

# No safe place

by Naina Kapur

*Women and children are constantly warned against the violence of the streets. Yet, some of the worst forms of violence could be taking place at home. Naina Kapur points out how the premium that Indian society assigns to the family—on keeping this intact and preserving its honor—may yet be the key to preventing the country's high incidence of domestic violence.*

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**S**tatistics relating to domestic violence in India paint a grim picture.

- A Bangalore study of 348 college women showed that 47 percent of the women had experienced sexual abuse, with 15 percent undergoing serious forms of sexual abuse including rape, attempted rape and forced oral sex. Majority of the abusers were family members.

- In a separate all-India survey of 220 women, (see "Preliminary Report of Workshop Series and Survey on Childhood Sexual Abuse of Girls," by Anita Ratnam Ganesh, Samvada) sexual molestation ranked the most frequent form of abuse experienced by respondents, most of whom were below 10 years of age at

the time. Again, in two thirds of the reported instances, the abuser was known to the child.

- Official statistics for 1991 indicate that a woman was slapped, beaten, dragged, insulted, abused and/or harassed by her husband or his relatives every 33 minutes.

Not only is the incidence of abuse against women and children in India high. The perpetrator is too often a figure vested with respect and authority in the family—which accounts for the near dearth of information about such abuse. The trend contradicts all norms and notions of family as a solid, stable social institution haven. Any effort to expose the ugly side

of family relations is received with apprehension and even discouraged. For each opportunity to examine the extent of abuse within the family, the response has been characterized by reluctance. Not long ago, a leading institute of mental health conducted a random survey of disturbed children and discovered a high incidence of child sexual abuse. Despite the finding, however, the institute opted not to include tests for sexual abuse as part of the routine psychological check-up of children.

## **Omnipotent value of family**

Statistics describe only part of the picture. The other part pertains to what recourse, if any, abused women and chil-



dren have. Across the board, whether with the police, the judiciary or the family itself, the women victimized by domestic violence must contend with a system that upholds traditional, gender-specific views

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of the family. These constitute a major obstacle to any redress they may need. Even if the victim has come out in the open to report the case and to request intervention, the social fabric—which has the family as its basic material—offers little or no reprieve, and the victim is forced to return to the abusive home instead.

The mechanisms supposed to be supporting and assisting abused women are the same ones imposing the overriding importance of 'family values'. Even today, the legal system prefers to believe that a woman with a black eye and broken ribs simply fell down the stairs and could not have been beaten by her husband. Indian law and social responses remain ill-prepared to acknowledge that wife battering is something other than a 'domestic dispute'. The law directs the battered wife to be tolerant because the marriage should stay intact. A woman is expected to bear the pressures of marriage, including physical abuse and other forms of harassment, in silence. And when she

fails to, those judging her are often guided by a second family value—compromise and adjust.

Such logic has legitimized a broad spectrum of violence as routine "wear and tear of wedded life" (Shobha Rani vs. Madhukar Reddi, AIR 1988 SC 121, par. 19), in effect depriving the wife's complaint of its validity. Humiliation or ill treatment arising out of "stray domestic quarrels by mother-in-law... crude and uncultured behaviour by the in-laws or the husband toward his wife" are considered "mundane matters of normal occurrence in the traditional Hindu joint families." (Smt. Padmabai vs. State of Madhya Pradesh, 1987 Cri. L J 1573, par. 14)

The woman who challenges this value of "compromise and adjust" and seek a divorce, for instance, will constantly have to justify her behavior, whether to her parents, children, friends, relations, the police or the law. A more comforting set of dynamics continues to operate for the abusive husband—he can continue to enjoy social and economic sanction through-out, along with the support of parents, family and work.

### As a rule

The emphasis of India's 40-year old marriage and divorce laws, and century-old civil procedure code laws is,

first and foremost, reconciliation. The argument is that reconciliation works in the best interests of the family so that even when a woman files for a divorce based on violence, the fact of her abuse is sec-



ondary to preserving the marriage. In 1984, rather than serve as a means of settling gender concerns such as child custody, property and maintenance, the new Family Courts Act again compromised women in favor of reconciliation and preservation of the family. Cruelty or harassment for dowry was reduced to a 'quarrel' between two equal partners. A woman in such a situation would simply be told to go home. (State of Maharashtra vs. Vasant Shankar Mhasane & Anr., 1993 Cri. L J 1134)

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# Violence Against Women

The responses of the abused wife's parents are even more appalling. Society has always tolerated a certain degree of violence, commensurate with the subordinate status of the daughter-in-law. In addition, it has always held that once married, the woman belongs to her matrimonial home. In most cases, therefore, the woman's parents will refuse to help rescue her. Besides, in doing so, in taking their daughter back, the parents simply invite the burden of raising dowry again for her in the future.

In one case, the abused wife escaped to her relatives' house twice, hoping that her family would rescue her. But in both instances, despite her stories of torture, she had to return to her matrimonial home. Finally, she wrote her parents and uncle to take her back, or she would commit suicide—which she did. The woman's family is always aware of her situation, directly or indirectly, and conveys its displeasure either by not sending her to the natal home at all (Suresh Nathmal Rathi vs. State of Maharashtra, 1992 Cri. L J 2106; see also State vs. Laxman Kumar & Ors., 1985 4 SCC 476, par. 57) or by not fetching her from a visit there. It is here that the stranglehold of family and traditional family values is most perverse—it prevents a girl's own family from coming to her rescue. In such a situation, women have little option but to bear the burden of violence. And in such a case, the 'family' is then equally or even more at fault than the actual abuser.

## Child sexual abuse

With most families, discussing sex with children is almost taboo. As for child sexual abuse, the thought of holding a

discussion on the issue does not even occur to most. Why? One obvious reason is society's own resistance to accepting that child sexual abuse is a reality.

Child sexual abuse is seen as something to do with a particular individual's deviancy or mental affliction, not as a social issue. Most are unable to imagine

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that a neighbor, a friend or a family member is capable of sexually assaulting a niece, daughter or son of a friend.

Advocates are also up against sexual ignorance and fear about sex and sexuality common in young people. They are not asking questions about natural sexual changes and urges, and not necessarily because this is taboo but because they would not know how to phrase the questions.

Any effort at discussion with groups is often met with disquieting giggles, offended parents, and an adult's own lack of knowledge or comfort with the issues. Most Indians grow up in a context where talk of anything remotely linked to sex is taboo, and it is this gap, this silence, this inability to communicate that has become ideal terrain for sexual abuse to

flourish.

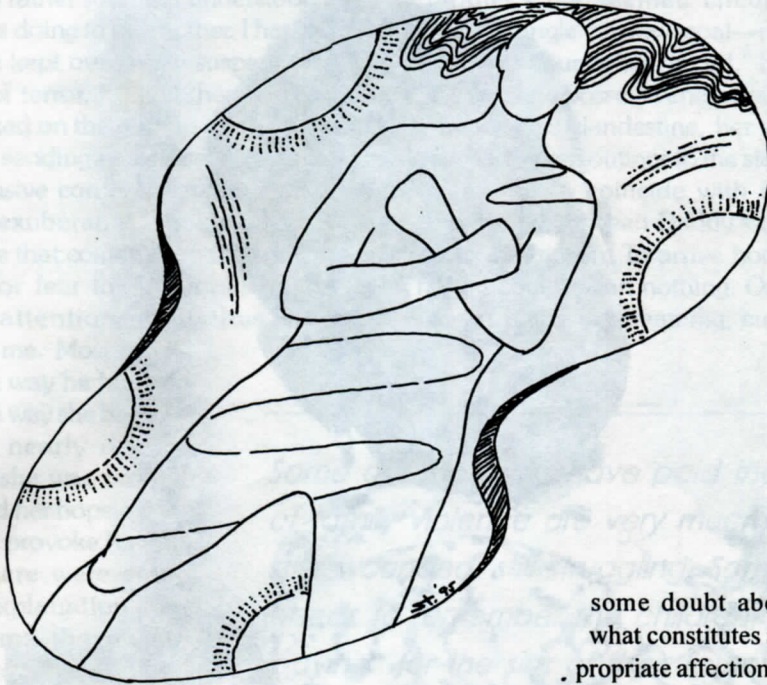
Indian law defines sexual abuse as rape, and the definition applies equally to adult women as it does to minors. But abuse also includes fondling; exhibitionism; kissing; having a child touch or fondle the sexual parts of another person; and oral, anal or vaginal sexual intercourse with a minor.

In other countries, the most comprehensive definition includes

*any sexual behaviour directed at a person under 16 without that person's informed consent. Sexual behavior may involve touching parts of the child or requesting the child to touch oneself, itself or others, ogling the child in a sexual manner, taking pornographic photographs, or requiring the child to look at parts of the body, sexual acts or other material in a way which is arousing to oneself; and verbal comments or suggestions to the child which are intended to threaten the child sexually or otherwise to provide sexual gratification for oneself. It must be defined by every circumstance in which it occurs: in families, in state-run and private institutions, on the street, in classrooms, in pornography, advertising and films.* (Driver & Droisen, 1989)

The broad range of experience speaking of abuse finds no expression in the existing law or social understanding of child sexual abuse. When tackling the issue, the most common obstacle is disbelief that such violence indeed takes place in the family. This is clearly dem-





onstrated in the responses of the immediate family where considerations like 'values', 'privacy', and 'family honor' hold sway. Children themselves are brought up with the notion that the family is the ultimate altar of protection, which makes abuse within the family so much more traumatic.

### Protective mantle of silence

Families remain silent because of the fear of social humiliation and potential family breakdowns especially if fathers are imprisoned and children removed to special care. Against these possibilities, silence and self-sacrifice seem preferable.

As for law enforcement and other intervening authorities, they avoid involvement because given the broadest definition of abuse, they are often unsure of the degree of sexual contact that can be classified as abusive. There is also

some doubt about what constitutes appropriate affectionate contact within the family, which is specially problematic because in some communities such as in Rajasthan where sexual abuse of daughters has been imbibed as a father's right.

At a Child Sexual Abuse and Female Sexuality Workshop held last September, a participant articulated her young son's total resistance to adults who insist on hugging him and pinching his cheeks. For many, such gestures are valid expressions of adult affection, yet for the child, such contact may be both unwelcome and traumatic. The dilemma parents seem to face in such situations is how to shelter their children from demonstrations of affection without offending their relatives or friends. That initial reluctance to 'offend' is what governs much of family response even when that demonstration of affection becomes clearly abusive. Rather than confront the abuse going on, most parents will opt for silence and avoidance. The cultural taboo on sexuality has extended

to the refusal to recognize the abuse.

Society must be empowered with a climate where intervenors such as teachers and health personnel are encouraged to recognize the sexual abuse of children, and to respond in a way that will ensure the safety of the child and initiate therapeutic work with the family. A non-punitive climate is also necessary to enable parents who suspect or are involved in sexual abuse to come forward without the fear that a family breakdown or the arrest of the abuser is inevitable.

### Agenda for action

The focus of information and action on countering violence against women has mainly been on the inadequacies of the police, the law, judges and other agencies. Yet, when that very violence takes place within the family, the one obstacle advocates avoid criticizing is the family itself. For years, women and children have been protected from and warned against the wanton violence of strangers, only to find that the ultimate safe haven is a worse perpetrator of the abuse they most fear. Addressing violence within the family means first acknowledging that such violence does exist, and ultimately rejecting those values (i.e., 'compromise and adjust', silence about child sexual abuse) that allow such violence within the family to flourish. And that raises the toughest challenge—unlearning the very basis of what family means.

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