UNIT 19 ACCESSING RIGHTS OF WOMEN

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19.0 OBJECTIVES

After studying this unit you will be able to:

- know the laws relating to rights of women;
- understand the meaning of personal or family laws;
- explain the rights of women relating to marriage, divorce during and at the time of dissolution of Hindu marriage;
- know the rights of women, including divorced wives to property, maintenance, divorce etc.;
- explain the importance of law prohibiting domestic violence, the Prohibition of Domestic Violence Act of 2005;
19.1 INTRODUCTION

This unit will help you to understand laws relating to protection of women in various fields such as personal laws, laws to combat domestic violence, sati, dowry, sexual harassment and others. The focus here is on the aspects of women’s rights enumerated in various areas mentioned above and in particular laws enacted to improve the status of women in each of these areas. It is also our effort to inform you about how to access these laws and ways to seek redressal for the victims in case of their violation.

The Constitution of India allows diverse laws to be applied to women based on their religious identity in matters like marriage, divorce, inheritance, succession adoption, etc. These are known as personal laws. In other areas, the laws relating to protection of women are common to all irrespective of their religion.

19.2 HOW TO SEEK REDRESSAL?

Insofar as accessing the laws is concerned, every law may have a specific mechanism which is discussed here in the section on relevant Act. But, it is also pertinent to note that there is a general procedure which can be used in case one is not sure about the specific mechanism. It is important to understand at the outset that redressal for a violation may be sought, in general, at three levels – local, national and international.

One must first try to access the redressal mechanism at the local level and move to the other higher levels only when the mechanism has not been effective or when the matter has not been resolved satisfactorily at the lower level. One must begin by approaching the nearest redressal institution responsible for implementing a particular law (such as police or any other body). It is important to report the violation to the nearest police station or approach a prominent non-governmental organization (NGO) working in your area. At the state level, one can approach the State Commission for Women (if there is one in your State) or the courts. At the national level, one has better avenues available in the form of the National Commission for Women (NCW), the NGOs operating at the all India level and, of course, the judiciary.

The National Commission for Women has a clear mandate to investigate and examine all matters relating to the safeguards provided for women under the Constitution and other statutory laws. It has a complaints cell where one can submit oral or written complaint regarding a wide range of violations concerning women. The NCW also takes suo moto cognizance of violations. One can report to the NCW even the unhelpful behaviour of police if they refuse to lodge an FIR. In a few cases, the NCW may also fund litigation (pay the lawyers) if those involve issues affecting a large body of women. Generally, it cannot help in funding litigation in individual cases.

For those women who are poor and cannot afford the burden of litigation, every district in the state has a Legal Services Authority to which one may approach. One may also benefit from the various schemes such as lok adalats, legal awareness campaigns, and legal aid facilities run by the National Legal Services Authority.
In the last resort, a particular violation can be highlighted at the international level too. In case of women’s rights, India is a party to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and submits periodic reports to the Committee that monitors CEDAW’s implementation. Besides, NGOs also gather information on problems of women and submit alternative reports to the same body. NGOs in your area can highlight and bring to the notice of the Committee major problems faced by women or the kind of violations that take place. This can also be one of the avenues. Secondly, there is a UN Special Rapporteur on Domestic Violence. Complaints can also be sent to the Special Rapporteur if the violation witnessed by you falls in this category.

19.3 DOWRY

Dowry is a social malaise that plagues the Indian society across region, religion or economic status or other divides. It is a common problem faced by everyone although the degree and extent of it may differ from case to case. Dowry (Stridhan) originally indicated money or gifts meant to be given voluntarily by a bride’s family for her well-being in the new house that she would enter after marriage. In other words, dowry was meant to offer her some security in times of need. Gradually, this tradition of providing security for the bride has transformed into a source of deep insecurity for any girl who wishes to get married. The bridegroom’s family often demands it as a matter of right. And each time the dowry changes hands, it is justified in the name of tradition. In order to combat the problem of dowry, the government has taken some legal measures.

19.3.1 The Law

The Dowry Prohibition Act, 1961 exclusively addresses this problem. The law considers it an offence to give dowry, to take or demand it, or to help in giving or taking dowry. Persons indirectly involved in giving or receiving dowry, such as middlemen who arrange the marriage or relatives of the bride/groom, are also punishable under the Act. Any of the offences under this law invites a punishment of five years of imprisonment and a fine of Rs. 15,000. In case the amount of dowry given or taken is more than Rs. 15,000 then a fine equal to the amount given or taken as dowry will be imposed. The term of imprisonment can however be reduced by the court if it deems fit based on the facts of a case. The punishment for demanding dowry (as against giving or taking it) is imprisonment for not less than six months but extendable up to two years and a fine of up to Rs. 10,000. The Act further provides that dowry is the girl’s property and that she must own it in her name. In case someone else has received it on her behalf, it must be handed over to her within a period of three months. If a person does not return the dowry to the girl within the stipulated time, s/he can be punished with imprisonment from six months to two years and a fine of up to Rs. 10,000 or both. An amendment introduced to this Act in 1986 bans any advertisement of dowry, share in property or monetary considerations offered for the marriage of one’s child. Most important feature of this Act is that if a woman is harassed, tortured or subjected to cruelty, or if a woman dies due to unnatural reasons within seven years of marriage, the husband and the family has to prove that the death has not occurred as a consequence of demands for dowry. The onus of proving innocence thus lies with the husband and his family. All the above-mentioned offences are non-bailable.
It is alright to give gifts or presents at the time of marriage or soon afterwards but a list of such gifts must be maintained by the family. The value of such gifts must not be in excess of the financial position of the person receiving them. Above all, such gifts/presents should not be demanded or made compulsory by one of the parties.

There are certain drawbacks in the law that has allowed this practice to go unchecked. Firstly, the law makes both the giver and the taker as offenders. Hence, there is a reluctance to report cases of demand for dowry since it involves possible punishment for the whistle blower (complainant). Secondly, the law does not prohibit all kinds of dowry; it allows anything given to the bride and groom without any pressure and of one’s own free will. This clause helps the practice of dowry to continue. An absolute prohibition would have helped the cause better.

19.3.2 What can You do?
Whenever you or your immediate family members face the problem of dowry, you must report to the police immediately without losing any time. Sometimes, postponing the matter only deepens the crisis or may even cause irreparable damage (such as death due to unnatural circumstances). In case you are unable to approach the police for various reasons, inform victim’s parents or brothers and sisters. They too can lodge complaints on the victim’s behalf. In the last resort, you can also approach an NGO or a social work organization in your locality. They can file a complaint in case of dowry problem and also mobilize support for the victim of cruelty. You can also approach Commission for Women in your respective state or the National Commission for Women (See the section on how to reach NCW below).

Check Your Progress 1

1) What are the local or national mechanisms available for the protection of women’s rights?

2) What international mechanisms are available for the protection of women’s rights?

3) Discuss the main provisions of 1961 anti-dowry law?

4) What kind of methods can you adopt to report the cases of dowry harassment?
Rights of women in India have to be studied in the light of personal laws. The question that comes to our mind is: what is a personal law? The term personal laws or family laws refers to the rights and obligations of persons belonging to different religions, in their personal or family matters such as marriage, divorce, maintenance, right to property, adoption, etc. Different religious groups in India follow their religious laws in these matters. Therefore, we have Hindu, Muslim and Christian, Parsi and Jewish laws. In this section, we briefly discuss the personal laws of Hindus and Muslims only. For reasons of space, the Christian, Parsi and Jewish laws are not being discussed here.

19.4.1 Hindu Laws

At the outset it must be noted that under the Indian constitution (Article 25 concerning freedom of religion) and the Hindu Marriage Act, 1955, and other Hindu Acts concerning succession, adoption, maintenance and minors and guardianship, persons who are Buddhist, Jaina, or Sikh are construed for legal purposes as “Hindus”. Thus, it means that the term “Hindu” includes persons following a Hindu religion in any of its forms such as Virashaiva, a lingayat or a follower of the Brahma, Prarthana or Arya Samaj and also those who are Buddhists, Jains or Sikhs.

During 1955-1956 the Hindu laws were codified by the Parliament. Earlier these laws had customary status. Now they have not only been codified but also some reforms have been incorporated. Four Acts were passed by Parliament during these two years. They are:

- The Hindu Marriage Act (HMA), 1955
- The Hindu Succession Act, 1956
- The Hindu Minority and Guardianship Act, 1956
- The Hindu Adoptions and Maintenance Act, 1956

Let us discuss briefly about these laws.

The Hindu Marriage Act deals with the conditions of marriage and divorce.

19.4.2 Conditions of Hindu Marriage

Following are conditions of Hindu marriage:

- Both the man (bridegroom) and the woman (bride) must be Hindus. If one of them is not a Hindu, the marriage will be invalid.
- The marriage must be solemnized in accordance with Hindu customs which generally includes a “homa” and the “saptapadi”. Saptapadi means taking seven steps around the sacred fire. Saptapadi is one of the conditions for a valid marriage.
- HMA prohibits bigamy. Neither the man nor the woman must be already married.
- Both the boy and girl should be mentally sound.
- The bridegroom should have completed 21 years of age and the bride should be at least 18 years of age.
- Both the persons should not be closely related to each other. This means that cousins cannot marry. However, if the local customs permit marriages between close relatives, such marriages may be considered as legal/valid. For example, in south India there is a custom that the uncle of the girl (mama) can marry her (who is his niece).
- For the first time the provision of divorce was introduced in Hindu law, which did not exist for thousands of years.
19.4.3 Conditions of Hindu Divorce

There are many conditions of divorce in a Hindu marriage. It could flow out of delinquent behaviour such as adultery, desertion, cruelty of the other spouse, conversion of the spouse to any other religion, renunciation (sanyasa), and unsound mind. It could also be because of health reasons like incurable form of leprosy, suffering from venereal diseases. Or presumption of death (e.g. husband unheard of for seven years) non resumption of cohabitation between the spouses for a period of one year or more after passing of the decree for restoration of conjugal rights, remarriage by the husband, repudiation of child marriage, and divorce by mutual consent (added through 1976 amendment).

To get divorce, an application has to be filed in the civil court for which the woman is entitled to get free legal aid from the government. If she desires, the proceedings of the court may also be held in camera. An application for divorce can be filed only after one year of marriage. In exceptional cases the court may waive off this rule.

19.4.4 Maintenance under Hindu Law

In Hindu Adoption and Maintenance Act, maintenance denotes “provision for food, clothing, residence, education and medical attendance and treatment”. A wife is entitled to be maintained by her husband so that she can support herself. She can claim maintenance as long as she is chaste and does not convert to any other religion. She is entitled to receive maintenance even while living separately from her husband in such cases as desertion/cruelty by her husband, incurable disease, and remarriage of the husband. The amount of maintenance will be decided by the court on the basis of husband’s income. The divorced wife is also entitled for maintenance under Sec 125 of Criminal Procedure Code. After the Marriage Law Amendment Act, 2001 the quantum of maintenance to be awarded has been left to the discretion of the Court.

19.4.5 Custody of Children, Succession and Right to Property

The mother may get the custody of her children until they are five years of age and till she is proved unfit to rear them. In deciding whether the child should stay with the mother or father, the court takes into account the welfare of the child, i.e., the material and emotional needs of the child. If the welfare of the child dictates that the child has to go to a mother who cannot support herself, the father will have to pay for the maintenance of the child.

Under the Hindu Succession Act 1956, women have a share in the properties of their parents or other relatives. These rights were limited in nature. Their share was not equal to their brothers’ in the ancestral property till 2004. In fact, daughters did not have a share in ancestral property by birth. They only had right to basic requirements out of this property. An amendment effected in 2005 now grants equal share to the men and women in ancestral property. A woman enjoys better rights in case of acquired property as against the ancestral property.

19.4.6 Muslim Personal Law

Muslim Personal Law treats marriage as a contract. Man and woman are equal in laying down conditions of marriage and their consent is essential for the solemnization of marriage. If the bride is a minor at the time of marriage, she has the right to repudiate that marriage on attaining adulthood provided the marriage has not been consummated.

The groom has to pay a dower (Mehr) amount to the bride agreed upon at the time of marriage. This Mehr is her property and acts as a source of financial security for her.

There are many grounds for divorce under the 1939 Act, which include cruelty, husband absconding for four years, husband failing to provide maintenance for two or more years, husband sentenced to imprisonment for a term of seven years or more, failure to perform marital obligations for a period of three years or more, insanity, and incurable diseases. Upon divorce, a Muslim woman has a right to receive the following things from her husband:

- Mehr amount
- Maintenance for the children until they are two years of age
- All gifts given to her at the time of marriage
- Maintenance during period of iddat
- After the period of iddat the magistrate can order the maintenance from the parents, children, the relatives who are entitled to inherit the property and the state waqf board.

Muslim women could claim maintenance under Sec 125 of the Cr PC till 1986. Many Muslim women have benefited from this in the past. However, after the Shah Bano Judgment, the 1986 Muslim Women (Protection of Rights on Divorce) Act was passed, which exempts them from availing this provision of the Cr PC. Now they are solely dependent on their relatives or the Waqf board for their maintenance after the iddat period comes to an end.

The Muslim woman also has the right to inherit ancestral property from her maternal side but her share is half of that of her brothers. But in certain situations, the woman is entitled to a share higher than her male siblings.

Check Your Progress 2

1) Who is a Hindu under the constitution and the Hindu family laws?

2) What are the conditions of Hindu marriage?
3) What are the conditions of divorce of Hindu divorce?

4) Discuss the rights of maintenance and succession rights of a Hindu wife?

5) Explain the major features of Muslim personal law with reference to women’s rights.

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19.5 DOMESTIC VIOLENCE

The problem of domestic violence is widespread in India. For a very long time, issues such as this had to be addressed within the ambit of criminal procedure which requires a victim to actually be thrown out or lose protection of the household in which she was living. Moreover, the criminal procedure only helped married women tormented by their husbands. Hence, the need for a law that would address the problem of domestic violence within the ambit of civil law covering all women living in a shared household was urgently felt.

19.5.1 The Law

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was enacted to fulfill the need felt by one and all for a civil law to deal with the problem. This law focuses mainly on giving support to the survivor of the abuse rather than punishing the perpetrator. Therefore, the law covers an entire range of domestic relations experienced by a woman at different stages of life such as a daughter or a sister living in her natal home, a wife, widow or mother living in her marital home, or still again a woman living within a marriage like situation. Thus it recognizes the violence faced by women in their own homes and the concept of ‘shared household’ goes beyond the traditional meaning of marital household.

The law extends to any woman who lives in a shared household such as wife, widow, mother, sisters, cousins in a joint family, or a woman living in a relationship with a male partner. Hence the law is very broad and is not restricted to marital relationships alone. The definition of abuse is also likewise very broad. The abuse may be actual or a threat to abuse. It includes physical, sexual, verbal, emotional and financial
abuse of any person covered under the law. Thus an entire range of forms of violence are forbidden. Physical violence includes hitting, beating, kicking, or any other form of bodily harm or threat to do so; sexual abuse including child sexual abuse, humiliation or degrading a woman’s integrity; verbal and emotional violence includes calling names, insults for not bringing in sufficient dowry, insulting a woman for not bearing a male child, preventing a person from marrying a person of her choice, or casting aspersions on her character and conduct; financial violence involves not providing basic means of survival like money, food, clothes or medicines, preventing a woman from taking up employment, or forcing a woman to vacate her house, or selling off her jewellery. The inclusion of financial abuse within the ambit of this law makes it forward-looking because very often, the perpetrators deprive the victim of basic financial support, including the right to reside in the house. Women did not resort to legal course for the fear of losing shelter for oneself and one’s children.

All crimes under this law are non-bailable. The punishment involves imprisonment for a year and fine up to Rupees 20,000.

The PWDVA provides for a method of implementation through the appointment of a Protection Officer (PO) by the state government in each district to help the victims. The function of the PO is to help the affected women to file complaint before the magistrate and seek appropriate protection for them. Importantly, action can be taken against the PO in case of his/her failure to discharge the duties. The most unique part of the Act is that it provides immediate relief and complete protection to the victims through protection orders issued by a court that preempts an alleged perpetrator form establishing any contact with the complainant or her family or to try and threaten them with act of violence. A protection order prohibits the perpetrator from repeating the act of domestic violence, from attempting to communicate with the aggrieved person, visiting her workplace or the school (in case of children) or any other place, and from causing violence to the dependents or relatives of the aggrieved person. The violation of a protection order is a criminal offence that invites imprisonment for a year and a fine of up to Rupees 20,000. The magistrate may also pass an order directing the alleged perpetrator to pay compensation for the injuries or mental torture caused due to domestic violence. The provisions of PO and protection order make this Act a very strong one indeed.

19.5.2 Who can Make a Complaint and How?

The complaint can be made either by the victim herself or any other person on her behalf. According to the Act, anyone who has a reason to believe that an act of domestic violence has been or is being committed or is likely to be committed may inform the PO. An aggrieved person has four options before her. She can file a complaint to a Protection Officer; to a judge designated for dealing with the domestic violence cases; to the police directly; lastly through the service providers in the region such as the registered NGOs. If one is not able to file the complaint by oneself, it is best to approach the legal services authority in the state, the NGOs or voluntary agencies working in the field of women’s rights or a lawyer trained in this area.

The complaint can be filed against any adult male member, who has been in a domestic relationship with the victim, or his relatives. However, no complaint can be filed by a female relative of the husband or the partner against his wife or partner but they can be complained against for abetting the violence. For example, mother-in-law cannot complain against her daughter-in-law but she can be named as an abettor of violence committed by her husband.
Activity for you

Find out about the Protection Officer in your area and if the state government has appointed them on a regular or part time basis. Are they adequately qualified, trained on the law, etc. Try to seek information about the nature of complaints and the profile of people making such complaints (whether used by married women alone or by other categories of potential victims covered by this Act).

Check out the various service providers and their role in the working of the Act. The service providers are the NGOs, civil society organizations registered for the purpose and are supposed to assist the Protection Officers and the victims in filing their complaints. Note down their addresses and circulate it among women's groups at the village level so that they can use it in times of need.

19.6 SEXUAL HARASSMENT AT WORK PLACE

Sexual harassment at workplace is experienced by many working women in India. It involves various ways in which a colleague and/or superiors may solicit another colleague's attention. The range and the degree to which a sexual harassment takes place may differ from place to place but it is not to be taken lightly or ignored. Such harassment violates a woman's fundamental right to work without fear or favour, and her dignity as an individual at her work place.

19.6.1 The Law

Unfortunately, there is no law as yet that exclusively deals with sexual harassment at work place. A bill on Protection Against Sexual Harassment of Women has been drafted by the Department of Women and Child Welfare in 2005 and was introduced in the Parliament in 2007 but it is yet to be enacted into a law. However, there is a provision in the Indian Penal Code (section 509, which was earlier referred to as ‘eve-teasing’) under which an offender can be punished. In addition to it, in the absence of a statutory law in this field, the Supreme Court of India formulated guidelines to check sexual harassment at work place in its landmark case, Visakha vs State of Rajasthan. These guidelines have now been accepted as binding and to be complied with by all the institutions. The work place is defined broadly to include educational institution, public or private enterprise, construction site, mines and others.

These guidelines define sexual harassment as:

- any act of physical intimacy or contact, e.g., touching, brushing, grabbing, pinching, etc.
- a demand or request for sexual favours
- showing sexually explicit material such as magazines, pictures, cartoons, or other pornography
- jokes, gestures, or any other unwelcome physical, verbal, non-verbal conduct of sexual nature.

Activity for you

Try to know what are the different problems faced by women in your institution and see if there is a complaints mechanism available there. What is the composition of that body and how active is it? And is there sufficient information given to all women employees about the avenues for redressal available to them?
19.6.2 Duty of the Employer

The guidelines have also listed a set of duties for the employers in the work place. It is the duty of the employer:

- to deter sexual harassment taking place in their institution;
- to notify/publish/circulate rules regarding the prohibition of sexual harassment and the rights of female employees in order to create awareness;
- to initiate action if the offence comes under the relevant provisions of the IPC by making complaint with the appropriate authority;
- to incorporate appropriate penalties in the rules;
- to provide procedures/remedies in the form of a complaint cell or the Complaints Committee for redress of the complaint within a stipulated time;
- to ensure impartiality in dealing with the complaints.

19.6.3 What can You do?

Whenever one is faced with this problem, one must speak about it in order to mobilize public opinion. It is a matter of right to be able to work or carry out one’s business without fear. The victim must not respond to harasser’s excuses, pretexts or explanations. Lastly, such matters must be immediately reported: to the superior in the department; to the complaint committee created for the purpose in the office; to the police; or seek the help of an NGO to act as an independent third party in the matter.

19.7 FETICIDE

Very often, the girl child is denied the right to be born through the practice of female feticide. This practice owes its continued existence to the patriarchal social attitudes that place a premium on the male child. A girl child is seen as a burden on the family requiring a large sum of money for marriage and associated liabilities. The inherent desire of the family to beget a male child who can become a prospective breadwinner and the accompanying social pressure to carry the family name forward encourages the practice of feticide and infanticide. As a result, sex ratio between males and females has declined to alarming proportions.

19.7.1 The Law

In order to combat the menace of female feticide, two laws exist in India. One is the Medical Termination of Pregnancy Act, 1971 (MTP) and the other is the Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act passed in 1994 (PNDT). The MTP and the PNDT were amended in 2002 and 2003 respectively. The MTP Act allows a woman to terminate her pregnancy of less than 12 weeks by a registered medical practitioner under certain circumstances. If the doctor believes in good faith that the continuation of pregnancy is detrimental to the health of the pregnant woman or if it constitutes risk to her life or the life of the child, then it is allowed. Consent of the woman is required in all the circumstances. Under no circumstances can an otherwise normal pregnancy be terminated for reasons of the sex of the foetus (female). MTP Act has been amended specifying the place and persons authorized to perform abortion and provides for penal action against those unauthorized persons performing abortions.

The PNDT Act prohibits misuse of pre-natal diagnostic techniques for determination
of sex of foetus leading to female feticide. The law permits pre-natal test only for some medical reasons that absolutely warrant its use such as to detect genetic, metabolic, chromosomal, or congenital deformities in unborn child or when there is a threat to the pregnant woman’s life. PNDT Act further, seeks to regulate the unauthorized clinics from conducting ultrasound investigation. The enforcement of PNDT Act is through the constitution of a Central Supervisory Board which has representatives of all the stakeholders including three women Members of Parliament, eminent medical practitioners, and representatives of women welfare organizations. Every offence under this law is cognizable, and non-bailable. Any medical practitioner indulging in the determination of sex invites imprisonment upto three years and a fine of upto Rs. 10,000.

19.7.2 What can You do?

In case you are aware of any medical clinic indulging in the practice of pre-natal sex determination of the foetus, you may report to the police about the same or to the appropriate authority appointed by your state for the purpose. The best way to address this problem is to approach a social service organization that can file a complaint directly to the court after giving a notice of 30 days to the clinic. If a woman is forced to undergo the sex determination test by her husband or other relative, they are also liable to be punished for the abetment of offence. You can sensitize women about their rights in the event of family pressure felt by them to commit this offence.

Check Your Progress 3

1) In what way the 2005 Act deals with domestic violence?

2) What do you understand by sexual harassment at work place?

3) Explain the duties of the employer to deal with sexual harassment at work place.

4) Discuss the 1994 law prohibiting the practice of feticide.
19.8 LET US SUM UP

The discussion in this unit has given us a broad overview of some of the laws related to women in India. Not all laws have been discussed here for reasons of space. But it is important to remember that the avenues of redressal remain more or less the same. The role of the police is important in helping the victim to lodge a complaint or receive immediate protection and relief. In case the police or other primary law enforcing agencies do not help the victim, it is not the end of the road. One can complain against the police or such agencies that do not perform their duty satisfactorily. For this, one must be aware of the rights of citizens when they are approaching the police. There are various mechanisms to check the work of the law enforcing agencies. The National Commission for Women takes up cases where the police or other implementing agencies are reported to be non-cooperative. Under the Domestic Violence Act, if a Protective Officer is not performing the assigned duty well, it invites disciplinary action.

Awareness about these laws, coupled with knowledge of one's own rights as citizens will help in protecting our rights in society and leading our life with dignity. For more information or complaints regarding women’s rights, please write to:
The National Commission for Women,
4, Deen Dayal Upadhyay Marg,
New Delhi-110001
Website: www.ncw.nic.in

In addition to it, always keep information regarding the local NGOs working in the field of women’s rights. It will help you in seeking informed advice and prompt action.

19.9 SOME USEFUL BOOKS AND ARTICLES


19.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) See section 19.2.1. Many local or national mechanisms are available for the protection of women’s rights. One can approach the nearest police station to report any violation of the rights. NGOs—local or national, state or national commission for women and the local courts are other mechanisms that can be accessed.

2. Two international mechanisms can be availed. One, India submits a periodic report under CEDAW which is reviewed by monitoring Committee in the light of NGO alternative reports. One should bring to the notice of the local/national NGOs any serious violations. Second, there is a UN Special Rapporteur on Domestic Violence, to whom such complaints can be sent.

3. Taking or giving of dowry has been prohibited under the Act. These offences invite imprisonment up to five years and a fine of Rs. 15,000. If the amount of dowry is more than Rs. 15,000, a fine equal to that amount be imposed. Dowry demand invites imprisonment between six months to two years and a fine up to Rs. 10,000. Dowry is the girl’s property and it should be handed over to her within three months. The most important feature of the Act is that if a woman dies within seven years of
marriage under mysterious conditions and if the parents of the girl allege dowry demand, such deaths are treated as dowry deaths and the presumption of innocence principle is inapplicable, as the onus to prove innocence lies with the husband and his family.

4. Our activities in this regard will include: reporting the matter to the police, informing victim’s parents, brothers or sisters; approaching an NGO or a social worker NCW.

Check Your Progress 2

1. Under the Constitution and Hindu marriage law, the term “Hindu” includes persons following a Hindu religion in any of its forms such as Vaisnava, a Lingayat or a follower of the Brahma or Aryan Samaj and also those who are Buddhists, Jains or Sikhs.

2. Conditions of Hindu marriage include: both husband and wife should be Hindus; marriage must be solemnized in accordance with Hindu customs, which must include “Saptapadi”: either spouse is not married already; the groom and bride should be mentally sound and should have completed 18 and 21 years of age, etc.

3. Conditions of divorce include: adultery, desertion, cruelty of the other spouse, conversion to any other religion, renunciation, unsound mind, leprosy andVD.

4. A wife is entitled to get maintenance which includes food, clothing, residence, education and medical attendance. Maintenance is available as long as she is chaste and does not convert to another religion. Under section 125 of Cr PC, a divorced wife is also entitled for maintenance. Property rights in ancestral and parental property are available. Since 5 equal share to daughters and sons is provided.

5. Muslim personal law gives many rights to women such as, consent of the woman is essential for marriage; if marriage is solemnized when the girl was child, she can repudiate it on attaining adulthood provided the marriage has not been consummated. Mehfar is her own property; she can seek divorce; she can get maintenance during marriage and this maintenance will cease three months after divorce.

Check Your Progress 3

1. DAV is a civil law and allows a wife, daughter, sister, mother, widow or live-in-girl friend to lodge complaints of domestic violence against men. The definition of DV is very broad. It includes physical, sexual, verbal, emotional, and financial abuse. Physical violence like hitting, kicking, sexual abuse, humiliation, verbal and emotional violence like calling names, insults for bringing less dowry, insisting for not bearing a male child etc., are prohibited. Complaints of DV can be filed with the Protection Office (PO) who initially mediates between the parties and helps the victim to file complaints before the magistrate. PO can secure orders of residence and maintenance for victims.

2. Vishaka judgment enabled the Supreme Court to issue guidelines on sexual harassment at workplace, which include, any act of physical intimacy or contact, e.g., touching, brushing, grabbing, pinching, etc.; a demand or request for sexual favours; showing sexually explicit material such as magazines, pictures, cartoons, or other pornography and jokes, gestures, or any other unwelcome physical, verbal, non-verbal conduct of sexual nature.

3. Every employer should have a Complaint Cell / Committee to deal with cases of sexual harassment. Employers should notify / publish rules regarding the prohibition of sexual harassment.

4. The 1994 law, as amended up to 2003, prohibits the misuse of pre-natal diagnostic techniques for determination of sex of foetus leading to female feticide. Offences under the Act are cognizable and any medical practitioner indulging in the determination of sex invites imprisonment up to three years and a fine of up to Rs, 10,000.