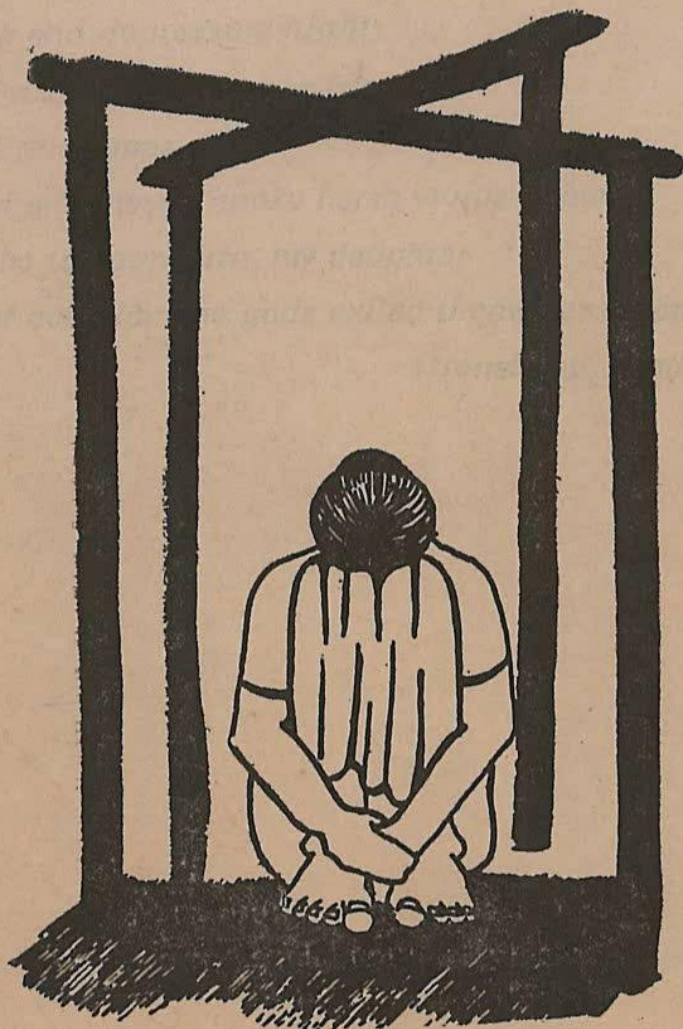


Inside the Family

A Report on Democratic Rights of Women



PEOPLES UNION FOR DEMOCRATIC RIGHTS

CONTENTS

| | | |
|-------------------|-----|----|
| 1. Introduction | ... | 1 |
| 2. Social Context | ... | 5 |
| 3. Family | ... | 16 |
| 3. Conclusion | ... | 32 |

INTRODUCTION

There has been a long though sporadic democratic movement for women's rights in India that had its beginnings in the efforts of the social reformers of the 19th century and grew as part of the freedom movement. But after having enshrined the equality of women within the Constitution, the movement languished. Faint stirring were heard once again at the beginnings of the last decade. Objectively, the conditions of women had deteriorated, as the unfavourable sex ratio, widening literacy gap, and declining female work force indicate; but also, sexual assaults on women and crimes against women within the home began to be publicised. Awareness among the democratic-minded grew to a realization that *women are the single largest oppressed group in the country*. This awareness formed the basis for the number of women's groups which have resisted the various forms of violence against women. General discriminations against women; sexual assault; unjust traditions like dowry; the inequities of the personal law, sustained by religious fundamentalism and communalism, have all now come to be viewed as *violations of the fundamental rights of women*. Even the different political parties, the media, and the government itself are now talking about the violations of women's rights. The struggle is now focussed on such demands as the need for more stringent laws, for greater enforceability of existing laws, for timely police action, and for the introduction of correctives to development policies. This struggle has been helped by various studies and investigations into women's situation.

It is relatively easy to document the exploitation and oppression that women in our country, particularly women of the

labouring classes, 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 what is more, it is treated as a "family," a "private" matter. *The negligence of the rights of women inside the family is due to the fact that the problems of women inside the family get personalized.* The case of each victim in any family appears both to herself and to the public as the problem of *that* individual woman vis-a-vis *her* particular family. Consequently, the social nature of the problem as a whole never receives enough attention from the conscious public. And millions of women are expected to fight their private battles with their families, all alone. This individualization of a social problem is not an accidental outcome of social ignorance but part of the social values that govern contemporary society. The larger societal oppression of women is an extension and aspect of their domestic family situation which in turn is constantly reinforced and sustained by their inequality outside the home.

The fact is worth emphasizing that while both men and women are subject to particular forms of exploitation and oppression arising out of inequalities of class, caste, and ethnic grouping, what is specific to women is that their oppression takes place not only in the field, the factory, the street, and the police thana, but within the home itself. Women as a social group, therefore, though similar to other groups like dalits, tribals, and minorities, have an aspect unique to their situation—namely, that for women a major source of oppression and violence is the family itself.

The family as a system shows a wide range in composition and structure in our country. Given the widespread social, economic, and regional inequalities, the intensity and form of male-domination values and practices may vary between social groups and classes, but it is unmistakable anywhere in the country. There are certain assumptions, norms, and practices

common to all the dominant family systems. Every female from birth is deprived of important economic, legal, and social rights while every male acquires by birth superior rights. This system of unequal rights, based on sex gender, is maintained through socially pervasive norms and customs and religious and cultural traditions. The family structure gives recognition and value to women primarily as wives and mothers, as reproducers of the family lineage and traditions. It is not surprising that inequality should be inherent in such a structure.

The various forms of physical violence committed against women have obscured the less overt violations of her basic rights. Her rights as sexual being, as child-bearer, as worker, and as citizen. All these aspects-the most private as well as the most public-are controlled by the family. Control over a woman's body and her reproductive powers becomes crucial since the patriarchal line is carried through males. The family also controls the extent and form of woman's participation in the public sphere, in such matters as education and employment. The methods of control are direct and coercive in many instances, but they are also indirect and subtle as in the widely-accepted ideology of "home and family." The family is perceived as a sanctuary and refuge to woman and she in her turn must therefore owe it loyalty and obedience. Through myths, religion, literature, cinema, advertising and other such means, such a perception of the family and woman's place within it is consolidated. But the sanction given to this through prevailing social and religious practices in the country should not obscure their anti-democratic character.

At the risk of stating the most obvious truth, let it be repeated that women in any family are not merely mothers, sisters, wives, but also citizens of the country. And as such they are entitled to all the fundamental rights which the Constitution guarantees to them. Violation of their basic rights to life, liberty, dissent, and human dignity, even when it takes place within the family, even when such violation has a social sanction,

nevertheless becomes a matter of concern for the democratic rights movement. Hence this PUDR report on the democratic rights of women in the family.

The report highlights the following aspects:
the inability of the legal system to recognise the unique unequal position of women;
the perception of women as peripheral to economic development by the State and their consequent marginalization and exploitation in the labour force;
the perpetuation of the notion of the family as a private area governed by religious and social custom; and
the bias of the police and courts in relation to crimes against women.

The report attempts to relate all these aspects to the function of the family in violating the democratic rights of women.

II. SOCIAL CONTEXT

The day to day life of women is governed most directly by the existing structure of the family, the patterns of which vary according to religion, class and region. However, as pointed out there are certain features and underlying assumptions common to all the dominant family systems in India. In every family a male member is considered the head of the family and is taken as the owner of all the property and economic resources, even when the woman is an earner. He also has control over all the major decisions and is the supreme authority in all matters related to the personal, social, and religious lives of all the family members. These rights are passed on from father to son. Even when property is passed from mother to daughter effective control over property and family matters is exercised by a male, usually the woman's brother, as in the Nair community. Such a predominant position given to men in the family structure leads to discrimination against women members of the family in almost all matters that regulate their existence. This system of gender-based inequality, often referred to as patriarchy, does immense violence to a woman's personality, and affects her materially, socially, and psychologically.

The inequality of women within the family extends to and is inter-related with their socio-economic and legal position, each reinforcing the other. Let us take at the legal position.

Laws Relating to women

The laws that affect women most closely are those relating to the family, that is inheritance, marriage, divorce, maintenance etc., known as family or personal law. Laws such as those in the Indian Penal Code (IPC), the Criminal Procedure Code

(CrPC) as well as most provisions in civil law, apply to all citizens. But personal law, ever since its codification under British rule, has been based on the religious practices of different communities. It should be noted however that sometimes social practice and not religion dictates the law as in the case of Christian personal law which grants unequal property rights to women despite the fact that there is no theological basis for it. After nearly four decades of independence, there is no uniform civil code, that is family law, that governs all citizens. Even where social reform movements within different communities have resulted in progressive legislations, such as the prohibition of child marriage under the Sarda Act, 1929, or where after independence, laws like the Special Marriages Act applicable to all citizens have been enacted, certain practices and coercions against women remain widespread because of religious and social sanctions. Such practices receive an impetus when the economic and political processes encourage religious fundamentalism and communal divisions. Religious fundamentalism, it should be noted, is invariably harmful to women's rights. This has become evident in the context of religious revivalism and the communal riots in recent years in Delhi, Kanpur, Hyderabad, Bhiwandi, and Ahmedabad.

At present five sets of personal law exist pertaining to the Hindu, Muslim, Christian, Jewish and Zoroastrian (Parsi) communities. As many as 18 legal statutes and acts regulate marriage, divorce, maintenance, and adoption. The essential feature of these laws is the assertion of male domination over women. For instance, polygamy is permissible under Muslim personal law; and under Parsi law, if a male marries outside the community his children can be initiated into the Zoroastrian faith, but not if a woman does so. As to child custody, under most personal laws, the father is deemed the natural guardian. Courts almost invariably uphold the father's right over the child, particularly the male child. Further the law presumes that the male partner has the right to decide the place of the matrimonial home, even if the wife has a better job than the husband. The law also presumes that the man has total

sexual rights over his wife. Hence it is unwilling to consider marital rape a crime unless the wife has judicial separation or the couple is divorced. In recent years, lot of controversy has arisen over the restitution of conjugal rights clause (Section 9, Hindu Marriage Act). While the Andhra Pradesh High Court held it violative of "the right to privacy and human dignity guaranteed by Article 21," the Delhi High Court and the Supreme Court held that it served a social purpose. Those concerned with the legal rights of women are divided on the issue as it is a legal remedy commonly used by deserted wives. When a marriage breaks down, the Indian Divorce Act, 1869, applicable to Christians, gives both men and women the right to divorce, but while the man can obtain it on grounds of adultery, the woman can obtain it only if adultery is accompanied by incest or bigamy. As to maintenance, legal procedures are not only time-consuming and difficult, but differ under various personal laws, imposing hardship on women who have been deserted or thrown out of their homes and have no means of supporting themselves.

Laws relating to inheritance and succession have a most important bearing on the economic position of a woman. The greatest resistance is to granting daughters equality with sons in relation to parental property, which is the economic root of the prevalence of dowry. All five acts which govern this area are highly discriminatory against women. The Indian Succession Act 1925 and the Hindu Succession Act 1956, explicitly exclude women from inheriting tenancy rights. The latter Act, against stiff opposition, did introduce for the first time, equal succession rights between male and female heirs. However, it continues to recognize the Mitakshara coparcenary system, which is a system of joint partnership of ancestral property, from which females are excluded. That is, a son, his son and grandson have a right to inherited property by birth, but a daughter has no such right. Further, under Hindu law the daughter's right to family dwelling house is of residence only. Married daughters, who are not separated or divorced, may not, as of

right seek shelter in the ancestral home, even when plagued by the harassment of husband or in-laws. Unmarried daughters entitled to reside in the family house, unlike males, cannot demand partition to get their share. Such laws directly reinforce social norms and make women fall victim to abuse, humiliation, and even violence within the home.

Due to social traditions women have only to a minor extent been able to benefit from whatever rights to property the law does grant them. But it is significant that there have been moves in Haryana to remove the existing property rights for women from the Hindu Code Bill. In Punjab a similar move, in the guise of a demand for a Sikh personal law, was initiated. The Andhra Pradesh Hindu Succession Bill which seeks to remove some of the disabilities of women under the Hindu Succession Act in matters of inherited property is apparently very favourable to women. But reportedly, it is designed to provide a legal cover to big landlord families so as to escape the provisions of land ceiling acts.

The anomalies in the personal laws and the unequal rights they grant to women have led to demands on the part of democratic sections that the Directive Principles of the Constitution for a uniform civil code with equal rights be implemented. But this democratic demand has got bedevilled by rampant communalism on the part of both the majority and the minority communities. The rights of women have become a secondary consideration in such controversies. The demand of blatantly Hindu communal organisations for a uniform civil code out of a professed concern for minority women's rights is suspect. It has only caused minority fundamentalist organisations to hold on more firmly to their personal laws since they perceive a threat to their group identity. As state governments and the Centre have both been contributing to the fostering of communalism, it comes as no surprise that the State is playing a vacillating role in the question of protecting the rights of women vis-a-vis communal forces. Thus while the Travancore Chris-

Indian Succession Act, 1916, was repealed recently (Feb. '86), in the same month, the government moved a bill to remove the protection of IPC Section 125 for granting maintenance rights to Muslim women.

The India legal system helps to perpetuate the unjust family structure by its commitment to the personal law which is based upon archaic religious practices and notions. The net effect of these laws is to sanction inequalities between men and women, in violation of the Constitution which guarantees equality to all citizens. Ironically therefore the law itself seriously undercuts the legal equality of women.

Labour

The socio-economic position of women is even worse than their legal position. The high visibility of some women in positions of privilege and power and the new opportunities that have become available to the middle class may make it appear that conditions for women have greatly improved after independence. The startling fact, however, that has emerged from studies of past decades is that the status of the vast majority of women in relation to that of men either remained the same or even actually declined. Indications of improvement if any are very marginal.

The grim situation of women is indicated by the role and position of female labour in our country. This is due both to the strategies of economic development adopted by our planners and the social norms which hold it undesirable for women to work outside the home. For most families, it is considered as great a stigma for women of their families to be income-earners as it is for men to be unemployed. The control of the family generally limits a woman's access to the skills she may acquire as well as the occupations she may enter. Hence women enter the labour market on very disadvantageous terms, usually with the view to help out the economic distress of their families. The majority of families and even women them-

selves view work outside the home as a hopefully temporary necessity to be abandoned as soon as family circumstances improve. It is this specific character of the female labour force, conjoined with patriarchal prejudices of employers, that makes female labour vulnerable to more intensive exploitation than male labour.

It is not surprising that often women should wish to withdraw from outside labour if they had the option. For a woman is at the same time expected to perform all domestic work inside the home. Domestic work is usually considered non-work. It is generally assumed that home is not a place of work and that work equals employment. But domestic work involves a whole range of tasks performed by women such as cleaning, cooking, the care and support of children, elders, the sick, and the male members. According to the 1971 census report 73.5% women stated household work as their main activity. Yet this work is not recognized either in the economic or legal sense. It is an "invisible" exploitation, involving long hours of drudgery from morning to night. In rural areas the domestic work of women of the labouring classes is particularly arduous for, along with children, they spend many hours in the collection of fuel, fodder, water, and edibles to provide even the simple meals their family circumstances allow. While men have some leisure time after working for eight to ten hours a day woman's work, as the common saying goes, is never finished.

Apart from the unending, monotonous daily drudgery of domestic work, women participate in the economic activities vital to the family's livelihood. While both men and women may contribute to such unpaid family labour, women contribute a significantly larger proportion than men. Further, while the percentage of unpaid male labour declines sharply in adulthood (as men start earning in their individual capacities), that for women remains high. Moreover, the division of work in home-based occupations is always gender-based. For instance, in

handloom weaving which is a common household industry, women wash and starch the yarn, prepare the beams and fix the bobbins, while the actual weaving is done by men who are known as craftsmen. The same is the case with other artisan crafts, commonly caste-specific, such as pottery and leather-work. Social taboos prevent women's learning the higher skills involved in these crafts. Thus their contribution to such family labour is generally limited to tedious and arduous physical work. In addition, being viewed as part of the household team, they receive no independent remuneration.

Women are permitted to produce goods for the market within the confines of the home. This involves activities like bidi-making, tailoring, embroidery, lace-making, food-processing, packaging goods, etc. This constitutes the unprotected unorganised sector wherein 94% of the total female force is concentrated. They get meagre wages for their work; are heavily dependent on the suppliers or agents; and are in constant insecurity due to the fluctuations in the market. For instance, the total labour time required for rolling a thousand bidis is almost 12-16 hours but they get only around Rs. 4/- per thousand. Such work is said to give the home-worker the freedom and flexibility denied to the factory or office-worker. But in fact, this often makes a woman a prisoner within the home since she is completely at the mercy of the agent. Besides, to meet deadlines while coping with the demands of household responsibilities, she has to work overtime, and at inconvenient hours, which saps her physical and mental energy. Also she does not enjoy any of the benefits such as provident fund, health insurance, and medical leave that regular workers are entitled to.

The introduction of modern technologies in agriculture and industries has had adverse effects on female labour. In agriculture, for instance, female paid labour has been generally concentrated in tasks such as threshing, weeding, manuring which are low-skilled and labour intensive. These tasks are increasingly being done by machines. Since women are given

no training or opportunity to use agricultural machinery, female workers get displaced by men. In the textile industry women's jobs are being sacrificed with the introduction of new and sophisticated machinery. Retrenchment of women workers is common even in government controlled industries, like coal or iron ore mining. Frequently this is done in the guise of "voluntary retirement" schemes. These are not legal but contractors frequently use them to get rid of female labour. Women workers are given the temptation of a lump payment and are pressurised by their own family members to give up their jobs in favour of a male relative. Protective legislation has also worked to the detriment of women. For example, the Mines Act prohibits employment of women for underground work. The decline of women workers in mining by about 47% during 1951-71 shows that under cover of this Act, women are simply being eased out of the industry, instead of being accommodated into alternative work like surface screening and coal-handling.

Women's employment in India has been steadily declining. The percentage of female workers to the total female population was only 21% in 1981 while in the same year women accounted for only 14.4% of the total labour force. While the sex ratio in population has only changed marginally (a little over two percent), the sex ratio for workers has fallen by almost fifty percent (1985). Census facts and figures do not provide an accurate picture of the quota of work women contribute to the economy since they do not account for the unpaid household labour performed by women. They do however indicate that several decades of planning have resulted in the economic marginalization of women. Marginalization, which means an increased dependence of women on male members of the family and a strengthening of patriarchal binds. And it is to these women rendered destitute by its own development programmes that the planning Commission offers its programmes for the "upliftment of women".

Planning

The Sixth and Seventh Plans are notable for giving special focus to women and elevating concern for women at a plane above the "social welfare" approach of the earlier plans. A principal factor in this shift is the conclusions drawn from numerous demographic studies linking lower birth rates to a rise in the status of women. Population control as a policy motive is, for instance, clearly spelt out in the Seventh Plan which states: "Effective measures to reduce the growth of population are imperative ... Apart from the expansion of family welfare services, sustained improvement in education (particularly of girls)... improved status of women in social and economic life are essential for the success of the family welfare programme and voluntary acceptance of the small family norm". Another factor in the shift has been the international women's movement resulting in the conferences in Mexico, Copenhagen and Nairobi as well as numerous studies highlighting the adverse effects on women of the development policies adopted in most post-colonial countries, including India. Growing awareness of the adverse trends has also been generated by the protest movement within our country and by micro and macro level studies.

What has been shown by these studies is that the development policies pursued in the Plans are not free of class and gender bias. Policies being pursued in the agrarian and industrial sectors, which constitute the core of the Indian economy, have a direct bearing, mostly negative, on the lives of women of different classes. And this should be kept in mind in examining the special provisions for women made in the plans, including the Sixth (1980-85) and the Seventh Plan (1985-90). Further, the provisions in the last two Plans should be viewed in the context of the situation created for women by the earlier plans. An underlying assumption of planning programmes for women is to treat the family as the "unit of development" there by ignoring the existing inequality of women within the family. Further, despite the fact that a sizeable section of the poor are entirely supported by the income of the women

III FAMILY

The structure of the family in our country, as already indicated, is inherently anti-democratic. The social values that are built around it permeate all aspects of social and personal life. For women discrimination and denial of rights start right from birth.

Due to prevailing social norms and practices, the female child is viewed as a liability. The male child is preferred because he is expected eventually to support the family through his income, look after old parents, and continue the family line. Such a pronounced social preference for male children may lead to the murder of female babies by the female elders of the family or even by the mother herself. Recent technological advances like the amniocentesis test have now made available more sophisticated means of ridding the family of female children. The test, generally meant to check genetic or other serious disorders of the foetus, also enables the detection of the sex of the foetus. One survey found that out of 8,000 abortions following such tests, 7999 were those of female foetuses. Between 1978-1983, around 78,000 female foetuses are estimated to have been aborted after such a "sex-determination" test.

While infanticide is the most extreme action against female children, neglect and maltreatment can be systematic and equally disastrous. Studies have shown that girl children are breast-fed for shorter lengths of time than boys, and are subsequently given less food and less medical attention than their brothers. In a survey conducted in villages around Ludhiana 50% girls below the age of five were found severely malnourished as against 20% boys in the same age group. And though more girl children are found to suffer from res-

piratory illness and protein deficiency, the number of boys being treated in hospitals and clinics is much higher. That it is social rather than solely economic factors that lead to the neglect of female children is indicated by a higher rate of female mortality in Punjab than the all-India average, despite the fact that only 11% of the people in the state live below the poverty line. It is no accident that the infant mortality rate has remained higher for female babies ever since the figures started being collected in the country.

This trend continues later in life as the sex ratio and the life expectancy figures indicate. The sex ratio, that is, the number of females relative to males, showed a persistent decline from 1921 to 1971. The ratio slightly improved in the next decade, but even the 1981 census figures of 933 females to 1,000 males compares unfavourably with the 1921 figures of 955 females per 1,000 males. Life expectancy has improved for both men and women, but for women it has advanced at a slower rate. The maternal mortality rate, 4.17 per 1,000 live births (1981), remains alarmingly high. It should be noted that the above demographic trend is exceptional to India and not to be found even in other developing countries.

Unequal treatment and discrimination continue to govern the lives of girls as they grow up into the world. Both boys and girls of labouring families are inducted into performing family tasks from an early age. But even here, it is girls who get inducted into domestic tasks in larger numbers and at an earlier age as school dropout figures show. Such training into future roles is also given to girls in middle-class families. In addition, the family begins to impose various restrictions on the movements and behaviour of girls. The confinement of women to the home is dictated by norms of family honour and respectability. Thus the parental family plays a crucial role in socializing young girls into an acceptance of their unequal status.

Early induction into household tasks, restrictions on mobility, and deference to male authority, adversely affects the educational opportunities of girls. The drop-out rate for girls

students, at all levels, is higher than those for boys. In the rural areas and among the urban poor, the problem is more acute. A majority of girls cannot join school at all, and of those who do join, more than 70% drop out at the primary level itself. Very few reach the secondary level and even fewer, 2.4%, reach graduate level. The denial of access to education is reflected in census data on literacy which shows that despite the increased focus given to women's education after independence, the literacy gap between men and women has actually widened. Female illiterates increased from 1138 to 1322 for every 1000 males (1951-81). Even those who get access to education are often pressured to choose traditional vocational courses, such as handicrafts and home science, or the liberal arts, in preference to professional studies since women's education is viewed primarily as an asset in the marriage market rather than as leading to gainful employment. Eventually, such lead pressures to the shrinking of skilled and educated female labour in the economy.

As in other spheres, the parental family also controls the woman's right and choice of employment, her social and political activity, and her marriage. After marriage both the woman and the power to exercise control over her are transferred to the husband's family. As a rule the process of training and conditioning of the woman that is necessary for this control is smooth and unobtrusive and is made acceptable by the notion of benevolent protection. Over the years women themselves learn to accept and adjust to established social norms. In cases, however, where there is an attempt on the part of women to deviate from clearly defined conduct, tensions arise within the family. Serious threats, including physical violence, against erring women from their own families is fairly common. The degree and form of coercion and violence is seen to be determined not just by the nature and degree of resistance but, importantly, by the economic and social status of the family. For example, 25 years old Kiran Singh of Jayanagar, Bihar, was harassed and beaten up by her family and terrorized by hired goondas because of her decision to marry a person of her choice and set up an inde-

pendent life. Kiran's father, a Bhumihar landlord, was openly assisted by the police, the Vice-Chancellor and other officials of Patna University, and the local people. In another case, Khurshid Jahan, a 26-years-old school teacher of Patna, was abducted by her brothers and relatives and forcibly confined to their village house in Purnea district. Her crime had been to offend "family honour" by choosing to work with a local woman's organisation.

Since marriage is considered the "natural" destiny for women, those who do not marry whether by choice or force of circumstances are considered deviant, and at best, objects of pity. The situation for such women is very difficult in our country. The law itself makes negligible provision for the financial independence of the single unmarried woman. This virtual legal "invisibility" makes the role and function of the single woman in the family precarious. The alternative of living alone is available only to a very small number of women in metropolitan cities. But they face numerous problems such as lack of housing or accommodation in women's hostels, or of being labelled "loose" women.

The great emphasis put on marriage socially, and the anxiety of parents to be absolved of the stigma and responsibility of having an unmarried daughter in the house accounts for the low percentage of unmarried women in our country, 1% in rural areas and 2% in urban, in the age-group 25-29 (1971). The widespread prevalence of child-marriage in many states of the country is also part of these social values. Leading among the states is Rajasthan where despite the Sharda Act (1929) and the more recent Marriage Restraint Act (1978) which raises the age of marriage for girls to 18, and 21 for boys, child-marriages are publicly performed. For instance, every year on the occasion of the Akha Teej festival, nearly 10,000 such marriages are performed in full view of the authorities.

The particular values attached to marriage make a woman's relationship both to the parental and to the husband's family doubly precarious. Her position in the parental home is consi-

dered transitory for it is only a preparation for entering the husband's family. The prevalent arranged marriage system frequently involves great humiliation for a woman. For example, when she is "displayed" before her prospective in-laws. The dowry system also perpetuates her low self-esteem, for she feels responsible for the burden it places on her parental family. Since her value to her husband's family is in terms of the money and gifts she brings, not only at the time of marriage, but on various social occasions thereafter, her humiliation is complete.

The customary and virtually compulsory payment of dowry has become the most prevalent social evil in the country. From poor peasants in villages to well-paid bureaucrats in the cities, everyone, everywhere is being sucked into the system. The amount of dowry itself has increased—cash, jewelry, land, house, scooters, refrigerators, and scores of other consumer goods, and even foreign jaunts have all become part of dowry. Even communities which did not traditionally practice dowry have adopted it in recent times, so that it is virtually a universal evil. The implications of these developments for the status of women and the crimes against them is becoming increasingly evident with the reports of dowry murders all over the country. A random sampling of reports on dowry deaths shows that the phenomenon is to be found even in families where the dowry victim was an educated or a working woman. What emerges from a scrutiny of such reports is that there is no profile of the typical dowry victim and of the typical greedy family.

Once inside the husband's family, women are subjected to various forms of coercion, the demands for dowry being only one such form. In cases of joint families, young women are expected to adjust and conform to the wishes of their husbands and in-laws, and to please the elders, both male and female. Any divergence, real or imaginary, from these roles can bring suffering on to the woman, ranging from verbal abuse, mental torture, deprivation of food and money, denial of permission to meet friends and relatives, to beatings and physical torture. She is forced to forfeit even the limited rights and privileges

she enjoyed in her parental home. What marks a woman's position in the husband's family is her extreme isolation and vulnerability, which creates the conditions for coercion and violence, particularly when the parental family refuses her its support and assistance. In any case, as noted earlier, it is the parental home which has provided the initial training for the socially expected role of submissive wife and obedient daughter-in-law. For in her role as wife and daughter-in-law, the woman is seen as the bearer of the family traditions and honour, to which she must subordinate her own needs and desires. As it is the mother-in-law who is the direct authority over her, the expectation of total obedience and deference often results in an acrimonious relationship between the women. The husband's sisters also often participate in the verbal abuse, torment, and even killing of the daughter-in-law. This is often seen as a case of "women oppressing other women" which no doubt is a social reality. But this is due to the pervasiveness of the patriarchal values imbibed by women from early life within the family which makes the female relatives of the husband the most direct forerunners of the daughter-in-law.

In the case of married working women, the burden increases two-fold. Social values still deem it unbecoming for the male to assume an equal share in household tasks. The expectation that the working woman should also fulfill the role of the ideal housewife results in long working hours and family tensions. Besides, working outside the home does not necessarily bring economic independence for women. The male heads continue to exercise control over the woman's income. Tensions arising out of this may result in physical violence on women.

Wife-beating is a socially sanctioned common phenomenon in our society. Although perceived as an aspect of working class marriages, wife-beating is fairly wide-spread in all classes. This can be seen from a survey in Bombay of 60 battered wives. The victims varied in age, from 16-to 65, as well as in education, from illiterates to graduates. The duration of marriage too

varied, from six months to fifteen years, as did the husbands' incomes, from Rs. 150 to Rs. 5000/- a month. The jobs of the husbands ranged from sweepers to company secretaries to journalists. Not all of them drank or had aggressive personalities. Women almost never report such brutalities to the police, or even to their families and friends. Wife-beating receives social sanction as the appropriate male response to a "disobedient" and "erring" wife. It is often associated with drinking. This has led to women-led anti-liquor campaigns in many parts of the country. The government too has launched a campaign. However, the government campaign against alcoholism makes it out to be the sole cause of wife-beating. This distorts facts because wife-beating is a much wider problem which has its basis in the notion of controlling a women.

An important aspect of woman's life in the family is the control exercised over her sexuality. Since the patriarchal line is carried on through males, control over a woman's body and her reproductive powers becomes crucial. This gives rise to double standards of morality leading to many social evils such as prostitution, bigamy, etc. Sexual oppression is maintained and reinforced through religious and popular beliefs, myths and legends, and in modern times, also through films and media. The figure of the all-suffering mother, or the chaste, loyal, forgiving wife is always evoked as a symbol of Indian womanhood.

Training for these roles begins with the onset of puberty in girls. They learn to accept the notion of *impurity* through the various taboos on touching and worship and the seclusion imposed on them during menstruation. At the same time great value is attached to woman's "sexual purity"-identified in her unmarried state with her chastity, and in her married state with her fidelity. The value attached to sexual purity is linked with the idea of a man's "ownership" of a woman; if a woman has been "used" by a man other than her husband, her value is diminished and she can be severely

punished for transgression. Hence the popular prejudice against divorcees, adulterous women (particularly the "other woman" in a marriage) and widows. (Divorce and widow remarriage, though permitted by law, have no wide social sanction). The popular prejudice may turn to repugnance even towards victims of rape. The fear of sexual molestation and rape makes increased confinement of women to the home, a matter of protecting her from the threats of the outside world. And these threats are only too real. However, ironically, it is not uncommon to find that sexual abuse of women takes place within the home itself.

Marriage for women also brings with it the attendant hazards of childbearing, and worse, the fears of barrenness. Among labouring people, since children are a help and become wage-earners at an early age, their additions to the family are welcomed. Frequent pregnancies, particularly in rural areas, become the common fate of women. The poor nutrition that most of these women get and the unsanitary conditions in which the deliveries are made, result in illness and high rate of maternal mortality. Where family planning methods are available and acceptable, the burden of contraception and surgery falls disproportionately on women. Tubectomies outnumber vasectomies by four to one, and "women only" contraceptive measures account for nearly 75% of the total modern contraception methods available in the country. Most are unsafe for women and result in serious medical and health problems.

In any case, women have very little choice in their child-bearing role. Most often a woman has to keep risking pregnancy till at least one male child is born. Her situation is worse when she fails to bear children, in particular, male children. She is subjected to intense family harassment and she herself feels guilt and depression. Frequently her "failure" in this regard can provide a good excuse for her husband to take on a mistress or even to remarry. Contrary to popular notions, polygny, although illegal for most communities, shows a high incidence among all classes and socio-religious groups (Buddhist : 7.9%, Jain 6.72%, Hindu : 5.8%, Muslim : 5.7%.

1951-60). Bigamy in particular, find social sanction on the grounds of the woman's "failure" to produce heirs or give satisfaction in any other respect. In Gujarat, it has taken the form of so-called "friendship marriages" which have no legal validity. The tensions within the family situation for women resulting from the husband's taking on another wife or mistress are compounded by their being pressured in numerous cases to allow the "other woman" to take residence within the house itself. The sexual double standards put both the wife and the "other woman" in an exploitative and humiliating position each competing with the other for the man's favour and patronage.

Male control over a woman's reproductive and sexual functions as well as the double standard of morality also have other consequences. Analysis of the causes of prostitution shows that sometimes girls are sold by the male members of their own families into prostitution; in other cases, they turn to the trade after having been raped and made outcast, or tricked into it through various means; or they have been deserted by their husbands. Physical violence and coercion by the husband or other family members is common. Yet social stigma attaches to the woman though prostitution enables her not only to maintain herself but also support the family. Notably, the law makes prostitution an offence only for the woman. Its bias is revealed in a law Commission report (1975) which held that it was not "advisable" to amend the Suppression of Immoral Traffic Act (SITA, 1956) so as to make men punishable under it. The reason given is that a man who goes to a brothel also participates in the basic activities of society-business, government, law, and religion. To disrupt all these "by throwing him in jail for a mere vice would cause more social disruption and inefficiency than correcting the alleged crime would be worth". Since women can claim no such "major" social function, they alone are made to bear the burden of such sexual offence.

If the condition of women within marriage is difficult, that of the widow, particularly the son-less widow, is worse. In

In addition to being financially dependent, she is also often seen as inauspicious. Restrictions are placed on her diet and the kind of clothing she can wear. Though social reformers have fought for changes in the law and in social customs, her life, particularly among the high-caste, is miserable in the extreme. The hundreds of widows who flock to Benaras to live as beggars on religious and public charity, as well as the revival of sati in northern India are a small index of the social hardship and pressure on the widow in our country.

As the option for living independently in our country is virtually nil for women be they single, married, or widowed, they are forced to bear with the restrictions, coercions and violations of rights they experience within the family. However small or trivial the reason, it is enough to bring onto the woman the tyranny of the male-dominated value system. And Her life becomes a history of constant humiliations and harassments, and of mental and physical violence which can ultimately result in unnatural death, be it accident, suicide, or murder. The distinction between the three is not an absolutely clear-cut one. Household drudgery, malnutrition and poor working conditions are processes of slow murder. The deaths due to child-birth, disease, and kitchen mishaps are clearly the result of neglect and even outright cruelty.

Continuous repression makes it impossible for many women to live with dignity, and they are consequently driven to suicide. Vijaylaksmi Chander, a telephone operator in Madras, voiced the experience of many other women when she wrote in the last letter before she ended her life. "Instead of dying a little everyday, it is better to die once and for all." Thus suicide becomes the helpless woman's answer to slow murder. Suicides of married women show a disturbing trend of increase. According to a hospital survey from south Madras, the number of suicides of women has increased threefold and that by unmarried women by ten to one in this category.

In this context, what is significant is the categories under which unnatural deaths get registered. Of the 1211 cases in 30 months (1979-82) in Delhi, only 4.5% were registered under murder or abetment to suicide, while the rest, 95.5%, figured as accidents. Place these alongside the evidence of neighbours, or the ridiculous stories given out by the husband's family, or the dying declarations of some of the victims, and the figures for "accidents" immediately become dubious.

The largest category of unnatural deaths is by burns sustained within the home. Ninety percent of the victims are married women, and among these the highest percentage is of young women in the age-group 20-30 years. Most murders take place in the home by dousing the victim with kerosene and setting her on fire. As kerosene is a common fuel used in the Indian kitchen, it is easy to pass off cold-blooded murder (as well as suicide) as accidental.

The frequency of dowry deaths has received the greatest attention. All-India figures for 1982 show U. P. leading the list with 151 deaths, followed by Punjab (47), Delhi (40), Rajasthan (24) and Maharashtra (23). The home Minister's reponse to a recent query in Parliament for all-India figures for deaths due to burning of women and suicide, confined itself only to dowry deaths and suicides in Delhi (16 in the six month period June 85 Jan. 86). These figures are not only alarming but likely to be gross underestimates.

For the law what matters is the evidence that *conclusively* established the precise nature of the death regardless of the difficulties of doing so. But what matters for democratic public opinion is the overall context of the oppression of women; the institutionalized violation of their rights; their lives from birth to death involving infanticide, suicide, or murder.

Police and Courts

Available remedies to the unrestrained violation of rights within the family are limited both politically and legally. Politi-

tically the limits are set by the consciousness of women themselves while legally the limits are set by not only the biased laws and procedures but also by the attitudes of law-enforcing authorities.

Much of the harassment and physical violence remains unreported. The prevailing social norms which treat all such violations as private matters of individuals prohibits public or police attention. Often the responsibility for misreporting and suppressing facts lies with the victim, who out of a misplaced though socially generated sense of family honour and loyalty does not wish to implicate her oppressors. Generally there is a great deal of pressure from the family to give a false statement, exonerating it from all responsibility. Suicide notes may be faked and there is the dangerous possibility that the victim may have been coerced to write a statement before her murder. Such was the case of Rajni who luckily managed to escape to her family after her husband and mother-in-law compelled her to write a "suicide note" (March, 1984). In a few recent cases, thanks to the support of women's organisations and the parental family, some victims of harassment have gathered the courage to indict their in-laws and husbands. Unfortunately, due to continuing pressure, some of them retract from their charges, leading to harassment of volunteers from women's groups and lawyers assisting them, which include threats, physical intimidation, and foisting of false cases.

Generally police refuse to register complaints of wife-beating, illegal confinement, and torture, which continue to be non-congnisable unless they are linked to demands for property. Hence the frequency with which complaints are made under the category of harassment for dowry even when the causes for physical cruelty are different. Even when unnatural death has occurred, relatives of the victim find it difficult to get cases registered. For in cases listed under "accident", which constitute the majority, the police simply do not investigate into the domestic circumstances in which the alleged "accident" took place. At times they refuse even to register a death as

"unnatural" though the behaviour of the in-laws be most dubious. Such was the experience of the relatives of 18 year old Hridya Kumari, from village Sairena in Bihar, whose in-laws cremated her body without informing her family. Police insisted it was a natural death even though her family was being pressured to fulfill promises of dowry prior to her death (April, 1984).

Even when complaints are registered, the police act in an arbitrary manner. For instance, for a whole year after Gurinder Kaur's death by burns, the Delhi police refused to change "attempt to suicide" to "abetment to suicide." This even though legally the clause "attempt to suicide" becomes inoperative after the victim's death. This resistance to plain commonsense and the law, finally led the case being handed over to the CBI.

After a case is registered, investigations can take place any where between a few months to two or three years. In burning cases as well as those of strangulation, hanging, or taking poison, post-mortem reports and prompt investigation are very important. As to post-mortem, when carried out, the reports are cursory and often no results are mentioned. At times, the reports conflict with the medical history of the victim. Police delay in investigation led mothers of victims to take to a hunger-strike in front of the Parliament, which was called off after six days when it failed to have an impact on the authorities (Feb., 1984). Among the mothers was that of Anita Rajput who died in June 1983. The family wrote to the Prime Minister in October, the appeal was passed on to the DCP Hyderabad, who replied in December that there was no evidence to substantiate allegation of homicide but investigations were continuing. However, during this period the husband in-laws had already left Hyderabad and the house was occupied by a new tenant making the DCP's assurances of continuing investigation totally meaningless.

The police are the sole investigating authorities in our country. If they refuse to register a complaint, or register it in

most an arbitrary manner, or do not investigate properly there is
year very little citizens can do. Appeals to the highest authorities,
laws even to the Prime Minister, which relatives frequently take
nsis- recourse to, have proved unavailing. The appeals are simply
eing forwarded back to the district police who in turn pass it on to
April, the local thana police whose inefficiency, corruption, or bias
had led to the appeals in the first place. In any case giving a
complaint against the policemen of a local thana is fraught with
an dangers to the complainants. Additionally, in many parts of
nder the country it is obligatory to get the consent of the superior
nge officers to complain against the erring policemen. It is in this
ven situation that the then Union Home Minister could claim in
pe- Parliament that there have been no complaints of police inaction
ain in cases of dowry deaths. Yet a few months later, nine women,
led including representatives of two organisations, filed a petition
in the Supreme Court against five SHOs, two Sub-Inspectors,
ice five Deputy Commissioners, one Assistant Commissioner and
in- the Commissioner of the Delhi police for their inaction in dowry
ng burning cases (1982).

The evidently indifferent manner in which the police pursue
cases related with women may be partly due to their general
indifference towards the poor and middle class citizens and to
the protection the police enjoy from the higher authorities. But
it is also due to their own negative attitudes towards women
and their rights. They too see the family-related crime as a private
matter. Whatever may be the reason for their attitudes, it has
serious repercussions on the legal remedies available for women.

First, in case of unnatural death, the dividing lines between
accidents, suicides and murders are thin, as already pointed out.
Secondly, almost all such incidents take place inside the home
and usually other members of the family are party to it. The
privacy of the home affords not only the opportunity to plan
and execute the crime in complete secrecy but also to mop up
or tamper with the evidence, after it is done. Given this situation,
even with alert and efficient investigation it is difficult to gather
conclusive evidence. Without such evidence, cases are legally
weak, and seldom result in conviction. This is clearly shown by
the figures for Delhi given in Parliament, November, 1985.

| Year | Cases of dowry deaths | No. of cases where convicted | No. of case where acquitted |
|--------------|-----------------------|------------------------------|-----------------------------|
| 1980 | 22 | 1 | 9 |
| 1981 | 22 | 1 | 6 |
| 1982 | 40 | — | 9 |
| 1983 | 41 | — | 1 |
| 1984 | 44 | — | — |
| 1985 | 37 | — | — |
| Total | 206 | 2 | 25 |

The low rate of conviction is attributable not only to paucity of evidence collected but to the subjective interpretations of circumstances. The IPC and the CrPC which cover these cases are common to all citizens. But these do not differentiate between the circumstances in which the crimes take place. The thin evidence gathered by unwilling policemen, and the differing interpretations possible play a crucial role in punishing the guilty. As the interpretations differ, the judgements also differ. In the famous case of eight-month pregnant Sudha Goel burnt to death (1980), the same evidence led a Sessions judge to award capital punishment, the High Court to acquit the accused, and the Supreme Court to award life imprisonment to the husband. The Supreme Court judgement (1985) has highlighted two important issues—the weight given to oral dying declarations and verbal evidence of neighbours. Sudha Goel had retracted from her earlier statements to her neighbours and exonerated her marital family in her dying declaration. However, the dying declaration was made *without the presence of a magistrate* and without the required medical certification that she was in a fit condition to make a statement. The sessions and Supreme Court dismissed the dying declaration while the High Court chose to ignore neighbours' evidence and accept the exonerating dying declaration to arrive at its judgement of acquittal. To date there are no guidelines for dying declarations, the majority of which tend to corroborate the in-laws version, and explicitly exclude them from any responsibility. In the rare cases where the victim has indicted husband or in-laws in her dying declaration, the courts may choose to ignore it and acquit the accused as in two cases last year in Delhi.

When subjective interpretations make a vast difference to the outcome of a case, it is hardly surprising that few cases result in the actual conviction of the guilty. And in matters of subjective value judgements, those sitting on the bench in courts are not free from the prevailing social values. This is reflected also in cases other than of death. Narrow interpretations of what constitutes dowry are common as in the Bombay High Court judgement which ruled that the bridegroom's expenses for travel abroad after the marriage could not be considered a dowry offence. Also divorced women find it difficult to get maintenance. In a Supreme Court case the judge rejected the plea for enhancing maintenance, stating: "You are a woman. You can do your own cooking, your ladies know how to bargain and haggle and save money. He poor man, will have to eat out and his daily expenses are higher. How can he pay you more." Variations in different personal laws compound the problem.

Consequently, in recent times, there has been a growing demand for changes in procedures of investigation, in law, and in legal procedures. The government has at last been forced to acknowledge the problem and enacted a new act, "Criminal Law (Second Amendment) Act, 1983, making important amendments to the IPC, CrPC and the Indian Evidence Act. This is a definite gain, in particular, the creation of a new offence, "Cruelty by husband or relatives of husband" (Section 498A, IPC). Numerous arrests have been made under its provisions. And though the much awaited Dowry Prohibition (Amendment) Act, 1984 has proved a disappointment, more arrests have been made in connection with dowry deaths. For instance, 195 persons were arrested in Delhi relating to dowry deaths in the period April 84-October, '85. The new Family Courts Act, 1984, "committed to the need to protect and preserve the institution of marriage," may, given the social climate, preserve a marriage at the cost of the woman. But it is noteworthy that there are a number of public interest petitions pending in the Supreme Court, challenging the constitutional validity of personal law of various communities. Whatever the gains and the disappointments, what is the most heartening aspect of these developments is that there is now a section of public opinion concerned with the rights of women inside the family.

IV. CONELUSION

The structure of the family, and the social norms and values that are built around it, are thus completely against the democratic principles our republic stands for. For the systematic violation of the rights of women is institutionalized in the prevailing family system. The fact that there are significant variations in the system and that in many parts and in some classes, women do not suffer the violation of their rights as severely as outlined above may be a mitigating feature. The variation is not so much from religion to religion as from class to class and from region to region. Historically certain parts of the country have developed relatively more democratic attitudes towards women in the family than other parts have. Similarly the economic and social status of the family also affects these attitudes within the family. Urban-rural differences are also more pronounced in the case of women. Nevertheless, the fact remains that the practices outlined in the report are the most commonly prevalent practices which violate the rights of women in the family. Some of the violations of constitutional rights are given below.

The daily drudgery of their work in the household, under coercive circumstances is a form of forced labour which is prohibited by the Constitution (Article 23). As in the case of the young woman activist of Patna referred to above, for most women freedom of speech and expression and freedom to assemble or become part of any association (Article 19 [a], [b] and [c] are denied. As in the case of Kailashwati, a school teacher in Punjab, where the High Court upheld that her husband has a right to decide her job and residence most women have no right to occupation of their choice (Article 19 [g], or right to reside in a place of their choice (Article 19 [c]). The inheritance and succession laws which originated from religious practices grant them no unfettered right to "acquire, hold and dispose of property" (Article 19 [f]. The equality before the law guaranteed by the Constitution (Article 14) has no meaning

for them. In fact the existing family structure as a whole is in complete and absolute violation of the fundamental rights in the Constitution which prohibit discrimination on the basis of sex (Article 15). This system also permeates state policy. The Directive Principles of State Policy, enshrined in the Constitution, include a promise to "secure for the citizens, a uniform civil code throughout the territory of India" (Article 44). No measures have been taken in this direction in the 35 years that have elapsed since the Constitution laid down that "it shall be the duty of the state to apply these principles in making law." With the State itself abdicating from its duties, the gap between the violations women suffer and the rights they are entitled to, is complete.

The most noteworthy feature in this atmosphere of otherwise unrelieved gloom, is the increasing awareness among the public about the rights of women. In the last decade, a number of women's organisations fighting for their rights have come up in different parts of the country. Although based mostly in large cities and limited in numerical strength, these organisations are playing a pioneering role in increasing consciousness among different sections including the political parties and the media. In fact, almost all the incidents we have referred to in this report came to our notice because one or other of the women's groups organised a protest against it. In addition to these organised efforts, there are also the beginnings of spontaneous reactions by neighbourhood people, especially in dowry burning cases.

Even as public consciousness is on the increase, paralleling it, the oppression of women is also on the increase. Whether it is scientific advances like amniocentesis tests that are used for female foeticide or a spreading consumer culture which strengthens the dowry system, modernization has resulted in the further oppression of women. In fact, dowry which earlier was confined to a section of Hindus, has now spread to all religions and all classes in almost all parts of the country. An alarming phenomenon is the revival of the practice of sati of which several incidents have been reported during the past few years from U. P., M. P., and Rajasthan. The disturbing

strengthening of communal forces has added to their oppression in recent years. The progressive decline of women labour has become an established trend in the economy. Crimes against women are on the increase, even in the usual underestimates of official records. Thus even as time and society change the family structure has not; on the contrary, it is showing signs of increasing strength.

These trends only mean that even now, women as a community, are not allowed to live and function as independent human beings. They are born, grow up, marry and die, oblivious of their rights as human beings and as citizens. Their ignorance has a social, if not a moral sanction. This results, often, tragically, in the perversion of the consciousness of women themselves. Thus we find mothers killing their own infant daughters and mothers-in-law burning their daughters-in-law. This phenomenon of persons from an oppressed group themselves becoming instruments of oppression, is by no means unique to women. But in the case of women what facilitates the oppression is the fact that a social problem here gets fragmented and personalized. In personalized problems there is very limited scope for collective action. The deprivation of opportunity for collective action to fight for their rights in effect is a deprivation of the opportunity for women to become conscious of their rights. In fact, it is by ensuring limited opportunities for collective action that the male-dominated family structure has survived changing times with more resilience than other oppressive structures. In the process, the absence of the rights of a community as a whole appears, at best, as a violation of individual liberty.

But countless such violations day in and day out are a structural part of the existing family structure in India. The inequities being perpetrated on women by civil society, principally through the present family system, is being sustained in multiple ways by the State via its economic policies, law, police, and courts. Hence the democratic rights movement, to be true to its own principles, must seriously take up the question of the rights of women within the family.