds need not be proved. However, waiting for each High Court to deliver gender-just judgements would mean that a case must be brought before it, which will be a sure long wait. It also says something for the lack of political will on the part of the government in amend the laws discriminating against women. Over the years the government has displayed a marked apathy towards amending personal laws on the plea that it will tantamount to interference in other religions. So anti-women religious and customary practices get further fillip in the name of secularism as practiced by the state.

A case in point is that of the Kerala High Court judgement in Mary Zachariah V Union of India 1990 (1), K.L.T. 130 wherein a Christian woman filed a petition of divorce against her husband on the ground of desertion for more than two years. She also challenged the constitutional validity of Section 10 of the Indian Divorce Act. The Kerala High Court in an interim order asked the government to take a decision within six months from the date of receipt of a copy of the order keeping in mind the recommendation of the Law Commission's 10th report of the Indian Divorce Act. Till this date the government has made no move to address the issue. Obviously there is a limit of judicial activism. Thus the government is not going to do the needful is obvious from judging it's response to the move made by representatives of the Christian community asking for amending Christian personal law. The government sent back the petition for further reconsideration by the community, totally ignoring the consensus within the community to change the law.

Unlike the Hindu and the Christian law. Muslim law is not codified. The personal law-known as "Shakhsiyya" in the terminology of the Islamic jurisprudence (Sharia) is applicable to all Muslims, covering matters like divorce. Once the husband has pronounced "talaq" thrice, the divorce is final. If the words have been uttered in a

moment of rage they cannot be easily retracted. If he now wants her back as his wife, he will have to wait till the mandatory period of iddat (a period of waiting) is over, she has married some other man and consummated her second marriage from which she is then divorced to be able to marry the first husband again. The very concept of unilateral divorce negates principles of natural justice, which includes the right to be heard and the right to be given due notice.

One common legal provision on the issue of maintenance, which is applicable to all communication is Section 125 of the Criminal Procedure Code 1973. This Section provides for the wife to claim maintenance from her husband. The amount under this section cannot exceed the princely sum of Rs.500/- per month. There is one exception however. A Muslim women who has been divorced by her husband is not entitled to claim maintenance under Sec. 125 Cr. P.C. This otherwise secular provision was ended in name of freedom of religions after the famous case of **Md. Ahmad Khan V. Shah Bano Begum AIR 1985 SC 945.**

Shah Bano Begam, a sixty year old woman was divorced by her successful barrister husband two years after she was deserted by him. She filed an application under section 125 Cr. P.C and was awarded Rs.30/- per month by way of maintenance by the District Court. After an appeal was made, two years later the amount was raised to Rs.179.80 paise per month by the Madhya Pradesh High Court. Her husband appealed against this judgement on the ground that his right by Muslim personal law has been violated because he is not required to maintain his wife after they are divorced. The Supreme Court said that the Aiyats of the Quran "leave no doubt that the Quran imposes an obligation on the Muslim man to make provision for or to provide maintenance to the divorced wife".

Uniform Civil Code-The Debate

Art 44 of the constitution of India says "The State shall endeavor to secure for the citizens a uniform civil code throughout territory of India". The founding fathers of our Constitution supported the inclusion of Article 44 in the Directive Principles of State

Policy on the ground of national integration and unity. It was seen as championing secularism. Decades have passed by and no move has been made to get even remotely near to it. What has however happened is that UCC has become a topic of controversy. It is seen as an attempt to impose the majority personal law over the minority community. It has also been attacked on the ground that it will violate the fundamental right to religious freedom.

The truth of the matter is that UCC has much to do with equality which is also a fundamental right. We have seen how each personal law discriminates and treats women and children unequally. This is justified in the name of religion. What a Uniform Civil Code purports to do is to give equal rights to women and children in matters of vital importance by disregarding their religious affiliations and beliefs and treating them as human being.

A Muslim or a Christian or a Hindu woman will suffer the same pain as victim of violence and will need maintenance for food and shelter etc. to sustain herself. The bottom line is denied the basic right to preserve one's person in the name of religion is a question that every citizen must ask of himself-herself.

We are all governed by a Uniform Criminal Procedure Code-Indian Penal Code and Indian Evidence Act are applicable to citizens of all communities. In all other civil matters like buying and selling, entering into contracts, employment conditions, land acquisitions, motor accident compensation, consumer laws etc. religious affiliations play no role. These civil laws are uniformly applicable to all citizens. Then why should the personal laws be left out of the ambit? Why should parties to the marriage be allowed to escape their responsibilities in the name of religion and rituals?

It is false that UCC will impose the dictates of one religion over the others. There is no personal law of any community which can claim that it is gender and child just. Evidently every law, whether under Hindu, Muslim or Christian personal law has discriminated against women. Moreover having a Uniform Civil Code will not mean that one would

loose one's region. You can continue to be devout Hindu or a Muslim or a Christian or a Parsee and at the same time still manage to be equal and just in treating women and children.

What UCC stands for is gender and child just laws. It stands for equality and there can be no justice without equality.

The judgement unleashed a torrent of unrest in the Muslim community. The Supreme Court was lambasted for interfering in the Muslim religion and it was said that this judgement has put Islam in danger and posed a threat to the Shariat. A spineless government with an eye on the vote bank enacted the Muslim Women (Protection of Rights on Divorce) Act 1986. The statement of objects and reasons to the Act refers to the Supreme Court judgement in Shah Bano's case and says "this decision has led to some controversy as to the obligation of the Muslim husband to pay maintenance to the divorced wife. Opportunity has, therefore, been taken to specify the rights which a Muslim divorced woman is entitled to at the time of divorce". Accordingly Section 1215 Cr.P.C is not applicable to a divorced Muslim wife. The point that has been missed here is that *raison d'tre* of section 225 Cr.P.C is the prevention of destitution and as such it should be applied to all women regardless if their religion.

Muslim women can claim maintenance under Sec 125 Cr. C. P as long as they are not divorced or if the nikahnama contains the condition that the parties to the marriage will be governed under section 125 Cr.P.C. It is to be remembered that marriage is a contract under the Islamic law and as in all contracts the conditions mentioned therein must be fulfilled by the parties to the contract. It is interesting to observe how women grapple with biased laws to secure their rights. We have had many Muslim Women tell us in the course of the LI's that the minute they claim maintenance under Sec. 125 Cr. P.C the husbands pronounce "talaaq, talaaq, talaaq" and thus avoid paying maintenance to them. One woman from the slums in Delhi told us that when such an incident happened with her sister-in-law. She ensured that the nikahnama of her second marriage contained the condition that the couple will submit to Sec. 125 Cr.P.C.

In most religious and customary practices the emphasis is on suppressing the sexuality of women. The laws confirm the same practices, faithfully adhering to the patriarchal tendencies. For instances, the wife loses the right to claim or continue receiving maintenance if she has sexual relationship outside the marriage. Sec 125 (4) Cr.P.C states that "No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery ...". The Hindu Adoption and Maintenance Act contains similar provision, it is very clear that the sine qua non for receiving maintenance is to remain chaste.

Traditionally women have been denied equal rights in property, inheritance and ownership which are seen as the sole prerogative of men. In matters of inheritance, the Hindus are governed by the Hindu Succession Act 1956 which distinguishes between ancestral and self acquired property. It is in the coparcenary or ancestral property that the sons are given a preferential right. Even where women do get their right in the property, they do not have control over it in real terms. Then of course there is the popular notion that with the giving of dowry the daughter is for once and all given her share in the property. She cannot claim anything else. Many women in the course of Legal Literacy Workshops have testified to the fact that by asking for their share in the property they not only alienate their family but the whole village. Many say they prefer to go the right in property in order to escape the trauma of long family support.

In matters of adoption only Hindus can adopt in the country under the Hindu Adoption and Maintenance Act 1956. Muslims and Christians cannot adopt. They can only apply to be a guardian under the Guardian's and Wards Act 1890. There is a marked difference in responsibilities and rights under the two laws. When it is the case of adoption, the child adopted is as good as the child born in the family. But in matters of guardianship the child cannot take the name of the family adopting him/her, the family can return the child if it is not happy attains the age 21 years he is free of the family and the family is free of him. Religion, again to justify the denial of rights, and a secure home with bright future to children!

What however is strange is the provision of Hindu Minority and Guardianship Act 1956. The father is seen as the natural guardian of the child. But if the woman is an unwed mother, then she acquires the capacity to be a natural guardian and can do what the father can do! The logic of her marital status or lack of it enabling her to do one or the other is beyond comprehension.

Criminal Law

Increasingly we are seeing the otherwise secular criminal law being invaded by religious fundamentalism. I have mentioned Shahbano Begum's case. A glaring example of this was the case of Maimuna 19 year old girl from Sudaka village in Gurgaon district of Haryana. Maximum dared to defy the family and married Idris, also a Muslim. She was gang raped by her cousins and village pradhan. The villagers said that even though she has married a muslim she has broken the village code by marrying someone of a lower caste. When the National Commission for women team rushed to the village to save Idris's family from being lynched, the villagers surrounded the car and dragged her away while few policemen stood helplessly. When the Union Home Minister at that time Shri. Indrajit Gupta was contacted, he expressed his helplessness and said it was the matter for the state to handle. The state law and order machinery said that they do not want to anger the local Muslims. And the villagers escaped criminal prosecution!

Many instances of gender bias exist in the criminal law. Section 497 I.P.C (Indian Penal Code) defines and lays down the punishment for the offence of adultery. It says "whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man without the consent or connivance of that man. Such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery and shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both. In such case the wife shall not be punishable as an abettor". It is obvious that the wife cannot initiate criminal proceedings against the husband for being adulterous, she can claim adultery as a ground for divorce

or separation. But the husband can prosecute another man for committing adultery with his wife. The inference very clearly is that if you trespass on my property, I can prosecute you.

It wasn't till "an open letter to the Chief Justice" by four law teachers was published, that public concern and public debate was ignited on the issue of rape law.

The letter was the outcome of the Supreme Court judgement in the case titled "Takuma V.State of Maharashtra AIR 1979 SC 185" popularly known as the Mathura rape case.

Mathura a young tribal girl was raped by two police constables. Tukaram and Ganpat in the police station. When the case came in appeal to the Supreme Court, the accused were acquitted. The fact that Mathura was used to intercourse sealed the case in the favour of the accused. The letter generated widespread public debate and galvanized women's movement across the length and breadth of the country to demand reform of the rape laws. The result was the 84th report of the Law Commission of Rape and Allied Offences in 1980.

Consequently the provision of custodial rape and marital rape in a limited sense were incorporated in the I.P.C Custodial rape means when the woman is raped while she is placed in the custody of certain persons/institutions under the law like a Police officer, public servant, any man who is on the management or staff of a jail, remand home, hospital, Nari Niketan etc.

Section 375 I.P.C defines the offence of Rape as Sexual intercourse by a man with a woman:

- (a) against her will
- (b) without her consent or
- (c) with her consent if her consent has been obtained by putting her or any other person in whom she is interested, in fear of death or hurt:
- (d) with her consent when the man knows that he is not her husband and that the consent is given because she believes him to be her husband:

- (e) with her consent when at the time of giving such consent by reason of unsoundness of mind or intoxication or administration by him or through another of any stupefying or unwholesome substance, she is incapable of understanding the nature and consequence of giving the consent.
- (f) with or without consent, when she is below 16 years of age.

The exception to the section provides that sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

The explanation to this section states that for the offence of rape to take place penal penetration is essential. However it is not necessary that the act must have been completed, what that means is that insertion of fingers or any other object in the vagina does not amount to rape. Heinous and brutal acts like these fall under Sec. 354 I.P.C dealing with assault or criminal force to women with intent to outrage her modesty, punishable with imprisonment up to two years or fine or both.

The punishment for the offence of rape is minimum 7 years imprisonment extending up to life imprisonment and fine. In cases of custodial rape the minimum punishment is 10 years (Section 376 IPC). However the court can award less than the mandatory minimum for special reasons to be mentioned in the judgement. In practice, one would find that the accused have been routinely awarded less than the mandatory minimum upon conviction.

The IPC recognises marital rape in only two circumstances:

1. sexual intercourse with the wife, where the wife is below 15 years of age (her consent is immaterial) and
2. sexual intercourse with the wife where the wife is living separately under a degree of separation or under any custom or usage (without the consent of the wife).

In all other circumstances, wife is husband's property to be used as and when he needs. Her desire and needs are immaterial. The law has tried to protect the rape victim with the insertion of Section 228-A IPC which makes publication of maternal disclosing identity of the victim, without the victim's permission an offence. Rape trials have to be conducted in camera i.e only persons immediately connected to the case will be present and no one else. Further more Section 114-A of the Evidence Act presumes the absence of consent in case of custodial rape. Rape of pregnant woman and gang rape.

Despite these changes in law aimed at ensuring justice to the raped woman, a glance through various judgements over the years display the utter uselessness of progressive provisions. Looking at the Supreme Court judgement in State of Haryana V. Prem Chand 1989 (2) SCALE 1313, the policemen though convicted of custodial rape were given less than the mandatory minimum punishment. This trend is dissemble in other cases as well.

In the rape trial the past sexual history of the woman is relevant it is a matter of routine that the medical report at the victim states that she is habituated to sexual intercourse. The victim not only has to put up with objectionable method of eliciting her testimony but also has to bare her past sexual story (Section 155 (4) Indian Evidence Act). Of course not a ward about the accused's past sexual history is relevant. In a study titled 'Gender and Judges'. A Judician Point of View Sakshi-A Delhi based NGO interviewed 109 judges and found that 55% of the judges agreed that the moral character of a woman is relevant in sexual abuse cases. With a marked gender bias in judicial attitude coupled with societal response to the rape victim's plight, it is no wonder that majority of the cases end inacquittal. The statistics tell the same story. The National Crime Records Bureau in its 1994 report quoted in the Sakshi study reveals that

"..... out of the total cases in which trials were completed, 41.5 percent ended in-convicted during 1990, 34.2 percent in 1991 and 33.8 percent in 1992 and 30.3 percent in 1993. Thus the acquittal percentage is showing an upward trend over the years. The rate of disposal of cases in courts was 23.9 percent in 1992 and 16.8 percent in 1993. On an average, 80 percent of the cases remained pending for trial. This is a disquieting status".

Labour Law

In our country the population of women is more or less the same as the male population. The 1991 Census shows that for every 1000 males there are 940 females. The profile of women's participation in the work force can be judged by looking at the census data. In the forms sector there has been only a marginal increase in the number of women employees. A cursory glance at the following figures will reveal the trend.

These figures complete the pattern of no or little emphasis on educating the girl child Box 3.3

	Public Sector		Private Sector	
	Male	Female	Male	Female
1971	91.98%	8.02%	84.23%	15.77%
1991	87.65%	12.35%	81.56%	18.44%

Patriarchal work atmosphere and an absence of shared responsibility on the domestic front, limiting a woman worker's avenues of entry in the job market and her subsequent growth.

The 1991 census report shows that majority of women work in the un-organised sector, mostly as cultivators and labourers. Many of them take work home which helps the employer to avoid social welfare legislation. The highest concentration of woman workers in the organised sector is in the plantations where they comprise 51% of the total workforce.

What clearly emerges from the figures is the fact that only a miniscule percentage of working women enjoy the protection of labour laws. These are the women working in the organised sector. It is not to say that the un-organised sector is not covered by any labour legislations. The two laws that come to my mind which apply specifically to un-organised sectors are the Interstate Migrant Women Act 1979 and the Contract Labour (Regulation and abolition) Act 1970, besides laws like Minimum Wages Act 1948. Equal Remuneration Act 1976 which apply both to the organised and un-organised

sector. Both the laws if followed to the letter, provide for a safe and humane working conditions. They talk of providing amenities to workmen such as separate washrooms for men and women, well-ventilated sleeping areas, crèches canteens etc. But due to ineffective implementation and monitoring agencies and complete ignorance of workers about their rights, the workers have to work in exploitative working conditions.

An important implementing machinery is also responsible in ensuring that gender just laws are neutralised. The Equal Remuneration Act 1976 provides for equal pay for same and similar work and no discrimination against women by the employers while recruiting men and women for the jobs. Numerous women have told us in the course of legal literacy workshops that this is never the case. Women are always paid less than the men. The Labour Department in Karnataka conducted 1600 inspections under this act in 1993 but not a single prosecution was launched. It would be naïve to believe that there has been no violation of laws.

The Maternity Benefit Act 1961 provides for 12 weeks paid leave to a women worker (increased to 135 days by the recent Pay Commission Report) provided she has worked for 80 days in the preceding 12 months counting from the day she applies for the leave.

This act is not applicable to establishments employing less than 10 persons and to factories and industrial establishments covered by Employees State Insurance Act 1948.

In the cases not covered by the employees State Insurance the entire responsibility of paying maternity benefit is of the employer, assuming he wants to. This is in direct contravention to Art 4 (8) of Convention 103 of ILO which states that in no case shall the employer be individually liable for the cost of Maternity Benefit due to women employed by him. This would be reason enough for an employer not to employ women workers. Maternity Benefit is also not available to women adopting babies. There has been demand to this effect from some quarters and it does merit attention.

Many women find themselves juggling household and official chores without much support from the family. Breaking up of family system due to increasingly urbanized lifestyle has further aggravated the situation. Consequently either a woman has to leave the job or work at low efficiency levels affecting her chances of upward mobility. In many European countries, large number of women are able to get out of their homes and work without domestic responsibilities invading their professional space because of their well structured child care system. In India there are certain labour laws that make it mandatory to provide crèche facilities if the number of women employees exceed certain number. For instance, crèches are to be made available under:

Factories Act 1948 - If more than 30 women are working

Plantation Labour Act 1951 - If more than 50 women are working.

Beedi and Cigar Workers Act 1966 - if more than 50 women are working

Contract Labour Central Rules, 1971 - if more than 20 women are working.

There is a school of thought that argues that though the law is overtly affects women's chances of employment. It is said that the easiest way for the employer to cut cost would be to employ women in numbers less than the statutory limits. Instead it is suggested that industry and government should work hand in glove to provide centralised crèche facilities catering to number of establishments. Be that as it may, it must be pointed out that there are no similar statutory facilities for service sectors like hospitals, educational institutions, banking sector and hospitality industry where more and more women are taking up employment.

Under the factories, Mines and Beedi and Cigar Workers Act, employment of women in the night shift is prohibited. The Factory Act says that women cannot work overtime. The reason why this provision was incorporated in the laws was because of ILO Conventions to which India is a signatory. But ILO Conventions only speak about prohibition of night work in case of manual woman worker. However the laws as they stand in India, also cover skilled women workers.

The question that women can choose their working hours for themselves in an economy being liberalised is of no relevance. Why would an employer keep women in factories if he knows that he cannot enhance his productivity at a short notice by offering them overtime without breaking the law. One could argue that these provisions were made a long time back when need was greatly felt to stem exploitation of women workforce. This argument is no longer tenable. These provisions are a classic protectionist approach towards legislation concerning women, operating on the premises that women are weaker and in need of protection. Would it not be better to provide an enabling atmosphere like transport facility, a sexual harassment free work conditions let women exercise their right to choose instead of being told firmly about their working hours.

Box 3.3

VISHAKA 7 ORS V STATE OF RAJASTHAN 7 ORS, 1997 JT SC384
9SUPREME COURT JUDGEMENT ON SEXUAL HARASSMENT AT
WORKPLACE)
SEXUAL HARASSMENT DEFINED.

For this purpose, sexual harassment includes such unwelcome sexuality determined behaviour (whether directly or by implication) as

- a) Physical contact and advances
- b) A demand or request for sexual favours
- c) Sexually coloured remarks
- d) Showing pornography
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

The judgement has provided certain guidelines for employers in work place as well as other responsible persons or institutions so as to ensure prevention of sexual harassment of women.

DUTY OF THE EMPLOYER

It shall be the duty of the employer or other responsible persons in workplace or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution settlement or prosecution of acts of sexual harassment by taking all steps required.

PREVENTIVE STEPS:

All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generally of this obligation they should take the following steps.

- a) Express prohibition of sexual harassment as defined above at the work place should be notified published and circulated in appropriate ways.
- b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender
- c) As regards private employers steps be taken to include the aforesaid prohibitions in the standing orders under the industrial Employment (Standing Orders) Act 1948.
- d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is not hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

The judgement provides for criminal proceedings to be initiated by the employers, when such conduct amounts to a specific offence under the Indian Penal Code or under any other law. It further states that where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer.

An employer would be required to create an appropriate complaint mechanism for redress of the complaint made by the victim. This complaint mechanism would provide, where necessary, a complaints committee that would be headed by a woman and not less than half of its members would be women. Further to prevent possibility of undue pressure or influence from senior levels, such complaints committee should involve a third party, either NGO or other body that is familiar with the issue of sexual harassment.

The Workmen's Compensation Act 1923 covers cases where compensation is given to the workmen who are injured, diseased or who die in the course of their employment, due to reasons connected directly to their employment, due to reasons connected directly to their employment. Section 2 (1) a defines who is a workman and excludes from its definition of work man a person whose employment is of casual nature. This operates to

exclude women working in unorganised sector. As the statistics show majority of women work in the unorganised sector where the work is of casual nature.

Till the Supreme Court judgement in **Vishaka and others v.State of Rajasthan and others, 1997 JT SC 384** there was no law on sexual harassment at workplace. It is to be noted here that by virtue of Article 141 of the Constitution of India, the judgement of the Supreme Court is law of the land and is binding on all High Court and Lower Courts.

This Public interest litigation was filed by certain social activists and NGOs and the immediate cause for the filing of this writ petition was the brutal gang rape of Bhanwari Devi social worker in a village in Rajasthan. She was allegedly gang raped by some men in retaliation for stopping a child marriage in her village. The Supreme Court delivered its judgement holding sexual harassment at work place a violation of the fundamental rights to gender equality and the 'right to life and liberty'. It also said that "one of the logical consequences of such an incident is also the profession or to carry out any occupation, trade or business". The court's move to fill the vacuum on laws relating to sexual harassment at workplace is laudable. However the guidelines issued by the court very clearly apply to organised sector and the duty to prevent or deter the commission of acts of sexual harassment rest solely and completely with the employer. In many cases the employer may himself be the perpetrator of the offence. Whom then should the woman employee turn to? There is no clear indication as to what happens if the employer fails to obey the court orders (besides obviously attracting contempt of court proceedings) and there is no time frame within which the employer must implement the ruling, leaving an open field for indulging in delaying tactics.

Conclusion

As I have mentioned before, this paper does not attempt to give a detailed analysis of gender bias in every single law. There are many other laws which have been totally left out of discussion here. Instead the paper at best skims the surface to reveal that gender

bias is well entrenched in the legislations. Where it is not a defective implementation machinery and strong patriarchal tendencies of the decision makers do the rest.

In all the legislations mentioned herein there runs a common thread of a strong protectionist approach. Woman is either the husband's property a family chattel or an imbecile for whom the state will decide as to what she can do and what she cannot. Women will of course have their special needs which demand different treatment. We would need laws addressing our specific and special needs. The first step and an important step is to acquaint ourselves of our rights. Till women do not take the initiative to make themselves aware, laws will remain as they are. If we want our law makers, our policy makers to bring the desired changes a mass opinion must be formed. And even if sense prevails and they are changed gender sensitive laws will be of no use till they are put to use. After all the proof of the pudding lies in its eating!

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Women and Law:

KIRTI SINGH*

The post emergency period witnessed intense and widespread movements by women's organisations and groups to bring about law reform to deal with atrocities and violence against women. The campaign by women's organisations and those supporting them focused mainly on reform in the laws relating to dowry and rape. Women's organisations during the late 1970s and early 1980s demanded from the state that sweeping amendments be introduced in these laws to check the rising tide of crimes against women. Newspaper and media reports had highlighted the fact of young brides being burnt for failure to bring sufficient dowry from 1978 onwards, and these became the focus for struggle by women's organisations who formed forums like the Dahej Virodhi Chetna Manch(DVCM) to launch a united action (Agnihotri and Parliwala 1993). Similarly, reports of rape and sexual assault, particularly by the police and others in authority, brought women's organisations and groups together in different cities to press for changes in the laws relating to rape. The Mathura rape case in which the Supreme Court of India acquitted two policemen who had raped a young girl inside the police precincts merely because the girl had not raised an alarm while being raped acted as a major catalyst for reform in rape laws. Apart from these two campaigns, women's organisations and groups engaged in another bitter struggle to retain existing rights which women had in the field of family laws. The controversy generated by the Supreme Court decision in the Shah Bano case saw the clash between women's organisations asking for the retention of rights of divorced Muslim women to maintenance on the one hand, and the fundamentalists determined to put an end to this right, on the other. The State, however, on this occasion intervened on behalf of the fundamentalists and divorced

Source: The Administrator, Volume XI, No.3,1995 PP 37 to 49

Muslim women lost a valuable right which they had for more than a century. The loss of this right meant that for women's organisations the task of asking for equal rights within the home and family had become even more difficult as they would have to contend with fundamentalists determined to retain their personal laws, and a state which would not intervene on their behalf on the plea that reform should come from within the separate communities. In this paper I seek to focus on the reforms which were brought about in the dowry and rape laws in the early and mid-1980s and examine whether these laws were adequate. I also attempt to examine some of the major reasons why these laws have not proved to be successful in stemming the rising tide of violence and crime against women. I go on to discuss the controversy around the Shah Bano case in the mid-1980s and the reasons for the lack of reform in the area of family/personal laws. I finally discuss the battle in which women victims of violence and abandoned and destitute women are engaged. The role and attitudes of the courts in dealing with women's issues will be highlighted throughout the discussion. The campaign against dowry was not limited to merely a campaign to punish dowry-related violence, though some of the earliest efforts of the women's groups and organisations involved in the campaign were protests and demonstrations outside the homes of girls and women who had been burnt for not being able to fulfil the dowry demands of their husbands and in-laws (Agnihotri and Parliwala 1993). Simultaneous with the demand to punish the dowry murderers, some women's groups raised the issue in a wider perspective and demanded changes in the entire dowry law to stop the giving and taking of dowry and to make the law effective in the retrieval of dowry which had already been given. The issue of dowry and dowry-related violence was raised at a time when the custom of dowry had already spread to all classes, communities and castes (GOI 1981), and completely encompassed marital existence i.e, dowry was not only being demanded at the time of marriage, but on various and numerous occasions thereafter.

The Dowry Prohibition Act passed in 1961 had proved to be totally ineffective. One of the important reasons for this was the glaring loopholes in the Act which ensured that there were hardly any successful prosecutions. First, dowry was defined as any property given as 'consideration for the marriage, i.e, it had to be proved that the property/items

were given as a motive for the marriage to take place. Presents given at the time of marriage and property/items given after the marriage at various festivals were not included in the definition of dowry. Second, the 'giver' and 'taker' were held to be equally punishable. This prevented the victim's (the woman's) family from making any complaint under the Act. The punishment for giving or taking, abetting the give and take, or for demanding dowry was imprisonment up to six months or a fine up to Rs.5,000 or both. The punishment was thus not severe and gave wide latitude to the judge. Third, the offence being non-cognisable and bailable, the police were under no compulsion to investigate a case under this Act(Singh 1987). A complaint under the Act had to be lodged within one year of the offence being committed. The demands by the women's organisations in the newly constituted Lok Sabha after the 1980 General Elections and a private member's bill filed by a woman MP who belonged to a women's organisation¹ forced the government to constitute a Joint Select Committee of Parliament to suggest changes in the dowry law. The committee, which comprised of various women MPs who were themselves members of women's organisations, took evidence from a wide cross-section of people including representatives of women's organisations, and suggested various changes in the law. The Dowry Prohibition Act was amended twice, in 1984 and in 1986, to incorporate certain important changes which included increasing the punishment for giving and taking dowry to a period not less than five years and a fine of not less than Rs.15,000, or the amount of the value of such dowry whichever was more. The demanding of dowry was also made punishable for a period of not less than six months which could extend to two years. Dowry was made cognisable and non-bailable offence. This meant that the police were bound to investigate all offences relating to dowry under the Act once they came to know about it. Unlike the previous Act, there was no limitation on the period within which a dowry complaint could be filed. An important section² shifted the burden of proof from the complainant/state to the person being

1. Promilla Dandawate, Mahila Dakshata Samiti
Section 8 A of the Dowry Prohibition Act

prosecuted for dowry. This meant that once the case started, the person who was accused of taking dowry would have to prove that he had not done so. Women's groups and others had repeatedly pointed out that unless preventive steps were taken to curb dowry, the evil would not disappear from society. The complaints against dowry were also always made (and are still made) when the relationship between the parties broke down or when a dowry murder occurred. No machinery had been conceived of to stop the initial give and take of dowry, or, in other words, to stop the offence from taking place. The 1986 amendment even sought to provide such a machinery by stipulating that the state Governments could appoint Dowry Prohibition Officers who would then be responsible under the Act to prevent the taking of dowry, or abetting the taking of dowry, or the demanding of dowry, and see that the provisions of the Act were being complied with. The Dowry Prohibition Officers were also given powers under the Act to collect evidence against people who took dowry.

Apart from these amendments the criminal law was amended to include within it two new and special offences relating mainly to dowry violence. Section 498 A was added to the Indian Penal Code to acknowledge and punish the offence of cruelty to a woman by her husband or his relatives (AIR 1983a). The Section sought to punish any willful conduct which would be likely to drive a woman to commit suicide 'or cause her grave injury or danger to life, limb or health.' The Section also sought to punish harassment of a woman caused by coercing her to get dowry or for not getting dowry. In fact, although this Section's primary purpose may have been to deal with dowry violence, it for the first time recognised the fact of domestic violence and sought to punish it with a term which could extend to three year's imprisonment with a fine. Another new Section in the IPC introduced in offence of dowry death. Section 304B stipulated that if a woman died within seven years of marriage, and it is shown that just before her death she was subjected to cruelty by her husband or his relative on account of dowry, the husband or relative would be held guilty of causing her death. This offence carried a minimum punishment of seven years imprisonment and a maximum of life imprisonment. In spite of these amendments, dowry remained and remains a widespread phenomenon. There are obviously several reasons for this. One of the major reasons is that dowry as a

phenomenon reinforced and retained the inferior and oppressed status of Indian women. It was not an isolated phenomenon which could be tackled by merely a criminal remedy. The DVCM Memorandum, 1982, had stated that the phenomenon of dowry was 'linked with the entire gamut of inferior female condition. Its increasing incidence is symptomatic of the continuing erosion of women's status and devaluation of female life in independent India. It is equally related to the worsening socio-economic crisis within which structural inequalities have accentuated and black money power grown to fuel greater human oppression' (Agnihotri and Palriwala 1993). If dowry had to be curbed, it was essential that various other steps were also taken to improve the status of women and to make them economically independent. The DVCM Memorandum had itself suggested that women of all communities should have equal property rights in inherited property and in the property acquired by the spouses after marriage, ie, marital property. Many felt that if women were given equal rights in their parental homes, dowry would no longer be given as the girl's share in the parental property. The DVCM had also demanded that all marriages be registered along with the gifts given to the parties. However, though the Dowry Act was changed, other connected laws giving women equal rights in inherited and matrimonial property were not changed. Women victims of dowry harassment and indeed other kinds of domestic violence often have no option but to stay in the matrimonial home and suffer because they have very little or no rights on the dissolution of the marriage.

Apart from this, it was obvious that a major attitudinal change would be required amongst the vast sections of Indian society to modify their traditional view and not regard women as a burden. Nothing was done through mass awareness campaigns or any other method to achieve this attitudinal change which in itself would take a long time, even if it were started. The lack of political will by the state to actually curb the practice of dowry could even be seen in the fact that hardly any Dowry Prohibition Officers were appointed in the states. On the other hand, the deteriorating status of women, the rising unemployment which hit vast sections of women, and other factors

such as rising consumerism in Indian society unleashed by the new market forces, helped fuel the phenomenon of dowry.

In the opinion of many (Karat and Agnihotri 1993), dowry, in fact, provided an acceptable means, in a country characterised by low purchasing power, of acquiring consumer items like refrigerators, television sets, cars, bicycles, etc., Dowry as cash demands at the time of marriage and afterwards also became relatively frequent to help the husband and in-laws to invest in a business or income generating activity because of lack of public funds available for this purpose (ibid.). Thus, the spread of dowry continued unabated in urban and rural India.

Finally, the entire criminal justice administration proved to be a major stumbling block in providing justice to dowry victims. The history of cases dealing with dowry retrieval and dowry violence and indeed other forms of domestic violence is replete with examples of deliberate inaction due to widespread corruption, apathy and poor investigation by the police. Even the Supreme Court of India and High Courts have in fact commented on this and passed strictures against the police (AIR 1988a). Many dowry murder/cruelty cases were prosecuted so badly in Court that conviction was hardly likely. Not only this, the manner in which most judges dealt with the case depended to a large extent on their individual ideology or way of thinking about the role of women (HLR 1989). Cases like that of Sudha Goel (AIR 1986) highlight the fact that the gender bias against women in sections of the judiciary is an issue which will have to be tackled at some stage. When women's groups protested against this judgement, and pointed out that judges had not appreciated the evidence properly, they were held guilty of contempt.

On the other hand, some positive judgements helped women to make complaints even under the older criminal law. In a 1985 judgement (AIR 1985), the Supreme Court held that the stridhan property of a wife is her absolute property, and even if she placed this in the custody of her husband or in-laws they would be bound to return the same if and when demanded by her. The court held that if the husband and his family did not return the stridhan property of a woman on demand, they would be guilty of the offence of

breach of trust and would be liable for punishment up to three years with fine or both, as stipulated in the Indian Penal Code. This judgement has formed almost the sole basis of complaints about non-return of dowry in a city like Delhi, and since the offence is cognisable and non-bailable, the police have had to act and arrest errant husbands and retrieve the complainant's dowry through search and other procedures.

Personal Laws and Equality in the Home

The struggle against dowry had also brought to the forefront the issue of discrimination against women in the home. Despite constitutional guarantees of equality and non-discrimination, personal laws or family laws in India had continued to be different for different religious communities. All these laws blatantly discriminate against women. While some reforms had taken place in the 1950s in the laws relating to Hindus, these laws fell far short of equality (Singh 1993). In spite of the Hindu Succession Act 1956, Hindu women did not have equal rights in inherited property as the Act specifically left out certain forms of Mitakshara joint family system. It is interesting to note that at the time the Hindu Succession Bill was being discussed in Parliament, the All India Women's Conference objected to the Hindu Succession Bill on the ground that :

The Bill although a step in the right direction, falls far short of what is required due to the fact that it excludes from its application the Mitakshara joint family property. As the Mitakshara Law with its various sections prevails over more than two-thirds of India, a substantial number of women will be debarred from inheriting property on the same terms as their male relatives, thus leading to discrimination on grounds of sex which is contrary to the provisions of the Indian Constitution.

The Hindu Succession Act contained several other retrogressive features in addition to not conferring equal property rights on women. By Section 4(2) of the act, 'laws providing for the prevention of fragmentation of agricultural holdings', were left out or exempted from the application of the act. This meant that in the name of 'prevention of fragmentation of agricultural land,' Hindu women could be deprived of any rights to property. Furthermore, by Section 23 of this act, if a woman inherited a house in which

members of the family were living, she had no right to ask for a 'partition' of the house and could only reside in it if she was not married or had separated.

A Hindu married woman was not made an equal and natural guardian of her children (Singh 1994). The Hindu wife was also not given any share in the matrimonial property and therefore could be deserted or thrown out without even a chair from the home she had built up and had taken care of. Similarly, Muslim women did not have equal property rights, were not natural guardians of their children and could be divorced unilaterally by their husbands whenever they so desired. Muslim men were also entitled to marry four times if they so desired. The report of the Committee on the Status of Women (GOI 1974) had suggested completely overhauling the personal laws of all communities and introducing a Uniform Civil Code in 1975. Thereafter, women's organisations and others had started discussions on reforms of personal laws and the making of a Uniform Civil Code. Several seminars and discussions were held to demand egalitarian laws and a Uniform Civil Code (Singh 1994). Though these demands were again raised by the movement for change in the dowry laws, the debate during the early 1980s became more concerned with the issue of physical violence and hence change in the criminal laws relating to dowry and rape. Women's organisations, despite having demanded reform in the personal laws on paper, did not actually press the government for these changes. This was probably due to the fact that while some saw the problem of dowry as 'engendered by the very structures and processes of Indian society', the others viewed it merely as 'a social evil' (Agnihotri & Parliwala 1993) which could be tackled by strict criminal laws. After the dowry and rape amendments, however, efforts were once again being made by some to work out a Uniform Civil Code (ibid.) when the Shah Bano judgement was pronounced by the Supreme Court. In this judgement the Supreme Court held that a divorced Muslim woman was entitled to maintenance under Section 125 of the Criminal Procedure Code. The criminal Procedure Code had for more than a century provided that women who had been neglected and abandoned by their husbands could ask for maintenance from their husbands irrespective of their religion or community. In spite of the fact that the amount of maintenance that a woman or child could get was limited to Rs.500 and was more in the nature of a dole, large numbers of women from all

communities applied for maintenance under this Section because the Criminal Procedure Code provided a relatively speedy remedy in a Magistrate's Court and was almost the only Section that an Indian woman could get maintenance under without applying for a divorce, a judicial separation, or restitution of conjugal rights³. In 1973 an amendment was made under this section to include within the definition of wife a divorced wife since there was some confusion whether the section applied to a divorced wife or not. This amendment was strongly opposed by members of the Muslim League in Parliament and other fundamentalist leaders as they contended that Muslim personal law did not allow payment of maintenance to a divorced woman beyond the period of iddat (singh1994). Initially the then Law Minister disagreed and argued that the amendment was being made to help divorced Indian women who were in dire economic circumstances and on humanitarian grounds (ibid.). Later, however, the government completely changed its stand and exempted divorced Muslim women from the purview of the maintenance provision provided they had been paid customary payments like Mehr which were due to them under Muslim personal law. This was a major incident in recent history when the government surrendered and succumbed to Muslim fundamentalist sentiments and in the process sacrificed women's basic human rights and necessities. This was to be repeated later during the Shah Bano controversy.

Even after the 1973 amendment, courts continued to award maintenance to divorced Muslim women in a series of judgements (AIR1988b, Crimes 147). The courts did this by adopting a liberal and humanitarian interpretation. For instance, the Supreme Court in a judgement (SCR 1975) reasoned that divorced Muslim women were entitled to maintenance even if they had been paid customary sums due to them under their personal laws, provided this sum was not adequate for their maintenance. In the Shah Bano case,

3. Only Hindu Women have a right to merely apply for maintenance under the civil law, being the Hindu Adoption and Maintenance Act, 1956, though most women are unable to avail of this law because of the heavy court fee they have to pay.

the Supreme Court did not merely restrict its reasoning to say that if the customary amount paid at the time of divorce is inadequate for the maintenance of the divorced wife, the husband is bound to pay maintenance. It went further to state even if there was a conflict between Muslim personal law and the criminal law of the country, the criminal law would prevail. The court also went on to interpret various ayats of the Koran to show that payment of maintenance was not un-Islamic.

The judgement created an unprecedented controversy which has been reasonably well documented (Mustafa 1985). The Muslim Personal Law Board, which intervened in the Supreme Court during the hearing of the case, described the judgement as a 'gross interference' in Muslim personal law. The government which at first supported the Shah Bano judgement through its then Minister of state for home Affairs, Arif Mohammed Khan, later completely reversed its stand and introduced a Bill in Parliament to abrogate the right of Muslim women to maintenance after the iddat period. This reversal by the Rajiv Gandhi government was obviously in opportunistic stand to appease the Muslim fundamentalists who were perceived to control large vote banks amongst Muslims. Though women's organisations, liberals, Muslim and other intellectual interested in women's rights launched a massive agitation against the Muslim women's Bill in which several women, including Muslim women, participated (Singh 1994), the government refused to change its stand.

The Indian government, in fact, has consistently taken the stand that it will not change any community's personal law except in consonance with the wishes of the affected community. This stand was reiterated in 1994 while signing the Convention of the Elimination of all Forms of Discrimination Against Women. The government signed the Convention with a reservation that it follows a 'policy of non-interference in the personal affairs of any community without its initiative and consent'. A document brought out by several women's groups observed the truth, however, has been that the government has only paid heed to the wishes of the most conservative, biased and fundamentalist elements of each community. It is also a fact that even when members of a particular community have asked for changes in their personal laws, as in the case of Christian

women, the government has still not amended the law. This is in spite of the fact that all sections of the Christian community in India as well as the clergy have asked for a complete overhaul in their archaic laws of marriage and divorce and have presented the government with a bill incorporating all the agreed changes.

The result of government policy in the area of family/personal law has thus been that women belonging to all communities continue to suffer from highly discriminatory and unequal laws which make it impossible for them and their children to live a life free from various types of oppression.’

Laws Relating to Sexual Assault

The issue of rape and sexual assault has been on the agenda of women’s organisations since the late 1970s when reports of rape and sexual molestation of poor women particularly in police custody were highlighted through the media (Palriwala 1985)⁴. The Mathura rape case of 1979 (AIR 1979) further highlighted the plight of victims of rape who after being sexually assaulted by those in charge of law and order were disbelieved by the courts. Mathura was a young minor girl who had been summoned to the police station for interrogation. After the interrogation Mathura’s partner and brother were sent away but Mathura was asked to stay behind and was raped by one police man in a bathroom at the rear of the police station and molested by another.

Since Mathura was medically examined about 20 hours after the crime no semen was found on her body. The police man’s clothes which were stained with semen were taken as evidence. The Session’s Court held that Mathura had voluntarily engaged in sexual intercourse. One of the factors which seemed to weigh on the mind of the judge was that Mathura’s hymen had old tears and she was ‘habituated to sexual intercourse.’ The High Court on appeal reversed this finding and held that passive surrender did not mean that the sexual act was voluntary. The Supreme Court, however, again held that since Mathura

4. The cases of Rameeza Bee and Maya Tyagi were two such cases. Rameeza Bee had been raped by three policemen in front of her husband who was killed by the policemen for protesting. Subsequently, the police framed trumped up charges against Rameeza Bee alleging that she was running a prostitution racket. Maya Tyagi had been molested by the police in broad day light on a public street in Baghpat and later on raped and paraded naked. Her husband was also killed when he protested.

had not raised any alarm her allegations against the police men were untrue. This judgement sent shock waves through all those concerned with the issue. It seemed outrageous that the Supreme Court expected a poor girl in a remote area where the police obviously had complete control and authority to shout and protest. This showed that the Supreme Court judges, at best, were completely out of touch with social reality and, at worst, were biased against rape victims. Women's organisations, across the country, and particularly from Delhi and Bombay demanded drastic amendments to the law of rape. One of the main demands of some groups was that once the fact of sexual intercourse was proved and the woman said that she had been raped the onus of proof should be shifted to the accused to prove that no rape had taken place. The government also asked the Law Commission of India to suggest amendments to the rape law. The law as it was finally amended, however, did not incorporate some of the main demands of the women's movement. Quite a few important suggestions of the Law Commission (GOI 1980) were also left out.

As is well known the 1983 amendment to the rape laws for the first time introduced the notion of 'custodial rape' in the law. Under this, rape by men in a position of authority over a woman is considered to be more serious than ordinary rape. This category included: rape by a policeman in a police station or on a woman in his custody or in the premises of a police station; by a public servant on a woman in his custody; by a person on the staff or management of jail, remand home on any other place of custody on any woman inmate; by a person in the management or on the staff of a hospital on a woman in the hospital and on a pregnant woman, a girl below 12 years of age and gang rape. The punishment prescribed for this category of rape was made more severe, ie, rigorous imprisonment for ten years or life.

Important demand like recognition of marital rape an offence were ignored. Certain groups, for instance, the All India Democratic Women's Association had also pointed out that custodial rape should include rape by men in positions of social and economic authority as rape was often used as a weapon of revenge against various disadvantaged

groups or to subdue workers, tillers etc. Reported cases of gang rape from the rural areas were often cases in which goons/agents of the landlord/ employers were used to terrorize and/or take revenge by raping poor working class/dalit women.

A very important demand of the women's groups related to deletion of section 155(4) of the Indian Evidence Act as this Section provides that during a rape trial evidence can be lead about the past sexual history of the victim. The assumption behind this Section obviously was that if a woman had a past history of sexual intercourse, she was likely to have consented to the act. Even though this was patently unfair to the rape victim, the Government refused to delete this section.

The increasing of punishment to a minimum of 7 years or 10 years has not made much difference to the actual sentence that the rapist has to undergo because on many occasions reduced sentences are given by the courts ostensibly for special reasons. In the Suman Rani Case (AIR 1989), just because the doctor who had done the medical examination testified that the girl was used to sexual intercourse, the court reduced the sentence of 3 policemen who had raped her to give years. When a women's group and others filed a review petition (AIR 1990), the court justified the reduction in sentence by saying that when they spoke of 'conduct' of the victim, they meant her conduct in not lodging the first information report till five days after the event. This reasoning was obviously absurd as the late lodging of the report of rape could only in some circumstances have meant that perhaps the victim was not telling the truth. This could not be a valid factor for reduction of sentence since the rape itself had been proved. Earlier judgements including those of the Supreme Court had held that the late filing of a report of rape would in itself not matter since Indian women and their family were often hesitant to report a crime like rape (AIR 1981, AIR 1983b). Other cases had also brought to the forefront the patriarchial and feudal approach of some of the judges who continued to award less than the mandatory minimum sentences for a variety of reasons. Judges have characterised rape as a crime of passion. They have implied that the rape victim is to be blamed for being in the company of the rapist as in the Karnataka case (AIR 1994). In fact, an assessment of the

judgements dealing with rape shows that it is the judge's personal ideology which has had a direct bearing on the case.

Other problems faced by victims of rape concern the lack of proper investigation by the police. In many cases of rape and sexual assault, the police refuse to even register the First Information Report. In cases where the First Information Report is registered, often the investigation is carried out so shoddily that it does not result in a conviction. Important pieces of evidence like the clothes of the victim are not collected by the police. Statements of the parties and the witnesses are not carefully recorded. The medical report is not only delayed but is often cursory and badly written.

The police and medical authorities both suffer from gender bias and in many cases in which political influence and/or money is used to pressurise the police, the police have acted in collusion with the rapist and suppressed vital evidence⁵.

Apart from the demands that were raised by the women's organisations in the early 1980s, recent experience particularly that of child rape has shown that the laws relating to rape and molestation do not address the different kinds of sexual assault experienced by women and children. The Indian Penal Code which was framed in the 1860s defines rape as penetration by the penis into the vagina. The definition of molestation is assault or criminal force by a person to any woman with intention to outrage her modesty. Both these definitions are based on the Victorian concept of what constituted a sexual crime against women. The definition of rape does not take within its purview oral sex or insertion of other objects into the woman. The definition of molestation besides being couched in archaic language, is totally inadequate to deal with the range of sexual assaults that have become a part of a lot of women's lives. These assaults include protracted sexual assaults over a period of time on a minor, usually by a person who is well known to the minor, or is a relative, and sexual assault accompanied by maiming and injury.

5. We have come across many such cases in our experience in the legal cell run by the Janwadi Mahila Samiti. In a case where two nuns were raped in Gajraula, U.P. in August, 1990, the police had not bothered to collect evidence like the sheet on which the rape was committed. They were taken for medical examination by the police only after twelve years. Also in *Anita and Others v State of Haryana and Others* in 1994 which is pending

in the Supreme Court where the police refused to register a FIR and asked the victim to give a statement in favour of the rapist/accused.

Conclusion

The experience of the last two decades has shown that the laws relating to women continue to be ineffective for a variety of reasons. The entire issue of reform of personal laws has become more complex. The government continues to take the stand that it will not reform these laws unless the demand comes from the minorities. The fundamentalist elements in the Muslim community have also made the whole issue an issue of Muslim identity and religion. During the Shah Bano controversy and later, these fundamentalist elements and organisations like the Muslim Personal Law Board have managed to gather support from sections of the Muslim population, who also see the implementation of a Uniform Civil Code as an attack on the Muslim identity, for a variety of reasons including the insecurity experienced by them due to majority communalism and economic and social backwardness. The problem is compounded by the fact that the Hindu communalist parties like the Bharatiya Janata Party have made the issue of the Uniform Civil Code a platform to attack the Muslim population, though their advocacy of a Uniform Civil Code does not mean a code which would give equal and non-discriminatory rights in all spheres, to women within the home.

Meanwhile, many women's organisations ⁶ have taken a stand which is directly concerned with the oppression of women and have demanded that immediate changes be made in certain crucial areas of family law, in which women of all communities face discrimination and suffer from unequal rights. These demands include the right of all Indian women to have an equal share in the assets acquired by both the spouses after marriage; equal rights of inheritance in parental and husband's property; a right to stay in the matrimonial home even in the event of a dispute and a right to be protected by a court order against violence/harassment by their husband and in-laws. Apart from these, the

6. The All India Democratic Women's Association, All India Women's Conference, Centre for Women's Development Studies, Joint Women's Programme, Mahila Dakshata Samiti, National Federation of Indian Women and Young Women's Christian Association of India.

organisations have demanded that all Indian women be recognised as equal, natural guardians of their children and that the custody, primary care and control of the child should be with the mother up to the age of twelve years. It has also been demanded that any grant of land or dwelling house by the government or any other authority to a family should be registered in the joint names of both the husband and the wife and all marriages be compulsorily registered. These demands if implemented should go a long way in helping women and providing them with a handle to realise their rights.

The present criminal justice system puts crimes against women on the same footing as other crimes and fails to take in to account the specific and different nature of these crimes. The system therefore fails to take into account the oppressed status of women and their vulnerability to these crimes. It also fails to take into account the normal reactions of victims of such crimes. It is therefore essential that the laws relating to violence be completely overhauled to make them more comprehensive, and closer to the experience of violence faced by women. In fact a Committee appointed by the National Commission of Women has suggested sweeping changes in the laws relating to sexual assault of women and children. It has suggested that a separate law be framed defining the different kinds of sexual assault. It has further suggested that aggravated sexual assault should not only be confined to the present categories of custodial rape but should include sexual assault by men in position of authority and in positions of social and economic dominance including sexual assault of minors by their guardians and sexual assault by members of the armed forces. The committee had further suggested different punishments according to the severity of the crime and the age of the victim. Along with these changes in the definition the committee as well as the Law Commission (GOI 1980) had suggested various procedural changes to ensure that the police investigate the crimes against women. These included punitive measures against the police for not registering the case and carrying out the investigation properly. The Commission had also suggested changes to ensure that victims of violence are able to give their statements freely and fearlessly in the presence of those sympathetic to them. Procedural changes are also required to ensure that victims of violence can testify in courts and elsewhere without

being harassed for speaking the truth. Another area which will have to be tackled would be the fairly widespread gender bias that exists in sections of the police and judiciary. Women's organisations have suggested intensive and extensive gender sensitization of the police and the judiciary to make them aware about the rights of women and the prevailing discrimination against them. All these changes are important first steps to make the criminal justice system more responsive to women.

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HINDU MARRIAGE

Section 5 - Conditions for a Hindu marriage

A marriage may be solemnized between any two Hindus, if the following are fulfilled, namely:-

- i. neither party has a spouse living at the time of the marriage;
- ii. at the time of the marriage, neither party-
 - a. is incapable of giving a valid consent to it in consequence of unsoundness of mind; or
 - b. though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
 - c. has been subject to recurrent attacks of insanity or epilepsy;
- iii. the bridegroom has completed the age of twenty-one years and the bride, the age of eighteen years at the time of the marriage
- iv. the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;
- v. the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two;

THE HINDU MARRIAGE ACT, 1955

Section 16 - Legitimacy of children of void and voidable marriages :-

1. Notwithstanding that marriage is null and void under Section 11, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), and whether or nor a decree of nullity is granted in respect of that marriage under this Act and whether or nor the marriage is held to be void otherwise than on petition under this Act.
2. Where a decree of nullity is granted in respect of a voidable marriage under section 12, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity,
3. Nothing contained in sub-section (1) or sub-section (2) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nullity under section 12, any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents.

Section 26 - Custody of child :-

In any proceeding under this Act, the court may, from time to time, pass such interim orders and made such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending, and the court may also from time to time revoke, suspend or vary any such orders and provisions previously made.

NULLITY OF MARRIAGE AND DIVORCE

Hindu Marriage Act 1955

Section 11 - Void marriages :- Any marriage solemnized after the commencement of this Act shall be null and void and may, on a petition presented by either party therto against the other party, be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of section 5.

Section 12 - Voidable marriages :- Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:-

- a. that the marriage has not been consummated owing to the impotence of the respondent; or
- b. that the marriage is in contravention of the condition specified in clause (ii) of section 5; or
- c. that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner was required under section 5 as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978 (2 of 1978), the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent; or
- d. that the respondent was at the time of the marriage pregnant by some person other than the petitioner.

Notwithstanding any contained in sub-section (1), no petition for annulling a marriage:-

- a. On the ground specified in clause (c) of sub-section (1) shall be entertained if:-

- i. the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered; or
 - ii. the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered;
- b. on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied:-
 - i. that the petitioner was at the time of the marriage ignorant of the facts alleged;
 - ii. that proceedings have been instituted in the case of a marriage solemnized before the commencement of this Act within one year of such commencement and in the case of marriages solemnized after such commencement within one year from the date of the marriage; and
 - iii. that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the said ground.

Section 13 - Divorce :-

1. Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party
 - i. has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or
 - ii. has, after the solemnization of the marriage, treated the petitioner with cruelty; or
 - iii. has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

2. A wife may also present a petition for the dissolution of her marriage by a decree of divorce on the ground;
 - i. in the case of any marriage solemnized before the commencement of this Act, that the husband had married again before such commencement or that any other wife of the husband married before such commencement was alive at the time of the solemnization of the marriage of the petitioner; Provided that in either case the other wife is alive at the time of the presentation of the petition; or
 - ii. that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality; or that in a suit under section 18 of the Hindu Adoption and Maintenance Act, 1956(78 of 1956), or in a proceeding under section 125 of the Code of Criminal Procedure , 1973 (2 of 1974) (or under the corresponding section 488 of the Code of Criminal Procedure, 1898 (5 of 1898), a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards; that her marriage (whether consummated or not)

THE DOWRY PROHIBITION ACT, 1961

Section 4 - Penalty for demanding dowry :- If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both :

Provided that no Court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

Section 5 - Agreement for giving or taking dowry to be void :- Any agreement for giving or taking of dowry shall be void.

Section 6 - Dowry to be for the benefit of the wife or her heirs :-

1. Where any dowry is received by any person other than the woman in connection with whose marriage it is given that person shall transfer it to the woman –
 - a. if the dowry was received before marriage, within one year after the date of marriage ; or
 - b. if the dowry was received at the time of or after the marriage, within one year after the date of receipt ; or
 - c. if the dowry was received when the woman was a minor within one year after she has attained the age of eighteen years and pending such transfer, shall hold it in trust for the benefit of the woman.

2. If any person fails to transfer any property as required by sub-section (1) and within the time limited therefor, she shall be punishable with imprisonment, which may extend to six months or with fine which may extend to five thousand rupees, or with both ; but such punishment shall not absolve the person from his obligation to claim it from the property as required by sub-section (1).
3. Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.
4. Nothing contained in this section shall affect the provisions of section 3 or 4.

THE HINDU MINORITIES AND GUARDIANSHIP ACT, 1956

Section 6 - Natural guardians of a Hindu minor :- The natural guardian of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property), are –

- a. in the case of a boy or an unmarried girl-the father, and after him, the mother; provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother;
- b. in case of an illegitimate boy or an illegitimate unmarried girl-the mother, and after her, the father;
- c. in the case of a married girl-the husband:

Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section-

- a. if he has ceased to be a Hindu, or
- b. if he has completely and finally renounced the world by becoming a hermit (vanaprastha) or an ascetic (yati or sanyasi).

Explanation :- In this section the expression “father” and “mother” do not include a step-father and a step-mother.

Section 13 - Welfare of minor to be paramount consideration :-

1. In the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration.
2. No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor.

PLANNING PROGRAMMES WITH A GENDER PERSPECTIVE

R theory was put forward by Maxene Molineaux that women's development will automatically take place with the establishment of socialism. However reality proved otherwise, following which women's development needs were distinguished as **Practical Gender Needs (PGN) and Strategic Gender Needs (SGN)**. The difference between the two can be listed as follows.

PGN	SGN
1. PGN are basic needs.	1. SGN, need to be fulfilled for empowerment.
2. Those needs which emerge from present gender division of labour e.g. water, food, - health, housing etc.	2. To raise a voice to change, the gender based division of labour e.g. sharing housework and responsibilities of family planning equally. To be in a decision making position in politics and other fields.
3. Short term solution to exploitation resulting from gender relations e.g. shelter homes for women.	3. To bring about a permanent change in gender relations .
4. To bring about short term changes.	4. To bring about long term changes.
5. This is a top down process	5. This is a collective process

PGN do not address labour, resources, female sexuality , fertility or mobility.

Some examples of programmes which fulfill SGN include equal wages, the Forestry Joint Patta programme, campaign on legal rights, awareness programmes, training women to construct smokeless chulas and urging men to contribute equally in preparation of food. Merely constructing smokeless Chulas (Stoves) without training would fulfill only PGN.

One of the weaknesses in most development programmes is the assumption that development of the family will automatically lead to the upliftment of women. In such cases discrimination against women is not recognized.

It was agreed that in order to bring about fulfillment of strategic gender needs it was necessary to break the public private dichotomy especially amongst the middle class, as this was the basis of gender division of labour.

The question that, should one begin with PGN and then go on to fulfill SGN or whether one must address SGN directly was raised. In response to this it was clarified that food, shelter, water and clothing are the basic needs (practical gender needs) of all humans and therefore they should be addressed first. However for issues like family planning and protection for deserted women, one may apply a strategic approach directly. In case of deserted women it is not essential to have short stay homes. One may directly think of long term strategies. Similarly encouraging traditional skills like papad making are not necessary. A more strategic approach to income generation may be used. The process by which PGN would help us to reach SGN must be understood.

The process of addressing basic needs like food and water must be strategically planned. For example when an NOO addresses the problem of water in a drought prone area, they must organise women to demand their rights and recognition of their contribution in water management. This process is likely to empower women. Thus we will move from PGN to SON. For various other programmes too, all development agencies must strive to reach the same end although the means could be different.

GENDER ANALYSIS

The functioning of Non-government Organisations (**NGOs**) was analysed in the light of PON and SGN which is as follows.

PGN

1. Increase the number of female field staff.
2. Make field staff responsible only for implementation of the programme,
3. Provide toilet facility and vehicle to female field staff in project areas.
4. Opening a crèche in a women's organisation,
5. Provide flexibility in timings.
6. Provide maternity leave
7. Provide safe residential facilities to female field staff

SGN

1. Involve field staff in planning and decision making.
2. Assign responsibilities to women so that they become equipped to handle male dominated fields like Accounts/Administration as well.
3. Removing discrimination in access to all kinds of resources
4. Opening a creche in a men's organisation.
5. Change the responsibilities assigned to males (administration and finance) and females (secretarial entertainment, food etc.).
6. Provide paternity leave (it must however be ensured that men actually contribute to child care, while on leave).
7. Remove discrimination in residential facilities to senior male members and junior female staff members.

Some problems faced by women working in NGOs were highlighted by the participants. Non permanent programme staff faces a problem of getting maternity leave during pregnancy and lactation which makes it difficult to adjust their responsibilities to suit their needs.

Single women as well as married women have to face the question of their plans of marriage and of having children, during job interviews.

Sometimes, much more dedication is expected of single women assuming that they do not have family responsibilities which may not be true. There is a misconception that women working in NGOs have super human qualities. In fact, their needs and problems are the same as that of other women.

Group discussions were held to analyze PGN and SGN in programmes for :

1. Health
2. Environment
3. Income generation
4. Single women/violence

The questions analyzed were

1. PGN and SGN
2. Self reflection by organisations keeping PON and SGN in mind
3. Strategies for SGN

HEALTH

PGN

- ◆ Distribution of medicines, nutrient supplements and immunization of children
- ◆ Provision of supplementary food
- ◆ Provision of medical facilities for treatment of diseases
- ◆ Training of Traditional Birth Attendants,
- ◆ Family planning methods for women
- ◆ Constructing smokeless stoves
- ◆ Revival of traditional medicine/remedies.

- ◆ Provision of medical facilities to cure diseases arising due to occupational health hazards (e.g chemical toxins) or prevention measures like masks
- ◆ Treatment for mental stress.
- ◆ Health education to women,
- ◆ Maternal and child-health programmes.

SGN

- ◆ Improvement in economic status.
- ◆ Popularisation and promotion of preventive approach to healthy living
- ◆ Increasing the participation of men and women
- ◆ Encouraging men to adopt family planning measures.
- ◆ Involvement and training of women in construction of smokeless stoves in their homes and encouraging men to share responsibilities of cooking
- ◆ Control over one's body through fertility awareness
- ◆ Legislation for women in the unorganised sector or removal of the causative factor responsible for physical stress through change in design of machinery etc.
- ◆ Removal of causative factors of mental stress e.g. equal division of labour and reduction in violence.
- ◆ Health education to men and women. Make attempts to raise the social status of women
- ◆ To introduce a life cycle approach into all Women's health and development programmes.
- ◆ To involve women in planning policies of health programmes.
- ◆ Equal participation of men and women at the implementation level.
- ◆ To campaign against amniocentesis and resulting female foeticide, and invasive contraceptive technology like anti fertility vaccine and Norplant.
- ◆ To bring about a change in gender division of labour among doctors and nurses.
- ◆ To campaign against sexual exploitation of nurses and patients
- ◆ It was realised that programmes of CHETNA , Mahiti, Utthan and Gram Shakti Shram Jivi Sansthan (GRASS) address PGN and to some extent, SGN.

ENVIRONMENT

PGN

1. Forestry

- ◆ Provision of fuel-wood, fodder
- ◆ Deforestation
- ◆ Provision of alternatives for firewood e.g. biogas and smokeless stoves
- ◆ Non timber forest produce collection

2. Agriculture

- ◆ Labour saving devices designed for the convenience of women

3. Urban Women

Environment education aimed at promotion of use of environment friendly products by urban women especially products for cleaning purposes. Awareness and training for the above.

SGN

1. Forestry

- ◆ Marketing of forest produce by women
- ◆ Decision regarding location, design, need for alternative awareness in operation and maintenance
- ◆ Appropriate design of equipment
- ◆ Joint decision for the type of trees to be planted,
- ◆ Involvement of women in decision making in tree grower's co- operative and tree patten scheme

2. Agriculture

- ◆ Joint ownership of land and cattle
- ◆ Control over income and credit needs

3. Urban Women

- ◆ Responsible advertising by media.

The strategies suggested for SGN were awareness generation, training, research and demonstration

SINGLE WOMEN

Unmarried women, deserted/widowed women and nuns are included in this category

PGN

- ◆ Shelter/home
- ◆ Mobilise women for ration card, passport. gas and vehicle (it is very difficult for single women to get these without the name of male member of the family).
- ◆ Provide employment
- ◆ Solve health problems and provide medical facilities
- ◆ Conduct research to collect data so that problems of single women are highlighted.

SGN

- ◆ Loan/housing scheme.
- ◆ Influencing concerned agencies to alter the rules which are gender discriminatory
- ◆ Networking of single women to collectively fight for their rights.
- ◆ Sensitize men and women towards concerns of single women
- ◆ Demand government programmes for empowerment of single women.
- ◆ Demand that single women be made a separate category in the census
- ◆ Provision of maternity leave for unwed pregnant women

INCOME GENERATION

SH

1. To be involved in production as wage earners.
2. To be employed and to earn
3. To own assets.
4. Oppose economic exploitation by employers.
5. Oppose sexual exploitation by employers/husband.

SGN

Increase in Income be accompanied by :

1. Involvement in purchasing and marketing activities also, so that total control over business becomes possible.
2. Handling one's own finances (banking etc.) and taking decisions regarding the same on one's own. This also involves decisions regarding the nature of work to be undertaken.
3. Control over individual and community assets,

When planning strategies to fulfill strategic gender needs the following must be kept in view:

1. The background of the group whose needs we wish to fulfill, their caste, class. financial status (whether they own property or not) and the issues which we wish to address.
2. The process of organising women (it must ultimately lend to empowerment)
3. WO must start from practical gender needs (basic needs for survival) and then proceed to strategic gender needs.
4. Strategies should be planned based on field data of Participatory Rural appraisal (PRA)
5. The strategy must be able to influence policy level decisions.

The Mahaweli River Development Scheme - A Case Study

The Mahaweli River Development Scheme is situated in the North Central and North Western parts of the dry zone of Sri Lanka. It is the largest and most costly development project in this country, and also The largest river basin scheme in South Asia. According to the plans, extensive parts of the dry zone have to be irrigated with water from the Mahaweli, Sri Lanka's major river. It implies the resettlement of thousands of farmers' families who have to run their farms according to instructions from the government.

Since the planning of this project at the end of the 60s, increased food production has been emphasized as the main target with the aim of Sri Lanka becoming self-sufficient, at least in rice. However, ten years since the first construction was started in the so-called 'H-area', it is precisely this region which is recorded as having the highest percentage of chronic under nourishment in the whole of Sri Lanka: 38.5 percent as against the national average of 6.6 percent [Siriwardena, 1981:56].

In recent years, the nutrition condition of preschool children in general has seriously deteriorated in Sri Lanka¹. The Sri Lankan economist, Jayantha, relates this to the abolition of food subsidies, a measure conditioned by the International Monetary Fund for obtaining foreign loans to finance the 'public investment programme that was started after the change of government in 1977. The food subsidies were replaced by food stamps for the poor. Before that the free rice and commodities were collected by the mother, and thereby prepared for the entire household including the young children. The food stamp scheme means that this food is no longer available in kind. Food stamps may be used for the purchase of food, but they may just as well be resold on the black market, and the proceeds used to purchase alcohol, tobacco or whatever. As the father collects the food stamps, this is what generally happens. The needy family therefore does not get the same sort of nutritional quota it received in the food subsidy era. This has been further exacerbated by the rapid price inflation since 1979 [Jayantha, 1983:23].

Source: Joke Schrijvers in Structures of Patriarchy: State Community and Household, in Modernising Asia (ed. B. Agarwal), Kali for Women, New Delhi, 1988.

But why is chronic under nutrition highest in the region most influenced by planned development?

Rice Crop, Macro and Micro

Self sufficiency in rice for Sri Lanka would have lessened the dependence on costly food imports - a target of the highest importance in view of the country's negative balance of payments. Other goals included creating employment, and self-sufficiency in energy [by the generation of electricity by means of the canalized water] which would terminate the country's dependence on the increasingly costly import of oil.

In spite of the high expectations, self-sufficiency in rice has not yet been reached. In 1982, rice still had to be imported at a cost of Rs. 925 million [*Sri Lanka Socio-Economic Data*, 1983]. The cost of the implementation of the total project after 1977 was estimated at between Rs. 25,000- million - Rs. 30,000 million [i.e. US \$ 2,907-3,488 million] and had to be fully covered by foreign loans [Ponnambalam, 1981: 156]. These loans, mainly from the International Monetary Fund and the World Bank, were provided with conditions. The stipulated measures entailed a 100 percent devaluation of the rupee; 40 percent inflation; 80 percent price increases for the necessities of life and abolition of food subsidies. According to the original plans, the implementation of the total project would take thirty years, spread over three stages. The costs of the second and third stages would be covered by the output of the first stage. The government's decision in 1977 to speed up the implementation to only six years created, among other things, the need for four times the amount of foreign capital originally estimated, and thus a highly increased dependence on foreign powers.

A rapidly worsening nutrition condition was one of the negative consequences. The record rice crop of 1978 in the Mahaweli H-area did not improve the food condition of the farmer's families. The agricultural credits provided to the farmers in that year were six times higher than in 1976, and only 20 percent were repaid. These loans were not used for productive aims, but for buying food.

Since 1977, rice has more than doubled in price. Many there fore have been forced to replace daily rice regularly with commercial white bread, or wheat flour roti, the home-made bread. Those who have least access to cash income, for instance the small farmers, find it increasingly difficult to make ends meet. This applies to a high degree to new settlers in the Mahaweli Scheme. Interviews with inhabitants of a hamlet in the H-area in 1978, showed that women felt the quality of their lives to have deteriorated since they came to live in the colony a few years before. Even if their families had been landless before, the idea of now belonging to the landowning class was of little comfort: the two and a half acres of land allocated to each head of family for the majority of settlers has not yielded enough to live on so far. According to other research in the same area, 97 percent of the settlers could not produce enough to cover the necessary agricultural inputs plus, the families needs for consumption; 75 percent did not even earn enough for their consumption [Siriwardena, 1981:54].

Debts and undernourishment, therefore, have been the result for many. The women attributed the nutritional shortcomings in the first place to the fact that they were unable to grow their own food crops in the settlement. The land had been allocated for producing cash crops; and the half-acre compound around house was hardly big enough for a latrine and some fruit trees. According to all, the diet had severely worsened since living in the colony. Mothers added that their preschool children were continuously ill: 'We don't have money, we cannot grow food for our families, the water is polluted by agricultural chemicals, the babies and myself are all the time ill and there is not even a doctor here'. The women did not understand how the *loku mahatturu*, the big gentlemen, had been induced to plan the colony like this. 'We get crazy here', some said; 'there is nobody here' [i.e. no relatives]; 'we do not live here as human beings but illness and poverty and even less with the feelings of shame and loss of dignity. How had the 'big gentlemen' planned all this, then?

Project Plan

The history of Sri Lanka's colonisation schemes goes back to the times of the ancient kings, some 2000 years ago. Even then the water of the Mahaweli was used to irrigate part of the dry zone for the production of wet rice. During this century, a large scale colonisation policy was implemented with renewed efforts, first by the British colonial government, and later by the successive governments of Sri Lanka. This policy was regarded as a means both to increase production and to cope with the increasing dissatisfaction of the landless poor: 'By giving peasants a small piece of land two needs were met; increased rice production and political control [Dunham 1982:561]. It is against this background that the planning of the Mahaweli project has to be viewed. What is new is the tremendous size and cost of the enterprise.

According to a Master Plan of 1968 [based on a survey by the UNDP/FAO], Mahaweli water would be used for irrigation and energy purposes by the construction of a huge dam. Through a tunnel, water reservoirs [tanks] and irrigation channels, part of the river which rises in the rainy wet zone was directed towards the dry zone in the North Central and Western parts of Sri Lanka.

The plan envisaged that the Mahaweli water would irrigate 645,000 acres [i.e. 39 percent of Sri Lanka's total land area; Mendis 1973: *vii*]. To undertake the new rice production, 1.5 million people would be settled in the newly opened-up area. The productive unit was the small, nuclear family, headed by the farmer who was provided with 2.5 acres of irrigable paddy land and a half-acre homestead. The farmer was expected to develop this as a commercial enterprise, growing rice and other cash crops under the direction of the government. To support and to check the farmer, both technical provisions and an extensive administrative apparatus were established [one official to 18 settlers; see Siriwardena 1983a] in which agricultural extension, credit facilities, marketing and the formation of community development societies were included.

About 60-70 percent of the colonists are original inhabitants of the area who, as a result of the re-organization were first driven from their land but later given priority in the allocation of land plots. These original inhabitants were cultivators before, so how did they survive in this dry zone before the Mahaweli project was implemented?

The Original Situation

From early times, the population of the dry zone had to cope with a highly precarious climate, making agriculture an uncertain means of existence. People survived through a combination of two types of agriculture with different technologies and social organisation; slash and burn or swidden [*chenna*] cultivation in which technology is simple and there is little need for strictly organised cooperation; and paddy cultivation with the aid of rain-fed reservoirs characterized by sophisticated technology and a high degree of cooperation. Outside the project area, these two forms of cultivation continue to be practiced jointly in the dry zone.

In a situation of irregular and insufficient rainfall, paddy cultivation undertaken with the aid of rainwater is a precarious business, especially in villages where the tank has a very small catchment area. In about three in five seasons the rice crop is a failure due to lack of rainfall [Brow, 1978:98]. In contrast *kurakkan* [finger millet] -the principal food crop of *chenna* - is much more adaptable to fluctuations of rainfall, it can be stored for long periods [upto ten years], and because of its high nutritional value is most useful as a reserve against famine [Ohrling, 1977:110-111]. In addition, *chenna* allowed for the cultivation of a variety of crops. Hence, the traditional diet of the villagers practising both types of cultivation was varied -based on *kurakkan* and rice, various other grains and pulses, vegetables and wild leaves cooked with coconut, spices and chillies, fruit, tank and salt fish, game and milk.

The sexual division of labour is also different between *chenna* and paddy. In *chenna* cultivation, apart from the initial clearing of jungle and the watching at night which is done by the men, and the reaping of millet exclusively by the women³, all other activities can be carried out by either sex. In practice, however, women usually play the greater part, cultivating not only millet but various other grains, pulses and vegetables. This is partly due to the fact that when rainfall is sufficient, the preparation of the paddy fields requires the man's full-time attention during the same period [Kloos, 1981:5]. From September to February and again from April to June, the women's work on the *chenna* entails the cutting and burning of old branches and twigs, the removal of the small stubs and the collection of firewood; they sow, plant, weed, keep watch during the day, and harvest. In contrast, tasks in paddy cultivation, with the exception of harvesting and transplanting [which is a modern method], are dominated by men. Children help during the peak seasons in both cases.

Also, in both cases, the production of edible food requires much additional work after harvesting.. threshing, winnowing, drying, parboiling, pounding, grinding and finally cooking, for which water and firewood have to be fetched. Those tasks are also the women's responsibility and are done manually, with the exception of threshing, for which buffaloes are used.

Nowadays, the *chennas* are primarily used for the cultivation of cash crops like chilly, cowpea, soya, green gram, mustard and gingelly. This is encouraged by agricultural extension, and it is also one of the ways to survive in today's money economy. However, for their own use, the women continue to grow food crops as well, such as millet, highland rice, maize, cassava and vegetables. The millet is kept by the women as a foodstock and 'savings- bank': every time they are in urgent need of money they sell small quantities. Moreover, to supplement their diet they collect wild fruits, plants and leaves - important sources of vitamins, minerals and protein.

³ Millet (Kurakten; finger millet) is cultivated by women exclusively; a man reaping millet would be considered ridiculous.

However, increasing poverty, with the accompanying sales of paddy land, have forced more and more women and men to earn additional income as casual labourers for the local elite. And although the chennas are out in the forest and shrub-land which is Crownland [therefore, not private property], those who work as casual labourers often have no time left to cultivate a *chenna* of their own; they have to buy all their food. It is this category of people that shows signs of increasing undernourishment. But, although the nutritional value of their diet [and to lesser degree of the diet of the small farmers] has declined rapidly during the last decades, their situation is less alarming than that of the settlers in the Mahaweli Scheme. There, as shown, about one-third of the population is suffering from chronic undernutrition, whereas for the districts directly bordering the H-area of the Mahaweli Scheme the figures are between 2.6 percent [kurunegala, 4.0 percent [Puttalam], and 4.3 percent [Vavuniya; see Sirwardena, 1981:561. The figure for Anuradhapura District, immediately east of the project area, is not given, but-there is no reason to assume that it would vary significantly.⁴

Relations of Production in the Mahaweli Scheme

The above facts clearly establish why the vast majority of the pioneers in the new settlement of the Mahaweli H-area were dissatisfied with their existence. The circumstances were completely different from those expected. Both men and women shared this opinion, and both affirmed that women had to bear the heaviest burden of the new existence. They had to take care of the daily meal, the household and the children who were frequently ill, while basic facilities such as schools and medical care were still lacking, at least for the first few years after settlement. Moreover, all women who did not have to look after a baby themselves worked as hard in the paddy fields as the men.

Contrary to the official project ideology, which emphasizes equality of position and opportunity for all, it was perfectly clear that important economic differences were emerging. Effective cultivation depends on good quality land, sufficient water, realistic advice, credit facilities and good relations. Differential access to these resources had,

⁴ The purana village where I carried out research is situated in Anuradhapura District.

within a few years led to an economic differentiation that will most likely become a structural one. Although the lease, mortgage or sale of allocated land is not officially allowed, leasing and mortgaging are normal practices. Those farmers who fail to become entrepreneurs have their land illegally controlled by the new elite, and subsequently hire themselves out to them as casual labourers. 'Thus not only the allotments but even the labour power of the settlers are used for cultivation of the land by a minority who could afford to do so [Siriwardena, 1981:541. Together with the 'squatters', the illegal inhabitants of the project area [i.e. former peasants to whom no land was allocated, and new comers looking for work], and the future landless belonging to the next generation of settler families, the failing farmers from the labour supply needed by the successful entrepreneurs.

This class formation, together with growing inequality between the sexes, finds its basis in the project plans and implementation. First of all, unequal property relations were created between women and men, contrary to the traditional Sinhalese inheritance rules which prescribe that sons and daughters inherit equal shares of paddy land, cattle and other properties. Special legislation for the Mahaweli Project ensures that only one heir be appointed - to counteract fragmentation of land. As paddy cultivation is traditionally considered the responsibility of men, one of the sons is usually appointed heir. To avoid or postpone quarrels between sons, the wife's name is often mentioned as heir, until after the landowner is sure about which one of the sons will be the most suitable successor. This habit of naming the wife first does not have any consequences for the women regarding land rights; the owner has the right to change the name himself any time and if the marriage is not officially registered [as is often the case], the wife can never be the legal heir [cf Farmer, 1957:290].

Men are the new owners of the land; indeed, the *first* allocations of land in the Mahaweli Scheme predominantly favored male colonists, although this preference was nowhere laid down officially in the regulations or selection criteria. In the settlement where I carried out in-depth research, it appeared that in 96 of the 112 household groups [82 percent] the plots of land were allocated to a male. Of the 16 males who had been

allocated land only two lived in the project area; they were a widow and a separated woman, who had settled with their children, and both managed their own farms [see also Lund, 1978:45].

Given the traditional division of labour between the sexes, according to which men are responsible for paddy cultivation, and the age-old ideal of the male head of family, it is not surprising that, in practice, males were favoured in the selection of new landowners. This was strengthened by the formulation of the criteria for selection in the various reports by foreign experts. The western ideology, described above as the 'male-breadwinner-cum-housewife', is reflected clearly by these criteria. Looking for instance at the feasibility study of 1972 drafted by a French firm on the settlement policy for the second stage of the project [this is the H-area] the ideal pioneer [called the 'paradigmatic settler'] comes clearly to the fore as a young man gifted with entrepreneurial qualities. Experience has taught us, the report says, "that good farming [with, as a result, high production] does not as a rule go with the selection of settlers according to the criteria of landlessness and big families, used in older colonisation schemes with a very large number of mediocre farmers" [Sogreah Report, 1972:1571. Not only are the landless put aside in this recommendation, but women, too seem to have little chance of getting a piece of land. The *ideal settler is*

... one who is not inhibited by a long practice of submissive behaviour towards officials and who is capable of dealing with them on equal terms one with initiative, enthusiasm and a pioneer spirit ... who is an experienced farmer able to participate in the management of his community He should live in the project area *with his family* [Sogreah Report, 1972:157-160, italics J.S.].

That land has been allocated to female settlers [in about 12-18 percent of the cases]⁵ in spite of this planning may be explained as a continuation of the traditional rights of women to land [cf Rogers, 1980: 1491. However, my research data show that a woman

⁵ My own research data show 18 percent of female land ownership in one settlement of the H-area. Siriwardena found 12 percent female land ownership (personal communication)

only applied for land if there was a minimal chance for male members of her family to obtain a plot [Schrijvers, forthcoming]. Whatever the causes, a majority of women in the scheme are cut off from the main means of production: land. Moreover, only a minority of those who own land in the project area appear to live in the colony themselves. They thus have no control over it whatsoever.

Ownership and control of land is an important criterion for determining the relations of production. *Control of one's own labour and the products thereof* is a second criterion. Just like other projects financed by the World Bank and similar organizations, the Mahaweli project is based upon the small nuclear family in which the man is head, breadwinner and owner of the allocated land. Only those farmers who can function as small entrepreneurs are successful in this framework. They control the unpaid labour of their wives and children. This enables them to accumulate the necessary capital without investment in hired labour or machines. The women do not have a place in the project as independent producers; they do not control the produce of their labour; and in practice they do not have access to the various services of agricultural extension, credit, marketing and community development, all directed at male breadwinners. According to the new ideology that goes with this mode of production, it is modern for a man to have a housewife 'who does not work'. Those who can afford it financially, replace the unpaid labour of women with hired labour if there is sufficient labour supply or with farm machinery. This raises the status of the head of the family. As one of the farmers explained to me: 'Because we don't have enough labourers here, we have to do the work with women'. A little embarrassed by his explanation, he hastened to add that as soon as it was possible his wife would occupy herself with the home and children only. Whether his ideal will ever be attained is questionable. After some years, structural differences emerge between the few 'who make it' and the majority who fail as small entrepreneurs. This majority remains poor, or becomes even poorer. And women in the project area cannot any longer ease poverty by growing food themselves. There are no *chenna* anymore, the compounds are too small. Outside agriculture there is no employment, and as far as there is a demand for female agricultural labour it is highly seasonal and underpaid a woman's pay as a day-labourer is only half to two-thirds that of a male. The

ideology of the male breadwinner helps to rationalise the differences here also: 'Women work less hard than men; they only do it for a few extra earnings, and they have to cook for their husbands and children first, haven't they?' Such views are so dominant that they seem to blur observed reality. Even when confronted with contrasting facts during discussions, male farmers found it difficult to acknowledge that female agricultural labours worked as many hours as males, and very often did exactly the same work. Although women in general expressed the same views, they had less trouble than men in seeing these contradictions.

The Ideology of the Housewife

The ideology of the breadwinner-eum-housewife is proclaimed too, by all those who are responsible for the implementation of the planned policy at the micro-level. During the research when I expressed concern to locally employed officials about the conditions of the settlers, and also discussed the marginal position of women, they showed much goodwill but appeared to be rather ignorant of the traditional contribution of women in agriculture. This urbanized bureaucracy voiced a theory in which the real historical process has been reversed. 'Our village women here in Sri Lanka are not yet as modern as you western women; they still have to get used to coming out of their homes, not to mention doing cultivation themselves'. An important export product of 'development' policy had apparently found a ready market! This ideology however, hides the fact that only the wives of the most successful producers - a small elite - are housewives in reality. All the other women are doing the double work of housewives and agricultural labourers: unpaid by their husbands, and underpaid by other men. 'This family labour' of women is increasing, because the economic conditions are worsening [Vidanapathirana, 1983:25].

The process of housewifisation [Maria Mies 1982:180], so directly connected with planned production, was further stimulated by the Mahaweli Authority [the body incharge of the project implementation] by the establishment, in 1981, of a 'Home Development Centre'. Here the women settlers are supposed to learn 'in short courses' how to become better farm housewives. The training programme contains 'health, nutrition, sanitation, poultry, home- gardening and needlework' [with special emphasis on

macrame]. All this '... to learn the basic technical concepts required for normal healthy growth and living. The Home Development Centre meets this end.' [Mahaweli Authority of Sri Lanka, 1983:31]. The concern for the health, nutrition and hygiene of the inhabitants of the Mahaweli Scheme is increasing, since a survey of the Ministry of Plan Implementation in 1980 revealed alarming figures, on under nutrition in the Mahaweli H-area. Consequently, to improve the health condition of children, eight day-care centers were established under the auspices of UNICEF, where children between the ages of two and five could benefit from free health care, Thripasha [a soya product rich in protein], and training in hygiene. However, research has made clear that the children taken to these centres all belonged to the higher income families, those of traders and more affluent farmers. An important reason for this was the fact that the children were expected to bring a meal from home and to be dressed properly. The poorer mothers did not have the means for this, and had, moreover, no opportunity in between all their other duties to bring and fetch their children together with a good homemade lunch, Siriwardena concludes therefore.

The day-care centers ... have reached only those already in control of economic and social power in the settlement village. The fundamental problem appears to lie in the diagnosis which focusses on the lack of material needs, while what appears crucial is that the undernourished are undernourished because they are prevented from achieving the power to secure the things that could nourish them [Siriwardena, 1983b:29].

Conclusion

The facts presented in this paper show that sex-specific data as well as information regarding the power relations between the sexes are needed to understand the problem of undernourishment. This is all the more urgent for taking action against malnutrition. It is important to emphasize that the undernourished do not suffer from a mere lack of material things and training but primarily from the *power to secure the things that could nourish them*. Indeed, within this category of people women have the most marginal position, and this itself is a factor *causing* under nutrition.

The chronic undernutrition in the mahaweli H-area is a direct result of planning that cuts women off from their productive resources. It is of primary importance that women who have to provide the daily food to children and other members of the family have the means themselves to obtain sufficient food. This would imply power within the household group, in the reproductive sphere, but also power with regard to the means of production. In the present situation, women cannot be sure that the income from male breadwinners, if any, will be spent on daily food. Research shows that only 35 percent of the net income of the male farmer [after debts were paid off] benefitted the rest of the household'. The concept of household inequalities which lead to under nutrition.

The example of the Mahaweli Scheme illustrates why a better training of mothers in health, nutrition, hygiene and family planning, is deficient as a means of fighting under nourishment. Mothers do not primarily need training, but power for autonomous access to food. It is precisely this autonomy that is systematically undermined by 'development' planning such as the Mahaweli Scheme.

GENDER – AWARE POLICY AND PLANNING: A SOCIAL – RELATIONS PERSPECTIVE

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Since 1991, IDS has been running a three-month course called ‘Women, men and Development’ intended for a mixed constituency of planners researchers, and development activists. In this paper, I offer a brief outcome of the analytical framework that has evolved over the life of the course. Our framework takes a rather wide-ranging approach. First of all, while we recognize that the domestic domain is an important site of gender-based inequality, we do not believe that gender inequality is purely a matter of familiar relationships. Rather, it is an aspect of all spheres of life, including many of the institutions responsible for development policy and planning. Secondly, we see gender as an important and frequently overlooked aspect of people’s experiences of inequality. However, while gender is never absent (as Ann Whitehead puts it), it is always intertwined with class and other social relations. A gender analysis must be embedded within a broader social-relations framework. And, thirdly while we recognise that accurate information about existing gender-relations is an important pre-requisite for good policy and planning, we also argue for the need to change many aspects of these existing gender-relations.

There are three stages to our framework. The first is a review of policy options (Policy Review A and B), the second analyses the institutional relations of gender (Institutional Analysis A and B) and the third attempts to integrate this analysis into the planning process (Analysing Interventions, A, B, C and D)

Stage I: Policy review (PR) _ Gender and policy options:

The first step in our analysis (see figure I) looks at some of the different ways that gender might be present-or absent-in policy interventions. It also helps to clarify some of our terminology. We use the term ‘gender-blind’ to refer to policies which, while often appearing neutral (they are couched in abstract, generic categories, such as communities, labour force, the poor, etc) are implicitly male-biased, because they are premised on the notion of a male actor and men’s needs and interests. Greater gender-awareness in formulating policy requires that rather than relying on preconceived and timeless notions about gender-determined roles, we recognise the dynamic and differentiated nature of empirical reality and constantly check our assumptions with this reality.

Greater gender-awareness may lead to three alternative approaches to policy:

- **Gender-neutral policies:** Gender-neutrality in policy relies on accurate information about the existing gender-based division of resources and responsibilities, in order to ensure that policy objectives (whether related to productivity or to welfare) are met in the most-efficient way possible. Gender neutral policies attempt to target the actors appropriate to the realisation of predetermined goals, they leave the existing division of resources and responsibilities intact.
- **Gender-specific policies:** Advocacy on behalf of women and recognition of past-neglect of women’s gender-related needs has given rise to policies which favour targeting activities and resources which women are likely to control or benefit from. However, without some transformative potential built into them, such policies are also likely to leave the existing division of resources and responsibilities intact.
- **Gender-redistributive / transformative policies:** These seek to transform existing gender-relations in a more democratic direction by redistributing more evenly the

division of resources, responsibilities, and power between women and men. Gender-redistribution is the most politically challenging option, because it does not simply seek to channel resources to women within the existing framework, but may require men to give up certain privileges and take on certain responsibilities in order to achieve greater equity in social relationships.

These different approaches need not cancel each other out. It may be the case that in certain contexts, the adoption of gender-neutral or gender-specific policies provides women with new socially valued resources on terms which strengthen their bargaining power, and help them to renegotiate their position within the family and community. Ultimately, it is the intentions as well as the kind so social relationships which different policies embody for women and men which determine their potential for redistributive or transformative goals.

The next step in our analysis (see figure 2) summarizes some of the official, academic, and grassroots attempts to influence the policy discourse in development. The welfare approach which characterised pre-WID development thinking has been criticised because it cast women as non-productive dependents, concerned only with family welfare. Early WID advocacy argued for equality of opportunity in development to counter the adverse effects of development on women. However, as Mayra Buvinic points out, the redistributive connotations of such arguments – and in particular its relevance for the development agencies themselves – led to its displacement within mainstream development agencies by an emphasis on women as part of a poverty-alleviation agenda. More recently, an efficiency-oriented discourse is evident within certain donor agencies which stresses women's productive roles. It reverses the earlier argument that women needed development by arguing that development needs women: failure to take account of differences in gender-linked roles leads to the under utilisation of women as a productive resource, and carries high efficiency costs.

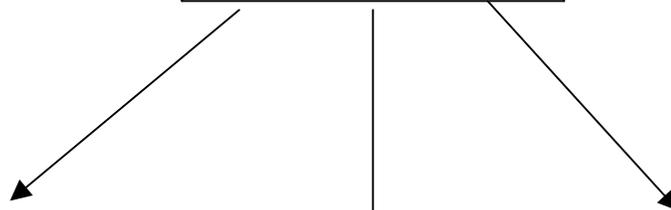
Gender-blind policies
(Often implicitly male-biased)



Rethinking assumptions
Rethinking practice



Gender-sensitive policies



Gender-neutral
(interventions intended
to leave distribution of resources
and responsibilities intact)

Gender-specific
(interventions intended
to meet targeted needs
of one or other gender
within existing
distribution of resources
and responsibilities)

Gender-redistributive policies
(interventions intended to transform
existing distributions in a more egalitarian
direction)

However, a more radical version for equity is also evident in recent texts; it argues for the need to reinstate social welfare provision as a complement, rather than an alternative, to efficiency considerations. It suggest that the problem with the old welfare approach lay not in the kinds of needs it sought to address, but in the assumptions and welfarist relationships which it embodies. A new definition of equity, put forward for instance by Diane Elson, would stress the interaction between women’s contributions in building the family and making a living, and hence the interdependence of welfare and efficiency. Finally, there is a concern with women’s empowerment which emerged out of grassroots activism. The DAWN group, for instance, calls for a transformation of existing social relations from the vantage point of the most oppressed sections of our societies, women who are disenfranchised by class, race and nationality.

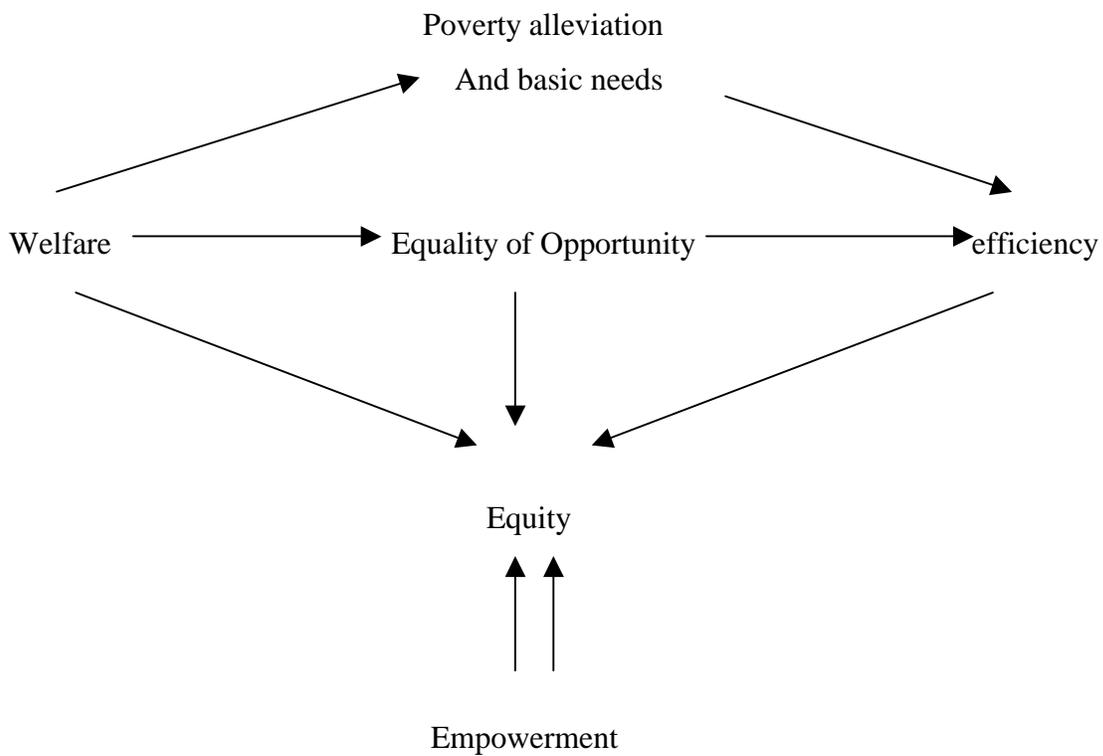


Figure 2 : Policy Review (B)

Stage 2 : Institutional Analysis – gender and institutional relations

The approaches adopted and the interventions they give rise to will depend on the kind of analysis used to identify the problem and seek solutions. The analytical framework we are suggesting here draws attention to the way in which gender is constructed as a relationship of inequality by the rules and practices of different institutions, both separately and through their interactions. What are these institutions, and how does gender operate within them ? We are concerned here with four key institutional sites within the development process: families/households; market; state; and community. Most institutions tend to operate both with official ideologies concerning their goals and procedures, which disguise both implicit goals and with informal operations which also shape institutional outcomes (see figure 3). Very few admit to unequal and unfair relationships, yet very few are egalitarian. These official ideologies are often reproduced uncritically in social-science textbooks and popular discourse and will be familiar to most of us. The compartmentalised nature of the social sciences had led to the treatment of the key institutions of development as some how separate and distinct from each other, the subject matter of different disciplines. However, the inter-disciplinary nature of both gender studies and development studies has made it increasingly clear that these different institutions, while operating according to quite distinct ideologies and procedures, also share common norms and assumptions which lead to the systematic production and reinforcement of certain social inequalities.

Household *altruism+ Cooperation	Market *profit maximisation
State *national welfare	Community *service+ moral economy

Figure 3 : Institutions : the official picture

To get at these norms and practices, it is necessary to move beyond the official ideologies which characterise different institutions to ‘deconstruct’ them by examining the actual social relations and processes by which they are constituted. Figure 4 makes the point that most institutions are hierarchically organised—with gender as one of the central organising principles. They are also mutually constituted. State policies shape intra-household outcomes but equally members within households can subvert or constrain state activity. Community norms and organisations can block the ability of state to improve individual circumstances. And market-based processes feed back to determine intra-household relationships. Gender, as we have pointed out is one axis of inequality within institutions; class, race, nationality, caste and religion all assume a different significance in different contexts as other axes of inequality. In some context, age and life cycle may also determine how individuals and groups fare. We point to five aspects of social relations within institutions as significant to the analysis of social inequality in general, and to gender inequality in particular.

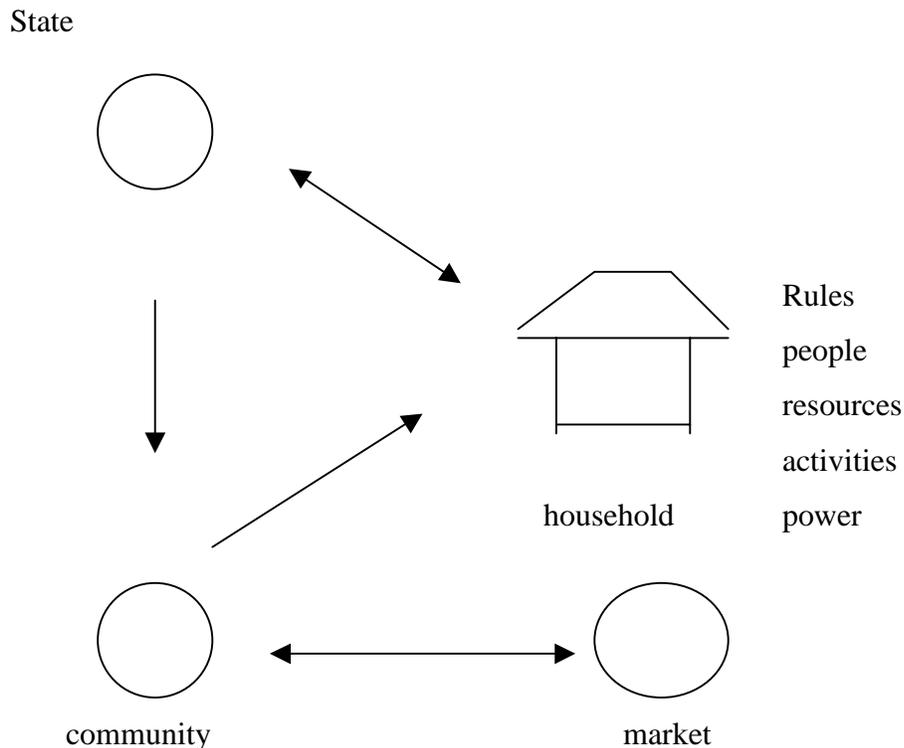


Figure 4: Institutions: the unofficial picture

At one level, institutions can be seen as a set of rules. These refer to the official norms and practices of an institution, along with the cluster of unofficial values, norms, procedures and practices which also affect institutional recruitment, allocation, promotion, exit and process, in other words, how things are done. Such rules can be experienced as enabling by some members or in some contexts, and constraining by others or in others. Institutions are about practice: certain things get done in certain ways within them. Institutionalised rules enable certain kinds or recurring decisions to be made with an economy of effort; but they also entrench how things get done. Institutions are about resources; all institutions are sites for the production, management, distribution, or exchange of resources which may be material (such as food, capital assets) human (labour and skills), or intangible (information, contacts, political clout). Institutions can also be seen as constituted by particular categories of people; institutions typify certain kinds of actors doing certain kinds of actions. Finally, institutional rules, resources and practices determine how authority and power are distributed among its membership. Few institutions are egalitarian, rather the unequal distribution of rights and obligations, resources and responsibilities ensures that certain individuals or categories of individuals tend to exercise authority and decision-making, power over others. Such power gives them both a stake in the status quo and the capacity to defend it.

Table I shows a 'snap-shot' of gender-relations within institutions

<p>A. es : (Official ideologieRules and goals): Regulations, codes of behaviour, principles of inclusion and exclusion</p> <p>B. People : Who is allowed by / who is excluded, who is the institution intended to serve?</p> <p>C. Resources: How are resources of authority and goods / services distributed among those associated with the institution?</p> <p>D. Practice: Behaviour, activities, tasks, rituals and ceremonies, procedures</p> <p>E. Power: Institutions define relations of power and authority between individuals and categories of individuals, based on institutional rules, resources and practices</p>
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Table I: Gender - relations within institutions

A more complex analysis is necessary to explore how gender interacts with other forms of social inequality to produce very different outcomes for different groups of women and men, but - for the present purposes - we focus on gender. Drawing on the preceding analysis, the table suggests that for any institution, we need to analyse the rules, resources, practices and hierarchies of command and control in order to uncover how gender is constituted as a relationship of inequality with in it.

The point is that these various elements act simultaneously and mutually to reconstitute institutional structures. The rules and resources structure practice who does what and how; who gets what, and who benefits. Thus, households and community norms govern who is recruited into the household through marriage and who leaves through marriage, in some situations, they may also determine who survives as a member. Where men are seen as primary or sole bread winners, it is likely that they will be favoured in the income and household distribution of productive resources and claims on household related product (inheritance rights: access to land, health and explain their tendency to favour me.... Over women in the distribution of official resources.

In the case of the official agencies of development (whether an NGO or government), the official rules of recruitment or service delivery often appear neutral, based on meritocratic principles. However, implicit bias or unofficial practices will determine who is allowed in and who is kept out. For instance, many bureaucracies made their rules at a time which gender issues were not on the development agenda. What is becoming clear now is that these rules - vertical career structures with no scope for lateral entry; uninterrupted work experience as promotion criterion; the practice of frequent transfers, emphasis on formal qualifications. Often beyond what is necessary for a job - have, whatever the original intentions, ensured that these organisations are largely male-dominated. To allow more women it would require a change of rules.

To take another, example, an NGO may say it is working with 'the poor' but, in reality, its rules and procedures ensure that it is a very selective group of poor people who benefit. Targeting (unspecified) heads of households, or rules that only one (unspecified)

household member will be allowed access to resources, will in most situations translate into favouring male members of the low-income households. Or if an NGO is staffed primarily by men, there are likely to be limits in the extent to which it directly reaches poorer women within the community or is willing to address issues of gender power. This should not be taken literally to mean that men cannot work with women. What it does mean is that the presence of women within an organisation, particularly a controlling presence, will influence the rules and culture of the organisation in a way that is likely to make it, more approachable to women from disenfranchised sections of the community.

Figure 5 draws attention to the fact that gender-linked inequalities, like other social relations, did not arise out of nowhere. They are the products of historically constituted practices and, as such, they have to be reconstituted through practice. Because naturalistic ideologies have served to conceal the social basis of gender-relations more than most forms of inequality, and because the implications of gender-based inequality are experienced within the most intimate and personalised domains of our existence, it is often difficult to appreciate that gender-relations not as a given, but as something dynamic, something which we are all implicated in through our practice. However, we are implicated in different ways, and that is where the potential for transformation is likely to come. Maxine Milyneux's distinction between the practical and strategic concerns which arise out of existing gender-relations is useful here. As women and men are embedded in specific divisions of resources and responsibilities, they are likely to have certain practical needs which reflect their institutionally ascribed obligations. However, because this division is an asymmetrical one, they are likely to have very different and often conflicting strategic gender-interests in challenging or defending the existing divisions. While the practical gender-needs of women and men can be met within the domain for gender-neutral or gender-specific policies, it is the potential for contradiction and conflict arising out of their strategic gender-interests which provides the rationale for a gender-transformative approach. However, what figure 5 also suggests is that we can change institutional rules and resources but, unless that is also accompanied by a change in practice, such change is unlikely to be sustainable.

(a) Gender-relations as outcome

Rules	resources	activities	command and
Norms	as inputs	roles	control
Customs	resources	tasks	(hierarchies of
Rights	as outputs	labour	power and
Responsibilities			decision-making)
Claims			
Obligations			

(b) Gender-relations as process

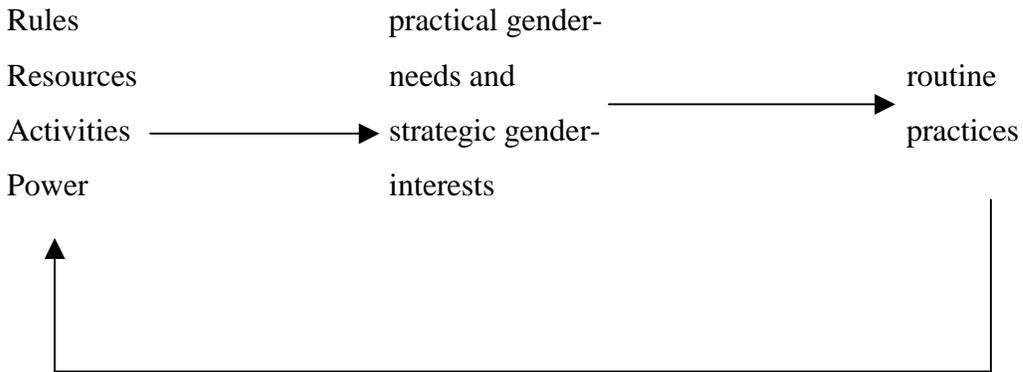


Figure 5: Gender relations as outcome and process

Stage 3: Analyzing Interventions (AI)- gender, institutions and policy and analysis

What does all of this say for this say for the design of policy interventions? Reduced to the basics, all development efforts, whether micro or macro, private or public, can be seen as a technical relationship between ends and means- where we can divide means into those which feed directly into the final goals and those which are only indirect means (see Figure6). The mobilization of resources by which means are translated into ends occur within specific institutional contexts. What the preceding analyzing highlights is that a gender- aware policy approach must take account of the gender-

relations of the relevant institutional context within which specific activities are currently undertaken, and analysis what aspects of these relations need to be challenged or reproduced, before determining the possibilities for designing more gender-sensitive policy responses.

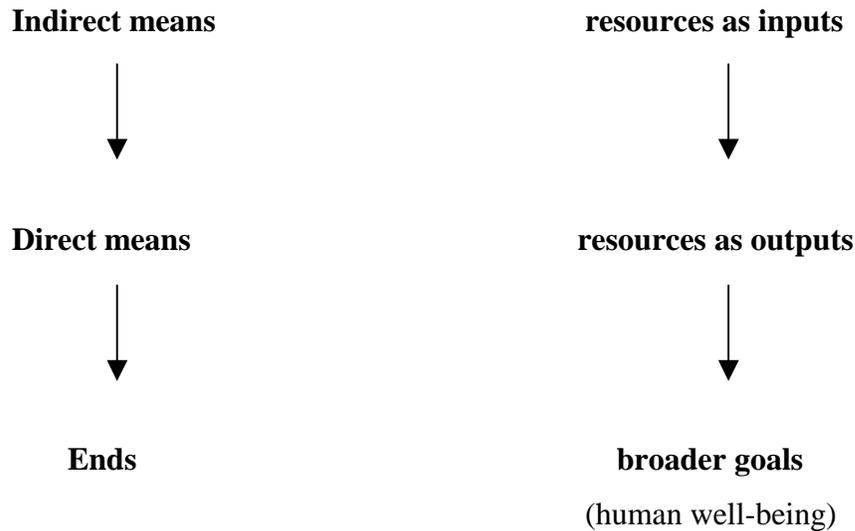


Figure 6: Analyzing interventions(A)

Figure 7 places the technical relationships of production within their social and institutional context. It draws attention to the overall goals of development, the direct and indirect resources through which they are achieved, and the importance of taking account of alternative institutional sites and relationships (markets, households communities, states) through which they are achieved. At the broadest level, the ultimate goal of all human efforts is human well-being, where we have defined well-being in terms of three inter-related dimensions. Survival, security and autonomy. The 'means' available for achieving these ends are the different kinds of resources that are mobilised through the production effort. We have classified them as human resources (human labour, skills and effort) economic on material resources (financial and productive assets and intangible or social resources such as networks of mutual help and solidarity, political contacts and organizational capacity. Intangible resources may be particularly

important for the poor given their lack of material resources. Human beings thus enter our framework as both the means and the ends of development.

At the broadest level, a gender -- aware approach to policy and planning requires us to analyze the institutional mechanisms by which the different goals of development are being met, focusing on the gender-linked implication of their production and distributional practices. Such an analysis will help to clarify the extent to which institutional processes and outcomes are efficient and equitable. Secondly, where efficiency or equity goals are not met, such an analysis will help to identify the sources of the failure and to design policies and programmes which either seek to correct the failure or provide alternative institutional mechanisms for achieving the desired goals. An example may help to make this stage clearer.

Suppose the analysis of poverty, within a certain context reveals first of all that the poor belong to landless households and rely on various forms of self-employment for their survival. Their poverty reflects not only their lack of productive assets, but also their related lack of access to financial resources to invest in their business. Intra-household analysis reveals that while women within the low-income households contribute to households livelihood strategies, they are disadvantaged in the distribution of resources within the households, and also face even less favourable terms of access to financial resources.

Rather than seeking to meet household basic needs directly, through (for instance) targeted feeding programmes, it is decided that a more sustainable option would be to improve the productivity of the poor (and their ability to purchase the direct means for meeting their basic needs) through the provision of credit. It is quite clear that conventional financial institutions have failed to deliver credit to the poor in general and to poor women in particular. Three alternative responses are possible. One would be to create financial intermediaries who are able to carry out the outreach work that conventional institutions find difficult. This, for instance, was the strategy adopted by the Working Women's Forum in Madras. A second would be to provide the backing for the

poor to build up their own resources. Community Development Foundation (Samakhya) in Hyderabad, for instance, seeks to build thrift and credit co-operatives for men and women from low-income households. And the third would be create alternative financial institutions which sought to compensate for the exclusionary implications of conventional banking practices by a new set of rules and procedures which addressed the specific constraints which women in poverty face. This is the option represented by the Grameen and SEWA banks. Each of these options can be seen as an attempt to develop appropriate institutional responses to the interacting distributional failures of households and formal financial institutions.

The first stages of policy design are thus identifying problems and devising appropriate responses. However, there is a further dimension in the design of policy interventions which relates to ensuring its effectiveness. Such a dimension is relevant, regardless of the original rationale for (in this case) ensuring women's access to credit. Such access could be part of a gender-natural analysis: women are more disadvantaged than men in the distribution of credit and hence special mechanisms have to be devised to ensure their access. However, if gender-relations are analyzed in terms in inequality rather than just difference, it becomes clear that access does not guarantee control. It could well be the case that while credit is successfully delivered to women intra-household power relationships mean that men appropriate these resources, leaving women with the responsibility for repaying loans. The unequal gender-determined distribution of resources has been left intact and may even have been exacerbated. Thus, even at the simplest level of successful credit delivery, a transformative component will help to ensure that the policy achieves its aims.

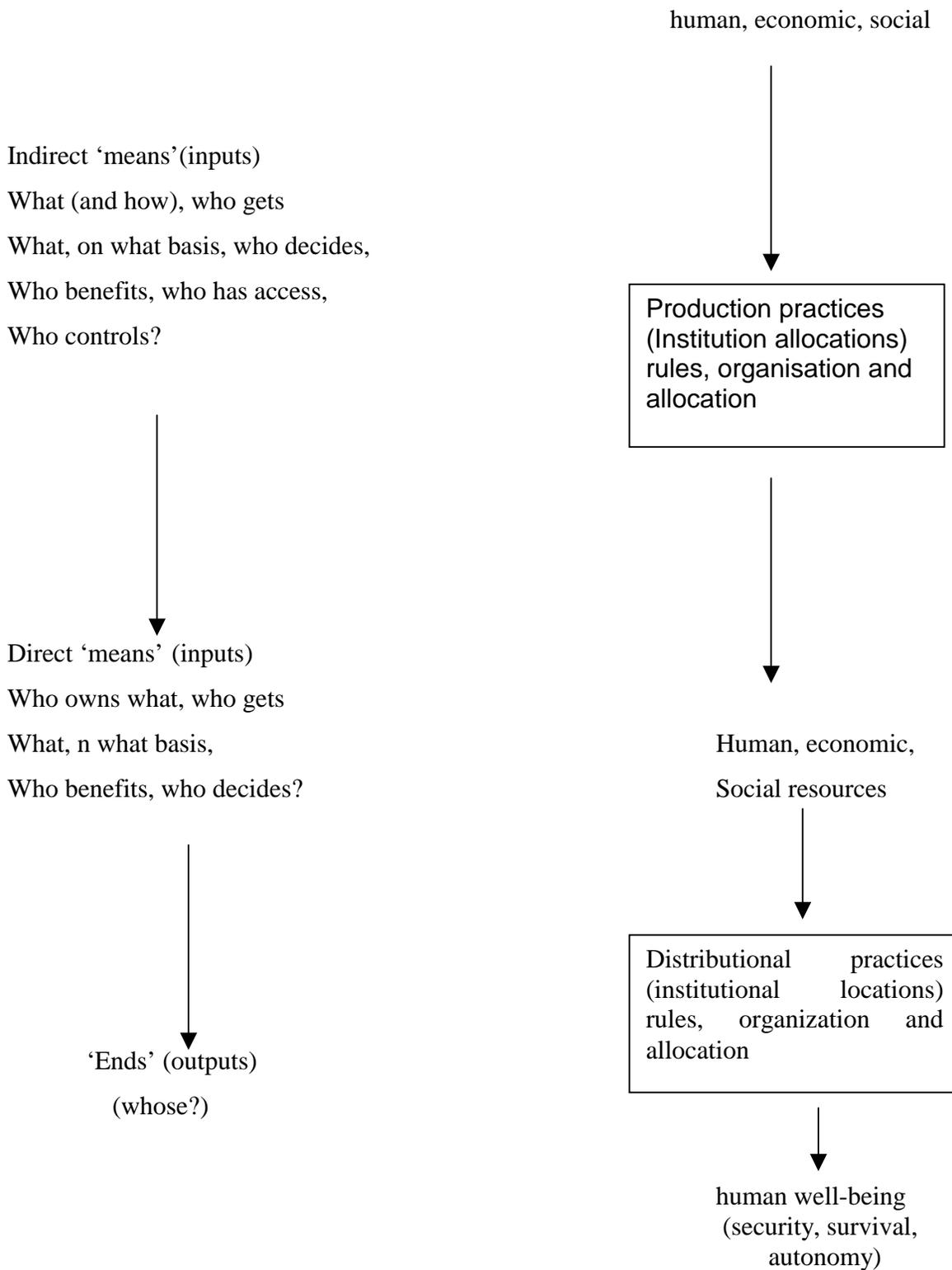
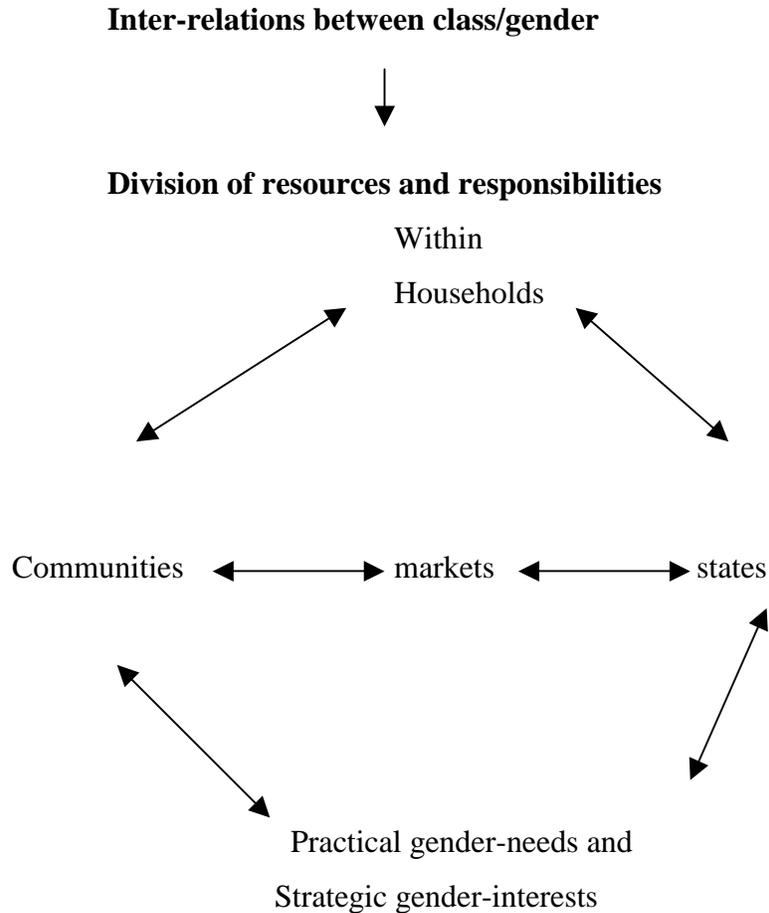


Figure 7: Analysing interventions (B)

We talked earlier of the distinction between practical gender-based needs and strategic gender-interests. Here we see that the two become linked once the power dimension of gender-relations is taken into account. While women may have practical need for credit, deriving from survival and security considerations, policies that go beyond a concern with simple delivery mechanisms to considering ways of increasing women's ability to control resources are beginning to address their strategic gender-interests.

In the case of credit, a transformative approach would entail ensuring the women are able to retain control over how credit is used and how the proceeds from their efforts are distributed. The transformative element may be the provision of a safe-worth and self-confidence sufficiently for them to assert their own rights, it may be building their access to alternative networks as a way of increasing their bargaining power within the household. Whatever the specific elements adopted any element which seeks to address the unequal distribution of resources, responsibilities, and power has the potential to transform practical attempts to meet women's needs into strategic attempts to build women's sense of autonomy over their own life-choices. Practical gender-needs may define what priorities are generated by the existing division of resources and responsibilities; but women's strategic gender-interests require that these priorities are met in ways that empower women rather than reinforce their dependence.

Figure 8 makes the point that the design, implementation, and evaluation of policy interventions must constantly be sensitive to the operation of intersecting power relations in shaping actual policy outcomes, and must always ask who is likely to gain from a particular option and who is likely to lose (which women and which men). The final diagram, in our framework reminds us of the point made by DAWN that it must be the needs and interests of those who are most disenfranchised that must guide the search for a transformative development policies.



- Viz: Who does what ?
 Who gets what ?
 Who gains ? Who loses ?
 Which men? Which women ?

Figure 8 : Analyzing interventions C

Figure 9 offers some examples of the kinds of changes that are likely to transform policies for meeting women’s practical needs into ones which begin to address their strategic gender-interests. They are only examples; they are no blue prints for empowerment. But what these examples have in common is that they expand in some way the space in which women can come together to analyze, to reflect and to act to change the conditions of their lives.

NOTES

1. I have benefited considerably from my training collaborations with a variety of people. IN terms of this paper. I owe a special debt to Ramya Subrahmanian for all her support, ideas and hard work. I would also like to thank Alison Evans Anne Marie Goetz, Shireen Huq, Deborah Kasente and Maitrayee Mukhopadhyay, my most recent collaborators in gender training. I owe many of the ideas incorporated in this framework to our work together. The diagrams which accompany this paper are taken from a chapter on gender training in my forthcoming book *Reversed Realities : Gender Hierarchies in Development Thought* (Verso, 1994).
2. I am using ‘community’ in a lightly residual sense. After all, households, local markets, and local administrations are (strictly speaking) part of the community tribunal, non-governmental organisations, the moral economy, inter-household relationship) which fall outside the other three. However, the framework is not intended as a blueprint for analysis, and some flexibility will have to be allowed for this category.

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