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## UNIT 33 CONTEMPORARY WOMEN'S ISSUES: HEALTH AND LEGAL ASPECTS

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### 33.0 OBJECTIVES

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After going through this unit, you should be able to

- state and explain the concept and content of women's issues
- describe aspects of women's health as an important dimension in contemporary women's issues
- describe the legal status of women.

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### 33.1 INTRODUCTION

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You will find that this unit begins with a brief discussion on the concept of women's issues. Here we shall describe women as a social category, analyse the nature of their issues, and the aspects related to the emergence of women's studies. There are a series of women's issues in terms of low access to productive resources, medical facilities, educational and employment opportunities and various other social and economic discriminations faced by them. In the earlier

units of this Block we discussed some of the important issues like education, work and employment and the socio-cultural conditions which are responsible for the discrimination against women in the society. The latent discontent of women has been manifested in the form of women's movements in various parts of the country in the last few decades. We have discussed this aspect in unit 30. Issues pertaining to women's health and legal status have emerged as crucial in the contemporary women's movement. In the section on women's health we have looked at the causes of low female sex ratio, the problems of early marriage and pregnancy. In the section on women's legal status we have reviewed the laws related to marriage, age at marriage, dowry, divorce, property and inheritance, sati and violence against women. We have examined some legal measures related to work, sex determination test and indecent representation of women. Lastly, we have tried to understand the problems related to the implementation of these laws and have suggested the ways for better legal status of women in society.

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## 33.2 WOMEN'S ISSUES: CONCEPT AND CONTENT

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This section introduces you to the concept of women's issues and their content. Besides these, we shall also be dealing with the aspects pertaining to the emergence of women's studies.

### 33.2.1 The Concept of Women's Issues

Women form an important social category. The basis of this category is not simply the biological entity but also the socio-cultural construct. Social status and roles of women are defined not only in terms of the gender dimension but also in terms of the norms, values, beliefs, traditions, and customs of the society. Women as a social category cut across the boundary of caste, class, race, estate etc. social groupings. Please keep it in mind that women do not form a homogeneous category. They belong to diversified socio-economic groups and are also divided in terms of spatial considerations like rural and urban. However, women are frequently an especially oppressed group within each unit of socio-economic stratification (Agarwal 1983: 1).

The concept of women's issues does not pertain to women alone because it neither exclusively belongs to the domain of women nor is it totally an outcome of injustices meted out to women by men. In our society, we find several instances in our religious traditions, which relegate women to an inferior status in comparison to men. However, we cannot simplify women's issue as a conflict between men and women, or the women's movements as a crusade against men. Indeed, these issues are an outcome of the prevailing social system. The norms, values, customs and old socialisation processes govern each member of society, over generations to form his/her attitudes and behavioural patterns. Similarly, these also formulate expectations of each member of society. The structural arrangement of the society provides women low position. They are economically exploited and discriminated, socially subjugated and politically rendered a powerless group in the society. Women's issues are thus perceived to be linked to social issues. These issues are especially focussed on women's unequal access to productive resources,

decision-making bodies, health care facilities, education, employment opportunities and social justice. In this respect, the study of women's issues needs to be incorporated within the discussion of wider social issues, concerning the rights of underprivileged sections of society.

### 33.2.2 Gender Role Stereotyping and Women's Issues

The institutional arrangements, the values, norms and customs of the society create and sustain female role stereotypes. For example, within this socio-cultural set up, with the concept of marriage as the true destiny of a woman and with her important obligation to bear a son, the roles of wife and mother emerge as proper to women (CSWI, 1974). Hence, by eulogising her motherhood, religion binds a woman to the home and to her role of creating and nurturing children (Anklesaria, 1985: 141).

Women play crucial roles both in the productive and reproductive activities. However, in the process of rapid economic development and social change women's contributions have remained invisible and unrecognised within the given process of role stereotyping and traditional role expectations. Women have been subjected to marginality in all realms of life. In the earlier units, of this Block (especially unit 29), we have discussed how traditional concepts of role and status generate gender role stereotype and expectations of women affecting women's status adversely in society. While these issues have remained in the society since the ages, these have come into sharp focus only in the latter half of 1970s with the resurgence of women's movements and women's studies. In unit 30, we discussed women's movement. Here let us have some idea on the emergence of women's studies.

### 33.2.3 Emergence of Women's Studies

The interest in women's studies spurted during the 1960s in the West, with the emergence of a broad heterogeneous women's protest movements.

In India, the area of women studies emerged in 1980s. It was in the seventies that, after the United Nation's General Assembly Declaration of the Elimination of Discrimination Against Women (1967), and the subsequent UN request to its member states to submit report on the status of women in their countries, the Committee on the Status of Women in India (CSWI) was set up. The Committee submitted its report in 1974 (Mazumdar 1983: 24). Again in response to the U.N. Call for Action (1975) and on the basis of the findings of the CSWI report, the Government of India has drawn up a Draft National Plan of Action for Women. The Plan accords priority to the need of purposive research in "education, health, welfare and employment of women with special emphasis to the weaker section of women whose conditions have most adversely affected the process of social change" (ICSSR 1975: 7). The ICSSR has recognised the status of women as the priority area of research. The University Grant Commission (UGC) has also opened Women's Studies Centres in some Universities all over the country. Besides the ICSSR and UGC, various research organisations and Universities, like Centre for Women's Development Studies, Tata Institute of Social Sciences, SNDT University have also taken women issues as the focal point of their study.

In India a large body of literature has emerged on women studies since the 1980s. These have covered various aspects including their social status,

economic roles in agriculture, industry and plantation, political participation in the national movement, peasant movements and industrial unrest. Some recent studies have also touched upon their legal and medical status. Besides the social science studies various national committees and commissions have also produced important reports stating the status of women in contemporary Indian society. The most important of these have been that of the Committee on the Status of Women in India, 1974, National Commission on Self-Employed Women, 1988, National Perspective Plan for Women, 1988, National Commission for Women, 1992 etc.

While the social scientists, policy planners and the media generated enormous data on women's issues in India, since late nineteen seventies there have emerged numerous women's organisations in various parts of the country. These organisations have made their presence felt through various mass mobilisations and protests against women's discrimination in the society. Since the beginning of 1980s there has been increasing awareness among the women, both in the rural and urban areas, though in varying degrees. They have raised the issues related to the socio-economic injustice faced by them in the society. With the growing awareness women's issues have come into sharp focus in literature, media, discussion and policy formulation. Hence, women's health and legal status have emerged to be crucial contemporary women's issues in India. In the following sections we shall be discussing these issues in detail.

### Check Your Progress 1

- i) What do you mean by women's issues? Answer in six lines.  
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- ii) Write a note on the priority of research as accorded by the National Plan of Action for Women. Use four lines for your answer.  
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## 33.3 WOMEN AND HEALTH

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In India, within the given socio-cultural matrix women get low access to medical care. Women belonging to the low strata of the socio-economic hierarchy and to the rural areas have been the critical manifestation of this aspect. Women's health is affected by a series of interrelated economic and

socio-cultural factors, viz. levels of earnings and educational background, and “the attitudes to marriage, age of marriage, value attached to fertility and sex of the child, the pattern of family organisations and the ideal role demanded of Women by social conventions” (Government of India 1988: 97). Hence we are to examine the question of women’s health within the given context.

In this section we shall be examining some of the important features of women’s health-status in India.

### **33.3.1 Sex-ratio and Life Expectancy**

Sex-ratio (number of female per 1,000 male) is an important indicator of women’s status in the society. The census figures show that while the female population has increased from 117 millions in 1901 to 329 millions in 1981 and 495 million in 2001, the number of females per thousand males is steadily declining. In 1901, there were 972 females per 1,000 males, while by 1971, the ratio had come down to 930 females per 1,000 males. In 1981 there has been only a nominal increase in the female sex-ratio with 934 females to 1,000 males. It has further declined to 927 in 1991. And it has gone slightly up in 2001 to 933.

Similarly, though life expectancy has increased for both the sexes, the gap between the two is widening. In 1921 the expectation of life for both males and females was 26 years. By 1961-71, the male life expectancy increased to 47.1 years, while that of females to 45.6 years only. Life expectancy has increased over the decade from 44.7 years in 1971 to 54.7 in 1980 for women. It was estimated to be slightly higher in 1980 for women than men: 54.7 and 54.1 years at birth respectively. During 1995-2000 the life expectancy for women and men were 64.9 and 61.9 respectively. However, age specific death rates indicate higher mortality for female children and women for every five year period till 35 years of age (Government of India 1988: 97). The low female sex-ratio and the life expectancy of the female are partly due to differential sex-ratio of newly born infants and partly due to high female mortality rate. Female mortality is to a great extent due to neglect during early childhood, death during childbirth and infant mortality. Let us discuss these aspects briefly.

#### **i) Neglect During Early Childhood**

The neglect of the girl child starts very early in life. The extent of neglect varies from family to family depending on their economic position. But in comparison to her male counterpart a female child is relatively neglected in most of the socio-economic strata. Throughout the country it has been noticed that when the girl child depends on breast feeding the chances of her survival are relatively more. Data from various sources shows that from infancy till the age of fifteen the death rate far exceeds the mortality rate of male child. There are several causes underlying this. Firstly, the female children are breast fed for a far shorter period than their male counterparts. Secondly, during illness parents show a greater concern towards male children. This neglect is quite often enforced by poor economic condition. Finally, in addition to the intake of insufficient and non-nutritious food the female child is exposed to a greater workload very early in life. Often in families of weaker economic strength the girl child is found attending the household chores as well as taking care of her younger brothers and sisters.



**ii) Death during Childbirth**

Early marriages expose women to longer child bearing period. This means greater health hazards to women and children. Several studies show that teenaged mothers' risk to health for both themselves and their children. This risk is further enhanced by poor nutrition. Various surveys indicate that women's caloric content is about 100 calories (per women per day) less than they expend, whereas men show an 800 caloric surplus intake. Women expend a great deal of energy working inside and outside the house, whereas they often have insufficient food. Customarily they often eat after the men and other members of the family have eaten. This is especially true in joint families in both urban and rural areas. This results in complications due to incorrect methods of delivery. Besides these, lack of knowledge and improper care during post natal period, and frequent pregnancies lead to larger foetal wastage, birth of larger number of low weight babies, and death of young women.

**iii) Female Infanticide and Foetal Killing**

This refers to killing the infant soon after its birth or at the foetus stage. The former is common amongst certain tribes and caste groups such as the Kallars of Tamil Nadu. The Kallars live in abject poverty. For livelihood they work in illicit liquor distilleries and coconut groves. Which require more male hands. The birth of a daughter is burden for them for not only there's insufficient occupation for her, but dowry has to be given for her wedding and other gifts to be given to her husbands family on various occasions after the solemnisation of the marriage.

Foetal killing has been a crucial problem in some urban areas. A medical diagnostic process called, amniocentesis, is used in the U.S.A. to check possible deformities of the unborn child. However, this is fast being used by parents to select the sex of their child. Misuse of the sex determination test has been a crucial issue in some urban places in India. This has resulted in a new type femicide i.e., abortion of female foetuses. A survey carried out in Bombay during 1984 revealed that out of 8,000 abortions 7,999 were female foetuses (Government of India 1988: 98). It is reported that in Dharampuri district of Tamil Nadu, the place where female infant mortality rate as per 1991 census was 100.1, 105 female infants were killed every month in 1997. Testing for sex determination of the unborn child has been now banned in India. The causes and concerns of women's health hazards are shown in figure 33.1.

**33.3.2 Early Marriage and Women's Health**

Early marriage affects women's health status adversely. A vast number of girls are married at the teenage. According to the 1991 census among the currently married women 53.3 percent married below 18 years of age. And as per the National Family Health Survey (1993-94) almost 33 percent women were married by the age of 15. It leads to teenage pregnancy and various physiological problems. In 1981, 7 percent of the girls in the age group of 10-14 and 43 percent in the age group of 15-19 were married (Government of India 1988). Thus, 50 percent of the girls is introduced to the sexual life and to the reproduction processes at the teenage. Because of malnutrition, overburden of work, illiteracy, ignorance of the sex-behaviour these pregnant girls take high risk of life. Around 10 to 15 percent of the annual births are from these adolescent mothers. However, most of their babies suffer from malnutrition, under weight, and risk of mortality.



Figure 33.1 Women and health

### 33.3.3 Pregnancy and Women's Health

In India, women have on an average 8-9 pregnancies and they spend around 80 percent of their reproductive years in pregnancy and lactation. Study shows that in the low income group pregnant women have deficiency of 1,100 calories and lactating women 1,000 calories. Women of the lower socio-economic groups gain only around 3-5 kilograms during pregnancy which is far less than the required weight. Anaemia in pregnancy accounts directly 15 to 20 percent of all maternal deaths in India. The maternal-mortality according to official report is 400 to 500 per 1,00,000 births. However, this figure is as high as 1,000 to 1,200 in some rural areas. Again, more than 71 percent and 29 percent of the deliveries in the rural and urban areas took place without trained personnel (Government of India 1988).

In most of the rural areas, Medical Termination of Pregnancy services are not available. Besides, women are not aware about the Medical Termination of Pregnancy Act, 1971 that has made abortion legal. Hence, illegal abortions by incompetent persons continue, resulting in abortion-related mortality and morbidity as serious problems (Government of India 1988).

#### Check Your Progress 2

Tick mark the correct answers of the following question.

- i) Which one of the following is a reason for female mortality?
  - a) Neglect of female during early childhood

- b) Death during childbirth
  - c) Infant mortality
  - d) All of the above
- ii) Which one of the following is a cause of high risk to the life of the adolescent mothers?
- a) Malnutrition
  - b) Over-burden of work
  - c) Illiteracy
  - d) All of the above

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## 33.4 WOMEN AND LAW

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Women's access to legal equality has been one of serious concerns of the women's movement. During the social and religious reform movements of the nineteenth century, the movements for women's rights in India centered around the major problems of infant marriages, widowhood and property rights for women. During the freedom struggle and the discussion on Indian Constitution the major debate on women's legal equality centered around the Hindu Code Bill. The debate recognises that "women are not accepted as man's social, economic or political equals and that the discriminations can be effectively reduced, if not eliminated by passing appropriate laws and evolving an effective machinery to implement those laws. And so, after Independence we have the phase of legal reform, progressive, bold, legislative initiatives, which translated constitutional commitments and guarantees into laws to help improve women's legal status" (Government of India 1988: 135).

In the post-Independence period many laws were enacted with the objective of improving the social status of women and ending discrimination and oppression against women. In the following sub-section we shall be examining some of these laws.

### 33.4.1 Marriage, Dowry and Divorce

In this sub-section we shall discuss some of the major laws relating to marriage, dowry and divorce. In independent India significant laws and amendments to the existing laws have been introduced in these areas.

#### i) **Marriage**

In traditional India, the institution of **polygyny** where a man could take more than one wife at the same time, was widely prevalent. It is only in the last few decades that polygyny is steadily on the decline. The Government of India has banned polygamy for all the government servants. Monogamy has been accepted in the laws of all other religions except Islam. Muslim law regards marriage as a contract where the husband has the right to have more than one wife and children through other wives. He also has the right to divorce his first wife without having to pay any compensation to her.



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This gives rise to a growing sense of insecurity for the wife and the children, who not only have to live at the mercy of the husband and father respectively, but can also be rendered destitute on divorce. Divorce can be obtained among the Muslims by the mere utterance of the term '*talak*' thrice by the husband.

The Supreme Court has upheld Muslim Women's right to receive maintenance allowance from her former husband but this does not invalidate the very act of polygyny, as it does not stand legally wrong. According to the Committee on the Status of Women in India (CSWI), it is important to ban polygyny in order to establish social justice and equality for Muslim women. The Committee observed that "full equality of sexes can hardly be possible in a legal system which permits polygamy and a social system which tolerates it. The only personal law, which has remained impervious to the changing trend from polygamy to monogamy, is Muslim law. We are of the firm view that there cannot be any compromise on the basic policy of monogamy being the rule for all communities in India. Any compromise in this regard will only perpetuate the existing inequalities in the status of women".

### ii) Age at Marriage

To curb the practice of getting girls married even before they have attained puberty, the Sarda Act or Child Marriage Restraint Act was introduced in 1929, which fixed the age at marriage for girls to 15 years. This Act applied to all the communities. This was later revised in 1954 when the Special Marriage Act was passed which fixed minimum age of marriage at 21 years for males and 18 years for females. However, investigations show that quite often marriages of the girls are fixed below 18 years.

There are prejudices and certain beliefs underlying this preference for child marriage, especially among rural and backward communities. Dominant is the popular notion of the woman's role defined in terms of marriage, child bearing and rearing and taking care of all other domestic activities. Thus women are regarded as dependent beings who would ultimately move from the father's house to the husband's house. This largely explains the parent's reluctance in sending girl children for formal education. Instead they tutor the girl child to handle all domestic chores which are to benefit her after marriage.

Added to these above reasons is the loophole in our legislation, which while penalising the performance of child marriage on one hand, recognises the marriage itself is valid (ICSSR 1975: 43).

### iii) Dowry

At the beginning of the 1980s, due to spurt in the incidents of deaths of young married women reported as "dowry victims" there has been an increasing concern of many voluntary organisations to raise their voice in protest against the issue of dowry. They have pressurised the government to take strong action against the practice of dowry. The Dowry Prohibition Act, 1961 was amended in 1984 and again in 1986 to make the provision of this law more stringent. Under this law court now has powers to act on its own knowledge or on a complaint by any recognised welfare organisation. The offence has been made cognisable for the purpose of investigation. A new section on dowry-murder is added in Indian Penal Code (IPC). The Indian Evidence Act amended to shift the burden of proof to the husband and his family where dowry is

demanding and the bride dies within 7 years of the marriage otherwise than under normal circumstances. This amendment has also made provision for the appointment of Dowry Prohibition Officers and Advisory Committee to look after the issues pertaining to dowry (Government of India 1988). Anti-dowry cells are also established in some important urban centres to tackle this issue effectively.

#### iv) **Divorce**

The personal laws clearly discriminate between the husband's and the wife's rights to seek divorce. In the Christian law the husband can seek divorce if the wife has committed adultery. But the wife has to prove a second offence along with adultery (incest, bigamy, cruelty, desertion) in order to obtain a divorce. Similarly, the Muslim law grants absolute power to the husband to dissolve the marriage at his will. The wife on the other hand could seek dissolution only if

- a) it's a divorce on mutual consent.
- b) divorce by agreement on the wife's giving some consideration to the husband ;
- c) divorce where the husband delegates.

The Muslim women are also not given any compensation besides the trivial *mehr* or dowry amount. However, the Muslim personal law granted the right to women to keep their children till the age of seven, after the custody cases are decided. But as these cases are dragged on for a long time it became very difficult for the Muslim women and never get the right to keep their children.

However, quite often these laws are not implemented because of sheer ignorance of a majority of the women of their rights to divorce, maintenance and adoption.

It is important to mention here that women and men of all religious communities have the choice of getting married under Special marriage Act, 1954. It has more equitable provisions for marriage and divorce. However, society looks down upon a divorced woman as the 'culprit' while man is able to remarry without a stigma. Moreover, most women suffer from lack of education and economic independence and are left in a desperate situation after divorce.

We need to take a note of the amendment in the Hindu Marriage Act as well as the Special Marriage Act in December 2003. It eases the restrictions on judicial jurisdiction in matrimonial matters. Earlier the wife and the husband could file matrimonial proceedings only where they last resided together or where their marriage had been solemnised. The latest amendment allows one to file a case in the family court of one's current place of residence.

### **33.4.2 Property and Inheritance**

Women are relegated to a secondary status in terms of property and inheritance. The Hindu Laws as well as the Indian Succession Act, 1925, which applies to all minority communities, grant women only negligible ownership rights.

- i) The Hindu Succession Act, 1956 was introduced in place of the *Mitakshara* and the *Dayabhaga* Schools that had governed Hindu Succession rights for a long time. The position of women was one of the

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dependence with barely any proprietary rights. The Act of 1956, brought radical changes in the pattern of succession, the most important being equal rights for male and female heirs. But this was later codified in the face of resistance and a power structure was laid down which excluded women from exercising direct control over family assets. The Act makes discrimination between unmarried, married and widowed daughters. It grants residence rights only to unmarried and widowed daughters or daughters whose husbands have deserted them. Thus immovable property in the form of house and land remains under the direct control of males. This is further supported by the virilocal pattern of residence where women are expected to leave their natal home to reside in their husband's home after marriage. This practice levels credibility to control property by male members in order to avoid partition of property. In addition, strong **filial ties** restrain a woman from dragging her brother to the court of laws. On the other hand, in her husband's house too, the woman does not have direct control over his land and property. This makes her the ultimate loser.

Interestingly, at the level of the central government, there are indications of support from some significant elements within the State and initiated measures towards reforming Hindu inheritance laws in a gender equal direction. But these initiatives remained low key due to the lack of adequate local mobilisation by the civil society (Agarwal, Bina 2002).

- ii) Amongst the Muslims too, the son gets two-thirds of the property whereas the daughter gets only one-third. If a man dies leaving only his daughter she gets only half of his estate. The rest goes to distant **kindreds**. The widows face the worst. If a husband dies without a child, she gets only one fourth of the property. If there are children then she gets only one-eighth.
- iii) Among the Christian community if a husband dies without making a will, his widow is entitled to only one-third or Rs. 5000 of his property. The rest is shared by his lineal male descendants, i.e., his father's brother or his sons. If he dies leaving no **lineal descendants**, but has kindred, only half his property goes to the widow. The distant relatives can claim the rest.

The Christian law is complicated by the non-applicability of this law in certain areas. For instance, the Travancore High Court has upheld that the Indian Succession Act should not apply to Christians of Kerala. The Travancore Succession Act governs Christians in Travancore other than Protestants and Latin Catholics. Similarly, the Cochin Christian Succession Act governs Christians in the former Cochin State but not the Anglo Indian or Tamil Christians.

- iv) Among the Parsis too a son's share to his father's property is twice that of the daughters. If a woman predeceases her husband, her son is entitled to an equal share of the mother's property along with the daughter, but the daughter is not entitled to the same rights when she inherits the property of the father.

### 33.4.3 Work, Remuneration and Maternity Benefits

According to the Equal Remuneration Act, 1973, men and women are to be paid equally for doing the same or similar work. This Act also forbids discrimination on the basis of sex at the time of recruitment and after. However, this Act is not applicable to the unorganised sector where the bulk of the women work.

The Maternity Benefit Act, 1961 provides for the maternity leave to women working in the factories, mines, plantations and in the government and semi-government establishments. Provisions are also made for the crèches to care for the children of women working as contract labourers under the Contract Labour (Regulation and Abolition) Act, 1970 and the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979,

### 33.4.4 Crime against Women

There are various forms of crime against women. Sometimes, it begins even before their birth, sometimes in the adulthood and other phases of life. Let us examine some of the important laws introduced for eradication of crime against women.

#### i) Sati

So far we have seen that in the Indian society, the position of women is always perceived in relation to the man, from birth onwards and at every stage of life, she is dependent on him. This perception has given birth to various social customs and practices. One important manifestation of these customs and practices has been that of Sati. It is seen as a pinnacle of achievement for a woman. This custom of self-immolation of the widow on her husband's pyre was an age-old practice in some parts of the country, which received deification. The popular belief ran that the goddess enters into the body of the woman who resolves to become a sati.

The practice of sati has been abolished by law with the initiative of Raja Rammohan Roy in the early decades of nineteenth century. However, there has been a significant revival of the practice of sati in the last few decades. Indeed, Rajasthan has been the focal point for this practice in recent years.

India has witnessed a strong social reaction in the form of organised agitation in the late 1980s against sati following the burning of the young educated Roop Kanwar on the funeral pyre of her husband in Deorala, Rajasthan. In response to the public demand the Parliament passed the Commission of Sati (Prevention) Act, 1987. This law declares the practice of sati unlawful and "any act towards such commission shall be punishable with imprisonment for a term which may be extended to six months or with fine or with both...." The Act also prescribes the maximum punishment for the abetment of the commission of sati, to equate it with murder rather than abetment of suicide, as has been done in the earlier cases of sati. The Act also makes glorification of the practice of sati an offence and goes a long way in refuting the myth that sati is a manifestation of the glory of Hindu Women (Government of India 1988: 137-138).

ii) **Violence against Women**

Violence against women both inside and outside of their home has been a crucial issue in the contemporary Indian society. To respond to the growing incidence of violence against women the Parliament amended the Criminal Law Act, 1983. This amendment gives legal recognition to the domestic violence by making cruelty inflicted by the husband or his relatives an offence. Again the Indian Evidence Act has also been suitably amended to provide that if a married woman commits suicide within seven years of her marriage the assumption in law will be that her husband or his relatives abetted the suicide.

Based on the 84th Report of the Law Commission on Rape and Allied offences the government amended the Criminal Law Act in 1983. This amendment prescribed the protection of the rape victim from the glare of publicity during investigation and trial. It also introduced change in the definition of rape to remove the element of consent. It also enhanced the punishment for this crime (Government of India 1988).

**Activity 1**

In recent years there has been increasing number of violence against women. Prepare a list of violence against women based on the report of the newspaper or radio or T.V. or any other mass media. Also write down the types of legal measures initiated against these violences. Now based on these collected information, write a note in about 25 lines on the “Violence against women and legal measures in contemporary India”. Compare your note, if possible, with the notes of your co-learners at the Study Centre.

a) **Sex Determination Test**

You have learnt above the misuse of sex determination test in section 33.3.1 of this unit and also in unit 29 of this Block. Now let us have an idea on the laws related to the foetal killing in India. According to Medical Termination of Pregnancy Act, 1971 abortion is legal in India. Again the Government of Maharashtra has gone far ahead by passing the Maharashtra Regulation of use of Prenatal Diagnostic Techniques Act, 1988. This law has made prenatal sex determination test illegal in Maharashtra. Government of India passed the Prenatal Diagnostic Techniques (regulation and prevention of misuse) Act in 1994. It was proposed to prohibit pre-natal diagnostic techniques for the determination of sex of foetus leading to foetal infanticide. This Act was again amended in 2001. The government of Tamil Nadu passed a similar law in 1996.

b) **Indecent Representation of Women**

Indecent representation of women in the media has been a crucial issue in India. The Indecent Representation of Women (Prohibition) Act, 1986 has been passed by the Parliament. This law seeks to ban the “depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent or regatory to, or denigrating women or is likely to deprave, corrupt or injure the public morality or morals” (Government of India 1988).



### 33.4.5 Problems related to the Implementation of Law

In India, various progressive laws (see figure 32.2) have been passed and significant amendments have been introduced to the existing laws for women's emancipation. However, within the existing values and norms of the society many of the progressive laws have not got the scope of full expression. The CSWI report points out that certain "pend provisions in the law are definitely influenced by the established patriarchal system, the dominant position of the husband and the social and economic background of women" (CSWI, 1974).

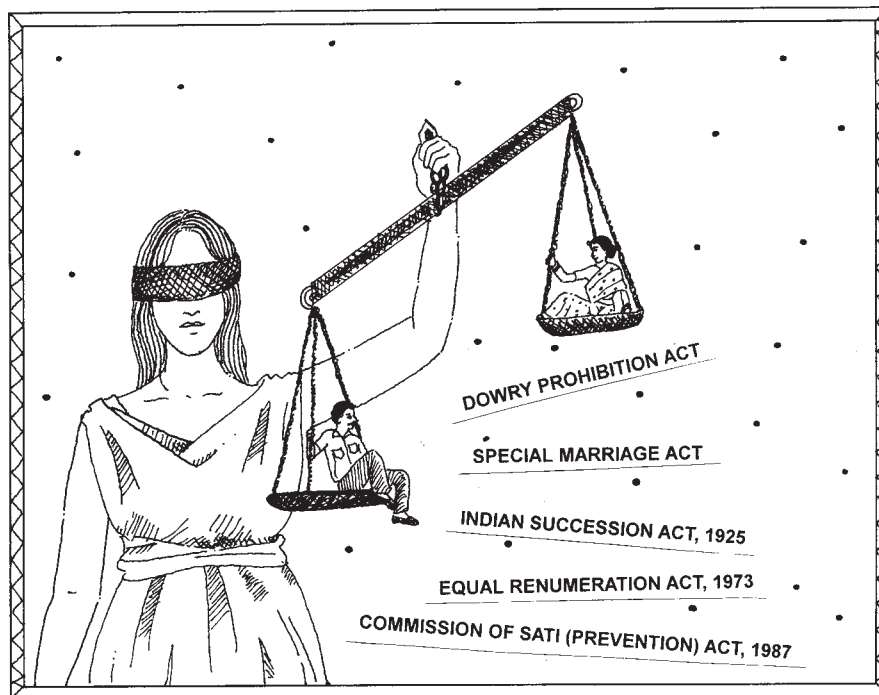


Figure 33.2: Women and law

Again, there are several loopholes and gender biases in the existing laws. For example, the personal laws pertaining to marriage provides a provision for restitution of conjugal rights and this is equally available to the husband and wife. However, in most of the cases, it is used by the husband against the wife ignoring the fundamental rights of the latter.

On the one hand, women have been subjected to discriminatory traditional norms and values and gender biases and on the other, a vast number of them have remained unaware about the significant provisions of the laws. Hence, there is a great need to educate women about the legal provisions and to make specific provisions for free legal aid to women. The NPPW observes:

“Legal aid programmes for women have to be developed which are not litigation oriented. These must consist of:

- i) creating legal awareness amongst the people and especially women,
- ii) holding local aid camps ...,
- iii) conducting para-legal training programmes for social workers and voluntary agencies, and
- iv) supporting public interest litigation, by which social workers can participate and carry forward the legal aid programmes for women” (Government of India 1988: 144).

**Check Your Progress 3**

- i) Write a note on the CSWI observation on the practice of polygyny in India. Use four lines for your answer.

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- ii) Write a note on anti-dowry legislations in about seven lines.

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- iii) Tick mark the correct answer of the following question.

In which sector does the Equal Remuneration Act, 1973 stipulate the equal remuneration for man and women doing the same kind of work?

- a) The organised sector
- b) The unorganised sector
- c) Both in organised and unorganised sectors
- d) None of the sectors

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**33.5 LET US SUM UP**

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In this unit we have discussed women as a social category and the concept of women’s issues at the very out-set. We have examined the role and status of women within the given socio-cultural context and the emergence of women’s studies. Women’s health and legal status are important contemporary women’s issues. In the section on women’s health we reviewed the causes of women’s low sex-ratio, and the health problems related to early marriage and pregnancy. In the section on law we discussed women’s legal status in terms of various laws enacted in India related to marriage, dowry, divorce, inheritance, practice of sati, violence against women, work and remuneration and indecent representation of women’s body. We have looked briefly at some of the problems related to the implementation of these laws.

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## 33.6 KEY WORDS

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<b>Filial ties</b>	Relationship between the parent and their children.
<b>Kindred</b>	Relatives of both sides - consanguine and affinal.
<b>Lineal descendant</b>	Members of the same descent group.
<b>Polygyny</b>	A form of marriage in which a husband has more than one wife at the same time.

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## 33.7 FURTHER READING

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## 33.8 SPECIMEN ANSWERS TO CHECK YOUR PROGRESS

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### Check Your Progress 1

- i) Women's issues are perceived to be linked with the social issues. These issues are specifically focussed on women's unequal access to the productive resources, decision-making bodies, health facilities, educational opportunities and social justice. In this respect, the study of women's issues needs to be incorporated within the discussion of wider social issues, concerning the rights of underprivileged sections of the society.
- ii) The Plan accords priority to the need of purposive research in education, health, welfare and employment of women with special emphasis to the weaker sections of women whose conditions have been most adversely affected by the process of social change.

### Check Your Progress 2

- i) d
- ii) d

**Check Your Progress 3**

- i) The Committee observed that full equality of sexes could hardly be possible in a legal system, which permits polygamy, and a social system, which tolerates it. The committee strongly suggested that monogamy should be the rule for all communities in India.
- ii) Under the present form of the Dowry Prohibition Act the court has been given power to act on its own knowledge or on a complaint by any recognised welfare organisation. A section on dowry murder has been added in Indian Penal Code (IPC). Again the Indian Evidence Act is amended to shift the burden of proof, to the husband and his family where dowry is demanded and the bride dies within 7 years of the marriage otherwise than under normal circumstances.
- iii) a

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