



Law Relating to Women and Children

Osmania University 6th Sem

PART-A

Short Answers

MTP Act

Answer: The **Medical Termination of Pregnancy (MTP) Act** in India is a crucial legislation that governs the termination of pregnancies. Let's delve into its key provisions:

1. Background:

- The MTP Act was enacted in **1971** by the Indian Parliament.
- Its primary purpose was to decriminalize abortion under specific circumstances and ensure safe and supervised procedures.
- Under the original 1971 law, pregnancy termination was permissible only if it did not exceed **20 weeks**.

2. MTP Amendment Act, 2021:

- In a significant move to enhance reproductive health services, India amended the MTP Act in **2021**.
- The new **Medical Termination of Pregnancy (Amendment) Act 2021** aims to empower women by providing comprehensive abortion care.
- Key provisions of the amendment include:
 - **Termination due to Failure of Contraceptive Method or Device:**
 - A married woman can terminate a pregnancy up to **20 weeks** if a contraceptive method or device fails.
 - Unmarried women are also allowed to terminate pregnancies for this reason.
 - **Opinion Needed for Termination:**
 - Up to **20 weeks** of gestation, termination requires the opinion of **one Registered Medical Practitioner (RMP)**.
 - For pregnancies between **20 and 24 weeks**, the opinion of **two RMPs** is necessary.
 - **Upper Gestation Limit for Special Categories:**

- The amendment extends the upper gestation limit from **20 to 24 weeks** for special categories of women.
- These categories include survivors of rape, victims of incest, and other vulnerable women (such as differently abled women and minors).
- **Confidentiality:**
 - The identity of a woman whose pregnancy has been terminated must remain confidential, except to authorized individuals under existing laws.

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Sati

Answer: Sati, also known as **suttee**, was a historical practice in Hindu communities where a widow would **sacrifice herself** by sitting atop her deceased husband's funeral pyre. Although there is debate about whether it received scriptural mention in early Hinduism, it has been linked to related Hindu practices in the Indo-Aryan-speaking regions of India. Here are some key points about Sati:

1. Origin and Spread:

- The practice of Sati probably developed into a real fire sacrifice during the medieval era within the northwestern Rajput clans.
- Initially, it remained limited to these clans but became more widespread during the late medieval era.

2. Historical Context:

- During the early-modern Mughal period (1526–1857), Sati was notably associated with elite Hindu Rajput clans in western India.

- This marked one of the points of divergence between Hindu Rajputs and the Muslim Mughals, who banned the practice.

3. **British Intervention:**

- In the early 19th century, the British East India Company initially tolerated the practice despite its ban within Calcutta.
- Evangelists like William Carey and Hindu reformers like Ram Mohan Roy opposed Sati.
- Ultimately, the British Governor-General of India, Lord William Bentinck, enacted the Bengal Sati Regulation in 1829, declaring the practice punishable by criminal courts.
- Other legislation followed, addressing related issues involving violence against Hindu women.

4. **Modern Context:**

- The Indian government promulgated the **Sati (Prevention) Act, 1987**, criminalizing the aiding or glorifying of Sati.
- Despite legal bans, isolated incidents of Sati were recorded in India in the late 20th century.
- Some temples continue to perform prayer ceremonies (pujas) to glorify the avatar of a mother goddess who immolated herself on a husband's funeral pyre.

Child Marriages

Answer: **Child marriage in India** refers to marriages where the woman are younger than **18 years of age** and man are younger than **21 years of age**. Unfortunately, child marriages remain prevalent in India, affecting many women, especially those from poor socio-economic backgrounds.

1. **Extent of Child Marriages:**

- Estimates vary, but it is believed that there are around **24 million child brides** in India.
- India accounts for **40%** of the **60 million child marriages** worldwide.
- The country has the **fourteenth-highest rate** of child marriage globally.

2. **Legal Framework:**

- Child marriage was outlawed in **1929** under Indian law.

- During British colonial times, the legal minimum age of marriage was set at **14 for girls and 18 for boys**.
- After India's independence in **1947**, revisions increased the minimum legal age for marriage to **15 for girls and 18 for females, and 21 for males**.

3. Challenges and Ongoing Debates:

- The child marriage prevention laws have faced challenges in Indian courts.
- Some Muslim Indian organizations argue for no minimum age, advocating that the matter be left to personal law.

4. Efforts to Delay Marriages:

- Several Indian states have introduced incentives to delay marriages:
 - For instance, **Haryana** implemented the **Apni Beti, Apna Dhan** program in **1994**. This program aims to delay young marriages by providing a government-paid bond of ₹25,000 (approximately **US\$310**) in the girl's name, payable to her parents after her **18th birthday** if she remains unmarried.

5. Progress and Challenges:

- Evidence shows that child marriage is less common today than in previous generations.
- India has made strong progress compared to other countries in South Asia.
- However, the fight against child marriage remains an active political subject and continues to be reviewed in India's highest courts.

CEDAW

Answer: The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** is a significant international legal instrument. Adopted by the United Nations General Assembly on **December 18, 1979**, it entered into force as an international treaty on **September 3, 1981**, after the twentieth country ratified it.

Here are key points about CEDAW:

1. Purpose and Importance:

- CEDAW is often described as the **“international bill of rights for women.”**

- Its primary goal is to **eliminate discrimination against women** in all areas and promote their equal rights.
- The Convention recognizes that extensive discrimination against women still exists and emphasizes that such discrimination violates the principles of equality and human dignity.

2. Rooted in Human Rights Principles:

- The spirit of CEDAW aligns with the United Nations' goals:
 - Reaffirming faith in fundamental human rights.
 - Recognizing the dignity and worth of every human person.
 - Ensuring equal rights for men and women.
- CEDAW spells out the meaning of equality and outlines how it can be achieved.
- It establishes both an **international bill of rights for women** and an agenda for action by countries to guarantee women's rights.

3. Key Provisions:

- The Convention defines discrimination as “any distinction, exclusion, or restriction based on sex” in various fields (political, economic, social, cultural, civil, etc.).
- States parties are required to take **appropriate measures**, including legislation, to ensure the full development and advancement of women, guaranteeing their human rights and fundamental freedoms on an equal basis with men.
- CEDAW covers three dimensions of the situation of women: civil rights, legal status, and more.

Gender Justice

Answer: **Gender justice** refers to the fair and equitable treatment of individuals of all genders in social, economic, political, and legal contexts. It aims to achieve equal rights and opportunities for everyone, regardless of their gender identity or expression. Here are some key aspects of gender justice:

1. Equality and Rights:

- Gender justice emphasizes **gender equality**, ensuring that individuals of all genders have equal access to education, employment, healthcare, and participation in decision-making processes.

- It opposes discrimination based on gender, including discrimination against women, men, transgender individuals, and gender non-conforming people.

2. Access to Justice:

- A fundamental aspect of gender justice is ensuring that individuals have **access to legal remedies** and protection against gender-based discrimination and violence.
- Efforts include strengthening the legal framework, providing support services, and raising awareness about legal rights.

3. Empowerment and Rights:

- Gender justice promotes the **empowerment of individuals**, especially women and marginalized genders.
- It involves challenging harmful stereotypes and biases through education, awareness campaigns, and economic empowerment initiatives.
- Ensuring access to healthcare, including sexual and reproductive health services, is also critical for achieving gender justice.

Domestic violence

Answer: Domestic violence in India encompasses various forms of violence experienced by individuals from their biological relatives. However, it predominantly affects women, often perpetrated by male family members or relatives. Let's delve into the details:

1. Prevalence:

- According to a **National Family and Health Survey (NFHS)** conducted in **2005**, the lifetime prevalence of domestic violence among women aged 15–49 was **33.5%**, with **8.5%** reporting sexual violence.
- A **2014 study** in **The Lancet** revealed that although India's reported sexual violence rate is relatively low, the sheer population size means that approximately **27.5 million women** experience violence over their lifetimes.
- Alarmingly, an opinion survey by the **Thomson Reuters Foundation** ranked India as the **most dangerous country** globally for women.

2. Forms of Abuse:

- **Physical Violence:** The most common form of abuse, affecting nearly **27.5%** of women.

- **Sexual Abuse:** Reported by approximately **13%** of women.
- **Emotional Abuse:** Experienced by nearly **7%** of women.

3. Legal Framework:

- The **Protection of Women from Domestic Violence Act, 2005** defines domestic violence and provides legal protection for women.

4. Challenges and Impact:

- Despite strict laws, **internalized patriarchy**, misogyny, and violence continue to impact the daily lives of Indian women.
- Efforts to combat domestic violence involve raising awareness, enforcing legal provisions, and promoting gender equality.

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Dowry

Answer: The **dowry system in India** refers to the durable goods, cash, and real or movable property that the bride's family gives to the groom, his parents, and his relatives as a condition of marriage. Here are some key points about dowry:

1. Historical Context:

- The practice of dowry has deep historical roots in India.
- It was often seen as a way to provide financial security for the bride in her new household.
- However, over time, it transformed into a system of demands and expectations from the groom's family.

2. Current Scenario:

- The dowry system can put significant financial burden on the bride's family.
- In some cases, it leads to crimes against women, ranging from emotional abuse to physical harm and even death.

3. Legal Provisions:

- The **Dowry Prohibition Act, 1961** prohibits the giving or taking of dowry.
- The Act defines dowry as any property or valuable security given directly or indirectly as consideration for marriage.
- It does not include dower or mahr (a Muslim practice) in cases where Muslim Personal law applies.

4. Challenges and Criticisms:

- Despite legal measures, dowry-related crimes continue to occur.
- Section **498A of the Indian Penal Code** required automatic arrest of the groom's family if a wife complained of dowry harassment. However, this law was widely abused, leading to changes in its enforcement.

Fraudulent Marriages

Answer: **Fraudulent marriages** involving NRIs (Non-Resident Indians) marrying Indian citizens have become a concerning trend. To address this issue, the **Law Commission** has proposed strict rules to prevent fraud and protect Indian spouses, especially women¹. Here are the key recommendations:

1. Compulsory Registration:

- The Law Commission recommends that **all marriages between NRIs/OCIs (Overseas Citizens of India)** and Indian citizens should be **compulsorily registered in India**.
- This registration aims to curb practices like false assurances, misrepresentation, and abandonment.

2. Applicability:

- The proposed law should apply not only to NRIs but also to **OCI card holders**.
- OCI (Overseas Citizen of India) card holders are foreign nationals with Indian roots who have certain privileges in India.

3. Provisions:

- The new law should include provisions related to:
 - **Divorce:** Guidelines for divorce proceedings.
 - **Maintenance of Spouse:** Ensuring financial support.
 - **Custody and Maintenance of Children:** Addressing child-related matters.
 - **Serving of Summons and Warrants:** Ensuring legal communication with NRIs and OCIs.

4. Amendments to Passports Act:

- Amendments are recommended in the **Passports Act, 1967:**
 - **Declaration of Marital Status:** Mandating the declaration of marital status.
 - **Linking Spouses' Passports:** Linking the passports of both spouses.
 - **Mentioning Marriage Registration Number:** Including the marriage registration number on both spouses' passports.

5. Domestic Courts' Jurisdiction:

- Domestic courts should have the jurisdiction to address and resolve issues arising from such marriages.
- This ensures fair and just resolution within the country's legal framework, safeguarding the rights and interests of all parties involved.

Voidable Marriage

Answer: voidable marriages in India. Under the Hindu Marriage Act, 1955, voidable marriages are distinct from void marriages. Here's what you need to know:

1. Void Marriages (Section 11):

- A marriage is considered **void** if it is invalid from the very beginning due to specific reasons.
- Grounds for void marriages include:
 - **Prohibited Relationships:** Parties within certain degrees of blood relation (sapindas) cannot marry each other.
 - **Bigamy:** If either party has a living spouse at the time of marriage.

- **Mental Incapacity:** If either party is incapable of giving valid consent due to unsoundness of mind or mental disorder.
- **Age:** If the bridegroom is below 21 years or the bride is below 18 years.
- A void marriage is treated as if it never existed legally.

2. Voidable Marriages (Section 12):

- A **voidable marriage** is initially valid but can be annulled under specific circumstances.
- Grounds for voidable marriages include:
 - **Non-Consummation:** If the marriage has not been consummated due to impotence or other reasons.
 - **Consent Obtained by Fraud or Force:** If consent was obtained through coercion, fraud, or misrepresentation.
 - **Mental Disorder:** If either party suffers from a mental disorder that renders them unfit for marriage.
 - **Pregnancy by Another Person:** If the bride was pregnant by someone else at the time of marriage.
- Unlike void marriages, voidable marriages remain valid until annulled by a court decree.

Divorce by Mutual consent

Answer: Divorce by mutual consent in India is a legal process through which a married couple can end their marriage by **mutual agreement**. Here are the key points regarding this procedure:

1. Eligibility Criteria:

- Both spouses must have **lived separately** for a minimum of **one year**.
- Both spouses must file a **joint petition for divorce** in the district court.
- Both spouses must **agree on the terms** of the divorce, including property division, alimony, and custody of children.

2. Procedure:

- The process involves the following steps:
 1. **Consult an Expert Lawyer:** Seek legal advice and guidance.

2. **Prepare Documents:** Gather necessary documents, including marriage certificates, address proofs, photographs, income tax statements, and details of profession and income.
3. **File Joint Petition:** Submit a joint petition for divorce in the appropriate district court.
4. **Court Proceedings:** Attend court hearings as required.
5. **Settlement of Terms:** Agree on child custody, alimony, and property division.
6. **Decree of Divorce:** Once satisfied, the court grants a decree of divorce.

3. Applicable Laws:

- The concept of divorce by mutual consent is governed by the **Hindu Marriage Act of 1955** or the **Special Marriage Act of 1954**, depending on the religion under which the marriage was solemnized.

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Bigamy

Answer: Bigamy refers to the act of marrying another person while still legally married to someone else. Let's explore how it is treated in Hindu and Muslim laws:

1. Hindu Law:

- Under the **Hindu Marriage Act, 1955**, bigamy is **strictly prohibited**.
- **Section 5** of the Act lays down the conditions necessary for a valid marriage. One of these conditions is that both partners getting married should not have a living spouse.

- However, there is an exception provided by **Section 494 of the Indian Penal Code (IPC)**. It states that either partner can contract a second marriage after the long absence of their spouse for a period of **seven years**.
- The offense of bigamy is non-cognizable and bailable.
- Any person deceived by their partner can file a complaint against the bigamist.

2. Muslim Law:

- In Muslim personal law, **polygamy** is allowed for men, but it is subject to certain conditions.
- A Muslim man can have up to **four wives** simultaneously, provided he treats them equally and fairly.
- However, converting to Islam solely to practice bigamy is not permissible under Indian law. The Supreme Court ruled that a Hindu husband cannot marry a second time by embracing Islam without lawfully dissolving the first marriage. Such an act would be considered bigamy.

Article 23

Answer: Article 23 of the Indian Constitution addresses the prohibition of **trafficking in human beings** and **forced labour**.

1. Prohibition of Trafficking and Forced Labor:

- **Traffic in human beings** and **beggar** and other similar forms of **forced labor** are **prohibited**.
- Any contravention of this provision shall be an **offense punishable in accordance with law**.

2. Exceptions:

- **Compulsory Service for Public Purpose:** Nothing in this article shall prevent the State from imposing **compulsory service for public purpose**.
- In imposing such service, the State shall **not make any discrimination** on grounds only of **religion, race, caste, or class** or any of them.

3. Objective and Significance:

- Article 23 emphasizes the importance of **protecting individual freedom and dignity**.

- It ensures that no person can be compelled to work against their will or under exploitative conditions.
- The prohibition on forced labor does not apply to work required as part of a compulsory service for public purposes, such as military service or in cases of emergency or calamity threatening the life or well-being of the community.

4. Legal Framework and Enforcement:

- To address issues related to trafficking, forced labour, and other forms of exploitation, the Indian government has enacted specific laws such as the **Immoral Traffic (Prevention) Act** and the **Bonded Labor System (Abolition) Act**.
- These legal frameworks provide mechanisms for preventing and combating such offenses, ensuring the protection of individual rights and dignity.

Women's Right to Property

Answer: property rights of women in India, focusing on the legal provisions and changes that have evolved over time:

1. Property Rights of Women under Hindu Law:

- The **Hindu Succession Act, 1956** and the **Hindu Women's Right to Property Act, 1937** govern Hindu women's property rights in India.
- The **Hindu Women's Right to Property Act, 1937** primarily dealt with the property rights of Hindu widows, allowing them to receive an equal share in their intestate husband's property as their sons.
- However, it did not address the broader property rights of women or grant them coparcenary rights.
- The **Hindu Succession (Amendment) Act, 2005** brought significant changes by eradicating gender inequality.
- Key provisions under the **2005 Amendment**:
 - **Coparcenary Interest:** Before the amendment, only male lineal descendants (sons, grandsons, and great-grandsons) were coparceners and entitled to inherit coparcenary property. Women had no interest in such property.

- The amendment amended **Section 6** of the **Hindu Succession Act of 1956**, allowing daughters to become coparceners by birth. Now, daughters have equal rights in coparcenary property.
- This amendment was a breakthrough in addressing gender disparities in property rights.

Restitution of conjugal Rights

Answer: **Restitution of conjugal rights** is a legal remedy available to married individuals when their spouse unjustifiably withdraws from the matrimonial home. Let's explore this concept further:

1. Meaning of Restitution of Conjugal Rights:

- The restitution of conjugal rights aims to **re-establish the marital relationship** between husband and wife.
- The prime objective of marriage is that parties will consummate it and enjoy each other's society and comfort.
- When one spouse withdraws from the other's company without any reasonable excuse, the aggrieved party can seek restitution of conjugal rights.

2. Availability of Restitution of Conjugal Rights:

- In India, the remedy of restitution is available under specific laws:
 - **Hindus:** Section 9 of the **Hindu Marriage Act, 1955**.
 - **Muslims:** Under the general law.
 - **Christians:** Sections 32 and 33 of the **Indian Divorce Act, 1869**.
 - **Parsis:** Section 36 of the **Parsi Marriage and Divorce Act, 1936**.
 - **Persons married under the Special Marriage Act:** Section 22 of the **Special Marriage Act, 1954**.

3. Section 9 of the Hindu Marriage Act, 1955:

- This section specifically deals with the restitution of conjugal rights.
- It states:

- When either the husband or the wife, without any reasonable excuse, withdraws from the society of the other,
- The aggrieved party may apply by petition to the district court for restitution of conjugal rights.
- If the court is satisfied with the truth of the statement made in the petition and finds no legal ground to reject it,
- The court may issue a decree of restitution of conjugal rights accordingly.

4. Essential Elements of Restitution of Conjugal Rights:

- Withdrawal from the society of the other spouse.
- Lack of reasonable excuse for such withdrawal.
- Filing a petition in the district court seeking restitution.

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Rape

Answer: Rape is one of the most heinous crimes a person can commit. It involves sexual intercourse with a person without their consent or against their will. Let's delve into the legal aspects of rape in India:

1. Definition of Rape:

- **Indian Penal Code (IPC)** defines rape under **Section 375**.
- According to this section, rape occurs when a man has sexual intercourse with a woman under the following circumstances:
 - Against her will.

- Without her express consent.
 - By obtaining her consent through force, threats, or coercion.
 - By making her believe that he is lawfully married to her.
 - By obtaining her consent during her unsoundness of mind, intoxication, or other conditions affecting her decision-making ability.
 - With or without her consent if she is under 16 years old (14 years old in Manipur).
- The mere act of penetration is sufficient to constitute sexual intercourse, which can be treated as rape.

2. Judicial Interpretations:

- In the case of **Sakshi v. UOI**, the Supreme Court clarified that only heterosexual intercourse (penial and vaginal penetration) falls within the purview of Section 375 of the IPC.
- The court emphasized that while all forms of sexual abuse are horrific, not every sexual offense can be considered rape. Hence, penetration is necessary to constitute the offense of rape.

3. Expanded Definition:

- The **Criminal Law (Amendment) Act, 2013** expanded the definition of rape to include:
 - Oral sex.
 - Insertion of an object or any other body part into a woman's vagina, urethra, or anus.
 - The amendment aimed to address various forms of sexual abuse and ensure justice for victims.

4. Gender-Specific Laws:

- Under Indian law, women cannot be charged with rape. At most, they can be booked for sexual assault or forced unnatural sex under **Section 377**.
- Similarly, men cannot be legally raped, and women cannot be charged with rape.

Muta Marriage

Answer: Muta marriage, also known as **nikah mut'ah**, is a concept recognized by the Twelver Shia sect of Islam. Let's explore it in more detail:

1. Definition:

- Muta marriage refers to a **temporary marriage** between two consenting adults.
- It involves a contract where a man and a woman agree to live as husband and wife for a **fixed period of time**.
- In exchange for this temporary union, the man pays a specified amount of money (called **mahr** or dower) to the woman.

2. Historical Context:

- Muta marriage has its roots in early Islamic history.
- It was practiced during the time of the Prophet Muhammad and the early Muslim community.
- However, its acceptance and legality have been a subject of debate among different Islamic schools of thought.

3. Shia Perspective:

- Twelver Shia Muslims consider muta marriage permissible.
- They believe that it provides a legitimate way for individuals to fulfill their physical and emotional needs without violating religious principles.
- According to Shia jurisprudence, muta marriage can be contracted for a specific period, such as a few days, weeks, or months.

4. Sunni Perspective:

- The majority of Sunni scholars reject muta marriage.
- They argue that it was initially allowed during specific circumstances but was later abrogated and declared haram (forbidden) until the Day of Judgment.
- Sunni Muslims follow the traditional view that marriage should be permanent and not based on a fixed duration.

5. Legal Implications:

- Muta marriage does not grant the same rights and status as a permanent marriage (nikah).
- Children born from muta marriages may face legal and social complexities regarding inheritance and legitimacy.

- Sunni scholars emphasize the importance of stable, lifelong marriages for the well-being of families and society.

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PART-B

Long Answers

What are the powers and functions of National Commission for Women./What is the role played by National Commission for women in safeguarding the security of the women in the Society.

Answer: The National Commission for Women (NCW) is a statutory body established under the National Commission for Women Act, 1990. It is entrusted with the responsibility to safeguard and promote the rights and interests of women in India. The NCW works towards ensuring gender equality and combating discrimination and violence against women. Here are the powers and functions of the National Commission for Women:

- 1. Investigation and Inquiry:** The NCW has the power to investigate and inquire into specific complaints or matters related to the deprivation of women's rights or instances of discrimination and violence against women. It can summon witnesses, examine evidence, and conduct hearings as part of its inquiry process.
- 2. Recommendations and Remedial Measures:** Based on its investigations and inquiries, the NCW can make recommendations to the government or concerned authorities for the effective implementation of laws, policies, and programs aimed at promoting gender equality and protecting women's rights. It may suggest remedial measures to address systemic issues or gaps in legislation or implementation.
- 3. Legal Advocacy and Awareness:** The NCW engages in legal advocacy and public awareness campaigns to educate the public about women's rights, laws related to women, and avenues for seeking redressal in cases of discrimination or violence against women. It promotes gender sensitivity and awareness among various stakeholders, including government agencies, law enforcement authorities, and civil society organizations.
- 4. Research and Studies:** The NCW conducts research and studies on issues affecting women, including socio-economic disparities, gender-based violence, health, education, employment, and representation in decision-making bodies. It generates data and analysis to inform policy formulation and advocacy efforts aimed at addressing women's concerns effectively.
- 5. Monitoring and Evaluation:** The NCW monitors the implementation of laws, policies, and programs related to women's welfare and empowerment. It evaluates the effectiveness of interventions and initiatives aimed at improving the status of women and recommends measures for enhancing their impact and reach.

6. **Legal Interventions and Support:** The NCW provides legal assistance and support to women who are victims of discrimination or violence. It may intervene in legal proceedings on behalf of aggrieved women or facilitate access to legal aid and counseling services to ensure justice and redressal for victims.
7. **Advisory Role:** The NCW advises the government on matters relating to women's rights and welfare, including legislative reforms, policy initiatives, and international commitments. It serves as a consultative body for the formulation of gender-sensitive policies and programs across various sectors.

Conclusion: the National Commission for Women plays a crucial role in advocating for gender equality, protecting women's rights, and promoting their empowerment in India. It serves as a vital mechanism for addressing issues of gender discrimination and violence and advancing the cause of women's rights and gender justice.

Discuss the law relating to harassment of women at work place with the help of decided cases.

Answer: The law relating to the harassment of women at the workplace in India is primarily governed by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the guidelines laid down by the Supreme Court of India in the landmark case of Vishaka and Others v. State of Rajasthan and Others (1997).

The Vishaka judgment laid down the following guidelines to address sexual harassment at the workplace until specific legislation was enacted:

1. **Definition of Sexual Harassment:** Sexual harassment includes unwelcome sexually determined behavior, such as physical contact, advances, sexually colored remarks, showing pornography, or any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.
2. **Employer's Responsibility:** Employers or persons in charge of workplaces are required to take appropriate steps to prevent sexual harassment. This includes developing and implementing a sexual harassment policy, organizing awareness programs, and establishing an Internal Complaints Committee (ICC) at the workplace.
3. **Internal Complaints Committee (ICC):** Employers are required to set up an ICC at each office or branch with ten or more employees to receive and address complaints of sexual harassment. The committee must be headed by a woman and have at least one external member from an NGO or a women's organization.

4. **Redressal Mechanism:** The Vishaka guidelines emphasized the need for a fair and transparent redressal mechanism for complaints of sexual harassment. The ICC is responsible for conducting inquiries into complaints, providing a fair opportunity to both the complainant and the respondent, and recommending appropriate action.
5. **Protection against Retaliation:** The guidelines prohibit retaliation or adverse action against complainants or witnesses. Employers are required to ensure that complainants are not victimized or subjected to any adverse consequences for filing a complaint.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, further codified and expanded upon the Vishaka guidelines. It mandates every employer to provide a safe working environment free from sexual harassment, and failure to comply with the provisions of the Act can lead to penalties.

Several cases have been decided by Indian courts under the POSH Act, providing clarity on its interpretation and implementation. For instance:

1. In the case of **Vishakha and Others v. State of Rajasthan and Others (1997)**, the Supreme Court laid down the Vishaka guidelines, which served as the foundation for the enactment of the POSH Act.
2. In **Pramod Kumar Srivastava v. State of Jharkhand and Others (2015)**, the Jharkhand High Court upheld the constitutional validity of the POSH Act and emphasized the importance of its effective implementation to combat sexual harassment at the workplace.
3. In **Saurabh Kumar v. Director General, Central Industrial Security Force (2017)**, the Delhi High Court held that the POSH Act applies to all workplaces, including those in the public sector, and directed the employer to constitute ICCs in compliance with the Act.

These cases illustrate the legal framework and judicial interpretations surrounding the harassment of women at the workplace in India, emphasizing the importance of preventive measures, robust redressal mechanisms, and accountability to ensure a safe and conducive working environment for all employees.

Discuss the law relating to female foeticide in India /State the law relating to pre-natal diagnostic test in India.

Answer: Female foeticide, the selective abortion of female fetuses due to preference for male offspring, is a serious social issue in India with significant implications for gender equality, women's rights, and the demographic balance. To address this problem, India has enacted various laws and implemented policies

aimed at preventing female foeticide and promoting the welfare of girls. Here are the key laws and measures related to female foeticide in India:

1. **Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994:** The PCPNDT Act was enacted to regulate the use of pre-natal diagnostic techniques for the detection of sex of the fetus and to prevent their misuse for sex-selective abortions. The Act prohibits the determination of the sex of the fetus through prenatal diagnostic procedures except for specified medical purposes, such as detection of genetic abnormalities. It also regulates the establishments conducting such procedures and mandates registration and strict record-keeping to prevent sex determination.
2. **Amendment to the PCPNDT Act:** The PCPNDT Act has been amended several times to strengthen its provisions and enhance enforcement. Amendments have been made to increase penalties for violations, improve monitoring and inspection mechanisms, and expand the scope of prohibited activities to include sex selection even after conception.
3. **Penalties and Punishments:** The PCPNDT Act prescribes severe penalties for violations, including imprisonment and fines for those involved in sex determination, sex-selective abortions, and aiding or abetting such activities. The Act also provides for the suspension or cancellation of medical licenses and closure of diagnostic centers found guilty of contravening its provisions.
4. **Awareness and Advocacy Campaigns:** The government, along with non-governmental organizations and civil society groups, conducts awareness campaigns and advocacy initiatives to educate the public about the harmful consequences of female foeticide, promote gender equality, and empower girls. These campaigns aim to change societal attitudes and perceptions that favor sons over daughters.
5. **Women's Empowerment Programs:** Initiatives aimed at empowering women, improving their socio-economic status, and enhancing their access to education, healthcare, and employment opportunities play a crucial role in addressing the root causes of female foeticide. Programs promoting girls' education, skill development, and financial inclusion contribute to reducing gender disparities and fostering a culture of gender equality.

Despite these legal and policy measures, female foeticide continues to be practiced in certain parts of India, particularly in regions with strong patriarchal norms and preferences for male heirs. Effective enforcement of existing laws, combined with sustained efforts to address underlying socio-cultural factors and promote gender equality, is essential to combatting female foeticide and ensuring the equal value and dignity of all children, regardless of gender.

Evaluate the law relating the prevention of Immoral Trafficking in India.

Answer: The law relating to the prevention of Immoral Trafficking in India primarily revolves around the Immoral Traffic (Prevention) Act, 1956 (ITPA), which has been amended over the years to strengthen its provisions and address emerging challenges. Here's an evaluation of the key aspects of the law:

- 1. Criminalization and Penalties:** The ITPA criminalizes various forms of trafficking, including prostitution, procurement, and exploitation of persons for commercial sexual exploitation or any other immoral purpose. It prescribes stringent penalties for offenders, including imprisonment and fines. However, there have been criticisms that the penalties are not always commensurate with the gravity of the offense and that they may not act as a sufficient deterrent.
- 2. Prevention and Rehabilitation:** The law emphasizes prevention and rehabilitation measures for victims of trafficking. It provides for the establishment of protective homes and rehabilitation centers for rescued victims, where they can receive shelter, medical care, counseling, and vocational training. However, there have been concerns about the adequacy and effectiveness of these facilities, including issues related to funding, infrastructure, and quality of services provided.
- 3. Law Enforcement and Prosecution:** The ITPA empowers law enforcement agencies to investigate cases of trafficking, conduct raids on suspected brothels or establishments, and arrest offenders. However, there have been criticisms regarding the implementation of the law, including allegations of corruption, complicity, and lack of coordination among enforcement agencies. Strengthening law enforcement mechanisms, training personnel, and enhancing coordination between various stakeholders are necessary to improve the effectiveness of prosecution and conviction rates.
- 4. Victim Protection and Support:** The law recognizes the vulnerability of victims of trafficking and seeks to protect their rights and dignity. It provides for the appointment of special police officers and social workers to assist victims and ensure their well-being during investigations and legal proceedings. However, there is a need for comprehensive victim-centered approaches that prioritize the needs and rights of survivors, including access to justice, compensation, and long-term support for rehabilitation and reintegration into society.
- 5. Preventive Measures and Awareness:** The ITPA emphasizes preventive measures, including awareness campaigns, education programs, and community mobilization to combat trafficking and address the root causes of exploitation. Efforts to raise awareness about the risks of trafficking, promote gender equality, empower vulnerable populations, and strengthen social support systems are crucial for preventing trafficking and protecting potential victims.

Conclusion: Overall, while the Immoral Traffic (Prevention) Act, 1956, provides a legal framework for addressing trafficking in persons, there is a need for continuous evaluation and improvement to address gaps and challenges in its implementation. Strengthening victim protection, enhancing law enforcement capabilities, addressing root causes, and promoting a multi-sectoral approach involving government agencies, civil society organizations, and communities are essential for effectively combating trafficking in India.

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State the provisions relating to women in Fundamental Rights and Directive Principles of State Policy under Indian Constitution./ What are the rights and duties against the women under Indian Constitution.

Answer: The Indian Constitution enshrines Fundamental Rights and Directive Principles of State Policy to ensure justice, equality, and social welfare. While Fundamental Rights are justiciable and enforceable by courts, Directive Principles are guidelines for state policy and not enforceable in courts. Here are the provisions relating to women in both:

Fundamental Rights:

1. Right to Equality (Article 14-18):

- Article 14 ensures equality before the law and equal protection of laws for all citizens, irrespective of gender.
- Article 15 prohibits discrimination on the grounds of sex, among other factors. It enables the state to make special provisions for the advancement of women and children.
- Article 16 ensures equality of opportunity in matters of public employment and prohibits discrimination based on gender.

2. **Right against Exploitation (Article 23-24):**

- Article 23 prohibits trafficking in human beings and forced labor, which often affects women and children disproportionately.
- Article 24 prohibits the employment of children under the age of 14 in hazardous industries or factories, which indirectly benefits the welfare of girl children.

3. **Right to Freedom of Religion (Article 25-28):**

- While not explicitly mentioning women, these rights ensure the freedom of individuals to practice, profess, and propagate religion without discrimination, indirectly benefiting women's rights to religious freedom and autonomy.

Directive Principles of State Policy:

1. **Promotion of Gender Equality (Article 39(a), (d)):**

- Article 39(a) directs the State to ensure that men and women have equal rights to an adequate means of livelihood.
- Article 39(d) mandates that the State ensure equal pay for equal work for both men and women.

2. **Promotion of Maternal and Child Welfare (Article 42):**

- Article 42 directs the State to make provisions for securing just and humane conditions of work and maternity relief for women workers.

3. **Promotion of Social Justice and Welfare (Article 46):**

- Article 46 emphasizes the State's duty to promote the educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections, including women and children.

4. **Protection of Women and Children (Article 51A(e)):**

- Article 51A(e) imposes a fundamental duty on every citizen to renounce practices derogatory to the dignity of women.

While Fundamental Rights provide immediate protections and enforceability, Directive Principles guide the state in framing laws and policies to create a just and equitable society. Together, they form the constitutional framework for promoting gender equality and the welfare of women in India.

Explain the evolution of the institution of marriage and family from ancient to modern period.

Answer: The institution of marriage and family has evolved significantly over centuries, shaped by cultural, religious, social, economic, and legal factors. Here's an overview of its evolution from ancient to modern periods:

1. Ancient Period:

- In ancient civilizations such as Mesopotamia, Egypt, Greece, and Rome, marriage was often a socio-economic arrangement between families, aimed at forming alliances, consolidating wealth, and ensuring the continuation of lineage.
- Polygamy, where a man could have multiple wives, was prevalent in many ancient societies, particularly among the elite and ruling classes.
- Marriage was often patriarchal, with women considered as property and subjected to male authority. Women's roles were primarily domestic, focused on child-rearing and household management.

2. Medieval Period:

- During the medieval period, marriage remained largely a social and economic institution, with considerations of property, inheritance, and social status playing significant roles.
- The Christian Church exerted considerable influence on marriage, emphasizing its sacramental nature and promoting monogamy as the ideal form of marriage.
- Arranged marriages, where families negotiated alliances and dowries, were common, particularly among the nobility and aristocracy.

3. Early Modern Period:

- The early modern period saw the emergence of new ideas about marriage, influenced by the Renaissance, Reformation, and Enlightenment movements.
- The Protestant Reformation challenged the authority of the Catholic Church over marriage, leading to debates about divorce, remarriage, and the role of the state in regulating marriage.
- Enlightenment thinkers advocated for the principles of individual liberty, autonomy, and equality, which gradually influenced ideas about marriage and family relations.

4. Industrial Revolution and Modern Period:

- The Industrial Revolution brought significant changes to the institution of marriage and family. Urbanization, industrialization, and economic transformations led to changes in family structure, roles, and dynamics.
- The rise of capitalism and wage labor shifted the economic basis of marriage, as individuals became more economically independent and less reliant on family ties for survival.
- The 19th and 20th centuries saw the gradual erosion of traditional patriarchal norms and the emergence of new models of marriage and family, including companionate marriage based on mutual love, respect, and companionship.
- Legal reforms, such as the recognition of women's rights, the abolition of coverture laws, and the legalization of divorce, contributed to greater autonomy and equality within marriages.

Conclusion: the evolution of the institution of marriage and family reflects broader social, cultural, economic, and legal changes over time. While traditional norms and practices have persisted in some societies, modern notions of marriage emphasize individual choice, consent, equality, and partnership between spouses.

Write the salient features of the Convention for Elimination Discrimination against women.

Answer: The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international treaty adopted by the United Nations General Assembly in 1979. CEDAW is often referred to as an international bill of rights for women, and it outlines the rights of women and sets forth obligations for governments to eliminate discrimination against women in all areas of life. Here are the salient features of CEDAW:

1. **Comprehensive Definition of Discrimination:** CEDAW defines discrimination against women as any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise of women's human rights and fundamental freedoms.
2. **Equal Rights in Civil, Political, Economic, Social, and Cultural Spheres:** CEDAW asserts that women should enjoy equal rights with men in all aspects of life, including civil, political, economic, social, and cultural spheres. It calls for the elimination of all forms of discrimination against women, both direct and indirect.

3. **State Obligations:** CEDAW imposes obligations on State parties to take all appropriate measures to eliminate discrimination against women, including adopting legislative and policy measures, modifying or abolishing existing laws, policies, and practices, and providing effective remedies and redress for victims of discrimination.
4. **Affirmative Action and Temporary Special Measures:** CEDAW recognizes the importance of affirmative action and temporary special measures to accelerate de facto equality between men and women. It allows for the adoption of measures to ensure women's full and equal participation in all areas of public and private life.
5. **Elimination of Stereotypes and Prejudices:** CEDAW emphasizes the need to eliminate stereotypes, prejudices, and harmful practices that perpetuate discrimination against women and reinforce traditional gender roles and expectations.
6. **Prohibition of Violence Against Women:** CEDAW recognizes violence against women as a form of discrimination and calls for measures to prevent and eliminate all forms of violence against women, including domestic violence, sexual violence, trafficking, and harmful practices such as female genital mutilation and child marriage.
7. **Reporting Mechanism:** CEDAW establishes a reporting mechanism whereby State parties are required to submit periodic reports to the Committee on the Elimination of Discrimination Against Women, outlining the steps taken to implement the provisions of the Convention. The Committee reviews these reports and provides recommendations and guidance to States parties.
8. **Optional Protocol:** CEDAW has an Optional Protocol that allows individuals or groups to submit complaints (communications) to the Committee on violations of their rights under the Convention after exhausting domestic remedies.

CEDAW has been ratified by the majority of countries worldwide, making it one of the most widely accepted human rights treaties. It serves as a critical tool for promoting gender equality, empowering women, and holding governments accountable for their commitments to eliminate discrimination against women.

Discuss the various grounds for divorce under the Hindu Marriage Act, 1955.

Answer: The **Hindu Marriage Act, 1955** provides several grounds on which parties to a marriage can seek divorce. Let's explore these grounds along with the relevant sections of the Act:

1. **Adultery (Section 13(1)(i)):**

- Adultery refers to a spouse engaging in sexual relations with someone other than their spouse.
- If a husband or wife commits adultery, the other party can seek divorce based on this ground.
- The innocent party must prove the act of adultery.

2. Cruelty (Section 13(1)(ia)):

- Cruelty includes both physical and mental cruelty.
- If one spouse treats the other with cruelty, making it impossible to continue the marriage, the aggrieved party can seek divorce.
- Mental cruelty can include verbal abuse, humiliation, or constant harassment.

3. Desertion (Section 13(1)(ib)):

- Desertion occurs when one spouse abandons the other without reasonable cause.
- The deserted party can seek divorce if the other spouse has left without consent and without any intention of returning.

4. Conversion to Another Religion (Section 13(1)(ii)):

- If either spouse converts to another religion, the other party can seek divorce.
- Conversion is considered a valid ground for divorce under the Hindu Marriage Act.

5. Unsoundness of Mind (Section 13(1)(iii)):

- If a spouse suffers from a mental disorder that makes it impossible to continue the marriage, the other party can seek divorce.
- The mental disorder must be incurable or of such a nature that cohabitation becomes intolerable.

6. Leprosy (Section 13(1)(iv)):

- If a spouse suffers from leprosy in an incurable form, the other party can seek divorce.
- Leprosy is a valid ground for divorce under the Act.

7. Venereal Disease (Section 13(1)(v)):

- If a spouse suffers from a venereal disease in a communicable form, the other party can seek divorce.

- The disease must be incurable and pose a risk to the other spouse.

8. Renunciation (Section 13(1)(vi)):

- If a spouse renounces the world by becoming a sanyasi (ascetic), the other party can seek divorce.
- The renunciation must be genuine and voluntary.

9. Presumption of Death (Section 13(1)(vii)):

- If a spouse has not been heard of as being alive for seven years or more, the other party can seek divorce.
- The law presumes the missing spouse to be dead after such a period.

10. Concept of Divorce with Mutual Consent (Section 13B):

- Although not explicitly mentioned in the grounds, the Act allows for divorce by mutual consent.
- Both parties can jointly seek divorce if they have lived separately for at least one year and mutually agree to end the marriage.

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PART-C

Problems

1. 'Z' child of 9 years holding a small stick. threatens to murder A 'A kills Z. Can 'A' seek any defence of right of private defence.
2. A doctor conducted ultrasound scanning on a pregnant women and revealed the gender of the unborn child as a female on the request of her husband. Decide.
3. A working women has been harassed by her male colleague by sending indecent e-mails to her. Advise her.
4. Two boys under the ages of 12 years and 9 years broke open the lock of a shop and stolen some articles. Discuss the liability of the boys.
5. A is an employee of Government of India and drawing more than 1 lakh Rupees per month M, the mother of A had 5 acres of land and getting Rs 60,000 per annum is lease amount. Even then she wants to get alimony and maintenance from her son, Can she succeed. Decide.
6. An-over-possessive wife mixed a powder substance in the food eaten by her husband because she was advised by her friend that the powder enhances her husband's love towards his wife. The husband suffered seriously due to food poisoning. Later he sought divorce from his wife on the ground of cruelty. Decide
7. An Ultrasound scanning center conducted a test on a pregnant woman and determined the foetus as a female Thereby she was aborted in a local nursing home by the persuasion of her husband and in-laws. Decide
8. Sreeja working in a Private Software Company has been harassed by her male colleagues by sending indecent messages through WhatsApp and other social media groups: Advise her.
9. Krishna is working in a factory and returns late at night to the home in a drunken condition and creating nuisance to his wife Radha. Radha wants to get divorce Advice.
10. A, a Hindu aged 18 years old married B, a Hindu girl aged 15 years old under the direction of their parents. Is the marriage under the Hindu Marriage Act, 1955 is valid? Decide.
11. Renu working in a private company was very much worried and frightened to attend her duties because of his male colleague Bhaskar, who used to send Indecent and vulgar message to her mobile phone. Can Renu get any kind of relief from him. Discuss.

12. A married woman died at her in laws house under the suspicious conditions. The neighbours gave this information to the police. Decide

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