

LEGAL MODULE

**‘Gender Sensitization and Legal Awareness Programme in collaboration with
Kendriya Vidyalaya Sangathan for Class XI and XII of Kendriya Vidyalayas’**



NATIONAL COMMISSION FOR WOMEN

NEW DELHI

September 2019

PREFACE

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 with a mandate to safeguard the constitutional rights of women. In keeping with its mandate, the Commission has, from time to time taken various initiatives for gender awareness and sensitization in the society regarding rights of women. It has been experienced that gender-based discriminations exists in all walks of life and every part of society, including everyday interactions at the workplace and public space.

The Commission believes that introducing Gender Sensitization and Legal Awareness Programme at school level would facilitate inculcating values of equality, inclusivity and diversity, which are essential for building a healthy society among the adolescent boys and girls. Moreover, knowledge of laws relating to women and gender sensitization is not only crucial for balanced development of young minds; it will also help students in building correct values, self-discipline and national spirit.

The National Commission for Women in collaboration with Kendriya Vidhyalaya Sangathan is launching a pilot programme for running Gender Sensitization and Legal Awareness Programme with the target group of students of Class XI and XII of Kendriya Vidhyalays in Delhi Region.

In accordance with the Scheme, Commission decided to prepare a booklet on Major Laws relating to women. Accordingly the Commission constituted an Expert Committee, having expertise in the field of law, comprising of the following experts:-

1. Dr. Kiran Gupta, Professor, Faculty of Law, University of Delhi, New Delhi
2. Dr. Ritu Sharma, Associate Prof. National Law University, New Delhi
3. Dr. Ellina Samantroy, V. V. Giri National Labor Institute, Noida

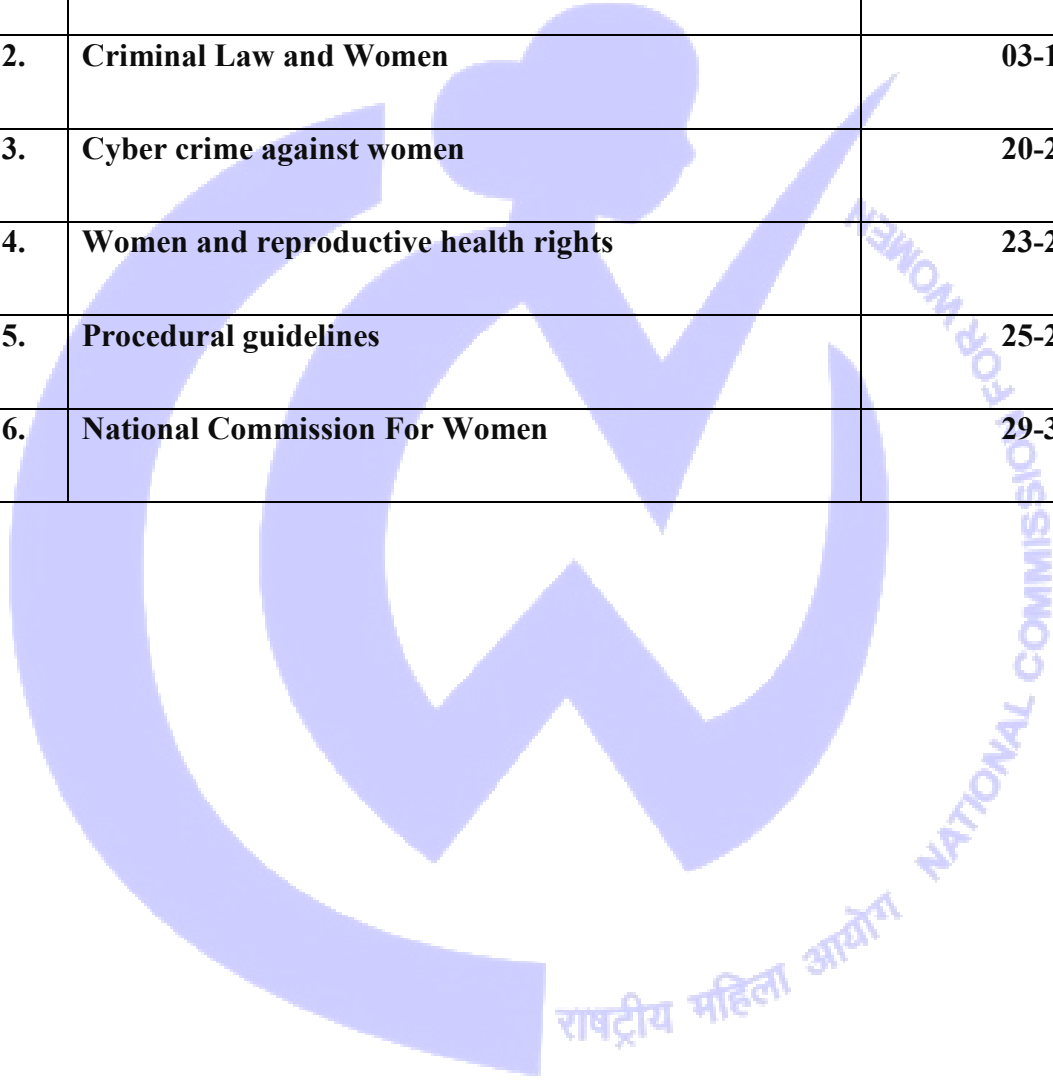
The Committee has prepared material on major laws relating to women, so as to generate appropriate understanding and awareness of major laws among students of class 11th and 12th with the aim to sensitize them towards rights of women and awareness about issues impacting men and women.

This booklet is based on the material prepared by the Committee. NCW places its appreciation on record for the efforts of the Committee Members presenting the complex subject in a simplified manner.

The Commission is hopeful that the students would find this material useful and interesting. This simple literature on gender issues is expected to ignite young minds to think objectively and rationally to help us to move towards a gender balanced society.

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CHAPTER -1 WOMEN AND THE INDIAN CONSTITUTION

1.1. The Constitution of India in its Preamble envisages a “sovereign, socialist, secular, democratic republic” which secures all its citizens “justice”, “liberty”, “equality” and promotes “fraternity” among them.

1.2. The main privileges granted to women by Constitution of India are as follows:

- **Equality before law**

Article 14 embodies the general principles of equality before law and equal protection of laws.

PROBLEM

There were two vacancies for the same post in a government office. Kanika and Sanjay both applied for the same job. Both of them were selected. The head of the department asked Kanika that they will pay her Rs. 20,000/- and Rs. 25,000/- to Sanjay because Kanika being a female cannot work as much as Sanjay can do.

SOLUTION

In such a situation Kanika can go to the Court and can ask the Court to protect her Fundamental Right to equality by filing a writ petition under Article 226 in the High Court or under Article 32 in the Supreme Court.

- **Prohibition from discrimination on grounds of religion, race, caste, sex or place of birth:**

Article 15(1) and (2) prohibits the state from discriminating against any citizen only on the basis of any one or more of the aspects such as religion, race, caste, sex, place of birth or any of them.

Article 15(3) makes it possible for the state to create special provisions for protecting the interests of women and children.

Article 15(4) capacitates the State to create special **arrangements** for promoting interests and welfare of socially and educationally backward classes of society.

PROBLEM

Manish belongs to the Schedule Caste. He applied for the admission in a Government Law College. The clerk is a biased person who destroyed his form so that Manish won't be eligible to take admission in the College.

SOLUTION

Manish complained about the act of the Clerk to National Commission for Scheduled Castes. The Commission further filed a case in the Supreme Court under Article 32 of the Constitution. The act of the clerk was held to be illegal, unconstitutional and violative of Article 15 of the Constitution.

- **Equality of opportunity:** Article 16 provides for equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- **Article 39** requires the State to direct its policy towards securing for men and women equally the **right to an adequate means of livelihood** [Article 39(a)];, and **equal pay for equal work** for both men and women [Article 39(d)]
- **Article 39A** directs the State to promote justice, on the basis of equal opportunity and to promote **free legal aid** by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- **Article 42** directs the State to make provision for securing justice and humane conditions of work and for **maternity relief**.
- **Fundamental Duty:** Article 51A (e) enjoins upon every citizen the duty to renounce practices derogatory to the dignity of women.

Sheela gave birth to a child on 1st May 2000. Her employer Mahesh gave her leave with full pay from 19th May, 2000 to 1st August, 2000. If Mahesh had cut Sheela's pay for the period that she stayed away from work, he would have been punished and fined under the Maternity Benefits Act, 1961.(Special Legislation under Article 42)

- **Reservation of seats for Women in Panchayats and Municipalities:** Article 243 D (3) and Article 243 T(3) provide for reservation of not less than one third of total number of seats in Panchayats and Municipalities for women to be allotted by rotation to different Constituencies. Article 243 D(4) and Article 243 T(4) provides that not less than one third of the total number of officers of chairperson in the Panchayat and Municipalities at each level to be reserved for women.

CHAPTER-2 CRIMINAL LAW AND WOMEN

2.1. CRIMES IDENTIFIED UNDER THE INDIAN PENAL CODE (IPC)

- i. Obscenity and Indecent Representation (Sections 292, 293 & 294)
- ii. Dowry Death (Sections 304-B)
- iii. Acid Attack (Sections 326-A & 326-B)
- iv. Sexual Harassment and Outraging the modesty of women (Sections 354, 354A, 354B, 354C, 354D & 509)
- v. Rape and Sexual Assault (Section 376)
- vi. Cruelty (Section 498-A)
- vii. Domestic Violence
- viii. Trafficking of Women
- ix. Honour Killing
- x. Protection of Children from Sexual Offences Act 2012
- xi. Protection of Women from Sexual Harassment at Workplace Act, 2013

2.2. OBSCENITY AND INDECENT REPRESENTATION

- **Section 292(IPC) Sale, etc., of obscene books, etc,- (1)** A book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest.

(2) Whoever sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation or advertises or makes known by any means or offers or attempts to do any which is an offence under this section, shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees.
- **Section 294. Obscene acts and songs-** Whoever to the annoyance of others does any obscene act in public place, sings, recites or utters any obscene song, ballad or words in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months or with fine or both.

2.2.1. INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1987

- Under the Indecent Representation of Women (Prohibition) Act, 1987, if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing the “indecent representation of women”, he/she is liable for a minimum sentence of 2 years.
- As per Section 6: “Any person who contravenes the provisions of section 3 and section 4 of the Act shall be punishable on the first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to rupees one lakh.”
- Section 7 (offenses by Companies) further states that companies where any kind of “indecent representation of women”(such as the display of pornography takes place in the premises shall be deemed guilty of offence and shall be liable to be proceeded against and punished accordingly.
- **Procedure For Remedy-**
 - ✓ Complaint in the nearest police station.

2.3. DOWRY DEATH

Megha got married to Vijaya on 5th of March. It was an arranged marriage. On 20th March i.e. exactly after 15 days of her marriage, she came to her parents’ house and started crying. When her parents asked her about the matters, she told them that her husband and in-laws were demanding for a new brand Santro car and on her refusal to their demand of dowry, her in-laws forcibly expelled her out of her matrimonial house and asked her to return only when her parents buy a car for Vijay. It is an illegal demand of dowry.

- “Dowry” as defined under Section 2 of the Dowry Prohibition Act, 1961 means any property or valuable security given or agreed to be given either directly or indirectly by one party to the other at or before or at any time after marriage. Demand for cash, gold, car or any other type of property is dowry. Giving, taking or demanding or even advertising for dowry is an offence.

- **Dowry Death and Procedural Laws:**

- **Section 174** of the Code of Criminal Procedure, 1973 is amended to secure medical examination in case of suicide or death of woman within seven years of her marriage.
- **Section 113-A** has been introduced in the Evidence Act, 1872. It states that if the wife commits suicide within a period of seven years of her marriage, it will be presumed that she had been subjected to cruelty by her husband and his relatives as per sec.498-A, IPC.

Radha is 16 years old class XI student. She was sitting quietly in the classroom and was looking very depressed. After the class her teacher asked her if there is any problem with her. She told her teacher that her sister Sudha got married to Piyush three years back and on the day of marriage Sudha's in-laws demanded for 15 tolas of gold and 3 lakh rupees in cash. Since then they had been continuously demanding dowry. Radha also mentioned that her father is the only bread earner in her family and they are four brother and sisters, Sudha being the eldest one among them. Her father was never in the position to fulfill their demand of dowry. Three days back in the morning, Radha's father got a call from Sudha's in-laws that while working in the kitchen, Sudha got fatal burn injuries and consequently she died. Radha's teacher told her that it may be a case of dowry death.

- An offence called 'dowry death' has been created by introducing section 304B in the Indian Penal Code.
 - a) Death of a women caused by any burns or bodily injury;
 - b) Does not occur under normal circumstances;
 - c) Within seven years of her marriage;
 - d) Soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband;
 - e) In connection with any demand for dowry.
- Punishment is of at least 7 years which may even extend to life imprisonment.
- **Procedure For Remedy:**
 - ✓ Complaint at the nearest police station;
 - ✓ Complaint within ten years of marriage;
 - ✓ All dowry related crimes except dowry deaths and burning of the bride will be tried by Family Courts.

2.4. ACID ATTACKS

- **Section 326** of the Indian Penal Code was amended on 2nd April, 2013 with the passing of the Criminal Laws (Amendment) Act, 2013. The amendment resulted in insertion of sections 326-A and 326-B for specifically dealing with acid violence.
- **Section 326-A:** Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine.

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim. Provided further that any fine imposed under this section shall be paid to the victim.

- **Section 326-B:** Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity of burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years, but which may extend to seven years and also be liable to fine.
- **Compensation for acid attack: Section 357-B** has been newly inserted in Cr.P.C, which reads as follows:

“The Compensation payable by the State Government under section 357-A shall be in addition to the payment of fine to the victim under section 326-A or section 376-D of the Indian Penal Code.”

- **Compensation for Women Victims/Survivors of Sexual Assault/Other Crimes - 2018**
National Legal Services Authority (NALSA) has formulated a compensation scheme detailed below:

S.no.	Particulars of loss or injury	Minimum Limit of Compensation	Maximum Limit of Compensation
1.	Gang Rape	Rs. 5 lakh	Rs. 10 lakh
2.	Rape	Rs. 4 lakh	Rs. 7 lakh
3.	Grievous physical injury or mental injury requiring rehabilitation	Rs. 1 lakh	Rs. 2 lakh
4.	Victims of acid attack		
(a)	In case of disfigurement of face	Rs. 7 lakh	Rs. 8 lakh
(b)	In case of injury more than 50%	Rs. 5 lakh	Rs. 8 lakh
(c)	In case of injury less than 50%	Rs. 3 lakh	Rs. 5 lakh
(d)	In case of injury less than 20%	Rs. 3 lakh	Rs. 4 lakh

Supreme Court has clarified that the said scheme is to be used as guidelines by Special Courts in awarding compensation to minor victims of sexual abuse till Central Government prepares rules.

- **Who can make an application to Legal Services Authorities for Compensation?**
 - Victim
 - Her Dependents
 - SHO of the area
- **Free Medical Treatment: Section 357-C** states that all hospitals (public or private), are required to provide first aid or medical treatment to the victim free of cost.
- **Procedure for Remedy:**
 - ✓ File a complaint immediately with the nearest police station about the acid attack upon a woman.
 - ✓ The rest of the procedure shall be carried out in accordance with law.

2.5. SEXUAL HARASSMENT AND OUTRAGING THE MODESTY OF A WOMEN

2.5.1. Modesty in section 354 IPC is an attribute associated with women. The act of using force on a woman (such as removing her clothes) with intent to assault her sexually is considered to be an act of outraging her modesty. Assaulting a woman or using criminal force on her with the intention of outraging her modesty- It implies that the assault must be on a woman and that the accused must have used criminal force on her intending to outrage her modesty. The punishment is of at least one year which may extend to five years.

2.5.2. Section 354A.- Sexual Harassment:

(1) The following acts or behavior shall constitute the offence of sexual harassment:

- i. Any physical contact and advances involving unwelcome and explicit sexual overtures; or
- ii. a demand or request for sexual favours; or
- iii. making sexually coloured remarks; or
- iv. forcibly showing pornography; or
- v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(2) Any man who commits the offence specified in clause (i) or clause (ii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to five years, or with fine or with both.

(3) Any person who commits the offence in clause (iii) or (iv) or (v) of sub-section (1) shall be punishable with imprisonment of either description that may extend to one year or with fine or both.

2.5.3. Section 354 B.- Assault or use of criminal force to woman with intent to disrobe.

Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

2.5.4. Section 354C.- Voyeurism

Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with

imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation I. — For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2. — Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

2.5.5. Section 354D.- Stalking

- (1) Any man who—
 - i. follows a woman and contacts, or attempts. to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
 - ii. monitors the use by a woman of the internet, email or any other form of electronic communication;
 - iii. or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person commits the offence of stalking.
- (2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

2.5.6. Section 509 criminalizes uttering of any word or sound or gesture or exhibiting any object to a woman with the intention that she sees or hears it or it intrudes her privacy with the intention of insulting her modesty.

Seema went to a boutique to purchase a dress for herself. She went to the trial room of the boutique to try the dress she had selected. There was a hidden camera fixed in the trial room. Few days later, Seema was shocked to find her naked photo on the front page of a magazine. It is case of Voyeurism and punishable under Section 354 C of IPC.

- **Procedure for Remedy:**

- ✓ File a complaint immediately with the nearest police.
- ✓ The rest of the procedure shall be carried out in accordance with law.

2.6. RAPE AND SEXUAL ASSAULT

- Sexual assault involves a perpetrator physically forcing a sexual act on a woman. Rape falls under sexual assault and includes acts like penetration of a penis, any object or any part of the body to any extent, into the vagina, mouth, urethra or anus of woman; or making another person do so. Rape is a heinous crime but a woman/girl does not want to report it to the police, because she feels:
 - People will question her character and will hold her responsible for what has happened
 - Her family will get a bad name and nobody will believe her story
- The absence of consent is enough to constitute a crime of rape. Consent has been clearly defined as a clear, voluntary communication that the woman agrees to the specific sexual act, leaving no room for debate. Things like a girl's character or her previous sexual history are irrelevant while deciding a case of rape.
- Any sexual activity, irrespective of consent with a girl or a boy below the age of 18 constitutes statutory rape.
- Even a husband can be held guilty of rape of his wife, if the wife is less than eighteen years of age. If a man has sex with a woman/girl by pretending to be her husband, it is also rape.
- However, the law is very strict with regard to offences of rape and sexual assault. There are special provisions in criminal law to protect victim from any form of harassment while seeking justice.

2.6.1. Section 375, 376, 376 A-D of Indian Penal Code deals with Rape.

- **Section 376A.- Punishment for causing death or resulting in persistent vegetative state of victim:** The offender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.
- **Section 376B.- Sexual intercourse by husband upon his wife during separation:** The offender shall be punished with imprisonment of either description for a term

which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

- **Section 376C.- Sexual intercourse by person in authority:** Authority includes a person in a position of authority or in a fiduciary relationship; or a public servant; or superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or on the management of a hospital or being on the staff of a hospital. The offender in this case shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.
- **Gang rape. Section 376D.** The offender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine.
- **Punishment for repeat offenders. Section 376E.** Repeated offenders shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.'
- **Procedure for Remedy**
 - ✓ An FIR needs to be filed in the nearest police station.
 - ✓ Since 2013 (Criminal Law Amendment Act, 2013), when any information is given by a women regarding Commission or attempt of sexual harassment, outraging her modesty or rape then such information shall be recorded, by a woman police officer or any woman officer
 - ✓ Victim has a right to be represented by a lawyer from the beginning of the case, i.e. from lodging of an FIR at the police station till the final outcome of the case.
 - ✓ The doctor should cater to the medical needs of victim with utmost priority. No hospital can deny conducting medical legal checkup (M.L.C) of the victim who has come to the hospital without police referral.

Introduction of Panic Button in mobile phones: Recently, the 'Panic Button and Global Positioning System in Mobile Phone Handsets Rules 2016' has been notified to enable women to send distress signal to family or police authorities when faced with situations of violence. As per these Rules, all new phones have Panic Buttons to invoke emergency call and w.e.f. 01.01.2017 all types of mobile phone in India are having panic button system.

2.7. CRUELTY:

- The object behind penalizing this act was to prevent torture to a woman by her husband or her relatives in connection with the demand of dowry. To ventilate the grievances about atrocities of newly married brides due to dowry or other such similar demands from their husbands or in-laws, women social workers had taken up the cause in a movement in the country and due to the effective persuasion by social compulsions, section 498A has been introduced by the Criminal Laws (Amendment) Act, 1983 to combat the menace of dowry deaths.
- The definition of cruelty is given under **Section 498A** of the Indian Penal Code 1860, according to which, whoever being the husband or the relative of the husband, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine.

Explanation- For this section cruelty means:

- (a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
 - (b) Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.
- **Procedure For Remedy**
 - ✓ A person or her relative have to file a complaint in the nearest police station if she is a victim of any such offence.
 - ✓ The rest of the procedure shall be carried out in accordance with law.

Varsha got married a year back and her in-laws and husband constantly deride her by making questionable remarks on her character, her parents' low financial standing and not giving Varsha expensive gifts and jewellery in marriage. Varsha is an educated girl but she is not allowed to step out of the house or work. All this has led Varsha to face clinical depression and suicidal thoughts.

She confessed this to her cousin Sumitra, who is a lawyer and told her that her husband and in-laws have never assaulted her physically so she doesn't know what is the right course of action. Sumitra informed her that what she is going through is mental cruelty which is also punishable under section 498A.

- **POINTS TO REMEMBER**

- ✓ If the officer in-charge of a police station refuses to register FIR, then the victim can meet or send a copy of the complaint in writing to the Deputy Commissioner of Police or the Superintendent of Police. If action is still not taken, then she can file the complaint before the magistrate within whose jurisdiction the police station falls.
- ✓ National police helpline number is 100. National women helpline number is 181.

2.8. DOMESTIC VIOLENCE

- Protection of Women from Domestic Violence Act, 2005 (PWDVA) recognizes a life free of violence and fear and makes the state responsible for extending protection against domestic violence to women.
- PWDVA seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members or relatives. The Act was passed in 2005 and was implemented from October, 2006.
- The Act broadens the definition of domestic violence. **Section 3** of the Act covers the following kinds of abuses;
 - i. Physical abuse,
 - ii. Sexual abuse
 - iii. Verbal and emotional abuse and
 - iv. Economic abuse
- The Act broadens the definition of domestic relationships by including mothers, wives, relations in the nature of marriage, sister-in-laws, daughters, and daughter-in-laws.
- PWDVA empowers a woman to claim immediate maintenance and compensation. The most significant right of the women protected by the Act is to secure accommodation.
- Rights granted to women under the domestic violence Act:
 - i. Right to reside in a shared household.
 - ii. Right to issuance of Orders- Protection Orders, Residence Orders, Monetary relief, Order for custody of children, Compensation orders, Interim and Ex parte Orders
 - iii. Right to obtain relief granted by other suits and legal proceedings.

- **Liabilities and Restrictions Imposed Upon the Respondent:**

- i. He can be subjected to certain restrictions as contained in the Protection and Residence order issued against him.
- ii. The respondent can be made accountable for providing monetary relief to the aggrieved person and her children and pay compensatory damages as directed in the Compensation order.
- iii. He has to follow the arrangement\s made by the court regarding the custody of the child or children of the aggrieved person as specified in the Custody order.

- **Procedure Of Filing Complaint And Court's Duty (Sections 12-29)**

- i. The aggrieved person or any other witness to the offence can approach a Police officer, Protection Officers or Service Provider or Magistrate.
- ii. The Magistrate shall give a notice of the date of hearing to the Protection officers within a maximum period of 2 days or such further reasonable time as allowed by the Magistrate.
- iii. The court is required to dispose of the case within 60 days of the first hearing.
- iv. Upon finding the complaint to be genuine, the Magistrate may, direct the respondent or the aggrieved person, to undergo counseling.
- v. Direct that the women shall not be evicted or excluded from the household or any part of it.
- vi. Pass a protection order, providing protection to the women which shall remain in force till the aggrieved person applies for discharge.
- vii. Grant monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person due to domestic violence.
- viii. Grant custody orders of any child or children of aggrieved person.
- ix. Compensation/damages for the injuries including mental torture and emotional distress caused by domestic violence. If upon receipt of an application from the aggrieved person, the Magistrate is satisfied that the circumstances so require, he may alter, modify or revoke an order after recording the reasons in writing.
- x. A complaint can also be filed under Section 498-A of the Indian Penal Code.

2.9. TRAFFICKING OF WOMAN

- Trafficking in women and children includes placing them in conditions of forced labour or forced sex.
- The recruiters and traffickers force a woman or child into sexually or economically oppressive and exploitative situation as well as other illegal activities such as false marriages, false adoption, domestic labour and all kinds of illegal employment.
- Indian Penal Code has various provisions dealing with varied aspects of human trafficking such as:

Section 363 A (Kidnapping or maiming a minor for the purpose of begging); **Section 366 A** (Procuring a minor girl for sexual exploitation); **Section 370** (Trafficking)

- **Section 370.-** Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by (i) using threats, or (ii) using force, or any other form of coercion, or (iii) by abduction, or (iv) by practicing fraud, or deception, or (v) by abuse of power, or (vi) by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harbored, transferred or received, commits the offence of trafficking.

2.9.1. THE IMMORAL TRAFFIC (PREVENTION) ACT, 1986

Section 5 of the Act punishes procuring, inducing or taking a person for the sake of prostitution whether with or without consent. If the person in respect of whom such offence is committed is a minor, the punishment shall extend to rigorous imprisonment for a term of not less than 7 years and not more than fourteen years.

- **Procedure For Remedy**
 - ✓ Complaint by victim or relatives in the nearest police station.

2.10. HONOUR KILLING

- Honor killing or shame killing is the homicide of a member of a family by other members, due to the perpetrators' belief that the victim has brought shame or dishonor upon the family, or has violated the principles of a community or a religion, usually for reasons such as refusing to enter an arranged marriage, being in a relationship that is disapproved by their family, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate, engaging in non-heterosexual relations or renouncing a faith.

- In **Lata Singh v. State of Uttar Pradesh (2006)**, the Supreme Court opined that “There is nothing honourable in honor killings and they are wholly illegal”.
- The Hon’ble Supreme Court in the case of **Shakti Vahini v. Union of India (2018)**, ruled that it was illegal for so called khap panchayats, or assemblies of village elders, to interfere in marriage between two consenting adults, and to summon and punish them.
- **Procedure For Remedy**
 - ✓ File a complaint in the nearest police station.

2.11. THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT, 2012

- The Act was enacted to provide a robust legal framework for the protection of children from offences of sexual assault, sexual harassment and pornography, while safeguarding the interest of the child at every stage of the judicial process. The framing of the Act seeks to put children first by making it easy to use by including mechanisms for child-friendly reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts. The Act makes abetment of child sexual abuse an offence.
- **Offences under the act include:**
 - i. **Penetrative Sexual Assault:** Insertion of penis/object/another body part in child's vagina/urethra/anus/mouth, or asking the child to do so with them or some other person
 - ii. **Sexual Assault:** When a person touches the child, or makes the child touch them or someone else
 - iii. **Sexual Harassment:** passing sexually coloured remark, sexual gesture/noise, repeatedly following, flashing, etc.
 - iv. **Child Pornography:** With respect to pornography, the Act criminalizes even watching or collection of pornographic content involving children.
 - v. **Aggravated Penetrative Sexual Assault/ Aggravated Sexual Assault**
- **Gender Neutral Law:** The Act is gender-neutral.
- **Child-friendly process:** It also provides for various procedural reforms, making the process of trial considerably easier for children.

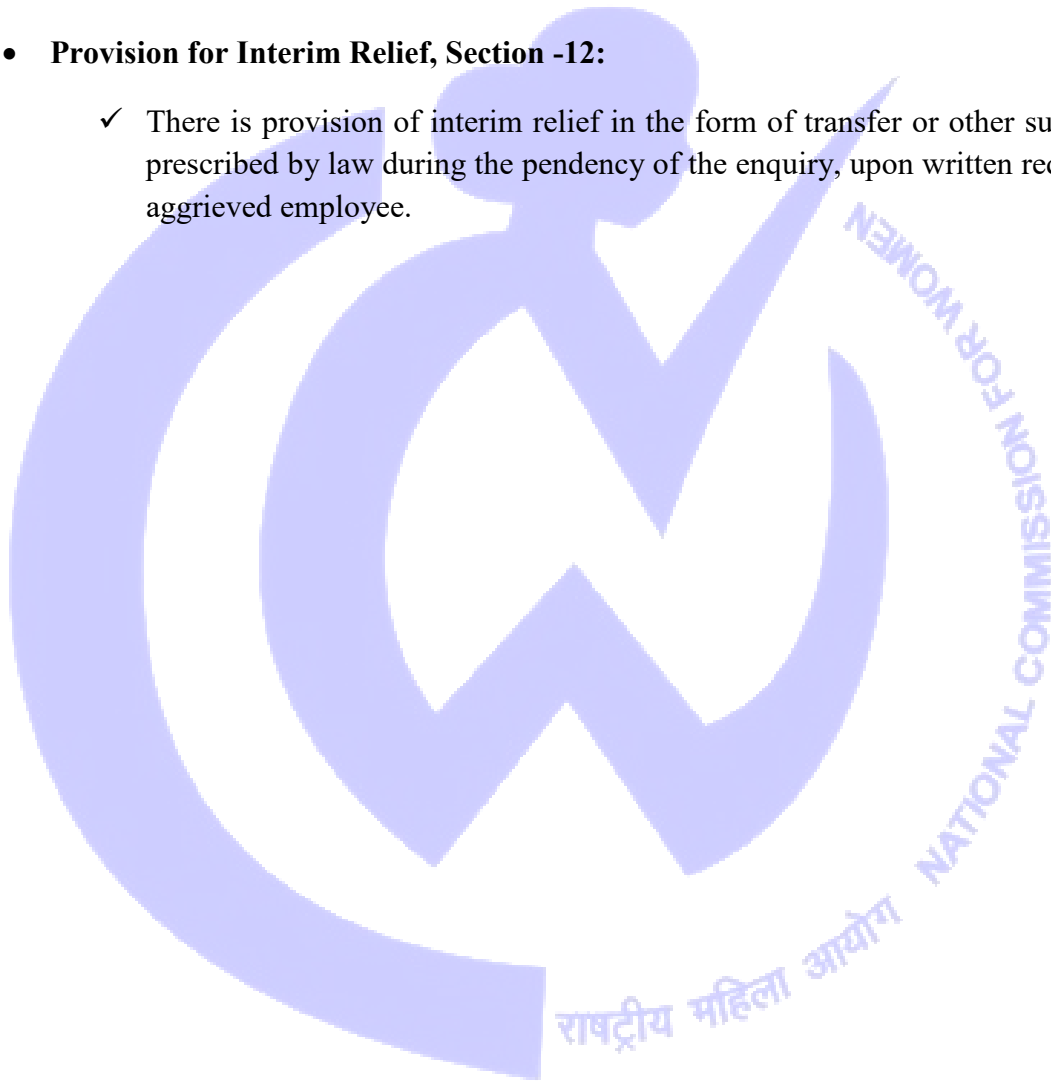
- **Child Welfare Committee (CWC):** Police officer is duty bound to inform the CWC about every case under the Act within 24 hours. CWC can appoint a support person for the child who will be responsible for psychosocial well being of the child. This support person will also liaise with the police, and keep the child and child's family informed about progress in the case.
- **Procedure For Remedy**
 - ✓ Anyone including a child (anyone below 18 years of age) can report an offence to Special Juvenile Police Unit/Local police.

2.12. SEXUAL HARASSMENT OF WOMAN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters associated with or related to.
- The Act is based on the guidelines of the Hon'ble Supreme Court of India, in *Vishaka v. State of Rajasthan*, 1997 and principles laid down in the Convention on the Elimination of all forms of Discrimination Against Women.
- **Sexual Harassment: Section- 2(n)** of the Act defines sexual harassment at workplace is an act or a pattern of behaviour that compromises physical, emotional or financial safety and security of a woman worker. Legally speaking, sexual harassment includes such unwelcome sexually determined behaviour as:
 - i. physical contact and advances;
 - ii. demand or request for sexual favours
 - iii. sexually coloured remarks
 - iv. showing pornography;
 - v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- **Employee, Section- 2(f):** The definition of an 'employee' under the POSH Act is fairly wide to cover regular, temporary, ad hoc employees, individuals engaged on a daily wage basis, either directly or through an agent, contract labourers, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

- **Workplace, Section- 2(o):** The Act has introduced the concept of an ‘extended workplace’. As per the POSH Act, ‘workplace’ includes any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for the purpose of commuting to and from the place of employment. For example, the definition includes private sector organisations, Government owned/controlled establishments, hospitals/Nursing homes, vocational/Educational Institutions, dwelling place in case of a domestic worker, sports institutes, stadiums and covers unorganised sector as well.
- **Complaints Committee:**
 - i. **Internal Committee:** The POSH Act requires an employer to set up an ‘internal committee’ (“IC”) at each office or branch, of an organization employing 10 or more employees, to hear and redress grievances pertaining to sexual harassment.
 - ii. **Local Committee:** At the district level, the Government is required to set up a ‘local committee’ (“LC”) to investigate and redress complaints of sexual harassment from the unorganized sector or from establishments where the IC has not been constituted on account of the establishment having less than 10 employees.
- **Complaint Process:**
 - i. A complaint is to be made in writing by an aggrieved woman within 3 months of the date of the incident. The time limit may be extended for a further period of 3 months in certain circumstances.
 - ii. Upon receipt of the complaint, the ICC or LCC must proceed to make an inquiry in accordance with the service rules applicable to the respondent or in their absence, in accordance with rules framed under the Act.
 - iii. The inquiry must be completed within a period of 90 days.
 - iv. Where the ICC finds that the allegations against the respondent are proven, it must submit a report to the employer to:
 - a. take action for sexual harassment as a misconduct.
 - b. to deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.
 - v. The employer must act on these recommendations within 60 days.

- vi. Before initiating an inquiry, the ICC or LCC may, at the request of the aggrieved woman, take steps to arrive at a settlement between the parties. However, no monetary settlement can be made as the basis of such conciliation.
 - vii. In case the ICC or LCC is of the view that a malicious or false complaint has been made, it may recommend that a penalty be levied on the complainant in accordance with the applicable service rules. However, mere inability to substantiate a complaint will not attract action under this provision.
- **Provision for Interim Relief, Section -12:**
 - ✓ There is provision of interim relief in the form of transfer or other suitable relief prescribed by law during the pendency of the enquiry, upon written request by the aggrieved employee.



CHAPTER 3

CYBER CRIMES AGAINST WOMEN

- 3.1. Information Technology solutions have paved a way to a new world of internet, business networking and e-banking, budding as a solution to reduce costs, change the sophisticated economic affairs to easier, speedy, efficient, and time saving method of transactions. Various criminals like hackers, crackers have also found ways and measures to interfere with the internet accounts and have been successful in gaining unauthorized access to the user's computer system and stolen useful data.
- 3.2. In general cybercrime may be defined as “Any unlawful act where computer or communication device or computer network is used to commit or facilitate the commission of crime”. Below is a list for some of the cybercrimes along with their indicative explanation. This is to facilitate better reporting of complaints.
- a. **Harassment through e-mails:** Harassment via email, includes black mailing, threatening and constant sending of love letters in anonymous names or regular sending of embarrassing mails.
 - b. **Cyber stalking:** ‘Stalkers are strengthened by the anonymity the internet offers. He may be on the other side of the earth, or a next door neighbor or a near relative!’ It involves following a person's movements across the Internet by posting messages (sometimes threatening) on the bulletin boards frequented by the victim, entering the chat-rooms frequented by the victim, constantly bombarding the victim with emails etc. In general, the stalker intends to cause emotional distress and has no legitimate purpose to his communications.

Ritu Kohli's Case: Warning Bell to the Government

Ritu Kohli's case was India's first case of cyber stalking reported in India. The victim complained to the police against the person, who was using her identity to chat over the internet. She further complained that the perpetrator was also giving away her address online and using obscene language. Her contact details were also leaked leading to frequent calls at odd hours. Consequently the 'IP' address was traced and police investigated the entire matter and ultimately arrested the offender, Manish Kathuria.

- c. **Cyber defamation:** Cyber defamation also called Cyber smearing can be understood as the intentional infringement of 'another person's right to his good name. 'Cyber Defamation occurs with the help of computers and / or the Internet. It is considered more of a menace owing to its expeditious nature.

- d. **Child pornography:** Child sexually abusive material (CSAM) refers to material containing sexual image in any form, of a child who is abused or sexually exploited. Section 67 (B) of IT Act states that “it is punishable for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form.
- e. **Cyber bullying:** A form of harassment or bullying inflicted through the use of electronic or communication devices such as computer, mobile phone, laptop, etc.
- f. **Cyber grooming:** Cyber Grooming is when a person builds an online relationship with a young person and tricks or pressures him/ her into doing sexual act.

3.3. Chapter XI of the IT Act deals with the offences such as tampering with computer source documents-

- **Section 65** deals with hacking of computer system
- **Section 66** deals with publishing of information which is obscene in electric form
- **Section 67** deals with Access to protected system
- **Section 70** deals with Breach of confidentiality and privacy.

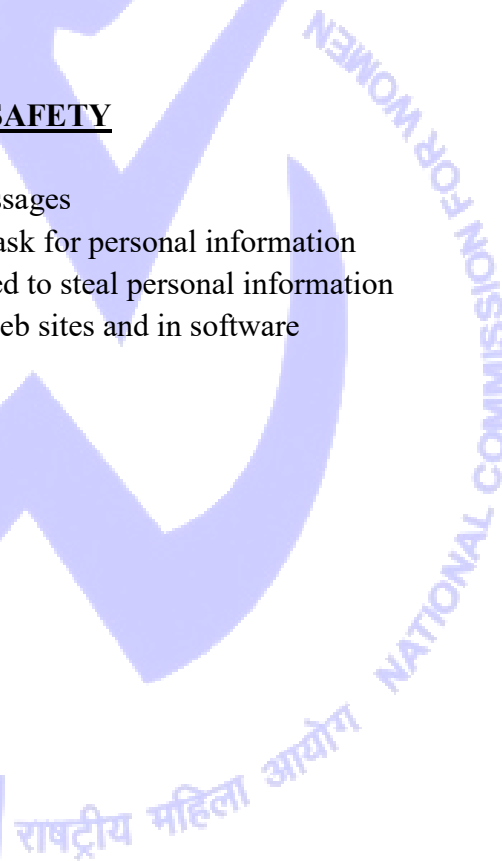
3.4. Procedure for Remedy:

- ✓ In case of cyber crimes, a victim may contact the nearest cyber cell or police station.
- ✓ A complaint may also be filed anonymously through National Cybercrime Reporting Portal (cybercrime.gov.in).
- ✓ To file a complaint alleging commission of a cyber crime the following documents must be provided:
 - In case of **hacking** the following information should be provided:

Server logs.

 - ❖ Soft copy as well as hard copy of defaced web page in case your website is defaced.
 - ❖ In case the data is compromised on your server or computer or any other network equipment, soft copy of original data and compromised data is required.
 - ❖ Access control mechanism details i.e. who had what kind of the access to the compromised system.
 - ❖ List of suspects if any.
 - ❖ All relevant information leading to the answers to following questions-
 - What has been compromised in the system?
 - Who might have compromised the system?
 - When the system was compromised?

- Why the system might have been compromised?
 - Where is the impact of attack-identifying the target system from the network?
 - How many systems have been compromised by the attack?
- In case of **e-mail abuse** like vulgar e-mails, etc., the following information should be provided:
- ❖ Extract the extended headers of offending e-mail and bring soft copy as well as hard copy of offending e-mail.
 - ❖ Please do not delete the offending e-mail from your e-mail box.
 - ❖ Please save the copy of offending e-mail on your computer's hard drive.
- **FEW MEASURES FOR ONLINE SAFETY**
- ✓ Keep an eye out for phoney email messages
 - ✓ Don't respond to email messages that ask for personal information
 - ✓ Steer clear of fraudulent Web sites used to steal personal information
 - ✓ Pay attention to privacy policies on Web sites and in software
 - ✓ Guard your email address
 - ✓ Strong Passwords



CHAPTER 4 WOMEN AND THE REPRODUCTIVE HEALTH RIGHTS

4.1. ABORTION OR TERMINATION OF PREGNANCY

- Relevant provisions of *The Indian Penal Code, 1860-*
 - (1) Section 312:** causing miscarriage.
 - (2) Section 313:** causing miscarriage without women's consent.
(*whoever causes miscarriage of a woman without her consent shall be punished with ten years imprisonment and fine.*)
- However, there are certain situations where it is legal to terminate the pregnancy on the advice of the doctor if:
 - (a) To continue pregnancy involves the risk to the mother's life (physical or mental); or
 - (b) The pregnancy is caused by rape; or
 - (c) The child if born, would be gravely deformed.

4.2. THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

- This act provides for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto.
- Forcing a woman to terminate pregnancy is illegal.
- Abortion is legal when it is done according to the law.
- It should be done only in government hospital or in hospital authorized by the government.
- A registered medical practitioner shall not be guilty of any offence if any pregnancy is terminated by him in accordance with the provisions of the Act.

Priyanka conceived a child after 3 years of her marriage. The doctor told her that she is having some problem in her pregnancy. After 13 weeks, the foetus was diagnosed some genetic disorder. Due to this disorder the child would have faced serious mental problem if he would survive, as well there was a threat to the mother's life also. Priyanka's mother wants her to terminate her pregnancy.

4.3. FEMALE INFANTICIDE AND FOETICIDE

During Radha's second pregnancy, she had to undergo ultrasound test for finding genetic abnormalities of the foetus, if any. During the process her husband secretly asked the doctor about the gender of the foetus. When doctor refused to tell him about the gender of the child he offered him some money and asked him that he does not want a girl child and in case if the foetus is a girl child he wants the child to be aborted.

Doctor told him that the sex detection is a crime and he will not tell him about the sex of the child. He also told him that he should not discriminate between a girl and a boy as both of them are innocent and girls are not lesser than boys in any way.

- Female infanticide is the intentional killing of infant girls.
- Destroying foetus in the womb, because she is likely to be born as a girl child, is female foeticide.
- All involved in female foeticide deliberately forget to realize that when the foetus of a girl child is destroyed, a woman of future is crucified and the sex ratio gets affected.
- In addition to the active methods undertaken to eliminate baby girls soon after birth, neglect and discrimination leading to death and sex-selective abortion are also means by which many female children die each year.

CHAPTER 5 PROCEDURAL GUIDELINES

5.1. FREE LEGAL AID AND SERVICES

Anita was a labour at the construction site. While she was on duty, she tripped off from the first floor. She got her leg and hand fractured for which she claimed for the compensation. On the refusal of the contractors to pay the compensation, Anita felt helpless and sat quietly. Mr Tariq is the lawyer where Suresh (Anita's Husband) is working as a driver suggested Anita that she can claim for the compensation in the court.

- Article 39-A of the Constitution of India provides for free legal Aid for the poor and weaker sections of the society to ensure justice thereof.
- In the year 1987, the Legal Services Authority Act was enacted by the Parliament (that came into force on 9th November, 1995) with an objective to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society on the basis of equal opportunities.
- Article 14 of the Indian Constitution makes it obligatory for the state to ensure equality before the law and provide for a legal system which promotes justice on the basis of equal opportunities to all.
- The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authority Act, 1987 to monitor and evaluate the implementation of legal services under the Act.
- The Chief Justice of India is the Patron-in-Chief of NALSA.
- In every State, a Legal Services Authority and in every High Court Legal Services Committee has been constituted.
- Further, at each District Level, District Legal Services Authority and Taluka Legal Services Committees have been constituted to give effect to the policies and directions of the NALSA and to provide free legal services to the people and conduct Lok Adalats in States.

- The State Legal Services Authorities are chaired by Hon'ble Chief Justice of the State and District and Taluka Legal Services Committees are chaired by Judicial Officer of the District or the Taluka.

5.1.1. Functions of National Legal Services Authority (NALSA)

- (a) To provide free Legal Services to the eligible person,
- (b) Following persons have been identified for being eligible to avail the free Legal Aid Services:

- ❖ Women and children;
- ❖ SC/STs;
- ❖ Industrial Workers;
- ❖ Victims of massive disaster/violence and natural calamities;
- ❖ Disabled persons;
- ❖ Persons in custody;
- ❖ Persons whose annual income does not exceed Rs. 1,00,000/;
- ❖ Victims of human trafficking, etc.

5.1.2. Free Legal Aid and Services include

- (a) Providing of an Advocate for legal proceedings,
 - (b) Payment of court fees/process fee or all other charges payable incurred in connection to legal proceedings,
 - (c) Preparation of Appeals/ Paper books, including printing and translation of documents in legal proceedings,
- NALSA has also initiated Legal Aid Council Scheme to provide meaningful legal assistance to under trial prisoners who due to lack of resources or other disabilities cannot engage a council to defend them.
 - Now Legal Aid Councils have been attached to each Magistrate Court to provide assistance and defend a person who is not able to engage a council right from the stage he/she is produced in the court by the police.
 - The target groups are also to be informed that NALSA has also formulated a Counseling and Conciliation Scheme for the settlement of disputes through negotiation and conciliation in order to guide and motivate the migrants to resolve their disputes amicably.
 - Counseling and conciliation centers are being set up in all the districts of the country.

5.2. RIGHT OF ARRESTED WOMEN

At around 8:30 in the evening, Mrs. Mala was having her dinner at her house. Some policemen knocked her door and told her that she is under arrest as a complaint has been lodged against her. They forcibly held her hand and brought her to the police station. Her sister wanted to accompany her but the policemen refused her to join them.

- Every woman must be aware of some basic rights relating to arrest to ensure her well being while she is in custody.
 - i. She must be informed about the grounds for her arrest and full particulars of charges levied on her for that matter of fact.
 - ii. She has right to see the warrant if arrested under warrant (Sec.75 CrPC)
 - iii. She has the right to privacy while recording statement.
 - iv. She has the right to consult the legal practitioner of her choice and to be defended by him.
 - v. The accused must be produced before the magistrate within 24 hours of arrest.
 - vi. It is the right of the arrestee to inform of her arrest to either her relatives or to her friends.
 - vii. A woman cannot be arrested before sunrise or after sunset except with the prior permission of a magistrate.
 - viii. A woman can only be taken into custody in presence of a woman police officer as far as practicable and the arrest must be affected with proper dignity.
 - ix. No beatings or force can be administered while arresting a female accused.
 - x. The search examination of the female prisoners shall be carried out by the matron under the general or the special order of the medical officer.
 - xi. The female prisoners have the right to live separately from the male prisoners.
 - xii. All the prisoners have the basic human rights such as hygienic food, shelter, medical facilities and facilities of reading and writing.
 - xiii. If arrested soon after a child birth women cannot be taken before the magistrate until they are in proper conditions to travel.
 - xiv. Women prisoners have the right to speedy trial.
 - xv. Examination of body of an arrested person by a registered medical practioner at the request of the arrested person in case of torture and maltreatment in the lock ups.
 - xvi. The legal assistance to a poor or indigent accused, arrested and put in jeopardy of life or personal liberty, is a Constitutional imperative mandated not only by Article 39-A but also by Articles 14 and 21 of the constitution.
 - xvii. Rights of the pregnant women in jails (pre-natal and post-natal care, Gynecological examination etc.)

5.3. CRIMES AGAINST WOMEN CELL

- The crimes against women cell was set up in 1983 at the central level in the Delhi Police.
- The need for a gender-specific police response had been felt for some time earlier due to the following reasons:
 - i. Low status of women,
 - ii. Little inclination to take their problems to police stations staffed largely by male police officers who did not show sensitiveness towards female victims.
- In 1986, separate cells on similar lines were set up in each of the nine districts of Delhi. Most importantly, the central Crimes against Women Cell was provided with enhanced manpower, infrastructure and responsibilities.
- Counseling of families is an essential part of the functioning of these cells.
- Other cities and states in India have set up similar units within their police forces with some southern states experimenting with all woman police stations to provide a more enabling environment for women complaints.

CHAPTER 6

NATIONAL COMMISSION FOR WOMEN

6.1. The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 with a mandate to safeguard the constitutional rights of women. It is concerned with advising the government on all policy matters affecting women.

6.2. Successive Commissions on Women have noted in their Reports the unequal status of women obtaining in every sphere of life and had suggested the setting up of an agency to fulfill the surveillance functions as well as to facilitate Redressal of grievances of women. Having realized the importance of the issues, the government decided to set up a Commission for Women, to be called the National Commission For Women.

The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns.

6.3. The functions of the Commission as per Section 10 of the act are as follows:

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;
- Present to the Central Government, annually and at such other times as the commission may deem fit, reports upon the working of those safeguard;
- Make in such reports, recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;
- Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequate or shortcomings in such legislation;
- Take up the case of violation of the provisions of the Constitution and the other laws relating to women with the appropriate authorities;
- Look into complaints and take *suo moto* notice of matters relating to –
 - a) Deprivation of women's rights;
 - b) Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;
 - c) Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities.
- Call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

- Undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement such as lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;
- Participate and advise on the planning process of socio-economic development of women;
- Evaluate the progress of the development of women under the Union and State;
- Inspect or cause to be inspected jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;
- Found litigation involving issues affecting a large body of women.

Similarly at the state level also Commission for Women exist with the same objectives and functions. The Resource Person must appraise the target groups about the procedure to approach the Commission.

