

# **GENDER, VIOLENCE AND GOVERNMENTALITY**

**LEGAL AND POLICY INITIATIVES IN INDIA**

Skylab Sahu

ROUTLEDGE



## GENDER, VIOLENCE AND GOVERNMENTALITY

This book critically examines gender-based violence in India and interrogates the legal and policy discourse surrounding it. It discusses various forms of violence faced by women such as sex-selective abortion, trafficking, rape, domestic violence, as well as the violence faced by female sex workers and transgenders in India. It draws on in-depth interviews and case studies to highlight the socio-economic conditions of the survivors who find themselves forced to contend with legal and policy framework that is inadequate to deal with these issues. The author analyses the major laws against violence and the policies introduced to ameliorate the condition of survivors to understand the potential and challenges of these initiatives from a postmodern and feminist perspective. The book also addresses the survivors' realisation of agency and resistance, which is seen to be expressed both sporadically and on day-to-day basis.

An important and timely contribution, this book will be indispensable to students and researchers of gender and sexuality, feminism, minority studies, sociology and social policy, politics, law, human rights and South Asian studies. It will also be of interest to policymakers, government agencies, think tanks and NGOs working in the area.

**Skylab Sahu** is Assistant Professor at the Department of Political Science, Miranda House, University of Delhi, India. She specialises in gender studies, political theory, and Indian government and politics. Her research articles have been published in several national and international peer-reviewed journals such as *Studies in Indian Politics*, *Sociological Bulletin*, *Journal of Social and Economic Development*, *Journal of Health Management*, *Indian Journal of Political Science*, and *Indian Journal of Social Work*, among others. She is the author of *Gender, Sexuality, and HIV/AIDS: Exploring Politics of Women's Health in India* (2015).



# Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

# GENDER, VIOLENCE AND GOVERNMENTALITY

Legal and Policy Initiatives in India

*Skylab Sahu*

First published 2021  
by Routledge  
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN  
and by Routledge  
52 Vanderbilt Avenue, New York, NY 10017

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

© 2021 Skylab Sahu

The right of Skylab Sahu to be identified as author of this work has been asserted by her in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

*Trademark notice:* Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

*British Library Cataloguing-in-Publication Data*

A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*

Names: Sahu, Skylab, author.

Title: Gender, violence and governmentality : legal and policy initiatives in India / Skylab Sahu.

Description: Abingdon, Oxon ; New York, NY : Routledge, 2021. | Includes bibliographical references and index. |

Summary: "This book critically examines gender-based violence in India and interrogates the legal and policy discourse surrounding it. It discusses various forms of violence faced by women such as sex selective abortion, trafficking, rape, domestic violence, as well as the violence faced by female sex workers and transgenders in India. It draws on in-depth interviews and case studies to highlight the socio-economic conditions of the survivors who find themselves forced to contend with legal and policy framework that is inadequate to deal with these issues. The author analyses the major laws against violence and the policies introduced to ameliorate the condition of survivors in order to understand the potential and challenges of these initiatives from a postmodern and feminist perspective. The book also addresses the survivors' realisation of agency and resistance which is expressed both sporadically and on day-to-day basis. An important and timely contribution, this book will be indispensable to students and researchers of gender and sexuality, feminism, minority studies, sociology and social policy, politics, law, human rights and South Asian studies. It will also be of interest to policymakers, government agencies, think tanks and NGOs working in the area"— Provided by publisher.

Identifiers: LCCN 2020034000 (print) | LCCN 2020034001 (ebook) | ISBN 9780815351092 (hardback) | ISBN 9781003133131 (ebook)

Subjects: LCSH: Women—Violence against—India. | Women—Crimes against—India. | Women—Legal status, laws, etc.—India. | Women—Government policy—India.

Classification: LCC HV6250.4.W65 S2426 2021 (print) | LCC HV6250.4.W65 (ebook) | DDC 362.88082/0954—dc23

LC record available at <https://lcn.loc.gov/2020034000>

LC ebook record available at <https://lcn.loc.gov/2020034001>

ISBN: 978-0-8153-5109-2 (hbk)

ISBN: 978-1-003-13313-1 (ebk)

Typeset in Sabon  
by codeMantra

TO  
BABU, JHIA AND REYANSH



# Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>



# CONTENTS

<i>List of tables</i>	ix
<i>List of abbreviations</i>	xi
1 Introduction	1
2 Sex-selective abortion: a feminist interpretation of legal dilemmas and policy initiatives in India	22
3 Impunity assured and impunity snatched: the state and the discourse of rape in India	52
4 Normalisation of domestic violence in India	87
5 Sex work in India: invisible labour, deviant sexuality and experience of violence	114
6 Citizenship and transgenders: analysing the legal and policy discourse in India	142
7 State, law and resistance	163
<i>Bibliography</i>	197
<i>Index</i>	219





# Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

# TABLES

2.1	State Government Policies of India to Arrest Sex Selective Abortion	37
4.1	Alcohol Use and Spousal Physical and Sexual Violence	97
4.2	Caste and Education of Respondents	97
4.3	Respondent's Religion and Class	98
4.4	Nature of Work of Respondents	99



# Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

# ABBREVIATIONS

Indian Penal Code (IPC)  
Medical Termination of Pregnancy (MTP)  
Pre-Natal Diagnostic Techniques (PC-PNDT)  
Human Immunodeficiency Virus (HIV)  
Acquired Immunodeficiency Syndrome (AIDS)  
Indian Evidence Act (IEA)  
The Protection of Children from Sexual Offences (*POCSO*)  
National AIDS Control Programmes (NACP)  
National Family Health Survey (NFHS)  
The Protection of Women from Domestic Violence Act (PWDV)  
Child Sex Ratio (CSR)  
National Crime Records Bureau (NCRB)  
Intimate Partners Violence (IPV)  
Suppression of Immoral Traffic in Women and Girls Act (SITA)  
The Immoral Traffic Prevention Act (ITPA)  
Female Sex Worker (FSW)  
Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, and  
Asexual or Allied (LGBTQIA)  
Sexual and Reproductive Health (SRH)  
Forum against Sex Determination and Sex-Pre-Selection (FASDSP)  
All India Network of Sex Workers (AINSW)  
The Karnataka Sex Workers Union (KSWU)  
Durbar Mahila Samanwaya Committee (DMSC)



# Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

## INTRODUCTION

Gendered citizenship is a socio-cultural and political construction that segregates society into diffracted identities with different values and citizenships. The identity of the gender is constructed and formulated differently for men, women and transgenders. Women are often treated as second-class citizens, and transgenders are largely perceived as non-subjects in the society. Socio-cultural construction takes place through various socio-political institutions, discourse of knowledge, religions and media that help in the creation of certain kind of graded subjectivity (Geeta 2006). The gender identity in a patriarchal system not only recognises the status of femininity, masculinity and the transgender in a structured way, but also constructs the gendered notion of the body, sexuality, production and reproduction. Gender identity at times operates as a distinct character and at other, functions along with other multiple marginalities creating a sense of graded powerlessness through class, caste and ethnicity by making a particular gender of the community more vulnerable and powerless to others.

Socio-cultural construction and structural inequality makes women and transgenders more vulnerable to violence in the society. Violence against women is often perpetrated by the dominant gender in different spheres, and violence therefore is often used as a tool for the subordination and powerlessness of women and transgenders. Women face several forms of violence such as rape, sex-selective abortions, and domestic violence in the Indian society. Gender-based violence has several physical and psychological implications as it victimises and violates the very ethos of autonomy and dignity of an individual. However, the subjectivity of gender also has possibilities for realisation of agency and resistance against its victimhood, violence and exclusion.<sup>1</sup>

The state while interacting with the society, or operating within the society, in Foucault's term exercises governmentality through institutions, policies and law for the population of the state. The state, operating through law (colonial), police, judiciary and policies acts as the most powerful body

of power, and so has an immense role in the formation of the identity or deconstruction of any. It can either strengthen the patriarchal ideology or deconstruct it.

### **Trajectory of citizenship and locating gender in the discourse of citizenship**

Marshall (1950, 1992) has defined citizenship as a status bestowed on those who are full members of a community (1950: 14), which includes civil, political and social rights and obligations.<sup>2</sup> The liberal political idea of citizenship, as discussed by the early political philosophers such as Aristotle and Rousseau, perceived a few selective males as citizens who had virtue or reason and were allowed to participate actively in the public realm. The liberal notion of citizenship and specifically Marshall's modern interpretation included citizens who are not active rather, citizens as passive subjects with rights (Roy 2010). Citizenship in liberal terms meant being protected by the law, rather than participating in its formulation or execution. It became an "important but occasional identity, a legal status rather than a fact of everyday life" (Walzer 1989: 215). The modern liberal idea of citizenship is derived from the notions of freedom, rights and equality, which are often considered as absolute values, based on the universal concept of reason. However, the liberal interpretation of citizenship includes a number of binary oppositions (either in a universal manner or in diversified forms) such as citizens vs. alien, we vs. they, self vs. other and nature vs. culture (Ivic 2011).

In modern plural societies, citizenship remains levelled through hierarchies of class, caste, sex, religion, race and ethnicity (Roy 2010). Since the 1980s, with the emergence of multiculturalism, plurality and diversity have been the reference points for citizenship.<sup>3</sup> Scholars such as Kymlicka (1996) and Marion Young (1990) argued that the uniform or the universal theory of the citizenship fails to capture how the citizenship rights to the diffracted and once excluded groups had not translated into equality and full integration, notably in the case of Afro-Americans and women (Williams 2004; Young 1989).<sup>4</sup> However, the scholar's emphasis on the preservation of the community as a discrete unit may act as patriarchal and undemocratic to women. Therefore, the differentiated citizenship, if perceived under the prism of multiculturalism, produces a situation where cultural community as dominant units maintain internal restrictions, especially on women (Roy 2013). Moreover, Young does not argue heterogeneity based on multiple identities as the fundamental trait of the group itself. Rather, she emphasises that different social groups have different historical and social understanding and imply different narratives and conceptions of identity. She concludes that one group cannot entirely understand the experience of the other groups. However, this



point of view represents a homogeneous understanding of the group itself (Ivic 2011).

Chatterjee (2006) argues that citizenship has two understandings: one is formal, and the other one is real. “Citizen” both in the formal and real sense is perceived as an equalising word. Rights and obligations are then described in egalitarian language and in generic terms: all citizens pledge allegiance to the flag, using a capacious rhetoric that ignores differences of gender, race and ethnicity, and class. The dominant notion of the citizenship has been perceived in terms of the political membership within a state or nation-state. Yet, while having political membership, there could be possibility that a group of women, men or transgenders may not be treated as equal citizens. A group of people despite having formal constitutional equal power may be treated in a less than equal manner. As a result, the citizenship that is otherwise perceived as uniform in nature is in reality a hierarchical experience of power and powerlessness. There is a possibility that a particular identity may not be recognised as an identity by the state legal system such as transgenders in India (until 2018) and live with a sense of powerlessness. The discourse of the citizenship is often related to the heterogeneous and overlapping spaces on the one hand, an autonomous subjectivity envisioning and constituting the political community or communities on the other. Citizenship from a postmodern perspective is based on the notion of identity that is multiple and fluid, but may not be defined by nation or culture<sup>5</sup> (Foucault 1977). Furthermore, one could comprehend that citizenship is not always a given concept rather an evolving one, whereby the individuals realise powers associated with citizenship and dignity in a progressive manner. “Becoming” a citizen can either be understood as inclusion of a group or recognition of a group and the extension of the status of equal citizenship or breaching the structure or system of oppression. Derrida criticises Western discourse as it gives priority to universality over particularity, necessity over contingency, nature over culture, and so on. In the Western discourse, Derrida argues that the two terms in binary oppositions as presented (signifier/signified, objective/subjective, male/female, nature/culture, etc.) cannot be opposed, because every term in such binary opposition contains in itself the phantom of the other. He introduces the concept of “difference”, which overcomes the fixed identity of “difference” and represents a constant interplay of meanings. The postmodern theorists further believed that a subject is created or constructed by discourses. For instance, there is a large role of the developmental discourse, legal discourse for the creation of a particular gender subjectivity, which remains fluid and subject to transformation.

Ever since the concept of citizenship originated, it has often been used in hierarchical ways in general and in gender terms in particular. For instance, Aristotle’s concept of citizenship excluded the women, poor, slaves and alien as members of the community<sup>6</sup> as non-citizens. He believed that

like a slave, a woman also can act as an instrument in ensuring better participation of the male members in the public sphere. Aristotle defined “a citizen is one who rules and is ruled in turn”. He further stated “We should regard women’s nature as suffering from natural defectiveness”. The contractarian theorists such as Thomas Hobbes, J. J Rousseau and John Locke in the modern times prescribed the theory of creation of the state through the contract made by individuals and specifically women’s role in the formulation of the contract to create the modern state, remained missing. However, their idea of the political individual was gender-neutral and they hardly discuss women’s position in state of nature, and state. In the background, Carole Pateman (1992) argued that “contract was the means through which the modern patriarchy was constituted”.

Most feminist scholars have been critical of the dominant and universal conception of citizenship in two ways: First, they argue that citizenship is gender-blind as the dominant perspective considers citizenship as equal and uniform in nature, whereas in almost all modern patriarchal societies, male members socio-culturally and politically remain in a dominant and privileged position of power than women. Equality in such situation remains challenged and the inequality of women is sustained by the political, economic and social institutions. Second, the feminists find that the notion of the citizenship often operates through certain conceptual binaries for instance citizens vs. non-citizens, active vs. passive, public vs. private and male vs. female. They argue that generally male members are often projected as active, participative citizens in the public sphere, whereas women are identified with the private and domestic sphere as passive and non-participative citizens in the public sphere. A section of (liberal and radical) feminists although remain critical to the public vs. private dichotomy yet they consider it is important for women to participate politically as equal citizens in a democracy. They therefore have argued for the inclusion of women participating equally with men in the public sphere, representing economic and political spheres while trying to democratise the public sphere. For them such participation would lead to “active and sex-equal citizenship” which can be crucial for the development of women’s citizenship (Rian Voet 1998). There is another strand of feminists (fall under radical feminists) who critique the first strand where a greater inclusion of women in politics is perceived as one of the important measures of ensuring active and equal citizenship for women. In contrast, this group has highlighted on the private realm and argued that the “personal is political” implying that the private sphere is an institution that has power relations and violence intrinsic to it and hence remains political. In addition, they argue that the state and the private domains are associated with power relations and both the state and family are subject to the norm of justice. A few scholars within this strand such as Elshtain (1981) and Ruddick (1989) further stated distinctly that instead of a masculine citizenship, they would prefer

to come across citizenship with feminine characteristics such as love and compassion (Rao 2013).<sup>7</sup>

As mentioned above, compared to the ancient period, while understanding the nature of exclusion of women from citizenship, in the modern times, the citizenship as argued by Rao (2009) has not entirely excluded women. However, they are placed outside the sphere of the politics on the basis of their socially useful and dependent roles as mothers and wives. Thus, they are substantially excluded from accessing resources and opportunities such as employment, education, health and property (which enable individuals to politically participate in an effective manner). A similar idea was also flagged by the feminist Simone de Beauvoir in her book *The Second Sex*. Simone de Beauvoir narrated that women from birth are constructed as second-class citizens: “One is not born, rather becomes a woman”.<sup>8</sup>

A close look on the literature on citizenship indicates that there has been a vacuum in the feminist literature to understand how the gender-based citizenship is constructed in the society in a particular manner, how violence is integrated into the notion of construction and how several power structures enforce a particular notion of citizenship related to a particular identity such as female and transgender. The interpretation of the gender-based citizenship was perceived in terms of gender binary (signifier/signified, objective/subjective, male/female, nature/culture, etc.), while emphasising on the norms of heterosexuality. Lacan’s concept of sexual identity is not based on the biological gender or any other innate factor but it is learned through dynamics of identification and gender. Lacan states that the individual unconsciously is affected by other discourses (Sullivan 1982).

The construction of gender or “becoming”<sup>9</sup> starts right from the birth of a child. Gender is a socio-cultural construct and is also perceived as something we are born with, and not something we have, but something we do (West and Zimmerman 1987)—something we perform (Butler 1990). These arguments focus that not only the heteronormativity of gender in the society that is constructed rather it is done through a graded manner with graded values assigned to different genders. Moreover, female or transgender is not a homogeneous category; rather, there are diverse identities and intersectionality of identities such as caste, class, ethnicity, working along with the gender identity. There could be diversities in female identities such as female sex workers, or lesbians may face the issue of citizenship in a particular manner than dalit poor-class women. The perception and impact of violence could be different for various groups of women, for instance the experience of violence and victimhood varies for female sex workers (street based), to housewives, to lesbians and to dalit women. Even among the sex workers, street-based sex workers could be more powerless and vulnerable to violence than the escorts. Similarly, a transgender sex worker may have some unique experience as against transgender non-sex workers or distinct from female sex workers.

In India, during the pre-colonial period, women largely were considered as merely submissive and subordinate beings specifically confined to the private sphere.<sup>10</sup> However, during the colonial times, the nationalist struggle for independence from the colonial forces and the class-based movements against the existing feudal lords as against oppression provided many females a platform to share the public sphere and participate in the movement in general and the nationalist movement in particular, equally with men, for the common cause of freedom and for greater gender equality (Jayawardena 1986; Mohanty 1991; Kumar 1997). For these women, freedom and nationalism remained an emancipatory movement for all human beings, for more autonomy, justice, popular sovereignty and universal citizenship. Some social reformers and nationalist leaders such as Ramabai, Savitribai Phule, Jyotirao Phule and Sarojini Naidu worked for the upliftment of women in general and specifically for widowed and dalit (Ramabai and Jyotirao Phule) women in the society. They demanded for women's education, worked for the amelioration of widows of the time, and tried ensuring women's participation in politics and women's suffrage. In the twentieth century, Gandhi provided a much-desired opportunity and encouragement which brought thousands of common women to come out and participate in the public sphere while demanding freedom (Patel 1988).

During the post-independence era, the constitution treated both the sexes as equal, and it was believed that the nature of the gender inequality would subsequently change. Yet the mainstream discourse denied gender equality. Liberty and formal entitlement such as in education, right over property and an equal stake in decision making over one's own marriage were the issues where women were denied equality. The Hindu Code Bill in this backdrop intended to unify, codify and modernise the laws governing the right to property or inheritance, marriage, divorce, maintenance and inheritance, dowry as *stridhan* and abolition of polygamy. One change in the direction of rule of inheritance proposed under the Hindu Code Bill was that the widow, the daughter, the widow of a pre-deceased son all were given the same rank as the son in the matter of inheritance (Moon 2013). Feminists welcomed the bill, and as people like Rajendra Prasad opposed the bill, Congress members in government were divided on the issue. Consequently, the bill was not approved in its original forms with all its provisions, which made Dr. B.R. Ambedkar to resign.<sup>11</sup> Subsequently, a section of the Hindu Code Bill was passed under four different acts. These were the Hindu Marriage Act, Hindu Succession Act, Hindu Minority and Guardianship Act, and Hindu Adoptions and Maintenance Act, which were passed between 1952 and 1956. As far as the response of the population is concerned, there was very less or absolutely no opposition expressed towards the government for failing to pass the Hindu Code Bill. There could be various reasons for the same. As a newly independent state, the people of the country were facing several pressing issues such as poverty, ill-health, and illiteracy.

The society itself was highly patriarchal, and a majority of women did not reassess their own position within the society and the inequality they faced. The people of India also had a lot of faith on the Government of India in general and the Congress party in particular as it provided leadership for the Indian freedom struggle; therefore, the faith of the people on the party and its action was probably immense and was foreseen as a harbinger of change in the post-independence period.

However, an analysis of discourse of gender development assessing the women's position in the 1970s, through the Committee on the Status of Women in India (Ministry of Education and Social Welfare, Government of India 1974), produced a worth-noticing report titled "Towards Equality Report". The report drafted by ten eminent feminists including Phulrenu Guha, Leela Dube, Vina Mazumdar, and Lotika Sarkar highlighted how women continued to lag behind in the socio-economic and political spheres, and most importantly, there was a huge gender gap between male and female in development. Demographic data showed a decline in the proportion of women in the population, a declining female economic participation rate since the early twentieth century, and a high rate of female migration caused by economic distress and declining employment opportunities. In addition, there was rise of number of women illiterates, and female gender continued facing several forms of discrimination and most importantly remained subject to various forms of violence such as dowry death, female infanticide and other forms of violence. On the contrary, women's participation in the political sphere and within the democratic state also remained negligible (Mazumdar 1984). The finding of the report provided impetus to feminists and several organisations to take up women's issues seriously. It was in the late 1970s and early 1980s when the women's movement raised such issues of concern in a more organised and persuasive manner than before. In the 1990s, the critical analysis made by Neila Kabeer (1995) on the development discourse in general and development theory, policy, planning and strategies in particular showed that women could not be included within the mainstream notion of development, and as a result, women continued slugging in terms of development.<sup>12</sup> Along with the economic and other developmental (reproductive choice and population control as part of health) exclusions faced by women in development, in the 1990s, they continued facing subordination socio-culturally. Politically, despite feminists' demand for the reservation of seats at national-level politics, the women's reservation bill could not be passed in the Lok Sabha of Indian parliament. On the contrary, 33 per cent reservation was provided to women through the 73rd and 74th amendments (in 1993 and 1994, respectively) in the decentralised system of government or local levels of administration, i.e., in panchayats and municipalities. However, exclusion of women in economic, political and social spheres continues after the twenty-first century. The national figure shows women's participation in the workforce has reduced

from 34.1 in 1999–2000 to 27.2 per cent in 2011–2012 and thereafter. Moreover, many women who are part of the workforce have been shifting from the organised to the unorganised sector subsequently. Although the level of education in terms of women's literacy has been increasing, the child sex ratio has been decreasing consistently. Moreover, it has also been highlighted by the National Crime Record Bureau (NCRB) that from the 1990s onwards, there has been a substantive increase in gender-based violence against women in India across age groups and places.

Most importantly, transgenders remained as non-citizens and were treated as a non-existent population and community in India. The specific interest in issues of transgenders arose at the conjuncture of three major developments in the 1990s. The primary push was from a particular historical combination of feminist studies with feminist politics, bringing in the theory of marginal, subaltern genders that produced gay and lesbian studies. This path broke with the presupposition of heteronormativity as a given structure of power, proposing “powerless sexualities” as decisive for knowing the gendered world. The second impetus has been the discourse around HIV/AIDS. The questions arose from the patterns of the spread of the disease among all-male groups that instigated researchers to interrogate their assumptions of heterosexuality as an intelligible orientation that defined and fixed male sexuality. The third thrust was the opening up of television in the 1990s, as part of the growing market culture of the Indian economy. In the 1990s, Western corporate media entered Indian television. Initially, there had been only one government-run channel, followed by a few domestic channels. Sexually explicit and suggestive images from the West flowed in through private cable television channels; as a result, there was an exposure to different cultures and practices, and the debate for exploring gender and sexuality in a much broader way. There was a sustained movement led by both feminists and transgender activists, which started in the 1990s and continues to this day. In India, the feminist and transgender queer movement started demanding the recognition of gender identity of the third gender and sexuality. In 2014, the transgender community was recognised as the third gender in India, and subsequently, in 2018, homosexuality became legitimate.

### Creation of subordinate subjects

Gender is the manifestation of the diverse subjects constructed through several processes. In patriarchal societies, male, female and transgender individuals are created as subjects of a particular kind. For instance, the male members of the society are expected to be dominant, superior, persuasive, successful citizens in comparison with other gender identities or subjects.<sup>13</sup> They are expected further to control subordinate gender subjects, especially

women. The construction of gender subjectivity is carried out through several structures, processes, institutions, ideologies and so on.

Foucault states that while analysing the concept of the power with great uniqueness, his “objective, instead, has been to create a history of the different modes by which, in our culture, human beings are made subjects”. His work has dealt with three modes of objectification that transform human beings into subjects such as “dividing practice”, “scientific classification” and “subjectification”. Dividing practice is one of the ways through which social control is usually established through social exclusion; he has focused on how the poor, lepers and insane have faced social confinement and were pushed to some specific geographical area. Similarly, in India any woman who is a dalit, poor, transgender or a sex worker (gender status is revealed/or known) also faces similar experiences of dividing practice and face isolation, rejection and usually end up in confinement to suburban areas within the rural and urban space, red light areas or a few transgenders are moved to the hijra community. A human being who is subject to the process of objectification also remains subject to “scientific classification”, for example, the word “labour” classifies people of a particular class sharing a similar situation within the process of production. Similarly, all the diverse communities of queer, homosexual, intersexual and transgendered people also usually get the homogeneous connotation of transgender or “third gender”.<sup>14</sup> While taking Foucault’s arguments further into account, one could observe how a majority of the human beings believe and perceive heterosexuality as normal and natural. In the domain of sexuality how men have learned to recognise themselves as subjects of “sexuality”. Moreover, in a patriarchal society, a woman consciously and/or unconsciously turns herself into a second-class citizen by prioritising the needs of male members in comparison with her own needs. A woman’s subjection is also reinforced when she perceives violence as normal. The patriarchal society hence, establishes the normality of manhood and creates masculinity as the order and females are treated as the *other*.

The violence exercised against the gender adds to the process of creation of a subject or subjectification. The gap among the sexes is expressed through the huge chasm in the child sex ratio, neglect of the girl child and several other forms of violence faced by women creates gendered citizens and citizens as subjects in their day-to-day life. On the one hand, the society relegates women to the private sphere and it is also often thought that women remain safer within the family. Paradoxically, however, women face several types of powerlessness and violence such as domestic violence, sexual assault, and dowry torture leading to dowry death within the family. The vulnerable gender further remains subjected to several types of violence such as sexual violence, acid attack and are also often killed in the name of the honour (Sinha et al. 2017). The manifestation of gender



violence influences the construction of the female gender and maintenance of their secondary and subordinate position in Indian society.

The society is closely associated with the state with governmentality and power apparatuses.<sup>15</sup> The state as the legitimate power-holder also implicitly and at times explicitly constructs the subjects and specifically is important either in maintaining or dismantling the gender status quo. It objectifies individuals through both repressive and progressive means. For instance, the state has a hold over the institutions of police, prison, law and order, which could be repressive in nature, yet is legitimised as it is seen as necessary for the good of a society. Indian society having inherent patriarchal traditions in several places and communities has customary patterns of thought, action or behaviour, and social customs that support male domination. However, certain traditions become rigid and violent to the extent (honour crime and killing, female infanticide or sex selective abortions) that it reaches the level of criminality. The state government confronts such prudish and criminal traditions through legal and extra-legal or policy measures. Similarly, the state has introduced welfare policies for different population groups to bring about development, and in such cases, the power that lies within the efforts of the state is quite enabling or progressive. Progressive as well as oppressive efforts of the state may create subjects of different categories.

Creation of subjects in the socio-cultural realm may integrate violence essentially as a tool and/or a mechanism to create the graded subjectivity. Violence hence is often used as a weapon of the dominant or the powerful as against the less powerful to establish the status quo of the patriarchal order. Violence could be a means to produce a certain kind of citizenship and or layered subject hood and an end product or an outcome of graded society of graded citizenship. Violence is a central idea for socio political theory and it helps in understanding the contestations, the political process and power structure, and so on. The following section highlights how far violence has been conceptualised and understood differently by scholars and how far it is a contested concept, and violence is used as a tool to create or establish control over subordinate gender in Indian society. Furthermore, it briefly highlights the violence faced by subordinate gender in India.

### **Understanding violence and gender violence**

The concept of violence is used in a diverse manner and there is very little agreement about how it should be understood. Violence as a set of actions, is usually motivated by hostility and the wilful intent to cause harm. It is often assumed that violence is deviant—legally, socially or morally from the mainstream human activity. Violence therefore is seen as an instigator of hostility within normal social intercourse. Violence incorporates a diverse

array of actions that are an integral feature of social life. Violence could be driven by positive intentions, or an incidental by-product of other goals, or is socially accepted or praised and therefore needs to be perceived critically (Jackman 2002). Structural violence permeates with the socio-cultural hierarchy of the society. For example, violence against caste, religion, class and gender is exercised by dominant societal forces to maintain the status quo or dominance. Galtung (1990) has used “cultural violence” that permeates through several aspects of culture, symbolic sphere of religion and ideology, art, language, science and logic which can be used to legitimise violence against a particular group of people or identity. Cultural violence makes structural violence to be perceived as right or at least as not wrong. While understanding gender and violence, one could argue that gender-based violence is a form of structural violence that is legitimised through cultural violence, i.e., several aspects of culture, symbolic sphere of religion and ideology, art, language, science and logic. Pierre Bourdieu’s concept of “symbolic violence” explains how the dominant system of the society and at times the state prevent the subordinate gender from producing for themselves the categories that would allow them to understand their own subordination.

Coady’s research published in 1986, on the contrary, argued against the “structuralist” understanding of violence, offered by the sociologists like Johan Galtung. Cady argued that violence studies are concerned with two questions: (1) use of violence and (2) legitimisation of the use of violence. In the study of cultural violence, acts of direct violence and structural violence are legitimised and thus are accepted in the society. Violence can be broadly exercised in two ways: first, actions that result in physical (corporal) injuries, physical threat and physical behaviours could be predominantly present along with psychological, material and social injuries, with verbal and written actions on a sporadic basis. Second, when force is used despite the victim’s unwillingness, actions are defined as violent, which swings over many injurious actions against which victims may express resistance or they may endure the injuries willingly.

Wieviorka states that violence will inevitably decline as reason comes to the fore. In the process, Wieviorka discussed how in the era of the Renaissance, the civilisational forces enabled Europeans to internalise, control and therefore reduce violence in society on a day-to-day account. However, Wieviorka further argues that if someone believes that “reason” subsequently results in a decline in violence, then it could be problematic, as on the contrary, violence can continue to prevail and can be used in countless spaces. It can be encouraged by reason, whereby violence could be used as an instrument used by people or groups for whom it is a resource or means to an end and as a means to ensure certain aspirations. Alain Touraine (1995) has mentioned that the characteristic of the modern times is not

progress due to reason, rather the disassociation of reason from the cultural and religious identities. In such a situation, violence often is used as an instrument in actions dominated by reason.

Violence is applied to several phenomena including both individual and collective behaviours like delinquency, crime, revolution, mass murder, riots, war, terrorism, harassment, and so on.<sup>16</sup> The legal or criminology provocation in violence research has focused on the infliction of injuries, which is interpersonal or person-to-person (individual), while uncertainty hovers more on group acts of violence (Jackman 2002). Some specific forms of collective violence have been the subject of inquiry, such as political violence, civil unrest, labour violence and intergroup conflict and violence. War, genocide and armed conflict arising from ethnic, racial or religious differences are commonly recognised as corporate violence *lit large*. However, the analysis of such corporate or collective actions is almost always disconnected from research on interpersonal violence. On the contrary, in several occasions, the inter-personal violence could be reflective of the social order or attitude. The perpetrator could have an inter-personal base but when the victim seeks justice for the violence faced by an individual and subsequently could then be supported by a collective of people (probably people having the same mentality or ideology). For instance, in the case of domestic violence, the very incidence of the violence is inter-personal, but when the victim approaches the police or judiciary, the insensitivity of these institutions could enhance the experience of the violence or could provide respite to such violence. Either inter-personal or corporate, violence often is connected with the verdicts, decisions and governmental agencies (such as the police, courts, prison systems, armed forces, legislative bodies and government bureaucracies) (see, e.g., Dworkin 1977; Foucault 1977; Cover Hughes 1987; Kelman & Hamilton 1989). Corporate violence could have an intersectional dimension: caste-based atrocities against women of the dalit communities and rape of poor dalit women by the rich upper caste men have been a historical phenomenon, and in contemporary times, caste-based violence has engulfed the social, cultural, political and personal lives<sup>17</sup> (Human Rights Watch 1999; Barman 2010). Moreover, the experience of violence faced by a group of women despite having some commonality could be different even within a group, for example, among dalit women, or among middle-class women, the experiences could be diverse.

Most sociologists entrust violence to the domain of criminology and deviance. However, violence could be so well ingrained within the so-called normal social order, or when violence becomes innately structural, it is not considered a deviant act, rather an integral part of the social order as well. Violent actions are considered a normal part of the human collection of strategic social behaviours, and they may influence a person more intently than any other form of violence. Thus, violence may not be visible episodes of hostility. Instead, violent actions are a normal part of the