

## UNIT – IV

### LAWS RELATED TO WOMEN EMPOWERMENT IN INDIA

Some specific laws which were enacted by the Parliament in order to fulfill Constitutional obligation of women empowerment are ,

- The Equal Remuneration Act, 1976.
- The Dowry Prohibition Act, 1961.
- The Immoral Traffic (Prevention) Act, 1956.
- The Maternity Benefit Act, 1961.
- The Medical termination of Pregnancy Act, 1971.
- The Commission of Sati (Prevention) Act, 1987.
- The Prohibition of Child Marriage Act, 2006.
- The Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- The Sexual Harassment of Women at Work Place (Prevention, Protection and) Act, 2013.

Above mentioned and several other laws are there which not only provide specific legal rights to women but also gives them a sense of security and empowerment.

#### International Commitments of India as to Women Empowerment

India is a part to various International conventions and treaties which are committed to secure equal rights of women.

One of the most important among them is the Convention on Elimination of All Forms of Discrimination against Women (CEDAW), ratified by India in 1993.

Other important International instruments for women empowerment are: The Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995) and the Outcome Document adopted by the UNGA Session on Gender Equality and Development & Peace for the 21st century, titled "Further actions and initiatives to implement the Beijing Declaration and the Platform for Action". All these have been whole-heartedly endorsed by India for appropriate follow up.

These various national and International commitments, laws and policies notwithstanding women's situation on the ground have still not improved satisfactorily. Varied problems related to women are still subsisting; female infanticide is growing, dowry is still prevalent, domestic violence against women is practiced; sexual harassment at workplace and other heinous sex crimes against women are on the rise.

Though, economic and social condition of women has improved in a significant way but the change is especially visible only in metro cities or in urban areas; the situation is not much improved in semi-urban areas and villages. This disparity is due to lack of education and job opportunities and negative mind set of the society which does not approve education for girl children.

Laws related to women are classified under two major categories:- A. Indian Penal Code Rape (Sec. 376 IPC) : A rapist, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine. Kidnapping & Abduction for different purposes ( Sec. 363-373) : any person who is abducting a minor for purpose of begging or kidnapping minor/women for prostitution or

illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC): Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her in laws or husband, for or in connection with, any demand of dowry, such death shall be called —dowry death||. Whoever commits dowry death shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life.

Torture, both mental and physical (Sec. 498-A IPC):• Husband or relative of husband of a woman subjecting her to cruelty, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Molestation (Sec. 354 IPC): Whoever assaults or uses• criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Sexual Harassment (Sec. 509 IPC): Whoever, intending• to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such gestures or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. B. Special Laws Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

The Dowry Prohibition Act 1961 prohibits the request,• payment or acceptance of a dowry "as consideration for the marriage", where "dowry" is defined as a gift demanded or given as a precondition for a marriage. Gifts given without a precondition are not considered dowry, and are legal, per section 3(2). Asking for or giving of dowry can be punished by imprisonment of up to six months, a fine of up to Rs. 15000 or the amount of dowry (whichever is higher), or imprisonment up to 5 years. It replaced several pieces of antidowry legislation that had been enacted by various Indian states.

The Immoral Traffic (Suppression) Act (SITA) (1956) is• the primary law dealing with the status of sex workers. According to this law, prostitutes can practise their trade privately but cannot legally solicit customers in public. Organised prostitution (brothels, prostitution rings, pimping, etc.) is illegal. As long as it is done individually and voluntarily, a woman can use her body in exchange for material benefit. In particular, the law forbids a sex worker to carry on her profession within 200 yards of a public place. Unlike as is the case with other professions, sex workers are not protected under normal labour laws, but they possess the right to rescue and rehabilitation if they desire and possess all the rights of other citizens.

The Protection of Women from Domestic Violence Act• 2005 is an Act of the Parliament of India enacted to protect women from domestic violence. Primarily meant to provide protection to the wife or female live-in partner from domestic violence at the hands of the husband or male live-in

partner or his relatives, the law also extends its protection to women living in a household such as sisters, widows or mothers. Domestic violence under the act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

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 will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth. Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

The Family Courts Act, 1954 The Court established to conclude upon matters relating to family law like matrimonial reliefs, custody of children, maintenance for wife and children etc is termed as Family Court. The Status of Women Committee in 1975 together with the report of the 59th Law Commission recommended the Central Government to establish a separate judicial forum to settle family disputes immediately before the beginning of the trial proceedings. Hence it was decided to establish a family court in India by the Act of 1984. The Family Court shall have the same status as that of a District Court and shall exercise the jurisdiction accordingly and also empowered to initiate suits and proceedings in par with the conditions stipulated by the Act. Where there is any chance for settlement of the dispute between the parties, the Family Court shall postpone the proceedings and take steps for settlement at the earliest. Under the Act a party to the dispute cannot claim the service of a legal practitioner as of right, but the Court shall have the power to appoint a legal professional. An aggrieved party may, however, prefer an appeal to the High Court from an order of the Family Court. The High Court shall frame rules in the matters connected there with, after publishing in the Gazette. The Act also confers power on the Central and State Government to formulate rules as prescribed under the Act.

The Special Marriage Act, 1954 Act of the Parliament of India enacted to provide a special form of marriage for the people of India and all Indian nationals in foreign countries, irrespective of the religion or faith followed by either party. The Act originated from a piece of legislation proposed during the late 19th century. The Special Marriage Act, 1954 replaced the old Act III, 1872. The new enactment has 3 major objectives: To provide a special form of marriage in certain cases, To provide for registration of certain marriages and, To provide for divorce.

The Marriage Laws (Amendment) Bill, 2010 To amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 to making divorce easier on ground of irretrievable breakdown of marriage was introduced in the parliament in 2012. The Bill replaces the words "not earlier than six months" in Section 13-B with the words "Upon receipt of a petition." It also provides a better safe guard to wife by inserting section 13D by which the wife may oppose the grant of a decree on the ground that the dissolution of the marriage will resulting rave financial hardship to her and that it would in all the circumstances be wrong to dissolve the marriage. New section 13E provides restriction on decree for

divorce affecting children born out of wedlock and states that a court shall not pass a decree of divorce under section 13C unless the court is satisfied that adequate provision for the maintenance of children born out of the marriage has been made consistently with the financial capacity of the parties to the marriage.

The Maternity Benefit Act, 1961 (Amended in 1995) • Section 8 of the Act reads as follows after April 2, 2008: "Payment of medical bonus. (1) Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no prenatal confinement and post-natal care is provided for by the employer free of charge. (2) The Central Government may before every three years, by notification in the Official Gazette, increase the amount of medical bonus subject to the maximum of twenty thousand rupees