CHAPTER-4

Empowerment of women: Socio-Economic, Political and Legal dimensions.
Women are significant contributors to the growing economy and children are assets of the future. Almost 50% of our population today comprises women while 42% is under the age of 18, but they lag behind men on many social indicators like health, education, economic opportunities, etc. The all India sex ratio according to the 2011 Census data is 940 and the world figures are 984 (2011). As per Census 2011, all-India female literacy rate is 65.4 percent and in States like Rajasthan and Bihar the rates hover around 52-53 percent. India has committed to meeting the MDGs and is a signatory to many international conventions, including Convention for Elimination of all forms of Discrimination against Women and the Convention on the Rights of the Child. Yet, at the start of the twelfth Five Year Plan, women and children continue to be victims of violence, neglect, and injustice. Hence, there is need for special attention due to people vulnerability and lack of access to resources. The eleventh Plan pointed out that initiatives need to be taken to raise awareness to ensure that increasing consumerism, moving towards market economy and resultant family planning do not enhance gender inequality and increase in male child preference.1

The Ninth Five Year Plan had a specific objective to achieve in the form of empowerment of Women. A study carried out by NIPFP, New Delhi in 2007 highlighted the need for conducting gender budgeting based on the empirical evidence that as women and men are at the unequal levels of socio-economic development in India especially in the field of health, education and work participation. This study warned that the existing gender neutrality of budgets can lead to many unintentional negative consequences. Again to bring in coherence between budget estimates and actual it is important to understand that higher allocation itself does not lead to spending. The vision of the Eleventh Five Year Plan was to end the multifaceted exclusions and discriminations faced by women and children; to ensure that every woman and child in the country is able to develop her full potential and share the benefits of economic growth and prosperity.2 Success will depend on our ability to adopt a participatory approach that empowers women and makes them partners in their own development. The roadmap for this has already been laid in the National Policy on Women 2001.

The gender perspectives incorporated in the plans are the outcome of extensive consultations with different stakeholders, including a Group of Feminist Economists. In the Eleventh Plan, for the first time, women were recognized not just as equal...
citizens but as agents of economic and social growth. The approach to gender equity is based on the recognition that interventions in favour of women must be multi-pronged and they must:

(i) provide women with basic entitlements,
(ii) address the reality of globalization and its impact on women by prioritizing economic empowerment,
(iii) ensure an environment free from all forms of violence against women (VAW)—physical, economic, social, psychological etc.,
(iv) ensure the participation and adequate representation of women at the highest policy levels, particularly in Parliament and State assemblies, and
(v) Strengthen existing institutional mechanisms and create new ones for gender main-streaming and effective policy implementation.\footnote{3}

Due to the untiring efforts of the women’s movement, the country amended and enacted various women-related legislations during the Tenth Plan. The Married Women’s Property Act (1874), the Hindu Succession Act (1956) were amended and the Protection of Women from Domestic Violence Act (PWDVA) (2005) was passed. The Union Budget 2005–06, for the first time, included a separate statement highlighting the gender sensitivities of the budgetary allocation under 10 demands for grants. Gender Budgeting Cells were set up in 52 Central ministries/departments to review public expenditure, collect gender disaggregated data, and conduct gender-based impact analysis. Under Women Component Plan (WCP), efforts were made to ensure that not less than 30% of funds/benefits under various schemes of all ministries/departments were earmarked for women. The performance however has been far from satisfactory. The Mid Term Appraisal of Tenth Plan revealed that while 42.37% of the GBS to the Department of Education flowed to women under WCP, only 5% of the GBS of Ministry of Labour (against 33.5% in the Ninth Plan) went to women in the first three years of the Tenth Plan.\footnote{4}

In this chapter we will further discuss socio-economic and legal-politico empowerment of women in India these are as follows:

**Social Dimensions**

Health and nutrition is one of the most important component for women social status and empowerment in society, a woman in her life-cycle goes through number of
challenges in terms of her health and nutritional needs as these are not just dependent on availability and access to health and nutrition services but is closely linked to her status in the society which constantly deprives her from getting these needs appropriately addressed. Women and girls in India face crisis while growing up, yet their needs are un-addressed. From the moment of conception to the end of life, the challenges to the female sex are enormous, especially poor women who have limited access to health care. Poverty and economic dependence, gender bias and discrimination, limited freedom of choice over sexual and reproductive aspects and lack of decision-making have an adverse impact on health of women. Besides this, there are some determinants of health that impact the health of women such as:

- Safe drinking water and adequate sanitation
- Safe and adequate nutrition
- Adequate housing
- Healthy & safe working environment
- Health literacy, education and information
- Gender equality

The child sex ratio continues to plummet and is as low as 893 according to 2011 census, in an economically prosperous and progressive state such as Punjab. Malnutrition begins during infancy and sets in motion a lifelong cycle of poor health. Over half of all Indian women suffer from anaemia, which acerbates maternal morbidity. More women die of maternal death related causes in India than in any other country in the world. While NACO latest data shows that 29 percent of women in India are affected by AIDS. In 2004 only 5 percent of pregnant women living with HIV received antiretroviral (ARVs) to prevent mother-to-child transmission (PMTCT) in India. At least 60 percent of pregnant women living with HIV still go without antiretroviral treatment, and it was estimated in 2009 that only 27 percent of HIV exposed infants received ARVs for PMTCT. As a result of such low coverage, thousands of children are still infected every year through mother-to-child transmission in India. Of those HIV positive pregnant women who receive ARVs for PMTCT in the country, almost all only receive single dose nevirapine, an ARV prophylaxis for PMTCT which is no longer recommended by WHO. Furthermore, every form of violence against women has steadily increased since the last decade,
including rapes, dowry murder and domestic violence. Despite the alarming health crisis of women and girls, the national policy focus prioritizes family planning and reproductive health without addressing underlying issues such as women’s low participation in decision-making, which adversely affects her health status.

The importance of bringing improvement in Women’s Health and Nutritional Status has been realized and recognized by the Government of India. Several interventions have been introduced and significant improvement has been made however major development challenges still remain to be addressed in terms of adverse gender-specific health indicators (maternal mortality, infant mortality, child sex ratio, malnutrition, anaemia etc). This is further substantiated by findings of Census 2011 where the deteriorated trend in the Child Sex Ratio (0-6 years), high maternal and child mortality & morbidity continues to pose a challenge.

Thus, India continues to grapple with unacceptably high MMR, IMR, and increasing rates of anaemia, malnutrition, HIV/AIDS among women. NFHS-3 survey has also revealed that every third woman in India is undernourished (33.0 per cent have low Body Mass Index) and every second woman is anaemic (56.2 per cent women are anaemic in the age-group of 15-49). Further according to NFHS-3, incidence of anaemia has risen from 49.7% to 57.9% in pregnant women and from 51.8% to 56.2% in ever-married women within a period of seven years (1998–99 to 2005–06). This has raised anaemia among children by 5 percentage points (to 79.2%) and is also partially responsible for the high MMR. Maternal mortality has a direct correlation with lack of accessibility to health care facilities. Paucity of resources and age old discriminatory practices deny large number of women access to good nutrition and care before, during, and after child birth, thus increasing their mortality. Only 22% of mothers consume Iron Folic Acid (IFA) tablets for 90 days or more, and less than half of them receive three ANC visits. As many as 51.7% births take place without assistance from any health personnel. Practices such as female foeticide also affect women’s health, as they are forced to go through multiple pregnancies and abortions. As a result, although MMR has fallen from 398 in 1998 to 301 in 2001–03 (SRS), we are far from meeting the Millennium Development Goals (MDG) due to prevailing social inequalities and inadequate health care facilities. States like UP (359), Uttaranchal (359), Assam (390), and MP (269) have very high MMRs according to SRS 2010.
While the mean age of marriage of women has increased from 15.5 years in 1961 to 21.3 in 2008, 44.5% of women are still married off by the age of 18. Certain States such as Jharkhand (61.2%), Bihar (60.3%), Rajasthan (57.1%) and West Bengal (47.6%) have a much higher percentage of underage marriage among girls. Among other things, this results in early pregnancies and takes its toll on the health of the woman as well as the child. Women also disproportionately lack access to health services. Inaccessibility of health centres and poverty prevent them from getting timely medical aid. Absence of toilets and drinking water adversely impacts their health. NFHS-3 data reveals that only 27.9% households in rural areas and 70% in urban areas have access to piped water. Further, only 25.9% households in rural areas have access to toilets.¹¹

Inadequacies of clean cooking fuels adversely impacts women and children’s work burden, health, and nutrition. Till date, 92% of rural domestic energy comes from unprocessed bio fuels (firewood, crop waste, cattle dung), and 85% of rural cooking fuel is gathered from forests, village commons, and fields. Women and girls spend a great deal of time gathering fuel, adversely affecting their productivity and education. Use of firewood and inferior fuels such as weeds or crop wastes leads to smoke-related ailments including respiratory diseases, cancer, and cataracts resulting in blindness.¹²

Various policies for improving the health and nutrition status have been laid down by Government of India. These policies would be the basis on which Mission would monitor the convergence efforts and facilitate the achievement of various outcome indicators such as reduction in maternal mortality rates, balanced child sex-ratio for 0-6 age group, ensure complete course of immunization, improve nutritional status of mother and infants, and increase in age of marriage and first pregnancy.

- National Nutrition Policy 1993- The Policy was introduced to combat the problem of under-nutrition. It aims to address this problem by utilising direct (short term) interventions such as ensuring proper nutrition of children, adolescent girls and pregnant women, food fortification, provisioning low cost nutritious food and combating micro-nutrient and deficiency in vulnerable groups. The indirect (long term) interventions include providing food security, improving dietary pattern and purchasing power through Public Distribution
System (PDS), nutrition education, land reforms, and community participation and improving the status of women through education etc.

- **National Population Policy 2000** - The Policy affirms the commitment of government towards voluntary and informed choice and consent of citizens while availing of reproductive health care services, and continuation of the target free approach in administering family planning services. The NPP 2000 provides a policy framework for advancing goals and prioritizing strategies during the next decade, to meet the reproductive and child health needs of the people of India, and to achieve net replacement levels (TFR) by 2010. It is based upon the need to simultaneously address issues of child survival, maternal health, and contraception, while increasing outreach and coverage of a comprehensive package of reproductive and child health services by government, industry and the voluntary non-government sector, working in partnership.

- **National Health Policy 2002** - The Policy focuses throughout on the health of the poor, and dedicates a section to the health of women and related socio-economic and cultural issues. The document acknowledges the importance of women’s health as a major determinant of the health of entire communities. It also acknowledges that social, cultural and economic factors continue to inhibit women from gaining adequate access even to the existing public health facilities. The policy endorses the need to expand the primary health care infrastructure to increase women’s access to care. The policy also advocates the need to review staffing in the public health service, so that it may become more responsive to specific needs of women. The policy recognizes the catalytic role of empowered women in improving the overall health standards of the community.

- The common features covered under the National Population Policy-2000 and National Health Policy-2002, relate to the prevention and control of communicable diseases; giving priority to the containment of HIV/AIDS infection; the universal immunization of children against all major preventable diseases; addressing the unmet needs for basic and reproductive health services, and supplementation of infrastructure.  

13
Best Practices-Health and Nutrition

Madhya-Pradesh
The State Government has undertaken the challenging task of bringing down Maternal Mortality Rate (MMR) in Madhya Pradesh on top priority basis. They have achieved encouraging results by directly reaching out to 18 lakh women in the year 2010-11 through Janani Express, Janani Sahyogi and Janani Suraksha Yojna as a result of which the MMR has come down to 335 per lakh from 370 per lakh. The Union Government has lauded the efforts made by the Madhya Pradesh government for bringing down Maternal Mortality Rate.14

Haryana
The "No Toilet, No Bride" campaign launched by the Ministry of Rural Development was adopted by Haryana and has resulted in the construction of approximately 1.71 million toilets across the state wherein women are refusing to marry unless the potential groom provides them with a toilet so that they don’t have to use community toilets or squat in open fields. The movement takes advantage of the fact that Haryana suffers from a warped sex ratio, a result of India’s cultural preference for boys over girls. The scarcity of brides in the state helps prospective brides use their bargaining power to force their suitors to construct toilets for them before they marry.15

Delhi
The Government of Delhi launched the ‘Laadli Scheme’ with an aim to curb female foeticide and enhance the social status of the girl child by promoting their education and protecting them from discrimination and deprivation. The Government deposits Rs.10,000 in the name of girl child at time of her birth and subsequently deposits an amount of Rs.5000 each at the time of her admission to Class I, VI, IX, X and XII.16

Maharashtra
The Govt. of Maharashtra in association with Save the Girls Mission has designed a project in an attempt to save the female foetus from illegal sex determination and abortion. One of the initiatives undertaken in rural Maharashtra is the campaign for renaming the girls, who were named ‘Nakusa’ (‘unwanted’ in Marathi) or Dagadi’ and ‘Dhondi’ (‘stone’ in Marathi) by their families preferring son.17 Similarly District Administration, Kolhapur in association with Magnum Opus
(innovators of Silent Observer) has initiated project for 'Save The Baby Girl’, an attempt to save the female foetus from illegal sex determination and abortion. The project is two phase application, online submission of records as per PCPNDT act and Silent Observer, a device to be attached to the ultrasound machine that records the video images of the ultrasound. The sex determination of unborn children went considerably down in the district which had the worst male-to-female birth ratio. According to the 2001 census, for every 1,000 boys born in the area, only 829 girls were born.18

Rajasthan
District Administration, Pali, Rajasthan has initiated a campaign 'Beti Bachao Abhiyan’ in association with Department of Health & Family Welfare supported by Shani Dham Trust in November 2010. Various incentives in form of cash and in kind are being offered under the scheme to sensitize parents to value girl-child and provide support to girls to meet their development.19

In the above context, one of the priorities of National Mission for Empowerment of women (NMEW) is to work towards improvement in maternal and child health through better health and nutritional status of women. The Mission under the domain area of 'Health & Nutrition’ is developing appropriate strategy for achieving convergence of health and other interventions to bring-down IMR and MMR to levels projected under the Millennium Development Goals (MDGs). The cell will endeavour to achieve empowerment of women by convergence of different schemes/programmes, encourage health-seeking behaviour and fuel demand through awareness generation for appropriate services to meet women’s health and nutritional needs from infancy to old age and would encourage women to make informed decisions about their health. Simultaneously it is planned to undertake/commission research studies, review of policies and programmes, bring together document information and disaggregate data related to health and nutrition.20

Education
Education is the single most important instrument for social and economic transformation. A well educated population, adequately equipped with knowledge and skill is not only essential to support economic growth, but is also a precondition for growth to be inclusive, since it is only the educated and skilled person who can
stand to benefit most from the employment opportunities which growth will provide. Improvements in education are not only expected to enhance the efficiency but also augment the overall quality of life. Education is an instrument of social change and eliminates gender disparities and ensures equal opportunities.

Education is a key intervention in initiating and sustaining processes of empowerment. Good quality education can help women to improve their status, enable them to have greater access to information and resources and to confront various forms of discrimination. Education helps strengthen democratic processes as it allows for greater and more equitable participation. Being educated or literate leads to greater self-confidence and self-esteem. It enables engagement with development processes and institutions of governance from a position of strength. Poor women from socially disadvantaged communities are invariably not literate and therefore find themselves at a disadvantage when participating in development processes. They are unable to take full advantage of progressive measures like reservations in PRIs. Many of the negative fall-outs of being outside the education net for women are quite recognized, however, the articulation of the problem tends to remain at the level of rhetoric.\textsuperscript{21}

It is however, important to recognise that while being literate or educated is necessary for empowerment it does not automatically ensure it. We need good quality of education that promotes critical thinking. From the perspective of gender this means that education and literacy should enable women and girls to critically analyse their situations, raise questions about their subordination and help them make informed choices. It is well known that the institution of schooling is an important site for socialisation, which actually can strengthen rather than challenging patriarchy and gender discrimination.

The focus of educational planning is on formal education but this is only one dimension of the educational provisions implementation. Especially when considering the needs of deprived women and when women’s empowerment is our main aim, there is a need to think about well-developed and structured educational interventions outside the formal system. Such interventions must necessarily be broad based and flexible and address a number of different needs, including literacy.\textsuperscript{22}

In this context, National Mission for the Empowerment of Women (NMEW) through its domain of Social Empowerment and Education ensures gender mainstreaming in...
the education sector in-order to empower women holistically and through her the nation building. Social Empowerment and Education domain of NMEW aims at converging and linking various schemes of Government of India focusing on women with special reference to the flagship programs of Ministry of Human Resource Development (MOHRD). The domain will review existing studies, policies, programmes, schemes and also commission research studies of various programmes/schemes on education for better implementation.

The approach paper of the Planning Commission for the Twelfth Plan lays emphasis on expansion of secondary education to facilitate enhanced access. It also accord priority for skill development for the employability of the persons especially to the empowerment of women with suitable skills.

The whole setting up of the NMEW, the MOHRA expressed the views that the objectives of the NMEW are in consonance with the National Education Policy and the schemes of the Ministry will serve, as vehicle for achieving the goals of the Mission.

The literacy rates for women has shown however significant improvement between 2001 and 2011. The gender gap (11.8 %), continues to be wide and the literacy status of women from marginalized groups is much worse. Inspite of the fact that the number of illiterate women in India continues to be large. The thrust on adult literacy and education has virtually fallen off the policy agenda. Therefore, an urgent course correction is needed in the 12th plan to meet the (Millennium Development Goals) MDG literacy goals. The current situation is that literacy inputs required to sustain the empowerment of women’s collectives, including self-help groups, are not being provided. The present allocation for adult literacy, which is the only large scale non-formal education programme for poor, marginalized, rural women, is at a very low 0.02 % of the education budget. The 11th Plan renewed its commitment to adult literacy and continuing education and accordingly increased resources for the same. Ministry of Women and Child Development took the lead in advocating greater commitment to adult literacy and continuing education as these interventions directly supports and strengthens Ministry’s own programmes. One of the primary target groups of Ministry of Women and Child Development programmes as well as
National literacy Mission (NLM) programmes are indeed the same – namely ‘adult women’. School ‘drop-out’ rates of marginalized sections continue to be high and increases as one goes up the educational ladder. Obviously, their participation in the professional sector and the formal workforce have to be equally low. Among the reasons for low school completion rates are various school-based factors like gender biases, lack of representation in school textbooks and discriminatory classroom practices. These factors continue to alienate children of socially disadvantaged groups from schools. During the 10th plan, some national level efforts were included to make textbooks gender sensitive. Efforts at re-writing textbooks from a gender perspective should be continued in the 12th plan and taken up at the state level too. There must be zero tolerance for discriminatory practices based on identity and to initiate strict action against defaulting teachers. Teachers should be more regularly trained to be more gender sensitive and this may be developed with the involvement of women’s organizations with expertise in gender training.

### Enrolment by Stages in 2004-2005 (Table 4.1)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Educational Degree stage</th>
<th>Boys</th>
<th>Girls</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Ph.D/D.Sc./D.Phill</td>
<td>32526</td>
<td>22826</td>
<td>55352</td>
</tr>
<tr>
<td>2.</td>
<td>M.A</td>
<td>250546</td>
<td>218745</td>
<td>469291</td>
</tr>
<tr>
<td>3.</td>
<td>M.Sc</td>
<td>107841</td>
<td>90878</td>
<td>198719</td>
</tr>
<tr>
<td>4.</td>
<td>M.Com</td>
<td>80616</td>
<td>41641</td>
<td>122257</td>
</tr>
<tr>
<td>5.</td>
<td>B.A./B.A.Hons.</td>
<td>2117637</td>
<td>1654579</td>
<td>3772216</td>
</tr>
<tr>
<td>6.</td>
<td>B.Sc./B.ScHons.)</td>
<td>910440</td>
<td>580345</td>
<td>1490785</td>
</tr>
<tr>
<td>7.</td>
<td>B.Com/B.Com Hons.</td>
<td>928181</td>
<td>536847</td>
<td>1465028</td>
</tr>
<tr>
<td>8.</td>
<td>B.E/B.ScEngg/B.Arch</td>
<td>531207</td>
<td>165402</td>
<td>696609</td>
</tr>
<tr>
<td>9.</td>
<td>Medicine/Dentistry/Pharmacy/Nursing/Aurvedic/Homeopathy</td>
<td>167696</td>
<td>89052</td>
<td>256748</td>
</tr>
<tr>
<td>10.</td>
<td>B.Ed/B.T</td>
<td>87143</td>
<td>68049</td>
<td>155192</td>
</tr>
<tr>
<td>11.</td>
<td>Others*</td>
<td>1921887</td>
<td>1173212</td>
<td>3095099</td>
</tr>
<tr>
<td>12.</td>
<td>Total in Higher Education</td>
<td>7135720</td>
<td>4641576</td>
<td>11777296</td>
</tr>
</tbody>
</table>

Source: Selected Educational Statistics 2004-05, MHRD2007

*Others include data of Open & Distance Learning Institutions.
Economic Dimensions
There exists a two-way link between economic growth, poverty, and gender inequality. Poverty and the lack of growth exacerbated gender disparities. Inequalities between girls and boys in access to schooling or adequate health care were more acute among poor people than among those with higher incomes. And while poor people had less access to such productive resources as land and credit, poor women generally had the least access of all. Similarly, girls and women’s health and schooling were more vulnerable to economic downturns than those of boys and men. On another level, gender inequalities undermined the prospects of poverty reduction in several fundamental ways. While disparities in basic rights, access to schooling, credit and jobs, and the ability to participate in public life took their most direct toll on women and girls, the evidence showed that gender inequality ultimately hindered economic growth.

Amartya Sen makes a compelling case for the perception that societies need to see women less as passive recipients of help, and more as dynamic promoters of social transformation, a view strongly buttressed by a body of evidence suggesting that the education, employment and ownership rights of women have a powerful influence on their ability to control their environment and contribute to economic development. However, participation alone is not enough, quality of women’s work is critical. The big challenge is to overcome a situation where women may gain employment with relative ease, but where their employment is either concentrated in poorly paid or unskilled job “ghettos,” characterized by the absence of upward mobility and opportunity. For example: women are most often concentrated in “feminized” professions, such as nursing and teaching, office work, care of the elderly and disabled— termed “horizontal occupational segregation”—where they tend to remain in lower job categories than men. Typically, because these functions are carried out by women, they are the lowest paid, in addition to offering limited or no opportunity for advancement.

The term “feminization of poverty” is often used to illustrate the fact that a substantial percentage of poor are women and that the gap between women and men in poverty has not lessened, but may well have widened in the past decade.
Entrenched patriarchal norms and customs mean that women’s work goes unnoticed and is unpaid. The double burden of work placed on her (unrecognized household work and low pay in recognized work) coupled with social norms that prevent her from getting the requisite educational and technical skills result in a low female work participation rate, either real or statistical. The work participation rate remains lower for women than for men both in rural and urban areas. A sectoral breakdown of women workers reveals that 32.9% are cultivators, 38.9% agricultural labourers (as against 20.9% men) and 6.5% workers in the household industry. Much of the increase in employment among women has been in the form of self-employment; 48% of urban and 64% of rural women workers describe themselves as ‘self-employed’.30 The Tenth Plan has, however, seen a welcome increase in the share of regular employment among female workers in urban India.

Another fact causing worry is that despite a slight increase in employment, the average earning for rural women has declined between 1999–2000 and 2004–05. This decline is more pronounced among poorer women, that is, illiterate women and women who have dropped out of primary, secondary, or higher schools. The average wage for men has, on the other hand, shown an increase across all categories, leading to a widening of the wage disparity ratio (ratio of female wage/male wage) from 0.89 in 1999–2000 to 0.59 in 2004–05 for rural and 0.83 in 1999–2000 and 0.75 in 2004–05 in urban areas, for all categories. On an average, unorganized sector workers earn one-fourth the wage of organized sector workers, often doing similar jobs.31 It is estimated that 118 million workers or 97% of the female workforce are involved in the unorganized sector. Agriculture is the main employer of women informal workers. 75% of the total female workforce and 85% of rural women are employed in agriculture as wage workers or worker son own/contracted household farms. The non-agriculture segment of the informal sector engages 27 million workers or 23% of the female workforce. It is estimated that more than half of the 31 million construction workers in India32 (90% of them informal) are women. The seasonality of work and the lack of alternate avenues lead to exploitation and ensure that these women remain the poorest and most vulnerable.
Women’s representation in government sector has improved from 11% in 1981 to 18.5% in 2004 at the grass roots level, women are playing a more active role in Panchayati Raj bodies and their representation in Panchayats has gone up from 33.5% in 1995 to 37.8% in 2005. Women’s presence in Parliament has, however, only increased slightly; from 6.1% in 1989 to 9.1% in 2004.\(^3\)

**Work participation by rates in sex (1972 to 2005) % (Table 4.2)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Rural</th>
<th></th>
<th>Female</th>
<th>Male</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972-73</td>
<td>31.8</td>
<td></td>
<td>54.5</td>
<td></td>
<td>13.1</td>
<td>50.1</td>
</tr>
<tr>
<td>1987-88</td>
<td>32.3</td>
<td></td>
<td>53.9</td>
<td></td>
<td>15.2</td>
<td>50.6</td>
</tr>
<tr>
<td>1996-97</td>
<td>29.1</td>
<td></td>
<td>55.0</td>
<td></td>
<td>13.1</td>
<td>52.1</td>
</tr>
<tr>
<td>2000-01</td>
<td>28.7</td>
<td></td>
<td>54.4</td>
<td></td>
<td>14.0</td>
<td>53.1</td>
</tr>
<tr>
<td>2004-05</td>
<td>32.7</td>
<td></td>
<td>54.6</td>
<td></td>
<td>16.6</td>
<td>54.9</td>
</tr>
</tbody>
</table>

Source: NSSO, 2007

**Strategies for Economic Empowerment**

- Ensure convergence and implementation of programmes of the participating Ministries through a single window project sanction facility under the District Mission to be set up in each of the pilot Districts in all States.
- Linking Self Help Group Movement with micro-credit facilities to reduce poverty and empower Women.
- Advocating Mahatama Gandhi National Rural Employment Scheme (MGNREGA) so as to provide job opportunities to women to ensure more women’s participation.
- Make available finance at low interest rates to Self Help Groups (SHGs).
- Pursue the legislation of pending bill on Micro Finance (Development of Regulation Act), 2007.
- Revamp ‘Rashtriya Mahila Kosh’ and accord it the status of a Non-Banking Financial Institution with increased corpus.
- Strengthening women’s access to easy credit in rural sector including farm loans to women farmers.
- Work towards providing support for enhancing women’s rights to land ownership and providing infrastructure support for women farmers.
• Evolve long term strategy to provide skills and capacity building of women to secure them against global meltdowns and equip them to seek out employment opportunities in the era of globalization.
• To bring women under financial inclusion.
• Ensure gender equity and equality in framing micro and macro economic policies.
• Conduct impact assessment on effects of globalization on BPL women and undertake research/evaluation studies to identify gaps in the implementation of the programmes/schemes.\textsuperscript{34}

**Political Dimensions**

Political participation and representation of women in India: women in India raised the issue of representation in politics first in 1917. At that time it was basically a demand for universal adult franchise and political participation. By 1930 women had gained the right to vote, which initially benefitted women from elite families. Women involvement in struggles for political and civil rights in India were however sought to be linked to nationalist movements in alliance with males against the common foreign enemy. In any case, women’s involvement in nationalist struggle changed their lives, even though they gained constitutional and legal rights but were denied equal opportunities to shape the new state. Even after the right to vote became a reality for all women, their representation in the parliament, political parties and other decision making bodies remain low even after independence, and after the Indian constitution came into force in 1950.\textsuperscript{35}

Few women attained positions as Member of Parliament and state legislatures and as leaders of opposition etc, mostly through family dynasties or through male political patronage. However the percentage of women in legislatures and decision making position always remained low.

The existing literature available highlights that women’s participation in public activities can be divided in four:

i. Swadeshi movement (1904-11)
ii. Non-co-operation movement (1918-23)
iii. Civil disobedience (1930-34)
iv. Quit India movement (1942)\textsuperscript{36}
The two major factors that were instrumented in bringing about this recognition of politico-legal equality of women were:

a) Women participation in the national movement and

b) Gandhiji’s vision that women must play an equal and important role in the task of national reconstruction. But there was a gap between the formal idea of women participation and their meaningful use of power.

Women in Independent India

Though the foundation for the political participation of women was laid down during the nationalist movement, there was no follow up or consented effort to broaden the political base by incorporating women into political process after independence. The space for women in political arena has declined since independence and their participation in politics has been limited to family connections rather than convictions and commitments. Women have been promoted to political positions only when there were no other male member available to continue the family’s distinctive place and thus, as a device to perpetuate the privilege of the family. By putting women in these positions, the family could still have control over the powers rested with office.

The Indian constitution guarantees to all women the fundamental right to equality (Art 14) and equal voting rights and political participation to both men and women. As reflected in the preamble, the Indian constitution is firmly grounded in the principles of liberty, fraternity, equality and justice and contains a number of provisions for the empowerment of women. Women’s right to equality and non-discrimination are defined as justifiable fundamental rights (Art 15) and there is enough room for affirmative action programmes for women. The political rights of women are recognized without any discrimination, or distinction and they have the right to participate in decision-making at all levels equally with men. The right to constitutional equality has been supplemented by legal equality by the passage of a numbers of acts through which the traditional inequalities in respect of marriage, divorce, and property rights are sought to be eliminated. However, inspite of these constitutional and legal provisions, the ground reality is that women have not obtained adequate and proportionate representation in the legislative and other decision-making bodies.
Citizenship is linked to political participation and representation lack of ability and opportunity to participate in the political system implies a lack of full membership in the system. For true equality to become a reality for women, the sharing of power on equal terms with men is essential. But the reality is that women constitute to be marginally represented even in the areas where the various policies have a direct impact on them. There is still a great gap between constitutional guarantees and the actual representation of women in the political system in India.

Representation

By the 1980’s issues raised by the women’s movements in India led to political parties realizing the importance of female voters and women’s wings became active. Mainstreaming political parties became conscious of women as a constituency and this was reflected in their election manifestoes and their considering women as candidates with potential votes. By ninth lok sabha elections in 1989, one could find a conscious focus on women’s issues in the manifestoes of political parties. However, this did not translate into more seats for women in the political bodies and most parties’ resorted tokenism and symbolism when it came to representation of women.\(^{38}\)

Traditionally, the congress party has fielded the largest number of women candidates and has the largest number of women members in parliament though the congress working committee has a rather low level of representation of women. Inspite of the efforts of political parties to induct more women, the extent of representation of women has not changed much. The number of women MPs in India’s lok-sabha has never touched 50 which has 545 members in total. The nearest when women member could reach this mark was in the 13\(^{th}\) lok sabha in the 1999 elections when 49 women candidates were elected. It was barely 9.02 percent of the total seats. The lowest number of women elected to the lok sabha was in 1977 when only 19 women reached the lower house, it was only 3.5 percent of the total seats (542 at that time). At present in 15\(^{th}\) lok sabha a record 59 women MPs have been elected, the highest since independence. Among 59 women MPs, a majority 23 are from the congress and 13 women members are from BJP. Again Uttar Pradesh has the maximum number of 13 women MPs to represent the most populous state. It is followed by West Bengal by 7. In all, 556 women had contested the 2009 general elections of which 59 were elected.\(^{39}\)
It is unfortunate that in India after 61 years of the working of the constitution, women are still fighting for their empowerment; women representation in parliament is merely 8 percent. It is not surprising that the Global Gender Gap report 2007 of UNDP has placed India at a disappointing rank of 114 of 128 countries, studied based on indicators, among others, of political empowerment.40

Women in parliament of India (Table 4.3)

<table>
<thead>
<tr>
<th>No: of lok sabha elections</th>
<th>year</th>
<th>Female contested</th>
<th>Elected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1952</td>
<td>53</td>
<td>22</td>
</tr>
<tr>
<td>2</td>
<td>1957</td>
<td>45</td>
<td>27</td>
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<tr>
<td>3</td>
<td>1962</td>
<td>70</td>
<td>35</td>
</tr>
<tr>
<td>4</td>
<td>1967</td>
<td>67</td>
<td>30</td>
</tr>
<tr>
<td>5</td>
<td>1971</td>
<td>86</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>1977</td>
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<tr>
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<td>325</td>
<td>39</td>
</tr>
<tr>
<td>11</td>
<td>1996</td>
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<td>39</td>
</tr>
<tr>
<td>12</td>
<td>1998</td>
<td>274</td>
<td>43</td>
</tr>
<tr>
<td>13</td>
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<td>446</td>
<td>49</td>
</tr>
<tr>
<td>14</td>
<td>2004</td>
<td>432</td>
<td>45</td>
</tr>
<tr>
<td>15*</td>
<td>2009</td>
<td>556</td>
<td>59</td>
</tr>
</tbody>
</table>

Source: Statistical profile of women in India, Government of India, 2006
*geatimes.com/15th_lok_sabha_highest_women_MPs-64423//last visited on 30/9/11/8:45P.M.

Representation through Reservation

Various strategies have been proposed to further the political representation of women in India. From reservation of 33% of seats of various levels including the parliament, it has also been suggested that political parties reserve 33% of their seats for women in the elections.41 The Bhartiya Janta Party recently announced such
reservation in its organization. However, mere presence of women in parliament even if greater in numbers will not mean much unless they are truly representative of women’s concerns covering all categories.

Given the low representation of women in politics, there has been a consistent demand for more meaningful ways to increase their representation in decision-making bodies. In pursuance if this notion of empowerment of women, the constitution 73rd amendment act, 1994 reserved seats for women at the local level bodies, namely, the panchayats and municipalities with the hope that these measures will set the trend to provide women their legitimate place in public life. After these amendments, Art 243 D and 243 T were added to the constitution to provide that not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total numbers of seats to be filed by the direct election in the local bodies. 42

This, indeed, makes a historic beginning for the effective participation of women in the decision-making process at the grass root levels. In the elections to these local bodies, more than one million women were having been elected every five years. In 2006, 9,75,116 women were elected to gram panchayats; 58,094 women to panchayats at intermediate level; and 5779 women to panchayats at district level. It is but natural that a larger number of women have participated in these elections and this signifies a very encouraging trend for women’s empowerment. Though it has taken time for women to translate their numerical strength into active participation in the rural and semi-urban areas, the results have been truly astounding.

But when it comes to women’s reservation in legislature and parliament of India, the bill witnessed tremendous resistance from age-old political parties. For the first time, the bill providing 33% reservation to women was introduced on 4th September 1996 known as 8th constitution amendment bill. Two years later, on 26th June 1998, the bill was reintroduced in the 12th lok-sabha as the 84th constitution amendment bill, but the bill could not be passed because of the controversies. Again National Democratic Alliance brought the bill to the lok-sabha twice more in 2002 and 2003 but never managed to get it passed. United Progressive Alliance elected in may 2004 promised to pass the bill and thus the bill was passed in 2010. The women reservation bill seeks to reserve one-third of all seats for women in lok-sabha and in the state legislative assemblies. One-third of the total number of seats reserved for SC/ST in
the Lok-Sabha and the legislative assemblies. Reservation for women will cease 15 years after the commencement of the act.

It is interesting to note that our neighbouring countries Nepal, Pakistan and Bangladesh have provided reservation of seats for women in their respective parliaments. As per Art 114 of 1991 of Constitution of Nepal, 5% parliamentary seats in the lower house and three seats in the upper house are reserved for the Nepalese women. Pakistan made provision for the 33% reservation of seats for women in the National Assembly and 36 out of 342 seats (i.e. 17%) in the senate as per election law quota in 2002. Bangladesh has ensured 15% reservation seats of women in its parliament as per 14th constitutional amendment introduced in 2004.45

**Women as voters**

Indian women have become more aware of their rights but the level of political information of women voters is low. Women still hesitate to come out of their boundaries and make their decision in political field, and if certain group of female turn up for casting their votes, they are either influenced by others decision or do not have much information about the party its candidate and their agenda. Therefore to overcome this pitfall many women groups in Ahmadabad, Pune, and Bangalore have prepared women’s manifesto. They conduct educational campaigns, organise know thy candidate programmes and issues leaflets concerning women’s issues. They expose those candidates who had a criminal or unsavoury background such as involvement in murder of wives or daughter-in-law, or sexual molestation of women.

The manifesto considered the issues such as fundamentalism, family laws as well as development. Development alternatives with women and ecological perspective should address fuel-fodder-water issues, implications of electrification, and dams and education, health, employment etc. Political education of the masses on violence against women, sexist media, rural and tribal women’s survival struggles need to be carried out and the candidates should be constituencies on these issues.46

It is important to stress that like the equal right to vote, participation and representation in legislative bodies may be enough for women’s political empowerment or to remedy the problems of discrimination faced by women in Indian society. Equality with equity is a goal which may not easily be achieved only by high representation of women in legislatures and other public bodies has to be backed by
other supportive measures. Even so, the demand for reservation of seats for women in political bodies to rectify the imbalance has gained strength in India in the light of persisting gender gaps in the various spheres of development without proper mandate if women are selected for top positions; they will have to face non-cooperation from the administration and the law and order machinery. Women need to see themselves as change agents and not as beneficiaries to welfare departments of the government structures and private foundations. Constant up-gradation of skills and knowledge base is a must for each and every women decision-maker to survive in a public life in a long-term.

Majority of Indian women are seeking protection of the benevolent patriarchy and only 11% of women (widows, separated, divorced, deserted and single) are nominal heads of the households. Hence it is unrealistic to seek women’s liberation without active support of sympathetic men. The 21st century is going to unfold an era of partnership between men and women dedicated to the cause of liberation of humankind, which will ensure social justice, safe environment, communal harmony and world peace in an era of terrorism in the name of religion that has upset the power relation in the world.47

Legal Dimensions

The post independence period is the era in which a lot has been done and a lot is to be done for the upliftment and emancipation of women folk. In this period a large number of legislative measures have been adopted by the parliament and it is evident in the form of several legislations. Judiciary has also not lagged behind, it has by its various judgements and directions kept pace with the parliament and has also given judgements in the areas in which parliament has failed to enact any law. The apex court particularly took into account the provisions mentioned in the international conventions regarding women.

There is no doubt that we are in the midst of a great revolution in the history of women. The evidence is everywhere; the voice of women is increasingly heard in parliaments, courts and in the streets. While women in the west has to fight for over century to get some of their basic rights, like the right to vote, the constitution of India gave women equal rights with men from the start. Unfortunately, women in this country are mostly unaware of their rights because of illiteracy and the apprehensive
tradition. Name like Kalpana Chawla, the Indian born, who fought her way up into NASA and was the first women in space, and Indira Gandhi, the iron lady of India was the prime minister of the nation, beauty queen like Aishwarya Rai and Sushmita Sen, business women like Indira Nooyi, Chanda Kocchar, Mother Teresa, Sonia Gandhi, Sushma Swaraj are not representative of the condition of the Indian women.

The constitution of India guarantees equality of sexes and in fact grants special favours to women. These can be found in three article of the constitution. Article 14 says that the government shall not deny to any person equality before law or the equal protection of the laws. Article 15 declares that government shall not discriminate against any citizen on the ground of sex. Article 15 (3) makes a special provisions enabling the state to make affirmative discriminations in favour of women. Moreover, the government can pass special laws in favour of women. Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on grounds of sex. Article 42 directs the state to make provision for ensuring just and humane conditions of work and maternity relief. Above all, the constitution imposes a fundamental duty on every citizen through Article 15 (a) (e) to renounce the practices derogatory to the dignity of women. Article 39 (d) of the constitution mandates securing equal pay of equal work both men and women. All these are fundamental rights. Therefore a woman can go to court if one is subjected to any discrimination.

**Legislation on gender based issues**

When we talk about constitutional rights of women in India, we mainly pertain to those areas where discrimination is done against women and special laws formulated to fight those pertaining to marriage, children, abortion, crime against women, and inheritance.

Before modern Hindu laws were passed, child marriages were the norms, inter-caste marriages were banned, the girl became part of the husband’s family and polygamy was common. In the 19th century, the British rulers passed several laws to protect customs and traditions while abolishing inhuman practices like sati. When sati Act in 1929 was passed other revolutionary laws were Hindu widow Remarriage Act 1865 and the Bhramo Samaj marriage Act 1872, the present Hindu Marriage Act 1955 is fore runner of it. In the beginning, the Act sets four essential conditions for a valid
Hindu marriage. They are: Monogamy, sound mind, marriageable age, and the parties should not be closely related.\textsuperscript{49}

Polygamy was permitted among Hindus before the Act was passed in 1955. However after the Act was passed, any man marrying again while his wife is living will be punished with fine and imprisonment up to seven years. Formerly, child marriages were common, the Child Marriage Act of 1929 was not very effective as such marriages were continued to be performed. Now, however, the bridegroom must be 21 years old and the bride 18 years. However there is a separate Muslim code of conduct, which allows polygamy of up to four wives as per Islamic laws.\textsuperscript{50}

A marriage may be invalid without boy or the girl realizing it at the time of the wedding. A civil marriage would be void if four essential conditions are not complied with. These conditions are listed in the Special Marriage Act (sec-4), as enumerated below:

- If it is bigamy.
- If either party was suffering from mental disorder.
- If boy has not completed 21 years and girl her 18 years of age.
- The boy and girl are too closely related, or in legal language, are “within degree of prohibited relationship” unless custom governing atleast one party permits the marriage between them. Prohibited relationships are mentioned in Special Marriage Act.
- A fifth reason for invalidating a marriage is impotence of either party.\textsuperscript{51}

There are some grounds available to the wife only both in Hindu and civil marriages. One such ground available exclusively to the wife is his husband’s act to rape, sodomy or bestiality. Under Hindu Adoptions and Maintenance Act 1956, a Hindu wife is entitled to be maintained by her husband. Section 125 of criminal procedure code also deals with maintenance of wife and children. If there is a degree of maintenance against the husband and the couple have been living apart for over one year, it would be a ground for the wife to seek dissolution of marriage. Here again the Muslim Personnel Law has a different set of conditions for the annulment of an Islamic Marriage.\textsuperscript{52}
The Dowry Prohibition Act, 1961

The evil of dowry system has been a matter of serious concern to everyone in view of its ever increasing and disturbing proportions. The legislation on the subject enacted by parliament i.e, The Dowry Prohibition Act, 1961, and the far reaching amendments which have been made to the Act by a number of the states during the seventies but has not still succeeded in containing the evil.

To prohibit giving or taking of dowry, government has enacted the Dowry Prohibition Act, 1961. Section 304-B and 498-A of the Indian Penal Code also deal with ‘dowry death’ and the offence of cruelty, both mental and physical, towards a married woman by her husband or relatives. Section 113-A of the Indian Evidence Act, 1872 provides that courts may presume the guilt of the husband or relative who had subjected the woman to cruelty in connection with dowry. The direct responsibility for implementing these laws is that of state governments. The union government has however, advised all state governments to appoint dowry prohibition officers with independent charge and to notify rules under the provisions of the Dowry Prohibition Act.

Since the menace of dowry is a reflection of women’s low status in society, governments has taken number of steps to raise the status of women and to change societal attitudes towards girls and women. These include media campaigns, awareness generation camps, spreading legal literacy, counselling, legal aid, support of voluntary agencies and schemes for socio-economic empowerment for women.53

However, there is very little improvement because of these laws as practice of dowry or harassment is still continuing in India and few of the eye-opener cases are:

Times of India dated 21 February 2011, reports 28-year-old R Sushila was admitted to the burns ward of the Kilpauk Medical College Hospital (KMCH), Chennai after she tried to immolate herself. When she died a week later with 90% burns, it was recorded as a suicide. However, nurses said she had told them she committed suicide unable to bear the pressure and harassment from her husband and in-laws for dowry.” “We get around eight burns cases everyday and of those five are women and they are mostly reported as cases of accidents or suicide. It is only when we talk to the women that we realise these are cases of
dowry harassment by the husband and the relatives,” said Dr V Jayaraman, head of the burns ward, KMCH. A majority of these deaths, nurses say, are recorded as suicides by the husband and his relatives and in some cases by the woman herself.

Times of India dated 10 August 2012 reports 21-year-old woman, who was assaulted and set ablaze by her husband and mother-in-law for dowry in Barmer district, died of her injuries in the local hospital.

Times of India dated on 9 August 2012 reported a 23-year-old married woman committed suicide by hanging from the ceiling of a house in Ramganj during the early hours on 8 August. Her in-laws were allegedly harassing her. These are a serious pointers towards the evil of dowry.

❖ The Indecent Representation of Women (Prohibition) ACT, 1986

Anything and everything that is advertised from domestic to consumer products usually have the pictures of women in different poses and postures. The best status and best painting pertains of nude women. Since the dawn of humanity, man’s fascination for women is unbounded. It has found its manifestation in adoration of women as well in her abuse. Often it is difficult to decipher the art form from vulgarity, decency from indecency and nudity from aesthetics.

The question has come before the Supreme Court in connection with freedom of speech and expression guaranteed by the constitution as an fundamental right under Article 19(1)(a). Freedom of speech and expression is subject to reasonable restrictions in the interest of decency and morality.

The learned judge added that of course, “we need not attempt to bowdlerize all literature and thus rob speech and expression of freedom; a balance must be maintained between freedom of speech and public decency and morality but when the latter is substantially transgressed the former must give way. Since indecent representation of women in various forms has been on the increase, women’s organization and others have been protesting against it. As a squeal to this parliament passed the Indecent Representation of Women (Prohibition) Act, 1986.
Not merely an individual but a corporate body can also commit the offence of indecent representation of women. Company had been defined widely so as to include not only to corporate bodies but also to firms and other associations of individuals. The Act therefore lays down that where an offence has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible, to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished. But any such person will not be liable to punishment, if he proves that the offence was committed without his knowledge or that he has exercised due diligence to prevent its commission.

The offence of indecent representation of women is cognizable offence, it is bailable. For the offence of indecent representation of women, a person is punishable on the first conviction with a imprisonment of a term which may extend to two years as well as fine which may extend to Rs 2000/-. In the event of the second or the subsequent conviction the punishment has to be for a term of imprisonment of not less than six months and may extend to five years and with a fine of not less than Rs 10,000/- which may extend up to Rs 1,00,000/-.54

The Immoral Traffic (Prevention) Act, 1986

Originally phrased as the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA), to prevent trafficking for sexual exploitation, this law has undergone many changes. In 1986, the Act was amended and rephrased as the Immoral Traffic Prevention Act (ITPA).

In India, legal regime on sex work is laid down under the Immoral Traffic (Prevention) Act, 1986 (“ITPA”). ITPA does not prescribe sex work per se but does penalise specific activities related to commercial sex. It also provide for rescue and rehabilitation of person in sex work.

Implications:

- Sex work per se is not illegal under the act but, its defacto criminalization through prohibition of soliciting, brothel and street work, has effectively undermined sex workers ability to claim protection of law.
- Absence of safeguards has intensified violence and exploitation by brokers, agents and mafia.
Punitive provisions are inimical to public health interventions to improve HIV.

Fear of arrest, infringement by police make negotiation of safer sex difficult.

Peer educators carrying condoms are apprehended for ‘promoting sex-work’.

Attempt to promote condom use in brothels have been aborted.

Disempowerment of sex-workers increases harm of HIV and trafficking.

**Prohibition of brothels:**

Section 2(a) defines ‘brothel’ as “any house, room, conveyance or place or any portion of any house or any place which is used for the purposes of sexual exploration or abuse for the gain of another person or for the mutual gain of two or more prostitutes”. Section 3 provides punishment for keeping, running and managing a brothel.

**Criminalisation of earnings of sex work:**

Section 4 punishes other persons being economically supported by sex workers including those living with sex workers. Therefore, aged parents, siblings, partners and children over 18 years who dependent on sex workers are treated as criminals.

**Penalties for soliciting:**

Section 8 punishes a sex worker drawing attention of potential customers from a visible, conspicuous site, whether in a street or private dwelling. Though this provision does nothing to prevent or abate trafficking, it is “most-used”, with maximum arrest and convictions being reported under section 8, ITPA.

**Statutory powers and procedures:** ITPA confers wide powers on police to conduct and magistrates to order:

- Medical examination: section 15(5A) mandates medical examination of persons removed from brothels for inter alia detections of sexually transmitted diseases.
Magistrates are authorized to order arrests and removal, direct custody of rescued persons, close down brothels and sex workers section 16, 17, 18 and 20.

The Act provides institutional rehabilitation for ‘rescued’ sex workers section 19, 21, 23.

All offences are cognizable i.e police do not require a warrant to arrest or search section 14.35

❖ The Commission of Sati (Prevention) Act, 1987

An Act to provide for the more effective prevention of the commissioning of sati and its glorification and for matters connected here with or incidental thereto. Whereas sati or the burning or burying alive of widows or women is clearly against the law of natural justice or human nature and is neither supported by any of the religions of India as an imperative duty; And whereas it is necessary to take more effective measures to prevent the commissioning of sati and its glorification.

Punishments for offences relating to sati:

Notwithstanding anything contained in the Indian Penal Code (45 of 1860), if any person commits sati, whoever abets the commission of such sati, either directly or indirectly, shall be punishable with death or imprisonment for life and shall be liable to fine.

Whoever does any act for the glorification of sati shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

The state government may, if it is satisfied that in any temple or other structure which has been in existence for not less than twenty years, any form of worship or the performance of any ceremony is carried on with a view to perpetuate the honour of, any person in respect of whom sati has been committed, by order, direct the removal of such temple or other structure.
Where the collector or the District Magistrate has reasons to believe that any funds or property have been collected or acquired for the purpose of glorification of the commission of any sati or which may be found under circumstances which create suspicion of the commission of any offence under this Act, he may seize such funds or property.\(^{56}\)

The Child Marriage Restraint Act, 1929 (19 of 1929)

To eradicate the evil of child marriage, the Child Marriage Restraint Act, was passed in 1929. The object is to eliminate the special evil which had the potentialities of danger to the life and health of female child who could not withstand the stress and strains of married life and to avoid early deaths of such minor mothers.

The penal provisions do not invalidate the fact of marriage nor do the penal provisions apply to a child. Section 3 provides that, whoever, being the male above eighteen years of age and below twenty one, contracts a child marriage shall be punished with a simple imprisonment, which may extend fifteen days, or with fine which may extend to one thousand rupees, or with both. Whoever, being male above twenty one years of age contracts a child marriage shall be punished with simple imprisonment which may extend to three months and shall liable to fine.

Whoever performs, conducts or directs any child marriage shall be punished with simple imprisonment which may extend to three months and shall also be liable to fine, unless he proves that he had reasons to believe that that the marriage was not a child marriage (section 5).

Consummation of “Gauna” is not part of marriage ceremony. The marriage being complete before the consummation, a person may be convicted under this Act, though consummation has not taken place.

Limitations:

No court can take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.

This further dilutes the efficacy of the law.\(^{57}\)
But, the act did not prove to be very effective as till date still 47% of the young Indian women are married off by the age of 18. However, what comes as a shock to a country that presents itself on its growing economic Prowess is that we are far worse than sub-Saharan Africa, or for that matter, all of Africa put together, when it comes to child marriage. The degree to which child marriage is practised in India is more than double the figure for Pakistan according to the report published in Times of India May 10th 2011.

お話 Protection of Women from Domestic Violence Act, 2005

Before the inception of this Act, there was no specific Act for protecting women from undue discrimination and unjustified violence. However, the Indian Penal Code had provisions, namely sections 304B and 498A, but they were not adequate and satisfactory in checking the atrocities committed against women. Thus, a desperate need was felt for an Act, which could specifically cater to this cause and help women attain a dignified status. In 1992, Lawyers Collectively drafted and circulated a Bill on domestic violence. This was widely circulated amongst women's groups and organisations including the National Commission for Women (NCW). In 1994, NCW came out with its draft Bill on domestic violence, which was vehemently criticized by women's organisations. By this time, most women's groups were united towards the need for a law on domestic violence. Moreover, they saw this as a way in which the State would issue a statement, recognizing that half its citizenry faces a peculiar kind of gender-based violence.

In 1999, the Lawyers Collective came out with its draft law on domestic violence after nation-wide consultations with many women's groups. Drafted in accordance with the UN Framework for Model Legislation on Domestic Violence, this bill had the broad support of the women's movement to its major provisions. After much pressure from women's groups, the Government of India introduced a Bill on domestic violence in the Lok Sabha, titled “The Protection from Domestic Violence Bill 2001”.

And henceforth the bill was passed by the legislature in 2005 and it was brought in application in 2006 and was touted by union minister Renuka Choudhary as a the most progressive gift for women.
An Act to provide for more effective protection of the rights of women guaranteed under constitution who are victims of violence of any kind occurring within the family for the matters connected therewith or incidental thereto.

The salient features of the Protection from Domestic Violence Act, 2005:

- The Act seeks to cover those women who are or have been in a relationship with abuser where both parties had been living together in a shared house and are related by blood, marriage or a relationship in the nature of marriage, or adoption. Even those women who are sisters, widows, mothers, mothers, single mothers, or living with abuses are entitled to get legal protection under the proposed Act.

- “Domestic Violence” includes actual abuse that is physical, sexual, verbal, emotional and economical including dowry demands.

- One of the most important features of the Act is the woman’s right to secure housing. The Act provides for the woman’s rights to reside in the matrimonial or shared household, whether or not she has any title or rights in the household.

- The other relief under this Act is that the court has powers to pass the protection orders which prevents the abuser from aiding or committing an Act of domestic violence e.g entering the workplace or any other place frequented by the abused, attempting to communicate with the abused, causing violence in the property used by him or both, to the relatives of the abused or any other who is providing her the assistance against domestic violence.

- The Act provides for breach for protection order or interim protection order by the respondent as a cognizable and non-bailable offence punishable with imprisonment for the term which may extend to one-year or with fine which may extend to twenty thousand rupees or with both.

- The Act provides for appointment of protection officers and NGOs to provide assistance to the women W.R.T medical examination, legal aid, safe shelter etc and if protection officers are not in capacity to fulfil their duties they comply with above mentioned punishment.
Female infanticide was prohibited through legislation in pre-independence India. The Indian Penal Code, 1860 also had provisions of punishment of causing miscarriage and similar offences, but these two were rarely enforced. Three decades after independence, as pre natal diagnostic techniques spawned female feticide and a low sex ratio, the government issued a directive in 1978 banning the misuse of amniocentesis in government hospitals/laboratories.

In 1994, after intensive public debate all over India, Parliament enacted the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act on September 20th 1994 the Act which came into operation w.e.f January 1st 1996 provided for:

- The regulation of the use of Pre-Natal Diagnostic Techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malfunctions or sex linked disorders; and
- The prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female feticide.
- The Act had been amended with effect from 14 February, 2003 with a view to making it more comprehensive and renamed it as Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PNDT Act). It brought within its ambit the techniques of Pre-Conception Sex selection to pre-empt the misuse of such technologies. It has explicit provision for the use, regulation and monitoring of ultrasound machines to curb their misuse for detection for the sex of the foetus. The Act prohibits determination and disclosure of the sex of foetus, as well as any form of advertising about facilities of Pre-Natal determination of sex. The Act prescribe punishments for contravention of its provisions-imprisonment up to five years and fine up to Rs.1,00,000.
- Under the provisions of the Act a Central Supervisory Board (CSB), constituted under the chairmanship of the Union Minister for the Health and Family Welfare, is empowered to monitor the implementation of the Act, state-level supervisory boards fulfil this responsibility in the state/UT’s where the Act is
implemented by the Appropriate Authorities (AAs) constituted at state/ districts/sub-districts levels.

- The AAs are empowered with the power of a civil court for search, seizure and sealing of machines, equipments and records of the violators.

- The Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT Act) regulates the scale of ultrasound machines only to bodies/institutions registered under the Act. To ensure that this information reaches doctors and manufacturers of such machines, the Ministry of Health and Family Welfare has issued advertisements all over the country about the amendment made in PNDT Act regulating the sale of ultrasound machines/imaging machines to clinics registered under this Act. Manufacturers of these machines are required to send reports to the AAs with the details of clinics/doctors to whom they have sold the machines, so that AAs can monitor the use of these machines.

In spite of the regulation of this Act, we can see the falling sex ratio in India. Especially, in age group of 0-6 which stands at 914 which is lower than the national sex ratio of 940 in census year 2011, there are latest cases mentioned below which would show how easily the law had been mocked by the people.

Indian Express 28th Jan 2008 of Chandigarh the Haryana Medical Council has cancelled the registration of a doctor for five years for being convicted by a court for violation of Pre-natal Diagnostic Technique Act.

In another case Times of India June 24th Ahmadabad practitioner Girijesh Agarwal, a homeopath was caught red handed in the sting operation while revealing sex of the unborn child to the mother. In order to curb the cases of female feticides the PIL, had been filed by Beti Bachao Samiti, a registered society, urged the court to direct various government authorities to strictly comply with the provisions of the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of sex selection) Act (PC and PNDT Act). Further to this, the Delhi High Court has sought the Centre's response on a PIL seeking direction to the government and its agencies for "strict compliance" of legislations prohibiting sex selection before or after conception to curb the menace of female foeticide.
The Medical Termination of Pregnancy Act, 1971 (Act No. 34 of 1971)

An Act to provide for the termination of certain pregnancies by registered medical practitioners and for the matters connected there with for the termination of certain pregnancies by registered medical practitioners and for matters connected there with or incidental thereto: it extend whole of India except the state of Jammu and Kashmir.

Acc to sub-section (4), a pregnancy may be terminated by a registered medical practitioner:

a) Where the length of the pregnancy does not exceed twelve weeks or

b) Where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks not less than two practitioners are required.

Pregnancy can be terminated under the following conditions:

If the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury physical or mental health. Where any, pregnancy is caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. Where any pregnancy occurs as a result of failure of any contraceptive method which is used for the family planning the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Woman who has attained the age of eighteen years, or, who having attained the age of eighteen years, if is a lunatic, her pregnancy shall be terminated along with the consent in writing of her guardian otherwise pregnancy will be only terminated by the consent of the pregnant lady.

Equal Remuneration Act, 1976

The Equal Remuneration Act in India was enacted to prevent discrimination between workers on grounds of gender. The Act provides for the payment of
equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for the matters connected there with or incidental there to.

On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of similar nature (or in any condition of service subsequent to recruitment such as promotions, training or transfer), make any discrimination against women except where the employment of women in such work is prohibited or restricted by any law for the time.

**Indian Divorce Act 1869**

Any marriage solemnized whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001, may on a petition presented to the district court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage the respondent (against whom the case is registered for divorce):

- Has committed adultery; or
- Has ceased to be Christian by conversion to another religion; or
- Has been incurably of unsound mind for a continuous period of not less than two years immediately preceding the presentation of the petition; or after amendment by Central Act 51 of 2001 with effect from 3rd October 2001;
- Has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from a virulent and incurable form of leprosy; or
- Has, a period of not less than two years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form; or
- Has not been heard of as been alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive; or has wilfully refused to consummate the marriage and the marriage has not therefore been consummated; or
➢ Has failed to comply with a decree for restitution of conjugal rights for period of two years or upwards after the passing of the decree against the respondent; or

➢ Has deserted the petitioner for at least two years immediately preceding the presentation of petition; or

➢ A wife may also present petition for the dissolution of her marriage on the ground that the husband has, since the solemnization of marriage, been guilty of rape, sodomy or bestiality.⁶²

❖ Regulation of Employment Agencies Act 2007

The issue of exploitation of women and children as domestic workers is frequent and regularly reported. With no rights and rules to fall back on, the domestic helps, mostly migrants from eastern states, have become contemporary slaves. It is also a known fact that many women and children are trafficked and exploited by the placement agencies, which operate openly without any form of restrictions and regulations, also escaping the tax net, thus necessitating the need for regulation and control.

The domestic workers fall outside the Labour legislations thus domestic workers are unable to access their rights. That non recognition of domestic work as legitimate work combined with hidden nature of the worksite results in exploitative living and working conditions and sometimes forced labour and trafficking. Reports of abuse are many with workers facing among other things, extremely long working hours, absence of rest and leave periods, deprivation of food, delayed or non payment of wages and physical and sexual abuse, recruitment related fees, deceptive recruitment practices and discriminative policies further jeopardizes domestic workers right to just and favourable working conditions.

Relying upon separate and weaker protections in a standard contract to protect domestic workers rather than extending equal protection of Labour laws to domestic workers constitute unjustifiable discrimination as prohibited under ICCPR, Convention on Elimination of all forms of Discrimination against
Women and migrant workers convention prohibit discrimination on basis of sex, language, Social origin. Therefore international law guarantees equality before law and equal protection of law to domestic workers.

Under Art 15 (3) of the Indian Constitution, special provisions for women and children may be made and further keeping in view Entry 23 and 24 of list II under schedule VII of the Constitution State Governments can also enact laws to provide for welfare of labour including conditions of work, employers liability, social security and social insurance.

This law should keep in view the rights guaranteed under article 23, 24, 14, 19, 39, 43. Thus, it is imperative that a law be enacted to provide for safety and security of domestic workers and regulate the placement/employment agencies, which cater to providing employment to any class/category of persons. The law needs to be broader and go beyond the scope of domestic workers, as placement agencies not only cater to domestic but also other employment requirements.

The Act further says in its Section 5 Persons carrying on an employment /placement agency to be licensed. No person shall carry on an employment agency unless he is the holder of a licence authorizing him to carry on such an agency.

Upon issues of license, which is valid for a period 12 months, and is to be renewed periodically, the agency shall furnish to the Government, quarterly details of the persons who are registered with the agency for employment, the details of the addresses where these persons are placed and the fees charged against each individual/placement; show proof of adequate verification process for each individual.

Any person who contravenes or fails to comply with the provision shall be guilty of an offence and shall be liable to a fine not exceeding Rs 15,000 and in the case of a second or subsequent conviction to a fine not exceeding Rs 30,000 and/or to imprisonment for a term not exceeding 6 months or to both.
Every owner of the employment agencies to which this act applied shall, within the period as the appropriate government may fix, shall make an application to the licensing officer in such form and manner and on payment of such fees as may be prescribed for the license of employment agency.

No principal owner of the employment agency to which the Act applies shall procure or place any worker or employee in any household or any other work unless he holds a valid license issued to the agency under this act.

Section 12 of the said Acts mention about the maintenance of registers

The placement agencies shall maintain the records of the entire domestic workers and other workers or employees being contracted by them for purposes of employment. The record shall consist of the following:

- Name and address of the employer under whom such domestic worker or employee is working.
- The period of employment
- Rate of wages and the mode of payment of the wages.
- Displacement allowance payable.
- Passport size photograph of the employer and the worker.
- Nature of work and the working hours.
- Copy of contract

Section 14: talks about the offences and penalties. Punishment of imprisonment for not less than six months and which may extend up to period of seven years or fine up to 50000 rupees or both shall be given to any licensee who —

- Charges or receives himself or through another person, for his services, any sum greater than the prescribed fee;
- Knowingly and voluntarily deceives any person by giving false information;
- Instigates or induces any person not to admit in his service any employee who has not applied for employment, work or position through his employment agency; or
Knowingly sends, directs or takes any girl or woman to any place for immoral purposes or to a place where she is likely to be morally corrupted;

- Fail to register them;
- Make available young children as domestic workers;
- Fail to maintain records of the workers placed by them;
- Any other matter as may be prescribed.\(^3\)

### Important Bills Pertaining to Gender Rights

**The Prevention of Crimes in the Name of ‘Honour’ & Tradition Bill, 2010:**

A spate of murder and dishonourable crimes in the name of ‘Honour’ whether of a family or caste or community have been reported in the recent past and are continuing to be reported. Though most of these killings and crimes are being reported from the states of Punjab, Haryana, Delhi, Western U.P, and other parts of Northern and Western India, the problem is not confined to their areas alone and almost every part of country has been witness to such incidents. A crime in the name of ‘Honour’ is one of the ranges of violent or abusive acts including emotional, physical and sexual abuse and other coercive acts. In each of these cases, the family sometimes alone, and often in association with other relatives/friends or with ‘caste members’ or ‘Khap’ or community based panchayats is instrumental in committing these killings and crimes.

These Acts are also violation of certain fundamental rights enshrined in the Constitution of India, including the right to life and liberty, which includes the right to bodily integrity, and the right to choose whom to associate with. However, no laws which punish crime in the name of honour exist in India. There are also no laws which punish the illegal often barbaric actions of the Khap or community panchayats or other caste or religions associations.

All person including young person and women have the right to control their own lives, a right to liberty and freedom of expression, and a right of association movement and bodily integrity. They have right to choose their own partners in...
marriage or otherwise and any action to prevent the exercise of these rights shall amount to an offence under the provisions of this bill.

If any person or persons, whether he or they are members of the victims family or person or persons acting in concern with, or, on the behalf of, a member of the family or a member of a body or group of caste or clan or community or caste panchayats kills or kill a woman or her partner or cause grievous hurt or any form of injury or participates or incites such an act, shall be guilty of murder or any offence shall be punishable with the punishment as prescribed in The Indian Penal Code, 1860. Further if couple is prevented from excising above-mentioned rights and one involved in this shall be punished with imprisonment of a minimum term of one year and a maximum term of ten years and shall be liable for punitive fine.64

❖ Assisted Reproductive Technology (Regulation) Bill – 2010

With effect from such date as the Central Government may, by notification, appoint, there shall be established a Board to be known as the National Advisory Board for Assisted Reproductive Technology, hereafter referred to as the National Board, to exercise the jurisdiction and powers and discharge the functions and duties conferred or imposed on the Board by or under this Act. The National Board may recommend modifications from time to time in the attached rules and schedules where relevant about the following Act, and perform any other functions and tasks assigned to it by the Central Government:

➢ Minimum requirements related to staff and physical infrastructure for the various categories of assisted reproductive technology clinics;

➢ Regulations in respect of permissible assisted reproductive technology procedures;

➢ Regulations in respect of selection of patients for assisted reproductive technology procedures;

➢ Encouragement and promotion of training and research in the field of assisted reproduction;
Encouragement of the establishment and maintenance of a national database in respect of infertility;

Guidelines for counselling and providing patients with all necessary information and advice on various aspects of assisted reproductive technology procedures;

Ways and means of disseminating information related to infertility and assisted reproductive technologies to various sections of the society;

Regulations in respect of research on human embryos;

Performa for obtaining information from donors of gametes and surrogate mothers, consent forms for various procedures, and contracts and/or agreements between the various parties involved, in all of the languages listed in the Eighth Schedule of the Constitution;

Policies from time to time on assisted reproduction.

All assisted reproductive technology clinics shall, within such period and in such form and manner as may be prescribed, register themselves with the Registration Authority. An application for registration by an assisted reproductive technology clinic under sub-section (1) of this section shall contain the particulars of the applicant including all details of techniques and procedures of assisted reproductive technology practiced at such clinic. (3) The State Board may, subject to such terms and conditions as may be prescribed, register any assisted reproductive technology clinic on the basis of the techniques and procedures of assisted reproductive technology practiced at such clinic, such as –

Infertility treatment, including Intra-Uterine Insemination (IUI), Artificial Insemination with Husband’s semen (AIH), and Artificial Insemination using Donor Semen (AID), involving the use of donated or collected gametes;

Infertility treatment involving the use and creation of embryos outside the human body;

Processing or storage of embryos;

Research.
This act has the entire rule regarding the assisted reproduction and these are as follows:

- Duties of an assisted reproductive technology clinic.
- Sourcing, storage, handling and record keeping for gametes embryo and surrogates.
- Regulation of research on embryos.
- Rights and duties of patients, parents, surrogates and donors.
- Offence and penalties.
- Every offence under this Act shall be cognizable.65

The protection of women against sexual harassment at work place bill, 2010

The protection against sexual harassment and right to work with dignity are universally recognised human rights under the various international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, which has been ratified by India in 1993. The convention gives positive affirmation to the principle of equality by requiring the ratifying countries to take all appropriate measures, including, enactment of legislation for guaranteeing women the exercise and enjoyment of human rights and fundamental freedoms at par with men. Sexual harassment is a violation of women’s right to equality, life and liberty. It creates an insecure and hostile work environment, which discourages women’s participation in work, thereby, adversely affecting their social and economic empowerment and the goal of inclusive growth. Sexual harassment permeates all strata, ranging from the unorganised sector to the corporate.66
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