

**WOMEN, LAW AND LITERATURE: A STUDY OF SELECT
INDIAN WOMEN'S WRITINGS**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY**

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**DEPARTMENT OF ENGLISH AND CULTURE STUDIES
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INDIAN WOMEN'S WRITINGS**

BY

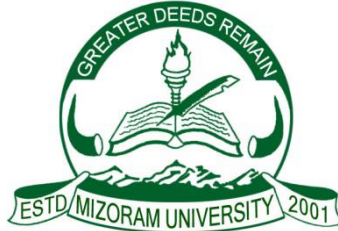
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In partial fulfillment of the requirement of the Degree of Doctor of Philosophy in
English and Culture Studies of Mizoram University, Aizawl



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CERTIFICATE

This is to certify that this thesis entitled “Women, Law and Literature: A Study of Select Indian Women’s Writings” written by Larinsangi Nghinglova for the award of Doctor of Philosophy in English and Culture Studies has been written under my supervision.

She has fulfilled all the required norms laid down under Ph.D. UGC Regulations 2019 of Mizoram University. The thesis incorporates the student’s bona fide research and no part of it has been submitted for award of any degree in this or any other University or Institute of Learning.

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DECLARATION

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December 2023

I Lalrinsangi Nghinglova, hereby declare that the subject matter of this thesis is the record of work done by me, that the content of this thesis did not form basis of the award of any previous degree to me or to do the best of my knowledge to anybody else, and that the thesis has not been submitted by me for any research degree in any other University/ Institute.

This is being submitted to the Mizoram University for the degree of Doctor of Philosophy in English and Culture Studies.

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Dated: (LALRINSANGI NGHINGLOVA)

Place: Aizawl, Mizoram

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Chapter 1

Introduction –Women, Law and Literature

This study explores the themes of gender discrimination, gender-based violence, oppression, marginalisation and matrimonial matters in the selected texts. Women have been campaigning for their rights and in some places have continued their pressure for the same rights as their male counterparts. R.K Tiwari has described women's rights as the freedoms inherently possessed by women and girls of all ages, which may be institutionalised, ignored or suppressed by law, custom and behaviour in a particular society. He observes that "these liberties are grouped together and differentiated from broader concepts of human rights because they often differ from the freedoms inherently possessed by or recognised for men and boys" (46). Women's rights activists contend that there is an inherent historical and traditional bias against the exercise of rights by women and girls. Some of the issues that are commonly associated with notions of women's rights include, but are not limited to, the right to bodily integrity and autonomy; right to vote (universal suffrage); right to hold public office, right to work, right to fair wages or equal pay; right to own property; right to education; right to serve in the military or be summoned for compulsory military service; right to enter into legal contracts; and to have marital, parental and religious rights. This study incorporates feminist legal theory which is based on the belief that law has been fundamental in women's subordination throughout history. The study examines how far law itself has been responsible for the subjugation of women in an attempt to approve or disprove of the observation made by Poulin de la Barre:

Those who made and compiled the laws, being men, favoured their own sex, and the jurisconsults have turned the laws into principles...Law-makers, priests, philosophers, writers and scholars have gone to great lengths to prove that women's subordinate condition was willed in heaven and profitable on earth. (qtd. in Beauvoir 11)

This study focuses on the intersection of women, law and literature. It has been observed in the essay "Convergences: Law, Literature, and Feminism" that:

Both law and literatures have often assumed that if not totally absent, women are the other, the object of male gaze, the subject of discussion, not the

speaker. Looking at law and literature together enables us to see how each discipline incorporates these assumptions (as men speak, judge, describe, and ascribe) and how to challenge that shared vision of the social order. (Heilbrun and Resnik 1914)

Women's psychology, physiology, socio-economic status, marginalisation and literary confinements of women are best expressed through a literary form popularly known as women's writings. Mary Wollstonecraft's *The Vindication of the Rights of Women* fuelled various women movements to fight for their rights in Europe in 1791 and the Seneca fall convention held in the same year at New York proved to be of crucial importance to women writers of the age. Female writers stressed on the need for women to exert mental exercise and space for their mental effort. In the words of Charlotte Bronte, "...Women feel as just as much as men feel: they need exercise for their faculties, and a field for their efforts, as much as their brothers do" (106). Women's writings are concerned with the representation of women in literature and the position of women as writers in a traditionally male dominated field.

Women writers opposed the male writer's stereotyping of female characters in their works. In literatures written by men, women characters usually fall into a predefined mould, devoid of identity as an individual and existing mainly in terms of their relation to the male protagonists. Women's works, on the other hand, are typically geocentric and are focused on the study of female experiences and thoughts. Women writers created a female sub-culture that delved into the realms of the women's consciousness. They created female characters based on the study of female experiences which were different from male ideas of women characters. It was popular for women writers of the 19th century to write under male pseudonyms such as George Eliot for Mary Anne, Currer for Charlotte Bronte and Acton Bell for Anne Bronte to find a space in a male dominated area of literature. A new group of women writers who emerged in the 1880's refused to take on male pseudonym to claim their space as women writers. Among them are writers such as Katherine Mansfield and Virginia Woolf. The rise of the feminist movement led to an upsurge

in women's writings and their subsequent publications, paving way for women writers of the later era.

It has been observed by scholars that women's literary culture in India may be traced far back to the ancient times. Women were reported to have enjoyed considerably high status and freedom of expression in the pre-Vedic and Vedic ages. Women were permitted to pursue intellectual pursuits and the Rig Veda contains several hymns and poems composed by female authors. In the post Vedic period there was deterioration in the status of women. This was mostly owing to the principles outlined in the Manusmriti, which taught women to be dependent on men and to refrain from intellectual, philosophical and spiritual pursuits.

Manu was not prepared to allow any kind of independent activity to women without consultation or permission of the male members of the family. She was subjected to the guardianship of the father during her childhood, of her husband during her youth, and of her sons after the death of her husband. She was not allowed to do anything independently even in her own home. (Kant 6)

The Hindu society and its tradition are not homogeneous. Aside from the Manusmriti, another code of behaviour existed exclusively for Hindu women in and around West India. Tryambakayajvan's Stridharmapaddhati addressed numerous responsibilities, societal and family obligations and rites for Hindu women. Female sexuality, particularly their menstruation, was regarded impure, and as a result, women were barred from participating in various religious rites. The invasions by the Muslims during the eleventh and twelfth centuries A.D and the consolidation of the Islamic regime by the Mughals resulted in further deterioration in the status of women due to the introduction of rigid codes and restraints such as the Purdah system, child marriage, Jauhar and Sati. The upsurge of the Bhakti movement during the Mughal period resulted in the composition of hymns and verses in different Indian languages by women writers. During the British regime, women's status remained subdued. The British abolished the practice of sati, enforced The Widow Remarriage Act 1856, raised the age of marriage by implementing the Civil Marriage

Act in 1872 and imposed the Married Woman's Act 1874 allowing women to earn money through artistic and literary talents. Traditionally, the work of Indian women writers may have been undervalued owing to prejudices and patriarchal assumptions of the worth of female experience but they began to grow in popularity. The publication of novels by three Indian women novelists Toru Dutt, Krupabai Sathithanadhan and Shevantabai made a significant impact on women's writing in India. Indian women's writings in English got established with the work of Kamala Markandaya whose heroines are mostly passive, submissive and subservient to traditional female virtues. Women's writing in India became enriched with writers such as Kamala Das, Anita Desai, Shashi Deshpande, Shobha to name a few. Manju Kapur and Meena Kandaswamy whose works have been selected for close study in this thesis have also made significant contributions towards Indian women's writings in English.

This thesis aims at exploring and illuminating feminist and legal themes associated with select writings of Manju Kapur and Meena Kandaswamy. Both the writers portray women who are on the threshold of self-discovery in the back-drop of a highly patriarchal society. A woman is at once a victim and a victor, sometimes crushed by the system and yet she constantly rises above discrimination, violence and exploitation to find a niche for herself. She is consistently searching for strength and independence, focusing on her inner power to overcome barriers posed on her by a largely biased society where even laws enacted to protect her often fail to do so. Kapur and Kandaswamy's works reflect the complex workings of the psyche of a woman, who is caught in the web of relationships. A woman executes a multilateral role in the society, that of a breadwinner, a mother, a wife, a daughter and a daughter-in-law. In spite of her contributions towards the society and family she experiences a number of limitations that prevent her from realising her full potential. The female characters, in the novels of these writers, also reflect the tussle between tradition and modernity often faced by women in Indian society; the inner struggle between their desire to take care of their household and the desire to discover deeper modes of fulfilment that falls outside of the traditional social norms.

This thesis aims at locating violence, oppression and marginalisation in the selected texts and thereby attempts to explore the causative factors. The selected texts are analysed in an attempt to explain whether violence against women is perpetuated by gender hierarchy created by cultural and socio-economic circumstances. It examines the assumption that gender hierarchy is an inherent component of Indian society and investigates the potential of eliminating gender violence without disrupting Indian society's patriarchal foundation. The primary texts have been studied in an attempt to explain why gender discrimination and violence still exist in spite of the enactment of laws provided for the protection of women's rights. It probes into reasons why law sometimes fails in preventing gender crime and discrimination. Shoma A. Chatterji had made an interesting observation in the introduction to *The Female Gaze*:

More often than not, women are seen as objects of change rather than as agents of change, imitators rather than initiators, bystanders rather than full participants. Despite legal and constitutional privileges, marked inequalities persist between men and women. (4-5)

Throughout history women have always been seen as the second gender. In law as well as in literature women have been categorised as the other, the object of the male gaze, the subject of the discussion, not the speaker. Her story had always been linked with his story and she never had an identity of her own. Beauvoir quotes Monsieur Benda in *The Second Sex*:

“...Man thinks himself without woman. Woman does not think herself without man...She determines and differentiates herself in relation to man, and he does not in relation to her, she is the inessential in front of the essential. He is the subject; he is the absolute. She is the other.” (6)

De Beauvoir draws a parallel between women and other oppressed classes of society throughout her book, *The Second Sex*, where man is defined as a human being and a woman as a female and whenever she behaves as a human being, she is said to imitate the male. A careful study of the selected works reveals that the

identity of the female protagonists is defined by that of their male counterparts. Chatterji expresses the opinion in the introduction to *The Female Gaze*:

This establishes the assumption that the determinant factor of a woman's identity and her participation in social relationships is her association with man, while her social position is determined by her relationship with men. The concept of male domination is based on the ideology of sexism, which justifies the power of men over women. The extent to which men believe in these precepts of sexist ideology is a reflection of the powers of coercion and social control. Gender relations in society are so pervasive and so deeply embedded into the psyche of men and women that most of us are not even aware of its manifestation. (5)

Meenakshi Mukherjee also shares the same sentiment that a woman's identity in the society is determined by her relation with man. In her study of the emergence and growth of the novel in India she makes the claim that:

Social conformity has always been more obligatory for a woman than for a man, and generally a woman's identity tends to be defined, by herself as well as by others, in terms of her relationship with men- as a daughter, as a wife, as a mother. (98)

Having been classified as the vulnerable sex, the gender that needs to be protected, legal provisions in India have been enacted to safeguard their welfare. Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 protects the girl child right from the time that the baby is conceived in the mother's womb. Various other acts of law and provisions have continually been enacted to safeguard the interest of women. The principle of gender equality is enshrined in the Indian constitution in its Preamble, Fundamental Rights, Fundamental duties and Directive Principles. Despite the astonishing proliferation of laws, discrimination on ground of sex, violence against women, sexual harassment and female feticide still occurs at an alarming scale. The National Crime Bureau has registered an increase in the number of violent crimes against women in recent years. This study examines how writers such as Manju Kapur and Meena Kandaswamy have brought out the perennial problem of

gender hierarchy and how gender violence, oppression and marginalisation is perpetuated despite legal and constitutional safeguards provided to women.

The study employs the law in literature approach and the feminist legal theory which seeks to explain ways in which law has played a role in the subordinate status of women. At the same time feminist legal theory is dedicated to changing women's status through a reworking of the law and its approach to gender. The research also incorporates some aspects of the theories propagated by Simone de Beauvoir, Julia Kristeva, Kate Millet and Gayatri Spivak to offer feminist perspectives. The study also explains the nuances of violence with feminist legal theory. Foucault's theory of power dynamics has been applied to offer a deeper insight. Foucault highlights power- driven operations that are carried out in society to 'discipline' individuals. He also argues that all social relations are relations of power, whether in family or in the hierarchies of government. Gayatri Spivak's postcolonial perspective has also been incorporated as postcolonial feminism looks into the gendered history of colonialism and how that affects the status of women today.

The study offers a multi-disciplinary dimension by incorporating some of the major concepts of law and literature movement. The law and literature movement has been described as an interdisciplinary study that examines the relationship between the fields of law and literature, with each field borrowing insights and methods of analysis from the other. Scholars of the law and literature movement believe that law should be seen as having a natural affinity with literature. James Seaton had observed that "the rise of the law- and- literature movement is a welcome affirmation of literature's relevance to the larger society" (1). According to him literature has an innate potential and ability to "broaden and deepen the individual's understanding of ethics, politics and human relations in general" (1). Consequently, the present study examines select works of literature in their legal and feminist context. At one level it attempts to show how a study of literature in the legal context serves to enrich both disciplines and provide a new perspective to the understanding of both. At a more comprehensive level it focuses on the representation of gender-based discrimination and violence as it impacts Indian women despite legal safeguards, in select Indian women's writings.

James Boyd White's *The Legal Imagination* (1973) has been credited with initiating the law and literature movement. The movement necessarily focuses on the interdisciplinary connection between law and literature. This field of study is not entirely new and some scholars have even traced it back to the times of Plato. Nineteenth century lawyers had written about depictions of legal system by Shakespeare, Dickens and other famous writers. In the early twentieth century, the connection between law and literature was re-examined by an eminent legal scholar John H. Wigmore who recognised the prevalence of trials and legal themes in the world-famous novels. In 1925 Justice Benjamin Cardozo published a groundbreaking article titled "Law and Literature" in the *Yale Law Review*, in which he explores the literary styles of judicial opinions. As early as in 1908, Wigmore had examined the connections between law and literature by studying and chronicling novels with legal themes. During the 1960s and 1970s, the ideas incorporated by Wigmore and Cardozo laid down the foundation for the modern Law and Literature movement.

The publication of James Boyd White's *The Legal Imagination* (1978) ushered in a more distinct field of law and literature. Until then the field of study was scattered and disorganised. With the passage of time, the law and literature movement became slowly overshadowed by the law and culture movement which was initially seen as a critical response to or an alternate to the law and literature movement of the earlier decades. However, the law and culture movement, as it developed appears to be an outgrowth of the law and literature movement than an opposing movement. Robin West has observed in his essay "Literature, culture and law" that to the degree "Culture" encompasses "Literature", the law and culture movement represents "an overdue and welcome expansion of the definitional premises as well as the ambitions of the law and literature movement" (2). There are certain common features that law and literature share. Firstly, they both require the medium of language to exist and secondly, they are both "centrally concerned with the meaning of texts" (Posner 8). Law tells stories just as stories are told about law. Both law and literature deal with the relationship between mankind and society. The intersection between law and literature is imprecise but present. They have been described by J.Neville Turner and Pamela Williams as "The happy couple". Analysis

of literature and the law requires similar skills; extracting meaning from words is the same concern whether it is contained in a piece of literary work or a constitution.

The law and literature movement contains several distinct approaches. These approaches fall into the broader law in literature and law as literature categories. The law as literature movement which is propounded by Benjamin N. Cardozo sees legal text as forms of literature thus making the literary critique and analyses of it possible. Emphasis is laid on the rhetoric tools rather than the subject matter. On the other hand, the law in literature approach deals with the way legal situation is presented in literature-the fictional situations presented in literature, which can reveal a great deal about political and social situations, and the individual that often finds himself before the court. Scholars of law and literature approach see an intrinsic value in the use of literature to discuss legal topics. Weisberg believes that literature should be valued for its ability to cause one to relate to others and also for the political and social context that novels, particularly those dealing with the law, grapple with. Weisberg wishes to critique social institutions and legal norms. The subject matter and not the rhetorical tools are given importance. What transpires out of this is that law has always featured in the literatures of the past. Such works have been called “Legal Novels” and contain substantive insights into law which is not readily found in other fields of study. In the recent years, the fairy tale has also been accepted as a legitimate subject of study in the literature department and now this seemingly childish genre of fantasy literature has been included in the study of law. The law and literature movement has indeed developed from a mere awareness of possible links between the two disciplines to an all-encompassing field of study that includes even the study of folk literature in its legal context. Consequently, this study incorporates feminist legal theory to extract deeper meaning to women’s subordination.

Feminist Legal Theory or Feminist Jurisprudence is based on the belief that law has been fundamental in women’s historical subordination. The term Feminist Jurisprudence was introduced in the late 1970’s by Ann Scales and it was used in a publication for the first time in the first issue of Harvard Women’s Law Journal in 1978. In 1984 Martha Fineman founded the feminism and legal theory project to

explain the relationship between feminist theory, practice and law which has been instrumental in the development of feminist legal theory. The Foundation upon which the Feminist Legal Theory was based was laid by women who challenged the laws. The feminist Legal theory evolved as a critique of the American legal system which was accused of being gender-prioritised and largely patriarchal in nature. Chamallas had discussed Clare Dalton's definition of feminism as it relates to the study of law which captures the different concerns of feminist legal writing:

Feminism is ...the range of committed inquiry and activity dedicated first, to describe women's subordination- exploring its nature and extent; dedicated second, to asking both how – through what mechanisms, and why - for what complex and interwoven reasons- women continue to occupy that position; and dedicated third, to change.(2)

Feminist legal theory attempts to explain the ways in which law has been responsible for women's subordinate status. It was created to recognise and combat the legal system which, according to them, had been structured primarily for male intentions often sidelining important components and experience faced by women and other marginalised fractions of the community. Law, itself has been accused of perpetuating male value system at the expense of female values. Feminist Legal theory is committed to changing women's status through a reworking of the law and its approach to gender. Patricia Cain gives a definition of Feminist legal scholarship which centres on the grounding of women's experience:

Feminist legal scholarship seeks to analyze the law's effect on women as a class... [T]he analysis is formed by a distinctly feminist point of view, a point of view that is shaped by an understanding of women's life experiences. This understanding can come either from living life as a woman and developing critical consciousness about that experience or from listening carefully to the stories of female experience that come from others... [L]egal scholarship is not feminist unless it is grounded in women's experience. (qtd. in Chamallas 5)

Feminist legal theory emerges from the assumption that gender is central to our lives and that it has mattered to the development of the law. It works on the notion that men and women are differently affected by the power in law. The core of feminist legal theory is the exploration of women's subordination through the laws. Chamallas has pointed out that "the use of the term subordination by feminist writers is meant to convey the systematic nature of women's inequality" (xx). She further points out that feminist legal scholars have dissected legal doctrines and the language of court opinions and statutes in order to discover hidden processes of discrimination and uncover the implicit hierarchies that are contained within a body of law.

Feminist legal scholar Catherine MacKinnon had contended that law is *Male*. According to her Law perceives and treats women in the same manner that men see and treat women. Though her position presents an uncompromising picture of law as embodying male authority and has been criticised for it, it is not wholly right to conclude that law is not gendered. She declares that:

Male dominance is perhaps the most pervasive and tenacious system of power in history [and]...is metaphysically nearly perfect. Its point of view is the standard for point-of-viewlessness, its particularity the meaning of universality. Its force is exercised as consent, its authority as participation, its supremacy as the paradigm of order, its control as the definition of legitimacy. (qtd. in Hill 358)

She further claims that implicit male bias pervades every facet of modern life and in such a male-defined society women occupies the subordinate position:

...Virtually every quality that distinguishes men from women is already affirmatively compensated in this society. Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their objectification of life define art, their military service defines citizenship, their presence define family, their inability to get along with each other-their wars and rulership-defines history, their image defines God, and their genitals

define sex. For each of their differences from women, what amounts to an affirmative action plan is in effect, otherwise known as the structure and value of American society. (*Difference* 384)

The examination of the selected works raises feminist concerns. The first wave of the Feminist movement had focused on issues of discrimination, emancipation and equality. The Women's suffrage movement world-wide resulted in the granting of the right to vote to women for the first time in New Zealand in 1893, the U.K in 1918 and USA in 1920 with the passage of the 19th Constitutional Amendments Act. Though the first wave feminist movement won legal and political equality, the movement concluded with the mistaken belief that political equality would lead to social, economic and educational equality. Women's employment and educational options remained limited. The outcome was naturally a revival of the demands of the first wave movement. The second wave feminism was highly theoretical in nature. Women all over the world experienced male dominance and oppression. On the basis of this shared experience women constituted a "united group" or "social class" or "sisterhood". Women's struggle was considered a class struggle. The movement turned into a women's liberation movement demanding end of patriarchal values and institution. The third wave feminism began with the influence of postmodernism, the key features being rejection of universal category of women with emphasis on the notions of marginalisation, inclusion and diversity. The movement brought in the notion of intersectionality which determines that women's oppression was not based on the single factor of gender but by the intersection of many factors such as race, class, caste and ethnicity. Postcolonial feminism, among other diversified forms of feminism, emerged out of long lasting political, economic and cultural impacts of colonialism and affects non-white women. It began as a criticism of the failure of western feminism to cope with the complexities of post-colonial feminist issues and dwells on issues like slavery, oppression, resistance, representation, race, caste and gender. In the essay "Convergences: Law, Literature and Feminism" it was pointed out that:

The work of feminist theory – in both law and literature –is to examine how both disciplines continue to assume either that women are irrelevant or that

their role is to be the subject of male desire. The shared work is to recover the other traditions-women who have written, spoken, acted, claimed, judged. (Heilbrun and Resnik 1919)

Carolyn Heilbrun and Judith Resnik argue in the same essay that both “law” and “literature” construct narratives that illuminate, create, and reflect normative worlds that bring experiences that might otherwise be invisible and silent to public view. Women have frequently been believed to be either completely absent or the target of male gaze, the focus of the conversation rather than the speaker, in both law and literature. It has been pointed out in the essay that when "law" and “literature" are examined together it can be seen how each discipline incorporates these assumptions (as men speak, judge, describe, and ascribe) and how that shared picture of the social order has been challenged. According to them, both fields are replete with examples of male perspective. This fact is exemplified with a court case, Hoyt vs. Florida where a woman accused of murdering her husband was tried by an all-male jury. It has been established that the jury made their decision from an entirely male perspective and failed to give a “true picture painted by the entire record” (1915), overlooking the woman’s perspective.

In the field of literature women have not been silenced and their stories have invariably emerged. In recent years, women have been seen breaking free from the roles that have been assigned to them and creating their own stories which may generally be categorised as feminine writing if we adhere to Virginia Woolf’s opinion that “A women’s writing is always feminine; it cannot help being feminine; at its best it is most feminine; the only difficulty lies in defining what we mean by feminine” (70). A plethora of Indian female writers have attempted to depict the female exploitation and suffering in the male-dominated society. Manju Kapoor, an Indian novelist who teaches English at Delhi University as Manju Kapur Dalmia is one of them. In one of her interviews Kapur had observed:

I am a Feminist. I mean I believe in the rights of women to express themselves, in the rights of women to work. I believe in equality, you know domestic equality, legal equality. I believe in all that. And the thing is that

women don't really know that – you know even educated women. There is a trapping of equality but you scratch the surface and it's not really equal. (Goel 4)

Manju Kapur was born in Amritsar in 1948 and graduated from Miranda House. She completed her M.A. from Dalhousie University (Halifax in Canada) and got her M.Phil. degree from Delhi University. Manju Kapur lives in New Delhi with her husband, her daughters and grandchildren. The novels of Manju Kapur explore the space women occupy in domestic relationships. The woman takes on the role of a wife, mother, a daughter and a daughter-in-law. Manju's female protagonists belong to the middle-class Hindu society and are mostly educated, aspiring individuals, confined within a conservative society, trying to find their rightful space. Her first novel *Difficult Daughters* (1998) won the 1999 commonwealth writer's Prize, best first book, Europe and South Asia. Her other works include *A Married Woman* (2003), *Home* (2006) which was shortlisted for the Hutch Crossword Book Award 2006, *The Immigrant* (2008), and *Custody* (2011). Radha Chakravarthy's comments are reflective of the issues that are continually raised by Kapur in her works:

Gender Issues are central to Kapur's world view in the lines of the female figures, we encounter questions about marriage, motherhood, women's education, women's work in and out of the home, the body, sexuality, the forms of violence against women ranging from emotional blackmail to dowry deaths and sexual abuse. (119)

Manju Kapur's debut novel *Difficult Daughters* (1998) is set against the backdrop of Indo- Pakistan partition in 1947 and communal violence. Representation of the three generations of women- Kasturi, Virmati and Ida become a political allegory as they represent the different stages of the freedom struggle. Kasturi, the mother represents pre-independence India and is shown as a victim of patriarchy, Virmati, in her struggle for emancipation, represents the country's toil for independence. Ida, Virmati's daughter symbolises the post-independent era and establishes herself as an independent woman. Ida is introduced to the readers as a divorcee who travels to Amritsar and Lahore to understand her mother's life after her

passing. She talks to mother's relative and people who had connections with her and visits all the places her mother had spent time in. It is through her that we learn about the Virmati and her past.

Difficult Daughters delves deep into the conflict between the traditional roles of women in society as against Virmati's desire to attain a breakthrough in Education. The focal point of the novel is modernity versus tradition. The novel presents the problems of Indian women struggling against a male –dominated society in an attempt to claim her rightful place. The novel tells the story of a woman torn between family responsibilities, passion for education and an illicit love. Kapur highlights her ideas of women and their relationship with others, women's sexuality, love, infatuation, jealousy, marriage, gender roles, self-discovery and various other problems. It reflects the feminist struggle against biases.

A Married Woman (2003) is set in Delhi against the backdrop of communal disturbance which is an outcome of the controversial Ram Janam Bhoomi –Babri Masjid. The novel traces the life of Astha from young adulthood through her early middle years. Astha had been controlled by her mother since childhood. The typical Indian woman that she is, Astha's mother focused all her energy on moulding Astha into an ideal wife, daughter in law and a perfect mother. Astha's marriage to Hemant, an MBA from the US is arranged by their parents after two short love affairs. She becomes a duty-bound wife and a sacrificing mother who is "always adjusting to everybody's needs" (227). Astha has everything a woman can wish for and initially she is projected as a content married woman with a responsible husband, caring in-laws and two lovely children. However, she begins to feel incomplete as her ideas and opinions are constantly sidelined by her husband and her needs as a woman are sacrificed in the interest of her family. She begins to suffer from distress, the trauma of discrimination and harassments imposed on her by her husband and her in-laws weighing her down. In the novel Kapur critiques the Indian attitude of preferring a baby boy to a baby girl, a notion which is injurious to the equal status of women. Astha takes on a teaching job where she meets Aijaz a street play artist who asks her to develop a script for a play on the theme of Babri Masjid turmoil. For the first time Astha meets a man who appreciates her talent and she is naturally drawn to him.

Aijaz's brutal murder triggers Astha's alignment for the cause of Babri masjid – Ram Janabhoomi. Breaking all conventions, she enters into a lesbian relationship with Peepilika, the widow of Aijaz who happens to be a social activist.

Home (2006) is an enthralling story of a middle-class joint family. Banwari Lal, the patriarch runs a family-run cloth business in Karol Bagh and is a believer in the old ways. For him, men work out of home and women within. The family line is carried forward by his sons Yashpal and Pyare Lal and their mission is enabled by their wives. *Home* chronicles the life of three generations of the Banwari Lal family and spotlights the wretched condition of women in Indian society. Three female characters namely Sona, Rupa and Nisha have been vividly used by the author to spearhead the entire story. They are continuously challenged by the stereotypical codes and norms of the conventional society. They aspire for a dignified position in the conservative society. Nisha is a victim of sexual assault as a child at the hands of her teenaged cousin Vicky. Even as a ten-year-old she is made to observe her first “karvachauth” for her future husband. Kapur has evoked several societal evils such as caste-based prejudice, superstitious beliefs, prohibited female education and eradication of child marriages. Arranged marriages are preferred over love marriages as they enable dowry benefits. Despite legal prohibitions on dowry demands and acceptance, social reality shows that the evil practice still prevails.

Custody (2011) narrates the story of two families whose lives are disturbed by marital disharmony, rigid court proceeding, battle for child custody and social injustice. The novel revolves around the story of Raman and his beautiful wife Shagun, their broken marriage, its consequences on children who, under the pretense of a fight for legal rights, are shuttled between two individuals driven by parental ego. Parallel to their story is the marriage and divorce of Ishita whose happy married life comes to an end due to her infertility. Kapur delves deep into the minds of her characters to reveal the trauma of a broken marriage. It is also a critique of the slow and rigid Indian Judicial system. Integrated into the main theme of a custody battle are other themes such as conjugal roles, ill-treatment of a sterile woman by her in-laws, politics of unequal power relations in a normative patriarchal family which becomes a site for constraint, oppression and violence.

Ilavenil Meena Kandaswamy is an Indian poet, fiction writer, translator, and an activist who is based in Chennai, Tamil Nadu. Born of a mixed- caste Tamil marriage, her works express anger at India's rigid caste system which does not give due acknowledgement to the lower caste and women. She has published two collections of poetry titled *Touch* (2006) and *Ms Militancy* (2010), three novels titled *The Gypsy Goddess* (2014), *When I Hit You, Or, A Portrait of the Writer as a Young Wife* (2017) and *Exquisite Cadavers* (2019). She has also translated several prose and poetry from Tamil and has written columns for *The Hindu* and *Outlook India*. Apart from her career as a writer she is also a social activist fighting for the cause of the Dalits and the down-trodden. As an activist, she has bravely faced threats from critics to which she responded, in an interview, that the threat of violence should not dictate what one is going to write or hinder one in any manner. Most of her works are cantered on feminism and the anti-caste caste annihilation movement. She is vocal about various contemporary political issues relating to caste, corruption, violence and women's rights.

Meena Kandaswamy's *When I Hit you: or A Portrait of the Writer as a Young wife* (2017) covers the theme of marital rape, domestic abuse, internalised misogyny and male privilege. It also showcases the flaws in Indian judicial system. It tells the story of a woman who has everything taken away from her, who was stripped off her dignity and silenced. But not forever, because she reclaims her voice and tells her own story. Married to a college professor whose mental abuse slowly turns into physical violence, the unnamed female protagonist escapes the abusive relationship to tell her story. Kandaswamy had also written several poems which attacks the perpetuation of social oppression of Indian women. *Touch* (2006) is her first collection of poetry where she scathingly attacks the perpetuation of the social oppression of the Indian women. It discusses the issue of sexual harassment of women. Kandaswamy portrays women, particularly the Dalit women not just as victims but also as rebels fighting against injustice perpetuated against them. Some poems from the collection pertaining to the theme of gender and sexual violence have been included for in-depth study. In his article on Kandaswamy's *Touch*, Mahto had made the observation that:

In a caste governed patriarchal Indian society, Dalit/untouchable women are doubly exploited being Dalit and women. They endure the maltreatment, oppression and untouchability from the upper caste, while they are thrashed at home by their husbands. Sometimes their fathers and brothers torture them. Thus they are double victims. (15)

Catherine A. Mackinnon's "Difference and Dominance: On sex Discrimination" (1984) is a critique on the notion of gender equality which is largely based on the male standard. She distinguishes two approaches, the sameness approach and the difference approach. When measured in terms of sameness, women are judged based on their correspondence with men and when measured under difference standard, it is women's lack of proximity to men that is emphasised. The two paths suggest that at one level you can be same as man and demand equal pay and opportunity. On another level, you can be different from man and demand affirmative action or additional privileges. Kinnon tries to establish the fact that the female gender is always defined with respect to the male gender. Under the sameness approach she thinks it is unfair for women to be treated equally in case of custody of children as the average man has more vocational opportunity and tends to come off as better parent in the eyes of the law. In the sameness strand however she thinks it is problematic to give women extra maternity leave than men as this presupposes a gendered standard that women are primary care givers. They are child-bearers as their sex dictates but they are not necessarily care givers. She highlights the view that these differences arise from domination and suggests that we redefine the meaning of man and woman from a basis where the difference between each gender is respected. Her argument is that the question of giving special rights to women is not one of morality but of politics. Gender equality can only be achieved from an elimination of dominance. The theory of dominance and difference is applied in the understanding of gender inequality as portrayed in the selected novels.

Martha Chamallas' "Introduction to Feminist Legal Theory" is a seminal work on feminist legal theory. It is the first book that serves as an introductory survey of feminist jurisprudence. Chamallas delves into a wide range of legal issues impacting women, including gender discrimination and workplace discrimination,

sexual harassment, rape, domestic violence, reproductive rights, and the right to choose motherhood. She traces the evolution and significance of legal feminism in its social context. It provides a comprehensive review of the evolving paradigms of contemporary feminism from the 1970's to the present.

Werner F. Menski's *Hindu Law: Beyond Tradition and Modernity* (2003) covers the evolution of Hindu Law from ancient period to its emergence as a postmodern phenomenon. The book is broken into three sections. The first section is divided into seven chapters that examine the historical development of major Hindu concept within the classical, postclassical, colonial and postcolonial context. The second section which consists of five chapters gives a detailed theoretical analysis of chosen topics of Hindu family law concerning marriage, child marriage, polygamy, divorce and maintenance. The third section provides a concluding analysis and delves on the topic of post modernity and beyond. The core argument put forth in the book is that Hindu law, custom, and cultural concepts continue to play an integral part in contemporary judicial reasoning and in enactment of statutes.

The basic premises of Simone de Beauvoir's *The Second Sex* (1997) are that men essentially oppress women by characterising them as the other, on every level. Man occupies the role of the self, or subject; woman is the object, the other. *The Second Sex* chronicles de Beauvoir's effort to locate the source of these profoundly imbalanced gender roles. In Book 1 which headed "facts and myths" she inquires as to how "female Humans" come to occupy a subordinate position in society. Beauvoir looks to biology, psychoanalysis and historical materialism. These disciplines reveal indisputable "essential" differences between men and women but provide no justification for women's inferiority and they all take women's inferior "destiny" for granted. The second section of the first volume is devoted to historical facts of the woman through the ages and Beauvoir questions why man has dominated the woman.

New Directions in Law and Literature (2017) is a collection of essays edited by Elizabeth S. Anker, Associate Professor of English and Bernadette Meyler, a Professor of Law that provides an overview of the Law and Literature movement,

tracing where the field has been, where it has recently been, and its potential future. The volume is intended to be a course book that is accessible to undergraduates and law students as well as researchers with an interest in law and the humanities. The essays are intended to be introductory and addressed to experts in law and literature. The book furnishes a guide to the most interesting new work in law and literature while simultaneously situating the works in more established debates and conversations.

In Search of a Feminist Writer (2014) by Dr. Rohidas Nitonde is a scholarly book that explores Manju Kapur's novels from a feminist perspective and provides an in-depth analysis of the novels of Kapur with an emphasis on her vision of Indian womanhood. The book delves into the experiences of the educated middle-class Indian woman who is trapped in a patriarchal society, swinging midway between tradition and modernity. The book attempts to comprehend the dilemma, hardship and tribulation of the Indian woman protagonists. Divided into seven chapters, the first chapter gives an introduction to feminist literary theory, women's writings in India and Indian feminism. The next five chapters are dedicated to the study of the five novels of Manju Kapur and probes into the lives of the women protagonists Virmati, Astha, Nisha, Nisha and Ishita who, finding themselves trapped in the roles assigned to them by the society, attempts to assert their individuality. The book closes with insightful comments on Kapur's female protagonists, the social dichotomy, women's oppression and their aspiration for independence.

"Conquering Toxic Masculinity through Words: A Critical Study of Meena Kandaswamy's *When I Hit You*" is an essay by Koguilavardhini which explores the possibility of attaining victory through the power of words. The unnamed protagonist battles the silence forced upon her and attains liberation through her writing. The paper illuminates the male chauvinist consciousness that aims to overpower women in a domestic environment. Robbed of her identity and victimised to domestic violence the protagonist empowers herself by writing letters to imaginary lovers, finally escaping the abusive marriage to write her own story. The essay brings into perspective the power of the written words to transform her to a new woman.

Women and The Law (1997) by Anjani Kant offers a comprehensive study of the status of women throughout history, beginning with the Vedic period and concluding in the post-independence era. The book is organised into ten chapters and gives a historical study of the position of women in India. It also offers an insight into the constitutional provisions relating to women. The book traces the position of women in their separate Personal Laws. Some of the laws discussed in detail with examples drawn from notable cases are Indian women's marital rights, property rights, and maintenance rights. The book also examines the social and economic conditions of Indian women seeking constitutional and legal protection. It concludes with an analysis of the reality of women emancipation in India thus providing a socio-legal study.

“Convergences: Law, Literature and Feminism” (1990) is an essay jointly written by Judith Resnik and Carolyn Heilbrun. One is a professor in Law and the other a professor in Literature and they are both professed Feminists. The essay focuses on the creation of a law and literature canon that includes a feminist perspective. They have dwelt upon the necessity for reading literary works that represent woman and her demands on law as seen in works of fiction. In a nutshell, the subject matter and focus of the essay is on bringing feminism to the world of law and literature.

“Feminist Legal Theory, Feminist Law making and the Legal Profession” (1998) by Cynthia Grant Bowman Elizabeth M. Schneider addresses the interrelationship among Feminist legal theory and feminist law-making and the legal profession. It provides an insight into the major concern of feminist legal theory which is based on the belief that the law has been fundamental in women's historical subordination. The goal of feminist legal theory is twofold. First, feminist jurisprudence seeks to explain ways in which the law played a role in women's former subordinate status. Secondly, feminist legal theory is dedicated to changing women's status through a reworking of the law and its approach to gender. They have identified some approaches to feminist legal theory which are: the liberal equality model; the sexual difference model; the dominance model; and the post-modern or anti-essentialist mode.

In view of the above discussion, it is proposed that a study of Manju Kapur and Meena Kandaswamy's works may be critically examined to explain the reason for the existence of gender discrimination and violence inspite of laws being enacted to eradicate them. The study is divided into five chapters and organised in the following manner.

Chapter 1: Introduction – Women, Law and Literature

The first chapter gives an introduction to the authors Manju Kapur and Meena Kandaswamy. An introduction of the selected texts by Manju Kapur *Difficult Daughters* (1998), *A Married woman* (2003), *Home* (2006), *Custody* (2011) and Kandaswamy's *Touch* (2006) and *When I Hit you: Or A Portrait of the Writer as a Young Wife* (2017), is also provided in this chapter. This chapter aims at bringing into perspective the different theories that have been applied into the study of the primary texts. The theories applied in the narratives are identified and explained. The intersection of women, Law and literature is highlighted and examined. The emergence of women's writings has been highlighted and the theories applied in the narratives have been identified and explained. The commonality of law and literature, the emergence of the law and literature movement, the contextualisation of the women characters in their legal situation are the narratives that are addressed in the first chapter. The chapter also gives a review of literature on works done by the authors and theories related to it, particularly the feminist Legal theory or feminist Jurisprudence which is based on the belief that law has been fundamental in women's historical subordination.

Chapter 2: Gender Discrimination – Difference and Dominance

In the second chapter the study focuses on Indian women's struggle against gender bias which starts right from the womb of the mother. Manju Kapur, in her novels makes a subtle dig at the Indian attitude of preferring a boy-child over a girl – child. Gender bias starts at birth and continues in areas of education, work and household responsibilities. It has incorporated some of the major approaches of feminist legal theory, particularly, the difference and dominance theory. The chapter attempts to reveal components of women's economic subordination, work place bias

and family conflict that arise in relation to these issues. The selected texts are placed within legal parameters and certain legal provisions have been highlighted in an attempt to situate the selected text in their legal context.

Chapter 3: Gender and Violence – A Perspective

The third chapter is devoted to the study of gender violence that prevails in the Indian society through a reading of the primary texts. Gender based violence is a general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society (Bloom 14). It includes all acts of violence such as sexual violence (including rape, sexual assault and harassment) psychological and economic violence, trafficking and forced prostitution, slavery and other harmful practices such as forced marriages, forced abortion, crimes committed in the name of honour and so on. Violence against women is supposedly perpetuated by hierarchical and unequal power relations that are rooted in social and culture-related norms. This phenomenon of violence against women appears to have arisen from the patriarchal notion of ownership over women's bodies, sexuality, labour, reproductive rights etc. Violence is often used as a tool by men to control women as a result of a highly internalised patriarchal conditioning. The Justice Verma Committee on Amendments to Criminal law opines that, "we are of the opinion that on account of the patriarchal structure, women have been constantly marginalized and ignored. They have gone through years and years of struggle" (46). This chapter delves into the issue of marital rape, sexual exploitation of women and children, nuances of domestic violence and dowry-related crimes which find expression in the selected texts.

Chapter 4: Matrimonial Matters Relating to Women

The fourth chapter is an attempt to study the selected texts to highlight the experiences of the Indian women at the hands of their male counterpart in a matrimonial relationship. In the patriarchal system men are essentially the legal heads of the family. This system ensures that property and children belong to the man. The study examines the role of the Indian Judicial system in delivering justice

and offers an insight into the family law which governs property rights and rights of inheritance. It examines the primary texts to explore the Indian concept of marriage-love or arranged which is considered a sacred duty in a Hindu society. Motherhood as an ideological construct, forced motherhood, the right to choose motherhood and issues of infertility and its effect on marriages are issues that have been taken up for closer study. The complications of marriage, custodial rights and inheritance rights are issues that have been explored in the study.

Chapter 5: Conclusion

This chapter sums up the various themes of gender discrimination by drawing inference from the examples provided in the preceding chapters to come to a conclusion that law had somehow been responsible for women's subordinate status. The study focuses on thematic, analytical and interpretive study of the selected texts, with each chapter dealing with different themes such as gender discrimination, gender violence and matrimonial discourse relating to women. The thread that unites each theme is the feminist legal theory which probes into how far law itself has been responsible for male dominance. Other causative factors that are responsible for female subjugation such as patriarchal social structure, attitudinal barriers, superstition and regressive mindset have been delved into. Proliferation of laws has not abolished gender discrimination in terms of education and work nor has it totally eliminated sexual harassment and violence. Women's oppression was not based on a single factor but by intersection of factors which have been examined in the chapters.

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Chapter - 2
Gender Discrimination: Difference and Dominance

This chapter focuses on the study of the Indian women's struggle against gender bias which starts right from the womb of the mother. Manju Kapur, in her novels makes a subtle dig at the Indian attitude of preferring a boy-child over a girl-child. Gender bias and discrimination persists in areas of education, work and household responsibilities. Gender discrimination can be described as a social phenomenon in which different men, women and other gender identities are treated unequally. Gender inequality has a significant impact on women's health, education and employment. It manifests itself in varied forms in different cultures and countries, and also affects the non-binary section of the society. Women across the globe have been fighting for gender equality. The ultimate goal of gender equality is assurance of equitable access to society's resources, opportunities and rewards for both men and women. Kohli has observed that, "Gender bias is an inherent characteristics of a patriarchal society" (178). This chapter explores the different strands of gender inequality as they exist in the Indian society. Major concepts of feminist legal theory have been applied to gain new perspectives of the selected texts.

Feminist jurisprudence or feminist legal theory originated from the varied responses to gender discrimination and it is founded on the premises that law has been fundamental in women's subordination throughout history. Major approaches of feminist legal theory have been incorporated with relevant legal provision to give deeper insight. Some major approaches to feminist Jurisprudence that can be identified are the liberty equality model, sexual difference model, dominance model, anti-essential model and the post-modern model. The liberty equality model functions from within the liberal legal paradigm and focuses on assuring that genuine equality is afforded to women. The sexual difference model emphasised the significance of gender discrimination which holds that discrimination must not be obscured but must be taken into account. It is only by taking the difference into account that law can provide adequate remedies for women's situation which is distinct from men's. The difference model suggests that these differences between men and women put one sex at a disadvantage. Hence the law should compensate women and men for their differences. These differences may be biological or

culturally constructed. Gender Inequality is perceived by dominance theorist as a result of an imbalance in power relation between men and women and that law has contributed to this domination. The anti- essentialist feminist theory was introduced by women of colour and lesbians in the 1980's as they felt their perspectives and experiences were excluded by the feminist legal theory. They objected the idea that there can be one universal women's voice and have criticised feminists for implicitly basing their work on the experiences of white, middle class and heterosexual feminist. Postmodern feminists have used deconstruction to demonstrate that laws should not be unchangeable as they are created by people with biases and may contribute to female oppression. Emphasis is given on the theories of difference and dominance as popularised by feminist legal theorist such as Catherine A. Mackinnon.

The difference approach is an establishment of the fact that male and female language is dissimilar and the dominance theory emphasises on the accepted patriarchal relationship between men and women. In her essay "Difference and Dominance: On Sex Discrimination", MacKinnon sketches two approaches to sex equality viz., the difference approach and the dominance approach. According to her, there are "two paths' which emerge under the difference approach, the sameness path or the sameness standard in which women are measured according to their correspondence with men, their equality judged by their proximity to his measure:

Under the sameness standard, women are measured according to our correspondence with man, our equality judged by our proximity to his measure. Under the difference standard, we are measured according to our lack of correspondence from him, our womanhood judged by our distance from his measure. Gender- neutrality is thus simply the male standard, and the special protection rule is simply the female standard, but do not be deceived; manhood is the referent for both. (MacKinnon 382)

The sameness path emphasises that women are granted access to what men have access to and is based on the belief, "we're as good as you. Anything you can do, we can do. Just get out of the way" (383). What follows within this tension is that a woman can be the same as man and demand equal pay and opportunity or be

different from man and demand extra rights. The sameness feminists argue that special treatment is already available for the so called “differences” in law, making it oppressive for women. This has forced women to prove that they were like men, in an attempt to gain legal protection. In her essay MacKinnon delves into what she believes is the foundation of these approaches:

The philosophy underlying this approach is that sex is a difference, a division, a distinction, beneath which lies a stratum of human commonality, sameness. The moral thrust of the sameness standard is to grant women access to what men has access to: to the extent that women are no different from men, we deserve what they have. The difference standard, which is generally seen as patronizing but necessary to avoid absurdity, exists to value or compensate women for what we are or have become distinctively as women (by which is meant, unlike men) under existing conditions. (382).

The dominance approach provides an alternative route for women who wants equality and yet find that they are different and that is, to be different from men. In law, this equal recognition of differences is given the term “special benefit rule” or “specific protection rule”. Firstly, in this approach Mackinnon observes that:

An equality question is a question of the distribution of power. A gender question is also a question of power, specifically of male supremacy and female subordination. Equality, in terms of what it is going to take to get it, is the antithesis of hierarchy. As hierarchy of power succeeds in construction social reality and social perception, it produces categorical distinctions, differences. I term this the dominance approach. (386-7)

The dominance approach is best understood in its contrast to the difference approach. The difference approach “attacked gender-based distinctions as arising out of inaccurate female stereotypes and thus perpetuating women’s social subordination” (qtd. in Rand, 1032). The difference approach has been embraced by legal doctrines as the touchstone of sex equality theory and is exemplified by the constitutional similarly situated requirement, Aristotle’s axiom of treating likes alike and unlikes unlike. The difference theorist therefore endorsed gender neutrality and

insisted that women should be treated the same as man, in an attempt to advance women: “The point was to apply existing law to women as if women were citizens-as if the doctrine was not gendered to women’s disadvantage, as if the legal system had no sex, as if women were gender-neutral persons temporarily trapped by law in female bodies” (qtd. in Rand, 1032). According to Rand the difference approach failed to address the existing structural inequalities of the sexes. MacKinnon’s theory is built on the criticism of the difference approach and on the idea that gender is a socially constructed hierarchy in which women are subordinate to men. She asserts that “[T]he state, in part through law, institutionalizes male power” (645). She argues that the difference approach operates to maintain gender hierarchy by emphasizing difference. Thus, under the difference approach the likelihood of obtaining equality is lessened as the doctrine ignores the existing social inequality of women.

MacKinnon’s dominance approach identifies the problem as not that the sexes have been treated differently, but that one group (men) has dominated the other (women). This recognition that men and women occupy unequal position of power in society is the fundamental structure of the dominance approach. She has simplified the two approaches thus:

The difference approach adopts the point of view of male supremacy on the status of the sexes. Simply by treating the status quo as “the standard”, it invisibly and uncritically accepts as its norm the arrangements under the male supremacy. In this sense, the difference approach is masculinist, although it can be expressed in a female voice, and the dominance approach is feminist, in that it sees and criticizes the inequalities of the social world from the standpoint of the subordination of women to men. (*Difference* 388-9).

The dominance approach is critical of reality unlike the difference approach, “The difference approach tries to map reality; the dominance approach tries to challenge and change it” (qtd. in Rand, 1036). And that reality according to MacKinnon is male dominance. In a male- defined society women inevitably occupy a position subordinate to men which leads to apparently guilt-free abuses.

MacKinnon argues at length how inequality is constituted and sustained through legal institutions:

[w]omen's situation combines unequal pay with allocation to disrespected work, sexual targeting for rape, domestic battering, sexual abuse as children, and systematic sexual harassment; depersonalization, demeaned physical characteristics, use in denigrating entertainment, deprivation of reproductive control, and forced prostitution. These abuses have occurred, in one form or another, for a very long time in a context characterized by disenfranchisement, preclusion from property ownership, ownership and use as object, exclusion from public life, sex-based poverty, degraded sexuality, and a devaluation of women's human worth and contribution throughout society. Like other inequalities, but in its own way, the subordination of women is socially institutionalized, cumulatively and systematically shaping access to human dignity, respect, resources, physical security, credibility, membership in community, speech and power. (qtd. in Franks 71)

MacKinnon's argument has been criticised on several points. In her essay "MacKinnon and Equality: Is Dominance really different" Laura W. Brill points out that MacKinnon falters on at least two points. Firstly, she fails to adequately distinguish between conflicts in feminist theories of gender difference on the one hand and court decisions resting on the acceptance or rejection of gender classification on the other. Secondly, her notion of dominance and submission are too monolithic and she appears to have ignored the important intra-gender differences:

The legal mandate of equal treatment which is both a systematic norm and a specific legal doctrine is, thus, a matter of treating like alike and unlike unlike, and the sexes are defined such by their mutual unlikeness. Put another way, gender is socially constructed as difference epistemologically, and sex discrimination law bounds gender equality by difference doctrinally. A built-in tension exists between the concepts of equality, which presupposes difference. (MacKinnon 381)

Nobel Laureate Amartya Sen had stated that “Gender Inequality is not one homogeneous phenomenon, but a collection of disparate and inter-linked problems” (35). He identifies seven types of gender inequalities that exist in India. Mortality inequality manifests itself in unusually high mortality rates for women. As a result, there is preponderance of men in the total population as against the preponderance of women found in societies with little or no gender bias in health care and nutrition. Natality inequality is a kind of inequality in which boys are given preference over girls. In many of the male dominated societies, it is exemplified by parents wanting their newborn to be a boy rather than a girl. The type of handicap that women face in the workplace is referred to as employment inequality.

In many societies ownership of property can also be very unequal. For ages, traditional property rights have favoured men in most parts of India. Women’s inability to claim property had made it difficult for them to enter and thrive in commercial, economic and even some social activities. He also identifies special opportunity inequalities in which opportunities of higher education may significantly be less for young women than young men even if there is equal opportunity for both at the basic level. Indeed, gender bias could be observed in higher education and professional training. Basic facility inequality is manifested where demographic characteristics do not show much gender bias but there are other ways in which women can have less than a square deal. Lastly, in household inequality there are often enough, basic inequalities in gender relations within the family or the household, which can take many different forms. Even in cases in which there are no overt signs of anti-female bias in, say, survival or son-preference or education, or even in promotion to higher executive positions, the family arrangements can be quite unequal in terms of sharing the burden of housework and child care. Beauvoir had made the following remark on the perennial nature of male-female inequality:

Now woman has always been, if not man’s slave, at least his vassal; the two sexes have never divided the world up equally; and still today, even though her condition is changing, woman is heavily handicapped. In no country is her legal status identical to man’s, and often it puts her at a considerable

disadvantage. Even when her rights are recognized abstractly, long –standing habit keeps them from being concretely manifested in customs. (10)

Indian society is predominantly patriarchal in nature and this contributes extensively to the secondary status of women. In a male dominated society, Indian women are believed to be victims of deep-rooted traditional oppression and socio-economic injustice. Gender disparities are defined and reinforced by family, society, education, religion, legal system, media, traditional beliefs, cultural practices, political system and institutions. The reason for these inequalities can largely be attributed to the patriarchal social structure and the gender biased society. In *Sexual Politics*, Kate Millet has made the following observation regarding patriarchy:

Under patriarchy the female did not herself develop the symbols by which she is described. As both the primitive and civilized worlds are male worlds, the ideas which shaped culture in regard to the female were also of male design. (26)

Traditional and cultural practices have instilled in us a mindset that favours the male gender. The patrilineal social structure based on the idea that the family line runs through a male, makes man a valuable “commodity” that needs to be protected and given a special status. The long-standing belief that the last rites are to be performed by the son, and that lineage as well as inheritance runs through the male child gives him a superior status. Further the conviction that the son has the responsibility of looking after the parents in old age has resulted in the lower valuation of the daughter than the son. In the context of most Indian marriage practices, the burden of getting a daughter married often resulted in the general aversion for a girl child as such marriages usually incurred heavy expenses on the family of the bride.

The publication of *Towards Equality –Report on the Committee for status of women in India (CSWI)* in the year 1974 was a watershed moment for women’s movement in India because it provided a comprehensive reflection of the status of women in independent India. Despite constitutional safeguards for women and proliferation of laws for protection of women, the report revealed shocking facts

about women's sufferings in terms of education, health, work and violence. The Indian government cannot be accused of being gender insensitive as the Indian constitution itself is one of the most gender sensitive constitutions of modern government. It has been pointed out that, "We wish to add that the supreme law does not have any bias against women-on the contrary, the constitution guarantees political and social equality and liberty to women" (Verma 46). There are various provisions in the constitution that safeguards women's interest and accordingly various laws have been enacted and national policies adopted to promote women empowerment. Despite these provisions, discrimination against women still prevails right from the womb till the tomb. In her essay, Spivak makes an observation regarding the subjugation of the woman as a subaltern that she is "doubly effaced" (82) and that, "If, in the context of colonial production, the subaltern has no history and cannot speak, the subaltern as female is even more deeply in shadow" (83).

Although the Indian Government, through its laws and institutions, has attempted to eliminate gender inequality, it is a tragedy that women are mostly unaware or uninformed about their rights because of illiteracy and biased traditions. The Indian Constitution has given women equal rights and status as men. A number of legislations have been enacted to provide protection to women against social discrimination and violence. Article 14 of the Indian constitution provides, "the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India" (10). Article 15(3) empowers the state to make any special provision for women and children. Article 16(1) guarantees equality of opportunity for all citizens in matters relating employment or appointment in any office under the state.

Gender discrimination has always posed a serious threat to equality in a society. The Indian society has remained male dominated and the long history of India testifies of male domination over females. Even more disheartening is the realisation that women are frequently exploited their own sex. It is also true that women are often discriminated and exploited by their loved ones. During an interview with Jai Arjun, Manju Kapur discusses issues addressed in one of her novels, *Home*:

Literature by women, about families, always has these larger considerations, with years of studying texts, it becomes almost second nature to look beneath the surface at social and economic forces, gender relationships and how they played out in an arena that, in my writing happens to be the home. But then, all sorts of things happening outside do affect what is happening inside the home. (Interview 2)

Manju Kapur's *Home* (2007) showcases a stereotypical sentiment exhibited towards a male child in a typical Indian home. The plot centres around three generations of Banwari Lal's family which consist of his two sons Yashpal and Pyarelal who are both well established in the family business. His only daughter Sunita is married to Murli who is a greedy man with bad habits. His parasitic nature desires that Sunita's family would invest in his business and he often complains about her meagre dowry. Sunita resists his demands and would not allow her father to be exploited by her husband. Consequently, she dies of burns in the kitchen which raises suspicion. Yashpal is married to Sona who remained childless for an extended period of time and for this reason she had to endure harsh remarks from her mother-in-law. Pyarelal is married to Sushila, who, unlike Sona, is able to bring huge dowry and off-springs thus landing her the privilege of living "upstairs" (12), an independent space in the family home, which the dowry-less and childless Sona had been yearning for, but was deprived of.

After ten long years of penance and austerities, Sona is blessed with Nisha and Raju. However, she treats her son and daughter differently. The birth of her children reveals instances where preference for male child over the female child is overtly stated. A patriarchal culture that has been internalised over many years of practice has conditioned and structured the birth of a girl child to be less desirable. In an unequal and male oriented society women are moulded to suit the needs of their male counterparts and the birth of a girl child is not as welcoming as that of a boy child. When Sona delivers her son, she experiences the most blessed moment of her life and an increased privilege in the household.

The mother of a son, she could join Sushila as a woman who had done her duty to the family, in the way the family understood it. Gone was the disgrace, the resentment, gone with the appearance of little Raju, as dark and plain- featured as his father, but a boy, a boy. (48)

The equation of birthing a son to completion of family duty puts pressure on a woman to bear a son which is biologically beyond her power to control. More so, in a joint family set-up where the wife competes with other daughters- in- law to bear a son. The birth of a son means that the lineage will continue. Sona's mother-in-law clutches the day-old boy to her chest and says, "At last the name of his father and grandfather will continue" (48) The birth of a son raises the stature of the mother in a family and as the baby boy is positioned against her burgeoning chest "confidence began its steady journey, pumped into her veins along with the fluids of the drip" (48). The baby boy was to eat and drink from silver things, wear gold chains around his neck with little gold pendants for his forehead and small gold bangles for his wrist. The boy was showered with money from relatives and all the children of the joint family household got new clothes. The birth of a son is the impetus to all this extravagant celebration within the family. When Pyare Lal's wife Sushila gives birth to a baby boy there was great jubilation in the family:

Great was the jubilation at this first grandchild (Sunita's son, Vicky, born six years earlier, did not count.) The male heir was augmented, courtesy of Sushila and Pyare Lal. A boy brought up within the nurturing ambit of the shop would ensure its continuing prosperity when he grew up. (14)

The same kind of jubilation over the birth of son and its contrast with the birth of a daughter is also illustrated in *A Married Woman (2003)* which narrates the story of Astha who was born and brought up in a middle-class family in Delhi. The story is set against the backdrop of the controversial Ram Janam Bhoomi and Babri Masjid. She comes from a cultured and educated parentage. Her mother, though a working woman herself, teaches her that the value of a woman lies within her husband. Astha is married to Hemant and when her son is finally born, she feels an immense gratitude:

The family is complete at last', said Astha's mother piously. . . . Hemant's mother agreed, too happy in the birth of her grandson, carrier of the line, the seed, the name, to respond with her usual reserve to someone she increasingly felt was her social inferior. The naming ceremony of the boy was carried out on a much grander scale than that of Anuradha's. (68)

In the early Hindu civilisation women enjoyed a considerably good status in the society. They had access to education, the right of Swayamvara (choice of husband) and enjoyed the liberty to divorce their partner. Re-marriage was also allowed to widows. A glance at history reveals the position of Indian women in the Vedic society. She had an identity of her own, and "was adored, respected and recognized" (Kant 3). Women could perform sacrifices independently and they were not regarded as impediments in rituals. There is constant allusion to domestic happiness and conjugal affection in the Vedas. However, a period of disintegration and decline followed. Tharakan made the following observation regarding the decline in the status of women:

The great decline in the status of women, corresponding to the consolidation of private property and commodity production, seems to have occurred around 1000 B.C...The natural division of labour between man and woman became advantageous for the male as it was in his sphere that significant developments took place: he became the owner not only of the plough, but of the field or the farm, and the surplus of wealth produced. Women could, from now onwards, only share the wealth with man without really having any control over it. (Tharakan 118)

Women became more and more exploited and subjugated throughout the emergence and consolidation of feudalism. History provides evidence of women's exclusion from meaningful participation in the social-economic field:

The Muslim invasions from the eleventh century onwards did not help in the alleviation of women's condition. The various interpretations of Koranic instructions corresponded to the prevailing norm of the woman's role in the society to which the Muslims came. Women were denied any place in

religious organizations and legal affairs. Neither did they enjoy effective property inheritance rights, The Muslim period saw the popularization of the *durkha* (*purdah*) and seclusion of women, polygamy and unilateral right of divorce for men. (Thakaran 120)

In the later Vedic India, Women's role began to be restricted to performing a single task, that of bearing progeny for men. Many times, women's health was compromised bringing threat to their lives. Kapur's portrayal of Kasturi, in the novel *Difficult Daughters* (1998), reveals this facet:

Kasturi could not remember a time when she was not tired, when her feet and legs did not ache. Her back curved in towards the base of her spine, and carrying her children was a strain, even when they were young. Her stomach was soft and spongy, her breasts long and unattractive. Her hair barely snaked down to mid-back, its length and thickness gone with her babies. Her teeth bled when she chewed her morning neem twigs, and she could feel some of them shaking. She had filled the house as in-laws had wanted, but with another child there would be nothing left of her. (7)

In the early Indian society, which was largely agricultural in nature, there was less utility for women than men. The preference for a son is historically rooted in the patriarchal system of the Indian society. With the transition of the Indian society from the primitive stage to the feudal stage where agriculture became the established occupation of the people, the patriarchal landowning society emerged. In such a society where sons came to be seen as legal heirs to the family property, their value over daughters automatically increased. The observation made by Neelam Upadhyaya and Rekha Pandey is an eye opener:

The seeds of uselessness of daughters and usefulness of sons were sown during the Vedic period. Sons came to be viewed as essential to performing sacrifices to the family ancestors and daughters came to be considered of no use for this function since they left their families to enter the families of their husbands. Women's function was reduced to producing sons and restrictions were placed on female behavior to ensure the legitimacy of sons. Only

through giving birth to a son did a woman redeem herself in this patriarchal system. A sonless woman, even if she has daughters, had no value for the family. The sonlessness of a woman was in a way a license for her husband to remarry. (6-7)

The desire for a son also affected the health of the mother relegating the female child to a secondary position even in the contemporary Indian society. The low status of women has led to the increase of female feticide and sex-selective abortion. Female infanticide, or elimination of the girl child, has been and remains a pernicious form of violence against women in certain regions of India. Female feticide and infanticide have resulted in the declining sex ratio and have ushered in adverse social implications. Amartya Sen has aptly coined the idiom “missing women” (38) to describe the lopsided sex-ratio where women go ‘missing.’ A harmful outcome of the subjugated position of women is their susceptibility to violence such as domestic violence, rape, sexual abuse, dowry harassment, trafficking etc., with few or no effective civil society mechanisms for combating the same. In India dowry related deaths have not been curbed. According to data shared by Union Minister of State for Home Ajay Kumar in Rajya Sabha, 35,493 dowry deaths were reported in the country between 2017 and 2021 (Outlookindia.com):

This raises the question whether the proliferation of laws for protection women have not been effective enough. The decline in the status of women in the post Vedic period can also be attributed to the laws laid down by Manu, the supreme law giver of the Hindu religion which is reflected in the lines quoted by Menski, “A woman must be dependent upon her father in childhood, upon her husband in youth and upon her sons in old age. She should never be free” (279).

As reflected in *Home*, not only are daughters a burden for the family, but there is also an aversion for their children as well - “a sister’s child was not a healthy thing to have living in the family (109). Even if daughters bear sons, they have very little say in the mother’s family - “But the boy/man knew that the blood lines from the female side can only whisper” (110). Spivak contends in her essay “Can the

subaltern speak?” that a core problem for the poorest and most marginalised in society (the subalterns) is that they have no voice to demand a fairer share of society’s goods. In *A Vindication of the Rights of Women*, Wollstonecraft has given the traditional concept of women depicting their marginalisation:

Women are told from their infancy and taught by the example of their mothers, that a little knowledge of human weakness justly termed cunning, softness of temper, outward obedience and a scrupulous attention to a puerile kind of propriety, will obtain for them the protection of man; and they should be beautiful, everything else is needless, for at least twenty years of their lives. (19)

In a joint family system, favouritism is shown towards the male members of the family. Even in the case of off-springs in the family, gender discrimination persists. When Nisha asks her mother if she could go out to play like her brother Raju, she is restricted and her mother stops her by saying “it is better for girls to remain inside” (51). Nisha feels frustrated and her mother tells Nisha that if she goes out to play, her skin would become black and she will look like their housemaid. Nisha in anger questions about her brother Raju whose skin colour is already dark but the reason her mother gives her relates to the society’s superstitious belief which is itself discrimination in minds of the people.

Nisha: “So what? Raju is black”.

Sona: “Raju is the colour of Krishna”.

Nisha: “I also want to be the color of Krishna. I am going to play cricket in the sun”.

Sona: “Krishna is God. You will look like the sweeper woman who comes to the house. You want to look like a Kali Bhainsi?” (51)

In *Difficult Daughters*, Manju Kapur traces the different stages of women’s development and presents an indo-centric feminist perspective. Feminism, in the Indian context is different from western context as the essence of Indian traditional and cultural ethos does not conform to the western concept of feminism. Anita Myles

made the following observation on the representation of women in Indian feminist writing:

Thus the Indian woman, as appropriately presented in the modern and post-modern fiction written in English by Indian women novelists behaves unlike her western counterpart in her evolution from the ‘feminine’ to the ‘female’. She is progressive and conscious of her rights like the contemporary western counterpart. But she quickly, compromises to the fact that a woman’s real position lies within the family –unit which she must sustain and protect and not ignore or neglect due to the false notion of being liberated’. (130)

As in most novels by Indian writers in English, we find in *Difficult Daughters* that their ideas of change are not promulgated through gender hostility but through social re-arrangements, cutting across class and gender lines. The western feminist base of binary female gender hostility cannot be applied in the Indo-centric methodology of cultural change. In this novel, as in other novels of Kapur, we find that Indian women are allured by western thoughts of freedom and opportunities. Yet their social and cultural background exercises a check on them. Virmati’s defiance of the social and traditional order does not end in satisfaction but causes a sense of isolation which ultimately leads to her marriage to Harish.

Gender discrimination in the field of education is another barrier to women’s advancement up the social ladder. As the cultural context created in the selected novels reflect the traditional Indian social structure, women’s education emerges as a significant form of feminist position. Education is regarded as the most powerful tool of emancipating women in the societal milieu portrayed in these novels. Article 21 A of the Constitution of India provides for the Right to Education of its citizens under The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) which is an Act of Parliament enacted on 4 August 2009. This provision is an integral part of the Fundamental Right provided in Article 21 which gives every citizen the Right to life and Personal Liberty. The title of the Right to Education Act has incorporated the words “free and compulsory” (Constitution 15). Free and compulsory education to all children between the ages of 6 to 14 is the Fundamental

Right of Citizens under the 86th amendment to the constitution. The term ‘free’ implies that no child, except ones who have been enrolled by parents to schools which are not supported by appropriate government, shall be liable to pay any kind of fee or charges or expenses which may thwart him or her from pursuing elementary education. Compulsory education denotes that the appropriate Government and local authority is under an obligation to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. Yet the state of education of women in India is far from free as the right appears to guarantee and it is definitely not as totalising and encompassing. Kate Millet’s observation in *Sexual Politics* is relevant in terms of women’s education in a largely patriarchal Indian society:

Traditionally patriarchy permitted occasional minimal literacy to women while higher education was closed to them. While modern patriarchies have, fairly recently, opened all educational levels to women, the kind and quality of education is not the same for each sex. This difference is of course apparent in early socialization but it persists and enters into higher education as well. (42)

The Sarva Shiksha Abhiyan program has been effective in bringing the girl child back to school but their retention rate is lower than their male counterparts. Studies have shown that there is a higher dropout rate among girl students as they progress to higher studies. This is particularly true in the rural areas. The attempt to improve the education of women through programs such as the Sarva Shiksha Abhiyan has encountered numerous challenges, not all of which has been monetary or within the purview or control of the State.

In 1951, the census recorded that only 27.16% of Indian men and 8.8 % of Indian women were literate. By the 1991 census, Velkoff reported in “Women’s Education in India” that only 40 % of the 330 million women in India aged 7 and over were literate. According to the 2001 Census Report literacy rate was 73.4%(male) and 47.8 %(female) for 7+ age group and 64.6 % (male) and 56.5 % (female) for the 15 + age group. According to Census Report of 2011, India’s male

literacy rate stood at 64.6 % female literacy rate at 56.5% for the 7 + age group and 78.8 % male literacy rate and female literacy rate of 59.3 % for the 15+ age group. Despite the steady increase in the female literacy rate, they still fall short of the male literacy rate. Moreover, national averages in literacy show wide disparity among the different regions of the Indian Sub-continent. The fact however remains that majority of India's unlettered people are female, hence, literacy and education programs need to focus on girls and women. A nationwide study on Household Social Consumption: Education in India was conducted by the National Statistical Office (NSO) as part of the 75th round of National Sample Survey (NSS) - from July 2017 to June 2018. The study provides a comprehensive analysis of female literacy rates for every state of India taking into consideration persons aged seven and above. As per this report, India's country-wide female literacy rate is 70.3%, while the male literacy rate is estimated at 84.7%.

A study carried out under the National Family Health Survey-5 revealed that twenty eight percent of females and fourteen percent of males have no schooling. Urban women are more educated than their rural counterparts. The median number of years of schooling completed is higher for males (7.3 years) than for females (4.9 years). Mass media has become an important source of education in this present day and age. The study reveals that fifty five percent of rural women do not have exposure to any form of the mass media while the percentage goes down to a twenty three percent for women in the urban areas. Thirty three percent of women and more than half i.e., 51 % of men aged between 15 and 49 have ever used the internet.

The right to life which is a fundamental right guaranteed in article 21 of the constitution does not merely connote the physical act of breathing nor does it imply mere animal existence. In fact, it refers to the entitlement to lead a dignified life. Education provides persons with the ability to protect themselves from exploitation and to provide them the opportunity live a dignified life, both of which are goals that are outlined by the provision of the article 21. The right to education was initially included as one of the Directive Principles of State Policy. However, the constitutional amendment of 2002 included Article 21 A in the constitution, making education a fundamental right. Education is a fundamental human right, and it is

essential for women to receive it in order for them to reach their full potential as individuals. Because of this, its intrinsic value cannot be overstated and its deprivation can have far reaching negative impact. A.S Altekar had made an observation on this issue:

Denied the benefits of education, brought up in the authoritarian atmosphere, having no opportunities to develop their natural capacities, women became helpless, illiterate narrow-minded and peevish...the theory of perpetual tutelage of women became more and more deep-rooted in society. (43-44)

Education plays a significant role in women's emancipation. It is education that helps women realise the nature of their subjugation, marginalisation and suppression. In the words of Barche:

Now the new education has awakened her real self. As a result of this she has started thinking of independent and self-reliant life. And in order to translate this thinking into reality, she has started fighting against her own timid self as well as man's protectoral shell. (130)

The female protagonists of Manju Kapur's novels *Difficult Daughters* and *Home* face a variety of challenges as they try to claim their rightful place in a male-dominated Indian society. Set in the Pre-independent era, *Difficult Daughters* tells the story of Virmati who is divided between family responsibilities, her thirst for education and an illicit love-affair. In a similar vein, *Home* narrates the story of a Hindu joint family in which men work outside the home while women work within, and where education for women is considered a waste of time. Marriage had "always provided enough reason to discontinue {her} education" (12). Most of the time, gender stereotyping and gender segregation barriers are to blame for the obstacle that stand in the way of women obtaining an education. It has been observed thus:

However, in a country which mostly follows a patrilineal system, the seeds of discrimination are sown at the lowest social tier itself. Discrimination between sexes in the allocation of scarce resources in various fields such as

nutrition, medical care and education is directly related to the greater desirability of the son and the transferability of the daughter. (Verma 45)

In many cases women are expected to confine themselves to the tasks of child-bearing and child-rearing because these are the roles that society has assigned to them. Education for girls is not a priority and thus *Difficult Daughters* contains an example of the belief that women's sole purpose in life should be to have a husband and children. Virmati's mother Kasturi, who is 'eight-class pass' from an Arya Samaj School, spending an entire day either cooking in the kitchen or performing rituals, could envisage no future for Virmati other than being a wife and a mother like herself. However, Virmati insists on her right to get educated and manages to leave home to study in Lahore. When Virmati gets involved in an illicit relationship with her professor and runs away from home, her family is raged and grieved. They questioned the purpose of education which apparently taught her to put herself before others. The weak and fragile statement that escaped from Virmati's mouth, 'I want to study' (59) is met with a grab by the hair and a bang of the head against the wall, from none but her mother, Kasturi. Kasturi blames higher education for her daughter's behaviour:

How could she not see that her happiness lay in marrying a decent boy, who had waited patiently all these years, to whom the family had given their word? What kind of learning was thus, that deprived her of her husband, and had filled her hours with the pleasure of reading. In her time, going to school had been a privilege, not to be abused by going against one's parents. How had girls changed so much in just a generation? (60)

According to Kasturi, education has apparently made Virmati pedantic and self-centered, and she holds her responsible for spoiling the name of Arya Samaj School and its endeavour to educate young girls. Binod Mishra makes an assessment of the temperament of Kasturi and Virmati:

Virmati has been presented as female character that looks forward and wants her own independent status as an educated woman who can think freely and decide things for herself...her education helps her graduate emotionally and

thinks rationally. She is considered blunt and ungrateful when she tells her mother about her unwillingness to marry the boy of their choice. Viru symbolizes the changed mindset of Indian girls who want to decide their future and refuse to be treated like things. Viru's gathering voice symbolizes the freedom the females run after. Her mother's attitude towards education is confined to the pleasure of reading while Viru considers education to be practiced rationally in life. (Mishra 195)

Shakuntala, who has a Master of Science degree in chemistry and is employed in Lahore, illustrate Kapur's perspective on the importance of women receiving an education. She tells Viramati. "These people don't really understand Viru, how much satisfaction there can be in leading your own life, in being independent. Here we are, fighting for the freedom of the nation, but women are still supposed to marry, and nothing else" (17). She suggests to her that she should live like a free bird and says "times are changing and women are moving out of the house, why not you?" (18). Encouraged by her, Viramati becomes a bold and outspoken woman who is aware of her rights for education and economic independence. She felt it was useless looking for answers inside the home. One needs to look outside, "to education, freedom and the bright lights of Lahore Colleges" (17). When it comes to building relationships between partners, Kapur emphasises on the importance of education. It is education that draws Viramati towards Harish and the lack of it that creates a distance between Harish and his wife, Ganga. Harish, who is a college professor married to an uneducated girl expresses his regret in his letter to Viramati:

Despite all this, I am lonely, lonely, lonely. We have nothing in common. I once wanted to share my interests with my wife, felt her pain at my estrangement from her...who is responsible for the state of affair? Society which deems that sons should be educated but not the daughters. Society that decides that children-babies really-should be married at the ages of two or three as we were. As a result, both of us needlessly suffer for no fault of ours. I cannot be adherent to stultifying tradition after this, but Viru, you must make up your own mind about these matters. (103)

In many circumstances, parental reluctance to educate girls is a significant barrier to their access to education. Nisha in *Home*, is a Manglik, who is destined to marry a similar Manglik, and according to her parents education is required but “not too much” (*Home* 139). The Banwari Lals, like many traditional Indian families have a distinct perspective on the importance of education. A girl’s education is not denied but it is not prioritised. College education is an aversion to Nisha’s mother, Sona who believes that Indian brides should not be very educated. For Sona, higher studies are just a time pass for girls and “her real education is in the kitchen” (134). Nisha is chastised for her determination to take up higher education. Her mother harbours the opinion that – “People are suspicious of brides who are very educated. Too many ideas make it difficult to adjust” (139) Manju Kapur focuses on the difference in treatment of boys and girls in relation to education. At all levels of the society, education of the girl child takes a secondary position to that of the boy-child due to economic constraints and discriminatory stances. The social reality for a girl child is that she is a mere resource in agricultural and household chores – “Working was out of the question, and marriage was around the corner” (141) Like Nisha, there are many women who suffer from economic and socio-cultural disadvantage in a male-governed society:

In many cases, women themselves are responsible for holding back their participation in education, working on preconceived notions that they will be unable to cope with the pressures of balancing work and home, assuming that education can cause strain at the home front, or to conform to socially induced images of femininity. (Nair 104)

Nisha’s mother Sona, who hailed from an educated family herself did not want to study any longer because she wanted to remain on the same level as her husband who was not highly educated because he came from a family of shopkeepers and was just “a high-school pass” (*Home* 8). Rupa finds it odd that her sister Sona, who is a woman herself, should disapprove of education for girls:

In this day and age there were still people wondering whether girls should get an education. And this girl whom her husband had slaved over for years. How could they let all that go to waste? (139)

A peculiar notion arose concerning women's education. These ideas are based on superstitious beliefs that were prevalent in the Indian society:

Notion of providing the means of instruction for female never enters into the minds of parents. A superstitious feeling is alleged to exist in the majority of Hindu families, principally cherished by the women and not discouraged by men, that a girl taught to write and read will soon after marriage become a widow...and the belief is also generally entertained...that intrigue is facilitated by knowledge of letters on the parts of females. (qtd. in Kant 59)

Within the family itself, between sisters where one is highly educated and the other is not, there appears to be a clash of opinion on the importance of education for women. Sona is highly contemptuous of the less beautiful but more educated sister Rupa's upbringing of Nisha because for her it is more important for a woman to learn household chores than get education:

What can Rupa have been thinking of? I assumed she was teaching you everything she knew,' Sona grumbled.

You take half an hour to peel ten potatoes. How will you manage your future home?

'Masi said there is always time to learn cooking, but only one time to study'. Nisha tried defending herself, her aunt, and her upbringing.

That masi of yours has ruined your head. What does a girl need with studying? Cooking will be useful her entire life. (*Home* 125)

The real cause of woman's problems is not so much the antagonistic attitude of man. It is rather the lack of awareness in women, and in people in general, about woman's true needs and her right to attain a separate self. The patriarchal norms have been imbibed so deep in the minds of the people that they fail to imagine or see women in a role different from the roles

predetermined by the system. Sona brazenly embraces her fate and her attitude is reflected in the lines – “This is the life of a woman: to look after her home, her husband, her children, and give them food she has cooked with her own hands. Next you will be saying she should hire a servant.” (126)

Nisha finds fulfilment in the business she starts with the help of her father. Her business “Nisha’s creations” makes her realise her identity and individuality. So much so that she would only consent to a marriage if the husband’s family allows her to work. To which her father was supportive but her mother Sona objected vehemently:

Working was all right as a time pass, but if she started making such conditions, who would take her? Families wanted a daughter in law, wife, and mother; husbands were not looking for businesswomen. (296)

Women had never been excluded in the domestic front, as they had been from the public institutions. It was widely assumed that women, not men made the majority of decision about how children were to be raised and that women should consider themselves fortunate that they were not ‘forced’ to work outside the home. Betty Friedman in her seminal work, *The Feminine Mystique* dispelled the image of the content and fulfilled housewife. The book exposed the frustrations of the suburban middle class women whose lives revolved around trivial concerns of housekeeping and consumerism. The well-educated fraction began to question why they had to choose between a career and motherhood and assert that they should have both worlds. With this new concept of combining work and family there arose the need for restructuring of family responsibilities. Feminists envisioned a family structure where both men and women shared responsibilities. In law, this desire for equal sharing of domestic responsibilities led to demand for equal divorce and child custody rights and distribution of marital property.

Difficult Daughters probes into different societal and historical factors that constituted women’s individuality in India of the past century. The story depicts the life of three generations of women, each of their lives catalogued under different categories. In a male dominated society, a woman is expected to conduct household

chores as a girl, and after marriage her entire life is devoted to her family. The author raises a poignant question: “How trapped could nature make a woman?” (7). Kasturi belongs to that generation of women who fell into the pre-independence mould. Meanwhile, her daughter Virmati could be said to represent the country’s struggle for Independence. She exhibits a rebellious temperament and struggles against deep – rooted bias against young women. Ida can be considered an epitome of the post independent woman who has established herself as a self-governing individual. The opening lines of the novel reveals her inner conflict and pains of quest for identity - “The one thing I had wanted was not to be like my mother. Now she was gone and I stared at the fire that rose from her shriveled body, dry-eyed, leaden, half dead myself, while my relatives clustered around the pyre and wept (1).

The narrative of Virmati, the eldest daughter of a traditional Punjabi family in Amritsar, is told in *Difficult Daughters*. While her siblings linger around day and night, she has to take care of their milk, food, studies and cleanliness. Kasturi, the mother is a product of the first generation of indigenously cultured Indian women who, throughout their lives, remain uniquely conventional and follows the instructions of others throughout her life. Although educated, she cannot fathom her daughter’s yearnings for education. She is content her role as a housewife and believes that girls should marry at an early age. Her own marriage is arranged through an advertisement and after marriage she has undergone multiple pregnancies. Dr. B.R Agrawal’s remarks on *Difficult Daughters* reflect the Indian woman’s position in a patriarchal society:

The novel brings forth the issue of gender discrimination and the struggle of the suffering Indian women under the oppressive mechanism of a closed society... The novel presents the traditional patriarchal society where woman is distinctively discriminated against man. She is denied any voice and freedom including her right to pursue her study, chose a career, and above all to choose her mate in life; where education is supposed to breed insolence and independence. (240)

The study delves into aspects of women's participation in work. According to the World Economic Forum's Global Gender Gap Report (2015) the average woman's annual earnings are approximately half of that of a man. Further, women hold less than a quarter of public office positions and a fraction of other executive positions in business and leadership. The feminist vision of an egalitarian world necessitates major changes in the distribution and control of wealth. According to Chamallas one important focus of the legal literature on the economic subordination of women is to ask how law contributes to women's inferior economic status, either by placing obstacles in women's acquisition of wealth or by undervaluing women's labour. Liberal feminists claimed that gender discrimination in the workplace produced women's inequality which resulted in women fighting for greater access to male-dominated jobs. In the west, the struggle for women's equality in employment began long before the feminist movement of the 1970's, especially for those who came from the minority and working-class backgrounds. Even today, inequalities and discrimination persist in the form of sex segregation across industry and occupations, sexual harassment, sex labelling of jobs and sex differences in earnings and mobility.

Women were vulnerable to stereotypical assumptions in the work space. Segregation based on gender was not the only kind of prejudice that existed. Opportunities for women were limited by a system of restrictive quotas that reserved admissions to elite universities to men. Even with college admission and graduation women would find that certain jobs were not accessible to them and had to face another obstacle, that of breaking the glass ceiling in the workplace. The 1970's saw a gradual increase in sex integration in higher education, particularly at the graduate school level. During this decade women's enrolment in medical schools, law schools increased and there was a rise in the number of women earning their Ph.D. The most perplexing paradox however was that highly educated women were prevented from using their education in careers. The women's movement questioned the presumption that education was wasted on women because they would only become housewives or secretaries. Women's experience is of utmost importance in defining feminist scholarship. Another problem faced by female workers is one of devaluation which is a kind of bias that affects value judgments about the importance of an activity. At the

core of devaluation is the claim that once a type of conduct becomes associated with woman or racial minorities, it descends in importance.

The Indian constitution safeguards women's right to work. Article 15(1) and (2) of the constitution prohibits the state from discriminating against any citizen solely only on the basis of any one or more of the aspects such as religion, race, caste, sex or place of birth or any combination of these. Article 16 provides for equality of opportunity for all citizens in matters of public employment or appointment to any office under the state. Article 39A requires the State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood and Article 39 (d) provides for equal pay for both men and women. There is sustained effort and commitment by the government to promote equal employment opportunities to all and create a work environment that is free from all forms of discrimination. For working women in India, safety remains a major concern and the perception of danger remains a restriction on women's mobility. A positive step towards addressing danger and harassment at work is the enactment of The Sexual Harassment Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. In the *Vishaka* case it was observed that, "Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognized basic human right. (Verma 22)

The right to work in an occupation of one's choice as well as the obligation of the State to safeguard this right was enshrined in the Universal Declaration of Human Rights and International covenant on Economic, Social and Cultural Rights. The Constitution of India does not explicitly recognise the right to work as a fundamental right. It was listed under the Directive Principles of State Policy. Article 41 provides that, "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Further in Article 42 it is provided that, "The State shall make provision for securing just and humane conditions of work and for maternity

relief.” (23) The Indian constitution safeguards women’s right to work. Article 15 of the constitution prohibits any kind of discrimination on grounds of religion, race, caste, sex or place of birth. Article 16 mandates equal opportunity in matters of public employment. There is sustained effort and commitment by the government to promote equal employment opportunities to all and create a work environment that is free from all forms of discrimination.

Despite constitutional safeguards the Indian female labour force participation rate (LFPR) which refers to women who are either employed or seeking work, is not very encouraging. According to Naina Bhardwaj’s report in “Women and work in India: Trends and analysis” the LFPR in India has not only stagnated at a rate much below the global average of 47 percent for several years but has declined considerably in recent years. Despite the fact that women have been experiencing fundamental improvements to their lives, such as decline in fertility rates and expansion of women’s education, the LFPR is on a downward track. According to the World Bank estimates the female labour participation rate in India fell from a 26 % in 2005 to 20.3 % in 2019. The decline has been attributed to various factors like obligations towards domestic duties, conservative social norms and the lack of flexible work models. It has also been observed in this report that household constraints have defeated financial need and individual preference for job choice among women. Additionally, the annual bulletin of *Periodic Labor Force Survey* (PLFS) 2019-20 data shows that the female labour force participation in India is way below that of males. While the male participation rate in 2020 stood at 56.8% the ratio for females was merely 22.2 %.

In her novel *Home*, Manju Kapur attempts to illustrate the diverse ways in which patriarchy has assigned woman to the periphery, particularly in terms of work and education. In many of her writings she has portrayed the various schemes developed by the patriarchs to curb female freedom and independence. Education for a daughter is seen as an alternate option of marriage. A daughter’s education is not meant for her to go out and take up a job. In fact, her education is a tool for her to hunt down a good husband and become a perfect wife and a daughter-in-law. Thus,

marriage is the ultimate institution in which all women should engage after the successful completion of education. Vera Alexander made the observation:

In the juxtaposition of marriage and education, education is either described in terms of a threat, or portrayed as a dead end, reducing accomplished female characters to obedient wifedom and dependency rather than enabling them to make a living out of their training. (275)

Home narrates the story of a Hindu joint family, where the issue of gender discrimination plays a major role. Banwari Lal is the head of the family and his two sons Yashpal and Pyarelal support their father in their family business. His daughters-in-law and his wife take care of the home and the children. Living in a joint family where the patriarch lies at the helm of the family structure, women are mostly discriminated by both the genders. The Protagonist Nisha's life has been controlled right from childhood to adulthood. Nisha has been mainly discriminated against by her mother because of her gender. Right from her birth, Nisha is seen as different because of her birth sign which makes her a Manglik. Nisha's life had been controlled and dominated over because of her gender. Being a woman implies that she is to obey her parent's decision of getting married and not go to work. Nisha's effort to assert her identity is suppressed by her family nevertheless she is able to prove her identity after facing much discrimination. At the end of the story Nisha becomes an entrepreneur and starts her own business. Shivani Vashist makes the following observation in *Lapiz Lazuli*:

The novel resonates with the theme of economic independence of women who act against traditional joint family system. Generally families adhering to the conventional values objected to womenfolk stepping out of the houses and confined them inside. Nisha is keen to uplift herself and to establish herself and to establish her identity and individuality and gets educated to establish her own business. (Vashist 4)

Banwari Lal, the patriarch of the family nurtures the belief that men work out of home while women within. In his belief system it is the men who are responsible for continuing the family line while women enable their mission. Sona, his daughter

–in-law also shares the opinion that it is improper for women to hold jobs that require them to be away from home. She bluntly questions her sister Rupa – “What is the need to blacken your face looking for a job, as though you had no one to protect you? Might as well live on the streets” (123). Rupa, the educated sister holds a different viewpoint, “Times are different now, Didi. You mean to say all working women have no one to call their own?” (123). Sona is a self-declared old-fashioned housewife who believes that the life of a woman is “to look after her home, her husband, her children, and give them food she has cooked with her own hands...” (126).

Conservative social norms and attitudes pose hindrance to women who wants to move ahead with their career. This point is driven home by Kapur through the portrayal of Sona who would not allow her daughter Nisha to prioritise work over marriage. Whereas Nisha would only consent to a match with a family who let her work, her mother however objected. According to her, working was all right as “a time pass” (296). She is adamant in her conviction that “Families wanted a daughter-in-law, wife, mother; husbands were not looking for businesswomen” (296). Interestingly, respite for Nisha comes from her father who contradicts Sona by saying, “If she wants to work, she should be allowed to” (296). Women were expected to stay at home, and any transgression from the role assigned to them could result in negative consequences. Rupa’s case is an exception because she does not have a child to occupy herself with and she enjoys working as a paid labour. However, she has to explain to her niece that the world of paid labour is not a woman’s domain: “[...] women’s work was allowable only in unconventional situations (no children), and that respectability demanded that it be avoided as much as possible” (211).

Astha in *A Married Woman* is clearly frustrated and fed up with “the ideal of Indian womanhood, used to trap and jail. She was ‘sick of sacrifice’ and did not like the idea of being “pushed around in the name of family” (168). Her frustration is discernible in her description of her sister-in-law - “She is not allowed to work, rather her in-laws make her slave inside the house, she is nothing but an unpaid servant. If she complains her husband sides with his parents” (168). Her daughter

Anuradha is equally irked with the circumstances of a woman's life and asks, "Why, why is it a woman's lot, it's not fair" (169). In a culture that discriminates on the basis of gender, the problem of fairness is intractable because it requires a reorganisation of social order and a reappraisal of the roles that are assigned to men and women.

Kandaswamy's *When I Hit* also reveals women's subordination in terms of work. The female protagonist moves to Mangalore to join her husband and since then she lost all contacts and facebook became her only means of professional communication. However, her abusive husband insists that she deactivates her facebook account calling it "narcissism" and "exhibitionism" (50). On his insistence she deactivates her facebook even though it will negatively impact her profession as a writer:

In this isolation, Facebook helps me promote my work, gives me news, keeps me in the loop of the literary scene, allows me to have an online presence which is pivotal If I do not want to be forgotten in a freelance world. My husband is not unaware of this. He knows that my being a writer involves being at the mercy of others, being visible, being remembered at the right time so that someone throws an opportunity my way. In my precarious situation, when he wants me to cut myself off from Facebook, I know that it is an act of Career suicide. (52)

In her book *Introduction to Feminist Legal Theory* Chamallas asserts that women's subordinate status is often ascribed to her own choices and women themselves are to be held responsible for their own disadvantage. The conventional belief is that women give their family life a higher priority and they voluntarily choose to subordinate their professional goals and aspirations for the sake of their children or partners. Chamallas questions the very use of the word choice which implies that women have the option to choose among alternatives. An alternative hypothesis contends that decisions are not made in a void and that people are subject to the pervasive cultural attitudes with whom they contact, which in turn influences the decisions that people make. There are still some blue –collar jobs that are thought

to be ‘masculine’ and are not considered proper for a woman to hold. Persistent harassment of women who attempt to break the glass ceiling is one of the most common factors that contribute to the cultural coding of employment. As the selected texts demonstrate, women are surprisingly, the ones to harass other women in order to discourage them from breaking past gender barriers. This aspect is revealed in various portion of the selected text.

Astha in *Married woman* is frustrated with the unjust system which puts her in a position where she cannot make a decision on her own. Even her mother has trust issues when it comes to handling finances despite her education. Astha gets irritated with her mother’s stance which makes her feel small:

Her mother had delivered her into Hemant’s hands. If her mother was at fault, so was her father, for managing the money, and teaching his wife that this was normal behavior, so was her mother –in – law for bringing up Hemant to never regard women as beings to be consulted in their own lives, so was the Swamiji for teaching that only in detachment lies happiness, which lesson can be read in as many different ways as there are people and attachments. (98)

In a gendered hierarchical society like the Indian society, it is a socially accepted norm that girls and boys are socialised in such a manner that even the mundane daily chores are separated on the basis of masculine and feminine job. This is because the Indian society is a gendered hierarchical culture where gender identities are frequently constructed upon socially sanctioned disparities, and social institutions are also responsible for the construction and legitimisation of these identities. These social institutions have rules and norms that regulate gendered behaviour and consequently ideas of male superiority and domination are maintained as a result of these regulations.

John Stuart Mill, a formidable figure of the 19th century used his position as a member of the Parliament in favour of women’s political rights and petitioned for inclusion of women’s suffrage in the Reform Bill of 1867. He wrote in his famous treatise *The Subjection of Women*:

That the principle which regulates the existing social relation between the two sexes – the legal subordination of one sex to another – is wrong in itself and now one of the chief hindrances to human improvement; and that it ought to be replaced by a system of perfect equality, admitting no power and privilege on the one side, nor disability on the other. (Mill 1)

The constitution of India is extremely gender sensitive and has encouraged special provisions for women. Yet the status of women still remains inferior owing to various factors. Due to social conditioning women generally accepted their inferior position. However, the new woman who tried to rise above the narrow constraints began to make their appearance and fight for their rights. Ann Heilman's Citation from Ainslie Meares' *The New Woman* is an apt description of the new woman who "is striving for equality of opportunity with men to enjoy full life, and she seeks the right to make decisions for herself, the right to determine her own destiny" (1). Christopher Rollasan quoted Dora Sales Salvandor in "Reflections on Manju Kapur's *Difficult Daughters*":

In this novel, one needs to stress that the disjunction between the weight of gender-determined tradition, on the one hand, and the yearning for independence and self-affirmation, on the other does not appear as a simple dichotomy of life-choices. In no case are things black and white. There is a whole range of complex emotional shades of gray between the two alternatives. (Rollasan 182)

In her novels Manju Kapur presents the changing image of women who move away from the traditional portrayal of the self-sacrificing women to the self-assured, assertive and ambitious women. The protagonists in Kapur's novels challenge the existing socio-cultural patriarchal system. They are different from the traditional women and make an effort to dismantle the gender polarisation. They subvert male Chauvinism and emerge as the new women breaking social taboos and conventions. In perfect contradiction to these characters are the minor characters that show attitudes different from the new women. They cling on to traditional beliefs and habits, even though legal provisions have given them opportunities to emancipate

themselves in terms of education and work as they have been socially conditioned to remain in their inferior position. Introductions of law does not automatically bring about a new order nor does it presuppose a paradigm shift that can bring about total upheaval in the attitudes of people:

What was abolished by the formal law was manifestly only a fragment of the field, not the entire social reality of Hindu law. The conceptual framework and ideologies underpinning multiple ways of life, and hence the entire edifice of Hindu culture, remained largely immune to the powerful wonder drug of legal modernization which had been administered in measured doses before and after 1947. (Menski 24)

If we are to examine the selected texts in the light of MacKinnon's Theory of difference and dominance, the one element that would stand out is the idea of patriarchy in the Indian Society. Dominance theorists attempt to understand gender inequality as a result of imbalance in power relation between men and women and hold the belief that law contributes to the subordination of women. They attempt to explain gender disparity as the outcome of an imbalance in power relation that exists between men and women. The ideology of dominance feminism proposes that the reason for women's lower status in society is man's concerted effort to subordinate or control women. It would appear that the primary reason for women's subordination is the strict social structure that, by promoting male dominance through a system of internalised patriarchy, is the source of the problem. To rid the world of the scourge of gender inequality, it will be necessary to unlearn and re-learn the ideas of sexism and misogyny that have been internalized. On the other hand, difference theory necessitates the construction of a narrative that identifies cultural distinctions between males and females. In order to accommodate this, the legislation needs to take into account the fundamental distinction that exists between men and women.

The Indian Constitution has acknowledged the essential difference between man and woman and appropriate protections and special provisions for protection of women have been made. Article 15(3) has made it possible for state to create special

provisions to protect the interest of women and children. Legislation alone is not sufficient to remove gender disparity and laws need to be implemented in its true spirit. Failure on the part of the judiciary to secure speedy justice, corruption in the judiciary, an ineffective executive, and a pre-conditioned mindset that fails to win the confidence of the people as well as problems of social inequalities are some of the hurdles that need to be overcome to ensure gender equity proposed by the Indian laws. The observation made in the Report of the committee on amendment to criminal is very relevant:

This brings us to the vexed question that unless and until the State pursues a policy of avowed determination to be able to correct a historical imbalance in consciousness against women, it will not be possible for men and indeed women themselves, to view women differently and through a prism of equality. It is not enough that women occupy a few symbolic political positions to evidence true empowerment of women in the country. In view of this committee, the ethos of empowerment does not limit itself to political equality, but also extends, in equal terms, to social, educational, economic equality. (Verma 8)

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Chapter 3
Gender and Violence: A Perspective

This chapter focuses on the depiction of violence against women in the selected texts. Relevant provisions of law protecting women from sexual violence and harassment have been incorporated in an attempt to better understand why law sometimes does not succeed in eradicating sexual violence. It further attempts to locate the causative factors of gender violence and examines the nexus between patriarchy and domestic violence. The study explores the theme of sexual subordination of women, sexual violence including marital rape and child sexual abuse, sexual harassment, dowry deaths and domestic violence which are interwoven in the story with other themes of women subordination. The chapter brings into perspective the nuances of sexual violence and domestic violence. It highlights the legal protection afforded to women and seeks to explain why law fails to eradicate these social evils.

Lokanath Mishra quotes the World Health Organisation's definition of violence in his report as "the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development, or deprivation" (1). Violence against women is a universal problem that occurs persistently in every culture and among diverse social groups. Many women around the world have been beaten, coerced into sex, or otherwise abused in her lifetime and most often by someone whom she knows, including a member of her own family, an employer or a co-worker. Violence against women has been called the most pervasive yet least recognised human rights abuse in the world. Tiwari has made the observation that:

Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society. (295)

The Second World Conference on Human Rights in Vienna in 1993 and the Fourth World Conference on Women in 1994 gave priority to this issue, which

jeopardises women's lives, bodies, psychological integrity and freedom. Violence against women is often known as gender-based violence because it partly stems from women's subordinate status in society. Studies suggest that there is a strong relationship between violence and modifiable factors such as poverty, inequality in income and gender relationships, harmful use of alcohol and intoxicants and so on.

The United Nations under its General Assembly Resolution 48/104 Declaration on the Elimination of Violence against Women, 1993 adopted and defined violence against women as:

Any act of 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 in private life. (qtd. NHFS-5, 639)

Violence against women encompasses the following areas:

- a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry –related violence, marital rape, forced female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

The UN Report on Violence against women demonstrates that conditions in developed countries are no better than developing countries. Several countries around the world have reported more than 100 instances of rape or sexual assault per 100,000 people. Out of the 77 countries that reported to the United Nations, Sweden, the U.K, Botswana and Australia had the highest reported rate of sexual violence. Much of the violent activity is linked to human trafficking. Reports also show that

online harassment is a new form of violence for both men and women with the increasing rise of ICT into the common life of the people. In some countries violence against women is estimated to cost countries up to 3.7 % of the total GDP which is more than double of what many governments spend on education.

In India too violence against women is a serious problem. The National Family health survey phase-5 shows that twenty nine percent of women aged between 18-49 have experienced physical violence since the age of 15 and at least six percent of women have experienced sexual violence in their lifetime. Three percent of expectant women aged between 18 and 49 have experienced physical violence during pregnancy. Thirty two percent of women aged between 18 and 49 who have ever been married have experienced physical, sexual or emotional spousal violence. According to the survey the most common type of spousal violence is physical violence (28%) followed by emotional violence (14%). Six (6%) percent of ever married women aged between 18 and 49 have experienced spousal sexual violence. The report also indicates that one-fourth of ever married women aged 18-49 who have experienced sexual violence or spousal physical violence have sustained physical injuries such as eye injuries, sprains, dislocations or burns. Very sadly the report shows that only 14 percent of women who have experienced sexual violence have sought intervention or help to mitigate the violence. It has been acknowledged that gender-based violence against women is a violation of basic human rights that needs to be addressed effectively by the authority. The Justice Verma Committee report had observed:

A disturbing nexus between the judiciary, the police and the Administration has come to light, administrative apathy, authoritarian excesses and judicial connivance has led to a most shocking state of affairs negating the very basis of the existence of human life and democratic safeguards enshrined in the constitution of India. (199)

Gender-based violence is typically the result of woman's subordinate status in the society. It is prevalent in almost all developing countries and includes all acts or threats by men or male dominated institutions that inflict physical, sexual, or

psychological harm on a woman or girl because of their gender. In most cultures, traditional beliefs, norms and social institutions legitimise and therefore perpetuate violence against women. In India, gender-based violence takes the form of physical, sexual and psychological violence such as domestic violence; sexual abuse, including rape and sexual abuse of children by family members; forced pregnancy; sexual slavery; traditional practices harmful to women, such as honour killings, burning or acid throwing, female genital mutilation, dowry-related violence; violence in armed conflict, such as murder and rape; and emotional abuse, such as coercion and abusive language. Trafficking of women and girls for prostitution, forced marriage, sexual harassment and intimidation at work are additional examples of violence against women. Gender violence occurs in both the 'public' and 'private' spheres. Such violence not only occurs in the family and in the general community, but is sometimes also perpetuated by the state through policies or the actions of agents of the state such as the police, military or immigration authorities. Gender-based violence happens in all societies, across all social classes, with women particularly at risk from men they know.

The National Crime Records Bureau is a trustworthy source of data on crime in India. The records collate every First Information Report (FIR) from every Police station in India to derive the annual statistics. Those crimes that are defined as crimes against women and directed specifically against women are recorded and classified under two categories: crimes under Indian penal Code (IPC) and crimes under special and local laws. Crimes under IPC include rape, kidnapping, homicide for dowry, torture etc. Most crimes against women happen indoors out of which a majority happens due to domestic violence. In India, many women have been victims of gender-based violence and have been ill-treated for ages in a male dominated society. The Indian Parliament and the State legislatures have taken several initiatives to make laws for protection and promotion of Women Rights. It may appear strange and anomalous that, on the one hand the constitution of India guarantees equality of rights for women, and even provides for protective discrimination in their favour and yet the personal laws which apply to women are oppressive in varying degrees depending on the religion to which a woman belongs.

Violence against women has existed in India since antiquity. In the introduction to *Women in Hindu Literature* B. Pakem has made the observation that:

The entire corpus of Hindu literature from the Rig Veda to the Kamasutra should be seen as a careful stockpiling of strategies to convert a woman into a machine which can be used or abused at the pleasure of the male and without any regard for her working capacity. (xxi)

The Constitution of India not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women to counteract the cumulative socio-economic, education and political disadvantages faced by them. To uphold the constitutional mandate, the state has enacted a number legislative measures intended to ensure equal rights to combat social discrimination and curb various forms of violence and atrocities and provide support services to working women in particular. There are several laws in India for special protection of women, apart from the constitution. To name a few, such laws as The Dowry Prohibition Act 1961, The Sati Prevention Act 1987 and Prevention of Women from Domestic Violence Act 2005 have been enacted to prevent crime against women. The link between sexuality and criminal justice had been explored by Foucault in *The History of Sexuality*:

Criminal justice, too, which had long been concerned with sexuality, particularly in the form of “heinous” crimes and crimes against nature, but which, toward the middle of the nineteenth century, broadened its jurisdiction to include petty offenses, minor indecencies, insignificant perversions; and lastly, which screened the sexuality of couples, parents and children, dangerous and endangered adolescents-undertaking to protect, separate, and forewarn, signaling perils everywhere, awakening people’s attention, calling for diagnoses, piling up reports, organizing therapies. (32)

Sexual Violence is a significant issue faced by women in India. Obtaining justice can be difficult for victims of sexual violence due community pressure, discriminatory attitude of police and judicial officers, insufficient legal aid and a very discouraging conviction rate. Patriarchy which favours masculine dominance control

and entitlement is often the source of sexual violence. It is not uncommon for a society to shift the blame on victims, often shaming them and their families into silence. A culture of shame leads to silencing of victim's voices. In her novel *Home* (2006) Manju Kapur describes how Banwari Lal married his daughter Sunita to someone who seemed decent enough. However, "that the boy drank and became abusive was something that the daughter did her best to hide from her parents. This shame was now her own." (5)

Sexual assault against minors is pervasive and a majority of such cases go unreported. A study conducted by Ministry of Social Justice and Empowerment study estimated that 53% of boys and 47% of girls experience sexual abuse during childhood. There are laws under Indian Penal Code relating to sexual violence. Section 354 of the IPC criminalises any act by a person that assaults or uses criminal force against a woman with the intention to outrage her modesty. Such acts are punishable with imprisonment of either description for a term which may extend to two years, or a fine, or with both. Sexual harassment is defined under section 354 of the IPC as a man committing any of the acts:

- (i) Physical contact and advance involving unwelcome and explicit sexual overtures; or
- (ii) A demand or request for sexual favours; or
- (iii) Showing pornography against the will of a woman; or
- (iv) Making sexually coloured remarks, shall be guilty of offence of sexual harassment.

Sadly, most sexual assault incidents go unreported due to fear of social stigma, fear of retribution and cultural expectation of marriage. In "A rally against rape" MacKinnon had pointed out that women report rapes only when they feel they will be believed and "of the reasons raped women give for not reporting rape, the most common is fear of retribution" (82). Chamallas had noted that the claim for sexual harassment has distinctive feminist origins in comparison to other forms of legal regulation of social conduct. The term was invented by feminist activists, given content by feminist litigators and scholars, and provided sustenance by a wide range

of feminist scholars. In her essay “Sexual harassment: its first decade in Court”, Catharine MacKinnon made the observation that:

The legal claim for sexual harassment marks the first time in history, to my knowledge, that women have defined women’s injuries in a law. Consider what has happened with rape. We have never defined the injury of rape. Men define it. (105)

With the inclusion of sexual harassment as a criminal offence came the expectation that it would provide some recourse to women who had been harassed and bring about a change to our cultural understanding of what constitutes sexualised misconduct in the workplace. Chamallas quoted MacKinnon:

[t]he law against sexual harassment often seems to turn women’s demand to control our own sexuality into a request for paternal protection, leaving the impression that it is more traditional morality and less women’s power that is vindicated. (238)

Manju Kapur’s works are intertwined with multifarious issues that are found in the Indian society including sexual violence:

Gender issues are central to Kapur’s world view in the lines of the female figures; we encounter questions about marriage, motherhood, women’s education, women’s work in and out of the home, the body, sexuality, the forms of violence against women ranging from emotional blackmail to dowry deaths and sexual abuse. (Chakravarthy 119)

One of the most discussed questions in the society is the sexual exploitation of girls. In delineating Nisha’s suffering in *Home*, Manju Kapur has projected the larger threats for women in the household. Nisha’s suffering from skin eczema is possibly linked to her childhood trauma of being sexually abused by her own cousin Vicky. In *The Independent* Aamer Hussein remarks:

Kapur’s ability to chart sexual abuse and disease in the same detached style in which she narrates daily adventures is remarkable. Nisha’s childhood

experiences with a cousin mark her for life, as the skin condition that nearly ruins her chances of marriage is probably a psychosomatic response. (4)

Virmati in *Difficult Daughters* defies family traditions in her search for love and emancipation. Against the wishes of her mother, she pursues higher education and gets entangled in an illicit relationship with the married professor Harish who traps her in the garb of educational pursuit. Married to an uneducated wife, Harish is drawn towards the educated Virmati with whom he can share intellectual conversations. However, he takes advantage of Virmati by maintaining an uncommitted relationship with her, one that does not disturb the peace and harmony of his home. In her innocence Virmati is not able to understand the professor's evil design. He breaks down all her attempts for self-assertion and gratifies his obsession for her body. As a result, Virmati gets pregnant and has to opt for an abortion. Her upbringing in a traditional family makes her hold the opinion that she has to devote her life to the professor since her body has been defiled by him- "she was his [Harish's] for life, whether he ever married her or not. Her body was marked by him, she could never look elsewhere, never entertain another choice" (*Difficult Daughters* 177). Harish takes advantage of his superior standing as her professor and exploits Virmati sexually. He forces himself upon her without her consent - "And against her will, he forced her legs apart with his own..." (189). Virmati protested with a "No" as strongly as she is able. "The sari was undone, and his hands were making stroking movements on her belly, before embarking on its more probing journey downwards". (189). Her pleas and attempts of resistance fall on deaf ears and Harish pounces on her to quench his lust. In their liaison, violence is committed and the woman is sexually subordinated. Arpita Ghosh gives the following description in her essay:

In her blindness, Virmati failed to see that the professor was relishing the best of both worlds. At home he relied on Ganga's household efficiency –from his starched dhoti-kurta to the delicacies he savoured in the meals. In the outer world, he exploited Virmati emotionally and under the facade of educational purpose he desired to be physically involved with her ...He wanted to keep his extra-marital affairs at a safe distance in order to retain domestic harmony within the four walls of the house. (124)

In many of her works, Manju Kapur delves into the idea that men prey on women in order to satisfy their sensual needs. This kind of imposed sex generates mental disturbance and has a scarring impact on a woman's mind. The Indian legal system does not recognise marital rape and Kapur questions the society's acceptance of spousal rape and the transgression of women's right over her body. The ultimate purpose of Kapur is to project the phallogocentric prejudices and presumptions related to the topic. In a way, Kapur's novels also serve another motive, that is, to expose and increase women's viewpoints on sexual exploitation. The sexual advances of the professor on Virmati fits the description of rape as provided in the Indian Penal code. Her obsession with him makes her blind to the fact that the professor is taking sexual advantage of her.

In Section 375 of the Indian Penal Code a man is said to commit rape who has sexual intercourse with a woman i) against her will ii) without her consent iii) with her consent, when her consent has been obtained by putting into the fear of death, or of injury iv) with her consent when the man knows that he is not her husband, and that her consent is given because she believes herself to be lawfully married v) with her consent, if she is unable to understand the nature and consequence of that to which she has given consent due to unsoundness of mind, or under intoxication vi) with or without her consent, when she is under the age of eighteen years of age vii) When she is unable to communicate consent. The Indian Penal Code does not recognise marital rape. Section 375 mentions as its exception clause, "Sexual intercourse with his own wife, the wife not being under 15 years of age, is not rape" (165). The age limit has been raised to 18 years of age. The Justice Verma committee had recommended the removal of these exception clauses on the ground that marital or other relationship between the perpetrator or victim is not a valid defence against crimes of rape or sexual violation.

Sexual subordination of women is the underlying cause of rape, sexual harassment and domestic violence. Influenced by MacKinnon's writings, feminists have frequently examined legal regulations governing sexual conduct "with the twin goals of reducing sexual violence and exploitation and increasing women's sexual autonomy and integrity" (Chamallas 219). Contemporary discussions of women's

sexual subordination have often centred on the issue of rape and the laws related to it. Rape has been acknowledged as a serious threat to women's safety as rapes are prevalent and the fear of rape curtails women's freedom of movement. Though the incidence of rape is unacceptably high, it is disheartening to learn that a high percentage of women do not report that they have been raped, authorities often decline to move a case forward and conviction rates in rape cases are lower than other serious crimes. Very often judges or juries and a large section of the public remain suspicious about the motivations and credibility of the rape victims. In *When I Hit You*, Kandaswamy narrates the story of a rape victim whose character is brought into question which is reflective of this aspect:

The police do not investigate her case. The high court questions her character. The highest court in the land asks the inevitable. Why did she not run away? Why did she not use the opportunities that she had for escape? Why did she stay if, indeed, the conditions were as bad as she claims. How much of this wasn't really consensual? Sometimes the shame is not the beatings, not the rape. The shaming is in being asked to stand to judgement. (219)

A major target of the feminist campaign for reform of rape law has been the exemption of marital law which has made it impossible for women to charge their husbands with rape when there has been use of physical force by the husband and there is lack of consent from the wife. The Indian Penal Code has defined consent as "an unequivocal voluntary agreement when woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act" (165). Law has been accused of being more concerned with the "property" interest of the men rather than the personal interest of the rape victims. In India marital rape is not considered a criminal offence under the IPC. Rather, it is considered a form of domestic violence which cannot be penalised. Feminists have criticised the fact that consent and privacy primarily focused on the failure of the legal principles to protect women against widespread male sexual violence. Chamallas has pointed out that:

In practice, consent tended to be watered down to mean no more than acquiescence or non-resistance and presupposed a system of unequal sexual relationships in which men actively initiated sexual encounters and women were relegated to the more passive role of consenting or not consenting. This led to feminist attempts to construct a more protective notion of consent and to devise legal formulas that concentrated on the actions of the defendant rather than on the response of the woman. (221)

A Married Woman chronicles the story of Astha's life from early adulthood to early middle years. In her youth, she had dated a couple of young men of her choosing but she eventually married a man of her parent's choice. She enjoys marital bliss for a while until she becomes a social activist against the wishes of her family and falls in love with a woman. As with majority of Indian brides she had to endure passive co-existence within the family:

A large part of her belonged to her children, that was how she lived her life. She couldn't imagine any other way. She was a wife too, but not much was required there. A willing body at night, a willing pair of hands and feet in the day and an obedient mouth were the necessary prerequisites of Hemant's wife. (231)

Astha is a victim of marital rape as her responses are disregarded and ignored by her husband. After years of marriage, their marital life rested on their nocturnal nuptial exploits. Hemant plays a dominant role in sex and regardless of her willingness he starts his sex routine - "That night, Hemant started his sex routine. "No", said Astha, "I don't feel like it...without her willing it her body responded. Hemant became more ardent. "Baby, you are the only one for me, what's the matter, are you jealous?" "No", she said, trying to push him away, but it was of no use" (224). Astha's protest falls into deaf ears. Hemant carries on with his sexual advances until Astha's body involuntarily responded against her will. She tries to push him away but it was of no use. The marital function was performed in spite of Astha's protest and this is no less a marital rape.

A large portion of behaviour that fits the legal definition of rape is often not regarded or treated as “real rape” even by the victims themselves. According to Susan Estrich the limitations of rape prototype is that only a very narrow class of rape cases are taken seriously under the law. Her basic claim is that unless a rape is committed by a stranger who inflicts physical injury, it will rarely be treated as a criminal act. As long as rape is categorised as rape only if it is committed by a violent stranger, all other such encounters tend to be categorised as consensual even if there is no evidence that the woman wanted to have sexual intercourse. Thus, the “stranger rape” prototype does not include all situations that qualify as rape. Chamallas had quoted Susan Estrich whose book *Real Rape* which propagated the view that only a limited type of rape cases is taken seriously by the law:

At one end of the spectrum is the “real” rape...A stranger puts a gun to the head of the victim, threatens to kill her or beats her, and then engages in intercourse. In that case, the law-judges, statutes, prosecutors, and all – generally acknowledge that a serious crime has been committed. But most cases deviate in one or many respects from clear picture, making interpretations far more complex. Where less force is used and no other physical injury is inflicted, where threats are inarticulate, where the two know each other, where the setting is not an alley but a bedroom, where the initial contact was not a kidnapping but a date, where the woman says NO but does not fight, the understanding is different. In such cases, the law, if not the words, of the statutes, and the decisions of those within the criminal justice system, often tell us that no crime has taken place and that fault, if any is to be recognized, belongs with the woman. (225)

Kandaswamy also raises the issue of marital rape in *When I Hit You*. When rape is committed by someone that one shares a bed with at night and the one for whom one makes coffee the following morning, a whole new dimension of the act emerges:

I never understood rape until it happened to me. It was a concept –of savagery, of violence, of violation, of disrespect. I had read my share of Kate Millet and Susan Brown miller but nothing prepared me for how to handle it.

Within a marriage fighting back comes with its consequences. The man who rapes me is not a stranger who runs away. He is not the silhouette in the car park, he is not the masked assaulter, he is not the acquaintance who has spiked my drinks. He is someone who wakes up next to me. (167)

MacKinnon had also made an observation in her essay “Sexual Harassment: Its First Decade in Court” that the men who define rape, “define what they take to be this violation of women according to, among other things, what they think they don’t do. In this way rape becomes an act of a stranger committed upon a woman whom he has never seen before.” (105)

Feminist criticisms have been directed at certain legal regulations that express a liberal philosophy according to which sexual conduct is considered a private conduct and law should not interfere with it. Consent becomes a dividing line between lawful and illicit sexual conduct in the context of marital rape. The liberal view takes the standpoint that the phrase “consenting adults in private” (Chamallas 221) signifies acceptable conduct that are immune to legal intervention. The feminist critique of consent has focused on the failure of these liberal legal principles which, according to them, fail to protect women from widespread male sexual violence. The term consent presupposes a system of unequal sexual relationship or sexual subordination where women were relegated to a more passive role. There has been an attempt by the feminists to construct a “more protective notion of consent and to devise legal formulas which concentrated on the actions of the defendant rather than on the response of the woman” (221). Many of the feminist inspired reforms in the field of sexual harassment have been to delineate which exploitive practices, such as fraud and economic coercion, should trigger legal actions. In addition, feminists have attempted to articulate positive egalitarian ideals of heterosexual conduct which is respectful of women’s autonomy. The feminists harbour the belief that:

It is not enough that a woman did not physically resist or even that she voiced no express verbal objections to the sex. Instead, the touchstone of mutuality is that each person must actually welcome the encounter- the sex is not mutual

if one person simply gives up or decides that resistance is futile or not worth the cost. (Chamallas 222)

A major fraction of applied feminist scholarship on sexual subordination questions why law is dominated by a more male-cantered view of consent rather than the more feminist-oriented concept of mutuality.

Kandaswamy's first collection of poems *Touch* (2006) is a vitriolic attack on the social oppression of Indian women where the issues of caste, gender, sex and cultural discrimination of the marginalised Indian women are addressed. As a young Dalit writer, Kandaswamy delineates her outrage against sexual discrimination. Her poems are an assault on the social evils prevailing in the society such as caste system, untouchability, oppression of women and cultural hegemony. In her poem "Shame" she depicts how an untouchable young woman becomes the victim of a gang rape. The rapists belong to the upper class and hence they are shielded by the authority and escape punishment. It has been established that "when a woman belongs to the weaker section of society, she already suffers from, therefore, a twin disadvantage i.e she is standing at the crossroads of both being a woman as well as being economically disadvantaged. (Verma 48)

"Gang rape."

Two severe syllables

implied in her presence

Perpetuate the assault. . .

Public's prying eyes

segregate her-the victim.

But the criminals have

already mainstreamed_____

Their Caste in classic shield. (58)

Justice Verma Report had also concluded that "There is, naturally, a certain degree of institutional bias against women...on account of the patriarchal structure the male

Police officers do not take complaints of rape seriously” (48). In this poem by Kandaswamy, the victim, not finding justice in a system that favours the upper class, becomes helpless and sets herself on fire to end her shame:

Bravely, in search of
 A definite solution,
 And elusive purification,
 She takes the test of the fire-
 The ancient medicine for shame. (58)

Kandaswamy's *When I Hit You* gives a graphic description of marital rape aimed primarily at disciplining her. Narrating how sex or “actually rape” becomes her husband's weapon to tame her, she states:

This is the rape that disciplines, the rape that penalizes for the life I have presumably led. This is the rape that tames, the rape that puts me on the path of being a good wife. This is the rape whose aim is to inspire regret in me. This is the rape whose aim is to understand that my husband can do with my body as he pleases. Thus is rape as ownership. (174)

As much as she resisted his sexual advances, her “body also learnt how to surrender. It learns to shut its eyes; it learns to look away” (169). From an act of discipline it escalates into something more serious, something that is disabling:

That is the aim of his rapes. All this rough sex. Not just a disciplining, but a disabling. He believes that after him, I will have nothing left in me to love, to give pleasure. This is a man burning down his own house. (176)

Rape, particularly marital rape, is not something one can talk about with ease. The victims typically suffer in silence out of fear of personal and public disgrace. In general, violence against women is largely a private crime committed by persons who are in private relationships. As it is usually branded as private and local, it is often unreachable by the national legislature. Chamallas had observed that there is a widespread belief, “sexual conduct is quintessentially private conduct which the law

should not interfere” (220). Due to the private nature of the crime, most perpetrators of gender violence act with an assurance that, as statistics confirm, their acts will be officially tolerated, they themselves will be officially invisible, and their victims will be officially silenced:

The shame of rape is the shame of the unspeakable. Women have found it easier to jump into fire, consume poison, and blow themselves up as suicide bombers, than tell another soul about what happened. A rape is a fight you did not win. You could not win. A rape is defeat. (*When I Hit* 169)

Kandaswamy’s *When I Hit You* shows how violence grows from psychological abuse to physical abuse. The husband of the unnamed protagonist employs the strategy of beating and raping to dominate her. He finds the slightest cause to bully her and is provoked by trifles such as the level of salt in the food. In return she retaliates by refusing to carry his child. “I do not want to carry a child to bring it into a world because I was raped within a marriage, on a bed where my “no” held no meaning.” (195)

Manju Kapur’s *Home* brings into focus the issue of sexual abuse of children and the consequent silencing of the victim. The young Nisha falls prey to the evil designs of Vicky when she goes upstairs to play snake and ladder with him. An intent look came on his face, his gentle fingers kept up a steady stroking. He began to trace the elastic of her panties all around the leg. ‘What are you doing? Chee, that’s dirty, take your hand away, ‘she cried, but Vicky was in no state to hear her... Nisha wriggled even more frantically - “I’ll tell everybody how dirty you are”...but his grip tightened...she tried to draw her legs up and away from him but he forced himself closer. Nisha starts crying but Vicky continues with his sexual abuse and uses her little hands to masturbate- “Vicky gripped her wrist so hard and painfully that her fingers opened around the big dark thing” (57).

Nisha is haunted by her sexual encounter and in the days that followed she grew silent. As much as she tried to block the ‘filthy’ image from her mind “it proliferated, grew large and terrifying” (59). On the other hand, Vicky’s preoccupation with Vicky increased and he starts making excuses to come home

early. He was always on the lookout for opportunities to get Nisha alone. He excused his behaviour with “she was too young to understand what was happening, and then he really wasn’t doing anything bad to her” (59).

Vicky’s sexual exploitation of Nisha is an example of the intimidating patriarchal power structure that renders women susceptible to sexual exploitation and incapacitates them to avert sexual intimidation. Nisha experiences a sense of isolation and a desire for maternal protection. She encounters extreme psychological distress and wakes up crying and “In the nights to follow the child’s screaming became worse” (64). What makes her situation more pathetic is that her mother Sona refuses to let her sleep in their bed because of the fear that she would disturb her brother Raju’s sleep. When Sona’s sister Rupa offers to take Nisha to their home Sona is torn between objecting to the idea that anything in the house could frighten her daughter and agreeing because there seemed no other solution. Manju underscores the fact that home, which is regarded a place of safety and security for girls turn out to be a place of sexual exploitation.

There are statutes pertaining to sexual abuse of children. These laws include sexual abuse as one of the forms of maltreatment that must be reported and investigated by girl child protection agencies. In certain cases, courts may remove children from their homes to protect them from further abuse. Girl child protection statutes are generally applicable to situations in which offenders are the caretakers of the children. Criminal laws prohibit certain sexual acts and specify the penalties. The Protection of Children from sexual offences Act 2012 was enacted to protect children from offences of sexual assault, sexual harassment and pornography and to provide for establishment of special courts for trial of such offences and other matters connected to it. The POCSO Act, 2012 (Act No. 32 of 2012) has provided protection of children from offences of sexual assault, sexual harassment and pornography. It also provides for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto. With the adoption of this Act, India now has a comprehensive law to protect children from such offences and to safeguard their interests at every stage of the judicial process by adopting children-friendly mechanisms.

Despite legal protections, majority of cases of child abuse go unpunished for a variety of reasons including the private nature of the crime and lack of understanding in the victims that they have been sexually abused- “she was too young to understand what was happening” (*Home* 59). Victims of child abuse are frequently led into believing that the abuse is their fault and while some children rage and rebel others become quiet and compliant. Nisha in *Home* is cajoled into silence by Vicky, “We are not going to tell anybody about this ...this is our secret” (*Home* 57). In “A rally against rape” MacKinnon makes the observation that, “of the reasons raped women give for not reporting rape, the most common is fear of retribution” (82). In Nisha’s case too, the fear of retribution appears to be one reason she remains silent. After abusing her, Vicky warns her with “it’s our secret. If you tell anyone, they will beat you and me” gripping her by the arm he continues, “no one must know. No one. You understand” (*Home* 58). To which Nisha “nodded wordlessly” (58) and when they reached downstairs “Nisha stood silently, staring at the game in the hand” (58). It is very common that cases against abused children go unreported as observed in the report by the Justice Verma Committee, “We have seen that complaints made by women and trafficked/ abused children are not promptly registered (or at all) by the Police” (48).

An integral component of the traditional Indian society is the dowry system which remains one of the greatest curses of the Indian society in spite of its abolition through The Dowry Prohibition Act, 1961. In India, it is said to have its origins in the medieval ages when gifts in the cash or kind was given by the family of the bride to maintain her independence after marriage. The code of Manu permitted dowry in ancient India but it was restricted to the Brahmanic classes only. In the Vedic period the marriage rites were associated with Kanyada, or the giving away of the bride. The Dharmashastra lays down that the meritorious act of Kanyadan was incomplete till the gift of dakshina (donation) was given to the bridegroom. When the bride is given to the bridegroom, he had to be given something in cash or kind which constituted the varadakshina. Hence Kanyadan became associated with varadakshina which was offered out of affection and not out of compulsion. Within a course of time the voluntary nature of the dowry disappeared and a coercive element crept in

paving way for the sacred bond of marriage to transform into a business deal, assuming the nomenclature ‘dowry’.

There has been a discernible increase in the number of Indian brides who have been recorded as having died in their early married years under suspicious and mysterious circumstances. The cause of death has been constantly documented as kitchen fires. It is the most tragic of all deaths caused by their spouse or in-laws due to failure to provide sufficient dowry. Violence associated with dowry and bride burning is most common in the Indian society and is said to be a culture specific behaviour where the husband along with his family join together to persecute the bride, taunt them for dowry to the point that their lives are put in danger and are even lost at times. In such marriages women are beaten, tortured, burnt to death or forced to commit suicide on account of dowry after the solemnisation of marriage. Social reformers of the 19th and early 20th century fought for the abolition of the dowry system and other social evils. Before the enactment of the Dowry Prohibition Act, 1961 various laws were enacted that failed to achieve their intended purpose. The evils of the dowry system continued to grow to enormous proportions compelling both the state legislature and the parliament to propose a bill for the eradication of the system. The Dowry Prohibition Bill was finally passed in the joint sitting of both houses of Parliament and received the assent of the President on 20th May 1961.

In spite of the proliferation of The Dowry Prohibition Act 1961, dowry deaths continue to take place in the country. This aspect of social reality is presented through the life and death of Sunita, Banwari Lal’s daughter in *Home*. Sunita is married to Murali, a jobless man of dubious nature. His greed for his wife’s wealth is reflected in these lines:

Murali wanted her family to invest in Bareilly, to either open an outlet that he would manage, or failing that, to help upgrade his shop. Her dowry had been small, he demanded redress. They are cheating you, they palmed you off like a poor girl, now they are rich, and they should share. (*Home* 17)

Sunita would not exploit her father and she resisted her husband’s demands. As a result of her resistance, she loses her life – “There had been an accident in the

kitchen, and Sunita had died of burns in the hospital” (17). Murali is an abusive man, responsible for his wife’s death, “...always on the lookout for money. And that was the real reason for Sunita’s death” (20). The greatest irony in all of this is that women, who are victims of dowry and its evils, happen to be perpetrators as well. In *Home*, Maji who knows how her daughter had suffered in her husband’s home due to dowry demands ironically expects her daughters in law to bring huge dowry, “The bride had to bring a dowry, come from the same background, and understand the value of togetherness” (3).

This is a social reality, one that proliferation of laws cannot change as it involves change of attitude. A huge dowry assures an important position in the Banwari household. Sona’s sister in-law, Sushila is accompanied by a huge dowry which earns her a special place in the family. The tenants were asked to move to accommodate Sushila, as a bride of her quality could not be asked to share a dining room:

Silently Sona watched as Pyare Lal’s father –in –law gifted a scooter to his future son-in –law and furnished the four rooms of the second storey with a fully stocked kitchen, fridge, cooler, double bed, dining table, chairs and an upholstered sofa in red velvet. She realized as she had not realized three years ago, how poor in gifts her own marriage had been. (12)

This makes Sona feel inferior to Sushila. Though longing to live upstairs, she was not permitted to do so as she did not bring along the dowry expected by her in-laws. But Sushila who came with a huge dowry starts living upstairs. Even though taking of dowry is prohibited by Indian laws, it still plays an important role in the Indian Marriage system. The Banwari family is also not free of its influence. Vijay’s marriage to Rekha is fixed only after - “The girl had been seen, the boy had been seen, the prices agreed upon...” (159). In return, the Banwari Lals are ready to offer dowry for Nisha’s marriage:

This was a positive sign, they declared after the visit was over. With a girl as beautiful as their Nisha, affection was guaranteed with just a glance. After the

dowry and marriage date were finalized, the pundits would be consulted on ways to covert the inauspicious into the auspicious. (220)

Among the various crimes committed against women such as dowry deaths and rape, domestic violence is recognised as the leading cause of injury to women across the world. Domestic violence is one of the most common forms of gender-based violence. Some feminists prefer to use the term “women abuse” or “male battering of women” to highlight the fact that women are most often the victims of the violence. The use of the term “domestic” has raised concerns because of its implication that the crime is domestic in nature, obscuring the wider dimension of domestic violence. Case studies also reveal that due to the private nature of the crime, many perpetrators go unpunished as families prefer to settle matters within the four walls of their homes. Susan Scheter, a visionary leader in the movement to end family violence has given the definition:

Domestic violence is not simply an argument. It is a pattern of coercive controls that one person exercises over another. Abusers use physical and sexual violence, threats, emotional insults and economic deprivation as a way to dominate their victim and get their way. (1)

Domestic violence has been recognised as a criminal offence since 1983 under Indian Penal Code 498-A. With the enactment of the Protection of Women from Domestic Violence Act 2005 (PWDVA), which came into effect in 2006, civil protections were provided to victims of domestic violence. The act provides a definition of domestic violence that is comprehensive and includes all forms of physical, emotional, verbal, sexual, and economic violence, and covers both actual acts of such violence and threats of violence. Moreover, the act recognises marital rape and covers harassment in the form of unlawful dowry demands as a form of abuse. An important requisite of the act is the appointment of protection officers to assist victims, stresses made on the importance of collaboration between the government and external organisations to protect women. Though the act was primarily meant for protection of wives and female live-in partners from domestic violence from the husbands or male live-in partners or their relatives, the act has

been extended to include protection of women living in the household, such as sisters, widows, or mothers. The Protection of Women from Domestic Violence Act, 2005 provides a broad definition of 'Domestic Violence' which includes not only physical violence but also other forms of violence such as emotional/verbal, sexual and economic abuse. Relief can come in the form of protection order (s.18), residence order (s.19), monetary relief (s.20), custody order (s.21), compensation order (s.22), interim/ex-parte order (s.23) breach of protection order (s.31). However, despite the proliferation of the act, violence against women and girls continues to be a major issue.

The National Family Health survey-5 has reported a very interesting pattern. Women's experience of physical violence increases with age, from 16 percent among women age 18-19 to 32 percent among women age 40-49. The experience of violence is less common among never-married women than among women who have ever been married. The experience of physical violence is more common among women in rural areas (31%) than among women in urban areas (24%). Women's experience of violence declines sharply with women's schooling and wealth. By schooling, the percentage of women who report physical violence declines from 39 percent among women with no schooling to 17 percent among women with 12 or more years of schooling. Similarly, the experience of physical violence ranges from 38 percent among women in the lowest wealth quintile to 17 percent among women in the highest wealth quintile. Women who are employed are more likely to experience physical violence than women who are not employed. For example, 36% of women who are employed for cash, compared with 25% of women who are not employed, have experienced physical violence since age 15 years.

Despite the enactment of numerous laws protecting women from violence, Indian women continue to be victims of violence both outside of their homes and within the four walls of their homes. Violence against women is gaining more recognition and counter-reaction the world over. This crime that pervades the society is the main theme of Ilavenil Meena Kandaswamy's *When I Hit You, Or, A Portrait of the Writer as a Young Wife*. Kandaswamy is a poet, fiction writer, translator, activist based in Chennai. *When I Hit You* gives an account of her own marriage to a

university lecturer, a Marxist and a onetime revolutionary. The author recounts her violent marriage that began with the stripping of her autonomy, which advanced to mental, economic and physical assault until she finally asserts herself by running away from her husband and writes her own story.

Elizabeth Williers Gemmete in her article, “Filling in the Silence: Domestic Violence, Literature and Law” talks about the complexities of understanding domestic violence “unfortunately, understanding domestic violence comes with its own set of difficulties because of the silence surrounding it. In the area of domestic violence, silence fills volumes” (93). She recommends using literature to fill in the silence surrounding domestic violence. Kandaswamy’s *When I Hit you* has been explored to understand the nuances of domestic Violence. The unnamed protagonist escapes from her abusive husband and her mother has been telling her story to relatives, neighbours and circle of friends. Her mother’s story focuses on the physical abuse, the escape, her thinning hair infested with lies and her cracked heels. It is at this point that the author decides to tell her own story and narrates the events that make up the novel.

Feminist Legal theory examines how gender has mattered in the development of law and how men and women are differently affected by the power of law. It explores women’s subordination through the law and makes an attempt to uncover the implicit hierarchies that are contained within a body of law. Feminists have tried to uncover the nature and extent of domestic violence by gathering statistics and seeking a deeper understanding through case studies. The nuances of domestic violence have been explored through a study of the selected text in light of certain legal provisions and theoretical foundations. Through the narratives gathered from these sources this study tries to highlight the different aspects of Domestic violence and attempt a theoretical understanding of it. In Kandaswamy’s *When I Hit You* the author shares her own experience of a marriage where she was exposed to extreme violence at the hands of her husband. Her story is told through an unnamed narrator who decides to take some responsibility over her own life and writes her own story.

Chamallas had asserted that the most significant contribution made by the feminist writer towards the understanding of women's experience of domestic violence has been to explain domestic violence as a mechanism of male power and control. Battering is a way of organising a relationship so that men continue to feel superior to women. Susan Schechter in her book *Women and Male Violence* had described how, many abusers start with a sense of entitlement and how men see themselves as rightfully in control of their partners and how aggrieved they feel when they assert independence. Steven R. Tracy has also pointed out that literature on abusive men repeatedly notes that "a primary characteristic of abusive men is a sense of entitlement and superiority over their wives and children, quite possibly because of their own insecurities and need for power and control" (589). He has quoted Nomme Russell:

The belief in the superior self, with the man being dominant in an inherently hierarchical relationship, was one of the fundamental aspects of abusive men's belief systems. Competitiveness, an intrinsic part of male socialization, is reflected in abusive relationships in the assumption that positions in relationship are defined by who is greater and lesser. For abusive men, retaining dominance and superiority were essential in their relationship with their intimate partners. Challenges to dominance by partners were viewed as insurrections requiring coercive action. (589)

The feminist narratives reveal a dynamic of domestic violence, a pattern of abuse, which includes not only punching, shoving and other forms of physical violence, but a complex of actions that one commenter, calls a "regime of private tyranny" (Chamallas 2). Susan Schechter makes an important observation that, "[w]omen's self-assertion through jobs or school particularly infuriates some [abusive] men" Battering may begin or escalate when women try to become more autonomous or receive recognition for their work" (220).

The protagonist in *When I Hit You* is forced to live an isolated life after they move to her husband's place of work. In her isolation it was facebook that helped her promote her work, provide her news and has transformed into her only remaining

professional link. Believing that being on facebook is “narcissism”, “exhibitionism” and “a waste of time” (50) he forces his wife to disable her account:

In my precarious situation, when he wants me to cut myself off from facebook, I know that it is an act of career suicide. Right now, arguing with him will not get me anywhere. I simply count myself lucky that he asks me only to ‘deactivate’ and not actually delete my facebook account. (Kandaswamy 52)

Domestic violence frequently extends beyond physical act of violence. Abusers often resort to coercion and intimidation to gain control over their victims. Isolating their partners is one-way abusers exert their power over their victims. It is a very common pattern in domestic violence to deprive the victims of their identity. Abusers may display jealous behavior when their partners accomplish great success or become independent. Chamallas has made the observation that:

Battering may begin or escalate when women try to become more autonomous or receive recognition for their work. Women are often forced to leave jobs and training programs and go back on welfare when the men in their lives pressure or intimidate them because the men are jealous of their freedom and money that even minimum-wage jobs seem to offer these women. (257)

Domestic violence can manifest itself in various forms and with varying intensity. Abusive behaviour may start subtly and gradually progress to something more physical:

Denial of a woman’s autonomy may be as significant as the use of physical force. Many Batterers set out to deprive a woman of any voice or vote on important matters in her life, setting restrictions on dress, food, mobility, and friendships. (Chamallas 258)

Kandaswamy describes how her identity is slowly erased by her abusive husband. The abuse begins with verbal abuse, isolation and escalates into physical torture:

I should be a blank. With everything that reflects my personality cleared out. Like a house after robbery. Like a mannequin stripped of its little black dress and dragged away from the store window, covered in bed sheet and locked off in the godown. This is the plainness that makes him pleased. This plainness that has peeled away all my essence, a plainness that can be controlled and moulded to his will. This is the plainness that I will wear today, this plain mask on a pretty face, this plainness that will hide me, this plainness that will prevent arguments. (Kandaswamy 16)

Another pattern of abuse is stripping a partner of their identity and isolating them from their close ones. If her forced disappearance from facebook was not enough she was also asked to share her email password with him. After a month of marriage, she discovers that her husband has been answering her email which constitutes an invasion of privacy:

He opens his own inbox and shows me that he has been replying to his emails by signing both our names at the end of every message. I find that my name has been co-signed in letters to students, in group emails to his activist friends, in making book recommendations to his colleagues, in querying for a postcolonial studies research conference, for all sundry little shit. I feel nauseous. I feel robbed of my identity. I'm no longer myself if another person can so easily claim to be me, and assume my life while we live under the same roof. (55)

Her husband does not stop at opening her mails. He deletes 25,600 emails from Gmail inbox. All at one go. To prevent her from writing to the Gmail help team to restore her emails he changes the password to something she does not know and cannot guess. All the drafts of poems she sent friends, emails from friends and official emails are all gone. He erases everything on her hard disk till everything about her life as a writer is gone:

There are no contacts. There is no email conversation that I can return to at a later date...There is no past. I am rendered a blank slate. My husband's

liberation comes from what he calls annihilating all material basis of your engagement with the past. (140)

The description that Kandasawmy makes of her own isolation from society corresponds to the patterns that are identified by Chamallas in her observation:

Domestic violence often produces relational harms. It is not uncommon for the abusing spouse to isolate his partner from the support of friends and family, sometimes causing an especially virulent form of false imprisonment (258).

Kandaswamy's unnamed protagonist believes her case 'fits a pattern' and, "the first to go was my phone" (56). On the pretext that it was not economical to maintain a number of another state her husband suggested that she get a local number. After getting rid of her old number and waiting religiously for ten days she procured a new number which was not to be shared "indiscriminately" to friends, media or the publishing industry. Her online access became curtailed to three hours a week "in his presence" (59). She is allowed only three hours of internet which she found more intolerable than loss of telephonic conversation. He tries to impress upon her that she is "addicted" to internet and the restriction is for her own her good, a justification to which her parents readily agrees.

Kandaswamy's experience of violence grew from psychological abuse and isolation to physical abuse to which she became accustomed:

I am the wooden cutting board banged against the countertop. I am the clattering plates flung into cupboards. I am the unwashed glass being thrown to the floor. Shatter and shards and diamond sparkle of tiny pieces. My hips and thighs and breasts and buttocks. Irreversible crashing sounds, a fragile sight of brokenness as a petty tyrant indulges in a power-trip. Not for the first time and not for the last. (131)

The image of the battered woman has been included within the term "battered women syndrome" (Chamallas 261) in the legal context. The term as used by psychologist and feminist litigators refers to the long-term effects of violence on

battered women. The theory of “learned helplessness” which was popularised by Lenore Walker is applicable in the case of battered women. It is very common for the victim to feel she cannot control what happens to her and that resistance or escape is impossible. Walker uses the analogy of dogs exposed to random electric shocks. Once the dogs are habituated to the idea that there was nothing, they could do to prevent the shocks, they “Ceased any further voluntary activity and become compliant, passive, submissive”. Their helplessness prevent escape when escape was possible- “even when the door was left open and the dogs were shown the way out, they remained passive, refused to leave, and did not avoid the shock” (Walker 45-46).

The opening lines in Chapter five of *When I Hit You* poses the question “What prevents a woman from walking out of an abusive relationship?” Old school feminist would blame economic dependence of wives on their husbands. The analogy made by Walker between the dogs and battered women explains why a victim remains in an abusive relationship. Kandaswamy describes in the novel:

That’s how the once-upon-a-time fiery feminist becomes a battered wife. By observing, but not doing anything. By experiencing, but not understanding. By recording but not judging. By getting used. By no longer being the outsider. By becoming the specimen in a lab, by becoming the case study. (144)

The fear of social stigma and family is a leading cause that prevents women from reporting their experience:

The difficulties such women confront stem in large part from the lack of social support for their decision to leave: the unavailability of shelters; the disapproval of family, friends, or counselors; and the risk that their actions might later jeopardize their right to custody of their children. (Chamallas 261)

The NHFS - 5 reveals that out of all women who have ever experienced any type of physical or sexual violence, only fourteen percent have sought help for the violence and seventy seven percent have never sought any help nor have told anyone

about the violence they had experienced. Among women who have experienced physical or sexual violence and sought help, the most common source of help was the woman's own family followed by the husband's family and friends. In many instances, parents do not take side with the victims. Kandaswamy's heroine turns to her parents for support, and they take turns in trying to convince her to remain in her marriage. Her father attempts to convince her to remain silent, arguing that her experience is not uncommon and that it is merely a matter of ego:

Do not raise your voice. Do not talk back. Yes, I know. It is difficult. But remember, only if you respond he is going to talk back and things escalate. Silence is a shield and it is also a weapon. Learn how to use it. Why else do we say, *amaidhiya ponga*? Silence is peace. You cannot make peace unless you hold your tongue. (157)

She is given false assurance by her mother - "you will have to give him time. He will come around" (158). It is a pity that in many cases like this, parents are more concerned with what the society will think - "If you break off your marriage, everyone in town will mock me. They will say his daughter ran away in less than six months. It will reflect on your upbringing (159).

Reva Siegel's "The rule of love": Wife Beating as prerogative and privacy provides a very comprehensive history of domestic violence. Siegal talks about how, until the mid-nineteenth century husbands had explicit right of "chastisement", over their wives. In effect the husband had legal rights or prerogative to inflict corporal punishment on his wife. However, a limit was set and violence was not to be condoned unless it was induced as a means to bring about submission. As long as the husband was acting within his rights as the head of the household, use of force against his wife was legitimated and not likely to be seen as "violence". The ancient Indian text *Manusmriti* reveal that beating women was sanctioned when they committed mistakes or acted without their husband's permission. Akhil Gupta had observed that:

Domestic violence and patriarchy are a sociological problem in the Indian society which has been going on from as long as ancient times i.e from the

laws of Manu promoted for violence against the wife if she is unfaithful to husband. (402)

In Europe, during the medieval period, husbands had the right to ‘chastise’ or physically discipline their wives, servants and apprentices. Domestic violence was not recognised as a crime by most legal systems till the late 20th century. It was seen by the courts as a ‘family problem’ which should be solved privately. It has been stated that, “The phenomenon of domestic violence is widely prevalent but has remained large invisible in the public domain” (Verma 50). The 1967 international training manual for police chiefs stated that in dealing with family disputes, the power of arrest should be exercised as the last resort. The U.S feminist movement in the late 60s and 70s brought a change to this. The movement focused on the criminalisation of domestic violence and the slogan ‘we will not be beaten’ was popularised. In India, around the same time the autonomous women’s movement raised awareness on the issue of violence against women, especially on sexual assault and dowry-related deaths.

The Indian Penal code was amended to criminalise cruelty by a woman’s husband or in-laws as a punishable offence. It was limited to dowry-related cruelty or extreme cruelty which is defined as that which cause grave injury or drive a woman to suicide. The enactment of the landmark act broadened the scope crime to include verbal abuse, emotional abuse, sexual abuse and economic abuse. Domestic violence has the highest re-occurrence rate which indicates that it is rarely an isolated incident. In reality, it originates from a systematic problem with power dynamics within families. In most cases, girls are socially conditioned into believing that keeping their husbands and in-laws happy is an essential part of their marital duties. Men’s control over their wives after marriage is socially sanctioned. According to the conflict theory, “marriage is one of the basic means by which men maintain their control, domination, and exploitation over the women. Challenging domestic violence is not just about questioning the physical act of violence. It involves dismantling of power structure or structural disempowerment women face within their family and marriages. Linda Mshweahwe had quoted Dobash and Dobash that, “The feminist approach argues that domestic violence in heterosexual relationships is

a consequence of social structures and practices, in which men dominate, oppress and exploit women” (1).

Reva B. Siegal opined that class and race bias has long infected attitudes about the prevalence of domestic violence. Wife- beating was known to be prevalent among men of lower classes. Attitude towards the nature of marriage had changed through the ages and the idea of wife beating as a legal right became a misnomer. With the acquisition of formal rights by women to act as independent persons, “the concept of marriage as a hierarchy, with the husband as the master and the wife as a subordinate, slowly gave way to a more egalitarian conception of companionate marriage” (Chamallas 265). However, Siegal remained sceptical whether these changes this ideal of equality brought about an end to domestic violence. She argued that instead domestic violence was put under a shield by transforming and modernising the “rules and rhetoric surrounding it” (qtd. in Chamallas 265). Husbands no longer had legal rights to hit their wives, but when they did, they were often afforded immunity by societal belief system and the victim is often left to help herself:

It does not cross their mind that a woman who is being beaten is intimidated into feeling, believing, knowing that to ask for help from others will only put her at greater risk. In their questions and their responses, I come to know that even those of them who mastered the theory have not lived through the experience: they lack the insight that a woman being abused can mostly trust one person for help. Herself. (Kandaswamy 220)

A very common question that is often asked is what makes a woman stay in an abusive relationship. Economic dependence of women on their husbands is one reason why women do not walk out. In *When I Hit You* Kandaswamy rationalises why it’s easier for economically independent women to walk out of abusive relationships:

Old school feminists will speak about economic independence. A woman is free if she has the money to support herself. With a job, she will find her feet. If she has a job, it will miraculously solve all her problems. A job will give

her community. One day she will walk into the office, and they will ask her about the bruise above her eyebrow and she will say she walked into a wall, but they will know it is her husband hitting her, and they will wrap her up in a protective embrace. In the framework of a job, a woman will find that one female friend who will see her through thick and thin. The job will create a support group for her, people who will give her access to the police, to the lawyers, to the judges. (65)

Many victims undergo a trauma that is no less destructive than the physical beatings, which is a questioning of their character. Society easily puts the blame on the victims in many cases, doubting their stories and even going to the extent that they deserve to be physically abused, “The worst attacks blame me. What kind of feminist was she? ...And then the poser: if she was indeed abused why does she weep to the national media, why does she not go to the police?” (223). Kandaswamy’s protagonist is suspicious of the system that appears to be indifferent:

Tradition never goes out of fashion. Remaining in public memory, it wears new clothes. In India, a bride is burnt every ninety minutes. The time it takes to fix a quick dinner. The time it takes to do the dishes. The time it takes to wash a load of clothing. The time it takes to commute to work. This is the official statistic- the deaths the police do not even bother trying to hide in semantic. The real truth lies in the wailing that never ceases at the burns wards of hospitals.

Stuck here alone, I count the passage of hours by the number of brides who have been burnt to death. At least a hundred women reduced to their charred remains every week. Their murders written away as suicides or mishaps, a test of fire where no wife returns alive. (187)

According to Kate Millet, violence and domination seem to be the main weapon through which the unequal power relation in the area of sexual politics is maintained. The main issue raised by Millet is that patriarchy is the main cause which dominated women often leading to violence. In *Sexual Politics* Millet

highlights the fact that power is exercised in the society by subjugating women and emphasises the need to give power to women to develop their status. She observes:

Patriarchy dominates and subordinates the female to the male or treats the female as an inferior male. Power is exercised directly or indirectly in the civil and domestic life to constraint women. (137)

Steven Tracy had observed that various religious feminists and egalitarians have posited that the ultimate and necessary cause of all abuse against women is patriarchy. There is a tendency to indict patriarchy in any and all its forms as the causal factor of all abuse against women. Carolyn Holderread Heggen had observed:

The inherent logic of patriarchy says that if men have the right to power and control over women and children, they also have the right to enforce that control... Domination and glorification of violence are characteristics of patriarchal societies...In patriarchy, women and children are defined in relation to men who control the resources and the power. Women and children are the other, the object. Men are the norm, the subject. In a dominance-and submission social order, there is no true mutual care. Subordinates are to care for the needs of the dominants. (85)

Similarly, Rosemary Radford Ruether is quoted by Tracy. “Domestic violence against women – wife battering or beating – is rooted in and is the logical conclusion of basic patriarchal assumptions about women’s subordinate status” (577). It has been posited by Chamallas that activists face enormous difficulty in implementing strategies that would prevent sexual violence and domestic violence. The basic pattern of male domination which has been identified as the leading cause of sexual violence continues to persist over a long period of time despite legal reforms. Most feminist scholars have agreed to the notion that privacy and private relationships stifles change. Chamallas has quoted the argument put forth by Victoria Nourse:

The veil of relationship surrounding date and marital rape and domestic violence still has the ability to lessen or diminish these crimes in the public’s

view, perpetuating the attitude that the “violence was chosen by choosing a relationship.” (264)

In the Indian scenario the social structure, the patriarchal notion of ownership, age old prejudices, customs and religion have been responsible for putting the women in a subservient condition. The likelihood of removing gender violence without disturbing the patriarchal structure is very slim. B. R Sharma and Manisha Gupta have made the following observation:

The phenomenon of violence against women from patriarchal notions of ownership over women’s bodies, sexuality, labor, reproductive rights, mobility and level of autonomy. Deep-rooted ideas about male superiority enable men to freely exercise unlimited power over women’s lives and effectively legitimize it too. Violence is thus a tool that men use constantly to control women as a result of highly internalized patriarchal conditioning coupled with legitimacy for coercion to enforce compliance and increasing aspirations, frustrations and ‘might is right’ becoming a legitimate view and increasing need for assertion of individual egos and control. (117)

While there is considerable evidence to show that patriarchy is the cause of all abuse against women it would, however, be wrong to maintain that it is the only cause of violence against women. Gender-based violence is a common occurrence in every segment of the society regardless of class, ethnicity or country. There is a growing consensus that there is no single factor to explain certain violent actions of abusive men against women. Factors such as poverty and low status of women have also contributed to gender-based violence. Studies have revealed that it is a result of complex interplay of individual, social, relationships, cultural and environmental factors. It has been noted by researchers that there are biological and psychological causes as well. Cynthia Ezell has stated that:

Patriarchy is not responsible for an individual husband’s violent action toward his wife. It does, however, create an environment ripe for abuse. A weakened immune system does not create the virus that leads to deadly infection, but it provides the environment in which the virus can thrive and do

its killing. Patriarchal beliefs weaken the marital system so that the deadly virus of violence can gain a stronghold. (39)

Recent studies have also revealed that the Covid-19 Lockdown has created an ideal environment for increased violence against women thus creating a nexus between violence and psychological health. Clara Canon, in her paper entitled “Covid -19, Intimate Partner Violence and Communication Ecologies” has explained that the increased social isolation during Covid -19 has led to extra stress causing mental health issues and increasing individuals’ reaction to stress through means such as violence. It has been observed that Covid-19 lockdowns “has exacerbated mental health problems, such as depression and anxiety... they have most likely contributed to a separate epidemic of physical violence and mental health issues” (1).

In India, as well as in other countries, there are traditions that approve male superiority, to a point they justify gender violence. Akhil Gupta had identified several theories relating to violence and its subsequent effects. According to the theory of functionalism each section of the society contributes to the stability of the society and that in case of domestic violence in families, children are affected with a resultant effect on their education. The structural theory has attributed socio-structural factors as the reason for violence. According to this theory large scale variables such as socio-cultural structure, poverty, race and social classes are responsible for domestic violence. Conflict theory focuses on economic resource inequalities and differential distribution of power in the family and society as causes of violence. Social learning theory establishes that individuals learn to behave through the experience and exposure to violence. Patriarchy theory attributed the patriarchal social set-up as one of the causes of sexual violence, “Patriarchy leads to suppression of women and leads to pattern of systematic violence against women and children who are directly affected due to violence at home (386). Legal sanctions and sanctions imposed by the society against perpetrators will have to be implemented more effectively to curb the evil. Due to the multiplicity of the causes to gender-based violence, eradication of the problem will involve a concerted effort from all corners of the society.

The opinion of the Report on Committee on Amendments to Criminal law on enactment of the Protection of Women from Domestic Violence Act, 2005 is an eye-opener:

While the enactment of this statute was a welcome measure, it has not led to a reduction in instances in instances of domestic violence. This is primarily because there has been no change of fundamental attitudes towards women, The passing of legislation without adequate dissemination of implementing the spirit of the legislation as part of normative human conduct is missing in Indian executive governance. (51)

The committee holds the opinion “that the translation of legislation into behavioural attitudes is not simply a matter of psychological skill or acquisition but is indeed a charter of obligations enjoined upon the State” (51). The committee suggests that the state with all its resources of the media, educational institutions, and executive governance needs full-time long-term advisors to monitor the condition of women from different standpoints and characteristics.

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Chapter 4

Matrimonial Matters Relating to Women

This chapter examines matrimonial matters and personal laws relating to women in the selected texts. Marriage can be described as a basic institution in all progressive societies which has been ordained to protect the society from immoral acts and ensure continuance of the chain of society. In many societies, marriage is perceived as a sacrament. However, in the present age marriages have begun to take the form of a contract which is bound by legal rules and regulations. Norms for regulation of marriage differ from place to place and from society to society. In the Hindu society marriage is considered a “Samskara” or a purificatory ceremony which is obligatory for every Hindu. Hindu religious books have enjoined marriage as a duty because an unmarried man is not eligible to perform certain religious ceremonies. Marriage is a relationship that is defined and sanctioned by custom and law. In the patriarchal society of the Rig Vedic Hindus, the wife was considered the property of man and was referred to as *ardhangini*, or life partner. Marriage is one of the essential samskaras for every Hindu and was conceived as a sacramental union by the traditional Hindu law. This implied that marriage between a man and a woman is one of religious and holy nature, not a contractual Union:

Marriage was made obligatory for all girls by about 300 B.C. for the society found that there were pitfalls in the path of an unmarried woman than those in the way of an unmarried man, as it prevented sexual immorality to a great extent. From the religious point of view, says a Vedic passage, a person who is unmarried remains unholy and is not fully eligible to participate in sacrament (Jain 19).

Menski quotes Professor Derrett in his book *Hindu Law: Beyond Tradition and Modernity* emphasise his point that Hindu marriage is first and foremost a matter of social conventions and ritual elaboration which involves the dramatisation of social norms and all kinds of related beliefs:

In the traditional Hindu system of marriage, there was no role for the state, as marriage remained a private affair within the social realm. In the traditional system, the solemn performance of a long sequence of traditional Hindu marriage was assumed to evoke mental awareness of being married, both for

the spouses concerned and for those who celebrated the marriage with them and witnessed it. (Menski 273)

Hindu Marriage cannot take place without the sacred rites and ceremonies. Being a sacramental concept implies that it is a permanent union that cannot be untied once it is tied. Marriage, being a sacrament, is performed for *dharma* and not for pleasure. Hindu marriages are governed by Hindu Marriage Act and Special Act which regulates the marriage. According to Hindu thinkers, the highest aim of marriage was *dharma*. Upon marriage the sacred fire was enkindled and the householder has to perform 'Panchamahajan' in the wife's company. In case a wife dies, the householder must take a second wife to perform religious obligations. Marriage thus, was fulfilment of one's religious duty and is therefore called "Sarira Samskara" which means purification of the body. According to this belief there is no salvation without marriage for an individual. Hence marriage was not an option but a necessity. Laws governing the Hindu marriage and family relationships derive their roots from the Smritis and Nibandhas (Commentaries and digests).

In *The Second Sex*, Beauvoir also talks about how marriage has always been a social necessity for women:

The destiny that society traditionally offers women is marriage. Even today, most women are, were, or plan to be married, or they suffer from not being so. Marriage is the reference by which the single woman is defined, whether she is frustrated by, disgusted at, or even indifferent to this institution. (451)

The Hindu marriage is based on the extinction of the father's dominion over his daughter and the creation of husband-wife relationship by religious function and it was considered sacred as it was performed for *dharma* which was the highest aim of marriage. The performance of the ceremony included rites based on sacred formula which were performed before Agni or fire. The union was considered indissoluble and irrevocable. The husband and wife were bound to each other not only until death but even after death. Marriage was considered a 'social duty' towards the family and the community and individual interest and aspiration were not of much significance. Emphasis was laid on a woman's chastity and she played a varied role as a wife:

Woman as a wife is denoted by the words *Jaya*, *Jani* and *Patni*, each indicating special aspects a wife holds. *Jaya* has the special sense of a share of the husband's affection, *Jani*, the mother of Children, and *Patni*, the partner in the performance of sacrifices. (Jain 19)

The Hindu Marriage Act, 1955 also provides that marriage is a sacrament with solemn pledge and not a contract to be entered by the execution of a marriage. Marriage according to the apostle of Divine Institution as quoted by Jain:

. . . is honorable in all instituted by God, in the time of man's primitive innocence, as the means of his happiness and perpetuity of his race. In every age this institution has been felt and acknowledged. Men, by experience, have found that it is not good for them to live in the state of celibacy and isolation. (18)

There is no particular form prescribed by the Hindu Marriages Act for solemnisation of the Union. The Act simply provides the conditions necessary for a valid marriage. The first condition laid down in Section 5 of the Hindu Marriage Act 1955 mandates that at the time of marriage neither party should have a spouse living at the time of marriage which indicates that polygamy or polyandry is prohibited. A court decision in the case *Shivonandh vs. Bhagawanthumma*, observed that marriage was binding for life because a marriage performed by *saptapadi* before the consecrated fire was a religious tie which could never be untied. Similarly in the case *Tikiat Vrs Basant* the court held that marriage under the Hindu Law was a sacrament, an indissoluble union of flesh with flesh, bone with a bone to be continued in the next world. In ancient India it was believed that the ideal conception of marriage is one in which the bride (*vadhu*) is given away as a ceremonial gift by her father to a bridegroom (*vara*) so that the purpose of human existence can be attained together. After one's marriage, it is believed that one has entered the second stage of life, the *Grishastha Ashrama*, which is the duty of a householder.

In the last few decades Hindu marriage has undergone several changes. These changes have taken place because of many factors, new norms and values. Whether it has continued to be sacred or whether it has become contractual in nature is

debatable. Exposure to other cultures and modernisation has given rise to hybridisation. Recently, an online article entitled “Hindu Priestesses fight the Patriarch, one Indian wedding at a time (uploaded 15th October 2021) featured the story of one lady by the name of Sharmishtha Chaudhuri, a PR professional in based in Austin, Texas who wanted her wedding to reflect her liberal values and equal partnership. She found Indian wedding traditions patriarchal as rituals are usually solemnised by male priests, the bride’s parents ‘give away’ or donate her to her in-laws and it is typically the bride, not the groom, who prays for her new family’s longevity and gets her forehead anointed with coloured powder to signify that she is married. Her mother found her four Hindu priestesses instead of a priest to perform a multilingual, egalitarian ceremony, stripped off patriarchal traditions.

In *Hindu Law: Beyond Tradition and Modernity*, Menski argues that Hindu Law is essentially flexible and is constantly evolving contrary to most modernist scholarship assumption that it is merely a relic of the past:

Despite its numerous traditional and modern elements, Hindu law today must be seen as a postmodern phenomenon, displaying its internal dynamism and perennial capacity for flexibility and realignment in conjunction with the societies to and in which it applies. Hindu Law has not remained mired in some distant past, as is often too readily assumed by modernist scholars who would not even know where to start studying this complex phenomenon, or who do not trust Hindu law to develop ameliorative internal mechanisms. (3)

Menski believes that Hindu law is very much alive and plays a significant role in the way courts interpret various aspects of law including the laws relating to marriage, inheritance, maintenance and divorce. He also suggests that it would be wrong to see the Hindu law as uniformly oppressive. His contention is that:

The study of Hindu Law has been neglected due to a combination of declining knowledge of its classical foundations and the pressure of modern political correctness to the effect that studying Hindu Law is often seen as a regressive activity, dangerous for minorities and, in particular for women. For many reasons, the label “Hindu Law’ still conjures up image of frightful

abuses such as sati, dowry murder, caste discrimination, untouchability and other atrocities in the name of tradition and religion. (4)

There is a popular belief in the modern era that marriage is legally binding. According to the Hindu beliefs, the four goals of life are *Dharma* (righteousness), *Artha* (wealth), *Kama* (pleasure) and *Moksha* (liberation) and marriage is considered necessary to achieve these goals. The main objective of marriage which was dharma appears to have been replaced by Kama or sex which in ancient times was the least desirable aim. It was the prerogative of the parents or guardians to choose the marrying partners till the end of the nineteenth Century. In the post independent India, the tendency of selecting one's partner has increased remarkably. The rules of Varna (colour), caste and sub-caste endogamy, Gotra and Pravara (both refers to lineage) exogamy have now been banned by legislations. Child marriage which was practiced in the past has also been banned by legislation. The Prohibition of Child Marriage (Amendment) Bill seeks to increase the marriage age of women from the existing 18 years to 21 years. Certain rites and rituals of marriage have been simplified to make it less time consuming. Some marriages have been performed in civil courts as a result of which the sacred nature of the rites and rituals has diminished to a considerable extent. Traditionally divorce was not easily granted as marriage was believed to be permanent. Due to the enactment of laws related to marriage and family and other factors the divorce rate has increased steadily. The old tradition prohibited remarriage of widows. The widow remarriage Act 1856 has allowed widows to remarry. In the traditional form of marriage, the father of the bride had to provide jewels and ornaments. Initially it was given as a token of love but in the course of time it led to the dowry system which has been prohibited by the Dowry Prohibition Act 1961.

Marriage is a prominent theme in the works of Manju Kapur. She has explored the nuances of modern marriage in its varied dimension. In the works of Manju Kapur the women characters are compelled to think of nothing but marriage and rightly so, considering the importance marriage plays in the Hindu society. Kishar Desai has observed, "Kapur has been a dedicated chronicler of the North Indian family and its woes for the past few decades, gathering much –deserved praise

for her meticulous observation of marital breakdowns and break-ups” (58). The nuances of marital relationships are projected and evaluated in her novels. Some of her women characters get into marital relationships because of social pressure. Some feel that marriage is a bondage and try to break away from it, while some of the characters try to adjust to make their relationships work.

In *Difficult Daughters* (1998) Virmati learns that there is nothing other than marriage for girls in her family as she recalls what her mother told her - “Still, it is the duty of every girl to get married” (15). According to Kasturi, who belongs to the first generation of women in *Difficult Daughters*, marriage meant pleasing one’s in-laws:

During Kasturi’s formal schooling it was never forgotten that marriage was her destiny. After she graduated, her education continued at home. Her mother tried to ensure her future happiness by the impeccable nature of her daughter’s qualifications. She was going to please her in-laws. (62)

Like many Indian girls she was expected to accept arranged marriage which she boldly refused. Marriage for Virmati’s family indicates parental pleasure and family prestige and her mother Kasturi reminds her of her duty to get married:

Shakuntala Pehnji did not have five sisters waiting to get married either. And do you think it makes her mother happy to have her daughter unmarried? She may say what she likes about jobs and modern women, but I know how hard she tries to find a husband for Shaku, and how bad she feels. You want to do the same to me? To your father and grandfather? (58)

Virmati is aware of her parental expectations that they want nothing from her but an agreement to marry. When she finally marries the professor, she is overcome with a feeling of relief and not of joy or happiness:

In the evening the wedding ceremony proceeded smoothly. The poet’s parents did the Kanya-daan, the seven pheras were taken, the couple pronounced man and wife. As Virmati rubbed her eyes, watering from the

smoke, she knew, rather than felt, that the burden of the past five years had lifted (202).

Virmati takes a bold step in marrying Harish but their relationship is far from idealistic. In describing the relationship between Virmati and the professor, Manju Verma had pointed out that:

The relationship between the two could have been an ideal between a man and a woman but unfortunately it becomes a story of an exploiter and an exploited, a union of un-equals, and an unusual tale of male chauvinism and woman's total submission. (171)

Conjugal roles are understood to refer to domestic and household responsibilities of cohabiting partners and may be differentiated into segregated conjugal roles and joint conjugal roles. Segregated conjugal roles mean that responsibilities within the household are clearly demarcated as male and female task. Traditional conjugal roles have been based upon male domination. In *Home* (2007) there is a clear demarcation of conjugal roles where men work out of home and women within. Beauvoir's description in *The Second Sex* highlights the unequal gender roles in marriage:

In marrying, the woman receives a piece of the world as property; legal guaranties protect her from man's caprices; but she becomes his vassal. He is economically the head of the community, and he thus embodies it in the society's eyes. She takes his name; she joins his religion, integrates into his class, his world; she belongs to his family, she becomes his other 'half'. She follows him where his work calls him; where he works essentially determines where they live; she breaks with her past more or less brutally, she is annexed to her husband's universe; she gives him her person; she owes him her virginity and strict fidelity. She loses part of the legal rights of the unmarried woman. Roman law placed the woman in the hands of her husband *loco filiae*; at the beginning of the nineteenth century, Bonald declared that the woman is to her husband what the child is to the mother; until the 1942 law, French law demanded a wife's obedience to her husband; law and customs still confer great authority on him: it is suggested by her very situation within the conjugal society. (454-5)

Marriage of a daughter is considered a sacred duty in *A Married Woman* (2003). According to the Shastras, performance of a marriage will lead to salvation, “When you are married, our responsibilities will be over. Do you know the shastras say, if parents die without getting their daughter married, they will be condemned to perpetual rebirth?” (1)

At the very beginning of the novel *A Married Woman* the conservative and traditional norms of upbringing for a girl child is depicted in the lines, “Astha was brought up properly, as befits a woman, with large supplements of fear. One slip might find her alone, vulnerable and unprotected” (1). She was brought up by parents who strictly followed the code and conduct of Indian Hindu family to avoid any risk that could blemish her character- “Her education, her character, her health, her marriage, these were their burdens. She was their future, their hope...” (1). Every day her mother prayed for a good husband for her daughter in her temple corner in the kitchen and insists that she prays too.

When Astha was in her final year of college she was married to Hemant, an MBA graduate and son of a bureaucrat family because she has reached a marriageable age – “The girl is blossoming now. When the fruit is ripe it has to be picked” (20). Initially she enjoyed the bliss of a married life becoming a mother of two and felt that her married life “was opening up before her in golden vistas” (42). She declares herself to be the most blessed creature in the world. Gradually, she becomes restless with her subservient position at home. She yearns to become more than – “A willing body at night, a willing pair of hands and feet in the day” (231). Her opinion in family matters seemed almost negligible as every decision is taken by Hemant. Like most married women she defines herself in relation to her husband, her children and her family. She seeks companionship from her husband but is disillusioned to find herself in a subordinate and subjugated position. Beauvoir’s statement is a befitting description of her state of existence:

He is a demigod endowed with virile prestige and destined to replace her father; protector, provider, teacher, guide; the wife’s existence is to unfold in

his shadow; he is the custodian of values, the sponsor of truth, the ethical vindication of the couple. (480)

Home also depicts a similar kind of attitude towards marriage. When Sona first entered the Banwari Lal cloth shop where she met her future husband, she was only seventeen. She had come from Meerut with her mother and sister to attend an uncle's wedding. Kapur narrates how, "it was necessary for marriageable girls to blossom during such occasions..." (2). In such gatherings there were likely to be boys or better still parents who "would cast a glance and holds it steadily upon her person. Then it was hoped subsequent enquiries would yield results" (2). When they shopped in Karol Bagh what was of utmost importance in Sona's mother mind was that her daughters should look their best for every function. Marriage is considered a top priority for girls. When Sushila receives a proposal of marriage from Pyare Lal she discontinues her college education right away – "...but marriage provided enough reason to discontinue her education" (12).

Anees Jung had described marriage as an ideal, "a sacrament, a bond forged between a man and a woman. Time has diffused the ideal. It has little to do with the act of love. It is more a social act that originates in need" (54). In a diverse culture like the Indian culture, it is forthcoming that the concept of marriages will also vary. Many people hold the belief that arranged marriage is the traditional form of marriage in India. However, love marriage is not a new concept as Hindu literatures suggest that love marriages were recognised and accepted in ancient times as seen in the legend of Dushyanta and Shakuntala in Mahabharata. The concept of love marriage has gained popularity especially in the urban areas. Marriage is influenced by socially determined rules and regulations. The Indian society had also witnessed polygamy and child marriage which fell within social norms at one point of time.

Arranged marriages have been in practice in India since the Vedic age and are still followed in many Indian families. Studies have suggested that a high percentage of Indians still prefer arranged marriages due to matchmakers, trusted matrimonial sites and parental influence. Arranged marriages are preferred as people of similar beliefs, cultures and traditions come closer in the events of such marriages and are

conducted with the blessing of elders. As couples usually do not have the option of choosing their partners, this form of marriage inhibits the rights of individuals to choose their life partners. According to the traditional Hindu Law, marriage is a performance of religious duties. Parents are morally obliged to find mates for their children, and the children in turn are to accept parental choice. Marriage is considered to be a union between two joint families rather than the coming together of two lovers, as such there was hardly any room for romantic love. The question of courtship did not arise and romantic love could result from arranged marriage and not the other way round. With the advancement in society the Hindu marriage has also undergone a change. Values attached to it have also undergone tremendous change. Modern sentiments encourage individual aspiration and will. Love marriage gained popularity as it gives freedom to individuals to choose their partners.

In her third novel *Home*, Manju Kapur opens her first chapter “Sisters” with a description of two sisters – Sona and Rupa. One was rich and married to a cloth shop owner and the other was poor and married to a badly paid government servant. One had a love marriage and the other had an arranged marriage. Kapur does not show which is better- arranged or love, each having its own complications. When Yash Pal falls in love with Sona he spent his nights in the throes of love. He threatens his family that if he could not marry her he would leave the shop and spend the rest of his life celibate by the banks of the river Ganges. His Parents do not take his threat kindly as they were traditional business people, and marriage is a transaction that would benefit them economically. The economics and politics of arranged marriages in a joint family are narrated by Kapur:

In order to remain financially secure, and ensure the family harmony that underpinned that security, marriages were arranged with great care. The bride had to bring a dowry, come from the same background, and understand the value of togetherness. (3)

Both Sona and Rupa are described as “childless”. However, Sona is later blessed with Nisha and Raju. *Home* traces the growth of Nisha as an individual. In her final year in college her parents begin searching for a groom but she declares her

love for Suresh who sadly backs out of the relationship due to family pressure. Ultimately her marriage is arranged through a process of matrimonial advertisement, the first to be practiced in the Banwari Lal family. In this arrangement her family's consideration for the prerequisites of caste, community, and like mindedness becomes evident. Finally, she marries Arvind for whom the marriage is neither out of love or personal intention but rather out of compulsion, "Arvind must marry, the old mother must have someone to look after her, it is not right, the place is so empty, son is busy in the shop, someone should be there to see, notice, care, and where are the children to come from?" (322)

In the novel *Custody*, Kapur deals with issues of arranged marriage and love marriage. Raman, an IIT, IIM graduate and a marketing executive is married to Shagun, a woman with extraordinary beauty – "Raman and Shagun's marriage had been arranged along standard lines, she the beauty, he the one with brilliant prospects" (14). Even though their marriage is an arranged one, Shagun is initially happy with her marriage. Soon she begins to feel bored and lonely due to Raman's long absence from home on professional tours and trips. Her daring personality makes her choose a hedonistic lifestyle in order to find out her own space in the society, without bothering anyone. She is a free non-traditional woman who wants to live according to her own desire. She falls in love with her husband's boss Ashok Khanna and ultimately ends her marriage. Ashok is also totally enamored by Shagun's beauty:

He saw the woman he knew he had been destined for. In her coloring, her greenish eyes and her demeanor, she was a perfect blend of East and West. A woman so pretty had to be married; besides, she had the look of someone who never had to compete for male attention. To woo her would thus be that much more difficult: he must first create a need before he could fulfill it. (4)

Raman's marriage to Shagun can be categorised as one that falls under outdated traditional restrictions which stands in contrast to extra marital love between Ashok Khanna and Shagun. In fact, Ashok tries to convince Shagun by insisting that there is always a struggle between tradition and modernity:

Things are moving as fast as it is. Ten years ago, you couldn't get a cake, pizza or burger here. There wasn't even colour TV for fuck's sake. And now? Everything. "What has colour TV got to do with my marriage? She asked, lip trembling. Ashok was always seeing connections where none were obvious to her. Traditional versus modern values, individual versus society...This narrow social set-up all you know, that's why you are afraid. (81)

Another important character in the same novel is Ishita whose marriage to Suryakanta had also been arranged. Initially marriage had been far from her thoughts. Though she knew marriage lay in her future, she was inclined to work first. She had begun to apply for teaching posts when a proposal of marriage was received. Ishita was hesitant at first as the women in her future husband's family didn't work and daughters in law were expected to devote themselves to home. They got married on an auspicious summer day and both the husband and wife found marriage liberating and Ishita found contentment in her marriage, "The custom of arranged marriages seemed replete with wisdom. The institution of the joint family, a safeguard against any loneliness she might ever feel" (52).

The Indian law recognises love marriage between two individuals. Most love marriages are inter-caste or inter-religion and are registered under the special marriage Act 1954. This act replaced the Special Marriage Act of 1872 and provides for Marriages of persons irrespective of faith or religion. The reason why few people opt for love marriage in India is due to a number of reasons like religious and cultural differences and non- agreement of families. According to researchers the divorce rate is higher in love marriages and a large percentage prefers an arranged marriage without any coercion.

Women's status in a marriage and her role as a homemaker has often been undervalued. It was pointed out by Chamallas that feminist academics gave more prominence to equality and women's status in nontraditional sites such as the workplace than to the more traditional site like the home space. According to her, downplaying of women's role as mothers and wives fit in well with the movement for equality as feminist attempted to discard the concept of "women" with its long-

standing ties to motherhood, nurturing and domestic roles. Gender differentiation of roles within the family has often been criticised by feminists and an egalitarian family where household responsibilities are equally shared became the new ideal. Gender neutral languages emerged and the discourse shifted to “spouses” instead of “husbands and wives” and “parents” instead of mothers and fathers. Martha Fineman, a major feminist commentator on motherhood and the family had criticised feminist legal theorists as neglecting the family. This aspect was regarded as a major flaw in the feminist legal theory as the family “is the most gendered of all social institutions” (149) according to her. Historically, Fineman’s challenge came at a period when there was considerable public interest in the plight of poor women. Ever since, there has been renewed interest among feminist scholars in issues relating to motherhood, caretaking and reproduction.

Most feminist scholarship would agree that motherhood is more than just a descriptive term. It connotes a wider normative content and may convey a deeper ideological message. There is an immense variety of contemporary context in which women mother their children, yet, feminists argue that the term “mother” evokes a narrow prototype. First and foremost, a dominant image one associates with the term is that of a married woman. It is generally assumed that a mother is married and is heterosexual. Moreover, the common perspective is that a single mother is a deviation from the norm; the use of the modifier “single” is significant in that it denotes the absence of a man in the household which makes mothering problematic.

In the past there was a strong tendency to link motherhood with household responsibilities. However, in the present day and age, an increasing number of mothers have worked outside of their homes. Despite this fact, a mother is categorically linked with the term housewife or a woman who works within the home and a woman who works outside is commonly known by the phrase “working mother”. Chamallas has observed that “there is no analogue in “working Father”; Men simply “are” simultaneously parents and wage workers” (287). The economic devaluation of housework suggests that work done by the non-working mother does not qualify as real work.

In Manju Kapur's *Home* Banwari Lal, the patriarch of the family holds the traditional belief that men work out of the home and women within. His daughter in law Sona reflects the same attitude toward the role of a mother in her conversation with Rupa:

... what is the need to blacken your face looking for a job, as though you had no one to protect you, might as well live on the streets'.

'Time are different now, Didi. You mean to say all working women have no one to call their own?

'I don't know,' said Sona irritably, rolling up her knitting, now an inch longer. 'we are old-fashioned people. Tradition is strong with us. So is duty. (123)

In the case of Rupa who enjoys working as a paid labour, she has to explain to her niece that the world of paid labour is not a woman's domain: "[...] women's work was allowable only in unconventional situations (no children), and that respectability demanded that it be avoided as much as possible" (211). Women are expected to stay at home, and any transgression from the role assigned to them would result in negative consequences. Rupa's case is an exception because she does not have a child to occupy herself with.

Kapur's portrayal of Astha in *A Married Woman* depicts the angst of a housewife. Astha expressed her frustration at being pushed around in the name of family. She was fed up with the ideal of Indian womanhood which has been used to "trap and jail" her (168). In speaking about her own sister-in-law Astha reveals her exasperation as a married woman:

Her only time off is with us in summer. She is not allowed to work, rather her in-laws make her slave inside the house, she is nothing but an unpaid servant. If she complains, her husband sides with his parents. If she were in the West she could contemplate divorce without the social and economic death that would follow here. (168)

Similarly, Savitri in R. K Narayan's *The Dark Room* makes a bitter, cynical statement about a married woman. She exhibits the same kind of disillusionment, as Astha does, in her marriage with Ramani, "What is the difference between a prostitute and a married woman? The prostitute changes her men, but a married woman doesn't, that's all; but both earn their food and shelter in the same manner" (89-90).

Kandaswamy's Poem "Eyes Meeting" reflects the tendency to commodify the Indian bride. Her submissiveness is reflected in her eyes, which is not being raised, as the traditional image of an Indian bride is one that is characterized by meekness and compliance. Kandaswamy portrays her as one who will toil like the ancient slave labourer:

But when they come to see you
 For a possible bride, look at the floor
 The Fading carpet and the unshapely toes
 Of the visitors who will inspect the weight
 Of your gold, the paleness of your complexion.
 The length of your hair and ask questions about
 The degrees you hold and the transparency of your past.
 And at your wedding
 As he ties the three clumsy knots
 That shall put you in place, lower your lids
 And watch the fire's red tongues at the altar;
 Before you are whisked away to toil like the ancient
 Slave labourers of Mesopotamia who were called Igi-nu idu
 Which in the Sumerian meant; 'Not raising eyes'. (*Touch* 127)

A prevailing concept of a married woman is one that is linked with motherhood. In *Home*, after Sunita dies under mysterious circumstances leaving behind her ten-year-old son Vicky, everyone suggested that the issueless Sona

becomes his mother. Her husband Yashpal pleads with her with a sigh, “The boy is orphaned ...Let him be your child” (22). Sona does not welcome the child and retorts with, “A borrowed child? Ten years old? From another woman’s womb? Tell me, is this what you really want?” (22). In spite of her reluctance to take the child she felt the anguish of her husband, a good man who should not be deprived of an issue. Motherhood has been forced upon her and her heart melted with anguish. Sona’s childless situation makes her vulnerable. Her mother-in law tries to impress upon her that it was her fate to take the child as her own, “It was your kismet not to have children so you could be a true mother to your nephew” (25). Sona is forced to bear the remarks in silence but internally she revolts against her situation as she believes it is her fate not to have children and Vicky’s fate not to have parents. She asks herself “How can some dirty little street boy be forced on me as a child? I would rather die” (26). Oblivious of her feelings her mother-in-law reiterated night and day, “Beti, now you are his mother. God has rewarded your devotion. Sometimes our wishes are fulfilled in strange ways.” (26)

Motherhood does not appear to be an option for an Indian woman. Anuradha, the daughter of Astha does not take kindly to menstruating when she turns thirteen. She questions why it is a woman’s lot to go through the pain and depression associated with her monthly periods. When her mother explains that it happens so that she can have children she boldly declares, “I’m never going to have children, I’m going to adopt” (*A Married Woman* 169). In the Indian society the concept of motherhood is often the determiner of social norms and values that define what women ought to. In *Woman: Her History and Her Struggle for Emancipation*, the following comments were made in this context:

Not only was motherhood often imposed on women- but women were conditioned to regard it as the summum bonum of life; they deplored barrenness and suffered untold torture from rituals directed towards fertilization of the womb. Male impotence was known only hazily, it was always the women who paid socially and emotionally for childlessness. It was also the women who was condemned and ridiculed as the unfortunate

childless women because women had internalized the male social values regarding the merits of having a son. (86)

Society expects a married woman to bear children that will carry forward the family lineage, and motherhood was the cherished ideal of every Hindu Women. In the words of Anderson et al., “Motherhood is usually identified as an essential part of being a woman, to an extent that women without children are usually portrayed as unfulfilled and incomplete.” (42)

The medical termination of Pregnancy (Amendment) Act 2021 does not give authority to women the right to choose termination of pregnancy unless for medical reasons. There are conflicting ideas regarding a woman’s right to choose motherhood. Dr. Mamta Purwar, MBBS, Shriram Hospitality and Maternity Centre says, “It is right of the woman to choose motherhood. Having said that there is no bigger power than developing a life, this power rests with women only” (Purwar 1). Kandaswamy in *When I Hit You* takes this power upon herself and chooses to remain childless:

This marriage, oppressive and impossible as it is, does not have the power to hold me hostage forever. But, if I were to be burdened with a child, I do not know how I could walk away. I anticipate my parents forcing me to stay with him for the sake of society, I anticipate society asking me to stay with him for the sake of the child, I anticipate my own child asking me to stay with him for the sake of family reputation. I cannot have that happening. In Tamil, there is a beautiful word for the womb. *Karuvarai*. The room of the foetus. *Karuvarai*. It is what the inner sanctum of a temple is called, where a god or a goddess resides. ..To keep it empty is what I have decided to do. (Kandaswamy 190-1)

Kandaswamy reasons with her readers about her choice to remain childless. Trapped in an abusive marriage it, she is adamant about remaining childless:

Four months into marriage, polite enquiries about providing ‘good news’ have already turned into a pressing demand to produce a child. My husband is

the only male heir for his grandparents on both sides, and this fact blossoms into questions on the future of this family tree. For reasons beyond posterity, my husband has also become convinced that what is lacking in our marriage is a child. He sees it as a measure that will fix our relationship and bind us together. A visit to the gynecologist is the first step. But I do not want the child of a man who beats me. I do not want to carry a child to bring it into a world because I was raped within a marriage, on a bed where my “no” held no meaning. (195)

Infertility in its medical terminology means the inability to conceive despite cohabitation without the use of contraceptives. Infertility carries a stigma that is not restricted to India alone, but spreads across cultures with its severity varying from culture to culture. In her analysis of the literary text *Perspectives on Black Women Writers* (1985), Barbara Christian describes the infertile African woman as barren and incomplete. According to her, she becomes [...] ‘the dead end of human life, not only for the genealogical level, but for herself.’ Unlike the revered mother, the old barren woman is supported not out of love, but out of charity, and her death is seen as a relief to all.” (216)

Anne Woollett makes an observation that since motherhood confirms a woman’s female identity and enhances her social status, childless women are automatically vulnerable to the charges of being unfeminine and inadequate:

Their inadequacy is then sometimes used to explain their infertility and indirectly to emphasize the normality of motherhood: some women are seen to fail to conceive or maintain a pregnancy because they are overanxious, because they reject their femininity or are not well-adjusted. (Woollett 60)

Marxists had perceived the work of women at home such as nurturing of children and housekeeping as unremunerated work which has been recognised and rewarded by the society by virtue of which the mother has been accorded a status in the society. The elevation of the social status of a woman in Marxist term is based on her role in (re) production is in fact a degradation of the infertile woman since she cannot produce surplus value, nor use-value. In “Calix the Beyala’s ‘Femme- Fillete’:

Womanhood and the Politics of (M) othering” (1997) black feminist critic, Juliana MakuchiNfah - Abbenti describes infertile women, “What this means is that childless women or women who do not produce certain quantities of children are consciously excluded and positioned as inappropriate others, as women who have no right within the public sphere.” (105)

Sadly, feminists have not addressed the issue of infertility as much as they should have. According to Jan Silverman, a founding member of IFF (Infertility – Facts and Feelings):

I feel feminism has ignored the plight of infertile women completely. This is a point that angers us. So much concentration has been put on birth control, on abortion, on choices in the birthing process (qtd. in Rehner, 14).

The issue of infertility is tackled by Manju Kapur in her novel *Home*. The story revolves around the lives of two sisters and the novel establishes their identity as infertile women in its very first sentence: “Mrs. Sona Lal and Mrs. Rupa Gupta, sisters both, were childless. One was rich, the other poor, one the eldest daughter-in-law of a cloth-shop owner, the other the wife of an educated, badly paid government servant” (2). Infertility is the one common factor that the sisters share, whereas the rest of their lives are sharply contrasted by their financial and social status. Their perception of infertility and their subsequent reaction to it differs as a result of their difference in social status. On the one hand Rupa accepts her infertile status as her destiny and on the other, Sona longs and strives desperately for a child. Sona’s longing for a child is justifiable as her mother-in-law constantly taunts her with remarks such as – “what can you know of a mother’s feelings? All you do is enjoy life, no children, no sorrow only a husband to dance around you.” (18)

Prem Nath, Rupa’s husband, has also accepted her condition and Rupa proudly says that he “does not hanker after children, he says his sister has enough, he helps with their education, his heart is as big as the sky” (25). Significantly no medical tests were conducted on either couple and the cause of infertility was not identified. As in most cases of childless marriages, it is assumed that the problem lies with the woman, and Rupa is thus grateful to her husband for having accepted her

unconditionally: “Her husband was a decent man, never throwing her barrenness in her face” (39).

In his attitude towards infertility Prem Nath departs from the traditional Indian male who craves for children to carry on his lineage and the name of his family. Prem Nath who is highly educated and learned, is different from many of his male counterparts and his ideas are considered philosophical by his family members:

He did not regret not having children. Part of his capacity to think, felt his admiring wife, was reflected in his stoicism. To want children was another word for I, me, mine. It was easier to be free without such attachments. Besides, India had enough children. (69)

Rupa exhibits a favourable response towards her infertility. It gives her an opportunity to embark upon a career, and enables her to make money by selling pickles and chutneys. This viewpoint is consistent with the ideas of socio-psychological theorists such as Montagu who have posited that men’s incapacity to procreate is counterbalanced by their inclination to produce in other domains, and they gain gratification from the undertaking they pursue or create. Montagu points out that a man often employs the term ‘that’s my baby’ to signify his sense of satisfaction towards a creation or concept he has originated and nurtured (Lindsey 51).

Eventually Rupa and Prem Nath are afforded a temporary opportunity to experience parenthood while Nisha takes up residence with them in order to cope with the trauma and aftermath of sexual abuse. Nisha’s presence in the household brings about a change, “The childless Rupa was now partially blessed [...] The first night the child was there, three adults hung about her, watching every bite of puri also she put into her mouth” (67). Prem Nath watched her in fascination as she slept and “Rupa’s heart caught in a beat of sorrow. What a father the man would have made!” (66). Prem Nath frequently reminds Rupa that Nisha is a borrowed child who would be returned one day. While the issue is never really discussed, Prem Nath and Rupa unofficially assumed the role of Nisha’s adoptive parents and provide for her every requirement in an unofficial capacity. Nonetheless, they are never given the

status of adoptive parents, and remain Nisha's guardians with no legal rights or control over her.

Custody also deals with the issue of infertility. Running parallel to the story of Raman and Shagun is the story of Ishita who is married to Suryakantan, an only son because of which "grandchildren were expected within a year" (51) of their marriage. However, as months wore on there no signs of pregnancy which made her mother uneasy as "producing children was a moral obligation" (52). Eighteen months into the marriage and "the boy's family began to make noises" (53). Kapur exposes the shallowness of conjugal life where a woman is stigmatised because of infertility. She becomes subjected to severe mental torture by her mother-in-law who epitomises the typical patriarchal society. Men do not undergo the same suffering and isolation that women go through even if they are responsible for infertility. Sukumari Bhattacharji pointed out in her essay "Motherhood in Ancient India" that:

Male infertility was dimly known as the custom of levitate indicates, but no stigma ever attached to an impotent male. We hear of impotent kings both in Brahmanical and Buddhist literature but never with any aspersion of inauspiciousness [...] It was always the woman who got blamed for failing to procreate. (51)

There is certainly gender bias in the response to infertility as pointed out by Sukumari. Ishita's mother-in-law did not want to waste endless time and money trying to get her daughter-in-law to conceive. The situation would have been different had it been her son who was sterile:

Had there been something wrong with SK, they would have moved heaven and earth to get a son's defect corrected. In an ideal world, the same resources would have been put at the disposal of the daughter-in-law. But this was not an ideal world. (*Custody* 66)

In another novel by Manju Kapur titled *The Immigrant* (2010) the protagonist Nina makes a general statement about the subjugation of women, "we are

conditioned to think women's fulfillment lies in birth and motherhood, just as we are conditioned to feel failures if we are don't marry" (233).

Infertility is one of the leading causes of marital discord frequently leading to infidelity and dissolution of marriage. Ishita in *Custody* is divorced by her husband because of her inability to conceive so that her husband can find a new bride who can provide an heir to him. Ishita had exercised all conceivable efforts to salvage her marriage. She undergoes a series of agonising medical interventions for her infertility which makes her feel "Smaller than the ants on the ground, smaller than the motes of the dust in the sunlit air, smaller than drops of dew caught between blades of grass in the morning (62). Eventually she finds out from the gynecologist that she cannot conceive at which point her husband decides to withdraw all his affections. Upon learning about her infertility her mother-in-law who holds a rigid and antiquated viewpoint remarks: "For us money is not as important as family. But beta, it is essential that Suryakanta have a child. As the only son. He has to make sure that the bloodline of his forefathers continues. And now ...I need to talk to your mother" (66). It is considered natural that the wife gets superseded if she is unable to provide an heir. Ishita eventually returns to her home where she feels dejected and angry at her body: "If only she could tear out her whole reproductive system and throw it on the road. She hated her body, hated it. Everybody in the building must know why she had come back. Return to sender" (121). Menski highlights the evils of supersession:

The greatest tyranny of the male over the female lies in the privilege of supersession enjoyed by the Hindu husband. This tyranny could be minimized by prohibiting bigamy on one hand and by allowing the superseded wife the opportunity for divorce on the other. Divorce alone will not better the position of women because a majority of them are economically dependent on men and it would be difficult for a divorced woman to find someone else to marry her...facilities for divorce would, however, usher in a new concept of marriage. (Menski 438)

Supersession would imply a method of terminating the marital relationship for good, provided this is in accordance with the higher concerns of dharma. In his

work *The Grounds for Divorce in Hindu and English Law*, Viridi suggest that under certain circumstances such as on the ground that the wife was of a harsh and disagreeable nature, supersession is justifiable. Kapadia has also made a comment in the same context:

Manu declared mutual fidelity till death as the essence of dharma for the husband and the wife because, according to him, man and woman, united in marriage, should constantly so exert themselves that they may not be disunited and may not violate their mutual fidelity. In spite of this...Manu permitted supersession of the wife both in the absence of a male child and, theoretically at least, for her sharp tongue or rebellious nature. Supersession on the former ground is accepted by many as valid simply because dharma is the focal point of marriage. (Kapadia 169)

According to the prevailing perspective in the academic and legal scholarship classical Hindu law did not permit divorce under any circumstance. Manusmriti provides that a husband must be constantly worshipped as a god by a faithful wife. Therefore it was conventionally believed that a married Hindu woman was obligated to endure every treatment that the husband inflicts upon her. Menski had quoted Sharma to provide an insightful picture of the ancient Hindu divorce law:

In the Vedic literature there is no reliable reference to divorce and there is not much evidence of it in post-vedic literature...marriage is a holy and religious institution and is based on spiritual values. Therefore once the marriage ceremony is performed, it was considered irreligious to think of divorce or even separation. (Menski 432)

Traditionally, divorce may have been prohibited but history has shown that certain conditions necessitate separation and divorce. *Custody* opens with a description of the arranged marriage between Shagun and Raman. However, Shagun falls in love with Raman's boss Ashok which eventually led to their divorce. Initially she never anticipated the break-up of her marriage and was upset when her extra-marital affair is exposed leading to a major change in their lives:

Why were things moving so fast? When she started her affair she had thought a lover would add to her experience, making up for all things she had missed having married straight out of college. She had heard of other women who took lovers. Their whole lives didn't change. (82)

The novel depicts failed marriages and the resultant battle for custody of children. Rohindas Nitonde quotes Shubha Singh who wrote a review for *Overseas Indian*:

Failed marriages and their consequences are the theme of Kapur's latest book. As the title, *Custody*, suggests the story is about the bitter battle between divorced parents for the custody of their two children. It is another absorbing story in Kapur's series of popular novels on modern Urban Indian middle-class life and its travails. (107)

A divorce has direct negative impact on children as it normally leads to a custodial battle. When Raman realises that his divorce is inevitable, he has a strong desire to take custody of his children. Children become the pathetic play cards of husband and wife who fight for custody. Raman and Shagun start a legal fight to take custody of the children without considering the intricacies of the legal system. They were oblivious of the fact that the legal process is highly structured and once one becomes embroiled in it, feelings of outrage and indignation may arise. *Custody* reflects the devastating impact of divorce on the wife, husband, children and in-laws. Mithu Banerjee in her article on *Custody* wrote:

Kapur's book reveals the unimagined uncertainties of matrimony. The wife's sense of suffocation, the husband's fear of loneliness and the constant shifting of the children, like commodities, from one home to the other, are evoked with painstaking sincerity. (1)

Children almost always bear the brunt of parental conflict after a divorce. They become uprooted as they are shuffled from one parent to the other. Kapur raises a pertinent question, "Divorce takes a lifetime and if you are not living together where do the children go?" (136). When parents get divorced children undergo

emotional turmoil which often results in anger, confusion, sadness and self-blame- “They came, withdrawn children, waifs in the marital combat zone, Arjun, face pinched, Roo pale with wisps of hair across her eyes” (143).

Divorce can also trigger adjustment disorder as they endure ongoing changes to the family dynamics. Studies have shown that depression and anxiety rates are higher in children from divorced parents. Children from divorced parents tend to perform badly in academics. A study suggests that children from divorced families tended to suffer academically if the divorce was unexpected and suffer less when divorce was expected. This sad reality gets reflected in *Custody* through the character of Arjun:

It was around this time that Arjun started fussing over school. The first term exams were scheduled for the end of August and he had never felt so unprepared. He had just scraped through in science, 10 on 25, and once again had to forge his mother’s signature.

As he handed in the signed test paper his teacher asked him to stay behind during recess.

‘Is anything wrong, Arjun?’ she started. ‘Why have you suddenly begun doing so badly? All your junior school teachers thought very highly of you.’ (158)

Raman had always sat with him during weekends and guided him through many practice sums. Now, with his parent’s estrangement he has done badly in his tests. He also starts to be dishonest and forges his mother’s signature on his result sheet; something he would not have done had his parents not separated. This is the kind of behavior divorce exudes from children. The effect of divorce on children’s psyche is described by Carl Pickhardt:

Divorce introduces a massive change into the life of a boy or girl no matter what the age. Witnessing loss of love between parents, having parents break their marriage commitment, adjusting to going back and forth between two different households, and the daily absence of one parent while living with the other, all create

a challenging new family circumstance in which to live. In the personal history of the boy or girl, parental divorce is a watershed event. Life that follows is significantly changed from how life was before. (1)

The novel *Custody* by Kapur delves into the extent of judiciary's capacity to administer justice and examines the efficacy of the system. The long and drawn-out court petition is likely to have negative impact on all parties involved, testing their patience and faith in the Judiciary:

No one in the family had ever been involved in a court case. There was something unsavoury about the whole thing, some profound incapacity to lead your life according to prescribed norms. She heard of cases lasting ten years, twenty years, property disputes carried on by grandchildren, custody cases only resolved by the child's reaching eighteen, divorce disputes lasting into old age. Which man would not tire of a woman-no matter how beautiful-who came burdened with legal baggage? (134)

The legal maxim "Justice delayed is justice denied" posits that if legal redress or equitable relief to an injured party is available, but is not forthcoming in a timely fashion, it tantamount to having no remedy at all. Kapur delves into this aspect of legal mechanism in *Custody*:

A divorce was a precious, precious thing. If one partner didn't want it, it was practically impossible to get. People fought for years—years spent in lawyers' fees, postponed dates, lost in the agonizing slowness of the judicial system, dreams of a new life slowly wasting away in the sourness of legal reality. (110)

Catherine A. MacKinnon had made the observation that the sameness standard had gotten men the benefits of those things that women historically had, and that is, the custody of Children:

Under gender-neutrality, the law of custody and divorce has been transformed, giving men an equal chance at custody of children and at alimony. Men often look like "better" parents under gender-neutral rules like

level of income and presence of nuclear family, because men make more money and (as they say) initiate the building of family units. In effect, they get preferred because society advantages them before they get into court, and law is prohibited from taking that preference into account because that would mean taking gender into account. (*Difference* 383)

A matrimonial court may be called upon to decide matters relating to custody, education and maintenance of children under section 26 of the Hindu Marriage Act. The court is invested with a wide range of discretionary and broad power in matters of custody of children. The welfare of children is of paramount importance although other matters such as age, sex, or wishes of the child may also be considered. In *Custody* Kapur explores the life of Raman, Shagun, Ashok and Ishita and depicted how the marriage set up is disintegrated ending in divorce and legal custody. Shagun and Raman start a legal fight to take custody of the children but they do not know that the law was a cut-and-dried business and once you got swamped there will be outrage, indignation, grief and anger.

Shagun begins to understand the complexities of court proceedings and raises a pertinent question- “you think once the marriage is over everything naturally follows? No such luck. Divorce takes a lifetime and if you are not living together where do the children go?” (136). The hearing for the custody of the children gets delayed at the court and when Raman’s cousin Nandan took up the case he knew the long wait involved in court cases would frustrate Raman. Kapur is critical of the Indian Judiciary which moves at a very slow pace:

Nandan put the phone down. From the beginning he had known that to take on Raman’s case would stress him out. To charge such a close relative was unthinkable, all he hoped was to avoid blame for the endless deferrals that were part of the system. It was a thousand –to –one chance that the other side would calmly hand in a reply tomorrow. (151)

Kandaswamy’s *When I Hit You* also deals with the issue of divorce. After years of silent suffering Kandaswamy retaliates and runs away from her abusive

husband to fight the longdrawn-out divorce battle. Mud-slinging and false accusations are part and parcel of a divorce battle:

Then there is the divorce petition, sent by lawyers, which talks about my ultra-feminism, which blames my parents for my modern upbringing. Forgetting everything seems a forlorn, unattainable dream. Years after you walk out, you will still be caught in the web of a bad marriage. (233)

The quest for justice does not seem to lead anywhere. The obese female police inspector berates her (protagonist) mother for not giving dowry to her husband – “men who marry for a dowry treat her nicely. Men who marry her for other reasons, well, this is how it ends” (231). Ironically the abusive husband moves to South Africa to propagate the “necessity of a safe, violence-free home” (232). For two and a half years her case at the metropolitan Magistrate Court fails to be called which is reflective of the slow justice system in India. Kandasawmy is not one to be silenced and decides to write her own story:

I am the woman who will not be silenced by the code of *sub judice* that forbids talk because judgment is pending. I am the woman accused of ultra-feminism in the divorce petition, the one who will not be shamed by the questions at the cross examination. I am the one who does not sit around in family courts getting pulled up for the transgression of crossing her legs and not wearing her *thaali*. (246)

This study also traces the legal standpoint of Hindu Women’s Right to Property as it evolves from the customary laws to the current era where the written law has been enacted to solve any conflict that arises. The study delves into the portrayal of the Hindu joint family system as represented in Manju Kapur’s *Home* and examines the succession rights of a daughter in such a system as well as the property rights of male heirs from a daughter. The Indian society is predominantly patriarchal and men are accorded preferential treatment over women in various aspects, including property rights. The preferential rights given to men in property ownership serves as a clear illustration of the gender bias that is ushered in by a male-dominated society. The issue of women’s limited or non-existent property

rights is a pervasive one that transcends both religious and social boundaries. Women across India, regardless of religion or society, had little or no rights over property.

The discourse on the Hindu women's rights within marriage is a complex and contentious matter as it is closely related with religious issues. The Hindu joint family was organised around male coparcenary which denied women the right to own property. According to Manu, the arch law giver of the Hindu religion, "a wife, a son, a slave these three even are ordained destitute of property; whatever they acquire becomes his property whose they are (qtd. in Kant 250). It is believed that modernity ushered in during the colonial rule and post-independence period helped to loosen out the strict sexual control by granting women the right of divorce and property ownership.

In *Home* we get a glimpse of the pathetic condition of women when it comes to property rights. Vicky, the son of Sunita, Banwari Lal's only daughter has no rights in the joint family property. This is evident in Sona's conversation with her husband over the division of the family property among the two brothers:

He says his share for himself and his two sons is three-fifths, two fifth for me and my son. Sona's jaw dropped. Such greed was never seen on the face of the earth ...And why two-fifth? What about Vicky? We keep him, his wife, his child, we should have at least half.

You know he will say sister's son. Besides, baoji never intended Vicky to be an actual owner. (170)

Banwari Lal, the patriarch of a joint family who runs a family cloth business in Karol Bagh is a man steeped in traditional values. He keeps alive the firm belief that men work out of the home, women within. Men carry forward the family line while women enable their mission. He has two sons and a daughter. His two sons unquestionably follow their father while his only daughter Sunita is married off to Murli who had ill-treated her and had been bent on using his wife to extort money from the family. After Sunita dies under mysterious circumstances, her son Vicky fell to Sona's lot by default because she was childless. As he grew older Vicky

became a burden to the family because “a sister’s child was not a healthy thing to have living in the family. Fate had dealt them an unfortunate blow” (109). When Vicky approached his grandfather to allow him to set up his own unit to make Baba suits Banwari Lal negotiates with his sons to allow Vicky to build a little shed on the terrace to run his business, Yashpal objected vehemently, “How can he be so independent in our house? Let him go somewhere else, we are not stopping him. Who keeps their sister’s child their whole life?” (108). In spite of their resistance, the patriarch of the family believed they had a moral responsibility to Sunita’s child. Vicky’s frustration led him to ask his grandfather for his share of the property. But the grandfather knew “there was no question of his share. He had fed him, educated him, married him, then supported his wife and son. He should have the decency to be content” (110). The grandfather not wanting to disappoint Vicky tells him “Beta, I will speak to your uncles...you are my daughter’s child. You are our blood” (110). However, “the boy/man knew that the bloodlines from the female side can only whisper” (110).

In the Vedic era, women had rights over their husband’s property. Hindu women, irrespective of their marital status were not barred from the use of their property. However, the situation changed with Manu’s declaration that property should not be given to the wife, the slave or the minor son. Wives as well daughters were the victims of such gender-based discrimination in proprietary interests. Daughters were rarely allowed to inherit their father’s property and in a joint family property their rights were limited to mere maintenance. Widows had no rights in their matrimonial homes. As women had been deprived of the right to property their economic security was completely dependent on the male. In the rare event that they were allowed ownership of property, it was only for a lifetime and their right ultimately reverted back to the source on their death.

There were no codified laws dealing with Hindu women’s rights to property, prior to 1937. In the absence of codified laws on Hindu Women’s property rights disputes were settled in accordance with the customary practices. After much discontent was voiced over the unsatisfactory condition of women and their rights the Hindu Women’s Right to Property Act was passed in 1937. The Act came as a

breath of fresh air for supporters of female empowerment. However, the act gave only limited rights to women and was not enough to ensure gender equality in spite of its lofty intentions. The idea of limited estate as propagated by the Hindu Women's Right to Property Act was abolished in 1956 by the introduction of the Hindu Succession Act. The Hindu Succession Act was a progressive act that brought about many reforms, the most important being the granting of absolute rights to women, over the property that they held. It has been said that this Act abrogates all the rules of the law of succession hitherto applicable to Hindus whether by virtue of any text or rule of Hindu law or any custom or usage having the force of laws in respect of all matters dealt with in the Act. Therefore, no woman can be denied property rights on the basis of any custom, usage or text and the said Act reformed the personal law and gave woman greater property rights. In practice though, this Act is quite biased in favour of male heirs. Despite the improvements brought about by the Act, it remained predominantly gender discriminatory, especially where inheritance rights of daughters were concerned. This is evident in the case of Vicky who has no claim over the ancestral property as he is a daughter's child. An example of the discriminatory nature of the act is that, in the event that there are both male and female heirs in respect of an ancestral dwelling house, the female heir cannot ask for permission of partition of the residence until the male heir asks for permission. The right of residence by a daughter is also limited to a condition that she can only claim it if she is unmarried, or is a widow or has been divorced or deserted by her husband.

This chapter has explored the intriguing portrayal of women in marital relationships as reflected in the novels of Manju Kapur and Meena Kandaswamy. Matrimony is a socially recognised union that establishes rights and obligations between spouses. The nuances of marital life, the ecstasy and agony of being married, the conflicts and misunderstandings leading to divorce are all represented in the primary texts. The new freedom offered by legal provisions has given them the impetus to seek divorce. In the earlier traditional Hindu society divorce was unthinkable. The traditional Hindu family was largely patriarchal and leaned towards the male in the realms of marriage and other personal laws. Flavia Agnes takes a

typical feminist standpoint on Hindu legal tradition when she makes the following observation:

The Hindu joint family structure based on male coparcenary, was the institution through which sexual control was affected by denying women the right to own property. In this realm of patriarchal domination, women were treated as chattels and upon marriage domination over them was transferred from the father to the husband within the confines of perpetual tutelage. In support of this premise, it is emphasised that Manu, the arch law giver of the Hindu religion stipulated: ‘A woman must be dependent on her father in childhood, upon her husband in youth and upon her sons in old age. She should never be free.’ The strict sexual control was also affected through ordeals. Sita’s ordeal by fire is set out as an example. It is also believed that the modernity ushered in during the colonial rule and post-independence period helped to loosen out this strict sexual control by granting women the right of divorce and property ownership. (qtd. in Menski 279)

Flavia Agnes had made the observation that the contemporary era has ushered in a new dimension and brought in a paradigm shift in laws relating to marital issues. Child marriage, dowry system was abolished and women were given the right to inherit property. However, the problems associated with the dowry system along with other social evils are still present in the society today. This chapter has highlighted the complexities of a marriage, crises in family values and facets of the Hindu personal law. Gunjan Jain has rightly quoted Russel, “the modern Indian wife who is confronted with the problem of multiplicity of roles she has to perform, the modern husband is experiencing a value conflict as he is being pulled in to two directions by images and expectations of the traditional and modern wife”(21). Women’s position within a marriage has undergone a slow and consistent change with the changing times. The Hindu Marriage Act 1955 has placed the wife on equal footing with the husband. Conjugal roles which segregate the functions of the genders within the household is still prevalent. However, as depicted in the selected works women’s role has undergone a change, a new woman has emerged in terms of matrimonial duties and obligations and as pointed out by Jain the tussle between modernity and tradition persists.

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Chapter – 5

Conclusion

A study of the selected text from both their legal and feminist standpoint throws a new light to the understanding of the texts. This study entails a reading of the selected text through the lens of feminist legal theory. The theoretical framework encompasses a feminist legal perspective, theories of violence, and integrates post-colonial theory with Foucauldian notion of power structure. Gender issues relating to education, work and personal laws covering marriage, divorce, maintenance and property rights have been examined from the perspective of feminist legal theory. Women's writings have been instrumental in bringing about a better understanding of their experience:

Women generally write in order to tell their own family story. When a woman novelist does not reproduce a real family of her own, she creates an imaginary story through which she constitutes an identity, narcissism is safe, the ego becomes eclipsed after freeing itself, purging itself of reminiscences (Kristeva 166).

The study attempts to throw a new light into the understanding of the selected texts. Elaine Showalter had remarked that all feminist criticism is in some sense "...revisionist, questioning the adequacy of accepted conceptual structures..." (183). She quotes Kolodny:

All the feminist is asserting, then, is her own equivalent right to liberate new (and perhaps different) significance from these same texts; and, at the same time her right to choose which features of a text she takes as relevant because she is, after all, asking new and different questions of it. In the process, she claims neither definitiveness nor structural completeness for her different reading systems, but only their usefulness in recognizing the particular achievements of woman- as author and their applicability in conscientiously decoding woman-as-sign. (182)

There are various schools of thought within the realm of Feminist legal theory such as the formal equality theory, cultural feminism, dominance theory, and post-modern or anti-essentialist theory. Formal equality theory which is based on the principles of in liberal democracy which puts forth the argument that women ought

to be treated the same as men. In the meantime, cultural feminists emphasise on the need to take recognition of “differences” between genders. The focus of dominance theory is on the inherent power structures that establish male characteristics as the standard against which “otherness” is defined. On the other hand, the concept of anti-essentialism contends the classification of the female cannot be reduced to a singular unified category. It rather emphasise that the diverse viewpoints that arise from the interplay of gender, race and socio-economic status.

The emergence of cultural feminism or “difference” perspectives within the legal field was significantly influenced by endeavours to understand the distinctively female experiences of pregnancy and motherhood. In contrast, dominance theory presented an important theoretical framework within which one can understand the harms of violence against women in areas such as domestic violence, rape, sexual harassment, and pornography. Formal equality theory was not adequate to analyse these harms, almost exclusively experienced by women as it failed to address the patriarchal structures of power that have perpetuated them. The emergence of the dominance theory can be attributed to the attempts made to comprehend the reality and experience of male dominance and the advantage in these domains. Finally, anti-essentialist or post-modern feminism developed from challenges to a notion of a single feminist legal theory and perspective. It emphasised the necessity to acknowledge the diverse array of feminist perspectives that emerged from women of colour, concerns surrounding ethnicity, problems of immigrant women, and cultural differences. The feminist claim has always been that laws for protection of women have always been constructed from male perspective. MacKinnon has observed:

The fact is that what we do see, what we are allowed to experience, even in our suffering, even in what we are allowed to complain about is constructed from the male point of view. Laws against sexual violation express what men see and do when they engage in sex with women; laws against obscenity center on the display of women’s bodies in ways that men are turned on by viewing. (92)

Based on the examples presented in the previous chapters, it can be inferred that law has played a substantial role in perpetuating the subordinate status of women. The feminist legal theorist had taken a stand that law itself is responsible for women's subordinate status. The ancient sources of Hindu Law were the Shruti, Smriti, Custom, Digests and Commentaries. The modern sources can be categorised under three heads: Equity, Justice and Good Conscience, Precedent and Legislation. The research delves into domains that pertain to the personal law of the Hindu community, encompassing the laws which regulate marriage, divorce, maintenance, inheritance and succession. The findings of this research indicate that traditional or customary laws are largely gender biased. Spivak comment on what she terms the "epistemic violence of codification of Hindu law" (76) in her influential essay "Can the subaltern speak?" throws some light on the evolution of Hindu law:

At the end of the eighteenth century, Hindu law, insofar as it can be described as a unitary system, operated in terms of four texts that 'staged' a four-part episteme defined by the subject's use of memory: sruti (the heard), smriti (the remembered), sastra (the learned-from-another) and vyavahara (the performed-in-exchange). The origins of what had been heard and what was remembered were not necessarily continuous or identical. Every invocation of sruti technically recited (or reopened) the event of originary 'hearing' or revelation. The second two texts - the learned and the performed - were seen as dialectically continuous. Legal theorists and practitioners were not in any given case certain if this structure described the body of law or four ways of settling a dispute. The legitimation of the polymorphous structure of legal performance, 'internally' noncoherent and open at both ends, through a binary vision, is the narrative of codification I offer as an example of epistemic violence. (76-77)

In the year 1967, the United Nations member states adopted the Declaration on the Elimination of Discrimination against Women which states that discrimination against women is an offence against human dignity and calls on states to "abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and

women” (Rehof 244). The Indian laws have introduced reforms which have been made in favour of women and special protections have been provided under modern legislation in recognition of women’s difference from men. Protective discrimination has been allowed in article 15 of the constitution which is a specific instance to the right to equality which prohibits the State from making discrimination “against any citizen on grounds of religion, race, sex, and place of birth or any of them” (11).

Historically, women have often been relegated to a position of silence, with their narratives predominantly presented through the lens of male perspectives. In recent times there has been a significant shift in the paradigm of women’s literature, with Indian women’s writing as a prime example of the representation of female experiences. They have created their own world through their writings, and as Barbara Christian has observed in the preface to her book *Black Women Novelists: The Development of a Tradition 1892-1916* that she was especially interested in the novel, because through it, “a writer could construct a world of her own, affected by her developing vision, yet tempered by reality and informed by social change” (ix). Feminist criticism has also emerged to address this issue:

There are two distinct modes of feminist criticism, and to conflate them (as most commenters do) is to remain permanently bemused by their theoretical potentialities. The first mode is ideological; it is concerned with the feminist as reader, and it offers feminist readings of texts which considers the images and stereotypes of women in literature, the omissions and misconceptions about women in criticism and women as sign in semiotic system. (Showalter 182)

Kandaswamy’s unnamed protagonist decides to narrate her own story in *When I Hit You* upon the realisation that if she lets others speak for her, her story will become distorted. In the words of Koguilavardhini:

At this juncture, she uses her only advantage as a writer, that is, her language to be free from the confinements. After battling the silence forced upon her, the speaker attains liberation through her fierce use of language which she uses some times to play along with the abusive husband in order to avoid

possible violence and some other times to provoke him. To cope, to escape, she dons the role of a writer marking plot points from her own abusive marriage. Her words are her only shield weapon. She *slips her words between his ribs like a stiletto knife' as she say herself.* (503)

Similarly, Manju Kapur's women characters assert themselves and exhibit a level of assertion that distinguishes them from their historical counterparts. The female protagonists in her works strive to deconstruct gender binaries and assert themselves as powerful entities worthy of recognition. They are a personification of the 'new women' who break through the stereotype and subverts male chauvinism. These women exhibit a tendency to resist traditional norms and customs. They encounter various hurdles in their fight against patriarchal hegemony. Kapur's women characters have been able to break the tradition of silence and so does Kandaswamy's protagonist. The new woman has emerged breaking traditional barriers. She has found her voice and rightly so as Durrani comments, "Our closed society considered it obscene for a woman to reveal her intimate secrets, but would not silence be a greater crime?" barriers (375). The importance of examining women's experience is explained by Gerda Lerner:

Women have been left out of history not because of the evil conspiracies of men in general or male historians in particular, but because we have considered history only in male-centered terms. We have missed women and their activities, because we have asked questions of history which are inappropriate to women. To rectify this, and to light up areas of historical darkness we must, for a time, focus on women-centered inquiry, considering the possibility of the existence of a female culture within the general culture shared by men and women. History must include an account of the female experience over time and should include the development of feminist consciousness as an essential aspect of women's past. This is the primary task of women's history. The central question it raises is: What would history be like if it were seen through the eyes of women and ordered by values they define? (qtd. in Showalter 198)

Education plays a very significant role in the emancipation of women. Sadly, despite the Indian Constitution's enshrinement of the Right to Education as a Fundamental Right, gender discrimination in the field of education still prevails in India. Poor socio-economic conditions, out-dated customs and beliefs continue to impede the achievement of a discrimination free society in the domain of education. The son is usually privileged to aspire for higher education or even foreign education whereas education for the daughter is largely a prerequisite for a good marriage. Kate Millet's observation in *The Sexual Politics* is reflective of the Indian scenario as well:

Traditionally patriarchy permitted occasional minimal literacy to women while higher education was closed to them. While modern patriarchies have, fairly recently, opened all educational levels to women, the kind and quality of education is not the same for each sex. This difference is of course apparent in early socialization but it persists and enters into higher education as well. (42)

Kapur's literary works demonstrate that certain segments of the society still continue to view women's education as a means to ensnare a desirable spouse with the prevailing notion that a woman's primary objective is to become a good wife. Historically, education for women was considered more of a grooming phase for marriage rather than a qualification for work. In *Difficult Daughter*, Kasturi's education is primarily intended to prepare her for marriage. Millet's remarks in *Sexual Politics* testify to the societal expectation in educating women:

The education of women was not thought of as a course of study beyond the threshold of learning, a genteel polish its major achievement. And in most cases it was deliberately cynical in its emphasis upon "virtue"- a sugared word which meant obedience, servility, and a sexual inhibition perilously near to frigidity. (74)

Kapur had depicted a new category of female characters that transcend the confines of gender discrimination to find a niche for themselves in the realm of education. The female protagonists depicted in her works can be perceived as

progressive and modern; their difference accentuated by their juxtaposition with the lesser-known women characters who imbibe traditional values:

Manju Kapur's female protagonists are the representatives of that female folk who long to be free from the stale social customs and traditions but are never allowed. Her female protagonists are mostly educated. Their education leads them to independent thinking, for which their family and society becomes intolerant towards them. They struggle between tradition and modernity. It is their individual struggle with family and society through which they plunge into a dedicated effort to carve an identity for themselves as qualified women with faultless backgrounds. (Bhat 30)

In terms of work it is evident that women continue to face barriers, not necessarily from men, but from their women too. In *Home* Banwari Lal, the patriarch of the family nurtures the belief that men work out of home while women within. In his belief system it is the men who carry forward the family line and women enable their mission. Sona, his daughter in law also holds the belief that working outside of homes is inappropriate for women. Nisha, however breaks away from the narrow-minded concept and seeks college education much against her mother Sona's wishes. Nisha emerges as an independent woman who sets up her own business "Nisha's creations" against the family tradition of working within the home. Her journey as an entrepreneur proves to be one of self-realisation. It is her father who helps her start her 'Nisha's creations' and even though he feels very proud of her there is an inner wish that she finds fulfilment in marriage – "Still, it was his duty to see that she married. Her fulfilment lay there, no matter how successful her business was." (295). In many cases, like Nisha's it has been women who have posed hindrances to their women folk. While her father is supportive of her decision to work – "if she wants to work, she should be allowed to" (296) her mother had objected to her preferring her job to marriage, "working was all right as a time pass, but if she started making such conditions, who would take her?" (296). It is discouraging that women themselves were responsible for subduing their womenfolk.

The study has explored the nuances of marital relationships. Throughout history, marriage has consistently occupied a prominent position in human relationships. It lies at the core of the social structure, creating the nucleus for all family relationships. Ideally, it is a relationship recognised by custom and law which involves certain rights and duties on both parties entering into the Union. Most of the time, the burden of meeting the expectation to sustain the marriage falls disproportionately on the woman. The traditional role of the homemaker, typically fulfilled by the wife, entails a constant need to adapt and make concessions in order to maintain a harmonious marital relationship. Simmi Gurwara had made the following observation, “the Indian males with a chauvinistic attitude do not easily give an equal status to women (read wives). It is not in Indian male psyche to treat women as equals and if they find women competing to have a say, they make a scathing attack on women’s will (88).

The traditional Hindu law considers marriage as a sacrament and not a civil contract. Hence the question of divorce did not arise as the union was sacred and indissoluble in life. Nair had observed divorce is unknown to customary Hindu law, as marriage is an indissoluble union between the husband and wife. In the ancient Indian literature, there are contradicting views on divorce. While the Manusmriti justifies a husband abandoning an infertile wife, divorce is not considered an option under normal conditions. Sharma makes a statement on this issue:

Normally the Dharmashastras are against divorce and consider the sacrament of marriage as the most important and holy. Manu himself supports this view. He says that the husband and the wife must consider it their sacred duty to see that they maintain a life –long married life. (39)

As the purpose of marriage was to perform religious rites and beget male progeny, the husband was entitled to take another wife if either of the two purposes failed. This is termed as the right to supersession which is essentially a method of terminating marital relationships. It was for this reason that Ishita was divorced by her husband SK in Manju Kapur’s *Custody*. Her failure to conceive brought an end to her marriage whereas in Kandaswamy’s *When I Hit You* the female protagonist

consciously avoids getting pregnant for fear that a child may prevent her from walking out of her abusive husband, “This marriage, oppressive and impossible as it is, does not have the power to hold me hostage forever. But, if I were to be burdened with a child, I do not know how I could walk away. (190)

Women writers across the globe have been raising their concern over sexual violence which has occurred in both the domestic and public domain. Manju Kapur and Meena Kandaswamy have also raised their voice on behalf of the muted sufferers. It has been observed that the phenomenon of violence against women have risen from patriarchal notions of ownership over women’s bodies. Women are often unable to protect themselves from violence in societies with patriarchal power structure and rigid gender roles. Over the years, internalised patriarchal conditioning and deep-rooted ideas about male superiority have not only enabled men to exercise unlimited power over women’s lives but have legitimised it too. Abusive men constantly resort to violence to control women and coerce them into doing things against their will to a point that they become almost disabled. Kandaswamy explicitly describes her own experience:

That is the aim of his rapes, all this rough sex. Not just a disciplining, but a disabling. He believes that after him, I will have nothing left in me to love, to make love, to give pleasure. This is man breaking his own wife. This is a man burning down his own house. (176)

Sometimes law does not adequately address certain mindsets that are connected with traditional social belief system. Masaji Chiba critiques the western legal claims to universality and challenges the hidden assumption that western model jurisprudence is somehow value neutral and universally valid. Hindu law appears to have survived the formalistic onslaught of legal reformers for a number of reasons. Spivak had observed:

If we remember that the British boasted of their absolute equity toward and non-interference with native custom/ law, an invocation of this sanctioned transgression of the letter for the sake of the spirit may be read in J. D. M

Derrett's remark: 'The very first legislation upon Hindu Law was carried through without the assent of a single Hindu'. (93)

Menski had observed that what were abolished by the formal law were only a fragment and not the entire social reality of Hindu Law. He goes on to say that "the entire customary social edifice of Hindu Culture, remained largely immune to the powerful wonder drug of legal modernization..." (24). Chiba makes a statement regarding the perennial nature of traditional Hindu law:

Hindu Law has always been much more than a fossilised book of law that could be reformed or abolished by the stroke of a pen. It could not simply be reduced to redundancy in Austinian fashion, so often practiced during colonial rule that it taught India's post- colonial leadership to embrace legal positivism as a philosophy and top-down law- making as a magic tool of development. In social reality, all that happened was that the official Indian law changed, while more and more of Hindu Law went underground, populating the realm of the unofficial law. (qtd. in Menski, 24)

In the introduction to *Women and Law in India* Agnes quotes Sudhir Chandra to raise a relevant question regarding the subordinate status of women:

Who was responsible for the young woman's tragic predicament – those who professed that they would brook no interference with their venerable laws and usages, or the intrusive colonial masters with their alien socio-legal notions and practices who insisted on mediating in the familial affairs of the ruled? (xii)

The attempt to abolish the traditional Hindu Law and supplant it with the new codified law was not entirely successful. The proliferation of laws that were aimed at bringing about gender equality in the realms of personal law, abolition of sexual violence and other forms of sexual subordination were rendered ineffective to some degree due to various reasons. The relevance of Menski's justification in this regard is noteworthy:

[H].....something as complex as Hindu personal law could not be reformed away and abolished by statute, nor could its influence as a legal normative order that permeates the entire socio-legal Indian field be legislated into oblivion. Hindu law has always been a people's law, whether or not the state wished to see it that way. Despite enormous internal changes, Hindu law as a conceptual entity has remained an integral part of the living and lived experience of all Indians, particularly of those very diverse people who might call themselves Hindus, or whom others refer to as Hindu. (Menski 25)

At this juncture this study can be related to Homi Bhabha's concept of hybridity. He argues that hybridity is a result of various forms of colonisation which leads to cultural collisions and interchanges. In an attempt to assert colonial power "the trace of what is disavowed is not repressed but repeated as something different- a mutation, a hybrid" (111). William Harris formulates that hybridity is "constantly struggling to free itself from a past which stresses ancestry, and which value the 'pure' over its threatening opposite, the composite" (Ashcroft et al 34). Since colonial discourse "encourage the colonized subject to 'mimic' the colonizer...the result is a blurred copy of the colonizer" (125):

It is argued therefore, that Hindu law must now be understood as a postmodern phenomenon, and not as some ancient, tradition-bound system close to extinction in a modern world. It is postmodern in the sense that it has not simply embraced modernist, positivistic notions of law and legal governance, nor has it completely abandoned its traditional conceptual roots. Rather, it is a complex hybrid reflecting both a disjunction as well as an interweaving of 'modern' and 'pre-modern' legal cultures. Through a network of state-society interactions, Hindu Law has experienced a process of adoption, adaptation, and remoulding of various traditional and modern legal concepts, evolving in the meantime into a legal system that has shifted beyond the binary axioms of 'tradition' and 'modernity' into a condition of post modernity. ..Hindu law has matured gradually into a postmodern system of legal regulation that draws upon, interweaves, and integrates both traditional and modern legal concepts. (Menski 29)

Hence the pertinent question that arises is what constitutes a viable approach towards the total emancipation of Indian women. One potential measure for improving the status of women is the implementation of legal reforms which has been pursued through the enactment of various laws. Reforms in the personal laws have been in the offing with attempts such as the introduction of a uniform civil code which has met with opposition from different quarters. The matter of reforming family law to promote women's rights has become increasingly intertwined with debates surrounding identity politics and rights of marginalised groups. In the introduction to "Law and Gender Inequality: The Politics of Women's Rights in India" Flavia Agnes makes a very relevant statement:

At one level, there is tendency among social activists to project the demand of an all-encompassing uniform civil code as a magic wand which will eliminate the woes and sufferings of Indian women in general and of minority women in particular. (1)

Interestingly, Agnes does not harbour the belief that gender inequality can be wiped away as easily as gender is not a "neutral terrain, detached from contemporary political trends" (x). She observes:

Within a complex social, political, and economic structure, the demand of gender equality cannot be confined within a linear mould of granting uniform rights to women of all communities. An all-encompassing UCC cannot be viewed as a magic wand which will eliminate the woes and sufferings of Indian women in general, and minority women in particular (x)

Internal factors play a crucial role in the process of emancipation just as much as external forces. The selected texts exhibit women engaging in resistance against oppressive forces. The women protagonists have asserted themselves against all odds, breaking social taboos and conventions. Foucault had posited the power dynamics and its relation to sexuality. He says, "Power is everywhere; not because it embraces everything, but because it comes from everywhere" (93). He explains that power is not something "acquired, seized or shared... is exercised from innumerable points, in the interplay of nonegalitarian and mobile relations" (94). Though Foucault

asserts that he does not mean a mode of subjugation or a system of domination when he talks about power there is great relevance when he further goes to say that “where there is power, there is resistance” (95). Throughout the course of this study there is revelation of the inner power in women resisting the outer power of subjugation.

Virmati in *Difficult Daughters* struggles against her parental wishes to pursue higher education. Her mother Kasturi had been the first girl in the family to get education. She had learned to read, write and balance household chores. She expected her daughter Virmati to do the same and could envisage no future for Virmati other than being a wife and a mother like herself. However, Virmati insists on her right to get educated and manages to leave home to study in Lahore. When Virmati gets involved in an illicit relationship with her professor and runs away from home, her family is raged and grieved. They questioned the purpose of education which apparently taught her to put herself before others. However, Virmati remains committed to her endeavour to find emancipation and independence.

Astha, the protagonist in *A Married Woman* initially enjoys being the conventional wife. She later tries to escape the tedious life of a housewife by seeking a job. Her repressed yearnings for independence make her develop headaches. Kapur presents her situation, “it was in this two children, husband, servants, job scenario that Astha started to have headaches” (74). She gives vent to her repressed feelings by writing poetry and sketching pictures. Astha reveals the real person of her inner world and it is this larger outer space that offers her a wider scope to exhibit her truer versatile personality. She gets involved in the socio- political activities through the influence of Aziz, whose encouragement and admiration helps her to evolve as a new woman, educated, introspective and conscious.

Nisha, the central Character of Kapur’s third novel *Home* is another example of Kapur’s new woman who goes through different stages of traditional restraints and outdated belief system. Her own Mother Sona had always been biased towards her brother and did not encourage her to pursue higher education. As a child she was a victim of sexual abuse, which made her feel unsafe at home. She finds refuge at her aunt Rupa’s home where she discovers the importance of education through the

tutelage of her uncle. Compared to the enlightened upbringing by her aunt and uncle, she finds her old home stifling when she returns. Kapur showcases the power dynamics that make Nisha, a rape victim in her own home, rise to the status of independent business woman despite her mother's objection.

Ishita is one of the female protagonists in *Custody*, the other being Shagun. On one hand there is Shagun who flouts traditional norms to engage in an extra marital affair, seeks divorce and custody of her Children. Ishita, on the other hand was a victim of her narrow-minded husband and in-laws who ill-treated her because of her infertility. She undergoes mental and physical stress as a result of a harrowing medical examination and procedures only to discover that she has a womb that does not function. She is divorced by her husband only because she is unable to carry the family name forward. Kapur exposes the shallowness of a marital life where a woman is denounced and stigmatised because of her barrenness. Initially she undergoes a phase of dejection and reaches a point where she wishes, "She could tear out her whole reproductive system and throw it on the road. She hated her body, hated it" (*Custody* 121). But Ishita rises above her misfortune and begins to take charge of her life. Her resilience and optimism make her rise above despair and she associates herself with an NGO that performs social service educating slum Children. Fate brought her together with the divorced Raman and together they start a normal family life. Though barren, she finds fulfilment in looking after Raman's daughter Roohi – "She thought of the little arms around her neck, her weight on her lap, the smell of her breathe... for those moments in the car she had allowed herself to feel she was the child's mother"(280). Ishita has been successful in negotiating infertility and giving it a new meaning by becoming a loving stepmother thus securing for herself a contented husband and daughter.

Kandaswamy's unnamed protagonist in *When I Hit You* has also come out of her abusive relationship and created a niche for herself by writing her own story. After years of succumbing to mental and physical abuse she finds the strength to leave her marriage. She makes an interesting comment about herself:

I am the woman who did not know this woman myself, wild and ecstatic, trapped inside me. She is the stranger I am taking to town. She is the stranger I am getting to know, the rebellious stranger under my skin who refuses to stand to any judgement. (247)

We can finally arrive at a conclusion that the subjugation and marginalisation of women is the result of complex interplay of a variety of contributing variables. As feminist legal theorists have claimed, law in the traditional sense of the term, has been responsible for the subordinate status of women. Legal reforms have been introduced to mitigate this problem but they have not been as effective as they should have been. The patriarchal structure which has divided people according to their gender roles has posed a barrier to women's emancipation as it has resulted in women's internalised patriarchal indoctrination. It has also been established that patriarchy is one of the primary reasons for gender-based violence. Steven Tracy has observed:

Secular feminists and many egalitarian assert that patriarchy is the ultimate cause of all abuse against women. While there is considerable evidence that patriarchy contributes to much violence, the etiology of domestic violence is far too complex to support any single cause hypothesis. Furthermore, patriarchy must be carefully defined when assessing its impact on abuse, for a wide spectrum of "patriarchy" exist today, from authority based traditional patriarchy to shared authority "soft patriarchy". While all forms of patriarchy can and do contribute to domestic violence, it appears that the models of patriarchy which give husbands the greatest levels of power and authority are most likely to stimulate domestic violence. (594)

As there cannot be a single solution for a problem that does not imply a single cause, the way forward is to implement legal reforms in conjunction with social reforms and a shift in attitude. "Law cannot deliver in and of itself because it swims in the social sea with everything else" (Tamanaha 247). The Justice Verma Committee Report had made an interesting observation in the context of the Indian Constitution that "We wish to add that the supreme law does not have any bias

against women-on the contrary, the constitution guarantees political and social equality and liberty for women” (46). If that is the case, the pertinent question is where has law failed. Among others, the answer could lie in the opinion of the committee that:

The committee is distressed to infer that the State has failed to treat the symptoms as well as the malady on account of apathy towards women and children for the amelioration of their constitutional rights of safety and protection against sexual abuse (203).

Dr Ambedkar had also opined that “...If things go wrong under the new constitution, the reason will not be that we had a bad constitution. What we will have to say is that man was vile” (qtd. in Verma, 44). The committee has offered a relevant suggestion which could go a long way in achieving the desired goal of gender equality:

The moment the patriarchal society realized that women, if educated, could become independent and could assert authority, it saw a challenge to its authority. It is this perceived challenge of authority which is misplaced and is a result of years and years of past cultural beliefs. We agree that this cannot be washed away in a day. We have to make transformative processes in society which will not only make society more secure, but give equality to women, respect them, give them secure spaces, and males will also be benefited as a result of their changed attitudes and liberation. Thus, India will stand to gain (47)

Menski had pointed out that it is time that legal scholarship thinks afresh about the relationship between traditional legal systems and their modern counterparts and apply postmodern approaches with requisite theoretical and methodological knowledge to administer justice more effectively. Women in literature have spoken out and shared their experiences. Likewise, women need to be more proactive in the field of legislation to initiate legal reforms from the female perspective. At present, women are still under represented in State Legislatures as well as the Parliament. In order to ensure equality, partnership between the sexes

and respect for human dignity in all aspects of the socialisation process, it is vital to design an approach that is both comprehensive and multidisciplinary.

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ICSE	Council for Indian School Certificate Examinations	1988 (March)	First Div.	71
Pre-University	NEHU	1988 (Dec)	Second Div.	57.6
B.A. English	NEHU	1992	Second Div.	52
M.A.	NEHU	1994	Second Div.	57.81
PGDTE	CIEFL/EFLU	1996	No Div. Awarded	3.50 CGPA
LLB	NEHU	2000	Second Div.	50
LLM	IASE	2007	First Div.	64.7

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2. Resource person at 5th Finishing school 2017 for B.Sc Nursing students RIPANs during 25th July – 2nd August 2017.
3. Resource person for Personality Development Course 2017 organised by Dept of Optometry, RIPANS during 17th -29th August 2017
4. Presented paper on oral communication skills at the State level training programme on Life skills, leadership and personality development for NSS volunteers during 12th -16th February 2018 organised by State NSS cell and Regional Directorate of NSS, Guwahati
5. Presented Paper at the 16th Annual Conference of the European Association for the studies of Religions at the University of Bern ,Switzerland during 17-21st June 2018
6. Resource Person in seminar on Research Motivation organised by Research & Seminar Committee, GZRSC on 24th August 2018.
7. Resource person at 6th Finishing school 2017 for B.Sc Nursing students RIPANs during 23rd July – 31st July 2018
8. Resource person for Personality Development Course 2018 organised by Dept of Optometry, RIPANS during 17th -28th August 2018
9. Presented paper in the National Seminar on Rethinking Tribal Identity organised by Dept of English, MZU during 28th -29th March 2019
10. Delivered Lectures on ‘Lessons in language lab’ for all semesters of Govt Mizoram Law College on 9th September 2019.
11. Resource person at 7th Finishing school 2019 for B.Sc Nursing students RIPANs during 22nd July – 30th July 2019
12. Resource person for Personality Development Course 2019 organised by Dept of Optometry, RIPANS during 23rd - 30th July 2019
13. Resource person in Live TV program on NEP 2020 organised by MCTA Hqr

14. Presented paper at an International Conference on Advancements in Legal Research: Reflections in Contemporary Pandemic and Transdisciplinary Dimensions Venue at Amity Law School, Noida during 4-5th October 2019
15. Resource Person in the webinar on “ Gender Equity and Mizo Customary law” on 14th September 2021
16. Delivered invited lecture on Gayatri Chakraborty Spivak at Department of English MZU on 21st September 2021.

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1. Lalthlamuani KC & Lalrinsangi Nghinglova. *Indigeneity and Religion; The Mizo context*. MZU Journal of Literature and Cultural Studies ISSN: 2348-118
2. Nghinglova, Lalrinsangi & KC Lalthlamuani. *Tribal Jurisprudence and Literature : A study of the Mizo customary law in select short stories* MZU Journal of Literature and Cultural Studies ISSN: 2348-118
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ABSTRACT

**WOMEN, LAW AND LITERATURE: A STUDY OF SELECT
INDIAN WOMEN'S WRITINGS**

AN ABSTRACT SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

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DEPARTMENT OF ENGLISH AND CULTURE STUDIES

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Abstract

**WOMEN, LAW AND LITERATURE: A STUDY OF SELECT
INDIAN WOMEN'S WRITINGS**

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In partial fulfillment of the requirement of the Degree of Doctor of Philosophy in
English and Culture Studies of Mizoram University, Aizawl

This thesis examines feminist and legal themes associated with select writings of Indian women writers, Manju Kapur and Meena Kandaswamy. Both the writers portray women who are on the threshold of self-discovery in the back-drop of a highly patriarchal society. A woman is at once a victim and a victor, sometimes crushed by the system and yet she constantly rises above discrimination, violence and exploitation to find a niche for herself. She is constantly searching for strength and independence, focusing on her inner strength to overcome barriers posed on her by a largely biased society where even laws enacted to protect her often fail to do so. The selected works reflect the complex workings of the psyche of a woman, who is caught in the web of relationships and the struggle between tradition and modernity often faced by women in Indian society. The inner struggle between a woman's desire to take care of her household and her passion to discover deeper modes of fulfillment that fall outside the traditional social norms are portrayed in the selected texts. Women's psychology, physicality, socio-economic condition, marginality and literary confinements are best expressed through a literary form popularly known as women's writings. The main concerns of women's writings are the representation of women in literature and women as writers in a male dominated world. This study incorporates feminist legal theory which is based on the belief that law has been fundamental in women's subordination throughout history. Chamallas had discussed Clare Dalton's definition of feminism as it relates to the study of law which captures the different concerns of feminist legal writing:

Feminism is ...the range of committed inquiry and activity dedicated first, to describe women's subordination- exploring its nature and extent; dedicated second, to asking both *how* – through what mechanisms, and *why* - for what complex and interwoven reasons- women continue to occupy that position; and dedicated third , to change.(2)

This study also explores the themes of gender discrimination, gender-based violence, oppression, marginalization and matrimonial matters in the patriarchal Indian

society Chamallas had asserted that the subject matter that forms the central core of feminist legal theory of women's subordination through the law. This thesis examines how far law itself has been responsible for the subjugation of women in an attempt to approve or disprove the observation made by Poulin de la barre:

Those who made and compiled the laws, being men, favoured their own sex, and the jurisconsults have turned the laws into principles...Law makers, priests, philosophers, writers and scholars have gone to great lengths to prove that women's subordinate condition was willed in heaven and profitable on earth (qtd in *Beauvoir, 11*).

This study investigates the assumption that gender hierarchy is an inherent component of Indian society and investigates the potential of eliminating gender violence without disrupting Indian society's patriarchal foundation. The primary texts have been explored in an attempt to explain why gender discrimination and violence still exist despite the enactment of laws provided for the protection of women's rights. It has probed into reasons why law sometimes fails in preventing gender crime and discrimination. Dr Shoma A Chatterji had made an observation that, "... despite legal and constitutional privileges, marked inequalities persist between men and women" (5).

Manju Kapur and Meena Kandaswamy have brought out the perennial problem of gender hierarchy and have shown how gender violence, oppression and marginalization is perpetuated in spite of legal and constitutional safeguards provided to women in India. At the same time, they have questioned the efficiency of the Indian Justice system. Feminist perspectives of Simone de Beauvoir, Julia Kristeva, Kate Millet and Gayatri Spivak have also been incorporated in the study. The study has also attempted to explain the nuances of domestic violence in the light of feminist legal theory to offer a multi-disciplinary dimension. Gender Inequality has been attributed as one of the leading causes of violence against

women. Beauvoir had made the following remark on the perennial nature of male-female inequality:

Now woman has always been, if not man's slave, at least his vassal; the two sexes have never divided the world up equally; and still today, even though her condition is changing, woman is heavily handicapped. In no country is her legal status identical to man's, and often it puts her at a considerable disadvantage. Even when her rights are recognized abstractly, long –standing habit keeps them from being concretely manifested in customs. (10)

The law and literature movement may be best described as an interdisciplinary study that examines the relationship between the fields of law and literature, with each field borrowing insights and methods of analysis from the other. Scholars of the law and literature movement believe that law should be seen as having a natural affinity with literature. The present study has examined select works of literature in their legal and feminist context. At one level it attempts to show how a study of literature in the legal context serves to enrich both disciplines and provide a new perspective to the understanding of both. At a more comprehensive level it focuses on the representation of gender-based discrimination and violence as it impacts Indian women despite legal safeguards, in select Indian women's writings. Law has always featured in the literatures of the past. Such works have been called "Legal Novels" and contain substantive insights into law which is not readily found in other fields of study. Constitutional provisions relating to education and work, certain laws on crime against women, domestic violence, custodial rights and personal law have been contextualized with reference to the selected texts and represented in the following chapters.

Chapter 1: Introduction –Women, Law and Literature

The first chapter gives an introduction to the authors and the selected works of Manju Kapur such as *Difficult Daughters* (1998), *A Married Woman* (2003), *Home* (2006), *Custody* (2011), and that of Meena Kandaswamy *When I Hit you: or A Portrait of the Writer as a Young wife* (2017) and *Touch* (2006). This chapter aims at bringing

into perspective the different theories that have been applied into the study of the primary texts. The emergence of women's writings has been highlighted and the theories applied in the narratives are identified and explained. The intersection of women, law and literature has been brought to a focal point. The commonality of law and literature, the emergence of the law and literature movement, the contextualization of the women characters in their legal situation are narratives that are addressed in the first chapter. The chapter also gives a brief literature review of works done on the authors and theories related to the interpretation of their works, particularly the feminist legal theory. This study focuses on the intersection of women, law and literature. It has been observed in the essay "Convergences: Law, Literature, and Feminism" that:

Both law and literatures have often assumed that if not totally absent, women are the other, the object of male gaze, the subject of discussion, not the speaker. Looking at law and literature together enables us to see how each discipline incorporates these assumptions (as men speak, judge, describe, and ascribe) and how to challenge that shared vision of the social order. (Heilbrun and Resnik 1914)

Feminist Legal Theory or Feminist Jurisprudence is based on the belief that law has been fundamental in women's historical subordination. The term Feminist Jurisprudence was introduced in the late 1970's by Ann Scales and it was used in a publication for the first time in the first issue of Harvard Women's Law Journal in 1978. In 1984 Martha Fineman founded the feminism and legal theory project to explain the relationship between feminist theory, practice and law which has been instrumental in the development of feminist legal theory. The Foundation upon which the Feminist Legal Theory was based was laid by women who challenged the laws. The feminist Legal theory evolved as a critique of the American legal system which was accused of being gender-prioritized and largely patriarchal in nature.

Feminist legal theory attempts to recognize and combat the legal system which had been structured primarily for male intentions often sidelining important components

and experience faced by women and other marginalized fractions of the community. Law, itself has been accused of perpetuating male value system at the expense of female values. Feminist Legal theory is committed to changing women's status through a reworking of the law and its approach to gender. Patricia Cain gives a definition of Feminist legal scholarship which centers on the grounding of women's experience.

Feminist legal scholarship seeks to analyze the law's effect on women as a class... [T]he analysis is formed by a distinctly feminist point of view, a point of view that is shaped by an understanding of women's life experiences. This understanding can come either from living life as a woman and developing critical consciousness about that experience or from listening carefully to the stories of female experience that come from others...[L]egal scholarship is not feminist unless it is grounded in women's experience. (qtd in Chamallas 5)

Feminist legal scholar Catherine Mackinnon had asserted that law is *Male*. According to her the law sees and treats women the way men see and treat women. Her stance presents an uncompromising picture of law as enacting male power and criticized as such yet it is not wholly right to conclude that law is not gendered. She declares that, "Male dominance is perhaps the most pervasive and tenacious system of power in history..." (Kinnon qtd in Hill 358). She further claims that implicit male bias pervades every facet of modern life. In the essay "Convergences: Law, Literature and Feminism" it was pointed out that:

The work of feminist theory – in both law and literature –is to examine how both disciplines continue to assume either that women are irrelevant or that their role is to be the subject of male desire. The shared work is to recover the other traditions-women who have written, spoken, acted, claimed, judged. (1919).

History has shown that women have not been completely silenced and their stories have invariably emerged. In recent years we find women breaking out of the roles

assigned to them and generating their own stories which may generally be termed as women's writings. They needed to find their own voice and space for their mental effort. Charlotte Bronte has echoed this sentiment in *Jane Eyre*, "Women feel just as much as men feel; they need exercise for their faculties and a field for their efforts as much as their brothers do." (106). A plethora of Indian female writers have tried to depict the female exploitation and suffering in the male-dominated society and among them are Manju Kapur and Meena Kandaswamy.

Chapter 2: Gender Discrimination – Difference and Dominance

This chapter focuses on Indian women's struggle against gender bias which starts right from the womb of the mother. Gender bias starts at birth and continues in areas of education, work and household responsibilities. The selected texts are placed within legal parameters and certain legal provisions have been highlighted in an attempt to situate the selected texts in their legal context. It has incorporated major approaches of feminist legal theory specifically the difference and dominance theory.

In her essay "Difference and Dominance: On Sex Discrimination", Catharine A. MacKinnon sketches two approaches to sex equality Viz, the difference approach and the dominance approach. According to her, there are "two paths' which emerge under the difference approach, the sameness path or the sameness standard in which women are measured according to their correspondence with men, their equality judged by their proximity to his measure and the difference standard in which women are measured according to their lack of correspondence with men, their womanhood judged by their distance from his [men] measure. Mackinnon delves into what she believes is the foundation of these approaches, "The philosophy underlying this approach is that sex is a difference, a division, a distinction, beneath which lies a stratum of human commonality, sameness." (382) The dominance approach provides an alternative route for women who wants equality and yet find that they are different and that is, to be different from men. In law, this equal recognition of differences is given the term "special benefit rule" or "specific protection rule". The dominance model rejects the

liberal approach and views the legal system as a mechanism to perpetuate male dominance. Dominance theorists repudiate the difference model because men are used as the benchmark of equality. Whilst it is the aim of the difference theory and the liberal equality model to achieve equality for men and women, the end goal of the difference mode is to liberate women from men. According to Catherine MacKinnon, sexuality is central to dominance and the legal system perpetuates inequality between men and women by creating laws about women from male perspective. She has simplified the two approaches thus:

The difference approach adopts the point of view of male supremacy on the status of the sexes. Simply by treating the status quo as “the standard”, it invisibly and uncritically accepts as its norm the arrangements under the male supremacy. In this sense, the difference approach is masculinist, although it can be expressed in a female voice, and the dominance approach is feminist, in that it sees and criticizes the inequalities of the social world from the standpoint of the subordination of women to men. (388-9)

Indian society is predominantly patriarchal in nature and this contributes extensively to the secondary status of women. Indian women have been said to be victims of deep-rooted traditional oppression and socio-economic inequality in a male dominated society. Nobel Laureate Amartya Sen had stated that, “Gender Inequality is not one homogeneous phenomenon, but a collection of disparate and inter-linked problems” (466). Society, family, religion, law and legal system, media, cultural beliefs and practices, education, political system and institutions define and reinforce gender inequalities. Among these factors, the reason for inequality can largely be attributed to the patriarchal social structure and the gender biased society. In *Sexual Politics* Kate Millet had made the following observation:

Under patriarchy the female did not herself develop the symbols by which she is described. As both the primitive and civilized worlds are male worlds, the ideas which shaped culture in regard to the female were also of male design. (26)

Gender discrimination has always posed a serious threat to equality in a society. The Indian society has remained male dominated and the long history of India testifies of male domination over females. In one of her interviews Kapur had observed:

I am a Feminist. I mean I believe in the rights of women to express themselves, in the rights of women to work. I believe in equality, you know domestic equality, legal equality. I believe in all that. And the thing is that women don't really know that – you know even educated women. There is a trapping of equality but you scratch the surface and it's not really equal. (Goel 4).

Manju Kapur's *Home* (2007) showcases a typecast sentiment exhibited towards a male child in a typical Indian home. The equation of birthing a son to completion of family duty puts pressure on a woman to bear a son, which is biologically beyond her power to control. More so, in a joint family set-up where the wife competes with other daughters-in-law to bear a son. The birth of a son means that the lineage will continue. Sona's mother-in-law clutches the day-old boy to her chest and says, 'At last the name of his father and grandfather will continue' (48) Jubilation over the birth of son and the obvious difference with the birth of a daughter is illustrated in *A Married Woman* (2003):

The family is complete at last', said Astha's mother piously... Hemant's mother agreed, too happy in the birth of her grandson, carrier of the line, the seed, the name, to respond with her usual reserve to someone she increasingly felt was her social inferior. The naming ceremony of the boy was carried out on a much grander scale than that of Anuradha's (68)

The preference for a son is historically rooted in the patriarchal system of the Indian society. With the transition of the Indian society from the primitive stage to the feudal stage where agriculture became the established occupation of the people, the patriarchal landowning society emerged in which sons became more useful and came to be seen as legal heirs to the family property, increasing their value over daughters automatically. The low status of women has led to the increase of female feticide and sex-selective abortion. A pernicious form of violence against women in some parts of India had been and still is the elimination of the girl child or female infanticide, which resulted in the declining sex ratio. Prof. Amartya Sen has aptly coined the idiom “missing women” (Sen 470) to describe the lopsided sex-ratio where women go ‘missing.

Gender discrimination in the field of education is another obstacle that hinders women’s progress in the social ladder. Kate Millet’s observation in *Sexual Politics* is relevant in terms of women’s education in a largely patriarchal Indian society:

Traditionally patriarchy permitted occasional minimal literacy to women while higher education was closed to them. While modern patriarchies have, fairly recently, opened all educational levels to women, the kind and quality of education is not the same for each sex. This difference is of course apparent in early socialization but it persists and enters into higher education as well. (42)

Education plays a significant role in women’s emancipation. It is education that helps women realize the nature of their subjugation, marginalization and suppression. In the words of A.S Altekar, “Denied the benefits of education, brought up in the authoritarian atmosphere, having no opportunities to develop their natural capacities, women became helpless, illiterate narrow-minded and peevish” (43-44). A huge factor that inhibits girls from getting access to education is, in many cases, parental reluctance to educate girls. The real cause of woman’s problems is not so much the antagonistic

attitude of man. It is rather the lack of awareness in women, and in people in general, about woman's true needs and her right to attain a separate self. In the words of Nair:

In many cases, women themselves are responsible for holding back their participation in education, working on preconceived notions that they will be unable to cope with the pressures of balancing work and home, assuming that education can cause strain at the home front, or to conform to socially induced images of femininity. (104)

According to a report written by Naina Bhardwaj in "Women and Work in India: Trends and Analysis" the female labor force participation rate (LFPR) in India has not only stagnated at a rate much below the global average of 47 percent for several years but has declined considerably in recent years. Conservative social norms and attitudes pose hindrance to women who want to move ahead with their career. Kapur and Kandaswamy have exemplified this fact in their novels. In *Home*, it is best seen in the character of Sona who would not allow her daughter Nisha to choose work over marriage. Whereas Nisha would only consent to a marriage into a family who lets her work, her mother however objected. According to her, working was all right as "a time pass". (296) In many of her writings Kapur has portrayed the various schemes developed by the patriarchs to curb female freedom and independence. Education for a daughter is seen as an alternate option of marriage. A daughter's education is not meant for her to go out and take up a job. In fact, her education is a tool for her to hunt down a good husband and become a perfect wife and a daughter-in-law. Thus, marriage is the ultimate institution where all women should enter after the successful completion of education. The female protagonist in Kandaswamy's *When I hit you* moves to Mangalore to join her husband and since then she lost all contacts and facebook has transformed into her only profession link. However, her abusive husband insists that she deactivates her facebook account calling it 'narcissism' and 'exhibitionism' (50). On his insistence she deactivates her facebook at the cost of her work as a writer.

Chapter 3: Gender and Violence- A Perspective

The third chapter is focused on the study of gender violence that prevails in the Indian society. Gender based violence includes all acts of sexual violence (including rape, sexual assault and harassment) psychological and economic violence, trafficking and forced prostitution, slavery and other harmful practices such as forced marriages, forced abortion, crimes committed in the name of honour. A harmful outcome of the subjugated position of women is their vulnerability to violence. Violence against women is supposedly perpetuated by hierarchical and unequal power relations that are rooted in social and culture-related norms. The phenomenon of violence against women appears to have arisen from the patriarchal notion of ownership over women's bodies, sexuality, labour, reproductive rights etc. Violence is often used as a tool by abusive men to control women as a result of a highly internalized patriarchal conditioning. It is alarming that according to the International Men and Gender Equality survey carried out in 2016, sixty five percent of Indian men believe women should tolerate violence in order to keep the family together and women sometimes deserve to be beaten.

In most cultures, traditional beliefs, norms and social institutions legitimize and therefore perpetuate violence against women. In India, many women have been victims of gender –based violence and have been ill-treated for ages in a male dominated society. Crimes which are directed specifically against women are characterized as crime against women. Violence against women is not a new phenomenon and dates back to ancient India and is prevalent till today. RP Sharma makes the observation that:

The entire corpus of Hindu literature from the Rig Veda to the Kamasutra should be seen as a careful stockpiling of strategies to convert a woman into a machine which can be used or abused at the pleasure of the male and without any regard for her working capacity. (Intro by Pakem in Sharma,xxi)

The Parliament and the state legislatures of India have taken several initiatives to make laws for protection and promotion of women rights. The Constitution of India not only grants equality to women but also empowers the state to adopt measures of positive discrimination in favor of women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them. To uphold the constitutional mandate, the state has enacted various legislative measures intended to ensure equal rights to counter social discrimination and curb various forms of violence and atrocities. Manju Kapur's works are intertwined with multifarious issues that permeate throughout the Indian society.

Gender issues are central to Kapur's world view in the lines of the female figures; we encounter questions about marriage, motherhood, women's education, women's work in and out of the home, the body, sexuality, the forms of violence against women ranging from emotional blackmail to dowry deaths and sexual abuse (Chakravarthy 119).

One of the most discussed questions in the society is the sexual exploitation of girls. In delineating Nisha's suffering in *Home*, Manju Kapur has projected the larger threats for women in the household. Nisha's suffering from skin eczema is possibly linked to her childhood trauma of being sexually abused by her own cousin Vicky in her own house. *Virmati* in *Difficult Daughters* defies family traditions in her search for love and emancipation. Against the wishes of her mother, she pursues higher education and gets entangled in an illicit relationship with the married professor Harish who traps her in the garb of educational pursuit and takes advantage of her by maintaining an uncommitted relationship with her. In her innocence *Virmati* is not able to understand the professor's evil design. He breaks down all her attempts for self-assertion and gratifies his obsession for her body. As a result, *Virmati* gets pregnant and has to opt for an abortion. Her upbringing in a traditional family makes her hold the opinion that she has to devote her life to the professor since her body has been defiled by him- "she was

his [Harish's] for life, whether he ever married her or not. Her body was marked by him, she could never look elsewhere, never entertain another choice" (177). Harish had taken advantage of his superior standing as her professor and exploited Virmati sexually. In *Touch* Kandaswamy depicts the shocking aspect of the society where culprits involved in sexual assaults find escape because of high caste affiliations depriving the victims of their basic rights.

A major target of the feminist campaign for reform of rape law has been its exclusion from marital law which has made it impossible for women to charge their husbands with rape when there has been use of physical force by the husband and there is lack of consent from the wife. The Indian law does not recognize marital rape as a crime. Kapur challenges the society's sanction of spousal rape and the transgression of women's right over her body. Astha in *A Married Woman* is a victim of marital rape and her responses are disregarded and ignored by her husband. Her husband Hemant plays a dominant role in sex and regardless of her willingness he starts his sex routine- "That night, Hemant started his sex routine. "No", said Astha, "I don't feel like it...without her willing it her body responded. Hemant became more ardent. "Baby, you are the only one for me, what's the matter, are you jealous?" "No", she said, trying to push him away, but it was of no use" (224).

Kandaswamy also raises the issue of marital rape in *When I hit You*. When rape is committed by someone that one shares a bed with at night and the one for whom one makes coffee the following morning, a whole new dimension of the act emerges:

I never understood rape until it happened to me. It was a concept –of savagery, of violence, of violation, of disrespect. I had read my share of Kate Millet and Susan Brown miller but nothing prepared me for how to handle it. Within a marriage fighting back comes with its consequences. The man who rapes me is not a stranger who runs away. He is not the silhouette in the car park, he is not

the masked assaulter, he is not the acquaintance who has spiked my drinks. He is someone who wakes up next to me. (167)

A large portion of behavior that fits the legal definition of rape is often not regarded or treated as “real rape” even by the victims themselves. According to Susan Estrich the limitations of rape prototype is that only a very narrow class of rape cases are taken seriously under the law. Her basic claim is that unless a rape is committed by a stranger who inflicts physical injury, it will rarely be treated as a criminal act. As long as rape is categorized as rape only if it is committed by a violent stranger, all other such encounters tend to be categorized as consensual even if there is no evidence that the woman wanted to have sexual intercourse. Thus, the “stranger rape” prototype does not include all situations that qualify as rape. Chamallas quoted Susan Estrich:

At one end of the spectrum is the “real” rape...A stranger puts a gun to the head of the victim, threatens to kill her or beats her, and then engages in intercourse. In that case, the law-judges, statutes, prosecutors, and all – generally acknowledge that a serious crime has been committed... (225)

The Protection of Children from sexual offences Act 2012 was enacted to protect children from offences of sexual assault, sexual harassment and pornography and to provide for establishment of special courts for trial of such offences and other matters connected to it. Despite legal protections most cases of child abuse go unpunished due to various reasons including the private nature of the crime and lack of understanding in the victims that they have been sexually abused- “she [Nisha] was too young to understand what was happening” (*Home* 59). Child abuse victims are often led into believing that the abuse is their fault and while some children rage and rebel others become quiet and compliant. Nisha in *Home* is cajoled into silence by Vicky –“We are not going to tell anybody about this ...this is our secret” (*Home* 57). In “A rally against rape” Mackinnon makes the observation that, “of the reasons raped women give for not

reporting rape, the most common is fear of retribution” (82). In Nisha’s case too, the fear of retribution appears to be one reason she remains silent. After abusing her, Vicky warns her with “it’s our secret. If you tell anyone, they will beat you and me” gripping her by the arm he continues, “no one must know. No one. You understand”. (Home 58). To which Nisha ‘nodded wordlessly” (58) and when they reached downstairs “Nisha stood silently, staring at the game in the hand”. (58)

The enactment of The Dowry Prohibition Act 1961 did not bring an end to dowry related crimes and deaths. This aspect of social reality is exhibited in Kapur’s *Home* through the death of Banwari Lal’s daughter Sunita in “an accident in the kitchen”. (17) Sunita is married to Murali, a jobless man of dubious nature. His greed for his wife’s wealth is reflected in the lines, “Murali wanted her family to invest in Bareilly, to either open an outlet that he would manage, or failing that, to help upgrade his shop. Her dowry had been small, he demanded redress.” (17)

Domestic violence is recognized as the leading cause of injury to women across the world. Some feminists prefer to use the term “women abuse” or “male battering of women” to highlight the fact that women are most often the victims of the violence. Chamallas had asserted that the most significant contribution made by the feminist writer towards the understanding of women’s experience of domestic violence has been to explain domestic violence as a mechanism of male power and control. Battering is a way of organizing a relationship so that abusive men feel superior to women. Susan Schechter in her book *Women and Male Violence* had described how, many abusers start with a sense of entitlement and how men see themselves as rightfully in control of their partners and how aggrieved they feel when they assert independence. The feminist narratives reveal a dynamic of domestic violence, a pattern of abuse, which includes not only punching, shoving and other forms of physical violence, but a complex of actions that one commenter, calls a “regime of private tyranny” (Chamallas 2). Susan Schechter makes an important observation that, “[w]omen’s self-assertion through jobs or school particularly infuriates some [abusive] men” (220).

In *When I hit You* (2017) Kandaswamy recounts her violent marriage that began with the stripping of her autonomy, which advanced to mental, economic and physical assault until she finally asserts herself by running away from her husband. Abusive behavior may start subtly and gradually progress to more physical acts, “Denial of a woman’s autonomy may be as significant as the use of physical force”. (*Chamallas* 258) Kandaswamy’s protagonist describes how her identity is slowly erased by her abusive husband, “I should be a blank. With everything that reflects my personality cleared out. Like a house after robbery” (16). Her experience of violence grew from psychological abuse, isolation and escalates to physical abuse to which she became accustomed, “I am the wooden cutting board banged against the countertop. I am the clattering plates flung into cupboards. I am the unwashed glass being thrown to the floor.” (131) The theory of “learned helplessness” (261) which was popularized by Lenore Walker is applicable in the case of battered women. It is very common for the victim to feel she cannot control what happens to her and that resistance or escape is impossible.

In the Indian scenario the social structure, the patriarchal notion of ownership, age old prejudices, customs and religion have been responsible for putting the women in a subservient condition. The likelihood of removing gender violence without disturbing the patriarchal structure is very slim. B. R Sharma and Manisha Gupta have made the following observation:

The Phenomenon of violence against women from patriarchal notions of ownership over women’s bodies, sexuality, labor, reproductive rights, mobility and level of autonomy. Deep-rooted ideas about male superiority enable men to freely exercise unlimited power over women’s lives and effectively legitimize it too. Violence is thus a tool that men use constantly to control women as a result of highly internalized patriarchal conditioning coupled with legitimacy for coercion to enforce compliance and increasing aspirations, frustrations and ‘might is right’ becoming a legitimate view and increasing need for assertion of individual egos and control. (117)

Chapter 4: Matrimonial Matters Relating to Women

This chapter examines the primary texts in an attempt to understand the Indian concept of marriage which is considered a sacred duty in the Hindu society. It has also explored certain aspects of family law which governs property rights and rights of inheritance. Motherhood as an ideological construct, forced motherhood, the right to choose motherhood and issues of infertility and its effect on marriages are issues that have been taken up for close study. The complications of divorce and custodial rights are issues that have been explored in this chapter. The Indian Judicial system has also been placed under the scanner for its delay in delivering justice.

In the Hindu society marriage is considered a “samskara” or a purificatory ceremony which is obligatory for every Hindu. Marriage is a relationship that is defined and sanctioned by custom and law. In the patriarchal society of the Rig Vedic Hindus, the wife was considered the property of man and was referred to as ardhangini. Marriage is conceived as a sacramental union by the traditional Hindu law which implies that marriage between a man and a woman is one of religious and holy nature, not a contractual union. Beauvoir also talks about how marriage has always been a social necessity for women, “The destiny that society traditionally offers women is marriage. Even today, most women are, were, or plan to be married, or they suffer from not being so” (451)

Marriage is a prominent theme in the works of Manju Kapur. She has explored the nuances of modern marriage in its varied dimension. The women characters in the works of Manju Kapur are compelled to think of nothing but marriage and rightly so, considering the importance marriage plays in the society. Kishar Desai has observed, “Kapur has been a dedicated chronicler of the North Indian family and its woes for the past few decades, gathering much deserved praise for her meticulous observation of marital breakdowns and break-ups” (58). In *Difficult Daughters* (1998) Virmati learns that there is nothing other than marriage for girls in her family as she recalls what her

mother told her- ‘Still, it is the duty of every girl to get married’ (15). Marriage of a daughter is considered a sacred duty, “When you are married, our responsibilities will be over. Do you know the shastras say, if parents die without getting their daughter married, they will be condemned to perpetual rebirth?” (*Married Woman I*)

In the Indian society the concept of motherhood is often the determiner of social norms and values that define what women ought to. It was observed in *Woman: Her history and Her Struggle for Emancipation*:

Not only was motherhood often imposed on women- but women were conditioned to regard it as the summum bonum of life; they deplored barrenness and suffered untold torture from rituals directed towards fertilization of the womb. Male impotency was known only hazily, it was always the women who paid socially and emotionally for childlessness (86)

Society expects a married woman to bear children that will carry forward the family lineage, and motherhood was the cherished ideal of every Hindu woman. Hence, infertility became a cause of stigma and a ground for divorce. Kapur tackles these issues in her novels *Home* and *Custody* and shows different responses to the problem. There is gender bias in the response to infertility as pointed out by Sukumari:

Male infertility was dimly known as the custom of levitate indicates, but no stigma ever attached to an impotent male. We hear of impotent kings both in Brahmanical and Buddhist literature but never with any aspersion of inauspiciousness [...] It was always the woman who got blamed for failing to procreate (51)

Kapur also highlights this aspect in *Custody*, “Had there been something wrong with SK, they would have moved heaven and earth to get a son’s defect corrected” (66). The dominant view in the academic and legal literature is to the effect that classical

Hindu law did not permit divorce at all, however, a man may divorce his wife if she cannot produce a progeny and as Menski observed, “The greatest tyranny of the male over the female lies in the privilege of supersession enjoyed by the Hindu husband” (438). The dominant view in the academic and legal literature is to the effect that classical Hindu law did not permit divorce at all. Manusmriti provides that a husband must be constantly worshipped as a god by a faithful wife. Hence it was traditionally believed that a married Hindu woman must put up with everything that the husband throws at her. Menski had quoted Sharma to provide an insightful picture of the ancient Hindu divorce law:

In the Vedic literature there is no reliable reference to divorce and there is not much evidence of it in post-vedic literature...marriage is a holy and religious institution and is based on spiritual values. Therefore, once the marriage ceremony is performed, it was considered irreligious to think of divorce or even separation (Menski 432).

A divorce is however inevitable for some marriages and has a direct negative impact on children as it normally leads to a custodial battle. Children become the pathetic play cards of husbands and wives who fight for custody. Raman and Shagun start a legal fight to take custody of the children oblivious of the fact that the law was a cut and dried business and that once you got swamped in you will be left outraged and frustrated. *Custody reflects* the devastating impact of divorce on the wife, husband, children and in-laws. Mithu Banerji in her article on *Custody* wrote:

Kapur’s book reveals the unimagined uncertainties of matrimony. The wife’s sense of suffocation, the husband’s fear of loneliness and the constant shifting of the children, like commodities, from one home to the other, are evoked with painstaking sincerity (1).

Children almost always bear the brunt of parental conflict after a divorce. They become uprooted as they are shuffled from one parent to the other. Kapur raises a pertinent question, “Divorce takes a lifetime and if you are not living together where do the children go?” (136). When parents get divorced children undergo emotional turmoil which often results in anger, confusion, sadness and self-blame- “They came, withdrawn children, waifs in the marital combat zone, Arjun, face pinched, Roo pale with wisps of hair across her eyes” (143).

In *Custody*, Kapur also raises the question as to how far the Judiciary is able to bring justice and examines the effectiveness of the system. The long and drawn-out court petition is bound to have negative impact on all concerned, testing their patience and faith in the Judiciary:

No one in the family had ever been involved in a court case. There was something unsavoury about the whole thing, some profound incapacity to lead your life according to prescribed norms. She heard of cases lasting ten years, twenty years, property disputes carried on by grandchildren, custody cases only resolved by the child’s reaching eighteen, divorce disputes lasting into old age. Which man would not tire of a woman-no matter how beautiful- who came burdened with legal baggage? (134)

‘Justice delayed is justice denied’ is a legal maxim which means that if legal redress or equitable relief to an injured party is available, but is not forthcoming in a timely fashion, it is effectively the same as having no remedy at all. Kapur delves into this aspect of legal mechanism in *Custody*. Shagun begins to understand the complexities of court proceedings and raises a pertinent question - “you think once the marriage is over everything naturally follows? No such luck. Divorce takes a lifetime and if you are not living together where do the children go?” (136) The hearing for the custody of the children gets delayed at the court and when Raman’s cousin Nandan took

up the case he knew the long wait involved in court cases would frustrate Raman. Kapur is critical of the Indian Judiciary which moves at a very slow pace.

Kandaswamy's *When I hit you* also deals with the issue of divorce. After years of silent suffering Kandaswamy retaliates and runs away from her abusive husband to fight a long-drawn-out divorce battle. Mud-slinging and false accusations are part and parcel of a divorce battle:

Then there is the divorce petition, sent by lawyers, which talks about my ultra-feminism, which blames my parents for my modern upbringing. Forgetting everything seems a forlorn, unattainable dream. Years after you walk out, you will still be caught in the web of a bad marriage (233).

This preferential right over property ownership is a perfect example of gender bias in a male-centered society. Women across India, regardless of religion or society, had little or no rights over property. The discourse on the Hindu women's rights within marriage is a complex and contentious matter as it is closely related with religious issues. The structure of the Hindu joint family was such that it was based on male coparcenary which denied women the right to own property and the right of succession in the coparcenary property. According to Manu, "a wife, as son and a slave could have no property and that the wealth which they earn was acquired for him to whom it belonged." (qtd in Kant 240). It is believed that modernity ushered in during the colonial rule and post-independence period helped to loosen out the strict sexual control by granting women the right of divorce and property ownership.

In *Home* we get a glimpse of the pathetic condition of women when it comes to property rights. Vicky, the son of Sunita, Banwari Lal's only daughter has no rights in the joint family property. This is evident in Sona's conversation with her husband over the division of the family property among the two brothers:

He says his share for himself and his two sons is three-fifths, two fifth for me and my son. Sona's jaw dropped. Such greed was never seen on the face of the earth...And why two-fifth? What about Vicky? We keep him, his wife, his child, we should have at least half.

You know he will say sister's son. Besides, baoji never intended Vicky to be an actual owner (170).

As observed by Flavia Agnes, modernity ushered in a new dimension and reforms in laws relating to marital matters. Child marriage and dowry system were abolished and women were given the right to inherit property. But the evils of dowry system still remained and so were other social evils. Crises in family values and marriages are issues that are dealt with in the selected texts. Gunjan Jain has rightly quoted Russel, "the modern Indian wife who is confronted with the problem of multiplicity of roles she has to perform, the modern husband is experiencing a value conflict as he is being pulled in to two directions by images and expectations of the traditional and modern wife" (21).

Chapter 5: Conclusion

The chapter sums up the various themes of gender discrimination by drawing inference from the examples provided in the preceding chapters to come to a conclusion that law had somehow been responsible for women's subordinate status. The study focused on thematic, analytical and interpretive study of the selected texts, with each chapter dealing with different themes such as gender discrimination, gender violence and matrimonial discourse relating to women. The thread that unites each theme is the feminist legal theory which probes into the question of how far law itself has been responsible for male dominance. Other causative factors that are responsible for female subjugation such as patriarchal social structure, attitudinal barriers, superstition and

regressive mindset have been delved into. Proliferation of laws has not abolished gender discrimination in terms of education and work nor has it totally eliminated sexual harassment and violence. Women's oppression was not based on a single factor but by intersection of factors which have been examined in the chapters.

The feminist legal theorists had taken a stand that law itself is responsible for women's subordinate status. The ancient sources of Hindu Law were the Shruti, Smriti, Custom, Digests and Commentaries. The modern sources fall under the heads of Equity, Justice and Good Conscience, Precedent and Legislation. The personal laws which regulate marriage, divorce, maintenance, inheritance and succession are largely gender biased and were not easily replaceable. Menski had observed that what were abolished by the formal law were only a fragment and not the entire social reality of Hindu Law. He goes on to say that "the entire customary social edifice of Hindu Culture, remained largely immune to the powerful wonder drug of legal modernization..." (24) Chiba makes a statement regarding the perennial nature of traditional Hindu law:

Hindu Law has always been much more than a fossilized book of law that could be reformed or abolished by the stroke of a pen. It could not simply be reduced to redundancy in Austinian fashion, so often practiced during colonial rule that it taught India's post-colonial leadership to embrace legal positivism as a philosophy and top-down law-making as a magic tool of development (24)

According to Chiba, the social reality was that "all that happened was that the official Indian law changed, while more and more of Hindu Law went underground, populating the realm of the unofficial law" (24). Hence law had not been able to eradicate the social evils of gender discrimination, oppression, marginalization and violence. The attempt to abolish the traditional Hindu Law and replace it with the new codified law was not entirely successful. The proliferation of laws that were aimed at bringing about gender equality in the realms of personal law, abolition of sexual

violence and other forms of sexual subordination were rendered ineffective [H].....
“Something as complex as Hindu personal law could not be reformed away and abolished by statute, nor could its influence as a legal normative order that permeates the entire socio-legal Indian field be legislated into oblivion” (Menski 25). In conclusion, there are multiple factors that are responsible for the suppression and marginalization of women and the way forward is to bring about legal reforms coupled with attitude change.

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