

# Gender studies

## Editors

**I. Joseph A. Jerald, Ph.D.**  
Associate Professor of Zoology

**K. Loganathan, Ph.D.**  
Assistant Professor of Chemistry



**CENTRE FOR HUMAN EXCELLENCE**  
**JAMAL MOHAMED COLLEGE (Autonomous)**  
**College with Potential for Excellence**  
Accredited (3<sup>rd</sup> Cycle) with 'A' Grade by NAAC  
DBT Star College Scheme & DST-FIST Funded  
(Affiliated to Bharathidasan University)  
**Tiruchirappalli-620 020**

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**CENTRE FOR HUMAN EXCELLENCE  
JAMAL MOHAMED COLLEGE (AUTONOMOUS)  
TIRUCHIRAPPALLI- 620 020**

Semester	Code	Course	Title of the course	Hours	Credits	Max. Marks	Internal Marks	External Marks
IV / VI	20BCN4AE3 / 20UCN6AE3	Ability Enhancement Course-III	Gender Studies	1	1	100	100	-

**Course Outcomes (COs):**

On successful completion of the course, the learners will be able to:

CO1: Understand the concept of gender, sex and social construction

CO2: Report gender inequality in family and society

CO3: Discuss the various forms of discrimination of women

CO4: Comprehend women's rights in India

CO5: Analyse issues concerning gender inequality; eliminate crime against women and children.

**Unit –I**

**3 hours**

**Gender**

Gender meaning, concept and relevance, differences between gender and sex, social construction of family and masculinity, biological determinism of gender.

**Unit - II**

**3 hours**

**Evolution of Gender Awareness**

Gender inequality in family, society, labor market - organized, unorganized; Feminist thought, understanding the role of gender; women's movement in Europe, USA and pre & post independent India.

**Unit - III**

**3 hours**

**International Conventions and Covenants**

UN conventions, covenants on all the forms of discriminations of women (CEDAW), social right, political right, economical right.

**Unit - IV**

**3 hours**

**Women's rights in India**

Enactment of laws regarding gender discrimination- abolition of sati, abolition of child marriage, enactment of widow remarriage, women's rights in Indian constitution, anti dowry, PNDDT, Domestic works, POCSO, abortion act.

## **Unit - V**

### **Analysis of Gender Inequality**

**3 hours**

Gender inequality at home and neighborhood, work place. Crime against women and children, issues related to women-sexual harassment, female infanticide, Eve teasing, dowry, child trafficking, human trafficking, forced marriage, domestic violence.

#### **References:**

1. Sujata Sen, Gender Studies - Pearson Education, First edition, 2012.
2. N. Manimekalai and S. Suba, Gender Studies, Publication Division, Bharathidasan University, Tiruchirappalli, 2011,

#### **Web References:**

[https://swayam.gov.in/nd2\\_arp19\\_ap54/preview](https://swayam.gov.in/nd2_arp19_ap54/preview)

#### **Activity: I**

- Documentary / Poster presentation
- Elocution- (Speech on gender discrimination for 3 to 5 minutes)
- Case Studies / Highlighting day-to-day issues
- Debating / Report Submission – Gender inequality

#### **Activity: II**

- Quiz / MCQ on Gender studies.

#### **Activity: III**

- Album making– regarding gender related issues

#### **Activity: IV**

- Essay writing / Assignment

#### **EVALUATION COMPONENT:**

##### **Component I : (25 marks)**

Documentary (or) Poster Presentation (or) Elocution - 25 Marks

##### **Component II: (25 marks)**

Quiz (or) MCQ -25 marks

##### **Component III: (25 marks)**

Album Making (or) Case study on a topic (or) Field Visit - 25 marks

##### **Component IV: (25 marks)**

Essay Writing (or) Assignment (Minimum 10 pages) - 25 marks

**TOTAL: 100 marks**

## Unit-I GENDER

### **GENDER MEANING:**

Gender is used to describe **the characteristics of women and men that are socially constructed**. Gender directly means the fact of being male or female. Gender is a **social and cultural construct, which distinguishes differences in the attributes of men and women, and accordingly refers to the roles and responsibilities of men and women**. Gender-based roles and other attributes, therefore, change over time and vary with different cultural contexts. There are four different types of genders that apply to living and nonliving objects. The four genders are **masculine, feminine, neuter and common**. The concept of gender includes the expectations held about the characteristics, aptitudes and likely behaviors of both women and men. This concept is useful in analyzing how commonly shared practices legitimize discrepancies between sexes. Gender is hierarchical and produces inequalities that intersect with other social and economic inequalities. Gender-based discrimination intersects with other factors of discrimination, such as **ethnicity, socioeconomic status, disability, age, geographic location, gender identity and sexual orientation, among others**. This is referred to as **intersectionality**.

### **CONCEPTS AND REVELANCE:**

**Understanding gender and the key concepts is critical to being able to clearly articulate gender**. It will help you avoid stumbling through concepts when you are talking in front of an audience, writing, debating or being interviewed by the press. If you know what you are talking about, say it with confidence and are able to show you are knowledgeable about it by relating it to a variety of issues, you will be taken seriously. It's a good idea to go through the gender concepts outlined below regularly. Read again and again and make sure you understand them. Practice by explaining to a friend, colleague or family what the terms mean and have them ask questions to clarify. Their questions will help you see where you need to be clearer. From your knowledge and reading of issues and events, use practical examples to illustrate the concepts.

**PATRIARCHY:** Patriarchy is the manifestation and institutionalization of male dominance against women and children in families and the extension of this dominance against women in society. Patriarchal sites where men have the power include all relevant institutions of society (legal, economic, religious, family, culture, etc). Patriarchy institutionalizes male privileges in

these same major institutions and is based on the control of women's productive and reproductive abilities. The heterosexual family is the oldest model of patriarchy and is the place that expresses the worst forms of resistance.

**SEXISM:** Sexism is the ideology of male supremacy. It allows men to believe that they are needed for the existence of women, to protect women and to give them identity. Cultural sexism leads to exclusionary practices (that keep women from participating in development), i.e. for example giving preference to boys for education.

**The PUBLIC:** Public is an exclusionary space where men control and distribute the material and social resources (wealth, power, status, commodities) and women are excluded. One method of excluding women from the Public is to make it into a dangerous place where they may face physical or verbal violence, legal exclusion, economic marginalization and humiliation. An example is harassment of women in public places such as public transport terminuses or football stadiums.

**The PRIVATE:** Private is also an exclusionary space where men are considered as the head of the family, due to the privatization of women's bodies, with all decision-making powers conferred upon him and thus the state does not interfere. An example is marital rape which is not acknowledged or legislated against in most countries.

**DEVELOPMENT:** Development is the material and social redistribution of resources and power.

**A STEREOTYPE:** Stereotype is a widely held but oversimplified belief, image or idea about a person, race, group, sex or thing. For example, a widely held stereotype is related to the idea of "good" and "bad" women or girls, where a "good woman" may be seen as a married woman while a single mother or divorced woman is considered as a "bad woman". Backlash from society against gender equality often comes in the form of accusations that gender activists "are just bitter divorced women", for example.

**GENDER:** Gender is the social construction of men's and women's roles in a given culture or location. Gender roles are distinguished from sex roles, which are biologically determined.

**GENDER EQUALITY:** Gender Equality is where all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by

stereotypes, rigid gender roles, or prejudices. Gender equality means that the different behaviors, aspirations and needs of women and men are considered, valued and favored equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female.

**GENDER EQUITY:** Gender Equity refers to fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but considered equivalent in terms of rights, benefits, obligations and opportunities. In the development context, a gender equity goal often requires built-in measures to compensate for the historical and social disadvantages of women. Hence, both gender equity and equality must be pursued in a complementary manner where gender equality is the ultimate goal. In other words, in order to achieve gender equality, it is often necessary to pursue gender equity measures.

**GENDER MAINSTREAMING:** Gender mainstreaming is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally. The ultimate goal of mainstreaming is to achieve gender equality.

**AFFIRMATIVE ACTION:** Affirmative Action refers to policies that take into account race, ethnicity, or gender to promote equal opportunity and to redress historical disadvantages resulting from discrimination.

#### **DIFFERENCE BETWEEN GENDER AND SEX:**

Gender interacts with but is different from **sex, which refers to the different biological and physiological characteristics of females, males and intersex persons, such as chromosomes, hormones and reproductive organs.** Gender and sex are related to but different from gender identity. **Gender identity refers to a person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth.**

## Difference between sex and gender

S.No.	SEX	GENDER
1	Sex refers to the biological and physiological differences between Male and Female on the basis of their reproductive structures.	Gender refers to the social, cultural, behavioral and emotional differences between men and women.
2	Sex has two main categories i.e., male and female	Main categories of Gender are Masculine and Feminine.
3	Sex is determined or inherited by birth	Gender is influenced by social, cultural and behavioral factors
4	Generally, SEX ROLE cannot be changed by time and culture. i.e., only Women can give birth to children and Men can Impregnate.	Gender is flexible term and its ROLE can be changed by Time and culture. Women can perform Men's role (all social duties of men) i.e, be a Doctor, Engineer etc. Men can also adopt women social duties such as feeding and caring kids etc.
5	Sex is created by the reproductive needs, that is biological feature	Gender distinctions are created by social Norms.

## SOCIAL CONSTRUCTION OF FAMILY:

**A social construction is a mutual understanding and accepted reality created by members of a society: something that is not determined by biology or the natural world.** Is there anything that humans have created that holds no real value in the natural world, yet we have assigned a great deal of value to it? If you are thinking of cash, you're right on the money. Humans have determined that certain pieces of paper and metal objects are worth an agreed-upon value. For example, in the United States, a one dollar bill is worth 100 times the value of a penny.

What does this have to do with families? While studying families, we must continually remind ourselves that the idea of the family, and in particular the internalized belief that there is a "normal family," is a social construction. What is a normal family? I suspect that we can each paint a picture in our heads, based on the years each of us has been exposed to portrayals of families in institutions such as the media, schools, government, and health care. Generally, the traditional American family has been identified as the **nuclear family**, most often represented as a male and female heterosexual married couple who is middle class, White, and with several children. When society or the individuals within a society designate one kind of family to be traditional, this may imply a value, or a preference, for this kind of family structure with these particular **social characteristics**.

This is sometimes called the "Leave it to Beaver" family after the popular sitcom television show that ran from 1957 until 1963, pictured below left. A current popular



sitcom, *Modern Family*, which just concluded its 11th season in 2020, also features this traditional family, but includes two other families which feature people of other ethnic groups, and a same-sex couple. Together they form an extended family that all live in the same town. It is important to note, however, that the primacy of the upper middle-class, White family image continues to be emphasized.

As we study families we must keep in mind that this idea of the typical family is not representative of all families, yet it is continually reinforced by the social processes and institutions in our society. Media in particular continually reminds us of what families are “supposed to” look like. Whether you consume big-budget films, social media platforms, video games, and/or books and magazines, take a look. What kind of people and families do you see represented? While representation of women, people of color, and people of differing sexualities and gender expressions has increased in media, they still predominantly play less consequential characters within the plot lines. Although the majority of families in the United States no longer fit the traditional model, social institutions perpetuate the idea of a certain family structure. Government, schools, medical institutions, businesses, and places of worship all reinforce a typical view of family through the forms, activities, requirements, and processes that are shared with the public. How many times have you tried to fill out a form with checkboxes only to find that you did not “fit” into one of the boxes? Typical examples include giving parental choices of “mother” and “father,” couple status choices such as “married” or “single,” and gender choices such as “male” or female,” all of which reinforce a binary view of individuals and families.

### **SOCIAL CONSTRUCTION OF MASCULINITY:**

When we born we are being taught about gender. We are given a “sex” at birth, either “male” or “female”. Throughout childhood we get taught about the roles, behaviors and attributes that are considered appropriate to that female or male identity. **The term “masculinity” refers to the roles, behaviuor and attributes that are associated with maleness and considered appropriate for men.** By the same token, the term “femininity” refers to a society’s ideas about the roles, behaviour and attributes that are considered appropriate for women and associated with femaleness. We deal with these social ideas about masculinity and femininity every day.

**Social constructs of masculinity and socialization play a key role in men's ability to seek help.** Men struggle with emotional expression and the identification of coping mechanisms due

to constructs of masculinity. Meditative practices, which are female dominated in our society, are not as frequently sought out by men. Medical and mental health providers can help men utilize meditative practices as complementary and alternative medicine.

**Firstly**, providers should incorporate a social worker or mental health provider into their referral network. Social workers can provide men with resources to help manage psychosocial stress, including meditative practices. Awareness of psychosocial adjustment, support systems, and coping skills are needed and should be assessed regularly. Having an integrated social worker or mental health provider can help to normalize the stress that cycles alongside health issues and provide easier linking to services.

**Secondly**, providers should talk about masculinity and the barriers men face when seeking help. Men are more likely to seek help if barriers are actively addressed by medical providers. Discussing masculinity and social influences that shape emotional expression can help to normalize the stress that the patient may be experiencing. And

**Thirdly**, patients should be educated on the different services and interventions available for the management of stress. Providers should educate men on meditative practices and potential benefits related to patients' stress-related issues. Similarly, providers should encourage participation in meditative practices pre- and post-medical diagnoses.

In order for providers to gain comfort in talking with men about meditative practices, it is encouraged that providers practice meditation, mindfulness, or yoga themselves.

### **BIOLOGICAL DETERMINISM OF GENDER:**

Most people ordinarily seem to think that sex and gender are coextensive: women are human females, men are human males. Many feminists have historically disagreed and have endorsed the sex/ gender distinction. Provisionally: 'sex' denotes human females and males depending on *biological* features (chromosomes, sex organs, hormones and other physical features); 'gender' denotes women and men depending on *social* factors (social role, position, behaviour or identity). The main feminist motivation for making this distinction was to counter biological determinism or the view that biology is destiny.

A typical example of a biological determinist view is that of Geddes and Thompson who, in 1889, argued that social, psychological and behavioural traits were caused by metabolic state. Women supposedly conserve energy (being 'anabolic') and this makes them passive, conservative, sluggish, stable and uninterested in politics. Men expend their surplus energy (being 'katabolic') and this makes them eager, energetic, passionate, variable and, thereby, interested in political and social matters. These biological 'facts' about metabolic states were

used not only to explain behavioural differences between women and men but also to justify what our social and political arrangements ought to be. More specifically, they were used to argue for withholding from women political rights accorded to men because (according to Geddes and Thompson) “what was decided among the prehistoric Protozoa cannot be annulled by Act of Parliament” (quoted from Moi 1999, 18). It would be inappropriate to grant women political rights, as they are simply not suited to have those rights; it would also be futile since women (due to their biology) would simply not be interested in exercising their political rights. To counter this kind of biological determinism, feminists have argued that behavioural and psychological differences have social, rather than biological, causes. For instance, Simone de Beauvoir famously claimed that one is not born, but rather *becomes* a woman, and that “social discrimination produces in women moral and intellectual effects so profound that they appear to be caused by nature” (Beauvoir 1972 [original 1949], 18; for more, see the entry on Simone de Beauvoir). Commonly observed behavioural traits associated with women and men, then, are not caused by anatomy or chromosomes. Rather, they are culturally learned or acquired.

Although biological determinism of the kind endorsed by Geddes and Thompson is nowadays uncommon, the idea that behavioural and psychological differences between women and men have biological causes has not disappeared. In the 1970s, sex differences were used to argue that women should not become airline pilots since they will be hormonally unstable once a month and, therefore, unable to perform their duties as well as men (Rogers 1999, 11). **More recently, differences in male and female brains have been said to explain behavioural differences;** in particular, the anatomy of corpus callosum, a bundle of nerves that connects the right and left cerebral hemispheres, is thought to be responsible for various psychological and behavioural differences. For instance, in 1992, a *Time* magazine article surveyed then prominent biological explanations of differences between women and men claiming that women's thicker corpus callosums could explain what ‘women's intuition’ is based on and impair women's ability to perform some specialised visual-spatial skills, like reading maps (Gorman 1992). Anne Fausto-Sterling has questioned the idea that differences in **corpus callosums cause behavioural and psychological differences.** First, the corpus callosum is a highly variable piece of anatomy; as a result, generalisations about its size, shape and thickness that hold for women and men in general should be viewed with caution. Second, differences in adult human corpus callosums are not found in infants; this may suggest that physical brain differences actually develop as responses to differential treatment. Third, given that visual-spatial skills (like map reading) can be improved by practice, even if women and men's corpus callosums differ, this does not make the resulting behavioural differences immutable.

## Unit -II

### EVOLUTION OF GENDER AWARENESS

#### **GENDER AWARENESS:**

Gender Awareness is a process which helps to facilitate the exchange of ideas, improve mutual understanding and develop competencies and skills necessary for societal change. It is providing reliable and accessible information to build a better understanding of gender equality as a core value of democratic societies. Gender Equity means fairness of treatment of women and men, according to their respective needs. This may include equal treatment or treatment that is different, but which is considered equivalent in terms of rights, benefits, obligations and opportunities. Gender Equality requires equal enjoyment by women and men of socially – valued goods, opportunities, resources and rewards. Whether general inequality exists, it is generally women who are excluded or disadvantaged in relation to decision making and access to economic and social resources. Gender inequality refers the disparity between men and women in different social, economic & political, cultural & legal aspects. This problem is simply known as gender biasness, which is simple term means the gender stratification, or making difference a male or female.

Illiteracy is one of the factors responsible for gender inequality. The importance of gender to family life begins with the fact that most expectant parents prefer a son to a daughter. Influence continues in the childhood socialization process, after reaching adulthood and gender makes marriage two distinctive relationship. Some of the examples for gender inequality in family are Discrimination towards the Girl Child and Child Marriage. Even once girls are attending school, discrimination follows. The girl child is not treated properly in the family. People still prefer the birth of boy rather than a girl. The girl child is basically trained for household work only. Children specially the girls are married at a very young age. This proves fatal for their overall development and has a negative impact on their health. Child marriage is one of the most devastating examples of gender inequality, as it limits women's opportunities and their ability to reach their full individual potential.

The overall mind-set of a society has a significant impact on gender inequality and it determines the different values of men and women. It is also common for everyone (men and women) to ignore other areas of gender inequality. There are five elements of social inequality. Wealth Inequality, Treatment & Responsibility Inequality, Political Inequality, Life Inequality and Membership Inequality Inequality in Labour Market Inequalities in the labour market take

many forms: inequalities in employment opportunities, wages and hours worked as well as job security. These are characterized by earnings and job insecurity, and have become a focus for policy makers. They are Land or Natural Resources, Labour, Capital, Entrepreneurship, Land or Natural Resources, Labour and Capital. Instead we can classify Gender inequality in following terms they are Mortality Inequality, Natality Inequality, Employment Inequality and Ownership Inequality.

**Mortality Inequality** In this, inequality between women and men directly involves matters of life and death, and takes the brutal form of unusually high mortality rates for women and a consequent preponderance of men in the total population, as opposed to the preponderance of women found in societies with little or no gender bias in health care and nutrition. **Natality Inequality** is the kinds of inequality a preference is given to boys over girls. It is ardent in many of the male dominated societies and these manifests in the form of parents wanting their new born to be a boy rather than a girl. **Employment Inequality** In terms of employment as well as promotion at work women often face greater handicap than men This is clearly exemplified as men getting priorities in getting better work opportunities and pay scale than their female counterparts. **Ownership Inequality** In many societies ownership of property can also in equal. Since ages the traditional rights have favoured men in the most parts of India. The absence of claims to property can not only reduce the voice of women, but also make it harder for women to enter and flourish in commercial, economic and even some social activities.

According to the calculations India and China, the two most populous nations in the world, there is significant data that shows a survival disadvantage for girls less than five years of age. There are approximately 774 million illiterate adults in the world and two-thirds of them are women. Less than 40 percent of countries offer girls and boys equal access to education and only 39 percent of countries have equal proportions of the sexes enrolled in secondary education. Globally, almost 750 million women and girls alive today married before their eighteenth birthday. Child marriage is one the most devastating examples of gender inequality, as it limits women's opportunities and their ability to reach their full individual potential. The mental health effects of sexual assault and rape can have jarring results on women's stability and livelihoods. The prevalence of sexual assault and violence against women is deep and systemic, making it one of the most important examples of gender inequality.

### **Feminist Ideology:**

Feminist is a political, social and cultural movement that aims at equal rights for women. Feminist movement in India has been influenced hugely by developments in the

developed country in one way or other. “Feminist is a range of movements and ideologies that share a common goal to define, establish, and achieve equal political, economic, cultural, personal, and social rights for women”. There are three categories of Feminist they are Liberal Feminist, Radical Feminist and Socialist Feminist.

Liberal Feminist is a particular approach to achieving equality between men and women. It emphasizes the power of an individual person to alert discriminatory practices against women. Liberal feminism aims for individuals to use their own abilities and the democratic process to help women and men to become equal in the eyes of the law and in society. Radical Feminist attempt to draw lines between biological determined behaviour and culturally determined behavior in order to free both men and women as much as possible from their previous narrow gender role. Radical feminist aims to challenge and overthrow patriarchy by opposing standard gender oppression of women and calls for a radical reordering of society. Socialist Feminist views gender inequalities as intrinsic to the capitalist system, which makes vast profits off women’s unpaid labour in the home and underpaid labour in the workforce. Socialist feminist argues that capitalism strengthens and supports the sexist status because men are the ones who currently have power and money. Now today equal salary for both men and women are in the top of socialist feminism aims and demands.

### **Women’s Movements in Europe:**

The women’s liberation movement in Europe was a radical feminist movement that started in the late 1960s and continued through the 1970s and in some cases into the early 1980s. Their aims were to redesign society by changing the perception of women and their roles in society. The following were the major women movement held European nation.

- I. The Birth of Feminist Movements (1848 – 1880)
- II. The Era of Feminist Congresses (1890 – 1914)
- III. On the Feminist Front, From One Post – War Period to another (1920 – 1960)
- IV. The “Movements Year” West of the Iron Curtain (1960s to 1980s)
- V. An Activist Revival in a Globalized World (1990s to the present)

### **Revolutions and Gender Inequality (1789 – 1848)**

In 1790 Feminist demands emerged in similar fashion in a number of European countries, the Dutch Republic, and states and principalities in Italy and Germany. In 1804 Napoleon, who was crowned emperor in France and with regard to gender equality, which

validated the submission of married women to their husbands and consecrated the authority of the pater families. In 1815 the new European which arose from the Congress Vienna was not by nature inclined to promote reform movements even more so those of a feminist nature. In 1820 Saint – Simonian (the First Women’s Newspapers, such as la femme libre) on women’s liberty which they explored in all its aspects without taboos, were discussed in neighbouring countries during the 1820s and 1830s. In 1832 the social utopia developed by the Frenchman Charles Fourier depended on women’s progress towards liberty. In 1848 during the revolutions of the “People’s Spring”, women could be seen on barricades and in democratic clubs in Paris, Vienna, Berlin, Prague, Frankfurt, Milan, Barcelona, Cologne, Venice, and Stockholm.

Louise Michel 29 May 1830 – 9 January 1905 was a teacher and important figure in the Paris Commune. When returning to France she emerged as an important French anarchist and went on speaking tours across Europe. The journalist Brian Doherty has called her the "French Grande Dame of Anarchy." Her use of a black flag at a demonstration in Paris in March 1883 was also the earliest known of what would become known as the anarchy black flag.

### **The Birth of Feminist Movements (1848 – 1880)**

The women of continental Europe were momentarily reduced to silence; new feminist initiatives emerged from the 1850s in England and Scandinavia, in connection with surrounding legal reforms in the fields of matrimony, education, and women’s employment. In 1868 with the support of Members of Parliament such as Lord Henry Brougham, they succeeded in passing a law that facilitated divorce. In the year 1857 the Matrimonial Causes Act, was passed but the married women were still dispossessed of their own property. From 1870 First feminist wave extended to Eastern and Southern Europe.

### **The Era of Feminist Congresses (1890 – 1914)**

The First International Congress of Women’s Rights convened in Paris in 1878 upon the occasion of the third Paris World’s Fair. An historic event attended by many representatives, seven resolutions were passed at the meeting, beginning with the idea that “the adult woman is the equal of the adult man”. The subject of women’s suffrage was deliberately avoided at the Congress, as it was too controversial and not supported by all the attendees. Hubertine Auclert wrote a speech calling for the right to vote for French women the ICW brought together 2,000 women in Berlin. In 1904 The International Woman Suffrage Alliance (IWSA), with 7 million members from 24 countries. The International Conference of Women, which revolved

around the four primary areas of activity of the associations it represented: women's education, professional training and employment, social institutions, and the legal status of women. In 1907 Female German workers called for the First International Conference of Socialist Women in Stuttgart, with women agreeing on the demand for unrestricted suffrage.

### **On the Feminist Front, From One Post – War Period to another (1920 – 1960)**

In 1920 the “Roaring Twenties,” clothing and haircuts shrank (tomboy haircut). However, the “modern woman,” the smoking female student, or the working and financially independent woman remained in the minority. During this period Reforms to the Family Code along with the measures taken to promote the integration of women in political and economic life, led to hopes of a profound change in gender relations. Between 1933 and 1938 feminist associations were forbidden (Germany and in Italy), female activists were reduced to silence, and women were enlisted in large women's organizations under the authority of the party. In Southern European countries such as Greek, Portuguese, and Cypriot women along with women from Switzerland were still kept away from the ballot box. In 1948 The Universal Declaration of Human Rights recognized both gender equality and equality between spouses. A number of Western European countries inscribed gender equality in their new constitutions (France 1946, Italy 1947, Federal Republic of Germany 1949). During 1950 the perception of sexuality evolved, especially that of young people, although European societies during the baby boom wanted stay-at-home mothers, and had difficulty dissociating sexuality and procreation.

### **The “Movements Year” West of the Iron curtain (1960s to 1980s)**

In 1960's The Women's International Democratic Federation (WIDF) initially identified areas of concern included anti-fascism, world peace, child welfare and improving the status of women. In Western democracies the protest movements created a favourable context for the emergence of what is called second wave feminism in the United States and Western Europe. The Italian Parliament approved a law on divorce, and partially decriminalized abortion in 1978. In England, the Equal Pay Act of 1970 was followed in 1975 by the Sex Discrimination Act and the Employment Protection Act against wrongful termination in cases of pregnancy. The Domestic Violence and Matrimonial Proceedings Act as well as the Sexual Offenses (Amendment) Act to strengthen women's rights in the face of sexual violence was passed in 1976.



## **An Activist Revival in a Globalized World (1990s to the Present)**

The 1990s were marked by two changes of a different nature. On the one hand, in the East the fall of the Wall and the collapse of the Communist bloc called into question a certain number of rights and advantages. On the other, after the advances of the preceding period, new questions were emphasized. In addition, gender identity was questioned at the intersection of the feminist and (Lesbian, Gay, Bisexual, Transgender) struggles. In contrast to the notion that we are living in a post-feminist period in which women have gained all rights, observations show the persistence of gender inequality.

## **Women's Movement in USA**

In the USA, the US National Organization for Women (NOW) was created in 1966 with the purpose of bringing about equality for all women. NOW was one important group that fought for the Equal Rights Amendment (ERA). In 1866 Elizabeth Cady Stanton and Susan B. Anthony formed the American Equal Rights Association, an organization for white and black women and men dedicated to the goal of suffrage for all. National Woman Suffrage Association (NWSA). Lucy Stone, Henry Blackwell, and Julia Ward Howe: organized the more conservative American Woman Suffrage Association (AWSA), which was centered in Boston.

Wyoming became the first territory or state in America to grant women suffrage in 1869. In 1870 Louisa Ann Swain became the first woman in the United States to Vote in a general election. In

1874 the Woman's Christian Temperance Union (WCTU) was founded by Annie Wittenmyer to work for the prohibition of alcohol; with Frances Willard at its head (starting in 1876), the WCTU also became an important force in the fight for women's suffrage. In 1940 The incremental gains in income and societal status that women of color made long-term effects on feminist thought. In 1946 Congress of American Women's "Position of the American Woman Today" advocated for the rights of black and minority women. In 1970 First official women's studies program was at San Diego State University. 1972: The Women's Studies Quarterly and Feminist Studies journals are founded as interdisciplinary forums for the exchange of emerging perspectives on women, gender, and sexuality.

In 1866, Elizabeth Cady Stanton and Susan B. Anthony formed the American Equal Rights Association, an organization for white and black women and men dedicated to the goal of suffrage for all.

Perhaps the most well-known women's rights activist in history, Susan B. Anthony was a Quaker family in the north-western corner of Massachusetts. Anthony was raised to be independent and outspoken. Her parents, like many Quakers, believed that men and women should study, live and work as equals and should commit themselves equally to the eradication of cruelty and injustice in the world.

In 1974 the Women's Educational Equity Act (WEEA) is established to fund research, professional development, and a variety of resources to schools to bring attention to gender equity issues. In 1977 The National Women's Studies Association (NWSA) is created. In 1978 Congress includes educational services in the Civil Rights Act designed to eliminate sex bias in school and society. The first meeting of the National Women's Studies Association (NWSA) discusses the subject of whether women's studies were a discipline in its own right. In 1979 Women's studies undergoes an intensely self-reflective period as it grapples with the issues of how to identify the concept of "women," which had largely been defined as white, middle-class, heterosexual, Christian, education women of privilege. In 1980 The National Institute of Education commissions a series of eight monographs on women's studies as well as the Women's Studies Evaluation Handbook. In 1984 the National Organization for Changing Men (NOCM) institutes the "Men's Studies Newsletter." "Women's studies will one day fill libraries and create whole new courses in psychology, sociology, and history."—Betty Friedan, author of the *Feminine Mystique*. In 1990 Development of "Queer Theory" moves to include sexuality studies in women's/gender studies. Rise of third-wave of feminism seeks to challenge or avoid what it deems the second wave's "essentialist" definitions of femininity and uses a poststructuralist interpretation of gender and sexuality as its central ideology during 1990.

### **Women's Movement in India**

The Pre – Independent beginning in the mid-19th century, Initiated when male European colonists began to speak out against the social evils of Sati, from 1915 to Indian independence, when Gandhi incorporated women's movements into the Quit India movement and independent women's organisations began to emerge and finally.

The Post - Independent, which has focused on fair treatment of women at home after marriage, in the work force and right to political parity.

In India, Women's Movement has Two Phases:

- I. Pre – Independent (1850 – 1915)
- II. Post – Independent (1915 – 1947)

## **I. Pre – Independent (1850 – 1915)**

The colonial venture into modernity brought concepts of democracy, equality and individual rights. The rise of the concept of nationalism and introspection of discriminatory practices brought about social reform movements related to caste and gender relations. This Pre – Independence in India was initiated by men to uproot the social evils of sati to allow widow remarriage, to forbid child marriage, and to reduce illiteracy, as well as to regulate the age of consent and to ensure property rights through legal intervention.

### **Some Women's Leader in Pre – Independence India**

Tarabai Shinde – she is activated to worked Stri Purush Tulana and it is considered the first modern Indian Feminist (1850 to 1910).

Pandita Ramabai – Social reformer a champion for the emancipation of women in British India (1858 to 1922)

Kamini Roy – Poet, Suffragette and First Women Honours Graduate in India (1864 to 1933)

Sarala Devi Chaudhurani – early feminist and founder of the Bharat Stree Mahanadal, one of the First Women's Organization in India (1872 to 1945)

Saroj Nalini Dutt - early social reformer who pioneered the formation of Educational Women's Institution in Bengal (1887 to 1925)

Kamini Roy (12 October 1864 – 27 September 1933) was a Bengali poet, social worker and feminist in British India. She was the first woman Honours Graduate in British India.

## **II. Post – Independent (1915 – 1947)**

During this period the struggle against colonial rule intensified. Nationalism became the preeminent cause. Claiming Indian superiority became the tool of cultural revivalism resulting in an essential model of Indian womanhood similar to that of Victorian womanhood: special yet separated from public space. Gandhi legitimized and expanded Indian women's public activities by initiating them into the non-violent civil disobedience movement against the British Raj.

In 1920's A new era for Indian women was emerged and it is defined as 'Feminism' and it was responsible for the creation of localized women's association called All India Women's Conference (AIWC). In 1930's AIWC was closely affiliated with the Indian National Congress. Under the leadership of Mahatma Gandhi, it worked within the nationalist and anti- colonialist freedom movements. Women therefore were a very important part of various nationalist and

anti-colonial efforts, including the civil disobedience movements. During 1947 the feminist agendas and movements became less active right after India's independence, as the nationalist agendas on nation building took precedence over feminist issues. After independence, the All India Women's Conference continued to operate and in 1954 the Indian Communist Party formed its own women's wing known as the National Federation of Indian.

### **Prominent Women's Leader during Post – Independence Period.**

Durgabhai Deshmukh – Public Activist for women's emancipation and was also the founder of Andhra Mahila Sabha (1909 to 1981)

Anuradha Ghandi – An Indian Communist Proletarian and Revolutionary leader and she was a prominent leader of the banded communist party of India (1954 to 2008)

Brinda Karat: First Women of the CPI (M). Politburo and Former Vice President of the All India Democratic Women's Association (AIDWA)

Gita Sahgal: Writer and Journalist on issues of feminism, fundamentalism, racism. A Director of a Prize – Winning Documentary Films and a Women's Rights and Human right activist.

Vandana Shiva: Environmentalist and Prominent leader of the Eco – Feminist Movement

1966: Indira Gandhi became the first female Prime Minister of India. She served as prime minister of India for three consecutive terms (1966–77) and a fourth term from 1980 until she was assassinated in 1984.

Feminists recognizing the inequalities not just between men and women but also within power structures such as caste, tribe, language, religion, region, class etc. The Protection of Women from Domestic Violence Act 2005 is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government from 26 October 2006. The Act provides for the first time in Indian law a "Domestic Violence". "Domestic Violence is not only physical violence but also other forms of violence such as emotional or verbal, sexual and economic abuse". The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. The Act came into force from 9 December 2013. The Criminal Law (Amendment) Act, 2013 introduced changes to the Indian Penal Code, making sexual harassment an expressed offence under Section 354 A, which is punishable up to three years of imprisonment and or with fine.

The revised statutes of 2013 Indian law, in section 376A, also mandates minimum punishment

in certain cases. For instance, if the sexual assault inflicts an injury which causes death or causes the victim to be in a persistent vegetative state, then the convicted rapist must be sentenced to rigorous imprisonment of at least twenty years and up to the remainder of the natural life or with a death penalty. In the case of "Gang Rape", the same mandatory sentencing is now required by law. The convicted is also required to pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim, and per Section 357 B. Death penalty for the most extreme rape cases is specified and the new law has made it mandatory for all government and privately run hospitals in India to give free first aid and medical treatment to victims of rape. The 2013 law also increased the age of consent from 16 years to 18 years, and any sexual activity with anyone less than age of 18, irrespective of consent, now constitutes statutory rape.

In 2014, an Indian family court in Mumbai ruled that a husband objecting to his wife wearing a kurta and jeans and forcing her to wear a sari amounted to cruelty, which led to the wife being granted a divorce. In 2016 a judgment of the Delhi high court was made public in which it was ruled that the eldest female member of a Hindu Undivided Family can be its "Karta". In 1991, the Kerala High Court restricted entry of women above the age of 10 and below the age of 50 from Sabarimala Shrine as they were of the menstruating age. However, on 28 September 2018, the Supreme Court of India lifted the ban on the entry of women. Kerala maintains very high relative levels of female literacy and women's health, as well as greater female inheritance and property rights. Now, in the early 21<sup>st</sup> century, the focus of the Indian feminist movement has gone beyond treating women as useful members of society and a right to parity, but also having the power to decide the course of their personal lives and the right of self-determination.

### Unit III

#### INTERNATIONAL CONVENTIONS AND COVENANTS

We are all entitled to human rights. These include the right to live free from violence and discrimination; to enjoy the highest attainable standard of physical and mental health; to be educated; to own property; to vote; and to earn an equal wage. But across the globe many women and girls still face discrimination on the basis of sex and gender. Gender inequality underpins many problems which disproportionately affect women and girls, such as domestic and sexual violence, lower pay, lack of access to education, and inadequate healthcare. For many years women's rights movements have fought hard to address this inequality, campaigning to change laws or taking to the streets to demand their rights are respected. Various new movements have flourished in the digital age, such as the **#MeToo** campaign which highlights the prevalence of gender-based violence and sexual harassment. In the subsequent decades women's rights again became an important issue in the English-speaking world. By the 1960s the movement was called "feminism" or "women's liberation." Reformers wanted the same pay as men, equal rights in law, and the freedom to plan their families or not have children at all.

The demand for equal rights for women by various individuals, different organizations made the United Nations to take necessary global actions. The UN Charter formulated in 1945 adopted the principle of equal rights for men and women for the first time. The Universal Declaration of Human Rights of UN also spelt out equality and forbade discrimination on any ground such as sex, race, religion etc. The real through in the global sensitization for the equality of the sexes came through with the declaration of 1976-1985 as the International Decade for Women's Equality. Various programmes and policies for gender equality were adopted by the member states of UN as a part of the celebration of the women's decade. The Declaration was also followed by a number of World Conferences on Women that advocated programmes for the advancement of women. The Third UN Conference on Women held at Nairobi in 1985 called for equality, women's autonomy and power, recognition of women's paid work, health services and family planning, better educational opportunities, and promotion of peace. There were also other UN conferences such as the Conference on Environment and Development held at Rio (1992).

International conference on Human Right held at Vienna in 1993, International Conference on Population and Development held at Cairo 1994 etc., which advocated

empowerment and advancement of women as an integral part of the development process. The Fourth World Conference on Women held in Beijing in 1995 was an important milestone in promoting women's issues at the international level. The Declaration adopted at the Conference, which was signed by 189 countries emphasized that "women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power are fundamental for the advancement of equality, development and peace". All these attempts by the International community led by UN and its corollary organizations made an impact in improving the status of women in the society. The UN efforts made national governments take steps to ensure that the realities of women's lives are more explicitly addressed in their planning and policy making to eradicate poverty. The deplorable situation of women in several countries in terms of their status, their access to rights in various areas like education, health, employment, decision-making in family, society, public and private governance etc.

#### **United Nations and World Conferences:**

In 1946 the United Nations established a Commission on the Status of Women. Originally as the Section on the Status of Women, Human Rights Division, Department of Social Affairs, and now part of the Economic and Social Council (ECOSOC). Since 1975 the UN has held a series of world conferences on women's issues, starting with the World Conference of the International Women's Year in Mexico City. These conferences created an international forum for women's rights, but also illustrated divisions between women of different cultures and the difficulties of attempting to apply principles universally. Four World Conferences have been held, the first in Mexico City (International Women's Year, 1975), the second in Copenhagen (1980) and the third in Nairobi (1985). At the Fourth World Conference on Women in Beijing (1995), *The Platform for Action* was signed. This included a commitment to achieve "gender equality and the empowerment of women".

The same commitment was reaffirmed by all U.N. member nations at the Millennium Summit in 2000 and was reflected in the Millennium Development Goals to be achieved by 2015. In 2010, UN Women was founded by merging of Division for the Advancement of Women, International Research and Training Institute for the Advancement of Women, Office of the Special Adviser on Gender Issues Advancement of Women and United Nations Development Fund for Women by General Assembly Resolution 63/311. UN Women is the UN organization delivering programmes, policies and standards that uphold women's human rights and ensure that every woman and girl lives up to her full potential.

## **International Women's Right:**

Compared to the Western women's right's movements, international women's rights are plagued with different issues. While it is called international women's rights, it is also can be known as third world feminism. The international women's rights deal with issues such as marriage, sexual slavery, forced child marriage, and female genital mutilation. According to the organization, EQUAL MEANS EQUAL, "the United Nations came with horrifying statistics: Victims of female genital mutilation – a ritual to remove a young girl's clitoris to ensure her fidelity – number 130 million. Some 60 million girls become 'child brides,' forced to marry, sometimes after being kidnapped and raped".

Something that has been created to combat such things is the Convention on the Elimination of All Forms of Discrimination against Women. It was set in place to help against discrimination in education, marriage, sexual violence, and politics. While this does not only pertain to non- western countries, 193 states have ratified it. Some of the countries that have opposed it including Iran, Palau, Somalia, North and South Sudan, Tonga, and The United States.

Women in particular, are often denied equal enjoyment of their human rights, by virtue of the lesser status ascribed to them by tradition and custom or as a result of overt and covert discrimination. Many women experience distinct forms of discrimination, due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage. International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) otherwise called as International Bill of Rights of Women was adopted in 1979 to reinforce the provisions of existing international instruments designed to combat the continuing discrimination against women. It is the principal international human rights treaty addressing the rights of women. It came into force in 1981 after being ratified by the stipulated minimum of 20 countries.

## **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW):**

**The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)** is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3



September 1981 and has been ratified by 189 states. The Convention has a similar format to the Convention on the Elimination of All Forms of Racial Discrimination, "both with regard to the scope of its substantive obligations and its international monitoring mechanisms". The Convention is structured in six parts with 30 articles total.

**Part I** (Articles 1-6) focuses on non-discrimination, sex stereotypes, and sex trafficking.

**Part II** (Articles 7-9) outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.

**Part III** (Articles 10-14) describes the economic and social rights of women, particularly focusing on education, employment, and health. Part III also includes special protections for rural women and the problems they face.

**Part IV** (Article 15 and 16) outlines women's right to equality in marriage and family life along with the right to equality before the law.

**Part V** (Articles 17-22) establishes the Committee on the Elimination of Discrimination against Women as well as the states parties' reporting procedure.

**Part VI** (Articles 23-30) describes the effects of the Convention on other treaties, the commitment of the state parties and the administration of the Convention.

#### **Core Provisions:**

**Article 1** defines discrimination against women in the following terms:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

**Article 2** mandates that states parties ratifying the Convention declare intent to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises.

**Article 3** requires states parties to guarantee basic human rights and fundamental freedoms to women "on a basis of equality with men" through the "political, social, economic, and cultural fields."

**Article 4** notes that “adoption of special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination”. It adds that special protection for maternity is not regarded as gender discrimination.

**Article 5** requires states parties to take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped role for men and women. It also mandates the states parties “to ensure the recognition of the common responsibility of men and women in the upbringing and development of their children”.

**Article 6** obliges states parties to “take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women”.

**Article 7** guarantees women equality in political and public life with a focus on equality in voting, participation in government, and participation in “non-governmental organizations and associations concerned with the public and political life of the country”.

**Article 8** provides that states parties will guarantee women's equal “opportunity to represent their Government at the international level and to participate in the work of international organizations”.

**Article 9** mandates state parties to “grant women equal rights with men to acquire, change or retain their nationality” and equal rights” with respect to the nationality of their children”.

**Article 10** necessitates equal opportunity in education for female students and encourages coeducation. It also provides equal access to athletics, scholarships and grants as well as requires “reduction in female students' dropout rates”.

**Article 11** outlines the right to work for women as “an unalienable right of all human beings”. It requires equal pay for equal work, the right to social security, paid leave and maternity leave “with pay or with comparable social benefits without loss of former employment, seniority or social allowances.” Dismissal on the grounds of maternity, pregnancy or status of marriage shall be prohibited with sanction.

**Article 12** creates the obligation of states parties to “take all appropriate measures to eliminate discrimination against women in the field of healthcare in order to ensure access to health care services, including those related to family planning”.

**Article 13** guarantees equality to women “in economic and social life”, especially with respect to “the right to family benefits, the right to bank loans, mortgages and other forms of financial

credit, and the right to participate in recreational activities, sports and all aspects of cultural life”.

**Article 14** provides protections for rural women and their special problems, ensuring the right of women to participate in development programs, “to have access to adequate health care facilities”, “to participate in all community activities”, “to have access to agricultural credit” and “to enjoy adequate living conditions”.

**Article 15** obliges states parties to guarantee “women equality with men before the law”, including “a legal capacity identical to that of men”. It also accords “to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile”.

**Article 16** prohibits “discrimination against women in all matters relating to marriage and family relations”. In particular, it provides men and women with “the same right to enter into marriage, the same right freely to choose a spouse”, “the same rights and responsibilities during marriage and at its dissolution”, “the same rights and responsibilities as parents”, “the same rights to decide freely and responsibly on the number and spacing of their children”, “the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation” “the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration”.

**Articles 17-24** These articles describe the composition and procedures of the CEDAW Committee, like the hierarchical structure and rules and regulations of systematic procedure of the relationship between CEDAW and national and international legislation and the obligation of States to take all steps necessary to implement CEDAW in full form.

#### **Articles 25-30** (Administration of CEDAW)

These articles describe the general administrative procedures concerning enforcement of CEDAW, ratification and entering reservations of concerned states.

CEDAW share the following agenda on women's human rights and gender equality:

1. Demand women's participation in decision-making at all levels
2. Rejection of violence against women as it impedes the advancement of women and maintains their subordinate status

3. Equality of women and men under the law; protection of women and girls through the rule of law
4. Demand security forces and systems to protect women and girls from gender-based violence
5. Recognition of the fact that distinct experiences and burdens of women and girls come from systemic discrimination
6. Ensure that women's experiences, needs and perspectives are incorporated into the political, legal and social decisions that determine the achievement of just and lasting peace

**CEDAW** is significant in the international human rights framework because it is exclusively devoted to gender equality. CEDAW spells out in detail women's human right to equality and non-discrimination, and maps out the range of actions that must be taken to achieve this equality. It is one of the core international human rights treaties of the United Nations and it requires States parties to undertake legal obligations to respect protect and fulfill women's human rights. It provides a complete definition of sex-based discrimination, described as any exclusion, restriction or distinction on the grounds of sex, which intentionally or unintentionally impairs or nullifies the recognition, enjoyment and exercise of women's social, cultural, political and economic rights. CEDAW recognises the root causes of discrimination, including within culture. The Convention provides the basis for **realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life** including the right to vote and to stand for election as well as education, health and employment. The impact of this CEDAW on domestic gender practices may be manifold. It calls for Constitutional changes, Executive and legislative policy change and Judicial Enforcement.

India ratified the convention in July 1993 soon after the World Conference on Human Rights at Vienna. India did not make any constitutional amendments with regard to the convention as gender equity is already enshrined in the Indian constitution. In the initial and subsequent reports submitted to the Committee on the Elimination of all forms of Discrimination against Women, the government of India elaborates the steps taken for the implementation of the convention. There had already been certain institutional provisions to uphold gender equality in India. India has a Department for the Welfare of Women and Child Development at the Centre for the advancement of women. In addition, the National

Commission for Women, established in 1992, was a statutory ombudsperson for women. The Central Social Welfare Board was set up in 1953, networked with more than 12,000 non-governmental organizations working for women's advancement. At the State level, Departments of Women and Child Development and State Commissions for Women formed part of India's institutional systems. From beginning the family disputes were handled by the Civil Courts in their Jurisdictions. In line with the need for greater focus on Family Disputes, the Family Court Act was passed on 14<sup>th</sup> September 1984 in the Parliament. The family court gives matrimonial relief which includes nullity of marriage, judicial separation, divorce, restitution of conjugal rights, declaration as to the validity of marriage and matrimonial status of the person, property of the spouses or any of them and a declaration as to the legitimacy of any person, guardianship or custody of any minor, maintenance including the proceeding under the Cr. PC. As on 31<sup>st</sup> December 2018, there are 535 Family Courts functioning in the Country. Besides these sincere efforts, the government of India has taken certain steps to comply with the provisions of CEDAW.

Apart from these major international conventions that affect women's right and their human rights there are some other conventions that address the issues affecting specific aspects of women's lives. These include Discrimination (Employment and Occupation) Convention, the Convention against Discrimination in Education, the Equal Remuneration Convention, the Slavery Convention, the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Nationality of Married Women, the Declaration on the Elimination of Violence Against Women, the Declaration on the Protection of Women and Children in Emergency Armed Conflict, the Conventions on the Rights of Migrant Workers and Members of their Families etc. Let us briefly consider the provisions of some of these Conventions.

#### **CONVENTION ON THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS: 1952.**

The United Nations recognized that effective action to prevent and combat trafficking in persons across countries, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination. There shall be measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights. Despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there was no universal

instrument that addresses all aspects of trafficking in persons and this resulted in the inadequate measures for the protection of those vulnerable to trafficking. Therefore, the UN General Assembly decided to have an international instrument addressing trafficking in women and children, which resulted in the adoption of this convention. The purposes of this Protocol are: to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among State Parties in order to meet those objectives. For the purposes of this Protocol “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Convention on the Political Rights of Women: The UN Charter enshrines the principle of equality of rights of men and women. It recognizes that men and women in any society shall have equal status in the enjoyment and exercise of political rights and that everyone has the right to take part in the government of his/hes country directly or indirectly through freely chosen representatives, and has the right to equal access to public service in his/her country. The Convention adopted in 1952 entails that woman should on an equal footing with men enjoy the right to vote in all elections, right to be elected to all publicly elected bodies established by national law, and the right to hold public office and to exercise all public functions established by the national laws. Convention on the Nationality of Married Women: 1957.

The Convention on the Nationality of Married Women that was adopted by UN in 1957 reaffirms article 15 of the Universal Declaration of Human Rights, which enshrines the right of all human beings to nationality and that no one shall be arbitrarily deprived of nationality or the right to change nationality. The Convention is designed to prevent the hardships caused as a result of the conflict of laws whereby women who had married foreign nationals were deprived of their own nationality without their consent or were rendered stateless, especially in the event of divorce. It assures that a married woman’s nationality is not automatically altered because of her marital status and the nationality of her husband, and secures a married woman’s right to her own nationality. The Convention supports for the general principle that men and women have equal rights to acquire, change or retain their nationality. It stipulates

that neither the celebration nor the dissolution of marriage between one of its nationals and a foreign national, nor the change of nationality by the husband during marriage, shall automatically affect the nationality of the wife. Furthermore, the Convention provides that a foreign wife of a national may, at her request, acquire the nationality of her husband through special naturalization procedures, subject to limitations dictated by interests of national security or public policy. Convention against Discrimination in Education: (1960).

The right to education forms an integral part of the mandate of The United Nations Educational, Scientific and Cultural Organization (UNESCO). UNESCO's Constitution establishes the fundamental principle of equality of opportunity for all in education. The Convention against Discrimination in Education gives expression to the fundamental principles of non-discrimination and equality of opportunity for all, as enshrined in the UNESCO Constitution. UNESCO has addressed the question of the right to education by affirming, through the Convention, its determination to apply the prescriptions and principles of the Universal Declaration of Human Rights (1948).

The Convention prohibits any discrimination in the field of education "based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth". Articles 2 and 26 of the Convention against Discrimination in Education proscribe on the one hand elimination of any form of discrimination and on the other seek to promote equality of opportunity and treatment for all persons for the right to education. The Convention was adopted by the General Conference of UNESCO on 14 December 1960.

#### **DECLARATION ON THE PROTECTION OF WOMEN AND CHILDREN IN EMERGENCY ARMED CONFLICT: (1974).**

In periods of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence etc. women and children belonging to the civilian population are too often the victims of inhuman acts and consequently suffer serious harm. The suffering of women and children may be even more in many areas of the world, especially in those areas subject to suppression, aggression, colonialism, racism, alien domination and foreign subjugation. IN1970 the Economic and Social Council requested the General Assembly to consider the possibility of drafting a declaration on the protection of women and children in emergency or wartime, UN adopted the resolution on Declaration on the Protection on Women and Children in Emergency Armed Conflict in the year 1974.

## **DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN: (1993).**

It was recognized in the Nairobi Forward-looking Strategies for the Advancement of Women (for more details refer unit 12 of this course) that violence against women is an obstacle to the achievement of equality, development and peace, and recommended a set of measures to combat violence against women. Taking into consideration those recommendations and also to assist the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women UN adopted the Declaration on the Elimination of Violence against Women in 1993. UN affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms.

It also recognizes that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. For the purposes of this Declaration, the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. The definition is amplified in article 2 of the Declaration, which identifies three areas in which violence against women commonly takes place.

1. Physical, sexual and psychological violence that occurs in the family, including battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation.
2. Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution.
3. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. According to this declaration women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, and civil or any other field.



One major impact of this convention on India is the adoption of the Protection of Women from the Domestic Violence Act, 2005, which seeks to provide protection to victims of violence within the family. The Act will be applicable to all States and Union Territories in India except Jammu and Kashmir. Domestic violence, as per the Act, constitutes physical or mental harm, including sexual, verbal, emotional or economic abuse by a male member of the family or anyone living under the same roof. Harassment of the victim with a view to coercing her or any other person related to her to meet any unlawful demand for dowry or property is also covered under the new law.

The right to equality and guarantees of non-discrimination in all aspects of life and the more specific rights and privileges for women in fields such as employment, education and welfare have been incorporated into a series of international human rights texts, many a time with the specific objective of empowerment of women in society. In addition to these many of the specialized agencies of UN like ILO, UNICEF etc. (and geographical unions like European Union etc.) set out various conventions, agreements, and declarations protecting the rights and privileges relating to women. Whether all these initiatives really helped in enhancing the status of women in the member states is a matter to be examined. On a close scrutiny we can see that there are many loopholes in this international set up. Many of these declarations/treaties are not compulsory for the member states to ratify.

For example, CEDAW is not ratified by all member states. The ratification of treaties binds the member state to adopt certain legislative and/or constitutional amendments to fulfill the implementation of the treaty. But the implementation of the treaty provisions on ground level is left to the discretion of the member state. Not only that most of the conventions have provisions for reservation, which means the member country can request for omission (on religious, racial, linguistic or some other grounds) of any particular provision of the treaty while ratifying the treaty. As Gonzalez (2001) argues the equality of men and women in all spheres of life cannot be fully achieved through mere signature, ratification, or accession to an international treaty. It is very important that the national government and other agencies show extreme commitment in the right spirit and practically implement the provisions at the ground level. Nonetheless, international human rights law could be an effective instrument for the promotion of social and political awareness of women's issues throughout the globe, which is also conditioned on the degree of social advancement, education, and information in each country.

The present unit gives an overview of the various facets of UN activities for the promotion and protection of gender rights and equality. UN is the platform for addressing the issues of gender rights and equality at the international level. It performs a useful role in providing an international forum to formulate world public opinion on matters of women's rights and also performs a useful service in assembling and making available information regarding the women's rights throughout the world. The willingness of the states to submit reports on situations of gender rights amounts to the recognition of the authority of UN, which transcends national boundaries. There are monitoring mechanisms to overview the implementation of the Conventions. However weak these mechanisms are, they represent great advancements in international relations because previously States considered questions of human rights falling within their domestic jurisdiction and beyond the purview of international action. Despite these accomplishments towards achieving the human rights and gender rights, there remains much to be done.

## **Social rights**

Social rights include the rights to an adequate standard of living, affordable housing, food, education, an equitable health system, and social security based on respect, not sanctions. Health is defined by the World Health Organization as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". The **Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)** is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women The Convention is structured in six parts with 30 articles total. Article 15 and 16 outlines women's right to equality in marriage and family life along with the right to equality before the law.

### **Article 15**

1. States Parties shall accord to women equality with men before the law
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity, In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

#### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women;

(a) The same right to enter into marriage

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent

(c) The same rights and responsibilities during marriage and at its dissolution.

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children, in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount. The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(g) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory

The International Covenant on Economic, Social and Cultural Rights states at Article 3 that "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant", at the International Conference on Population and Development (ICPD) in Cairo, and by the Beijing Declaration and Beijing Platform for Action in 1995. Reproductive rights

are often defined to include freedom from female genital mutilation (FGM), and forced abortion and forced sterilization. The UN Declaration on the Elimination of Violence Against Women states, "violence against women is a manifestation of historically unequal power relations between men and women" and "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."

The Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention, provides the following definition of violence against women: "violence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". The Vienna Declaration and Programme of Action (VDPA) is a human rights declaration adopted by consensus at the World Conference on Human Rights on 25 June 1993 in Vienna, Austria. This declaration recognizes women's rights as being protected human rights. Paragraph 18 reads: The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights.

The **Protection of Women from Domestic Violence Act 2005** is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government and Ministry of Women and Child Development on 26 October 2006. The Act provides a definition of "domestic violence" for the first time in Indian law, with this definition being broad and including not only physical violence, but also other forms of violence such as emotional and psychological abuse. **The Criminal Law (Amendment) Act, 2013 (Nirbhaya Act)** is an Indian legislation passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, which provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences.

## **Political rights**

Political rights include rights of participation in civil society and politics such as freedom of association, the right to assemble, the right to petition, the right of self-defense, and the right to vote. During the 19th century some women began to ask for, demand, and then agitate and demonstrate for the right to vote – the right to participate in their government and

its law making. During the 19th century the right to vote was gradually extended in many countries, and women started to campaign for their right to vote. Articles 7-9 of **The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)** outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.

#### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women on equal terms with men, the right;

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

#### **Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure to particular that neither marriage to an alien nor change of nationality by the husband during marriage nor change of nationality; by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

In 1893 New Zealand became the first country to give women the right to vote on a national level. Australia gave women the right to vote in 1902. A number of Nordic countries gave women the right to vote in the early 20<sup>th</sup> century Finland (1906), Norway (1913),

Denmark and Iceland (1915) the Netherlands (1917), Austria, Azerbaijan, Canada, Czechoslovakia, Georgia, Poland and Sweden (1918), Germany and Luxembourg (1919), Turkey (1934), and the United States (1920). Late adopters in Europe were Greece in 1952, Switzerland (1971) at federal level; 1959–1991 on local issues at canton level), Portugal (1976 on equal terms with men, with restrictions since 1931) as well as the microstates of San Marino in 1959, Monaco in 1962, Andorra in 1970, and Liechtenstein in 1984.

In Canada, most provinces enacted women's suffrage between 1917 and 1919, late adopters being Prince Edward Island in 1922, Newfoundland in 1925 and Quebec in 1940. In Latin America some countries gave women the right to vote in the first half of the 20th century – Ecuador (1929), Brazil (1932), El Salvador (1939), Dominican Republic (1942), Guatemala (1956) and Argentina (1946). In India, under colonial rule, universal suffrage was granted in 1935. Other Asian countries gave women the right to vote in the mid-20th century – Japan (1945), China (1947) and Indonesia (1955). In Africa, women generally got the right to vote along with men through universal suffrage – Liberia (1947), Uganda (1958) and Nigeria (1960). In many countries in the Middle East universal suffrage was acquired after World War II, although in others, such as Kuwait, suffrage is very limited. On 16 May 2005, the Parliament of Kuwait extended suffrage to women by a 35–23 vote.

### **Economic Rights**

Right to Work, Right to Adequate Wages, Right to Property, Right to Rest and Leisure, Right to Economic and Social Security Right to fixed hours of Work were the basic economic rights (Articles 10-14) of The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) describes the economic and social rights of women, particularly focusing on education, employment, and health. Part III also includes special protections for rural women and the problems they face.

### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women.

(a) The same conditions for career and vocational guidance for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in

urban areas; this equality shall be ensure in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of text books and school programmes and adaptation of teaching methods.

(d) The same opportunities to benefit from scholarships and other study grants.

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing at the earliest possible time, any gap in education existing between men and women.

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely. (g) The same opportunities to participate actively in sports and physical education.

(h) Access to specific educational information to help to ensure the health and well being of families, including information and advice on family planning.

## **Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of women and women, the same rights, in particular

(a)The right to work as an inalienable right of all human beings;

(b)The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment'

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training.

(d)The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures;

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of marriage or of maternity leave and discriminate in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowance;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them 3. Protective legislations relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repeated or extended as necessary.

### **Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation

### **Article 13**

States Parties shall take all appropriate; measure to eliminate discrimination against women in other areas of economic and social life in order to ensure on a basis of equality of men and women, the same rights, in particular: - a) The right to family benefits b) The right to bank



loans, mortgages and other forms of financial credit c) The right to participate in recreational activities, sports and all aspects of cultural life

#### **Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the nonmonetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right;

(a) To participate in the elaboration and implementation of development planning at all levels.

(b) To have access to adequate health care facilities, including information, counseling and services in family planning.

(c) To benefit directly from social security programmes.

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter-alia, the benefit of all community and extension services, in order to increase their technical proficiency.

(e) To organize self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment.

(f) To participate in all community activities

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

The rights of women and men to have equal pay and equal benefits for equal work were openly denied. In some European countries, married women could not work without the consent of their husbands until a few decades ago, for example in France until 1965 and in Spain until 1975. In addition, marriage bars, a practice adopted from the late 19th century to the 1970s across many countries, including Austria, Australia, Ireland, Canada, and Switzerland, restricted married women from employment in many professions. A key issue towards insuring

gender equality in the workplace is the respecting of maternity rights and reproductive rights of women. Maternity leave (and paternity leave in some countries) and parental leave are temporary periods of absence from employment granted immediately before and after childbirth in order to support the mother's full recovery and grant time to care for the baby. Different countries have different rules regarding maternity leave, paternity leave and parental leave. In the European Union (EU) the policies vary significantly by country, but the EU members must abide by the minimum standards of the Pregnant Workers Directive and Parental Leave Directive. United States and Britain began to challenge laws that denied them the right to their property once they married. Under the common law doctrine of *coverture* husbands gained control of their wives' real estate and wages. Beginning in the 1840s, state legislatures in the United States and the British Parliament began passing statutes that protected women's property from their husbands and their husbands' creditors. Property rights for women continued to be restricted in many European countries until legal reforms of the 1960-70s

In India the Maternity (Amendment) Bill 2017, an amendment to the Maternity Benefit Act, 1961, was passed; it protects the employment of women during the time of her maternity and entitles her to a 'maternity benefit' – i.e. full paid absence from work – to take care for her child. The act is applicable to all establishments employing 10 or more persons. As per the Act, to be eligible for maternity benefit, a woman must have been working as an employee in an establishment for a period of at least 80 days in the past 12 months. Payment during the leave period is based on the average daily wage for the period of actual absence. The Supreme Court of India granted women officers the legal right to be considered for permanent commissions for a long tenure with the Indian Air Force. The **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** is a legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013.<sup>[1]</sup> The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013.

**The Hindu Succession (Amendment) Act, 2005**, an amendment to the Hindu Succession Act, 1956, received the assent from President of India on 5 September 2005 and was given effect from 9 September 2005. It was essentially meant for removing gender discriminatory provisions regarding property rights in the Hindu Succession Act, 1956. It was

a revolutionary step in the field of Indian legislation regarding rights of women in India. The amendment has tremendously balanced the property rights of male and female siblings. In 2008, the Supreme Court ruled that the law has retrospective effect, and for the daughter to become a co-sharer with her male siblings, the father does not have to be alive on 9 September 2005. The Supreme Court also ruled that the amendment was applicable to all partition suits filed before 2005 and pending when the amendment was framed. This amendment is in consonance with the right of equality as enshrined under Article 14, 15, & 21 of the constitution of India.

## UNIT IV

### WOMEN'S RIGHTS IN INDIA

#### **ENACTMENT OF LAWS REGARDING GENDER DISCRIMINATION:**

The women have been discriminated in the country from time unknown. They have been treated in a very unfair manner. It is sad especially since there are innumerable many goddesses worshipped in this country. The country has been striving ever since the independence to protect the women from discrimination. The Merriam - Webster Dictionary defined discrimination as “the practice of unfairly treating a person or group of people differently from other people or groups of people.” Discrimination strikes at the very heart of being human. It is treating someone differently simply because of who they are or what they believe. We all have the right to be treated equally, regardless of our race, ethnicity, nationality, class, caste, religion, belief, sex, language, sexual orientation, gender identity, age, health or other status. Yet all too often we hear heart-breaking stories of people who suffer cruelty simply for belonging to a “different” group from those in power.

#### **CONSTITUTIONAL PROVISIONS:**

The Constitution of India plays a pioneer role in protecting the women from discrimination and ensuring gender justice in the present times. It can be said that the Constitution being supreme law of the land significantly addresses the questions related to woman and also responds to the challenges. The whole legal system is to be framed according to the provisions of the Constitution of India. But law alone cannot change the society in a night, but it will certainly bring positive changes and also ensure that the discriminated cannot be dealt in any manner whatsoever.

#### **Equality before law:**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Article 14, therefore, not only provides the British concept of equality before law but also gives equal protection of law which is an American concept. The provisions have wide connotations and very protect the women form discrimination from their counterparts. Article 15 reads as follows: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them

2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -access to shops, public restaurants, hotels and palaces of public entertainment; or - the use of wells, tanks, bathing Ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

3. Nothing in this article shall prevent the State from making any special provision for women and children

4. Nothing in this article or in clause ( 2 ) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

Thus, Article 15(1) specifically prohibits any kind of discrimination against women on the basis of sex, caste etc. and article 15(3) makes special provision for the women favouring laws in order to protect the women and uplift them from such discrimination.

### **Equality of opportunity in matters of public employment:**

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State

2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State

3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment

Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State

Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination

Article 16 of the Constitution provides for equality of opportunity to all, in matters relating to public employment or appointment to any office and specifically forbids

discrimination inter-alia on the ground of sex. These articles are all justiciable and form the basis of our legal-constitutional edifice.

### **BAN ON PRENATAL DIAGNOSTIC TESTING :**

Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 is an Act of the Parliament of India enacted to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination. This process began in the early 1990s when ultrasound techniques gained widespread use in India. There was a tendency for families to continuously produce children until a male child was born. Foetal sex determination and sex selective abortion by medical professionals has today grown into a Rs. 1,000 crore industries (US\$ 244 million). Social discrimination against women and a preference for sons have promoted. According to the decennial Indian census, the sex ratio in the 0-6 age group in India went from 104.0 males per 100 females in 1981, to 105.8 in 1991, to 107.8 in 2001, to 109.4 in 2011. The ratio is significantly higher in certain states such as Punjab and Haryana (126.1 and 122.0, as of 2001). The main purpose of enacting the act is to ban the use of sex selection techniques before or after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortion.

### **THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013:**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. It was reported by the International Labour Organization that very few Indian employers were compliant to this statute. Most Indian employers have not implemented the law despite the legal requirement that any workplace with more than 10 employees need to implement it. The government has threatened to take stern action against employers who fail to comply with this law.

1. Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;
2. The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;
3. To make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

### **HINDU SUCCESSION ACT, 1956:**

The Hindu Succession Act, 1956 is an Act of the Parliament of India enacted to amend and codify the law relating to intestate or unwilled succession, among Hindus, Buddhists, Jains, and Sikhs. The significant amendment related to removal of discrimination was made in the year 2005 by the Hindu Succession (Amendment) Act, 2005. Under the Hindu Succession Act, 1956, females are granted ownership of all property acquired either before or after the signing of the Act, abolishing their “limited owner” status. However, it was not until the 2005 Amendment that daughters were allowed equal receipt of property as with sons. This invariably grants females property rights.

The property of a Hindu female dying intestate, or without a will, shall devolve in the following order:

1. upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband,
2. upon the heirs of the husband.
3. upon the father and mother
4. upon the heirs of the father, and
5. upon the heirs of the mother.

### **MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT OF 1937:**

The inheritance rights are governed by Sharia and the share of females are less than males as mandated by Quran.

### **EQUAL REMUNERATION ACT, 1976:**

It is the duty of employer under the Act to pay equal remuneration to men and women workers for same work or work of a similar nature. No employer can, while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

### **WOMEN'S RESERVATION BILL:**

Women's Reservation Bill or the Constitution (108th Amendment) Bill, is a pending bill in India which proposes to amend the Constitution of India to reserve 33 per cent of all seats in the Lower house of Parliament of India, the Lok Sabha, and in all state legislative assemblies for women. The seats to be reserved in rotation will be determined by draw of lots in such a way that a seat shall be reserved only once in three consecutive general elections. The Upper House Rajya Sabha passed the bill on 9 Mar 2010. As of February 2014, the Lower House Lok Sabha has not yet voted on the bill. If the Lok Sabha were to approve the bill, it would then have to be passed by half of India's state legislatures and signed by the President.

There are adequate legislations in India which not only removes the discrimination against women but also empowers the women. The Constitution itself makes room for the discriminatory laws in favour of the women who are considered the weaker sex, disadvantaged and discriminated in the male dominated society. The action wise plan of the Government in preventing the discrimination has proved the legislations as a failure. The existence of these laws only in the books is the major problem in India. The Supreme Court, however, has taken initiatives too and in some cases issued directions to the Government as well. But the implementation of these legislations in actual sense is very much necessary to remove the discrimination in the society.

### **ABOLITION OF SATI:**

The Bengal Sati Regulation (Regulation XVII) was passed by the then Governor-General of India, Lord William Bentinck making the practice of Sati illegal in all of British India in 4<sup>th</sup> December 1829.

Sati was the practice of the immolation of a Hindu woman on the death of her husband in his funeral pyre. Although this practice does not have any Vedic sanction, it had become prevalent in some parts of India. The widow was supposed to ascend to heaven and this was



considered the ultimate sacrifice and proof of a woman's devotion to her husband. Many cases of Sati were voluntary whereas some were forced. Raja Rammohan Roy, the great Hindu reformer from Bengal fought many societal evils prevalent in the Hindu society of Bengal and Sati pratha was one of the chief ones. He had witnessed the live immolation of his own sister-in-law. He started his struggle against this practice in 1812.

William Carey, an English missionary also fought against this barbaric practice. In the year 1817 alone, about 700 widows were burnt alive. Even though the British initially allowed it, it was first banned in 1798 in Calcutta. However, the custom continued in the surrounding areas. Raja Rammohan Roy was a vociferous campaigner against Sati (also spelt Suttee). He argued that the Vedas and other ancient Hindu scriptures did not sanction Sati. He wrote articles in his journal *Sambad Kaumudi* advocating its prohibition. He stressed with the East India Company administration to ban this practice. Lord William Bentinck became the Governor-General of India in 1828. He helped Raja Rammohan Roy to suppress many prevalent social evils like Sati, polygamy, child marriage and female infanticide. Lord Bentinck passed the law banning Sati throughout the Company's jurisdiction in British India. The act was made illegal and punishable by the courts. Sati Regulation XVII A. D. 1829 of the Bengal Code:

The practice of sati, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up, nor observed: in some extensive districts it does not exist: in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked.... The practice of suttee, or of burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the criminal courts.

After this law was enacted, similar laws prohibiting this custom were passed in princely states in India. In 1861, after the control of India went on the British Crown directly, Queen Victoria issued a general ban on Sati throughout India. The State Government of Rajasthan passed the Sati (Prevention) Act, 1987 whereby the voluntary or forced burning or burying alive of widows, and the glorifying of such acts including the participation in any procession of Sati became punishable. This Act became an Act of the Indian Parliament in 1988 when the Commission of Sati (Prevention) Act, 1987 was enacted.

## **ABOLITION OF CHILD MARRIAGE:**

### **Child marriage in India**

According to the Indian law, in a marriage where either the woman is below the age of 18 or the man is below the age of 21. Most child marriages involve girls, many of whom are in poor socio-economic conditions. Child marriages are prevalent in India. Estimates vary widely between sources as to the extent and scale of child marriages. The International Center for Research on Women-UNICEF publications have estimated India's child marriage rate to be 47% from a sample surveys of 1998, while the United Nations reports it to be 30% in 2005. The Census of India has counted and reported married women by age, with proportion of females in child marriage falling in each 10 year census period since 1981. In its 2001 census report, India stated zero married girls below the age of 10, 1.4 million married girls out of 59.2 million girls aged 10–14, and 11.3 million married girls out of 46.3 million girls aged 15–19. Times of India reported that 'since 2001, child marriage rates in India have fallen by 46% between 2005 and 2009. Jharkhand is the state with highest child marriage rates in India (14.1%), while Kerala is the only state where child marriage rates have increased in recent years. Jammu and Kashmir was reported to be the only state with lowest child marriage cases at 0.4% in 2009. Rural rates of child marriages were three times higher than urban India rates in 2009.

Child marriage was outlawed in 1929, under Indian law. However, in the British colonial times, the legal minimum age of marriage was set at 14 for girls and 18 for boys. Under protests from Muslim organizations in undivided British India, a personal law Shariat Act was passed in 1937 that allowed child marriages with consent from a girl's guardian. After India's independence in 1947, the act underwent two revisions. The minimum legal age for marriage was increased to 15 for girls in 1949 and to 18 for females and 21 for males in 1978. The child marriage prevention laws have been challenged in Indian courts, with some Muslim Indian organizations seeking no minimum age and that the age matter be left to their personal law. Child marriage is an active political subject as well as a subject of continuing cases under review in the highest courts of India.

Several states of India have introduced incentives to delay marriages. For example, the state of Haryana introduced the so-called *Apni Beti, Apna Dhan* program in 1994, which translates to "My daughter, my wealth". It is a conditional cash transfer program dedicated to delaying young marriages by providing a government paid bond in her name, payable to her parents, in the amount of ₹25,000 (US\$350), after her 18th birthday if she is not married.

Child marriage refers to the marriage of a child younger than 18 years old, in accordance to Article 1 of the Convention on the Right of the Child. In simple terms, child marriage is the marriage of a person aged before majority. As a derivative interpretation of several international documents, it is a violation of human rights. While child marriage affects both sexes, girls are disproportionately affected as they are the majority of the victims. Child marriage and child betrothal are oftentimes practices that are related to customary and religious beliefs, along with a lot of relevant economic considerations. They occur globally, in many parts of Africa and Asia and to some extent in the Americas. Globally, 36 per cent of women aged 20–24 were married or in union before they reached 18 years of age. An estimated 14 million adolescents between 15 and 19 give birth each year. Girls in this age group are twice as likely to die during pregnancy or childbirth as women in their twenties. Most often an arranged marriage, children, especially girls, are married off early – sometimes just after puberty, and sometimes even before – so as to bring the family some monetary earning. In many communities, a young girl brings in a lot of dowry – it doesn't matter that these girls may be too young to marry, it doesn't matter that the man she is married off to, is easily double, triple or even four times her age. These communities place significant emphasis on the fact that a woman is not allowed, or is deemed incapable of being educated or working. There is also a belief that women must reproduce early enough because they have a shorter reproductive life period in relative comparison with men. In many parts of Asia and Africa, families give birth to many children so that enough of them survive, and enough of them help by being more hands to work. If these children are sons, these families deem them economically viable assets to the family. If these children are girls, they are redundant to the family's economy except when they are married off – until which time they are only more mouths to feed. In such communities, child marriage is a transaction that often represents a significant economic activity for the family. In some poor African societies young girls are considered to be properties of their parents who can attain greater wealth and are married in early years. Although there are several international agreements and national laws that frown upon the practice of child marriage, it remains a common custom in most parts of the developing world.

Child marriage in India is not a new phenomenon. The practice as it prevails now, though, continues to thrive in economically disadvantaged communities, especially those that are coloured by customary and cultural practices and perspectives that encourage the early marriage of a girl child. This project will offer a complete breakup of information on Child Marriage in India, its prevalence and impact, and the legal provisions that concern the issue.

Considering that the law is by itself rather segmented in the approach to child marriage and its various forms, and the fact that there have been many, many instances of child marriage but only a few have been reported, overall, it would be fair to conclude that the law hasn't been as successful as is ideal. The few cases that have been reported have been criminal prosecutions—most of which involve the adult spouse and or the family of the minor involved. In many instances where such cases are brought to fore, judges have ordered the minor or both spouses as the case may require, to seek counselling while they deliberate on the custody rights based on the best interests of the minor. As much as the legislation is centric to the interests of the minor, there are very few instances where the minors themselves in their capacity as the victims of child marriage, have successfully approached the court and filed for a declaration testifying to the effect that their marriage is void under the Prohibition of Child Marriages Act. Per se, under the law, there are no legal exceptions to the prohibition on child marriages, nor for the rule imposing a minimum age for marriage.

#### **ENACTMENT OF WIDOW REMARRIAGE IN INDIA:**

Widows make up a significant proportion of the female population all over the world. Adequate research has not been implemented regarding their status. Research has taken place on a large scale upon the elderly individuals, the majority of whom were elderly widows who head the households. Therefore, younger widows have not been taken into consideration. The main purpose of this research paper is to understand widow remarriage in India. India has the largest verified number of widows in the world, i.e. 33 million, they comprise 10 percent of the female population, compared to only three percent of men, and the number is increased due to the prevalence of HIV/AIDS and civil conflicts. Fifty-four percent of the women aged 60 and above are widows, as are 12 percent of the women aged 35 to 39. Remarriage is the exception rather than the rule; only about 10 percent of the widows remarry.

The widows are severely lacking from the statistics of many developing countries, and they are infrequently mentioned in the collection of documents and reports on women's poverty, development, health or human rights published in the last twenty-five years. Increasing evidence of their susceptibility, both socio-economic and psychological, in the present existence, challenges many conventional views and assumptions about this group of women. In many developing countries, the exact numbers of widows, their ages and other social and economic aspects of their lives are unknown. Widows comprise a significant proportion of all women, ranging from seven percent to 16 percent of all adult women. However, in some countries and regions, the proportion is too large. In developed countries,

widowhood is experienced primarily by elderly women, while in developing countries; it also affects younger women, many of whom are still rearing children. In some regions, girls become widows before reaching adulthood (Women 2000, 2001).

Although social rules differ on a massive scale, all cultures and traditions have rules which govern the lives of the widows. Across a wide range of cultures, widows are subject to patriarchal customary and religious laws and confront discrimination in inheritance rights. Many of these widows experience abuse and exploitation at the hands of the family members, often in the perspective of property disputes. Few cases proceed successfully through the justice system, perpetrators do not suffer from any kind of punishment, while others remain undeterred and undetected. Even in countries where legal protection is more inclusive, widows suffer from the loss of social status and marginalization. Mistreated by the social policy researchers, international human rights activists and the women's movement, and consequently by the governments and the international community. The legal, social, cultural and economic status of the world's widows now requires serious consideration of all levels of society, given the extent and rigorousness of the discriminatory treatment they experience (Women 2000, 2001).

## **WOMEN AND THE INDIAN CONSTITUTION:**

The main privileges granted to women by Constitution of India are as follows:

### **Preamble of the Constitution:**

Under the Constitutional law, women have equal rights as men so as to enable them to take part effectively in the administrative of the country.

### **Equality before law:**

Article 14 embodies the general principles of equality before law and equal protection of laws.

### **Prohibition from discrimination on grounds of religion, race, caste, sex or place of birth:**

Article 15(1) and (2) prohibits the state from discriminating against any citizen only on the basis of any one or more of the aspects such as religion, race, caste, sex, place of birth or any of them.

Article 15(3) makes it possible for the state to create special provisions for protecting the interests of women and children.

Article 15(4) capacitates the State to create special arrangements for promoting interests and welfare of socially and educationally backward classes of society.

**Equality of Opportunity:**

- Article 16 provides for equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- Article 39 requires the State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood [Article 39(a)];, and equal pay for equal work for both men and women [Article 39(d)].
- Article 39A directs the State to promote justice, on the basis of equal opportunity and to promote 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.

**Humane Conditions at Work:**

Article 42 directs the State to make provision for securing justice and humane conditions of work and for maternity relief.

**Fundamental Duty:**

Article 51A (e) enjoins upon every citizen to renounce practices derogatory to the dignity of women. Reservation of seats for Women in Panchayats and Municipalities Article 243 D (3) and Article 243 T (3) provide for reservation of not less than one third of total number of seats in Panchayats and Municipalities for women to be allotted by rotation to different Constituencies. Article 243 D (4) T (4) provides that not less than one third of the total number of officers of chairperson in the Panchayat and Municipalities at each level to be reserved for women.

**Voting rights/Electoral law:**

- Not less than one-third seats shall be reserved for women. Such seats may be allotted by rotation to different constituencies in a Panchayat.
- The office of the chairperson in the Panchayat at the village or any other level shall be reserved for SCs, STs and women in such manner as the legislature of state may, by law provide.
- Reservation of seats for women in Municipalities is provided.

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 the crimes such as ‘Murder’, ‘Robbery’, ‘Cheating’ etc, the crimes, which are directed specifically against women, are characterized as ‘Crime against Women’. These are broadly classified under two categories.

### **ANTI DOWRY:**

Dowry is a social evil in the society that has caused unimaginable tortures and crimes towards women. The evil has taken lives of women from all strata’s of society - be it poor, middle class or the rich. However, it is the poor who succumb and fall prey to it, more due to their lack of awareness and education.

It is because of the dowry system, that daughters are not valued as much as the sons. In the society, many a times it has been seen that they are seen as a liability and are often subjected to subjugation and are given second hand treatment may it be in education or other amenities.

Today the government has come up with many laws and reforms, not only to eradicate the dowry system, but also to uplift the status of the girl child by bringing in many schemes.

It is now for the society at large to become aware and understand the situation. It up to all of us to take active steps in bringing about the necessary change and stop either giving or taking dowry. We must all know that we should start valuing our daughters first, so that others know their value once they grow up.

### **Important steps to eradicate dowry**

- Educate your daughters
- Encourage them to have their own career
- Teach them to be independent and responsible
- Treat them (your daughter) equally without any discrimination
- Do not encourage the practice of giving or taking dowry

### **Effect on the public of the Dowry Prohibition initiative**

- The parents don't lay enough emphasis on educating their daughters, as they feel that husbands will support them latter.
- The Poorer sections of society who send their daughters out to work and earn some money, to help them save up for her dowry.

- The regular middle and upper class backgrounds do send their daughters to school, but don't emphasize career options.
- The very wealthy parents who happily support their daughters until they get married and their ability to fork out a high dowry

Hence education and independence is one powerful and valuable gift that you can give your daughter. This will in turn help her to be financially sound and be a contributing member of the family, giving her respect and right status in the family. So providing your daughter with a solid education and encouraging her to pursue a career of her choice is the best dowry any parent can ever give their daughter.

#### **PNDT:**

**Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994** is an Act of the Parliament of India enacted to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination. Every genetic counselling centre, genetic laboratory or genetic clinic engaged in counselling or conducting pre-natal diagnostics techniques, like in vitro fertilisation (IVF) with the potential of sex selection (Preimplantation genetic diagnosis) before and after conception comes under preview of the PCPNDT Act and are banned.

#### **FEMALE FOETICIDE IN INDIA:**

This process began in the early 1990 when ultrasound techniques gained widespread use in India. There was a tendency for families to continuously produce children until a male child was born. Foetal sex determination and sex selective abortion by medical professionals has today grown into a Rs. 1,000 crore industries (US\$ 244 million). Social discrimination against women and a preference for sons have promoted female foeticide in various forms skewing the sex ratio of the country towards men. According to the decennial Indian census, the sex ratio in the 0–6 age group in India went from 104.0 males per 100 females in 1981, to 105.8 in 1991, to 107.8 in 2001, to 109.4 in 2011. The ratio is significantly higher in certain states such as Punjab and Haryana (126.1 and 122.0, as of 2001).

The main purpose of enacting the act is to ban the use of sex selection techniques after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortions.

#### **DOMESTIC WORKS:**

The population of domestic workers in India in the last 100 years has witnessed huge declines and upswings. As per the Census data, in 1931, there were 2.7 million people classified



as “servants”. The Census data in 1971 has recorded around 67,000 people as servants. The low figures were attributed to the changes that happened at that point of time like departure of British colonial administrators who were able to hire these workers, as well as the fact that in the first decade of independence the public were not so well off to hire domestic workers.

As per the book titled, *Maid In India* written by Tripti Lahiri, the number of domestic workers in India has increased 120% between 1991 and 2001. Even though, India had witnessed stagnation and shrinking of female labor participation, the absolute number of women working as domestic workers went up. Between, the 2001 and 2011, the number of female workers in the age group of 15-59 had increased by 17%. In cities, the increase was over 70% from 14.7 million in 2001 to 25 million in 2011. With increasing prosperity among people, the demand for domestic help increases.

According to the 2011 report of *The Task Force on Domestic Workers*, the number of domestic workers had increased 222% since 1999-2000. Overall, the number of domestic workers range from 4.75 million (National Sample Survey’s 61<sup>st</sup> round, 2004-05) to 6.4 million in Census 2001. As per Lahiri, women constitute nearly two-thirds of the workforce in this unorganized sector which also comprises of chauffeurs and security guards. Majority of the female domestic workers come from India’s least developed states like Jharkhand, West Bengal, and Assam. They often travel cross-country and transnational to seek employment opportunities. Most of them are under the legal working age and get wages less than the minimum fixed by the government

### **Major Issues relating to Domestic Workers**

The major issue is that working in other people’s houses which are considered as private spaces makes it difficult to bring the house environment under the ambit of a legal framework. Secondly, since most of the domestic workers are illiterate they are ignorant of their rights and are easily exploited and deprived of wages and humane working conditions. Since most of the domestic workers are recruited from rural or tribal areas it becomes difficult for them to adapt themselves to new environment, culture, and language which in turn increase their loneliness and anxiety. They have no or very little time to socialize with friends or relatives and most often is prohibited from doing so. Coupled with the lack of state regulation of domestic service, the statuses of the domestic workers have been reduced to nothing short of servility. The lack of redressal mechanism of their grievances also makes them resort to violent forms of agitation as witnessed recently in Noida incident.

Around 90% of the domestic help in India are women and children (predominantly girls) in the age group of 12 to 75. It is estimated that 25% of them are below the age of 14. They are mostly engaged in activities that are traditionally seen as women's work such as cooking, washing, and cleaning. In Indian society, the stigma associated with domestic work is heightened by the caste system since the chores like cleaning and sweeping are associated with the people belonging to the 'so-called' low castes. The naming of domestic workers as 'servants' and 'maids' have made them attain an undignified status and inferiority.

Domestic workers are not provided just wages and humane working conditions. The wages paid to them are well below the minimum wages for unskilled or semi-skilled workers. In addition, most of them are made to work for a minimum of 15 hours a day, seven days a week. In average, their working hours range between 8 to over 18 hours a day. Their wages and rest time are at the employer's mercy. Domestic workers are also sometimes the victims of suspicion. They are often accused of thefts and are subjected to physical violence, police interrogation, conviction, and even dismissal.

### **POCSO:**

The Protection of Children from Sexual Offences (POCSO) Act was enacted in 2012, and is a special law to protect children. The Protection of Children from Sexual Offences (POCSO) Act has been in the news recently, after Bombay High Court Justice Pushpa Ganediwala's controversial judgments in child sexual abuse cases. Back in 2019, the POCSO Act garnered interest when an amendment was made to it when minimum punishment for aggravated as well as penetrative sexual assault on children below 16 years was increased from 10 to 20 years, extendable to life imprisonment or death.

### **Significance of the POCSO Act**

The POCSO Act was enacted in 2012 and is gender neutral — it recognises that boys can be victims of sexual violence as well. It defines a child as someone under the age of 18. The Indian Penal Code does not recognise that sexual assault can be committed on boys.

The Act also increased the scope of reporting sexual crimes against children. It expanded the definition of sexual assault to include non-penetrative sexual assault as well as aggravated penetrative sexual assault (sections 3 to 10), and also included punishment for persons in positions of trust or authority like public servants, staff of educational institutions, police etc. Notably, this law recognises sexual harassment of a child which involves touch, and also that which doesn't (sections 11 and 12), such as stalking, making a child expose

themselves or exposing themselves to a child, and so on. The POCSO Act also specifically lays down stringent punishment for exposing children to, or using them to create child sexual abuse material (CSAM, also referred to as child pornography) under sections 13, 14, and 15.

While POCSO does not explicitly recognise grooming, experts say that section 11 of the Act can be interpreted to recognise and criminalise it wherein, it. Grooming involved acts of establishing, building a relationship with a child either in person or online so as to facilitate either online or offline sexual contact with the child, section 67(b) of the Information Technology Act does criminalise it. The law lays down the procedures for reporting sexual crimes against children. Under section 19 of the Act, it is mandatory to report sexual crimes against children, including when there is an apprehension that an offence under the Act has been committed. This child protection law is also unique because it places the burden of proof on the accused, following ‘guilty until proven innocent’ unlike the IPC.

When is POCSO used?

Sections of the POCSO Act may be added by the police in the First Information Report (FIR) whenever a sexual offence is committed against a child. While special laws override the IPC, sections of both are often mentioned in the FIR. For instance, an FIR would book an accused under section 376 (rape) of the IPC as well as relevant sections of the POCSO Act. Punishments under POCSO are more stringent than under IPC. It is important to remember that POCSO is not just applicable in cases of physical sexual crimes, but also ones that happen over the internet. This would include offences such as possessing CSAM, using children for the purposes of creating CSAM, or exposing children to pornography or CSAM. In such cases, POCSO may be used along with provisions of the Information Technology Act.

### **ABORTION ACT:**

Abortion has been legal in India under various circumstances for the last 50 years with the introduction of Medical Termination of Pregnancy (MTP) Act in 1971. The Act was amended in 2003 to enable women’s accessibility to safe and legal abortion services. In 2021, MTP Amendment Act 2021 was passed with certain amendments in the MTP Act including unmarried women being allowed to seek safe abortion services on grounds of contraceptive failure, increase in gestation limit to 24 weeks for special categories of women, and opinion of one provider required up to 20 weeks of gestation.

**Abortion in India** can be performed until 24 weeks pregnancy after MTP Amendment Act 2021 comes in force by notification in Gazette of India with notification of formation of MTP amendment 2021 rules and regulations. Until then, abortion law in India allows termination of pregnancy till 20 weeks. In exceptional cases, a court may allow a termination after 20 weeks. Abortion is covered 100% by the government's national health insurances, Ayushman Bharat and Employees' State Insurance with the package rate for surgical abortion being set at ₹15,500 (US\$220) which includes consultation, therapy, hospitalization, medication, USG and any follow-up treatments. For medical abortion, the package rate is set at ₹1,500 (US\$21) which includes consultation and USG.

When a woman gets a pregnancy terminated voluntarily from a service provider, it is called induced abortion. Spontaneous abortion is the loss of a woman's pregnancy before the 20th week that can be both physically and emotionally painful. In common language, it is called a miscarriage.

Till 2017, there was a dichotomous classification of abortion as safe and unsafe. Unsafe abortion was defined by WHO as "a procedure for termination of a pregnancy done by an individual who does not have the necessary training or in an environment not conforming to minimal medical standards." However, with abortion technology now becoming safer, this has been replaced by a three tier classification of safe, less safe, and least safe permitting a more nuanced description of the spectrum of varying situations that constitute unsafe abortion and the increasingly widespread substitution of dangerous, invasive methods with use of misoprostol outside the formal health system.

- Safe abortion: provided by health-care workers and with methods recommended by WHO.
- Less-safe abortion: done by trained providers using non-recommended methods or using a safe method (e.g. misoprostol) but without adequate information or support from a trained individual.
- Least-safe abortion: done by a trained provider using dangerous, invasive methods.

Comprehensive Abortion Care (CAC), a term "rooted in the belief that women must be able to access high-quality, affordable abortion care in the communities where they live and work", was first introduced in India in 2000. The concept of CAC encompasses care through the entire period from conception to post abortion care and includes pain management.

## **Unit-V**

### **GENDER INEQUALITY**

#### **GENDER INEQUALITY:**

Gender inequality is the common act of civil rights that takes on multiple forms including sexual embarrassment, unequal pay for women and inequality even in pregnancy. While the Indian Constitution grants men and women equality and offers fair protection in order to boost women's status in society, most women are still unable to benefit from these rights and opportunities that are provided to them. In India, there are few other factors in the present period, including lowest rates, joblessness and deprivation among women because of the difference in society between men and women.

#### **Defining gender inequality:**

The idea that men and women are not equal is gender inequality, and that gender influences a person's living experiences. Such variations are the product of biological, psychological and cultural differences. Many of these types are empirically driven, whereas others seem to be socially constructed. Studies have demonstrated a range of lived gender experience across several fields, including education, life expectancy, personality, interests, family life. Gender inequality across different cultures is experienced differently.

#### **Gender inequality in the context of India:**

Male and female are both equal and play a key role in creating and developing their families in their respective areas and in society in general. Nonetheless, the fight for equality became one of the movement's core concerns worldwide. There is no differentiation of rank in the disparity between sex and physical form. A woman is the man's counterpart, not the lower. In India, women have long been considered to be an oppressed section of society and for centuries they have been neglected. The son's birth is celebrated as the daughter's child is full of suffering. Kids are taught to be diligent and thorough. But girls' being homebound and shy is welcomed. Both of these differences are sexual and social differences. This has a negative impact on sustainability goals and thus limits economic growth. It obstructs the overall well-being because it can adversely affect society as a whole to prevent women from participating in social, political and economic activities.

Consequently, gender inequality is a form of inequality that differs from other forms of socio-economic inequality. Gender inequality is a key reality in India. Women are particularly successful in various spheres of activity in modern times. Many Indian women also face sexism and gender inequality.

### **Gender inequality at Home & Public:**

The issue is that the cultural and belief structure in India plays an important role in gender disparity. You begin to consider the equal of men and women, and many of India's centuries-long cultural pride must be reflected and reconfigured. Any suggestions of change or addressing discrimination are seen as a strike at the heart of their political, societal or ethnic culture for many Indian families practicing sex discrimination. In a more thorough analysis, gender inequality is largely linked to two questions:

- The transfer of surname, lineage and
- Social security.

While the first question (where the son is called, but your daughter doesn't) is of interest to many Indians, there is a second question, of more practical significance. Despite their old age, most Indians don't prepare well. A son is regarded as economic protection as an aged, despite the social expectation of a child getting married and moving to another home. The daughter-in-law is connected to the health of food. In a country with a growing population and limited land, life with the son and his family thus ensures sharing of resources. As you get older, it ensures cultural, physical, nutritional and emotional security.

#### **Birth:**

This is a more dire scenario now than it was in past decades. Families would continue to produce children until the birth of their sons. A girl was and is born, but foeticide was not as rampant. It is not so rampant. Families with many kids and a combination of boys and girls were often seen. The younger children would be boys (girls born while waiting for the son), while the oldest children were girls. The importance of only two children (shown in advertisements as a boy and a girl) was widely expressed during the 1980s and 1990s family planning and population control campaign. Many Indian families have realized that they can provide fewer children with resources and ideally have only two children. But if a girl is the first child, and a boy is the second, it isn't a question. It's okay if both the kids are boys too. What if the second child is also a girl is the greatest fear.

This is why many families (and often financially good families) use female (illegal, but rampant) fetus. If that is not the case, the woman has to bring the third child into being, in the expectation that the third child will be a son. When all else fails and some families opt for a male child as their last resort. Only when the married woman becomes a mother does she become valued and (relatively more) empowered. This dominance, though, only takes place when a son's mother (but not when a daughter's mother). Through taking the son worldwide,

it has assured politically, socially more influential than the family of the bride the cultural, lineage and food security as well as the power equations of the family for a long time.

### **Marriage and Property:**

The children who have to leave and travel with their parents is an integral part of Indian cultural culture and a significant source of inequality. In an effort to improve this situation, the structure of Indian society itself will need to be modified. This is also why girls are considered to be an investment (as opposed to sons) which doesn't make money and leads to questions like foeticides, education or less education. A variety of issues such as dowry, subjugation and the lack of job rights emerge from the difficulties of living with the family of the married woman. Personality and equations of power also have a role to play. When married, after marriage a woman is required to obey a certain dress code while a man may continue dressing as he wishes. If the woman has to lose her husband, she is forced to abandon her coding and a new, more demanding dress code and lifestyle which she is used to at the present.

In the form of wedding costs, a child receives less than 5% of the property of his parents. In fact, much is spent on pomp and display. The only protection a daughter has is always the gold ornaments of her parents and in-laws. In wedding costs, the majority of the money on behalf of the daughter has frozen away. The son(s) subsequently inherited a large part of the property of his kin. While Indian laws provide for daughters' property rights, it often does not apply. So if a girl is confronted by abuse in the house of her in-laws, she often has no place. It, together with Avec Les traditions, means that she has no financial protection whatsoever 'leaving her husband's house only after her death.'

### **Education and growing up**

The son(s) are often educated more or better than the daughter(s). This includes children being sent to better schools, private schools and girls being sent to public schools. When girls had no male siblings to give up resources and only girl siblings, they had better chances of quality education. In recent years, this pattern has reversed, with both males and girls going to the right schools, which is also related, of course, to economic growth and the prospect of providing better schools for all kids). The household work should be higher for the daughters than for the sons. When daughters are educated in a university, study and work in the same town are oppressed, while children have more choices to travel to another town for education. It's shifting slowly too.

**Attempts in equalising household works:**

Despite the growth of women in employment since the mid-1900s, American society still plays a major part in traditional gender roles. Many women will pursue their educational and career goals to raise a family, while their husbands are the first to win. Some women, however, decide to work and play a perceived gender role in cleaning the house and taking care of children. While there is evidence that women tend to be the primary caregiver in family life even though they work in full-time jobs, some families may spread their work out more equally. These indicators reveal that, as opposed to men who work 12 minutes daily in childcare activities, women working outside the home often have 18 additional hours a week in a household or childcare environment.

**Public Employment:**

The lack of access for women to basic social opportunities is an enormous challenge for women to absorb a highly fragmented structured market which is forcing most women to take up work in the informal and unorganized sector. Moreover, the rate of unemployment among young women (12-24 years of age) has also increased substantially over the last ten years. The steady fall in the total participation rate of women in the workforce reflects a macro-employment policy failure. It should be noted here that most women in the self-employed or unpaid categories of household jobs are insufficiently calculated by labour productivity metrics. This raises key questions regarding a gender-based understanding of what we call “work,” which only includes monetized aspects of work as employment in traditional economic measures.

**Healthcare:**

In observing patterns on health indicators such as mortality rates, pregnancy levels for teenagers, female lifespan and so on, India is still deteriorating in the overall situation of women. Low-funded healthcare systems and a limited system of social insurance make it extremely difficult for higher spending, particularly women, to be financed out of the pocket. Access to basic financial services. Another important finding from the World Bank is the low female-male ratio in accessing basic financial services on gender access to Indian finances and mobile accounts.

**Representation of women in public sector:**

India is also lagging behind in terms of the percentage of women listed on Board by SEBI, with at least one woman on Board. Many Indian companies have not yet appointed a single woman board director. Even some of the top companies have women managers who



only fulfil their mandate. The role of female directors and the effects of their membership of the board in formulating the Corporate Strategies is unclear, with only a few exceptions. Following SEBI 's 2013 mandate in relation to women's board leadership, there was an increasing representation of women on board. In Public Sector Board women are just 8% compared to 92% of Public Sector Board members.

### **Unequal pay:**

Women receive Rs. 0.49 relative to every Rs.1 men benefit, according to the Women's Policy Research Institute. Unlike other studies, the new data illustrates the demand for and raising of children or other family responsibilities by part-time workers and women who have taken time off from work. For a minimum of one year, more than half of women quit jobs, twice the rate of men. Experts say new measures are required to help mitigate this imbalance, including more paid maternity leave, child care assistance, and other pro-family measures.

Women are promoted less often than men

Although more educated than men and almost half of the working population, women are promoted much less often at work than men. It is recognised because women constitute less than 5% of CEOs and less than 10% of women in the 500 S&P. Women of colour, as both the S&P 500 and the Fortune 500 boards are almost invisible, are even worse off. The lack of female role models in the workforce is an explanation of why more women don't aspire to higher executive positions.

### **Causes of gender inequality**

The world has been closer to achieving equality for men and women over the years. In many parts of the world, women are better represented in politics, economic opportunities and healthcare. The World Economic Forum predicts, however, that it will be another century before true gender equality is achieved. What causes the gender gap? Ten sources of disparity between women are as follows:

- Unpalatable access to education
- Lack of equality in employment
- Segregation of jobs
- Lack of legal safeguards
- Failure to have body independence
- Low medical attention
- Lack of freedom of religion
- Lack of political representation
- Racism
- Societal thinking

## **Elimination of gender inequality by Indian Government**

Across most societies worldwide, gender inequality is seen to varying degrees and India is no exception. It is now recognized globally that there will be no absolute development unless and until all kinds of inequalities including gender inequality are removed. The Indian government has taken many steps to reduce discrimination between sexes and improve women's status. These steps are usually known as (a) Constitutional provisions and (b) Legal provisions.

### Constitutional provisions

Gender equality is enshrined in the Preamble, Fundamental Duties and Directive Principles of the Indian Constitution. India's constitution has provided many arrangements to protect women's rights. The following are a few significant provisions for women:

Article 14: ensures equality between men and women through equal rights and opportunities in the political, economic and social spheres.

Article 15: forbids discrimination on grounds of sex, ethnicity, colour, caste, etc. against any person.

Article 16: is concerned with equal opportunities.

Article 39: includes the governance principles to be implemented by the State in order to ensure economic justice.

Article 42: allows the State to make provision for equal and humane working and maternity relief conditions.

Article 51: imposes on every person a constitutional obligation to renounce activities derogating from the dignity of women.

Article 325: guarantees women's political equality.

### Legal provisions

India's government has enacted laws and legislations specific to women and related to women:

- The Immoral Traffic (Prevention) Act, 1956;
- Maternity Benefit Act, 1961;
- Dowry Prohibition Act, 1961;
- Indecent Representation of Women (Prohibition) Act, 1986;
- Commission of Sati (Prevention) Act, 1987;
- Protection of Women from Domestic Violence Act, 2005 are only a few women's relevant statutes and rules.

Economic laws include:

- Factories Act, 1948;
- Minimum Wages Act, 1948;

- Equal Remuneration Act, 1976;
- Workers' State Insurance Act, 1948;
- Plantation Labour Act, 1951;
- Bonded Labour System Act, 1976;
- Adoption of the National Women's Perspective Program, 1988-2000

Social legislation contains:

- Family Court Act, 1984;
- Indian Succession Act, 1925;
- Medical Termination of Pregnancy Act, 1971;
- Child Marriage Restraint Act, 1929;
- Hindu Marriage Act, 1955,
- Hindu Succession Act, 1956(and revised in 2005);
- Indian Divorce Act, 1969;
- Maternity Benefit Act, 1961;
- National Commission for Women Act, 1992.

Laws ensuring rights for women are as follows:

- Criminal Code of Procedure, 1973;
- IPC Special Provisions;
- Practitioners (Women) Act, 1923;
- Law on Pre-Natal Diagnostic Technique (Misuse Regulation and Prevention), 1994.

There is no question that these constitutional and legal protections have proved to be of benefit to half of the Indian population. There is evidence everywhere; in parliament, courts, and highways, the voice of women is gradually heard. Women had to struggle in the West for more than a century to achieve some basic rights, such as voting, but from the beginning, the Constitution of India has granted women equal rights to men. Unfortunately, most of the women in this country do not recognize their rights due to analphabetic and patriarchal practices. Such statutory and legal protections cannot be used properly.

### **Violence against women in India:**

Violence against women in India refers to physical or sexual violence committed against a woman, typically by a man. Common forms of violence against women in India include acts such as domestic abuse, sexual assault, and murder. In order to be considered violence against women, the act must be committed solely because the victim is

female. Most typically, these acts are committed by men as a result of the long-standing gender inequalities present in the country.

Violence against women in India is actually more present than it may appear at first glance, as many expressions of violence are not considered crimes, or may otherwise go unreported or undocumented due to certain Indian cultural values and beliefs. These reasons all contribute to India's Gender Inequality Index rating of 0.524 in 2017, putting it in the bottom 20% of ranked countries for that year.

### **Dowry and Dowry death:**

a dowry is a gift of substantial monetary value given from either the bride or groom to their future spouse upon marriage. a dowry death is the murder or suicide of a married woman caused by a dispute over her dowry.in some cases, husbands and in-laws will attempt to extort a greater dowry through continuous harassment and torture which sometimes results in the wife committing suicide,or the exchange of gifts, money, or property upon marriage of a family's daughter. The majority of these suicides are done through hanging, poisoning or self-immolation. When a dowry death is done by setting the woman on fire, it is called bride burning. Bride burning murder is often set up to appear to be a suicide or accident, sometimes by setting the woman on fire in such a way that it appears she ignited while cooking at kerosene stove. Dowry is illegal in india, but it is still common practice to give expensive gifts to the groom and his relatives at weddings which are hosted by the family of the bride.

In Uttar Pradesh, 2,244 cases were reported, accounting for 27.3% of the dowry deaths nationwide. In, Bihar, 1,275 cases were reported, accounting for 15.5% of cases nationwide. Incidents of dowry deaths have decreased 4.5% from 2011 to 2012. In 2018, still as many as 5,000 dowry deaths are recorded each year

### **Domestic violence in India:**

Domestic violence in India includes any form of violence suffered by a person from a biological relative, but typically is the violence suffered by a woman by male members of her family or relatives. According to a National Family and Health Survey in 2005, total lifetime prevalence of domestic violence was 33.5% and 8.5% for sexual violence among women aged 15–49. A 2014 study in The Lancet reports that although the reported sexual violence rate in India is among the lowest in the world, the large population of India means that the violence affects 27.5 million women over their lifetimes. However, an opinion survey among experts

carried out by the Thomson Reuters Foundation ranked India as the most dangerous country in the world for women.

The 2012 National Crime Records Bureau report of India states a reported crime rate of 46 per 100,000, rape rate of 2 per 100,000, dowry homicide rate of 0.7 per 100,000 and the rate of domestic cruelty by husband or his relatives as 5.9 per 100,000. These reported rates are significantly smaller than the reported intimate partner domestic violence rates in many countries, such as the United States (590 per 100,000) and reported homicide (6.2 per 100,000 globally), crime and rape incidence rates per 100,000 women for most nations tracked by the United Nations. There are several domestic violence laws in India. The earliest law was the Dowry Prohibition Act 1961 which made the act of giving and receiving dowry a crime. In an effort to bolster the 1961 law, two new sections, Section 498A and Section 304B were introduced into the Indian Penal Code in 1983 and 1986. The most recent legislation is the Protection of Women from Domestic Violence Act (PWDVA) 2005. The PWDVA, a civil law, includes physical, emotional, sexual, verbal, and economic abuse as domestic violence.

### **Forced marriage:**

Forced marriage is a marriage in which one or more of the parties are married without their consent or against their will. A marriage can also become a forced marriage even if both parties enter with full consent if one or both are later forced to stay in the marriage against their will.

A forced marriage differs from an arranged marriage, in which both parties presumably consent to the assistance of their parents or a third party such as a matchmaker in finding and choosing a spouse. There is often a continuum of coercion used to compel a marriage, ranging from outright physical violence to subtle psychological pressure. Though now widely condemned by international opinion, forced marriages still take place in various cultures across the world, particularly in parts of South Asia and Africa. Some scholars object to use of the term "forced marriage" because it invokes the consensual legitimating language of marriage (such as husband/wife) for an experience that is precisely the opposite. A variety of alternative terms have been proposed, including "forced conjugal association" and "conjugal slavery".

The United Nations views forced marriage as a form of human rights abuse, since it violates the principle of the freedom and autonomy of individuals. The Universal Declaration of Human Rights states that a person's right to choose a spouse and enter freely into marriage is central to their life and dignity, and their equality as a human being. The Roman Catholic

Church deems forced marriage grounds for granting an annulment—for a marriage to be valid both parties must give their consent freely. The Supplementary Convention on the Abolition of Slavery also prohibits marriage without right to refusal by both parties and requires a minimum age for marriage to prevent this.

In 2009, the Special Court for Sierra Leone's (SCSL) Appeals Chamber found the abduction and confinement of women for "forced marriage" in war to be a new crime against humanity (AFRC decision). The SCSL Trial Chamber in the Charles Taylor decision found that the term 'forced marriage' should be avoided and rather described the practice in war as 'conjugal slavery' (2012).

In 2013, the first United Nations Human Rights Council resolution against child, early, and forced marriages was adopted; the resolution recognizes child, early, and forced marriage as involving violations of human rights which "prevents individuals from living their lives free from all forms of violence and that has adverse consequences on the enjoyment of human rights, such as the right to education, [and] the right to the highest attainable standard of health including sexual and reproductive health", and also states that "the elimination of child, early and forced marriage should be considered in the discussion of the post-2015 development agenda." The elimination of this harmful practice is one of the targets of the United Nations Sustainable Development Goal 5.

### **Eve teasing:**

Eve teasing is a euphemism, primarily occurring in Indian English, used for public sexual harassment or sexual assault of women by men. The name "Eve" alludes to the Bible's creation story concerning Adam and Eve. Considered a problem related to delinquency in male youth, it is a form of sexual aggression that ranges in severity from sexually suggestive remarks, brushing in public places and catcalls, to groping. The Indian National Commission for Women has suggested that the expression serves only to trivialize the seriousness of the offence and should be replaced by a more appropriate term. They argue that, considering the semantic roots of the term in Indian English, Eve teasing refers to the temptress nature of Eve, and places the responsibility on the woman as an alluring tease. Teasing girls and women, passing audible comment on them, harassing them verbally or physically, and troubling them purposely is all called 'eve teasing.'

As with most forms of personal harassment, sexual harassment is notoriously difficult to prove in a legal sense as perpetrators often devise intentionally discreet ways to harass

women, although Eve teasing usually occurs in public spaces and streets and on public transport. Some guidebooks to the region warn female tourists to avoid attracting the attention of these kinds of men by wearing modest, conservative clothing. However, this form of harassment has been reported by both Indian and foreign women in conservative dress.

### **Sexual harassment:**

Sexual harassment is a type of harassment involving the use of explicit or implicit sexual overtones, including the unwelcome and inappropriate promise of rewards in exchange for sexual favours. Sexual harassment includes a range of actions from verbal transgressions to sexual abuse or assault. Harassment can occur in many different social settings such as the workplace, the home, school, churches, etc. Harassers or victims may be of any sex or gender.

In most modern legal contexts, sexual harassment is illegal. Laws surrounding sexual harassment generally do not prohibit simple teasing, offhand comments, or minor isolated incidents—that is due to the fact that they do not impose a "general civility code." In the workplace, harassment may be considered illegal when it is frequent or severe thereby creating a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim's demotion, firing or quitting). The legal and social understanding of sexual harassment, however, varies by culture.

Sexual harassment by an employer is a form of illegal employment discrimination. For many businesses or organizations, preventing sexual harassment and defending employees from sexual harassment charges have become key goals of legal decision-making. Child trafficking can be defined as any person under 18 who is illegally recruited, transported, transferred, harboured or received by threats, force, and coercion or inducing fear for the purpose of exploitation, either within or outside a country. Child trafficking is a common malpractice in India. Child exploitation is done for several reasons. Some of the primary reasons are:

- **Sexual exploitation:** children, especially girl children are lured into moving to another city and are forced into prostitution, sex tourism and pornography.
- **Illegal activities:** kidnapped children are often forced to beg, and sometimes their organs like kidney etc. are sold. These children are also often used for drug trafficking purposes.
- **Labour:** children brought into the city are sold as bonded labour to industry owners. They are often placed at factories of carpet weaving, diamond cutting etc.

Indian laws do not have a legal definition of child trafficking. The Immoral traffic (Prevention) Act deals only with trafficking of minors for prostitution. However, other laws are present which can assist in child trafficking – Indian Penal Code, Juvenile Justice Act 2000, Andhra Pradesh Devadasi's (Prohibition of Dedication) Act, 1988, Bombay Prevention of Begging Act etc.

### **Human and Child trafficking:**

Human Trafficking is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world. The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce their victims.

Human trafficking is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficker or others. This may encompass providing a spouse in the context of forced marriage, or the extraction of organs or tissues, including for surrogacy and ova removal. Human trafficking can occur within a country or trans-nationally. Human trafficking is a crime against the person because of the violation of the victim's rights of movement through coercion and because of their commercial exploitation. Human trafficking is the trade in people, especially women and children, and does not necessarily involve the movement of the person from one place to another.

### **Female infanticide:**

Female infanticide is the deliberate killing of newborn female children. In countries with a history of female infanticide, the modern practice of gender-selective abortion is often discussed as a closely related issue. Female infanticide is a major cause of concern in several nations such as China, India and Pakistan. It has been argued that the low status in which women are viewed in patriarchal societies creates a bias against females.

In 1978, anthropologist Laila Williamson, in a summary of data she had collated on how widespread infanticide was, found that infanticide had occurred on every continent and was carried out by groups ranging from hunter gatherers to highly developed societies, and



that, rather than this practice being an exception, it has been commonplace. The practice has been well documented among the indigenous peoples of Australia, Northern Alaska and South Asia, and Barbara Miller argues the practice to be "almost universal", even in the West. Miller contends that female infanticide is commonplace in regions where women are not employed in agriculture and regions in which dowries are the norm. In 1871 in *The Descent of Man, and Selection in Relation to Sex*, Charles Darwin wrote that the practice was commonplace among the aboriginal tribes of Australia.

In 1990, Amartya Sen writing in the *New York Review of Books* estimated that there were 100 million fewer women in Asia than would be expected, and that this number of "missing" women "tell[s] us, quietly, a terrible story of inequality and neglect leading to the excess mortality of women". Initially Sen's suggestion of gender bias was contested and it was suggested that hepatitis B was the cause of the alteration in the natural sex ratio. However, it is now widely accepted that the numerical worldwide deficit in women is due to gender specific abortions, infanticide and neglect.