CHAPTER 1
CONCEPTUAL FRAMEWORK

The 1990's saw a significant shift at the global level, recognizing several human rights movements, including the women's rghts movements. It was a period that popularized liberal rights, ideas of democracy and justice into the political agendas of the women's movement and various nation states (Razavi & Molyneux, 2002). Democracy became the preferred form of governance as it was based on the principles of equality and participation. This in turn made empowerment of citizens a desired goal. (Dijkstra, Fenger, Bekkers & Edwards, 2007).

It is well established that a democratic society must create conditions that promote equality in order to legislate, so that the rule of law governs all citizens equally, and to create enabling conditions to overcome any form of discrimination, oppression and exploitation that come in the way of equal participation as citizens.

The need for empowerment arises because there are inequalities and vulnerabilities, which prevent some sections of the society from enjoying the benefits of a democratic state as equal citizens. It is in this arena that a wide range of civil society action takes place to promote equality, reduce vulnerability and ensure informed participation in democratic processes.

India is among the largest democracies of the world that has withstood several challenges and predictions of it turning into a dictatorship. It has, over the years, established innumerous institutions, bodies and processes that sustain the democratic ethos (Guha R. , 2007). Jean Dreze and Amartya Sen (2013) have explained in their book quite elaborately that when India became independent in 1947 after two centuries of colonial rule, it chose to adopt very firmly 'the democratic political system, with multiple parties, freedom of speech, and extensive political rights'. Their book shows that steady economic growth replaced the economic stagnation and frequent famines of the Raj.

Given that India has completed 69 years as an independent nation, and 65years as a democratic polity, it is a good starting point to examine how this democratic nation has fared in terms of meeting the needs and expectations of its citizens, especially those of its poor, and women.

In every nation there are always multiple viewpoints of how it is faring in terms of its development goals. India is a vast country with a population of 1.2 billion or 121 crore (Census 2011) and this huge number itself will tell multiple stories of India's development - an official version of the achievements of the state, more critical views presented by academic studies, the views of the media – considered the fourth estate – the situation presented by global comparisons, views of the civil society and the view of the people themselves.

Dreze and Sen argue that there have been major failures both in terms of India's ability to foster participatory growth, and to make good use of the public resources generated by economic growth to enhance people's living conditions. There is also a continued inadequacy of social services such as schooling and medical care, as well as of physical services such as safe water, electricity, drainage, transportation, and sanitation. In the long run, they conclude, even the feasibility of high economic growth is threatened by the underdevelopment of social and physical infrastructure, and the neglect of human capabilities; this, in contrast with the Asian approach of simultaneous pursuit of economic growth and human development, as pioneered by Japan, South Korea, and China. In a democratic system, which India has great reason to value, addressing these failures requires not only significant policy rethinking by the government, but also a clearer public understanding of the abysmal extent of social and economic deprivations in the country (Dreze & Sen, 2013).

As a practising social worker for over 25 years, this researcher chooses to examine how the rule of law in India has impacted its people. From among this vast multitude of people, the ones that are significant and of interest to a social worker are those that are left behind on the development parameters. A particularly large section that is still lagging on most development parameters is that of women.

Not just in India, but globally gender equality as a development goal is yet to be achieved. UN Under-Secretary-General and UN Women Executive Director Phumzile Mlambo-Ngcuka stated at the opening of the 60th session of the Commission on the Status of Women on 14 March, 2016, ".... for many women and girls at risk, change is not happening fast enough. For example, it is forecast that it will take 50 years to achieve parity in political participation, and 118 years for true pay equality between women and men at the current pace of change" (UNWomen, 2016). India is no exception on the gender equality parameter and there is much that needs to be done to reduce the gender inequalities. In a subsequent section the researcher shall present more details of the gender inequalities in India.

The purpose of this chapter is to present the conceptual framework linking democracy, gender inequalities, role of civil society organizations and social workers in bringing about empowerment outcomes for women law users.

A. RATIONALE

The idea of the study emerged from the experiences of the researcher who had worked for over 20 years in the capacity of a social worker engaged in community based work. The endeavour through this formal research process was to be able to draw from these experiences and to go deeper into the theoretical aspects of gender based inequalities and contribute to the discourse on empowerment.

As a practicing social worker, the researcher was introduced in the early part of her career to the concept of empowerment while working with the Mahila Samakhya program for nearly 4 years, immediately after post graduation. The mentorship and guidance of Srilata Batliwala and Vimala Ramchandran – senior women's rights scholars and policy advocates who had designed the Mahila Samakhya program were instrumental in translating the concept of empowerment. These 4 years laid the foundation for a long term commitment to the concept of empowerment while working with women. It also forced critical reflection; and the passion to take the empowerment agenda deeper at the community level still continues. It has shaped the researcher's work as a community organizer, training facilitator and as an educator; throughout the two decades of work, empowerment has

remained a key guiding principle for mobilizing women. As a social worker one of the roles was to enable women to counter their social oppression through awareness about laws and citizenship. Through this research study the aim is to connect the field experiences with the theoretical underpinnings of the concept of empowerment. The diagrammatic conceptual framework that emerged at the beginning of the study is presented below.

Figure 1 – Rationale for the Study
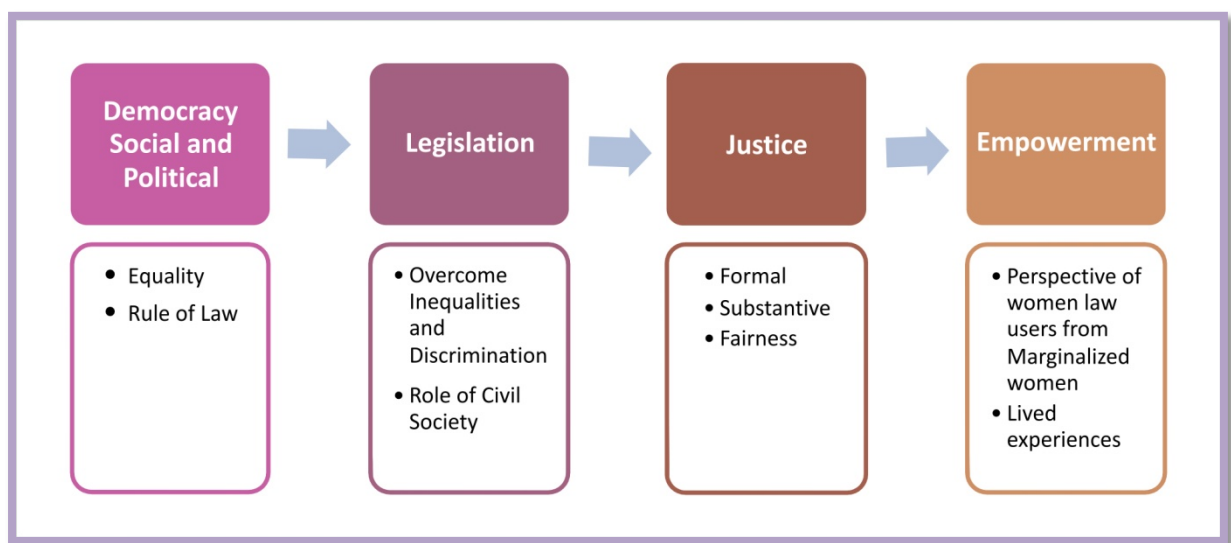
Through the initial readings some of the key points that emerged were as follows:

- The question of gender equality has to be understood in the context of the democratic system that the country has adopted.
- The process of law making in a democratic system also allows for participation of various actors including a broad spectrum of civil society organizations (CSOs).
- CSOs play specific roles in the context of empowerment and laws - one is to work with vulnerable communities to bring their concerns to the notice of the state, and the second is to advocate changes in the various government systems that are meant to improve the conditions of the citizens.
- Traditional social work associated with provision of services has evolved to include the concept of "social justice" and "empowerment".

- Women's groups, activists and CSOs working specifically for women around the world and in India have been instrumental in highlighting various challenges and opportunities for promoting gender equality through legislation.
- "Empowerment" is a dynamic concept adopted both in community organization practice (means) as well as in a desired goal of development such as the Millenium Development Goals and the Sustainable Development Goals.
- The field of empowerment is relatively new and the definitions point out that it is a highly contextual, subjective field.

The **study was designed to look at empowerment from the context of a specific category of women i.e. those who had faced violence or denial of rights and from among them those who had used laws to seek justice**. The narratives of these women will throw light on how they experience democracy, what do they think of gender equality, what is **their articulation and understanding of laws and legal process, justice, negotiation,** and empowerment.

Through this study, the voices of women who would otherwise have remained outside the purview of mainstream development processes would be brought out in the public domain and would inform strategy building in social work practice.

In the subsequent section the researcher has laid out the conceptual framework of each of the components in more detail.

B. ROLE OF DEMOCRACY IN PROMOTING EQUALITY AND RULE OF LAW

Popular conceptualization of democracy conveys that it is a form of governance that refers to representative democracy and is linked to European history. Sen among others such as John Dunn and Tocqueville have pointed out that if one were to set aside the format of representative democracy, then what is uncovered is a rich democratic tradition in various parts of the globe, and much before the 1700s.

The tradition of the constitution, where the rule of law was applied, and where the majority opinion counted could be found in two **ancient Indian traditions –** one of the *Licchavis* and

that of the *Jatakas*. As per the early Buddhist canonical literature, the **Licchavis of the Vaisali** followed a non monarchical tradition. They depict a central **"Mote" hall** where all the questions of public concern were discussed. After discussion, **the points at issue were put to vote, and the opinion of the majority decided everything**. The governmental authority was vested in a Raja, who was more of an elected President than a hereditary monarch. Other references suggest that *Licchavis* was a confederacy of 18 Kings of *Kasi* and *Kosala*. They were chosen on hereditary grounds but they practiced a form of elected leadership, and discussions were held for common issues and policies prior to taking decisions in the general Mote Hall (Bandopadhyay, 1989). In comparison, the Buddhist Sanghas and the *Jatakas* were seen as more democratic. The political environment from where Gautama (Buddha) came was a system that upheld the concept of direct democracy. It was a republican system also known as the *"Ganasamghas"* or the *"Solasamahajanapadas"* (Kumar, 2002). T.W. Rhys David says the administration and the judicial business of the clan republic was carried out in public assembly at which young and old alike were present in their common Mote Hall (Kumar 2002).

Repeated references appear in the works of the ancient Indian Scholar Panini, to the terms **'gana'** and **'sangha'**. These terms are referred to connote aggregate or a union or associations or collection. **The term 'gana' is the basis of the term "ganatantra" the local terminology used in modern India to mean 'Republic'** (Bandopadhyay, 1989).

The more contemporary notion of democracy as 'government by discussion' was first coined by Walter Bagehot and later expanded by John Stuart Mill (Sen, 2010). Modern democracies establish that a **fundamental aspect of democracy is its attitude towards law as a product of the collective will, and not something emerging from a transcendent will** or from the authority established by divine right (Post, 2006).

Amartya Sen's most significant contribution in this respect is his work on the Bengal famine of 1943, and the conclusion he draws is that no major famine has occurred in a functioning democracy with regular elections, opposition parties, basic freedom of speech and a relatively free media. These larger discourses establish the more philosophical aspect of democracy, which allows for plural voices compared to non-democratic regimes, wherein

only the decisions and views of the ruling elites counted in matters of governance. They emphasise the role that all citizens play in governance and therefore lay down the basis of equality in a democratic state, both through formal participation in election, and in debates through media and other means of public accountability.

 In India, in the case of law making or amendments to the Constitution, a bill is introduced through the elected representatives of the Lok Sabha or though the members of the Rajya Sabha. There are built in mechanisms to refer the Bill first to the Standing Committee and then to the Select Committee, and both these committees have the option of inviting comments on the contents of the bill from the public. There have been instances where some of the bills had to be withdrawn after public outcry against them, the most recent case being that of the Land Acquisition Relief and Rehabilitation Bill. Another instance of intense public demand leading to amendments is the case of changes in the rape law to widen the definition of sexual assault in the aftermath of the brutal gang rape of Nirbhaya in Delhi in 2012. With widespread outreach of the media, it has become possible for citizens to know much more about the proceedings of the democratic institutions such as the Lok Sabha, Rajya Sabha, Vidhan Sabha, and the Courts. In other words, a democratic nation state allows for participation and voices of its citizens in law making and in governance.

Dr. Ambedkar stated in the last meeting of the Constituent Assembly, "Political democracy cannot last unless there lies at the base of it social democracy. ... It [social democracy] means a way of life, which recognizes liberty, equality and fraternity as the principles of life." He then goes on to explain the great caste divide and the economic divide that existed in India, and the lack of recognition of the principle of fraternity - the feeling of sharing a sense of brotherhood on belonging to a single nation of India – are the challenges to achieve democracy in the complete sense.. He stated that "in order to maintain democracy not merely in form, but also in fact.....[we] must hold fast to constitutional methods of achieving our social and economic objectives" (Guha, 2010).

The Indian leaders were deeply aware of the social problems that existed in the country and therefore put in place many mechanisms through the Constitution, and economic and social policy to overcome the inequalities that existed in order to achieve a strong

democracy. **Thus, ensuring equality no longer remained a political goal but also became a key social and economic development agenda**.

Today, India can proudly say that that it has upheld the democratic form for over 64 years. However, many of the old inequalities persist, and not all the citizens are able to participate in democratic processes in the desired way. Caste inequalities, religion based inequalities, class inequalities and gender based inequalities persist. Even as India has done well comparatively to enter the globalised liberal economy, which has opened up several opportunities that seemed impossible a few decades ago, a huge mass of people remains far behind in the march towards development. **Women in India face innumerous hurdles to exercise full citizenship and participate as equals in the democratic nation state**. And this makes a case for understanding the nature of gender based inequalities.

C. GENDER BASED INEQUALITY

The distinction between male and female is determined at birth, but it is a gendered social process that encourages males to primarily become masculine and females to primarily become feminine, correspondingly. Socialization alongside the promulgation of patriarchy causes societies to ascribe a superior position to the male, and a subordinate position to the female in general, with complete disregard for any identity that cannot be placed into these two categories. The way resources are distributed, accessed and controlled in these societies, and the way norms, culture, formal and informal rules are constructed, lead to a society where the status of women is generally lower than the status accorded to men. A fundamental form of inequality therefore exists between men and women.

- **GLOBAL COMPARISIONS OF GENDER BASED INEQUALITY**

Today we have the means to map the gender inequalities across large populations and across countries. Some of the means are more formal such as the Gender Development Index, and the Gender Empowerment Measure. Other means include reports that rely on comparative data on how the men and women of different countries are faring on various development indicators such as health, education, mortality, life expectancy, political participation etc. The UNDP and the World Bank have since the latter part of the 20th

century regularly published such county reports as well as supported sub regional reports using the same methodology.

According to one such report brought out by the Global Gender Gap Report 2011 for the World Economic Forum (WEF) of 135 countries, India ranked 113 on the Global Gender Gap Index. These indices highlight the need to address gender concerns in economic development planning (World Economic Forum, 2011).

The World Development Report 2012 of the World Bank titled, 'Gender Equality and Development', underlines the intrinsic value of gender equality. It states in the foreword, that **"gender equality matters intrinsically" because the ability to live the life of one's own choosing is "a basic human right"** (World Bank, 2012).

- **GENDER BASED INEQUALITIES IN INDIA**

The impact of gender based inequalities is not homogenous on all women. In the Indian context, the economic class, the culture and caste are important intervening factors that determine the nature of discrimination between men and women.

A snap shot of data pointing to the gender based inequalities that persist are presented below.

➢ **The Sex ratio in India** as per the Census, 2011 is 940 females per 1000 males which has increased by 7 points since 2001, but the sex ratio for 0-6 years has decreased for the last decade by 13 points and now stands at a low 914 females per 1000 males.

➢ The **Maternal Mortality Rate** has been dropping consistently but not fast enough. For the period ending 2011 – 2015 the number of women who died due to pregnancy-related causes while pregnant or within 42 days of pregnancy termination is 174 for 100,000 live births (WorldBank.org, 2016). This is far greater than, and therefore falls short of, the Millenium Development Goal which was set at 109 for one lakh live births to be achieved by 2015.

➢ According to the 2007-2008 Round of the DLHS - District Level Household Survey the number of **child brides** in India are 42.9% and according to the NFHS – National

Family Health Survey there are 47.4% or one in two women who are child brides (UNICEF, 2012).

➤ The **gender gap among percentage of adult literates** for the age group 15-39, who can read a sentence clearly or have passed class 6, is 23 percentage points. This gap is higher among the Scheduled Caste population where adult literacy rates for SC men and women indicate a gap of 26.8 percentage points. Similarly the gap in the case of men and women belonging to ST communities is 26 points, while that for Muslim communities is 20 points. This means that *dalit* and *adivasi* women are more disadvantaged when it comes to literacy than the average Indian woman (NFHS-3, 2016).

➤ In terms of **political participation**, India ranked 144th in the World Rankings of Women in National parliaments, below Afghanistan, Pakistan, Bangladesh and Saudi Arabia. This is because in the general elections of 2014, only 65 women i.e. 12% occupy the Lok Sabha as elected representatives out of the total seats of 543 (Union, 2016).

- GENDER INEQUALITY AND ITS IMPACT ON OVERALL DEVELOPMENT

Any effort to promote equality between men and women must take into account several factors. As Sen and Grown wrote in *Development, Crises and Alternate Visions: Third World Women's Perspectives* published by DAWN[1] in 1985, "**Only by sharpening the links between equality, development and peace, can we show that the 'basic rights' of the poor and the transformation of the institutions that subordinate women are inextricably linked**. They can be achieved together through the self - empowerment of women." This work is considered as a pioneer as it established that poor and oppressed women provide a unique and powerful vantage point from which the development programme and strategies can be assessed. They argued that women constituted the majority of the poor, the underemployed and the economically and socially disadvantaged in most societies. "Furthermore, women suffer from the additional burdens imposed by gender based hierarchies and subordination" (Sen and Grown, 1985).

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[1] Development Alternatives for Women in a New era

A recent report by IFPRI – International Food Policy esearch Institute points out that the "evidence shows that higher levels of hunger are associated with lower literacy rates and access to education for women. **High rates of hunger are also linked to health and survival inequalities between men and women**. Reducing gender disparities in key areas, particularly in education and health is, thus essential to reduce levels of hunger" (IFPRI, 2009).

- **Gender Based Inequality and Violence**

Thus, what Sen and Grown had stated in 1985 is being borne out after 25-30 years, highlighting the need to keep the links between gender inequality and overall human development.

Gender based inequalities also point clearly to a lack of 'agency', where agency is the ability to define one's goals and act upon them. Agency is about more than observable action; it also encompasses the meaning, motivation and purpose, which individuals bring to their activity, their sense of agency or 'the power within'. In social science literature the terms tends to be operationalized as 'decision making' (Kabeer, 1999,).

A clear manifestation of the lack of agency is violence. Violence is the opposite of freedom—an extreme form of coercion that by definition negates agency. Women are at far greater risk of violence by an intimate partner or someone they know, than from violence by other people. And women are more likely than men to be killed, seriously injured, or become victims of sexual violence by intimate partners (World Bank, 2012).

Feminists believe that rape – the ultimate form of sexual violence takes place as it is made possible by social sanction, male power, privilege, and unequal gender relations. Women and feminists have been engaged in exploring and examining the physical, social emotional, criminal and gender dimensions of this extreme form of violation of women's bodies (Kannabiran K and Menon R 2007).

There is another view that while rape is an extreme form of violence, equally damaging to women's struggles is the daily discrimination as well as the physical, emotional and mental

harrassment faced at home, in public spaces and at the work place, purely on account of being women. Normalising violence in this manner, invoking the compromise principle and the ideal sacrificing woman on the one hand, and creating a culture of impunity for offending men and invoking their identity as "owner" (in many Indian languages the term used for husband denotes owner eg, *dhani* in Gujarati and *malak* in Marathi) on the other hand makes violence against women take many forms.

From sex selective abortions, young girls being trafficked, denial of education with the excuse that the older girls have to look after younger siblings, lack of adequate food and access to basic health services, to the denial of choosing ones' life partner outside one's caste, sexual harassment at the work place, and forced sex within marriage,are forms of gender based inequlaities that we see in India.

As will be stated in greater detail later in this chapter, various efforts have been made by a wide range of actors to challenge these inqualties at the community level, through awareness campaigns, lobbying and advocacy for legislative changes and for program changes. Yet, much remains to be done.

It is due to the commitment of the democratic state of India to the development goals of equity and equality that **a wide range of programs are carried out both by civil society actors as well as the state itself to close the gender inequality gap**. Increasingly, national and sub national initiatives through bi-lateral co-operation, schemes and programs of the government explicitly espouse empowerment as either a goal or as a key approach. While the state concerns itself with the welfare of its citizens, and has the mandate to reduce inequalities, there are other actors that work towards reducing these inequalities, broadly known as civil society organisations (CSOs) which would be discussed in detail in the next section.

D Role of CSOs In Promoting Equality

In this section the researcher shall present the role of the CSO in meeting development agendas and the evolution of CSOs in India particularly their role in working towards gender equality in the post independence era.

Defining CSO

The UNDP defines civil society as a third sector, existing alongside and interacting with the state and private industry. It takes a broad view of Civil Society Organizations (CSOs) of which non-governmental organizations are an important part, and recognizes that in practice, civil society is an arena of both collaboration and contention (UNDP, 2005).

Howell and Pearce state that a distinct feature of civil society as it is being reinvented is that they not only reproduce power relationships but also challenge these very power relationships. **"It is an arena that neither determines nor is determined, but allows debate and contestation to take place within the outcomes that are contingent. It is above all an arena where the possibilities and hope for change reside"** (Howell and Pearce 2001). In the context of globalisation and liberalisation, the expectation is that promoting civil society organisations will support not only economic advancement but also the more complex tasks of ensuring democratic, political change and social justice in developing countries; while others believe that the concept of civil society offers a space for critical thought and action especially for the marginalised, poor and vulnerable, who need the space, now more than ever, to articulate and defend their interests (Fowler A, 1995), (Howell J and Pearce J 2001).

After the first mention of 'civil society' during the transformation of eighteenth century Europe, the phrase had fallen into disuse as the focus shifted in the nineteenth century to understand and deepen the meaning of the 'state'. In the 1970's, as the communist states began to disintegrate, intellectuals and political activists across Eastern Europe invoked the image of civil society to mobilize citizens against repressive states and reclaim a sphere of privacy in social life (Geremark, 1992),(Howell J, 2001),(Elliot, 2012).

The language of civil society was picked up by western intellectuals of various political leanings to express their discomfort with modern society and government. Proponents of free market economies saw in civil society a way of arguing for the downsizing of government. The language of civil society was also picked up by people's movements like the Chinese students in Tiananmen Square where the term civil society stood for ideas of "equity, participation, and public fairness."   The image of civil society has had strong resonance among reformers in India as well (Elliot, 2012).

CSOs in India

In the present Indian context, the term covers such a wide array of actors, processes and identities for e.g. people's movements, organizations that are not registered with the government, religious organizations, corporate supported entities, research institutes, local organisations working on delivery or those focusing on advocacy, Indian chapters of international NGOs - all claim to fall under the category of CSOs, despite their very different operational modes. Until the '90s, people's movements, NGOs, and voluntary initiatives, functioned without a reference to the general category of civil society. Only in the first deacade of the 21st century did the term progressively enter the public discourse. The introduction of the notion by donor agencies, and its hesitant appropriation by groups that found in it a unifying principle, has been extensively studied (Chandhoke, 2010; Sheth, 2005; Tandon, 2002).

By describing the history of various strands within civil society, such studies help to understand civil society's diversity. The oldest strand dates back to **pre-Independence India, where an array of religious and communal groups engaged in welfare activities**. This type continues to be powerful in civil society; every new disaster highlights the outreach of these groups as they are often the first present and are active and influential in all relief activities.

The decades leading to Independence also saw the emergence of **reformist movements defending protective measures for vulnerable groups**, such as children, widows, and the then-called "depressed castes". The movements for freedom also gathered momentum in

the same period: **welfare organisations, reformist movements, and the civil-rights movement - all functioning in a space outside the realm of the state**.

Eminent women activists who took part in the Independence struggles and in the early building of the nation such as Ms. Hansa Mehta, and Ms. Pramoda Gosalia of Jyoti Sangh led through example, wherein they challenged the traditional notions of women's role in the public domain. They worked to set up mechanisms that would support women's education and independence, and would help women in distress. They themselves took to higher education against great odds and married of their own accord, often defying family and community norms. In these early years, it was essential to enable women to catch up with the opportunites that were assumed only for men. The contribution of early social reformers, and to whom Desai refers as 'liberal feminsits' in her book, is crucial for the later phases of the feminist movment in India (Desai, 2006).

After Independence, the civil-rights movement was absorbed into the construction of the new state. About two decades later, disappointment towards a state that failed to fulfill its promises on basic rights progressively prepared the field for groups challenging the state. During 1975–1977, the 'Emergency' led to the stirring of civil liberties movements, often described as the origin of contemporary civil society. In some sense, these protests against the violation of rights or against an oppressive and corrupt state – as was the case with Jayaprakash Narayan's movement – tie to pre-independence civil rights movements.

 On the emergence of civil society action for women's rights, it can be seen that after Independence, it took three decades before an autonomous women's movement took shape. Systematic data gathering covered for reports like the 'Towards Equality Report – 1975' , 'Shramshakti report' and sustained work on policy, as well as programmes of national and international institutions and action at the grassroots began to define the Indian feminist movement.

The following decade of the 1980's saw the emergence of broad alliances whose power lies in their ability to use different tools of advocacy. They bring together very different groups and individuals ranging from affected communities, to activists, academics, and celebrities.

The fifth Plan in 1987 brought one further shift. The Plan allocated budgets to NGOs/CSOs marking the start of what is sometimes called the "ngoization" of civil society.

A document by PRIA – Participatory Research In Asia attempts to explore several questions and their underlying assumptions in an attempt to identify the choices that citizens and their associations need to make; it presents challenges of the choices that have to be made and, it poses certain implications for practitioners and policymakers alike in their effort to support and strengthen civil society (PRIA, 2012).

In conclusion about the role of CSOs, it can be said that, in a democratic society the role of the civil society is well established and they have survived despite major social and economic changes. They have mutated too; and different shades of civil society organizations have emerged. Their role in ensuring the benefits of development reaching the lowest rungs of society and bringing their concerns to the development debate have been nearly universal. Reveter-Banon n in her working paper states that while there are several instances around the globe where democratic nations have brought in legal equality mainly through the mechanism of citizenship, she observes that this mechanism is not adequate to undo other constraints that women suffer, especially cultural, social and economic constraints. She draws from Michael Walzers' quote, "no significant move toward greater equality has ever been made without state action, but states do not act in egalitarian ways unless they are pressed to do so by mobilization that can take place only in civil society – and that already represents a move towards greater equality." (Walzer, 2002) (Reverter- Banon, 2006)

Dubochet (2011) remarks that while views regarding the role and the processes of the civil society are highly divergent, the views that are least divergent are on the significant role CSOs have played in shaping progressive legislation in the country. CSOs, through campaigns, through engaging in public debates, written submissions and engaging with elected representatives, have been effective in using the principles laid down in our Constitution and the commitment of the state to the margainalised and vulnerable communities to push for amendments and new laws. In the next three sections we will

explore in detail how the CSOs working on women's issues have engaged in shaping policy and laws.

- **Role of CSOs working on Women's Issues In shaping policy and Law**

There is now significant documented evidence that women from different parts of India were active during the freedom struggle. They not only engaged in antiBritish campaigns and marches, but also **engaged with the male leadership of the key nationalist formations to make greater space for women's voices and perceptions to enter the debate**. Radha Kumar (1993) has documented in detail along with photographs and images, the nature of women's engagement from the period 1800 to 1990. There is evidence that several women in different parts of the country were making efforts to create formations with other women to take up issues of girls' education, helping orphans, and taking action at the local level against the injustices meted out by the British. (Kumar, 1993) On attaining independence, the onerous task of framing the Constitution took place under the leadership of Dr. B. R. Ambedkar. **Several nationalist leaders and lawyers, including women leaders such as Hansa Mehta, Rajkumari Amrit Kaur, Renuka Roy held important positions in the Constituent Assembly and also became part of various sub-committees that formed the architecture of the democratic constitution**. Although the term was not used in those days, these leaders can be termed to belong to civil society formations in the pre-Independence era – for instance Amrit co-founded the All India Women's Conference, while both Hansa Mehta and Renuka Roy took active part in its formation.

While framing the laws regarding family matters, broadly known as 'family laws', the members of the Constituent Assembly were acutely aware of the need to assure the Muslim minority community who had suffered the pain of partition. They needed to be assured that their right to religious and cultural freedom within the new democracy would be safeguarded. The debates around a Uniform Civil Code centred around the concepts of the nation and national integration, and not so much on gender and women's rights. Thus, only when the rights were divided in two segments, i.e the fundamental which were enforceable rights, and the Directive Principles of State Policy which were non-enforceable,

and only when the Uniform Civil Code was placed under the latter did the Muslim members agree to its mention in the Constitution. This move was opposed by the liberal women leaders mentioned above as well as others such as M.R. Masani, K.M. Munshi and Alladi Krishnaswami Ayyar on the grounds that such a clause was antithetical to the ushering in of a newly formed nation into modernity and did not address the issue of women's rights. Dr. Ambedkar settled the matter by wording the Article 44 as "the State shall Endeavour to secure for the citizen a Uniform Civil Code throughout the territory of India"; but left the task for future parliaments to do the job (Agnes, 1999). To date, this matter continues to be contentious with several CSOs – those working for the rights of women, those with religious leanings, and the Government of India continue to debate the code that would govern family laws and rights of women within the code.

The other contentious and long drawn engagement without successful outcomes relate to the representation of women in the Legislative Assembly and National Parliament.

In the post-Independent phase it was with the engagement of women's groups that significant changes have been brought about in laws for women. The women's movement has engaged with laws in several ways:

- ✓ Organizing protests in specific cases to seek changes in existing laws
- ✓ Critiquing legal jurisprudence on how it falls short of substantive justice for women
- ✓ Petitioning the Government for new laws

There are some landmark laws and amendments that are important markers in legislative history from women's point of view. These are presented in the Box below.

Box No : 1   Cases that galvanised Civil Society Action to changes Women's Laws

- ✓ **Mathura case:** The alleged custodial rape of a young tribal girl in 1978, by two policemen at the Desai Ganj police station in Chandrapur district, Maharashtra, came to notice much after the Supreme Court acquitted the accused. Later, the case led to amendments in the Indian rape law via the Criminal Law (Second Amendment) Act, 1983.

- ✓ **Satya Rani Chadha case:** Chadha launched the anti-dowry movement across India after her daughter died of burns in a dowry harassment case in 1979. Her agitation led to the government passing tighter laws against dowry deaths, shifting the burden of proof to the husband and his family, and making not just the husband but also his close relatives culpable.

- ✓ **Shah Bano case:** On 23 April 1985, the Supreme Court granted maintenance to Shah Bano Begum, a 62-year-old Muslim mother of five who had been divorced by her husband, under Section 125 of the Criminal Procedure Code. Under pressure from the Islamic orthodoxy, the then Congress government, which had an absolute majority in Parliament, diluted this judgment by enacting he Muslim Women (Protection of Rights on Divorce) Act, 1986—entitling a divorced Muslim woman to maintenance only during the period of *iddat*, or a period of 90 days after divorce, according to Islamic Law.

- ✓ **Bhanwari Devi case:** In Rajasthan, the gang rape of social worker Bhanwari Devi led to guidelines that now define sexual harassment at the workplace. The case provoked women's organizations to file a petition in the Supreme Court for directions on sexual harassment at the workplace. The apex court's judgment, which came on 13 August 1997, issued the Vishaka guidelines that put the onus on employers to provide a safe work environment for women.

- ✓ **The Delhi bus rape-murder**: It was the gangrape of a physiotherapy student on a Delhi bus on 16 December 2012, followed by massive protests, that led to tougher provisions and penalties under the Criminal Amendment Act of 2013. The victim died of the brutal injuries inflicted on her. The case also led to amendments in the Juvenile Justice Act as one of the accused in the case was a juvenile. On 7 May 2015, the Lok Sabha passed the Juvenile Justice (Care and Protection of Children) Bill, 2014, which seeks to allow children in the 16-18 age group to be tried as adults for heinous crimes. It is yet to be passed by the Rajya Sabha.

  ✓ **Live Mint – June 2015**

Thus, right from the beginning of the democratic state of India, public opinion, dissent and larger political and cultural considerations have had a bearing on the formation of legislation. The next section provides an overview of the formal provisions made for women in India.

E   CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN IN INDIA

The principle of gender equality is enshrined in the Indian Constitution, through its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, Indian laws, development policies, plans and programmes have aimed at women's advancement in different spheres. Thus in India we have constitutional and legal provisions that protect and promote gender equality.

India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993, which has influenced law-making in India in a significant way.

i.   CONSTITUTIONAL PROVISIONS

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection under the law; prohibit discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Table No 1: Constitutional Privileges for Gender Equality

No	Article No	Provisions
1	(Article 14)	Equality before law for women:
2	(Article 15)	The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them
3	(Article 15 (3))	The State to make any special provision in favour of women and children
4	(Article 16)	Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
5	(Article 39)	The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood and equal pay for equal work for both men and women
6	(Article 39 A)	To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities
7	(Article 42)	The State to make provision for securing just and humane conditions of work and for maternity relief
8	(Article 46)	The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation
9	(Article 47)	The State to raise the level of nutrition and the standard of living of its people
10	(Article 51(A) (e))	To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women
11	(Article 243 D(3))	Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes

		and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women, and such seats to be allotted by rotation to different constituencies in a Panchayat
12	(Article 243 D (4))	Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women
13	(Article 243 T (3))	Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality
14	(Article 243 T (4))	Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide

https://indiankanoon.org/doc/555882/

i.   **LEGAL PROVISIONS**

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities, and to provide support services, especially to working women.

Although women may be victims of any of a number of crimes, such as 'Murder', 'Robbery', 'Cheating' etc, the crimes which are directed specifically against women, are characterized as 'Crimes against Women' and are broadly classified under two categories.

The Crimes Identified Under the Indian Penal Code (IPC)

a) Rape (Sec. 376 IPC)

b) Kidnapping & Abduction for different purposes (Sec. 363-373)

c) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)

d) Torture, both mental and physical (Sec. 498-A IPC)

e) Molestation (Sec. 354 IPC)

f) Sexual Harassment (Sec. 509 IPC)

Several of these codes have been modified in keeping with the Criminal Law Amendment Act of 2013. In fact this amendment got a huge push due to the huge public outcry against the terrible rape of a woman. Several civil society organizations, women's groups, and lawyers were pressing for changes in the way that the investigation and definition of rape were codified. This amendment brought about the widening of the category of sexual offences committed against women, and made the investigation procedure less invasive.

ii. Provisions for women under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

Legal Provisions that protect and promote Women Rights are listed below. Many of the laws were passed during the British rule and as still being followed in India.

Table No:2 Law/Acts that Impact women

No	Name of the Act/Law	No	Name of the Act/Law
1	The Indian Penal Code, 1860	22	The Beedi & Cigar Workers (Conditions of Employment) Act, 1966
2	The Indian Evidence Act, 1872	23	The Foreign Marriage Act, 1969 (33 of 1969)
3	The Indian Christian Marriage Act, 1872 (15 of 1872)	24	The Indian Divorce Act, 1969 (4 of 1969)
4	The Married Women's Property Act, 1874 (3 of 1874)	25	The Contract Labour (Regulation & Abolition) Act, 1970
5	The Guardians and Wards Act, 1890	26	The Medical Termination of Pregnancy Act, 1971 (34 of 1971)
6	The Workmen's Compensation Act, 1923	27	Code of Criminal Procedure, 1973
7	The Child Marriage Restraint Act, 1929 (19 of 1929)	28	The Equal Remuneration Act, 1976
8	The Muslim Personal Law (*Shariat*) Application Act, 1937	29	The Bonded Labour System (Abolition) Act, 1979
9	Employers Liabilities Act 1938	31	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
10	The Minimum Wages Act, 1948	31	The Family Courts Act, 1984
11	The Employees' State Insurance Act, 1948	32	The Muslim women (Protection of Rights on Divorce) Act, 1986
12	The Minimum Wages Act, 1950	33	Mental Health Act, 1987
13	The Plantation Labour Act, 1951 (amended by Acts Nos. 42 of 1953, 34 of	34	National Commission for Women Act, 1990 (20 of 1990)

	1960, 53 of 1961, 58 of 1981 and 61 of 1986)		
14	The Cinematograph Act, 1952	35	The Protection of Human Rights Act, 1993 [As amended by the Protection of Human Rights (Amendment) Act, 2006 - No. 43 of 2006]
15	The Special Marriage Act, 1954	36	Juvenile Justice (Care and Protection of Children) Act, 2000
16	The Protection of Civil Rights Act 1955	37	The Child Labour (Prohibition & Regulation) Act 1986 amended 2015
17	The Hindu Marriage Act, 1955 (28 of 1989)	38	The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
18	The Hindu Adoptions & Maintenance Act, 1956	39	The Prohibition of Child Marriage Act, 2006.
19	The Hindu Minority & Guardianship Act, 1956	40	Protection of Women from Domestic Violence Act 2005
20	The Hindu Succession Act, 1956	41	Sexual Harassment at Work Place Prevention Prohibition and Redressal – 2013
21	The Maternity Benefit Act, 1961 (53 of 1961)	42	The Criminal Law Amendment Act 2013.

Source: http://ncw.nic.in/frmllawsrelatedtowomen.aspx

Kalapana Kannabiran, feminist expert of legal jurisprudence states:

> *"the Dowry Prohibition (Amendment) Act 1984 may be considered a landmark and a major victory for the (women's) movement. Not merely a victory, however it was also considered to be a vindication of particular form of mobilisation, awareness building and strategizing - in other words ends and means were mutually reinforcing." (Kannabiran K, Menon R 2007)*

Similarly, the addition of several new sections to the Indian Penal Code (IPC), the Code of Criminal Procedure(CrPC) and the Indian Evidence Act, made major changes in the earlier provisions of these laws, specifically regarding rape, by recongising the importance of withholding the victims' name in published reports; redefining consent; criminalising custodial rape; recognising that forcible intercourse with a separated wife is considered rape.

Other significant changes brought about were to do with inversing the principle of "innocent till proved guilty", in the case of rape, where the word of the victim is taken as true, and the burden to prove otherwise lies with the accused. These amendments also included specific minimum punishments for the different situations under which rape occurred (Kannabiran K, 2007) .

All these laws have a significant bearing on negating the effects of a discriminatory regime in legal jurisprudence. In the eyes of the law gender inequalities in these specific arenas cannot be upheld. However, it is well known that a law is as effective as its implementation. Often awareness of the legal interpretation of what constitutes violence against women is divorced from women's lived experiences. There is very little knowledge about the laws among ordinary citizens, and women's knowledge is further impeded given the social, educational and economic disadvantages that they face. Eminent legal scholar Upendra Baxi has said this very eloquently in the context of acts relating to the sex trafficking industry but it applies to all acts…. " If law, policy and social action are ever to address seriously the question of regulation or elimination of this sex trafficking industry, knowledge has to assume a critical mass"(Baxi 1999).

iii.   Special Initiatives for women

India has created certain special provisions for women in the past few decades to address gender inequalities.

BOX No 2: Special Initiatives For Women

✓ National Commission for Women

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

✓ Reservation for Women in Local Self -Government

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

✓ The National Plan of Action for the Girl Child (1991-2000)

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

✓ National Policy for the Empowerment of Women, 2001

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

F   LAWS CRITICAL FOR THIS STUDY

As stated in the earlier section many women face discrimination and abuse in their daily lives. The laws chosen for the present study relate to matters women have to deal with in their daily lives. These laws are of interest for the present study as they have great potential

to bridge the gender gap that exist in India in two crucial arenas - state accountability to women, and livelihood security.

i. **Protection of Women from Domestic Violence Act, 2005** : An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

    The Protection of Women from Domestic Violence Act (PWDVA) was the outcome of intense advocacy efforts by lawyers and women's groups using the CEDAW - Convention on Eleimination of All Forms of Discrimination Against Women. Since India had ratifed the convention and became a signatory, it was bound to take proactive measures to enact legislation to safeguard women. This was strategically used to culminate the long struggle that the women's movement had been waging to have a comprehinsive law to protect women from the domestic violence they face.

ii. **The Hindu succession (Amendment) Act, 2005**: This Act confers equal inheritance rights to daughters as were given to the sons under the Hindu Succession Act, 1956 amending Section 4, Section 6, Section 23, Section 24 and Section 30 of the earlier Act of 1956. It revised rules on coparcenary property, giving daughters of the deceased equal rights with sons, and subjecting them to the same liabilities and disabilities. The amendment essentially furthers equal rights between males and females in the legal system.

iii. **The Sexual Harassment at The Workplace (Prevention, Prohibition and Redressal) Act and Rules, 2013:**

    An Act to provide for prevention and redressal of sexual harassment of women at the workplace and for matters connected therewith or incidental thereto; where sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely :-

    - Physical contact and advance; or
    - A demand or request for sexual favours; or

- Making sexually coloured remarks; or

- Showing pornography; or

- Any other unwelcome physical verbal or non verbal conduct of sexual nature;

OTHER PROGRESSIVE LAWS THAT ARE CRITICAL FOR THE PRESENT STUDY

The above mentioned laws have a direct bearing on women. Two other generally progressive laws which have significantly helped women should be mentioned; the Right to Information Act, and the National Rural Employment Guarantee Act.

- **The Right to Information Act (2005):**

  An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

  Women are highly disadvantaged when it comes to accessing any formal institutions largely due to the patriarchal set up which not only translates into a lack of mobility, confidence and education on the part of women, but also due to the mindset it creates of those in authority and power. This leads to a situation where in women's access to offices and institutions that can provide them benefits under the welfare state or justice in case of violation of their rights has been very limited. The right to information (RTI) Act empowers the citizen to seek accountability and transparency, and women as equal citizens of the state can now invoke the RTI to speed up their applications and claims filed with various departments. Additionally, the RTI Act has also made the administrative set more responsive as they are otherwise liable to compensate the applicant if the delays are unjustified.

- **The Mahatma Gandhi National Rural Employment Guarantee (MNREGA) Act: (2005):**

This Act aims at enhancing the livelihood security of people in rural areas by guaranteeing hundred days of wage-employment in a financial year to a rural household whose adult members volunteer to do unskilled manual work.

The MNREGA is a landmark piece of legislation that ensures wage work at assured wages to the rural adults. It assures work within the village or at most within 5kms of the village. This has led to a large number of women finding employment within their villages, while they were previously unable to migrate for work as their male counterparts do, due to the various domestic responsibilities on them. From the experience of the researcher, having developed a special project for an Indian philanthropic institution to facilitate the implementation of MNREGA in the 5 poorest districts across 5 states of India, it was observed that women formed the larger part of the workforce participating in the NREGA works. It increased their purchasing power, and their ability to support the education of their children, including higher education for girls. During a training programme held in September 2011 with women leaders of UP who had participated in this project, the women leaders said, "First we had to convince our families that we can go to work as they believed that no government would want to employ women; second we had to persuade through applications and group pressure the local government officials that women can do an honest job of the work provided under MNREGA." The data of these districts indicate that the number of women partaking in MNREGA is increasing over the years as they are able to realise the guarantee of work and wages.

This study is located in the tradition of democracy as a political and developmental agenda, as is followed in India, which allows for civil society interventions. It seeks to examine through exploratory means the experiences of women who have exercised their voice and agency against violations, and used the laws directly or the knowledge of the laws to secure justice. It seeks to draw from these "law users" their views of how the laws were useful to

them, how did they impact their lives and the role that civil society played. This study is a retrospective study to understand how selected laws are impacting the lives of women who use them, and hence are termed "law users". Greater elaboration of the term will be done in Chapter 3, on Methodology.

In order to understand women's experiences of being a law user it was essential to understand the philosophical angles to justice which is presented in the next sections.

G   PHILOSOPHICAL APPROACH TO JUSTICE AND CAPABILITIES

This concept has deep philosophical meanings and has also evolved over a period of time. The effort was to examine various literature sources that provide answers to some simple questions - Is justice a universal concept or is it something that each individual experiences differently? Or is it shaped by what an individual believes is possible? Is justice seen only as something to be delivered through the courts or does it entail other facets? These were some of the questions that grappled with while framing the domain of exploration, as the researcher sought to understand the point at which women decide that they have to act differently in order to change the injustice or the violence that they were experiencing. The question was why some women act and so many don't. What made them think that a change was needed? Was it some conceptualization of "justice" – unarticulated maybe, but felt inside?

These were some of the questions that led the researcher to the writings of John Rawls, Amartya Sen and Martha Nussbaum which will be discussed here.

John Rawls is considered a leading political philosopher who departed from the ideologies of philosophers before him, like Rousseau, Locke and Hobbes who propounded theories of 'social contract', and John Stuart Mills, a proponent of utilitarianism, that informed political discourse and practice in Europe and much of the world, between the 17th century and the 19th century. The idea was that most rational beings will choose justice as it has utilitarian value in other words, "each man in realizing his own interests is certainly free to balance in own losses against his own gains" (Rawls, 2011). The extension of this individual argument to how it applied to society is then summed up by below:

"..the main idea is that society is rightly ordered and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it."

In moral and political philosophy, the 'social contract' or political contract is a theory or model, originating during the 18th century that typically addresses the questions of the origin of society, and the legitimacy of the authority of the state over the individual. Social contract arguments typically posit that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority of the ruler or magistrate (or to the decision of a majority), in exchange for protection of their remaining rights.

In the Indian context, one can say that a large majority of women live their lives in this framework where women are expected to give up several freedoms so that they can hope to live in "protection and care of men". And it is now well understood that this form of social contract can be highly detrimental to the cause of equality, and in fact, can be rather oppressive.

- *JOHN RAWLS' THEORY OF JUSTICE*

John Rawls offers a fairly divergent view wherein he introduces concepts of justice as fairness:

"Justice as fairness begins with one of the most general of choices which persons might make together, namely, with the choice of the first principles of a conception of justice which is to regulate all subsequent criticism and reform of institutions." (Rawls, 2011)

According to him, this original position is a hypothetical, position in which all the persons are free and equal, and whose relations with one another were fair; therefore, they will stipulate arrangements and a system of rules and contract on how the institutions will govern and act when there are differences. Rawls recognizes that each individual will find himself or herself to be placed in some particular position in some particular society and the nature of this position will materially affect his life prospects. He states that if the society is

based on the principle of fairness, then it is the closest that one can expect the citizens to voluntarily accept the rules and arrangements of the institutions, because they meet the "principle which free and equal persons would assent to under circumstances that are fair".

His theory of *justice as fairness* envisions a society of free citizens holding equal basic rights cooperating within an egalitarian economic system. The two principles that emanate from the notion of justice as fairness are:

A. Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all,
B. Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society.

His account of *political liberalism* addresses the legitimate use of political power in a democracy, aiming to show how enduring unity may be achieved despite the diversity of worldviews that free institutions allow (Wenar, 2016).

Although this study is not about the political and philosophical debates around justice and political institutions, the literature review has helped the researcher to become at least somewhat familiar with the philosophical conceptions of justice so as to be able to probe the idea during the exploratory study.

Having read various aspects of Rawls' Theory of Justice, the significance of his theory for this researcher lies in understanding how institutions involved in securing justice need to seen as fair by those covered by them, and that there is scope to examine social and economic inequalities from the perspective of whether these institutions offer equal opportunity, and are of greatest benefit, to the poorest or the least advantaged. For the purpose of focus, the researcher would not delve into the aspects of distributive justice for this study although Rawls' contribution in that subject is of great significance in the researcher's role as a social worker.

Rawls' conception of justice offers the opportunity to provide voices to the marginalized in debates of justice, through questioning what meaning women would give to the word "fairness". It is this tradition of thinking that has guided the selection of the sample for the study which includes women from marginalized sections to understand how the use of laws impacted their lives.

- **Amartya Sen and his Idea of Justice**

The work of Amartya Sen who has been a student of Rawls, as well as a colleague, offers some points of departure from Rawls' conceptions. In his book, *The idea of Justice* (2011) Sen challenges the idea of the hypothetical 'original position where all men are equal'. He points out that the earlier conceptions focus on the 'arrangement-focus of justice', and instead offers a 'realization-focused understanding of justice' where it "concentrates on the actual behavior of people, rather than presuming compliance by all with ideal behavior" (Sen. , 2011).

The arrangement focused justice proposes that justice should be conceptualized in terms of certain organizational arrangements – some institutions, some regulations, and some behavior rules - the active presence of which would indicate that justice is being met.

Sen draws on the Indian jurisprudence to show how the two words '*niti'* and '*nyaya',* despite their same meaning in classical Sanskrit, are actually applied very differently in the political governance discourse. Among the principal uses of the term '*niti'* he states are 'organizational propriety and behavioral correctness.' The term '*nyaya'* applies to the world that actually emerges, and thus it does not refer merely to judging institutions and rules, but to judging society itself and the kind of human behavior it allows. His explanations point out that '*niti'* is far more severe and austere, but '*nyaya'* can refer to prevention or reduction of manifest injustice in the world. He cites the examples of the movement to abolish slavery in the eighteenth and nineteenth century to explain that leaders of the movement were quite aware that abolition of slavery would make the world a perfectly just place; they presented the intolerable injustice of slavery and made an overwhelming priority to abolish it, rather than build consensus on the 'ideal, just world' to abolish slavery.

Sen argues in this book that there is room for multiple reasoning and plurality of impartial reasoning; while building an understanding of justice, he also brings into the discussion the role of wrath and indignation to present a persuasive argument for alternative justice, using the example of Wollstonecraft who is known not just for her work to further women's rights but also for the rights of other marginalized people. In short, he makes a strong case for including in the concept of justice not just an originally, ideal world order, rather also how it is realized and 'seen to be done'.

Civil Society Organisations draw inspiration and strength from these ideas, and so do social workers in their quest for social justice.

- **Capabilities Approach to Justice and Women's Development**

From examining other works of Amartya Sen and the critiques of his idea of justice, the researcher came across literature on the capabilities approach that linked more directly with women's development.

Sen and Nussbaum have almost simultaneously developed the capabilities approach but applied it in different spheres. The distinct points of agreement, some points of disagreement in terms of the emphasis and its application, have been explicitly presented in Nussbaum's work, titled, 'Women and Human Development – The Capabilities Approach'.

- **Sen's Conception of the Capabilities Approach**

Sen's work on the capabilities approach to development focuses on human lives and not just the resources people have, through ownership or use of objects of convenience and achievement of goals; instead Sen argues that the means of achieving that goal and the freedom to choose between different opportunities is equally important. Fundamentally therefore Sen's work on capabilities aims at bringing about a fairly radical change in the standard evaluative approaches used in economics and social studies, which concentrate on income and wealth.

He states that having a certain income need not have the same outcome for two individuals as both may have differing conditions by which one of them is better placed to convert her income to achieve her goals. He illustrates this by comparing the disadvantages of a rich person who is severely disabled with the constraints of a poor person who is not disabled. It is not therefore income alone but the sum total of capabilities that each individual possesses that will determine the outcome.

To make this argument for women specifically, and to understand gender inequality, one may consider that although a family may be placed among others within a certain income bracket, whether a woman enjoys any control over her income will greatly vary from family to family, and therefore determine how she can use her capabilities to pursue her goal.

It is therefore observed that "while the notion of capabilities refers to a very broad range of opportunities, basic capabilities refer to the real opportunity to avoid poverty or to meet or exceed a threshold of well-being. Basic capabilities will thus be crucial for poverty analysis and in general for studying the well-being of the majority of people in poor countries, or for theories of justice that endorse sufficiency as their distributive rule" (Robeyns, 2011).

- **Nussbaum's Conception of Capabilities Approach**

Nussbaum comes from a philosophy background, and uses the capabilities approach to offer 10 universal capabilities which would allow for comparisons across cultures and nations. Her contribution is significant as it allows a framework to assess women's quality of life. Her list of central capabilities provides the basis for determining a decent social minimum in a variety of areas, and she concedes that it does not lead to a complete theory of justice. The researcher too believes that this approach has far greater relevance to a social work practice as these capabilities are easy to look out for while working with women and communities. The next section lists the key capabilities Nussbaum offers.

Box No.3 **Martha Nussbaums Universal Needs**

1. **"Life –** Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.

2. **Bodily Health** – Being able to have good health, including reproductive health, to be adequately nourished; to have adequate shelter.

3. **Bodily Integrity** _ Being able to move freely from place to place; having one's bodily boundaries treated as sovereign; i.e. being able to secure against assault ,including sexual assault, child sexual abuse and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

4. **Senses, Imagination and Thought** - Being able to use the senses, to imagine, think and reason – and to do these things in a 'truly human' way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in ways protected by guarantees of freedom of expression, with respect to both political and artistic speech and freedom of religious exercise. Being able to have pleasurable experiences and to avoid non necessary pain.

5. **Emotions –** being able to have attachments to things and people outside ourselves; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having ones emotional development blighted by overwhelming fear an anxiety, or by traumatic events of abuse or neglect.

6. **Practical Reason –** being able to form a conception of the good and to engage in critical reflection about the planning of one's life.

Continued in next box..........

7. **Affiliation – A.** Being able to live with and towards others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation; to have the capability for both justice and friendship.

   B. Having the social bases of self respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails, at a minimum, protections against discrimination on the basis of race, sex, sexual orientation, religion, caste, ethnicity or national origin. In work: being able to work as a human being, exercising practical reason, and entering into meaningful relationships of mutual recognition with other workers.

8. **Other species -** Being able to live with concern for and in relation to animals, plants and the world of nature.

9. **Play –** Being able to play, to enjoy recreational activities.

10. **Control over ones' environment –**

    A. Political - Being able to participate effectively in political choices that govern one's life, having the right of political participation, protections of free speech and association.

    B. Material - Being able to hold property (both land and movable goods), not just formally but in terms of real opportunity and having property rights on a equal basis as others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizures." (Nussbaum, 2000)

Both the authors, Sen and Nussbaum, acknowledge each other's work and it is of interest to the researcher, who is a student of sociology and psychology to see a shift in focus from merely economic aspects of measuring development, to a focus where the outcomes, in terms of freedom and justice as actually experienced are being brought into the evaluation. Nussbaum's work is of particular interest to the researcher, both as a social worker who is undertaking the study, and as a promoter of women's rights, as she offers a chance to actually compare the outcomes of human development. In her book, she uses the lives of two women from India – one from Ahmedabad and one from Trivandrum – as the touchstone to showcase how these universal values can be applied to assess their capabilities to be able to lead lives in a desired way.

Literature review of the work of these three authors, Rawls, Sen and Nussbaum forms a continuum between the understanding of justice: Rawls established the need to see justice as fairness, Sen focused on the realization of justice, and Nussbaum and Sen's work on capabilities can be seen as the ability to realize justice and to have a universal framework to assess human development. Thus, one can say that justice and human development are integrally linked, and that for people to realize justice is a key ingredient of human development.

In the present study the endeavour would be to throw light on how women law users have experienced justice, have defined what injustice is, and in the end, how the experience of securing justice impacted their life outcomes. In doing this, the researcher would link their narratives to the emerging understanding of empowerment.

H   THE DISCOURSE ON EMPOWERMENT

It is towards the latter part of the 1980's that the concept of women's empowerment gained acceptance as an approach to development, and large scale government and non government programmes adopted this approach. There is no universally accepted definition, although there are several interpretations and definitions available.

To begin with, there is an Oxford Encyclopaedic dictionary meaning; empowerment: authorize, license (to do) enable (1983).

In the development context it refers to a process by which people, organizations or groups who are powerless

- Become aware of the power dynamics at work in their life
- Develop the skills and capacity for gaining some reasonable control over their lives.
- Exercise this control without infringing upon the right of others and
- Support the empowerment of others in their community

It was in 1994 International Conference on Population and Development held in Cairo, that the interest in women's empowerment among demographers and population policymakers was heightened. According to Hodgson and Watkins (1997), empowerment of women was legitimized as a social goal and enshrined as a necessary condition for population stabilization. Since then empowerment of women as a development goal has moved to the center stage of development theory and practice.

Naila Kabeer (2001) offers a process oriented explanation:

"Empowerment is defined as the process by which women take control and ownership of their lives through expansion of their choices. Thus it is the process of acquiring the ability to make strategic life choices in a context where this ability has previously been denied. The core element of empowerment have been defined as agency (the ability to define one's goals and act upon them), awareness of gendered power structures, self-esteem and self-confidence."

In simple terms one can discern 2 levels of Empowerment:

a) **Personal Level**: Whereby an individual develops a sense of self and individual confidence.

b) **Collective level**: Whereby individuals come together and work towards a common goal impacting individual lives and groups as a whole (e.g. self help groups and CBQs)

Further there is a general consensus that it is manifested in more than one dimension; it is both a process and an outcome. So the effort in the coming sections is to elaborate the historical and contextual meanings that have been ascribed to the term 'empowerment'.

One of the first conceptualisations on 'empowerment' was Paulo Freire's, where he advocated for an educational experience that contrasted the traditional 'banking' pedagogy (Mooney, 2005). His educational philosophy aspired to liberate and empower its students by promoting critical consciousness of the world around them. Freire's model of empowerment education, therefore, incorporates three major themes: that citizens voice their knowledge and experiences to shape their own education; that dialogue between citizens leads to critical consciousness of root causes to social problems; and that programmes grounded in the empowerment education model 'build skill, confidence, and opportunity for individual and collective action'. According to Freire, empowerment and transformation begin with an analysis of one's existing marginalisations, leading up to collective action around them (Leonard, Mc Laren, & (Eds), 2002). Freire's work which was located within the pedagogy of education, has been applied and adapted to several fields.

From a gender equality perspective, Srilatha Batliwala's definition of empowerment suggests a process of transforming the relations of power between individuals and social groups, shifting social power in three critical ways:

➢ By challenging the ideologies that justify social inequality (such as gender or caste)
➢ By changing prevailing patterns of access to and control over economic, natural and intellectual resources.
➢ By transforming the institutions and structures that reinforce and sustain existing power structures (such as the family, state, market, education, and media) (Batliwala, 1993).

The paradigm shift to empowerment since the 1990's has enabled participation of women from various strata, it enabled a shift from merely seeking to catch up with their male counterparts. Born out of this shift were:

- ➢ a clear focus on challenging patriarchy as a system,

- ➢ the slogan "Personal is political" and,

- ➢ growing urgency to seek transformation and not just change.

In her book, *Engaging with Empowerment – An Intellectual And Experiential Journey* she states, 'the most conspicuous feature of the term 'empowerment' is that it contains the word 'power'. Empowerment therefore is concerned with power and more specifically with changing the power relations between individuals and groups in society.'

Keeping aside the more philosophical meanings of power, Batliwala takes ahead the arguments put forward by Etzioni to look at the '...consequences of the application of power.....' and defines power as the degree of control over material, human and intellectual resources exercised by different sections of society. Power and its application is mediated by i.e "sustained and perpetuated through social divisions such as gender, age, caste, class, ethnicity, race, (global) North- South, and through institutions such as the family, religion, education, media, the law etc." (Batliwala, 1993)

She argues that ideological and institutional changes are critical to sustaining empowerment and real social transformation. Transformation, therefore, is at the core of the understanding of empowerment (Batliwala, 1993). Several women's movement scholars and activists identify 'empowerment' as a transformative process that challenges not only patriarchy but also the structures of class, race, and ethnicity, which determine the condition of women and men in society. In the Indian context, it is regarded as challenging caste and religion too (Kabeer N 1994), (Batliwala, 1993).

There are others who say that gender transformation would requires examination of the assumed notions about society and what is considered normative. Madhu Kishwar and Vanita R (1984), state: "Let us examine the whole question, all the questions; let us take nothing for granted. Let us not only redefine ourselves, or roles or images - but also the kind of society we want to live in."(Kishwar M, Vanita R 1984).(Everett JM 1979)

This concept worked very well as a strategy but when it came to measurement, several problems were encountered as empowerment was as much an internal process and evident from behavior, as it was one of the goals of development. However the change in behavior was not uniform, it was highly contextualized and thus defied developing common indicators that could help measurement in a definite sort of a way.

DIFFERENT DIMENSIONS OF MEASURING EMPOWERMENT

An early attempt has been made by the John Snow Inc (JSI) in 1990's in order to capture the different aspects of empowerment and have presented **Six Domains of Empowerment**

John Snow Inc (JSI) Domains of empowerment were put out in the 1990's and remain useful to map the outcomes of empowerment:

Table No.3   Domains of Empowerment (JSI)

Domain	Expressions
1. Sense of Self & vision of a future	Assertiveness, plans for the future, future-oriented actions, relative freedom from threat of physical violence, awareness of own problems and options, actions indicating sense of security.
2. Mobility & visibility	Activities outside of the home, relative freedom from harassment in public spaces, interaction with men.
3. Economic Security	Property ownership, new skills and knowledge and increased income, engaged in new/non-traditional types of work
4. Status & decision-making power within the household	Self-confidence, controlling spending money, enhanced status in the family, has/controls/spends money, participation in/makes decisions on allocation of resources, not dominated by others
5. Ability to interact effectively in the public sphere	Awareness of legal status and services available, ability to get access to social services, political awareness, participation in credit program, provider of service in community.

6. Participation in non-family groups	Identified as a person outside of the family, forum for creating sense of solidarity with other women, self-expression and articulation of problems, participating in a group with autonomous structure.

JSI defines empowerment in a behavioural sense as the ability to take effective action encompassing inner-state (sense of self, of one's autonomy, self-confidence, openness to new ideas, belief in one's own potential to act effectively) and a person's status and efficacy in social interactions. In particular, it is the ability to make and carry out significant decisions affecting one's own life, and the lives of others (Kumar & Paul, undated).

Later there have been some significant efforts like that of Deepa Narayan who has put together different aspects of empowerment and its challenges in *Measuring Empowerment-Cross Disciplinary Perspectives* (2005) that brings together a wide range of authors covering a broad gamut of themes related to empowerment and its measurement. Sections 2 to 5 of this book are clustered around the following themes:

- Gender and Household issues
- Subjective well being and power
- Community and local governance levels
- National levels Comparisons

By offering an overview of what each of the sections covers, the researcher would like to point out to the extent of work that is available around measurement of empowerment, and the complex meanings that the term itself contains.

As stated earlier, because this field of empowerment is still new there are multiple meanings and approaches to it which require further exploration.

GENDER AND HOUSEHOLD

Anju Malhotra and Sidney Ruth-Schuler focus on measuring empowerment as a variable in international development. They review 45 empirical studies and conclude that most of the studies are focused on the micro-level, with some attempts at the macro-level, while the middle (or meso) level is missing. The authors focus on three methodological issues: the multidimensionality, aggregation levels and the context-specificity of the indicators. Later on, Karen Mason discusses the definition, the determinants of women's empowerment in the domestic sphere, and the best way to measure and analyse the effectiveness of interventions to empower poor women in developing countries. Joy Deshmukh-Randive explores the concept of "space" as a tool for measurement of both power and empowerment, focusing on the hierarchical positions of men and women within domestic units. Spaces can be economic, physical, socio-cultural, political, cultural or mental. The framework suggests a step towards the measurement and ultimate enhancement of empowerment for women (Narayan, 2005).

SUBJECTIVE WELLBEING AND POWER

Another significant arena of work around empowerment is to do with the subjective well being of a person, and methods for measuring these psychological aspects. Siener and Biswas Diener, describe two psychological aspects: subjective well being and psychological empowerment. The authors argue that in addition to external favourable conditions, people need psychological and internal empowerment, as well as the influence factors such as education, social support, beliefs about fate and positive emotions that can influence the potential for effective action (Narayan, 2005). Carol Graham and Stefano Pettiano provide evidence from studies conducted in emerging market economies of Peru and Russia that economic improvement do not necessarily correlate with well being and happiness indicators. Their study indicates that perception of poor people regarding movement in and out of poverty is potentially as important to understanding empowerment as are changes in poverty status measured by income data (Narayan, 2005). In another chapter of the Narayan book, that is also about Russia, Michael Loshkin and Martin Ravallion examine how individual perceptions of power compare with both subjective and objective indicators of individual economic welfare. In the final chapter of this section, Steven Brown introduces

the use of Q methodology in measuring empowerment. This methodology allows poor people to define what their key concerns are, and thus help identify the indicators of empowerment that are functionally significant to them. The author claims that Q methodology allows for a scientific approach to subjectivity that enables poor people or any other group to express themselves with minimal involvement from outsiders and minimal bias from externally imposed or ostensibly derived meaning.

GENDER, COMMUNITY AND LOCAL GOVERNANCE

Norman Uphoff provides a brief ontological discussion on "power' and expands on Max Weber's conceptualization of power. Uphoff suggests that while power itself is difficult to define and therefore measure, one could extrapolate certain conditions that can be observed and measured such as power resources and power results. The way he approaches power is quite similar to the way Batliwala approaches empowerment and he even talks of capabilities which is similar to the work of Sen and Nussbaum explained earlier in the chapter. Taking the example of the Gal Oya irrigation scheme of Sri Lanka supported by USAID, he states that measuring the effects of empowerment is easier that measuring empowerment itself. Caroline Moser examines community perception of participation in ongoing peace processes in Columbia, particularly those aspects that can also be seen as constituting aspects of empowerment. It highlights three important aspects namely:

➢ The relationship between peace, development and empowerment
➢ The use of participatory methodologies to measure empowerment through participation in peace processes
➢ The identification of some potential indicators for measuring empowerment through participation in peace processes.

Asim Ijaz Khwaja provides an economist's perspective on how to construct measures of empowerment at the community level and the issues involved. Vijendra Rao and Michael Woolcock in the last chapter in this section seek to combine the use of qualitative methods with econometric measures of empowerment at the community level.

This final section in the book provides an array of articles to examine measurement of empowerment at the national levels and seeks justification from the fact that the World Bank Report on World Poverty – 2000-2001 clearly incorporates empowerment as a key goal and not just as a means to be achieved. As the present study is located at the sub-national level/community level the observations made here will have only limited direct bearing on the explorations. Nevertheless some of the points are relevant in so far as the study is located in a democratic nation state and hence it is worthwhile to understand how empowerment is assessed at the national level.

Christian Grootaert provides insights from Europe and Central Asia to look at three parameters at the national level:

- Making the state accountable and more responsive to people
- Removing social barriers and
- Building social institutions and social capital

Carmen Malena and Vilkhart Finn Heinrich present the CIVICUS civil society Index as an example of an effort that allows for international comparison. Stephen Knack suggests alternative approaches which will identity options for economic and political change that can benefit the poor without necessitating a comparable decline in benefits of the non-poor. Ashutosh Varshney compares democratic nation states with dictatorships and concludes that although democratic nations hold far greater success in avoiding worst case scenarios, the full potential of these democracies is not realized in significant poverty reduction. Larry Diamond concludes that policy and practice are far behind in the understanding that poverty reduction and empowerment require broad improvements in governance. And finally, Gerardo I Munck examines the adequacy and challenges of existing measures such as rule of law indicators, governance indicators and political regimes.

It is amply evident that various efforts are being made to measure empowerment from the individual to the community to national levels. It would be difficult to say that any one approach is better than the other as the evidence on each of them is still limited. While many authors say that in order for empowerment to become a universal concept there is a need to measure it, there are others who believe that empowerment is a process that cannot be measured but only be described.

I   RELEVANCE TO SOCIAL WORK PROFESSION

Social Work is among the youngest fields in the social sciences to be recognized as an independent body of knowledge, and as a distinct profession. In fact, there are several critics who even challenge this. They point out that social work does not offer anything exclusively but is actually a combination of several professions (Beckett, 2006).

In the 1970's one of the popular definitions offered by Pincus and Minahan (1973) focuses on linkages and interactions between people and resources systems and the problems faced in the functioning of both individuals and systems:

"Social work is concerned with the interactions between people and their social environment which affect the ability of people to accomplish their life tasks, alleviate distress, and realize their aspiration and values"

This definition needs to be located in the context of American society of that time and the influence they had over knowledge systems at the global level too. Over the years several shifts have taken place and the practice of social work has expanded into several directions. Homegrown understanding of social work in third world countries are now putting out works that bring in new dimensions such as challenging oppression (Mullaly, 2002), bringing in feminist social work (White V. , 2006), and accepting that social work is itself a changing profession (Dominelli, 2004).

In 2014, The International Federation of Social Workers' definition stated that,

"Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work."

The meaning of social work is linked to the evolution of the development goals themselves, which as we have seen earlier, have also broadened to include empowerment. Similarly, one can see the shift from welfare orientation to empowerment and the mention of *principles of human rights and social justice* as fundamental to social work.

Historically Social Work consisted of five arenas, which are presented below.

Figure No. 2 : Traditional Arenas of Social Work
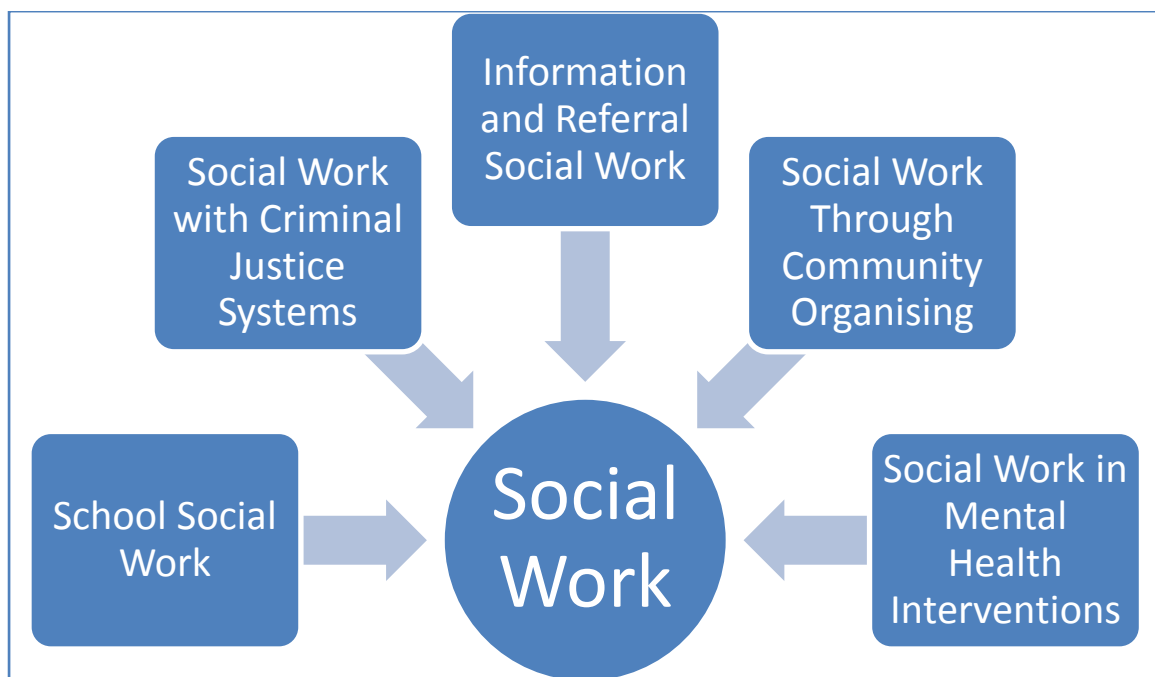
➢ School Social Work:

Social workers in schools are part of an interdisciplinary team often comprised of guidance counselors, school psychologists, and teachers. School social work services are available to

school-age children and their families to resolve school related educational and behavioral problems.

➢ Social Work with Criminal Justice Systems:

Social workers have a presence in both juvenile and adult correction. They monitor clients on probation or parole, provide counseling in prisons and juvenile detention facilities and work in victim restitution programs.

➢ Information and Referral Social Work:

Information and referral specialists play a key role in offering service delivery information, making referrals to community resources and initiating community outreach programs. Many agencies include an Information and Referral component in their spectrum of services.

➢ Social Work Through Community Organizing:

Social workers employed by community action programs engage in community and neighborhood development, social planning and direct-action organizing. Organizers mobilize community members or constituent populations in reform activities.

➢ Social Work in Mental Health Interventions:

Case management, therapy, drug and alcohol treatment and mental health advocacy are a few of the activities of social workers employed in mental health settings. Mental health settings include, for example community mental health centers, state hospitals, day treatment programs and residential facilities for people with mental disorders (DuBois, B,L 2008).

Present day social work has evolved to cover far more diverse ground and contemporary social work covers several new branches:

    i.   Social Workers in Administration, Policy and Research

    ii.   Child, Family, and School Social Work

    iii.   Community Social Work

    iv.   Gerontological Social Work

    v.   Medical and Health Social Work

    vi.   Mental Health and Substance Abuse Social Work

    vii.   Military and Veterans Social Work

    viii.   Palliative and Hospice Social Work

    ix.   Psychiatric Social Work

    x.   School Social Work

    xi.   Industrial Social Work

    xii.   Feminist Social Work

    xiii.   Social Work in Disaster Management

Even this list is not exhaustive and new forms of social work continue to evolve.

This research is located in the social work tradition that draws upon first and foremost from Community Organizing, on Information and Referral services and upon Feminist Social work.

A social worker who aims to work with an empowerment approach can draw from the definition that Batliwala proposed. It involves 'a process of gaining control over the self as well as the resources which determine power' (Batliwala, 1993). She states that "the beginning point of empowerment is becoming aware of the subjective and objective context of differential access to resources and power. This process is often seen as an externally induced one, in which the external agents such as social workers, facilitate women to find a time and space of their own and to re-examine their lives critically and collectively". The four stages that Batliwala mentions in this process which is visually made up of an ever expanding spiral are ... "consciousness, problem identification, action for change and analysis of that action which once again leads to another level of consciousness"

Figure No: 2Empowerment Spiral and Social Action

Upward Spiral of Empowerment
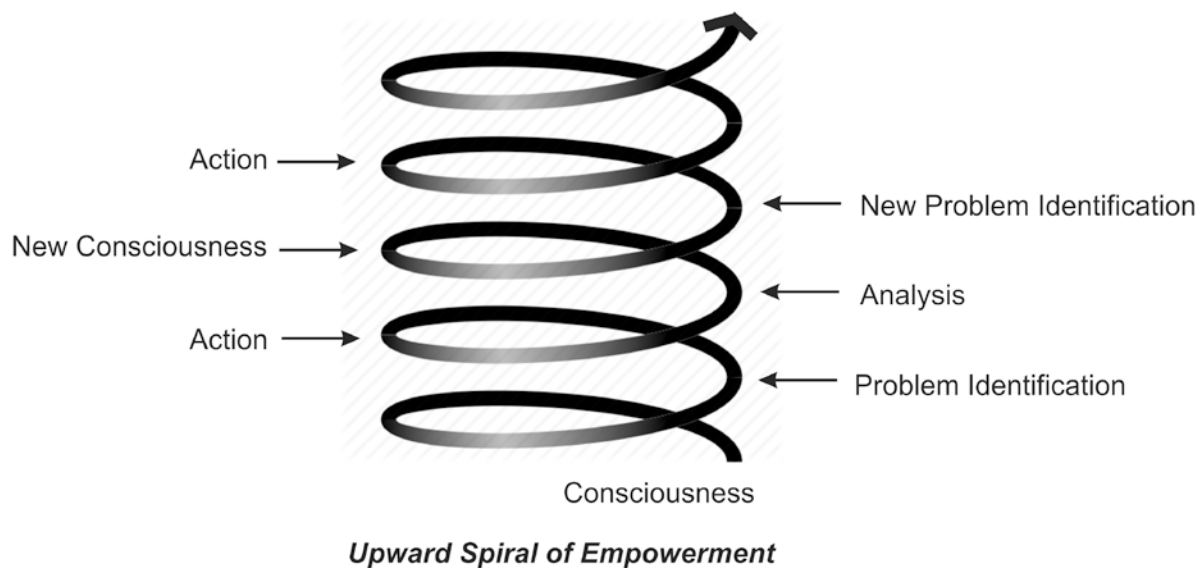
Critical to translating the goal of empowerment at the community level is the role of community organisation (CO) a key method of social work. Community based voluntary organisations engage with the communities usually keeping the focus on the most vulnerable and marginalised among them. "Although historically CO focused on community building, self-help, and mobilization of local resources, over the years there has been an increasing realization that integrated local approaches by themselves are inadequate to deal with wider causes of poverty and inequality. In India, CO as a process encompasses all efforts that seek to redefine power relations which contribute to the experience of discrimination and marginalization. Therefore, CO entails efforts not just at the level of communities but with social structures and with democratic institutions of governance" (Andharia, 2007). The author argues in her paper that in India, there has been a shift in the way CO is practiced as there were very diverse set of professionals other than social workers who were engaged in community development starting from the 1970s. Their experiences of engaging the communities, and with multiple levels of institutions that create inequalities and vulnerabilities have added a strong political dimension to community mobilisation strategies of NGOs wherein power relations come to be challenged, and redistribution of resources is aimed at.

Thus, the strategies used by voluntary community based organisations have increasingly used the empowerment approach and the transformation paradigm while working with a range of community issues. This has been particularly so for organisations working for women's development where the goal of their intervention be it in health, income generation, education, or combating violence against women, is to ensure "women's empowerment".

Framing of the research study

Social workers respond to both the demands of living in a changing society, and the call for justice to promote citizen's rights. In practice, social workers address social concerns that threaten the structure of society and redress social conditions that adversely affect the well being of people and society. Social work practice encompasses the professional activities of helping individuals, families, groups organizations and communities to enhance or restore their capacity for optimal social functioning and of creating societal conditions favorable to this goal. In essence, social work activities empower client systems to enhance their competence and enable social structure to relieve human suffering and remedy social problems (DuBois, Brenda L., 2008)

Having completed masters of social work in the late 1980's, the researcher has been exposed to and practiced social work that resonated with principles of human rights and social justice and adopts an empowerment approach.

During the 20 years of social work, the researcher had firsthand experience of discovering different forms of discrimination experienced by urban women, rural women, tribal women, and women from different castes. It was very clear that one can no longer speak of a homogenous category of women. The context they live in is very important for the women in the way they experience patriarchy and inequalities. For the vulnerable sections, poverty is a very significant reality that impacts their lived experience. The lack of agency is experienced through various forms of violence and denials.

Different strategies of intervention were employed which included awareness building, information sharing, capacity building, leadership building, collective action and use of constitutional guarantees and government schemes. Over the years there have been instances where women, who were victims of violence, are able to knock on the door of the police or the judiciary to seek justice. At times these are mediated by civil society actors in the form of voluntary agencies or through the mechanisms set up by the state itself.

The process where a woman decides that she will 'take it no more' and seeks help to the point where she gets justice is a long one. Her experiences with the police, officials of the state machinery, lawyers, judges, civil society support, the renegotiation that takes place within the family and the community is most likely to be non-linear and would vary from woman to woman. While the law is a formal instrument, its application for the specific case of the woman is mediated through the many stakeholders mentioned above. The impact of the law therefore cannot be isolated from these intermediating systems and individuals. Thus apart from the formal outcome of a case, the application of procedures, the questions, the negotiations, the opposition, the struggle together create a perception of whether the law was able to further the cause of equality or not. And in this entire process, does the woman think of the outcome as empowering? If yes, how does she articulate it? How is it manifest? Thus, this research process will seek to capture these experiences through the qualitative narratives to arrive at the law user's perspective on empowerment.

In a nutshell, this chapter puts forth the philosophical and conceptual background which will inform the next stages of the research.

It was felt appropriate to do literature review, following the presentation of the conceptual framework, so as to understand the broader spectrum and gamut of the concepts relevant and similar to the line of study.

The Methodology Chapter will be dealt with after the Literature Review chapter.