UNIT 13 THREATS TO HUMAN RIGHTS FROM SOCIAL INSTITUTIONS

Structure

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13.0 OBJECTIVES

After reading this Unit, you would be able to:

• identify which institutions violate women’s rights,
• understand how women’s rights are violated within the confines of their homes,
• find out why the police refuses to register cases regarding domestic violence,
• appreciate difficulties faced by women’s,
• activists in getting women speak up, inspite of launching mass movements,
• understand how communal politics affects women’s personal lives in Mumbai city,
• figure out the specific social problems of Muslim single women in Mumbai city, and
• understand what common difficulties women and children are often faced with.

13.1 INTRODUCTION

By now you may be aware that the very idea of rights is meant to mark out a sphere where the individual is protected from violation by others. In other words, it is meant to delimit the ways in which the individual can be subjected to various violations by others - other individuals, the state, or other social institutions. This means that the individual is not in the first place autonomous, s/he does not have rights to begin with; they are meant to demarcate a desirable sphere of individual freedom or autonomy. It has been the contention of the women’s movement in India that the family as a social institution forms a major source of human rights violation, especially in relation to the rights of women. In addition, social institutions including the community, form a major source of violation of justice and equality. The oppression that women face within these structures is often made invisible, as the family and the community remain outside the realm of focus, being consigned to the ‘private’ domain. Now, there can be a myriad ways in which the rights of individuals maybe violated within either the family or the community (here this term includes caste, religious, or any other form of community). For instance, denial
of children’s rights against sexual abuse or of the rights of individual males within a community to, say, marry a woman of their own choice could be some commonplace instances.

13.2 DENIAL OF HUMAN RIGHTS TO WOMEN INSIDE THEIR FAMILIES

A human rights group notes:

“...It is relatively easy to document the exploitation and oppression that women face in our country, particularly women of the labouring class, are subjected to outside the home. But it is a very difficult task to attempt to document their condition within the home. The reason is that here the oppression is invisible for the most part; it takes place within the four walls of the home, and is treated as a “family” or “private” matter. The negligence of the rights of women inside the family is due to the fact that the problems of women within the family get personalised...This individualisation of a social problem is not an accidental outcome of social ignorance, but part of the social values that govern contemporary society.” (Inside the Family: A Report on Democratic Rights of Women. People’s Union for Democratic Rights.(PUDR) Delhi. 1987).

At a general, conversational level, rights are seen as inalienable, and universally applicable. These include the right to life, the right to life with dignity, the right to work, among others. However, for women (and children), the concept of human rights remain somewhat elusive, as they remain embedded within given notions of the private. Violence against women is also a manifestation of unequal power relations between men and women and is reflected in many fields of life. For Indian women, violence takes the form of foeticide, infanticide, dowry-related murders, battering, among others. What escalates the violence is the widespread sanction for violence against women, common in many societies. Through such sanctions, women are controlled and subjugated.

13.3 VIOLENCE WITHIN THE FAMILY: RESPONSES FROM WOMEN’S ACTIVISTS

Let us begin by looking at some voices of women themselves and from the women’s movement on issues seen as private matters. The following extract from a poem talks of violence against them:

“I am Chandrika
I am Gayatri
I am Fatima, Banu, Uma,
I am Jayalakshmi, I am Saraswati.
I am one of those faceless women who die everyday in your morning newspapers and go on to become a crime number in the Police Station and then a file to be pushed around in the courts...” (Poem published in “I cry for help, no one’s there...” A Community Campaign to Safeguard a Woman’s Right to Live. Pamphlet by Vimochana, Bangalore.)

Sanction for violence is high when it comes to domestic violence. In India, domestic violence is defined legally and socially as physical and mental violence perpetrated against a married woman by the members of her marital family, with or without accompanying demands of dowry. Domestic violence is sanctioned because the family is idealised as a unit where the members get love, support and status. However, this definition of domestic violence...
misses out the fact that violence against women within the family is not confined to married women alone, but is experienced by single women on a routine manner. The power of the law relegates such violence to the realm of the unspoken, that is, it invisibilises it. It fails to acknowledge that the family is also often a site of oppression for those vulnerable, in this case women and that a number of crimes against women are committed in the home including assault, harassment, rapes and murders.

In many cases, women struggle against domestic violence (as they do against other forms of violence) in their own ways. Often individual struggles waged within the family are not enough. At this point, the role of interventions by outsider agencies assume some relevance. These may take the form of formal and informal structures. The latter include women’s organisations, shelter homes, rehabilitation centres, hospitals and doctors. Formal structures comprise of the Criminal Justice System (henceforth CJS), namely the police and the judiciary.

The issue of domestic violence has been one of the major campaigns of the Indian Women’s Movement (IWM), in many cities. Here we will cite the campaigns undertaken more specifically in the city of Mumbai. Even within the women’s movement, domestic violence has been understood to include violence perpetuated against a married woman by members of her marital family with or without accompanying demands of dowry. It was during the early 1980s that the issues relating to the violations of women’s rights within the family came into public focus and big campaigns grew around them, especially around issues of dowry deaths.

During the course of the 1980’s, various women’s groups in Mumbai, Delhi and other cities launched a legal and social campaign around the issue of domestic violence.

The response of the Indian State and the then government, in the 1980’s, was to strengthen laws that prohibited dowry and to pass a new law that criminalised domestic violence. Section 498A of the Indian Penal Code made domestic violence a criminal offence.

Then, in the early 1980’s, the efforts around the anti-rape campaigns in different parts of the country gathered momentum. Most of the initial cases taken up were those of custodial rape - important among them being the Mathura rape case and the Rameez Bee rape case. The campaigns yielded some results in terms of generating publicity and the creation of a public debate around the issue. It was in the course of these public debates that even questions of marital rape, that is rape or forced intercourse within marriage, started coming into focus. In Mumbai and Delhi, this campaign was accompanied by the exposure of domestic violence as a reality in the lives of several hundreds and thousands of women. The Forum Against Oppression of Women in Mumbai discovered, for instance, in its report Moving, But Not Quite There... that protests against marital violence and death exceeded those against rape.

There are several reasons for this. The above publication, for example, noted that this may have been because the sheer number of women who were getting murdered or beaten within their own homes was far more than the women who were getting raped or at least those who were willing to press legal charges. The stigma attached to a rape victim is also, of course, far more than the stigma attached to a battered woman. In addition, there is a greater sense of identification with victims of domestic violence than with rape victims. This perhaps, also had to do, with the experience of violence suffered individually by activists, or a closeness with women who had done so. Their own mothers, sisters, friends had also been facing violence within marriage.

1. These laws are amendments to the Dowry Prohibition Act, 1961 and the introduction of Section 498A, Indian Penal Code and 113A and B, Criminal Procedure Code. See Appendix for more details.
The experience of Women's Centre, a feminist support centre, aimed primarily at working with women in distress also underlines the fact that violence at home is a "reality cutting across class/community/religion/linguistic lines." In other words, the understanding is that domestic violence is a shared destiny of women within marriage. (Ammu Abraham, Case Studies from the Women's Centre, Mumbai, in Maitreyi Krishna Raj ed., Women and Violence. A Country Report. A Study Sponsored by UNESCO. ROWS/SNDT. Mumbai. 1991.)

The focus of the campaigns in the 1980’s was to break the silence around domestic violations and violence. Some women came forward, sharing the pain of the violence suffered by them with other women. There was a conscious effort to do so, and through this process, to forge links between all women, those who had suffered and those who had escaped.

You will need to understand that since this entire domain of violence within the family was such sensitive and therefore a forbidden one that most of our information on this issue comes only through the voices of women who were finding their new community by sharing their pain among themselves. There are no academic tracts that make available any kind of ‘disinterested’ and ‘objective’ information. One woman wrote about this process:

"I was sharing my deep and painful experiences with a group of women I hardly knew. But I had a feeling that they would understand since they were committed to fighting against the oppression of women. The issues that we were involved with at that time - rape and wife murders - did not affect us directly. I felt that sharing our own personal experiences, problems and struggles would strengthen the group and the bond would become stronger... I thought, ‘If I am ashamed to share my personal experience at a broader political level, then I would be a hypocrite.” (Flavia Agnes, My Story...Our Story of Rebuilding Broken Lives. Majlis, Mumbai. 1990 )

The process of breaking the silence was no doubt painful for the survivors of violence, but the newly created groups tried to create a space within which the women could articulate their anguish and regain strength. Support took on several forms. It meant giving battered women shelter, sometimes in the homes of the activists, and helping them find employment. It sometimes took the form of extra-legal action - confronting the husband at his workplace or retrieving the woman’s belongings.

The women's movement did not always make a distinction between domestic violence and dowry demands. The demand made by the IWM at a national level was that a law be passed that prevented dowry related deaths and violence. Some sections of feminists have, however, begun to feel that this reflects a myopic vision as placing dowry victims in a special category ends up denying legitimacy and recognition to the need for protection against violence on women generally, under all circumstances.

This critique is aimed as a corrective towards evolving a larger understanding of violence against women than the feminist campaign seem to possess. It encompasses a distinction between violence suffered by married women at a general level and dowry related violence. It also includes a perception that violence against women in the home is not restricted to these two categories. As stated before, single women in the home also suffer violence at the hands of other family members.
Check Your Progress 1

1) Why is the domestic violence against women difficult to document?

2) What are the forms of violence committed on womanhood?

3) What was the message of the poem published in “I Cry for Help, No One’s There”?

4) Name the two custodial rape cases against women that caught the nation’s attention.

13.4 PROBLEMS OF REALISING LEGAL SAFEGUARDS

In spite of an enactment of Section 498A IPC, which criminalises domestic violence, women have found that the police refuse to enter cases of domestic violence until they are linked to dowry demands and property disputes. This, in the view of the police, increases the credibility of the case, leading to a number of assault cases to be linked to fictitious dowry demands. What it does is to weaken the case, based as it is partly on falsehoods, leading to acquittals of the accused in court.

A reason put forward for the reluctance of the police to enter cases under Sec. 498A is their stand that most women withdraw such cases. There are several reasons that coerce women into doing so. In many instances, neighbours and family members don’t give evidence against the offender, as the matter is seen as a personal issue between the couple. The natal family pressurizes the woman into withdrawing the case with the hope of ‘saving’ the marriage. There are other considerations as well. Women find that while imprisoning the husband - a potential outcome, if the case is decided in the woman’s favor - might serve the ends of abstract ‘justice’, it may well deny her and the children access to material support from the husband and his family. In other words, the economic vulnerability of women within the household leads to a more general denial of the viability of the law.

The police echoes the social attitude that the marital family should be preserved. The general reluctance to enter cases of violence against women in the home is based at least partly on the desire to preserve the family. This can have different manifestations while dealing with women of different classes. While poorer women are often turned away summarily, middle class women
are advised to return home and not break up the home. The police also threatens clients that they will lose the custody of their children if they leave their house, forcing them into retreat. An activist with a feminist intervention centre points out that not only do the police fail to inform women about their rights, but they also resent the confidence of women who might know the law.

### 13.5 COMMUNALISATION OF DOMESTIC VIOLENCE AGAINST WOMEN

In many cities, generally and especially in Mumbai, the situation in the 1990s had acquired a communal overtone. On the one hand, the general communalisation and violence against Muslims, especially following the violence in communal riots in 1992-3, following the demolition of the Babri Masjid has increased the feeling of isolation and fear. The communalisation has another impact, that has direct relevance to minority women in Mumbai. It might be important to explain at this point that the incidence of domestic violence has no direct link with religious identity. Evidence shows that minority women are as victimized by violence in the house as are Hindu women. [Study by Majlis on Section 498A.(Unpublished)]. However, the manner in which minority women suffer violence may well be different due to political conditions.

An important aspect of this is brought out in the partisan role played by the police in the communal riots in 1992-1993 in Mumbai. Muslim women have witnessed and experienced police brutality during and after the riots. The complicity of the State in condoning violence against Muslims further isolates the community. According to an activist of Awaaz-e-Niswan, a feminist organization working among Muslim women, the reality of being Muslim in Mumbai places serious constraints on the women. While the police is generally not keen to take cases of domestic violence, if the complainant is a Muslim woman, they rush to arrest the man. Women naturally feel that their problems multiply after going to the police. The police, as a part of the procedure, question the neighbors, who are terrified after having been subjected to torture during the riots which did not spare even innocent ones among them. This is another reason why Muslim women do not report even after being beaten by their husbands.

Some minority women approach women’s organisations for support, counseling and legal aid in order to increase their options. In such cases, Muslim women have experienced alienation while narrating their experiences of violence. There are several reasons for this. One, that there are few feminist women’s groups that have Muslim women in significant positions or roles. Most women’s groups in India are controlled by upper caste Hindu women. Furthermore, women lawyers belong to the upper caste Hindu families. This creates a context wherein Hindu idioms, language and rhetoric are universalised.

Even among many social activists there is a general perception that Muslim women are more oppressed and vulnerable because it is sanctioned by Islam - that they can be given ‘talaq’ at will by their husbands. Due to a perception of Muslim men as being rapacious, bigamous and violent, there is a belief that Muslim women are fated to suffer. Apathy towards women suffering from domestic violence is thus also couched in communal terms.

### 13.6 MUSLIM SINGLE WOMEN’S DIFFICULTIES

While the Muslim married women suffer indignities within the marriage, the situation is exacerbated by the lack of real options in civil society for single women. While the situation for poor and single women in India is dismal, for Muslim women on the verge of singlehood, things
are worse. For instance, finding accommodation is a very real problem in Mumbai, as in other metropolitan cities. To add to the high costs of real estate, after the riots in Mumbai in 1992-93, when Muslim families were targeted, several have relocated to “Muslim” areas. Muslim families find it very difficult to get accommodation in middle class housing societies, even if they are able to pay the prices. These factors have led to a virtual ghettoisation.

Community pressures in such a situation would make it even more difficult for single Muslim women to find accommodation. Given this, many battered single women don’t approach police stations to file a case against their spouses, as this step would render them homeless.

In addition, the leaders of the Muslim community push their women in general, into docility and traditional roles, following the riots, community leaders in Muslim dominated areas made speeches where they held the single women of the community particularly responsible for the riots. They were accused of lowering the prestige of the community by not wearing the hijab (purdah or veil) and not praying, according to the Awaaz-e-Niswan.

Thus, the generalised bias and oppression Muslims face as a community also influence the decisions of women not to register cases of domestic violence. Activists working with Muslim women complain that the Muslim women are even denied access to government hospitals, are not given ration cards and that their children are often not able to get admissions in schools. These factors have specific implications for women filing a criminal case, as medical reports are essential for filing a case of violence and a ration card is a proof of identity in such cases. In addition, these factors increase the vulnerability of women who suffer oppression inside the homes, as they are pitted against hostile larger legal structures.

13.7 RESULT OF COMMUNALISATION OF LAWS AND POLITICS

The communalisation of this criminal law has grave implications for Muslim women, as they are systematically pushed into a system of control by their families and the community. Communal politics and the economic marginalisation of the community closes options for women, especially those trapped in violent situations.

Check Your Progress 2

1) Say True or False:
(a) Section 498A of Indian Penal Code presents illegal traffic in women.

2) What conditions force a women to withdraw cases against their family members?

3) What is the feminist organisation involved in work among the Muslim women of Mumbai?
4) Do Muslim single women also face difficulties?

13.8 LET US SUM UP

In the light of our discussion above, we should note that within social institutions, especially within the family, human rights violations, against those most vulnerable, is invisible. It is made invisible because the violations are sanctioned by prevalent social norms. While here we have focused only on violations against women, it is important to point out that women are not the only socially vulnerable category. Both women and children share a common plight— that is any violence against them within the family is understood to be private falling outside the scope of law-enforcing agencies. Children, we have earlier mentioned, form a significant section who potentially and actually face violence—sexual, physical and emotional—either from their parents themselves or the other members of their family or from outsiders.

However, matters like child prostitution as sanctioned by families and communities (‘Devadasi’ system in Karnataka and among the Baudi tribe in Nepal are a few instances) child sexual abuses, homosexuality and neglect, concern about the well-being of women family members also. An unhappy child and a disfigured childhood seriously affect the mother’s psychological health. Though we would study about this subject in another Unit, we should necessarily understand that the welfare and Rights of both the women and children are as closely integrated as are their psyche and emotions. Such an attitude becomes an answer to gender injustice perpetrated on women.

How social norms and sanctions justify the violation of rights of women?

As an example of how social norms sanction the violation of rights, we may here recall some recent instances of caste panchayats executing / beheading in cold blood, the newly wed couples because they defied endogamous caste norms. You can recall that in all these instances the community remained unrepentant and defended the actions undertaken by the panchayats. There have also been the instances of women being stripped and paraded naked through the village, once again by the sanctioned panchayats. During the infamous case of Sati in Deorala a decade ago, there were many people who defended the right of the community to follow their customs by actually instigating the woman to sit on the burning pyre of the husband.

Work Exercises

Find out some such cases from the newspapers when you read them everyday and try to list out the arguments put forward in support of these violations. Do you find the violations also not being articulated as rights? In that case, is there some mismatch between the rights of individuals and those of the community?

List out some other ways in which the family or the community may be directly responsible for the violation of the rights of its members—men, women and children. If such be the case of families, don’t you think, the larger communities like the nation also violate the rights of its members?
13.9 KEYWORDS

Natal Family: Parental family or family in which a person is born.

Marital Family: Family where a married person enters. This family consists of one's in-laws.

13.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Because domestic violence is considered to be invisible and takes place within the four walls of a family. It is private and even women themselves think that it comprises their family's prestige if they publicly speak out.

2) Foeticide, infanticide, dowry-related murders, rapes, custodial deaths, and battering are physical abuses against women. Women are also subjected to emotional and psychological tortures.

3) The message is that violence against women are most often forgotten and neglected. Invisibility of crimes against women is due to peoples’ apathy and unconcern regarding women’s plight.

4) The Rameeza Bee rape case of Hyderabad and the Mathura rape case.

Check Your Progress 2

1) (a) False.

2) Refusal of neighbours and family members to give evidence, consideration of a crime as of personal and family matter compulsions to save their marriage, fear of losing a bread winner in their husbands and of inviting uncertainty to themselves and their children and the possibility of social sanctions from the community.

3) Awaaz-e-Niswan.

4) Yes, they share problems of high costs in real estate prices, and compulsions confining to the Muslim-dominated areas. Their other difficulty is the constant compulsions by their community leaders to adhere to orthodox practices. They are often blamed for being one of the reasons for the communal riots in Mumbai city in 1992-93.