Gender and Law

Women's Studies Research Center
Faculty of Family and Community Sciences
The Maharaja Sayajirao University of Baroda
Vadodara, Gujarat, India
WOMEN'S STUDIES RESEARCH CENTER

The Women’s Studies Research Center (WSRC) at the Maharaja Sayajirao University of Baroda was established in July 1990 and is the first such Center in the Western region of India.

VISION
To emerge as a nodal center in the western region of India striving towards women’s empowerment and instilling women’s and gender perspectives in higher education by establishing linkages with grassroots organizations working with women’s issues.

MISSION
To undertake multifaceted activities of research, teaching, training, documentation, and community outreach from the standpoint of women’s lived experiences and take a lead in creating critical consciousness about gender in the sociopolitical, economic and cultural order.

GOALS

- Open up windows to gender equality and equity in society.
- Undertake basic and applied research on women and gender issues.
- Undertake teaching and training programs to instill gender perspective in mainstream disciplines and social development programs.
- Encourage collaboration between universities and non-government organizations in order to promote the sharing of research expertise and the development of outreach programs for social change.
- Carry out documentation in various forms.
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Greetings from the Women’s Studies Research Center!

This issue of WSRC Communiqué addresses the significant subject of Gender and Law. Legislation is crucial to the achievement of women’s rights. The past decades have witnessed much legislative progress in favor of gender justice. The collection of articles presented here covers legislative matters pertaining to a wide range of topics such as dowry, surrogacy, sexual harassment, and domestic violence. Law is a powerful instrument to steer forward-looking change in society. The need of the hour is to enhance public awareness about different laws. I hope this issue contributes to the same.

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Greetings from the Women’s Studies Research Center!

“In law it is good policy to never plead what you need not, lest you oblige yourself to prove what you can not.” -Abraham Lincoln

The Women’s Studies Research Center (WSRC) is pleased to bring out this issue of WSRC Communiqué on Gender and Law. The newsletter concurrently addresses Law, Acts, Bills, Amendments, Rights, Judgments and Legal issues.

For this issue, the Center collaborated with Faculty of Law, The Maharaja Sayajirao University of Baroda. The issue brings out an array of interesting articles under – Cover Story, Views, Judgments, Know Your Law and Legal Diary.

I thank the guest editors Dr. Archana Gadekar and Dr. Namrata Solanki and all the contributors who have contributed towards this newsletter.

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Ignorance of law is no excuse and hence it is imperative for everyone to be aware of the laws of the land. Law has been a powerful tool in transforming the society and bringing justice to the marginalised groups. We find that women though forming a major part of the society is most vulnerable in a patriarchal setup of Indian society. Therefore it is necessary for everyone especially women to understand the laws protecting them. The object of this communiqué is to spread awareness on various issues affecting the lives of women.

The downfall of the status of women after the Vedic period, had made her assailable to the social evils prevalent in the society. Hence attempts to improve the position of women had started during the British rule and the post-independence period saw the position of women legislatively strong. Constitution has empowered the women with equal rights and the Supreme Court has time and again upheld the rights of women and bestowed gender justice.

Apart from the constitutional provisions favouring women, there have been a plethora of laws for protecting the rights of women like Maternity Benefit Act, 1961; Equal Remuneration Act, 1976; Dowry Prohibition Act, 1961, The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition Of Sex Selection) Act, 1994, Protection of women from Domestic Violence Act, 2005; Sexual Harassment against Women at Workplace (Prevention, Protection and Redressal) Act, 2013 to name a few.

Each age has posed new challenges before women and have posed newer questions before them. The era of globalisation along with the interface between law, science and technology has made the legislators to rethink about women’s rights in order to provide gender justice. Law is an instrument of social change which is affected by many factors like technology, change in demography to name a few.

Today the new technology is challenging the family ties. On one hand we find that the advancement in the field of medicine has proved to be a boon for childless couples, but on the other has created several legal, moral and ethical questions. Live in relationships is today seen as an alternative to the institution of marriage. This has led to the emergence of newer legal issues which are not adequately addressed by the existing laws.

Law has to be ahead of its times. But even today there are several areas where laws need to be made or amended like political representation of women, rights of third gender, marital rape, rights of agrarian women to name a few. Women’s rights are not just talked in National spheres but the international community has also on many occasions debated on the said topic.

The communiqué on ‘Gender and Law’ is a small attempt to focus on certain issues relating to gender justice. We hope our attempts in spreading awareness relating to the womens’ rights gets turning point with this communiqué.

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Today, we live in the age of science and technology. Modern scientific and technological progress is proceeding at a pace which has no parallel in history. Where nature is seen to be cruel or flawed - as in the case of a woman unable to conceive in vivo - then science and technology may be called upon to repair the natural order. The contemporary human being is blessed to have the medical science to his rescue in the form of Assisted Reproductive Technology. Surrogacy is one such technique.

Surrogacy is when a woman carries a baby for another couple and gives up the baby at birth. Women with no eggs or unhealthy eggs might also want to consider surrogacy. A surrogate is a woman who agrees to become pregnant using the man’s sperm and her own egg. The child will be genetically related to the surrogate and the male partner. After birth, the surrogate will give up the baby for adoption by the parents.

In the past decade, commercial surrogacy has grown tremendously in India. It is currently estimated to be a $2-billion industry. With virtually no law governing surrogacy, India, in recent years has emerged as a surrogacy hub for couples from different countries. There have been incidents concerning unethical practices, exploitation of surrogate mothers, abandonment of children born out of surrogacy and rackets of intermediaries importing human embryos and gametes as there is no real legal framework in place. There are about 2000 surrogacy clinics spread across the country.

Before November 2015, when the government imposed a ban, foreigners accounted for 80 per cent of surrogacy births in the country. This is because most countries, barring a few such as Russia, Ukraine and some U.S. states, do not permit commercial surrogacy. Many countries in Europe have completely prohibited surrogacy arrangements, both to protect the reproductive health of the surrogate mother as well as the future of the newborn child.

The 228th report of the Law Commission of India also recommended prohibiting commercial surrogacy and allowing ethical altruistic surrogacy to needy Indian citizens by enacting a suitable legislation. Recently, the new The Surrogacy (Regulation) Bill, 2016 has been introduced. Prior to this only the ART Bill, 2010 was there. But now the new ART Bill has also been introduced. The salient features of the Surrogacy (Regulation) Bill, is as under.

Salient features of the Bill

• The draft surrogacy Bill aims at regulating commissioning of surrogacy in the country in a proper manner.

• The Bill aims to prevent exploitation of women, especially those in rural and tribal areas.

• The Bill promises to ensure parentage of children born out of surrogacy is “legal and transparent.”

• The new Bill proposes complete ban on commercial surrogacy.

• Indian infertile couples between the ages of 23-50 years (woman) and 26-55 (man) and who do

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1 See ‘Future Shock’ by Alvin Toffler
not have a surviving child will be eligible for surrogacy.

• The couple must be married for at least five years.

• As per the Bill, only legally—wedded Indian couples can have children through surrogacy, provided at least one of them have been proven to have fertility-related issues.

• Unmarried couples, single parents, live—in partners and homosexuals cannot opt for surrogacy as per the new bill.

• Foreigners, even Overseas Indians, are barred from commissioning surrogacy.

• The surrogate mother should be a close relative of the intending couple and between the ages of 25-35 years and will be allowed to become a surrogate mother only for altruistic purpose and under no circumstances money shall be paid to her, except for medical expenses.

• A surrogate mother cannot be mistreated by the parent couple or clinic.

• The intended couples cannot abandon the child under any circumstances.

• Surrogate child shall have all the rights that a biological child has, including property rights.

• Surrogacy clinics must be registered with the government.

• Clinics required to maintain a record for 25 years.

• Any establishment found undertaking commercial surrogacy, abandoning the child, exploiting the surrogate mother, selling or importing a human embryo will be punished with heavy fine of 10 lakhs and/or imprisonment for 10 years.

• Surrogacy regulation board will be set-up at Central and State-level.

The Bill is a welcome effort and undoubtedly, it was one of the most awaited one, as this was an area giving rise to several unanswered questions. However, there are a few questions which are definitely a matter of concern in the Bill. The first been the condition that the only a close relative can be a surrogate mother. Now, how far is this a practical alternative is a doubtful question. Secondly, according to the Bill, only married couples can opt for surrogacy. Will the implementation of it be really possible? Undoubtedly, the present Bill protects the women from exploitation and ensures rights of the child born through surrogacy. However, the matter of concern is to wait and watch when the Indian Draft Bill turns into Act with proper implementation lest this Act does not meet the fate of the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994.
Introduction

“DOWRY, DOWRY and DOWRY: This is the painful repetition which confronts and at times haunts many parents of a girl child in this holy land of ours where in old days, the belief was ‘where woman is worshipped, there is abode of God’. Whereas in reality, women face this demon of dowry in many different, direct or indirect ways. They have to undergo cruelty, mental and/or physical, for non-compliance of such demands. In fact it is the whole family of the girl which is subjected to misery due to such incessant demands for dowry. This could in fact, be one of the major reasons for female foeticide.

The word dowry has been mentioned thrice because this demand is made on three occasions:

1. before marriage;
2. at the time of marriage; and
3. after the marriage.

Greed being limitless, the demands become insatiable in many cases, followed by torture of the girl, leading to either suicide in some cases or murder in some.”

Dowry as an institution, in the pre-colonial era existed and enabled a woman to establish her status and as a recourse during emergency. It originated with a concept of giving part of wealth to the daughters during marriage equating her status with that of a son. The most important thing was that the dowry wealth continued to be the property of the wife and not the property of husband or his relatives. Slowly and gradually during the British rule, the system started deteriorating and got into the grasp of greedy people demanding more dowry. A custom which originally intended to give an equal status and protection to the girl is now converted to a tool to her in-laws to feed their greed.

The dowry system is so deeply rooted in our society that in spite of it being prohibited by criminal laws, the menace still exists even today. This is evident from the statistics obtained from National Crime Record Bureau (NCRB). NCRB 2013 compendium reports a total of 8083 dowry death in 2013 in India of which 2335 cases are reported only from Uttar Pradesh being highest in whole of the country. The conviction rate of dowry death was reported as 32.3%. The cases registered under the Dowry Prohibition Act, 1961 are 10709 which shows an increase of 299% over 2003.

Low conviction rates may be because of two reasons. One in lack of evidences found against the culprits and other is misuse of law at the hands of perpetrators.

Legal Provisions

The Dowry Prohibition Act, 1961 has been enacted as a social legislation to check the menace of dowry. It prohibits and penalises giving, taking and demand of dowry.

The definition of dowry as per the Dowry Prohibition Act, 1961 is as under:

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1 Supreme Court in the case of State of H.P. v. Nikku Ram decided in 1995
‘Dowry’ means any property or valuable security given or agreed to be given either directly or indirectly:

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Valuable security can be cash or kind or legal document creating, extending, transferring, extinguishing, releasing or restricting legal right of a person. For example: any transfer of property by deed, or any transfer of money by any negotiable instrument. The definition provides that dowry may be in present or it may be future agreement to give dowry.

Given or agreed to be given signifies that a future agreement to give dowry is also covered under this Act.

As per law the following is not included in the definition of Dowry:

1. Mahr or dower under Muslim Law is a mandatory payment to be done in cash or kind to the bride by the groom or groom’s parents at the time of marriage. Mahr is not included within the definition of dowry.

2. Traditional presents which are given to the parties to marriage without demand by anyone is not included in dowry. However, a list of same to be made and its value should not be excessive having regard the financial status of the person by whom or on whose behalf such presents are given.

3. Any property of a woman, Woman’s property is called Stridhan. Stridhan includes any property received by a woman during marriage and also include any property acquired or owned by a woman over which she has absolute rights and control. Stridhan is always the property of a woman irrespective of the fact that whosoever may have the custody. A suit for recovering stridhan can always be filed in the Court of law.

The Dowry Prohibition (Maintenance of the Lists of Presents to the Bride and the Bridegroom) Rules, 1985 provides for the making of the list which should include the following:

- The list should be in writing.
- The list should be prepared at the time of marriage or as soon as after the marriage.
- The list should contain information on: brief description of each present, approximate value of present, name of the giver of present, if related a description of relationship with the bride.
- The list should be signed by the bride and the bridegroom. Optionally, the bride or the bridegroom may obtain signatures of any of the relatives or other person/s present at the time of marriage.

**Punishments under the Act**

- Any act of giving, taking or abetting dowry is punishable with imprisonment for a term not less than 5 years and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is higher.

- Demand for dowry is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with a fine which may extend to ten thousand rupees. Direct or indirect demands of dowry are punishable. If a list is given for articles to one of the party to marriage then it is considered as a demand and hence punishable.

- Open tenders for dowry through advertisements in any newspaper, periodical, journal or through any other media offering any property or money,
or share in business as consideration (in exchange or in lieu) for the marriage is punishable with imprisonment for a term which shall not be less than six months but which may extend to five years or with fine which may extend to fifteen thousand rupees.

- Any kind of agreement for giving or taking dowry shall be void i.e. Shall have not legal effect or consequences.

From the above reading it is clear that demanding, taking or giving of dowry is punishable. However, if any such dowry is received by any person then the receiver is bound to transfer the property to the woman. If any property is placed in custody of a woman’s husband or her in-laws, they would be deemed to be the trustees of the property so received and bound to return the same if and when demanded by the woman.

**Dowry under the Indian Penal Code**

As per Section 304 B of the Indian Penal Code, when a death of a woman is caused by burns or bodily injury otherwise than in normal circumstances within 7 years of her marriage and if it is shown that before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with or for any demand of dowry, then such death shall be called dowry death. The punishment for dowry death is imprisonment for a term which shall not be less than seven years but may extend to life imprisonment.

Further Section 498 A provides for a punishment with imprisonment for a term which may extend to three years if a woman is subjected to cruelty by her husband or any relative of the husband and such infliction of cruelty is to force her or any person relating to her to meet any unlawful demand of dowry.

In cases of death or suicide of a woman within 7 years of marriage or death in suspicious circumstances, the police officer in charge of the case may send the body to the nearest Civil Surgeon or qualified medical practitioner to ascertain the apparent cause of death. When it is shown that the woman who died was subjected to cruelty in connection with the demand of dowry soon before her death, the Court shall presume that it is a case of Dowry Death.

**Conclusion**

The laws in India are in favour of women yet the ground reality remains the same. A good number of girls have to undergo tremendous amount of pressures and cruelty for dowry. The pressure being transferred and shared by the family of the girl, resulting in a situation where a girl child is unwelcome, simply due to the possible and probable humongous expenses to be incurred on and even after her marriage. The writer feels that increase in number of cases under the Dowry Prohibition Act may be due to awareness amongst women about the laws favouring them.

Every coin has two sides; similarly here also, the other side of the coin needs to be seen objectively. The protective provisions in favour of women are at times misused by women. Women use laws for unreasonable demands or gains or even harassment of in-laws. Such women who misuse the laws should understand that this is now creating a doubt in minds of people whether the dowry allegations of all girls are genuine or not. There are number of genuine victims who are deprived of justice under the pretext of misuse of dowry laws.

Hence, it is the moral responsibility of each and every citizen of our country not to misuse the laws, but to strengthen the justice delivery system. People of India should remember that family is the most pious institution in a country like ours. Disrespecting women and committing crimes against her is disrupting one of the most important institutions of India. Greater responsibility is on women herself as the real apathy lies in the fact that in many cases of dowry and dowry deaths, it is found that that the mother in law, a woman herself, abjacts the girl to cruelty or abets in such crimes against her.
"Violence against women is perhaps the most shameful human rights violation. And it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace."

-Kofi Annan, Secretary-General, United Nations

Introduction

As per National Family Health Survey (III) in 2006-07 over 55% of Indian women experience spousal abuse in India. Domestic violence should be conceived as a form of torture. It is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.

The Constitution of India guarantees the following Fundamental Rights that guide us to challenge domestic violence.

Article 14 - equal rights and opportunities for men and women in the political, economic and social sphere

Article 15 - prohibition of discrimination on the grounds of sex, religion, caste etc

Article 15 (3) - empowers the State to take affirmative measures for women

Article 16 - provides for equality of opportunities in the matter of public appointments

What are the signs of Domestic Violence?

- **Destructive criticism and verbal abuse**: shouting/mocking/accusing/name calling/verbally threatening.

- **Pressure tactics**: sulking, threatening to withhold money, disconnect the telephone, take the car away, commit suicide, take the children away, report you to welfare agencies unless you comply with his demands regarding bringing up the children, lying to your friends and family about you, telling you that you have no choice in any decisions.

- **Disrespect**: persistently putting you down in front of other people, not listening or responding when you talk, interrupting your telephone calls, taking money from your purse without asking, refusing to help with childcare or housework.

- **Breaking trust**: lying to you, withholding information from you, being jealous, having other relationships, breaking promises and shared agreements.

- **Isolation**: monitoring or blocking your telephone calls, telling you where you can and cannot go, preventing you from seeing friends and relatives.

- **Harassment**: following you, checking up on you,
opening your mail, repeatedly checking to see who has telephoned you, embarrassing you in public.

- **Threats**: making angry gestures, using physical size to intimidate, shouting you down, destroying your possessions, punching walls, wielding a knife or a gun, threatening to kill or harm you and the children.

- **Sexual violence**: using force, threats or intimidation to make you perform sexual acts, having sex with you when you don’t want to have sex, any degrading treatment based on your sexual orientation.

- **Physical violence**: punching, slapping, hitting, biting, pinching, kicking, pulling hair out, pushing, shoving, burning, strangling.

- **Denial**: saying the abuse doesn’t happen, saying you caused the abusive behaviour, being publicly gentle and patient, crying and begging for forgiveness, saying it will never happen again.

After 40 years of campaigning by women’s rights organisations, Indian women managed to get the **Protection of Women from Domestic Violence Act, 2005** defines “Domestic Violence” as

- (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

The Act recognizes the right to residence for survivor of domestic violence and ensures provision for the appointment of Protection officers and the recognition of Service Providers, trainings for Protection Officers and Judges and awareness creation.

Gender economists are demanding adequate budgetary allocation for service providers such as hospitals, shelter homes, police and legal bodies to implement the law effectively.

**Historical Background**

In 1983, domestic violence was recognised as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. Four types of cruelty are dealt with by this law:

- Conduct that is likely to drive a woman to suicide,
- Conduct which is likely to cause grave injury to the life, limb or health of the woman,
- Harassment with the purpose of forcing the woman or her relatives to give some property, or
- Harassment because the woman or her relatives is unable to yield to demands for more money or does not give some property.

**What are the forms of “Cruelty” recognised by the Courts?**

- Persistent denial of food,
- Insisting on perverse sexual conduct,
- Constantly locking a woman out of the house,
- Denying the woman access to children, thereby causing mental torture,
- Physical violence,
- Taunting, demoralising and putting down the woman with the intention of causing mental torture,
- Confining the woman at home and not allowing her normal social intercourse,
• Abusing children in their mother’s presence with the intention of causing her mental torture,
• Denying the paternity of the children with the intention of inflicting mental pain upon the mother, and
• Threatening divorce unless dowry is given.

DILASA - Crisis Centre for treatment and counseling of women victims of violence in a public hospital

With the aim to sensitise the public health system to gender and violence issues, Centre for Enquiry into Health and Allied Themes (CEHAT) and the Public Health Department of the Brihanmumbai Municipal Corporation (BMC) have established DILASA at K B Bhabha Hospital, Bandra West. DILASA means Reassurance and it seeks to provide social and psychological support to women survivors of domestic violence.

This Centre has been set up in a peripheral public hospital in collaboration with Brihanmumbai Municipal Corporation (BMC). CEHAT will continue to provide support in terms of counseling and allied services to survivors of domestic violence for the next 3 years. The crisis centre model is being replicated in two other hospitals in Mumbai and one district hospital. In addition the activities will focus on prevention of violence against women; community based support system for women survivors of violence, research on violence faced by health care professionals and the violence which exists within the system. It will also upscale the training function through regular ‘Training of Trainers’ programme and a course for nurses on ‘Gender Based Violence and their Role in Responding to the Survivors of Violence.

Conclusion

There is a need for an affirmative action to protect girls, young and elderly women from domestic violence and establish human rights for women. The most important tasks in this direction are to improve women’s economic capacities, strengthen and expand Training and sensitization Programs, replicate Dilaasa model of one stop crisis centre housed in the public hospital to facilitate collective intervention of medical staff, police and NGO throughout the country, effectively use of the Media to build Public Awareness, design programmes for the batterers and address domestic violence through Education.

Women need to be active participants in mainstream politics. The development of any country also depends on the equal opportunities of men and women. Women’s presence is very low in Indian politics. The constitution of India not only guarantees equality in society but also suggests states to make special provisions for women. Because of their low representation in politics their issues and problems are generally unseen and unnoticed. India being the largest democratic country in the world but very less women is seen holding key position in politics. Low representation of women in politics is one of the main reasons for the exclusion of interests of women in governance and development. Women’s participation
in politics of any country gives a strong message globally not only in terms of equality and freedom of liberty but also in the field of rights provided for women in the democratic framework of electoral politics. Indian constitution has provided women a life with full of honour and dignity. All human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms. However, it is the most unfortunate that women have suffered inferior position to men in almost all societies of world. The Constitution of India guarantees adult franchise and provides full opportunities and framework for women to participate actively in politics.

Political participation has been defined in various ways. Political participation means not only exercising the right to vote, but also power sharing, co-decision making, co-policy making at all levels of governance of the State. Political participation is generally defined as being a process through which individual performs a role in political life of the social order, has the occasion to take part in deciding what the common aim of that society are and the most excellent way of achieving these goals. So, it is defined as voluntary participation in the political affairs through membership, voting and partaking in the activities of the political parties, legislative bodies or politically motivated movements. In the present scenario, the participation of women in the politics is very important for their overall emancipation and empowerment.

Reservation of Seats for Women in Election to Local Bodies

The parliament has succeeded in its efforts to provide for reservation of seats for women in election to the Panchayats and the Municipalities. Reservation of seats for women in Panchayats and Municipalities has been provided in Articles 243 D and 243 T of the Constitution of India. Part IX and IX A have been added to the Constitution by the 73rd and 74th Amendment Acts with Articles 243, 243A to 243D and Articles 243P, 243ZG.\(^1\) According to Article 243D (3), “not less than one-third, (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled up by direct election in every Panchayat, shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat. Article 243T (3) of the Constitution provides similar provisions for reservation of seats for women in direct election in every Municipality. Therefore, reservation of 33% of seats for women candidates to hold office and perform all public functions at the Panchayat and Municipal level is within the constitutional mandate.

As an extension the 73\(^{rd}\) and 74\(^{th}\) Amendments to the Constitution, the Constitution (81\(^{st}\) Amendment) Bill was introduced in the Parliament way back in 1996 to reserve one-third of seats for women in the Lok Sabha and the State Assemblies. However, this bill has not yet been brought in to shape due to political overtures.

Article 243D provides for Reservation of seats in Panchayats. Not less than one third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

……. Provided further that one third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women. It provided also that the number of offices reserved under this clause shall be allotted to different Panchayats at each level.

Similar reservation of seats has been provided in the Municipality also for women and such seats to be allotted by rotation to different constituencies in a Municipality.

\(^1\)The Constitution (Seventy-third Amendment) Act, 1992 and the Constitution (Seventy-Fourth Amendment) Act 1992 popularly known as the Panchayat Raj and Nagarpalika Constitution Amendment Acts.
Conclusion

The framers of the Constitution took a pragmatic view in incorporating these articles because they expected that this provision might compensate the loss of opportunities suffered by women during the last several centuries. It must be borne in mind that women have been considered weaker sections by the Constitution because of their long suppression in the society. Owing to deprivation of their right to equality in society for a long period, their position has become so weak that they are not in a position to compete effectively with men, the stronger section. Consequently, though they constitute approximately one half of the population, they are not adequately represented. The Constitution of India lays that an Indian Woman will function as a citizen and as an individual partner in the task of nation building whatever her social position role or activities may be. Since the independence of our country, the Constitution has proven itself to be the guardian of gender equality. It is the basic document providing a strong framework for women empowerment. The politics is dominated by male because of patriarchal set up. The nature of the society has a crucial impact on the extent of effectiveness of women’s political participation. Therefore equal participation of women in mainstream political activity is the need of hour in a country like India.

**Force of Law**: Deconstructing Abortion Laws in dealing with Female Foeticide

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Law fixes us into categories. Categorization is the primordial nature of the law and such a closure that law manifests in its rationale, codification, and being, poses potent questions to the approaches that law exercises, be it a protectionist approach or the least found corrective approach. The characterization of law aimed at fixation of bodies (here), in the name of providing identity masquerades the possibilities of finding solutions to dicey situations created by the law.

On looking at it deeper, justice becomes human as it doesn’t have a calculable secure metaphysical telos. The differential nature of body in paradox with closed nature of laws governing it, works in a violently silent or silently violent manner and puts the subject of law in aporia leaving us in confusion as to where we would fall in the power denomination. These are the instances when law collapses into justice or vice versa and thereby the semantic understanding of law or lawlessness is based on what’s experiential and contextual and how much you take from it or go beyond it, to ‘know’ it.  

What underlies this conception of law?

The mainstream understanding of law caters to ‘looking’ at body as a natural and physical object within which the self is located and ‘sex’ is a phenomenon existing prior to all the discourses concerning the self, simply distinguishable from other kinds of human interactions. The law looks at body as an object that has to identify itself as something; be it healthy-disabled, male-female, and the like. The meanings of body and the self-


3Butler, Judith. Gender Trouble.
acquire meaning precisely through an interplay of contexts, a dynamicity that is sustained at the hands of the horological and the chronometric dimensions of a certain rule or set of rules. Thus the law presents to us

**Laws on Abortion in India:**

With the granting of citizenship, we got disembodied under the ambit of law. This disembodied Self now, takes in Body as a category. In the context of abortion, women, here, are looked at as sexed bodies. How is it, then, possible to take in women within the law as citizens? This throws open the question as to what is desirable when it comes to addressing matters of prime concern like female foeticide.

- Is sameness just or difference just?
- How shall the inclusion of gender-related injustice redressal issue become an agenda of laws? Will laws ever be able to deal with the ever-dynamic subject of the body politics? Can law provide substantive solutions, if any, to such complexities into which body politics can categorize you into?

Let’s see how:


The Medical Termination of Pregnancy Act (MTP) was passed in 1971 amidst parliamentary rhetoric of choice and women’s rights; though clearly intended as a population control measure. A skewed sex ratio was the major reason when ‘body’ came under the scrutiny of law. Abortion had become an issue there was an ever-growing practice of killing of female foetuses after sex-determination. Should women be given the right to abort? If denied, it is a denial of right over one’s own body. If granted, the problem of consensual activity of female foeticide becomes difficult to address, thereby legitimizing the use of right over one’s body to determine the right over the foetus.

With the passing of the ‘Prenatal Diagnostic Practices (Regulation and Prevention of Misuse) Act in 1994, amongst the many criticisms that were raised against the act, the Forum Against Sex Determination and Sex Preselection opposed it vehemently owing to ambiguities existing in the practice of the Act. The following recommendations were made with the purpose of addressing this imprecision.

- All ultrasound equipment which can be used for sex determination should get registered, under this act.
- The future techniques of sex determination should also be brought under the ambit of this law.
- The act should not punish women, if deemed responsible for the act of abortion.

These recommendations barely sought to cover the lacunae in the practical implications of the 1994 act. Following were the inexactness involved in the recommendations proposed above:

- It becomes impossible to bring in all ultrasound equipment as registered equipment under this law because they are also used for purposes other than sex determination.
- The lack of provisions for bringing in all abortions (irrespective of the sex of the foetus) under the legal scrutiny will remain an impediment in keeping a check on the misuses of the law in future, especially with newer techniques of sex determination coming in.
- If laws desirably took ‘body’ as an important aspect into consideration, i.e. if law looks at the foetus as a body, will it be able to deal with the negative implications of the steps taken only to end female foeticide? This would mean condoning the murders of male fetuses.
- The individual v/s the sexed body binary brings in with it lot of complexities for the law while deciding whether it was an act of female foeticide or an individual choice of abortion. The woman as an embodied self, here, exposit a fragmented
The inclusion of the ‘body’ in the way law looks at the foetus, tends to substantiate the act of aborting female foetus as a forced/consensual activity carried out by the woman to cater to the socio-cultural patriarchal norms. Such a fragmented identification of the foetus as a sexed body de-capacitates any possible avoidance of injustices occurring like female foeticide, owing to systemic conventions set down by patriarchy.

- There are multitude of reasons for carrying out abortion. The law looks at woman as an embodied self in certain cases and as a disembodied self in other cases. Such politics of embodiment causing violation of the rights of the self, becomes instrumental in remaining silent to different kinds of socio-cultural injustices meted out against women. This leaves the excesses caused by the systemic atrocities non-addressable by laws.

The following were the new propositions made in 2014 to bring about amendments in the existing Medical Termination of Pregnancy Act, in the Medical Termination of Pregnancy (Amendment) Bill:

The draft bill proposes to amend the 45-year old law to allow abortion to be carried out for a foetus beyond the gestation period of 20 weeks to 24 weeks, on special conditions of pregnancy involving substantial risks to the health of the mother or child, or if alleged by the pregnant woman to have been caused by rape. The rising incidents of sexual crimes, the urgent need to empower women with their sexual rights and the need to bring into account the technological advancements used for pre-natal diagnosis of defects, the amendment became an a priori to broaden the scope for addressing problems created by the 1971 law. The national medical narrative, for the first time in 2008 in the Mehta case, took note of the fact that with the advent of medical technology, pre-natal diagnosis of defects had come a long way and that some defects could be revealed even after the 20-week period. Rapid technological advancements from ultrasound to magnetic resonance imaging to high-end foetal monitoring devices taking the pre-natal diagnosis far ahead the illegal sex determination calls for reconsidering the necessity to amend laws keeping scientific advancements in mind. From the dilemmas posed by the rapidly developing technologies, it became clear how the nature of law essentially seeks to categorize, de-categorize and exclude sections of the society, especially when the character in question is looked at as an embodied self as opposed to being the disembodied citizen.

However violent or less violent law claims itself to be, the possibility or impossibility of justice remains suspended. It then appears enigmatic to see, how, on a contrasting level, abstractness, subjectivity, and changes have defined epistemology of law. This conflicting position and struggle experienced in this gendered perspective of analyzing laws, keeps alive the enigma, substantiates the aporia and stretches its existing dimensions to demystify the floating foundations on which law is placed, there by keeping active the debate and the paradoxicality inherent in ‘fighting’ for justice. Freud’s “Ego and the Id”, perhaps rightly says how it is the idea that makes the body accessible as a body’ instead of the body preceding and giving birth to the idea of the body. The laws, while catering to the latter principle i.e. looking at the body and providing meaningful associations of ‘man’ and ‘woman’ to it after viewing the body from socio-cultural systemic perspective; tends to invariably subscribe to the patriarchal notions of identifying ‘man’, ‘woman’ and other sexed categories with certain pre-conceived meanings. This leads us to a dead end when law, on the one hand appears promising while opening up larger possibilities with suitable amendments, of ensuring safe abortion; and on the other hand it consolidates the patriarchal dimensions of looking at individual as sexed bodies with a priori cultural associations. Perhaps, while dealing with judicial concerns in grave matters; like female foeticide, such a juxtaposition of laws and the way state looks at individuals as sexed bodies alternatively creates a closed foundation of law, which needs to be
addressed perhaps by resorting to alternative understandings of the body and the self.

References:

The feminist movement tried to resolve the binary of man and woman and in between the opposition, equanimity and equity lays the third gender. The article tries to trace the historical status of third gender in India and its contemporary position which is the resultant of the two draconian colonial laws. It focuses on the recent development that has taken a positive step towards the all-time neglected third gender. A detailed analysis of the NALSA judgment has been done to analyze the legal position of third gender in the current scenario. However, what comes out at the end is that the celebrated judgment is only a first step towards a journey of thousand miles that still remains to be covered.

Major philosophies revolve around the binaries; binary of fact-value, reason-religion, self-other, public-private, occident-orient, white-black and the very epochal man-woman which are looked upon as the structural organizers of human philosophy, culture and language. Simultaneously, our civilization has witnessed identity movements of slaves, blacks, colonised nations and the very recent feminist. An emphasis on feminism is important as it tried to dilute and resolve the binary opposition of man and woman and to an extent has been victorious too. But between this tussle chokes the Third Gender.

Who is Third Gender?
Constantly subjected to confusion and anguish that has resulted from the rigid, forced conformity to sexual dimorphism throughout the recorded history
the third gender includes those persons who do not identify with their sex assigned at birth, which includes Hijras/Eunuchs as do not discern as either male or female. Hijras are not men by virtue of anatomy appearance and psychologically, they are also not women, though they are like women with no female reproduction organ and no menstruation. Since they do not have reproduction capacities as either men or women, they are neither men nor women and claim to be an institutional “third gender”.

According to 2011 census data, almost half a million Indians identified as Hijra. However, other estimates state it to be much higher, who live on the fringes of the society, often in poverty, ostracized because of their gender identity, mostly making living by singing and dancing or by begging and prostitution.

The current abominable state of the third gender is in contrast to the historical times in India where the third gender community had a strong historical presence in the Hindu mythology and other religious texts. From Lord Shivas’ Ardh-narishwar form, to Shikhandi in Mahabharata, and Lord Ram’s boon that sanctioned them the power to confer blessings on people on auspicious occasions. On the other hand, owing in major part to a skewed version of these religious beliefs, this community has also come to be feared. Nobody want to be approached by one of them- be nudged with their elbows, stroked on the cheek, taunted, cursed and flashed. And no-one wishes to incur the wrath of the curse of an unappeased Hijra.

From a legal stand-point, the legislations in our country too, did little to recognise the third gender. Two archaic British Raj laws- The Criminal Tribes Act of 1871 (repealed in August 1949) and the still existing prohibition vested in sec. 377 of the Indian Penal Code set the stage for harassment and surveillance by the police of these persons. The purpose of the former Act was to empower the local government to register the names and residence of all eunuchs who were ‘reasonable suspected of kidnapping or castrating children of committing offences under sec 377 of the IPC that criminalised all penile-non-vaginal sexual acts between persons came to include transgender as they were also typically associated with the prescribed sexual practices. Nevertheless, the 1871 Act was repealed and replaced by a more inclusive and reformation law The Habitual Offenders Act, 1952 with the tribes now being called the “De-notified Tribes”.

Although no effective legislation by the government has overtly recognised the third gender, gender-sensitivity within the Indian bureaucracy took a small step with eunuchs being given the option to enter their sex as ‘E’ instead of either ‘M’ or ‘F’ in passport application forms on the internet in 2005. Later, in 2009, India’s Election Commission gave those recognising themselves as ‘transsexuals’ an independent identity by letting them choose their gender as “other” on ballot forms. However, few States like Kerala, Tripura, and Bihar have referred to trans-genders as “third gender or sex or category”. Tamil Nadu has taken several positive steps for their welfare.

It was the NALSA (National Legal Services Association v. Union of India) decision that came as a much welcome respite to third gender activists and transgender persons alike, as it heralded the beginnings of a new era of inclusivity and protection of the law. The petition had raised pertinent questions like- “could the word ‘person’ gradually replace ‘man’ and ‘woman’ in the text of legislations? Why are there so few gender-neutral toilets? The Supreme Court in its celebrated judgment took up the task to address the immediate concerns of the third gender with a view to radically change the way we think of gender and asked the Union and the State Governments, to treat them as ‘socially and economically backward classes’, to enable them to get reservations in jobs and education, to grant them all facilities including voter id, passport, driving license, to take steps for bringing the community into the mainstream by providing adequate healthcare, abdication and employment.”
The constitutional basis of the laudatory NALSA judgment is based on the ‘holy trinity’ of Articles 14, 19 and 21. The court broadened the protection under Art 14 by not restricting the interpretation of the word ‘person’ only to male or female. Hijras/transgender persons who are neither male/female fall within the expression of person and hence are entitled to legal protection of laws in all spheres of state activity, including employment, healthcare, education as well as equal civil and citizenship rights as enjoyed by any other citizen of this country.

Going beyond the biological attributes that constitute the sex, court regarded gender attributes such as one’s self image, the deep psychological or emotional sense of sexual identity and character too to be the distinct component of sex. The expression sex in Article 15 and 16 is not just limited to biological sex of male or female, but intended to include people who consider they to be neither male nor female. This is reckoned on the mutual reciprocative and inclusive reading of Art 14, 19 and 21. The freedom of speech and expression has been expanded to include the freedom to express one’s self-determined gender identity. Self-identified gender can be expressed through dress, words, action or behaviour or any other form. No restriction can be placed on one’s personal appearance or choice of dressing, subject to the restriction contained in Article 19(2) of the constitution.

The apex court further strengthened the ideas of human dignity which are necessary for the human ‘personality to flower to its fullest’ and cannot be realised if a person is forced to grow up and live in a gender, which the go not identify with or relate to. Recognition of one’s gender identity lies at the heart of the fundamental right to dignity. Gender constitutes the vote of one’s sense if being as well as integral part of a person’s identity. Legal recognition of gender identity is, therefore, part of right to dignity and freedom guaranteed under Art 21 of our Constitution.

Based on this holy trinity the Indian Apex Court took the sacred principle of self-determination of gender to its logical end by noting persons can identify as either male, female or third gender. By doing so it recognised the complexity of gender identity and made space for a range of possible ways of identifying oneself.

**Conclusion**

Despite the fact that the NALSA judgment explicitly asked an expert committee on transgender rights which had already been constituted by the Central Government to examine its recommendations based on the legal declarations made in the NALSA judgment, and implements them within six months, the Government has done nothing but delay in implementation. Two bills, a private member and government, pending in the Parliament has still kept the rights of transgender languishing in the middle of nowhere.

Government doubts on the self-determination of gender and the call to empirically ‘delimit’ the exact number of beneficiaries of a third gender legislation, the manipulating public opinion on Sec 377 and the exclusion of lesbians, gays, bisexuals from the legal taxonomy of the third gender has effectively converted the verdict into a moment of negative discrimination between transgender people as a legally and constitutionally valid category as opposed to the already criminalised lesbians, gays and bisexuals. Other technical questions of how to apportion state welfare under the OBC quota for transgender from the SC/ST communities have stalled the implementations giving enough evidence of the political will of the government and its commitment to ideals of social justice.

Even though the lack of political will comes out to be a great hindrance on the emancipation of third gender, a change in the law is not enough given the level of sensitisation that is required among the people who are required to implement the law, from officers in lower courts, to lawyers and the police. Even if the judgment recognises transgender people, society is still transphobic and patriarchal.
Thus, what needs to be understood is that the question of the ‘third’ is not a question of numbers, but what exceeds the numeral imagination of binaries. The third gender is not what comes after the first two, but what exists independently of them which should be looked as an expression of nature’s diversity, as an another colour within the rainbow of human variety.

Facing an Endless Trial? Women and Social-moral Law

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In the simplest terms, law may be defined as an instrument to administer justice in human society. In modern societies, the law ensures equal rights and duties for each individual at the fundamental level. All individuals are equal in the eyes of the law, as law assumes a tone of neutrality and objectivity towards its beneficiaries. Yet, it faces a quandary. Though all individuals are equal to the law, law does not apply equally to all individuals. This gap between law on paper and law in practice can be traced to two aspects.

Firstly, law ensures justice to all political subjects of a country, that is, its citizens. Yet each political entity called the citizen comes before the law shaped by aspects of private sphere – home, family, religion, school, etc. that shape him/her. Such social groups that an individual participates in shape the extent to which he/she enjoys participation and opportunity in the public sphere. The second reason arises from the question regarding who makes the laws in society. While the law may be above individuals, the lawmakers come from the same group of individuals that it governs. Thus, it cannot escape the community and gender affiliations of those who make it. Thereby, what exists in the gap between theory and practice of law is the invisible space of power relations. An important achievement of the feminist movements across the globe has been to uncover how power hierarchy in the private sphere of the society is woven into the fabric of the public sphere affecting its politics, economics, culture, and belief systems. Thereby, in a patriarchal society, the patriarch who is in the position of power codifies law from his point-of-view, pushing the woman’s needs to the margins. Feminist jurisprudence has brought attention to this aspect of the law that needs to be reconsidered. It may be argued that legislation in democracies is now taking into account pluralistic voices and multiple points-of-view, and that gender sensitivity of law has improved in the past few years. Yet, the persistent question that arises is why such laws are not accessible in equal measure to its deserving beneficiaries, facing economic, domestic or sexual violence.

Social historian Meera Kosambi identifies this gap as arising out of the idea of the threshold in the Indian society.1 The threshold marks that invisible boundary drawn by customs and moral beliefs surrounding the role of women in society. In earlier days, the household used to be divided into spaces that were confined to either men or women, where women could not cross over without permission or reason to the space open to the public eye, where matters of

the public sphere would be discussed. Today, such separation does not exist, but the threshold persists in an invisible form to bar the woman’s entry into or awareness of the sphere outside home and family. Crossing this invisible but delicate threshold does not make the woman guilty in the eyes of formal law of a country, but constitutes a greater guilt—one in the eyes of the society.

In his play *Silence! The Court is in Session*, Vijay Tendulkar throws light on such a trial faced by every woman who chooses to adopt an unorthodox position in the society. The protagonist of the play, Ms. Leela Benare, is a school teacher from Mumbai. She is boisterous, with a lively sense of humour, one who playfully exposes the hypocrisies of all her co-actors in the theatre company she works with. This image of Ms. Benare does not fit into the ideal standards of modesty, decency and restraint to be practiced by a woman. The discomfort with Ms. Benare’s free self is palpable in the critical attitude of all the members of the theatre company towards her. Throughout the first act of the play, the reader does not know for sure why she is under the constant scanner of her co-actors. With this scenario, Tendulkar turns his stage into a microcosm of the contemporary society where a woman who has stepped out of the threshold of femininity is subjected to unsolicited scrutiny and criticism. The real issue comes to light in the second act where the actors come together to perform a mock trial to practice their upcoming play. In this mock trial, Ms. Benare is charged of both “unmarried motherhood”, as because of that “the very existence of society will be in danger”\(^2\), and at the same time, she is debarred from terminating this child as motherhood is “purer than heaven itself”.\(^3\) However, at no point during the entire trial is the father of the child—Professor Damle, called into question. The reason behind this is clear: “Marriage is the very foundation of our society’s stability. Motherhood must be sacred and pure…your behaviour puts you beyond mercy. And, what is more, the arrogance with which you conducted yourself in society, having done all these things, that arrogance is the most unforgivable thing of all.”\(^4\)

The woman is envisioned as the repository of tradition, values and sanctity and cannot be visualised outside this frame. Perpetuation of such social attitudes in the private sphere do not allow the woman to adopt a position of equality within it. This creates two kinds of hindrances in the contemporary society: firstly, to receive equal treatment before the law requires, primarily, equal and adequate access to the law; secondly, those sections of women enjoying access to the public sphere are compelled to make a ‘choice’ between their roles as care givers at home, and as professionals outside. Nisha Susan, founder-editor of an online feminist zine assesses how prevalent this situation is even at the end of 2015. She points out how the presence of women exists in the public sphere today, but not as equals. The roots of this can be traced to the unequal treatment in the private sphere. She offers a telling example: “A young couple I know started a company a decade ago. They worked very hard together and today they employ 150 people. On the day we met she told me she had woken up that morning determined to tell her husband that it was her turn to be CEO. Two years later, he is still CEO. I wonder whether she ever asked. I wonder whether he made her feel nutty and overly demanding. I wonder whether her husband realizes he has never even had to choose” (emphasis added).\(^5\)

The function of law is to ensure equality, but its goal is to establish harmony and well-being of all its beneficiaries. As much as this requires lawmakers to question gendered or other biases in legislation and jurisprudence, it requires a reassessment of the

\(^2\)Tendulkar, V. (2003). *Silence! The Court is in Session*. In *Collected plays in translation* (pp.115).New Delhi: OUP

\(^3\)Ibid. 114.

\(^4\)Ibid. 119.

crucial role played by socio-moral laws of the private sphere and the biases within them. If formal legislation ensures increasing opportunity and visibility for women in the public sphere, social and moral codes surrounding both genders must be reassessed to make each stakeholder equally responsible for upholding value system and structure of the society. With such a coordination of law in public and private spheres alike, can we take a step ahead towards the dream of a society where equality is not skin-deep, and which translates in substantive harmony among all.

Gender and the Criminal Justice System

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Introduction

Mother Nature had divided human beings who are considered to be the torch bearer of any civilization mostly into male and female groups with their intrinsic physical and psychological characteristics. Accordingly the rights and duties of both the gender were determined by the law framers on the basis of the role played by both the gender in their day to day life. In primitive society women were mostly the victims of crimes and there were rare instances when they had to be put behind the bars. The most possible reason behind it was that the women were mostly confined in their household duties i.e. taking care of the family, bearing and raising children etc. Most of the laws, especially the criminal justice system prevalent worldwide failed to identify and adopt the outlook which would have given equal importance to the needs of the women.

Gender jurisprudence is unheard of in the realm of criminal justice system. In fact, it is continuously at discord with social norms that are enforced by the biases of the criminal justice system. While there is a preconceived notion that the criminal justice system primarily revolves around men, as men are predisposed to violence, women do not even garner support as victims in this system. Unjust and biased laws have turned the justice delivery system into a travesty of itself. The laws governing any society mirror the cultural, moral and ethical norms prevalent amongst its members; it is thus inevitable that a patriarchal society will have gendered laws. Masculinity asserted through violence is characteristic of patriarchy, with much of it directed at women under the pretext of maintaining family honour.

The country’s criminal justice system has failed to deter perpetrators of honour killings, domestic violence, forced marriages, rape and family feuds. Judiciary at the lower levels and sometimes even at the higher levels, tend to reinforce discriminatory customary norms, rather than securing constitutionally-guaranteed gender equality.

The interpretation of law can never be completely detached from the specific cultural context in which it is enacted; norms and accepted practices profoundly affect the application and interpretation of law. The justice system, therefore, predisposed to the notion that women victims of rape have a morally casual attitude. Regardless of what the law says, at the end of the day, the law is interpreted by societal
norms, which can result in the miscarriage of justice. There have been instances when the lower judiciary has interpreted the law through the lens of social, cultural and sexual bias. It has assumed, for instance, that women are incapable of deciding for themselves and need a guardian to validate their marriage. This has resulted in many women imprisoned in cases of adultery, instituted by relatives not approving of her right to marry at will and invalidating her lawful marriage. In cases of honour killings, mitigating factors are often taken into account for men but not for women, because men are assumed to be guardians of ‘family honour’. In cases of domestic violence, women are forced to reconcile with the perpetrators of violence, often the husband. Even if the matter reaches the court, the general attitude is that of reconciliation, leaving the victims without legal protection and at the mercy of their violent relatives and abusive partners.

The general attitude of the justice system needs a major change in order to do away with the gender-biased mindset. Gender sensitisation can do little in the face of societal pressures. Specific gender policies will need to be initiated to tackle the core issue. Only then can women litigants and victims of crime be confident that they will be heard and justice will be served. Meanwhile, judges should be specifically trained to adjudicate upon gender issues. They must understand the sensitivity of rape, for instance, and should allow complete privacy to the victim, who has been brave enough to stand up for herself. These victims should be allowed to remain anonymous to protect their identity and life. Judges should be trained to adjudicate by looking beyond the existing social customs and norms, to uphold and safeguard the rights of women.

Suspicion and contempt for female victims of sexual violence permeates the criminal justice system. A victim of rape or molestation, for instance, must pass the test of the ‘good Indian woman’, and the ‘good woman’ cannot be one who wears revealing clothes or goes out late at night. Certain forms of sexual violence against women are still not prohibited, proscribed, penalized or even condemned. An attitude of suspicion and contempt for the victim/survivor of sexual violence permeates the criminal justice system. We readily castigate the police for their biased and sloppy investigation, but there is very little comment on how lawyers or the judiciary respond to this issue. Perhaps this is because not many people are conversant with the actual functioning of the legal system and the conduct of trials.

A woman victim is likely to find it less intimidating to narrate her evidence before a woman judge during the trial. However, a woman judge is not necessarily more sensitive or cognisant of the dynamics of sexual violence. Despite judgments of the Supreme Court to the contrary, judges of the trial court, including women judges, look for injuries on the victim’s body as signs of non-consensual sexual intercourse. It is extremely difficult to get a conviction in a case of date rape or where the woman or her conduct does not conform to that of the ‘good woman’. The test that the survivor of sexual assault has to pass is not that of a ‘reasonable woman’ but rather that of the ‘good Indian woman’.

It is not only that the offences laid in criminal law are gender biased but the trial continues to the criminal procedural laws too. For example the bail provisions regarding the amount of bond and other requirements fails to meet with the needs of women, because most of the time the female offenders are either abandoned by their families or are not financially sound. Therefore, special provisions should be included in the bail procedures. Likewise, even after conviction, the corrective methods should be more gender sensitive.

Hence, the question arises whether the biased criminal justice system is fair enough to render justice to women? Given the deep and abiding biases women face within the criminal justice system, it is only to be hoped that the government shows seriousness in addressing them.
In Indian society, strong patriarchal norms dictate that women have little social status in society right from birth.\(^1\) Sex selective abortion of female foetuses and female infanticide are widely practiced to ensure only male children are born. Indian women also have lower life expectancies and less access to education (and therefore lower literacy rates), healthcare, and employment opportunities than Indian men. There is also a widespread belief that a woman is her father’s, and later her husband’s, property. This is illustrated by the traditional dowry system in which a bride’s family must provide cash, property or gifts to her bridegroom’s family as part of the wedding.\(^2\)

Domestic violence is one of the most common forms of violence against women. Women were always considered vulnerable and in a position to be exploited. In societies with a patriarchal power structure and with rigid gender roles, women are often poorly equipped to protect themselves if their partners become violent.

Considering the condition of women in India the framers of the Constitution of India incorporated the principle of gender equality in the Preamble, Fundamental Rights, Fundamental Duties and the Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

The Protection of Women from Domestic Violence Act (PWDVA) which became a law in 2005 is a special legislation for protecting women against domestic violence. It was only passed after a great deal of parliamentary deliberation to bridge the gap between existing legal provisions and progressive aims enshrined in the Constitution and international human rights conventions.

Section 3 of the said Act defines domestic violence as ‘Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or wellbeing, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or . . .

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person’

\(^1\)Laurel Remers Pardee, The Dilemma of Dowry Deaths: Domestic Disgrace or International Human Rights Catastrophe?
\(^2\)Amy Hornbeck et al., The Protection of Women from Domestic Violence Act: Solution or Mere Paper Tiger?
The PWDVA covers all women in abusive relationships, regardless of whether the perpetrator is a spouse, domestic partner, or someone in a live-in relationship.

The PWDVA provides female victims of domestic violence legal recourse, both civil and criminal. Under this Act women can seek injunctions and protective orders, along with criminal provisions for imprisonment and fines, which come into play when the offender breaches a civil order.

The PWDVA has introduced the concept of “right to residence,” which prevents women from being forced out of their marital homes. It also has the concept of “shared household” that covers women in non-matrimonial relationships. The term “shared household,” as defined by Section 2(s), may include a property of the joint family of which the male respondent is merely one of several members. By putting a restraint against alienation, disposal, or renunciation of rights in such a shared household, the law seeks to restrain the rights of even those who may not have any role in the dispute from which the controversy has arisen.

It largely ensures that women who file complaints under this Act are not pushed out of their houses and, in disputed cases, women will have a share in the household or the right to residence and due process protection. Prior to the passage of the PWDVA, women were thrown out of their marital homes after disputes with their husbands. Some of them were rendered homeless. Under the PWDVA, if a woman is forced out of the marital home, a magistrate can pass an order giving her access to the home.

The PWDVA has been criticized for encouraging false complaints. There are several instances where this legislation which is framed for protecting women against violent acts of men and their relatives has been misused by them ultimately rendering the men helpless and without any specific remedy under this law. The PWDVA defines domestic violence broadly, and includes “insults” and “ridicule” under the definition of “verbal and emotional abuse,” without defining those terms. Opponents of the law claim that such spacious definitions invite women to report mere domestic squabbles as domestic violence under the PWDVA. These opponents have also gained traction by arguing that these laws violate a man’s right to equality, citing the fact that only women (not men) can file claims under the PWDVA. The upshot of this conservative advocacy is that accused men and their female relatives have been recast as a vulnerable group victimized by domestic violence laws.

It is nonetheless ironic that the PWDVA—which aims to protect women from domestic violence—has become notorious in Indian society as a tool to victimize other women, particularly the mothers-in-law and sisters-in-law of female complainants. At an institutional level, rampant police corruption has led to weak enforcement of domestic violence laws, as cases against wealthy or influential suspects are not properly investigated and recorded, and other suspects escape prosecution or civil penalties through bribes. Indian Supreme Court has noted that this provision gives “a license to unscrupulous persons to wreck personal vendetta or unleash harassment” that could create a new legal terrorism.

Pro-male activists claim that the social consequence of such prosecution has led to suicides by accused married men. They also claim that married women often use this provision to blackmail their husbands and in-laws to accede to their demands at the brink of a divorce. Thus, marital discord is disguised as domestic violence or “cruelty”. If these reports of false claims are accurate, it would constitute an abuse of due process, for this provision was intended to be a shield against violence, not “a sword or bargaining tool”.

Thus, the PWDVA has been rendered ineffective, even counterproductive, due to deeply rooted cultural norms and institutional deficiencies. These adverse effects have prevented Indian domestic violence law from providing the sort of protection to women that the Indian government anticipated.
JUSTICE is one concept which has assumed a lot of connotations in the past and the present. But the actual realisation of the idea of justice which can bring about transformation in the functional mechanism of the society is yet to be achieved. Justice is often classified into two types—Corrective and Distributive and mainstreaming both these forms with the gender has been the primary function of the state. The judiciary is often targeted by the non-state actors as not being able to discharge its duties in achieving the idea of gender justice. But less do we realise that this is not only the duty of the judiciary but the executive and the legislature as well. But here the author would like to emphasise that apart from these three pillars, the media which is often quoted as the forth pillar of the society is also equally responsible for this. Without their responsible behaviour the realisation of gender sensitive and sensible justice would become a far-fetched dream, because the incessant flow of information in the society has made it difficult just for the state actors to control it.

The question that arises is just exactly how state and non-state actors are to achieve this goal. There are at least two dominant formulas that have emerged in this arena over the decades. The first is a rights agenda, where the rights of women and others oppressed by sexual violence are specifically recognized and then a legal and policy agenda for protecting these rights formulated. The rights to equality, bodily integrity and sexual autonomy, freedom of speech, including sexual speech, and safe mobility, would be amongst those rights to be foregrounded and secured. The right to consensual adult sexual relations is a key area to be protected from discrimination and infringement through the adoption of a broad array of legal, policy, and educational initiatives. The second approach is to focus on the state’s role in ensuring the safety of its citizens by strengthening its security apparatus, including border controls, intensifying the sexual surveillance of citizens, disciplining the sexual behaviour of individuals and regulating and monitoring sexual conduct through law enforcement agencies.

Further the Constitution of India guarantees gender equality, but it has not been implemented in the country, in spite of almost seventy years (approaching) of independence. In a gender-just society, providing economic and political equality is important, which can be achieved by imparting education and providing exposure to women in India for their development. A noted women rights activist Flavia Agnes flags the serious issue of the vulnerability of the Indian woman vis-à-vis her economic rights and is a tight slap on the crafty demand for “gender-neutral” laws. For neutrality on the women’s situation can only be seen as perpetuation of the status quo. Also she zeroes in on some in-built humiliation of women in the Indian laws, like the term maintenance in relation to divorce and sharply points out that even seeking maintenance can be a demeaning experience for women. She further suggests a shift in the constitutional interpretations of the issue, something that needs to be urgently done in a country like India. She also forcefully points to judicial processes that give men the edge over women on various issues. Take for
Gender Discrimination is Not a Joke

instance the law relating to adultery. It allows a man to prosecute another for having a relationship with his wife but a wife cannot prosecute her husband, her lover or her lover’s wife.

Akin to good governance the need of hour seems to be sensitive governance. Until gender parity is reached in governance, women cannot reach full equality with men in any sphere. The absence of women’s voices in shaping the most fundamental political instruments has ensured the preservation of gender inequality. It is difficult to generalise but certain markers indicate that, despite governance reforms, there has been a fundamental failure to challenge rooted unequal gendered power relations and other forms of exclusion that have been inbuilt in governing processes and institutions. Such markers include gender imbalance in decision-making. Gender-sensitive reforms in national and local government in the form of electoral quota systems and the establishment of women’s ministries have resulted in some progress in achieving a better gender balance in governance. However, there are still far fewer women than men in decision-making positions at global, national and local levels of governance – including the micro-levels of the community and house hold. While many reasons have been identified for the gender imbalance in governance, the most common argument is that the division between “public” and “private” spaces has created a barrier to women’s participation in governance. Politics has traditionally been considered a male arena because it operates in the public domain, while in many societies women are expected to restrict their activities to the household and immediate. It is important to bear in mind that these distinctions between private and public are not given- but they are themselves part of a set of accepted ideas about the male and female place in society that have been frequently used as a justification – often by partners, families, communities and women themselves – for women’s absence from public life.

Thus a holistic, gender-sensitive definition of governance needs to acknowledge governance processes at all levels – and the diversity of citizens through their gender, sexuality and ethnicity. It also needs to recognise that existing policies, processes and traditions are imbued with inequalities, which need to be addressed for gender-sensitive reform to take place. Ultimately, gender-sensitive justice will mean a world with better choices, opportunities, access to resources and life outcomes for women, through governance policies and actions that challenge entrenched gender inequalities in society and are supported by strong accountability mechanisms. Hence Social justice and social equality will help in ensuring gender sensitive and sensible justice in the country.

“It is the Spirit and not the form of Law that keeps Justice alive”

- Earl Warren
“Defined difference between men and women based on culturally and socially constructed mores, politics, and affairs. Time and location give rise to a variety of local definitions. Contrasts to what is defined as the biological sex of a living creature.”

— Black’s Law Dictionary Free Online Legal Dictionary 2nd Ed.

Looking at the legal definition of ‘Gender’ one realizes that it is a social construct which refers to the cultural and social differences that distinguish males from females as opposed to ‘Sex’ which is a biological construct referring to the biological and anatomical elements that distinguish a male from a female. If we look at the cases before the law, Gender and the constitution, and the media trials more issues arise. The campaign to decriminalize Section 377 of the Indian Penal Code, the Rainbow parade and its offshoots what becomes clearer is that there is more to the issue than that just a binary.

**Discrimination**

Yet before the law and in the ubiquitous forms we feel it remains a binary with a healthy dose of patriarchy, a woman identity is tied to the name of her father/husband. Women have had to go to court in order to leave out the name of the father from key identity documents such as the Indian passport. When applying for visa for travel through travel agents, even financially independent women need to get a No Objection Certificates from their father/husband. This blatantly patriarchal paperwork is routinized and rarely questioned (When challenged, most consulates deny requiring it!).

Not just the nuances, the rights of the nearly half of India’s citizens – its women – are routinely smothered in patriarchy that needs a fight with the juggernaut of judiciary before it is thrown out as outdated. The blinded Lady Law seems to favour only the opposite sex in most nations – but more so in India. There is a bias against women and the Third Gender and, any perceived weak – without influence, poor, children, etc. Perhaps the need of the hour legally is equity not blind equality. Add to this explosive mix media trials, delays in judicial procedures and the resultant invasion of privacy and even medal-winning sportswomen being brought up before a ‘national kangaroo court’ over gender.

According to recent United Nations (UN) report on India’s legal code, “laws officially favour men over women in spite of equality being guaranteed in our Constitution.” According to an international country-wise comparison of rights and status of women conducted by *the Guardian* “it’s a rosier picture legally for Indian women especially when compared with the situation in other nations of South Asia but there is a long way to go to achieve true parity.” As Vasundhara Sirinate puts it in *the Hindu* the ground reality in India is “Good Laws, Bad Implementation.”

**Way Forward from Foundations Destabilized by Patriarchy**

Justice that is neither delayed nor denied is a confidence-building measure in closing the legal
gender gap. Recently a woman pregnant following rape had to approach the highest court of law to allow abortion after the 20-week gestational legal 
lakshmanrekha, even though her health was being affected by the consequences of heinous violence against her. Both in India and many other nations the right of the law over the body of a woman reigns supreme with no such onus for men. Individual rights of a woman are subsumed by the law, especially in matters relating to sexuality and access to birth control and legal abortion. While “miscarriage” is not a crime in India like it is in many Catholic-majority South American nations, the gynaecological situation in rural India is ruled by the khaps and unofficial panchayats is nearly as dire, complicated by access to healthcare, caste consciousness and religious overtones.

Inheritance and hurdles to land ownership which are defects in the law and its implementation in turn helps in the feminization of poverty. While many farmers in India are female, the face of farming remains male aided and abetted by legal problems over ownership by women, which in turn becomes a problem when trying to access finances and financial aid and subsidies.

A proportional number of women legal staff in the judicial chambers and courts and sensitivity training to those handling heinous Violence against Women (VAW) crimes is more a need than a luxury. But a major step forward internationally in sheltering and empowering survivors of violence is the GBV Help Map, an initiative from India where information about access to help is made available. We need more such empowering moves in all fields but most especially in law and our judicial machinery where a laissez-faire attitude abounds. This is witnessed in the Pallavi Purkayastha case in Mumbai. Her convicted murder Sajjad Mughal was given enough leeway to skip parole and escape after a hard-fought conviction. While there is always politics and a degree of emotionlessness when multiple departments and inter-state machinery interact perhaps sensitivity to the rights of the victim as opposed to the privileges of a convict needs to become a reality. This problem could be an opportunity to provide more employment for qualified women. The sanctioned strength of judges of the Supreme Court of India is 31 but only one of them is a woman (Justice R. Banumathi who became only the sixth Indian woman and the first woman judge from Tamil Nadu to be elevated to the Supreme Court in 2014 with tenure of approximately six years).

While the Uniform Civil Code is perceived to be an affront to religious and regional sentiments perhaps the only thing all regions and religions seem to uniformly demonstrate is a healthy dose of misogyny. Take for instance these instances of discrimination, which may seem trivial but have repercussions on overall status of women:

1. In Hindu inheritance law, the property of a woman who dies without a will is handled differently. In the absence of spouse and children, the husband’s heirs inherit the woman’s estate.

2. A non-Parsi woman who is either a wife or a widow of a Parsi man cannot inherit while their children can and a Parsi woman marrying a non-Parsi man cannot be considered a part of the Parsi community.

3. Prohibition of Child Marriage Act: The law only prohibits the marriages of children; it does not render them illegal once they actually happen. The married children, however, have the right to declare it void. A woman can call off a marriage until she turns 20, whereas a man has till age 23.

4. Gender Discrimination in Age of Consent: Sexual intercourse with a girl below the age of 18 is considered rape. But since child marriages are not illegal, a man can legally have sex with his wife even if she is a minor, as long as she is above the age of 15. Further, marital rape is still not criminalised in India.
5. The rape of a separated wife carries lesser punishment than any other rape: Forced sexual intercourse with a separated wife is punishable with two to seven years of imprisonment when prison sentence for rape ranges from seven years to life.

6. Gender Discrimination in Marriageable age: The minimum age for marriage for a boy is 21, but 18 for a girl. This is a legal extension of the patriarchal mind-set that believes that a wife should always be younger than the man.

7. Gender Discrimination in Hindu Minority and Guardianship Act: Women are still not equal guardians of their children. A father is considered the “natural guardian” of a child, although the custody of offspring under the age of 5 will ordinarily be awarded to the mother.

8. Goan law recognises the second marriage of a ‘Gentile Hindu’ man of Goa if his previous wife doesn’t have children before the age of 25 or if she does not have a male child by 30.

9. No right to marital property: Upon separation or divorce, an Indian woman is entitled only to maintenance from her husband. She has no right to the assets, such as house or commercial property, bought in her husband’s name during the marriage.

A lot needs to change before all Indians are equal before the law!

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Women’s Reservation: Democratic Reality or Political Illusion

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The demand for representation and rights of women has been one of the most contentious political issues in Indian history. The struggle for women’s political rights began before Independence when women entered the public sphere and participated in the freedom struggle. The large scale entry of women in politics not only propelled the freedom movement to achieve its desired end but also recognized the impact women and other marginalized sections played in democratic politics. This created a need for the presence of women in democratic representative institutions which in turn generated the ongoing debate for women’s reservations. The question of women’s reservation was debated in the Constituent Assembly but subsequently rejected as it was assumed that democracy would ensure adequate representation and reservation would undermine women as equal competitors in the political arena. For decades this blind belief on democracy continued. In 1974 a report by the Committee on the Status of Women (CSWI) indicated that since Independence the status of women in India remains largely unchanged. The presence and participation of women in the public sphere was disappointing. Political and social development of women had not progressed like the
Constituent Assembly assumed it would have. The CSWI report also indicated that women needed to play a more important role in statutory bodies if they wanted to practice the equal rights given to them by the Indian Constitution. The government also needed to think of more appropriate policies and measures for the achievement of the same. This revolutionary report shed light on the fact that mere tokenism and promises had done little to question the patriarchal character of governance in India and concrete steps needed to be taken for achieving social and political justice. The absence of women and the presence of prejudice against them in the sphere of democratic politics had never before been so visible. These visibilities lead to the demand of women’s reservation in the various levels of Indian government.

Mainly promoted by feminist scholars and legal rights theorists, the demand for women’s reservation emphasized on the fact that despite being democratic, political structures have been organized on patriarchal principles which tolerate the exclusion of women from mainstream politics. According to them, democratic process and mechanisms had not only failed to reduce gender discrimination but were also unable to sanction women political and legal empowerment. The supporters of women’s reservation assumed that the greater presence of women in decision making bodies would bring change in policies and give debates regarding women’s development a new lease of life. Though most of the parliamentarians agreed that the skewed participation was a problem that needed to be dealt with, they were hesitant to use Women’s Reservation Bill (WRB) as a solution. Some believed that since women are not a homogenous group, so the benefits of affirmative action should not be extended to them. Many prominent pro-women social activists and academicians also questioned the WRB by highlighting the fact that it was framed by mainly upper caste and upper class feminists as a stand against mainly mainstream male politicians. According to them, very few women are a part of representative institutes in Indian and most of them belong to a politically dominant family, caste or community. These female representatives are mostly influenced by the conventions of the faction they are a part of. This means that while these women had political power their decision making ability was grossly limited by the patriarchal traditions which were imposed on them. This argument came from the experiences during the local self government elections where it was observed that female relatives of male candidates were fielded to fulfill the demand of reservation. The women were representatives whose presence was only importance for signatory work as their male relatives continued to control the political process. This showed that participation encouraged by women’s reservation was an illusion rather than a social reality. The second critique of the WRB is based on the understanding that women have more than one identity. The idea of a WRB that considers women as an undifferentiated category has been criticized or rejected by most politicians, activists and writers who speak for backward castes and dalits. While there is no denying that the notion of women’s political empowerment is mainly understood through mainstream lenses which include the notion of an upper caste Hindu woman, yet making this assumption the basis of denying reservation is an extremely callous decision.

The benefit of this legislation is that constituency allocation will witness extensive re-organization in order to accommodate women. Automatically, fewer seats will be available for men to contest but this too will be without any guarantee. The constituencies that most male politicians have ruled for years may just slip out of their hands and they may be left powerless. It also creates a possibility that a woman from marginalized sections will represent not only her own class or caste but also the upper caste or class. The women’s reservation bill will ultimately do two things: firstly, it will end the mailestream democratic process and include women at all levels of governance and secondly, it will also contribute in toppling the social hierarchal structures. Finally,
women’s reservation would play an important role in diluting the stringent public-private divide which will help in reshaping mainstream politics. This in turn will help in reshaping the laws which have played a very important role in marginalizing women. The patriarchal influence which is visible in the legal framed works and structures in India can be reduced considerably due to the inclusion of women. We can assume that women’s issues will be dealt with more sensitively during the law making and law executive process. This will definitely be a major achievement for a democratic system which is organized on the basis of equality, fairness and justice.

On the negative side, the WRB also fixes the number of women who can represent in the parliament. One third female representation may not be enough, and in the future social and political demands can emphasize on the presence of greater number of women in Parliament. But such a demand will go unrecognized as the WRB fixes the number which cannot be modified without an amendment.

Despite its negative, the WRB highlights an important the reality that in present political scenario all demands for female representation are viewed through a patriarchal lens. The mainstream paradigm indicates that women should only be political actors for a show of numerical strength rather than actually participating and influencing the democratic process. But the women’s reservation bill questions this logic by attacking the very foundations of a patriarchal democratic structure. Whether the Women’s Reservation Bill will be enacted or not is unclear as of now as there is lot of confusion regarding its application? But then there is no denying that this bill has introduced new and radical interpretations to the idea of democracy, social justice and political process in India. Whatever the end is, the debate raises important issue and our parliamentarians need to take up these issues and try to solve them. Only then can the political process in country witness a positive change.

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Understanding the Politics of Gendered Identities in India

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Nivedita Menon’s book ‘Seeing like a Feminist’ can be placed within the broader tradition of knowledge creation by women and the marginalized communities of the struggles they face in a socio-political structure wherein the privileges and inequalities have become invisible. The discussion in the book about politics of gendered identities can be categorized into distinct explanations related to how gender interacts at the individual, societal and legal levels. The personal is treated as political as the individual oppression of the women is located within the power-relationships that reinforce the hegemony in the society (Hooks, 2004). Marriage, for instance, is a personal relationship in which two individuals agree to come together and yet the state has a major role to play as it regulates this personal relationship through various marriages acts and politicizes its character. When we try to examine if the law can ensure gender equality without challenging the patriarchal family system we see clear traces of incompetence embedded in the laws. Of course it doesn’t guarantee gender equality; marital rape is not considered to be a crime in India! Thus in a marriage, the woman is forced to abide by the laws enacted by the state and is still not protected. The fact that rape is even classified as a crime is because it threatens the morals of the patriarchal family system. The women are their families’ property and thus to maintain the respect of the family the women need to be protected. The feminist understanding of the rape emphasizes that rape is not an end of a woman’s life; she is hurt but it isn’t her fault and so she should not be blamed. The individual who needs to be shamed for the loss of dignity must be the rapist. Compliance through laws is ensured at the cost of individual right to safety and the right to take the husband to court in the case of marital rape. The personal is thus no longer private; it is regulated and thus needs to be infused with narratives which talk about emancipation of the marginalized few.

The legalization of prostitution is another debate in the Indian society which is dealt with very neatly by Menon when she discusses how protection is reserved for only the good women. According to Newman and White three things about feminist perspectives regarding prostitution must be taken into account. “First, they condemn the current legal policy enforcing criminal sanctions against women who offer sex in exchange for money. Second, they agree that authentic consent is the sine qua non of legitimate sex, whether in commercial or non-commercial form. Third, all feminists recognize that commercial sex workers are subject to economic coercion and are often victims of violence, and that little is done to address these problems” (Newman & White, 2006). Here, two important things need to be taken into consideration. The good is not an easily definable term. Thus, a prostitute who happens to be only too willing to sell her body can be mistreated, raped or manhandled because consent doesn’t matter in this case.

Menon suggests that is will be more beneficial if we could “engage with the fact that there are multiple foci around which identities form and dissolve” (Menon, 2015). The debate over the Uniform Civil Code, for instance, reflects the rift between the rights of an individual as a woman and the rights of the religious community to which the individual belongs.
This conflict between personal law and a UCC came to the surface during the divorce case of a Muslim woman, Shah Bano Begum of the Indore district of Madhya Pradesh, who claimed maintenance from her former husband under the Criminal Procedure Code concerning destitution. However, under the Muslim personal law the husband had no obligations towards the wife (Larson, 1995). According to her, each community is heterogeneous with some practices which are in favor of gender equality and some others which are problematic. Thus, the reforms must take theoretical cognizance of the local and empirical; feminist politics must be open to responding to changing conditions (Sinha, 2012).

“However, in my rendering of how caste, religious identity and sexuality travel through and refigure ‘woman’, each of these identities is fundamentally unstable. Each identity emerges or rather, is called into being, in particular contexts in such a way that at that moment it is not simply an intersection of two or more identities but an unstable configuration that is more than the sum of its parts—recall here the figures of the Muslim/Woman in the UCC debate” (Menon, 2015).

Thus, feminism is not a moment in history. It is continuous struggle to counter the reproduction of the dominant power structures which compel the subaltern into submission. Feminism is occupying a position on the margins deliberatively to destabilize and subvert the normative. To be a feminist is to be immersed in the historicity of the present society, to temporalize the space and in the process change the world. Feminism is a pursuit of hope, hope for a better life where inequality ceases to exist. In the practice of feminism is the dream that a knowledge about the struggles of the marginal communities infuses in us a sense of responsibility to unburden ourselves of the privileges we enjoy by striving towards challenging the idea of gender as a universal social category.

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The fact that rural women have contributed immensely to agriculture and its allied fields cannot be doubted even an iota. Despite such a huge involvement, her role and dignity has yet not been recognized. Women’s status is low by all social, economic, and political indicators. In spite of significant economic and social progress, India is still host to deep gender inequalities due to the unjustifiable patriarchal social norms and practices that fundamentally value a woman as a lesser mortal than man.

The largest number of women lives in rural areas and has made meticulous contributions to agriculture. It has been acknowledged world over that women were the first agriculturists. While men went out for hunting, women were engaged in cultivation of farm land and food gathering activities. However, with the passage of time and new technological inventions, the status of women in agriculture has undergone a sea-change and they now play a subordinate role. They have lost all property rights and have little say in decision making (Raju, 2007, p. 303).

After the introduction of new irrigation facilities such as tube wells, the demand for male labourers doubled as it required physical strength. It appears, in fact, that women are called upon to work generally when there is an absolute shortage of labourers.

The mechanisation of agriculture led to decrease in the demand of agricultural labour force. It is learnt that the impact of agricultural technology has been deleterious and displaced women from their jobs. Women also bear the ultimate burden of farm suicides, since they are left to look after their households without assets but with the burden of indebtedness. Moreover, in recent time’s news of women being dedicated to goddesses as a part of devdasi tradition has surfaced too.

The impact of World Trade Organization (W.T.O.) rules and policies of trade liberalization in the agriculture sector on women is distinctive for four reasons. Firstly, women have been the primary seed keepers, processors. They have been the both experts and producers of food, from seed to the kitchen. Secondly, as globalization shifts agriculture to capital intensive, chemical intensive systems, women bear disproportionate costs of both displacement and health hazards. Thirdly, Women carry the heavier work burden in food production, and because of gender discrimination get lower returns for their work. When (W.T.O.) destroys rural livelihoods, it is women who lose the most. When (W.T.O.) rules allow dumping, which leads to decline in prices of farm products, it is women’s already low incomes, which go down further. Fourthly, their position vis-à-vis (W.T.O.) is also more vulnerable because as the livelihoods and incomes of farmers in general, and women agriculturists in particular are eroded, they are displaced from productive roles, women in agriculture and their status is further devalued, while the patriarchal power of those who control assets and benefit from asset transfer due to globalisation is increased, other social processes are triggered which result in increased violence against women (Report, 2005).

Hence, there is a pressing need to protect women’s employment and strengthen them with the help of
rural development programmes as also government agencies and NGOs.

**Solutions**

The gender bias in functioning of institutions for information, extension, credit, inputs, and marketing should be corrected by gender-sensitizing both men and women.

Government should recognise that women and men may have different priorities, problems and needs. Women prioritise food crops, and therefore government should give higher priority to food production on small farms in rain fed and eastern regions.

In order that farm women get a fair deal at the hands of change agents, one of the remedial measures that needs to be undertaken is to induct a sizeable number of well trained women personnel in training and extension programmes of agricultural development agencies at all levels and more so at the grass-root level.

Technology transfer to women should be prioritised in all aspects of farming and farm management. They should be provided training in pre and post harvest technologies; storage, preservation, packaging and processing and marketing.

Women’s co-operatives and other forms of group effort should be promoted for the dissemination of agricultural technology and other inputs, as well as for marketing of produce (Saxena, 2012, p.48-50).

The most valuable asset most poor people have is their own labour, but many women are compelled to spend too much of their time in drudgery: fetching water, carrying wood, and processing food by hand. Such work has to be done because water pumps, modern fuel sources and grain mills are missing. Investments in basic infrastructure for essential public services can liberate women from this drudgery and free them for more rewarding and productive work.

The gender-related constraints women face due to power relations within the family and community may affect their ability to engage in economic activities and retain control over the assets they obtain.

The government must make gender-aware agricultural policy decisions. Good agricultural policy requires an understanding of the gender dimensions at stake. Because some agricultural and gender issues are location-specific, these may best be addressed through location-specific assessments and tailored policies and programmes. Making women’s voices heard at all levels in decision-making is crucial in this regard (Ghanem & Stamoulis, 2011, p. 61-62).

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In any society population of women is close to half of the total population. For ages, no matter to which nation they belonged, women in general have been suffering from agony, distress, discrimination and apathy. Women tend to be confined to domestic chores and restrict their participation and decision making to private sphere of life. No doubt, the position and status of women of today have improved quite significantly. If we look at the public political space, we find and increasing participation of women in these sphere. Considering India here, these has materialized to greater extent due to the Panchayti Raj system.

The increasing women participation in politics and illustrate instances manifesting empowerment of women, which is made instrumental through Panchayti Raj.

• Since times immemorial, the question concerning recognition to women has remained prevalent and dominant till today. However the political concerns related to status of women in society have undergone changes in its discourse with time. From conferring a superior status to women in scriptures, associating them as perfect homemakers, to their increasing independence in public and private realm now, they have been tagged all along. Despite changes in economic independence, real freedom at social and political both public and private levels are a far cry. Having said that, they are in front, leading the country, making mile stones and becoming a source of inspiration for many.

• No modern society can claim to be progressive without the inclusive role of women in all walks of life, leading to socio-economic change and development. The following paper deals with women’s political representation and participation.

• The concept of Panchayti Raj had been introduced in the year 1959. Bringing women into politics through the Panchayti Raj Institution (PRIs) was an act brining of bridging the gap and discrimination. The Indian government has raised reservation for women in all tiers of the Panchayti Raj system from 33% to at least 50%. India probably became the first country to reserve the 50% seats for women at local self government (LSG) level after the Union Cabinet approved a proposal for a Constitutional Amendment Bill for increasing quota for women in Panchayats at all tiers. In the recent year there have been explicit move to increase women political participation to the top level. In the inclusion of women in PRIs has helped change women’s perceptions.

• An International Labour Organization Study shows that ‘while women represent 50% of the world adult population and a third of the official labour force, they perform nearly two-third of all working hours, receive a tenth of the world’s income and own less than one percent of world property.’ Therefore, reservation for women is not a bounty but only an honest recognition of their contribution to social development.

The contextual evidence to prove women liberation can be enumerated as under:-

1. Women have responded overwhelmingly and
participated with full enthusiasm in the elections and in the proceedings of the PRIs, thus exploding the myth that women were disinterested in politics and public life.

2. The women representatives generally got the support of the families during elections and also in the performance of their new political roles. Marginalized sections like the Scheduled Castes and Scheduled Tribes saw women from their groups as representatives of the interests of their group in the political arena, while the better-off sections saw women from their own groups as helping to consolidate their positions.

3. The self-esteem of women has gone up tremendously, and that is an observation that holds true across the board. The stepping up of women into the public realm has long-term implications for gender relations in society and the family.

4. While the presence of women in these institutions over the last eight to nine years has not transformed the power structure in the rural areas in any significant manner and vested interests have tried to use the provision for women's reservation to consolidate their position, the overall experience has been positive. Thus women are engaging in power struggles, which used to be dominated by men, sometimes as actors and at other times as pawns. However, participation in the public realm for women means that marginalized groups and communities are finding a legitimate space to articulate their interests and aspirations, and the women of these groups are being able to mark a politically motivated presence, although slowly.

Let us understand how we can empower women to actively participate and involve themselves in the decision-making process. Empowerment calls for a willing participation, pertinent for the formulation, implementation and evaluation of the decisions determining the functions and well-being of our societies; for which favorable conditions are needed to be created. Here are some of the suggestions for the better involvement of women in Panchayti Raj:

1) An important requirement for bringing about empowerment of women is to bring about an attitudinal change in both men and women. The feeling that women are meant for household activities and bringing-up children, needs to be replaced by a feeling of equal partnership of women and men. To inculcate these, they should be imparted education for bringing about social and political awareness.

2) Studies on women in politics have emphasized the contact with the outside political process. There could be two way of doing it. Firstly, interaction between enlightened rural women and illiterate elected women leaders is to be encouraged. Secondly, these women could be taken out to the urban areas and their interaction with elected educated urban women representatives be arranged.

3) There should be increased emphasis on ensuring the participation of women in the meetings of Panchayat at all levels. This is needed to promote and enhance their leadership qualities and self-confidence. It will help them to perform better in Panchayat. To ensure their participation in the meetings, attendance of all women must be made compulsory from Gram Panchayat to Zilla Parishad.

4) Incentives play a vital role in ensuring the participation of elected representatives in decision-making. It has been noticed that there are active and enlightened women leaders at all levels of Panchayat, ensuring an overall representation of women in general. Such leaders need to be encouraged by publicizing and acknowledging their leadership qualities and honoring them in public meetings. It will encourage other women and their success stories and good practices would prove inspirational to them and others in society.
5) The women should be encouraged to organize themselves collectively. It can be effectively used as instruments to mobilize women of the village. Some successful women’s organizations can also act as a catalytic agent for encouraging women’s participation in social and political activities. The government should also provide financial support and infrastructure to some of the successful women organizations to take up the responsibility of encouraging the women elected representatives in delivering, performing, and voicing opinions. Thus, the focus must be on deliverance and making a mark.

Waiting for Justice ------ “Change is the Law of the Universe”

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In the era of globalization where advancements have been made in each and every field around the world, people around the globe are more connected to each other socially through media and telecommunications, culturally through movement of people, economically through trade, environmentally through sharing one planet and politically through international relations and systems of regulations. But it is painful to swallow the truth of women exploitation which is faced by women’s not just in our country but the same situation prevails in the other countries too.

According to the data published by the Supreme Court of India, ‘E-Committee’, newsletter of April, over 12% of the 2.18 crore cases are pending across various subordinate courts, filed by women and senior citizens.

Amid talks about the need to fast track cases related to women and senior citizens, the Supreme Court, ‘E-Committee’ has said that 6,96,704 cases have been filed by senior citizens in various courts. Similarly, 20, 94,086 cases were filed by women in various courts. Together, they constitute 27, 90,790 cases out of the 2,18,54,970 cases pending in various courts. Percentage wise, the cases filed by senior citizens and women constitute 12.77% of the total pending cases.

According to the data, as on April 30, Uttar Pradesh leads with 51,13,978 pending cases. Maharashtra follows with 29,16,559 cases, while Rajasthan and West Bengal have over 13 lakh cases pending in their courts. Maharashtra tops the list where 2,55,122 cases have been filed by women, followed by Bihar with 2,16,599 cases. In Uttar Pradesh, the figure stands at 4,40,927 followed by West Bengal 1,74,327, Karnataka 1,46,959 and Tamil Nadu 1,35,033 respectively.

In a written reply, Law Minister D. V. Sadananda Gowda had informed Lok Sabha last December that the subordinate courts settled 1,9019,658 cases in 2014. He had said the 24 high courts disposed of 17,34,542 cases in 2014. The pendency in the high courts was estimated at 41.53 lakh at the end of December 2014. The Supreme Court disposed of 44,090 cases last year till December 1, while the pendency there has been estimated at 58,906 till the beginning of December 2015.

The estimated numbers of pending cases stated above are very much astonishing as taking a look at the census data of our country; the child sex ratio (0-6 years) in India was 927 girls per 1000 boys in 2001,
which dropped drastically to 918 girls for every 1000 boys in 2011. This clearly shows that women are neither safe inside the mother’s womb nor outside it, on one side she is struggling or waiting to take birth and on the other side she is waiting to live her life with her rights and dignity.

Are Women Turning To Nari Adalat for Justice?
The Nari Adalat functions under the aegis of the Mahila Samakhya Programme - a Central Government initiative for empowering rural women.

Background of Mahila Samakhya, Gujarat
Mahila Samakhya in Gujarat (MSG) was established in 1989 in three districts; with the goal of working towards women’s participation in education, health, justice, economic empowerment and Panchayati Raj. Presently, MSG has spread its activities across 2,203 villages in 39 blocks in seven districts in Gujarat, is presently active in 12,000 villages over 60 districts in 9 states including Bihar, where UNICEF and Mahila Samakhya have been partners for a long time.

The guiding principle of the programme is the centrality of education in empowering women to achieve basic equality. It strives to make women aware, empowered, capable and self-reliant.

Mahila Samakhya has been particularly successful in targeting out of school girls by working with the community to create learning opportunities in alternative centers, residential camps and early childhood development centre’s. These programmes have been supported by the State Government, UNICEF, World Bank and others.

Gujarat was the first state in the country to establish the Nari Adalat as an alternate system of justice. There was an ardent need to address the common concerns relating to the violence against women. The Nari Adalat in Gujarat has its origins from the Legal Committee of the sangha. The first Nari Adalat started operating beneath a neem (margosa) tree. Even today, the symbol of the Nari Kendra in Gujarat is the picture of women in discussion under the neem tree. In September, 1995, the legal committee of the Sangha renamed itself as the Nari Adalat. The Nari Adalat started in Vadodara district and later was replicated in Rajkot, Panchmahal, Sabarkantha and Surendranagar districts. It is established in all districts, except Dang. The nomenclature of the Women’s Court was decided upon as Nari Adalat after considering names like Mahila Panch and Mahila Manch. At present, there are 37 Nari Adalats in 60 districts in Gujarat.

The Status of Women in Gujarat
Gujarat faces a long history of violence against women both within the rural and urban circles. Women have been discriminated based on their gender on a daily basis at their homes and public spaces. In a study conducted by an Ahmedabad based NGO, more than 50,000 cases of violence against women have been reported from 12 districts of Gujarat from the period of 1995 to 2007. In this period alone, there were 53,395 cases of violence against women. The Protection of Women from Domestic Violence Act (2005) has been a legal measure to check the violence against women and bring the perpetrators to justice. Often, many cases of violence go unreported, especially, those relating to domestic violence. In a male dominated society, women feel apprehensive to report violence subjected by men and silently suffer. In the rural setup, women in Gujarat find their voices muffled in system heavily biased against women. The Nari Adalat is the channel through which rural, poor women find redressal to cases of violence and injustice.

‘Of The Women, For The Women, and By The Women’
The Nari Adalat has now emerged as a platform for poor, illiterate women to be heard for their judgment to be respected and to create a space where poor, illiterate women can get justice.

The organizational set up that is envisaged in a three-tier structure with the Sanghas at the first level, a cluster of 10 villages at the second level, and the blocks at the third level. The three-tier structure is
established on the basis of the committee that are
formed within the Sanghas. Each Sanghas comprised
of minimum 15 to 20 female members from deprived
communities. Each Sanghas comprises of five
committees. A member is selected from each of these
committees to take part in the meetings at the cluster
level. Similarly, at the cluster level and block level,
five committees are formed-Health, Education,
Legal, Economy and Panchyat. One member is
selected from each of these committees to become a
part of the block level and district level structures
respectively. All the Mahasanghas have a central
working committee and five committees focusing on
core areas.

These women working at Lok Adalat have never
been to law school and are not professional lawyers,
but it is their helping attitude which brought them
together for a social cause. There are no male
members involved in the decision making process.

**Objectives of Nari Adalat**

They want to involve women into the judicial
process. They want women to raise voice against
violence and injustice. They want to change the role
of women in the society. They want to be less
dependent on the patriarchal society of justice.

**Working of Nari Adalat**

Listening to women’s problems, documenting cases,
listening to the other side of the problems and
providing remedial measures.

Nari Adalat have dealt with cases of -Marital duties,
polygamy, adultery, maintenance, physical torture,
wife beating, dowry and dowry deaths, infertility,
rape, custody of child, divorce and abandonments,
child marriage, rape, custody of child, caste base
atrocities, property dispute, widow or abandoned
women being declared as witch.

**Resolving Cases by Nari Adalat**

A case is admitted to Nari Adalat on payment of a
fee of Rs 51. There are no further expenses apart
from the cost of transport to reach the venue. Cases
are normally resolved within six months and the
verdict is written out in a samadhan patra (letter of
agreement) which lays down conditions that are
considered binding on both sides even if it has no
formal legal status. About 15 new cases are admitted
every month.

The constitution of Nari Adalat facilitators are
women similar to their clients in thoughts, customs,
habits and rites. However, they strike a balance
between the informality of the forum, thus keeping
it approachable for the women and at the same time,
follows a structure process for handling each case.

The State Government has launched an ambitious
programme of extremity infrastructure of Nari-
Adalats to all talukas. From the year 2012-2013, a
provision of Rs. 3.58 crores was made to open 42
Nari Adalats, out of which 18 have been operational.
In the year 2013-2014, there has a provision to open
50 more new Nari Adalats for which of Rs. 3.18
crores has been sanctioned.

The State Governments have adopted the Mahila
Samakhya model for Nari Adalat and has decided to
replicate this all the States, phase wise.

**Application Cell**

It deals with complaints received from the State
where any deprivation of Women’s rights or issues
involving injustice to women. Women in distress
seek relief. Here complaints such as poor death,
harassment, police inaction etc. are dealt with.

**Present Situation**

It does not have a formal court setup, no fixed place,
nor a judge, but a large group of women instead.
The minutes of the proceedings for the day are
written and maintained. The orders decided in the
meetings do not bind the parties legally. It only binds
them morally and socially. They charge no fees
except the application fee of Rs.51/-. They travel to
the party’s home to solve their disputes. They are at
times trained by the local lawyers on basic topics of
law. More than 23,000 cases have been sorted out
by the Nari Adalats.
What’s Next?

Nari Adalats are expanding in every village in India. They are trying to develop it formally with including aspects of legal framework and ideologies.

The Government, the judiciary and the society at large have a duty to encourage these women who have never studied law nor are lawyers, but are educated and provide trainings to form a part of Nari Adalats. The police force of their respective area are already in awe of these women. They have made identification cards for some of them. They offer transportation facilities whenever and wherever they can.

More women need to join in the movement of Nari Adalat. They would want a dress code or a uniform. They want a proper place to function. All their sessions at present are held in borrowed places.

Legal Case Studies of Nari Adalat

Champaben from Raydi village, was thrown out of her house by her husband along with her two children 16 years ago. One day Champaben came in contact with Sudhaben, a member of the Legal Committee. Sudhaben talked to Champaben about Nari Adalat, its objectives and processes. As a result, Champaben registered her case with the Nari Adalat of Jamkandro Block in Rajkot District.

The Nari Adalat members sent Champaben’s husband a notice twice but he did not present himself. The Nari Adalat then decided to visit his village. On reaching his village they organized meetings with the local Panchayat, the Sarpanch and also Champaben’s in-laws and settled the case successfully. Today, Champaben lives with her husband and is being treated with respect after 16 years of separation.

The Procedure of Handling Cases in Nari Adalat

Women apply in writing to Nari Adalat, requesting them to handle the case. The Nari Adalat listens to woman’s problem. The woman is asked what she wants. The other party (family and friends) is called to listen to their side. Both parties are heard together, the other party is asked what they are willing to give.

If the other party is unwilling to accept the woman’s terms, the Adalat members try to reconcile the two positions, invite responsible members of both parties to a hearing. Nari Adalat gives their views to both parties and instruct the perpetrators not to apply pressure on the family of the victim.

In case of Solved Cases

1) Get both persons to sign a written-up consensus on stamp paper;
2) Get witnesses to sign the agreement;
3) Follow up on cases directly or through the Sangha to implement the agreement.

Do Nari Adalats Have a Legal Standing?

The Nari Adalats can be considered as one of the Alternative Dispute Resolution Mechanisms (ADR). ADRs are recognised by the Indian Legal System as an important way to resolve disputes that would otherwise involve costly and long drawn out litigation. India also has a long history of community mechanisms to resolve problems. While the Nari Adalats have no formal linkages with legal institutions, they derive their “legitimacy” from the support from Panchayats and communities. Further, as long as their decisions are within the legal framework, they need to be acted upon by the parties involved.

How is Nari Adalat different from Caste or Traditional Panchayat?

The Nari Adalat is a body set up by Mahila Samakhya Sangha women, who have worked on gender issues in their communities, to address problems faced by women. It is guided by a strong gender perspective and encourages women to present their point of view and experience. It encourages women to speak and to suggest the way forward. This approach is a non-negotiable of the Nari Adalat and is the critical difference from the caste and traditional Panchayats that reflect traditional biases against women.
By having Nari Adalats, are we encouraging the legal system to shirk its responsibilities towards women?

There has been a lot of forward movement in framing laws for women. However, their implementation continues to be poor. In a situation, where the legal system is overloaded and inefficient, it is hard for women to get timely justice. Reforming the formal legal system is a long drawn out struggle. Meanwhile, institutions like the Nari Adalat help to give women speedy and inexpensive solutions, having Nari Adalats does not allow the courts to shirk their duty to women.

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Gender Justice through Laws and Rights

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Gender Justice has become one of the prominent issues when we talk about status of Women. While observing status of Women, we have to refer to the preamble of Universal Declaration of Human Rights which states that man and woman both have equal rights, responsibilities and opportunities. But is this objective really achieved? The answer is no. We always come across the cases where women are being subjected to Rape, Female Feticide, Sexual Harassment, Female Infanticide and many more. So what is the solution for this? The only solution is to create proper awareness amongst the people for giving equal status and respect to women as men are enjoying. Further, it is important to note that the principle of equality does not come only from modern laws but it has deep roots in the ancient Hindu legal text “manusmriti”. As per manusmriti 3/56

“How the women are honoured there the Gods are pleased; but where they are not honoured, no sacred rite yields reward”.¹

If we look at the status of women in India, it can be right away noticed that our country is a male dominated society where economic, political and cultural institutions are largely controlled by men. In this matter Swami Vivekananda also known as mighty voice of awaken India has rightly said that

“There is no chance for the welfare of the world unless the condition of women is improved. It is not possible for bird to fly on only one wing”

But at present girls are sometimes even considered as burden on the family. On one side women are worshipped as goddesses and on the other they are made victims of Inequality, Rape, Dowry, Child Marriages, Honour Killing, Female Feticide,

¹http://www.hindubooks.org/scriptures/manusmriti/ch3/ch3_51_60.html
Medical Termination of Pregnancy, Kidnapping and Abduction, Cruelty, Immoral Trafficking etc. If we look at the fact sheet uploaded by World Health Organisation, 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.² Apart from this the report of National Crime Record Bureau has observed:

A total of 3,37,922 cases of crime against women (both under various sections of Indian Penal Code 1860 and Special Local Laws) were reported in the country during the year 2014 as compared to 3,09,546 in the year 2013, thus showing an increase of 9.2% during the year 2014. These crimes have continuously increased during 2010 – 2014.³

It is noteworthy that India has a wide range of laws that are protecting women from violence which includes The Constitution of India, Indian Penal Code 1860, Dowry Prohibition Act, 1961, The Medical Termination of Pregnancy Act, 1971, The Hindu Succession Act, 1956 with amendment in 2005 that specifically provides equal inherent rights to daughter. The Protection of Women from Domestic Violence Act, 2005, The Immoral Traffic (Prevention) Act, 1956 etc. Now if we look at the status and situation of women in the society, are these laws really protecting women? Are these laws sufficient for empowerment of women? The answer is no as per the data that we have looked above. The High Level Committee set up by Ministry of Women and Child Development recommends that the proper implementation of laws on women is required for protecting them from the above violence. Not only this but also proper counselling, shelter and legal aid is required to be provided to women.⁴

Further if we look at the political participation of women, data says that within 243 members in Rajya Sabha, women members are only 27.⁵ In case of Lok Sabha there are only 66 women members from 526 total members.⁶ To curb this situation United Nations recommends that government should take sufficient measures for involving women in politics. Government should provide incentives to political parties to promote women participation in politics. Further training is to be provided to women candidates who are elected to office so that they can function properly in their new roles.⁷

On the flip side, we do have some of the greatest examples of Women Empowerment that has been placed in Indian history such as:

Bharat Ratna, Mother Teresa who sacrificed her life for the cause of downtrodden, unprivileged, diseased and the needy in the society. She received her first honour in 1962 with “Padmasree Award”. 17 years later she was awarded the ‘Nobel Peace Prize’ in the year 1979. In the year 1982 the Indian Government conferred the highest civilian honour ‘Bharat Ratna (Jewel of India)’.

Apart from this, Smt. Pratibha Patil is the first women president of India. Throughout her life she has worked actively for the welfare of Women and unprivileged section of the society. She has established various institutions for their benefit such as Krishi Vigyan Kendra, hostels for working women in Mumbai and Delhi, the Shram Sadhana Trust which takes part in multifarious welfare activities for development of women etc.

Further a famous name of First Women IPS officer Kiran Bedi comes to the mind who really took responsibility and worked for the benefit of the society. Kiran Bedi is known to be the highest ranking and the only woman to have headed a pre-dominantly male prison of the dimension of Tihar (over 9700 prisoners then). The Prison Administration took

³http://www.who.int/mediacentre/factsheets/fs239/en/
⁵http://wcd.nic.in/sites/default/files/Executive%20Summary_HLC.pdf
⁶http://164.100.47.5/Newmembers/women.aspx
⁷http://164.100.47.192/Loksabha/Members/women.aspx
path-breaking steps during her tenure as the Inspector General of Prisons. She has been respected with various awards such as Pride of Punjab April 2008, Women of the Year Award, 2002, UN medal 2004, Amity Women Achiever for Social Justice 2007 and the list is endless.

These examples show that how women are empowered in our society. They came out from four walls of the houses and became inspiration for other women to empower themselves.

Dr. B. R. Ambedkar has rightly said that “I measure the progress of a community by the degree of progress which women have achieved.”

At the end there is requirement to create awareness among women about not only the right to fight against violence but also the right to empower themselves. Laws are there for protection of Women but it is of no use if they do not speak for justice.

India is a developing country and by developing I don’t mean by means of technology, the focus here goes to areas like culture and spirit. But have we reached a point where we can stand tall and challenge the world to point out the wrongs that are still prevailing in the society, the answer will be NO. Many of our leaders have worked hard to remove inequality from our society but we are still lacking at a place or two. The government has played its part honestly, but have we? We need to ask ourselves, is it only the Government’s obligation or should we do something on our part too.

One of the most common and unnoticeable discrimination done today is the discrimination done in the households. It is considered that it’s the duty of the house women to do all the housework by herself. In early centuries men were exempted from this duty because they were the only earning heads of the family, they were the one who brought bread in the house and therefore it was the duty of the women to cook. But the situation is not same today.

Now when the time has changed, and women are earning equal to men and are capable of taking care of themselves financially, but why haven’t her duty to perform housework changed? Why the society does still look upon the women to do housework and frown on men who help.

Nowadays many people are referring housework as the ‘second shift.’ This term is usually used for working women. Their paid job is considered as their ‘first shift’ and their housework as ‘second shift.’ The ‘Second Shift’ - a term established by sociologist Arlie Hochschild in 1989, which refers to the “disproportionate amount of unpaid domestic labor women do in addition to their paid jobs.”

Women today spend as much time doing housework as in the 1990s, yet women still spend twice as much time on housework as men.

“If we are to make further progress towards gender equality, we have to address the fact that it is neither ‘normal’ nor ‘natural’ for women to be performing...
most of the unpaid labour.” The Indian Constitution Article 15 prohibits discrimination on the basis of sex. This should not only be applicable in the areas of job, employment and education, but should be applicable to the ongoing practice of discrimination at household levels too. At international level, the UNICEF encourages programmes that encourage the participation of both men and women to help increase communication between the sexes and encourage a more even division of household responsibilities. Throughout Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka, male and female activists are campaigning against gender based inequality. Though there is no specific law regarding this issue but there are a many NGOs and societies who are working to spread awareness among the general public about such discrimination. SCAWD (Society for Children and Women Development) is one of the society, which works towards creating awareness against discrimination.

So often with social problems we look to the Government to step in and provide funds, help and infrastructure, but on the contrary, housework and caring is one that requires no such assistance. They say charity begins at home. It is not the only thing.

Yes, Girl Can!

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Yearning for something which is the birthright, 
Equality is something which is wanted with might;

Sister, Mother, Wife, Friend… so many roles they play, 
Glass ceiling is so developed with the very hard clay;

Is it the ‘law’ which is really needed? Or, 
Respect & Wisdom are the values that are expected;

Labyrinth of discrimination is made with the locks of hair, 
Catalyze the societal change to be genuinely fair;

Are we so gender biased that the need for laws began?  
‘No’ will be the answer if one believes - ‘Yes, Girl Can!’
Globalisation opened borders and expanded boundaries for open trade, cultural exchanges, opportunities of higher education and on a larger plane—access to technology, skills and versatile-vibrant-innovative practices in R&D, business development and also in creative productions in the realms of arts-cinema and culture. This very much globalisation—which is dynamic, aggressive and (in many ways) inhuman mechanical wave—also contributed in complicating and aggravating conditions of livelihoods, human rights and environment. This whole process of spreading legitimacy and irreversibility of technology-trade on one side and contributing to letting those forces to enter into private realms of lives in less developed and developing countries on other side, had been hallmark feature of the multiple layers of this complication in contemporary times.

To begin with, fertility tourism was and continues to be a symptom of this crucible of globalisation where larger web of material and geopolitical forces were driven by racial, occidental and neo-liberal elements which got an unique opportunity to patronise the ‘lesser mortals’ in developing world to justify surrogacy as one of the ways in which fruits of globalisation can be ‘trickled down’ to ‘ignorant’, ‘hungry’ and ‘savaged’ citizens of already oppressed past and troubled present. To be more precise—troubled and oppressed due to caste, class and poverty equations seriously designed by century’s old deeply rooted history of inequality. Then surrogacy—the scientific invention which defeated not only the decade old curse to parents across the world—slowly and steadily evolved in the form of ‘fertility tourism’.

This goal of emancipation and thus to have children is definitely genuine human desire. This desire (fundamentally an innate and sincere wish) always searches to earn gift of happiness having an organic, symbiotic and biological expression. This is only possible by subjecting our genomic and hormonal architecture of human body to a process which exploits our perceived notions not only about what is right and wrong, what is life and death but also about what is moral and immoral and what is progeny or heir. This process which is further catalysed by collaborating with grey boundaries of scientific invention and moral-subjective rationalisation of family needs so as to enter into contested domain of lawmaking where the jurisprudence of particular subject matter, in this case surrogacy, is still evolving. Here we enter into debates of Assisted Reproductive Technologies and Surrogacy is one of the major aspects of these technologies which enable motherhood. This specific aspect is recently under intense debates since Union Cabinet has cleared “Surrogacy (Regulation) Bill, 2016.”

At the outset of this deeper engagement with new policy development, there should be upfront acknowledgement of the new, positive steps announced to avoid allegation of possible bias in this

analysis. Some of the positive announcements (as considered by this author) are:

a) All surrogacy clinics should be legally registered to hold them accountable in case they exploit surrogate mothers, commissioning parents and child. Minimum of ten years of imprisonment and fine to the tune of minimum of ten lakhs will be levied.

b) Only married woman who has earlier one healthy child should be allowed to become surrogate mother. Even though it compromises fundamental right of other women to opt for motherhood, this particular provision will ensure that women who have biological and emotional experience of motherhood will find it convenient to embrace the surrogacy more easily than newlywed or unmarried girl (who sometimes might be forced towards surrogacy without her consent) considering health risks involved during pregnancy because of some unforeseen developments like accident, mutation or unsecure pregnancy.

c) Minimum age limit to opt for surrogacy (in this case altruistic surrogacy) will be an age after five years of marriage for both male and female. This can possibly prevent married couples from being pushed into surrogates immediately after marriage without looking at other equally valid options possible in spectrum of assisted reproductive technologies (ARTs).

On the contrary, if we go endlessly to search for plausible positive aspects of this new Surrogacy Bill, 2016; we are definitely missing larger points about parenthood, motherhood and larger domain of ARTs which have potential of solving limitations of Indian and global parents in having a child. All this new bill has done is to distort meaning of surrogacy to indulgence, illegality and immorality rather than bringing in comprehensive regulation of commercial regulation.2 Thus this new bill has also paved the way for incoherent launch of ‘altruistic surrogacy’ aimed at domestic audience which is anyway very sensitive to the idea that someone close relative from family will come forward for this noble cause.3

If one were to believe the intention of government behind appropriating legal, technological and biological definition of ART, we can assume that government is trying to secure citizen’s interests from the rampant commercialisation of the surrogacy sector. But if we watch closely, the convoluted and narrow way in which the new proposals of this upcoming policy are being vigorously debated in media and public domain only in realms of ‘commercial surrogacy’, then one cannot fail to observe a very reductionist argument inherent in new policy framework which confuses freedom or opportunity for ‘luxury’ or unethical choice’—to put it mildly.4 One of the claims central government made while announcing the new Surrogacy Law was in fact a bold assertion that this policy has been drafted by keeping in mind “Women’s Empowerment”.5 However noble and moral are the intentions behind this move, but it cannot escape critical scrutiny of the people concerned with women welfare, policy wonks, health experts and most of all stakeholders of this field i.e. commissioning parents, surrogate mothers and donors. 6

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3 Ravish Kumar (2016), Is Surrogacy Bill necessary? NDTV Prime Time Show retrieved from https://www.youtube.com/watch?v=0J_brb-KsWw
4 Rupali Tewari, NDTV correspondent’s article: I Used A Surrogate. And Am So Grateful And Proud. http://www.ndtv.com/blog/i-used-a-surrogate-and-am-so-grateful-and-proud-1451190 Rupali who opted for motherhood by commissioning surrogacy, comments about discussions surrounding new policy. “Hence, it pains me when I read or hear words like prostitution, exploitation, money-making racket being used to describe surrogacy.”
6 A fairly critical appreciation of flawed characterisation of the Surrogacy Bill, 2016 was recently made by many people. Chitra Narayan, in one of the articles connects this debate to Indian Evidence Act, 1872 (related to property rights born through surrogacy) and laws regarding Parentage/Adoption. This analysis largely critiques new Surrogacy Bill of India, 2016 on the grounds that new bill is oblivious and indifferent to identity, property and fundamental rights of newly born baby as well as surrogate mother. http://www.thehindu.com/opinion/op-ed/ignoring-best-practices/article9051191.ece
To put things in broader perspectives, ‘fertility tourism’ or ‘commercial surrogacy’ shaped and crafted by Assistive Reproductive Technologies, primarily IVF and later by more advanced techniques of embryo transfer has now gone beyond shores of countries which developed this technology in first place. Along with commercial surrogacy, altruistic surrogacy via gestational techniques has been considered as an asset for women of developing countries where they can stand with honour by rewarding themselves by sacrificing for a noble cause and in the process retaining self-respect with wider consensus within her community for her step. This private realm of desire to have progeny and further hybrid nature of private-public realm of surrogacy shaped by fertility trade, medical tourism, contract laws and evolving (and still inadequate) compensatory mechanisms then enters into legal arena. This long process thus paves the way for creation of argumentative space for consistent negotiation between what gender debates call—intersectionality of moral, social and economic attributes of citizenship—further shaped by globalisation and circularity of life cycle (both biological and sociological), meaning of which seems to be changing with the arrival of surrogacy technologies and practices.

In India, 2005-ICMR regulations declared national guidelines to regulate Surrogacy, the implementation of which was troubled by complex legal-moral-ethical issues. While it is notable that surrogacy industry is of the potential of 445 million dollars, India adopted Assisted Reproductive Technology (Regulation) Bill, 2008. This bill largely brought together all the stakeholders for meaningful transaction and legal contract. These stakeholders were commissioning (intended) parents, surrogate mother and child. This law was framed considering actual interests of the surrogate mother who’s medical, psychological and monetary needs are very much the core domain of any possible inclusive law related to either surrogacy or ART law. Around the same time, exactly ten years ago, in September 2006; 18th Law Commission was constituted. In its final report, it recognises serious socio-cultural stagnation corresponding to Indian psyche which prevents us from discussing questions of motherhood. It says,

“The growth in ART methods is recognition of the fact that infertility as a medical condition is a huge impediment in the overall well-being of the couples and cannot be overlooked especially in patriarchal society like India. Infertility is seen as a major problem as kinship and family ties are dependent on progeny. Herein surrogacy comes as a supreme savoir.” (18th Law Commission Report, page 6)

Further this report says that,

“The legal issues related with surrogacy are very complex and need to be addressed by a comprehensive legislation. Surrogacy involves conflict of various interests and has inscrutable impact on the primary unit of society viz. family. Non-intervention of law in this knotty issue will not be proper at a time when law is to act as ardent defender of human liberty and an instrument of distribution of positive entitlements.”

Both the earlier bills i.e. Draft bill, 2008 and Draft bill, 2014 had clear indications and discussions regarding potential of Assisted Reproductive Technology regarding motherhood and parenthood. Bill of 2008 had proposed formation of ‘National Advisory Board for Assisted Reproductive Technology (NABART)’. That bill also included proposals regarding nature of contract between intended parents and surrogate mother and potential of bargain, negotiations overlooking the fact that surrogate mother will be always at vulnerable position while entering into an agreement (equitable

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7 Law Commission of India, Report No. 228, Need for legislation to regulate Assisted Reproductive Technology Clinics as well as Rights and Obligations of parties to a Surrogacy, as submitted to Union Ministry of Law & Justice, August 2009
or inequitable, that is the question). A recent article argues and observes that unfortunately surrogate mother is the lowest element of the surrogacy chain. This is important to underline because as Law Commission Report (2009) notes, surrogacy industry has already crossed 25,000 crores INR and it has expanded multifold after that in last seven years. One can defend that due to asymmetrical nature of treatment, surrogate mothers are getting in the realms of surrogacy industry, new government has come out with proposals specifically considering Surrogacy and not considering whole gamut of ART. In this respect, new bill also proposes to establish ‘National Surrogacy Board (NSB)’ which will regulate legal agreements leading to surrogacy, regulation of surrogacy clinics and regulation of possible future disputes arising out of this domestic-altruistic surrogacy.

Whether it is a baby Manji case where Japanese national could not adopt a baby born to surrogate mother due to the fact that he was divorced from intended mother or the cases in which there are some allegations of harassment of surrogate mothers by intended parents, the legal protection or legal regulation mechanism was never full proof progressing with time. A case study done by Duke University at that point of time actually quoted Nayana Patel of Akanksha Fertility Clinic, Anand as saying,

“Growing business in India may warrant government oversight.”

There is no point in denying that the potential harassment of surrogate mothers may be possible on many grounds arising from psychological, social and financial insecurity experienced or magnified with exaggeration by their families. Then to address some of these concerns, the Government of India banned foreign couples in 2012 (whose country of origin bans commercial surrogacy) from hiring Indian surrogate mothers that was one possible indicator towards times to come.

Recently, Assisted Reproductive Technologies (Regulation Bill, 2014) had recommended creation of national board for ‘Assisted Reproductive Technology’ and hope was raised regarding more organized business of surrogacy with better regulation aiming at justice for aggrieved parties. This bill was huge leap in terms of envisioning the transparency in technologically complex field, regulation of expanding sector, compliance of uniform rules, stakeholder involvement for better coordination and likewise. This bill was a great promise in terms of it proposed better coordination of not only infertility treatment, storage of embryo but also R&D of ART. This bill had strict clauses specifying punishment for false practices. Not only this, this bill also has proposals for defining duties of an Assisted Reproductive Technology Clinics and Assisted Reproductive Technology Banks. Same article by citing experts in the field raise fears that this banning of commercial surrogacy in India may force this profession/trade to go underground by creating illegal networks for human re-production as it happened in Thailand.

Rather than adapting to the changing needs of humanity (i.e. to desire for progeny in adverse

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10A 2015 The Indian Express report says that now this industry is worth around $2.3 billion industry and a LiveMint report citing UN study around 2012 says it is worth around $400 million i.e. 4 billion INR (http://www.livemint.com/Politics/1tGqG9X9ChM9Tb1pmNmP/M/Surrogacy-industry-thrives-in-India-amid-regulatory-gaps.html)


chromosomal conditions), current government has hastily banned commercial surrogacy. There are some serious issues about rights and dignity of the surrogate mothers, but government or our society cannot run away from creating more mature institutions of regulation which is devoted to the welfare of not only surrogates but also to those of intended parents. We need to vigorously and courageously debate about what possibly can be the implications of these developments for gender debates in India? It should be understood that surrogacy definitely has potential of bringing happiness in the lives of people who don’t have progeny or heir by virtue of having a child with their own genetic composition. Second, surrogacy in recent times has also emerged as a possible emancipator for same-sex relationships especially gays and lesbians.13

This technologically enabled manifestation of natural recreation of humanity has immense potential to bring bliss to people who are already troubled by the negative perception of society towards their relationships. In the midst of crisis of gender sensitivity in contemporary India, lack of basic awareness about what gender constitutes as a biological category and how it is further constituted in gender roles and gender identities shaped by world as a sociological category is still not only debatable but also is very much being contested at ideological level let alone at the level of reason, symbolic interactions between identities of the world and true meanings of modernity.

The Gender debates surrounding surrogacy technology are driven by questions of moral, ethical undercurrents of society but also how pragmatically and responsibly today’s generation thinks about questions of life and death. Can gender be negotiated in birth? Can it be denied in death? Can gender be distorted during the process where technological tampering of human genome seems to have got upper hand compared to biological organic processes of recreation? Should gender debates should be completely kept out of the contestable amalgamation of scientific possibility, technological intervention and legal innovation or it should be constantly subjected to scrutiny of society, politics and legacy of Indian Penal Codes as it was experienced when section 377 regarding criminalising homosexuality was under fierce debate few months ago in India which galvanised public opinion like never before.14 This feeling was also reached to boiling point when Juvenile Justice (Care and Protection of Children) Bill, 2014 was passed by Indian Parliament which influenced Nirbhaya case under tremendous public pressure for reasons which enraged nation.15

Finally, this article was an attempt to trace and analyse the evolution of the debate and developments surrounding contemporary ethical-moral positions, evolution of legal provisions (albeit in tangential way) and latest policy shifts regarding ‘commercial surrogacy’ and now increasingly about ‘altruistic surrogacy’ in India. This important subject cannot be viewed from cynicism of patriotism (in the sense that why Indian women should be serving or contributing to chain of global surrogacy market) but definitely from the standpoint of negative trade-off aroused because of commercial trade and possible abuses of surrogate mother’s rights caused.

This surrogacy debate can go ahead with identification of few specific parameters applicable to domestic and foreign parents who truly deserve a fair opportunity of adopting surrogate child in all


14Suhrith Parthasarthy (July, 2016), To be equal before the law, The Hindu, Retrieved from http://www.thehindu.com/opinion/lead/supreme-courts-next-step-on-section-377-and-lgbt-rights/article8824834.ece (Suhrith laments regressiveness experienced in judiciary’s pronouncements in following words: “As the American philosopher Martha Nussbaum has argued, the Supreme Court’s verdict in Koushal (vs Naz Foundation case) shows us that there is an almost pathological emotion of disgust at the heart of any perceived rationale for criminalizing homosexuality, when such acts cause no actual harm to any person whatsoever”)

possible circumstances without any exploitation of the domestic human resources and without harming basic cultural traditions of the land which are harmonious with larger ethos of human rights—locally and globally. We only could hope that policy and legal discourse about surrogacy should be informed by harmonious principles of natural justice, right to life, freedom of expression (concerned with women’s choice to embrace motherhood and her right to become ‘surrogate mother’) and also with the regulatory principles of fair practices, state’s right to scrutinise citizen’s right to have progeny by accessing unaccountable techno-industrial complex of surrogate technologies and further by establishing clear and equitable rules for rewards-punishments alike.

Though it seems difficult, to arrive and approach responsibly at this balance on this stage which is dominated by complex and complicated arena of socio-legal processes. Now after introduction of powerful support of family-altruistic surrogacy a new complex layer of conflict and negotiation has added to enterprise which thrived on the basis of transaction and contract. I will conclude my engagement with debates surrounding ART and surrogacy by flagging out what Law Commission said by mentioning principles of Universal Declaration of Human Rights:

“Declaration of Human Rights 1948 says, inter alia, that “men and women of full age without any limitation due to race, nationality or religion have the right to marry and found a family…”

And, this I dare to claim, is self explanatory in the context of current heat generated by Surrogacy Bill, 2016 which seeks to define motherhood, marriage system, notion of family and boundaries of citizenship in the subtly narrow claims of ethos which are wrongly premised on unilateral, singular, deterministic, stereotypical, reductionist and essentialist understanding about what our collectivist culture is and what we stand as a Indian society i.e. collective welfare aptly described by ancient Sankrit adages: “Vasudhaiv Kutumbakam!” (World as a Family) and “Bahujan Hitay, Bahujan Sukhay!” (Collective Welfare, Collective Bliss).

Limitation of this article: This particular piece was triggered by recent shifts in policy introducing new legal and regulatory regime regarding ‘Surrogacy Industry’ in India. However, due to limited space author could not engage with issues related to occasional exploitation happening with surrogate mothers and likewise with other stakeholders. Therefore, in the larger ambit of gender debates in general and surrogacy in particular, this new policy shift also poses some questions which we can’t shrug off easily—especially those related with exploitation. This, surely marks scope for further debate and writing, linked to this piece.

“Law and Justice are not always the same”

- Gloria Steinem
Introduction

Gender based violence includes sexual violence. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) defined gender based violence in its General Recommendation No.19 in 1992 as “violence that is directed against a woman because she is women or that affects women disproportionately.”

What is sexual violence?

“Sexual violence can be broadly defined as acts of sexual nature imposed by force, threat of force or coercion, or by taking advantage of a coercive environment or a person’s incapacity to give a genuine consent.” It includes acts of rape, forced prostitution and other assault that causes physical suffering. There is also an adverse effect upon an individual’s physical health such as contracting sexually transmitted diseases.

Due to conflict zones of war, transport of essentials and other materials and medicines are disrupted. This prevents them from the entitlement to medical care.

Role played by International Humanitarian Law

Sexual violence continues to be committed even in the twenty first century’s conflict. They are usually perpetrated at large scale in an invisible manner. For example, “the number of female Muslim Bosnian civilians raped by Bosnian Serb militias appears to be roughly the same order of magnitude as the number of male Muslim Bosnian civilians killed by them.” However, recognizing their specific needs and vulnerabilities, International Humanitarian Law grants women a number of further specific protections and rights. Its aim is to protect and alleviate human suffering in war without any discrimination based on sex. Protection is given to both men and women, but it does not recognise that women face specific problems. The rule that the specific needs of women affected by armed conflict must be respected from provisions found in each of the four Geneva Conventions. The terminology used in Geneva Convention and Additional Protocol I emphasis special protection to be granted to women especially in terms to be accorded “with due regard to their sex or with all consideration due to their sex.” In international armed conflicts, the Third Geneva Convention of 1949 continues to provide that prisoners of war are “in all circumstances entitled to respect for their persons and honour” and that “women shall be treated with all regard due to their sex.” It expressly addresses rape and other forms of sexual violence. In non-international armed conflicts, Article 3 common to the four Geneva Conventions implicitly prohibits sexual violence. It is complemented by Additional Protocol II of 1997.

1ICRC Advisory Service on IHL, “Prevention and Criminal Repression of Rape and Other Forms of Sexual Violence during Armed Conflicts.

4First Geneva Convention, Article 12; Second Geneva Convention, Article 12; Third Geneva Convention, Article 14; Fourth Geneva Convention, Article 27.
5Treatment of Prisoners of War, 12 August 19949 (GC III), Article 14.
It is clear that an act of sexual violence, when linked to an armed conflict, constitutes a war crime. In Kunarac case, the International Criminal Tribunal for Yugoslavia found that rape can also constitute a crime against humanity in certain circumstances. In Akayesu case, the International Criminal Tribunal for Rwanda found that rape and sexual violence can “constitute genocide in the same way as any other act as long as they are committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such.” As rape is a part of an act of sexual violence, in Celebici case, the International Criminal Tribunal for Yugoslavia ruled for the first time that rape can constitute torture. Therefore, the Rome Statute of the ICC concludes “rape, sexual slavery, enforced prostitution, forced pregnancy… or any other forms of sexual violence” as war crimes in both international and non-international armed conflicts.

The “customary international law also prohibits rape and other forms of sexual violence.” In a resolution adopted in 2000 on protection of civilians in armed conflicts, the United Nations Security Council expressed its grave concern at the “particular impact that armed conflict has on women” and reaffirmed “the importance of fully addressing their special protection and assistance needs.”

**Conclusion**

An act of such is considered as a strategy of war in the context of campaigns of ethnic cleansing or genocide. It is also used to extract information, to punish and terrorize. Such a behaviour of the perpetrators results to a social consequence of forcing victims into isolation and shame.

It is also understood that an act of sexual violence involves multiple perpetrators at different levels, so finding these levels committed by the perpetrators and creating a method to prevent such acts are required for providing effective protection. If victims of sexually violence are to be effectively assisted and supported, they must be up for a response mechanism that respects their autonomy and upholds their dignity.

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7. UN Security Council, Res. 1296.

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**Surnames: Maiden or Married?**

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**Introduction**

When a woman marries she assumes the family name of her spouse and that name replaces her birth name and she is known by a new name which is her married name. The married name is either a family name or surname adopted by her upon marriage.

Fifty years after the feminist movement took off in the West, we’re still grappling with the problem of married versus maiden names.

**Now, Women can retain their Maiden Name**

According to a Government Resolution issued by the Women and Child Welfare Department (WCWD) recently, women in Maharashtra will now have the option of using either their fathers’ or husbands’
names in all official documents. Children can now mention names of both parents, or remove the father’s completely if they choose.

The Bombay high court amended a crucial rule under the Family Courts Act in September 2011 and the new law stands published in the State Gazette.

It is now perfectly legal for a woman to retain her maiden name after marriage. The Bombay high court recently amended a crucial rule under the Family Courts Act to prevent a woman from being compelled to file any marriage-related proceedings only in her husband’s surname, thus offering relief many seeking divorce. It will also help a married woman file proceedings in other courts under her maiden name, say legal experts.

The radical rule says that ‘a wife, who has not changed her name after marriage, by publishing in the official gazette, may continue to use her maiden name’. The law is clear now: a woman is not obliged to take her husband’s name after marriage.

A woman can file proceedings either in her maiden name or any other name that she may have adopted, as long as it is officially registered in the gazette. If she retains her maiden name, a woman cannot be forced by the court to write her name as her first name followed by her husband’s first name and his surname while making a marriage-related petition.

Prior to the amendment, the Bandra Family Court staff would not accept divorce or related applications from women until they added the first name of their estranged husband as their middle name, and his surname. The court staff would compel the quarrelling couple to bear only one surname, the husband’s, in case the case has to be filled in the court.

**Fundamental Right**

Women/Men are free to use any name they want. India is a democratic country and what name a person should use is his/her fundamental right. No law/person can take that away. Changing your name/surname post marriage therefore, is a choice. It is customary and not a legal binding.

Changing name for a woman should be entirely a matter of choice, not compulsion or expectation that it usually seen in Indian families. It’s not about feminism, but about something that’s been fundamental to the existence for over 20 years, and that’s ‘your identity.’

This issue has been in many communities practiced in the form of a custom of a newly married wife changing even her first name after marriage and adopting her husband’s full name. But other communities from states across India do not usually follow this custom, though it’s common for women to adopt the husband’s surname.

Besides, an increasing number of urban women prefer to retain and go by their complete maiden name after marriage to preserve their individual identity. ‘But when they approach the family court to initiate a divorce dispute or a plea for protection from domestic violence few years later or after decades of living with their maiden name, the insistence by court staff to adopt their husband’s name comes as a shock and sends their litigation-induced stress levels soaring,’ says a Mumbai family law lawyer. There is no logic in making women adopt the husband’s name while seeking divorce when they hadn’t used it all along.

**The Legal Implications for a Women retaining her Maiden Surname Post-marriage in India**

- If one chooses to change their name/surname post marriage, they have to make an affidavit and the changed name is published in the official gazette of the State Government.

Likewise, one need to change all their documents individually (if they already have them.) PAN card, driving license, bank documents, passport and every other government document need to be changed individually.

In all of these places, one will require to give a copy of the gazette/affidavit and marriage registration certificate.
• If one chooses not to use husband’s surname, no person can force to do so.

People are often under the impression that children may face problems in the future in getting government documents. This too is a myth.

In fact no law mandates that children should have ‘father’s name’ as the middle name either. Father’s name and surname is used because that is the prevailing custom. One is free to use their name and maiden surname for their child.

**Conclusion**

* After Marriage
  * A wife may continue to use her maiden name if she has not changed it officially after marriage.
  * A wife can file for divorce in her maiden surname; married surname; any other name she may have adopted and officially gazetted.

* After Divorce
  * A woman can continue using her former married surname.

One can name oneself / or their children ANYTHING. No one has a right to reinforce conditions or directly violate the fundamental right.

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**Vishaka Guidelines against Sexual Harassment at Workplace**

Guidelines and norms laid down by the Honorable Supreme Court of India on Vishaka and Others vs. State of Rajasthan (JT 1997 (7) SC 384)

HAVING REGARD to the definition of, ‘human rights’ in Section 2 (d) of the Protection of Human Rights Act, 1993, TAKING 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 at work places and that enactment of such legislation will take considerable time, it is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. **Duty of the Employer or other responsible persons in work places and other institutions**

   It shall be the duty of the employer or other responsible persons in work places 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.

   **2. 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 these 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 woman has reasonable ground 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 raises any objection thereto.

3. Preventive Steps

All employers or persons in charge of work place whether in public or private sector should take appropriate steps 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/Regulations 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 employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions 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.

4. 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 victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action

Where such conduct amounts 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.

6. 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 organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee

The complaint mechanism, referred to in (6) 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 member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either 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.

8. Worker’s Initiative
Employees should be allowed to raise issues of sexual harassment at a worker’s meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness
Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. 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.

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 the employers in Private Sector.

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

Other legal provisions include filing a criminal case under sections of the Indian Penal Code (IPC), the Indecent Representation of Women (Prohibition) Act and/or filing a civil suit.

The sections of the Indian Penal Code that can be applicable to sexual harassment (which makes it a criminal case):

1. Section 294
‘Whoever, to the annoyance of others, (a) does any obscene act in any public place, or (b) sings, recites and utters any obscene songs, ballads or words, in or near any public space, shall be punished with imprisonment of either description for a term that may extend to three months, or with fine, or with both.’ This provision is included in Chapter XVI entitled ‘Of Offences Affecting Public Health, Safety, Convenience and Morals’ and is cognisable, bailable and triable by any magistrate.

2. Section 354
Whoever assaults or uses criminal force on any woman, intending to outrage her modesty or knowing it likely that he will thereby outrage her modesty, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

3. Section 509
(Word, gesture or act intended to insult the modesty of a woman) This is included in Chapter 22 entitled ‘Of Criminal Intimidation, Insult and Annoyance’, and is cognisable, bailable and triable by any magistrate. It holds: ‘Whoever, intending to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture is seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.’

Under the Indecent Representation of Women (Prohibition) Act (1987) if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing the ‘indecent representation of women’, they are liable for a minimum sentence of 2 years.

4. Section 7
(Offenses by Companies) further holds companies where there has been ‘indecent representation of women’ (such as the display of pornography) on the premises, guilty of offenses under this act, with a minimum sentence of 2 years.
Civil Case

A civil suit can be filed for damages under tort laws. That is, the basis for filing the case would be mental anguish, physical harassment, loss of income and employment caused by the sexual harassment.

When Romance Changes into Sexual Harassment.......  

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The number of complaints registered with the National Commission for Women (NCW) concerning sexual harassment of women at workplace has been showing an increasing trend lately. Sexual harassment in workplace includes unwelcome verbal, visual or physical conduct of a sexual nature that is severe which can affect working conditions or creates a hostile work environment. It is a serious factor that renders women’s involvement in work unsafe and affects her right to work with dignity. It endangers the victim’s job and negatively affect her job performance. It may manifest itself physically or psychologically. Its milder and subtle forms may imply verbal innuendo, inappropriate affectionate gestures or propositions for dates and sexual favours. However it may also assume physical grabbing and sexual assault or sexual molestation.

Although romance at the workplace with your colleague, superior or even subordinate does not necessarily mean wedding bells, but it could mean truckloads of trouble. Getting carried away is not unnatural and on many occasions, professionals get carried away by growing intimacy and often don’t know where to draw the line. Sexual harassment may also include actual or attempted rape or sexual assault, unwanted and deliberate touching, leaning over, cornering, or pinching, unwanted sexual teasing, jokes, remarks, or questions, whistling at someone, kissing sounds, howling, smacking lips, touching an employee’s clothing, hair, or body; touching or rubbing oneself sexually around another person etc.

The entire purpose of this research paper stems backs to the landmark judgement by the Supreme Court of India in Vishaka vs. the State of Rajasthan. It was in fact in this very first case, for the first time, sexual harassment at workplace was acknowledged to be a human rights violation and elaborate guidelines were put into place. Sexual harassment at workplace was becoming an intolerable and uncontrollable menace. Amidst various other developments, controversies and delays, the Indian legislature finally enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013(Act No. 14 of 2013), with an objective to protect women against sexual harassment at workplace and to put in place a redressal mechanism to handle complaint. The Act has effectively adopted and revised the guidelines laid down in the Vishaka judgement with added provisions of rigour and compliance. It is important to note certain loopholes in the provisions of the said
legislation. Various sections of society have raised their own concerns and objections towards the Act, which may or may not be justified from a particular point of view.

**Objective of 2013 Act**

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.

**Objective of the Policy on Prevention of Sexual Harassment are as under:**

A company may formulate a policy based on the following lines to be in compliant with the guidelines laid down by the Supreme Court in the landmark judgment in Vishaka’s case as well as the provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:

- To ensure compliance of guidelines issued by Supreme Court in the case of Vishaka and others vs. the State of Rajasthan and others. [AIR 1997 Supreme Court 3011]
- 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.
- To ensure compliance of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as ‘SHWPR Act’).
- To provide a work environment free from harassment of any kind and in particular, a work environment that does not tolerate sexual harassment.
- To provide a mechanism for redressal of any grievance and complaints relating to any act of sexual harassment.
- To uphold mutual respect and positive regard towards other individuals.
- Unwanted conduct of a sexual nature and unwanted physical contact.
- Verbal forms include unwanted welcome innuendoes, suggestions/hints, sexual advances, comments with sexual overtones, objectionable sex-related jokes, insults or comments about person’s body.
- Non-verbal forms include unwelcome gestures, indecent exposure or unwelcome display of sexually explicit pictures/objects in any media.
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature, inappropriate inquiries, unwelcome whistling, etc.

**Conclusion**

It is certain that many victims will shy away from the publicity, the procedures, the delay and the harshness in the criminal justice system, this alternative structure and process is welcome, but needs much alteration. Helping the victim to make informed choices about the different resolution avenues, providing trained conciliators, settlement options by way of monetary compensation, an inquisitorial approach by the Committee, naming the victim by use of words like complainant etc. and not using her actual name and in camera trials are some areas of improvement. Apart from this, we need something else which the legislation cannot provide the mind set to understand the fears, compulsions, and pressures on women victims. The legal concept and test of a “reasonable man” should give right of gender to that of a “reasonable woman” as well. The legislation appears to be further excessive in the redressal mechanisms which it has established by leaving short comings in the powers and functions of these non-judicially equipped bodies. Moreover, some provisions could have been more leaning to the female victim, such as the provisions for conciliation and punishment for false or malicious complaints. The overall impression provided by the Act is that it is not well drafted, with sufficient reasonable foresight of the harsh effects of its implementation.
Marriage in the Indian society has been considered as a sacred bond since the Vedic period. With the ever-changing society and human psychology, the concept of marriage and relationship has also evolved. One such concept of live-in relationships is being adopted by numerous couples around the world. The relationships where two people cohabit outside marriage without any legal obligations towards each other are known as live-in relationships. Although the legal status of live in relationships in India is unclear, the Supreme Court has ruled that any couple living together for a long term will be presumed as legally married unless proved otherwise. Thus, the aggrieved live-in partner can take shelter under the Domestic Violence Act 2005, which provides protection and maintenance and thereby grant the right of alimony. The right to maintenance in live in relationship is decided by the court in accordance with the Domestic Violence Act, 2005 and the individual facts of the case.

Though the common man is still hesitant in accepting this kind of relationship, the Protection of Women from Domestic Violence Act 2005, provides for the protection and maintenance thereby granting the right of alimony to an aggrieved live-in partner. The Court stated that a live-in relationship will fall within the expression ‘relationship in the nature of marriage’ under Section 2(f) of the Protection of Women against Domestic Violence Act, 2005 and provided certain guidelines to get an insight of such relationships. Also, there should be a close analysis of the entire relationship, in other words, all facets of the interpersonal relationship need to be taken into account, including the individual factors.

The Supreme Court states that living together is a right to life and therefore it cannot be held illegal. The court has also tried to improve the conditions of the women and children borne out of live in relationships by defining their status under the Domestic Violence Act, 2005 if the relationship is proved to be “relationship in the nature of marriage”. In a recent case of May 5th, 2015, the Supreme Court bench of Justices Vikramajit Sen and A.M. Sapre, dismissed a petition by the petitioner ‘Z’ who worked in the Bollywood and contended that the respondent could not claim the status of a wife to be legally entitled to get maintenance under the Hindu Marriage Act, 1955. The Court held that cohabitation of a couple would give rise to the presumption of a valid marriage and if a live-in relationship breaks down, the man is bound to pay maintenance to the women.
In the landmark Indra Sharma Case, the Court stated that such relationship may endure for a long time and can result in a pattern of dependency and vulnerability, and increasing number of such relationships calls for adequate and effective protection, especially to the woman and children born out of that live-in-relationship. Legislature, of course, cannot promote pre-marital sex, though, at times, such relationships are intensively personal and people may express their opinion, for and against. Thus, the Parliament has to ponder over these issues, bring in proper legislation or make a proper amendment of the Act, so that women and the children, born out of such relationships are protected, though such relationship might not be a relationship in the nature of a marriage.

Law and Gender: Inequality on Black and White

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Gender is an increasingly prominent aspect of the contemporary debate and discourse around law. It is curious that gender, while figuring so centrally in the construction and organization of social life, is nevertheless barely visible in the conceptual armoury of law. In the jurisprudential imagination law is gender-less; as a result legal scholarship for the most part continues to hold on to the view that gender plays little or no role in the conceptual make-up, normative grounding, or categorical ordering of law. The official position is that the idea of law and legal fundamentals are, or at least ought to be, gender-independent.

The relationship between gender and the law is relevant to virtually all areas of law including the Criminal Law, Tort Law, Family Law, Employment Law, and Human Rights.

India ranks 130 out of 155 countries in the Gender Inequality Index (GII) for 2014, way behind Bangladesh and Pakistan that rank 111 and 121 respectively, according to data published in the United National Development Programme’s latest Human Development Report (HDR) 2015.¹


There is equality, no discrimination on bases of race, caste and sex, equal protection of law, equal opportunity, reservations, human rights and gender justice... see everything has covered. We have incorporated everything in our Constitution. We have also strict punitive structure and laws relating to gender indiscrimination. We have valuable wordings of Honourable Supreme Court as a guideline in the landmark judgment of Vishaka vs. State of Rajasthan.²

Let us look at the situation of the BETTER HALF:

There are some social customary practices which create gender discrimination, like the Burkha Pratha in Muslims; the Ghumta Pratha in Hindus; need of Uniform Civil Code in Muslims; Wearing Apparels of Hindu married women; Change of name of bride after marriage; Restrain women from entering into shrine of temple or mosque, etc.

• Why only the females are being insisted to cover their face and save themselves from strangers? Instead strangers should be restrained from

²https://indiankanoon.org/doc/1031794/
starring at them. There are provisions and punishments for starring in the law.

- Why there is no Uniform Civil Code in India when the Indian Constitution gives equal protection of law and equality before law for everybody in India. A male, from any medium, pronounces triple talaq and the female has to become a spectator and let her life and dreams ruin just because the male has a good reason that now he doesn’t like her or changed his choice or no more interested in her!!!

- Why the Hindu married women have to show their marital status by wearing apparels like Mangalsutra, Bangles, Wedding Ring and apply Kumkum on their forehead. Whereas, there is no such provision for male through which it can be seen that the male is married.

- Why females have to change their name after marriage? By leaving father’s house not only a daughter is leaving but a lady is losing her identity by sacrificing her last name. Instead of her father’s name, her husband’s name gets affixed from very next day of marriage. In some communities, even her own name gets changed and a new name is given to the bride by the in-laws. Females lose their sole identity of her own and there is no change to her husband’s name.

- After taking birth from womb of a female, the male decides that females are not allowed to enter into the shrine of a temple or mosque. Is it not a questionable practice that is still practised across India?

A recent United Nations (U.N.) report¹ lists all the ways laws officially support men over women: Hindu Law of Inheritance

Right now different religions have different personal laws that regulate inheritance, marriage, separation and guardianship in India. In the case of Hindus, the property of a woman who dies without a will is handled differently from that of a man. In the absence of spouse and children, the husband’s heirs inherit the woman’s estate.

‘Even if the deceased woman was ill-treated in her marital home, her husband’s mother or father will get her property instead of her own mother or father,’ says Kirti Singh, the family and property lawyer who authored the UN report.

**Parsi Law of Inheritance**

Despite shrinking numbers, Parsis still penalize those who marry outside their community and it’s allowed. A non-Parsi woman who is either a wife or widow of a Parsi cannot inherit the property. Their children still can, although those born to a Parsi woman married to a non-Parsi man are not considered part of the community.

**Prohibition of Child Marriage Act**

The marriage of a 1-year-old or 10-year-old is valid. The law only prevents marriages of children; it does not render them illegal once they actually happen. According to the UN, this is one of the main reasons why the custom still flourishes in rural areas.

The married children, however, have the right to declare it void. A woman can call off a marriage until she turns 20, whereas a man has a right to call off till 23.

**Age of Consent**

Sexual intercourse with a girl below the age of 18 is considered rape. But since child marriages are not illegal, a man can legally have sex with his wife even if she is a minor, as long as she is above the age of 15. Further, marital rape is not criminalised in India.

**Rape of a Separated Wife**

The rape of a separated wife carries lesser punishment than the rape of any other woman. Forced sexual intercourse with the former is punishable with two to seven years of imprisonment. Prison sentence for the rape of any other woman ranges from seven years to life.

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¹http://countryoffice.unfpa.org/india/drive/LawsandSonPreferenceinIndia.pdf
Marriageable Age
The minimum age for marriage for a boy is 21, but 18 for a girl. This is a legal extension of the patriarchal mind-set that believes that a wife should always be younger than her man.

Hindu Minority and Guardianship Act
Women are still not equal guardians of their children. A father is considered the ‘natural guardian’ of a child, although the custody of offspring under the age of 5 will ordinarily be awarded to the mother.

The Goa Law on Polygamy
A law recognises the second marriage of ‘Gentile Hindu’ man of Goa if his previous wife does not have any children before age 25 or if she does not have a male child by 30.

No Right to Marital Property Law
Upon separation or divorce, an Indian woman is the entitled only to maintenance from her husband. She has no right on the assets, such as house or commercial property, bought in her husband’s name during the marriage. So if she leaves him or gets divorced, even years after the marriage, she is potentially without assets. Indian government policies do not consider the work done at home by a woman as having an economic value.

Recently there was a question before Honourable Delhi High Court that whether the name of the biological father is valid or not? Through this HC decision, it is another way of empowering the womenfolk. The single mother is capable of raising her own child without the help of the father and the fact that it is just a legal necessity for the father’s name to be there is evident enough that it can be scrapped off. The Court ruled that authorities ‘can insist upon the name of the biological father in the passport only if it is a requirement in law, like standing instructions, manuals, etc. In the absence of any provision, making it mandatory to mention the name of one’s biological father in the passport, the respondents cannot insist upon the same.’

Justice Manmohan observed, ‘This court also takes judicial notice of the fact that families of single parents are on the increase due to various reasons like unwed mothers, sex workers, surrogate mothers, rape survivors, children abandoned by father and also children born through IVF technology.’ He said just because the software of the passport office didn’t accept a single parent’s applications, it cannot become a legal requirement.

Let us look at condition of the OTHER HALF too:
The father of the deceased doesn’t inherit property, but the mother does
Under the Hindu Succession Act of 1956, if the deceased has no will, the spouse, mother and children inherit the property belonging to the deceased. The father is only entitled if the deceased does not have a spouse, mother or children.

A boy is entitled to maintenance only till he turns 18, whereas a girl is entitled to maintenance till she gets married
Under the Hindu Adoption and Maintenance Act of 1956, it is the parents’ responsibility to a girl child’s maintenance till she decides to provide for herself or gets married.

Only the man is prosecuted for adultery
According to Section 497 of the Indian Penal Code, if the husband commits adultery with the wife of another man, he can be prosecuted for the same. But if a woman commits adultery with the husband of another woman, she cannot be prosecuted.

If a man has sex on the pretext of marriage and doesn’t marry, it amounts to rape
Yes, the fourth point of Section 375 of the Indian Penal Code states that if a man has sex with a woman

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1 http://www.ndtv.com/india-news/mothers-name-sufficient-for-passport-high-court-1408568
3 https://indiankanoon.org/doc/17630/
after promising marriage, he can’t break up with the woman. If he does, according to the laws in India, he’s a rapist.5

If a guy under 16 years of age has consensual sex with a girl of his age, he’s a rapist:
According to the sixth situation listed in Section 375 of the Indian Penal Code, if a 16-year-old guy and girl have sex, she’s been raped!9

If a woman is treated with physical or mental cruelty by her husband and his family, she can throw them behind bars
Section 498(A) of the Indian Penal Code says that, the woman doesn’t need to give any evidence if she is treated with physical or mental cruelty by her husband and his family, she can throw them behind bars. But this Section amounts to an increase in the number of reported false imprisonments.10

According to Indian Law, a man serves up to 3 year’s jail or a fine for sexual harassment but what about a woman?
According to Section 354(A) of the Indian Penal Code, a man can serve up to 3 years of imprisonment for sexually harassing a woman11, but there is no such law made for women.

Under the Special Marriage Act, only the wife can claim permanent alimony and maintenance
Under the Hindu Marriage Act, both the man and woman can claim permanent alimony and maintenance, but under Section 37 of the Special Marriage Act of 1954, only the wife can claim permanent alimony and maintenance.

If the death of the woman is caused by burns or bodily injury within 7 years of marriage, it’s the husband’s fault
The above clause has been stated in Section 304 B of the Indian Penal Code.12

The inequality is on black and white which can be seen from numbers of cases and conflicting provisions. Let us all hope to join hands and endeavour for a real equality and no discrimination on the bases of sex anymore and try to curb the social evils which are prevailing in the name of customary practices in our society.

11https://www.kaanoon.com/indian-law/ipc-354a/
12https://indiankanoon.org/doc/653797/

Marital Rape in India

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Marital rape also known as spousal rape and rape in marriage is non-consensual sex (i.e. rape) in which the perpetrator is the victim’s spouse. It is a form of partner rape, domestic violence and sexual abuse.

The importance of the right to self-sexual determination of women is increasingly being recognized as crucial to women’s rights.

Marriage is an institution which admits men and women to family life. It generates love and trust. It is a stable relationship in which a man and a woman are socially permitted to have children implying the right to sexual relations.
Marriage generates confidence in wife that husband will provide safety and respect her dignity and when he commits unwanted/forcefully intercourse with his wife, it breaks this confidence and breaches the trust of the wife. In such circumstances, what is the need of providing immunity to the husband from committing rape with his own wife? This immunity has now been withdrawn in most major jurisdictions. In England and Wales, the House of Lords held in 1991 that the status of married women had changed beyond all recognition since Hale set out his proposition. Most importantly, Lord Keith, speaking for the Court, declared, ‘marriage is in modern times regarded as a partnership of equals and no longer one in which the wife must be the subservient chattel of the husband.’

Article 2 of the Declaration of the Elimination of Violence against Women includes marital rape explicitly in the definition of violence against women. Indian criminal law also demands changes and inclusion of marital rape in section 375 of Indian Penal Code. In the present scenario in India husband and wife both are having separate legal entity. Women in India are not only giving their major assistance in home but also outside the home. Marital rape breaches her trust on her husband.

Section 375 of the Indian Penal Code provides rape as ‘sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped, or is of unsound mental health and in any case if she is under 16 years of age.’

According to Section 375 unwanted intercourse with an unmarried lady or married lady except by her husband is rape but what about married lady if the unwanted intercourse is done by her husband. The concept of marital rape does not exist in India. Here it appears that we are creating discrimination in rape committed with unmarried lady and rape committed with married women (15 years of age and above) by her husband.

Punishment for marital rape shows the discrimination between, if the wife is under 12 years of age and if wife is more than 12 years but less than 15 years of age.

According to the UN Population Fund, more than two-thirds of married women in India, aged 15 to 49, have been beaten, or forced to provide sex. In 2011, the International Men and Gender Equality Survey revealed that, one in five have forced their wives or partner to have sex. The United Nations published report states that, 69% of Indian women believe that occasional violence was justified, for instance when a meal hasn’t been prepared in time or when sex has been refused. Further statistical research reveals that 9 to 15% of married women are subjected to rape by their husbands, a staggering and sobering statistic.

Article 21 of the Constitution of India provides right to live with dignity. But marital rape clearly breaches the right of a married woman to live with dignity. Or in other words we can say that section 375 of IPC violates article 21 of the constitution regarding marital rape. Today there are many Countries that have either enacted marital rape laws, repealed marital rape exceptions or have laws that do not distinguish between marital rape and ordinary rape. These Countries include Albania, Algeria, Australia, Belgium, Canada, China, Denmark, France, Germany, Hong Kong, Ireland, Italy, Japan, Mauritania, New Zealand, Norway, the Philippines, Scotland, and South Africa. Turkey criminalized marital rape in 2005, Mauritius and Thailand did so in 2007.

The 172nd Law Commission report had made the following recommendations for substantial change in the law with regard to rape.

- ‘Rape’ should be replaced by the term ‘sexual assault’.
- Sexual intercourse as contained in section 375 of IPC should include all forms of penetration such as penile/vaginal, penile/oral, finger/vaginal, finger/anal and object/vaginal.
• In the light of Sakshiv, Union of India and others, sexual assault on any part of the body should be construed as rape.
• Rape laws should be made gender neutral.
• A new offence, namely section 376E with the title ‘unlawful sexual conduct’ should be created.
• Section 509 of the IPC was also sought to be amended, providing higher punishment where the offence set out in the said section is committed with sexual intent.
• Marital rape: explanation (2) of section 375 of IPC should be deleted. Forced sexual intercourse by a husband with his wife should be treated equally as an offence just as any physical violence by a husband against the wife is treated as an offence. On the same reasoning, section 376A has to be deleted.
• Under the Indian Evidence Act (IEA), when alleged that a victim consented to the sexual act and it is denied, the court shall presume it to be so.

**Conclusion**

Rape is a most heinous crime committed on a woman, immaterial of whether a woman is married or unmarried. Marital rape also violates the human right of a married woman i.e. safety and integrity. Why marital rape is not being covered under Indian Penal Code. On one hand, there are talks of empowering women and on the other, protecting the dignity and right to life of married women remains a question of concern.

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**The National Commission for Women**

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**About National Commission for Women**

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 (Act No. 20 of 1990 of Government of India) to:

1) review the Constitutional and Legal safeguards for women;
2) recommend remedial legislative measures;
3) facilitate redressal of grievances and
4) advise the Government on all policy matters affecting women.

**Constitution of the Commission (SECTION 3) (NCW Act No. 20 of 1990 of Government of India):**

1. The Central Government shall constitute a body to be known as the National Commission for women to exercise the powers conferred on and to perform the functions assigned to it under the Act.

2. The Commission shall consist of:

   a) A Chairperson, committed to the cause of women, to be nominated by the Central Government.
b) five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or women’s voluntary organisations (including women activist), administration, economic development, health, education or social welfare; provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;

c) a Member-Secretary to be nominated by the Central Government who shall be:-

i. an expert in the field of management, organisational structure or sociological movement, or

ii. an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

THE MANDATE OF THE COMMISSION (SECTION 10) (NCW Act No. 20 of 1990 of Government of India):

1. The Commission shall perform all or any of the following functions namely:-

a. Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;

b. present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguard;

c. make in such reports recommendations for the effective implementation of those safeguards for the improving the conditions of women by the Union or any State;

d. review, from time to time, the exiting provisions of the Constitution and other laws affecting women and recommend amendments there to so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

e. take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

f. look into complaints and take suo moto notice of matters relating to:-

i. deprivation of women’s rights;

ii. non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

iii. non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;

g. call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

h. undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

i. participate and advice on the planning process of socio-economic development of women;

j. evaluate the progress of the development of women under the Union and any State;

k. inspect or cause to inspected a jail, remand home, women’s institution or other place of custody where women are kept as prisoners,
remand home, women’s institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;

l. make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

m. any other matter which may be referred to it by Central Government.

2. The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

3. Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward an copy of such report or part to such State Government who shall causes it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.

4. The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:-

a. summoning, and enforcing the attendance of any person from any part of India and examining him on oath;

b. requiring the discovery and production of any document;

c. receiving evidence on affidavits;

d. requisitioning any public record or copy thereof from any court or office;

e. issuing commissions for the examination of witnesses and documents; and

f. any other matter which may be prescribed.

Reaching Out

NCW’s Multi-Pronged strategy to tackle the problem of violence against women:

- Generation of legal awareness among women, thus equipping them with the knowledge of their legal rights and with a capacity to use these rights;

- Assisting women in redressal of their grievances through Pre-litigation services;

- Facilitating speedy delivery of justice to women by organizing ParivarikMahilaLokAdalats in different parts of the country;

- Review of the existing provisions of the Constitution and other laws affecting women and recommending amendments thereto, any lacunae, inadequacies or short comings in such legislation’s;

- Organizing promotional activities to mobilize women and get information about their status and recommend paradigm shift in the empowerment of women;

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;

- Review, from time to time, the exiting provisions of the Constitution and other laws affecting women;

- Take up cases of violation of the provisions of the Constitution and other laws affecting women;

- Look into complaints and take suo-moto notice of matters;

- Deprivation of women’s rights;

- Special studies or investigations into specific
problems or situations arising out of discrimination and atrocities against women;

- Undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement;

- Advice on the planning process of socio-economic development of women;

- Evaluate the progress of the development of women under the Union and any State;

- Inspect or cause to inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;

- Fund litigation involving issues affecting a large body of women

**NCW Cells**

The various cells of the Commission:-

- Complaints and CounsellingCell
- Legal Cell
- PPMRC Cell
- Public Relations Cell
- RTI Cell
- NRI Cell

**Complaint and Investigation Cell**

The Complaints and Investigation Cell of the commission processes the complaints received oral, written or suomoto under Section 10 of the NCW Act.

The complaints received relate to domestic violence, harassment, dowry, torture, desertion, bigamy, rape, refusal to register FIR, cruelty by husband, deprivation, gender discrimination and sexual harassment at work place.

The complaints are tackled as below:-

- Investigations by the police are expedited and monitored.
- Family disputes are resolved or compromised through counselling.
- For serious crimes, the Commission constitutes an **Inquiry Committee** which makes spot enquiries, examines various witnesses, collects evidence and submits the report with recommendations. Such investigations help in providing immediate relief and justice to the victims of violence and atrocities. The implementation of the report is monitored by the NCW. There is a provision for having experts/lawyers on these committees.

The State Commission, the NGOs and other experts are involved in these efforts.

The complaints received shows the trend of crimes against women and suggests systemic changes needed for reduction in crimes.

The complaints are analyzed to understand the gaps in routine functioning of government in tackling violence against women and to suggest corrective measures.

The complaints are also used as case studies for sensitization programmes for the police, judiciary, prosecutors, forensic scientists, defense lawyers and other administrative functionaries.

As per the 1997 Supreme Court Judgment on Sexual Harassment at Workplace, **(Vishakha Vs. State of Rajasthan)** every employer is required to provide for effective complaints procedures and remedies including awarding of compensation to women victims. In sexual harassment complaints, the concerned organization are urged to expedite cases and the disposal is monitored.

**PPMRC Cell**

The PPMRC Cell is responsible for issues related
with socio economic conditions of women in the country and calls for special studies or investigations into specific problems or situations arising out of discrimination against women and undertakes promotional and educational research so as to suggest ways of ensuring due representation to women in all spheres.

Social mobilization, maintenance and divorcee women, Panchayati Raj in action, women labour-under contract, gender bias in judicial decisions, family courts, gender-component in the various Commissions’ reports for women, violence against women, women’s access to health and education in slums etc. to help in formulation of NCW’s policies for recommendations.

The Cell evaluates the progress of the development of women for which clear gender profile for different states is being prepared. This Cell also conducts seminars and workshops in collaboration with state governments for understanding the various problem areas in the field and to suggest action plan/ remedial measures to resolve these problems.

**Legal Cell**

**Some provisions of the NCW Act specifically requires the commission to:**

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;
- Present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- Make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any state;
- Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislation;
- Take up the cases of violation of the provision of the Constitution and of other laws relating to women with appropriate authorities;

The primary mandate of the Commission is to review the constitutional and legal safeguards provided for women, recommend remedial legislative measures, felicitate redressal of grievances and advice the Government on all policy matters affecting women.

Under the Legal Cell, we can find information on:

- New Bills / Laws proposed
- Important Court Interventions
- Important Court Judgements

**Public Relation Cell**

The National Commission for Women is committed to the protection of the rights of women in the country and to their welfare and development. To attain these aims, the Commission organizes countrywide campaigns, workshops and consultations. The PR Cell throws light on the activities undertaken by the Commission to fill its mandate to participate, advice on the planning process of socio-economic development of women and evaluate the progress and development of women under the Union and the State Government

**NRI Cell**

- National Commission for Woman has been nominated as the Coordinating agency at the National level for dealing with issues pertaining NRI marriages vide Ministry of Overseas Indian Affairs order dated 28th April 2008.
- Based on the recommendation of the Parliamentary Committee on Empowerment of Woman (14th LokSabha) on the subject “Plight of Indian Woman deserted by NRI husbands” which was discussed and deliberated upon the Inter Ministerial Committee meeting held on 7th July, 2008.

**North East Cell**

North Eastern Region comprises the following States:
 NATIONAL COMMISSION FOR WOMEN has constituted a North East Cell in the Commission to address problems being faced by North East women all over the country and to take special steps for development and empowerment of them. In addition, NE Cell, has been created to enhance the focus on the women of NE and their special problems/challenges, and also to intervene with State and Central Governments whenever required.

The North East Cell of the Commission
1. Processes all the complaints received from North East States received through online registration or by post
2. Take suo-moto cognizance in respect of cases related to North East States
3. Processes the proposals of Research Studies, Seminars / workshops and Legal Awareness Programs received from North East States
4. Deals with all other issues and matters with regard to legal review, administrative and organizational issues brought to the notice of this cell which relate to North East Region

RTI Cell
• Right to information ACT, 2005.
• RTI Manuals & Guidelines
• RTI Officers Details
• Organizational Chart
• Salary Description of NCW staff
• Delegation of Power of NCW Officers

• NOTIFICATIONS ISSUED AND RULES FRAMED UNDER THE NATIONAL COMMISSION FOR WOMEN ACT, 1990 (Act No. 20 of 1990)
• Frequently asked questions (FAQ’s)
• Notification (Hindi) (English)
• Information under Section 4(1)(b) of the RTI Act, 2005

Publications
To meet the information needs of the Commission and various interested individuals and organisations, the National Commission for Women has started its own Library on 27th May, 1994. It has now evolved as a defacto Resource Centre for Research Scholars / Activists. There are books covering different issues relating to women’s advancement.

The library collection includes important reference books like Encyclopaedias, Directories of NGO’s as well as the complete set of Halsbury’s Laws of England (4th Edition). It subscribes 25 daily newspapers in different languages and 35 periodicals / professional journals. The library has a regular system of documenting newspaper clippings on women’s issues. NCW publishes its own books from time to time. It also sponsors research studies on various aspects concerning women issues and helps in getting them published.

The Commission regularly brings out a monthly newsletter Rashtra Mahila in Hindi and English.

Current Commission
Ms. Lalitha Kumaramangalam took over as the Chairperson of the National Commission for Women. Belonging to an illustrious political family, comprising Governor, Cabinet Ministers, Army General and Members of Parliament, Ms. Kumaramangalam is a prominent political leader in her own right, who has been working relentlessly for decades for the empowerment and advancement of women belonging to the vulnerable and under-privileged sections of society. She has worked on
issues dealing with healthcare, HIV/AIDS prevention and worked with dis-empowered communities like truckers, sex-workers, the LGBT community, migrant and construction workers, SHGs and urban slum women.

References:

*The National Commission for Women.* Retrieved from http://www.ncw.nic.in
Right to Information (RTI) Act, 2005

Ms. Krupali Patel
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Women’s Studies Research Center
The Maharaja Sayajirao University of Baroda, Vadodara
director-wsrc@msubaroda.ac.in

Object of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens of India, to promote transparency and accountability in the working of the Government, to contain corruption, and to enhance people’s participation in democratic process thereby making our democracy work for the people in a real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed.

What is a Public Authority?

Citizens have a right to information under the RTI Act, from public authorities, which are the repositories of information, and this is done through the Public Information Officer (PIO). Public authority means any authority, body, or institution of self-government established or constituted:

i. by or under the Constitution;

ii. by any other law made by the Parliament or a State Legislature;

iii. by notification issued or order made by the Central Government or a State Government and includes any

(a) body owned, controlled or substantially financed

(b) Non-government organization substantially financed directly or indirectly by funds provided by appropriate Government.

What sought of Information is accessible?

The scope of ‘information’ is given in the definition of ‘right to information’ under Section 2(j), which includes the right to:

(i) inspection of work, documents, and records;
(ii) taking notes, extracts, or certified copies of documents or records;
(iii) taking certified samples of material; and
(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes, or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.
Public Information Officer (PIO): Public authorities have designated some of its officers as Public Information Officers. They are responsible to give information to a person who seeks information under the RTI Act.

Assistant Public Information Officer (APIO): APIOs are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the PIO of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information. (The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.)

Information Exempted from Disclosure
Section 8(1) of the RTI Act provides a list of 10 categories of information, 8(1) (a) to 8(1) (j), as exempted from disclosure. However, under Section 8(2), all such exemptions can be waived if a public authority decides that public interest in disclosure outweighs the harm to protected interests.

Rights Conferred on Citizens under the Act
The rights conferred on citizens under the RTI Act 2005, include:

1) The right to information (Section 3)
2) Choosing medium of request (in writing or through electronic means) for obtaining Information (Section 6(1))
3) Choosing language of request (in English or Hindi or in the official language of the area in which the application is made) for obtaining information (Section 6(1))
4) Seeking help in writing request Proviso to Section 6(1)
5) Not stating any reason for requesting Information or providing any other personal details except those necessary for contacting the applicant (Section 6(2))
6) If request for information is transferred to another public authority, to be informed immediately about such transfer (Section 6(3))
7) Right with respect to review the decision about amount of fees charged, or the form of access provided (Section 7(3)(b))
8) Assistance in accessing record, if applicant is disabled (Section 7(4))
9) All fees are waived for below poverty line (BPL) applicants (Section 7(5))
10) All fees are waived if a public authority fails to supply information within the specified time limits (Section 7(6))
11) Knowledge of reasons for rejection, period within which an appeal can be made, and particulars of appellate authority (AA) (Section 7(8))
12) Making of complaint to CIC/SIC, as the case may be if:
   a) Unable to submit request to PIO/APIO (Section 18(1)(a))
   b) Refused access to information (Section 18(1)(b))
   c) Not given response within time limit (Section 18(1)(c))
   d) Required to pay unreasonable fee (Section 18(1)(d))
   e) Provided incomplete, misleading information or false information (Section 18(1)(e))
   f) In respect of any matter relating to accessing record (Section 18(1)(f))
13) Can prefer an appeal (Section 19(1) and Section 19(3))
The process for obtaining information and disposal of requests

**Figure: Application and appeal process through RTI**

*Note: *An applicant can also lodge a complaint with CIC/SIC for reasons given under Section 18(1) of the Act.

The first appellate authority, is an officer senior in rank to the Public Information Officer (PIO).
# Time Limit for Supply of Information

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Situation applications</th>
<th>Time Limit for disposing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Supply of information in normal course.</td>
<td>Within 30 days of receipt of the request.</td>
</tr>
<tr>
<td>2</td>
<td>Supply of information if it concerns the life or liberty of a person.</td>
<td>Within 48 hours of receipt of the request.</td>
</tr>
<tr>
<td>3</td>
<td>Supply of information if the application is received through APIO.</td>
<td>5 days shall be added to the time period indicated at Sr. Nos. 1 and 2</td>
</tr>
<tr>
<td>4</td>
<td>Supply of information if application / request is received after transfer from another public authority:</td>
<td>(a) Within 30 days of the receipt of the application by the concerned public authority.</td>
</tr>
<tr>
<td></td>
<td>(a) In the normal course</td>
<td>Section 7(1)</td>
</tr>
<tr>
<td></td>
<td>(b) In case the information concerns the life or liberty of a person.</td>
<td>(b) Within 48 hours of receipt of the application by the concerned public authority.</td>
</tr>
<tr>
<td>5</td>
<td>Supply of information where the applicant is asked to pay an additional fee.</td>
<td>The period between informing the applicant about additional fee and the payment of said fee by the applicant shall be excluded for calculating the period of reply. Section 7(3)(a)</td>
</tr>
<tr>
<td>6</td>
<td>Supply of information by organizations specified in the Second Schedule:</td>
<td>(a) 45 days from the receipt of application</td>
</tr>
<tr>
<td></td>
<td>(a) If information relates to allegations of violation of human rights.</td>
<td>Section 24(1) and (4)</td>
</tr>
<tr>
<td></td>
<td>(b) In case information relates to allegations of corruption.</td>
<td>(b) Within 30 days of the receipt of application. Section 24(1)</td>
</tr>
</tbody>
</table>

**References:**


About the Course

Women’s Studies Research Center undertakes teaching and training programs to instill gender perspective in mainstream discipline as one of the goals of the Center. With the broad objective to generate awareness about laws related to Women, a short certificate course on ‘Women and Law’ was conducted on March 3 (Thursday) and March 4 (Friday), 2016. The course was open for graduates and professionals from different disciplines, having interest in this subject.

Course Details

Title of the course
Short Certificate Course on ‘Women and Law’

Objective
To generate awareness about Laws related to Women and Constitution, Rights of the Women, CEDAW, Prevention of Sexual Harassment of Women at Workplace, and Domestic Violence.

Duration: Total 6 hours

Date and Time: March 3 (Thursday) and March 4 (Friday), 2016; 2.00 pm to 5.00 pm

Participants:
The course participants were from different genres - research scholars, students, faculty members, professors, counselors, freelancers, pre-school principal, drama artist, and state project coordinator. There were total 28 participants who opted for the course.

Teaching Faculties:
Dr. Archana Gadekar, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda, Vadodara
Dr. Namrata Solanki, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda, Vadodara

Course Sessions

Day 1 – Thursday, March 3, 2016

- Women and Constitution
- Rights of Women: A Constitutional and Human Rights Perspective

–Dr. Archana Gadekar
Dr. Archana Gadekar initiated the session with the basic understanding of Indian Constitution and the Preamble. Talking about the constitutional provisions for women, she discussed about various articles. Article 14 gives - Right to Equality before Law and Equal Protection of Laws. Relating to Articles 14, 15, 16, the discrimination ‘only’ on ground of sex is prohibited. She threw light on more on Article 14, by citing examples from India and other countries. Acts like medical examination of a woman for testing her virginity, tapping the telephone conversation of wife with others without her knowledge - amounts to violation of Right to Privacy and Personal Liberty under Article 21.

Dr. Archana talked about rape as a violation of human right and discussed about laws pertaining to rape cases. Rape was not merely a criminal offence, it was also violation of a woman’s right to live with dignity and personal freedom. Criminal Law (Amendment) Act 2013, provides for Life Term and even Death Sentence for rape convicts besides stringent punishment for offences like acid attacks, stalking and voyeurism.

She highlighted on the Uniform Civil Code, Right to Education, Employment, Right to Vote and Political Participation. According to the Directive Principles of State Policy the State shall, in particular, direct its policy towards securing - the right to an adequate means of livelihood; securing equal pay for equal work for both men and women; securing the health and strength of workers, men and women, and the tender age of children are not abused; securing just and humane conditions of work and for maternity relief. There are Acts like - The Factories Act, Maternity Benefit Act, Beedi and Cigar Workers (Conditions of Employment) Act, etc. which are in accordance with the above mentioned Directive Principle of the State Policy.

- **Convention on the Elimination of all forms of Discrimination against Women (CEDAW)**

  – Dr. Namrata Solanki

The session began with the discussion on constitutional and legal provisions with respect to women in India. Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is described as International Bill of Rights. It consists of a Preamble and 30 Articles. The Preamble is the introductory part of the Protocol which sets out the object and purpose of the Protocol. It refers to the Principles of Equality and Non-discrimination as embodied in the UN Charter, the Universal Declaration of Human Rights, and other International Human Rights Instruments, including the Convention on the Elimination of all forms of Discrimination against Women.

Further, Part I of the Constitution - Discrimination; Policy Measures; Guarantee of Basic Human Rights and Fundamental Freedoms; Special Measures; Sex Role; Stereotyping and Prejudice; and Prostitution were discussed.

Different Laws related to The Constitution of India; Immoral Traffic (Prevention) Act; Indecent Representation of Women Act; The Dowry Prohibition Act; The Commission of Sati (Prevention) Act; The Protection of Women from Domestic Violence Act; The National Commission for Women Act; and The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (PNDT) Act were discussed.

The Committee on the Elimination of all forms of Discrimination against Women is a body of independent experts who monitor the implementation of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). It reaffirms the determination of States parties which adopt the protocol 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.

The session ended with the discussion on Optional Protocol to CEDAW, an International Treaty which

**Day 2 – Friday, March 4, 2016**

- **Constitutional and Legal Provisions in respect of Women in India**
  
  The session on The Constitution of Indiawas taken by Dr. Namrata Solanki. The Constitution of India is the Supreme Law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out Fundamental Rights, Directive Principles and the Duties of Citizens.

  Right to Equality (No discrimination) Article 15(3); Right to freedom; Right against Exploitation (Article 23); Right to Freedom of Religion; Cultural and Educational Rights; Right to Constitutional Remedies; Women Reservations in Election to Local Bodies were discussed.

  The session talked about the articles of Directive Principles of State Policy. Article 39(a) - represents that men and women are equal for livelihood. Article 39(d) - describes equal pay for equal work for both men and women. Article 39(e) - reads health and strength of workers, men and women and the consent age of children. Article 39A -represents Equal justice and free legal aid. Article 42 - presents human conditions of work and maternity relief. Article 44 - Reads Uniform Civil Code for the citizens. The remedies available in the Constitution in the form of Article 32 and 226 were also discussed; and how the Supreme Court plays its role towards the enforcement of remedies and rights.

  Domestic Violence means any act or conduct which has potential to injure or hurt women—physically, mentally, emotionally, socially and also spiritually within the four walls of house. Sections of Criminal Law and Civil Law related to domestic violence were shared in the session. Further provisions of Women from Domestic Violence Act, 2005 which covers physical, sexual, verbal or emotional and economic abuse were also discussed. Sections of Criminal and Civil Law related to domestic violence were shared in the session along with provisions of Domestic Violence Act, 2005. New offences were also shared in the session viz. Acid Attack; Attempt to Acid Attack; Sexual Harassment; Act to disrobe a woman; Voyeurism; Stalking; Trafficking etc. were discussed. Different laws like - Personal Laws (Hindu Laws and Muslim Laws); Property Laws;How to manage property; and How to make a Will etc. were discussed. Key points to remember while making a Will includes - fair distribution; clearly worded Will; appointment of trustworthy executors; appointment of a guardian – in case one has minor children; making changes to the Will; and keeping duplicate copies of the Will.

- **Sexual Harassment of Women at Workplace**
  
  It is important to frame a sexual harassment policy to ensure safe, secure and congenial work environment, where employees deliver their best without any inhibition, threat or fear quotes Dr. Gadekar. She explained how the Legislation evolved from the guidelines that came into force after the Vishakha Judgment in 1997. Since, sexual harassment results in violation of the Fundamental Rights of Women to Equality as per Articles 14 and 15 and her Right to Live with Dignity as mentioned under Article 21 of the Constitution, the Government of India, in 2013, after a span of 16 years, finally enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 for prevention of sexual harassment against women at the workplace. This Act is an extension of the Vishakha Guidelines issued by the Supreme Court in 1997.
Dr. Archana Gadekar mentioned the sections that were included in the Legislation - Definition, Constitution of Internal Complaints Committee (ICC), Constitution of Local Complaints Committee (LCC), Complaint, Inquiry into Complaint, Duties of Employer and Duties and Powers of District Officers.

Starting with the definition of Sexual Harassment which includes Verbal, Written, Visual and Non-verbal conducts of sexual nature along with citing examples, sharing the list showing differences between welcome and unwelcome behavior. Examples of workplace behaviors that may not constitute to Sexual Harassment like performance pressure, work related stress, conditions of work were also discussed. She talked about Quid Pro Quo (literally ‘this for that’) and Hostile Work Environment, the two common forms of inappropriate behaviors in Sexual Harassment at workplace.

Dr. Archana talked about, as described in the Act, the people and authorities responsible and accountable to prevent sexual harassment. She highlighted the definition of employee, workplace, and the preventive authorities like Employer, Appropriate Government, District Officer and Complaints Committee. The two types of Complaints Committee viz. Internal Complaints Committee and Local Complaints Committee and their constitution and jurisdiction were discussed. Helpful information on the redressal mechanisms like - who can complain, where and whom to complain and what a complaint should contain, what are the rights of the complainant and the respondent, what would be the timeline and steps involved in the inquiry into complaint and the redressal process were covered. Important aspects of the Complaints Committee were highlighted like - Maintaining confidentiality; Monitoring; Consequences; Penalties and Punishments on Non-compliance; and Provisions for Conciliation.

**Evaluation**

The participants were evaluated through the question bank and were given certificates for the successful completion of the course. The participants were evaluated through their knowledge of understanding Domestic Violence; Prevention and Sexual Harassment at Workplace; Types of Rights of Women under CEDAW and Gender Justice.

**Feedback**

*Overall feedback on the course*

The participants found the course informative and knowledgeable. The objective discussion was to the point based on practical experiences. The participants were able to get ample information on laws in limited time like the general awareness about Indian Constitutional System, an insight on the different aspects of Laws, Special Laws like Domestic Violence Act and Sexual Harassment at Workplace.

Most of the participants rated either ‘Excellent’ (48%) or ‘Very Good’ (41%) for the course.
Sessions on CEDAW, Sexual Harassment at Workplace, Domestic Violence and Making a Will were mostly liked by the participants. The sessions on Constitution, Women Rights, and Gender Equality were liked by majority of participants because of the case studies that made the understanding of the legal framework towards gender equality and gender justice easier.

**Learnings**

The major learnings by participants were CEDAW; Constitutional Provisions; Prevention of Sexual Harassment at Workplace; Making a Will; Women’s Rights and Equality; understanding the different International and National Laws; the Indian Penal Code (IPC) and Criminal Laws; and Domestic Violence. The participants got a bird’s eye view about the major provisions for women rights’ protection in India.

**Overall Administration of the course by the WSRC**

The participants felt that the overall administration was very good, managed well, organized and appreciated the efforts made by Team WSRC. The participants further added that, the staff was pleasant and supportive. The study material provided to the participants was appreciated and was found useful for future references.

**Suggestions for future programs**

Suggestions for future programs by the participants were - Child rights; Human rights related to Women and Children; Right to Privacy; Human Trafficking; and Justice for Women in Extra Marital Affairs with a Married Man.

**Photographs**

![Introduction Session](image1)

![Dr. Archana Gadekar](image2)

![Dr. Namrata Solanki](image3)

![Evaluation of Participants](image4)

![Certificates Distribution by Dr. Archana Gadekar](image5)
A) ACTIVITIES/EVENTS COMPLETED

❖ Short Certificate Courses:

Short Certificate Course on ‘Women and Law’

• A short certificate course on ‘Women and Law’ was conducted on Thursday, March 3 and Friday, March 4, 2016 for two half days with the objective to generate awareness about Laws related to Women and Constitution, Rights of the Women, CEDAW, Criminal law, Prevention of Sexual Harassment of Women at Workplace, Domestic Violence and Redressal Mechanisms. A total of 28 participants opted for the course. Dr. Archana Gadekar, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda and Dr. Namrata Solanki, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda were the teaching faculties for the course.
A two day short certificate course on ‘Gender and Media’ was held on July 29 and 30, 2016. The course registered around 16 participants from different genres like – Students, Professors, Social workers and Journalists. The course was conducted by Dr. Nidhi Shendurnikar, Independent Researcher, Writer and Peace builder and Ms. Nalanda Tambe, Freelance Journalist and Author. The course covered topics like Understanding Gender, Gender Stereotypes, Role of Media in shaping Gender, Gender and Media Studies, Feminist Theories, Research Methods and Areas of Research. An interesting film clip was shown, followed by group discussion. The second day of the course covered topics like – Gender and Indian Media, Gender and Television, Gender and Print Media, Gender and New Media, and Gender and Advertising. The course was further enhanced through Practical Sessions like – Role Play, Press Conference, Panel Discussion, Poster Making and News Reporting.
A six week part-time certificate course on ‘Women’s Studies: Interdisciplinary Perspectives’ was conducted from August 22 – 04 October, 2016. The course registered around 16 student participants from different genre. The course covered topics from – Gender, Women’s Studies and Women’s Movements, Disciplinary Perspectives on Women’s Studies, Women and Law, Women and Education, Women and Media, Women and Health, Women in Tribal Context, Women and Theatre, Women, Sexual Minorities, LGBT and their Rights, Economics and Empowerment and Feminist Theories and Research Methodologies. The sessions were taken by subject experts in their fields. Over and above regular sessions, a few distinguished lectures were delivered by guest lecturers as a part of the course. Dr. Nidhi Shendurnikar, Independent Researcher, Writer and Peace builder took the session on Women, Peace and Conflict Management. Dr. Sushma Baxi, M.D. Gynecology and Obstetrics talked on Women and Surrogacy. Dr. Bhakti Gala, Assistant Professor, School of Library and Information Science Research, Central University of Gujarat, Gandhinagar gave the guest lecture on Open Research Tools and Sources. Prof. A.S. Rao, Professor, Department of Economics, Faculty of Arts, The Maharaja Sayajirao University of Baroda addressed the students on Microfinance and Empowerment of Women. Prof. Ajeet N. Mathur, Professor, Strategy and International Business, Business Policy and Economics Areas, Indian Institute of Management, Ahmedabad delivered the lecture on Gendered Division of Labour.
Workshops:

Workshop on ‘Self-Defence for Adolescent Girls and Women’

A half day workshop on ‘Self-Defence for Adolescent Girls and Women’ was held on June 4, 2016 (Saturday) from 10.30am to 1.30pm. The key instructor for the workshop was Mr. Mihir Desai, Chief Instructor, Police and Fire Training School and Owner of the MD Self Defence Academy, Vadodara and Mr. Tushar Patel, Founder Member of MD Self Defence Academy. The trainers were assisted by a team of trainers from the Academy. Around 25 enthusiastic adolescent girls and women participated in the workshop. The workshop covered – Introduction to Self-Defence; Ways to develop Self-Defence, Types of Attacks and its Impact; Tips on Self-Awareness; Handy Tips on Emergency Services; Psychology of Self-Defence and Practical Sessions on Techniques of Self-Defence. The participants were taught about the ‘Line of Pain’ and various Defence Techniques and Mechanisms like – Cross Hand Technique, Same Hand Technique, Two Hand Technique, Crossed Neck Technique, Inside Hand Technique, Foot Stamping Technique, Fist Movement Technique, and Back Tight Technique. The workshop also focused on Basic Awareness like – keeping the contact numbers of the nearest Police Station; Women Help Line Numbers; Emergency Control Room Numbers; and having applications like the GPRS Locators. Information about the various Police Websites that were specially designed for women was shared. The workshop concluded with the Psychology of Self-Defence, which comprised of – Being Oneself; Being Alert; Removing Fear; Forgetting the Past; Not to have Regrets; Asking for Help and Helping Others; Making Unity; Using Reflexes; Growing Thumb Nails; Targeting the loop-holes; Practicing Self-Defence Techniques; and Increasing Physical Strength.
Workshop on ‘Hands-on Training for Effective Communication’

The Women’s Studies Research Center had organized a one day workshop on ‘Hands-on Training for Effective Communication’ on Wednesday, January 11, 2017. The workshop was conducted by Dr. Annapoorna Ravichander, PhD in History and a Master Trainer. The workshop registered around 20 participants. The participants consisted of Assistant Professors from the Department of Physics, Chemistry and Electronics of Shree Jayendrapuri Arts and Science College, Bharuch; Associate Professors from AnnasahebVartak College of Arts, Palghar, Mumbai; ASPEE Agribusiness Management Institute (AABMI), Navsari; Pacific School of Engineering, Surat; Teaching Faculties from the Department of Fashion Technology, Political Science and Chemistry, the Maharaja Sayajirao University of Baroda; Education Practitioner and Trainers from Vadodara; Assistant Teachers from Tejas Vidyalaya, Vadodara; and Master students, researchers and business entrepreneurs from different genres.

The Workshop covered modules on –Introduction to Effective Communication covered, Basics of Communication, Impact of Communication and Types of Communication, Effective Writing and the 4 W’s of Effective Writing, Principles of Effective Writing and the PAGERS Approach, Oral Communication, Benefits of Oral Communication, Barriers to Communication, and Do’s and Don’ts in Oral Communication, Presentation Skills, Basics of Presentation, Presentation Techniques, Listening Skills and Handling Questions. The sessions had Ice-breakers in between which made the workshop more interactive and interesting.
SAMVAD Series:

- **SAMVAD on ‘Socio Cultural Determinants of Food Patterns’** by Dr. Estelle Fourat, Ph.D. (Sociology), University of Toulouse Jean, Jaurès, France was held on Tuesday, February 9, 2016. Dr. Fourat shared her comments, research methodologies, analysis and outcomes of her research. She highlighted that the protein transition corresponds to the process of substitution between proteins involved in the cycle of nutrition transition. In India, the relative share of protein is not reversed in favor of animal protein whose increase is primarily through non-meat foods. Through a qualitative survey in Delhi and a quantitative one in Vadodara, the research unraveled the determinants of food decisions regarding a portfolio of animal-based protein foods, and its forms of integration in the food categories. Her model of survey looked at the socio cultural regulations of animal/plant boundary; of the killing for food that determines the place of food in secular categories like vegetarian/non-vegetarian; and the boundaries and content of these categories which are permeable to modernity. She added that if the overall consumption appears over determined by ethnic and social variables, the results invite to consider the dynamics of social differentiation internal to these groups and produced by foods items, as well as interactional contexts acting on their prevalence. At micro-individual level, Dr. Fourat commented that ties to food and ties to animal foods shape the forms of diets in a biographical journey establishing the relationship between the individual, his food, and the collective. Finally, the research highlighted the cultural autonomy with respect to biological constraints and discusses food convergence by the singular arrangement of animal proteins in the diets.

SAMVAD on ‘Sanjhi Sehat’ by Dr.Shubhada Kanani, Senior Nutrition Specialist, PRANALI (Pramath Nutrition Awareness and Lifestyle) Communication, Former Professor, Department of Foods and Nutrition Faculty of Family and Community Sciences was held on Thursday, March 10, 2016. *Sanjhi Sehat* is an initiative of the Government of Madhya Pradesh (Rural Development) and uses the Participatory Learning approach with women’s groups to empower them for changing health-nutrition-hygiene practices and use government services. The session focused on the *Sanjhi Sehat* program, implementation and monitoring mechanisms, field experiences and learning.
B) ON GOING COURSES/SESSIONS/RESEARCH

√ Courses offered under Choice Based Credit System (CBCS)

The Faculty of Family and Community Sciences has introduced Courses for Choice Based Credit System (CBCS) from the academic year 2011-12. As part of CBCS program, the Women’s Studies Research Center has introduced two courses at the Undergraduate Level from the academic year 2011-12 in the Fourth and Fifth Semesters respectively.

1) Women, Society and Development (2 Credit, II Year, IV Semester)

This course offers students the opportunity to know and understand the Status of Women in Indian Society and learn about Women’s Movement and Women’s Studies in brief. The scope of the course is on learning the various institutions of society that transform individuals into masculine and feminine beings. The course addresses the importance of gender in development issues and debates, highlighting various approaches to development. The course enables students to reflect critically on the gender inequalities in their personal lives and community at large.

2) Women, Rights and Law (2 Credit, III Year, V Semester)

This course serves as a platform for students to understand that Women’s Rights are Human Rights and that all women’s issues are social issues. Students will learn about Laws related to Violence against Women (such as domestic violence, dowry, rape, sexual harassment) and Personal Laws related to marriage, divorce, inheritance, and maintenance. Students will also learn about the redressal mechanisms available to them to seek justice, for example, the National Commission for Women or the State Commission for Women. The course will enable students to understand the gendered nature of the Legal System. Students will also learn about the interventions to promote and protect women’s rights, implemented by the local NGOs. The course is taught through lectures, reflective activities, discussions and film screenings for students to enhance better understanding of the concepts.
Gender Sensitization and Prevention of Sexual Harassment Sessions/Advocacy

- The Women’s Studies Research Center conducts awareness sessions on Gender Sensitization and Prevention of Sexual Harassment in different Faculties and Departments of the Maharaja Sayajirao University of Baroda and with different schools of Vadodara. These series of sessions were conducted in Faculty of Education and Psychology, Faculty of Pharmacy, Faculty of Engineering and Technology, Faculty of Family and Community Sciences, Faculty of Law, Faculty of Science, Faculty of Fine Arts, Faculty of Social Work, Faculty of Journalism and Communication, Commerce College for Girls, and Institute of Fashion Technology, Department of English and Department of Political Science. Among the schools to be covered, the first session on Gender Sensitization and Awareness about Good Touch and Bad Touch was introduced in Navrachna School, Sama.

Research Projects

- Identity Anchors of Emerging Adult Men in Urban Context
- A Study on Assessing Women’s Perception of Safety on Campus of the Maharaja Sayajirao University of Baroda (Report in Process)
The Women’s Studies Research Center has a user friendly Documentation Center comprising of unique and diverse collection of holdings like: Books, Periodicals and Journals, Bibliographies, Teaching-Learning Manuals, References, Reports, Selected Readings, Monographs, Posters, Newspaper Clips and Video Documentaries. It also has documents in local language including teaching-learning materials. The membership, services and facilities of the Documentation Center are open to students and faculties of the Maharaja Sayajirao University of Baroda, the NGOs and visitors for free of charge.

The WSRC Documentation Center is an integral part of the Women’s Studies Research Center. The average registered membership of the Center in an academic year is approximately 50 users.

Statistics of Membership, Reading and Reference materials available at WSRC Documentation Center

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Stock</th>
</tr>
</thead>
<tbody>
<tr>
<td>Membership (since initiation)</td>
<td>1832</td>
</tr>
<tr>
<td>Books and References</td>
<td>1800</td>
</tr>
<tr>
<td>Subscribed Journals and Periodicals (+ e-journals of Sage Publications)</td>
<td>13</td>
</tr>
<tr>
<td>Reports (Seminar, Workshop, Monographs and Government Reports)</td>
<td>2000</td>
</tr>
<tr>
<td>WSRC Reports</td>
<td>300</td>
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<tr>
<td>Back Volumes of Bound Journals</td>
<td>1000</td>
</tr>
<tr>
<td>Posters on Women’s Issues</td>
<td>100</td>
</tr>
</tbody>
</table>

- Over and above the mentioned collection, the Documentation Center has Newspaper Clippings Bank and Audio-Visual materials.

- A separate computer terminal is available for students to access the holdings of WSRC Documentation Center and Smt. Hansa Mehta Library (University Library).

Users/Visitors

The users of the Documentation Center comprises of Faculties, Students, NGOs, Researchers and visitors from other institutes.

Future Plans

The future plans of the Documentation Center comprises of –

Publication

- WSRC Communiqué – Gender and Literature
- WSRC Occasional Paper Series

Digitization

- Uploading of Catalogue of Books and WSRC Reports of the Documentation Center on the University’s Website.
- Uploading the Catalogue of Short Films, Movies and Videos on Gender Issues and other issues related to Women and Girl Child on the University’s Website.
Outreach and Networking

- Ms. Geetha Srinivasan, Library Assistant and Ms. Falguni Helaiya, Office Assistant, WSRC attended the International Women’s Day celebrations organized by the Gujarat State Assembly, Gandhinagar on Tuesday, March 8, 2016. The then Chief Minister Ms. Anandiben Patel addressed the gathering of women who came from all over Gujarat for the celebrations. Ms. Patel shared the amended and new amenities and facilities that were specially designed for women, girl child, street children and the differently abled women and children. Various amenities in Gujarat like– shelter homes; free cancer detection centers for women; mother-child hospitals for treating infertility, gynecology, obstetrics and pediatrics; government hospitals for treating disabled children; government schools and shelter homes like– Bal Gokulams; special schemes for cattle rearing industry run by women; free education for the underprivileged and not the last equal reservation for women in State Assembly.

- Ms. Priya Parikh and Ms. Krupali Patel, Research Assistants attended a ‘Samvad on Life Experiences of Revolutionaries of India’ on the International Women’s Day, organized by Olakh, a city based NGO on Tuesday, March 8, 2016. The session included chief guests, key note speakers and sharing of inspiring experiences of youth uniting to make a difference. The chief guests for the day were the well-known dignitaries– Ms. Shubhangini Devi Gaekwad (Chancellor, Maharaja Sayajirao University of Baroda and Ms. Avantika Singh (Collector, Vadodara); the key note speakers were– Ms. Ela Bhatt (Ramon Magsaysay award winner and Founder of SEWA) and Ms. Kamla Bhasin (Feminist and Founder of JAGORI and OBR South-Asia Coordinator). Ms. Shubhangini Devi Gaekwad focused on the need to educate the men and boys, and to work upon changing their mindsets. She appealed to women to take care of themselves before taking care of others and to take advantage of their assets. Ms. Avantika Singh, on the other hand empathized women to do things passionately, rather than considering themselves weak. Women, she adds are a storehouse of motivation from within that comes out in tough times. Ms. Manali who spoke on behalf of Ms. Ela Bhatt, stressed on the commendable contribution by women in nations’ GDP which often remains invisible. She laid importance to the education of women. Women, as Ms. Manali quotes are good savers, regular tax-payers and asset managers. Dr. Sarika Mehta, a Psychologist, a Sociologist and a Biker from Surat addressed the gathering as, ‘don’t complain about things, but change yourself.’ Ms. Kamla Bhasin, a well-known feminist of India on the other emphasized on the need to bring the constitution from books to practicality. She requested the youth to take the legacy forward- the task of bringing equality; stopping violence and giving freedom to their daughters, sisters and mothers.
Ms. Geetha Srinivasan, Library Assistant and Ms. Falguni Helaiya, Office Assistant, visited the Indian Institute of Management (IIM), Ahmedabad and Entrepreneurship Development of India (EDI), Gandhinagar on Tuesday, June 14, 2016. They visited the Centre for Gender Equity, Diversity and Inclusivity (GEDI) and Committee for Managing Gender Issues (CMGI) of the IIM. The staff interacted with Prof. Ajeet Mathur Ajeet Mathur, Chairperson, Centre for Gender Equity, Diversity and Inclusivity (GEDI).

The Centre for Gender Equity, Diversity and Inclusivity (GEDI) is the new initiative of the IIM, Ahmedabad for the study of gender concerns with stake holding constituents including policy makers, academicians, leaders, managers, entrepreneurs and others. The Centre’s primary task is to create, support and sustain gender-sensitive processes with better understanding of disharmony in the management of gender differences. The Committee for Managing Gender Issues (CMGI) has been set up as the Internal Complaints Committee that the Indian Institute of Management Ahmedabad was required to set up as per the Supreme Court Guidelines. CMGI not only deals with complaints of sexual harassment of women but also focuses on creating awareness, counselling and educating about gender issues and conducting gender sensitization workshops for staff and students. The staff also visited the Vikram Sarabhai Library of IIM and interacted with the Chief Librarian.

They Entrepreneurship Development Institute of India (EDII), Gandhinagar, established in 1983, is a premier national and not-for-profit institute in the field on entrepreneurship, education, training and research. EDII is a catalyst in facilitating emergence of competent first generation entrepreneurs and transition of existing SMEs into growth-oriented enterprises through research and institution building. EDII has several programmes under strategically planned centres to generate awareness, sensitize environment, strengthen institutional linkages and networking and impart training in specialized areas. These Centers are – Entrepreneurship Education and Research; Micro Enterprises, Micro Finance and Sustainable Livelihood; SMEs and Business Development services; Cluster Competitiveness, Growth and Technology; Social Responsibility and Corporate Social Responsibility; Women Entrepreneurship and Gender Studies.

The staff interacted with the Teaching Faculties of EDII to get a bird’s eye-view of the different entrepreneurship programs for Women Entrepreneurship and Gender Studies. They also interacted with the Chief Librarian of EDII for knowing about the working of the library, the resources, the facilities, the outreach and networking clusters of the library.
Ms. Geetha Srinivasan, Library Assistant attended a one day Seminar on Librarians’ Day 2016 jointly organized by Ahmedabad Library Network (ADINET) and Information and Library Network (INFLIBNET) Centre, Gandhinagar on Saturday, August 6, 2016. The seminar helped us to network our Documentation Center with Libraries and Librarians of Gujarat.

The agenda for the seminar were - Research trends in Library and Information Science; Library Ethics and Women’s Contribution to Librarianship.

**Research in Library & Information Science**

Considerable changes have taken place when ICT was coupled with Library and Information Science (LIS). It paved the way for a conducive research environment. Further, changing trends, cutting edge technologies, need of 21st century users’ have given ample scope and responsibility for Library and Information Science Departments for developing and mentoring the professional skills as per changing times and trends. While discussing about research in LIS it is important to develop a vision statement for conducting research in LIS profession with reference to few important points as –

- Embedding and expanding horizons of LIS education
- Holistic approach towards learning theory and practise of LIS
Library Ethics

Ethics is the main backbone required to sustain any profession, especially the LIS Profession. It is extremely important to inculcate professional ethics in the younger generation, starting from the first year students. This has now become so very essential due to the availability of various ICT tools which can be used discriminately. Professional identity, which has become so very crucial, is how we do our work. To a large extent we can shape our identity and ethics is an important element in this. Librarians need an ethical framework, so that we can check our values by constant scrutiny and reformulation of this framework if necessary. In more than sixty countries, library associations have developed and approved a national code of ethics for LIS Professionals. But on an international level, it was only in August 2012, the IFLA Code of Ethics for Librarians was approved and endorsed. It has also been translated in several languages. The Code of Ethics of ALA was adopted in 1939 and has been amended several times. The principles of this Code are expressed in eight broad statements to guide ethical decision making.

Women’s Contribution to Librarianship

Over the years women’s contribution to Librarianship has been very significant. Their contribution has not yet been documented. However the number of women librarians in senior leadership roles has increased only to a small percentage. There are many issues which they face. This may be due to various personal and professional characteristics. Various factors such as mobility, career interruptions, or lack of advanced degrees have been identified as limitations to career growth. It is essential to focus on the issues faced by women librarians, especially in India, since they represent a very large percentage of library professionals. Even in the U.S. as per the 1980 census data there were 1, 36,000 librarians and 84.6% of them were women. As the issues that affect the career progress of women are indeed real and very challenging, it is essential to discuss ways and means of empowering them.

Ms. Priya Parikh, Research Assistant and Ms. Geetha Srinivasan, Library Assistant attended a half day Seminar on ‘Take Time to be Safe’ held on Saturday, September 17, 2016. The seminar was organized by Baroda Management Association and Women Professionals Committee at Vadodara. The chief guest for the day was – Padma Shree Indira Jaising (Senior Advocate, Supreme Court). Dr. Jaising is a contributor to
the enactment of the Domestic Violence Act and Law relating to Sexual Harassment at Workplace. Dr. Jaising spoke about the Legal provisions related to the Sexual Harassment Law and its origin in India. The seminar had other two speakers – Ms. Ruzan Khambatta, a social entrepreneur. She has introduced the Police – HEART – 1091 for women safety and police support. Ms. Khambatta spoke on Gender Diversity in the Workplace – as a norm in the corporate set up. Ms. Usha Vishwakarma, the Founder of Red Brigade, Lucknow spoke on self-help and demonstrated self-defence techniques for women.

Ms. Priya Parikh and Ms. Krupali Patel, Research Assistants attended a two day workshop on ‘Basic Film Making for Social Good’. This workshop was held on Monday and Tuesday, September 19 and 20, 2016 from 11.00am to 6.00pm respectively. The workshop was held at Raaga Numerique Studio, 203, Mangaldhara, Standard Chartered Bank Lane, 83 Sampatnaro Colony, Alkapuri, Vadodara. The trainer for the workshop was - Ms. Ajita Suchitra Veera, Film Director, Founder of Imaginem Cinema Pvt. Ltd. This workshop on ‘Basic Film Making for Social Good’ was conducted as a part of the U. S. Consulate, Mumbai’s Film Festival on Women’s Safety and Empowerment. The workshop provided theoretical and hands on experience to a group of participants to the workshop. The workshop started with an understanding of basic concept about what cinema is and how it works. Further, the trainer talked about three point lighting viz. Key light, Fill light and Back light. The 3 point system lights objects in a three dimensional way creating a fuller more interesting image. Then she discussed about different types of shots like extremely close-up shot, close-up shot, the mid shot, extreme long shot and very long shot. After that she focused on the storyboard which is a great way to work out the visuals of story. First the shots can be drawn to create a film and add notes like camera movements (pans, zooms) and audio that is to be used. Then short listed scenes can be shot at the scene. Some hands-on training given for budding filmmakers was thinking visually in images; using maximum visuals and less dialogues; using voice over. It is more interesting when the action takes place in the frame rather than when the frame is moving around the action. Then one exercise was given for categorizing the scenes in the different types of shots explained. Then the participants were formed in a group of 4-5 and given a role of camera operator, director, and actor to shoot a film. The different groups shot a small video on different topics. Furthermore, stages in filmmaking i.e. pre-production, production and post-production were discussed with the participants along with the tips and shooting notes. The workshop ended with the feedback and suggestions given by the trainer for the participants to be a good Film-maker.
C) FORTHCOMING WORKSHOPS/EVENTS/ACTIVITIES

√ Panel Discussion on ‘Expressions: Me and Myselfie’

A Panel Discussion on ‘Expressions: Me and Myselfie’ is going to held on Saturday, March 4, 2017 in collaboration with the Department of Human Development and Family Studies, Faculty of Family and Community Sciences, the Maharaja Sayajirao University of Baroda. The objective of the discussion is to question interesting exploration on how we relate the selfie phenomenon with the inner workings of the self and how it influences youth identity in the Indian context. The panel discussion, ‘Expressions: Me and My Selfie’ is an opportunity to explore the impact of selfie on self as expressed in the social world and cyber world. The panelists comprise of – Prof. R.M. Matthijs Cornelissen – Director, Indian Psychological Institute, A Dutch Physician and teaches Integral Psychology at the Sri Aurobindo International Centre of Education at Pondicherry. Dr. Falguni Vasavada-Oza is an Associate Professor, PhD in Advertising, Head, Marketing Area, MICA. Dr. Khushbu Pandya – Social Media Educator, Strategist, Entrepreneur and Author.

√ Workshop on ‘Introduction to Peace Building and Conflict Management’

A Workshop on ‘Introduction to Peace Building and Conflict Management’ is planned on Saturday, March 11, 2017.

√ Symposium on ‘Politics of Embodiment’

A Symposium on ‘Politics of Embodiment’ is planned on Friday, March 17, 2017 in collaboration with the Department of Political Science, Faculty of Arts, the Maharaja Sayajirao University of Baroda.

√ Celebrations to mark ‘International Women’s Day’

Celebrations to mark ‘International Women’s Day’ would be held on two days. These celebrations embark Short Film Making, Screening and Discussion on Gender and Politics; Women in Revolutionary Movements / (En) Gendering Revolutions; and Refugee Women: The Story Less Known to be held on Thursday, March 9, 2017. Wall Painting Competition on Women and Leadership; Women and Freedom. Elocution Competition on ‘Defining Masculinities’ to be held on Friday, March 10, 2017. The entries for these competitions are free and open to one and all to participate.

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Selected Readings: Gender and Law


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