

## WOMEN AND LAW IN INDIA

---

### List of Contents

#### I. Introduction

#### II. Constitution of India and Women- i. Preamble ii. Equality Provision

#### III: Personal Laws and Women

- a. Unequal position of women – different personal laws and Directive principles of State Policy
- b. Uniform Civil Code towards gender justice
- c. Sex inequality in inheritance
- d. Guardianship

#### IV: Criminal Laws and Women

- a. Adultery
- b. Rape
- c. Outraging Modesty
- d. Domestic Violence

#### V: Women Welfare Laws

- a. Pre-conception and pre-natal diagnostic techniques (Prohibition of Sex Selection) Act, 1994
- b. Indecent Representation of Women (Prohibition) Act, 1986
- c. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013.
- d. Domestic Workers Welfare and Social Security Act, 2010
- e. Immoral Traffic (Prevention) Act, 1987
- f. Family Courts Act, 1984

#### VI. Conclusion

## **I. Introduction**

The status of women in India has a very long and ever-changing story. In ancient times women used to enjoy rights and status equal to men. They used to be educated and independent. Their status is evident from facts like women used to enjoy the freedom to choose their husband in a ceremony commonly known as “Swayamwar”. There are instances in history that show that women used to be rulers, administrators, military commanders, teachers, writers, poets and what not.

Thereafter, after the invasion of Mughals during medieval period the position of women in India encountered a dramatic decline. Daughters and other women were kept inside homes and were not allowed to enjoy freedom. There are instances that depict that women were treated as slaves and were inflicted with sexual wrongs as well. All these reasons gave rise to customs like Purdah system, Sati, Johar etc. Due to all these, their position in society kept on deteriorating as their interference in administration, law making etc. had almost ended. They had no representation or say in almost everything.

Later on, during British rule, many social reformers came up and fought for the rights of women. Due to their efforts, many customs like Sati, Devdasi, Johar etc. could be ended. Schools were set up to provide free education to girls and many other efforts were taken to strengthen the position of females. Post-independence, Constitutional provisions were drafted in such a way that equal rights and opportunities and be provided to women so that they can also live and enjoy their basic human rights. Since then several legislations are being enacted for the welfare and development of women and their status in India.

## **II. Constitution of India and Women**

Indian constitution has many provisions for protection of women rights. The preamble of Constitution of India also emphasizes on them. It guarantees the equality of rights of men and women in every possible way and prohibits discrimination on the ground of sex. The provisions are based on the principle of gender equality. This particular principle is featured in Preamble, Fundamental rights and Directive Principles. Indian constitution gives power to the States to make laws for the empowerment and the betterment of the women. Constitution allows the positive discrimination in favour of women by the States so that equality can be assured.

In the same sequence following are the specific provisions that are enshrined in Constitution of India related to the rights of women of country.<sup>1</sup>

- **Article 14-** This provision talks about equality before law and equal protection of law. It means that no one is above law and every citizen of India will be subjected to the law of land. No matter the person is male or female law is same for both. Law sees both of them with same glasses. Law does not discriminate between men and women and treats them with equality. This provision allows for reasonable classification and by doing so special laws can be made for any class or group on the basis of reasonability.
- **Article 15(1) -** This Article says that any State will not discriminate against any citizen of India on any basis whether it is religion, race caste sex or place of birth. This provision includes “sex” also which means there can be no discrimination on the part of State on the basis of gender and man and woman should be treated equally.
- **Article 15(3) -** It provides for the special provision for women and children. It says that power of the State to make special laws for women and children will not be barred by this article. Hence positive discrimination can be there.
- **Article 16-** This article deals with the provision of equality of opportunity in matters of public employment. As per this provision, for any employment which comes under the control of State or any government employment there will be no discrimination against any person on the basis of religion, race, caste, sex, decent, residence, and place of birth. Hence for any government job nothing of the above mentioned can be the criterion. Ground of Sex cannot make a person eligible for public employment. Females are given the equal opportunity as males for this purpose.
- **Article 39(a) -** This article comes in the part IV of the Indian Constitution. It comprises the directive principles of State policy. This particular article says that State will form its policies for securing the equal rights of men and women towards an adequate means of livelihood. Women should be given equal opportunity as to men to earn their bread and butter and for fulfilling their essential requirements. There will not be any discrimination between a man and a woman.
- 

---

<sup>1</sup> [http://www.legalserviceindia.com/helpline/woman\\_rights.htm](http://www.legalserviceindia.com/helpline/woman_rights.htm)

- **Article 39(d)** - This clause of Art 39 provides that there should be equal pay for equal work for men and women. In a simple way, if two persons, a man and a woman are doing the same nature of work, their pay will be equal for that work. There should be no difference in their remuneration on the basis of their gender.
- **Article 42-** States are responsible to provide just and humane conditions of work to both the men and women. Further, it provides that women employees should be given maternity relief during their employment whether public or private. Earlier this used to be of 3 months paid leaves now it has been changed to 6months paid leaves along with other benefits.
- **Article 46-** This article provides that state will promote with special care and economic interests of the weaker sections of the people. Specially scheduled castes and scheduled tribes to protect them from social injustice and exploitation. The term weaker used here has wider scope and may include women in it. Hence state may form policy for women to protect them from exploitation and injustice.
- **Article 47-** This article says that the state has the duty to raise the level of nutrition and standard of living of its people. The word “people” is used here which include men and women both. Under this provision if required State may make policy or special laws for the nutrition and better living of females of any group or public at large. State cannot differentiate against women.
- **Article 51(a) (e)** - Part IV-A of the Constitution which contains the Fundamental Duties. It provides that it is the duty of every citizen of India to promote harmony and the spirit of Common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities to renounce practices derogatory to the dignity of women.
- **Article 243 D (3)** - Some provisions were added to the constitution by the 73<sup>rd</sup> and 74<sup>th</sup> Amendment in the year 1992. This article provided for the reservation of women in election. It says, not less than one –third (it includes the number of seats reserved for women who belong to scheduled castes and scheduled tribes) of the total number of the seats to be filled by direct election in every Panchayat to be reserved for women. Such seats to be allotted by rotation to different constituencies in a Panchayat.
- 
-

- **Article 243 D (4)** – It provides the reservation of chairman posts. It says that not less than one-third of total number of offices of chairpersons in the Panchayats at each level to be reserved for women.
- **Article 243 T (3)** – It says that no not less than one –third (it includes the number of seats reserved for women who belong to scheduled castes and scheduled tribes) of the total number of the seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality.
- **Article 243 T (4)** – It provides for the reservation of offices of chairpersons in municipalities for Scheduled castes, Scheduled tribes and women also. The legislature of the State may make law for the same.

### Landmark Cases:

#### **1. Air India v. Nargesh Meerza (AIR 1981 SC 1829)**

In this case Supreme Court struck down the regulation no. 46 of the Air India and Indian Airlines Regulations which provided that an Air Hostess will be retired from service if she attains the age of 35 years or if she marries within 4 years of her service or if she gets pregnant whichever occurred earlier. Court held that the regulation was unconstitutional as it violated provisions of Article 14. Court called the provision as arbitrary, cruel and unreasonable as the impact of the law was open insult to Indian motherhood the most sacrosanct and cherished institution.

#### **2. Lata singh v. State of Uttar Pradesh and Another, (2006, (6) SCALE 583)**

In this case Supreme Court held that every woman who has attained the age of maturity and is mentally sound can marry the man of her own choice. Inter caste marriage is not ban under Hindu Marriage Act. Her fundamental rights provided in the constitution are well protected and cannot be infringed under the garb of social norms.

### III. Personal Laws and Women

#### **a. Unequal position of women – different personal laws and Directive principles of State Policy**

In India there are different personal laws that supersede general laws applicable with respect to marriage, divorce, adoption, succession and maintenance. A person belonging to any specific religious community like Hindu, Muslim, Parsi, Christian etc. will be dealt under their specific personal laws for matters stated above. This creates a huge disparity in various provisions including the ones applicable for rights of women. Even though the Constitution provides for equality provisions for all genders but the provisions under specific laws (personal laws) defy the very purpose. In order to overcome this demerit Art. 44 of Indian Constitution falling under Part IV forming part of Directive Principle of State Policy provides for a Uniform Civil Code (UCC) that needs to be implemented throughout the nation.

Various provisions under different personal laws that implicate the disparity in rights of women in India are as follows:

#### **Inheritance**

The provisions relating to succession are dealt under succession acts applicable on different people. Under Parsi personal Law a non Parsi woman marrying a Parsi man or who is a widow of Parsi man cannot inherit her husband's property on his death.

Similarly, under Hindu Law if a married woman dies without having any children her estate devolves upon the heirs of her husband and not her own.

Under Travancore Christian Succession Act, 1916 and the Cochin Christian Succession Act, 1921 applicable on Christians in Kerala the daughter's right to inherit her father's property is limited to '*stridhan*' and only a life interest in any immovable property is recognised which is either terminated on her death or remarriage. Similar discriminatory provisions are there in laws applicable on Christians living in Goa and Pondicherry as well.

Under Muslim Law there is a vast discrimination in inheritance rights of male and females of same degree. The females can inherit only half of the share inherited by males.

#### **Marriage and divorce**

Polygamy and polyandry are not kept on equal footing under personal laws. In Muslim Law, a male can have up to 4 legally wedded wives but not vice versa. Similarly, in some Hindu

Communities in Goa and Daman and Diu polygamy is permissible under pre-merger laws which are still prevalent but not polyandry<sup>2</sup>.

Under Parsi personal law, a Parsi woman marrying a non-Parsi man is not accepted as a member of Parsi community which is not the case if a Parsi man marries a non-Parsi woman.

In matters of divorce, there are certain differentiating provisions under Muslim law like a female Muslim can divorce her husband by following the legal procedure and only on some specified grounds but a male Muslim can do so even by three pronouncements of ‘*talaq*’ (*Talaq-e-bidat*/triple talaq) and on any reason howsoever meagre it is. Even though this provision of Muslim law has been struck down by Hon’ble Supreme Court in case of *Shamim Ara v. State of U.P. & Anr*<sup>3</sup> but there is still no codified law for this purpose.

Further, a Muslim female cannot remarry a man who has divorced her unless she has first married another man and consummated the marriage. This is again a provision that undermines the modesty of a woman and defeats the very purpose enshrined in the Constitution.

### **Guardianship and adoption**

Under Hindu Law, women have been given an inferior right to adopt a child as compared to a man. A woman can adopt only if her husband has either renounced the world, becomes insane or has ceased to be a Hindu. Also, the mother under Hindu Minority and Guardianship Act, 1956 is the second natural guardian of a legitimate child, father being the first being given custody of child up to certain age only (5 years). Similar are the provisions under Muslim Law as well where father is the natural guardian of a child and mother has only rights of custody (*Hizzanat*) of child up to a certain age depending on the sex of child (up to puberty if female and up to 7 years (in Sunnis) or 2 years (in Shias) if male).

This unequal position of rights of mother was challenged in *Githa Hariharan v. Reserve Bank of India*<sup>4</sup> where Hon’ble Supreme Court declared this provision as violative of gender justice guaranteed under Indian Constitution and interpreted the term ‘after’ in section 6 as including absence, total apathy or inability as well along with the death of the father. But it does not still guarantee the equal position of women.

---

<sup>2</sup> [https://www.asthabharati.org/Dia\\_Jan10/wom.htm](https://www.asthabharati.org/Dia_Jan10/wom.htm)

<sup>3</sup> AIR. 2002 SC 3551.

<sup>4</sup> AIR 1999 2 SCC 228.

## Maintenance

Maintenance provisions are basically aimed at supporting the dependents. There are various controversies concerning maintenance among spouses. It is argued that under IPC only wife can claim maintenance from husband but not vice versa. In context of present situation women have grown to become financially independent in which case they shall not be allowed maintenance in every case. In fact, in situations where the husband is not working he shall be eligible for maintenance from the wife. Such controversies have been done away with under Hindu Law but similar provisions still prevail in other personal laws.

Under Muslim Law the maintenance of wife by the husband is subject to certain conditions like she must be accessible to the husband and shall obey his reasonable commands. Also, the husband need not maintain the divorced wife after three months from divorce. Such provisions undermine the position of the women and leave them in a vulnerable situation.

### b. Uniform Civil Code towards gender justice

In light of the discriminatory provisions under different personal laws it is advocated that the Uniform Civil Code shall be applicable throughout the nation replacing all the personal laws so that the benefit of equality provisions can reach all the female citizens of the country in order to achieve the gender justice. Personal laws mirror the patriarchal structure of the society and reflect the gender biasness which is a result of absence of engagement of women in their formation. UCC on the other hand are set of civil laws aimed at extending the gender just provisions of personal laws to everyone uniformly so as to ensure empowerment of women and marginalised sections of society.

But it is very unfortunate that these days UCC has become more of a political agenda rather than being a measure of development. It has remained in controversy in past few years because of some baseless arguments like it seeks to reform Muslim Laws only in India which is not true as not only Muslim Law but all personal laws are almost on equal footing in the matter of gender inequality. Also, there is no other method better than implementing a Uniform Civil Code so as to effectuate gender justice in India. The courts have also expressed this view in various landmark judgements<sup>5</sup> that the certain provisions under personal laws are violative of Articles 14, 15 and 21 of Indian Constitution and that UCC is the best way out so as to ensure that basic fundamental rights do not become a legal battle for women.

---

<sup>5</sup> *Mohd. Ahmed Khan v. Shah Bano Begum & Ors.*, AIR 1985 SC 945; *Prakash & Ors. v. Phulavati & Ors.*, Civil Appeal No.7217 of 2013; *Shamim Ara v. State of U.P. & Anr.* AIR 2002 SC 3551 etc.

#### IV. Criminal laws and women

It will not be wrong to say that women have always been subjected to the cruelty in the society since the ancient times. In every patriarchal society women were never given the status and rights equal to men. Hence laws were required to protect women rights not only as individual but as a human also. Following are the criminal provisions of Indian penal code which are specifically related to women:

**Adultery-** Section 497 of Indian Penal Code deals with the offence of adultery. It says that if a man has sexual intercourse with some woman who is the wife of other person and for the same no consent was obtained from her husband. Such act will be called adultery not rape. Accused of this offence be punished with imprisonment up to 5 years or with fine or with both.

This provision shows weak position of women, as if with the consent of husband a woman can be treated as a sex slave by other man. The provision was made for protection of women, but interpretation of this law may lead to other meanings as well. This law has been criticised for treating women as property owned by men. Hence Supreme Court in *Joseph Shine v. Union of India*<sup>6</sup> called this law as anti-women and held that adultery cannot be a criminal offence but it may be a ground of offence.

Rape<sup>7</sup>- Dictionary meaning of Rape means “unlawful sexual intercourse or any other sexual penetration of the vagina, anus, or mouth of another person, with or without force, by a sex organ, other body part, or foreign object, without the consent of the victim”. Rape is defined under section 375 of Indian Penal Code and its punishment is given under section 376. With the passage of time many developments have taken place in the laws related to rape.

1860- Earlier, Ss. 375 to Section 376E of the IPC were referred to as ‘sexual offenses. Definition of rape was very narrow. Sex with a woman under the age of 16 was also defined as ‘statutory rape’. Also, there was absence of the concept of marital rape.

**1983** – A rape category “custodial rape” was included in IPC to describe rape with women in custody of public servants. Section 114(A) was also added in Indian Evidence Act. This change in law took place after Mathura Case which was a custodial rape case but accused policemen got acquittal on the basis of victim being habitual of pre-marital sex. After lot of hue and cry in the society difference came that court were bound to rely on the testimony of victim about the absence of consent.

---

<sup>6</sup> decided on 27 Sept 2018.

<sup>7</sup> <https://www.youthkiawaaz.com/2018/08/indias-anti-rape-laws-the-evolution/>

**2002-** Victims of rape used to be afraid of reporting case because the trial procedure was so humiliating for them. After a PIL in *Sakshi v. Union of India*<sup>8</sup> an amendment was made in section 155(4) of Indian Evidence Act regarding the cross examination of victim and to protect the victim from character assassination and this provision was repealed. SC issued directions that at the time of trial of sexual offence there must be some arrangement to cover the face and body of the victim. Questions of cross examination should be given to the judge first and should be relevant. Victim will be allowed to take break during the procedure as per requirement. 2 fingers medical test was also challenged by this case which used to be done on rape victims by inserting 2 fingers in vagina.

2012- Amendment was made in Protection of Children from Sexual Offences (POSCO) Act. Sexual crimes were made gender equal. Inclusion of child sexual abuse, non-penetrative assault, sexual harassment and child pornography was made as an offence. Fast tracking of such cases with maximum punishment was also added.

2013- After Delhi Gang Rape Case<sup>9</sup> this amendment took place. Definition of rape was given broad scope and minimum punishment was increased. This led to the changes in Juvenile Justice Act. It changed the age of accused to be called for the purpose of trial from 18 to 16. Situation emerged after rape as vegetative state and death in such state was also included. New offences such as stalking, acid attacks, and voyeurism were added as offences.

2018- After Katha rape case of an eight-year-old girl criminal law amendment ordinance was passed to amend POSCO Act. It provided that the rape of a child below age 16 should be punishable by a minimum of 20 years imprisonment and death penalty for the rape of anyone below age 12. It also provided for the fast track trials of such cases.

**Outraging modesty-** Section 354 of IPC deals with this offence. It **states that if any** person assaults or uses criminal force against a woman and does any such act with the intention or knowledge that it will outrage her modesty, **such person shall be punished** with imprisonment of up to 2 years, or a fine, or both. According to the courts women possess modesty by virtue of being a woman.

**Domestic violence-** Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation which was aimed to protect women in India from all forms of domestic violence. It also covers women who have been and still are in an abusive relationship and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.

---

<sup>8</sup> AIR 2004 SC 3566.

<sup>9</sup> State through *Reference v. Ram Singh and Ors.*, 212 (2014) DLT99.

## **V: Women Welfare Laws**

As a result of patriarchal structure of Indian society the status of women in India has grown very vulnerable this is why in past few decades several efforts have been taken by the Government and legislature to enact some laws that are beneficial to the status of women and can ensure their welfare. Some of such laws are:

### **a. Pre-conception and pre-natal diagnostic techniques (Prohibition of Sex Selection) Act, 1994**

This Act was enacted as a result of growth in female foeticide with an objective to prohibit determination of sex of foetus which leads to female foeticide and to regulate pre-natal diagnostic techniques. Under the Act certain regulatory bodies are constituted which would keep a check on conduct of the registered Genetic Counselling Centres, Laboratories and Clinics so as to ensure proper implementation of the Act. This Act also provides for punishment that any offender will have to suffer in case of any contravention of provisions of the Act.

Even though the Act was enacted according to the need of the hour and aimed at welfare of women but there were certain loopholes because of which it could not have been properly implemented. In *Centre For Enquiry into Health & Allied Themes (CEHAT) and Others Vs. Union Of India And Others*<sup>10</sup> Hon'ble Supreme Court had expressed its anguish on the poor implementation of the Act and had issued certain guidelines for its proper implementation.

In 2002 the Act of 1994 was amended and certain changes were made that were aimed at improving the regulation on technology used in sex selection. But even after the amendment there are many loopholes that the Act suffers which is why even after around 25 years of its enactment the evil of female foeticide still prevails in India and the offenders can easily sneak out from the ambit of the Act.

### **b. Indecent Representation of Women (Prohibition) Act, 1986**

This Act aims at prohibiting any advertisement, publication, painting, figurine etc. that comprises of any indecent representation of woman in such a way that it is indecent or derogatory or denigrating to the image of women, or is likely to deprave, corrupt or injure the public morality related to women<sup>11</sup>. However, there is an exception under the Act that the Act

---

<sup>10</sup> AIR 2001 SC 2007

<sup>11</sup> <http://www.wcd.nic.in/act/indecent-representation-women>

would not be applicable on any advertisement, painting, figure etc. if it is done for public good or is in interest of science, art or literature.

S. 2 defines some important terms used in the Act. The term “advertisement” has been defined under the Act to include notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas. In light of change in technology used for communication National Commission for Women has proposed an amendment in this definition to include digital form or electronic form of hoardings, or SMS, MMS etc. There are many other reformatory changes suggested by NCW that are aimed at widening the scope of the Act and to create a new authority to hear and decide grievances arising under the Act but all these amendments are still under discussion.

### **c. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**

The women at present times have grown more independent but, they face problems in every strata of life. Today’s world is accustomed to the term sexual harassment, which can be defined as an unwelcome behaviour of sexual nature. Sexual harassment at workplace is a universal and serious problem, which clearly violates the fundamental rights of a women to equality under Article 14 & 15, right to life under Article 21 and right to practice any profession and carry on any occupation. However, until a Landmark Case ”*Vishaka & Ors. vs. State of Rajasthan*”<sup>12</sup> was pronounced in 1997, there were no legislation to govern such issues and women had to take cases of sexual harassment at workplace through lodging complaint U/s 354<sup>13</sup> & 509<sup>14</sup> of IPC. In this case Supreme Court issued guidelines to prevent sexual harassment cases against women at their workplaces. All the companies were directed to make committees in their offices for the purpose of complaint of employees and were responsible to advice the further course of action to the victim and to make recommendation to management about the actions to be taken against accused. This case further led to the passing of Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013, which formulized sexual harassment at workplace as penal offence punishable with imprisonment and penalty.

### **d. Domestic Workers Welfare and Social Security Act, 2010**

---

<sup>12</sup> (1997) 6 SCC 241.

<sup>13</sup> Assault or criminal force to woman with intent to outrage her modesty

<sup>14</sup> Word, gesture or act intended to insult the modesty of a woman

The ILO's 189<sup>th</sup> Convention<sup>15</sup> mandates that domestic workers be given daily and weekly rest hours, payment must meet minimum wages requirement etc. India is also a signatory to this convention but not ratified the convention. Since these provisions are not binding on those countries that have not ratified the convention, thus India is not obliged to enforce these recommendations and thus, in the absence of a national policy domestic workers are freely exploited. Number of stories of domestic workers being beaten, tortured had become a routine. An attempt was made in the form of Domestic Workers Welfare and Social Security Act, 2010, Bill drafted by National Commission. This Act is for the protection & welfare of Domestic Workers but to get benefitted, they need to be registered with the concerned board. The benefits under this Act includes, fixation of minimum wage, working hours, rest intervals, wages for overtime etc. and also penalizes the employers who contravenes with the provisions of this Act.

#### **e. Immoral Traffic (Prevention) Act, 1986**

Another menace to fight with is the human trafficking, which is a form of organized crime that extends across borders. It covers various forms of human rights violation i.e., commercial sexual exploitation, forced labour, organ donation etc. Unfortunately, the involvement of children, especially girls had grown and over the years, it had taken on more complex and diverse forms making it necessary to reform the laws and strategies towards its control and eradication and the Immoral Traffic (Prevention) Act, 1986, originally the Suppression of Immoral Traffic in Women and Girls (SITA), 1956 is one of its kind, which is the central legislation dealing with trafficking in India. Though the name immoral trafficking in itself mentions a wider concept yet the Act's scope is limited to commercial sexual exploitation or prostitution. It penalizes those who assist or abet commercial sexual exploitation, including those who live off the earnings of prostitutes. It also provides for welfare measures towards rehabilitation of victims in the form of protective homes to be set up and managed by state governments. Though it is said something is better than nothing but tragically, even as a law dealing with sexual exploitation, it leaves a lot to be desired and there is immense need to modify, amend and redefine the Act, to emerge as a powerful weapon covering much perspective, which helps eradicate and curb such devastating situations.

#### **f. Family Courts Act, 1984**

---

15

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:2551460](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:2551460)

Earlier women were facing problems like child marriage, sati pratha, parda system etc., however, gradually these problems disappeared but despite the advent of modernisation & provisions of equal rights and opportunities under Constitution of India, women are prone to face much more complex issues in their matrimonial life including domestic violence, dowry death, maintenance etc. Thus, to protect and preserve the institution of marriage, welfare of women & children, such family disputes were required to be dealt by adopting radically different approach than in ordinary civil proceedings so that reasonable efforts should be made for settlement before the commencement of trials as recommended by both 59<sup>th</sup> Law Commission Report (1974) & the Committee On The Status of Women (1975)<sup>16</sup>. Consequent to these recommendations, Order XXXII-A<sup>17</sup> was incorporated in the Code of Civil Procedure, 1976. The code was amended to provide special procedure to be adopted in suits or proceedings relating to family matters and after a lot of debate, Family Courts act came into force in 1984 to ensure speedy and inexpensive relief with least formalities and technicalities. The Family Courts mainly focuses upon conciliation or settlement of dispute and the proceedings are adjourned till parties to dispute arrive at a settlement, if the Court sees any possibility of settlement.

## VI. Conclusion

Many efforts have been taken in India through legislations, judicial pronouncements etc. so that women can be brought back to a status equal to men and so that they can enjoy basic human rights and are no longer treated or believed as a kind inferior to men either physically or mentally. But the loss caused to status of women in medieval times is so grave that even after 71 years of independence the traces of old customs and values that demean the value of women can still be seen in the society. Even though there is a lot of improvement in the status of women in the present times but still in many societies a girl child is not considered equal to a boy child and girl has to suffer the cost of her being born as a female till the time of her death. All the legislations and enactments made for the purpose of welfare and development of women have their own loopholes and have failed to achieve their objectives to a certain extent. There is a need for more stringent laws and above all there is a need of social effort to bring about a change in mind set and moral values of people. Without this courts and legislations can also not help much.

---

<sup>16</sup> <http://ncw.nic.in/sites/default/files/Working%20of%20Family%20courts%20in%20India.pdf>

<sup>17</sup> Suits relating to matters concerning the family.