

**A LEGAL STUDY OF WOMEN'S RIGHT AND SEXUAL
HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION,
PROHIBITION AND REDRESSAL) ACT 2013**

**A DISSERTATION TO BE SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENT FOR THE AWARD OF DEGREE OF MASTERS OF LAWS**

SUBMITTED BY

**SHASHANK SINGH
ROLL NO. - 1200997045
SCHOOL OF LEGAL STUDIES**

**UNDER THE GUIDANCE
OF**

**Dr. VATSLA SHARMA
ASSISTANT PROFESSOR
SCHOOL OF LEGAL STUDIES**



Session: 2020-21

CERTIFICATE

This is to certify that the dissertation titled, “**A legal study of women's right and sexual harassment of women at workplace (prevention, prohibition and redressal) act 2013**” is the work done by **Shashank Singh** under my guidance and supervision for the partial fulfilment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi das University, Lucknow, Uttar Pradesh.

I wish him success in life.

Date:

Dr. VATSLA SHARMA

Place- Lucknow

ASSISTANT PROFESSOR

DECLARATION

Title of Dissertation “**A LEGAL STUDY OF WOMEN'S RIGHT AND SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT 2013**”

I understand what plagiarism is and am aware of the University's policy in this regard.

SHASHANK SINGH

I declare that

- (a) This dissertation is submitted for assessment in partial fulfilment of the requirement for the award of degree of **Master of Laws**.
- (b) I declare that this **DISSERTATION** is my original work. Wherever work from other source has been used i.e., words, data, arguments and ideas have been appropriately acknowledged.
- (c) I have not permitted, and will not permit, anybody to copy my work with the purpose of passing it off as his or her own work.
- (d) The work conforms to the guidelines for layout, content and style as set out in the Regulations and Guidelines.

Date:

Place- Lucknow

SHASHANK SINGH

1200997045

MASTER OF LAWS (2020-21)

CRIMINAL AND SECURITY LAW

B.B.D. UNIVERSITY

ACKNOWLEDGEMENT

I would like to show my sincere gratitude towards my faculty mentor Asst. Professor Dr. Vatsla Sharma for giving this project. This project helped me to enhance my knowledge regarding this topic. I was too able to grab more new terms and concepts. The project would not have been completed without your constant support and guidance.

I would also like to thank Babu Banarasi Das University Management and Staff who have indirectly and directly helped me in completion of this project.

CONTENTS

SL.NO	PARTICULARS	PAGE NO
	Table of Cases	ix-xi
	Table of Abbreviations	xii-xiii
1.	Chapter -1 Introduction	1-5
2.	Chapter-2 Concept and origin of Violence Against women 2.1 Violence Against women: A Historical Overview, Meaning and Causes of violence. 2.1.1 Status of Women in India Society (A) Ancient Status (B) Medieval Status (C) Modern Status 2.1.2 Concept of Violence Against Women 2.1.3 Definition of Violence (A) Lexicon Meaning of Violence (B) Sociological Definition of Violence (C)Socio-Psychological Definition of Violence (D) Operational Definition of Violence 2.2 Sexual harassment 2.2.1 Sexual harassment at work place 2.3 Pattern of Violence 2.3.1 Sati Practice 2.3.2 Dowry related Violence 2.3.3 Wife- Battering 2.3.4 Domestic Violence	6-31
3.	Chapter-3 International & national perspective 3.1. International Perspective 3.1.1. Universal Declaration of Human Right	32-57

3.1.2. Convention on the elimination of all forms of discrimination
against women, 1979

3.1.3. Commission on the status of women

(A) Vienna Conference

(B) Beijing Conference

3.2. National Perspective

3.2.1. Constitutional Provisions

3.2.1.1. Preamble

3.2.1.2. Equality

3.2.1.3. Right to Dignified Life

3.2.1.4. Right to Maintenance

3.2.1.5. Right Against Exploitation

3.2.1.6. Directive Principles of State Policy

3.2.1.7. Uniform Civil Code

3.2.1.8. Fundamental Duties

3.2.1.9. Women's Representation in Local Bodies

3.2.2. Statutory Provision

3.2.2.1. Domestic Violence

(A) Criminal Law Remedy

(B) Civil Law Remedy

(C) The Protection of women from Domestic
Violence Act, 2005

3.2.2.2. Sati

(A) Commission of Sati (Prevention) Act, 1987

3.2.2.3. Law Relating to obscenity and indecent
representation of women

(A) Obscenity

(B) Indecent Representation

(C) Outraging Modesty

3.2.2.4. Termination of Pregnancy

(A) Provisions under Penal Code, 1860

(B) The Medical Termination of Pregnancy Act
1971

3.2.2.5. Dowry Harassment

	<p>(A) Provisions Under Penal Code 1860</p> <p>(B) The Dowry Prohibition Act 1961</p> <p>3.2.2.6. Law on Rape</p> <p>3.2.2.7. Prostitution and Law</p> <p>(A) Provision Under Constitutional Law</p> <p>(B) The Immoral Traffic (Prevention) Act 1956</p> <p>3.2.2.8. Sexual Harassment at work Place</p> <p>(A) Provisions Under the Penal Code</p> <p>(B) Sexual Harassment of women at Work Place (Prevention Prohibition and Redressal) Bill 2012</p> <p>3.2.3. Govt. Policies</p>	
4.	<p>Chapter-4 Judicial pronouncement</p> <p>4.1. Cases Related to Violence against Women</p> <p>4.2. Cases Relating to Sexual Harassment at Workplace</p>	58-69
5.	<p>Chapter-5 Women's Rights and Human rights</p> <p>5.1. Concept of Human Rights</p> <p>5.2. Human Rights and Women: International Concern</p> <p>5.3. Human Rights Women Constitutional and Legislative safeguards in India</p> <p>5.4. Judicial Acceptance of Human Rights of Women</p> <p>5.4.1. Right to Privacy of Women</p> <p>5.4.2. Right to Terminate Pregnancy</p> <p>5.4.3. Violence Against Women is a Human Rights Issue</p> <p>5.4.4. Rape as Violation of Human Rights</p> <p>5.4.5. Right Against Sexual Harassment</p> <p>5.4.6. Right to Economic Empowerment</p> <p>5.5. Clarion Call for Social Transformation</p> <p>5.6 Media and Sexploitation</p>	70-95
6.	<p>Chapter- 6 Conclusion & suggestion</p> <p>6.1. Conclusion</p> <p>6.2. Suggestions</p>	96-102

-7.	<p style="text-align: center;">Bibliography</p> <p>1. Primary Sources</p> <p>(A) Documents</p> <p>(B) Books</p> <p>(C) Journals/Periodicals</p> <p>(D) Law Reports</p> <p>2. Secondary Sources</p> <p>(A) Article</p> <p>(B) Dictionaries and Encyclopaedias</p> <p>(C) Libraries</p> <p>(D) Internet</p>	103-107
-----	--	---------

LIST OF CASES

S. No

[A]

1. Air India vs. Nergesh Meerza (1981) 4 SCC 335
2. Air India Cabin Crew Assn vs. Yeshaswinee Merchant (2003) 6 SCC 277
3. Anjali Roy vs. State of W.B. AIR (1952) Cal 825
4. Apparel Export promotion Council vs. A.K. Chopra (1991) 1 SCC759

[B]

5. Bai Tahira vs. Ali Hussain Fidalli Chothia (1979) 2 SCC 316
6. Bholanat Tripathi vs. State of U.P. (1990) SCC Cri 543
7. Bodhisathwa Gautam vs. Subhra Chakraborty (1996) 1 SCC 490
8. Bombay labour union vs. International franchises (P) Ltd. AIR 1972 P&H 117

[C]

9. Case of Sowmithri Vishnu AIR 1985 SC 1618
10. Case of Ranamala in re AIR 1962 Mad 31
11. C.B. Muthamma vs. Union of India (1981) 4 SCC 335
12. CEHAT vs. Union of India (2001) 5 SCC 577
13. Chairman, Railway Board vs. Chandrima Das AIR 2000 SC 988
14. C.Masilmani Mudalior vs. Idol of Sri Swaminathaswami Thirukoil AIR 1996 SC 1699

[D]

15. Dattatraya Motiram More vs. State of Bombay AIR (1953) Bom. 311
16. Dainial latifi vs. Union of India (2001) 7 SCC 740
17. Delhi Gang Rape Case 16 December 2012
18. Delhi Domestic working women's forum vs. Union of India (1995) 1 SCC 14
19. Dinesh vs. State of Rajasthan AIR 2006 SC 1267

[F]

20. Fuzlunibi vs. K. Khader Vali (1980) 4 SCC 125

[G]

21. Gajanand Agarwal vs. State of Orissa (2006) 2 SCC 131
22. Ghanshyma Mishra vs. State (1957) Cri LJ 469
23. Govt. of A.P. & P.B. Vijaya Kumar (1995) 4 SCC 520
24. Govind vs. State AIR 1975 SC 1378

[I]

26. Inder Sain vs. State (1981) Cr. L.J. 116 (Del.)
27. Indira Sawhney vs. Union of India (1992) SC (L&S) supp. 1

[J]

28. Jone Roe vs. Henry wade (1973) 410 US
29. Jolly George verghese vs. Band of Cochin AIR (1980) SC 470

[K]

30. Kau Shalu vs. Wiskahi Ram AIR 1961 Punj 521
31. Kundula Bala Subrahmanyam vs. State of A.P. (1993) 25 SCC 684

[M]

32. Madan Lal vs. State of J&K (1997) 7 SCC 677
33. Malpani Infertility clinic (P) Ltd. vs. Appropriate Authority PNDT Act AIR 2005 Bom. 26
34. Maneka Gandhi vs. Union of India (1978) 1 SCC 248
35. Mohd. Ahmed Khan vs. Shah Bano Begum (1985) 2 SCC (556)

[N]

36. Nathu Ram vs. State of Haryana (1994) 1 SCC 491
37. Nauran Singh vs. Sapla Devi AIR 1968 All 412
38. Neera Mathur' case AIR 1992 SC 394
39. N.M. Kheni vs. Manik Rao Patil (1977) 4 SCC 16

[P]

40. Pratibha Rani vs. Surjan Kumar (1985) 2 SCC 370
41. Punjab vs. Amarjit Singh (1989) SCC (Cri) 58
42. Pradeep Kumar vs. Union Admin, Chandigarh (2007) 1 SCC Cri 41
43. Prithi Chand vs. State of H.P. (1989) 1 SCC 432

[R]

44. Radha Bai vs. Union Territory of Pondicherry (1995) 4 SC 141
45. Raghubans vs. State (1979) 4 SCC 260

[S]

46. Sarojni vs. State of M.P. (1994) SCC (Cri) 124
47. S. Gopal Reddy vs. State of A.P. AIR 1996 SC 2184
48. Shamsheer Singh vs. State AIR (1970) P&H 372
49. Shefali Banerjee vs. State AIR 1969 Cal. 544

50. State of Delhi Admin vs. Laxman Kumar (1985) 45 SCC 476
51. State of Maharashtra vs. Vasant Shankar Mhasane (1993) Cri LJ 1134
52. State of Karnataka vs. M.V. Manjunthwda (2003) 1 SCC 188
53. State of Kerala vs. Kundumkara Govindom (1969) Cril LJ 818
54. State of Maharashtra vs. Madhukar Narain AIR 1991 SC 207
55. State of Punjab vs. Gurmit Singh AIR 1996 SC 1393
56. State of Punjab vs. RamDev Singh AIR 2004 SC 1290
57. State of Uttar Pradesh vs. Kaushaliya (1964) 4 SCR 1002
58. State of W.B. vs Orilal Juiswal (1994) 1SCC 73
- [T]
59. Tukaram vs. State of Maharashtra (1979)2 SCC 193
- [U]
60. University of Madras vs Shantha Bai AIR (1954) Mad 67
- [V]
61. Vishkha vs. State of Rajasthan (1997) 6 SCC 291
62. Vishal Jeet vs. Union of India (1990) SCC (Cri) 543
- [W]
63. Walker vs. Northumber land County council (1995) IRLR 35
- [Y]
64. Yusuf Abdul Aziz vs. State of Bombay AIR (1954) SC 321

LIST OF ABBREVIATIONS

A.I.R.	-	All India Reporter
All.	-	Allahabad
A.P.	-	Andhra Pradesh
Art.	-	Article
B.C.L.C	-	Butterworth Company Law Cases
Bom.	-	Bombay
Cal.	-	Calcutta
C.J.	-	Chief Justice (of H.C./S.C.)
Cri.	-	Criminal
Cr. L.J.	-	Criminal Law Journal
Del.	-	Delhi
Ed.	-	Edition
E.g.	-	For Example
EBC	-	Eastern Book Company
Govt.	-	Government
H.C.	-	High Court
Ibid	-	Ibidem (at the same place)
I.A.	-	Indian Appeals
i.e.	-	That is
I.B.R.	-	Indian Bar Review
J./J.J.	-	Justice/Justices
J&K	-	Jammu & Kashmir
J.I.L.I.	-	Journal of Indian Law Institute
Ltd.	-	Limited
Mad.	-	Madras
No.	-	Number
L.J.R.	-	Law Journal Report.
P. or P.P.	-	Page or Pages
P.C.	-	Privy Council
P&H	-	Punjab and Haryana
P.I. L	-	Public Interest Litigation
Punj.	-	Punjab

Pvt.	-	Private
S.C.	-	Supreme Court
S.C.C.	-	Supreme Court Cases
S.C.R.	-	Supreme Court Review
S.C.W.	-	Supreme Court Weekly
S.C.J.	-	Supreme Court Journal
S/Sec.	-	Section
Supra	-	Above
UOI	-	Union of India
U/S	-	Under Section
V/vs.	-	Versus (Meaning Against)
viz	-	Videlicet (Namely)
W.E.F.	-	With Effect From
www	-	World Wide Web

CHAPTER –I

Introduction

Violence against women is a partly is result of patriarchal mindset that assumes men to be superior of women given the subordinate status of women, much of gender violence is considered normal and enjoy social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats and control over speech and actions. in extreme, but not unknown case, death is the result. These expressions of violence take place in a man-women relationship within the family, state and society. Usually domestic aggression towards women and girls, due to various reasons remain hidden.

Cultural and social factors are interlinked with the development and propagation of violent behaviour with different processes of socialisation that men and women undergo, men take up stereotyped gender roles of domination and control, whereas women take up that of submission, dependence and respect for authority. A female child grows up with a constant sense of being weak and is need of protection, whether physical social or economic. This helplessness has led to her exploitation at almost every stage of life. The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources. The family and its operational unit are where the child is exposed to gender differences since birth, and in recent times even before birth, in the form of sex determination test leading to foeticide and female infanticide. the home which is supposed to be the most secure place, is where are most exposed to violence.

Violence against women has been clearly defined as a form of discrimination in numerous documents. The world human right conference in Vienna, first recognised gender-based violence as a human rights violation in 1993¹. In the same year, **united nations declaration, 1993**, defined violence against women as *“any act of gender-based violence that result in, or is likely to result in physical, sexual or psychological harm or suffering to a woman, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life,”*²

Radhika Coomaraswamy identifies different kinds of violence against women, in the united nation's special report, 1995, on violence against women;

1. Kapoor, S.K., Human Rights under International and Indian Law, CLA, Allahabad 2010 of p. 376.

2 Ibid.

“(a) Physical sexual and psychological violence occurring 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.

(b) Physical sexual and psychological violence occurring 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.

(c) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.”

This definition added ‘violence perpetrated or condoned by the state’, to the definition by United Nations in 1993.³

Coomaraswamy (1992) points out that **“women are vulnerable to various forms of violent treatment for several reasons, all based on gender.**

- (1) Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society’s construction of female sexuality and its role in social hierarchy.**
- (2) Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, sati. This reason relates to society’s concept of a woman as a property and dependent of the male protector, father, husband, son, etc.**
- (3) Because of the social group to which she belongs, in times of war, riots, or ethnic caste, or class violence, a woman may be raped and brutalised as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as property of men.⁴”**

Combining these types of abuse with the concept of hierarchical gender relations, a useful way to view gender violence is by identifying where the violence towards women occurs.

3. Violence perpetrated or condoned by the state, available at [http://www.icty.org/x/life/about/reports%20and%20publications/annual reports/annual report 1993 en.pdf](http://www.icty.org/x/life/about/reports%20and%20publications/annual%20reports/annual%20report%201993%20en.pdf), access on March 16,2013.

4. Violence against women, available at en.wikipedia.org/wiki/violence-against_women access on, March 16,2013.

The seeds of violence in the subordination of females lie in their subjection to male authority and control. This relationship between women and men has been institutionalized in the structure of the patriarchal family and is supported by the economic and the political institutions and by a belief system, including a religious one, that makes such relationship seem natural, morally just and sacred.

As long as the woman is not perceived as an equal human being she will continue to be relegated to the realms of violence, to be deprived and downtrodden, starved and finally defeated by the filthy lucre.

We have now recently discovered women all over again this time in a slightly more glamorous role than usual-as the “**pivot of social change,**” but yet another role to be included in the wide repertory of order she has played through the ages. Once again, an instrument, changing the face of the countryside while keeping her own hidden behind the veil of darkness. If women are to be the instrument of social change, change must be in a less negative way.

But the fact remains that India can at best limp into the 21st century. If our social conditioning continues to be blinkered and dehumanised by sexist bigotry.

It is heartening to note that rape, battering sexual harassment and other expressions of violence against women have begun to be confronted and responded to by women in our country, like elsewhere in the world. Women are organising in their communities, and on a national and international level to fight back and bring an end to the years of silence and abuse. The women's groups that have come forth in protest, to organise and provide services have begun a dialogue that cross national boundaries.

The Indian polity more or less has always tried to cope with the contemporary need-based development of laws for the special purpose. It may be in the field of Human Right, Politics, Civil Rights, Constitutional Rights or social transfer. Constitution of India is the Fundamental Right of law of land. It protects the each and other statute of woman and help to maintain dignity of women. Constitution of India also protect and promote rights of woman by the way of Fundamental Right (part III), Directive Principal of state Policy as well as Preamble.

The anti-rape movement, which began in India, in 1980, has gathered tremendous momentum over the past five years. Dowry deaths; police brutality and rape by government and military representatives both against individual women and as a tool to repress peasant movement; sati; and Dalit and Tribal women are some of the key offences that the anti-rape movement has begun to address. The **Mathura Rape case** and the **Rameeza Bee case** were both well publicised cases that helped to bring national attention to the prevalence and seriousness of crimes against women. Sexual harassment on the job, Child abuse and incest have yet to receive much public attention. However, these issues are increasingly getting exposure in the media and the

being discussed by women's organisations. Finally. The Indian Penal Code of 1860 underwent significant changes for the first time in over 120 years with the passage of the new rape law of 1983. Though the new law was both widely acclaimed and criticized by the anti-rape movement, lawyers and the general public has brought to the force, key issues around press censorship, age of consent, appropriate punishment, burden of proof, custodial rape and the past sexual history of the victim.

It is important to set aside immediate problems and think of conditions under which violence against women would be an impossibility.

Since male supremacy is the historical source of violence, and class domination perpetuates male privilege a long plan to end abuse includes a total restructuring of society that is feminist, anti-racist and socialist. While ending capitalism and building socialism will not stop male domination, they may be necessary steps in the process argues **Susan Schester**. Under capitalism private ownership creates an economy based on exploitation and a privatized family, both of which rest on female subordination. In contrast, Social ownership of economic life, democratic participation in the decisions that affect one's life, and ending the separation between family and community are the hopes that a yet unrealized version of socialism offers.

The conditions-shelter, adequate jobs, incomes, free health care, affordable housing and child care-are essential to allow women independence from violent men and to enable them to live decently. Whether this is possible under capitalism, is questionable. In a privatized capitalist economy, the social purposes and value of women's work disappears; women are easily degraded, subject to the whims of men and isolated from the support of other women. Resources must be available in the form of goods, services, and jobs so that power relations between men and women in the family are equalized.

A society based on a privatized, nuclear family life, separate from the community, creates unreasonable contradictions in any efforts to end violence against women in the family. If women were neither economically dependent on men nor defined as different and less, then male and female might cease to be rigid, oppositional categories in which men hold more power and are more valued. In this socialist feminist world, abuse would be defined as a crime against a person. Family would be part of and accountable to the community if a false separation did not exist between the family and the community. Women might lose their sense of isolation and gain a sense of entitlement to a violence free life.

In very ancient time, men and women together must work to define and live egalitarian sexual and social relationships in the context of a struggle to end exploitation and oppression.

Objective of the study:

Analysis the available law's which give the protection to the women against violence in present scenario with special reference to sexual harassment at workplace. The study Analysis the role of the judiciary in the present context.

Research Methodology:

To complete this research particularly analytical method has been adopted. In accordance with method a part from the material from decided cases attempts have been made to use facts and information already available and analyze them to make a critical evaluation of the problem.

Chapter Scheme:

The dissertation work has been divided in to sixth parts a brief of the work is described as below.

The *first chapter* deals with brief "*introduction*" of the subject and the reason behind the concept and objective.

Second chapter "concept and origin of violence against women" deals with violence against women- A Historical Overview, Meaning and causes of violence, sexual harassment at workplace and pattern of violence.

Third chapter "International and National Perspective" describe the international and National status of law for women, that how different laws i.e. at the international and national level cover crime against women and how provide remedy and compensate them.

Fourth chapter "Judicial Pronouncement" describe the judicial overview about the crime against women for which there is no provision in law.

Fifth chapter "Women's Rights and Human Rights", describe women's right in concern of Human right, and role of judiciary for the protection of human right of women.

Sixth chapter finally concludes with "*Conclusion and Suggestion*".

CHAPTER – II

Concept and origin of violence against women

2.1. Violence Against Women: A Historical Overview, Meaning and causes of Violence a theoretical explanation: -

“The home where there is respect for women is like the abode of gods themselves but where they are not respected, all other forms of worship are fruitless.”

Women is the magnificent creation of god, a multifaceted personality with the power of benevolence, adjustability, integrity and tolerance, she is companion of man, gifted with equal mental faculty, a protector and provider, the embodiment of love and affection. India is a country where women find very important place, because over the years they have contributed immensely towards the society about their proper roles in the domestic and social spheres have been greatly influenced by the religious conception in regard to their fundamental characteristics, their assumed virtues and vices, etc. which are substantiated by various legend and myths. The great Hindu epic Mahabharata state that the mothers excel in her greatness ten father there is no guru like mother. Thus, to come to be symbol of sacrifice, which apart from endowing all respect and veneration on her, restricted her to home.¹

The women have evidently dual role in the family first in the parents' house and secondly in her husband house. But in present time women also play important role in economic sector which show that now time of women empowerment. A woman is an architect of society. She establishes the institution of family life, build the home brings up the children and makes them good citizens. Her strength in totality contributes in the making of an ideal family, ideal society and an ideal nation. Jawaharlal Nehru, the first Prime Minister of India, said, ‘You can tell the condition of a nation by looking at the status of its women. The Beijing Declaration at the fourth world conference on women (1995) point 13 says, ‘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 achievement of equality, development and peace. **Dr. Rajendra Prasad** the first President of India say’s about women that **“Our women have a great part to play in the progress of our country, as the mental and physical contact of women with life is much more lasting and comprehensive than that of men. For nothing was it said, “The hand that rocks the cradle rules the world”. In the apron string of women is hidden the revolutionary energy, which can establish paradise on this earth.”**²

1. Kane P.V., History of Dharmasatras, p. 580.

2. Bakshi, S.R., Empowerment of women and politics of Reservation, Book Enclave, Jaipur, 2002, at p. 98. School of Legal Studies, BBDU, Lucknow

Status of women in Indian Society:

(A) Ancient Status

In Ancient India, Vedic people established a social system in which father, instead of mother became the head of family. Throughout ancient history, women were obliged to abide by the laws made by men. However, it is also true that Vedic society had a number of women in key positions and that certain austerities could not be performed without the wives even in the early ritualistic period. In fact, according to legends Lord Brahma was forced to take up a girl named Savitri as his consort for a special worship, in the absence of his wife Saraswati, women in ancient India occupied a dignified place. They participated in outdoor life as circumstances and situations demanded and there hardly any prescribed positions exclusively earmarked for men. All the high avenues of learning were open to women who excelled in learning and their hymns were included in Vedas.³

(B) Medieval Status

Women continued enjoying the same position more or less until Muslim invasions took place from North west a slow and steady decline in the position of women had begun. With coming of invaders this process accelerated and decline was marked. The political instability, consequent migration of population and economic depression extending over period of about three centuries affected the women adversely. Infanticide, child marriage Sati, Pardha system and prejudice against invaders and for rulers. To explain further, foreign invaders and rulers would abduct, be cruel and abuse Indian girls. In an attempt to save them from such atrocities hindu's were forced to perform infanticide marry them when they were only children perform sati or widow burning was also done to save women's respect and torture by Muslim rulers⁴.

All these customs hampered the progress of women, yet there appeared throughout the ages some women who excelled as administrators and reformers. The names of Padmini, Razia Begum, Durgawati, who defended the Ahmed Nagar fort, represent the warriors and administrators against women maghal princes like Nur Jahan Ara and Zebunnin and prominent women of medieval India. Among the Maratha rulers Tara Bai, who was instrumental in putting up a powerful resistance against the onslaught of Aurangzeb, and Ahalya Bai Holtar whose administration won admiration of English men were famous women of this time. Punjab had a courageous and good states women Soda Kaur who helped Ranjit Singh in conquering Lahor and consolidating the Sikh empire. The part played by women in the great outbreak of 1857-58 invited admiration even from English. It was Rani of Jhansi about whom Sir High rose observed, "She was the bravest and best military leader of rebels the Rani of Ramgarh met her death in the battle filed

3. Singh Mamta, "Role of women in Indian Society", Shodh Prerak, Vol. I, Issue 3, July 2011, at p. 344.

4 . Ibid.

while Begum Hazarat Mahal had to escape to Nepal and died there as an exile. The birth of Indian National Congress in 1885 furnished a political platform to women. It was in the year 1900 that Swarn Kumari and J Gangoli attended the congress session held in Calcutta as delegates from Bengal. Smt. Gangoli was first woman to speak from congress platform. This was perhaps a beginning of new era and then onwards the women took on increasingly active part in political activities of the country.⁵

Gandhi ji gave a clarion call for women's participation in the freedom movement Sarojini Naidu, Meera Ben, Sucheta Kripalani, Vijaya lakshmi Pandit, Aruna Asaf Ali were some of the leading women freedom fighters.

(C) Modern Status

Women have played a significant role as doctors, engineers, judges, pilots, scientist, diplomats, legislators and even as Prime Ministers and now as a president, Modern women in the present age occupy top rank and attain immense success in all the field. Mother Teresa, PT Usha, MS Shubulaxmi, Kiran Bedi, Dr. Padmavati, Sushma Swaraj, the great environmentalist and social activist, Medha Patekar and Promila Kalhan have become great names in different fields of their work. Although most women in India work and contributed to the economy in one form or another, much of their work is not documented or accounted for in official statistics. Women have now not only found their place in work place but are also party to governance. In recent years there have been explicit moves to increase women's political participation. Women have been given representation in the Panchayati Raj system as a sign of political empowerment. There are many elected women representatives at the village council level. At the central and state levels too women are progressively making a difference Indra Gandhi our late Prime Minister, was held in high esteem the world over Vijya lakshmi pandit created a record by becoming the first woman president of the united Nations General Assembly.⁶

In the modern Age we find the role of women in every field. The myth that certain fields were only meant for men has been demolished by women. Women have proved to be more vibrant, dynamic, sincere and perfect in every field. They have the ability to immerse themselves wholly in any task they undertaken. The first lady president of India Pratibha Devi Singh Patil became role model of women after Kiran Bedi and Kalpana Chawala she represents herself very confidently. After the death of Rajeev Gandhi Soniya Gandhi collectively emerged as a power full lady because of her strong mental power and because of her mental power she had make herself, her family and nation. She also manages her family very well so we are

5. Gupta, A.R., Women in Indian Society, Jyotsana Publication, New Delhi, 1987 at p. 48.

6. Prasad Kiran, Communication and empowerment of women: strategies and policy in sighs from India, the women press, Delhi, 2004.

seeing the bright future of India as the name of Rahul Gandhi when Kanshi ram was not able to hold his party because of his body unfitness then he represents Mayawati as the party leader. Slowly and steady Mayawati started making impression in her party because of her bold decision. She is very popular and demanding leaders.⁷

Women writers like Mahosweta Devi, Pratibha roy, arundhati roy have established their credentials in the modern literary word and contributed to the literacy excellence of the nation. Women are no longer physically unfit for military and police departments. In the whole length and breadth of India, everyone has read and heard of Kiran Bedi, an IPS officer with an iron hand and a Soft heart raving for reformation in the state of prison in India.

Modern educated women have become independent but their responsibilities have increased. A modern Indian woman has to provide income as well as has to perform household duties to support her family. They proved their own self in every field such as sports, politics, performing arts, police administration, medicine and etc Now with the encouragement of co-education, women have cast off the age inferiority complex and are marching side by side with men in every walk of life.

Women are actually proving to be academically better and socially more active when we come across the results of competitive examinations in all India civil services and Indian universities, we are happily surprised to note that woman capture most of the merit seats. They are also aware of the fast-changing social milieu and they are making sustained efforts to scale the leaders of social progress by dint of their Zeal and dynamism. They are contributing extensively towards the social transformation and building of the nation. Really are less selfish and more dedicated to duty and have much patience than men by nature.⁸

In order to make optimum use of our vast woman power, we must liberate Indian woman of many social to boos. However, mere legislation cannot emancipate the lot of our women. This needs a radical change in our mental makeup and our social structure. For this we shall have to foster social emancipating spirit in our everybody life. The conservative male chauvinistic attitude shall have to give way to liberalism. It can be said with a sense of pride and confidence that the future of women in India is quite bright and prosperity will be safe in their hands. In order to give them more scope of participation in the economic growth of the country, the government has implemented major programs like Mahila Samridhi Yojna, women's development corporation, etc.

The female literacy on the whole is on the rise. According to Rabindranath Tagore, "women is god's best creation, "she adds beauty and charm to every aspect of life, Ralph Waldo emerson Says. "A sufficient

7. Singh Mamta, "Role of women in Indian Society", Shodh Prerak, Vol. I, Issue 3, July 2011, at p. 344.

8. Maya Majumdar, Social Status of Women in India, Dominant publication, New Delhi 2004, at p. 8.

measure of civilization is the influence of good women." Victor Hugo once said, "Men have Sight, women insight." Women run to extremes, take advanced measures for the progress of the country with their power of mental strength and extraordinary talent. Women have occupied a pivotal position today and have achieved immense in different fields. In the present times, several women's organizations are working for the enlightenment of India. Today, Indian society is surrounded with many problems such as unemployment, illiteracy, population growth, terrorism, etc. Among these problems, a problem which is deep rooted in Indian society is the problem of dowry system. It has become the everyday news item; no day passes away when we don't hear news relating to dowry death or dowry harassment. The irony lies in the fact that women in India are worshipped in the form of Shakti.

Historical studies and the scriptures indicate that Indian woman enjoyed a comparatively high status during the early Vedic period (2000 B.C. to 1000 B.C.), surpassing contemporary civilizations in ancient Greece and Rome. The Aryans, who were mostly busy fighting wars, regarded woman as useful and productive members of society. The condition of Vedic Woman was good.

"Yatra Nari Astu Pujyante, Ramante Tatra Devataa"

The Gods reside in places where woman is worshiped --- Manu Smriti.

Woman also enjoyed religious status like that of men, especially in Vedic initiation and studies. The Rig Veda provides ample evidence to prove the concept of equality of woman with men as regards access and capacity to acquire the highest knowledge, even the absolute knowledge. The Rig Veda had rendered the highest social status to qualified woman of those days. The Rig-Vedic society was a free society. The Aryans evidently preferred male child to female child. However, females were as free as their male counterparts. Education was equally open for boys and girls. Girls studied the Veda and fine arts.

"O bride! May the knowledge of the Vedas be in front of you and behind you, in your centre and in your ends. May you conduct your life after attaining the knowledge of the Vedas. May you be benevolent, the harbinger of good fortune and health and live in great dignity and indeed be illumined in your husband's home."

Women never observed purdha in the Vedic period. They enjoyed freedom in selecting their mates. But divorce was not permissible to them. In the family, they enjoyed complete freedom and were treated as Ardhanginis. Women had a very significant position in our ancient Indian society. In fact, they were superior to men. There are literary evidences to suggest that woman had power which could destroy kingdoms and mighty rulers. Veda Vyasa in Mahabharata writes how Kauravas fell because they humiliated Draupadi, the wife of Pandavas. Valmiki's Ramyana depicts the sad state of

Ravana for abducting Sita Devi forcibly. The worship of Goddesses in ancient period was to inspire public to respect women. In the Vedic society women participated in religious ceremonies and assemblies. There is no evidence of isolation of women in Vedic period in domestic or social affairs, but they were affectionately dependent on their male relations throughout their lives. There were women like Matreyi, Gargi, Lopamudra, Ghosha, and Indranni who were learned souls and have put forth their thought in Upanishads.

Women had an opportunity to choose their man through a type of marriage called Swayamvara. In this type of marriage, the eligible grooms assembled at the bride's place and the bride selected her man. There are many such incidences in epics the Ramayana and Mahabharata. This continued even in the later period in royal families. Women were given more freedom as compared to now.

“Women are worthy of worship. They are the fate of the household, the lamp of enlightenment for all in the household. They bring solace to the family and are an integral part of Dharmic life. Even heaven is under the control of women. The Gods reside in those households where women are worshipped and in households where women are slighted all efforts at improvement go in vain.”

In India, unfortunately these standards have declined primarily due to the outside influences that have crept in because of foreign invaders, either militarily or culturally. These foreign invaders who dominated India mostly looked at women as objects of sexual enjoyment and exploitation, and as the spoils of war to be taken like a prize. The oppression of women increased in India because of Moghul rule. As such foreigners gained influence and converts, decay of the spiritual standards also crept into Indian and Vedic culture. The educational criteria of Vedic culture also changed and the teaching of the divinity of motherhood was almost lost. The teaching changed from emphasis on the development of individual self-reliance to dependence on and service to others. Thus, competition replaced the pursuit for truth, and selfishness and possessiveness replaced the spirit of renunciation and detachment. And gradually women were viewed as less divine and more as objects of gratification or property to be possessed and controlled.

As by passage of time, the position of woman became worse in medieval period, rather to develop some good changes in their status. During the medieval period only, system of Purdah and Jauhar were being introduced by Muslim and Rajput community against woman. Firstly ‘Purdah’ means, woman in Muslim community is fully covered with clothes, so as to cover their body from male. Secondly ‘Jauhar’ means, woman with their own consent immolate themselves so as to save their body and property from detention of enemy, if they are from defeated Warriors family. In both the systems, liberty of woman was curtailed by the community that they were not giving right to moment or leave their lives without any restriction of fear and without any burden. Instead of all these religious restrictions, woman at that time actively participated in

social, political educational and religious field like Raziya Sultan who was first lady Monarch of Delhi, Chand Bibi who has defeated Akbar etc. in this period too, bhakti moment had played a very important role for improvement and impoverishment of the status of woman. These were the movement which tried to give equal status to woman in society at that time. The best example, who preaches the equality of men and woman at that time, was a 'Guru Nanak'. He advocates equality of woman in each sector that is religious, political, educational and cultural.

There have been positive practices of women as subject of respect in India, and there have been regressive practices as well. Here are some practices-

Sati was an old defunct custom among some communities, in which the widow was immolated alive on her husband's funeral pyre. After the foreign invasions of Indian subcontinent, this practice started to mark its presence, as women were often raped or kidnapped by the foreign forces.[22] It was abolished by the British in 1829. There have been around forty reported cases of Sati since Indian independence. In 1987, the Roop Kanwar case in Rajasthan led to The Commission of Sati (Prevention) Act.

In Kerala's Alappuzha district, an ancient temple called Chakkulathu Kavu holds an exceptionally remarkable annual ritual of worshipping women in the month of December.

Popularly known as Naari Puja, the ritual is conducted every year on the first Friday of Dhanu maasam. The chief priest of the temple himself conducts the puja. Thousands of women are worshipped during the ceremony regardless of the caste, religion or creed they belong to. Women are seated on a chair (peetom) for the ritual and the chief priest washes their feet. The women are later garlanded and offered flower.

Devadasi or Devaradiyar means "servant of God". These women were dedicated to God and were considered given in marriage to God, meaning that they could therefore not marry any 'mortal'. Nevertheless, they were free to choose partners, from among married and unmarried men alike. These relationships could be long and stable, or just for a short period of time. But in no way were these women economically dependent on their partners. They learned music and dance, and as many as 64 types of arts. They would dance and sing in temples or in front of royalty and earn gold and land as a reward. Some chose to dedicate themselves only to God and stayed without a partner all through their life. The tradition of Devadasi culture can be traced back to as early as the 7th century, particularly in southern parts of India during the reigns of the Cholas, Chelas, and Pandyas.

During the period of East India Company, many social reformers such as Raja Ram Mohan Roy, Ishwarchandara Vidyasagar and Jyotiba Phule had struggled for the improvement of status of woman in

Indian society. Peary Charan Sarkar had firstly started girl's school in India in 1847 at Calcutta. Under this period only with the help of Governor Bentinck Raja Ram Mohan Roy had succeeded to abolish sati system from India. Due to the efforts of Raja Ram Mohan Roy we have succeeded to introduce the concept of widow remarriage. Many woman social reformers such as Pandit Ramabai and other at that time also started movement of freedom against society for the protection of woman. Rani Lakshmi Bai is the best example who has started a war against the Britishers even though she was a lady who fought for her state.

In 1917, the first women's delegation met the Secretary of State to demand women's political rights, supported by the Indian National Congress. The All India Women's Education Conference was held in Pune in 1927, it became a major organisation in the movement for social change. In 1929, the Child Marriage Restraint Act was passed, stipulating fourteen as the minimum age of marriage for a girl.

Women in India now participate fully in areas such as education, sports, politics, media, art and culture, service sectors, science and technology, etc. Indira Gandhi, who served as Prime Minister of India for an aggregate period of fifteen years, is the world's longest serving woman Prime Minister.

The Constitution of India guarantees to all Indian women equality, no discrimination by the State, equality of opportunity (Article 16), equal pay for equal work. In addition, it allows special provisions to be made by the State in favour of women and children, renounces practice derogatory to the dignity of women, and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief.

The status of women towards the last piece of the British government in India i.e. in the principal quarter of nineteenth Century, some noteworthy social changes occurred. Law identifying with Abolition of Sati in 1829, concealment of Female Infanticide and so forth, were the means taken towards freedom of women. Presentation of English as a medium of instruction gave a portal to the changing thoughts of Western advancement and majority rule government, in view of the standards of individual flexibility, freedom and secularism. The social reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, M.G. Ranade Dayanand Saraswati, Swami Vivekanand, Dr. Anne Besant, Sister Nivedita contributed essentially to the social change movement in India, and went for freeing women by battling against social shades of malice like sati, purdah, tyke marriage, female child murder, counteractive action of dowager remarriage, devadasi framework and so forth. The Indian patriot movement under Gandhiji's authority contributed towards a noteworthy change in the predominant disposition towards women. A huge number of men and women both from country and urban regions joined the Non-co-task Movement in 1921 and Civil Disobedience Movement of 1930 because of the call of Gandhiji and confronted police and detainment facilities. The All India Women Conference was framed in 1927 which was a vital breakthrough in the walk

of women towards uniformity. A progression of laws like Child marriage Restraint Act, Hindu Women's Right to Property, Widow Remarriage Act and a few different laws directing the obsession of working hours and working conditions were passed. This gave a chance to the women to take an interest in legislative issues and a few different fields.

The sanction of the United Nations marked in San Francisco in 1945, was the main universal agreement to declare sexual orientation correspondence as a fundamental human right. "From that point forward the association has made a notable inheritance of universally concurred techniques, gauges and projects and objectives to propel the status of women around the world". For the advancement of women, the arrangement of activity has been on front lines. These are, advancement of lawful measures; activation of general supposition, and global activity; preparing and look into including the gathering of sex shrewd insights and direct help to hindered bunches and so on. "To day the focal sorting out rule of crafted by the United Nations is that," No continuing answer for society's most undermining social and economic issues can be found without full support and empowerment of the world's women on an equivalent balance with that of men in all circles, including administration, organization and political process, acknowledgment in law by all nations as a flat out and need. It was normal that nations ought to expect parallel rights to men and women, since forswearing of such rights to half of the mankind over the world would add up to foul play and furthermore it would be incongruent with human poise, political strength and social homogeneity. As Indian Government is a gathering to the Declaration of 1967, it has additionally dedicated to the perfect of destruction of sexual orientation segregation in every one of its structures including political separation. Indian Government instituted a few dynamic laws, for example, Hindu Marriage, and Succession Act 1956, Right to legacy Act, Hindu Women's Right to property Act 1973, Medical Termination of Pregnancy Act 1971, Dowry preclusion Act, Family Court Act 1984 and so on went for achieving critical changes in the status and benefits prompting legitimate empowerment of women.

The death of Muslim women's security of Rights and Divorce Act 1986 was a stage toward enhancing the status of Muslim Women too. The year 1975 was embraced as the worldwide women's year. In the meantime, the First World meeting on women was held in Mexico City which underscored fairness; development and peace. The decade 1976 – 1985 was seen as the United Nations decade for women development and the whole part countries were required to make essential strides for advancing the status of women. In the year 1979, the United Nations embraced the tradition for end of all types of Discrimination against women (CEDAW). An International Bill of Rights for women came into activity in 1981. The second world gathering on women was held in Copenhagen in 1980, which embraced and program of Action for women on the planet. The third World Conference on Women was held in 1985 at Nairobi. The primary

result of the gathering was, the Nairobi Forward Looking Strategies for Advancement of the women to the year 2000. This gave a system to move to be made at the national, local and global levels for advancing development of women. The Fourth World gathering on women was held in 1995 at Beijing in China. It gave a stage to Action concentrating on human rights for women and to receive sexual orientation point of view in all levels of getting ready for accomplishing sex uniformity. Subsequently every one of these developments at the worldwide level and plans of move made by the United Nations contributed fundamentally towards development of women everywhere throughout the world.

Women shape the foundation of horticulture, including the dominant part of rural workers in India. Sexual orientation divisions in agribusiness are distinct, with all exercises including difficult work allocated to women, while all activities including apparatus and dry spell creatures are for the most part performed by men. Female agrarian workers are among the poorest areas of Indian culture. Agrarian wages for women are overall 30-50 percent not exactly those for men.

The preamble of our Constitution manifests a solemn resolve to secure justice to all its citizens, social, economic and political. Preamble is a guiding light in interpretation of Constitutions and embodies hopes and aspirations of people. Justice-social, economic and political is a Preambular precept of the Constitution of India. The guarantee of equality of law and equal protection of law lies at the heart of the judicial set up. The right to life encapsulates the essence of all rights and liberties. It has been universally recognized and iterated repeatedly by the Supreme Court, that timely justice and speedy trial is a facet of the right to life under our Constitution. Ensuring equal access to justice, a constitutional mandate not just in terms of a fundamental right under Part III but also a good governance directive under Part IV of the Constitution, is fraught with multiple constraints - financial, spatial, qualitative and time. This study places the citizen and her needs at the core of these concerns in ensuring access to justice. Article 39-A directs the State to ensure that the operation of the legal system promotes justice on a basis of equal opportunity and shall, in particular, provide free legal aid by suitable legislation or schemes 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. Right to free legal aid or free legal service is an Essential fundamental right guaranteed by the Constitution. It forms the basis of reasonable, fair and just liberty under Article 21 of the Constitution of India, which says, "No person shall be deprived of his life or personal liberty except according to procedure established by law".

A Constitution Bench of the Supreme Court in Transfer Petition (C) No. 1343 of 2008 entitled as Anita Kushwaha V. Pushpa Sudan in its judgement dated 19.07.2016 identified four aspects that constitute the essence of access to justice. The four aspects are: (i) the State must provide an effective adjudicatory

mechanism; (ii) the mechanism so provided must be reasonably accessible in terms of distance; (iii) the process of adjudication must be speedy; and (iv) the litigant's access to the process must be affordable.

The term "Justice" carries different meanings for the different groups which at times have conflicting interest. Involves adjudication of disputes by a body which is vested with the competency and powers to adjudicate. Judiciary thus comes as an independent and indispensable organ of the State for giving justice.

The legal and judicial system of any country at any point of time is not a creation of any individual but it is an ongoing process under constant evolution. It reflects the cumulative result of the endeavour, experience, thoughtful planning and patient labour of large number of people i.e. the lawmakers, judges, lawyers and litigants over generations. India has a civilized history of over 5000 years and all along distinctive legal system, formal or informal was prevailing. However, the present judicial system can be mainly related to the British period.

Any judicial system to be sound must have at least two basic elements: -

(i) There should be a well-defined, well planned and well-regulated system of Courts following simple and orderly procedure which facilitates justice and commands faith and respect from the public, not by its mere power but for its fairness and objectivity.

(ii) There should be definite, easily ascertainable and uniform body of law.

The judicial system as envisaged under our Constitution is a three-tier system with the Supreme Court at the Apex level, High Courts in various States at middle level and District/Subordinate Courts at lower level.

In its pursuit for justice, the State has created various laws aiming at social, political and economic justice. That apart, Constitution itself guarantees the fundamental rights and provides remedies in form of writs. The growing consciousness among the people about their rights has also contributed considerably to the litigation. Vices of delay and expenses have become innate features of the system. Some extreme thinkers like Justice V. R. Krishna Iyer has gone to the extent of saying:

"The myth is that Courts of Law administer Justice the truth is that they are agents of injustice. Indian judicial system is Anglo-Saxon-Adversary system and its basic principle is that a party succeeds on the failure of its opponent. The judge in most of the cases plays the role of a mere umpire who declares the result without in most cases participating in the process of adjudication."

Now the women in India are heading towards advancement and by dint of their devotion, dedication and determination, like Mother Teresa, Ramadevi, Bhagini Nivedita, Indira Gandhi and many more others played vital role in the transformation of the nation socially women today are more practical and rational than earlier. Indian women have never been as expressive and independent as she is today. Women – from being a care taker/nurture to a friend in the role of a mother. It is widely felt that earning power allows them to voice their opinions on bigger decisions. Women today, considered themselves as true ardhanginis of their husbands, she is more cognizant of his world today and she understands her work pressures. 'Mother's Day', Daughter's day and Women's Day is a real tribute to women who shaped generation after generation.⁹

2.1.1. Concept of violence Against Women:

The term violence is the combination of two-words **violence** which means, **“violence is behaviour which is intended to hurt, injure, or kill people”**.

“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 Declaration on the Elimination of all forms of violence against women adopted by G.A. of the U.N. on 20th December, 1993.¹⁰

2.1.2. Definition of Violence: -

(A) Lexicon Meaning of violence:

The lexicon meaning of the violence refers to any physical force or any damage or injury to person or property. According to Webster's new Collegiate Dictionary,¹¹ violence means “exertion of any physical force for instance:

- (a) Violent treatment or procedure,
- (b) Profanation infringement, outrage, assault,
- (c) Strength energy, activity displayed or exerted, vehement, forcible or destructive action or force,
- (d) Vehemence in feeling, passion, order, furry, fervour.

9. Sinha Rajani, Status of women and Economic Development: Some Economic Evidence, RBSA publication Jaipur 2004, at p. 36.

10. “Violence against women at, From wikipedia, the free encyclopedia” available at <en.wikipedia.org/wiki/violence-against-women> access on March 16, 2013.

11. Webster's New Collegiate Dictionary, 1961, p. 952.

According to encyclopaedia of crime and Justice,¹² “In a broad sense, “violence is a general term referring to all types of behaviour either threatened or actual, that result in the damage or destruction of property or the injury or death of an individual.”

According to Black's Law Dictionary,¹³ “violence means unjust or unwarranted use of force usually accompanied by fury, vehemence, or outrage, physical force unlawfully exercised with the intent to harm.”

L.B. Curzon's Dictionary of Law defined violence as,¹⁴ “Any conduct so that it includes violent conduct towards property as well as towards persons, and it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct.”

If we take ‘violence’ as conduct which incurs the formal pronouncements of the moral condemnation of the community or the deviation from conduct norms of the normative groups. The scope of cases of “violence against women” becomes too broad. Narrowly The term violence has been applied to “physically striking an individual and causing injury”, to “the act of striking a person it”, to “acts where there is the high potential of causing injury”, and to “acts which may not involve actual hitting, but may involve verbal abuse or psychological stress and suffering.”¹⁵

(B) Sociological Definition of Violence:

The social violence means illegal use of force or threats for use of such force by the patriarchal social order and their agents against women folks in general for perpetuating the goals of that group for subjugating women physically, socially and psychologically.¹⁶

According to sociologist Elise Building, structural violence refers to the structural patterning of the family, cultural norms and values and also political and economic system of a particular society that determine who will injure and who will endure. Some individuals are deprived of society's benefits and are rendered more vulnerable to suffering than others. Structural violence establishes physical violence, women experience both structure and behavior violence. In all societies, where patriarchal family structure prevails, women are protected by the patriarch from other men, but they become victims of men in their own families. In many societies, women are not allowed to born even (feticide) or female children are killed for fear of

12. Encyclopedia of Crime and Justice, Vol. 4, 1983, pp. 1618-19.

13. Black's Law Dictionary, VIIth ed., 1999, p. 1564.

14. Curzon, L.B., Dictionary of Law, VIth ed., 1994, p. 403.

15. Mishra, Dr. Preeti, Domestic violence Against women: Legal Control and Judicial Response, Deep and Deep publication New Delhi 2007, at p. 44.

16. Sinha, Niraj, Women and violence 1989, pp. 26-27.

financial burden in their marriages. Pregnant and lactating women are ill fed and may face risks of death in child birth in many societies. Most pitiable conditions are of single women like unmarried, widowed, deserted or divorced.¹⁷

Thus, sociologists have explained the why aspect of violence and not what the term violence in itself means. No doubt, many manifestations of violence against women feticide, female infanticide, bride burning, wife battering, deprivation and discrimination in child rearing practices have their causes in the social structure and system.¹⁸

(C) Socio-Psychological Definition of violence:

The social psychologist Moyer¹⁹ defined violence as a form of human aggression that involves inflicting physical damage on persons or property. For psychologist, violence and aggression are twin terms but with certain difference between them.

Allen²⁰ uses the term aggression in both constructive and destructive senses, whereas violence is used only in destructive senses. Aggression can be sublimated in intrinsic, assertive or domineering behaviour such as humour sports, scientific research etc. but violence cannot be sublimated. It can only be redirected or substituted. Social psychologists have dealt with inter – personal behavioural violence. They have tried to define violence in term of human aggression inflicts physical injury. In violence against women, case of female infanticide, bride burning, dowry, murder, rape, women battering etc. may be included which involve physical injury.

(D) Operational Definition of violence:

An operational definition of violence is still lacking which can include all cases of violence against women.

Beside cases which involve physical injury, cases of verbal abuse, rebuke, threats, eve teasing, deprivation, discriminations and obstructions in attaining goal response of women are all violence against women. Even if they do not involve physical injury they lead to psychological injury and destruction of the personality of a woman.²¹

17. Boulding, Elise, women and Social Violence, In Violence and its causes, 1981, pp. 239-51.

18. Sinha, Niraj, women and violence, 1989, pp. 19-20.

19. Moyer, K.E., the psychology of Aggression, Newyark 1976, pp. 167.

20. Allen, F.H., Aggression in relation to emotional Development, London 1948, pp. 41.

21. Sinha, Niraj, Women and violence 1989, pp. 20-22.

Even in cases of physical injury. It is justified to say that there is no psychological hurting. In every case of inter personal violence, the element of psychological injury is present except in the case of murder where the person does not exist to experience the psychological torture at all.²²

An operational definition of violence can include all cases of violence against women:

“Any aggressive behaviour of a person or persons hurting body or positive regard or both of another person or persons is human violence.’ When analyzed.

- (1) Aggressive behaviour means vigorous behaviour or action.
- (2) ‘A person’ means victimizer either male or female.
- (3) ‘Hurting body’ means inflicting physical injury (in destructive sense).
- (4) ‘Positive regard’ means need to be loved or accepted by other as a person.
- (5) Another person means the victim.²³

2.2. Sexual harassment: -

“A little bit of rape is good for man's soul.”

- Norman Mailer, 1972²⁴

Sexual harassment is bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favours. In most modern legal contexts, sexual harassment is illegal. Meaning of sexual harassment as defined by the USEEOC, ***“It is unlawful to harass a person can applicant or employed because of that person's sex”***.²⁵ Harassment can include “sexual harassment” or unwelcome sexual advances, requests for sexual favours, and other verbal or physical harassment of a sexual nature.

Where laws surrounding sexual harassment exist, they typically don't prohibit simple teasing offhand comments, or minor isolated incidents. In the workplace, harassment may be considered illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted, or when the victim decides to quit the job).

22. Ibid.

23. Mishra Dr. Preeti, Domestic violence Against women: Legal Control and judicial Response, 2007, at p. 48-49.

24. Norman Mailer speech at the university of California, Berkeley, 1972. Cited in Morgan, op. cit., p. 94.

25. Sexual Harassment, available at <http://en.wikipedia.org/wiki/sexual_harassment> Access on March 16, 2013.

2.2.1. Sexual harassment at work place:

Sexual harassment at workplace is a serious irritating factor that renders women's involvement in works unsafe and affects right to work with dignity. In the absence of statutory regime on this evil, the growth of law in India due to judicial activism in the famous Vishaka case²⁶ has established new potentialities in law society interactions. The case came before the supreme court under Article 32 for enforcing fundamental rights of working women under Article 14, 19 and 21 in the light of societal aberrations like gang rape of working woman.²⁷

The observation of J.S.Verma, C.J. that *“with the increasing awareness and emphasis on gender Justice, there is increase in the effort to guard against such violations, and the resentment towards incidents of sexual harassment is also increasing”* speaks about the value of organized public opinion amidst the aggrieved class and the spirit of wrestling for their rights”. The judicial method of reference to international conventions, especially convention on the elimination of all forms of discrimination against women, and analysis of constitutional provisions like Article 15, 42, 51-A, 41, 253 in addition to the trio of Articles 14, 19 and 21 ultimately evolved the new law. The progress made at each hearing was positively responded by the union government, which gave its consent to the emerging guidelines as norms that govern employer employee relation. The extraordinary character of judicial law making was justified by the court in the light of special circumstances of the case by observing. *“In view of the above, and the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality described and guarantee against sexual harassment and abuse, more particularly against sexual harassment at work places, we lay down the guidelines and norms specified hereinafter for due observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 of the constitution for enforcement of the fundamental rights and it is further emphasized that this could be treated as the law declared by this court under Article 141 of the constitution.”*²⁸

2.3. Pattern of violence: -

Generally, we can classify violence Against women into following four heads –

- (A) Physical violence
- (B) Sexual violence
- (C) Psychological violence

26. Vishaka vs. State of Rajasthan, (1997) 6 SCC 291.

27. Bhat, p. Ishwara, Law & Social Transformation, EBC,2009, p. 598.

28. Ibid.

(D) Social violence

Women are perhaps the worst and most frequent victims of personal violence in India. Wife beating, though described as the most common marital pastime in India by an English Judge a long time ago, is nevertheless not confined to India alone. As regards sexual offences, India traditionally enjoyed much higher immunity compared to many other countries though there has been an alarming rise in such offences in the recent past. Dowry related violence and the practice of sati are, however, two criminal phenomena, peculiar to India and, therefore, require special focus in the overall context of violence in India. some examples of violence as under

2.3.1. Sati Practice:

Despite the fact that practice of sati has become extremely rare in contemporary Hindu society, an appraisal of issues is warranted in view of the social values, the diabolical nature of the practice, extreme cruelty involved and some shocking incidents in the very recent past.²⁹

Sati in Sanskrit, means a noble and dedicated wife. When applied to a widow, the word stands for a woman voluntary sacrificing herself on the funeral pyre of her husband, the act of immolation being an expression of love for the husband the act self – immolation being an expression of love for the husband. The practice is believed to be based on ancient Hindu Shastras and scriptures which prescribed it a means to attain spiritual purity. It was also regarded as the infliction of natural punishment for the sins committed in the earlier life by the woman. Emile Durkheim and some other sociologists regarded sati as “a religious suicide” whatever the original motivations, sati practice, in course of time, assumed on altogether different character. The element of voluntariness gets eliminated in most of the cases of sati.³⁰

In a grew some sati reporter from process in 1823, the woman escaped form the pyre twice, and though excessively burnt, plunged herself into the river. She was caught by a number of persons including three Brahmins who hit her mercilessly with billets. After being rescued by two English, she died in hospital, the last words uttered were “save me from death”. Person all monetary motivations of the priestly class as well as those of the relatives of the widow became the primary cause of the immolation. The highest occurrence of the practice in Bengal is attributed to the fact that the Dayabagha school of Hindu Jurisprudence granted inheritance right to widow. The other ulterior motives were provided by the ideas prevailing against widow remarriage and the cherished ideal of female chastity. These being the motivations leading to the practice among martial ethnic groups such as Sikhs and Rajputs. Even when not forced to

29. Siddique, Ahmad, Criminology & Penology, EBC,2011, at p. 566.

30. Srivastava Dr. S.S., Criminology and Criminal administration, CLA, Allahabad 2011, at p. 94.
School of Legal Studies, BBDU, Lucknow

commit sati, it could still not be a genuinely voluntary act, the real motivation being to avoid the worse alternative of leading a highly wretched and miserable life of a widow in the then Hindu society.³¹

State Intervention and reform movements

The earlier instance of the state's concern regarding Sati were emperor Akbar's efforts to ensure the prevention of involuntary commission of sati. His father, Humayun, had also contemplated similar action but the general policy of the Muslim rulers was not to interfere with the religious practices of their Hindu subjects. The same hands-off policy was followed by the English rulers in the early period their rule. It was also due to their initial lack of understanding of Hindu society. Subsequently, a distinction was drawn between legal and illegal ambivalent policy could not, however, be sustained over a long time because beside the practice being revolting to the English rulers. There was mounting pressure from the Christian missionaries to suppress it in Bengal. The practice was eventually abolished in 1829 by a regulation passed by Lord Bentick's government in the Presidency of Bengal. Raja Ram Mohan Roy played a notable role in the abolition by fighting against the movement for the annulment of Bentick's regulation. Attempt to commit and abetment of suicide were made punishable in the penal code of 1860 which took care of the offence regarding sati.³²

As a result of the legislation and relatively fast social change, the practice almost ceased to exist but isolated acts of sati continued to occur. Thus, as late as 1936, **Mahatma Gandhi**, made the well-known comment.

"We have never heard of a husband mounting the funeral pyre of his deceased wife. The practice of the widow immolating herself on the death of her husband had its origin in superstitions ignorance and the blind egotism of man."

According to him, purity of spirit cannot be attained by committing sati but **"only through constant immolation of spirit."**³³

Recent Development

Sati committed by a young Rajput girl in a village of Rajasthan shocked the entire country leading to the enactment of the Sati (Prevention) Act, 1987. The Act seeks to achieve more effective prevention of the sati practice. Wider definition of sati has been furnished by including in it the burning of any woman with any relative or an article or object associated with the husband whether such transaction be voluntary or

31. Ibid.

32. Siddique, Ahmad, Criminology & Penology, EBC, 2011 at p. 567-568.

33. Ibid.

otherwise. While attempt to commit sati continues to be governed by section 309 of Penal Code, enhanced punishment, death or life imprisonment for abetment is now provided in the new Act. Propagation or glorification of sati through any ceremony, processions and construction of memorial temples has also been made penal other possible actions include government's power to remove the temples or other structures erected to glorify the practice and imposition of disqualifications under the representation of the people Act of 1951 for those convicted under the 1987 enactment.³⁴ It may not be possible to evaluate the efficiency of the new legislation to prevent sati because the number of occurrences, in any case, has been negligible In the last many decades and the period of a few years. Since the legislation of 1987 is hardly sufficient to gauge its impact. A somewhat pessimistic view, however, may be taken due to the disturbing fact that the chunri ceremony³⁵ in respect of Roop Kanwar's sati in Rajasthan was held despite the high court's prohibitory directions. This brings into focus the persistent outmoded and cruel values certain communities still hold vis-à-vis their womenfolk and the role of politician who seldom miss an opportunity to grab popularity and further their interests.³⁶

2.3.2. Dowry related violence:

The custom of dowry is deep – rooted in Indian society but over the years, it has turned into a social menace, too entrenched and diabolical to be tackled by reformers and law makers. Though the efforts for the eradication of the dowry practice go back to more than a century, it has perhaps become the most alarming social issue during the last two decades or so as manifested by the growing violence against women emanating from matters relating to dowry. This would be borne out from the figures relating to dowry related deaths. The number of dowry deaths was 4215 in 1989 which jumped to 5817 in 1993, recording an increase of 38 per cent in just four years. The reported cases of torture under section 498-A of the Penal Code, mainly relating to dowry demands, rose from 63, 128 to 75, 930 indicating a steep rise of 14.9 percent.³⁷

However, one finds that incidents of dowry deaths cases were decreased by 4.0 percent over 1998. In 1999, a total number of 6699 dowry – death cases were registered in the country. The cases of torture which include cruelty by husband and relations increased by 5.9 percent in 1999 over the previous year. A total number of

34. Ibid.

35. It marks the final of the 12-day long worship and veneration of the funeral pyre which remains aflame during the period. The ceremony may be followed by the permanent erection of a memorial such as a temple to glorify the episode.

36. Supra no. 11 at p. 25.

37. Crime in India, (NCRB, 2007).

6699 cases were reported in the year 1999 where it was 6975 cases in 1998.³⁸ But dowry death cases reported during 2007 were 8, 093 and these cases have increased by 6.2 per cent over 2006.³⁹

It is generally understood that dowry, in its original form, was not based on avarice extortion as it quite often the case today but was just a taken of love and regard for the bridegroom. Varadakshina, as it was known in the hindu shastras, was dakshina of a purely voluntary nature without which the meritorious act of Kanyadaan would not be complete. Religious rationalizations apart, the main motivation on the part of the bride's parents was to provide security and compensation for inheritance rights to the daughter in order to enable her to lead a dignified and harmonious relationship with her husband and his family. Gradually, the element of voluntariness disappeared and a callous, crass and commercial system came into being which was described by **Mahatma Gandhi** Thus:

“Thus, is no doubt that the custom is heartless. The system has to go. Marriage must cease to be a matter of arrangement by parties for money. Any young man who made dowry a condition of marriage described his education and his country and dishonoured woman hood and young men who soil their fingers with such ill-gotten gold should be excommunicated from society.”

While greed may be the apparent cause for dowry demands and the connected violence in our just-developing consumerism-ridden society, some more subtle and unconscious motivations could also be discerned in the violence – generating process. The phenomenon of violence has been, for instance, explained on the basis of the motive to harass the woman into submission, to make her insecure, a kind of psychological warfare to demoralize and dominate her completely. A noted activist in the movement for women's rights has the following explanation.

“Dowry demands are as little or as much related to greed as rape is to sexual satisfaction. Both are essentially forming of violence whose primary purpose is to degrade and victims a woman so that she retains a desperate fear of disobeying the powerful. Just as rapists frequently beat, maim or kill their victim as a further expression of their power over her so also the taunts and abuses of a daughter in law may escalate into beating, torture and even murder.”⁴⁰

Substantiating the point that dowry in most of the cases does not financially affect the bridegroom or his family in a big way, the true nature and urge for dowry is explained thus:

“The purpose of dowry giving rituals is comparable to that of traditional offerings to feudal overlords. Those lower down in the feudal hierarchy were expected to acknowledge the lord's

38. Crime in India, (NCRB, 1999) at p. 203.

39. Crime in India, (NCRB, 2007).

40. Siddique, Ahmad, Criminology & Penology, EBC, 2011 at p. 570.

suzerainty by giving him gifts on every festive occasion and celebration in either his or their own family whether or not these offerings made any substantial difference to the lord's actual wealth, they had to be offered as taken of respect, in public acknowledgement of his status. Non-compliance with the ritual would be perceived as a deliberate and unforgivable insult.”⁴¹

The legislation

The dowry prohibition Act, the first national legislation to deal with the problem of dowry was passed in 1961. The act lays down a number of preventive and punitive provisions but, as could be anticipated, the objective has not been achieved. The failure is not primarily due to a few defects in the law or even the lack of will or capacity on the part of the government regarding its enforcement but because of the fact that the dowry practice is too well entrenched among all the cross-section of the society. The irrelevance and inefficacy of the law is evident from the fact that not only the action is taken on the registered cases in a negligible number of cases but most of the people are not even aware of the legislation on the subject. According to a report prepared by Ranjana Kumar for the ministry of welfare and child development entitled, “**A study of dowry victims in Delhi**”, only 1 percent of the cases registered in Delhi were prosecuted, while a Jaipur research study revealed that 70 percent of the respondents were unaware even of the existence of dowry legislation. The situation does not appear to have improved much, though legislative and judicial efforts provide continued support.⁴²

The 1961 law has been amended twice, the main thrust has been regarding the widening of the definition of “dowry” regulation of permissible “presents” and enhancement of punishment for the various violations of the Act. The main operative part of the dowry definition as contained in Section 2 is, Any property or valuable security given or agreed to be given directly or indirectly by one party to marriage or to the other party to the marriage or by parents of either party to a marriage or by any other person to either party or to any other person at or before or any time after the marriage in connection with the marriage of the said parties. The expression used in the original act was “as consideration for the marriage of such artoes was interpreted by the courts to give a narrow meaning to “dowry”. In *Inder Sain vs. State*,⁴³ it was held that “consideration” was restricted to motive or reason, compensation or reward to marriage and would not, therefore, include any property demanded or given subsequent to marriage. The expression “**any time after the marriage**” has, similarly been brought to replace” after marriage” to eliminate a restricted interpretation of the statute.

41. Ibid.

42. Srivastava Dr. S.S., Criminology and criminal admistration 2011, at p. 97.

43.1981 Cri L.J. 1116 (Del).

Presents of a customary nature, and not being of excessive value, having regard to the financial status of the person giving them, given at the time of marriage without any demand having been made for them, do not constitute dowry. A list of such presents, along with the description and value, is to be prepared as soon as possible after the marriage and it must be signed by both the bride and the bridegroom.

Stringent penal provisions have been provided for giving, taking and demanding dowry. Under Section 3, a minimum of five years imprisonment and a fine of Rs. 15,000 or of the value of dowry, whichever is more is prescribed for giving and taking dowry while, whichever is more, is prescribed for giving and taking dowry while five months to two years imprisonment and a fine of up to Rs. 10,000 is possible under section 4 for demanding dowry. Offer of dowry in one form or the other, through an advertisement is punishable with six months to five years imprisonment and a fine up to Rs. 15,000 under Section 4-A of the Act.

The amended act contains a couple of provisions to achieve better enforcement of the laws. Thus, Section 7 now enables quite a few categories of person and agencies are (a) Police, (b) Aggrieved person, (c) parents or other relations, and (d) any recognized welfare institutions or organization under section 8, the offences under the Act have been declared to be cognizable and non-bailable.

Another well international provision for the enforcement of the legislation, is section 8-A which provides that in a prosecution for taking or abetting the taking of dowry, the burden of proof will be on the person who denies the commission of the offence. Finally, one innovation regarding enforcement is the provision for appointment of “**dowry prohibition officers**” for the prevention of dowry offences and compliance with the laws⁴⁴.

A common practice connected with the evil of dowry is that articles or ornaments of the bride are immediately taken in possession by the husband or his family members. Section 6 provides that the dowry received by a person, other than the woman in connection with whose marriage it is given, is to be transferred to the woman or her heirs within a period of three months, failing which imprisonment from six months to two years and fine from five to ten thousand rupees can be imposed upon the offenders. As held by the Supreme Court in *Pratibha Rani vs. Surjan Kumar*⁴⁵ taking into possession articles of the bride amount to criminal breach of trust punishable under section 405 of the penal code.

The Joint parliamentary committee examining the working of the Act in 1982 gave two reasons for the object failure of the enactment: defective definition of dowry and lack of enforcement instrumentality. Quoting Jawaharlal Nehru on the need and limitations of social legislation, the committee recorded:

44 . The Dowry Prohibition Act, 1961.

45. (1985) 2 SCC 370.

“Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as legal sanctions behind it which help public opinion to be given a certain shape.”

Though s noticed earlier, the definition of dowry has been improved and enforcement provisions have been strengthened after the committee's report of 1989, there seems to be no significant change in the law's capacity to deliver the goods.⁴⁶

Dowry related violence – legislation

Thought the dowry problem as such may not be the appropriate target of criminal law, the violence connected with dowry, sometimes fatal, is certainly within the functional domain of criminal law. As a result of the galloping rate of dowry related deaths and the failure of dowry legislation, criminal law Amendment Acts, 1983 and 1986 were passed which introduced substantial and procedural changes in the law having a bearing on the subject.

- 1. Penal Code:** Two new offences have been created under Sections 304-B and 498-A. The offence under section 304-B, called dowry death, is punishable with a minimum of seven years up to life imprisonment “Dowry death” is the death caused to a woman by burns or bodily injuries, or under unnatural circumstances, within seven years of her marriage, where it is shown that, immediately before her death, she was harassed or put to cruelty by her husband or his relatives in connection with demand for dowry.

Cruelty by the husband or his relatives has been made punishable with imprisonment up to three years and fine under section 498. A cruelty consists of any willful conduct likely to drive the women to commit suicide or to cause danger to her life, limb or health, mental or physical, or harassment to coerce her or any other person by making on unlawful demand for dowry such as any property or valuable security.⁴⁷

- 2. Code of criminal procedure:** Sections 174 and 176 deal with investigations and inquiries into the causes of unnatural deaths by the police and magistracy respectively. The Amendment Act, 1983 makes it mandatory for the police officer to send the body for post mortem examination if the death of the woman occurred within seven years of marriage as a result of suicide or under any other dubious circumstances. The amendment of 1983 also empowers an executive magistrate to conduct an inquiry into the death of a woman in similar circumstances.⁴⁸

46. Supra no. 42 top. 33.

47. Mishra, S.N., Indian Penal Code, CLA 2012, at p. 583.

48. The Code of Criminal Procedure 1973.

- 3. Evidence Act:** A new provision, section 113-B, has been created regarding the burden of proof in dowry deaths according to which the court has to presume that a dowry death was caused by the person who is shown to have subjected women to cruelty or harassment soon before her death.⁴⁹

2.3.3. Wife – Battering:

The phenomenon of wife – battering is almost universal and has existed since time immemorial and changes have occurred only on terms of causes, extent and quality of violence along with the socio-cultural and economic determinants in various societies at different stages of their development. Thus, it is not correct, as believed by many, that the phenomenon is by and large, confined either to the working classes alone or to the traditional and under developed countries of Asia and Africa. Certain studies carried out in the USA have indicated that around 50 percent of women in that country have been regularly or occasionally battered by their spouses, quite seriously in at least 39 percent of the cases. Further wife beaters may belong to any class transcending all socioeconomic and cultural distinction. In India, for instance, it is not only the stereotyped “dhobi” (washerman) whose physical assaults on his wife may directly or indirectly result from his love for liquor but often a bureaucrat, a businessman or even an academician may also be eligible for being designated a “wife-beater”, though due to entirely different causative factors altogether. However, the phenomenon may be more prevalent in lower socioeconomic groups due to the “stress of being indigent, the relative of adoptive non-violent skill and increased rates of substances abuse,”⁵⁰

Religious precepts and saying of ancient law givers are also believed to be responsible for generating male attitudes unfavourable to the recognition of the recognition of women as equals in terms of intelligence, dignity and human rights. Almost all major religions, Christianity, Judaism, Islam and Hinduism, being patriarchal in character, have affirmed a male dominated family structure and assigned a chastising authority to the husbands over the wives in varying degrees. As a matter of fact, women were, till recently, not regarded as having the standard human attributes but were perceived as chattels capable of being owned and of disposable nature. Even now, international charters of human rights and the national constitutions notwithstanding, a large number of people everywhere perceive and them as humans of the lower order due to the lingering, fixed and irrational ideas based on the supposed male supremacy.

Besides the causative factors operative at the macro level as described above, researchers have focused their attention also on the micro level factors to find out the possible causes of violence against wives. The studies focusing on individuals have found significant factors based on individual behaviour including the “machoistic” attitude of the victim, sometimes missing or ignoring other factors like economic

49 . The evidence Act 1872.

50. Siddique, Ahmad, Criminology & Penology, EBC, 2011 at p. 279-581.

compulsions of the victim. Then there are researches where the focus is on the family as a whole to probe into violence inflicting it. It has been found, as a result of some studies, that socially isolated families are more prone to violence and so are the families where the wife – batterer in his child hood had direct or indirect exposure to violence.⁵¹

Legislation

The only innovation being section 498-A which punishes cruelties of certain kinds as referred to earlier. The restraints operating against seeking the assistance of police and other agencies are even much more severe compared to the position obtaining in many other countries. Poverty, economic dependence on husbands, male domination the overall social structure place women in an extremely vulnerable position. The severe handicaps faced by women in reporting to the police the violence committed by their husbands was pointed out by the appellate court in a *Kau Shalu vs. Wiskahi Ram*⁵² where it was dealing with the issue of cruelty in the context of divorce under Hindu law. The trail court had attached much importance to the fact that the victim had failed to produce a medical certificate pertaining to the physical injuries allegedly caused by her husband. The court observed:

“Women in our society normally submit themselves to their fate and been ill treatment at the hands of their husbands, and unless a climax is reached, they usually do not take the desperate step of going to a police station to lodge a report, the poor financial condition of such women and lack of proper understanding on their part would also stand in their way of securing a medical certificate.”

2.3.4. Domestic violence Act:

Violence and harassment against women are common in our society. The state has made number of laws to control the violence against the women. In order to control the violence against the women in the family and to safeguard her interests recently a law known as protection from domestic violence Act was passed. The main object is to protect the rights of women who are victims of violence as habitually assaults on the victims, forces the aggrieved person to lead an immoral life and injuries or harming the aggrieved person. Under the law the state shall have to appoint protection officers in each district to stop the domestic violence against women.

Keeping in view the extent of the problem, including the fact that a vast number of victims happen to be village based, and the lack of human and economic resources, no undue optimism is warranted regarding

51. Ibid.

52. AIR 1961, Punj. 521.

the potential of the above measure. Only the cumulative effect of the legal and social support to battered wives and the crucial change in the social structure and attitudes may produce some positive result in the long run.

CHAPTER –III

International and National Perspective

3.1. International Perspective: -

Taking cognizance of this repression all over world, the United Nations passed various instruments with a focus on women's emancipation and with the object of enhancing the dignity of women all over the world. The United Nations has come a long way from being a security agency to become an organization concerned with human rights, justice and equality. In the area of women's issues, it has gathered enormous support whereby it has promoted and protected women's right and women's empowerment. Besides the adoption of the UN charter in 1945, the following achievements deserve mention:

- (1) Establishment of the commission on status of women in 1946 to promote women's political, economic and social rights.
- (2) Addition of the convention for the suppression of the Traffic in persons and exploitation of prostitutes and others by the general assembly in 1949.
- (3) Adoption of convention concerning equal remuneration for men and women workers for work of equal value by the ILO in 1951.
- (4) Adoption of the convention on political rights of women including the right to vote by the general assembly in 1952.
- (5) Addition of the convention on the Nationality of married women in 1957 granting women the right to retain or change their nationalities regardless of their husbands' actions.
- (6) Adoption of the convention concerning discrimination in respect to employment and occupation in 1960.
- (7) Adoption, by the general Assembly in 1962, of the convention on consent to marriage, minimum age for marriage and Registration of marriages.
- (8) Adoption of declaration on the elimination of discrimination against women in 1967.
- (9) Adoption of the first world plan of action and proclamation of first world decade for women: with themes of equality, development and peace by world conference of women in Mexico City in 1975.
- (10) Establishment of voluntary fund for the UN decade on women and the UN International research institution for the advancement of women by the general assembly in 1976.

- (11) Adoption of the convention on the elimination of all forms of discrimination against women in 1979.
- (12) Second world conference on women at Copenhagen in 1980.
- (13) Third world conference on women at Nairobi in 1985. Adoption of forward-looking strategies for the advancement of women to the year 2000 and voluntary fund for UN decade for women because UN development fund for women, an autonomous organization within the UN development programme.
- (14) In 1986 first world survey on the role of women in development was published.
- (15) In 1991, the world's women: Trends and statistics, a compilation of data on the global situations of women was published.
- (16) Key role of women in sustainable development, 1992 held at Rio de Janeiro.
- (17) In 1993, the declaration on elimination of violence against women was adopted by the general assembly.
- (18) Empowerment of women was seen as an integral part of development for the first time in the international conference on population and development in 1994.
- (19) The fourth world conference on women held at Beijing, 1995 reviewed and debated critical areas of concern and adopted a proposed platform for action.
- (20) Declaration of the international year for the empowerment of women in 2001.
- (21) Copenhagen declaration and platform for action of the fourth world conference on women.
- (22) Draft protocol to prevent, suppress and punish trafficking in persons, especially women and children 2001.
- (23) The Beijing plus five UN General assembly special session, 2000¹.

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing,

1. Rao, Mamta, Law relating to women & children, EBC 2011 at p. 28.
School of Legal Studies, BBDU, Lucknow

with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women. This publication provides an introduction to women's human rights, beginning with the main provisions in international human rights law and going on to explain particularly relevant concepts for fully understanding women's human rights. Finally, selected areas of women's human rights are examined together with information on the main work of United Nations human rights mechanisms and others pertaining to these topics. The aim of the publication is to offer a basic understanding of the human rights of women as a whole, but because of the wide variety of issues relevant to women's human rights, it should not be considered exhaustive.

One of the major problems with current international human rights law is a history that has been characterized by male dominance. Because human rights thought is based on the liberal philosophical tradition, most of its earliest theorists were European men. Human rights concepts are premised largely on the principles of liberal humanism based largely on philosophers such as John Locke. Also, the framers of the international human rights documents were mostly men, save a few notable figures such as Eleanor Roosevelt. Therefore, women's rights activists must constantly grapple with the obvious and the hidden male biases of international law. Hilary Charlesworth traces the male bias throughout the three generations of human rights. Briefly, first generation rights are categorized as civil and political, valorized in the West (and especially in the United States); civil and political rights include the right to vote and freedom of speech. Second generation rights include economic, social and cultural rights; this set of rights includes the right to health care and unemployment benefits. The third most recently defined category is "people's rights" or group rights; this category of rights is developing largely in response to indigenous peoples whose rights as groups have historically been violated (Charlesworth, 58). Charlesworth says ~'From a women's perspective ... the definition and development of the three generations of rights have much in common: they are built on typically male life experiences and in their current form do not respond to the most pressing risks women face'(59). Charlesworth argues that male bias as an underlying principle of all human rights discourse and one that must be subject to critique from a diverse group of feminists. Because of the lack of women's participation in the formulation of rights and because the Western philosophical tradition has been largely premised on the ideas of a few European men, there are many reasons to be wary of universal human rights norms. Human rights must be constantly dissected and reconceptualized in order to clarify and remedy some of these biases.

Since the founding of the United Nations, equality between men and women has been among the most fundamental guarantees of human rights. Adopted in 1945, the Charter of the United Nations sets out as one of its goals “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, [and] in the equal rights of men and women”. Furthermore, Article 1 of the Charter stipulates that one of the purposes of the United Nations is to promote respect for human rights and fundamental freedoms “without distinction as to race, sex, language or religion”. This prohibition of discrimination based on sex is repeated in its Articles 13 (mandate of the General Assembly) and 55 (promotion of universal human rights). In 1948, the Universal Declaration of Human Rights was adopted. It, too, proclaimed the equal entitlements of women and men to the rights contained in it, “without distinction of any kind, such as ... sex,” In drafting the Declaration, there was considerable discussion about the use of the term “all men” rather than a gender-neutral term.¹ The Declaration was eventually adopted using the terms “all human beings” and “everyone” in order to leave no doubt that the Universal Declaration was intended for everyone, men and women alike.

After the adoption of the Universal Declaration, the Commission on Human Rights began drafting two human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together with the Universal Declaration, these make up the International Bill of Human Rights. The provisions of the two Covenants, as well as other human rights treaties, are legally binding on the States that ratify or accede to them. States that ratify these treaties periodically report to bodies of experts, which issue recommendations on the steps required to meet the obligations laid out in the treaties. These treaty-monitoring bodies also provide authoritative interpretations of the treaties and, if States have agreed, they also consider individual complaints of alleged violations. Both Covenants use the same wording to prohibit discrimination based on, inter alia, sex (art. 2), as well as to ensure the equal right of men and women to the enjoyment of all rights contained in them (art. 3). The International Covenant on Civil and Political Rights guarantees, among other rights, the right to life, freedom from torture, freedom from slavery, the right to liberty and security of the person, rights relating to due process in criminal and legal proceedings, equality before the law, freedom of movement, freedom of thought, conscience and religion, freedom of association, rights relating to family life and children, rights relating to citizenship and political participation, and minority groups' rights to their culture, religion and language. In 1967, United Nations Member States adopted the Declaration on the Elimination of Discrimination against Women, which states that discrimination against women is an offence against human dignity and calls on States to “abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal

rights of men and women". Less than a year later a proposal for a legally binding treaty on women's rights was made. The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. Its preamble explains that, despite the existence of other instruments, women still do not enjoy equal rights with men. The Convention articulates the nature and meaning of sex-based discrimination, and lays out State obligations to eliminate discrimination and achieve substantive equality. As with all human rights treaties, only States incur obligations through ratification. However, the Convention articulates State obligations to address not only discriminatory laws, but also practices and customs, and discrimination against women by private actors. With these general principles as an overarching framework, the specific obligations of States to eliminate discrimination against women in political, social, economic and cultural fields are laid out in 16 substantive articles. The Convention covers both civil and political rights (rights to vote, to participate in public life, to acquire, change or retain one's nationality, equality before the law and freedom of movement) and economic, social and cultural rights (rights to education, work, health and financial credit). The Convention also pays specific attention to particular phenomena such as trafficking, to certain groups of women, for instance rural women, and to specific matters where there are special risks to women's full enjoyment of their human rights, for example marriage and the family. The Convention defines discrimination in its article 1 as "... 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." Such discrimination encompasses any difference in treatment on the grounds of sex which:

- Intentionally or unintentionally disadvantages women;
- Prevents society as a whole from recognizing women's rights in both the private and the public spheres;
- Prevents women from exercising the human rights and fundamental freedoms to which they are entitled.

The Convention also specifies the different ways in which State parties are to eliminate discrimination, such as through appropriate legislation prohibiting discrimination, ensuring the legal protection of women's rights, refraining from discriminatory actions, protecting women against discrimination by any person, organization or enterprise, and modifying or abolishing discriminatory legislation, regulations and penal provisions. The Convention foresees that achieving equality may require positive action on the part of the State to improve the status of women. To accelerate women's actual equality in all spheres of life, States are permitted to use temporary special measures for as long as inequalities continue to exist. The Convention thus reaches beyond the narrow concept of formal equality and aims for equality of opportunity and equality of outcome. Temporary special measures are both lawful and necessary to achieve these goals. In principle, these measures should be removed once equal status has been achieved. The Convention on the

Rights of the Child (art. 2) and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 7) also prohibit discrimination based on sex. The Convention on the Rights of Persons with Disabilities (art. 6) recognizes the multiple discrimination that women with disabilities are subjected to, and requires State parties to address this by taking “all appropriate measures to ensure the full development, advancement and empowerment of women” in the enjoyment of their human rights. In its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee on the Elimination of Racial Discrimination, which oversees compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, also recognized the gender dimensions of racial discrimination and said it would “endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination.” The Committee against Torture, which monitors the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, also regularly addresses issues of violence against women and girls.

Awareness of Intersectionality and Forms of Multiple Discrimination in the Practice of International Human Rights Mechanisms Article 1(3) of the United Nations Charter states that one of the purposes of the United Nations is: [T]o achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. This provision inspired the text in Article 2 of the Universal Declaration of Human Rights, which recognises that “everyone is entitled to all the rights and freedoms set forth without distinction of any kind, such as race, colour, sex, language religion, political or other opinion, national or social origin, property, birth or other status.” The subsequent adoption of the 10 core multilateral human rights treaties and the practice developed under each of these treaties has broadened the reach of international anti-discrimination law. Diversification has occurred not only in terms of the definition of the acts or omissions that may constitute discrimination, but also in relation to the grounds upon which discrimination must be prohibited. The oldest of these human rights treaties, namely the Convention on the Elimination of Racial Discrimination, prohibits distinctions based on “race, colour, descent, or national or ethnic origin”

Human rights and fundamental freedoms should be birth rights, but across the globe some countries fail to accord human rights to women. Moreover, women are often victims of human rights abuses. Women's human rights are abused when they cannot participate in decisions that affect their lives and are denied political participation and fair representation, when they are prevented from going to school or receiving health care, when they face discrimination in employment, when they are denied equal rights to own land

and property, when they suffer from violence within their homes and when they are subjected to harmful traditional practices such as genital mutilation and honour killings.

Recognition of women's rights began in some countries as they evolved from feudal into more representative forms of government. In the United States, awareness of women's rights came with the ideals of the American Revolution. Strong and intelligent women such as Abigail Adams, wife of the second U.S. president, John Adams, demanded fair and equal treatment, and warned presciently, "If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation." She also advocated equal access to education for girls, writing to her husband, who then represented the new American republic in Paris: "I regret the trifling narrow contracted education of the females of my own country." Women's suffrage movements began in the United States and Great Britain in the mid-19th century and in a few European countries in the early 20th century.

Women's human rights only emerged as a global movement during the United Nations Decade for Women (1976-1985), when women from many different geographic, cultural, religious, racial and class backgrounds came together and organized to improve the status of women. It was during this decade that the United Nations sponsored several women's conferences — Mexico City in 1975, Copenhagen in 1980 and Nairobi in 1985 — to evaluate the status of women and to formulate strategies for women's advancement.

An International Women's Bill of Rights

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), a key international agreement on women's human rights, was adopted by the United Nations General Assembly in 1979. CEDAW is often described as an international bill of rights for women. Its preamble and 30 articles aim to eliminate gender discrimination and promote gender equality. The convention defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex" that impedes women's "human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." It sets an agenda for national action to end such discrimination, requiring all parties to the convention to take "all appropriate measures, including legislation, to ensure the full development and advancement of women" and guarantee their fundamental freedoms "on a basis of equality with men." As of 2009, 186 United Nations member states had ratified CEDAW. The Obama administration strongly supports this treaty and is committed to U.S. ratification. State parties to CEDAW agree to incorporate principles of gender equality into their national constitutions or other appropriate legislation; to adopt appropriate legislation and other measures that prohibit discrimination against women; and to establish legal protections of their rights on an equal basis with men. CEDAW has been the primary international human rights treaty concerned with

the protection and promotion of women's human rights since its adoption by the United Nations General Assembly in 1979.⁸ Its overarching object and purpose, as stated by the Committee, is 'to eliminate all forms of discrimination against women with a view to achieving women's de jure and de facto equality with men in the enjoyment of their human rights and fundamental freedoms'.⁹ The Committee has explained that there are three obligations central to the realisation of the object and purpose of CEDAW, namely to: ensure that there is no discrimination against women in laws and women are protected against discrimination; improve the de facto position of women; and address prevailing gender relations and the persistence of gender stereotypes.¹⁰ The rights to non-discrimination and equality are the backbone of CEDAW; they guide CEDAW's overarching object and purpose and inform each of the obligations enumerated in the Convention. Articles 1–5 and 24 of CEDAW enumerate the general obligations of states parties to eliminate all forms of discrimination against women and achieve substantive equality. They also form the interpretative framework for CEDAW's substantive provisions in arts 6–16 of CEDAW, which outline states parties' obligations with respect to some of the most common areas of discrimination against women. Together, they protect women's rights to non-discrimination and equality in political and public life, economic and social matters and in legal and civil matters. As the treaty body that monitors progress in the implementation of CEDAW, the Committee is responsible for interpreting the rights to non-discrimination and equality and elucidating the measures needed to ensure women's de jure and de facto equality with men. The Committee's interpretative statements concerning these rights are found in its general recommendations and concluding observations and, since the entry into force of the Optional Protocol, its views in individual communications and reports on inquiries. Although the status of these documents as a source of international law is uncertain, the Committee's statements are of considerable practical importance for the interpretation and application of the rights to non-discrimination and equality in CEDAW; they clarify and offer 'more or less authoritative statements of' the rights and obligations of states parties and provide consistency and legal security.

CEDAW's application to all fields of life — the political, economic, social, cultural, civil or any other field — and discrimination by state and non-state³⁷ actors allows it to transcend the public/private distinction, which has operated historically to women's detriment. CEDAW expressly rejects the notion of impunity for violations of women's rights that occur in the private sphere — including in the family — and/or are caused by non-state actors. The significance of this approach lies in its recognition that, unlike for men, many violations of women's rights occur within the private sphere and failure to address such violations undermines the exercise and enjoyment by women of their human rights in all spheres of life. Importantly, CEDAW's expansive scope and the Committee's application of the treaty have ensured that the

full range of harms women experience because of their sex and gender are scrutinised, regardless of where the harms occur or who perpetrates those harms.

CEDAW's primary concern with the elimination of all forms of discrimination against women is directed towards the achievement of gender equality.³⁸ The concept of equality is not defined in CEDAW but a close reading of the text of the Convention unearths different theories of equality — formal equality, substantive equality and transformative equality. It has been left to the Committee to articulate the content and meaning of the right to equality protected by CEDAW and the relationship between that right and the Convention's substantive provisions. The Committee's practice, evidenced most clearly in its General Recommendation No 25 (temporary special measures) and General Recommendation No 28 (state obligations), has been to interpret the right to equality generously and to treat each of the theories of equality embedded in CEDAW as essential and complementary to the Convention's overarching object and purpose. CEDAW imposes on states parties a 'formal legal obligation of equal treatment of women with men'.⁴⁰ Formal (de jure) equality asserts that, as equals, women and men should be treated the same. This concept of equality lives in numerous provisions of CEDAW and is concerned primarily with 'the content of laws and practices and their even-handed application'.⁴¹ For example, art 7(a) requires states parties to adopt measures to guarantee women equal rights with men to vote and art 9 requires them to guarantee women equal rights to acquire, change or retain their nationality. Conscious of the limitations of the formal equality model,⁴² the Committee has explained that the position of women will not improve as long as the underlying causes of discrimination and inequality — which are left intact by a purely formal approach to equality — are not also addressed.⁴³ States parties, the Committee has explained, must therefore implement their obligations 'in an integrated fashion and extend beyond a purely formal legal obligation of equal treatment of women with men'.⁴⁴ In other words, formal equality is essential but not sufficient for the full implementation of CEDAW. In addition to formal equality, CEDAW requires states parties to take all appropriate measures to ensure substantive (de facto) equality between women and men. Articles 3 and 24, for example, require steps to be taken to ensure the full development and advancement of women and the full realisation of the rights in CEDAW, respectively. The Committee has explained that states parties must ensure that women are 'given an equal start'⁴⁵ (equality of opportunity) and are 'empowered by an enabling environment to achieve equality of results'⁴⁶ (equality of results). This means that it is not enough for states parties to guarantee women treatment that is identical to that of men; they must also take biological, socially and culturally constructed differences between women and men into account, which may require non-identical treatment to address those differences.⁴⁷ Significantly, the principle of substantive equality embodied in CEDAW and embraced by the Committee further requires states parties to address the underlying causes and structures of

gender inequality ('equality as transformation'⁴⁸ or 'transformative equality').⁴⁹ The Committee has tended to view transformative equality as part of substantive equality rather than as a distinct model of equality, though they are considered separately here for ease of analysis. The principle of transformative equality underpins several of CEDAW's provisions. Examples include arts 2(f) and 5, which together require states parties to address prevailing gender relations and the persistence of gender-based stereotypes. The Committee's approach to transformative equality has centred on two distinct but related categories of obligations. The first category concerns the transformation of institutions, systems and structures that cause or perpetuate discrimination and inequality. According to the Committee, states parties should implement an effective strategy that aims to redistribute power and resources amongst women and men⁵⁰ and adopt measures 'towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns'.⁵¹ The second category of obligations concerns the modification or transformation of harmful norms, prejudices and stereotypes.

Women's human rights apply to both the "public" and "private" spheres of women's lives. For many governments, however, addressing women's rights in the "private" sphere is challenging because the private sphere is often thought to be beyond the purview of the state, exempt from governmental scrutiny and intervention (UNIFEM [now UN Women], *About the Convention*). As a result, in many countries, discrimination and violence against women and girls that occur in the family and under the guise of religious and cultural traditions and practices continue to remain hidden in the private sphere, where perpetrators of such human rights abuse typically enjoy impunity for their actions.

Women's Rights as Human Rights

Since the 1980s, women around the world have come together in networks and coalitions to raise awareness about problems of discrimination, inequality and violence. They have used a human rights framework to fight for women's rights in the family, social, economic and political arenas. An important outcome of the 1995 Beijing Fourth World Conference on Women was the Beijing Declaration and Platform for Action. These documents embody the international community's commitment to advance and empower women and remove obstacles in the public and private spheres that have historically limited women's full participation.

The Platform for Action sets forth three strategic objectives related to the human rights of women: to promote and protect women's human rights through the full implementation of all human rights instruments (especially CEDAW), to ensure equality and non-discrimination under the law and in practice, and to achieve legal literacy. Governments bear the main responsibility, but persons, organizations and enterprises are important in taking concrete actions to improve women's lives.

Then-U.S. first lady Hillary Clinton famously declared at the 1995 Beijing conference that “human rights are women’s rights,” adding, “Women must enjoy the right to participate fully in the social and political lives of their countries if we want freedom and democracy to thrive and endure.”

CEDAW and the Beijing Declaration and Platform for Action signalled the successful mainstreaming of women’s rights as human rights. Although the Beijing Declaration and Platform for Action are not legally binding, they do carry ethical and political weight and can be used to pursue local, regional and national efforts to address women’s human rights. CEDAW is a treaty that is binding on its parties. CEDAW is unique among existing human rights instruments because it is concerned exclusively with promoting and protecting women’s human rights and because it operates from the premise that patriarchy is a global reality. It addresses the reality of deep-rooted and multifaceted gender inequality throughout the world. It also emphasizes both public- and private-sphere relations and rights and specifically underlines the almost universal difference between de jure and de facto equality of women in the world. CEDAW focuses on elements of the social traditions, customs, and cultural practices that “legitimately” violate women’s rights in many societies, identifying them as elements that help perpetuate de facto inequality. CEDAW is also clear about States Parties’ use of economic conditions and factors such as structural adjustment policies and programmes, slow economic growth rates, recessionary pressures, and privatization to justify discriminatory practices against women. It operates with the understanding that the States Parties’ failure to remove obstacles to women’s enjoyment of all their rights is discriminatory, expanding the concept of rights by holding States Parties accountable for failure to act and for abuse of power by private parties. The idea of introducing a complaints procedure for CEDAW came about in the early 1990s with the emergence of the international women’s rights movement, which called for the strengthening of the existing United Nations human rights machinery for the advancement of women. The adoption of an optional protocol to the Convention to provide a right to petition was one of the commitments made by Member States of the United Nations at the 1993 Conference on Human Rights, in Vienna, and the 1995 Fourth World Conference on Women, in Beijing. In 1995, at its fifteenth session, the CEDAW Committee adopted a suggestion (number 7) that proposed elements for a petition and an investigation procedure for complaints. Then, at the forty-third session of the Commission on the Status of Women, delegates adopted an optional protocol to

CEDAW, which entered into force in 2000. The optional protocol introduces two procedures: a communications procedure whereby individuals or groups of individuals may submit claims of violations of rights to the committee, and an inquiry procedure whereby the committee may initiate inquiries into situations of grave or systematic violations of rights. The optional protocol, ratified by 88 Parties (as of March 2008), encourages states to implement CEDAW to avoid having complaints made against them. It

provides an incentive for states to provide more-effective local remedies and to eliminate discriminatory laws and practices. Moreover, it is a major tool for women, as communications concerning violations of “any of the rights set forth in the Convention” may be submitted on behalf of an individual or group of individuals. This is critical given the obstacles many women face, such as low levels of literacy, legal illiteracy, and fear of reprisals. However, although CEDAW is widely ratified, it also has the highest number of reservations of any convention. Removal of these reservations is a major goal for both nongovernmental organizations (NGOs) and governments in the coming years. Monitoring implementation through States Parties’ reports is an important tool of CEDAW. Reporting enables a comprehensive review of national legislation, administrative rules, policies, and practices, and it ensures that States Parties regularly monitor the situation with respect to each provision of the Convention. Gender, Women, and the Tobacco Epidemic: 12. Women’s Rights and International Agreements²³⁷ConclusionsCEDAW is a dynamic document that is flexible enough to adapt to changing international circumstances and attitudes, while preserving its spirit and integrity. The CEDAW Committee endeavours to ensure that women benefit from globalization and that their increased participation in the labour market has an empowering effect on them. Likewise, the WHO FCTC can take up the challenge of improving the lives of women in the informal working sector by making them no longer invisible, unacknowledged, and excluded from protection and benefits.

The principles and practices related to women’s human rights are continuously evolving. The large body of international covenants, agreements and commitments to women’s human rights developed over the past several decades provides women with an alternative vision and vocabulary to confront violations to their human rights. Such guidelines are important tools for political activism and a framework for developing concrete strategies for change.

Robin N. Haarr is a professor of criminal justice at Eastern Kentucky University whose research focuses on violence against women and children and human trafficking, nationally and internationally. She does research and policy work for the United Nations and U.S. embassies, and has received several awards for her work, including induction into the Wall of Fame at Michigan State University’s School of Criminal Justice, and the CoraMae Richey Mann “Inconvenient Woman of the Year” Award from the American Society of Criminology, Division on Women and Crime.

3.1.1. Universal Declaration on Human Right

The Universal declaration of Human Rights is the first and overarching United Nations document on Human Rights which makes explicit reference to equality for women not only in its “preamble” but also in several Articles. The preamble to the United Nations Charter states: “*We the people of the United Nations,* School of Legal Studies, BBDU, Lucknow

determine to reaffirm faith in fundamental human Rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom”² The preamble of United Nation Charter also protect and promote Human Rights of all man and women equally.

The universal declaration thus professes to protect human rights and promising equality and dignity of the members of entire human race.

The International Instrument considered most central to the concerns of women is the convention on the elimination of all form of discrimination against women. It forbids all forms of discrimination on grounds of gender as violative of fundamental freedoms and human rights. It ensures equality for women and to make them active participants in national development. Convention for elimination of all forms of discrimination against women was ratified by the united nations organization on December, 1979 and the government of India is an active participate on 19 June, 1993 the government of India accessed to convention for elimination of all forms of discrimination against women and reiterated that discrimination against women violates the principles of equality of rights and respect for human dignity of equality.

Article 1 defines, “discrimination against women” to mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of imposing or nullifying the recognized enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, all human right and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Article 2(b) enjoins upon the state parties while condemning discrimination against women in all its forms, to pursue by appropriate means, without delay, elimination of discrimination against women by adopting. **“Appropriate legislative and others measures including legislation, to modify or abolish existing laws, regulations customs and practices which constitute discrimination against women.”**

Clause (c) enjoins upon the state to ensure legal protection of the rights of women on equal basis with men. Through constituted National Tribunals of other public institutions against any act of discrimination to provide effective protection to women.

Article 3 enjoins upon the state parties that it shall take, in all fields, in particular, in the political, social, economic and cultural fields. All appropriate measures including legislation to ensure full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and freedoms on the basis of equality with men.

2. Gonsalves, Lina, Women and Human Rights, 2008, at p. 18.
School of Legal Studies, BBDU, Lucknow

Article 13 declares that, “the state parties shall take all appropriate measures to eliminate discrimination against women other areas of economic and social life in order to ensure as a basis of equality of men and women.”

3.1.2: - Convention on the Elimination of Discrimination Against Women, 1999

It was recalled in this protocol the convention on the elimination of All forms of discrimination Against Women (The Convention) in which the state parties there to condemned discrimination against women in all its forms and agreed to pursue by all appropriate means and without delay a policy of eliminating discrimination against women. The states also reaffirmed their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms.

3.1.3: Commission on the status of women

The commission on the status of women is a functional commission of the economic and social council (ECOSOC) established by the council in 1946. The functions of the commission are: -

1. To prepare recommendations and report to ECOSOC on promotion of women's rights in political, economic, civil, social and educational fields, and
2. To make recommendation to the council on urgent problem requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights and to develop proposals, to give effect to such recommendations.

A. Vienna Conference The commission on the status of women has done valuable work for promoting the rights of women in political, economic, civil, social and educational fields. It has also ensured achievement of the goal of women having rights equal to those of men.³

B. Beijing Conference

In its thirty – seventh session, the commission urged the fourth world conference on women to consider women's rights and concerns. This conference was held in the capital city of China, Beijing in September 1999. The Beijing conference, in a series of United Nation sponsored global conference on women laid the foundation in the field of human right of women, who constitute nearly half of the world population.⁴

3. Id at p. 19

4. Rao, Mamta, Law relating to women & children, EBC,2011, atp.43.
School of Legal Studies, BBDU, Lucknow

3.2. National Perspective: -

Women enjoy in unique position in every society and country of the world. In spite of their contribution in all spheres of life, they suffer in silence and belong to a class which is in a disadvantaged position on account of several barriers' impediment. India, being a country of paradoxes, is no exception. Here too women, an epitome of Shakti, once given an exalted state are in need of empowerment. Empowerment legal, social, political and economic. However, empowerment and equality are based on the gender sensitivity of society towards their problems. The intensification of women's issues and rights movement.

In India is reflected in the form of various Act, code, section, article and rules passed by the central and state. These National protections have helped in the articulation of feminist ideology. These National protections are as follows –

3.2.1. Constitutional Provision

The policy of protection to women is spread over various parts of the constitution. The growth of case law has added to its strength in recent times. Some constitutional amendments have introduced new provisions for women's welfare and better public participation.

3.2.1.1. Preamble

The framers of the Indian constitution were inspired by the Universal declaration and they saw to it that the essence and the spirit of the universal declaration was incorporated in the constitution. The inspiration is evident in the preamble of the constitution which assures “**dignity of the individual**”⁵.

3.2.1.2. Equality

Article 14 of the constitution provides that the state shall not deny to any person equality before law or the equal protection of the laws within the territory of India. Under Article 15(1) and 16(2), sex is a prohibited ground of discrimination against any citizen in general matters or in respect of employment or office under the state. Judiciary while dealing with discriminations against women in the matter of employment or law in general has applied these provisions. In *Bombay labour Union vs. International franchises (P) Ltd*⁶ The Supreme Court quashed an employment rule, which required the unmarried woman to give up her position when she married, as violative of Article 14. A formalistic approach to gender

5. Bakshi, P.M., Eleventh edition, universal publication 2011 at P 1.

6. AIR 1972 P & H 117.

equality was adopted by the Punjab and Haryana High Court in *Raghubans Vs. State*⁷ to uphold a government order that rendered women ineligible in some employments like jail warden in men's prison etc. In *C.B. Muthamma Vs. Union of India*⁸. The Supreme Court held a rule that prohibited married women to continue in IFS, cadre discriminatory. In *Air India Vs. Nergesh Meerza*⁹, although the Supreme Court upheld a restraint upon air hostesses to marry within four years of entering into service as a non-discriminatory measure of promoting family planning, the rule, which required them to retire upon their first pregnancy, was declared unreasonable and arbitrary and hence violated Article 14. In *Air India Cabin Crew Assn. Vs. Yeshaswinee Merchant*¹⁰, the differential treatment in retirement age was upheld as the service conditions were evolved on the basis of agreement between employer and employees, which in turn was influenced by collective bargaining process. The court ruled that the unequal treatment was not entirely based on sex but was traceable to collective bargaining.

Article 15(3) allow state to make special provisions for women and children. The Madras High Court *In University of Madras Vs. Shantha Bai*¹¹ ruled that since Article 29(2) did not prohibit discrimination on account of sex in matters relating to admission to educational institutions which were getting grant in aid from government such discriminations were not unconstitutional in *Dattatraya Motiram More Vs. state of Bombay*¹², the Bombay High Court looked to the social, historic and economic inequality of women and upheld the reservations of seats for women in municipalities as a special provision “**to raise the position of women to that of men**”. In *Shamsher Singh Vs. State*¹³ The Punjab High Court upheld the pay increase in a branch of educational system exclusively run by women as a result of concerted reading of Article 15(3) and Article 16(2).

In *Govt. of A.P. & P.B. Vijayakumar*¹⁴, Rule 22 A(2) of Andhra Pradesh state service rules, which prescribed a minimum preference of 30 percent of the posts in each reservation category, was upheld by the Apex court on the ground that making special provisions for women in respect of employment or posts under the state is an integral part of Article 15(3), which could not be whittled down in any manner by Article 16. In *Indra Sawhney Vs. Union of India*¹⁵. The Supreme Court had favoured the approach of keeping certain

7. (1979) 4 SCC 260.

8. (1981) 4 SCC 335.

9. (1981) 4 SCC 335.

10. (2003) 6 SCC 277.

11. AIR (1954) Mad 67

12. AIR (1953) Bom. 311

13. AIR (1970) P & H 372

14. (1995) 4 SCC 520

15. 1992 SCC (L & S) Supp. 1.

quota of Jobs for women in each respective category of reservation. In *Anjali Roy Vs. State of W.B.*¹⁶ Article 15(3) was regarded as an exception to Article 15(1) and enabled the state to discriminate against males by making a special provision in favour of females. In *Yusuf Abdul Aziz Vs. State of Bombay*¹⁷ and *Sowmithri Vishnu*¹⁸ at issue was the Constitutionality of section 497 IPC that makes adultery committed by man an offence and excepts the “adulteress” woman from punishments even for abetment of it. In both the cases, the Supreme Court regarded the impugned provision as providing for preferential treatment of women in the background of aggressive male sexuality to which women fall prey as passive victims.

3.2.1.3. Right to dignified life

In the light of proposition in *Maneka Gandhi Vs. Union of India*¹⁹ that the procedure established by law applied for deprivation of right to life or personal liberty shall be just, fair and reasonable, the judiciary began to probe into Constitutionality of law and procedure on both substantive and procedural grounds. This gave a sound footing for developing feminist perspective like dignity of womanhood and preciousness of right to privacy of woman as the essential components of due process culture.

In the context of legal protection of women, the above approach contemplates at least the following things: first, when the basic essentials that make up a dignified life of women are deprived by state inaction, legal vacuums, and mute tolerance of hegemonic private actions which impact upon women adversely, the positive right of sustenance, shelter and protection shall be recognized and secured by the judiciary under Article 21.

3.2.1.4. Right to maintenance

The judicial approach about right to maintenance is influenced by its consideration of dignified life. As held in *Naurang Singh Vs. Sapla Devi*²⁰, the law of maintenance is aimed at prevention of vagrancy, and securing of right to food, clothing and shelter to the deserted wife and children. In *Bai Tahira*,²¹ *fuzlunbi*²² and *Shah Bano cases*²³ the Supreme Court applied section 125 of the criminal procedure code irrespective of the claims of Muslim Personal law that the Muslim husband's obligation to pay maintenance to his divorced wife is confined to Iddat period. A statute enacted to override section 125 and to uphold personal

16. AIR (1952) Cal. 825.

17. AIR (1954) SC 321.

18. AIR (1985) SC 1618.

19. (1978) 1 SCC 248.

20. AIR 1968 All 412.

21. Bai Tahira Vs. Ali Hussain Fidaalli Chothia (1979) 2 SCC 316.

22. Fuzlunbi Vs. K. Khader Vali (1980) 4 SCC 125.

23. Mohd. Ahmed Khan Vs. Shah bano Begum, (1985) 2 SCC 556.

law was interpreted in *Danial latifi Vs. Union of India*²⁴ as not defeating the obligation of the Muslim husband to pay maintenance even beyond the iddat period. Applying the rule of equality, the court held that an interpretation of the Act that would leave Muslim women in a loss advantageous position than Hindu, Buddhist, Jain, Parsi or Christian woman would violate the Constitutional guarantee of right to equality.

3.2.1.5. Right Against Exploitation

Article 23 of the Constitution specifically prohibits traffic in human being. Trafficking in human beings has been prevalent in India for a long time in the form of prostitution and selling and purchasing of human beings. This includes the devadasi system prevalent in Andhra Pradesh. To give meaning to Article 23 various laws have been passed to prevent exploitation of human beings in varied forms. The immoral traffic (prevention) Act 1956 and the A.P. Devadasis (Prohibition of Dedication) Act, 1988 are legislations which prohibit the practice of prostitution and dedication of devadasi respectively.

3.2.1.6. Directive Principles of State Policy

Fundamental Rights cater to individual rights while the directive principles of state policy cater to social needs. These provisions are contained in part IV of the Constitution. Though these principles are not enforceable in any court of law they are fundamental in the governance of the country and provide for the welfare of the people, including women.

Article 39(a) directs the state to direct its policy towards securing that citizens, men and women, equally have the right to an adequate means of livelihood.

Article 39(d) directs the state to secure equal pay for equal work for both men and women. The state in furtherance of this directive passed the equal Remuneration Act, 1976 to give effect to the provision.

Article 39(e) specifically directs the state not to abuse the health and strength of workers, men and women.

Article 42 of the Constitution incorporates a very important provision for the benefit of women. It directs the state to make provisions for securing just and human conditions of work and for maternity relief.

The state has implemented this directive by incorporating health provisions in the factories Act, maternity Benefit Act, Beedi and Cigar workers conditions of employment) Act etc.

24. (2001) 7 SCC 740.

3.2.1.7. Uniform Civil Code

Article 44 directs the state to secure for citizens a uniform civil code applicable throughout the territory of India. Its particular goal is towards the achievement of gender justice. Even though the state has not made any efforts to introduce a Uniform civil code in India, the judiciary has recognized the necessity of uniformity in the application of civil laws relating to marriage, succession, adoption, divorce, maintenance, etc. but as it is only a directive it cannot be enforced in a court of law.

3.2.1.8. Fundamental Duties

Part IV-A which consist of only one Article 51-A was added to the Constitution by the 42nd Amendment, 1976. This Article for the first time specifies a code of ten fundamental duties for citizens. Article 51-A(e) is related to women. It states that: -

“It shall be the duty of every citizen of India to promote harmony and the spirit of common brother hood amongst all the people of India transcending religious, linguistic, regional or sectional diversities, to renounce practices derogatory to the dignity of the women”.

3.2.1.9. Women's Representation in Local Bodies

Under Article 40 the directive principles of state policy state that:

“The state shall take steps to organize village Panchayats and endow them with such power and authority as may be necessary to enable them to functions as units of self-government.”

It was held in *N.M. Kheni Vs. Manik Rao patil that* ²⁵ “power of the people which is the soul of a republic stands subverted if decentralization and devolution desiderated in Article 40 is ignored by the executive in action even after holding elections to the floor level of administrative bodies.”

The 73rd and 74th amendments to the Indian Constitution effected in 1992 provide for reservation of seats for women in elections to Panchayats and Municipalities.

Reservation of seats for women in Panchayats and Municipalities have been provided in Articles 243-D and 243-T of the Constitution of India. Parts IX and IX-A have been added to the Constitution by the Constitution 73rd Amendment Act, 1992 and the Constitution (74th Amendment) Act, 1992 Popularly known and the Panchayati Raj and Nagarpalika Constitution Amendment Act with Articles 243, 243-A to 243-D and Article 243-P to 243-ZG.

25. (1977) 4 SCC 16.

3.2.2. Statuary Provision: -

Crime against women occur both within the home and outside the domestic walls. They range from assault to deprivation of life and from indecency to ravishing the women's honour by rape. The crimes are dealt under the general law like Indian Penal Code and special statues enacted to deal with specific crimes like dowry and domestic violence. This part discusses trends of legal development in these spheres from the perspective of promotion of gender justice and a desirable change. It also analyses the role of the National commission for women for protecting the interests of women.

3.2.2.1. Domestic Violence

Violence and harassment against women are common in our society. The state has made number of laws to control the violence against the women. In order to control the violence against the women in the family and to safeguard her interests recently remedy for protection of domestic violence are as follows –

(A) Criminal Law Remedy:

Under criminal law, there are few provisions available which can be used to address the issue of domestic violence. The Introduction of section 498-A in the IPC in 1983 was significant in bringing domestic violence out of the closet, but this section with its specificity to dowry ignores the other factors of violence.

(B) Civil Law Remedy:

As such, under the civil law, there is no remedy for domestic violence. A closer look at the available remedies reveal that the various personal laws provide remedies only on divorce or separation.

(C) The Protection of Women from Domestic Violence Act, 2005:

The debate on domestic violence had a long journey from 2001, when the Bill was introduced in the parliament to 2005, when finally, the act was passed, there were long discussions to have consensus number of changes were made and serious lacuna which existed filled finally the much-awaited Act was passed. This Act was important to prevent women who were ostracized by their "own" people in their "own" homes. The new Act contains five chapters and 37 sections²⁶.

3.2.2.2. Sati

Sati is Sanskrit means a noble and dedicated wife. When applied to a widow, the world stands for a woman voluntarily sacrificing herself on the funeral pyre of her husband, the Act of self-immolation being

26. Domestic Violence Act, 2005.
School of Legal Studies, BBDU, Lucknow

an expression of love for the husband. Thus, it is an ancient evil which grew through shastras. For controlling this evil government enacted a central legislation which finally led to the passing of the Commission of Sati (Prevention) Act, 1987.

(A) Commission of Sati (Prevention) Act, 1987:

The Act is divided into five parts and provides for inter alia, definitions, punishments, special courts, powers of collector or District Magistrate to prevent sati.

3.2.2.3. Law relating to obscenity and Indecent representation of women

Women have been depicted in the most respectable and aesthetic manner on the one hand and on the other, they have also been victims of indecent, vulgar and obscene definitions.

(A) Obscenity:

Provisions relating to obscenity have been included in Sections 292-294 of the Indian Penal Code 1860. They deal with sale, hire, distribution, public exhibition, circulation, import, export or advertisement, etc. of any matter which is obscene.

(B) Indecent Representation:

To prevent indecent representation of women in numerous forums, parliament passed the Indecent Representation of Women (Prohibition) Act 1986. The object of the act was to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.

(C) Outraging Modesty:

Modesty is an attribute which a female possesses right from her birth. It is not easy to lay a comprehensive test for determining whether modesty of a woman is outraged or not. But when any Act is done to or in the presence of a woman clearly suggestive of sex according to common notions of mankind that Act must fall within the mischief of this section.

Offence under section 354 IPC is of less gravity than rape and an indecent assault upon a woman is punished under this section. A person is guilty of indecent assault if he intentionally assaults the victim and attempts to commit not just an assault but an indecent assault is an assault which right-minded persons would think is indecent.

3.2.2.4. Termination of Pregnancy

Indian society is Patriarchal in nature within born desire for the birth of a male child in the family. This desire, along with the many prevailing superstition, leads to indiscriminate abortion of female foetuses. Women carrying illegitimate children also have a high abortion rate. These factors have contributed to the prevalence, in Indian society of the menace of quacks. These unregistered medical practitioners had become a health hazards for women who were carrying unwanted or illegitimate children because they performed abortions illegal and not knowing much about termination of pregnancy

(A) Provisions Under Penal Code, 1860:

In order to prevent such illegal acts sections 312-318 of the Indian Penal Code deal with the causing of miscarriage with or without consent.

(B) The Medical Termination of Pregnancy Act, 1971:

The high risk involved in abortions of the female child or unwanted child by unqualified medical practitioners prompted parliament to make a law to regulate termination of pregnancy in certain cases only by registered medical practitioners. The objective of the Act is to provide for the termination of pregnancy by registered medical practitioners where it continuance would involve a risk to the life of the pregnant woman or grave injury to her physical or mental health or where there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

3.2.2.5. Dowry Harassment

One more sphere in which law had to combat with tradition and assert the policy of gender justice is with regard to the problem of dowry.

(A) Provisions Under Penal Code, 1860:

Dowry relating offence under the penal code consider two main offence. The first offence is called "dowry death" which is made punishable under the new section 304-B IPC with imprisonment of not less than seven years but which may extend to imprisonment for life. The second offence is treated under section 498-A. Indian Penal Code which was introduced by the criminal law (Second Amendment) Act of 1983.

(B) The Dowry Prohibition Act, 1961:

This Act prohibits not only actual receiving of dowry but also the very demand for dowry made before marriage.

3.2.2.6. Law on Rape²⁷ :

The offence of rape occurs in chapter XVI of the IPC. It is an offence affecting the human body. There is a separate heading for sexual assault which encompasses section 375 and 376, 376A, 376B, 376C and 376D IPC. Section 375 and 376 have been substantially changed by the criminal law (Amendment) Act, 1983 which also introduced several new sections namely, 376-A to 376-B. By the criminal Law (Amendment) ordinance, 2013 section 375, 376, 376A, 376B, 376C, and 376D amend these sections more rigorous & strict and now Male also included in the definition of rape.

3.2.2.7. Prostitution and Law

Prostitution is another problematic area where male dominated double standards galore.

(A) Provision Under Constitutional Law:

The constitutional mandate under Article 23 is prohibition of trafficking and all forms of exploitation. This was aimed at putting an end to all forms of trafficking in human beings including prostitution and beggary. India being a signatory to the International convention for the suppression of Traffic in persons and exploitation, 1950 passed a central law to implement the provisions of the convention.

(B) The Immoral Traffic (Prevention) Act 1956:

This act is applicable to both men and women. The object of the enactment was to inhibit or abolish the commercial vice of traffic in women, men and children for the purpose of prostitution as an organized means of living.

3.2.2.8. Sexual Harassment at work place

Sexual harassment in workplace is a serious irritating factor that renders women's involvement in works unsafe and affects right to work with dignity.

(A) Provision Under the Penal Code:

By the criminal law (Amendment) Ordinance 2013 a new section inserts section 354A provide the definition & punishment for sexual harassment which may extend to five years, or with fine or with both.²⁸

(B) Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Bill 2012:

The Bill is passed in India which proposes to protect women from sexual Harassment at their place of work. It was passed by the Lok Sabha on 3 September, 2012. It was passed by the Rajya Sabha on February

27. After the criminal Law (Amendment) ordinance, 2013 The term Rape is now change in sexual assault.

28. The Criminal Law (Amendment) Ordinance, 2013.

26, 2013. The Bill is to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.²⁹

3.2.3. Govt. Policies: -

On December, 23, 2012 a three-member committee headed by Justice J.S. Verma former Chief Justice of the Supreme Court was constituted to recommend amendment to the criminal Law so as to provide for quicker trial and enhanced punishment for criminals accessed of committing sexual assault against women. The other members on the committee were Justice Leila Seth, former Judge of the High Court and Gopal Subramaniam, former solicitor general of India. The committee submitted its report on January 23, 2013. It made recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms. We Summaries the key recommendation of the committee.

Rape: The committee recommended that the gradation of sexual offences should be retained in the Indian Penal Code, 1860. The committee was of the view that rape and sexual as assault are not merely crimes of passion but an expression of power. Rape should be retained as a separate offence and it should not be limited to penetration of the vagina, mouth or anus. Any non-consensual penetration of a sexual nature should be included in the definition of rape.

Sexual Assault: Currently, “assault or use of criminal force to a woman with the intent to outrage her modesty” is punishable under section 354 of the IPC with 2-year imprisonment. The term outrages her modesty” is punishable under section 354 of the IPC with 2 years’ imprisonment. The term outraging the modesty of a women is not defined in the IPC. Thus, where penetration cannot be proved, the offence is categorized as defined under section 354 of the IPC.

The committee recommended that non-penetrative forms of sexual contact should be regarded as sexual assault. The offence of sexual assault should be defined so as to include all forms of non-consensual non-penetrative touching of a sexual nature. The sexual nature of an act should be determined on the basis of the circumstances. Sexual gratification as a motive for the act should not be prerequisite for proving the offence. The offence should be punishable with 5 years of imprisonment or fine or both.

Use of criminal force to disrobe a woman should be punishable with 3 to 7 years of imprisonment.

29. Sexual Harassment Bill, 2012 available at [http://en.wikipedia.org/wiki/protection_of_women_against Sexual Harassment at workplace Bill, 2012](http://en.wikipedia.org/wiki/protection_of_women_against_Sexual_Harassment_at_workplace_Bill,_2012), access on 16 March, 2013.

Verbal sexual assault:

At present, use of words or gestures to “insult a woman’s modesty” is punishable with one year of imprisonment or fine or both under section 509 of the IPC. This section should be repealed. The committee has suggested that use of words, acts or gestures that create an unwelcome threat of a sexual nature should be turned as sexual assault and be punishable for one-year imprisonment or fine or both.

Sexual harassment: Some of the key recommendations made by the committee on the sexual harassment of women at work place (Prevention, Prohibition and Redressal) I Bill, 2012 that is pending in parliament are provided below –

- (1) Domestic workers should be included within the purview of the Bill.
- (2) Under the Bill the complainant and the respondent are first required to attempt conciliation. This is contrary to the Supreme Court Judgement in *Vishakha Vs. State of Rajasthan* which aimed to secure a safe workplace to women.
- (3) The employer should pay compensation to the woman who has suffered sexual harassment.
- (4) The Bill requires the employer to institute an internal complaints committee to which complaints must be filled. Such an internal committee defeats the purpose of the Bill and instead, there should be an employment Tribunal to receive and adjudicate all complaints.

Acid Attack:

The committee opined that the offence should not be clubbed under the provisions of grievous hurt which is punishable with 7 years’ imprisonment under the IPC. It noted that the offence was addressed in the criminal laws Amendment Bill 2012 which is currently pending in parliament. The Bill prescribes a punishment of imprisonment for 10 years or life. It recommended that the central and state government create a corpus to compensate victims of crimes against women.

Offences against women in conflict areas:

The continuance of Armed forces (Special Powers) Act (AFSPA) in conflict areas needs to be revisited. At present, the AFSPA requires a sanction by the central government for initiating prosecution against armed forces personnel. The committee has recommended that the requirement of sanction for prosecuting of armed forces personnel should be specifically excluded when a sexual offence is alleged. Complaints of sexual violence must be afforded witness protection. Special commissioners should be appointed in conflict areas to monitor and prosecute for sexual offences. Training of armed personnel should be reoriented to emphasize strict observance of orders in this regard by armed personnel.

Trafficking:

The committee noted that the immoral Trafficking prevention Act 1956 did not define Trafficking comprehensively since it only criminalized trafficking for the purpose of prostitution. It recommended that the provisions of the IPC on slavery be amended to criminal trafficking by threat, force or inducement. It also recommended criminalizing employment of a trafficking person. The juvenile and women protective home should be placed under the larger guardianship of High Courts and steps should be taken to reintegrate the victims into society.

Punishment for crimes against women:

The committee rejected the proposal for chemical castration as it fails to threaten the social foundations of rape. It opined that death penalty should not be awarded for the offence of rape as there was considerable evidence that death penalty was not a deterrence to serious crimes. It recommended life imprisonment for rape.

Indian criminal law has substantive components and policies to deal with the offences against women. People's participation and civil society's initiatives have their own contribution to sensitize the law to dispel the gender biases. While the major trend of development has witnessed application of human rights norms and welfare policies, some of the remnants of male chauvinism continue to haunt the unfortunate victims and the process of administration of justice. The reforms in substantial law owing to progressive judgments of the Supreme Court and legislation need to be supported by strong law enforcement mechanism.

CHAPTER –IV

Judicial Pronouncement

In democratic country like India each and every organ of the government exercise of their right as per fundamental law of land, legislature make law and third pillar of democracy protect and pronounce the right and duties of the state as well as individual as for as violence against women with special reference to sexual harassment at work place. Analysis of some decisions delivered by the higher judiciary would reveal the active judicial efforts in dealing with cases of violence against women and sexual harassment at work place.

4.1. Cases relating to violence against women: -

In *KundulaBala Subrahmanyam vs State of A.P.*¹, The Supreme court referred to the important role of the courts in dealing with cases of dowry related violence such cases ought to be dealt with in a more realistic manner and criminals should not be allowed to escape on account of procedural technicalities are insignificant lacuna in the evidence, the court are expected to be sensitive in cases involving crime against women.

In a number of decisions, the Supreme Court has shown remarkable pragmatism in dealing with bride burning cases, an approach not usually discernible in ordinary situations of murders. In *State of Delhi Admin vs. Laxman kumar*², the court rejected the defence of accident and found the respondent guilty of bride burning, the factual issue was decided by the court having regard to the dress the deceased happened to wear at the time of receiving fatal burns. In the opinion of the court the women would not have gone out just in a nylon saree to operate an oil stove in the biting cold on December in an open space. Though the court refused to make the infirmities loaded dying declaration, the basis of conviction, it nevertheless held the dying declaration to be of material corroborative value. The court however, took care to state the correct position that courts cannot allow emotional or sentimental feelings to creep in to judicial pronouncements and that the decisions are not to be effected from heat generated outside the courtroom either through news media or through a flutter in public opinion the same active judicial approach is discernible in state of *Punjab vs. Amarjit singh*³ Where the court accepted the dying declaration despite the fact that the police had not got it recorded by a magistrate.

Two cases of murders, involving “bride burning,” which merit special mention, came up in appeal before the supreme court and in both, the court seems to have taken extra care to ensure that the guilty did

1. (1993) 25 SCC 684.

2. (1985) 45 SCC 476.

3. (1989) SCC (Cri) 58.

not get away with murder by overstretching the principle of presumption of innocence of the accused in this kind of fairly frequent phenomenon of extremely wicked and avarice-based killings. The prosecution in both the cases, as is generally inevitable in bride burning cases, was wholly based on circumstantial was wholly based on circumstantial and medical evidence. while in one of the two appeals, ***KundulaBala subrahmanyam vs. state of A.P.***⁴ the conviction of the accused was held to be proper, in the other case, ***sarojini vs. State of M.P.***⁵ the court roped in the husband also in consonance with the trial court's verdict, for murder liability besides upholding the conviction of the mother in law. this the judges did by drawing inference of criminis vis-a-vis the husband, busing their conclusion in a remarkable manner, "*Without his cooperation and participation... it was impossible for sarojini alone to commit the crime except denial he offered no explanation in his section 313 statement... The conduct would be that on hearing the news of the death of his wife he was expected to reach and take further actions which are absent in this case....*"

In ***State of Maharashtra vs. Vasant Shankar Mhasane***⁶ the trial court acquitted the accused of the charges under section 306 (abetment of suicide) and section 498-A of the code. on appeal, the Bombay High court set aside the acquittal under section 498- A but confirmed the acquittal under section 306 of the code. Some notable features of the decision- making process were as follows: -

- (i) *The High court acting under Section 313 and 391 of the code of criminal procedure examined the accused and recorded additional evidence.*
- (ii) *It was held that the dying declaration absolving the husband and his relatives could not destroy the letters-based evidence going against them for conviction under section 498- A.*
- (iii) *The facts of constituting harassment and cruelty before the enactment of section 498- A were held to be relevant.*
- (iv) *The High court rejected the contention of the defence that specific instances of cruelty and ill – treatment over a period of time, instead of general allegations, should have been made in the charge against the accused to afford them an opportunity for and effective defence.*

In ***State of W.B. vs. Orilal Jaiswal***⁷, an appeal decided by the supreme court, certain propositions were laid down which may go a long way to eliminate undeserved acquittals under section 498 – A of the code. The court held:

4. (1993) 25 SCC 684.

5. (1994) SCC (Cri) 124.

6. 1993 Cri. L.J. 1134.

7. (1994) 1 SCC 73.

- (a) Ordinarily, it is not expected that physical torture or abuses hurled on the woman should be made in such a way as to be noticed by the neighbours.
- (b) Depositions by the close relatives of the victim need not be discarded simply because of the absence of corroboration by independent witnesses.
- (c) The actual dates and occasions of the alleged harassment and cruelty need not be proved.
- (d) The presumption regarding an accused's innocence, based on lingering and unreasonable doubts, must not be carried too far.

In dowry death cases the courts must keep in mind the object of legislation which deals with dowry cases. This will help to eradicate the menace of dowry in Society. The Supreme court have prescribed deterrent punishment for dowry deaths. The supreme court in *State of Karnataka vs. M.V. Manjunthegowda*⁸ observed.

“That the court in this case showed its concern that despite stringent laws, the evil practice of giving and taking of dowry remains unabated. on the contrary it is menacingly on the increase. Every court must be sensitized to the enactment of the law and the purpose for which it is made by the legislature keeping in view the evil practice of dowry.”

In granting bail to the accused, charges of serious offences of cruelty and dowry death the court laid down three factors in *Gajanand Agarwal vs. state of Orissa*⁹, which may be considered before granting bail under section 437 cr.p.c. these are.

- (i) The nature of accusations and severity of punishment in case of conviction and the nature of supporting evidence
- (ii) Reasonable apprehension of tampering witness or apprehension of threat to witnesses.
- (iii) Prima facie satisfaction of court in support of charge.

In *Pradeep Kumar vs. Union Admn., Chandigarh*¹⁰ it was laid down that to bring the offence of rape into the category of gang rape it is necessary to prove that more than one person had acted in concert with common intention to commit rape on victim.

8. (2003) 2 SCC 188.

9. (2006) 12 SCC131.

10. (2007) 1 SCC (Cri.) 41.

(ii) that more than one accused had acted in concert in commission of crime of rape with prearranged plan, prior meeting of mind and with element of participation in action. It may also be in a plan formed suddenly at the time of commission of offence which is reflected by element of participation in action.

(iii) That in furtherance of such common intention one or more persons of the group actually committed offence of rape on victim or victims.

In the instant case Prosecutrix stated that accused reached spot after rape had been committed. Mere presence of appellant accused at spot is insufficient to prove gang rape.

Delhi Gang Rape Case¹¹ :- On December 16, 2012, a 23-year-old woman in Delhi, was gang-raped and almost left for death by six men in a moving bus. More shocking- This was the 636th rape in Delhi in 2012, after this case the criminal law (Amendment) ordinance 2013 Passed which took a major change in criminal law. And section 375 Rape is now termed Sexual assault.

In *State of Kerala vs. Kundumkara Govindom*¹², It was held that the crux of offence under section 376, IPC is rape and it postulates a sexual intercourse. The word intercourse means sexual connection. It may be defined as mutual frequent action by members of independent organisation. By a metaphor. The word “intercourse” like the word commerce is applied to the relation of sexes. In Intercourse there is temporary visitation of one organization by a member of another organisation is to obtain euphoria by means of detent of the nerve's consequent on the sexual crisis. This Kerala decision explaining the word penetration states that it means access or through it has also been in “*Ghanshyom Mishra vs. State*¹³” and *Nathu ram vs. State of Haryana*¹⁴ and that the depth of penetration is immaterial in *Prithi Chand vs. State of H.p.*¹⁵, the Supreme court repelling the contention of the defense held that the argument overlooks the fact that in the absence of penetration there would not be absence of hymen with profuse bleeding from the vagina staining clothes. Merely because the doctor found that vagina admitted one finger with difficulty it cannot be inferred that there was no penetration.

*Madan lal vs. State of J&K*¹⁶ went a step forward and held that if an accused strips a girl and then forcibly rubs his organ on the private part of the girl but fails to penetrate the same into her private part, it is difficult for the court to hold that it was a case of merely assault under section 354, IPC and not an attempt to

11 Violence Against women- intimate partner and sexual violence against women available at <[www. who. int/media center/factsheets/fs_239/en/](http://www.who.int/media center/factsheets/fs_239/en/)>access on March 16,2013.

12. (1969) Cri l.j. 818.

13. 1957 Cri LJ 469.

14 . (1994) 1 SCC 491.

15 . (1989) 1 SCC 432.

16 . (1997) 7 SCC 677.

commit rape. In the fact and circum stances of the instant case the offence was clearly established and the High court rightly convicted him under section 376 read with section 511.

In *Tukaram vs. State of maharashtra*¹⁷ popularly known as the Mathura Trial. Here the session judge found the evidence insufficient to convict the accused. The Bombay High Court reversed the finding and sentenced the accused to rigorous imprisonment. The supreme court reversed the decision of the Bombay High Court and held the accused not guilty on three grounds: -

- (1) There were no injuries shown by the medical report and thus “stiff resistance having been put by the girl” is false. The alleged intercourse was a peaceful affair.
- (2) The court disbelieved the testimony that she had raised alarm.
- (3) The court held that under section 375 IPC only fear of death or hurt can vitiate consent for sexual intercourse. There was no such finding recorded and therefore since the girl was “**habituated to sexual intercortse**”. There was consent.

This time the judgment was not accepted silently. There were marked protests and it was highlighted that firstly there were inadequate laws to protect women who are victim of rape and secondly. There was not enough legal safeguard to protect women who are summoned to a police station. The case piloted the voice for amendment in the existing penal provision to make then more effective in providing justice to victim.

In *Delhi Domestic working women's forum vs. Union of India*¹⁸ suggested the formulation of a scheme for awarding compensation to rape victim at the time of convicting a person found guilty of rape. The supreme court suggested that the criminal injuries compensation Board or the court should ward compensation to the victim by pregnancy and the expenses of childbirth if this occurs as a result of rape. The supreme court indicated the following broad parameters for assisting rape victim: -

- (1) The complainants of cases of sexual assault should be provided with legal representation. It is important to have someone who is well acquainted with the criminal justice system so that she may be made aware of the proceeding of section 366 that deal with their nature, i.e, to prepare her for the proceeding to prepare her case, to assist her in the police station and in the courts and to provide her with guidance, e.g. counselling or medical assistance.
- (2) Since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.

17 . (1979) 2 SCC (143).

18 . (1995) 1 SCC 14.

- (3) The police should be bound by duty to inform the victim of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed.
- (4) A list of advocates well versed in dealing with such cases should be kept at the police station for victims who might not have a particular lawyer in mind or whose lawyer was not available.
- (5) The advocate shall be appointed by the court, upon application by the police at the earlier convenient moment, but in order to ensure that the victims were questioned without under delay, advocates would be authorized to act at the police station before leave of the court was sought or obtained.
- (6) In all trials related to rape cases anonymity of the victim must be maintained.
- (7) It is necessary to set up a criminal injuries' compensation Board under the directive principles that are contained under Article 38 (1) of the constitution of India to compensate rape victims as they frequently incur substantial financial loss and are too traumatised to continue in employment.
- (8) Compensation should be awarded to victims by the court on conviction of the offender or by the criminal injuries' compensation Board whether or not a conviction has taken place. The Board should take into account pain, suffering and shock as well as loss of earning due to pregnancy and expenses of childbirth if it is as a result of rape.

The Supreme Court directed the National Commission for women to evolve such a scheme so as to wipe the tears of such unfortunate victims.

In *Ratnamala in re*¹⁹, it was observed that, "It is no doubt true that what is aimed at under the act is not abolition of prostitutes and prostitution as such and make it per se a criminal offence or punish a women because she prostitutes herself, the purport of the enactment was to inhabit or abolish commercialized vice namely, traffic in women and girls for purpose of prostitution as an organize means of living.

In *Shefali Banerjee vs. State*²⁰ it was again held that the act is a measure to eradicate a social evil in pursuance of the international convention signed at New York in May 1950.

This is a social legislation with a double objective, both penal and ameliorative, and the legislature not only wanted prostitution to be stopped but also to provide for the rehabilitation of prostitutes. In *Vishal Jeet vs. Union of India*²¹ the court held that the Act deals with not only a social but also a socioeconomic problem. Therefore, the provisions of the legislation are more preventive than punitive.

19 . AIR 1962 Mad 31.

20 . AIR 1969 Cal 544.

21 . (1990) 3 SCC 318.

The case of *Upendra Baxi vs. state of Uttara pradesh*²², shows how deeply entrenched is the market for sex trafficking. The Agra protective Home was constituted by and functioned under the Penal law. The immoral Traffic (Prevention) Act, 1956.

Apart the Agra Protective Home case, in *Radha Bai vs. Union Territory of Pondicherry*²³ . the petitioner's protests against the Home minister of Pondicherry alleging that he was misusing the protective home for women for immoral purposes landed her in deep trouble. The commissioner suggested the closing down of such homes immediately. Two decades later she got relief from the supreme court.

In *Bhlanath Tripathi vs. State of u.p.*²⁴, a public interest litigation was filed alleging that a woman was held in confinement and was being used for earning money by prostitution. The supreme court directed the commissioner appointed to make enquiry and if satisfied prima facie about the allegations, to remove her to a safe place and secure her production before the court. The police and the other authorities of the state government concerned were also directed to afford assistance to the commissioner.

In the *State of Uttar Pradesh vs. Kaushaliya*²⁵, Section 20, of Immoral Traffic Prevention Act was challenged as violating Article 14. The Supreme Court, in adopting the reasonable classification approach, held that the difference between a prostitute and non-prostitute was a reasonable classification. Further, the court ruled that there were real differences between a prostitute who does not demand, in public interest, any restrictions on her movement, and a prostitute, whose action demand restrictions. The Supreme court in a clinical analysis said:

*“There is obvious difference between a prostitute who is a public nuisance and one who is not. A prostitute who carries on herd trade on the sly or in the unfrequented who lives in a busy locality. Though both sell their bodies, the latter is for more dangerous to the public, particularly to the younger generation during the emotional only helps to demoralize public morals but, what is worse, to spread diseases not only affecting present generation, but also future ones.”*²⁶

In *Vishal Jeet vs. Union of India*²⁷ in a public interest litigation filed by a lawyer the supreme court confined itself to the issues of child prostitution and article 23 in the context of prostitution. Interpreting article 23, the court held that:

22 . (1983) 2 SCC 308.

23 . (1995) 4 SCC 141.

24 . (1990) SCC (Cir) 543.

25 . (1964) 4 SCR 1002.

26 . Ibid at P. 1010.

27 . (1990) SCC (Cri) 543.

“The expression ‘traffic in human being’ is evidently a very wide expression including the prohibition of traffic in women for immoral or other purposes.”

The Supreme court in *CEHAT VS. Union of India*²⁸ moved in to stop illegal sex determination and directed all states to confiscate ultrasound equipment from clinics that are being run without licences. The Health secretaries of Punjab, Haryana, Delhi, Bihar, Uttar Pradesh, Maharashtra, Gujarat, Andhra Pradesh, Kerala, Rajasthan and west Bengal were present to explain the steps taken to implement the pre-Natal diagnostic Techniques (regulation and Prevention of Misuse) Act, 1994.

A Bench comprising **Arijit Pasayat, M.B. Shah and B.N. Agarwal**, j.j. said:

“State governments are directed to take immediate action if such machines were being used in clinics without license. The machines are to be seized and sealed for the time being.”

In *Malpani Infertility clinic (P) Ltd vs. Appropriate Authority PNDT act*²⁹ the petitioner sought to challenge the order, under the provisions of the pre-conception and pre-natal Diagnostic Techniques (Prohibition of sex selection) Act, 1994 suspending the registration of the petitioner's Diagnostic centre. A writ petition was also filed by an NGO in 2001, centre for enquiry into health and Allied Themes CEHAT, against the activities being carried out which are banned by the PNDT Act. The petitioners had then in their affidavit defended sex determination on the ground of ‘family balancing’ later they tendered apology through another affidavit.

4.2. Cases relating to Sexual Harassment at workplace: -

The first successful claim against sexual harassment at the workplaces is *Walker vs. Northumberland county council*³⁰ where psychiatric damages were awarded by the English court arising out of occupational stress. Thus, it becomes clear that injury might include stress. In such a case an action may be against an employer for negligence.

The judgment in this case is of great importance as it opens yet another area, that is of mental harassment as distinguished from the physical contact theory. It is obvious that the violation of the female body perpetrated by acts of sexual harassment does not have to be at the level of harm to the physical body. The harm may be caused by a verbal insult and may occur at the mental level. Thus, the problem of sexual harassment at the workplace exists, causing injury to women, and it is crucial that a legal response is articulated and rigorously pursued. It is not surprising that women are deterred by the prospect of

28 . (2001) 5 SCC 577.

29 . AIR 2005 Bom 26.

30 (1995) IRLR 35.

complaining about harassment. Once the law is remade so as to embody a female structural understanding of what give rise to sexual harassment, to approximate women's experience of the injury it imposes, and to foreshadow a radical alternative set of relations between the sexes. its traditional majesty could then be invoked in order to provide a revolutionary transfer motion.

The Guidelines and Norms prescribed in *Vishaka vs. State of Rajasthan*³¹ have regard to the definition of "human rights" in section 2 (d) of the protection of Human Rights Act, 1993 and took note of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time.

The Supreme court considered it necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women. Those are:

(i) Duty of the employer other responsible persons in workplaces and other institutions:

It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.

(ii) **Definition:** For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- (a) Physical contact and advances,
- (b) A demand or request for sexual favours,
- (c) Sexually coloured remarks,
- (d) Showing pornography,
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of this act is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the women have reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates on work including recruiting or

31 (1995) IRLR 35

promotion or when it creates a hostile work environment. Adverse consequence might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

(iii) Preventive steps:

All Employers or person in charge of work place whether in public or private sector should take appropriate step to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps: -

- A. Express prohibition of Sexual harassment as defined above at The work place should be notified, published and circulated in appropriate ways'
- B. The Rules/Regulation of government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting Sexual harassment and provide for appropriate penalties in such rules against the offender.
- C. As regards private employs, steps should be taken to include the aforesaid prohibitions in the standing orders under the industrial Employment (standing orders) Act 1946.
- D. Appropriate work condition should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

(iv) Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian penal code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In Particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of Sexual harassment. The victim of Sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

(v) Disciplinary Action:

Where such conduct amount's to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

(vi) Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

(vii) Complaints Committee:

The complaint mechanism, referred to above, should be adequate to provide, where necessary, a complaints committee, a special counsellor or other support service, including the maintenance of confidentiality.

The complaints committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such a complaints committee should involve a third party, either an NGO or other body who is familiar with the issue of sexual harassment.

The complaints committee must make an annual report to the government department concerned of the complaints and action taken by them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the complaints committee to the government department concerned for the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the complaints committee to the government department.

(viii) Worker's initiative:

Employees should be allowed to raise issues of sexual harassment at a worker meeting and in other appropriate forums and it should be affirmatively discussed in employer-employee meetings.

(ix) Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines in a suitable manner.

(x) Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

(xi) Private sector:

The Central/State governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by employers in the private sectors.

(xii) Right under Human Rights Act, 1993:

These guidelines will not prejudice any right available under the protection of Human Rights Act, 1993.

(xiii) Binding Nature:

It was directed by the court that the guidelines and norms would be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of the working.

In *Apparel Export Promotion Council vs. A.K. Chopra*³² the court held that, “where any of the acts mentioned in the definition of Sexual harassment in *Vishaka vs. State of Rajasthan*³³ committed in circumstances hereunder the victim of such conduct has a reasonable apprehension that in relation to the victim’s employment or work whether she is drawing salary or honorarium or voluntary, whether in government public or private enterprise, such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance, when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raise any objection thereto.”

Despite the fact that the guideline exists, a large number of working women are not aware of these guidelines or the complaint redressed machinery. Still it is a long way on the path of working with dignity for a woman.

32 (1991) 1 SCC 759.

33 supra no 31 at p81.

CHAPTER –V

Women's Rights and human rights

Millions of women throughout the world live in conditions of abject deprivation of and attack against, their fundamental human rights for no other reason than that they are women. Abuses against women are relentless. Systematic. And widely tolerated. If not explicitly condoned. Violence and discrimination against women are global social epidemics, notwithstanding the very real progress of the international women's human rights movement in identifying. Raising awareness about. And challenging impunity for women's human rights violations. Social institutions such as marriage. Which is associated with the system of dowry payment. Serve to perpetuate abuses against women particularly amongst poor and low caste women. In many communities' women are denied property rights. Women form one of the most vulnerable groups for HIV + transmission and AIDS. Their control over their own bodies remains a debatable issue till today as is evident from the controversial right to abortion. Against this backdrop. The human rights of women of all kinds have been recognized globally and also by the national Constitutions and organic laws. The Judiciary also played an important role in the protection of human rights of women.

5.1. Concept of Human Right: -

Human Rights are those irreducible minima, which belong to every member of the human race when pitted against the State or other public authorities or group and gangs and other oppressive communities. Being a member of the human family, he has the right to be treated as Human once he/she takes birth or is alive in the womb with a potential title to personhood. When legal ideas were not clear -cut but blurred. Ancient pundits thought of the doctrine of natural rights founded on natural law. Not because it is enacted but because it inalienably belongs to each of us as conceived in civilized political societies. When the priestly order denies this right using religious sanction and authority, the independent mind of man expresses dissatisfaction and defies. When Kings and Queens and other diadems and despotisms sought to suppress the individual's freedom an appeal to natural law was made on the assumption that, beyond religious superiors and crowned heads. There was a system of natural law which embodied reason, Justice and universal ethics.¹ Therefore the basic premise to remember is that Human Rights are not the gift of any political sovereign through legislation or any edict. But are rights inherent in human existence without reference to man – made artificial divisions based on colour, race, sex, religion etc. Non – derogation of some basic rights in a civilized society is based on this premise.

1. Iyer, V.R.Krishna J., the dialectics and dynamics of human rights, EBC, 2003, at p16.
School of Legal Studies, BBDU, Lucknow

Human Rights is a dynamic concept and endeavors to adapt itself to the needs of the day. Further, Human Rights attain new dimensions and connotations with the march of the society. That is why the definition and understanding of the term depends much upon the social, economic, cultural, civil and political conditions and opinions prevailing in a given society at a given time. These developments also give rise to further aspirations of the people to be able to exercise their rights of equality and justice in its finer aspects. Evolution of Human Rights after all depends on evolution of mankind.

5.2. Human Rights and woman: International Concern: -

The constitutional theories of Rule of Law or the Fundamental rights stemmed from the struggle for individual liberty and were intended to curb the power of the State. For a long time, the Human Rights discourses were gender blind and almost ignored the fair sex because men alone participated in public life and therefore were supposed to bear the brunt of the State oppression, so did not spell out women's rights as Human Rights. From the Magna Carta in 1215 to American Constitution in 1789, the Human Rights discourses were essentially when centric. It was the Universal Declaration of Human Rights in 1948, which for the first-time recognized women's rights as Human Rights. One of the great milestones in the protection of women's Human Rights was the adoption by the United Nations General Assembly in December 1979 of the UN Convention on Elimination of All Forms of Discrimination against Women (CEDAW) the Convention laid the foundation and universal standard for women's equal enjoyment without discrimination of civil, political, Economic, social and cultural rights. Subsequent approval of new UN treaties, declarations, and mechanisms had advanced the recognition and protection of women's Human Rights. Since 1979 many organizations have emerged throughout the United States and around the globe to promote awareness of women's Human Rights and to advocate for their defence.²

The World Conference of Human Rights (1993) at Vienna, which was one of the main turning points in women's rights for the first time recognized the gender – based violence against women, in public and private life as a Human Rights concern. The Vienna Declaration specifically condemned gender based violence and all forms of sexual harassment and exploitation. The conference concluded that:

“Human rights of women and of the girl child are inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil economic and cultural life at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community”. The Conference urged upon

2. Danda, Amit & Archana, Parasha (ed.), *Engendering law – Essays in Honour of Lotika sardar*, EBC, 2008, at p32.

governments, institutions, inter-governmental and non-governmental organizations to intensify their efforts for protection and promotion of Human rights of women, and the girl child.

5.3. Human Rights of Women-Constitutional and Legislative Safeguards In India: -

Being a signatory to various international conventions, covenants and protocols on Human Rights, India has assumed the responsibility to provide and protect rights of the women and therefore it confers a catena of rights upon women. It guarantees not only the equality before law and equal protection of law to women but also confers certain affirmative rights. Where Articles 14, 15(1) and (2) and 16 (1) and (2) prohibit discrimination against any citizen/person on the ground of sex among other grounds. The preamble aims at equality of status and opportunity for 'we the people' obviously including the women also. The Directive principles of State policy contained in Part IV of the Constitution, direct the state to protect the Human Rights of women including the right to equal pay for equal work. The right to health and work in hygienic condition, the right to maternity benefit and the right to gender justice etc. The State is empowered to make special provisions for women and children under Article 15 (3). Consequently, the State has introduced reservations for women in public employment, and admissions into educational institutions and the legislatures at least at the local self-Government level. Among other schemes for their benefit. Even the Fundamental duties contained in Part IV–A of the Constitution³ also enshrines the principle of dignity of women. Thus, the spirit of gender equality, dignity and justice pervades the entire framework of our Constitution. The Fundamental Right under the Constitution are almost in consonance with the rights contained in the United Nations Declaration of Human Rights. International Covenant on Civil and Political Rights, International Covenant on Civil and Political Rights. I.C.E.S.C.R. to which India is a party having ratified them.

There is an elaborate system of Laws to protect the rights of women, including the **Equal Remuneration Act, 1976, The Maternity Benefit Act, 1961, the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the Dowry Prohibition Act, 1961 and The Protection of women from Domestic Violence Act, 2005. Even the Indian Penal Code 1860.** Also contains number of provisions to prevent domestic violence against women on the ground of demand for dowry.

For the better enforcement and protection of Human Rights. **The Protection of Human Rights Act, 1993** has been passed and according to which Human Rights means rights relating to life. Liberty, equality

3. Bakshi, P. M., the constitution of india, universal law publishing, 2011, at p109.
School of Legal Studies, BBDU, Lucknow

and dignity of the individual as guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India.⁴

5.4. Judicial acceptance of Human Rights of Women: -

The role of Judiciary, particularly Supreme Court in the protection of Human Rights and in the expansion of its meaning and contents is illustrative of the efficacy of the Judiciary in this exercise. The complimentary role of NHRC has facilitated the performance of this task and strengthened the machinery. The complimentary between the two has not only increased their efficacy but has added to the public confidence and their credibility. In so far as the treaties or conventions to which India is a party are concerned. Though they do not automatically become part of municipal Law.⁵ The courts in India tried to interpret Law so as to be in consonance with such treaties and conventions.⁶

5.4.1. Right to Privacy of Women

Traditionally “privacy” meant freedom from official intrusion. It is a concept related to solitude, secrecy and autonomy. It is virtually impossible to define “privacy” in strict legal terms. It varies with the times, the historical context, the state of the culture and the prevailing judicial philosophy. The right to privacy is not a specifically guaranteed fundamental right under the Constitution. But one of the necessary ingredients of Personal Liberty, However, the Supreme Court of India. In a number of cases has held that it is implicit under Article 21 of the Constitution guaranteeing the right to life and personal liberty.

In *T. Saritha v. Venkata Subbaiah*,⁷ Justice P.A. Chowdary of the A.P. High Court extended the application of the principle of reasonableness to matrimonial matters and invalidated Section 9 of the Hindu Marriage Act, 1955 dealing with the restitution of conjugal rights and found that ‘the remedy of restitution of conjugal rights provided for by the section is a savage and barbarous remedy, violating the right to privacy and human dignity guaranteed under Article 21 of our Constitution. Even though, the Supreme Court has disagreed with Saritha as to the validity of Section 9 of the said Act in a subsequent judgment⁸ it has by implication accepted the principle that the right to privacy is a fundamental right under Article 21.

4. Section 2 (d) of the protection of Human Rights Act, 1993.

5. Article 253 of the protection of human right Act 1993 confers exclusive power on the Parliament for making legislation for giving effect to international agreements including a treaty or agreement.

6. *Jolly George Verghese v. Band of Cochin*, AIR 1980 SC 470.

7. AIR 1983 AP 356

8. AIR 1984 SC 1562.

In *Re-Ratanmala*⁹ and in *State of Maharashtra v. Madhukar Narain*¹⁰ Without referring to Article 21. The Supreme Court has held that the Right to Privacy is available to even a woman of easy virtue and no one can invade her privacy. In another case *Radha v. State of U.P.*¹¹ it was held that prostitutes are also entitled to live a life of dignity.

The Supreme Court in *Neera Mathur's case*¹² has held that, the right to privacy of women would preclude such questions to be put to female candidates as modesty and self-respect candidates as modesty and may preclude disclosure of an answer. In the instant case. The petitioner, a probationer Assistant in LIC gave a false declaration regarding the last menstruation period, during her medical examination, since the clauses in declaration were indeed embarrassing if not humiliating like the regularity of menstrual cycle. The term therefore, the number of conceptions taken etc. the Supreme Court found that such probes in respect of information regarding her reproductive functions amounted to invasion of privacy of a woman and therefore could not be made.

5.4.2. Right to terminate pregnancy

Abortion, in India is an issue clouded with the questions of morality. Public morals, ethics, religious beliefs and women's rights. It is illegal to terminate a pregnancy unless it is carried out under the terms of **the Medical Termination of Pregnancy Act, 1961**. For that reason, today, some 50 to 60 million abortions occur every year throughout the world, up to half of them illegal and dangerous, killing about half a million annually. Apart from this, at least 500 million women around the world are placed at the risk of repeated pregnancies with serious health problems. the low status of woman. cultural barriers, laws and Low political commitment hinder the recognition of abortion as a part of women's right, Some Countries in the world have adopted more liberal laws that allowed abortion when requested by the concerned woman, before completion of ten weeks of their pregnancy.¹³ Forced pregnancies are not advantageous for mother or child's perspective. Studies in the west show that children born when their mothers were refused abortions they had requested, were more likely to be picked up for drunkenness, drug abuse, antisocial or criminal behaviour. It is unfortunate that such a basic right as the right to help with planning or preventing the birth of a child has been denied to women. Sooner or later, the right to life and personal Liberty as guaranteed by Article 21 of

9. AIR 1962 Mad 31.

10. AIR 1991 SC 207.

11. AIR 2004 NOC 19 (All).

12. AIR 1992 SC 392.

13. Govind v. State AIR 1975 SC 1378.

the Indian constitution would be interpreted in such a way as to include the Right to Abortion also as laid down by the American Supreme Court in *Jane Roe v. Henry Wade*.¹⁴

Even though there is a strong belief that anti-abortion Laws discourage sexual promiscuity and protect public morals. it is to be noted that if abortion is not allowed on demand, when a woman does not want to carry her pregnancy, she would carry it and then abandon the new-born child ultimately creating a burden on the society or leading to infanticide. This would be more dangerous to the life of the baby. Thus, keeping in view the lesser evil, the author is of the opinion that it is better to allow a woman to terminate the pregnancy at an earlier stage. But before allowing a woman to terminate her pregnancy it should be made compulsory for her to know the consequences of abortion by attending doctor's counselling.¹⁵

To be true, no one can deny or dispute that population control is the dire necessity of our time and the liberal Law relating to termination of pregnancy is expected to go a long way to fulfil that necessity. The struggle for free abortion rights for women has also now been inseparably linked with the broader struggle of women to gain equality.¹⁶

5.4.3. Violence against Women is a Human Rights Issue

Gender based violence is a form of discrimination which seriously inhibit women's ability to enjoy right and freedoms on the basis of equality with men. Therefore, efforts have been made at the International level to prohibit violence against women and sex discrimination. which was first. incorporated in the U.N. Charter of 1945 and later reiterated in the Universal Declaration of Human Rights of 1948. The International Covenant on Civil and political Rights and the International Covenant on Economic. Social and Cultural Rights. 1966 guarantees equal protection of the law to both sexes.

In Convention on the Elimination of All Forms of Discriminations Against Women (CEDAW), 1981 declaration adopted by the United Nations General Assembly. "**violence against women**" is defined as—

"Any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm to women including threats to such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life."

Violence against women encompasses the following:

14. (1973) 410 us 113.

15. Katari and Awasthi, human rights and crime against women published in law relating to protection of human right, orient publication company at p160

16. Ibid

- 1) **Violence occurring in the family:** viz wife battering, sexual abuse of female children in the household, dowry related violence. Marital rape, sexual abuse. Maltreatment of widows and/or elderly women and forcing the wife/daughter-in-law to go for female feticide and like.
- 2) **Violence occurring within the general community:** viz rape, sexual abuse, sexual harassment and intimidations at work, in educational institutions and elsewhere. Trafficking in women and forced prostitution.
- 3) **Violence perpetrated or condoned by the State:** Custodial torture and rape or similar excesses by police or armed forces to suppress any political or social movement in distributed areas or anywhere else etc.¹⁷

In a 1980 UN Report, it was reported that:

“Women constitute half the world’s population. perform nearly two thirds of its work hours, receive one tenth of the world’s income and less than one hundredth of the world’s property. Women comprise 66 percent of the world’s illiterates and 70 per cent of the world’s poor”. Violence against women, clubbed with these inequalities/deprivations is, total denial of her human rights. the Apex Court in some of the cases has viewed violence against women as a serious issue and opined that there is a need for a social change in order to combat violence against women”.

In *Kundula Bala Subramanyam v. State of A.P.*¹⁸ and *S. Gopal Reddy v. State of Andhra Pradesh*¹⁹ has observed that the alarming increase in cases relating to harassment, torture. abetted suicides and dowry deaths of young innocent brides has always sent shock waves to the civilized society but unfortunately the evil has continued unabated. Awakening of the collective consciousness is the need of the day. Change of heart and attitude is needed. A wider social movement not only of educating women of their rights but also of the men fold to respect and recognize the basic human values is essentially needed to bury its pernicious social evil.

5.4.4. Rape as violation of Human Rights: -

The very dignity of women is attacked in case of rape. Nothing is more outrageous to the dignity of women than the invasion of her physical or bodily privacy.

17. Bhatt, D.K “Human Rights and Gender Issues: A Socio-Legal Perspective”, Indian Bar Review Vol. 27 (1) 2000.

18. 1993 (2) SCC 684.

19. AIR 1996 SC 2184.

An entirely new and revolutionary illustration of judicial activism is to be found in *Bodhisatva Goutama v. Subhra Chakravarthi*²⁰ decided by the Supreme Court of India. The accused has entered into a false marriage with a woman and she became pregnant. He made her undergo abortion. He repeated the same thing again when she asked him to provide maintenance, he disowned her on the ground that there is no marriage. He was prosecuted under Sections 312, 420, 493, 496 and 498-A the Court ruled that rape was not merely an offence under the Indian Penal Code. it was also the violation of a women's right to live with dignity and personal freedom. The court observed that:

“Rape is thus not only a crime against the person of a woman (Victim) it, is a crime against the entire society – Rape is, therefore. the most hated crime. It is a crime, against basic Human Rights and is also violative of the victim's most cherished of the Fundamental rights, namely the right of Life contained in Article 21. to many feminists and psychiatrists, rape is less a sexual offence than an act of aggression aimed at degrading and humiliating women”. The Court recognized that “Fundamental rights can be enforced even against private bodies and individuals”.

In an earlier case,²¹ public interest litigation before the Supreme Court, exposing the pathetic plight of four domestic servants. who were raped in a moving train, the Court held that a rape victim was entitled to compensation after the accused was found guilty and convicted?

The Supreme Court has consistently maintained that the offence of rape is violative of the right to privacy of the victim. In *State of Punjab v. Gurmit Singh*,²² the Court observed that:

“It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably a serious psychological as well as physical harm in the process. Rape is not merely a physical assault. It is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim: a rapist degrades the very soul of the helpless female.”

In *Chairman, Railway Board v. Chandrima Das*²³ Where a Bangladeshi woman was gang raped by Indian Railway Employees in a railway building, relief was granted to her under Public Law as there was violation of fundamental rights firstly on ground of domestic jurisprudence based on constitutional provisions and secondly on the ground of Human Rights jurisprudence based on Universal Declaration of Human Rights, 1948.

20. (1996) 1 SCC 490.

21. Delhi Domestic Working Women's Forum v. Union of India & Others. (1995) 1 SCC 14.

22. AIR 1996 SC 1393.

23. AIR 2000 SC 988.

In *Dinesh v. State of Rajasthan*²⁴, the Supreme Court has stated that rape as a crime under Section 376 of IPC is against the basic human rights and is also violative of the victim's most cherished of the fundamental rights, namely the Right to Life under Article 21 of the Constitution of India.

The Supreme Court in *State of Punjab v. Ram Dev Singh*²⁵ rightly observed that sexual violence apart from being a dehumanizing act is an unlawful intrusion on the right of the privacy and sanctity of female. It is a crime against basic human rights and is also violative of the victims most cherished possession of her Fundamental rights i.e. her dignity.

5.4.5. Right against Sexual Harassment

One of the evils of the modern society is the sexual harassment caused to the women particularly the working women by their male counter parts and other members of the society. There is no law in India which is adequate to combat the evil of the sexual harassment. In *Vishaka v. State of Rajasthan*.²⁶ a Public Interest Litigation (PIL) filed before the Apex Court emphasized the need for an effective legislation in India to curb sexual harassment of working women and held that each incident of sexual harassment of women at the work place is a violation of the right of life under Article 21. which implies right to dignity. The court also recognized that a woman has a right to the sanctity of her body and such a right is a part of Human Rights. Rape and sexual harassment are essentially experienced by women and this right is a women's special right which form part of the paradigm of Human Rights. The Honourable Supreme Court observed that the international instruments cast an obligation on the Indian State to gender sensitize its laws and Courts are under obligation to see that the message of the international instruments is not allowed to be drowned.²⁷

As a result of this judgment any women employee who is subjected to sexual harassment of any kind can take recourse to initiating criminal proceedings. Disciplinary action and also seek compensation from the guilty employer and other persons responsible for the harassment.

5.4.6. Right to Economic Empowerment

In India the women are by and large economically backward and women's earnings are deemed supplementary to those of breadwinners. More important. much work performed by women is not recognized as an occupational activity. The social and political justice pledged by the Preamble of the

24. AIR 2006 SC 1267.

25. AIR 2004 SC 1290.

26. AIR 1997 SC 3011.

27. The Supreme Court reiterated its stand in *Apparel Export Promotion Council v. A.K. Chopra* (1999) AIR SCW 274

Constitution to be secured to all citizens, will remain a myth unless first economic justice is guaranteed to all. Therefore, the courts in India particularly the Supreme Court have recognized, highlighted and enforced the right to economic empowerment of women as a fundamental right in a large number of cases covering the areas of succession, maintenance and ownership etc. In *C. Masilmani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil*.²⁸ Justice K. Ramaswamy noted that “as per the U.N. Report. 1980, women constitute half the world population, perform nearly two thirds of work hours receive one tenth of the world's income and own less than one hundredth per cent of world's property. Half of the Indian populations too are women. Women have always been discriminated against and have suffered and are suffering discrimination in silence. Self-sacrifice and self-denial are their nobility and fortitude and yet they have been subject to all inequities. indignities, inequality and discrimination”. Recognizing right to economic empowerment as a human right, the parliament had passed the Hindu Succession (Amendment Act, 2005 giving equal rights to daughter on par with son. It is to be noted that economic empowerment is the crucial requirement to undo domestic violence against women as well as dowry harassment.²⁹

This survey of Judicial Decisions show that the court was alive to the need to make changes in the institutional structures with a view to making women's rights effectively enforceable.

5.5. Clarion call for Social Transformation

Women in India, in spite of implementation of human rights treaties, a prohibitive and severe punitive approach of criminal law, constant monitoring of National Human Rights Commission and untiring efforts of women organizations and the National Commission for Women (NCW) constituted under the National Commission for Women Act, 1990. To liberate them from the hitherto unjust social political and economic subjugation and suppression, are being sexually exploited, abused and assaulted resulting in violation of her human rights. The Official statistics point to an alarming increase in the incidents of rape, forced prostitution, female infanticide, domestic violence, dowry death and sexual harassment of women at workplace and other forms of atrocities against women in India. Sometimes the protectors i.e. the police or the armed forces themselves turn into offenders and commit rape or other atrocities against hapless women either in custody or even otherwise. The problem, therefore, needs to be examined in the context of rights for establishment of a just and equitable social order, where nobody can be treated or exploited by another as unequal. No law, custom tradition. culture or religious consideration should be invoked to excuse discrimination against women.³⁰

28 AIR 1996 SC 1697.

29 Lakshmi, k. vijaya,” women's rights are human right”, AIR, Feb2009 at p23.

30. Anand, A.S. J., “Justice for women: Empowerment through law”, AIR – Feb 2009, at p29.

Although women's rights are now recognized as Human Rights, recognition does not mean implementation. Much work still needs to be done to achieve Human Rights for all. Even though there are so many progressive legislative measures to protect the Human Rights of women, Law can do little unless present cultural and social perceptions change. Law is no doubt a powerful instrument of social change; but it has its own limitations, Law by itself cannot create a new society. Law is only a part of reformation process. Perhaps one needs to strike at the root of the problem. Traditional practices detrimental to women and violence against women have to be paid attention. Along with that a rudimentary change in the male dominated structure of our society along with all patriarchal customs. Practices and Laws appear to be the only key to the vexed problem.³¹

5.6 Media and Sexploitation

Sexploitation means sexually explicit material. The other term used for sexploitation is pornography. A number of feminist and religious leaders have criticised pornography as being morally obnoxious. However, a closer analysis of the subject reveals that majority of population evaluate pornography is an important element in sexual stimulation. Sexuality is an essential component of health development for young people. Despite the widely recognised importance of sexual health, education to promote it remains a sensitive and sometimes controversial issue. Education is an intentional structure process to impart knowledge and skill. Sex education can contribute to psychosocial development and well-being throughout adulthood. Media that target teen audiences can also do a better job on conveying responsible message about sex. The absence of sexual literacy can be the source of many health and social hazards, including STDs and unintended pregnancy. Sex education in school should treat social and familial values respectfully and professionally. Most youth use online search via Google or YouTube to learn about sex. Television and internet to be the most common medium and platform for viewing contents. When we are talking about the term sexploitation, we don't mean that only teenagers are getting exploited but also the grownups are being exploited.

The rapid increase in popularity of female athletics has affected the entire society in a variety of ways. On one hand it is wonderful that little girls are growing up with the opportunity to be involved in athletics, but on the other hand there are new added pressures and stereotypes that are applied to female athletes that must be faced on a daily basis.

As female athletics increases in recognition, large agencies have begun marketing female athletes in a more provocative manner. Some advertisement firms believe that any media attention a female athlete can get will benefit the sport overall. Others have different views regarding how a female should market herself and the sport. Sexuality is playing a larger role in society and has bled into many other facets of life including sports.

31. Ibid.

The question of whether it is morally right for a female athlete to remove her clothes for a photo shoot has caused a division in the sporting arena, the marketing field, and the advertisement industry. The question of morally right not only rise for women it also rises for men is it ok with men to shoot shirtless to sell any product.

Sexploitation in context with women's and men's athletics is defined as types of marketing, promotion or attempts to gain media coverage which highlights the sexual attributes of female as well as male athletes, especially the visibility of their bodies. Many people believe that this has a negative effect on athletics because it does not send a valuable message about athletics and highlights a woman's and men's body rather than their athletic abilities.

For example, Swimmer Ashley Tappin, who was shown on the cover of Maxim wearing a skimpy red sweater that was unbuttoned from the waist to the collar, supported the photo to a local news reporter stating, "We're healthy. We're fit. And we're not just cute; we do good things with our bodies. They are functional. Why not show them off?" It is also important to look at the marketing agencies that are giving women the chance to pose on the cover of magazines such as Maxim. These magazines are looking to make money any way they can and one way to do this is to sell sex.

If we move towards other professions then we can see in the recent Kingfishers calendars shoot many actors and actresses posed nude or semi-nude.

The role of sex in society has increased in popularity as television shows, movies, advertisements, and magazines all show more sexually provocative and explicit material. It makes sense that as women's and men's sports gains recognition and certain other professions become more recognizable by the public, different forms of media are going to try and capitalize on the popularity to sell their product. Some media companies openly admit to using sex as a foundation for selling their item to the public. Specifically, Maxim, a magazine designed to target men, does not deny how it shows off female bodies and writes about sex. James Kaminsky, explains the magazine's marketing agenda, stating in an interview, "Let me put it this way, if Janet Reno (US Attorney General) were a babe, we'd put her on the cover in a second."¹ Marketing agencies do not see the person they place on the cover as a sexy female or male athlete or actor; they only see her as a sexy female or male. There is no difference to them what the woman and men does professionally, if she or he is physically attractive and can help sell their product, then they are going to be used.

Now if we talk into the context of the adolescents the internet has proved to be one of the greatest technological inventions of the 20th century unfortunately the same advances in computer and

telecommunication technology that allow our children to reach out new sources of knowledge and cultural experiences. The actual meaning of pornography reveals that paedophiles have easy access to children through the means of internet.

Child molesters are using the electronic superhighway to look for victims. The internet is the paedophiles playground because it affords them anonymity and they can use newsgroups, chat rooms and email to exchange information about child pornography and interact with children. These type of molestation on the internet is included in the meaning of pornography where teenagers get attracted to these paedophiles. But statistics reveal that children gain more knowledge from the media or internet rather than by their guardians. Teenagers are more attracted to media for any type of knowledge even if it is related to their projects or studies, children are not only receiving sex knowledge from media they are also receiving knowledge from other fields. Teenagers are not being exploited or abused through media if we or their guardians give them the correct guidelines.

MEDIA AND SEXUAL LEARNING:

Many children and teenagers spend more than 7 hours/day with a variety of different media. Those media are filled with sexual messages and images, many of which are unrealistic. "On television, which remains the predominant medium in terms of time spent for all young people, more than 75% of prime-time programs contain sexual content, yet only 14% of sexual incidents mention any risks or responsibilities of sexual activity. Talk about sex on TV can occur as often as 8 to 10 times per hour. In a survey we found out that between 1997 and 2001 alone, the amount of sexual content on TV nearly doubled."²

So-called reality TV has also entered the picture.

It is interesting to note that the less sexually experienced students were more likely than sexually experienced students to be watching reality shows, which suggests the importance of such programs for sexual socialization.

In addition to TV, other media provide frequent messages about sexual behaviour.

- Music continues to be a major source of sexual suggestiveness. In 1 study, 40% of lyric lines contained sexual material, and only 6% contained healthy sexual messages.
- Virtually every R-rated teen movie since the 1980s has contained at least 1 nude scene and, often, several instances of sexual intercourse (e.g., the American Pie movie series).

- Teen magazines are popular with preadolescent and adolescent girls and devote an average of 2.5 pages per issue to sexual topics. Coverage of sex as a health issue in magazines is more common than on TV, but the overarching focus seems to be on deciding when to lose one's virginity.
- The Internet has become an abundant source of both sexual information and pornography that cannot be regulated. Online pornography is now a \$1 billion industry. In addition, unwanted sexual solicitations and harassment are not uncommon, although they may not be as frequent as parents fear.
- Social networking Web sites and home pages enable teenagers to present themselves publicly, sometimes in sexually suggestive ways. Also, a national survey of nearly 1300 teenagers and young adults revealed that 20% reported having sent or posted nude pictures or videos of themselves ("sexting").
- Advertisements often use sex to sell. Women are as likely to be shown in suggestive clothing, partially clad, or nude as they are to be fully clothed. As one expert noted, "When sexual jokes are used to sell everything from rice to roach-killer, from cars to carpets, it's hard to remember that sex can unite two souls, can inspire awe. Individually, these ads are harmless enough, sometimes even funny, but the cumulative effect is to degrade and devalue sex."

Because so many sex education programs have recently been focused on abstinence only, the media have arguably become one of the leading sex educators today. Adolescents frequently cite the media as a source of sexual information.

For example, in a national survey the media rivalled parents and schools as a source of information about birth control. The media are powerful sources for behavioural "scripts" concerning sexual situations, especially for inexperienced teenagers. Yet, parents and legislators fail to understand that although they may favor abstinence-only sex education (despite the lack of any evidence of its effectiveness), the media are decidedly not abstinence only. In fact, the United States has some of the most sexually suggestive media in the world. American media make sex seem like a harmless sport in which everyone engages, and results of considerable research have indicated that the media can have a major effect on young people's attitudes and behaviours. In fact, the media may function as a "super peer" in convincing adolescents that sexual activity is a normative behaviour for young teenagers. In a survey we found that 11- to 17-year-old girls, only the 11-year-olds reported that they did not feel pressure from the media to begin having sex. Music Television (MTV) and other sources of music videos often display suggestive sexual imagery. In one content analysis, 75% of concept videos involved sexual imagery, and more than half involved violence, usually against women. Although a recent content analysis found less eroticism in violent videos, experimental studies have found that viewing music videos may, in fact, influence adolescents' attitudes concerning early or risky

sexual activity. Greater sexual content is also found in videos that depict alcohol use. Music lyrics have become increasingly sexually explicit as well, and at least 2 studies have shown a correlation between risky adolescent behaviours and a preference for heavy metal music. Research also shows that heavy exposure to media sex is associated with an increased perception of the frequency of sexual activity in the real world.

In a recent news we came across a case “where a girl teenager was watching a porn movie when her parent caught her doing so she argued with her parents after that she committed suicide.”³ From this case we can determine that parents take porn movies or such related videos as a detestable act which cannot be accepted by them and teenagers are exploited by such images. But they forget that it is a natural process which is not hidden from the society or the adolescents in this context parents should understand the mental state of the children and try talk them out of it rather a judge them through it.

IMPACT OF SEXUAL CONTENTS ON ADOLESCENT BEHAVIORS:

Numerous studies have delineated the media's powerful influence on adolescents' sexual attitudes, values, and beliefs. Unlike the media violence research literature, in which some 2000 studies exist, there have been only a handful of studies on the effects of sexual content on actual behaviour. At least a dozen correlational studies have examined the relationship between the amount of sexual content viewed on TV and early onset of sexual intercourse. The most recent studies have revealed that

- (1) Listening to sexually degrading lyrics is associated with earlier sexual intercourse,
- (2) Black female teenagers' exposure to rap music videos or X-rated movies is associated with the likelihood of multiple sexual partners or testing positive for an STI,
- (3) Teenagers whose parents control their TV-viewing habits are less sexually experienced, and (4) exposure to sexual content in the media is a significant factor in the intention to have sex in the near future.

Nine longitudinal studies have given potential answers to the question of whether sexy media contribute to early sexual activity, and the answer seems to be “yes.”

Results of 7 of these studies have shown that exposure to sexual content in TV and other media in early adolescence particularly for teenagers can as much as double the risk of early sexual intercourse. Adolescents whose parents limit their TV-viewing are less likely to engage in early sex. Younger children who have viewed adult-oriented TV shows and movies are more likely to begin having sexual intercourse earlier. In addition, a recent study revealed that early exposure to sexual content doubled the risk of teen pregnancy. Clearly, the media play a major role in determining whether certain teenagers become sexually active earlier rather than later, and sexually explicit media may be particularly important.

But if the parents and teachers start talking to the adolescents about the sex and not treat it as shameful act then early risk of coitus and pregnancy can be delayed. Once the teens are comfortable with their parents and teachers to talk about the changes in their body and behaviour during transitional period between childhood and maturity then teens won't have to run towards the media for help or other sources.

EVIDENCE FOR MEDIA'S POSITIVE INFLUENCE:

The media can be powerful vehicles for sexual health education. Socially responsible messages can be embedded into mainstream programming—a practice dubbed “entertainment-education” or “edutainment.” Collaborative efforts between the Kaiser Family Foundation and the producers of the hit TV show ER resulted in successful story lines about the risks of human papillomavirus and the usefulness of emergency contraception. In 2002, Friends aired an episode about condoms, and 27% of a national sample of teenagers saw the program; many of them reported that they talked about condom effectiveness with an adult as a direct result of the episode. In 2008, a study showed that viewers of a Gray's Anatomy episode learned that HIV-positive women could still have HIV-negative infants. In 2013, one of the episodes of Gumrah showed effects of pre-mature pregnancy and illegal abortion.

Television has been effective in promoting the use of family-planning clinics in selected communities also they try to educate adolescent about sex and how they should consult or seek help of elder or matured person. Trial advertising of barrier-contraceptive methods for women and men on local radio, local television, and national cable television has elicited few viewer complaints and many positive comments. Such advertising has been carefully developed, is generally considered to be in good taste, and focuses on adult women who choose to delay childbearing until a more appropriate time in their lives.

In the absence of effective, comprehensive sex education at home or in the schools, television and other media have become the leading sex educators of children and adolescents today. With a large number of sexual messages found in television programming and contained in music and music videos, it seems inappropriate for national networks to avoid or censor any reference to responsible sexual behaviour. Broadcast media should provide messages that support and encourage the delay of first coitus. Media also should present information on the use of methods to avoid unintended pregnancies and STDs and their consequences. A few prime-time programs and advertisements have done this. Promoting responsible and healthy sexual behaviour by adults and adolescents may result in a greater percentage of wanted and well-spaced pregnancies, with improvement in the health and well-being of many children and their families. Media is not only a leading sex educator but also make us aware of other violence regarding sex and ways to handle the situations. The show Stayamev Jayate conveys the realities of the crimes against sex also it tells

about the importance about the sex education and spread awareness in the society and motivate the youths to take the steps in the right direction.

Even the media revealed the important steps taken by the government to get the people educated about sex. So that the teenagers get aware of the consequences of their act and its impact on their lives and the society. Media is also trying to help people to eradicate the stereotyped behaviour towards the term sex.

For example: in recent movie of Amir Khan (PK) in a particular scene where he showed that we should not run from the terminologies which we already have inculcated in our lives because there is no wrong in accepting the natural thing which is the reason of progeny.

KANPUR: Media influences various aspects of sexual behaviour of teenagers. It has also been instrumental in positively shaping up the attitudes of the youth. A study by Chandra Shekhar Azad (CSA) University reveals. "The survey found that a significant number of adolescents were influenced by HIV/AIDS programmes and children AIDS programmes documented on TV shows or endorsed by organisations to enhance their knowledge about safe sex and reduce the chances of sexually transmitted diseases (STDs). The statistics showed that over 71.7 per cent girls and 62.5 per cent boys had sexual health education and HIV information through programmes based on sex education shown on TV or advertised through media."⁴

Balance between Public Education and Privacy:

A very provocative effort may raise some eyebrows, but at the same time fail to generate conversation. The issue may be too sensitive for most except for a minority of outgoing, extroverted online citizens.

For example, Sex Really discusses violence towards women in dating situations. Sex really takes the initiative on pointing out tough topics and assumes conversation will occur offline, though some folks do choose to interact with the Sex Really team online. The effort uses a variety of media from its own site, as well as an account. The site takes a rightful strong stance against violence towards women and men yet the public conversational results vary. That doesn't mean the effort isn't successful in educating readers.

"This campaign has made effective use of social content, messaging related to social behaviour change, and content aggregation," said Beth Kanter, author of the popular Beth's Blog. "It's hard to tell why there isn't more conversation on the site from the target group they do have an active Twitter stream. They also have a link to Planned Parenthood where users can get private information or connect with a health counsellor for advice."

Another example of an open site that gets some decent participation is MTV's GYT (Get Yourself Tested). Because the effort is tied into the popular TV show 16 and Pregnant, there are a lot of eyeballs landing there.

Integrating traditional media into a social web campaign is one way to incite conversations about getting tested for sexually transmitted diseases (STDs). These types of show help the parents and adolescence to talk about every aspect of sex. In these types of shows personal life is not been violated but balance is been made between public education and the personal life. While talking about sex and its effects doesn't violate personal issues it just the way to educate the adolescence and help them to move towards the healthy life.

Addressing the very private nature of intimacy remains the most difficult aspect of sex-education on the social web. While "Public Health 2.0" is a top priority for related causes and organizations, it can be difficult to approach from a social media standpoint. Because it's the most private and sensitive of issues, many people are embarrassed or offended by conversations about sex.

“However, many organizations, from mass media outlets to cause-specific efforts, are still attempting to use social tools to address reproductive health issues. The difficulty in running a successful effort lies in navigating the troubled waters between an individual's right to privacy and the public need for sex education online.”

As we move towards end of our paper, I want to conclude that the term sex is not an explicit +act and merely a knowledge or an expression to show love and affection. If the adolescents are aware of the true nature of the coitus and the after effects of it then they will be leading a healthy psychological behaviour towards their future. As we see towards the shows which are aired on television like on Channel V- Gumrah, Life Ok-Savdhaan India and many other Crime serials or shows related to youth are not sexploiting but actually they are trying to make us aware of the situations and demonstrate the teenagers or the adolescents how to deal with the situation. The media are the air our young people breathe. That air should include accurate information about the risks and responsibilities of sexual behaviour. It is not fair to our youth to surround them with images that encourage early, risky sexual behaviour but not use the same tools to give them the information and resources they need to make responsible choices. In the future, we should do all we can to use the recommendations derived from these reviews to fashion even more effective media interventions in the interest of young. If teachers and parents are taking right steps to educate their children and trying to help them during their transitional period from teenage to maturity then adolescents doesn't have to seek help from media and moreover, they can learn the actual and true nature of sex. Today we are not being exploited by sex but we exploit sex. Wrong information or gesture gives the immoral meaning of coitus and the effects related to it. Talking about sex or the contraceptive or STD'S related to it is not an obnoxious or immoral thing.

The moment we stop treating it as an abstinence the more we can see the clear and wide image or meaning and importance of it.

Now in this context we would like to share some of the recommendations.

Paediatricians should encourage:

1. Discussions between patients and their families on the effect of media on sexual attitudes, beliefs, and behaviour's.
2. Should help parents and adolescents identify inappropriate use of sexual images in the media, including portrayals of unsafe sex.
3. The broadcast industry to produce programming with responsible sexual content and use public service announcements that promote abstinence from sexual intercourse for adolescents. Just as strongly, the use of public service announcements and advertisements that promote the use of condoms to prevent STDs and pregnancy for adolescents and adults who are already sexually active should be encouraged.
4. Movie Theatre and video store owners to enforce the PG-13, R, and NC-17 ratings designated by the broadcast industry.
5. Schools to create media education programs that, for older children and adolescents, will include discussions of sexual content in the media. Schools should be encouraged to add a media education component to their sex education program content.
6. The broadcast industry should support further research into the impact of sexual content in the media on children's and adolescents' knowledge and behaviour. In particular, a national task force on children, adolescents, and the media should be convened by the Academy alone or in conjunction with the Centers for Disease Control and Prevention or the National Institutes of Health to study this issue, devise new research, locate funding sources, and make recommendations to Congress, the broadcast industry, and the American people.

Though women have significantly in every aspect of life, the long list of in human treatment given seems never ending. The Government, judiciary and social action groups are taking positive action to provide women true dignity in economic, social and personal areas. In endeavor the mass media have a pivotal role reporting wrong doing following up remedial action, mobilizing public opinion, bringing about social change and highlighting positive developments.

The pattern of value in any society is reflected in the contents of mass communications. The way subjects dealing with women are treated indicated to a great extent the prevailing attitude of the society towards women. In this regard, the on-going communication revolution has opened up new possibilities of accelerating the process of upliftment of women. But if it remains unguided and uncontrolled this revolution

will decelerate the process and it will have adverse effects on the lives of women. Hence it is worthwhile to understand the way in which women as reflected in the print and electronic media in the country and its influence on viewer's perception about empowerment of women on society. Media paid scant attention to the warrant issues till 1975. In 1975, the findings of the Committee on National Status of Women revealed that the status of women has been decline steadily. Since then, the National Commission for women and other organizations are striving hard to improve the status of Indian women through all means, including different forms of communication for the mass. However, Incidental studies on the impact of the mass media indicate that women's exposure to the media is often marginal and unsatisfactory. It appears that the mass media has not fulfilled their duty as an effective instrument in the process of empowerment of women. Women are used to sell any product as soap, towel, and detergent. A few year ago, they even banned on add that showed a daughter winking at her father.

Women's portrayals are erotic and soft focus because soft focus is feminist. Feminist is aimed at titillating men. Add open up the whole area up the whole area of sex that has been under wrap since centuries. Add do not corrupt attitude they in fact open up a woman to her sensuality. It is healthy attitude to sex. Majority of woman is house wife. Add people are yet to waiting for working women culture to come of age so that in future they can latch on to this life style. They show existing life style. Beauty appeal in India build fair and lovely complex. This is cultural compulsion. Complex is bound to exist when you have fairness of Aryan in north. Talcum powder is used mostly on face by south Indian.

Mass Media: TV, radio, cinema, newspapers, magazines and newsletters and technology such as the Internet and E-mail as well as other media that may not be as obvious such as children's comics and cartoons, theatre, puppetry, dance and song. The media is a vehicle used to inform as well as entertain the public. The media is a carrier of information, ideas, thoughts and opinions. It is a powerful force in influencing people's perceptions on a variety of issues. The media can be both positive as well as negative in terms of the position and views of women as well as a powerful mechanism for education and socialisation. Although the media has played an important role in highlighting women's issues, it has also had negative impact, in terms of perpetrating violence against women through pornography and images of women as a female body that can be bought and sold. Overall, the media treatment of women is narrow and continually reinforces stereotyped gender roles and assumptions that women's functions are that of a wife, mother and servant of men. This is especially so in advertising.

During the past decade, advances in information technology have facilitated a global communications network that transcends national boundaries and has an impact on public policy, private attitudes and behaviour, especially of children and young adults. Everywhere the potential exists for the media to make a

far greater contribution to the advancement of women. More women are involved in careers in the communications sector, but few have attained positions at the decision-making level or serve on governing boards and bodies that influence media policy. The lack of gender sensitivity in the media is evidenced by the failure to eliminate the gender-based stereotyping that can be found in public and private local, national and international media organizations.

The continued projection of negative and degrading images of women in media communications - electronic, print, visual and audio - must be changed. Print and electronic media in most countries do not provide a balanced picture of women's diverse lives and contributions to society in a changing world. In addition, violent and degrading or pornographic media products are also negatively affecting women and their participation in society. Programming that reinforces women's traditional roles can be equally limiting. The world-wide trend towards consumerism has created a climate in which advertisements and commercial messages often portray women primarily as consumers and target girls and women of all ages inappropriately.

Women should be empowered by enhancing their skills, knowledge and access to information technology. This will strengthen their ability to combat negative portrayals of women internationally and to challenge instances of abuse of the power of an increasingly important industry. Self-regulatory mechanisms for the media need to be created and strengthened and approaches developed to eliminate gender-based programming. Most women, especially in developing countries, are not able to access effectively the expanding electronic information highways and therefore cannot establish networks that will provide them with alternative sources of information. Women therefore need to be involved in decision-making regarding the development of the new technologies in order to participate fully in their growth and impact. In addressing the issue of the mobilization of the media, Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in policies and programmes.

- Print Media

Indian should be proud of having a free and responsible press. An investigating journalist of a leading daily newspaper proved in December' 98 that women were sold in Eluru of Andhra Pradesh. The elder of Rajya Sabha were shocked to hear that women were being sold in the market place like cattle even today. Both the Supreme Court judgment on Shah Bano and the Roop Kanwar 'Sati', brought forth a spate of reportage and editorial comments. The heinous act of female infanticide was brought out only through the press. Dowry deaths moved from the confines of the home to the front page. These incidents highlight two major points. One that women are still treated only as commodities that can be sold and bought and thrown away if unwanted a reflection of the damnable discrimination and indignity that women suffer in various parts of the

country. Second, it highlights the role of media in making it public, however only a few sensational issues are flashed in the newspaper. Normally, it is lamented place in the newspaper. A few newspapers carry women's page which is again the beauty tips, recipes and fashion syndromes.

Most of the women's magazines consistently seek to direct women's energies into narrow channels and to define their concerns, pre-occupations and aspirations within an arbitrarily imposed 'Feminine Frame Work'. Apart from looks and dresses there is stress on development of women's mental faculties and behaviour in a way that they can fit into male dominated social structure. In most of the stories in the magazines, women are depicted with the life ambition of getting a right man and keeping him at all cost. A media advocacy group study [1994] on women and Men in News and Current, Affair Programmes found that women are confined to areas traditionally associated with them. Even those women who make news are to be seen in prettified setting, giving their opinion on matters concerning the home and family.

Studies have shown that the image of women that has predominated in magazine advertisements is of weak, childish, deepened, domestic, irrigational, subordinate creature, the producers of children and little else compared with men. Komisar [1971] suggests the audience of advertising could never know the reality of owners lives by looking at advertising, since a "women's place is not only in the home, according to most advertising copywriters and art directors, it is in the kitchen or the laundry room." Komisar also refers to the image created by advertisers in 2000 as a combination sex object, wife and mother who achieves fulfilment by looking beautiful for men. A woman is not achieving fulfilment by looking beautiful for men. A woman is not depicted as intelligent, but submissive and subservient to men. If women are not having a job it is as a secretary or an airline hostess. Courtney and Lokeretz [1979] examined imaged of women in magazine advertisements. They reported the following findings: women were rarely shown in out-of-home working roles.

1. Not many women were shown as a professional or high-level business person.
2. Women rarely ventured far from home by themselves or with other women.
3. Women were shown as dependent on men's protection.
4. Men were shown regarding women as sex objects or as domestic adjuncts.
5. Females were most often shown in ads for cleaning products, food products, beauty products, drugs, clothing and home appliances.
6. Males were most often shown in ads for cars, travel, alcoholic beverages, cigarettes, banks, industrial products, entertainment media and industrial companies.

Among the stereotypes typically employed in advertising by the media are the ideas that women do unimportant things and a women's place is in the home. The nature and development of these role

stereotypes appear to be functions of cultural norms and socialization. Sullivan and Connor [1988] found that there has been a 60 per cent increase in advertisements in which women are portrayed in purely decorative roles. They also claimed that the women's role in advertising is sexy and alluring. Kibourne [1986] found that exposure to advertisements employing stereotypical sex roles for women resulted in significantly lower perceptions of women's managerial abilities than exposure to advertisements depicting women in professional roles requiring such abilities.

A prominent researcher who believed that gender relations are socially defined and constructed is Erving Goffman. He believed that advertisements are in fact very strange creations. Particularly as regards their portrayals of gender relations and added that the best way to understand the male female relation is to compare it to the parent Childs reaction in which men take on the roles of parents while women behave as children normally would be expected to. In 1979, advertisements and he contend that carefully posed models and carefully selected setting of advertisements create "a pseudo-reality that is better is better than real." Goffman's analysis of nearly 400 advertisements makes it clear that gender differences in function and status not only carry over from the real world to the advertisements world but may find their purest expression there. His model for decoding behaviour concentrates on hands, eyes, knees, facial expressions, head postures, relatives' sizes, positioning and placing, head-eye aversion and finger biting and sucking. He felt the simplest gesture, familiar rituals or taken for granted forms of address were sources for understanding reactions between the sexes and the social forces at work behind those relations. Goffman concluded that women are weakened by advertising portrayals via five categories: relative size [women shown smaller or lower, relative to men], famine touch [women constantly touching themselves]. Function ranking [occupational], ritualization of subordination [proclivity for lying down at inappropriate times etc. and licensed withdrawal [women never quite a part of the scene, possibly via faroff gazes].

Portrayal of women's images in magazine advertisements Advertising occupies a special position within the economic organization of a modern society, and it is not just an economic entity. Advertising deals with ideas, attitudes, and values, giving them "cultural form through its signifying practices". Advertising as "signifying practices" gives meaning to words and images. Through this process, advertising diffuses its meanings into the belief systems of the society. As Schudson (1984) puts, the promotional culture of advertising has worked its way into "what we read, what we care about, the ways we raise our children, our ideas of right and wrong conduct, our attribution of significance to 'image' in both public and private life". Advertising is a social practice, and it does not operate in a vacuum. According to Jhally (1987), the social role of advertising involves a number of interconnected relationships - "those between person and object, use and symbol, symbolism and power, and communication and satisfaction. Thus, advertising must be

considered in light of cultural expectations. Rotzoll and Haefner (1996) argue that because of its cultural boundless, its complexity of forms and functions, and the difficulty in ascertaining its outcome, advertising is highly prone to disparate interpretations. As Hall (1997) illustrates, the concept of "shared meanings" places its emphasis on cultural practices. It is participants in a culture who give meaning to people, objects and events. Since things in themselves rarely have any single and fixed meaning, they need to be given meanings by participants of the culture. Hall (1997) suggests that members of the same culture must share sets of concepts, images and ideas which enable them to think and feel about the world, and thus to interpret the world in roughly similar ways.

Advertising needs to be constructed and produced with this "shared meanings". It is a studying advertising; special emphasis needs to be put on visual images as nonverbal symbols. As a socializing agent, the visual imagery provided by the media can have a powerful impact on our attitudes, values, beliefs, and behaviours, since it can contribute meanings and associations entirely apart and of much greater significance. The images conveyed by advertising have become so sophisticated and persuasive that they now organize our experiences and understanding in a significant way.

Modern advertising depends on images, and images are symbols which can convey meanings as efficiently as verbal symbols can. Like words, visual images also function as symbols that create multi-levelled meanings that have to be decoded to be understood. Visual images in advertising is especially important since, according to Bovee and Arens (1986), "most readers of advertisements (1) look at the illustration, (2) read the headline, and (3) read the body copy, in that order." Visual images, therefore, carry a great deal of responsibility for the message decoding in an advertisement.

A significant cultural and structural analysis of advertising is provided in *Decoding Advertisements* (1978) by Judith Williamson. She explains the ideological processes in advertising by which goods are given meaning. According to Williamson, advertising transforms the practical "use value" of projects into the symbolic "exchange value" of commodities. She calls this the "megastructure," "where meaning is not just 'decoded' within one structure, but transferred to create another". Her central point is that meaning is created through the audience, rather than meaning being directed at audiences. The exchange of meaning in the advertisement may depend upon the reader's cultural knowledge. Thus, Williamson emphasizes that it is the structure of the advertisement itself which "positions" the reader in a certain knowledge. According to Jhally (1987), there are stages to the constitution of meanings. One of the most important stages is that of "transferring". the meaning of one sign to another. The transference requires the active participation of the viewer of the advertisement. Audiences do not just receive meaning from advertising, they constantly re-create it. Thus, Jhally (1987) argues that mass media advertising plays the role of a mediator. For the

audience properly to 'decode' the message (transfer meaning", advertisers have to draw their materials from the social knowledge of the audience, then transform this material into messages ('encode'), developing appropriate formats and shaping the content in order that the process of communication from audience to audience be completed (Hall 1980).

Since advertising reaches millions of individuals daily, it has become targets for heavy scrutiny by researchers interested in the effects of the woman's movement on the media. Advertising has been accused of stereotyping images of women, and they have been targets of various studies. It has been established in previous research that advertising messages about women are often stereotypical (e.g., a woman's place is in the home, women do not make important decisions or do important things, women are dependent and need men's protection, and men regard women primarily as sexual objects). Advertisements have consistently confined women to traditional mother-, home-, or beauty/sex-oriented roles that are not representative of women's diversity.

- Electronic Media

Television is widely known to represent and reinforce the mainstream ideology of contemporary western culture: patriarchy. While television representations of women have changed greatly in the last twenty years alone, in order to accommodate the changing role of women in society, one is led to ask how much the ideology has changed behind the more modern representations of women. Television is regarded by many viewers to be the most 'real' form of media. If this is the case, then it is important for us to question how real the representations of women are on television and how this affects the attitudes of those who watch.

Television has become both a boon and a bane of our contemporary society. Its influence is unparalleled by any other form of entertainment. Television plays on the psychology of the viewers and literally mesmerizes them. Social learning theory claims that audio visual media provides powerful images that can be very important sources of both desirable as well as undesirable models for imitation. When women's images exhibit traits of strength such as courage, determination, intelligence, self-respect and honesty, the viewers perceptions can be exploited for positive results. But the various serials shown in television have done nothing significant to improve Indian women's image. In fact, she is depicted either as a Sati-Savitri, totally subordinated to her husband, even if he has all the virtues in him or as women of easy virtues. Women have been shown as a typically harassed class, thrown out of their own houses if not willing to succumb to the dictates of their husband and soon. Even if the husband ill-treats her and sends her out, towards the end of the serial, she will prostrate before him, begging his pardon. Who is to pardon whom? Highly ridiculous.

When people perceived stereotypical traits of masculine and feminine nature on a powerful medium like

television it indicated that television does highlight gender stereotypes and thereby helps to perpetuate them. Negative stereotypes have been identified the most important asset of women is physical beauty. Women's place is in the house, their energies and intellect must be directed to finding the right man and in "keeping" him. Women are women's worst enemies. The working women are the undesirable exception who must be brought into the marriage fold and made to conform to social norms. A leading lawyer in Tamil serial is being shown as a good daughter-in-law and a good wife since she does all the household chores from giving bed coffee to the in laws to the searching of pen, file, letter and everything for her husband who is an amateur in that profession. Where will she find time for her practice? In another serial also the same stereotyped picture of an efficient managing director of a big concern is portrayed.

According to the social expectation theory of mass media—What is often presented on the media is perceived by the consumers of consumers of media messages as "social prescriptions of the society".

Television images on women in advertisements highlight beautiful bodies and faces, smart clothes, make up and accessories, efficient housewives, loving daughters-in-law, caring mothers, healthy, happy women who are ready to attend to the errands of their spouses and children they do not have any individuality, they never think of themselves, they keep themselves just fit to serve their family that is their health is maintained only as a means to achieve the end of her family welfare. These images have a subtle but sure effect on what expectations of the society are. Fifty years ago, women were essentially "Good wives and mothers" and they were depicted as such. But today when real women have undergone radical changes, the media refuse to abandon their blinkers views about women. Even now, the brides prostrate before the bride groom at all occasions to get his blessing or to show in white saree or even in white churidar to symbolize her widowhood. Instead of bringing in social revolution, the television is lagging behind fifty years even in depicting the existing or modified social system.

CHAPTER –VI

Conclusion and Suggestions

6.1. Conclusion

Despite the Directive Principles enshrined in the constitution and the increasing number of protective laws, crimes against women have continued their upward trend, pushing more and more women into the list of the victims of rape, cruelty, bride burning, prostitution, wife beating etc. Deep is the sense of frustration and disappointment of these women but they have no other, option quite often grief gives way to anger, insecurity and a very uncertain future. At times comforting friends and relations are a half but for how long?

Generally, women have no faith in law to knock at its doors. They do not have enough resources to fight the long, unending and extremely expensive legal battles. The enforcement authorities maintain their stoic silence when cases of atrocities against women are reported to them. The police try to underplay the whole incident rather than springing in to action. The courts have no place for these victims in the list of their priorities the efficiency of laws passed to protect women from social as well as individual deviance is very doubtful: sometimes the hopes raised by the initial success makes the subsequent failure to get justice very difficult to bear.

The crimes are multi-casual and multi-dimensional. They are the manifestations of a very deep-rooted disease which has socio-economic, cultural and political dimensions. A total of 2,28,650 incidents of crime against women both under Indian penal code and the Special and Local law were reported in the country during the year 2011 as compared to 2,13,585 incidences in the year 2010 recording an increase of 7, 1, during the year 2011. There are crimes have continuously increased during 2007 – 2001 with 1,85,312 cases in the year 2007, 1,95,856 cases in the year 2008, 2, 03,804 cases in the year 2009 and 2,13,589 cases in the year 2010 and 2,28,650 cases in the year 2011. the finding of the present study confirms the initial hypothesis that the role of law in combating these crimes in crucial because a woman against whom a crime has been committed is like a person in great pain, she wants relief, and she wants it immediately. law is the best instrument to provide that, but for being effective law requires the cooperation of other agencies. Therefore, a holistic view of these crimes against women is essential to enact pragmatic laws and to make their enforcement effective. This project proves convincingly that legal solutions are the easiest and the best they cannot succeed in isolation. The help of other agencies is essential to be successful in curbing these crimes.

The endeavours of the legislators and the law enforcers have not succeeded so far because their whole concentration was only on legal measures, moreover, their efforts were superficial and symptomatic : instead of trying to get at the root of the problem the legislators concentrated on various symptoms, which are only manifestations of the disease and not the disease itself, with concentrated efforts the symptoms may disappear for some time but the root cause remains, therefore the disease reappears with greater vigour after sometime.

The statistics of crimes, which are spiralling at a break neck speed prove the shortcomings of the protective laws. Crimes against women have doubled in the last one decade; some crimes have increased 200% to 300%, while some others like dowry deaths have increased 11 times, from 427 in 1983 to 4,656 in 2011.

These crimes pose a very complex legal problem and cannot be solved without changing certain social and legal realities, but these realities cannot be changed by a stroke of pen or the enactment of strict laws. Centuries of thinking cannot be altered in a jiffy; still a start has to be made. The attack has to be made simultaneously at many fronts keeping in view the various pitfalls and limitations. This project has proved that most of the existing protective laws are like firefighting measures, they are no solutions. Instead of a proper doze of antibiotics the patient is given a limited doze of oxygen and is left to die as soon as the supply of oxygen is stopped. This is probably the reason why the plethora of laws that were passed in eighties to combat dowry deaths, cruelty, prostitution, Sexual harassment, rape etc, proved ineffective. laws have their own limitations, social evils cannot be banished by legal enactments, other means of social control must be simultaneously employed, relying solely on laws is like legislating a child out of naughtiness. Till the compulsion that are responsible for the evil practice are removed the evil cannot be contained.

The finding shows that legal provisions connected with rape were drastically amended and several new sections, viz sections 376 A, 376 B, 376 C and 376 D were added to the penal code to stop sexual abuse of women in custody. A minimum punishment of seven years imprisonment was prescribed for the offence of rape and ten years imprisonment was ordained for custodial rape.

It was expected that the incidents of rape will show a downward trend, with all these changes, and it will be easy to get the culprits punished. But the deductions show that the incidents of rape have not only increased but become more brutal. A new trend of rape on minors is clearly visible.

A critical examination of the decided cases shows that the court's attitude towards the rapists is mostly very lenient. In very few cases is the statutory minimum sentence awarded. Most of the cases end up in few years of imprisonment usually the culprit gets the benefit of doubt and come out unscathed.

In 1961 Dowry prohibition Act was passed. Despite the Act and its subsequent amendments in 1983 and 1986 brides are still harassed, torture wed and even burned to extract more dowry. According to the records of crimes (women) cell, from 1983 to 1991, 43 cases of bride burning, institute by the cell, were tried by the courts, there were just 3 convictions, rest of the cases ended up in acquittals in the sessions court itself.

Social compulsions and legal complexities combine to compel a woman to suffer indignities and torture till she has no other option but to put an end to her life. The greed for more money makes the husband or the in laws resort to bride burning but the law has seldom been able to punish these offenders. Most of the cases get acquitted because of lack of proper proof or due to the ambivalent use of the dying declaration of the deceased women by the courts.

The present study indicates that the incidents of cruelty and wife beating have increased enormously over the past few decades, the insertion of section 498 – A has not brought any decrease in the number of such incidents. The growing number of cases that come to women's cell and the rising number of distress calls from the hassles of providing legal proof and the aftermath of court battles discourages women from filing cases under section 498 –A of the IPC. Most to the women, who come to the cell only want the husband to be pulled up and to be told firmly not to be cruel and unreasonable.

In spite of the new act on eve teasing in Delhi and other relevant sections of IPC incidents of Sexual harassment of women, especially at work place and cases of eve teasing have registered a sharp increase. Most of such incidents are not reported because of the negative attitude of the police and the difficulties encountered in proving the crime. the inference drawn that, the attitude of the court is not very encouraging and mostly it is the guilty person who comes out victorious after an arduous legal battle.

SITA was amended in 1986, it was replaced by immoral Traffic (prevention) Act but the growing incidents of prostitution and its various new manifestations like call girl culture, masseur parlours, liaison girls, etc. show weakness of the new legislation. Sections 372 and 373 IPC were intended to prevent trafficking in minor girls. It prohibited the use of minors as prostitutes or for immoral purpose but the number of child prostitutes who are pushed into this trade shows the inability of the law to curb this ever increasing evil.

An over-view of the crimes establishes that most of the crimes against women cut across all barriers of religion, race caste or social strata. Education or economic independence rarely increases the moral courage of the victim to fight against the crimes specially those crimes which have a social stigma attached to them. The process of law is lengthy, cumbersome and expensive. Delayed trials due to the heavy back log of cases and the other delaying tactics of the offender dilutes the case and proofs disappear, it reduces the chances of the victim getting justice.

The legislators must reckon with all these forces while making new or amending old ones only then the laws can be practically sound. Law makers must realize that certain basics cannot be suddenly changed by legislation. Male and female biogrommors are different, any effort to change centuries old cultural heritage by ambitious legislation, however desirable it may be, will go against the nature of thing. Traditions cannot be changed over-night. It is for this reason that laws prohibiting child marriages or legislation declaring dowry demand illegal could not be implemented such enactments bring the law into disrepute and decrease respect for laws reforms through legislation require sustained efforts and constant vigilance. If that is not coming the law will be still born. The situation will go from bad to worse and the credibility and fear of future enactment will be difficult to establish.

The first requirement while framing laws is to realize that laws cannot ignore social reality, and that the laws are only one of the many tools to bring about changes, other tools of social control also be utilizing. While passing a law one must not ignore the causes that are responsible for that particular crime. They should try to cater for them through the new legislation itself. The power of legislation is immense and if properly utilizes it can bring about the desired changes laws should be simple yet effective to meet the new expectations and goals – proper enforcement of these laws will convince the people that the Government is serious in its intentions and they will automatically cooperate in following the dictates of those laws.

There is a need to reform the images of women that have been created over centuries by history, mythology and social customs. Women must be considered as individuals who are equal to men in their own right. Parents should not impose crippling restriction on their daughter which prevent them from thinking and acting independently. The legislators must treat women as participants and merely as recipients. Women also have to be assertive and develop a self-identity so that they can lead a life of security and dignity. They must be made economically independent to achieve this aim.

Since all the law enforcement agencies, the policemen, lawyers, judges and legislators are drawn from the masses who have rigid and conservative attitude about women's rights and status; it is naive to expect effective enforcement of the protective laws from them. The inherent socialization and the value system of these people creates a natural bias against women. Although it is not possible to change the attitude of everyone, it is certainly possible to groom and change the attitude and approaches of some people. A critical mass of people from every walk of life can be selected. These selected persons should be the people who can think differently. Talk differently and behave differently. They should be placed in positions where they can influence the thinking of the maximum number of people. What is missing at present is this critical mass of people. Whether it is the judiciary administration or the police.

The law and their implementation are greatly affected by the social, political, cultural and economic conditions of the society in which they have to operate one cannot reject or overlook those factors while enacting protective laws. Our legislators must remember that each society has its own problems and solutions to them are culturally defined. Such solutions may appear unreasonable to people from other countries but they are the best in the available set of circumstances. While enacting laws the legislators must not be little in any way those traditions and customs of our country which have in the past contributed to the progress and happiness of the people and have been the means of raising the dignity and the spiritual attributes of women. They cannot implant western solutions for Indian problems. A proper balance must be established through legal enactments, neither discarding every solution that is Indian nor accepting every solution which is westernized. The Indian cultural ethos is different from the west. We must not ape the western countries in trying to appear progressive.

6.2. Suggestions: -

After the comprehensive analysis of violence of against women, practical suggestions are expected to protect the women against crime. Which are as follows-

- (1) To increase the reporting of crimes at first, we need to empower the women. They must be educating on their rights and encourage them to come forward to register the cases. There are many violent cases but due to stigma in the society very few are reported.
- (2) Wider social movement of educating women of their rights, to conquer the menace, is needed more particularly in rural areas where women are still largely uneducated and less aware of their rights and full an easy prey to their exploitation.
- (3) A complainant should be able to file online.
- (4) Another fact is delay in filing of F.I.R. in a case of rape it is dependent upon the facts of each case. The victim does not immediately rush to the police station to lodge an F.I.R. she has too overcome the trauma. There is consultation with the family members and a decision is taken. All those circumstances are to be kept in mind.
- (5) A rape crimes cell should be set up the cell should be immediately notified when an FIR in relation to sexual assault is made. The cell must provide legal assistance to the victim.
- (6) All police stations should have CCTVs at the entrance and in the questioning room.
- (7) Police officers should be duty bound to assist victim of sexual offences irrespective of the crime's jurisdiction.

- (8) The police should be trained to deal with sexual offences appropriately.
- (9) Number of police personal should be increased community policing should be developed by providing training to volunteers.
- (10) Members of the public who help the victims should not be treated as wrong doers.
- (11) Neither the centre nor states have been proactive in improving the quality of policing, official records show. That only 14 states have either enacted the New police Act or amended their existing laws. So, the police system should be improved for special protection of woman.
- (12) The women commission as the centre and in the state be entrusted with the task of assisting the women in reporting investigation, negotiation and trial of case. Besides a panel of lady advocates and voluntary organizations be prepared by the commission and made available to the victims.
- (13) When the women victim reports before the police for any type of Harassment or crime the list of NGO and other social organizations including those advocates, who are willing to help be immediately available to the victim.
- (14) Law enforcers should be well trained to react swiftly and with sensitivity towards the women.
- (15) More and More fast track court should be established for the disposal of the case quickly.
- (16) It is expected that the courts would deal with such cases in a more realistic manner and not allow the criminal to escape on account of procedural technicalities or insignificant lacunae in the evidence as otherwise the criminals would receive encouragement and the victims of the crime would be totally discouraged by the crime going unpunished.
- (17) The courts are expected to be sensitive in cases involving crime against women. The verdict of acquittal made by the trial court in the case is an apt illustration of the lack of sensitivity on the part of the trial court.
- (18) It is noticed that some judges unnecessarily give emphasis on the presence of spermatozoa in the victim's private part. It is to be borne in mind the definition of rape has a different connotation. A mild penetration would meet the ingredients of the crime. There may be several circumstances which affect the presence of the spermatozoa and hence, emphasis on the same is unwarranted.
- (19) Punishment of every culprit need to be exemplary. Campaigning of "zero- tolerance" of sex offenders.
- (20) In every institution the liability of each employer for workplace should be fixed by constituting a Committee.

- (21) There must also be compensation board which are especially for women's rehabilitation especially for women's rehabilitation.
- (22) A Board is establishing for each level like District, state and central level to give the protection of women victim.

Bibliography

1. Primary Sources: -

(A) Documents: -

1. Code of Criminal Procedure 1973
2. Dowry Prohibition Act, 1961
3. Domestic violence Act, 2005
4. Equal Remuneration Act, 1976
5. Factories Act, 1948.
6. Indian Penal Code, 1860
7. Justice J.S. Verma committee Report on Amendment to criminal Law, 2013
8. Maternity benefit Act, 1961
9. Malimath committee Report, 2003.
10. Sati (Prevention) Act, 1987
11. The Pre-natal Diagnostic Techniques (Regulation and prevention of misuse Act, 1994
12. The Beedi and cigar workers (conditions of employment Act) 1966.
13. The criminal law (Amendment) ordinance, 2013
14. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012
15. Universal Declaration of Human Rights, 1948

(B) Books: -

1. Ahooja, Patel : Development has a woman's face: insight from within the UN, APH Publishing corporate, New Delhi.
2. Allen, F.H. : Aggression in Relation to Emotional Development, London, 1948
3. Atray, J.P. : Crimes against women, Vikas Publishing House, 1989

4. Bharti, Dalbir Dr. : Women and the Law, APH Publishing corporation, New Delhi, 2008.
5. Boulding, Elise : Women and social violence: In violence and its causes, UNESCO Paris, 1981
6. Basu, D.D. : Commentary on the constitution of India, Lexis Nexis, Butter Worths Wadhwa, Nagpur, Vol. 3 (2008)
7. Basu, D.D. : Introduction to the constitution of India, Lexis Nexis, Butter Worths Wadhwa, Nagpur, 2010
8. Bhat, P. Ishwara : Law & Social Transformation, Eastern Book, Lucknow, 2009
9. Bakshi, S.R. : Empowerment of women and politics of Reservation, Book enclave, Jaipur, 2002.
10. Gaur, K.D. : Criminal law and Criminology, Deep & Deep Publications, New Delhi, 2005.
11. Gonsalves, Lina : Women and Human Rights, A.P.H. Publishing corporation, New Delhi, 2008.
12. Gupta, A.R. : Women in Indian Society, Jyotsana Publication, New Delhi, 1982.
13. Iyer, V.R. Krishna J. : The dialectics and dynamics of human rights, estern book company, Lucknow, 2010.
14. Jain, M.P. : Indian Constitutional law, Lexis Nexis, Butterworths Wadhwa, Nagpur, 2011.
15. Kaul, Dr. Reema : Women and crime, Omega Publication, New Delhi, 2006.
16. Kataria, and Dr Awasthi. : Human rights and crimes against women published in law relating to protection of human rights, orient publishing company, second edition.
17. Misra, Dr. Preeti : Domestic violence against women: Legal control & judicial response, Deep & Deep Publication, New Delhi, 2007
18. Maya, Majumdar : Social status of women in India, Dominant Publication, New Delhi, 2004.

19. Pal, B.K. : Problems and concerns of Indian women, ABC publishing house, New Delhi, 1989.
20. Qadri, Dr. S.M.A. : Criminology and Penology, Eastern Book Company, Lucknow, 2011
21. Rao, Mamta : Law relating to women & children, eastern book company, Lucknow, 2011.
22. Sapru, R.K. : Women and development, Ashish Publishing House, Punjabi Bagh, New Delhi, 1989
23. Srivastava, Dr. S.S. : Criminology and criminal administration, central law agency Allahabad-2, third edition.
24. Sikri, Rehana : Women and sexual exploitation: harassment work, Kanishka Publishers, New Delhi.
25. Siegal, J. Larry : Criminology, Wadsworth Thomson Learning, 2006.
26. Shams, Dr. Shamsuddi(ed): Women Law and social change, Ashish Publishing house, New Delhi, 1995.
27. Sexena, Shobha : Crimes against women and protective Laws, Deep & Deep Publications, New Delhi, 2009.
28. Sinha, Rajani : Status of women and economic development: some economic evidence, RBSA Publication Jaipur, 2004.

(C) Journals/Periodicals: -

1. Anand, R.P. : "Indian Journal of International Law", The Indian Society of International law, Vol. 50, (No.2) April-June, 2010.
2. Bajpai, K.K. : "Grievances of victims in the criminal Justice system", United Journal of awadh Scholars, Vol. 6(No. 2), June, 2012.
3. Gaur, K.D. : "Justice to victims of crime", Indian Bar Review vol. 29 (344) 2002.
4. Poddar, Dr S.B. : Shodh Prerak: A multidisciplinary quarterly, International Referred Research Journal, Vol.-I, Issue-3, July 2013

5. Reddy, Vinay : "Constitutional tort-compensation for its violation", Indian Bar Review vol. 27(1), 2000.
6. Sathasvan, Mr. Justice P.: "Role of courts in protection of Human Rights", All India Reporter, Vol. 5, 2012.

(D) Law Reports: -

1. All India Reporter (Relevant Volume)
2. Supreme Court Cases (Relevant Volume)
3. Banaras Law Journal
4. United Journal of Awadh Scholars
5. Supreme Court Journal
6. Indian Bar Review

2. Secondary Sources: -

(A) Articles: -

1. Bhatt, D.K. : "Human Rights and Gender Issues: A Sociolegal perspective", Indian Bar Review Vol. 27(1) 2000.
2. Kiran Prasad : "Communication and empowerment of women: strategies and policy insight from India," The women press, Delhi, 2004.
3. Lakshmi, K. Vijaya : "Women's Rights are Human Rights", AIR, Feb, 2009.
4. Sinha, Tuhin A. : "End violence against women", The times of India, New Delhi, Thursday, December 20, 2012.
5. Singh, Mamta : "Women in India Society", Shodh Prerak Issn 2231-413 Vol-I, Issue-3, July, 2011.
6. Sinha, Niroj : Legal rights of women, paperpresented in siminar, women's college patna, December 6-10, 1987.
7. Tiwari, M.K. : "Sati Aratha: A Glorified Torture", Shodh Prerak Issn 2231-413 Vol, Issue-3, July, 2011.

8. Thakur, K.N. : "Empowerment of women in rural areas an Intervention based study in Tirupati Rural Mandal", Shodh Prerak Issn. 2231-413 Vol-I, Issue-3, July, 2011.
9. Vijayalashimi, Dr. J. : Women in Governance: Rural India in Political Process.

(B) Dictionaries and Encyclopedias: -

1. Webster's new 20th century dictionary 2003.
2. Bhargava's concise dictionary, edited by prof. R.C. Pathak (11th Edn. 1987).
3. Ballantine's Law dictionary, 18th Ed. 2001.
4. Halsbyr's Laws of England, Butterworth, London, 1974.
5. www.wikipedia.com.online.
6. Wharton's Law Lexicon (14th Ed.) New Delhi, Universal Law Publishing Co. Pvt. Ltd. 1997.
7. Encyclopedia of crime and justice, vol.4, 1983
8. Black's law dictionary VIIth ed., 1999

(C) Libraries: -

1. Central Library, M.J.P. Rohilkhand University, Bareilly (U.P.)
2. Bar Association Library, Lucknow
3. Bar Association Library, Kanpur

(D) Internet Websites Used: -

1. <http://en.wikipedia.org/wiki/violence-against-women>.
2. http://www.who-int/mediacentre/factsheets/fs_239/en/
3. <http://www.deccanherald.com/content/300478/violence-against-woen-India.html>.
4. http://en.wikipedia.org/wiki/protection-ofwomen-against-sexual_harassment-at_workplace_Bill,_2012.
5. http://en.wikipedia.org/wiki/sexual_harassment
6. <http://pub.nic.in/newsite/erolocese.asperrlied-66781>
7. http://www.icty.org/about/reports%20and%20publication/annual_report/1993e.pdf.