

**VIOLATION OF WOMEN'S HUMAN RIGHTS :  
A CASE STUDY IN GUWAHATI**

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Not For Lending.

**REPORT OF MINOR RESEARCH PROJECT  
PREPARED WITH THE FINANCIAL ASSISTANCE OF  
UNIVERSITY GRANTS COMMISSION  
2003**



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## PREFACE

The concept of human rights has assumed a significant place in the lives of people of contemporary world. Women, who form half of the world's population however, are often denied their rightful share of basic human rights. Human rights of women are systematically violated irrespective of religion, race, caste, class or national boundary. In this study, an attempt has been made to inquire into the nature, extent and causes of violation of women's human rights and how far law has been able to safeguard the rights of women. Moreover, to root out the causes of the ensuing violation, some suggestions also have been recommended on the basis of the findings of the study.

The report has been prepared with the financial assistance of the University Grants Commission and I take this opportunity to acknowledge my heartfelt gratitude to the Commission. I also thank the chairperson and staff of Assam Human Rights Commission, Member Secretary and staff of Assam State Commission for Women and the staff of the office of the Additional D.G.P. (C.I.D.), for their co-operation in collection of the data. My special thanks go to the respondents of my study for allowing me to have their opinions.

Finally, it may be expected that the study which proves to be very pertinent in the present circumstances will come to help to the planners and policy makers and thus help the society and the country at large.

*Ripima Buzarbaruah*

( Ripima Buzarbaruah )

23.5.03.

## CONTENTS

	Page
PREFACE ..	
CHAPTER- I INTRODUCTION ..	1-6
CHAPTER- II VIOLATION OF WOMEN'S HUMAN RIGHTS : AN OVERVIEW	7-24
CHAPTER- III WOMEN IN ASSAM WITH SPECIAL REFERENCE TO GUWAHATI	25-35
CHAPTER- IV A CASE STUDY IN GUWAHATI	36-53
CHAPTER- V CONCLUSION AND SUGGESTIONS	54-60

SELECT BIBLIOGRAPHY

## CHAPTER-I

### INTRODUCTION

The inherent and inalienable rights which every individual is entitled to for having been born as a human being are called human rights. These rights are essential for every person to lead a dignified life and to develop personality. Human rights and fundamental freedoms allow us to develop fully and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs.<sup>1</sup> These are the minimal rights of every human being irrespective of any other consideration.

The foundational norm governing the concept of human rights is that of the respect for human personality and its absolute worth, regardless of colour, race, sex, religion or other considerations. Therefore, it may be said that human rights are those fundamental rights to which every man or woman inhabiting any part of the world should be deemed entitled merely by virtue of having been born a human being.<sup>2</sup>

As human rights cover the people of the world as a whole, they become the part of the world social process. After the establishment of the United Nations, the way a sovereign state treats its own citizens is no longer a matter for its own exclusive determination, but a matter of legitimate concern for all other states and international community. Now international law contains a code laying down human rights of individuals against the states which exercise power over them. The citizens, therefore, are no longer the mere objects of state compassion, but subjects of legal rights under that law.<sup>3</sup>

Though the term human rights was coined only in 1940s, its concept can be traced from very ancient times. The origin of the concept of human rights is found in the Greco-

Roman natural law of stoicism which held that a universal force pervades all creation and that human conduct should therefore be judged according to the law of nature and in the *jus gentium* (law of nations).<sup>4</sup> Natural law embodies those elementary principles of justice which were right reason, i.e., in accordance with nature unalterable and eternal. Cicero, who was a Roman lawyer and statesman defined natural law as reason in agreement with nature from which neither the state nor the people can be exempted. During the medieval period, the church fathers tried to establish the superiority of the church by identifying the natural law with the law of god. The theories of the renaissance period denounced the idea of the dominance of the church and encouraged a belief in natural law and universal order. However, the positivists rejected the idea of human rights based on natural law. The exponents of positivism advocated the theory that the source of human rights is to be found only in legislative enactments of a system of law which has sanctions attached to it.

The natural law theory though faced a decline with the emergence of the scientific age, its revival took place in the twentieth century and the indispensability of values and moral order was globally felt.

However, human rights have assumed an international dimension through the United Nations. The charter of the United Nations, the Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights, 1966 etc., ensure human rights of all human beings of the world. The Universal Declaration of Human Rights, 1948 is recognised as a historic document articulating a common definition of human dignity and values. The declaration is a yardstick by which to measure the degree

of respect for and compliance with international human rights standards everywhere on earth.

The United Nations performs the monitoring role also. The Human Rights Committee, the Committee on the Elimination of Discrimination Against Women, the Committee on the Rights of the child etc., monitor and handle the cases of individual human rights abuses and violation of rights by member states. Thus, in the present times, human rights are considered so indispensable that even the sovereign states are held responsible and answerable to the international community, regarding violation of human rights in their respective states.

In the national spheres also human rights have been recognised through national constitutions. The Universal Declaration of Human Rights was adopted during the drafting of constitution of India and its influence is clearly visible in Part-III (Fundamental Rights) and Part-IV (Directive Principles of State Policy) of the Constitution. However, the philosophy of human rights may be traced even in the ancient Indian society. In one of the judgments (*Maneka Gandhi vs. Union of India*) of the Supreme Court of India it was stated that the parliamentary rights represent the basic values cherished by the people of India since Vedic times. The Ramayana, the Mahabharata, the Arthashastra and the Buddhist doctrine of non-violence emphasise upon the human rights. During the British rule though the demand for the fundamental rights of the citizens was made, no positive response was received from the British. However, with the attainment of independence people's rights have been ensured through various enactments along with the constitution of India.

In India, the constitution and existing laws are based on equality of sexes. Some protective laws also have been passed to safeguard the rights of women. But the unproportionate sex ratio, low literacy rate of females, low participation of women in economic and political activities, crime against women, lack of security of females in family, society and workplace etc., clearly reveal the actual position of women in society. Subordination of women is a very well-accepted norm in Indian society and due to the apprehension of inferiority, females are not considered as fit to enjoy equal rights with their male counterparts and they are easily deprived of their rights.

In India, various laws have been enacted to provide justice to women. But the law makers, enforcers and the adjudicators also are not free from the prevailing social values and norms. There are deficiencies in some of the laws like Hindu Succession Act, 1956 and Immoral Traffic Prevention Act, 1986, etc. Moreover, as the law enforcers and adjudicators are also overpowered by the socio-religious norms about the inferior quality and position of women, on many occasions they also fail to provide proper justice to women. Hence, the existing laws have not been able to improve the condition of women.

In such a situation, the enforcement mechanisms may play significant roles. They can curb the on going violation of women's human rights by proper execution of the existing laws. However, some of the mechanisms like human rights commissions and women's commissions are not well equipped with power to handle the cases and some others like police, on many occasions misuse their powers and fail to ensure the rights of people. It may be assumed that proper functioning of the enforcement mechanisms will certainly help to improve the human rights scenario.



In this study an attempt has been made to understand the nature, extent and gravity of the problem and to find out the root causes behind the rampant violation of women's human rights. Moreover, an analysis of the existing legal provisions relating to women and investigation regarding legal awareness among women have also been done. As the final report of census of 2001 is yet to be published, so the census report of 1991 has been used in the study.

An empirical study regarding violation of women's human rights in Guwahati has been conducted for this study. The cases collected for this purpose, from Assam Human Rights Commission and Assam State Commission for Woman situated in Guwahati have been classified and analysed and an attempt has been made to find out the causes behind such crimes against women. The reported cases reveal the fact that wide spread violation of women's human rights has been going on in the study area. Most of the crimes against women are committed within the four walls of home and there is also lack of social security.

A field survey has also been conducted in selected areas of the city. Respondents were selected on the basis of stratified random sampling. The respondents were selected from diversified population groups so that the study becomes representative in character. The interviews for the study were conducted with the help of a structured questionnaire. The views of the respondents have reflected the position of women in society and also about the attitude of people towards them.

The findings of the investigation have led to the reaffirmation of the hypotheses, as they reveal that widespread violation of women's human rights is going on and that the social condition is not congenial enough to safeguard the rights of women. Lack of legal

awareness among women helps to deteriorate the situation. The deficiencies in the legal provisions and their improper implementation also contribute to the present situation which is not favourable towards women. Several recommendations on the basis of the findings of the investigations have also been made at the conclusion of the study.

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## CHAPTER- II

### VIOLATION OF WOMEN'S HUMAN RIGHTS : AN OVERVIEW

The concept of women's human rights is of recent origin. It emerged as a consequence of exclusion of women's issues from the human rights issues. The phrase 'Women's rights are human rights' has been used to explore, assert and redress the gap between the international commitment to equality for women and the actual experience of women.<sup>1</sup> The failure to respect and recognise women as human led to the claim of 'Women's Rights as Human Rights'.

It is worth-mentioning that the term human rights itself came into existence as a result of discrimination faced by women. Prior, these rights were known as 'Rights of Man'. The term human rights was first coined by Mrs. Eleanor Roosevelt, in 1940s, as it was found that in some parts of the world the 'Rights of Man' was considered entirely for males and not for females.<sup>2</sup> However, the acceptance of the term human rights in stead of 'Rights of Man' proved to be a mere change in the nomenclature and nothing else. Even the two commissions set up by the United Nations, i.e., the UN Commission on Human Rights and the UN Commission on the Status of Women, developed in isolation from each other. The Human Rights Commission has more power to hear and investigate cases than the Commission on the Status of Women. It has more staff and budget and better mechanisms for implementing the findings.

It is beyond doubt that the international instruments of human rights, such as the Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966 etc., define human rights in gender-neutral language. Though the United Nations

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from its inception has emphasised upon the equality of men and women, yet little elaboration of these rights has been made from the point of view of women. Charlotte Bunch opines, the dominant definitions of human rights have tended to exclude much of women's experiences and that of many non-elite men as well, because these groups have not been well represented in human rights discourse. The western educated propertied men, first advanced the cause of human rights in the public sphere. That is why, this area of violation has been privileged in the private sphere of the home, because they were the masters of that territory. That is why, many generally applicable human rights principles are inherently biased against women. Primacy is given towards protection of man within public life.<sup>3</sup> Following examples will make it clear.

Article 6 of the International Covenant on Civil and Political Rights deals with right to life. It is concerned with the arbitrary deprivation of life through public action. But it does not address the ways in which the life of a woman is threatened and they need legal protection. Similarly, international legal definition of torture is that it takes place in the public realm : it must be inflicted by or at the instigation of or with the consent of a public official or other persons acting in an official capacity. But the greatest violence against women occur in private. That is left untouched by the international definition of torture. Thus, women's human rights are viewed as special interest and not as general interest. This separation of women's rights from human rights has perpetuated the secondary status of women and highlights the importance of recognising specific women's human rights concerns.

Human rights of women are the "collective rights of women to be seen and accepted as persons with the capacity to decide or act on their own behalf and to have

equal access to resources and equitable social, economic and political support to develop their full potential". But perhaps nowhere in the world a woman enjoys her rights as stated above. Human dignity is frequently violated on grounds of sex and sexuality. Gender based violation takes place all over the world with respect to employment, bodily safety and integrity, basic nutrition and health care, education and politics. The Human Development Report of the United Nations reveals that in no country in the world, women's quality of life is equal to that of men, according to a complex measure that includes life expectancy, educational attainment and GDP (Gross Domestic Product) per capita.

In the patriarchal system of society, women are considered to be inferior to men. Aristotle held that women and slaves were not full fledged human beings. He opined, "The female is a female by virtue of a certain lack of qualities, or should regard the female nature as afflicted with a natural defectiveness". Saint Thomas Aquinas also viewed women to be an 'imperfect man', 'an incidental being.' Kate Millett therefore remarked, "Our society .... is a patriarchy. The fact is evident at once if one recalls that the military, industry, technology, universities, science, political offices, finances, in short, every avenue of power within the society including the coercive force of the police is entirely in male hands".

The subordination of women at a daily level regardless of the class takes various forms – discrimination, disregard, insult, control, exploitation, oppression, violence – within the family, at the place of work, in society.<sup>4</sup> August Babel remarked, ".... From the beginning of time, oppression has been the common lot of women and the labouring man. Her position was even lower than his, and even by him was she regarded as an

inferior and continues to be so to this day..... woman was the first human being that tasted bondage." Due to such subordination faced by women, women's liberation movement grew up all over the world.

Lack of understanding of women's rights as human rights is reflected in the fact that most of the governments are not committed in their domestic policy, to women's equality as a basic human rights. The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) may be considered as a major step towards attainment of the goal of equal rights for women. It recognises the violation of women's rights both in public and private spheres. Though many states have ratified the convention, they have filed such reservations as provide escape from the legal obligations to eliminate all forms of discrimination against women. It seems that governments are not willing to take necessary steps to eliminate discrimination where it is regarded as part of religious, social or cultural traditions. Government of India has reserved Article 5 of CEDAW, which declares, State parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or stereotyped roles for men and women. Like a staunch follower of the cultural relativists, the government of India made a declaration stating that it would follow a "policy of non-interference in the personal affairs of any community without its initiative and consent when implementing these provisions."<sup>5</sup>

Bangladesh, Egypt, Libya and Tunisia have involved 'Islam' as the reason for making reservations. Egypt clarified its stand for not modifying its laws discriminating

against women, after ratifying the convention, that reforms undertaken pursuant to the principles of the convention to give women equal rights would violate Sharia requirements.<sup>6</sup>

The United Nations World Conference on Human Rights was held in Vienna in 1993. This conference is a step forward in the field of human rights of women as it recognised women's rights as human rights. The Conference declared, "The human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights..... The human rights of women should form an integral part of the United Nations' human rights activities, including the promotion of all human rights instruments relating to women. After that in 1995, in the fourth World Conference on Women which was held in Beijing also, it was declared in unequivocal terms that "women's rights are human rights".

However, in spite of all these measures, the women's human rights scenario in the international sphere is not at all satisfactory. The Human Rights Commission of Pakistan in a report revealed that 80 per cent of the country's married women were victims of various categories of domestic excesses, from verbal abuse to physical assault. In extreme cases the victims were killed by strangulation, shooting, poisoning or the popular 'burst stove'.<sup>7</sup> In Afghanistan, the Taliban dictates banned women from work place, closed schools for girls and forced women to wear the traditional burqa.<sup>8</sup> In the United States of America, even the legal practitioners have to face evils of gender discrimination. According to American Bar Association Penal Report, "Many women are paid less than men and win fewer promotions, whether they are in private legal practice, work as



corporate lawyers or teach at law schools.<sup>9</sup> Thus, discrimination and violation of women's human's rights continue cutting across geographical, cultural and political boundaries.

The situation in India is also not different from that of the countries mentioned above. The report of the Committee on the Status of Women in India in the seventies, clearly pointed out that the Indian state had failed in its constitutional obligation of not discriminating on ground of gender. There was no acknowledgement of the fact that millions of women in India earn their livelihood in developing sectors like agriculture, industry, fishery, livestock etc. The report also pointed out that the planners failed to deal with the problem that employment of women in some organised industries came down sharply, where they dominated earlier. This process of marginalisation of a large majority of women in the economy and their consequent neglect and devaluation by society and the state were a clear indication of the overriding class and gender bias in the polity.<sup>10</sup>

In India, during the Vedic period women enjoyed almost equal status with that of men. They could take part in every aspect of life. At that time monogamy was the prevailing condition of society and widow remarriage was also in vogue. Moreover, Upanayana or ceremonial initiation in Vedic studies was common in case of boys and girls. Some of the girls were even the authors of Vedic hymns. Lopamudra, Visvavara, Sikala, Nivavari and Ghosha were some of the authors of Vedic hymns. During the Vedic period, daughters were relatively less unpopular for various reasons.<sup>11</sup> The girls were initiated in Vedic studies and were entitled to offer sacrifices to gods, for this purpose the son was not absolutely necessary. Marriage and widowhood also were not problems for the parents of the girls. The girls themselves selected their grooms and widow remarriage

was allowed and was fairly common in society. Prevalence of such practices kept women at a high pedestal.

During the epic period, gradually women's position in society deteriorated. Manu played a very significant role in the establishment of an inferior position of women in society. He advocated that girls' upanayana may be performed but no Vedic mantras should be recited in that occasion. He stated that the marriage ritual in the case of girls served the entire purpose of upanayana; service of the husband correspond to the service of the preceptor and household duties were a fit substitute for the service of the sacrificial fire. Manu strictly prescribed that the life of a woman is fit only for marriage and the household chores.

During the post-Vedic period polygamy became very common. Manu allowed the practice of polygamy for the three castes, viz., Brahmana, Kshatriya and Vaishya. However, though the evil practice of polygamy came into existence, widow remarriage was completely prohibited during this period. After the death of the husband the wife was not free to remarry. She had to lead a life of piety and absolute self-denial. The legal authorities were of the view that a woman once united with a man is united for ever and that there can be no separation from him, even if he is dead. Her life was expected to be one of austerity.

The practices which emerged during this period regarding women are prevalent even in the present day India. From the very childhood, girls are trained to become expert in household chores and by this way they are made fit for marriage. Education and necessity of self-dependence are not considered as important for a girl's life. Even now, the inferiority of a woman in the family and society is a natural and well-accepted norm.

In the eleventh century, the Mohammedan invasion began in India. Mohammedanism influenced the existing situation. The Mohammedan invaders were short of women. There is nothing in the Koran, to forbid inter-religions unions. Therefore, the Mohammedan invaders were eager to marry even the Hindu girls. But in Hinduism even inter-caste marriages within its own fold was completely forbidden. Therefore, the Hindus, as a means of protecting their daughters, resorted to marrying their daughters not only at the approach of puberty, but even as infants. In such situations purdah also became a protective measure in Hindu society.<sup>12</sup> Consequently, girls were deprived of education also. Thus, in this period, the condition of women were highly deplorable.

During the colonial period, western education enlightened many Indian people and drew their attention to certain social evils prevailing in that period. They tried to eradicate the evils related to women also. Social reformers like Raja Ram Mohan Roy protested against the prevailing religious and social maladies. He created public opinion against the practice of sati, which forced the widows to immolate themselves in the funeral pyre of their husbands. Ram Mohan Roy, with the assistance of William Bentinck, the then Governor General, succeeded in abolition of this practice. In 1829, an Act was passed, which declared sati as an act of 'culpable homicide'. Though the practice of sati was not completely eradicated, the Act brought about change in the way of thinking of people.<sup>13</sup> After that also in 1856, the Widow Remarriage Act and in 1929, the Child Marriage Restraint Act were enacted.

In the fields of education and politics also women never enjoyed equal status with their male counterparts. However, after independence, women of India are receiving

more and more rights through legal channel. In order to rectify the unequal position of women, many laws were enacted. The Constitution of India, since its inception (26<sup>th</sup> Jan., 1950) contemplated a social revolution by guaranteeing equal status to women with men. It is considered as the 'woman-friendly' constitution as it does not contain any discriminatory provision regarding women. The rights of people are enumerated in Part-III and Part-IV of the Indian Constitution. Part-III (Articles 12-35) of the constitution contains fundamental rights which are of justiciable nature. Article 14 provides, "the state shall not deny to any person equality before law and equal protection of the laws within the territory of India." Article 15(1) ensures that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. The fundamental rights also have taken into consideration some special disabilities, which the state may endeavour to rectify by affirmative action. Article 15(3) lays down, "Nothing in this Article shall prevent the state from making any special provision for women and children. Moreover, discrimination on the basis of sex in public offices has been prohibited [Art 16(1) & (2)]. The directive principles of state policy contains provisions like equal pay for equal work for both men and women (Art. 39), and that state shall make provisions for maternity relief (Art. 42) etc. The constitution also provides that it will be the duty of every citizen of India to renounce practices derogatory to women [Art. 51, A-(e)].

Besides the constitution of India, there are also some other enactments which contain many provisions pertaining specially to women. The Indian Penal Code, 1860 deals with punishment for disclosure of the identity of victim of certain offences like rape (Sec. 228A); dowry death (Sec. 304-B); outraging the modesty of women (Sec. 354);

kidnapping from lawful guardianship (Secs. 361, 363, 366); selling and buying of minor for prostitution (Secs. 370-373); rape (Secs. 375-376) offences relating to marriage like bigamy, adultery (Secs. 493-498) and eve teasing (S. 509).

The Criminal Procedure Code, 1973 contains provisions regarding search of arrested female [S. 51(2)], orders for maintenance of wife and that a female witness has to be examined at her place of residence only [S. 160(1)].

The Evidence Act, 1872 also contains certain relevant sections relating to women. If a woman commits suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume that such suicide had been abetted by her husband or by such relative of her husband (S. 113-A). Similarly, the court may presume the absence of consent of the women in certain prosecutions of rape (rape by public servant, superintendent of jail, any member of management or staff of a hospital).

Apart from these, the Immoral Traffic Prevention Act, 1956 (Amendment 1986), the Indecent Representation of Women (Prohibition) Act, 1986; the Commission of Sati Prevention Act, 1987, the Dowry Prohibition Act 1961 (Amendment 1986) etc. also were enacted to ensure the rights of women.

Thus, the constitution and the other enacted laws provide for the ways of securing rights of women. With so many provisions for safeguarding the rights of women, Indian women should have been enjoyed a dignified life, free from discrimination. However, despite the provisions of the constitution and other laws, the fate of the lots of Indian women remained unchanged.

A constant fall of the number of females in the sex ratio has become a matter of serious concern in India (Table 2.1).

TABLE 2.1

## Sex Ratio in India (Females per 1000 Males)

Census year	Sex Ratio		Census year	Sex Ratio
1901	972		1951	946
1911	964		1961	941
1921	955		1971	930
1931	950		1981	934
1941	945		1991	927

Source : Census of India

From 972 females per one thousand males in 1901, the ratio dropped steadily and reached 927 females per one thousand males in 1991. The reasons of uneven ratio may be attributed to differential nutrition and unequal health care of male and female children, female infanticide, female foeticide etc. Continuance of this trend will certainly lead to the collapse of the social fabric.

Equal opportunity in education is one of the prime constituents of human rights. But in India, almost half of the total population is illiterate. In case of females the situation is even miserable. Despite the constitutional guarantee for equal status and opportunities disparity in respect of education, between males and females still persists (Table 2.2). The Table clearly indicates that there is a gradual increase in the literacy rate of both male and female population. But prevalence of discrimination, on the basis of sex, in the field of education is very much evident. The common belief in the inequality of the sexes, and the belief that women's real place is at home only lead the parents to think that education is of no use for girls.

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TABLE 2.2

## Literacy rate in India (1951-1991)

Census year	Male	Female	Total
1951	24.95	7.93	16.67
1961	34.44	12.95	24.02
1971	39.45	18.72	29.46
1981	46.89	24.82	36.23
1991	64.68	39.52	52.11

Source : Census of India

In India, rather than law, custom dominates practice. Consequently, majority of women do not enjoy the right to inheritance. They rarely realise the rights that contemporary laws have promised them. Moreover, as daughters, women's claims appear to enjoy little social legitimacy. Further, up to the Fifth Plan (1974-79), there was no effort to consider women as human or productive entities. The statistical purdah concealed the full extent of their participation in economic activities and their contribution to the national domestic product, and this made them invisible persons to the policy planners. However, the sixth plan introduced a separate chapter on women, due to the demand of women's groups and for the international pressure during the International Decade of Women. It stressed for economic independence giving of joint titles to husband and wife in all asset transfers, including of land, house sites and other economic units.

In India, in the political field, the constitution of India has guaranteed adult suffrage to the citizens of India. The electoral process is an important mechanism to represent and promote women's interest. However, over the years the participation of women in elections by way of voters and constants has increased significantly but the



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1991	64.68	39.52	52.11

Source : Census of India

In India, rather than law, custom dominates practice. Consequently, majority of women do not enjoy the right to inheritance. They rarely realise the rights that contemporary laws have promised them. Moreover, as daughters, women's claims appear to enjoy little social legitimacy. Further, up to the Fifth Plan (1974-79), there was no effort to consider women as human or productive entities. The statistical purdah concealed the full extent of their participation in economic activities and their contribution to the national domestic product, and this made them invisible persons to the policy planners. However, the sixth plan introduced a separate chapter on women, due to the demand of women's groups and for the international pressure during the International Decade of Women. It stressed for economic independence giving of joint titles to husband and wife in all asset transfers, including of land, house sites and other economic units.

In India, in the political field, the constitution of India has guaranteed adult suffrage to the citizens of India. The electoral process is an important mechanism to represent and promote women's interest. However, over the years the participation of women in elections by way of voters and constants has increased significantly but the

visibility of women in the electoral fray appears in inverse proportions to the promises made by political parties on their empowerment (Table 2.3).

TABLE 2.3

## Women's participation in Lok Sabha Elections (1952-1999)

Election year	Voting Percentage of Man	Voting percentage of Women	Total seats contested by Women	Seats won by women	Percentage of Women Members in Lok Sabha
1952	53.00	37.10	43	14	4.40
1957	54.00	38.77	45	27	5.40
1962	62.10	46.63	70	35	6.70
1967	66.70	55.48	67	30	5.90
1971	60.79	49.15	86	21	4.20
1977	65.62	54.96	70	19	3.40
1980	62.02	51.22	142	28	5.14
1984	68.41	59.17	164	42	7.96
1989	66.01	57.30	198	28	5.30
1991	61.56	51.04	325	37	6.60
1996	62.10	53.40	599	40	7.10
1998	65.70	57.90	274	43	7.90
1999	-	-	247	47	8.70

Source : Reports on General Elections, Election Commission of India

The data set presented in the table clearly indicates the low level of participation of females as voters and candidates, as well as the low percentage of women as members of Lok Sabha. In the last fifty years, there are not even ten percent female representatives in not even one Lok Sabha out of the thirteen Lok Sabhas.

The low participation of women in elections both as voters as well as candidates may be attributed to the following reasons. (i) women are not independent voters,

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The low participation of women in elections both as voters as well as candidates may be attributed to the following reasons. (i) women are not independent voters,

(ii) a majority of them are illiterate, (iii) a majority of them make their choice on the basis of suggestions from male members, (iv) women lack information and political awareness.

The Table (2.3) reveals that women in India are politically marginalised and are not getting due space and representation in political institutions. It may be assumed that political empowerment of women and their active participation in setting the agenda for their own and social development may change the situation to a great extent.

Gender injustice taking the shape of crime against women has become a matter of serious concern. Table 2.4 (data is available upto 1999) clearly indicates that crimes against women are on the rise. Thus, it is evident that the theoretical declarations and the prohibitive measures have very little effect upon the lives of women. They have not been able to fulfil their main purpose, i.e., to protect women and to deter the offenders from committing crimes.

TABLE 2.4  
Crimes against women in India

Year	Number of Crimes
1991	74,093
1992	79,037
1993	83,954
1994	1,01,657
1995	1,09,259
1996	1,15,723
1997	1,21,265
1998	1,31,338
1999	1,35,771

Source : Crime in India, NCRB, Ministry of Home Affairs

Women are generally considered weak, vulnerable and in a position to be exploited. Women can be burnt for not bringing enough dowry, tortured and harassed for not providing money to their alcoholic husbands, raped to satisfy the lust of males or just to teach them a lesson for being bold and out spoken. Apart from these, criminalisation of politics lead to violence and the brunt of resulting violence is borne by the marginalised sections of society, including women. The increasing use of communal, caste and ethnic identities in the pursuit of political gains is another factor behind the spreading violence. Increasing participation of women in work and politics is making them more vulnerable to crime. Moreover, attempts to control and intimidate women associated with decision making process are also leading to violence.

It may be noted that though crime against women is rampant, most of the crimes go unreported due to the reasons of social stigma, distrust in legal mechanisms, lack of legal awareness, fear of retaliation etc., and this is the reality in spite of the constitutional assurance of equality and dignity of all human beings.

The patriarchal values, which is prevalent in Indian society, influence the law making and adjudicating machineries. A close scrutiny of the legislations proves that even now there are many legal provisions which deny proper justice for women and for which women cannot enjoy their basic human rights properly. Even the government of India has admitted that despite various policies and schemes to bring about gender equality, discrimination continues against women and the girl child. The documents submitted by the Women and Child Department to the Planning Commission reveals,<sup>14</sup> "numerous laws still exist, which are not fair to women, and require urgent updating.

Cited among these are the inheritance laws under which women have an unequal position, rape laws and Immoral Traffic Prevention Act, which need urgent amendment."

The codified Hindu personal law, though provides for equal rights for both males and females, it is not free from discriminatory provisions. Sec. 23 of the Hindu Succession Act, 1956 debars a woman from claiming rights or share in a house if it is in the possession of male heirs. Even, the right to residence is only for daughters, who are widows, unmarried or deserted by or separated from their husbands. For the daughters, whose marriage is subsisting but who is the victim of domestic violence, there is no rights even to seek shelter in the dwelling house. That is why, in most of the cases, generally a woman does not come out of her matrimonial home though she has to face unbearable torture, as she knows that the moment she leaves the matrimonial home, she becomes shelterless.

The discriminatory attitude of the law makers toward women is very much prominent in the Hindu Minority and Guardianship Act of 1956. Sec. 6 (b) of the Act refers to the natural guardians of a Hindu Minor. In the case of a boy or an unmarried daughter the natural guardian is the father and after him the mother. However, in the case of an illegitimate boy or an illegitimate girl, the natural guardian is the mother and after her, the father. Such discriminatory provision still exists. In the presence of the father, the mother is not considered as the natural guardian of her legitimate children.

The Suppression of Immoral Traffic in Women and Girls Act, 1956 was amended in 1986 and was renamed as Immoral Traffic (Prevention) Act. This Act does not declare prostitution illegal perse, but section 8 of the Act treats the prostitute as criminal. However, the client is not punished by the Act. Under this Act, any woman, who is out at

night can be picked up by the police. In this way, according to the provisions of the Act, though the prostitutes are punished, the males who are the clients are allowed to have a free access to them without any prohibition.

Therefore, it is beyond doubt that laws will be able to safeguard women properly, only after the removal of their inherent deficiencies. At the same time it is also true that only the legal and constitutional provisions are not enough to prohibit crimes against women. Clarence Darrow opined, "Freedom come from human beings, rather than from laws and institutions." It is therefore necessary to change the mentality of people towards women. From the very childhood, proper education on human values should be imparted to children, so that they become cultured and responsible citizens of the country. General public should also become active and should not allow the criminals to commit crimes freely. It may be expected that awareness about basic human rights, literacy and economic independence will help women to come out of the grasp of the violators of human rights.

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## CHAPTER-III

### WOMEN IN ASSAM WITH SPECIAL REFERENCE TO GUWAHATI

Assam, a state of India is situated in the North-Eastern part of it. It became a part of the great Indian territory in 1826, after the Yandabu Pact.<sup>1</sup> Prior to it, Assam was ruled by the kings of different dynasties.

In ancient times, Assam was a part of the country named Pragjyotisha. By this name the country was known in the great epics – the Ramayana and the Mahabharata and also in some principal Puranas like Markandeya Purana, Shiva Purana and Kalika Purana.<sup>2</sup> The Kalika Purana describes that immediately after Naraka - the adopted son of Janaka, became king of Mithila and was placed in the charge of the worship of Goddess Kamakhya, the name of the land was changed from Pragjyotisha to Kamarupa.<sup>3</sup> From 1200 A.D., the Ahoms began to rule this territory. The first Ahom king Sukapha, conquered the neighbouring small states and that is why, he was called as Asom, which means not equal to others. Then onwards, the territory was also named after him and was termed as Assam.<sup>4</sup>

The ancient Kamarupa, i.e., present Assam is considered as the first and the principal centre of Shakti worship. Here, not only Shakti worship prevailed, but women were also honoured as the living image of Goddess Kamakhya. In the Yoginitantra, it is stated, "No place is equal to Kamarupa, which is the place of mother Goddess, the Goddess, whom we do not get elsewhere, is present in every household of Kamarupa." In ancient Assam, women were regarded as the very backbone of the social fabric and hence they enjoyed due honour in the family as well as in society.

The respect for women is also reflected in the virgin worship. The virgin worship or kumari puja is still prevalent in Kamakhya and some other temples of Assam. In this way, in ancient Assam the women were not only considered as the symbol of Goddess Kamakhya, but girls of flesh and blood were also worshipped as the living image of the Goddess. Such attitude of people helped women to enjoy a high position in family and society. As the recipient of special worship as mother and the virgin, women of ancient Assam, did not have to face certain evils like dowry, female infanticide, sati etc., which were prevalent in some other parts of India.

However, in the medieval period, the position of women in society and family deteriorated. Though the contribution of women towards the family and society were noteworthy, they did not get prominence in society. Women were considered subordinate to males and were confined to the household chores only.<sup>5</sup>

During the medieval period, the condition of widows deteriorated to a certain extent. A social ban prohibited the remarriage of the widows, which was very much prevalent in the earlier period. Widowhood was considered to be the greatest calamity for a woman. It was the custom for the widows to remove all the ornaments from the body and rub the vermilion marks from the forehead and to lead an austere life devoid of luxury and comforts of life.<sup>6</sup> After marriage, the identity of a woman was attached to that of her husband's and that is why, after his death she had to lead her life like a living corpse.

The purdah system, which was not in vogue in ancient Assam, came to be rigidly followed among the married women, as a result of Vaisnavite movement during the medieval period. The Mohammedans who made their settlements in the State during this

period were also partially responsible for it. The historical and biographical records prove the prevalence of purdah system in medieval times.<sup>7</sup> Women did not enjoy the right to property during this period. Though the daughters were allowed to have some movable property, they did not inherit the immovable property of the family. Thus, in the medieval period, the position of women deteriorated to a great extent. Women were deprived of their respect in the family and society. Prevalence of some evil practices like purdah, ban on widow remarriage etc., which were absent in the ancient period helped in the general degradation of women's status in society.

In 1826, the reign of Assam was handed over to the British. With the advent of the British and the Christian Missionaries, the situation of Assam changed mainly in the educational field. Otherwise, the evil practices like purdah, child marriage etc., which were prevalent in the medieval period continued to this period also.

Though the girls received training in domestic activities, they did not get opportunity for formal education. Formal education for girls' started only after the arrival of the Missionaries. The Missionaries who came to Assam with a view to preaching, did some welfare activities also. They, for the first time established educational institutions for girls. The first Missionary school for girls' was started at Sibsagar by Mrs Brown and Mrs Cutter in 1840. However, as the high caste Hindus refused to send their daughters to the Christian school, the Missionaries had to depend upon the orphan and the homeless girls.<sup>8</sup> The first government school for girls was established in 1860-61 at Sibsagar and in the next two years in Guwahati and Nagaon also two such schools were established. However, the progress of female education was not at all satisfactory, e.g., during 1874-75 the total number of girls receiving primary education was 857 and the

percentage of female literate was only 4.33. At the end of the 19<sup>th</sup> century there were 91 private institutions for boys and none for girls. Even the advocates of female education desired that girls education should be confined to reading, writing and arithmetic. At that time people feared that western culture, particularly higher education of women would produce disaster in Assam.<sup>9</sup>

During the post independence period, the constitutional provisions on equality no doubt have enabled some women to come forward, however, the overall position of women in various fields is far from satisfactory.

Unproportionate male-female ratio (Table 3.1) is a disturbing phenomenon in respect of the position of women in society. In Assam, the practice of female infanticide is not prevalent. But the problems related to marriage and widowhood of the girl etc., make people indifferent towards girl children. Mal-nutrition and less care to the girl child cannot be ruled out. Thus, the girl child does not get proper opportunity for survival. According to the 1991 census, in India there were 927 females per 1000 males, on the other hand in Assam there were 925 females per 1000 males. A similar situation is found in case of Guwahati also. The total population of Guwahati is 5,84,342 out of which 3,27,725 males and 2,56,617 females. It may be presumed that preference for male children results in the neglect of girl children and deprives them of their basic right to life. Ignorance and lack of literacy prevent people from coming out of their age old attitude towards women.

TABLE 3.1  
Sex ratio in Assam

Year	Females per 1000 males
1951	877
1961	876
1971	899
1981*	-
1991	925

Source : Census of India

\*In 1981 census was not held in Assam

Even the girls who are fortunate enough to see the light of the outside world, do not get proper opportunity for education. In a landmark judgement in *Mohini Jain vs. state of Karnataka*, the Supreme Court held that the right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education.<sup>10</sup> The 93<sup>rd</sup> amendment of the constitution of India has declared right to education as a fundamental right. Education is an important instrument which exposes new thoughts and ideas and also provides necessary skills to people. But girls are deprived of proper education (Table 3.2) which could have made them confident and economically independent. The parents generally think that the education of girls will not bring any return for them. That is why, they do not feel the urge to educate the girl children. Table 3.2 reveals a very gloomy picture of female education in Assam. Though the rate of literacy is increasing, till now more than 50% women are illiterate. The picture of literacy in Guwahati is however a bit bright, though not satisfactory. The census of 1991 reveals that literacy rate of males and females in Guwahati Municipal Corporation is 75.4% and 64.4% respectively. There is

no doubt that literacy has been growing at a fast rate, yet disparity between male and female literacy rate continues to exist.

TABLE 3.2

## Literacy rate in Assam

Year	Male	Female	Total
1951	24.4	7.9	18.3
1961	37.3	16.0	27.4
1971	37.0	19.6	28.8
1981*	-	-	-
1991	62.34	43.70	53.42

Source : Census of India

\*In 1981 census was not held in Assam

In the political field also marginalisation of women is very much evident. Right from the freedom movement, women of Assam have participated in various political movements like movement for establishment of an oil refinery in Assam in 1960, movement against price rise in 1966, language movement in 1972 and movement against illegal migrants in 1979. In these movements women played very significant roles. However, they get little opportunity to take part in the decision making process. An analysis of the representation of women in Lok Sabha from Assam (Table 3.3) as well as the legislative assembly (Table 3.4) shows that participation of women is quite insignificant. Out of thirteen Lok Sabha elections held from 1952-1999, 172 representatives were elected from Assam. Among them only 12 were females. For these thirteen Lok Sabha elections only 46 female candidates contested as against a total of 865 male contestants. Table 3.3 also reveals that for five times from seventh to eleventh Lok Sabha, i.e., from 1980 to 1998 there were no female representative from Assam.

TABLE 3.3

Electoral participation and return of males and females in the Lok Sabha Elections in Assam, (1952-1999)

Year of Election	Number of contestants		Number of Elected candidate		Seat in Lok Sabha
	Male	Female	Male	Female	
1952	32	2	9	1	10
1957	29	2	8	2	10
1962	38	3	10	2	12
1967	45	1	13	1	14
1971	75	3	13	1	14
1977	37	2	12	2	14
1980	5	2	14	Nil	14
1983	-	-	-	-	14
1985	105	3	14	Nil	14
1991	160	7	14	Nil	14
1996	128	9	14	Nil	14
1998	98	3	13	1	14
1999	115	9	12	2	14

Source : Reports on General Elections, Government of Assam

While at the national level the representation is meager, the position of women in the legislative assembly is also far from satisfactory (Table 3.4). An analysis of the results of the legislative assembly of Assam reveals that women have not been fairly represented. From 1952-2001, in these eleven times only 51 female candidates were elected to the legislative assembly, and the number of female contestants was 233. Table 3.4 reveals that only in the election of 2001 as many as 53 females contested in the election and out of them 10 were elected. In last fifty years this is the highest number of female representation in the assembly. The few females who come forward to join

politics do not get positive response from the political parties. Reluctance of political parties to give party tickets to female members deprive even those who are in active politics. Therefore, most of the female members of the political parties have to remain satisfied with the activities like campaigning, demonstration etc. The area of Guwahati covers four legislative assembly constituencies. However, so far only once i.e., in 1972 a female candidate got elected to the assembly. Similarly, the Guwahati Lok Sabha constituency has been represented by females for three times, i.e., in 1962, in 1977 and in 1999. It may be mentioned here that in 1977 Smti Renuka Devi Borkotaky became Minister of State for Education and Social Welfare and since 1999, Smti Bijoya Chakraborti has been discharging her duties as the Minister of State for Water Resources.

TABLE 3.4

Electoral participation and return of males and females in the  
Legislative Assembly Elections in Assam (1952-2001)

Year	Contestants		Elected candidates		Total seats
	Male	Female	Male	Female	
1952	452	6	107	2	108
1957	303	8	103	5	108
1962	405	4	101	4	105
1967	478	9	121	5	126
1972	464	12	106	8	114
1978	938	20	125	1	126
1983	464	3	107	2	126
1985	1226	23	122	4	126
1991	1600	50	121	5	126
1996	1183	45	121	5	126
2001	854	53	115	10	126



The previous experiences has shown that in Assam the political parties do not give opportunity on the basis of merit. But they use women as the means to get their political ends. Money and muscle power get preference during the distribution of party tickets. Therefore, it may be made obligatory to the political parties by constitutional amendment to provide certain number of party tickets to females.

The injustices meted out to women in social, economic and political fields make her most vulnerable to crime. Crime against women is an age old problem. The causes of crime against women are many and varied. Some of the causes may be identified as patriarchal structure of society and social conditioning, alcoholism, lack of proper moral education, marital mal-adjustment etc. Due to prevalence of patriarchy women are socialised as an inferior being. It causes men to think that they are superior to women and have a right to control women's behaviour.<sup>11</sup> The trend of crimes against women in Assam as recorded by the office of the Additional Director General of Police of Assam can be seen from Table 3.5 . The Table reveals that crime against women in Assam has become a matter of serious concern. It may also be noted that the data is based only on reported cases, the figure of the unreported cases will be much higher than this. Gender bias places women at a disadvantageous position. The physical and psychological violence perpetuated on women have become very common phenomenon.

According to the data compiled by the National Commission for women, a rape is committed every 54 minutes, a dowry death every 92 minutes, molestation every 26 minutes and an act of cruelty every 33 minutes<sup>12</sup>. Table 3.5 shows an upwards trend in cases of crimes against women. In spite of some minor fluctuations, the data of the different heads also indicate the gravity of the problem. A constant increase in the

number of cases of domestic violence in Assam indicates the necessity of adoption of certain measures for its containment. So far, the government of India has not taken any specific measure against domestic violence. The bill on domestic violence which was introduced in the Lok Sabha is also not free from loopholes. Therefore, it has become necessary to adopt certain effective measures to counter domestic violence against women.

TABLE 3.5  
Crime Against Women (Assam)

Head of crime	1997	1998	1999	2000	2001	2002 (upto June)
Kidnapping	1113	1148	1149	1101	1103	616
Rape	717	743	703	762	748	386
Molestation	686	648	720	777	763	373
Domestic Violence	675	794	835	1085	1161	655
Dowry Death	22	32	41	54	44	20
Immoral Traffic	1	6	7	12	3	9
Total	3214	3371	3455	3791	3822	2059

Source : Office of the Addl. D.G.P. (C. I. D.), Assam

The crimes committed against women come in the way of the dignity of women and violates women's human rights. Full development of a woman's personality is not possible when she has to pass her life in fear, in an insecure surrounding. In this regard, law is the best instrument which can provide relief. But legal solutions cannot succeed without the cooperation of the other agencies like the police, public and the court. Containment of crimes against women will be possible only with the cooperation of various sections of society, along with legal protection and reforms in the criminal justice system.

Therefore, it is evident that women are most vulnerable for attack and that gender-based violation of rights persists in all walks of life. Women do not enjoy equal treatment at par with men due to prevailing social practices. Women's oppression and unequal position in society is to a great extent caused by the economic disparity between males and females. Similarly even the political field is considered as a 'masculine' world for which women lose the space in which they can raise their issues. Therefore, involvement of women in social, economic and political activities is necessary to alleviate their sufferings.

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## CHAPTER-IV

### A CASE STUDY IN GUWAHATI

The area selected for the study is Guwahati. Guwahati is one of the most important places of North-East India. It is also the only city in the entire North-East where Municipal Corporation has been established. The capital of Assam, i.e., Dispur is situated inside the city. Guwahati is also the headquarters of the district of Kamrup. It is on the bank of the river Brahmaputra and the hill and hillocks make the city beautiful. The existence of Umananda temple at the middle of the Brahmaputra river and Kamakhya, the prime place of Shakti worship at the Nilalchal hills make the city more significant. Besides being the capital of Assam, the city is also centre place for educational and commercial activities. Due to the existence of Gauhati University, Guwahati Medical College, Assam Engineering College, Government Ayurvedic College, Government Homoeopathic College, Veterinary College and also because of the business establishments, it has become the centre place of the state.

As per 1991 census total population of Guwahati is 5,84,342 out of which 3,27,725 are males and 2,56,617 females. The number of literate males and females is 2,47,432 and 1,65,301 respectively. The area of the city is 216.79 square kilometre. Guwahati is comprised of diversified population groups. Internal diversity and plurality based on caste, religion and language exist in the study area. Unproportionate sex ratio, low literacy rate of women, crimes committed against women etc., are the living reality of the city. The area, therefore assumes tremendous significance for the study.

The chapter has been divided into two parts. In the first part the cases collected from Assam Human Rights Commission and Assam State Commission for Women have

been analysed. The analysis of the second part is based on the field work which was conducted in the study area with the help of personal interview.

### **Analysis of the Registered Cases**

The cases regarding violation of women's human rights in Guwahati have been collected from the Assam Human Rights Commission and the Assam State Commission for Women. The cases have been classified into three categories— dowry, rape and domestic violence.

**Dowry :** The demand for dowry is one of the reasons of the violation of women's human rights. The atrocities committed towards women stem from the age old attitude of treating women as commodities. Like any other material, the father gives his daughter as a gift to the groom. As per the ancient custom, Kanyadan was followed by a ritual of Varadakshina, which was a nominal amount, decided unilaterally by the girl's father, according to his financial position.<sup>1</sup> But gradually it became the customary rule and had to be meted out according to the demand of the groom's family. Dowry is given at the time of marriage by the bride's parents, but that is not the end, it is rather a rehearsal for the gifts to be given to the bride throughout her life on different occasions.<sup>2</sup>

The Dowry Prohibition Act was passed in 1961 to curb the incidents of dowry death and bride burning. Even after the enactment of the Act, the pernicious practice of dowry continued. The matter was debated and the working of the Dowry Prohibition Act, 1961 attracted adverse criticism in both the houses of legislature. Ultimately, it was thought expedient to add the sec. 498 A and 304.B in the Indian Penal Code, 113 A and B in the Evidence Act and section 198 in the Criminal Procedure Code. Afterwards, the Dowry Prohibition (Amendment) Act 1984 and the Dowry Prohibition (Amendment)

Act, 1986 were enacted to improve the definition of dowry and to get rid of the shortcomings. In the Act, 'Dowry means any property or valuable security given or agreed to be given either directly or indirectly, (a) by one party to marriage to another party to the marriage or (b) by the parents of either party to a marriage or by any other person, at or before or anytime after the marriage, in connection with the marriage of the said parties.'

In recent times dowry has become a matter of serious concern. Some special strategies are required to be adopted to prevent the dowry related offences. There is no doubt that to combat the offence related to dowry, the legal provisions are essential. To make these provisions fruitful, social and intellectual refinement is necessary. A person who is convicted under the Act should be disqualified from holding any public office.

The collected cases reveal that dowry in this region is in some ways different from that of the rest of India. It appears, in Assam dowry is not demanded before or at the time of marriage, but only after the marriage the question of dowry arises in some families.

The reported cases reveal that the dowry related incidents happen more in the joint family system. In such cases the girl becomes the victim of torture of not only the husband but also of the in-laws. A few cases can be cited in this context. In a case a lady named W.Y. (ASCW 38/94) was tortured by her husband and the mother in-law for not bringing money with her. After marriage, the husband took money from her brothers to start a new business but he and his mother was not satisfied with that. They again insisted her to bring some lakhs of rupees from her parents. She was tortured and kept without food. In another incident, one P.K. (ASCW 84/96) was married to G.K. in 1990. She was

tortured by her husband and in laws for dowry. She was even deprived of adequate food and clothing.

In these days, it has been observed that recently married women are harassed by their husbands and in-laws in an effort to extort money or other property from the women's natal family. One R.D. (ASCW 19/97) was married to C.D. in 1993. After marriage he demanded dowry in cash and a Yamaha. But because of poverty her family could not provide him with these things. As a consequence of it he poured kerosene and set fire on her and killed her. In another incident one T.H. (ASCW 27/97) was married to M.H. in 1992. After marriage her in-laws demanded that she should have brought ornaments made of gold for all the members of the family. Moreover, they also demanded for landed property. They tortured her and ultimately drove her out of the house.

The cases cited above reveal the fact that generally dowry demand is made to the economically dependent women. Due to economic dependence they become the worst sufferers. Even after facing dire consequences they cannot gather courage to come out of their matrimonial home. Moreover, it has been observed that the reported cases have come mainly from the Assamese community. The reason behind it may be assumed as that the customary practice of dowry is prevalent not among the Assamese but among the Bengali and Hindi speaking communities. Therefore they find nothing unnatural and have become habituated with it. But in the Assamese community the practice of dowry is of recent origin and due to growing materialistic attitude of people they try to blindly imitate the evil practice of dowry from other communities. Though at the time of marriage no

demand is placed, after marriage the groom's family harass the bride and her family with the chain of demands and the bride becomes the victim unless the demands are fulfilled.

**Rape :** Rape is sexual intercourse with a woman against her will or without her consent. It is often destructive of the whole personality of the victim and the most heinous crime committed against women by men. It is a living death for a woman, yet the victim of forcible sexual intercourse is treated as an accomplice in society which values chastity as the most important attribute of womanhood.

The cases which has been examined, indicate that most of the incidents of rape occur not by strangers but by well acquainted persons. It has been found that most of the rapists are neighbours, in other cases they are friend of brother, friend of son etc. Among the cases examined, in only one incident the victim was attempted to be raped by a stranger who took shelter in their house, due to rain.

Another revelation is that, most of the cases did not occur at some unknown, isolated place as generally thought but at the home of the victim. The person gradually takes advantage of situation. In one incident, a minor girl was in the house with her paralysed father. Her mother went out with some work. Then one of their neighbours came and raped her (ASCW 37/95). In another incident, a minor girl of 10 years was at home alone with her 12 year old brother. Their father worked in Shillong and on that day their mother also went there. At midnight one of their neighbours came and threatened the brother and raped the girl (AHRC 235/97).

Another fact is that, most of the rape incidents happened, not at night but at the broad day light. It has already been stated that the criminals took the opportunity of the situation. When a minor girl or a woman is alone at home and there is none to rescue her,



the person tries to fulfil his evil intention. In one incident, when the husband was absent, at noon, two of the neighbours came and attempted to rape the lady (ASCW 105/96). In another incident a minor girl was raped by two of her neighbours in the absence of her parents (ASCW 4/96). All these incidents happened in the day time but at that moment there was none to rescue the victim from the accused.

The Eighty Fourth Law Commission Report (1980) stated that the victim needs sympathy and safety and a sense of reassurance. However, in many cases the apathy and non-cooperation of police makes the life of the victim more miserable. In some cases, rather than helping the victim, the police try to safeguard the accused persons. In some of the cases filed in the Assam State Commission for women, the inaction of police has been alleged. A lady of Hatigaon area of Guwahati was attempted to rape by two of her neighbours. Though a first information report was lodged in the police station, police took no action against them (ASCW 105/96). In another incident an eleven year old girl was raped by two persons in her own residence (ASCW 4/96). In this case also police took no action against the accused persons though they were available in the locality itself. Again, two young girls were raped by three persons and a case was registered in the Hatigaon police outpost. But it has been alleged that the culprits have managed the police not to arrest them (ASCW 110/96). Thus, it is very much disappointing that the police rather than apprehending the culprits, try to play down the incidents of rape.

#### **Domestic Violence :**

Domestic violence against women has become a common phenomenon. Although men are victims of street violence, brawls, homicide and crime, violence directed at women is a distinctly different phenomenon. Men tend to be attacked and

killed by strangers or casual acquaintances, whereas women are most at risk at home.<sup>3</sup> The analysis of the cases reveals that home is the most vulnerable place where violation of women's human rights take place.

Domestic violence is an act carried out by one member of the family with the intention or perceived intention of hurting another member of the family. It includes both physical and psychological violence.<sup>4</sup> Article-1 of the Declaration on the Elimination of Violence Against Women, adopted by the General Assembly of the United Nations on December 20, 1993 defines violence against women as "any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life." The Declaration holds the state responsible for failing to demonstrate due diligence in averting or punishing violence against women that occurs in the public and the private sphere.

In the international sphere, the Convention on the Elimination of Discrimination Against Women, 1979 for the first time recognised domestic violence as the violation of women's human rights. In spite of being a signatory of this convention, so far India has not done anything noteworthy to curb the incidents of domestic violence.

The cases collected on domestic violence as discussed below reveal that it is not considered as a serious kind of violation of women's human rights. Such cases are not reported till it cause grievous injury or prove to be fatal. The reasons of violence which were found after analysing the collected cases are many and varied. The demand for dowry is one of the reasons of the violence against women. The cases reveal that when the family of the bride cannot fulfil the lust of the groom's family then the girl becomes

the victim of both physical and mental torture. The cases related to dowry has already been discussed in a separate head.

The wife becomes the subject of torture because of the drunkenness of husband also. From the collected cases one may be cited here. The case registered in the Assam Human Rights Commission (AHRC 1194/97) reveals that a lady, A.K. committed suicide on 23<sup>rd</sup> August, 1997. She was subjected to mental and physical torture by her drunkard husband. On 23<sup>rd</sup> August the husband locked the wife inside the house and she committed suicide by pouring kerosene on her body. The drunken nature of the husband not only makes the life of the wife hell but on many occasions she has to lose her life either by suicide or by murder.

The collected cases reveal that the condition of the women of our society is so pathetic that even after being the victim of torture, in most of the cases, they do not want to leave their matrimonial home, as a married daughter does not have any place in her natal home. Moreover, generally the girls are not self dependent and do not enjoy inheritance right. Therefore, when they leave their husband's house they become shelterless. It thus appears that in most of the cases of domestic violence, the victims prefer to commit suicide rather than divorce, as they do not have any better option.

The study reveals that violation of women's human rights has become a serious cause of concern. In spite of the existence of the protective laws crime committed against women continues.

### **The Field Survey**

An in-depth field survey has been undertaken in the study area. The universe of the study is women of Guwahati. The main objectives of the study were to examine the

position of women in society, to inquire into the extent to which they are enjoying their rights and to find out some solutions to change the existing situation. The sample size is 200 female respondents. The respondents have been selected on the basis of language. Besides Assamese, the state language of Assam, the two other major languages which a certain number of people coming from the neighbouring states speak are Hindi and Bengali. They follow their own custom and traditions. Therefore, their lifestyle contain certain special characteristics which is different from those of Assamese community. Moreover, a number of scheduled tribe people also reside in Guwahati who have their own customary rights. In the study, the Bodo speaking people have been selected for interview. Therefore, the sample size has been divided in four equal parts to represent Assamese, Hindi, Bengali and Bodo speaking people.

Interview of the respondents with the help of structured questionnaire was conducted as a data collection technique. To check the embarrassing questions, a pilot study was conducted by interviewing five women before administering the questionnaire to the respondents. As no ambiguity was found out, the questionnaire was finalised. The respondents were selected by stratified random sampling.

The field survey has revealed certain interesting findings. Some questions were asked to have an idea about women's position in society. The Tables 4.1 and 4.2 clearly indicate that women enjoy an inferior position in family and society than that of the males. 92% of the respondents do not think that women enjoy equal rights with their male counterparts. It seems that though constitutional provisions place males and females at equal footing, in society the inferiority of women is well established and existence of inequality on the basis of sex is well known fact.

TABLE 4.1

Q. Do you think that in the society a woman enjoys equal rights with men?

(A) Yes, (B) No

	A	B
Assamese	4	46
Hindi	0	50
Bengali	2	48
Bodo	10	40
Percentage	8 %	92 %

TABLE 4.2

Q. Who takes major decisions in your family? \*

(A) Husband, (B) Wife, (C) Children, (D) All

	A	B
Assamese	43	7
Hindi	49	1
Bengal	48	2
Bodo	46	4
Percentage	93 %	7 %

\*Nobody answered in favour of B and C

Though the question shown in Table 4.2 contain four options, no respondent answered in favour of B and C. 93 % respondents replied that the husbands take the major decisions in the family. Only 7% stated that all members take part when they have to take any major decision. Thus, it has been observed that women play very little role in the decision making process of the family. It has been revealed that in 93% cases the husband solely takes decision, but in no family the wife singly takes decision.

Most of the women do the household works from morning till midnight. However, their work is non economic in character. As a result of it, women have to remain dependent upon their male guardians. The economic value of the activities of women at home is never taken into account. That is why, they are considered to be dependent on the earnings of others. For being dependent they cannot spend money according to their own will. In response to the question, whether the economic dependence prevents women from enjoying their rights (Table 4.3), an overwhelming majority of 96% respondents opine that economic dependence stands in the way of enjoyment of women's rights.

TABLE 4.3

Q. Do you think that due to economic dependence women cannot enjoy their rights properly ?

(A) Yes, (B) No

	A	B
Assamese	50	0
Hindi	48	2
Bengali	47	3
Bodo	47	3
Percentage	96 %	4 %

One of the reasons of inequality of sexes is evident from the following Table 4.4 which makes it clear that even now people think that education is more important for a boy than a girl. It is assumed that a girl has to pass her life within the four walls of home. Therefore, education does not have much significance for her. For such a mentality people do not feel the urge to send the daughters to school or to continue their education.

TABLE 4.4

Q. Do you think that education is more important for a male child than a female child ?

(A) Yes, (B) No

	A	B
Assamese	30	20
Hindi	50	0
Bengali	42	8
Bodo	50	0
Percentage	86 %	14 %

It is considered that it is more important for a girl to learn the household chores rather than formal education which naturally leads to the low female literacy rate.

TABLE 4.5

Q. Do you support widow remarriage ?

(A) Yes, (B) No

	A	B
Assamese	4	46
Hindi	14	36
Bengali	5	45
Bodo	30	20
Percentage	26.5 %	73.5 %

In the society rather than the legal norms social norms get preference. Though the Widow Remarriage Act was passed in 1865 during the British period, but till now the act of Widow remarriage is not prevalent in our society. Though polygamy or the marriage of a widower is a very common or normal scene in our society, so far people are not mentally prepared to accept widow remarriage. The table indicates that 73.5%

respondents are not in favour of widow remarriage. It clearly shows that the influence of social norms upon people is much more than the legal norms. However, among some communities of the Hindi speaking people and also among the Bodo speaking people widow remarriage is to some extent prevalent, that is why a section of the respondents answered positively to the question.

TABLE 4.6

Q. Can you think of a marriage without dowry ?

(A) Yes      (B) No

	A	B
Assamese	48	2
Hindi	0	50
Bengali	0	50
Bodo	50	0
Percentage	49 %	51 %

Dowry is one of the major problems which makes the girl child most unwanted for parents. But in spite of the evils of the dowry system, its practice is increasing day by day. In this question the differences which exist among the different language speaking communities is evident from the answers of the respondents. Dowry, which is the consideration during marriage is not prevalent among the Assamese people. Though in recent times dowry related incidents are increasing, it is not a condition for the settlement of marriage, rather the demand comes after marriage. Therefore, the commencement of a marriage without dowry is a normal thing here. But among the Hindi and Bengali speaking communities dowry system is very much prevalent and an integral part of the wedding. Therefore, they cannot think of a marriage without dowry. The opinion of the



Bodo speaking community however reveals a completely different picture. The status of women in tribal community is higher than their counterparts in other communities. In stead of dowry a kind of bride price is prevalent among the tribal community. Moreover, a daughter is never a burden for them. The answers of the respondents clearly reveal the fact that the evil system of dowry has not so far entered within the community and dowry makes no meaning for them.

To have an idea about the legal awareness of women, some questions were asked. Tables 4.7 and 4.8 reveal the fact that legal awareness among women is not at all satisfactory. In the present times human rights has assumed tremendous significance. In Assam a state human rights commission was set up in 1996. But till now most of the people are ignorant about the existence of the commission. In such a situation it will not be possible for the commission to fulfil the purpose of its establishment.

TABLE 4.7

Q. Have you heard about the Assam Human Rights Commission ?

(A) Yes, (B) No

	A	B
Assamese	10	40
Hindi	2	48
Bengali	10	40
Bodo	4	46
Percentage	13 %	87 %

TABLE 4.8

Q. Do you know, with what activities the Assam State Commission for women is concerned with ?

(A) Yes, (B) No

	A	B
Assamese	0	50
Hindi	0	50
Bengali	0	50
Bodo	0	50
Percentage	0 %	100 %

Table 4.8 depicts a very gloomy picture of the present situation. The Assam State Commission for women has been established for the redressal of grievances of women and to help the needy women. The Table however reveals the fact that the commission has not been able to reach the people for whom it was established.

In view of the increasing rate of crime against women several measures such as enactment of protective laws, establishment of institutions for protection of rights, e.g., Human Rights Commission, Women's Commission etc. have been taken up. But these measures cannot be fruitful if the persons for whom these were done remain ignorant about these provisions. Table 4.9 reveals that the rate of awareness among women is very low. For such ignorance, on many occasions they are deprived of getting proper justice.

TABLE 4.9

Q. Do you know where a woman can ask for legal aid free of cost ?

(A) Yes (B) No

	A	B
Assamese	10	40
Hindi	2	48
Bengali	7	43
Bodo	4	46
Percentage	11.5 %	88.5 %

The following conclusions have been drawn on the basis of the analysis of the findings of the field survey.

1. The existence of widespread violation of women's human rights has been revealed by the opinion of the respondents. They, irrespective of their language variations feel that in the society women are not considered equal with their male counterparts. Thus, subordination of women is a well established norm in society.
2. Though the respondents are well aware of the fact that discrimination on the basis of sex exists in society, they do not want to come out of the age old social norms regarding the subordinate position of women. It has been presumed that present position of women is pre-ordained. Therefore, the respondents themselves are the perpetrators of the social norms which are discriminatory towards women, e.g., most of the respondents feel that education is more important for boys than for girls.
3. The survey also makes it clear that people are more influenced by social norms rather than by the legal norms. The provisions of Widow Remarriage Act, 1856. Dowry Prohibition Act, 1961 etc., have little affect upon people.

4. From the opinion of the respondents it may be presumed that till now the Bodo Community is free from the evil practice of dowry, consequently, it is also free from certain other evils like bride burning, domestic violence etc.
5. Legal awareness among women is very low. If women remain unaware of the measures meant for their protection, then the very purpose of the protective measures becomes meaningless.
6. The economic dependence of women is a major impediment in the enjoyment of rights of women. 93.5% respondents opine that due to economic dependence they cannot enjoy their rights properly. Though women are busy with their household chores from dawn to midnight, those are not considered as economic activities. Economic dependence makes them dependent in other aspects of life also and they lose self confidence. Therefore, economic independence of women may be considered as the need of the hour.
7. The male head of the family is accepted as the legitimate authority to take any major decision on behalf of the whole family. In the decision making process of the family, women have very little role to play. It reveals the fact that the system of patriarchy is very deep rooted here and the social subjugation of women is well accepted. Most of the people think that women are subservient to men.

The analysis of the findings of the field survey clearly demonstrates that violation of women's human rights is an all pervasive phenomenon. The legislations have not been able to change the condition of women as expected. Therefore, in the present circumstance, emancipation of women from the injudicious and discriminatory social norms and practices has become a dire necessity. Moreover, women must combat their

own belief of inferiority and assert themselves. Then only they will be able to enjoy their rights as human beings.

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## CHAPTER-V

### CONCLUSION AND SUGGESTIONS

Analysis in the preceding chapters has revealed that violation of women's human rights has assumed alarming proportions. Discrimination against women persists in all walks of life- social, economic and political. The status of an individual in the society is determined at the very moment of birth. The role to be played by a girl or a woman in the family and society has been set by the ancient law makers. The scriptures prescribe a dependent position for women throughout her life time. A woman is supposed to perform her duties as a housewife. On the other hand, men are supposed to perform their duties in the economic and political fields, which are considered to be solely masculine fields. Women are generally considered to be less competent than their male counterparts. Even women themselves possess a low self esteem. From the very childhood women are socialised to be meek, docile and submissive. On the other hand, boys are encouraged to be strong, aggressive and courageous. Thus, Women are conditioned by the socialisation process to possess a negative self-image which helps the existing social structure to remain in tact. Thus, the devaluation of women's competence or valuation of women just on the basis of gender rather than by their competence deprive them of their basic human rights.

In India, various progressive measures have been taken up in the post independence period. The constitutional provisions and the legislative enactments bestow on women equal opportunity in political, social, economic and cultural arena. However, there is a wide gap between the proclaimed equality and reality. Despite constitutional guarantees of justice, and assurance of a dignified life, the social structure based on

socio-economic inequalities and masculine values has not been changed. Due to the patriarchal structure of society, women have to play a secondary role in family and society and are marginalised in all walks of life. Atrocities on women are increasing in spite of the existence of the protective measures. The person, dignity and life of a woman are under constant attack even by her near and dear ones.

The findings of the study point out that the society is passing through a complex transitional period. Development in education has taught people to become reasonable and that is why they do not hesitate to admit that the prevailing discriminatory practices intervene the development of women. At the same time, it has become difficult for them to create a congenial atmosphere as they do not want to part with the age old social norms. Therefore, it has become necessary to change the existing discriminatory situation with some deliberate efforts. On the basis of the findings of the study the following suggestions may be recommended.

1. Due to the prevailing masculine values and socialisation women accept their subordinate position in family, society, economy, polity etc. Now it is necessary that women should have self-respect and they should realise about their competence. Then only it will be possible for them to develop their full potential.
2. The socialisation process should be changed so that the attitude of people towards women can be changed. In stead of the prevailing notion that women are inferior to men, the fact of equality of sexes should come to light and from the very childhood, equal opportunity should be provided to both male and female child.
3. Education should be imparted compulsorily to women. It will enable them to become independent and to overcome discriminatory norms and values.
4. The educational curriculum should be gender sensitive and from the very childhood children should be taught about the equality of sexes.

5. Apart from general education, value education has become the need of the hour. The degeneration of the value system and for the materialistic attitude of people, crime against women is increasing. Therefore, education on human values should be imparted in schools and colleges.
6. The print and the electronic media can play important roles to change the existing situation. In stead of projecting stereotype and conservative notions about women, they can make women visible in wider horizons. The advertisements which project women as weak, dependent and subordinate and which vulgarise them should be banned.
7. Most of the women are ignorant about the legal measures which are meant for their protection. Therefore, a legal awareness campaign will help women to enjoy the constitutional and legal rights and redress their grievances through legal mechanisms.
8. Integrity and sincerity on the part of police during investigation of cases of crimes against women will help to deter the criminals from committing offences. Gender sensitisation programmes or training should be organised for police personnel. Police can play a vital role for the proper implementation of the existing laws.
9. Economic independence of women is necessary so that they can enjoy their rights properly and get respectable position in society. Due to economic dependence, on many occasions women have to suffer atrocities silently. Self dependence will increase self-respect among them and enable them to understand their capabilities.
10. Some specially drawn out strategies to root out the existing inequalities are necessary to change the social milieu. The strategy should lead to change in perception, attitude and behaviour of people.
11. Women have to empower themselves. They have to understand the causes of existing inequalities between the sexes and try to overcome those by asserting themselves.

It may be expected that a united effort of general public, police, legislature, executive and judiciary will help to eradicate violation of women's human rights. In the words of Justice V.K. Krishna Iyer, it may be said – "Women have miles to go to attain



high status and non-discriminatory parity. Democracy is counterfeit currency if womanhood is devalued politically, economically, socially and culturally. The Indian dilemma of gender illusions and realities needs to be resolved without hypocrisy if the nation is to progress with women taking their rightful place without the condescending concession of the masculine chauvinists."

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Frontline

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#### **News Papers (Select issues)**

The Times of India

The Hindu

The Sentinel

The Assam Tribune

Amar Asom (Assamese)

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