

Problems of India's Changing Family and State Intervention

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A perusal of varied literature on Indian society and culture, particularly generated by ethnographers, historians, Christian missionaries and subsequently by anthropologists and sociologists, suggests that the twentieth century recorded certain changes of far reaching importance in the family system under the influence of westernization, industrialization, modernization and greater population mobility across the sub-continent. Ever since then the Indian family has progressively confronted and combated various kinds of problems and challenges, and yet India does not have any family policy per se so far; albeit the Government of India has indeed taken several useful legislative measures relating to widow remarriage, women's right to property, practice of child marriage, succession, adoption and maintenance, dowry, dissolution of marriage affecting different communities and most recently domestic violence, which have impacted the Indian family system in more ways than one. It is, however, recognized that the formulation of a single national policy given the large size and heterogeneity of a society like that of India is really a difficult task. Barriers to the creation of a comprehensive national policy in India are intricate parts of Indian ethos and ideology. This is perhaps the important reason why India has not so far succeeded in evolving a common civil code despite public demand for it through various social and political fora in the recent past. Muslims, who comprise 12.4 percent of India's population, are opposed to the idea of a uniform civil code in the country. Anyway, in order to do that one must have a reasonably good understanding of problems that the Indian society has been facing. Here we would like to throw some light on the major problems that confront the Indian society in general and a family in particular. It is really imperative that one should understand the hurdles in promoting social protection and intergenerational solidarity for the well being of family as a social sub-system.

At the outset let me move a word of caution— it is hazardous to offer a generalized view of the nature and problems of the Indian family system which have persisted over the years, as the subject is quite complicated for the reason that the Indian society is very vast and is characterized by bewildering complexity. According to the 2001 census, India consists of 192.7 million households spread over 0.59 million villages and about 5,000 towns. The Indian society exhibits considerable variations between regions, between rural and urban areas, between classes, and finally, between different religious, ethnic and caste groups. The Indian society is, in fact, a congeries of micro-regions and sub-cultures and differences between which are quite crucial from sociological angles. Furthermore, the differences are also discernible with respect to the level of female literacy, sex ratio, age at marriage of girls, incidence of dissolution of marriage, household size, female workforce participation rate, marital practices, gender relations and authority structure within the family. Diversities inherent in Indian society are also reflected in the plurality of family types.

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It would be noticed from the subsequent discussion that the magnitude of changes that the Indian family has experienced over a period of a century appears to be far greater than the expectations of Indian sociologists and anthropologists. The virtual disappearance of traditional joint family from the urban scene, increase in the life expectancy of women from 23 years in 1901-10 to 65 years (it is higher than that of men by three years) in 2009, rise in the proportion of female headed households, decrease in the average age of household heads, increase in the incidence of separation and divorce, greater tension and conflicts between wife and husband, parents and sons and between brothers, increased freedom of marital choice, passing of child marriages, shrinking of kinship ties, continuous consultations between sons and parents on familial matters, greater involvement of females in decision making process, increase in the mean age at marriage of female from 13 years in 1901 to 18.3 years in 2001, rise in the level of female education, decline in total fertility rate from 4.9 in 1971 to 2.76 in 2009 are concrete and clinching evidence to suggest a whole range of changes in the family system— its structure, functions, core values and regulative norms (Singh, 2004: 129-166). In course of these changes many new problems have surfaced, while some of the old ones, such as dowry, divorce, lack of intergenerational solidarity, discord between siblings and gender violence have got further intensified.

The passing of joint family system

Since time immemorial the joint family has been one of the salient features of the Indian society. But the twentieth century brought enormous changes in the family system. Changes in the traditional family system have been so enormous that it is steadily on the wane from the urban scene. There is absolutely no chance of reversal of this trend. In villages the size of joint family has been substantially reduced or is found in its fragmented form. Some have split into several nuclear families, while others have taken the form of extended or stem families. Extended family is in fact a transitory phase between joint and nuclear family system. The available data suggest that the joint family is on its way out in rural areas too (Singh, 2004: 134-140).

The joint family or extended family in rural areas is surviving in its skeleton or nominal form as a kinship group. The adults have migrated to cities either to pursue higher education or to secure more lucrative jobs or to eke out their living outside their traditional callings, ensuing from the availability of better opportunities elsewhere as well as the rising pressure of population on the limited land base. Many of the urban households are really offshoots of rural extended or joint families. A joint family in the native village is the fountainhead of nuclear families in towns. These days in most cases two brothers tend to form two independent households even within the same city owing to the rising spirit of individualism, regardless of similarity in occupation, even when the ancestral property is not formally partitioned at their native place.

The nuclear family, same as elsewhere, is now the characteristic feature of the Indian society. According to the census of India data, of all the households nuclear family constituted 70 percent and single member or more than one member households without spouse (or eroded families) comprised about 11 percent. The extended and joint family or households together claim merely 20 percent of all households. This is the overall picture about the entire country, whereas in the case of urban areas the proportion of nuclear family is somewhat higher still. The available data from the National Family and Health Survey-1 of 1992-93 (henceforth NFHS) suggest that joint family does not make up more than five percent of all families in urban areas (Singh, 2004:137). An extended family, which includes a couple with married sons or daughters and their spouses as well as

household head without spouse but with at least two married sons, daughters and their spouses, constitute a little less than one fifth of the total households.

With further industrial development, rural to urban migration, nuclearization of families and rise of divorce rate and the proportion of single member household is likely to increase steadily on the line of industrial West. This is believed to be so because the states, which have got a higher level of urbanization, tend to have a higher proportion of single member households. Similarly, about a couple of decades ago almost 20 percent households contained only one person in the USA (Skolnick and Skolnick 1980: 2). More or less, a similar situation exists in other developed countries as well, and above all, not a single country has recorded decline in the proportion of single member household during the last three decades. In fact, the tendency is more towards increase in the proportion of single member households.

As the process of family formation and dissolution has become relatively faster now than before, households are progressively more headed by relatively younger people. Census data from 1971 onward have clearly borne out that at the national level over three-fifths of the households are headed by persons aged less than 50 (Singh 1984: 86-95). There is every reason to believe that proportion of households headed by younger persons is likely to constitute a larger proportion than this in urban areas where the proportion of extended family, not to speak of joint family, is much smaller than that of rural areas.

The emergence of financially independent, career-oriented men and women, who are confident of taking their own decisions and crave to have a sense of individual achievement, has greatly contributed to the disintegration of joint family. Disintegration of joint family has led to closer bonds between spouses, but the reverse is also true in certain cases. For many, nuclear family is a safer matrimonial home to a woman. In bygone days people generally lived in joint families, yet familial discord never escalated into extreme physical violence or death, as we so often come across such instances in our day-to-day life and also know through national dailies, both electronic and print media..

Changes in authority structure

Once the authority within the family was primarily in the hands of family elders commonly known as *Karta* in Hindi. The general attitude of members of the family towards the traditional patriarch was mostly one of respect. Loyalty, submissiveness, respect and deference over the household were bestowed on him. These attributes also encompassed other relationships in the family, such as children to their parents, a wife to her husband, and younger brothers to their older brothers (Gupta, 1978: 72). Within a household no one was supposed to flout the will of his elders. The father, or in his absence the eldest brother, was consulted on all important family matters like pursuing litigation in courts of law, building a house, buying and selling of property and arranging marriages, etc. The joint family did not allow the neglect or disregard of elders. The age-grade hierarchy was quite strong. Now the people of younger generation, particularly those with modern tertiary education, do not seem to show the same reverence which their fathers had for their parents or elders.

Among women, patriarch's wife was the paramount authority. In fact, women's position depended on the position of their husbands in the household. The wife of the household head or mother-in-law was in charge of the household. Her word was law or at least had the same force. Her decisions were made for the entire family and not for the welfare of the individuals in it. Young women in the family were expected to be dutiful and obedient. Self-assertion, even in bringing up their own children, was blasphemy. Widows and those spurned by their husbands were assured of the family roof, though mostly as voiceless members.

With a view to absolving themselves of responsibility now parents cleverly encourage their educated sons and daughters-in-law to take independent decision in a joint and extended family situation, leave aside urban areas, the similar situation has started to emerge in rural areas too. This is not unusual when sons and daughters tend to possess a higher level of education and a greater degree of exposure of the world outside the family than ever before. Now boys and girls, contrary to the old practice, are beginning to assert their wishes in mate selection. Parental decisions are no more supreme. Changes concerning erosion of authority of old guards, particularly in matters of mate selection, are on gradual decline in rural areas too.

Yet another interesting fact about the change in authority structure within the family is that about nine percent of all the households are headed by women, while the NFH Survey-1 (1995:46) gives a slightly higher figure (about 10 percent). Most of the female household heads are usually independent and gainfully employed. In the absence of their husbands, either because of death, separation, transfer in job or business engagement, women are themselves able to run the affairs of their family. Long distance migration of men for employment is also an important reason for the emergence of such households. The phenomenon of female-headed household assumes significance in the Indian society because in the past when the joint family system was so preponderant that the female-headed household was quite an uncommon phenomenon.

Changes in marital practices

The traditional system of values of the Indian society, especially that of Hindus, has been such that it stood for the practice of early as well as universal marriage for females. Child marriage or pre-puberty marriage all through has been an archetypal institution of India. The mean age at marriage was reported to be quite low in the 19th century and so also in earlier days. The mean age at marriage for females was about 13 years between 1901 and 1931 censuses and it did not differ much between different communities. Of all the legal measures the Child Marriages Restraint Act 1929 (and its further amendments in 1949, 1955 and 1978) happened to be quite effective one. Rise in the age at marriage really became conspicuous during the post independence era, that is, during the period onward 1950. The act was further amended in 1978 wherein boys' marriage age was raised to 21 and girls' age to 18 years. On the whole, the state level census information for the last one hundred years has revealed a clear rise in the age at marriage for girls. During 1891-1991 the age at marriage increased by 4 to 7 years in different parts of the country. Data from NFHS-2 (1998-99) have shown further increase in the age at marriage of females from 18.5 years to 21.5 years at the national level which greatly destabilized the persistence of high fertility regime in the country (the Census of India, 2001 has estimated a somewhat lower age at marriage). Out-of-wedlock birth is highly unacceptable and hence extremely rare in India.

A new law banning child marriage was passed in December, 2006. The law provides certain positive initiatives for the intervention of courts to prevent child marriages through stay orders. In India, the National Family Health Survey-2 found that 65 percent of girls are married by the time they are eighteen. Child marriages are solemnized during times of festivals such as *Akshaya Tritiya*, *Akha Teej*, *Ram Navami*, *Basant Panchami* and *Karma Jayanti*. According to UNICEF's 'State of the World's Children-2009' report, 47 percent of India's women aged 20-24 were married before the legal age of 18, with 56 percent in rural areas.

Child marriages have been prevalent in many cultures throughout human history, but have gradually diminished since some countries started to urbanize and experience changes in the ways of life for the people of these countries. An increase in the advocacy of human rights, whether as women's rights or as children's rights, has caused the

traditions of child marriage to decrease greatly as it was considered unfair and dangerous for the children. Today, child marriage is usually practised in countries where cultural practices and traditions of child marriage still have a strong influence. Although child marriages have been outlawed a long time ago, South Asia has currently the highest prevalence of child marriage of any region in the world (UNICEF, 2009: 34). India, as noted above, happens to be a forerunner in this regard.

Yet another important marital practice is consanguineous marriage which has been the notable feature of a large segment of the Indian society since long. Through the ages the system of cross-cousin and cross-uncle niece marriages has been the most favoured kind of marriage in South India. The most desirable mate for a man has been his own sister's daughter or mother's brother's daughter (Driver and Driver 1988; Nair 1978: 121, 131). In the face of rising dowry practices across the country consanguineous marriages have appreciably declined in South India in recent years. However, such marriages have remained tabooed among the vast majority of Hindus of North India. The Hindu Marriage and Divorce Act 1955 prohibits marriage among close relatives— called *sapinda* marriage. The *sapinda* relationship extends as far as the third generation in the line of mother and the fifth in the line of father. In North India only Muslims, certain scheduled castes and scheduled tribes tend to practise consanguineous marriages. Singh (1997: 8-9) has reported that most of the tribal groups practise consanguinity of both types such as marriages with the father's sister's daughter, the mother's brother's daughter and the elder sister's daughter.

The Indian society has been a highly endogamous. Marriage within the same sub-caste has been followed very strictly. The scheduled tribes are also endogamous, but most of the tribal communities practise clan exogamy (Singh 1997: 8). Polygamy, more particularly polygyny, has been one of salient features of Indian family. It has been more popular among Muslims than Hindus. Here it is not suggested that the incidence of polygyny is more common than monogamy. The polygamous males often derived support from age-old scriptures and mythological stories. But mainly those who had no issue from the first wife practised such marriages. With the rise in the level of literacy the incidence of polygyny has receded even among the Muslims despite the fact that such marriages have got full cultural and legal sanction. While monogamy is the predominant form of marriage, there are a large number of tribes practising sororal polygyny and non-sororal polygyny (Singh 1997: 8).

Dissolution of marriage

The dissolution of marriage has been quite uncommon and rare in India for a long time. In case of any crisis or threat to stability of marriage, caste, community, kinsmen, tended to have played a dominant say. People had both respect for and fear of social values and public opinion. Authority of community, though implicit, has been supreme. The system of religious belief has provided enough sustenance to the institution of marriage and family. Individual choice has always been subservient to the communal sentiment or public opinion. Hindu marriage is taken as a life-long union for the couple, as it is a sacrament, rather than a contract between the couple to live in a social union so long as it is cordially feasible. Even in the event of frequent mental and physical torture, most Indian women persist in marriage, since remarriage of divorced or separated women is quite difficult. Morality relating to sex is so highly valued that every male wants to marry a virgin girl only. In the past Hindus demanded pre-nuptial chastity on the part of both, but now it is by and large limited to females. Virginity is regarded as the girls' greatest virtue and a symbol of respectability. Under the circumstances remarriage of women is so difficult that annulment of marriage is a very hard choice or option.

Despite all these there has been a significant change in the views and attitudes towards sanctity of marriage in the recent past, especially in cities. Marriage is no longer held to be a 'divine match' or a 'sacred union'. Now it is more like a transfer of a female from one family to another, or from one kinship group to another. The marriage is no longer sanctified as it was believed in the past, and is viewed only as a bonding and nurturing life-long relationship and friendship. The rather flippant and superficial reasons given by many women and men to break a marriage may not portend well for the future. Indian marriages are still largely resilient and lasting, whereas in many developed countries they seem to break up for seemingly trivial reasons. Marriages are very vulnerable or fragile there. One in every four or five marriages breaks up despite more space and freedom in the West. The longevity of marriage in most developed countries ranges on an average from five to seven years. While in India divorce rates are among the lowest in the world. Only one out of 100 marriages ends up in divorce here. These days divorce rates in India's urban sphere are, however, slowly mounting.

Marriage counsellors, formerly pooh-poohed at, have today assumed a lot of importance in guiding couples through stormy seas and averting the imminent pain of divorce. Today in cities there is disenchantment with the system of arranged marriages in a large number of cases. The Indian family is faced with a new kind of social and psychological constraints. The women, however, tend to be more concerned about their marriage than men and in case of a problem they are expected to go for counselling. They are expected to take the lead to resolve conflicts and when they give up the effort, the marriage is generally over. In today's shifting values and changing times, there is less reliance on marriage as a definer of sex and living arrangements throughout life. Today in cities there is disenchantment with the system of arranged marriages. There is a greater incidence of extra-marital relationships, including open gay and lesbian relationships, a delay in the age at marriage, higher rates of marital disruption and more egalitarian gender-role attitudes among men and women. It is reported that in big metropolises a new system of 'live-in-arrangements' between pairs, particularly in upper stratum of society, is steadily emerging as a new kind of family life. Anyway, a relatively higher divorce rate in cities, *inter alia*, connote that marriage is an institution in trouble, or else expectations are so high that people are no longer willing to put up with the kinds of dissatisfactions and empty-shell marriages that the previous generations tolerated. High rate of remarriages clearly means that people are sacrificing their marriages because of unsatisfactory relationships.

Problems of dowry

Now, let us come to the rising problem of dowry which has become one of the serious social evils of the Indian society in the recent years.¹ Dowry, or the bridegroom price, refers to a lump sum of money with or without some tangible assets constituting an essential part of the wedding settlement, which is transferred by the bride's household to that of her prospective spouse before the actual solemnization of marriage. Sometimes dowry also accompanies or follows the marriage of a daughter. The dowry and its cognate problems have become so serious that the marriage of daughters tends to bring in nightmarish experiences for scores of parents these days. The menace of dowry has become so severe over the years that the Government of India had to enact the Dowry Prohibition Act in 1961, which was further amended in 1986. But the legislative measures to do away with this practice have so far proved an ineffective exercise.

The dowry has gained social legitimacy across all communities and regions. Marriage negotiations tend to break down if there is no consensus between the bride's and bridegroom's families regarding the mode or amount of payment of dowry. Dowry, as said before, has become such an essential consideration for marriage that rarely any marriage can take place without it. It may be regarded as a functional imperative for family

formation in contemporary India. In very rare cases demands for dowry are eschewed. If the groom's parents, for instance, sense that they can reap greater economic or personal benefits in modes other than the dowry in a lump cash from bride's parents, dowry is not demanded under the pretext that it is an evil of Indian society.

When the dowry amount is not considered sufficient or the expected demands are not met easily, the bride is often harassed, abused and tortured. The dissatisfied husband takes recourse to violence to show his displeasure with the marriage in order to extract additional transfers from the wife's family by threatening her with separation if new demands are not complied with. The dowry related harassment most likely arises from complete lack of respect for the woman and rapacious avarice for money. The woman, as a bride, is subjected to humiliation and brutal behaviour, because she is the softest and the surest means of extracting maximum amount of money or wealth from her parents to enhance one's economic position in society. Since the bride is helpless in her new home and physically so powerless that she cannot retaliate against the coercive tactics or actions of others. Not many women have enough guts to divorce their husbands on the ground of frequent mental or physical torture, since they have nothing to fall back upon in a traditional and poorly developed country like India.

The disturbing fact about dowry related violence is that it is not confined to any particular group, social stratum, geographical region or even religion. Rather, it is regarded as a universal phenomenon, cutting across all sorts of boundaries, as it has already been stressed before. It is claimed to be on continuous increase in the country. It has been often reported that like clockwork every 12th hour a dowry related death claimed to have taken the lives of over 20,000 women across the country between 1990 and 1993. It has also been reported that at least three girls are burnt for dowry related demands every day in the State of Karnataka. This may be taken as a matter of grave concern, for the incidence of dowry death is one of the typical problems of the Indian society (Singh, 2005: 199-220). In view of continuing failure of the state through legal means, the civil societies should come forward to fight the menace of dowry. The crux of the matter is that those who have got sons or more sons than daughters tend to have developed vested interests in the persistence of this practice.

Domestic tension and violence

Violence within family settings is primarily a male activity. The prime targets are women and children. The women have been victims of humiliation and torture for as long as we have written records of the Indian society. Despite several legislative measures adopted in favour of women during the last 150 years, continuing spread of modern education and women's gradual economic independence, countless women have continued to be victims of discrimination and violence in the country (Singh 2002: 168). Increasing family violence in modern times has compelled many social scientists to be apologists for the traditional joint family- as happy and harmonious, a high-voltage emotional setting, imbued with love, affection and tenderness. India's past has been so romanticized by certain scholars that they have regarded the joint family as the best form of family.

There are data showing that in India 40 percent of women have experienced violence by an intimate partner. These stark figures underline the fact that, although the home and community are places where women provide care for others, they are also places where millions of women experience coercion and abuse. A study of five districts of the State of Uttar Pradesh has revealed that 30 percent of currently married men acknowledge physically abusing their wives (UNC 1997). Similarly, the multi-sectoral survey done by the International Clinical Epidemiologists Network (INCLIN) has reported that two out of every five married women reported being hit, kicked, beaten or slapped by their husbands.

About fifty percent of the women experiencing physical violence also reported physical abuse during pregnancy.

With the rise in the level of education and exposure to mass media, women tend to have greater awareness of the notion of gender equality, faith in the effectiveness of legal action to protect their rights, and confidence in such institutions as family courts and certain voluntary organizations working for women. Yet there is no sign of abatement in gender related violence. Cases of domestic violence, like wife-battering and forced incest with the women of the household, are so personal and delicate that they are seldom reported to the police or law courts. We are sure that the recent legislation of anti-domestic violence act of 2005 would certainly take care of the problem of gender-based violence of the Indian woman to a very large extent.

There is another side of the story of domestic violence as well which has remained uncovered, particularly by feminist writers. It is roughly estimated that every year more than 58000 educated women are making the life of their husbands hell by misusing anti-dowry law and domestic violence act and under these laws legal terrorism is continuing openly to extort money from the husbands and their families. More than 52000 married men are ending their life due to various type of harassment and domestic violence faced from their beloved wives in the form of verbal abuse, financial abuse, mental abuse, sexual abuse, relationship cheating, etc.

Problems of children

Children (persons aged 0-14) constitute a little over 30 percent of the total population of the country according to the 2001 Census of India. Evidence suggests that they are quite vulnerable and their exposure to violations of their protection rights remains widespread and multiple in nature. The manifestations of these violations are very varied, ranging from child labour and child trafficking to commercial sexual exploitation and many other forms of violence and abuse. With an estimated 12.6 million children engaged in hazardous occupations (2001 Census), for instance, India has the largest number of child labourers under the age of 14 in the world. Although poverty is often cited as the cause underlying child labour, other factors such as discrimination, social exclusion, as well as the lack of quality education or existing parents' attitudes and perceptions about child labour and the role and value of education need also to be considered.

While systematic data and information on child protection issues are still not always available, evidence suggests that children in need of special protection belong to communities suffering disadvantages and social exclusion such as scheduled castes and scheduled tribes, and the poor. It has been estimated that 46 percent children from scheduled tribes and 38 percent from scheduled castes are out of school. The lack of available services as well as the gaps persisting in law enforcement and in rehabilitation schemes also constitute a major cause of concern. The children of poor families, especially those of artists, craftsmen, and other professions are trained by their parents and elders of the family in their vocations such as weaving, tanning, sweeping dyeing, hairdressing, painting, carpentry and agriculture. A vast number of children grow up lending a helping hand to elders in their home-industries. The practice or intergenerational transfer of traditional callings more or less is still continuing. Such kids who lack formal schooling, but working and specializing in some craft or their traditional callings help them build a career.

Indeed, the poverty in India forces many parents to send their children to earn extra money. The employers who hire such children pay them paltry wages. One can see boys of poor families act as vegetable vendors throughout India. Children of construction workers

help in bringing water, cleaning vessels or collecting twigs for fuel. Their parents are compelled to come to cities when monsoon fails and they cannot cultivate their lands.

Children are also subjected to gender based discrimination. Discrimination against women in fact starts the day she is born. Sometimes it also starts when she is in her mother's womb as a foetus. The practice of female foeticide, despite being illegal, is vigorously practised in urban India. The girl child's right to survival, health care and nutrition, education, social opportunities and protection has to be recognized and made a social and economic priority. Along with this the basic structural inequalities that cause poverty, malnutrition and the low status of women have to be addressed, if these rights are to be ensured. Within family parents are first to practise gender based discrimination and it is the first school of learning where girls are inculcated the values of their being inferior to their brothers.

Although India loves their children, still thousands of children roam the streets of major cities around the country and receive neither education, proper food, clothing, or a bed to sleep in at night. Why are these children roaming and begging in the streets? What should be done and who is willing to do something to help these poor children? A mind and heart that cares, awareness presentations through multi-media, contributions, talking and sharing information among friends, education, self-help initiatives and good old fashion kindness are all that is needed to get these kids off the streets. Basically they need five things for their living: food, clothing, shelter, medical assistance and education.

Contrary to the above, there are children who belong to the well-off sections of society, but they are also not free from problems. They are facing a different kind of problem either due to lack of adequate care or attention from their working parents or due to heavy expectation from them by their parents in a fiercely competitive modern world full of uncertainties in life. In cases of working mothers, children are placed in an entirely different situation. The demands of city life are such that both wife and husband tend to remain outside their home for work even at the cost of interests of their children. Working couples are unable to give proper care and affection to their children. Obviously, latchkey children of working couples are strangers to the sense of security enjoyed by their own parents. The system of surrogate mothers or the Montessori and Kindergarten systems of schooling has proved to be a very poor substitute for family as an agent of socialization. With the diminished role of family as an agent of socialization juvenile delinquency is on the increase. In the past children enjoyed security of a kind unknown today. Growing up under the joint care of adults made them feel responsible for all the extended members of the family, besides their own parents. Now children are at greater strain than ever before because in general parents intend to accomplish those things in their life through their children what they themselves could not be able to achieve, no matter how difficult they are. Children are put under great stress and strain to score high marks at schools to be able to meet the ever-increasing challenges of fiercely competitive world of education and employment. In addition to helping their children achieve higher goals of life, women, sometimes both the parents, have to work harder with a view to attaining economic independence and maintaining a higher standard of living of their family.

As stated above, there has been appreciable decline in fertility over the years. This has not been possible without recording drastic changes in the attitude of people towards the size of family and the value system of patriarchy and patriliney. Based on studies on fertility behaviour and contraceptive practices one can conclusively contend that perhaps no element of the Indian social system has experienced greater changes than the system of family during the post-independent period. This is clearly borne out by various empirical investigations. Despite considerable decline in fertility or lesser burden of children on the family, there is no improvement in the quality of care of children especially in rural areas.

There hardly exists any pre-school or community centre in villages. There also does not exist even a basic facility of play ground for children. The older children have to mind the younger children at home and sometimes they are also expected to lend helping hands to their parents in the household chores as and when required. The poor children learn the expected roles of life of their own with the passage of time, while the well-off peasantry send their children to private schools (also called public schools in the Western world) in towns and cities for better schooling.

Child labour in India

The problem of child labour is quite conspicuous to the naked eyes in India.² Its prevalence is clearly evident in the form of high workforce participation rate among children, which is higher than that of any other developing country. Poverty is the prime reason behind child labour in India. Unfortunately enough, whatever the meagre income they are able to generate is absorbed by their families. Child labour is extensive with children under the age of fourteen working in carpet making factories, glass blowing units and making fireworks with bare little hands. There are at least 44 million child labourers in the age group of 5-14. More than 80 percent of the them in India are employed in the agricultural and non-formal sectors and many are bonded labourers, too. Most of them are either illiterate or dropped out of school after two or three years (Saini, 1994: 2; ILO, 1996: 7).

The exploitation of little children for labour is an accepted practice and perceived by many as a necessity to alleviate poverty. Carpet weaving industries pay very low wages to child labourers and make them work for longer hours in unhygienic conditions. Children working in such units are mainly migrant workers, who are shunted here by their families to earn some money and send it back to them. Their families dependence on their income forces them to endure the onerous work conditions in the carpet factories. The situation of child labourers in India is desperate. Children work for eight hours at a stretch with only a small break for meals. The meals are also frugal and the children are ill nourished. Most of the migrant children who cannot go home, sleep at their work place, which is very bad for their health and development. About 70 percent of India's population still resides in rural areas and are very poor. Children in rural families who are ailing with poverty perceive their children as an income generating resource to supplement the family income. Parents sacrifice their children's education to the growing needs of their younger siblings in such families and view them as bread-winners for the entire family.

Children are also compelled to work as bonded labourers. They are trapped to grow in a hostage like condition for years. The importance of formal education is also not realized, as the child can be absorbed in economically beneficial activities at a young age. Moreover there is no access to proper education in the remote areas of rural India for most people, which leaves the children with no choice. There are thousands of bonded child labourers in India. They are also mostly the children of parents who belong to scheduled castes and tribes. Young children are sold to employers by their parents to pay back small loans that they have borrowed. Such children are made to work for many hours a day over several years. Often, child labour is considered to be a 'necessary evil' in poor countries such as India for the maintenance of the family. In that context, some consider it virtuous to give a job to a child. In fact, some academics and activists campaign not for the reduction of child labour but only for a reduction in the exploitation of children.

Bonded labour or slave labour is one of the worst forms of labour not only for children but also for adults. In India, bonded labour has been declared illegal since 1976 when the Parliament enacted the Bonded Labour System (Abolition) Act. However, the practice is still widespread. Children or adults are bonded in order to pay off debts that

they or other members of their families have incurred. They toil all their lives and endure physical attacks that often amount to torture. The Indian government has tried to take some steps to alleviate the problem of child labour in recent years by invoking a law that makes the employment of children below 14 illegal, except in family owned enterprises. However, this law is rarely adhered to due to practical difficulties. Factories usually find loopholes and circumvent the law by declaring that the child labourer is a distant family member. Also in villages there is no law implementing mechanism, and any punitive actions for commercial enterprises violating these laws is almost non-existent.

Problems and prospects of elderly

The family has started facing a new kind of problem emanating from a relatively faster pace of demographic transition. The incredible increase in life expectancy may be a big triumph of the 20th century, but it has posed one of the toughest problems before the 21st century India. Census reports have revealed that the Indian population approximately tripled during the last 50 years, but the number of elderly people had in fact increased more than fourfold. Based on the continuation of the trend, the United Nations has predicted in one of its reports that the Indian population would again grow by 50 percent by the middle of this century, whereas the elderly population is likely to have another fourfold increase in its size (UN, 2008).

It is estimated that during the next five decades the size of the population would grow by about 50 percent, but the number of older people would increase fourfold. The proportion of older people in the population would grow at a higher pace than the other groups. It is estimated that the elderly people (60+) would constitute 20 percent of the total population which would be quite huge in terms of absolute number— 316 million (Table-1). The Indian policymakers must take a critical note of the rising trends of incoming age wave of older people and the declining trend of the proportion of younger people. Such developments would cause strain on the resources due to increase in more inactive people.

Table 1 about here

It is apparent from Table 1 that the Indian population would be gradually swinging to a greyer one by the next few decades. It is estimated that the median age of the population would increase gradually from 25 years in 2010 to 31.7 years in 2030 and, finally, to 38.4 years in 2050. Similarly, the old age dependency ratio will climb up from 8 percent in 2010 to 20 percent in 2050, while the child dependency ratio is expected to come down from 56 percent to 27 percent during this period. Hence, every three working Indians may have to take care of one elderly person by 2050 as compared to about eight working persons at present. It has been estimated that an Indian of age 63 today is likely to survive about a decade more in 2050.

Longer life expectancy and incremental dependency ratio will possibly strain the family and the state support system for the older people. Increase in individuals' age is usually followed by increased prevalence of chronic diseases and disability and hence the elderly population is taken as a big burden for the family, community and ultimately the entire nation. Many young people consider the old member of their family as an obstacle to the advancement of their career as well as an economic burden for their family life, as the older parents become frail due to greater incidence of diseases and disability, eventually becoming bedridden in the family and later forced to stay in nursing homes during the terminal stages of their life. This scenario causes young people to have a negative image of the older people and early in their life they adopt a ageistic outlook towards the older people.

In the past the joint family system not only provided a suitable umbrella to manage personal risks, such as risks of premature death and excessive longevity, but also laid down the norms of intergenerational relationships as well as the role of each member. The elderly played a significant role in decision making regarding household matters, while the younger people were entrusted with the responsibility of ensuring well-being of their ageing parents. But these days in smaller families, they are gradually marginalized in the decision-making process. Hence, the family that traditionally took care of the elderly or sick, widows and orphans is beginning to rely on society as a whole. As the number of old persons is rising and the social environment is changing, the proportion of the destitute among them may also be increasing (National Human Development Report, 2001). These factors are also leading to the need for a large number of old-age homes where the old people may enjoy the remaining part of their life in a group of their own.

As a consequence of the breakdown of traditional joint and extended families the elderly people are being steadily marginalized in society generally. Moreover, due to some habits and unhealthy lifestyles, the elderly people tend to suffer from tuberculosis, asthma, cancer, cardiovascular problems, etc., apart from the other gerontological problems. But the healthcare facilities for the aged people are not satisfactory. A well-equipped, separate division in Indian hospitals is increasingly required for the comprehensive care of elderly people. Such a facility will not only cure the old physically, but will also ensure their mental well-being. It will simultaneously arrange medical treatment as well as improve their quality of life. The government as well as the private healthcare providers have to build up the necessary infrastructure to meet the healthcare requirements of the increasingly ageing population. It may be further aggravated due to the exponentially increasing healthcare expenses, though neglecting those expenses may worsen their quality of life.

Table 2 about here

Under the prevailing situation, the non-governmental organizations and civil societies are expected to play a central role to help out those ageing people who are destined to lead an uncared and solitary life. At the same time, there may be some amount of solace as well because the kind of problem relating to intergenerational solidarity the Indian society is facing is relatively much less serious compared to the developed world, since a vast majority of the elderly people tend to live with their sons or if not with them for some reasons, their sons or other close kinsmen often remain in constant touch with them to attend any exigency which may arise in their life. It is clearly evident from the NFHS-2 data that over 80 percent of the elderly people live with their sons, daughters or other kinsmen. An elderly person living alone does not constitute more than five percent, while the elderly couples living independently of any young person in the household is not more than 10 percent of the total households at any ages between 60 and 80 years (see Table 2). However, this scenario may not last very long because a similar set of data derived from the NFHS-1 has recorded slightly lower percentages for elderly people living alone or independently of others in a household. It may be pertinent to point out here that from Table 1 one should not try to assume that over 80 percent of the households are joint families. It has already been observed here and elsewhere that the joint and extended families together do not constitute more 20 percent of all the households in India (Singh 2004: 134-139).

An aged person has the right to decide about personal needs and aspirations, depending upon capacity. Only a sound social security system can protect such rights by assuring regular income during the post-retirement years. But developing such a system for the Indian population is a quite difficult task, as a majority of them do not currently enjoy any type of old-age income security. Neither the government nor the public sector

alone can formulate it; the private sector cannot develop it in isolation either. Joint approaches and strategies will be required to design and build up a robust old-age income security system (WHO, 2002).

A little over 40 percent (19.18 million) of salaried employees and 289.59 million are engaged in the unorganized sector (including self-employed professionals, farmers, shopkeepers, taxi drivers, casual labourers, etc.) are deprived of being covered by any compulsory retirement benefit plans. In other words, about 92 percent of working Indians are not covered under any old-age income security plan (Ahluwalia, 2001; Bhattacharya, 2002). Despite the absence of any regular income, a significant proportion of these people stay well above the poverty line during their working life. But they are likely to sink below the poverty line in their old age, simply because they could not accumulate adequate amounts of savings while they were in the workforce. The reason behind this trend is because of the non-availability of any suitable framework for savings and investments.

The Planning Commission of India has assessed that about 92 percent of working Indians do not enjoy any formal old-age income. Consequently, the Project Old Age Social and Income Security (OASIS) Committee projected that these people might sink below the poverty line as a result of the non-availability of adequate post-retirement income. On the other hand, framing suitable policies regarding the availability of the pension plans, allowing the participation of the private players in the pension sector, ensuring the availability of need-based pension products, and increasing the level of consumer awareness about old-age income requirements will help to mobilize a large amount (about Rs.4,065 billion) of very long-term funds by the year 2025 (Ahluwalia, 2001).

The importance of this sector in the Indian economy cannot be overlooked. This informal sector of the Indian economy offers employment opportunities to about 92 percent of the working people and contributes 59 percent of the GDP, including reasonable export earnings. Considering the existence of this void, Project OASIS Report warned that the demographic transition coupled with poor coverage by existing provisions suggests that we are inexorably moving towards an India with a gigantic number of destitute elderly. Faced with such huge numbers, a social safety net for the retired workers or a poverty alleviation programme, which aims to pay even a modest subsidy, would require a staggering expenditure—much beyond the capacity of the government. Moreover, the Indian constitution has entrusted some responsibility to the state in relation to the social security of the people. But the obligation of the state regarding old-age income security of the people is primarily limited to the organized workforce. However, due to irregular incomes, retirement is considered a luxury for people of the unorganized sector. This may be observed from the high level of their participation in the workforce, even beyond the generally accepted age of retirement.

It is high time that the Indian policy makers assess the impact of the forthcoming age wave. The process of pension sector reforms should be accelerated, suitable steps should be undertaken to build the required healthcare facilities and a suitable social security system should also be designed. If change is not effected, the family support system as well as the state-sponsored facilities may crash in the near future, thereby jeopardizing the well-being of elderly people. It may cause the emergence of a gigantic number of penniless, sick and elderly people in the streets and public places (Project OASIS Report) (Ahluwalia, 2001; Bhattacharya, 2002).

For older persons to remain active as long as possible the informal sector in the general community has great potentials for possible intergenerational activities such as older workers serving as mentors to their younger co-workers in the workplace. There is

also a necessity to create or establish the centres where the elderly and the young can meet, interact and work together. This is necessitated to encourage a communal way of living, promote intergenerational solidarity and help prevent social exclusion of the elderly in the community.

Some new challenges for women

Considerable changes have taken place in the traditional role of women. Once the priority for the young women was the husband, but now it has shifted to their career and in addition deep resentments tend to surface when the husbands are reluctant to take part in the household chores. The urban women are seen in many different roles. With 54 percent of the level of female literacy rate in India at the 2001 census, though much lower by the standard of developed countries, it is not unusual to see women working as clerks, typists, receptionists, nurses, doctors, school and college teachers, lawyers, police, social workers and social activists. Women can assume still greater public roles in society than what we see today. They tend to show lower workforce participation rate because not many suitable jobs are available for them outside their home (Singh, 1996: 56-70). But on the contrary countless people often believe that women inherently tend to have stronger attachments with family and household responsibilities. On the whole, with the rise in education, urbanization and opportunity to proper employment, women are much freer now to come out of their homes with a view to meeting their family expenses. With the rise in education and economic development, the women would steadily move towards greater economic independence in course of time (Singh, 2002).

The urban woman is in a position to exercise much greater authority than before. Despite her increased duties, the urban woman seems to have emerged as the stronger partner. It is she who monitors children's homework, tutors them in areas of weakness or laziness. Mothers dropping and picking up children— from school or coaching classes in computer and cricket or tennis— by bus, moped, scooter or car, is a common sight today in Indian cities. Mother has become the primary agent of socialization. But all mothers are not equally free to mind their children.

With the rise in modern education, gainful engagement, quality of health condition and a fewer number of children, family life may not be always well. The State of Kerala can be cited as one of the examples. Those who are unhappy with current state of family life are on the gradual increase in the state. It is all the more acute in urban areas where the hold of traditional norms and values has largely dissipated. The consumer culture sweeping the urban society and the breakdown of the extended or joint family system have contributed to this. Reports show that the number of cases pending in the family courts is on the increase. The number of children running away from homes has also gone up. Consumption of alcohol has touched an all time high (George, 2000: 42). Modernization has created dilemmas for family life. Under the new socio-economic urban milieu there has been a tremendous increase in the family violence. With a view to tackling increasing violence in the family, the Government of India introduced a very useful Domestic Violence Act in 2005. This would certainly go a long way in restraining the incidence of domestic violence in the country.

State, law and family

India, as said before, does not have any systematic coherent family policy, but the government has always been sensitive to the problems concerning family formation and dissolution, rights of women and children, the practice of child marriages, dowry, domestic violence and so forth. This is apparent from various legislations enacted, amended and implemented by the Government of India as well as the state governments as and when necessitated. They are together called family laws. Family law is that area of

law which deals with family-related issues and domestic relations including the nature of marriage, civil unions, and domestic partnerships; issues arising during marriage, including spousal abuse, dowry, legitimacy, adoption, surrogacy, child abuse, and child abduction, the termination of the relationship and ancillary matters including divorce, annulment, property settlements, alimony and parental responsibility orders. The following legislations are an important part of the Indian family laws: Hindu Widows Remarriage Act, 1856 and 1956; The Converts' Marriage Dissolution Act, 1866; The Indian Christian Marriage Act, 1872; The Kazis Act, 1880; The Anand Marriage Act, 1909; The Child Marriage Restraint Act, 1929 and 1978; The Parsi Marriage and Divorce Act, 1936; The Foreign Marriage Act, 1969; The Hindu Women's Right to Property Act, 1937; The Special Marriage Act, 1954; The Hindu Marriage and Divorce Act, 1955; The Hindu Succession Act, 1956; The Hindu Minority and Guardianship Act, 1956; The Hindu Adoptions and Maintenance Act, 1956; The Suppression of Immoral Traffic in Women and Girls Act, 1956, 1978 and 1886; The Dowry Prohibition Act, 1961 and 1986; The Muslim Women (Protection of Rights on Divorce) Act, 1986; The Child Labour Prohibition and Regulation Act, 1986; and The Domestic Violence Act, 2005. In addition to these, most states of the Indian Union have got their own family laws more or less on the line of these legislations, considering the significance of local practices and the system of belief. It may, however, be recorded here that though most of these laws have been framed to shield the interests of women, yet in varying degrees the personal laws of different religions subvert women's right to equality guaranteed under the Constitution of India. In the following discussion an effort is made to explain as to how the government has time to time responded to various problems that have been encountered by family in India.

Remarriage of widows— For long Hindus believed that Hindu widows once married were incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage were held to be illegitimate and incapable of inheriting property. The Widow Remarriage Act was passed in 1856, prohibiting enforced widowhood practised mainly among Brahmins and a few other castes such as Rajputs, Banias and Kayasthas. The law was also designed as a relief for child widows whose husbands died before consummation. The Act was further amended in 1956 to incorporate certain provisions in favour of second marriage. This was done with a view to promoting good morals and to ensure the public welfare. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors would cease on her re-marriage. Yet the problem of young widows in India has not vanished. Currently widows account for nine percent of the female population and only 40 percent of them are over 50 years of age. This suggests that despite laws 60 percent of widows do not contract second marriage for one reason or the other. Dreze (1990) has contended that the overall incidence of widow remarriage is as low as 1 in 5 or 6. Chen (2000) has reported that only few widows remarry in India. Within her sample of 562 widows, she has argued that the widow remarriage rate is about nine percent. The census data, however, have revealed that widow remarriage rate has been on the gradual rise, especially in towns and cities.

Child marriages— Both during ancient and medieval periods, child marriages were widely prevalent in India. The young girls lived with their parents till they reached puberty. Early marriage led to the problem of early widowhood because of high death rates. Since widow remarriage was not possible among caste Hindus, the child widows were condemned to a life of great agony, shaving heads, living in isolation, and shunned by the society. Hence, the child marriage was outlawed in 1869 through the Indian Penal Code. The first law addressing child marriage was the Native Marriage Act, 1872, which was promulgated by the British colonial regime and fixed 14 as the age of consent to

marriage. The Child Marriage Restraint Act, 1929 was passed during the tenure of British rule and in order to incorporate some necessary changes and also to raise the age at marriage to 18 for girls and 21 for boys and it was amended in 1949, 1955 and 1978. The object of the Child Marriage Restraint Law of 1929 was to eliminate a practice which was potentially detrimental to the life and health of a girl child. Yet the child marriages, as said before, are still widely practised in India. According to the 2001 census, out of 593 districts in the country there are 190 districts where the mean age at marriage of females is less than 18 years. The persistence of child marriages implies that laws prohibiting such marriages are not so effective. The state machinery is not so efficient or successful in tackling such a serious social evil because of poor regard for law generally. According to the 'National Plan of Action for Children 2005' (published by the Department of Women and Child Development, Government of India), a goal has been set to eliminate child marriage completely by 2010. This plan is proving to be successful, though it is still difficult to monitor every child marriage due to the sheer size of India's population.

Dowry— What began as a gift of land to a woman as her inheritance in an essentially agricultural economy today has degenerated into gifts of gold, clothes, consumer durables and large sums of cash, which sometimes entails the impoverishment and heavy indebtedness of poor families. In the course of time dowry has become a widespread evil and it has now assumed menacing proportions. Surprisingly it has spread to different communities across the country, which were traditionally non-dowry taking communities. With the increasing greed for the easy inflow of money on account of a bride the chilling stories of bride burning started coming to light.

With a view to eradicating the rampant social evil of dowry from the Indian society, the Parliament passed the Dowry Prohibition Act in 1961 which applies not merely to Hindus but to all communities like— Muslims, Sikhs, Christians and others. Giving, taking and demanding dowry is a criminal offence under the Dowry Protection Act and the Indian Penal Code. Under the Dowry Prohibition Act only Metropolitan Magistrate or the Magistrate of the first class is competent to try these offences. Where any person is prosecuted for taking or abetting the taking of any dowry or the demanding of dowry, the burden of proving that he has not committed an offence shall be on him. The giving, taking or even abetting to give or take dowry amounts to an offence punishable with imprisonment for not less than 5 years and with fine which shall not be less than Rs. 15,000/- or the amount of value of the dowry, whichever is more. If any person demands directly or indirectly, from the parents or other relatives of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with an imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to Rs. 10,000/-.

The Indian Penal Code provides that where any woman dies an unnatural death within seven years of her marriage and it is shown that she was harassed or subjected to cruelty by her husband or his relative for dowry, such death shall be called a dowry death. The husband or the relative shall be deemed to have caused the death of the woman. The offence is punishable with imprisonment of not less than seven years. Whoever, being a husband or relative of the husband subjects such women to cruelty shall be punished with imprisonment for a term of three years. Despite such stringent laws dowry is being increasingly practised throughout the country. It has assumed such an alarming proportion that the number of cases of bride-burning and bride-torture, both mental and physical, in law courts is rising, and the media are agog with ever-increasing number of such instances. This is a reflection of a very serious kind of lapse on the part of the state machinery.

Divorce— As per the ancient Hindu laws there was no place for divorce and it was with the codification of Hindu law that the first grounds for the new age laws were laid down. All major religions have their own laws which govern divorces within their own community, and separate regulations exist regarding divorce in inter-faith marriages. Hindus, including Buddhists, Sikhs and Jains, are governed by the Hindu Marriage Act, 1955; Christians by the Indian Divorce Act, 1869; Parsis by the Parsi Marriage and Divorce Act, 1936; and Muslims by the Dissolution of Muslim Marriages Act, 1939, which provides the grounds on which women can obtain a divorce, and the uncodified civil law. Civil marriages and inter-community marriages and divorces are governed by the Special Marriage Act, 1956. Other community specific legislation includes the Native Converts' Marriage Dissolution Act, 1866 that allows a Hindu to appeal for a divorce if a spouse converts to Christianity.

In most Western nations, there are approximately 16 distinct reasons for which divorces are granted. In India, however, only five main reasons are generally accepted as sufficient grounds for divorce: (1) Adultery, (2) Desertion, (3) Cruelty, (4) Impotency, and (5) Chronic Disease (Diwan, 1983; Choudhary 1988).

The women, having being given in marriage by her father or other guardian before she attained the age of 15 years, repudiated the marriage before attaining the age of 18. The Muslim Marriage Act, 1939 restricts Muslim women's right to seek divorce by placing conditions that did not exist in Islamic law and are difficult to prove, such as cruelty and impotency. But a Muslim man has the right to unilateral divorce of triple *talaq*. Polygamy among Muslims continues to remain an issue. While under the Hindu Marriage Act, 1955, polygamy has been declared illegal. Muslim personal law makes the man the sole guardian of a child.

While the Indian intelligentsia often feel that one should have the right to divorce, it is still a highly stigmatizing action. Women are looked upon more harshly than men in this regard. There continue to be segments of Indian society that feel divorce is never a right option, regardless of how abusive or adulterous the husband may be which adds to the greater disapproval for women. A divorced woman often can return to her family, but may not be wholeheartedly welcomed. There is also the risk that a divorced woman's presence would ward off possible marriages for other daughters within the household. Unavoidably, the overall status of the family and household are lowered by having a divorcee living with amongst them. A woman's class and caste are a major factor in her acceptance back into society. Women from higher classes tend to have an easier time than middle or lower class women in returning to the social order after a divorce. An exception to this model is the extreme bottom of the society who have experienced little rebuff from peers after a divorce. This results from their already atypical status in society (Diwan, 1983; Choudhary 1988). For these reasons, among some other factors, the divorce rate is less than one percent here according to the 2001 Census of India.

Succession and right to property— As India has been a highly patriarchal and patrilineal society since ancient days, the Indian women, same as men, never enjoyed the right to be a coparcener in the property of an undivided family or had no right to succession. In order to enhance the position of women in society and extend a sense of dignity in their life, the necessity for laws relating to succession was realised, though the realisation was quite late. Under the Indian Succession Act, 1925, everyone was entitled to equal inheritance, except Hindus, Sikhs, Jains, Buddhists and Muslims. For these communities, excluding the Muslims, a separate legislation known as the Hindu Succession Act, 1925 was introduced. In view of certain shortcomings or limitations it was amended in 1956 and 1991. Under this Act the Hindu women, along with women of some other communities, had an equal right to parental property in the absence of a will; but the women tended to

forgo their right at the time of marriage possibly accepting dowry as a compensation for a share. Women were also reluctant to exercise their right for fear of causing a breakdown in the relations with their natal family.

The Hindu Succession Act, however, makes provision for a Hindu undivided family to ensure that property remains with the male line of descent. A son gets a share equal to that of his father; a daughter gets only a share in her father's share. She cannot reside in the family home unless she is single or divorced, and cannot claim her share of property as long as the men of the family continue to live in it. And a Hindu woman has no right to her matrimonial home, unless she can prove that it was purchased with her earnings. However, this law could not do the needful as there was another law, the Mitakshara coparcenaries (Hindu Law) that had an overriding effect on entitlement of women. According to Mitakshara coparcenaries, in a joint family, a daughter had a much smaller share of property compared to the son. If the family owned a dwelling house, then the daughter's right was confined only to the right of residence and not possession or ownership.

Some Muslim laws have been nominally codified in the Shariat Act, 1937, the Dissolution of Muslim Marriages Act, 1939 and the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Shariat Act states that Muslim Personal Law will govern Muslims and that law has priority over custom. In practice, personal law is based mostly on the interpretations of the Quran. There are four schools of jurisprudence and many more legal traditions, which produce different interpretations. Women's right to property under Muslim law does have Quranic sanctions but is limited to half of what their brothers get. However, the 1937 Act categorically denies women any right to agricultural land.

The Parliament of India passed the Hindu Succession (Amendment) Act, 2005 wherein daughters and sons have been equal rights to property. According to this law, any woman, irrespective of the marital status, has full right to inherit ancestral property just like a son of the family. This law has completely abolished the Hindu Succession Act 1956 by giving equal rights to daughters in the 'Hindu Mitakshara Coparcenary property', as sons have.

But the theoretical reforms so far have not been adequate to give all Indian women a right to property on the same footing and terms as men. It varies with region and religion. Even where law has given a right, conventions and practices do not recognize them. Women themselves relinquish their rights. Women, as daughters, wives, daughters-in-law, mothers or sisters tend to lose out and often suffer deprivation. There are numerous laws that forbid discrimination between the sexes, but in reality none are effective enough to actually bring about a revolution; a change in society. There is a need for legislation in Muslim Law to give equal share of property to the widow and daughter along with sons as done in Turkey.

Right to maintenance— Maintenance is a right to livelihood when one is incapable of sustaining oneself. Right to maintenance forms a part of the personal law. Obligation of a husband to maintain his wife arises out of the status of the marriage. Hindu law, one of the most ancient systems of law, recognises right of any dependent person including wife, children, aged parents and widowed daughter or daughter-in-law to maintenance. The Hindu Adoptions and Maintenance Act, 1956, provides for this right. Under the Hindu law, the wife has an absolute right to claim maintenance from her husband. But she loses her right if she deviates from the path of chastity. In assessing the amount of maintenance, the court takes into account various factors like position and liabilities of the husband. It also judges whether the wife is justified in living apart from husband. Maintenance is a right to get necessities which are reasonable from another. Maintenance includes not only food, clothes and residence, but also the things necessary for the comfort and status in

which the person entitled is reasonably expected to live. Right to maintenance is not a transferable right.

Apart from the relationship of husband and wife other relations in which there is economic dependency are also considered to be entitled to maintenance under the Hindu Adoptions and Maintenance Act, 1956. Accordingly a widowed daughter-in-law is entitled maintenance from her father-in-law to the extent of the share of her diseased husband in the said property. The minor children of a Hindu, whether legitimate or illegitimate, are entitled to claim maintenance from their parents. Similarly, the aged and infirm parents of a Hindu are entitled to claim maintenance from their children. The term parent here also includes an issueless stepmother.

Under the Muslim law, the Muslim Women (Protection of Rights on Divorce) Act, 1986 spells out objective of the Act as 'the protection of the rights of Muslim women who have been divorced by, or have obtained divorce from, their husbands.' The Act says that divorced woman is entitled to have a reasonable and fair provision and maintenance from her former husband, and the husband must do so within the period of idda and his obligation is not confined to the period of idda. This Act *inter alia* provides that a divorced Muslim woman is entitled to (a) reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband; (b) where she herself maintains children born to her, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children; (c) an amount equal to the sum of mehr or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to the Muslim law and (d) all property given to her before or at the time of marriage or after her marriage by her relatives or friends or by husband or any relatives of the husband or his friends.

Under the Christian law a woman can claim maintenance from her spouse through criminal proceeding or/and civil proceeding. Interested parties may pursue both criminal and civil proceedings, simultaneously, as there is no legal bar to it. In criminal proceedings, the religion of the parties does not matter at all, unlike in civil proceedings. If a divorced Christian wife cannot support her in the post divorce period, she need not worry as a remedy is in store for her in law. Under the Indian Divorce Act, 1869, she can apply for alimony/maintenance in a civil court or High Court and, husband is liable to pay her alimony such sum, as the court may order, till her lifetime. The Indian Divorce Act, 1869 which is only applicable to those persons who practise Christian religion *inter alia* governs maintenance rights of a Christian wife.

Laws of maintenance are of course in place, but they are not very effective and efficient in this part of the world. Laws do not always work for the poor or helpless. The state is often found indifferent to such people. The legal process is very tortuous and torturous here. Illiterate, semi-literate and the poor woman can seldom dare to take recourse to the court of law. People often fail in their legal obligations to provide maintenance regularly and adequately to the divorced or separated wife, widows and other dependents. It is often seen that women in difficult situations are usually helped or rescued by their parents rather than by the state. Sometimes certain parents are also either not inclined or in a position to help out such needy women. Since the single women have very little to fall back upon, marriages are relatively more durable here despite all odds.

Gender inequality— Gender inequalities refer to the obvious or hidden disparities among individuals based on sex. This problem in simple term is known as 'gender bias' which means gender stratification or drawing differences between a girl and a boy, i.e., a male or a female. In India, women were considered as an oppressed section of the society and they were neglected for centuries. Hence the Constitution of India has incorporated provisions to guarantee equality before law and equal protection of laws for all. Similarly, there shall

be no discrimination against any citizen on the ground of sex. In addition, since independence, a number of laws have been enacted in order to provide protection to women. For instance, The Dowry Prohibition Act 1961, The Equal Remuneration Act 1986, The Hindu Marriage Act 1956, The Hindu Succession Act 1956, The Muslim Women (Protection of Rights on Divorce) Act, 1986, The Commission of Sati (Prevention) Act 1987, the Protection of the Women from Domestic Violence Act 2005, etc. But the laws are hardly implemented in letters and spirit. There is a massive and clinching evidence of gender bias in different walks of life. With respect to degree of prevalence of gender bias India ranks 10th out of 128 countries of the world.

The sense of insecurity, humiliation and helplessness always keep a women mum. Our whole socialization is such that for any unsuccessful marriage which results in such violence or divorce, it is always the woman, who is held responsible. Cultural beliefs and traditions that discriminate against women may be officially discredited, but they continue to flourish at the grassroots levels. Family relations in India are governed by personal laws. The three major religious communities are— Hindu, Muslim and Christian each have their separate personal laws. They, as said before, are governed by their respective personal laws in matters of marriage, divorce, succession, adoption, guardianship and maintenance. In the laws of all the communities, women have fewer rights than that of men in corresponding situations. It is really sad that women of the minority communities in India continue to have unequal legal rights and even the women of the majority community have yet to gain complete formal equality in all aspects of family life. This is basically the problem of gender inequality.

However, inequality between men and women can take many different forms. Indeed, gender inequality is not one homogeneous phenomenon, but a collection of disparate and interlinked problems. The issue of gender inequality is one which has been publicly reverberating through society for decades. The problem of inequality in employment being one of the most pressing issues today.

The most significant factor in continued use of law to enforce patriarchal privilege is that men still control not only the legal process and the interpretation of laws, but also the subject matter and vantage point of law. It is well known that that law is strictly restricted in its capacity to deliver gender justice, which in itself is contingent on the nature of law and its functioning. In this connection it is worthwhile to recall that the law itself is not a monolithic entity, which simply progresses or regresses. Historically, the development of law has been an uneven one. That is to say, more than not, what law promises on paper cannot carry through in reality. That is why law-as-legislation and law-in-practice are most of the time in contradiction with each other. To cite an example, the Indian constitution explicitly enshrines formal equality for women, but the lives and experiences of India women relentlessly continue to be characterized by substantive inequality, inequity and discrimination.

Several legal reforms have taken place since independence in India, including on equal share of daughters to property. Yet gender equality with respect to succession or right to property remains illusive. Establishment of laws and bringing practices in conformity thereto is necessarily a long drawn out process. The government, the legislature, the judiciary, the media and civil society have to perform their roles, each in their own areas of competence and in a concerted manner for the process to be speedy and effective.

Domestic violence— The Domestic Violence Act, 2005 has concretely dealt with the problem of domestic violence taking into consideration all the related laws and has attempted to reduce the numerous ancillary problems generally faced by such legislations. This legislation is well placed in the Indian context and social scenario, clearly reflective

of the mindset of the Indian men. The Act is thus a very vital piece of legislation from the feminist point of view. The occurrence of domestic violence against women arises out of the patriarchal setup, the stereotyping of gender roles, and the distribution of power, real or perceived, in society. Following such ideology, men are believed to be stronger and more powerful than women. They control women and their lives and as a result of this power play, they may hurt women with impunity. The Domestic Violence Act was passed in furtherance of the recommendations of the United Nations Committee on the CEDAW (Convention of the Elimination of all forms of Discrimination Against Women). The Domestic Violence Act promotes the rights of women guaranteed under Articles 14 and 15 of the Constitution of India. Domestic violence is one among several factors that hinder women in their progress, and this Act seeks to protect them from this evil. The Act deals with various forms of abuse that were either not addressed earlier, or that were addressed in ways not as broad as done here.

This piece of legislation has been long over due. It is a comprehensive law and addresses all issues related to women. It is for the first time that an Act has been passed to address women's issues in such detail. The Act is an extremely progressive one not only because it recognizes women who are in a live-in-relationships but also extends protection to other women in the household, including sister and mother thus the Act includes relations of consanguinity, marriage, or through relationships in the nature of marriage, adoption, or joint family thus, 'domestic relationships' are not restricted to the marital context alone. In addition to physical violence of beating, slapping, hitting, kicking and pushing, the Act also covers sexual violence like forced intercourse, forcing his wife or mate to look at pornography or any other obscene pictures or material and child sexual abuse. Another good thing about the Act is the fact that it deals with domestic violence regardless of the religion of the parties, as many a time wrongs are perpetrated (ab)using the protection afforded by personal laws. It is thus secular in outlook in protecting women's rights. The new law also addresses sexual abuse of children and forcing girls to marry against their wishes. This certainly proves that the new Act has been formed keeping the current relationship culture in India and the irregularities in the previous domestic violence laws in mind. It is, however, too early to predict the usefulness of this legislations to its target beneficiaries and the society as a whole.

Uniform civil code— In India this term refers to the concept of an overarching Civil Law Code. A uniform civil code administers a common set of secular civil laws to govern all people, irrespective of differences in community, religion and region. This supersedes the right of citizens to be governed by different personal laws based on their religious or ethnic identity. The common areas covered by a civil code include: Personal status, rights related to acquisition and administration of property and marriage, divorce and adoption. Such codes are in place in most modern nations, but not so far in India. Here most family law is determined by the religion of the parties concerned. Hindus, Sikhs, Jains and Buddhists come under Hindu law, whereas Muslims and Christians have their own laws. Muslim law is based on the Shariat.

The passage of the Hindu Code Bills in the 1950s marked a turning point in the history of the Muslim Personal Law. Until this time, Muslim Personal Law had existed side by side with similar religious laws for Hindus and other communities. The Hindu Code Bills were a series of laws aimed at thoroughly secularizing the Hindu community and bringing its laws up to modern times. The affect of the Hindu Marriage Act was to prohibit polygamy and to increase the right of the divorced wife to maintenance or alimony. The act applied to everyone in India except Muslims, Christians, Parsees, and Jews. Since Jews and Parsees were a very small minority, and since Christians were governed under an already modern or progressive law, Muslims remained the only large

community with a distinct religious law that had not been amended to reflect modern concepts (Anderson, 1993: 165-185).

When the Indian government ratified the CEDAW (Convention of the Elimination of all forms of Discrimination Against Women) in 1993, it modified laws that were created under the colonial administration. This brought the secular-Muslim divide created after independence into sharp focus. As a matter of fact, the Constitution of India contains in it a series of contradictions that have made it difficult for the government of India to reform or dismantle Islamic personal law. India's leaders at the time of framing of constitution for republic India wanted a secular constitution on the model of a Western democracy. But surprisingly what resulted was not secularism in the Western sense of the term, but rather a 'secular' state with religious laws for its religious groups. In India 'secular' means 'non-intervening in the matter of Islamic religion.

Those wishing to reform the Muslim Personal Law have often cited Muslim countries as examples that such reform is possible. In this regard a question is often raised that if Muslim countries can reform Muslim Personal Law, and if Western democracies have fully secular systems, then why are Indian Muslims living under laws passed in the 1930s? There are Muslims who are in favour of either doing away with the Personal Law or reforming it. Enumerable liberal Muslim intelligentsia have opined through the media that polygamy should be banned outright, women should have an easier time petitioning for a divorce, the husbands should not be able to use the triple talaq method of divorce and the maintenance be granted as it is with the non-Muslims. Yet the old system continues to perpetuate.

In India, the experiment of personal laws for various groups has been a failure in achieving equal treatment for all citizens. The country legislated away all of the personal laws, with the exception of laws applying to Muslims who are regarded as minority. Other minorities have been brought into line along Western standards of secular and equal rights. However, out of fears of creating widespread rioting and rebellion, the government has shelved any reforms for the Muslim community. It has refused to find a legal route that would enforce equal rights for over 70 million of its Muslim female citizens. The vast majority of Muslims led by the Jumiat-al-Ulama and other orthodox Muslim groups have fought tooth and nail against any change in their Personal Law. The Muslim community stubbornly rejects reform, and in essence its rejection may ensure that its privileged position is intact. Most Muslims are resistant to change because they believe that any change in their personal law would result in the destruction of Muslim culture in India.

Family Court— With a view to protecting possible threats to marriage, dignity of women and interests of other members in society, the Government of India introduced the system of family courts in 1984 through enactment of a legislation. The Family Courts Act 1984 was adopted as a part of the trends of legal reforms concerning women. The Act is expected to facilitate satisfactory resolution of disputes concerning the family through a forum expected to work expeditiously in a just manner and with an approach ensuring maximum welfare of society and dignity of women. Family courts are expected to deal with marriage, matrimonial dissolution, maintenance and alimony, custody, education and support of children, settlement of spousal property and guardianship and custody of child's person and property. Matters relating to will, however, are as usual dealt with by civil courts.

Every state government after the consultation with the High Court establishes a Family Court in the district. One or more judges head it and preference is given to female judges. The Family Courts Act was set up to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs, based on non-adversarial and multi-disciplinary approach. The Family Courts are expected to (i) adopt a radically

different approach than that adopted in ordinary civil proceedings, and (ii) make reasonable efforts for conciliated settlement before the trial commenced, and during this stage the proceedings are to be informal. Gender sensitized personnel, including judges, social workers and other trained staff are expected to hear and resolve family related issues by eliminating the rigid rules of procedure. To preserve the informality of procedures, it was specifically laid down that the parties to a dispute were not entitled, as a matter of right, to be represented by legal practitioners. The proceedings are conducted in secret and once an agreement has been reached there would be no appeal. However, the court can seek the assistance of legal experts as *amicus curiae* in the interest of justice. The FCs are supposed to follow simplified rules of evidence and procedure so as to effectively deal with the family disputes, and for achieving this purpose the Code of Civil Procedure was amended. Judges responsible for bringing about conciliation are supposedly committed to the need to protect and preserve the institution of marriage and to promote the welfare of children. Till April 2009 there were 153 FCs in existence in India.

Concluding remarks

The rise in the number of single member household, break-down of traditional joint family system, increase in cases of divorce, individual male migration to cities for work, erosion of authority of patriarch, the attrition of traditional family values, increase in the number of working mothers in cities and single parents, rise in domestic violence and practices of dowry, neglect of children and elderly, and poor regard for family laws are enough indications of the danger that the family and ultimately society are progressively facing in India. To combat the continuing erosion of values and the institution of family, there is a need of a set of strong, consistent policies to strengthen the Indian family system. Otherwise, India would be left with no choice, but to face the same problems which are generally faced by many families of developed countries now. To be more specific, the family needs an increased support in the areas of child care, social services, income assistance and health services than ever before. It is, however, recognized that the formulation of a comprehensive single national policy given the large size and heterogeneity of society like that of India is quite a difficult and cumbersome task.

At the same time it is also recognized that the formulation of new norms for a desired type of family system based on modern values is perhaps fraught with serious problems of various kinds. The state may not have the required political will to do so for some political expediency or mileage. Since ours is a soft state, law does not always prove to be so effective and hence, it may be difficult to regulate the Indian family system through a formal public policy. Increasing state intervention in an informal organization like family may be unpalatable to many and it could be counterproductive as well. It is, however, not argued that the development of a national family policy would be an exercise in futility. In fact, in view of problems of various kinds and possible challenges of future there is a need of Family Policy Council in each state of India to conduct policy analysis, promote intergenerational solidarity, facilitate strategic leadership involvement and influence public opinion. It should be an autonomous entity with no link with the state except for financial aid and it should have a uniform purpose: helping family in responsible parenthood, serving as a voice for the family and assisting advocates for family ideals who aim to recapture the moral and intellectual high ground in the public arena. It is recognized that under the prevailing circumstances the civil society can play a more crucial and effective role than the state. In any case, because of rising individualism, competitiveness and openness in society and ever-increasing aspirations for higher attainments in life coupled with greater autonomy of individuals in society, an ideal family life may be a distant dream. Wittingly or unwittingly the people should by and large remain prepared to

pay the likely prices of modern or post-modern way of life. Traditionalism is no answer, either.

Notes

1. As dowry is a very essential consideration of marriage. The practice of dowry has become the archetypal institution of modern Indian society. It is neither an ancient nor a medieval phenomenon. Being an important precondition, the process of dowry-giving or taking commonly precedes the actual ceremonization of marriage, and in some cases dowry and its problems also continue in one form or another beyond the actual event of the ceremony. Marriage of a daughter is so essential and inevitable in Indian society that parents are put under extreme pressure to meet any feasible demand to get their daughters married. To be capable of offering or meeting a big amount of dowry to marry one's daughter or sister, or to be eligible to ask for a hefty dowry for the sake of marrying one's son or brother is a matter of social pride. This pride comes from being able to demonstrate what one has acquired in recent years through hard work. These days it is taken as an important indicator of the social honour of family in the community. The dowry has become a status symbol in view of the rising economic prosperity of the people (Singh, 2005: 199-220)

2. Child labour is not child work. Child work can be beneficial and can enhance a child's physical, mental, spiritual, moral or social development without interfering with schooling, recreation and rest. Helping parents in their household activities and business after school in their free time also contributes positively to the development of the child. When such work is truly part of the socialisation process and a means of transmitting skills from parents to child, it is not child labour.

Child labour is the opposite of child work. Child labour hampers the normal physical, intellectual, emotional and moral development of a child. Children who are in the growing process can permanently distort or disable their bodies when they carry heavy loads or are forced to adopt unnatural positions at work for long hours. Children are less resistant to diseases and suffer more readily from chemical hazards and radiation than adults. UNICEF classifies the hazards of child labour into three categories, namely (i) physical; (ii) cognitive; and (iii) emotional, social and moral.

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Table 1: Projected Age Composition of India's Population in Million, 2010-2050
(Medium variant)

Age groups	Year				
	2010	2020	2030	2040	2050
0-14	374 (30.8)	364 (26.7)	338 (22.8)	309 (19.7)	294 (18.2)
15-59	749 (61.6)	868 (63.5)	962 (64.8)	1011 (64.7)	1004 (62.2)
≥60	92 (7.4)	135 (9.8)	185 (12.4)	245 (15.6)	316 (19.6)
Total population	1,215	1,367	1,485	1,565	1,614

Median age (Yrs.)	25.0	28.1	31.7	35.3	38.4
Dependency ratio- Total	56	49	45	44	47
Dependency ratio- Child	48	40	33	28	27
Dependency ratio- Old	8	9	12	15	20
Life expectancy at birth	64.0	67.0	70.0	72.0	73.0

Figures in parentheses refer to percentages.

Source: UN, 2008, *World Population Prospects: The 2008 Revision*, Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, <http://esa.un.org/unpp>.

Table 2: Living Arrangements for Elderly People Based on NFHS-2
(Percentage of total number of elderly people)

Male

Ages/Place of residence	Alone	Two-member households (both elderly)	Persons of two or more generations	Others
60-64	1.6	7.0	88.4	3.0
65-69	1.4	9.8	85.5	3.3
70-74	1.8	10.6	84.2	3.4
75-79	2.3	11.6	83.0	3.1
80+	1.6	7.3	87.3	3.8
Rural	1.6	9.0	86.1	3.3
Urban	1.8	8.3	80.7	3.2

Female

60-64	3.9	6.7	86.0	3.4
65-69	4.2	6.7	85.0	4.1
70-74	5.4	3.7	86.8	4.1
75-79	5.1	3.1	89.1	2.7
80+	4.2	1.4	91.7	2.7
Rural	4.6	5.7	86.1	3.6
Urban	3.5	4.5	88.5	3.5

Source: Based on the National Family Health Survey-2 (1998-99), 2000, India, Mumbai: IIPS and ORC Macro.