

Paper Code: LL.B. 412
Paper: Women & Law

Credit:-15

Object: The paper aims at creating awareness as to importance and role of women in society through the medium of law. It also focuses on women welfare laws.

The question paper shall have Parts 'A' & 'B'. In part 'A' there shall be one compulsory question based on objective or short answer type questions carrying 25 marks & covering the entire course. In part 'B', two questions of 12.5 marks each shall be asked from every unit asking the candidates to attempt one question from each unit.

UNIT-I comprising of two parts,

- 1 Introduction
- 2 Constitution of India & Women.

1 **Introduction:** Under this part status of women in India & Abroad had to studied i.e. how the status of women had changed from Ancient India to present.

2 **Constitution of India & Women:**

Gender jurisprudence is new ordering of society to emancipate and liberate women from the shackles of ancient law, Traditions and customs whereby the new claims, interests needs of the women are prompted and readjusted through law with men folk on a footing of equality, dignity & non-exploitation. The female gender is the victim of ancient Law & modern law, of mythology & all religions. For equality and dignity of Indian sisterhood and in support Robert Ingersoll said 'there will never be generation of great men until there has been a generation of free women of free mothers.' Perhaps no Constitution is so much soaked with gender sensitivity and gender justice as the Indian constitution in conformity with Gandhian ethos and ideal of social & political reforms to uplift women.

Swami Vivekananda had aptly remarked:

"Just as a bird could not fly with one wing only, a nation would not march forward if the women are left behind". Keeping this in mind the Constitution of India not only guarantees equality of women but also empowers the state to adopt measures to positive discrimination in favour of women. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties & Directive Principles, i.e. Preamble Article 14,15, 16, 19, 21, 23, 24, 39 (c) & (d), Art. 42, 44, 51-A, 243-D, 243-T relates to women.

Cases referred:

1. Air Indian V. Negesh Meerza AIR 1981 SC 1829
2. Mackinnon Machenzie & Co. Ltd. V. Andrey (D) Casta AIR 1987 SC 1281
3. Madhu Kishwar V. State of Bihar AIR 1996 SC 1864
4. Vishaka V. State of Rajasthan, AIR 1997 SC 3011
5. Apparel Export Promotion Council V. A.K. Chopra AIR 1999 SC 625
6. Dattarya V. State of Bombay AIR 1952 SC 321
7. Yusuf Abdul Aziz V. State of Bombay AIR 1954 SC 321

8. Mrs. Gita Hariharan V. Reserve Bank of India with Dr. Vandana Shiva V. Jayanta Bandhopadhyaya AIR 1999 SC 1149
9. Miss. C.B. Muthamma, IFS V. Union of India & others AIR 1979 SC 1868
10. Randhir Singh V. Union of India AIR 1982 SC 879
11. Delhi Domestic working Women's Forum V. Union of India (1995) I SCC 14
12. State of Maharashtra V. Madhukar Narayan Mandikar AIR 1991 SC 207.
13. Gaurav Jain V. Union of India AIR 1997 SC 3021
14. Bodhisathwa Gautam V. Subhra Chakraborty AIR 1996 SC 922
15. Chairman, Railway Board V. Chandrima Das AIR 200 SC 988
16. Vishal Jeet V. Union of India AIR 1990 SC 1412
17. Laxmi Kant Pandey V. Union of Indian ADR 1984 SC 469
18. Municipal Corporation of Delhi V. Female Workers (Muster Roll) AIR 2000 SC 1274
19. Mohd. Ahmed Khan V. Shah Bano Begum, AIR 1985 SC 945
20. Sarla Mudgal V. Union of India AIR 1995 SC 1531

UNIT-II Personal Laws and Women

Even though 'secularism' is a concept enshrined in the Preamble of the Constitution and is considered as one of the philosophical foundations of Indian polity, the approach to personal laws is quite contrary. Every community in India is governed by its own personal law. The Hindus are governed by the Hindu Marriage Act (HMA), 1955 and Hindu Succession Act (HSA), 1956 etc. The Muslims are governed by their own personal laws based on the karan and customs such laws are largely uncodified namely, the Mussalman Wakf (Validating) Act (MWVA), 1913, Shariat Act, 1937 and Dissolution of Muslim Marriages Act, 1939, Muslim Women Protection of Rights on Divorce Act, 1986. Similarly the Christians & the Parsis are governed by their own personal laws. Parsis are governed by the Parsis Marriage and Divorce Act, 1869. The discrepancies are patent and several. But the truth is that Indian Law does discriminate people on the basis of religion in matters relating to personal laws.

This Unit comprises four topics:-

- (a) Unequal position of women under different personal law.
- (b) Uniform Civil Code: Art.44
- (c) Sex Inequality in inheritance.
- (d) Guardianship

Cases referred:

1. Ahmedabad Women's Action Group V. Union of India (AWAG), (1997) 3 SCC 573
2. Sarla Mudgal V. Union of India (1995) 3 SCC 635
3. Geeta Hariharan V. Reserve Bank of India AIR 1999 SC 1199

UNIT-III Criminal Laws & Women:-

According to the data compiled by the National Commission for Women, a rape is committed every 54 minutes, a dowry-death every 92 minutes, molestation every 26 minutes and an act of cruelty every 33 minutes.

Under this unit following topics are covered:

- a) Adultery sec 497 IPC
- b) Rape sec. 376 IPC
- c) Outraging Modesty sec. 354 IPC
- d) Domestic Violence:- The Protection of Women from Domestic Violence Act, 2005

Cases referred:

1. Yusuf Abdul Aziz V. State of Bombay AIR 1954 SC 321
2. Sowmithri Vishnu V. Union of India
3. Tukaram (Mathura's Case)
4. Bodhisattwa Gautam V. Subhra Chakrawati AIR 1996 SC 922
5. Delhi Domestic working Women V. Union of India (1996) SCC 490
6. State V. Gurmit Singh AIR 1996 SC 1393
7. Aman Kumar V. State of Haryana AIR 2004 SC 1498
8. State V. Major Singh AIR 1967 SC 63 of Punjab
9. K.P.S. Gill V. State
10. S.R. Batra V. Smt. Tarun Batra AIR 2006 SC.

UNIT-IV :- Women Welfare Laws:-

Under this unit various Women Welfare Laws are included in view of the number of social evils prevailing in the society, the state has passed certain socio-economic laws to tackle them. The Dowry Prohibition Act, 1961 was passed to curb the dowry system i.e. to prohibit the giving and taking of dowry, sec. 304-B & sec. 498 –A of the IPC.

The Pre-natal Diagnostic Techniques- (Regulation & Prevention of Misuse) Act, 1994 aimed at preventing the disclosure of foetus in the womb of the mother.

The Indecent Representation of Women (Prohibition) Act, 1986:- The Act safeguards women from indecent representation. Sec. 292, 293 & 294 of the IPC.

The Immoral Trafficking (Prevention) Act, 1994:- The Act safeguards women from prostitution.

The Family Courts Act, 1984- the Act provides for setting up a Family Court for in Camera proceedings for women.

Under Labour Welfare Laws following Acts has been passed The Maternity Benefit Act, 1961 provides for maternity benefit with full wages for women workers.

The Equal Remuneration Act, 1976 provides for payment of equal wages to both men & women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment. The Factories Act, 1948. The provision of this Act provides for health, safety, welfare & working hours for women labourer working in factories.

And lastly, under this unit the Implementation of wage laws and Legislation of women employment, The minimum wages Act, 1948 has been covered.

Cases referred:-

1. Gaurav Jain V. Union of India AIR 1997 SC 3012
2. Vishal Jeet V. Union of India AIR 1990 SC 1412
3. Municipal Corporation of Delhi V. Female Workers (Muster Rolls) AIR 2000 SC 1274

BOOKS REFERRED:-

- | | | | |
|----|-----------------------|---|-------------------|
| 1. | Women & Law | : | By Mamta Rao |
| 2. | Women & Law | : | By Anjali Kant |
| 3. | Law relating to Women | : | Dr. S.C. Tripathi |
| 4. | Women & Law | : | G.P. Reddy |
| 5. | Women & Law | : | Dr. Manjula Batra |