

# *Introduction*

## INTRODUCTION

Women have a unique position in every society whether developed, developing or underdeveloped. This is particularly due to the various roles they play during various stages of their life, as a daughter, wife, mother, sister etc., in spite of her contribution in the life of every individual human being, she still belongs to a class or group of society which is in a disadvantaged position on account of several social barriers and impediments. She has been the victim of tyranny at the hands of men who dominate the society. The position of Indian woman is no better compared to their counterparts in other parts of the world. On one hand, she is held in high esteem by one and all, worshipped, considered as the embodiment of tolerance and virtue. But on the other hand, she has been the victim of untold miseries, hardships and atrocities caused and perpetuated by the male dominated society. The vulnerability of the women as a class has nothing to do with their economic independence. The women have been victim irrespective of their economic background. The rich and the poor alike are the victims of social barriers and disadvantages of varying kinds. A Report of the United Nations Organizations points out that women constitute half the world population, perform nearly two-thirds of work hours, receive one-tenth of the world's income and own less than one-hundredth percent of world's property.

In India almost half of the Indian populations are women. They have always been discriminated against and have suffered and are suffering discrimination. Even though self-sacrifice and self-denial are their nobility and virtue, yet they have been made the victims of all

inequalities, indignities, inequities and discriminations, from time immemorial. These are some of the factors that prompted the legislature to make various laws to give the women their due share. The Constitution of India prohibits discrimination on the ground of sex. This prohibition of gender-based discrimination has been given the status of a fundamental right. Various other laws have been enacted to deal with the personal matters like marriage, divorce, succession etc. with regard to the women. The criminal law also contains numerous provisions to deal with the crimes committed against women; enactments like the Dowry Prohibition Act supplement the existing criminal laws to combat the evil of dowry. Number of labour and industrial laws provide for the protection and welfare of the women, which include maternity benefit, prohibition of employment of women in dangerous activities and creche facility for the children of working women. In order to curb the immoral and anti-social practice of prostitution, the Immoral Traffic (Prevention) Act has been enacted. The female foeticide and infanticide have assumed dangerous proportions and the determination of sex of the foetus which became possible due to the advanced scientific inventions, abetted the commission of these inhuman acts. The Parliament has passed the Pre-natal Diagnostic Techniques (Regulation & Prevention of misuse) Act, 1994 to arrest this undesirable trend. These legislative measures aforementioned are only illustrative in nature and not at all exhaustive.

The Parliament of India has realized the importance of a monitoring institution to examine and investigate all the matters relating to the safe guards provided for woman under the Constitution and other Laws.

This realization has led to the enactment of the National Commission for Women Act, 1990 which came into force with effect from 31<sup>st</sup> January, 1992. Though this Commission consists of a Chairperson and five members nominated by the Central Government, has been entrusted with the task of presenting to the Central Government the problems of women, deprivation of women's rights, and the reports of the progress of the development of woman under the Union and any State though it has not been given Constitutional Status. However, this body has been burdened with the laborious responsibility of reporting to the government as to the efficacy and effective implementation of the safeguards for improving the conditions of woman by the Government, and for monitoring the socio-economic development of woman in all walks of their life. Unfortunately, the Commission can make only recommendations and send the same to the respective authority for action. It has no Judicial Powers for making it an effective instrument for providing relief to woman in distress. Mr. Justice V. R. Krishna Iyer aptly remarked that a National Commission for Women has "hardly any teeth or nail". It is good development that now the Commission has been given the Judicial Powers and also conferred the Constitutional status. Indian women are becoming more and more conscious of their constitutional and statutory rights. This consciousness has awakened in them a sense of urgency in experiencing equality and social justice. Without equality and social justice there cannot be democracy in the real sense.

Civilized human beings consider the notion of equality and liberty as the basis of modern society. The society, wherein if one of the notions is not accepted, is known as an unjust or unrighteous one. These ideas

have more relevance today, because they are treated as the foundation of today's society on which the entire structure of democracy is based. And for that reason no one will oppose "freedom" and "equality" openly unless one is authoritarian. The notion of equality has various dimensions and perceptions. The true meaning of equality, in short, is uniformity of legal rights for all.

"Equality, therefore, means first of all the absence of special privilege. Equality means, in the second place, that adequate opportunities are laid open to all." There is an aspect in which the things without which life is meaningless must be accessible to all without distinction in degree or kind "The eloquent analysis of the self-actualization, realization of freedom, availability of opportunity and satisfaction of primary needs to each and every individual man and woman in the society."

The Universal Declaration of Human Rights adopted by United Nations General Assembly in 1948 claims that "All human beings are born free and equal in dignity and rights." For egalitarianism, men and women are equal before the law and there must be 'equality of opportunity'.

Equality provides social justice. It makes a full human being. The holistic development of man and woman is impossible without social justice. It protects the weak and limits the powers of the strong and acts for the welfare of every one. Justice involves the notion of impartiality. People must be treated in the same manner unless there are good or special grounds for treating them differently. Now justice is recognized universally as some sort of equality.

Justice to men and women is the abiding creed in the Constitution of India. It is our faith in the dignity of woman governed by moral, natural and written laws. Social justice to woman defines our full view of life. It establishes beyond doubt a woman's inalienable rights, which belong to not only educated women but also the illiterate ones. Social justice provides strength to a woman, because she is no more a prisoner of customs and history.

The discrimination being a female is obvious in the Indian Society, such as the lower life expectancy, minimum education, poorly paid jobs, lower status expectations and very few rewards than men in comparable situations. The process of selection and elimination operating through a complex system of institutional network results in the narrowing down of options for women. Sex role differentiation and ideological assumptions about "Women's place" is linked to the unequal distribution of resources, rewards, rights and authority between men and women which in turn influence patterns of family and work life.

One of the major goals of the emergence and stabilization of certain values in the society is the development of women, which can help women to achieve a richer and happier life. To bring about such value change and subsequent development, conscientization is necessary. Problem-posing education can appeal a woman to re-create her life. It provides her a new insight that she is a distinct individual with rights and duties and is able to "make" and change her world. She can put herself into a distance from her environment, think ahead by creating mental images of the future as it should be for her and act on nature and re-build her life and surroundings. Conscientization helps a

woman to bring about new values and changes by action and reflection which lead toward her development.

The Hindu law-givers did not permit women to inherit property. So a revolutionary change took place with the passage of Married women's Property Act of 1874 which widened the scope of *Streedhana* and the money she acquired through her artistic and literary skills. Side by side the *Streedhan*-movable property which was given to the woman by her parents or husbands also remained intact. The women's lot needed amelioration was the prevailing view and the reformers wanted women to return to the Vedic glory and other placed definite plans to eradicate their problems. Some reformers, like Dayanand Saraswati, gave a severe shock to the traditional society when launched the Suddhi movement and attempted to take back women in the Hindu fold who were converted to Islam or Christianity. Other reformers argued in favour of holistic development programme. Yet others fought for official intervention and social legislations. All reformers had to face opposition from the reactionaries in Hindu society.

Since Independence, All India Women's Conference became interested in constructive work and left its agitational attitude of pre-independence era. Its activities since Independence led to the enactment of social legislations with reference to women. Some significant ones are: Women's Legal Rights, 1952; the Suppression of Immoral Traffic in Women and Children Act, 1954; The Special Marriage Act, 1954; the Hindu Marriage Act, 1955; the Hindu Marriage and Divorce Act, 1956; the Hindu Adoption and Maintenance Act, 1956; the Hindu Minority and Guardianship Act, 1956 ; Interstate Succession Act, 1956; the Orphanages and Widow

Home Act; The Orphanages and other charitable homes (supervision and control) Act, 1960 and the Dowry Prohibition Act, 1961.

The requirement of our age make it necessary to examine and weigh once more many matters about which it is no longer enough to accept the old assessment. The system of family rights and Responsibilities are one of these matters. In the years subsequent to the seventeenth century, there was a movement in the area of social affairs, which took place in the wake of scientific and philosophical development, and which went under the name of Human Right. In this age, it has been commonly supposed that the basic questions in this area are the liberation of women and the equality of their right with men. All other problems are off-shoot of these two matters. By the time the human civilization comes to arrive at this state of consciousness about its women folk, the latter has to pass through varieties of ordeal and humiliation in the hand of her male counterpart.

The position of women reflects the cultural attainment of a society. A major index of modernization of any society is the position of its women *vis-à-vis* men. The more balanced the opportunity structure for men and women, the higher the status enjoyed by women in the society. However, the status of women suffered a setback both on the religious and Philosophic as also on the socio-legal plane.

Originally a female under the Roman law had very little of personal and proprietary independence, but gradually she extricated herself out of it. According to Sir Henry Maine, there were three modes in which marriage might be contracted under Roman usage: '*conferreatio*' involving a religious solemnity and, '*coemptio*' and '*usus*', involving



observance of certain secular formalities. On marriage, the husband acquired a number of rights over the person and property of his wife which was on the whole in excess of such as are conferred on him in any system of modern jurisprudence. However, at the most splendid period of Roman greatness, these three forms of marriage fell into disuse and were founded on the modification of the lower form of civil marriage.

Hindu law and customs were extremely unfavorable to woman. She was treated as inferior to man. The great law-giver Manu says that "Day and night must women be held by their protectors in a status of subjection". It is true that after some time life interest in the property was given to them under the name of *stridhan*, but because the custom of *suttee* came into practice that right was of no practical value. A widow burnt herself alive with the dead body of her husband and that horrible custom was the most gloomy picture of the position that women held in the social economy of the Hindu life. Women were some times made the wife of several brothers at the time. She was sometimes put on the gambling stake and lost. Even up to the other day there was no limit to polygamous marriage in Hindu society. A Hindu widow could not adopt a son unless her deceased husband had left her permission to do so. She could not get any alienable right in property. She could be married without her consent when only a child of four or five years of age. Marriage was viewed as a gift of the bride by her father or other guardian to the bride-groom. As a daughter she was only entitled to expenses of her marriage from her father's estate. She had no right to succession along with her brother. No girl was allowed to be adopted by Hindus. Remarriage was not allowed. Once married,

she could not get divorce. Her status in the society was negligible. A father was never expected to eat at her husband's house, and so on.

From an ethical point of view there is hardly any religion which stands on such a high idealistic plane as Buddhism does. Yet it has not much to say in favour of woman.

The whole fabric of Christianity rests upon the criminality of woman. If Eve had not shown the frailty of going astray, if she had not tempted innocent, child like Adam, sin would not have become inherent inhuman nature, and no saviour would have been required no spilling of human blood would have been needed to "cleanse". Jesus said that he had come to fulfill the law, so he accepted "Thy desire shall be to thy husband and he shall rule over thee" as the maxim of a married life for women. Under English law, wife had no independent identity. The notion of the unity of the personalities of husband and wife prevailed. She had no separate legal existence. She was incapable of holding separate property. So neither the husband could make any grant in her favour, nor could she bring any action for redress against anybody without his consent. The disabilities were subsequently modified by the Court of Equity and The Married Women's Property Act.

Pagan Arabs, the women in Pre-Islamic Arabian Peninsula were treated as chattels. They enjoyed no legal rights. In youth, they were the property of their fathers and after marriage the husband became their lord and master. A woman was not a free agent in contracting marriage. It was the right of her father, brother, cousin or any other male guardian to give her in marriage, whether she was old or young,

widow or virgin to whomsoever he chose. Her consent in marriage was not required.

Polygamy was prevalent, and there was no restriction as to the number of wives one could have. Along with the formal marriage, group marriage, flag marriage prostitution, marriage by barter and temporary marriage (*'muta'*) were in vogue. In regular marriage, dower formed a part of the marriage contract. In some cases the guardians of the girls used to take the dower for themselves. Imputation of unchastity used to deprive a woman of her dower. Husband's power as regards divorce was unrestricted. He could divorce his wife as many times as he liked and could contract fresh alliance of marriage with her every time. Even on pronouncement of divorce, it depended on his discretion whether the marriage was dissolved or not.<sup>1</sup>

The position of widows was also miserable. It often happened on the death of a man leaving widows that his son or heir would immediately cast a shroud of cloth on each of the widows (except natural mother) purporting to annex them to himself. In case the widow escaped, her dower was denied. This caused difficulty for her sustenance, as she had no right to inheritance. In short, woman was treated unfavourable all over the world before the advent of Islam. Almost all the social laws were against her.

Ameer Ali beautifully depicts the reforms introduced by the Islam which brought about complete change in the position of women. The improvement was so vast and striking that their position became unique as regards their legal status and far superior to any other legal

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<sup>1</sup> Abdul Rahim, *Muhammadian Jurisprudence* (1912), pp. 32-35.

system of the world? The *Qur'an*, the paramount source of Islam as a first step categorically warned against burying the female children alive and promised great reward for their proper upbringing. It reformed the marriage system. It strictly abrogated the last three forms of marriage. Prostitution was abolished. Temporary marriage (*muta*) was forbidden after the tenth year of *Hijra*. Polygamy was restrained by a *Qura'nic* injunction limiting the number of wives up to four at a time with a note of caution, "If you (husband) cannot deal equitably or justly with all, you shall marry only one", a condition which is practically impossible to comply with. Ill-treatment of wife is strictly prohibited and where she is habitually ill-treated, she has the right of obtaining a divorce. Wilson opines: "According to the special needs of his time and country, Prophet was a very earnest champion of woman's rights."

As long as a woman is minor, she remains under the control and care of her parents. But on attainment of puberty, the law vests in her all the rights and privileges, as an independent human being. She is entitled to share of inheritance of her parents along with her brother. Though the distinction is founded on a just comprehension of relative circumstances and position of the two, on her marriage her individuality is not lost, and she remains a distinct member of the society. Her existence or personality is not merged into that of her husband. The contract of marriage gives no power over her person beyond what the law defines and none whatever upon her goods and property. Her property remains hers in her absolute individual right. The doctrine of covertures is not recognized in Islam. She can sue and be sued. After she has passed from her father's house into her

husband's home, she continues to exercise all the rights and privileges which the law allows. She can alienate or transfer her property in any way she pleases without any extraneous control of her husband. Her earnings acquired by her personal exertions cannot be touched by her husband. She enjoys this unique position and legal status by authority of the Book of God i.e. *Qur'an*.

To reach her present stage the Western woman had to swim through troubled waters and there were national revolutions and reforms to change her fate-lines. Plato did concede them the equal status in his "Republic". But it is almost a lone example. He was among the philosophers who came first to accord women an equal place with men in sharp contrast to Aristotle and Rousseau who held completely different attitude to women as ardent champion of equality, Rousseau was uncharitable, when it came to women. Aristotle based his theories of slavery and subservience of women on alleged natural difference. Among English think-tanks John Stuart Mill was the real advocate of women's right and their cause. His ideas stand out in contrast to his predecessors and contemporaries. One among such was Jeremy Bentham, the eminent utilitarian who would not accord women the equality. In the domain of socialist thought the institution of private property was denounced as it was, according to them, the root cause of relegating women to a secondary position.

The perennial subjugation of women accounts for the growth of feminist movement in the West which had its sway in 1940's and 1970's. As a result the policies and politics of Britain and the United States were adequately affected. Both in Britain and in America the controversy centres round the question as to whether women were

"persons" or "citizens". This question has intrigued the judiciary in the West for long and the decisions given till recently were greatly male chauvinistic or protectionist. Women for quite some time were not included in the term "person". Only in 1929 in Britain the controversy ended in women's favour. And from America, as late as 1971, cases of such nature have kept coming in.

The position of the modern woman so enviable is a creature of industrial revolution, forced economic conditions, and shortage of man-power during wars which compelled her to stand up and fight against the challenge of time. After pointing out that, although the liberty of women was talked about during the French Revolution, without there being any practical change in their position, Will Durant remarks, "Until 1900 or so a woman had hardly any rights which a man was legally bound to respect". Writing about the causes for a change in the status of women in the twentieth century he said: "The emancipation of women was an incident of the Industrial Revolution. They (women) were cheaper labour than men. The employer preferred them as employees to the more costly and rebellious males. A century ago, in England, men found it hard to get work, but placards invited them to send their wives and children to the factory gate". Mary R. Beard, an American writer has summed up three divergent viewpoints, namely, democratic, communist and fascist, on the subject of women's place in society. According to her, democratic, communist and fascist view points about the rights of women and their place in the society were in part moulded by certain historical conditions and in part by political or military expediency designed to secure a larger following by enlisting support of women. The history of women's emancipation

in France, England, America, Germany, Spain, Italy and Russia all lend support to the above view.

In this connection Murtada Mutahhari observes that the steps that Islam took with respect to the rights of women are, without doubt, basically different in two ways from what is going on in the West. First, in the area of the psychologies of man and woman, Islam has accomplished a miracle, and secondly, that despite the fact that Islam acquainted woman with her human rights, gave her individuality, freedom and independence, it never induced her to revolt and mutiny against, or be cynical towards the male sex. The Islamic women's movement was a 'white' movement a pure movement based on the fundamental nature of woman, and not allied to some particular man-made ideology. Daughter's respect for their fathers and wives' respect for their husbands were not done away with. The foundations of family life were not wrecked. It did not make women despite having husbands, being mothers and bringing up children. The Islamic teachings on this subject, therefore, spring from the ultimate facts of human nature in its local content. Military necessity, political expediency or merely blind revolt against the past did not in any way affect Islam's solution of the sex problem.

In India, as already observed, the status of women suffered a socio-legal and cultural setback resulting gradually in loss of their freedom and decline in their education. This caused erosion in their personality and lowering their status. Evils like child marriage, polygamy, female infanticide, *sati* and exclusion of women from succession to property cropped up. Social inhibition and discriminatory practices continued during the British Raj. However, nineteenth century saw social

reform movement and considerable awakening against social evils. With the intensification of freedom movement, the social scenario started changing. The national celebrities who were also the champion of women's equality motivated the women folk to get into the mainstream of national life. The period of British subjugation turned out to be an era of social reform. Multitudes of woman organizations sprang up to enhance women's cause through education and employment opportunity.

The framers of the Indian Constitution ushered in a new era for the Indian women who were accorded an equal status with men and a place of honour and dignity in the society. The Constitution envisaged the ideal of equality in its preamble which was elaborated in several provisions of its parts dealing with Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. The fundamental law also prohibits discrimination on the ground of sex. It enables the states to make special provisions beneficial to women. The Constitution also casts on every citizen the fundamental duty to renounce practices derogatory to the dignity of women.<sup>2</sup>

Keeping with the letter and spirit of the Constitution, the legislations, that followed, comprised, *inter alia*, some codified personal laws of Hindu community. The sanctity and inviolability of the institution of marriage had degenerated into the instruments of women's enslavement and humiliation. Their status was sought to be restored in mid-fifties by introducing, through enactments, monogamy,<sup>3</sup> eligibility of daughter, widow and mother to inherit property along

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<sup>2</sup> See Article 14, 15(1) (2), 16(2), 15(3) and 51 A(e) of the Constitution of India

<sup>3</sup> See Hindu Marriage Act, 1955.



with son,<sup>4</sup> requirement of the consent of wife for adoption of a child by a married man, eligibility of a woman in child adoption, eligibility of a wife living separately to claim maintenance<sup>5</sup> and entitlement of a woman to appoint a guardian at will.<sup>6</sup> On the procedural side, the establishment of family courts facilitated speedy disposal of cases. And the appointment of women as judges has brightened the prospect of gender justice.<sup>7</sup>

The above and so many other considerations have motivated the researcher to do justice with the theme: "*Women Empowerment through Legislations in the area of personal laws: A socio-legal study of selected legislations in post-independent India*", by studying, analyzing, and suggesting the suitable yardsticks in this regard for ensuring the empowerment of women in the area of law and justice.

The modern trend in law is towards the realization of certain values, namely, the equality of sexes, social and economic security for women, and the development of secular outlook. The success or failure of marriage laws depends upon the extent to which they seek to realize these values.

Marriage and divorce are the most important institutions. On the one hand these are personal institutions. On the other the very basis of our society depends on these institutions and so their social aspects become extremely important. Marriage is now a basis of harmony and the foundation of co-operative endeavour.

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<sup>4</sup> See Hindu Succession Act, 1956

<sup>5</sup> See Hindu Adoptions and Maintenance Act, 1956

<sup>6</sup> See Hindu Minority and Guardianship Act, 1956.

<sup>7</sup> See Family Court Act, 1984.

That the primary cause of the family is purely biological is not true. To day, marriage under every religious system is not merely a response to the first instinct of men. Instead, it is a means to achieve some useful social goals like social harmony, well-being of weaker members of society i.e. women, children and aged ones, and healthy development of the human species. In view of the modern industrial age, it is necessary that there should be more consolidation and solidarity among the members of the family, and therefore, there is a need for state intervention now state is having welfare orientation.

The Universal Declaration of Human Rights says that the family is the natural and fundamental group unit of society and is entitled to protection by the society and the state. According to Lord Westbury, among all the laws of the state, the laws of marriage and divorce are the most important.

There is no denying the fact that the women, as one of the partners to marriage contract, have been discriminated against since the dawn of the human civilization. Though the principle of equality of the sexes has found its way into the basic laws of a good many countries, the gap between the *de jure* and *de facto* situations of women still remain wide. Therefore, most of the countries of the world have introduced drastic changes in the institution of marriage and divorce.

As already stated, the present work is an attempt to analyze the various protective enactments concerning married women under the existing four major family laws (Hindu, Muslim, Christian and Parsi) with a view to examining how far these legislative measures ensure remedies in the marital life of the spouses. It reveals that prior to Independence, the

*Shastric* laws of marriage, succession, etc. were heavily found biased against the wife. After Independence, however, most of the inequalities in respect of marital rights of Hindu wife have been sought to do away with through legislative measures. The basic objectives of these enactments were to confer equal rights and status on both the spouses and to ensure justice to Hindu wife in their matrimonial home. However, these legislative measures though aimed at extending protection to women in their matrimonial home do ignore many major aspects and there are plenty of loopholes in the existing laws. The present study also reveals that these laws are not applied in the manner to accord rightful justice to the Hindu wives who are yet to secure legitimate rights and position in the matrimonial home. Very few have been benefited from this reformative and protective drive. Giving an account as to why the reformation drive by way of Hindu Code failed to deliver the desired good, M. Kishwar says:

*"In the first decades of Indian independence, the codification and reform of Hindu personal law was hailed as a symbol of the new government's supposed commitment to the principles of gender equality and non-discrimination enshrined in the Constitution. This history of Hindu law reform, however, shows that when reformers claim to speak on behalf of huge segments of population, whose traditions and institutions they have no real knowledge of, they are more likely to do harm than good. Reform, to be meaningful, has to be based on creating a new social consensus, a task seldom taken seriously by those who are enamored with statist measures imposed from above".*

There is almost no principle introduced by the Hindu Personal Code which did not already exist somewhere in India as accepted law. On the other hand, there were several existing, much more liberal principles

which were decimated by the Hindu Code. In their determination to put an end to the growth of custom, the reformers were putting an end to the essence of Hindu law: but they persisted in calling their Codification 'Hindu'. At relevant places in the present study, the scope of improvement is pin-pointed by the researcher.

As regards Christian law, it still remains in a chaotic state. It is unfortunate to note that the Christian Marriage and Divorce Bill made no headway as also the Indian Divorce Act is dreadfully antiquated. The Parsi family laws suffer from dichotomy. The Parsi of the presidency towns and those living outside are not governed by the same law. Their law is partly codified, and the procedure for application of divorce and related relief is not well designed. Very little is known about the family law of the Jewish community living in India. A Jewish wife enjoys limited right to obtain a divorce by application to the Jewish panchayat. This segment of our family law regime has received no attention so far. It needs ardent attention. Even after the codification of Hindu law, the scheduled tribes particularly those who come within the definition of term 'Hindu' are exempted from its operation.

The changes in the world situations have had a great impact on the Islamic world and on Muslim community living outside the world of Islam. In India also there arose a movement of social change which gained momentum much before the declaration of Independence that ushered in an era of social legislation seeking to codify and modify the old marriage laws. The Muslim Personal Law (*Shariat*) Application Act, XXVI of 1937 is the most important legislation in the closing years of British regime in India. The Act almost abolished the legal authority of customs among the Muslims of British India. The position of Muslim

women, in few cases, was seriously undermined by the then prevailing customs. Inheritance in particular had continued to be ruled by custom, often excluding women, among numerous communities of Muslims.

## **REVIEW OF LITERATURE**

Several books, journals, articles, judicial decisions and juristic works which are available in different libraries on the topic, have been reviewed out of which numerous materials referred in the Bibliography have been studied and conclusion has been drawn in this regard. Apart from these materials available on different websites has also been taken into consideration while preparing the synopsis of the thesis.

## **RESEARCH HYPOTHESIS**

The proposed research project plans to tackle the following questions hypothetically. Thus in the area of personal laws the Hindu law was given a sweeping face-lift in mid-fifties. The Parsi law has been amended in 1988 and has been brought almost at par with the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955.

The law of divorce of the Christians is still based on the English statute of 1857. I find a very outmoded law of divorce for the Christians. A few years ago an attempt was made to re-enact and consolidate the Christian family laws, but the move was strongly opposed by the orthodox bishops and was, therefore, dropped. Thus Christian divorce laws still remain extremely uncharitable to the Christian wives. Time and again pleas were made for its reform which had gone unheeded so far.

Considering from the above view points, the present attempt includes, in the main, the following selected enactments of post independent India empowering women for critical analysis:

1. The Special Marriage Act, 1954.
2. The Marriage laws (Amendment) Act, 1976.
3. The Dowry Prohibition Act, 1961.
4. Maternity Benefit Act, 1961.
5. Equal Remuneration Act, 1976.
6. Family Courts Act, 1984.
7. The indecent Representation of women (Prohibition) Act, 1986.
8. The commission of Sati (Prevention) Act, 1987.
9. The National Commission for women Act, 1990.
10. The Muslim Women (Protection of Rights on Divorce) Act, 1986.

Obviously the study extends over varieties of laws and enactments, among religious and secular, substantive and procedural codified and uncodified- directly and indirectly connected with the women empowerment. In fact, these apart, there are a few more laws and enactments dealing with personal laws nevertheless only laws with wider scope of application have been considered and discuss critically. Those with limited scope have not been included for the purpose of this thesis.

## **RESEARCH METHODOLOGY**

To accomplish the task, the researcher has utilized the following libraries:

Library of Indian Law Institute, New Delhi; Supreme Court Library, New Delhi; Sapru Library of New Delhi; Library of Faculty of Law, B.H.U., Varanasi; The Library of Law Seminar, Faculty of Law A.M.U., Aligarh; The Library of Dr. Ambedkar Chair of Legal studies and Research, Department of Law, A.M.U., Aligarh; Maulana Azad Library, A.M.U., Aligarh; Library of Department of Sociology, A.M.U., Aligarh; Library of Department of Advance Study and Research of the Department of History, A.M.U., Aligarh; Library of the Department of Political Science, A.M.U., Aligarh; Library of Nadwatul Uloom, Lucknow, Library of Devband, Saharanpur, Library of Parliamentary Studies, New Delhi have been duly utilized for the purpose of this thesis.

Research methodology is treated to be effective tool to achieve the result. In process of the present study and research, the 'Doctrinal Research Methodology' is adopted focusing on materials available in different libraries. It is a library based research relying on leading libraries of our country dealing with books, treatises, journals, Acts, legislations, enactments, commentaries, approaches of social reformers, social activists and social scientists.

## **RESEARCH PLAN**

Introduction apart, the total attempt in the shape of the present work has been divided into four parts namely: Part-I Women

Empowerment in Personal Laws: Conceptual Analysis. An attempt on conceptual analysis of women empowerment has been made in Chapter-1. Women and Personal Law Systems in India are discussed in Chapter-2. Empowerments of women under personal laws in India are explained at length in Chapter-3. Empowerment of Women through different religious systems are discussed in Part-II under the following chapters: Chapter-1 Marriage, Chapter-2 Dissolution of Marriage, Chapter-3 Succession, and in Chapter-4 Maintenance. In Part-III Empowerment of Women through legislations in post-independent India: Evaluation of relevant legislations are explained under Chapter-1 Hindu Women, Chapter-2 Muslim women, Chapter-3 Christian Women and in Chapter-4 Parsi Women. Selected Acts empowering women in post-independent India are critically analyzed in Part-IV like the Special Marriage Act, 1954, the Marriage laws (Amendment) Act, 1976, the Dowry Prohibition Act, 1961, Maternity Benefit Act, 1961, Equal Remuneration Act, 1976, Family Courts Act, 1984, the Indecent representation of women (Prohibition) Act, 1986, the Commission of Sati (Prevention) Act, 1987, The National Commission for Women Act, 1990 and the Muslim Women (Protection of Rights on Divorce) Act, 1986.

Under the caption of 'Concluding Remarks and Suggestions', the academic exercise and research venture have been done pin-pointing the outcome of the study alongwith possible solutions which the researcher finds appropriate within the framework of this study.