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Introduction
Gender equality between women and men refers to the equal rights, responsibilities and opportunities for women and men and girls and boys. Equality does not mean that women and men will become the same but that women’s and men’s rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration recognizing the diversity of different groups of women and men. Gender equity that provides a level playing field for men & women so that they have a fair chance to realize equal outcomes are a pre-condition for ensuring gender equality and human rights. The ultimate goal in gender equality is to ensure that women and men have equitable access to, and benefit from society’s resources, opportunities and rewards. And, as part of this, women need to have equal participation in defining what is valued and how this can be achieved. Equity is a means. Equality is the result.

Gender equity denotes an element of interpretation of social justice, usually based on tradition, custom, religion or culture, which is most often to the detriment to women. The Convention on the Elimination of All Forms of Discrimination against Women, also known as the Women’s Bill of Rights, declares that countries should:

- Act to eliminate violations of women’s rights, whether by private persons, groups or organizations,
- Endeavour to modify social and cultural patterns of conduct that stereotype either gender or put women in an inferior position,
- Ensure that women have equal rights in education and equal access to information,
- Eliminate discrimination against women in their access to health care,
- End discrimination against women in all matters relating to marriage and family relations.

The constitutional guarantees for Gender Equality and Human rights in India
For Indian citizens, the constitutional guarantees for empowerment of women are as follows:

Fundamental Rights ensure empowerment of women thro’

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

The directive Principals ensure empowerment of women thro’

- Article 39- enjoins the state to provide an
  - adequate means of livelihood to men and women and
  - Equal pay for equal work
- Article 42- State to ensure the provision for just and humane condition of work and maternity relief.
- Article 51v (A) (e) - fundamental duty on every citizen to renounce the practices derogatory to the dignity of women.
Articulation of the demands and alternatives suggested by the women’s movement constantly refer to the Fundamental Rights in the Constitution of India.

**Women’s Movement and Legal Reforms**

When the government of India signed the UN charter on Equality, Development and Peace in 1975, the process of gender audit in the governance got an official stamp (Patel, 2002). In 1976, the Equal Remuneration Act was enacted to provide equal opportunities, equal treatment and equal wages for work of similar nature. Women’s groups have been consistently doing public scrutiny of Maternity Benefit Act, 1961 and specific provisions for women in general labour laws, The Factories Act, 1948 – Section 34 provides that the State government can lay down rules prescribing weights that may be carried by men and women, The Contract Labour (Abolition and Regulation) Act and Rules- that separate provision of utilities for women and fixed working hours.

Though these laws have proper implementation mechanisms, there is no provision for monitoring the effect of these laws on women. Allowance for special provisions for women has often proven to be detrimental to their employment opportunities. Participation of workingwomen in the decision-making processes in the industrial and agrarian relations is abysmally low. Women’s access to legal service largely remains inadequate in spite of the legal service Act, 1987.1

**The Labour Laws for Empowerment of Women**

The labour laws for empowerment of women are based on principle of gender justice. They are as follows:

- Equal Remuneration Act, 1976 ensures equal opportunity, equal treatment and equal wages.
- Maternity Benefit Act, 1961 provides 90 days paid leave for working women
- The Factories Act, 1948 – Section 34 provides that the State government can lay down rules prescribing weights that may be carried by men and women.
- The Contract Labour (Abolition and Regulation) Act and Rules- separate provision of utilities for women and fixed working hours.

In the formal or organized sector, there are industrial legislations and other protective legislations for workers. Most of these legislative provisions, unfortunately, seem to be working against the interests of workers, lack implementation and need reform. Government regulated minimum wages ensure only the bare essentials of survival but even that basic level is denied to workers in the informal sector. Factory inspectors usually avoid reporting as employers complain of low profitability, threaten closure and bribe them to keep quiet. At present crèches are provided in industries that employ more than 30 women employees and there too, ways and means are used to avoid this facility by the employers. There is no provision for providing crèches in the service sector and for both men and women working in shifts.2

In India, The Equal Remuneration Act, 1976 was enacted pursuant to Article 39 (d) of the Constitution of India provides for the payment of equal remuneration to men and women workers, for providing equal opportunities to women and men and for the prevention of discrimination on the grounds of sex against women in the matter of employment. The task of ensuring that there is no

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discrimination is very difficult, as there is no effective way of implementing the limited findings of the advisory committee. Secondly the definition and evaluation of the same work or work of similar nature leave much to be desired. Even the courts have used different expressions relating to valuation of identical work. This is one of the least invoked legislation.

Maternity Benefit Act, 1961 provides for maternity benefit in case of childbirth, miscarriages, abortions, Medical Termination of Pregnancies (Maps) and tubectomies. Establishments employing less than ten persons are left out from the purview of the Maternity Benefit Act or the Employees State Insurance Act. Under the present Maternity Benefit Act, 1961 the eligibility for maternity leave is that the woman before availing the leave must have worked for eighty days in that establishment or organization. These eighty days include paid holidays and weekly holidays and the period for which she was laid off. In many organizations they are never allowed to complete the required number of days on record.

Women Movement is demanding an umbrella legislation to cover all women (From formal/organised as well as informal/unorganised sectors of the economy) under maternity protection and ratification of ILO Convention No. 183.

Violation of basic Human Rights in Informal Sector

The informal sector as opposed to the formal sector is often loosely defined as one in which workers do not have recognition as workers and work without any social protection. In the informal sector, workers are forced to work without contracts, without social security, with low wages under bad working conditions. In the absence of health insurance, income security, it is difficult for women workers in informal sector to place importance on their health. The lack of income security often has direct consequence on the access to education for the children of women workers in informal sector. They are not able to study and alleviate their poverty. Often children get absorbed into the informal sector themselves as adults due to lack of education or as children to help adults earn more (e.g. home based workers, vendors, self employed)3 Unorganised labour is usually perceived as ‘poor’ and as a beneficiary, consequently there are provisions in the national budgets to help them out of their poverty and vulnerability. They are treated as beneficiaries of anti-poverty programs. The main concern of informal sector workers is irregular employment (Patel & Karne, 2006).

Rag pickers- Poorest of the Poor

A Case Study of Women Rag Pickers in Mumbai 4 has revealed that urbanization and the use of land for large-scale agriculture have led to mass migrations to the cities, where the displaced rural poor eke out a living on the margins of India’s over-crowded cities. Unable to find work in the formal sector, many turn to street trading and rubbish collection in order to survive. Rag picking is a caste and gender based activity. Rag pickers comprise the poorest of the poor – an estimated 25,000 of them in Mumbai, dwelling in shanties, mainly women and children who collect garbage - plastic, paper, metal, etc., usually from municipal dustbins, landfills and garbage dumps for recycling. They work seven days a week, earning on average less than Rs. 60 / 70 a day. They help maintain the environment of Mumbai by keeping the streets clean and recycling and re-using waste. Mumbai produces 6000 metric tons (600 truckloads) of garbage every day, of which around 7 to 8% is collected by rag pickers. Rag pickers are highly vulnerable because they have few assets and few alternative livelihood options. Because of their hazardous working conditions the rag pickers suffer

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4 Recommendations of the Tribunal at Jan Sunwai organized by National Commission for Women and Stree Mukti Sanghatana (Public Hearing on the issues of rag picker women in May 18, 2004 at the State Secretariat in Mumbai).
many more illnesses and injuries than the general population. Rag pickers live in constant fear of displacement, while others simply sleep on the pavements. Illiteracy among rag pickers and their children is high, and access to formal training or employment is non-existent. Many rag pickers have limited knowledge of their rights as citizens, including basic rights like access to free primary education.

No skills training
Women are not taught specific skills and are themselves diffident to take up skill training. The government’s existing ITI network has a low number of women students. There is a need for improvement of courses and optimal use of space and teachers.

Abuse in Special Economic Zones
Adoption of Export oriented model and competition for foreign investment has led to the opening of more and more Special Economic Zones (also Free Trade Zones and Export Processing Zones etc.). In these zones labour laws are generally not applicable. Women are being used as ‘cheap labour’ force. They work under harsh working conditions. There is the abuse of labour and human rights and several instances of sexual harassment at workplace. Governments have had tendency to turn a blind eye to the abuse by capitalists to keep foreign investment.

Night Work- the Issue and the debate
Business process outsourcing has resulted into thousands of call centers employing young, computer savvy, English-knowing women for night work. Global tourism industry has given rise to mushrooming of bars and night clubs throughout Asia. In Mumbai, bar girls campaigned to work at night, as their work is possible only during that time and also more remunerative. Due to pressure of women elected representatives of local self government bodies, bar dancing is now banned in Maharashtra.

According to ILO, ‘night signifies a time period of ‘at least 11 consecutive hours, including an interval between 10 p.m. and 7 a.m. 5 But many women workers face a lot of problems due to work at night including sexual harassment, molestation and rape. It is unfair to put a blanket prohibition on night work is discrimination against women to prevent access to jobs and contravening the principle of equality. The questions regarding sexual harassment and assault on them needs to be addressed. The state and employers must be forced to provide safe work environment and safe transport to women employees.

Sexual harassment at Workplace
Accusations of sexual harassment are much more common today, reflecting the new consciousness and a new sense of power of people to end inappropriate behavior directed towards them. The existence of an effective, informal conflict resolution process is immensely important.

To address Sexual harassment in the informal and small-scale industries, free trade zones, special economic zones; the labour departments may be directed to set up complaints committees and give them publicity or it could be made mandatory for every industrial estate and export zone to have its governing body set up a grievance cell for complaints (Sujatha, 2007).

This will require co-operation between women’s groups, official bodies, trade unions and employers. Women’s groups can play an active role in disseminating information about sexual harassment and redressal procedures in industrial zones and estates. They can also raise the issue of the definition of skills and equal pay for comparable work so as to tackle gender inequality at the workplace. The

5 Article 2 of Convention 89 of ILO
Sexual Harassment at Workplace (Prevention) Act must be enacted by the nation states to provide a remedy within the criminal justice system. This is to provide for prevention of sexual harassment of women and women an employee that is work related (Ghadially, 2007).

Need for a Policy for Women’s Employment

A policy for women's employment has to include strategies for challenging the sexual division of labour and gender ideology inside as well as outside the workplace.

Policies for access- include access to employment, education, training, credit etc.

- Policies to improve the quality of employment, including her position in the household.
- Policies to preserve employment and to protect material and human resources and assets.

Proper Implementation of Laws and Schemes for Working Women

1. The existing labour legislation, i.e. the Industrial Disputes Act, the Factories Act, the E.S.I.S. Act and the Minimum Wages Act, should not be withdrawn but strengthened to cover all workers.
2. Some mechanism is required to evaluate the value of work under ERA.
3. Minimum wages need to be strictly implemented with ward level committees of workers.
4. Employment Guarantee Scheme-The central and state government has to ensure macro policies that will absorb workers in labour intensive units and occupations. The Employment Guarantee Scheme needs to be expanded and improved for urban workers. The focus of such employment schemes can be on building infrastructure, slum development and housing. The National Renewal Fund should be extended to cover the unorganised sector and a substantial part should go into the retraining of workers.

Law Reform

Crèches should be provided for children of all workers and not merely women workers irrespective of the number of employees. There could be a common fund for each industry.

Family Leave: The minimum paid maternity leave period to be applicable to ALL working mothers irrespective of the necessary length of continuous service or the number of employees, irrespective whether married or un married and whether the child is natural born or adopted. Birth or adoptive fathers of a new child entitled to paid paternity leave on the birth or adoption of a child Employees to have a right to take time off to care for children, disabled or sick dependants. The options available include: unpaid leave with automatic re-entry to an equivalent post in terms of grade, type of work etc., Part time working, Temporary re-arrangement of working pattern, Flexi-time Request Right available to working parents with young children (below 5 years of age or employees who have to care for disabled or sick dependants. The request can cover: the employee will have a right to return to work following availing of any of the above leave. The staff member must undertake in writing to return to work. No employee will suffer a detriment, be unfairly dismissed or be discriminated against for a reason connected, with pregnancy, childbirth, maternity, paternity, adoption, dependent care leave or the right to request flexible working, or time off to take care for a dependant. There shall be no loss of seniority, sick leave entitlements and incremental progression

Legal Protection for Informal Sector

Legal protection has to be given to the informal sector worker in the form of regular employment, notice period, compensatory pay or some form of unemployment insurance. It has been a long-standing demand of the representatives of the informal sector workers, trade unions and NGOs (Non Governmental Organisations) that workers should be registered as daily or piece rated workers with an identity card. This single act would provide information on the number of irregular workers and access to them for welfare measures. Social welfare for the informal sector workers can be
implemented by levying a cess on employers in industrial estates. Social services can be dispensed to the workers through existing government infrastructure and tripartite boards.

Rag-pickers’ need:
Recognition as workers, Supplementary development programs, Vocational training for skill upgradation, Provision for maternity benefit and post natal medical facilities, Protection against domestic violence and sexual harassment, Family benefits, Medical reimbursements, Retirement benefits (old age pension), Insurance schemes and policies, Compulsory savings schemes, Micro finance schemes and interest free loans, Legal guidance and awareness (Patel and Karne, 2006).

Problems in Implementation of Mahatma Gandhi National Rural Employment Guarantee Scheme under MGNREGA:
The Mahatma Gandhi National Rural Employment Guarantee Act aims at enhancing the livelihood security of people in rural areas by guaranteeing hundred days of wage-employment in a financial year to a rural household whose adult members volunteer to do unskilled manual work. Poor women from all over the country are seeking and getting employment under this scheme.

1. Though wages are apparently equal between men and women what happens is the allocation of work is different- men do trench digging which carries more wages. Women have been saying they can also do this work without trouble. Secondly wages are often paid to the group of a few from the same village on the basis of equal pay for men and women but the group leader determines how much a woman gets. This should be remedied.

2. The most serious complaint is lack of facilities- shelter; schooling for the children of women who are the major reporters for EGS work.

3. The most serious lacunae are the stopping of registration of applicants. This has made it difficult to know how many need work. The work site merely records how many turn up. The absence of registering how many want (not just turn up) with details of who the applicants are again loses data regarding the status of the worker- small farmer, marginal farmer, landless worker etc; details of land holding. Plans will be better done if one knows the status of the worker also with regard to improving agriculture.

4. The timing of EGS work is another problem. It clashes with seasonal migration.

6. The most important demand of women workers on EGS sites is skill up-gradation. They are tired of unskilled manual labour and building roads. The objective of employment under EGS is building good infrastructure. But it is done so badly the asset does not last even one year. This needs to be rectified. More choices and better technologies should be introduced in EGS work. Labour processes and labour relations in EGS work should be humanised and gender-sensitive. Women employees working for the scheme should not be targeted for population control programmes.

Emphasis on Education and Skills
A clear emphasis needs to be given to education, type of education of poor and especially of women. Women’s access to employment is limited (amongst other reasons) because of lack of education and skills. The central and state government has a free education policy for girls but there is no follow up on the number of dropouts. Girls usually drop out from the high school. Special attention and incentives should be given to girls and parents for them to return to school.

Capacity Building and Training
Extra allocations of funds will be necessary for tying up the training institutions with job placement organisations or industries. Trainings for jobs have to be combined with additional inputs around
building other life-skills towards critical awareness about women’s status, improvement in negotiating skills and programs around building and maintaining women’s assets including savings.

Social Audits
International consumer and workers groups have attempted social audits at the firm level to ensure workers’ rights. They have to be made mandatory not only for export firms but for all production units.

Self Help Group Movement
Self Help Groups are organisations of women from the downtrodden section of the society that empower the women to be self reliant through capacity and confidence building and by making micro-credit available and accessible to women. The SHG movement has taught women the value of saving and the strength of working as a group.

Recommendations for strengthening the SHGs:
- Groups should be only formed by NGOs or Women Development Corporations with the requisite knowledge and ethos of SHG development and micro-credit movement.
- Once an NGO is selected, the nurturing grants should be released every quarter to it, after reviewing training milestones, group savings and internal lending data and not on the basis of bank gradation. NGOs should receive nurturing grants for at least five years, during which they should support the group.
- A state level agency should be appointed to train NGOs and also be permitted to appoint their own NGOs to implement the programme in addition to implementation through its field workers.
- SHG groups are not broken up by the banks insistence to drop the member who is a defaulter or whose family member is a defaulter of the bank.
- Along with initiatives improving the programme delivery mechanism, bankers need to be trained and sensitized every three months, because of the high turnover of bankers in rural areas and the ignorance of bankers coming from urban postings to the needs of rural areas.
- NGO releases should not be made contingent to the group taking up economic activities. NGOs should be evaluated in the basis of group capacity building and training.
- This SHG movement is now at the crossroads and is poised for expansion and the problems need to be addressed immediately.

Property and Land Rights
There is much gender bias in our property laws. Everything appears equal on paper and that is where it ends (Patel, 2009).

Recommendations
- Testamentary powers that deny the daughters their property rights should be restricted
- Allow daughters full right of residence in the parental dwelling houses.
- Women must be given ‘the right to residence’ hence putting private household property in the joint names of partners. A care however has to be taken that wherever women have property in their name, men did not appropriate under the pretext of property being in joint name.

A woman on being abused in her matrimonial home has little choice but to continue to endure it. Her natal household is usually unwilling to have her back for fear of the social stigma attached to single women. These and other considerations restrict a women’s reliance on her parents’ households in times of potentially dangerous marital relations. Bill on Matrimonial property has been drafted that needs to be passed. The matrimonial property bill will give her rights
The 73rd and 74th Amendments to the Constitution

The 73rd and 74th Amendments to the Constitution providing for 33% reservations of seats for women in Panchayats and Municipalities as of now we have 1.2 million women elected representatives in gram panchayat, taluka panchayat, zilla panchayat, municipal councils and municipal corporations (Patel, 2002). The Recent amendments in Bihar and Maharashtra have ensured 50% reservation for women in local self government bodies. UNDP Report, 2001 reported, “The evidence on gender and decentralisation in India suggests that while women have played a positive role in addressing, or attempting to address, a range of practical gender needs (Practical gender needs Practical Gender Needs are identified keeping into consideration, gender based division of labour or women’s subordinate position in the economy. They are a response to immediate perceived necessity, identified within a specific context. They are practical in nature and often are concerned with inadequacies in living conditions such as provision of fuel, water, healthcare and employment. ), their impact on strategic gender needs (Strategic gender needs Strategic Gender Needs are different in different economic contexts and are determined by statutory provisions, affirmative action by the state, pro-active role of the employers to enhance women’s position in the economy and social movements) is not remarkable.” (UNDP 2001).

Following the introduction of economic liberalization policies in 1991, India has registered steady gains in terms of conventional economic indices such as external trade, investment inflows, and foreign exchange reserves. However, globalization has also caused the feminization of poverty.

To counter this trend of marginalization of women, it is necessary to address the gender imbalance in decision-making positions. A Constitutional Amendment Bill seeking 33 percent reservation for women in parliament and state legislatures has, however, been scuttled by three successive governments since 1996, even while each party swears by its commitment to gender equity.

The reasons for this curious schism showcase a classic example of gender-class-caste alignments and divisions, under political compulsions. This paper examines this ongoing gender-caste-class imbroglio, in the context of Indian affirmative action policies (economic, social, political), which have generated "backlash" reactions.

Countering Violence against Women

Violence against women (VAW) is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women. VAW is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. VAW constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms. VAW is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women in 1985, in which a set of measures to combat violence against women was recommended. Definition of gender based violence: VAW prevents the full implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a landmark international agreement that affirms principles of fundamental human rights and equality for women and girls initiated by the UN and adopted by the member countries. According CEDAW, the term gender-based violence “GBV” includes actual or threatened physical, sexual and psychological violence occurring in the family or community. VAW is understood as

I. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence,
marital rape, widow burning, female infanticide, pre-birth elimination of girls, crimes against women and girls in the name of honour, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

II. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

III. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Under the Indian Penal Code (IPC), the following sections are applied in cases of VAW:

<table>
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<tr>
<th>IPC Section</th>
<th>Nature of Offence</th>
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<tr>
<td>304 B</td>
<td>Dowry death/ murder</td>
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<tr>
<td>354</td>
<td>Criminal assault of women to outrage women’s modesty</td>
</tr>
<tr>
<td>366</td>
<td>Kidnap, abduction and marriage of a women by force.</td>
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<tr>
<td>366 A</td>
<td>Procurement of a minor girl</td>
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<tr>
<td>366 B</td>
<td>Import of girl from a foreign country</td>
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<td>374</td>
<td>Rape</td>
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<td>376 A</td>
<td>Intercourse by a man with his wife during judicial separation</td>
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<td>376 B</td>
<td>Intercourse by a public servant with woman in his custody</td>
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<tr>
<td>376 C</td>
<td>Intercourse by superintendent of jail, remand home with women in his custody.</td>
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<td>376 D</td>
<td>Intercourse by any member of the management or staff of a hospital with any woman in that hospital</td>
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<tr>
<td>498 A</td>
<td>Husband or in-laws subjecting a woman to cruelty</td>
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<tr>
<td>509</td>
<td>Word, gesture or act intended to insult the modesty of a woman</td>
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The PCPNDT Act, 2002:

Adverse child sex ratio due to pre-birth elimination of girls has posed a major threat to survival of girls and women in India (Patel, 2010). In this context strict implementation of Pre-conception and Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (2002) is mandatory. PNDT Act was enacted in 1994 by the Centre followed by similar Acts by several state governments and union territories of India during 1988 (after Maharashtra legislation to regulate prenatal sex determination tests), as a result of pressure created by Forum Against Sex-determination and Sex –preselection. But there was a gross violation of this central legislation.

In response to the public interest petition filed by Dr. Sabu George, Centre for Inquiry into Health and Allied Themes Mumbai) and MASUM fought on their behalf by the Lawyers Collective (Delhi)⁶; the Supreme Court of India gave a directive on 4-5-2001 to all state governments to make an effective and prompt implementation of the Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) Act (enacted in 1994 and brought into operation from 1-1-1996). Now, it stands renamed as “The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act”.

Recently enacted Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 tightens the screws on sex selection at pre-conception stage and puts in place a string of checks and balance to ensure that the act is effective. The Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002 received the assent of the President of India on 17-1-2003. The Act provides “for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto”.

Under the Act, the person who seeks help for sex selection can face, at first conviction, imprisonment for a 3-year period and be required to pay a fine of Rs. 50000. The state Medical Council can suspend the registration of the doctor involved in such malpractice and, at the stage of conviction, can remove his/her name from the register of the council.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Rules, 2003 have activated the implementation machinery to curb nefarious practices contributing for MISSING GIRLS. According to the rules this all bodies under PNDT Act namely Genetic Counseling Centre, Genetic Laboratories or Genetic Clinic cannot function unless registered. The Bombay Municipal Corporation has initiated a drive against the unauthorised determination of gender of the foetus as per the directive of the Ministry of Law and Justice. All sonography centres are required to register themselves with the appropriate authority- the medical officer of the particular ward. The registration certificate and the message that under no circumstances, sex of foetus will be disclosed are mandatory to be displayed.

The Shortcomings of the PNDT Act (2003) lie in criteria set for establishing a genetic counseling centre, genetic laboratory and genetic clinic/ultrasound clinic/imaging centre and person qualified to perform the tests.

- The terms genetic clinic/ultrasound clinic/imaging centre can’t be used interchangeably. But the Act does.
- Moreover, the amended Act should have categorically defined persons, laboratories, hospitals, institutions involved in pre-conception sex-selective techniques such as artificial reproductive techniques and pre-implantation genetic diagnosis.
- Who is a qualified medical geneticist? As per the Act, “a person who possesses a degree or diploma or certificate in medical genetics in the field of PNDT or has minimum 2 years experience after obtaining any medical qualification under the MCI Act 1956 or a P.G. in biological sciences”. Many medical experts feel that a degree or diploma or 2 years experience in medical genetics can’t be made synonymous.
- As per the Act, an ultrasound machine falls under the requirement of genetic clinic, while it is widely used also by the hospitals and nursing homes not conducting Pre-implantation Genetic Diagnosis (PGD) and PNDT.

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7 Kamdar, Seema “Sex Selection Law Tightened”, Times of India, 6-6-2003.
Ban on the Advertisements of SD & SP Techniques:

Another important initiative that has been taken is against any institution or agency whose advertisement or displayed promotional poster or television serial is suggestive of any inviting gestures involving/supporting sex determination. MASUM, Pune made a complaint to the Maharashtra State Women’s Commission against Balaji Telefilms because its top rated television serial’s episode telecast during February 2002 showed a young couple checking the sex of their unborn baby. The Commission approached Bombay Municipal Corporation (BMC) and a First Investigation Report (FIR) was lodged at the police station. After an uproar created by the Commission, the Balaji tele-film came forward to salvage the damage by preparing an ad based on the Commission’s script that conveyed that sex determination tests for selective abortion of female foetus is a criminal offence. Now there is another battle brewing. The women’s groups insist that the ad should be telecast for 3 months before each episode, while the Balaji Tele-films found it too much. 11

The Protection of Women from Domestic Violence, 2005

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. The bill on domestic Violence circulated in 2002 had generated heated debate around the issue, whether casual/ occasional beating should be considered as “domestic violence”. 12 After massive signature campaign and lobbying, the Indian women managed to get THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE Act, 2005 to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence-physical (beating, slapping, hitting, kicking, pushing), sexual (forced intercourse, forcing her to look at pornography or any other obscene pictures or material and child sexual abuse), verbal (name-calling and insults), psychological- and economic (preventing one’s wife from taking up a job or forcing her to leave job) and emotional abuse of any kind occurring within the family. Domestic violence under the act includes harassment by way of unlawful dowry demands to the women or her relatives. It empowers the women victim to stay in the matrimonial, shared household and/or parental home whether or not she has title in the household. Recently formulated rules of the Act also empower the protection officer, police, public hospital and the community to take proactive steps to stop the violence and provide services to the victim.

The scope of this legislation has been widened to include persons who have “shared households and are related by consanguinity, marriage or a relationship in the nature of marriage or adoption to relationship with family members---Even those women who are sisters, widows, mothers, single women or living with the abuser entitled to get protection.”

As a result of the pressure of women’s groups, health activists and judicial activism, new legal provisions such as recognition of the right to residence of a woman in the parental or matrimonial homes, provision for the appointment of protection officers and the recognition of service providers, gender sensitisation trainings for Protection Officers and Judges with regard to criminal legal system-substantive law, procedural law, rules and infrastructure and budgetary

allocation for strengthening the structures and mechanisms for implementation of laws have been provided (Jesani, 2011).

Current Concerns on Sexual Violence Against Women

The Criminal Law (Amendment) Bill, 2013 was passed by the Lok Sabha on 19th March, 2013 and by the Rajya Sabha on 21st March, 2013. The President of India has accorded his assent to the Bill on 2nd April, 2013 and it is now called the Criminal Law (Amendment) Act, 2013.

Thousands of individuals and groups made online submissions asking for a comprehensive law that prohibits sexual violence, while ensuring an efficient criminal justice system. There is a broad understanding that any such law should focus on more than just penetrating sexual assault, as proposed in the Criminal Law Amendment Act, 2013. It is imperative that the definition of sexual assault is broad enough to include anal, oral and digital rape, as well as rape with objects, marital rape and sexual assault against transgender people. Judicious implementation of Protection of Children from Sexual Offense Act, 2012 is demanded by citizens’ fora, women’s groups and child rights organisations. After 30 years of consistent effort, Indian women have managed to get The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules for the same are awaited so that the Act can be implemented.

Need for Legal Education
There is a need to provide public education through electronic media, community radio, seminars and public meetings on the following laws having direct bearing on women.

List of Acts having direct bearing on women

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**Ministry of Labour & Employment**

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**Legislative Department**

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Conclusion

There is a need for an affirmative action to protect girls, young and elderly women from discrimination and violence, at the same time to establish their human rights. It must address the following areas of intervention.

1. **Improve Women's Economic Capacities**: Improve women's access to and control of income and assets, recognize her shared right to the family home, and incorporate the principle of division of community property in divorce laws. Productive assets and property are critical to strengthening the economic and social status of women, providing income opportunities and improved respect for women outside marriage and family.

2. **Strengthen and expand Training and sensitization Programs**: Programme designed to train, sensitize and inter-link those working at critical entry points to identify and treat abused women should be a priority, with one aim being increased accountability across institutions. Such programmes should be tailored for medical personnel, the judiciary, counseling and other support service providers.

3. **Dilaasa** model of one stop crisis centre housed in the public hospital to facilitate collective intervention of medical staff, police and NGO must be replicated throughout the country.
4. **Effective use of the Media to build Public Awareness**: Mobilisation of communities around campaigns such as that for "Zero Tolerance of Violence" requires improved skills and capacity among NGOs to enter new forms of dialogue with journalists and media personnel to heighten awareness of human rights and their significance for addressing domestic violence.

5. **Programmes designed for the batterers**: must be introduced in both the state and voluntary sectors. In order to promote a holistic approach to prevention as well as intervention, the deficiency in programmes designed for men needs to be addressed.

6. **Addressing VAW through Education**: Prevention of domestic violence ultimately depends upon changing the norms of society regarding violence as means of conflict resolution and traditional attitudes about gender. To achieve this, there must be introduction of gender and human rights in the curricula of schools, universities, professional colleges, and other training colleges. Along with this, there must be recognition and commitment to the principle of free compulsory primary and secondary education for girls.

The Indian state has been pro-active so far as legal safeguards for women are concerned. The provision of protection of women is key intervention in the Twelfth Five Year Plan. Ministry of Women and Child Development has launched public education on laws concerning women. It has set out proactive, affirmative approaches and actions necessary for realizing the rights of women and providing equality of opportunity. Involvement of civil society groups, women’s groups, educational institutions and judicial activism can strengthen these efforts.

**References**


