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## UNIT 13 STATE LED VIOLENCE

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### 13.1 INTRODUCTION

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The role of the state is important and essential in dismantling hierarchies which are deep rooted in culture and social structures in any society. In case of women inequalities are so engraved in social and cultural structures that they inevitably get translated into state and legal practices. Thus, in case of establishing just and equal society the role of the state is most important. In case of gender, it is significant because state power in social context is gendered so we need to think about what is social power? Where does that power come from? How do women encounter it? How does law work to legitimate the state, male power? (MacKinnon 1989). In this unit, we will map the feminist discourse on state. Our efforts are to understand the complex relationship between the state and communities. What are the ways in which one should revisit the state's role as perpetrator and protector of rights of marginalised groups

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### 13.2 LEARNING OUTCOMES

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After reading this Unit, you shall able to:

- Map feminist discourse on state;
- Understand the complex relationship between the state and communities and
- Analyze state's role and protector of rights of marginalised groups.

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### 13.3 BACKGROUND

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Feminist movement and scholarship has sustained engagement with the state for establishing equality for women. The kind of power vested in the state, it might advocate for equality or act on behalf of the one who controls or suppressed those who are already subordinated. In case of women feminist scholarship and women's movement has fraught relationship with the state as it plays important role in positively altering the situation of women or it might also repress them further in the interest of the patriarchy. Thus, in feminist theory state occupy a vexed space. The review of states role in case of women underlines that state is generally very supportive of feminist demands as well as also creates problems for women's / feminist organisations such as militarism, moral regulation and cheapening of women's labour (Tambe,2010).

The state has grown to be a particularly pressing concern for Indian feminism in recent years, especially following the Shah Bano issue in the 1980s (Rajan 2003). For Indian women's movement it was turning point because the way state and judiciary responded to this case and the social and political development surrounded that period. As mentioned earlier feminist scholars recognised that state is a significant site where gender and citizenship get constructed. Since independence, Indian nation state has special interest in woman question. As pointed out by feminist scholars' women became emblems of culture immediately after independence as newly form nation state was engaged in the project of building this nation state culturally and economically as well as was dealing with the colonial past. Thus, state was interested in both projects one bringing women as citizens of this modern nation state as well as build its distinct cultural identity. (Chaudhuri,1999). The whole welfarist, just state image was challenged in 1970s when 'Towards Equality report' was published which brought the dismal reality of women to the fore, and women's movement could push the state to intervene and take the responsibility of women who are legally equal citizens of this nation state. This was the turning point in the gendered socio-political history of Indian nation state in case of women, there were many policies and programmes which were initiated and several schemes got revised to make them pro-women. It pushed state and society to take gender seriously and then women's issues no longer remained to be discussed or delt by the women's movement only(John,2008). This was more evident in the world of development, especially amongst state functionaries, development experts, academics and activists who are not necessarily feminist. Thus, while understanding the role of the state, it is important to look at the late 70's and early 80's differently and post 90's differently. This is particularly important because the very idea about the role state can play in terms of citizenship, secularism, its welfarist nature changed according to the context. The globalisation, liberalisation and the programme of structural adjustment mark the decade of 90s which obviously played crucial role in shaping the context and reorienting the state's role. Along with these communal polarization and anti-reservation agitation, it became significant driver of the socio-political and cultural context of that period. All these developments which were

related to policies and the politics of the state were very crucial for feminism. Because as pointed out by different feminist scholars the adoption of the new economic program of liberalization and globalization and the push for the uniform civil code. This led to fundamental transformation in the role of the state in strengthening the welfarist, democratic secular principles as well as the way social movements were looking at the state mostly critiquing the state and continuously reminding the state about its duties and responsibilities towards women, minorities and lower castes who are deprived. But post 90's the situation changed so rapidly that many social movements including women's movement started demanding to have strong state which will take responsibility of its citizens. However, the records show that prior to 90s also state wasn't that good but new liberal reforms were perceived as more damaging thus turning to the state for amending the situation. The paradox is that Indian state has sponsored reports, set up commissions, involved women's groups in the drafting of laws, participated in international forums, and subscribed to international norms of gender equality but simultaneously acted against the women's interests in order to retain patriarchal structures and also participated in performing violence on women's bodies. It indicates that there are contradictory and uneven functioning of the state especially in case of gender (Rajan 2003).

This created a division among Indian feminist also, based on their perception of the state as women's movement is not monolithic in nature. As Rajan (2003) underlines that there have always been a range of ideological positions within women's movement about the role of the state, differences in organizational structures and agendas, and a variety of strategies for mobilization and action. In recent years, these conflicts became more visible and the divide is indeed centered on the question of how women, and feminism, must relate to the state. This was due to the changes in the way state was acting and assuming the authoritative role and its increasing alliance with the revivalist forces. Thus, feminist scholars were revisiting women's movements relationship with the state and debating upon the discourse on rights, equality, legal justice, minority / group rights and civil society also were reflecting on why laws which were passed proving non-impactful and why there is this increasing sense of betrayal by the state. This raised serious concern about the role state is / was playing in transforming formal equality to substantive equality for women and those groups who are marginalised (Agnes 1997). The recent years the nature of state is changing drastically and challenges which are becoming more serious in terms of state's commitment to uphold democratic secular principles. Along with this on one hand there was significant presence of Hindu nationalist, region became a significant category, due to the acceptance of new liberal policies there was feminisation of poverty, violence against women is increasing, there is significant participation of women in right wing organizations, and on the other hand there was secular upsurge of caste. This has made the relationship of women's movement with the state more complicated and also forced women's movement and feminist scholars to look at the state critically, understand the impunity state acquired and also the need to question the state led violence generally and against women particularly. It is

important to understand how state, community, and family works with each other to protect the patriarchal structures and hegemony of those who are powerful. Thus, it is important to understand the role authoritative state plays in encroaching women's rights and not facilitating their journey towards substantive citizenship.

In order to understand the state led violence and how it impacts women we will take a review of socio-political history of Indian nation state and the way women question was articulated in the state discourse. Then in the next section we will take review of three cases to understand the intensity of the state led violence. Which will help us in understanding the connection between women and the nation state. The review of these events will help us to understand how women negotiate with the state, how state restructure women's everyday lives and finally attempt to make state more gender sensitive and may be better for women and other marginalised groups. The review of some critical events will also help us in understanding various ways through which women do engage with the state and how in order to protect the interest of patriarchy, dominant caste groups and capitalism state encroaches upon the rights of women.

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### **13.4 UNDERSTANDING THE INDIAN NATION STATE**

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In order to understand the women in the post- independent India it is important to map how the idea of modern Indian state was introduced in India and how it has negotiated with pre-modern structures of authorities and organizations. As political scientists and feminist scholars who were studying the state have underlined state is not an abstract it is present in everyday lives who are part of it. The state governs, facilitate and also transform the society and thereby lives of its citizens.

Indian nation state came in to existence with many inherent contradictions thus though state was established to realise democratic principles and aspirations of the constitution, the state is weakened by the pressure of dominant class (caste) groups. The state in principle is bound by the principles of the constitutions but as its boundaries are pores / not impermeable, dominant class / caste group could retain its hegemony through the modern state too (Fuller 2010). Thus, it is important to understand how state as an institution is present in our everyday lives, the way it facilitates our citizenship, laws, and bureaucratic rules which governs our public and private lives, socio-cultural lives of the citizens also govern and produced by and in the context of the nation state. It is important to locate our understanding of issues of gender because as citizen when we are living in and with the state, this simply means we as citizen became part of the state and so are bound by the obligations and duties towards it. As citizens the relationship with the state is always complicated as mentioned above because state regulates as well as guarantees freedom for its citizens. In case of women, it is important to place their relationship with the state in the context of citizenship, mapping why it is important to go beyond understanding of the citizenship in more formal way, it need to place discussion in the context

of how the relationship of women citizens need to be understood in the context of how it is influenced by their identity, their social positioning, predominant cultural assumptions, institutional practices and a sense of belonging etc (Rajan 2003). Feminist scholars have highlighted the importance of engendering the larger discourse on citizenship which was primarily underlining how women are different and underprivileged than men and also to acknowledge that woman is also not a homogenous category. This demands that it is important that women need to be recognised as equal citizens like men but due to the structures which subordinates women and creates hurdles for them in realising their citizenry rights it is important that difference need to be acknowledged and special provisions need to be made. In this context, state does play an important role and also there is a possibility that state can turn against the interests of the marginalised groups especially women as state is dominated by those who are ritually powerful and privileged by patriarchal norms and values.

The paradox is as underlined above ‘woman’ is a category which interests the state the most since colonial period for both colonial masters and reformers status of woman was the concern which also continued in post independent India and in contemporary India it has gained special significance. So, it is important to understand the place of women on the site of the nation state, how law, policies and programmes functions to bring equality for women, how does state identify women or women’s issues and how do women’s movement fight against the violence done by the state. This is particularly very difficult terrain as state is always approached to safeguard women’s rights/ guard their status but simultaneously state also protects the interest of the dominant groups and essentially protect the caste and patriarchal structures. While doing so state also take recourse to violence and its authority to control women’s freedom and also protect the interests of the community which might go against the interest of women especially their citizenry rights. The review of independent India underlines that on several occasions state did intervene to protect the interests of the community and patriarchy, enforced the traditional cultural values which resulted in to restricting women’s access to full citizenship.

In the next section analyses three critical events to understand state led violence and how that actually prevented women from enjoying their citizenship but also forced feminist scholar’s and women movement to critically analyse and agitate against the nexus formed between the interest of patriarchy community and the state.

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### **13.5 THE SHAH BANO CASE: COMMUNITY, STATE AND CULTURE**

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This case questions and challenges two things first the state’s claim to being secular in nature and the one who safeguards rights of women, marginalised groups and minorities. Before we unravel the complex weave of the interest of caste, community, culture and state we will go through the details of both the cases and the way state, judiciary and community responded to it.

Sha Bano, a divorced woman had filed an application for maintenance under section 125 of the code of criminal procedure. The background was that Shah Bano was married in 1932 and had three sons and two daughters, she was forced to leave out of her matrimonial house in 1975, thus she filed an application against her husband under section 125, in the court of the judicial magistrate, Indore, asking for maintenance at the rate of Rs 500 per month in 1978. Her husband (who did divorce her as per the Muslim personal law) filled appealed in the Supreme Court and defended that Shah Bano is no longer his wife and he paid Rs.3000 during the period of *idht* (which normally is three menstrual cycles, or the passage of three lunar months for post-menopausal women), so as per Muslim personal law he is not now responsible to pay this interim alimony to her and this section cannot be applicable to Muslims. Thus, court was to decide whether provision of the section 125 are applicable to Muslims or not. The court decided that the provisions of the Code of Criminal Procedure were indeed applicable to Muslims, hence the decision of the high court to grant interim alimony to Shah Bano was upheld by the state. As underlined by Das (1995) while giving the judgement Chief Justice Chandrachud highlighted the injustice done towards women by religion, why we need to talk about common civil code and why we need to uphold rights of women etc. As Das (1995) argued this was not this judgement did not make the Muslims uncomfortable but definitely raised some complications.

This case and judgement given by the Supreme Court sparked off the debate in India, obviously Muslims were agitating against the judgement and also were trying to articulate that this is not the question only of one Muslim woman getting the alimony but how it encroaches upon the freedom of Muslim community to practice religious codes in private matters such as marriage, divorce and adoption. Amidst this women's groups were also struggling to safeguard Shah Bano and rights of Muslim women, the effort was to understand the politics in pitting gender against the religious community's identity. Some of the groups from Muslim community were pressuring the state for amending its decision as well as was initiating the protest against the state from the community.

The response of the Muslim community, comments by the legislation and state's reaction to the pressure by the orthodox Muslim groups underlines the complex nature of the question. Because amidst these debates, protests by the Muslim community and overwhelming support by Muslims to these protests the Muslim Women (Protection of Rights on Divorce) Bill 1986 was passed. This was significant because it was seen as victory by Muslim orthodox groups, for non-Muslims, it strengthens its claim that Congress government who was in power is appeasing the minority and women's groups were trying to articulate it as betrayal by the Indian Nation-state and major setback in its struggle to establish equality for women. Women's movement and feminist scholars were trying to make sense of this in the larger context where how the interests of the State, community intersect with each other especially in case of women and also how when any community is anxious about its identity

and feels threatened by the socio-political events further restricts it women there by stall the process of women becoming the full citizens. This claim of the community to decide about its private life also indicate that community wants to keep state away. This has raised several questions in terms of are women safe in family, while implementing their citizenry rights do we need to fall back on what religious texts are prescribing. Many Muslim women prior to Shah Bano were applying for the alimony under section 125 that indicated that they need support, so if this new law is depriving women of it so where they can go for justice (Das 1995). This also meant that the state was leading towards being more patriarchal and authoritative in nature and the process to convert their formal citizenship to substantive seemed impossible. So, this could not be passed as legislative reform and state succumbed to the pressure of the orthodox groups, but it needs to be understood as the state led violence on women's right to citizenry right.

As Das (1995) underlined it will be interesting to compare Shah Bano's case with Roop Kanwar, a young woman from Rajasthan who committed sati (burned herself on funeral pyre of her husband) though the way both issues unfolded and 'resolved' were very different. It witnessed political, cultural and bureaucratic complexities, It also led to the questions of faith, choice, individual, community and nation-state. It also complicated the questions of customs, law, constitution and citizenship. The Shah Bano or Roop Kanwar cases highlights the State compliance with the patriarchal interests of the community and how that in many ways led to subordination of women in family and society. The next section discusses two cases sexual assault of Rameeza Bee and Maonrama to understand how state inflicts direct violence on women.

### ***Check your progress-1***

- 1) *After reading the section 'background' in this unit, how do see the engagement of feminist movement with state. Write in your own words.*

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## **13.6 RAMEEZA BEE'S RAPE CASE**

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In 1978 Rameeza Bee who was eighteen-year-old was gang raped by four policemen and her husband was beaten to death. A massive protest was initiated which met with violent response by the police, an inquiry committee was instituted to investigate the assault which caused death of Ahmed Hussain, and the rape of Rameeza Bee. The one-man commission found all three policemen guilty of rape and murder and thus recommended that they need to be prosecuted. However, after accused appealed to the Supreme court the case was refereed back to the Andhra Pradesh High Court who acquitted the policemen.

The details of Rameeza Bee's case need to be noted to understand whose facts were twisted. She was returning home with her husband two policemen picked her up when her husband went to answer the nature's call. After that

she was raped and her husband was beaten to death, however while the enquiry was carried out, instead of death of her husband and her rape the importance was given to why her husband went to *kabreestan* to answer the nature's call, whether her marriage was legitimate or not and if she was a sex worker. This points towards the effort of the Police and judiciary to show her complicity and by establishing her as a sex worker, deny her claim of rape or any kind of violation so that no offence can be established.

As Kannabiran argued the entire process of enquiry underlined the way state functions and norms which govern the state. It became very clear that state is governed by the norms of the majority community and there is a very little or no space available to women from marginalised minority community to demand any justice. Because it is very clear that norms such as secularism, justice and equality which were accepted as values are not practiced in reality. This has severe implications for women as Kannabiran (1996) argued in case of Rameeza Bee she had to prove that she was not a sex worker, not a woman of loose character and she was legally married to Ahmed Hussain who was beaten to death and finally she was a good Muslim. So finally, the fact that she was gang raped was not only lost but was almost disproved or we can say that it was effectively justified. Thus, it is important that feminists need to highlight how women are trapped into identity politics of the communities which has been legitimised by the state and it places women firmly within the family and community.

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### 13.7 MANORAMA: UNDERSTANDING STATE LED VIOLENCE

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Earlier we have reviewed Shah Bano's case in detailed and looked at Roop Kanwar's case to understand how community and state's interest are intertwined and how women from the community loses an opportunity to enjoy citizenry rights. Now in the last section we will take a review of Manorama's case to understand how sexuality of women, their ethnic identity has been at the stake when the nation state feels threatened. This also underlines the impunity enjoyed by the state in case of brutal violence done by its various agencies. On July 11, 2004, Havildar Suresh Kumar arrested 32-year-old Thangjam Manorama Devi as someone who is allegedly suspected as an insurgent, an expert in explosives, and a member of the banned People's Liberation Army. Three hours after her arrest she was found dead, raped, and shot in her vagina. This sparked unrest in Manipur and India witnessed an extraordinary protest by Manipuri women. Fifteen middle aged women demonstrated naked in front of the gates of Kangla fort, Head Quarter of the 17 Assam Rifles in Imphal, shouting slogans 'Indian Army Rape Us'. As noted by Kannabiran (2007) these women said that their anger pushed them to shed their inhibitions. Following this there were several protests in form of march, candle light processions, civil disobedience against the Armed Forces Special Powers Act (AFSPA). They demanded the justice for Manorama and mainly revoking of the Armed Forces Special Powers Act. After several protests and getting contradictory messages from the central and the state government, the enquiry was set up against those who were



accused in Manorama's case. It is interesting that obviously the first response was that what had been reported by the protesters were untrue and that such kind of enquiry demoralise the army. The then chief of army staff gave a statement that Manorama was a woman of questionable credentials, Manorama's enquiry commission did not reach any conclusion, Army had refused to release DNA samples taken from the accused and Manipur government also refrained from releasing its report.

This has a context of the implementation of the Armed Forces (Special Powers) Act of 1972. It has its roots in the colonial rule but when it was implemented in post independent India the 'unlimited' powers were given to all security personnel and an authority was given to shoot anyone on basis of suspicion, it grants total immunity to defence personnel. The North-East of India, Jammu and Kashmir is governed by the AFSPA as these areas were noted as disturbed areas. This uncontrolled power to the military and use of military power to deal with civil unrest always resulted in atrocities and violence on people of those regions, north east and Jammu and Kashmir are not exception to it. The repeated failure of the state in controlling this abuse of power which not only perpetuate violence but also created questions about the authority of the state government (Kannabiran and Menon 2007). After Manorama's brutal abuse and murder state government had taken a step against the central government and started withdrawal of the AFSPA from the selected parts on Imphal. This repeated offences against civilians and especially exploitation of women in those 'disturbed regions' by security and arm forces raised serious question about state's position regarding its women. However, for the state after some point they cannot ignore that there is sexual violence perpetuated against women, as there is pressure by media and civil rights activist so the earlier strategy of denial is not something state can go to thus what we witness now is either state subvert the process, stall the investigation, stone-walling or refusal to comply by police or military. This is argued by Kannabiran (2007) who highlights the conundrum of the role of the state as protector and perpetrator. The women's body becomes object and violence was done on their bodies when there is ethnic / communal tension. In this context the role of the state is most important but as stated earlier state mostly is dominated by those who are powerful and dominant in the society, thus if state assumes the role of perpetrator or do take confusing stand in punishing those who violate women then its promise to women of equal citizenship fails.

As argued by (Menon 2007) when state endorses and subscribe to sexual violence and its regulatory mechanisms are gendered and if state normalises violence, then the divide between state as protector and promoter of democratic values and society which always have confusion about these principles will be blurred. The state as protector and its role as transforming the older non democratic discriminatory practices is challenged. So, we need to return to the question what do we do with the state because we cannot do away with the state or the judiciary then what do we do? (Menon 2007). As Menon underlines that can we remove male and to add to it upper caste male in the state which is entire recasting of the state.

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## 13.8 LET US SUM UP

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In order to summarise this unit, we will return to the everyday structures in India which are embedded in gendered and caste practices. In such situation modern Indian nation-state has more responsibility towards women, Dalits, tribals, ethnic minorities especially protecting their democratic rights and restores the equality for them. However, the review suggests that in case of gender and caste related atrocities state had failed to keep its promise. One important case which explains the complex relation between the gender and caste question is the Khairlanji case, where lower caste women were sexually abused, brutally murdered, and young men were killed. The victims of this case Bhotmange family are still awaiting justice, in this case also accepting murder and sexual violence was inevitable for judiciary but it is still denying the role of the caste discrimination in it. This clearly identifies that the state in its modern avatar still is heavily influenced by the caste and patriarchal practices. So along with social movements, it is important that such critical events need to be studied and the fact-finding reports prepared by human rights organizations need to be publicised to remind the state of its duties.

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## 13.9 UNIT END QUESTIONS

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- 1) Write an essay on feminist discourse on state.
- 2) Describe the complex relationship between the state and communities.
- 3) Critically evaluate the debates between gender and state led violence.

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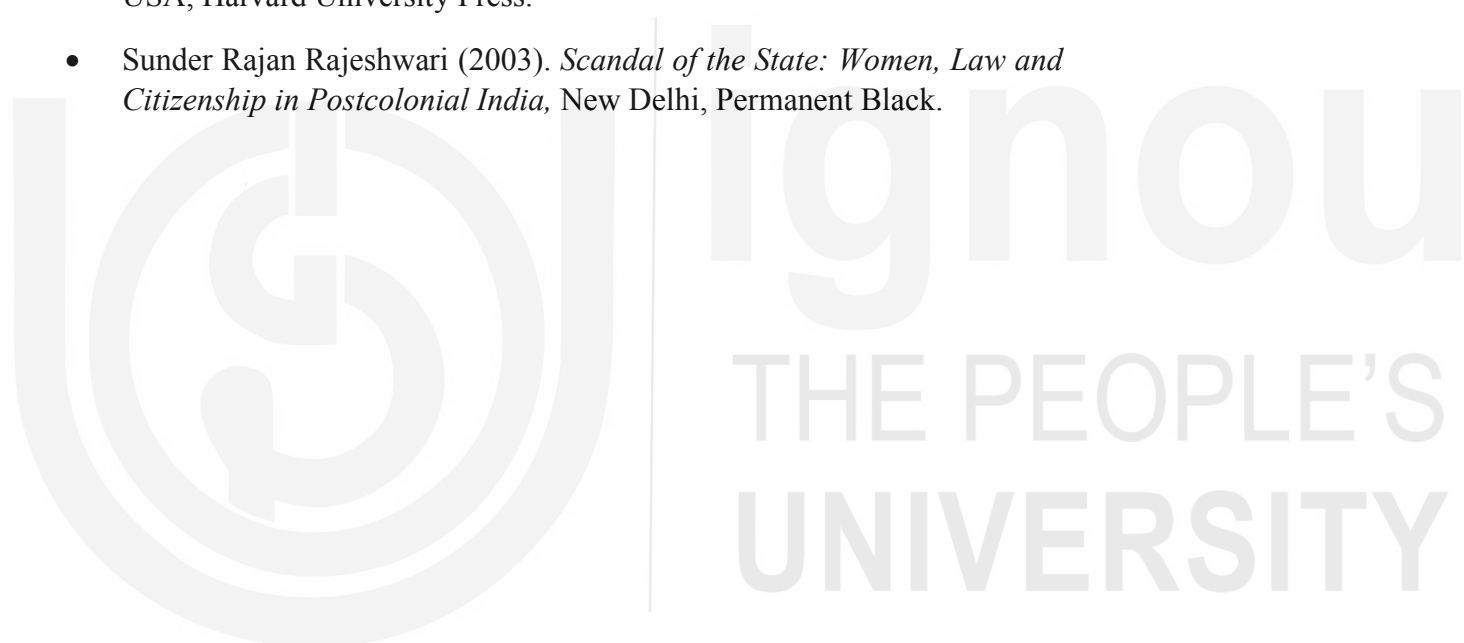
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