CHAPTER-III

SEXUAL HARASSMENT
IN WORK PLACES
AND VIOLATION
OF HUMAN RIGHTS
CONCEPTUAL PARADIGM:

Violence against women is a human rights atrocity. Human rights are more than sets of laws and obligations, they embody a promise that, in equality, we are all entitled to the same rights. Violence against women is the cavernous rift between that promises and will of governments, local authorities, religious, business and community leaders to fulfill it. From the battlefield to the bedroom, women are at risk. They are the first to feel the lack of poor social services, the first to be denied education and health care. The effects of economic globalisation are leaving more and more women trapped in poverty. Poverty leaves women more exposed to violence, less able to escape it. It severely restricts women's ability to organize and fight for change. In this as in so many other ways, governments are failing to address the real 'terror' of our world that millions of women face everyday. Sexual harassment is one of the most common forms of violation of a person's body and dignity. Yet, it is the least exposed. Indeed the past few years have witnessed an increasing awareness of the phenomenon of sexual harassment as a legitimate workplace issue. While there has been no standard definition of sexual harassment per se, what is universally agreed upon is that it is unwanted and unwelcome sexual conduct, which often leads to a hostile and intimidating working environment. The fact that sexual harassment complaints are seldom made is not indicative of the absence of sexual harassment incidences. Rather it is most likely due to the absence of complaint avenues and mechanisms for redress.
Sexual harassment is not about personal relationships between men and women. Sexual harassment is a manifestation of abuse of power. Sexual harassment as gender violence and as a violation of human rights is shaped by the distribution of social, political, economic and legal power in which women are still far from being empowered nor equal. As women increasingly enter the workforce the ubiquitous nature of sexual harassment in the workplace is a reflection of the unequal power relations in society whereby women are seen as secondary labour. Given the above, what have been the policy and legal approaches in combating sexual harassment in workplace? Thus far, various approaches have been stated – from Codes of Practice to anti-discrimination or labour laws to specific legislation on sexual harassment. At the United Nations level, the 1995 Beijing platform of action has noted sexual harassment as a form of violence against women, calling for member states to take measures to actively combat this act of violence.

CATEGORIES OF SEXUAL HARASSMENT:

Sexual violence is generally, legally categorized into two forms. The first is quid pro quo, in other words the “put up or get out”. Demand more of an employee by someone with the power of apparent authority to hire, to promote, fire or otherwise cause an adverse employment decision. The second form is the hostile environment, “where the employee may have suffered no tangible adverse employment action but was required to endure offensive behaviour. Apart from above 2 categories of sexual harassment, there is yet another form of insidious harassment which similarly require attention, namely that by an employee of his employers, customer, charge or by client of an employee providing services. Examples of the former include the harassment by coach to his athletes, by a bus driver of his passengers and a doctor of his patient and of the latter include by a patient of his nurses.
QUID PRO QUO:

Undeniably, sexual harassment is a difficult issue to tackle as it generally involves someone of higher position making it difficult for the sexually harassed victim to raise the issue. Due to this it takes a lot of courage for women who are sexually harassed to speak out. One of the most common reasons for women not voicing out against sexual harassment is the fear of retaliation by the person complained against. Women have been demoted, their job assignments changed, their work, which was satisfactory or even exemplary prior to their complaints publicly criticized and admonished, or they, themselves ultimately discharged. Quid pro quo sexual harassment occurs when whenever an individual explicitly or implicitly conditions a job, a job benefit, or the absence of a job detriment, upon an employee's acceptance of sexual conduct. There must be a connection between conversation or actions concerning or actions concerning benefits or threats by the alleged harasser and his/her demands for sexual favours. Sometimes the harassment may be very explicit, such that his/her intent cannot be mistaken. Of course actions, gestures or touching may be even more explicit and offensive and words. Currently, computers and inter-office e-mails have become the medium for graphic forms of harassment. Forms and degrees of sexual harassment make it very difficult to draw a bright line of distinction between appropriate and legal, and inappropriate and illegal, communications. In many cases, all of the facts and circumstances (what lawyers call "totality of circumstances") must be evaluated.

Generally, the individual who does the harassing must be in a position of authority (a supervisor, manager or administrator) over the person he/she is harassing. Sometimes, it is not clear that a person occupies a position of authority, in which a closer analysis is necessary. If the harasser is not in a position of authority over the person being harassed, that may mean that there is no quid pro quo harassment; however, there may be "hostile work environment" harassment.
Under an objective standard, the question is whether a reasonable person in the accuser's position would have believed that he/she was the subject of quid pro quo harassment. Under a subjective standard, the question is whether the alleged harasser actually intended to subject the accuser to quid pro quo sexual harassment. While some courts have ruled differently, it appears that in Hawaii, either a subjective or objective standard may be applied to determine if there is a violation.

Employers are held "strictly liable" if they are placed in positions of authority, persons who extract sexual favors from those over whom they exercise power. If quid pro quo sexual harassment is proven, the harasser's employer is per se liable. The liability of the employer (in addition to the liability of the employer – harasser) is important, since the laws have been fashioned to cure the problem of sexual harassment by placing the burden upon the employer to prevent harassment and by penalizing the employer for allowing it to happen; also, compensation for injury resulting from harassment is much more readily available from the employer, rather than the individual employee.

HOSTILE ENVIRONMENT:

Experience has shown that sexual harassment is caused not only by a superior repeatedly abusing his position by sexually harassing his subordinate but may be caused also by a group of workers in order to create a hostile environment to compel an unwanted female employee to leave. For example, several men may make derogatory comments in her presence and during her presentations or subject her to offensive and unwelcome touching thereby affecting her work performance. Many jurisdictions addresses sexual harassment as discrimination and an equal opportunity issue and thus is incorporated into legislations dealing with discrimination and equal opportunity. In some jurisdiction special commissions or tribunals and set up to hear such cases.
Sexual harassment at work is on the rise in the cities government offices and public sector banks. Women are forced to approach social organizations and the court because they fail to get justices in their own offices. This, despite the fact that the Supreme Court of India in its landmark Visakha judgment of August 1997 recognized sexual harassment at the workplace as not only personal injury to the affected woman but also a violation of fundamental rights.

The stark reality is though women have been adding value to professions they take up and endure tough challenges, despite caught in the web of adverse cultural practices, prejudices in a male dominated environment, the prevailing gender inequalities and popular cinema portraying women as sex objects. That a vast majority of women though at the receiving end of sexual harassment at work place do nothing about it, mostly due to the fear of losing their jobs if they speak up, is rather disconcerting. A male intentionally brushing past a female colleague to an unwelcome physical, verbal or non-verbal conduct of sexual nature depicts the moral vacuum in the present day society. But as various studies have shown, a significant number of women also face problems of harassment like eve teasing and molestation essentially because many of them are ignorant of their rights. While a section of women in a recent survey felt that that those who are bold or outspoken had higher chances of being targeted. Though aware about cases of sexual harassment of their friend, many women lack the courage to report any one, has compounded the problem. Primarily fear of jeopardising their career often makes it difficult for a number of working women to report sexual harassment and get proper redress. Even with none of the Civil and Penal laws in the country adequately equipped to provide specific protection for women from sexual harassment in work places. Such a menace is violation under the Protection of Human Rights Act 1993. But many are unaware of it. The Indian
Penal Code (Section 354, outraging the modesty of a woman and Section 509, insulting the modesty of a woman) provides punishment with imprisonment for a term extending unto 2 years or fine or both. But, cases are rarely filed, largely due to ignorance.

To understand sexual harassment it is of utmost importance to be acquainted with the course of law and stand that the Courts have taken in recognizing the existence of a phenomenal sexual harassment. The term sexual harassment is of relatively recent origin but the behaviour it describes is centuries old. Sexual harassment at work place seriously hinders the ability of women employees and workers to tackle both work and harassment simultaneously. To The Question – have you confronted anybody who has experienced sexual harassment at work place including yourself? Even if you have been confronted, you cannot clarify what sexual harassment actually is – that is what behaviour or conduct actually constitutes sexual harassment.

All working women, regardless of their age, physical appearance, social status and job security may encounter sexual harassment. The problem is that women working at the bottom of an economic scale are subject to more gross expression of sexual harassment. They often encounter crude suggestive comments and physical assaults. Professional and managerial women, on the other hand receive more subtle treatment. Instead of outright physical abuse they are subject to psychological intimidation. They receive offers for after work drinks, expensive lunches and dinners, and business trips with the implicit message that sexual favours are expected. Sexual harassment singles out a gender-defined group, women, for a special treatment in a way, which adversely affects and burdens their status as employees. It deprives them of opportunities that are available to male employees. Work is critical to women’s survival and independence. Sexual harassment exemplifies and advantageous to women in work and sexual practices, which intimately degrade and objectify women.
In this perspective, sexual harassment undercuts women's potential for social equality in two ways by using her employment position to coerce her sexually, while using her sexual position to coerce her economically. A woman faced with unwanted and unsolicited sexual advances may feel confused, as well as frustrated and angry. When harassment occurs, often the woman is unsure whether real injustice has been committed, as the aggressor may take it or pretend that she had initiated the encounter like rape, sexual harassment has remained a hidden problem. Because of a long history of silence of the subject, women are also very uncomfortable and embarrassed to talk about their personal incidents of harassment.

**HUMAN RIGHTS VIOLATION:**

Sexual harassment now recognised as a human rights violation; with more and more cases of sexual harassment coming to light in the developed and developing countries, such a move is likely to have good ramifications. The concept of equality means much more than treating persons in the same way. Equal treatment of persons in unequal situations will operate to perpetuate rather than eradicate injustice. True equality can only emerge from efforts directed towards addressing and correcting the situational imbalance. It is the broader view of equality, which has become underlying principle and the final goal in the struggle for recognition and acceptance of the human rights of women. Equality of rights for women is a basic principle of the United Nations.

The Preamble of the Charter of the United Nations sets as a basic goal to reaffirm faith in fundamental human right, in the dignity and worth of the human person, in the equal rights of men and women. Discrimination in the enjoyment of human rights is prohibited under principle of human rights instruments. For example, Article 2 of the Universal Declaration of Human Rights states "Every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex,
language, religion, political or other opinion, national or social origin, property, 
birth or status". Various human rights treaties bind parties to ensure the rights 
enshrined in the treaties to all without discrimination, including discrimination 
on grounds of sex. This type of provision is included in Article 2 of the 
International Convention on civil and political rights. "Each state party to the 
present covenant undertakes to respect and to ensure to all individuals within 
itself territory and subject to its jurisdiction the rights recognised in the present 
covenant, without distinction of any kind, such as race, colour, sex, language, 
religion, political or other opinion, national or social origin, property, birth or 
other status". 6 Article 3 of the International Covenant adds an extra requirement 
that states parties must ensure the equal rights of men and women to enjoy all 
civil and political rights set in the covenant. 7 Article 1 of the declaration states 
that discrimination against women" is a fundamental unjust and constitutes an 
offence against human dignity". Article 2 requires all appropriate measures to 
be taken to abolish all laws, customs, regulations and practices which are 
discriminatory against, and to establish adequate legal protection for equal 
rights of men and women. Article 3 requires all appropriate measures to be 
taken to educate public opinion, and to direct national aspirations towards the 
eradication of prejudice and abolition of practices, which are based on the 
idea of the inferiority of women. Article 8 of the Declaration requires all 
appropriate measures including legislative measures, to be taken to combat 
all forms of traffic in women and exploitation of prostitution of women.

A definition of discrimination against women is set out in Article 1 
of the convention on the Elimination of All Forms of Discrimination against 
Women (CEDAW), which states that the term means" any distinction, exclusion 
or restriction made on the basis of sex which has the effect or purpose of 
impairing or nullifying the recognition, or enjoyment or exercise by women, 
irrespective of their marital status, on the basis of equality of men and women, 
of human rights and fundamental freedoms in the political, economic, social;
cultural, civil or any other field”. Article 2 of the Convention requires state parties to condemn discrimination against women in its all forms and agree to pursue a policy of elimination of such discrimination. The Article requires states to take a number of measures which includes embodying the principle of the equality of men and women in national constitutions or legislations, adopting legislative measures prohibiting discrimination against women, establishing legal protection of the rights of women on an equal basis with men, and taking measures to eliminate discrimination against women by any person, organization or enterprise. The Convention goes further by prescribing the measures to be taken to ensure that women everywhere are able to enjoy the rights to which they are entitled. The Convention identifies many specific areas where there has been notorious discrimination against women, for example in regard to political rights, marriage and the family and employment. In these and other areas the convention spells out specific goals and measures that are to be taken to facilitate the creation of a global society in which women enjoy full equality with men and thus full realization of their guaranteed human rights. To combat gender-biased discrimination, the Convention requires state parties to recognise the economic and social contribution of women to their family and society as a whole. It emphasizes that discrimination will hamper economic growth and prosperity. It also expressly recognises the need for a change in attitudes, through education for both men and women to accept equality of rights and responsibilities and to overcome prejudices and practices based on stereotyped roles. Another important features of the Convention is its explicit recognition of the goal of actual in addition to legal equality, and of the need for temporary special measures to activate that goal.8

In recent years, Amnesty International has become increasingly aware of the importance of gender in its own work. It is striving to ensure that the characteristics and practice of human rights violations against women, or to which women are particularly vulnerable are fully reflected in its research
and campaigning. In theory, women have never been excluded from the UN's concept of Human Rights. Its 1945 Charter recognised the equality of men and women and this principle has been maintained or assumed in its formulation of human rights from the UDHR onwards. Minimum age for Marriage and Registration of Marriage (1962), were important steps but concentrated on women's rights in their traditional roles in society. Human rights violations occur throughout India against a backdrop of political instability. The socially or economically weaker sections of society continue to be particularly vulnerable to human rights abuses. Attacks often with the apparent connivance of police and local authorities, or Dalit communities and tribal people are commonplace. Women continue to be particularly vulnerable to abuse in these contexts. Access to justice for these victims of human rights abuses remained problematic and those engaged in protecting the rights of the most vulnerable groups also came under increasing pressure, often themselves becoming the victim of abuses.

Human rights defenders working on a range of issues including caste discrimination, domestic violence and trade union rights came under attack from both the State and other powerful interests. In July 17th, 19999 people, including two women and a child died following police action to suppress a protest march in connection with a wage dispute between tea estate workers and their employees in Tirunelveli in Tamilnadu. Eye-witness reports indicated that police continued to beat protesters when they were in the river and prevented them from getting out of water. The government ordered the commission of inquiry, which was continuing at the end of the year. The National Human Rights Commission clarified its role with reference to a 1996 Supreme Court order that the NHRC should investigate human rights violations in Punjab following allegations that hundreds of bodies have been illegally cremated by Punjab Police in 1996.
Death in custody continues to be widespread throughout all states. Various forms of torture, including rape, continue to be used by the police and security forces. This was acknowledged by government officials, including the Attorney General, senior members of the Judiciary.

Other key treaties, including the international covenants on economic, social and cultural rights and on civil and political rights both adopted by the General Assembly in 1966, included article ensuring the equal enjoyment by men and women by the rights set out. However, a number of factors have prevented women from the equal enjoyment of human rights. For a start, human rights are often described as the right everyone has, and every one equally, by virtue of their very humanity. The problem with the basis of a common humanity is that it assumes a common experience and common needs. This emphasis of women's enjoyment of their human rights by virtue of their 'similarity' with men excluded women's needs for specific rights or the specific application of human rights, to take account of their biological differences and gender construct of their role in their society. International human rights law is meant to mediate the relationship between the government and the governed, however traditionally occupy the public sphere of the society, the political, legal, social and economic institutions, populated largely by men while women are traditionally enclosed within the private sphere of the home and the family. Doctrines of privacy and protection of the family, in international as well as national law, have enforced this public/private demarcation. This demarcation in different forms and degrees by time and place is always present to some degree.

It ensures that resources traditionally needed by women in their role as child bearers and organizers of the household are accessible primarily in the public sphere while women's activities are focused on or are confined to the private sphere of home and family. In addition, the UN bodies responsible
for human rights and for women, particularly the Commission of Human Rights and Commission on the Status of Women, have for most of their existence failed to address adequately the human rights of women. Since their establishment in 1946 and 1947 respectively, they have evolved very different practices and priorities although they are both functional commissions reporting to the UN Economic and Social Council (ECOSOC) and both are composed of states. The commission on human rights has an extremely broad mandate. It can undertake studies, draft international instruments to review the implementation of existing standards and since the late 1970s publicly scrutinize the human rights situation in individual countries. These mechanisms have become the most dynamic aspect of the Commission on Human Rights work and have had considerable impact in trying to vitalize state accountability for violations of human rights by fact finding and measuring the compliance of individual governments with international human rights standards. Despite the fact that political, economic and security interests of states often dominate the proceedings of the Commission, these mechanisms have been effective in many cases in helping to create change in many countries. The specific rights, which the Commission on Human rights has invoked for this process, have been primarily civil and political rights. For most of its existence, the Commission on human rights has effectively ignored the gender implications of the country and thematic mechanisms or any other aspect of its work. Before the UN world conference on Human Rights even on rare occasions when there was attention to women, gender specific nature of the violations was ignored.

The Commission on the Status of Women’s – initial focus was on legal equality of women. This gave way during the 1970s and 1980s to emphasis on social and economic rights. While its work has been invaluable in raising and maintaining awareness of issues around women’s inequality, the UN decade for women (1975 to 1985) and the three^{10} UN World Conferences on women associated with the decade, it has not developed mechanisms comparable to
those of the Commission on Human Rights or engaged with the concept of state accountability. Indeed, the Commission on the Status of Women reached an understanding in its early years that states were sent qualified to speak on the situation in their own country. Admittedly, the Commission on the Status of Women’s Parent bodies, ECOSOC and the UN General Assembly, have discouraged it from developing any concept of state accountability for women’s rights. An historic but telling example is the drafting during the 1960s declaration on the Elimination of Discrimination Against Women, the forerunner of the Convention. The General Assembly returned the draft text to the Commission or the status of women because states disagreed on the specific rights to be included and whether the text could contain the essential obligation of states as entities with primary responsibility for implementation. The final compromise was to draft each substantive Article describing the measures to be taken without specifying who was responsible for taking them. In addition there is a well entrenched belief in the UN that states are not uniquely responsible for the provisions of social and economic rights and are obligated to work only for their graduation and incremental implementation in thus further denying women a claim on the State through one of the major areas of the Commission of the status of women’s work.

The prevailing view that the condition of women is deeply rooted in cultural and social tradition further discourages attention to State accountability. The series of global conferences and other development in the UN in the first part of 1990s had a catalytic effect on the International community’s awareness of human rights of women and saw bold commitments to take action to promote and protect them. The UN World Conference on Human Rights, held in Vienna, Austria in June 1993 and the Fourth UN World Conference an Women held in Beijing, China in September 1995 were key but others, particularly the UN International Conference on Population and Development, held in Cairo in September 1994, and the UN World Summit for social
development, held in Copenhagen, Denmark in March 1995, played important roles in this process.

Women's organization came to the World Conference on Human Rights, for which the Commission on Human Rights was the preparatory body, to demand "women's rights are human rights". It was among the highest achievements of the Conference that the message was acknowledged. The Vienna Declaration and the Programme for Action, the final document of the World Conference of human rights, asserted that the human rights of women are an inalienable, integral and indivisible part of Universal Human Rights. It urged that the full and equal enjoyment by women of all human rights should be priority of governments and the UN. It stated that the equal status and human rights of women should be integrated into the mainstream of UN system - wide activities. In particular, the World Conference stressed the importance of working towards the elimination of violence against women in public and private life, thus extending international concern and state accountability for violence against women in both the public and private spheres. The momentum was reinforced by the adoption by the UN general Assembly in December 1993 of the Declaration on the Elimination of Violence against Women, and the appointment the following March by the Commission on Human Rights of a Special Rapporteur on violence against women.

The mandate of the special rapporteur was based on Article 2 of the Declaration, which defines violence against women on encompassing but not limited to physical, sexual or psychological violence in the family, the community or perpetrated or condoned in the State wherever it occurs. In Beijing the assembled governments incorporated "women's rights are human rights" as Article 14 of the Beijing Declaration, which with the platform of Action, constitutes the final document of the Fourth UN World Conference on Women. Early draft of the platform, debated for long hours in the Commission-
on the status of women, barely mentioned human rights and failed to refer to government’s responsibility to prevent human rights violation against women. In its final form, however, the Beijing Declaration and platform for Action represents an important step forward by governments towards acknowledging the reality of human rights violations against women and girls and state accountability for these violations. Human Rights and Women’s Right issues have been seen such as separate the UN Commission on Human Rights and UN Commission on Status of Women, for example, developed in isolation from each other.

Only in 1993 did the UN affirm that the human rights of women are "an indivisible part of universal human rights" and in 1995 the UN World conference on women in Beijing adopted strong and detailed recommendations for the promotion and protection of human rights. Many human rights abuses against women have been allowed to remain invisible. Cultural practices have been both the context of human rights violations against women and the justification for them. The culture or tradition of a country often shapes and circumscribes women’s lives in a way that discriminates against them. This is often perpetuated by a division between the public spheres of the society, the political, legal, economic, social, military, security and police institutions, which are largely dominated by men, and the private spheres of the home and the family to which women are traditionally confined. Doctrines of privacy and protection of the family, in international as well as national law, have reinforced this divide. Such attitudes have also fed into the established view that, while violence against women by state agents is ill treatment or torture, domestic violence or abuses committed by non-state agents are private or domestic matters. When states take this view and permit violence against women, they send a message to everyone in that society that such violence is condoned. The three types of violence against identified in the Declaration on the Elimination of Violence Against Women - political, psychological or sexual violence occurring
in the family, the community or perpetrator condoned by the state are closely interwoven. Around the world the human rights community is campaigning to promote and protect the fundamental human rights of women.

**THE INDIAN SCENARIO:**

The Supreme Court took cognizance of the fact that for realizing the true concept of 'gender equality'. It is necessary that sexual harassment of working women in all working places must be prevented. A working woman is exposed to various hazardous situations, which may lead to any kind of depravity. This may lead to violation of her rights under Article 14, 15, 19 and 21 of the Constitution. The fundamental right of a woman to carry on any occupation, trade or profession depends on the availability of a 'safe' working environment. Right to life means life with dignity. Gender equality includes protection from sexual harassment and right to work with dignity. The Internationals Conventions and Norms also support this view.

The Convention for Elimination of All Forms of Discriminations Against Women (CEDAW) recommends as regards to the violence and equality in employment as following that the equality in employment as following that the equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment in the workplace. That the sexual harassment includes such unwelcome determined behaviour as physical contacts and advances, sexually coloured remarks, showing pornography and sexual demand whether by words or by action. Our government to protect and improve the status of women has also enacted several other legislations. Due to lack of specific provisions pertaining to violence against women within the home culprits could be convicted only under the general provisions relating to battering, torture, causing simple and grievous hurt and wrongful confinement. But, these provisions did not take into account the specific situations of women facing violence within the home.
The criminal law was amended in 1983 to create special categories of offence to deal with dowry harassment and cruelty to married women. Despite the above provisions, the violence against women has been increasing alarmingly. Indian Supreme Court is quite sensitive relating to gender justice and equality and it has been projected in number of judgments. In the case of Vishaka vrs State of Rajasthan observed that gender equality includes protection from sexual harassment, and right to work with dignity, which is a universally recognised basic human right. The common human requirement of the human right has received global acceptance. The Court further observed that it is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no consistency between them and there is a void in the domestic law. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment by working women at all workplaces on working women at all workplaces, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Article 14, 15, 19(i)(g) and 21 of the Constitution and the safeguard against sexual harassment implicit therein.

Any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of constitutional guarantees. In the historical judgment of the Apex Court in Vishakha & others vrs the State of Rajasthan on 13th August 1997 states that incidence of sexual harassment are a clear violation of the rights under Article 14, 15 and 19(i)(g) and 21 and Article 32. Such incidents are a violation of the fundamental rights of Gender equality and the right of life and liberty and the right to practice any profession, occupation, trade or business. The above situations also envisage some such situations where the police take action on the complaint filed by the
victim. The police themselves in such situations cannot initiate action in specific instances, through some times such instances are brought to their notice by the local media. In order to rectify the unequal position of women and to give meaning and content for their rights, many laws were enacted some before the adoption of the Constitution and more thereafter. Based on their nature they can be broadly categorized as constitutional law. Labour laws, criminal laws, family laws and other civil laws.

Article 14 of the Constitution of India provides that “the State shall not deny any person equality before the law or equal protection of the laws within the territory of India, simply it proclaims equaling of all persons.”

Article 15(1) prohibits the State shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them. Simply it states that there can be no discrimination between citizens on the grounds of religion, race, caste, sex, place of birth or any of them. This right is available to the citizens of the State only.

Article 15(3) provides for the State to make special provisions in relation to women and children. Based on the well accepted logical special provisions are made to guard the interests of women and children in several laws, both Civil and Criminal. Article 16(1) and Article 16(2) prohibits discrimination in general and also discrimination because of sex in offices and those employed under the State. Article 39(a) of the Constitution provides that the State shall in particular direct is policy towards securing the citizens, men and women equally, have the right to adequate means of livelihood. This is also a Directive Principle of State Policy.

Article 39(c) of the Constitution requires that the State secure health and strength of women, men, women and children are not abused and citizens are not forced by economic necessity to enter avocations unsuited for their age and strength. This again is a directive principle of State policy.
Article 15(A) (e) of the Constitution provides that it will be the duty of every citizen of India to renounce practices derogative to the dignity of women. On the earlier decision in Nilabati Behera vrs State of Orissa a provision in The International Convention on Civil and Political Rights was referred to support the view that there is no reason why these International Conventions and Norms cannot be used for construing the fundamental rights expressly guaranteed in the Constitution of India which embody the basic concept of gender equality in all spheres of human life. Further the Supreme Court, in the case of Madhu Kishwar vrs State of Bihar considered the provisions, of the Conventions on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW) and held the same to be integral scheme of the Fundamental rights and the directive principles.

Article 2(e) of the CEDAW enjoins the State parties to breathe life into the dry bones of the Constitution, international Conventions and the protection of Human Rights Act, to prevent gender based discrimination and to effectuate right to life including empowerment of economic, social and cultural rights. Article 2(f) read with Article 3, 14 and 15 of the CEDAW embodies concomitant right to development as an integral scheme of the Indian Constitution and the Human Rights Act. Section 12 of the Protection of Human Rights Act charges the National Commission with duty to ensure proper implementation as well as prevention of violation of human rights and fundamental freedoms.
REFERENCE:

1. Women’s World Conference, Beijing, 1995
2. Id. Supra. P99 (Visakha case)
3. Preamble of the Constitution of India, 1950
4. Preamble of the Charter, UN, Dec 10th, 1948
5. Universal Declaration of Human Rights, 1948
6. Right to live liberty and Security
7. Right to Equality
8. Right to freedom and not discrimination.
10. World Conference on Human Rights, 1993
11. Vienna Declaration, 1993,
12. CEDAW, ratified by India on 25.6.03
13. Id. Supra. P111 (Visakha case)