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## UNIT 11 GENDER-BASED VIOLENCE

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### 11.1 INTRODUCTION

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Gender-based violence (GBV) is perhaps one of the most widespread and socially tolerated forms of violence prevalent in the world. It is a widespread and persistent challenge in India, linked directly to patriarchy and its foundational belief that men have the privilege and the power to inflict violence upon women. Rooted in women's subordinate status, it is linked both to the institution of patriarchy as well as the concept of masculinity – that a 'real man' is one who inflicts violence against women. GBV is a major obstacle in women's enjoyment of their human rights and fundamental rights as guaranteed by the Indian Constitution.

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### 11.2 OBJECTIVES

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After Completing this Unit, you will be able to:

- Know the concept of gender-based violence;
- Illustrate forms of gender-based violence and the extent of their prevalence in India and elsewhere;
- Identify causes and consequences of such violence;
- Highlight various ways of addressing and responding to such violence, including through law and social action.

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### 11.3 WHAT IS GENDER-BASED VIOLENCE?

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The term **gender-based violence (GBV)** is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence by individuals and collectivities. It includes acts that result in, or is likely to result in, physical, sexual or psychological harm. A threat of such acts, coercion and arbitrary deprivation of liberty are also forms of gender-based violence. Such gender-based violence might occur within the family, in the community during “peace times” or times of conflict, or by state agents. It may be perpetrated by family members, acquaintances, strangers or intimate partners including husbands.

While violence is a traumatic experience for anyone – man, woman or child – gender-based violence is predominantly inflicted by men on women and girls by reason of their gender. It impacts women’s dignity, security, sexuality, reproductive capacity and their right to control over their own body (autonomy), apart from its over-arching impact on physical and mental health of women. Gender-based violence stems from the power inequality between men and women, exacerbated by socio-economic, cultural and structural inequalities.

A thin line of distinction exists between gender-based violence (GBV) and violence against women (VAW), though the two terms are often conflated and used inter-changeably. Though VAW includes any act of GBV against women and girls, the term ‘gender-based violence’ acknowledges the gender dimensions of the violence, both from the perspective of perpetrators as well as victims. GBV is a term that is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence by individuals and groups. Such gender-based violence might occur within the family, in the community during “peace times” or times of conflict, and by state agents or non-state actors. It may be perpetrated by family members, acquaintances, strangers or intimate partners. The term GBV is therefore broader and more inclusive.

Gender-based violence both reflects and reinforces inequities between men and women and compromises the health, dignity, security and autonomy of its victims.<sup>1</sup> It encompasses a wide range of human rights violations. GBV is faced predominantly but not exclusively by women and girls. Men and boys too are sometimes targeted for gender-based violence, though the extent to which GBV impacts them is not clearly known. Violence against lesbians, gays, bisexuals and transgendered people is an illustration of how gender-based violence also results from the tension between mainstream and alternative understandings and practices related to sexuality. While acknowledging the prevalence of GBV against members of the lesbian, gay, bisexual, transgender (LGBT) community in India, and the serious human rights violations perpetrated on members of the community, this unit focusses on gender-based violence on women and girls.

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### 11.4 CATEGORIES OF GENDER-BASED VIOLENCE

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The UN Special Rapporteur on Violence Against Women has categorized forms of violence against women into violence within the family, violence in the community and violence perpetrated / condoned by the state.<sup>2</sup> Using these broad forms, violence against women in India can be further disaggregated as follows:

- a) **violence in the family** – such as domestic violence, sexual abuse of children in the household, dowry-related violence, rape and incestual rape by family members, honour crimes, sex-selective abortions and female infanticide, female genital mutilation and other traditional practices that are harmful, violence against lesbian, bisexual and transgender people, and violations of sexual and reproductive rights;
- b) **violence in the community** – including rape, sexual abuse, sexual harassment at workplace and other public places, acid-throwing, ‘witch-hunting’, *sati*, honour crimes, trafficking in women and children, forced prostitution, violence against women with disabilities, communal violence, and violence against *adivasi* and *dalit* women;
- c) **violence perpetrated or condoned by the state** – including custodial rapes, torture and killings, gender-based violence in militarised contexts, violence against women migrant workers, refugees and internally displaced persons, communal violence and other contexts of mass crimes.

These categories of violence against women are not water-tight compartments; some types of violence against women fall under more than one category. The three categories of violence against women are also inter-related and reinforce each other to subvert and subjugate women’s enjoyment of human rights.

## 11.5 FORMS & MAGNITUDE OF GENDER-BASED VIOLENCE

Gender-based violence has been shrouded by a culture of silence and tolerance for a long time. It is difficult to access reliable statistics on the same, as the violence is under-reported due to stigma, shame and fear of reprisal.

The magnitude of gender-based violence in India is indicated by statistics derived from the National Crime Records Bureau (NCRB), Government of India. These statistics indicate that in among all registered cases of serious crimes against women, the largest share (36%) was under domestic violence - ‘cruelty by husband and relatives; (S. 498A of the Indian Penal Code). The next largest share (24%) was “assault on women with intent to outrage her modesty”.<sup>3</sup> The report also said there was a gradual increase in crime figures, with major increases in rape, kidnapping and abduction and assault on women with an intent to outrage their modesty. The data on rapes suggest younger women continued to bear the brunt. In 2014, almost 44 per cent of all victims were in the age group of 18-30 years, whereas one in every 100 victims was under six years of age. Statistics related to reported cases in 2014 were as follows:

**Table 1: Major Crimes Against Women in India: 2015 & 2017**

Rape	34651	32559
Attempt to commit rape	4,437	4154
Kidnapping and abduction of women to compel her marriage	31778	30614
Dowry deaths	7634	7466
Assault on woman with intent to outrage her modesty	42664	46098

**Check Your Progress Exercise 1**

**Note:** i) Use the space given below to answer the questions.

ii) Compare your answer with the Course material of this unit.

1) How is gender-based violence different from other forms of violence?

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2) What is the impact of gender-based violence on women?

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3) Why does GBV occur?

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4) Name some forms of GBV.

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**11.6 A CLOSER LOOK AT SOME MAJOR FORMS OF GENDER-BASED VIOLENCE IN INDIA**

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We will look into some of the major forms of gender –based violence in this section.

**11.6.1 Sexual Offences: Rape, Molestation and Sexual harassment at the Workplace**

Historically, women have been perceived as the repositories of chastity, virginity, modesty and honour. Patriarchal control over women, including through sexual violence, has been exercised and justified in the name of protecting the honour of the family / community. This notion has led to the targeting of women's bodies through sexual violence to shame and subjugate the woman, her family and her community; equally, this has served to justify the regulation of women's freedoms, choices, and the imposition of dress codes. Sexual violence and rape are tools by which power is exercised to maintain an unequal status quo in society that privileges men over women. This ideology shapes the structures of the family, the community and the state; it combines with castism and communalism to produce subordination of one community by another. Though rape and other forms of sexual violence have been rampant and are on the increase, this issue gained international visibility with the brutal gang rape and murder of a young woman on a moving bus in December 2012. This led to law reforms on rape and other sexual offences.

### 11.6.2 Dowry-related Deaths and Harassment

Statistics are not required to establish the persisting, disturbing and increasing presence of dowry as a cause for homicide, suicide and harassment of young women. This is because many of these deaths and harassments go unreported, or are classified under deceptive provisions such as accidental deaths. A dowry-motivated killing in October 2012 that shocked the country was that of Pravartika Gupta, a 25 year old technology graduate, who was burnt to death in her bedroom along with her 13 month old child. The young mother and child were killed by her husband and in-laws over a dowry dispute – the woman's parents had agreed to pay Rs. 10,00,000 and a Honda City car for the husband's parents, and while they were struggling to make the payment, the husband's family had allegedly demanded the purchase of a flat for them.<sup>4</sup> The law related to dowry – Dowry Prohibition Act 1961 – has been made stringent for this reason. Additionally, Section 498A and S. 304B of the Indian Penal Code help to address issues of dowry harassment and dowry-motivated murder respectively.

The rising number of cases of dowry harassment indicates that stringent laws and sustained campaigns against dowry have had little effect in arresting this heinous crime against women, which is practised across caste, class, religious and educational divides in India. However, it is important to remember that all incidents of violence against women within the home are not necessarily dowry-related. Feminist lawyers also point out that the woman's family is responsible for getting her married in the first place (with or without dowry) instead of supporting her to study and work, and for not allowing her to return home from her marital home even when she faces acute harassment due to dowry or other reasons.<sup>5</sup> The patriarchal perspective of marriage as an end-all for women, and the belief that the rightful place for death of a woman as her husband's place coupled with increasing consumerism, have fuelled the phenomenon of women facing death, violence and harassment in their marital homes.

### 11.6.3 Domestic Violence

Some of the key findings of NFHS-3 on domestic violence, which interviewed 1,25,000 across twenty eight states and the national capital, conducted in 2005-6 are as follows:<sup>6</sup>

- Incidence and categories: Over 40 percent of Indian women have experienced domestic violence at some point in their married lives. 37 percent of ever-married women have experienced spousal physical or sexual violence. 16 percent women have experienced spousal emotional violence. One in ten wives, or 10 percent, have experienced sexual violence like marital rape on at least one occasion;
- Injuries caused: Among all ever-married women who reported ever experiencing physical or sexual violence, 36 percent report cuts, bruises, or aches, 9 percent report eye injuries, sprains, dislocations or burns, 7 percent report deep wounds, broken bones, broken teeth, or other serious injury, and 2 percent report severe burns;
- Co-relation between violence and years of marriage: An overwhelming majority of women who reported domestic violence were first assaulted by their husbands less than two years into their marriage. According to the figures, 62 percent experienced physical or sexual violence within the first two years of marriage, while 32 percent experienced violence in the first five years;
- Seeking help: Only one in four abused women seek help to try and end the violence meted out to them by their husbands. Only 2 percent of women who faced domestic violence sought intervention from the police. A large majority of women who have experienced sexual violence, but not physical violence, have never told anyone about the violence (85 percent), and only 8 percent have ever sought help. Abused women most often seek help from their own families.
- Perceptions among women: Nearly 55 percent think that spousal abuse is warranted in several circumstances; 41 percent of women thought that husbands were justified in slapping their wives if the latter showed disrespect to their in-laws; 35 percent of women thought they deserved a brutal beating at the hands of their spouses if they neglected doing the household chores or looking after their children;
- Perceptions among men: Nearly 51 percent of the 75,000 Indian men surveyed think hitting or beating their wives is acceptable for certain reasons, particularly if she disrespects her in-laws; a smaller number think bad cooking or refusing sex are reasons for physically assaulting their wives;

The Protection of Women from Domestic Violence Act (PWDVA) was enacted in 2005 to address the issue. A key challenge to addressing domestic violence against women, is to change perceptions among women and men that domestic violence is permissible under certain circumstances.

#### **11.6.4 Trafficking**

India is a source, a transit point for women and girls trafficked to other countries, as well as a major destination for trafficked women and girls. The forced labour of an estimated 20 to 65 million citizens constitutes India's largest trafficking problem.<sup>7</sup> India remains the main receiving country in the South Asian region for victim-survivors of trafficking. India's trafficking patterns indicate that 90 per cent of the trafficking is domestic, with only 10 per cent taking place across international borders<sup>8</sup> and the most disadvantaged social economic strata, including the lowest castes, are most vulnerable.

Those at risk of being trafficked include women and girls living away from families, those living in rural poverty, slums, brothels or on streets, physically and mentally challenged persons, those facing a stigma due to abuse and those in contexts of ethnic and communal violence. Every year, thousands of women and girls are bought and sold, coerced, tricked, drugged, abducted, defrauded, assaulted and forced to live and work in exploitative, servile or slave-like conditions, with little bargaining power. Overt forms of violence, including rape, torture, deprivation of liberty, forced labour and forced marriage, are often perpetrated against girls who seek to assert their rights.

Although provisions on trafficking existed in the IPC for many decades, these were amended in 2013 and the offences were elaborated upon to reflect ground realities and complex practices involving a nexus of persons within and outside the country ( Sections 370 and 370A of the Indian Penal Code). Additionally, The Immoral Trafficking (Prevention) Act, 1956 addresses the issue of trafficking.

### 11.6.5 Acid Attacks

Acid attacks against adolescent girls and young women in India have been regularly reported in the media, increasingly so in recent years. However, India did not have official statistics or any systematic record on the issue until February 2013, when it was recognized as a specific offence in the Indian Penal Code (Sections 326A and B). A study conducted by Cornell University in January 2011 said there were 153 attacks reported in the media from 1999 to 2010.<sup>9</sup> The Campaign and Struggle Against Acid Attacks (CSAAA), a civil society network, has compiled a list of 56 cases in Karnataka alone, between 1999 and 2007.<sup>10</sup> According to Acid Survivors Foundation India (ASFI), acid violence cases in India could range between 100 and 500 a year.<sup>11</sup> Acid attacks were recognised as specific offences in the IPC in 2013 under Sections 326A and B of the Indian Penal Code.

A few cases or threats of such attacks that found prominence in media reports are given below:

#### **Case Study of Acid Attack Survivor Sonali Mukherjee**

In 2002, Sonali Mukherjee, a 19-year-old girl from Jharkhand, topped her college and was aspiring to be a professor someday. Within a year of that triumph, her life changed. Three men, whose advances she had been spurning for a while, threw acid on her. With 72 per cent burns, she lost her eyesight and her face and body were disfigured. In 2014, Sonali and her family continue struggling for justice, and for her medical treatment. Her attackers included a 40-year-old married man and an 18-year-old. Two of her attackers were convicted for nine years, which was reduced to four years on appeal. Meanwhile, Sonali continues to struggle to put together the Rs. 15 lakh she still needs for her treatment.<sup>12</sup> In February 2014, she obtained a government job with the Jharkhand state government in the welfare department.<sup>13</sup>

#### **Case Study of Acid Attack Survivor Laxmi**

In 2009, as Laxmi, a 15 year old girl, walked from her home to her workplace – a bookshop where she worked as a part-time salesperson - she heard her name being called out, and turned to see who the caller was. She looked at two people on a motorbike and walks towards them. The girl on the pillion is

familiar and the man riding the bike is known to her. He wanted to marry her and she had declined. As she reaches them, the girl hurls acid on her. Her face, her chest and arms were burnt beyond recognition and she was in tremendous pain. After several painful corrective surgeries, Laxmi has partially healed and now spearheads a campaign to assist acid survivors, based in Delhi. She filed a public interest litigation in the court, asking for a law that provides exemplary punishment for acid attacks on girls and a sound rehabilitation scheme for victims.<sup>14</sup> The petition resulted in several ground-breaking orders by the Supreme Court, to regulate sale of acid and setting minimum compensation for acid survivors.

### 11.6.6 Honour Crimes

Recent years have witnessed a spate of attacks and killings in the country, based on the perpetrator's notion that the victim has brought 'dishonour' to the family / community. Honour crimes are directed mostly at young women and girls, but also young couples who choose inter-caste and inter-religious marriages. They are punished because they are perceived to have crossed social boundaries or transgressed social norms, and perpetrated mostly by their male relatives. The notion of 'izzat' (honour) and its contribution to the social and ideological context of violence against women, particularly in marriages of choice, has been elaborately discussed by feminist researchers.

Honour crimes are often under-reported, and are classified as accidents or suicides, making it difficult to understand the magnitude of the crime in India. No official statistics on these crimes are available at the national level as it is not a specific offence under the Indian criminal law. A majority of these killings take place in the agrarian states of Punjab, Haryana, Uttar Pradesh and Rajasthan, where land ownership and caste together help fuelling an 'honour culture' by maintaining caste and gender hierarchies.

#### Caste Study on Honour Crimes: Elango and Divya

Elango, a Dalit youth eloped and married an upper caste girl, Divya, in November 2012 in Tamil Nadu. They lived in neighbouring villages. Following this, Divya's father committed suicide, apparently because he experienced shame and social stigma. This caused a violent attack against the Dalit village that Elango belonged to. Meetings were held between the two *panchayats* and it was decided that the couple would return to live with their respective families for some time. Thereafter, Elango was not allowed to meet Divya. He filed a habeus corpus petition in court. Divya, initially appeared in court and said she wanted to live with Elango, but later, apparently under pressure and threat, changed her mind and said she had no intention of living with him. Elango's body was found on the railway tracks and the police have treated it as a case of suicide. The outcome of the one-member enquiry committee is awaited. Analysts have said that case reflected the power of local caste and electoral politics.

### 11.6.7 Female Sex Selective Abortions

India's population has more men than women. The adverse child sex ratio has existed since 1901 (see Table 2 below). This unequal male – female sex ratio in India is the result of several practices - selective elimination of female fetuses through abortion, selection of male-embryo at the pre-conception stage, as well

as the practice of female infanticide. While the focus of public interventions is on the sex ratio figures, these are merely a symptom of a larger problem – gender inequality, discrimination against women in Indian society and the low social status of women and girls.

The role played by an increasingly unethical and commerce driven medical establishment cannot be understated. Foetal sex determination followed by sex-selective abortions is a thriving business, and has grown into an over Rs. 1,000 crore industry (US\$ 244 million) (Alka Gupta 2007) There has been a mushrooming of ultrasound and scanning centres, as well as mobile sex selection clinics that drive into almost any village or neighbourhood. Essentially, the devalued status of women causes the demand, and medical commerce then supplies society with easy technology to act on its anti-female biases.

A worsening of the sex ratio has been linked to increased incidence of sexual violence against girls and women, increase in child marriages, increase in maternal deaths due to abortions and early marriages, and trafficking from other places for marriage. In short, the adverse sex ratio threatens to push women into a vicious cycle of violence and exploitation. The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 2003 is a special legislation that addresses this issue.

**Table 2: Male-Female Sex Ratio in India 1901-2011**

Census Year	National Average Sex ratio (Women per 1000 men)
1901	972
1911	964
1921	955
1931	950
1941	945
1951	946
1961	941
1971	930
1981	934
1991	927
2001	933
2011	940

*Source: National Commission on Population, Ministry of Health and Family Welfare, Government of India*

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## **11.7 MARGINALIZATION & INCREASED VULNERABILITY**

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While all women are vulnerable to violence, women and girls from minority communities, marginalised groups and underprivileged sections of society are more vulnerable because of their lower socio-economic status and their reduced power to access and negotiate with systems of law and justice. This includes

women who face physical / mental disability, women from scheduled castes, scheduled tribes, religious minority and lesbian-gay-bisexual-transgender (LGBT) communities, aged women and young girls, trafficked women and women prisoners. The inter-section of gender with other variables such as caste, class, religion, disability, sexuality, profession and political belief results in multiple disadvantages and varied forms of disempowerment, rendering women's experiences less visible, and their quest for justice more challenging.

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## 11.8 SUMMING UP

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- Gender-based violence is rooted in women's subordinate status, it is linked both to the institution of patriarchy as well as the concept of masculinity.
- The term **gender-based violence (GBV)** is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence by individuals and collectivities. It includes acts that result in, or is likely to result in, physical, sexual or psychological harm.
- Such gender-based violence might occur within the family, in the community during "peace times" or times of conflict, or by state agents. It may be perpetrated by family members, acquaintances, strangers or intimate partners including husbands.
- Though rape and other forms of sexual violence have been rampant and are on the increase, this issue gained international visibility with the brutal gang rape and murder of a young woman on a moving bus in December 2012. This led to law reforms on rape and other sexual offences.
- The rising number of cases of dowry harassment indicates that stringent laws and sustained campaigns against dowry have had little effect in arresting this heinous crime against women, which is practised across caste, class, religious and educational divides in India.
- The Protection of Women from Domestic Violence Act (PWDVA) was enacted in 2005 to address the issue of domestic violence, which is rampant. However, a key challenge to addressing domestic violence against women, is to change perceptions among women and men that domestic violence is permissible under certain circumstances.
- Those at risk of being trafficked include women and girls living away from families, those living in rural poverty, slums, brothels or on streets, physically and mentally challenged persons, those facing a stigma due to abuse and those in contexts of ethnic and communal violence.
- Sections 370 and 370A of the Indian Penal Code and The Immoral Trafficking (Prevention) Act, 1956 address the issue of trafficking.
- Acid attacks against adolescent girls and young women in India have been regularly reported in the media, increasingly so in recent years. However, India did not have official statistics or any systematic record on the issue until February 2013, when it was recognized as a specific offence in the Indian Penal Code (Sections 326A and B).

- Honour crimes are directed mostly at young women and girls, but also young couples who choose inter-caste and inter-religious marriages. They are punished because they are perceived to have crossed social boundaries or transgressed social norms,
- The imbalanced sex ratio figures, caused by female infanticide, female sex selective abortions and selection of male embryo at the pre-conception stage are merely a symptom of a larger problem – gender inequality, discrimination against women in Indian society and the low social status of women and girls.
- The adverse sex ratio threatens to push women into a vicious cycle of violence and exploitation.
- The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 2003 is a special legislation that addresses this issue.
- While all women are vulnerable to violence, women and girls from minority communities, marginalised groups and underprivileged sections of society are more vulnerable because of their lower socio-economic status and their reduced power to access and negotiate with systems of law and justice.

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## 11.9 KEY WORDS

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**National Crime Records Bureau:** National Crime Records Bureau (NCRB), New Delhi is part of the Ministry of Home Affairs (MHA), Government of India, New Delhi. The Vision of NCRB is to empower Indian Police with Information Technology to enable them to effectively enforce the law and improve public service delivery. Ministry of Home Affairs has entrusted NCRB with a renewed mandate for the **Crime and Criminal Tracking Network & Systems (CCTNS)** Project. Out of approximately 15000 Police Stations, around 12000 have started registering 100% FIR's online. The application software has been deployed in over 12500 locations.

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## 11.10 REFERENCES & SUGGESTED READINGS

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## 11.11 UNIT END QUESTIONS

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- 1) Write an essay on major forms of gender based violence in India.