

LAW AND PREVENTION OF UNFAIR PRACTICES IN FAMILY RELATIONS

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Syllabus

Module-I: Consideration for Marriage: Dowry an Evil Practice - Agreement for Giving and Taking Dowry - Dowry Prohibition Act, 1961 - Use and Misuse of Dower under Islamic Law - Relevant changes in Indian Penal Code and Evidence Act

Module-II: Offences against Marriage: Bigamy - Matrimonial Rape - Dowry Death - Matrimonial Cruelty - Recent Developments

Module-III: Family Violence: Violence between Spouses - Woman as a Victim of Domestic Violence - Physical, Psychological and Sexual Harassment - The Protection of Women from Domestic Violence Act, 2005 - Cruelty - Battery – Forced Prostitution - Kidnapping of Own Child - Forced Abortion - Unwanted Pregnancy - Female Infanticide - Sex Determination Tests

Marriage & Family

- **Family** denotes a group of people affiliated by a consanguinity, affinity or co-residence - wherein the adults care for the young
- Family - social, economic & legal institution
- Survived onslaught of civilization, modernization and globalization
- **Marriage** – interpersonal relationship with governmental, social and religious recognition
- Unites man and woman intimately, sexually and contractually
- Leads to formation of family unit, legitimises sexual relations and procreation, legal, social and economic stability
- At present- both the institutions continue in spite of certain threats

Unfair Practices in Family Relations

- Child marriages
- Dowry system-Dowry deaths and harassment
- Commission and glorification of Sati
- Offences against marriage
- Kidnapping own child
- Forced abortion
- Unwanted pregnancy
- Sex determination tests-Female foeticide; and
- Domestic violence etc

Marriageable age and child marriages

- Practice of child marriages in past
- Concept of 'attainment of puberty'
- **Child marriages** - diminished in developed countries but Prevalent mostly in third world countries
- Continuing social evil - widespread in India

Causes of child marriages

- Poverty and indebtedness of family
- Culture and tradition
- Belief that girl is *parki thepan* (somebody's property)-205th report of LCI,2008
- Belief that child marriage is protection for girls against unwanted masculine attention & Safety of the girl child from sexual violence
- Strengthening economic and social ties between different families/communities
- Lack of education and knowledge
- justification used by parents and the community is that of having to pay lower dowry when the bride and the groom are young.

Consequences of Child Marriages

- Risk of sexual and reproductive ill health
- Complications and mortality during child birth for young pregnant girls
- Risk of infection with STDs including HIV
- Greater exposure to domestic violence including sexual violence
- Discontinuation of education
- Loss of adolescence

Child marriage and law in India

- The Child Marriage Restraint Act, 1929 [Sarda Act]- since repealed
- Marriageable age under Muslim law- *Bulugyeth* & the Dissolution of Muslim Marriages Act, 1939
- Under Christian law
- Under Parsi law
- Under the Special Marriage Act

Position under The Child Marriage Restraint Act, 1929

- Only restraint and no prohibition
- Child - initially < 18 & 15 years in case of males and females - after 1978 < 21 & 18 years
- Child marriage - not void
- Penalties - simple imprisonment for 15 days / 3 months, fine up to Rs. 1000 or both etc
- Offences - not cognizable except for investigation/arrest (Sec. 7)
- Provision for grant of injunction to restrain child marriage (Sec. 12)

Important Provisions of the 1929 Act

- Sec.3. Punishment for male adult below twenty-one years of age marrying a child. — simple imprisonment up to fifteen days, or with fine up to one thousand rupees, or with both.
- Sec.4. Punishment for male adult above twenty-one years of age marrying a child. — simple imprisonment up to three months and also fine.
- Sec.5. Punishment for solemnizing a child marriage. — simple imprisonment up to three months and shall also be liable to fine, **unless** he proves that he had reason to believe that the marriage was not a child marriage.
- Sec.6. Punishment for parent or guardian concerned in a child marriage. — simple imprisonment up to three months and also fine.
Provided that no woman shall be punishable with imprisonment
- Sec.9. Mode of taking cognizance of offences. — No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.

Child marriage and law in India-

Present Position

- The Prohibition of Child Marriage Act, 2006 (PCMA)
- **Makes child marriages voidable at option of contacting party, who was a child at marriage** - within 2 years of child attaining majority
- Allows for maintenance and residence for girl till she gets remarried
- Enhances punishment for males > 18 years up to 2 years imprisonment & fine up to 1 lakh rupees etc
- **Allows injunctions to prohibit child marriages**
- **Loop Holes:** child marriage still valid, except when there is compulsion/trafficking/violation of court injunction, **Govt. officials unaccountable**, registration of marriage not addressed in spite of certain State laws on compulsory registration of marriages

Salient Features of the PCMA, 2006

- **Application:** to all citizens of India irrespective of religion, without and beyond India [It however, does not apply to the State of Jammu and Kashmir. It excludes the Renoncants of the Union Territory of Pondicherry from its application. For them the French Civil Laws are applicable as they are treated as citizens of France.]
- Provisions of the law can be classified into three broad categories:
 - **A. Prevention**
 - **B. Protection**
 - **C. Prosecution of Offenders**

A. Prevention

- Solemnisation of child marriages is a cognizable and non-bailable offence [Sec.15].
- Child Marriage Prohibition Officers (CMPOs) are to be appointed in every state to prevent child marriages, ensure protection of the victims as well as prosecution of the offenders [Sec.16].
- Courts have the power to issue injunction for prohibiting child marriages from taking place[Sec.13]
- Child marriages will be declared null and void if the injunction prohibiting a child marriage from taking place is violated/contravened or, if the child is taken away from their lawful guardian by enticement, force or use of deceitful means or, is sold or trafficked for the purpose of marriage [Sec 12 &14]
- Penal provisions for those who solemnize child marriages[Sec.10].
- CMPO and District Collector are responsible for sensitization and awareness creation in the community[Sec.13 (4) and 16 (3) (d)]

B. Protection

- The law makes child marriages voidable by giving choice to the children in the marriage to seek annulment of marriage [Section 3(2) and 3(3)]
- **It provides for maintenance and residence of the female contracting party** [Section 4]
- It gives a legal status to all children born from child marriages and makes provisions for their custody and maintenance [Sections 5 and 6]
- The law provides for all support and aid including medical aid, legal aid, counselling and rehabilitation support to children once they are rescued [Section 16 (3) (g)]
- The Child Marriage Prohibition Officer has been empowered:
 - to provide necessary aid to victims of child marriage [Section 16 (3) (g)]
 - to provide legal aid [Section 16 (3) (g)]
 - to produce children in need of care and protection before the Child Welfare Committee or a First Class Judicial Magistrate, where there is no Child Welfare Committee [Section 32 of Juvenile Justice (Care and Protection of Children) Act 2000, as amended in 2006]

When is a child marriage void?

- Child marriages will be void **only in three cases** (PCMA-S. 12)
- when the girl is “enticed out of the keeping of the lawful guardian”
- in cases of compulsion or deceitful means; and,
- for the purpose of trafficking.

C. Prosecution of Offenders

- Provision for punishment for an adult male above 18 years of age marrying a child [Section 9]
 - Punishment for those performing /conducting/ abetting a child marriage [Section 10].
 - Punishment for promoting or permitting solemnisation of child marriage, including for parents, guardians or any of the person /association/ organisation [Section 11]
 - Exemption for women: women offenders in any of the above categories cannot be punished with imprisonment. However, they can be penalised by way of imposition of a fine [Proviso to Section 11 (1)]
- (up to two years imprisonment and/or a fine of up to Rs 1 lakh for violations)**

Mechanism under the law

- The authorities identified for prohibiting child marriage under the present law are:
 1. Child Marriage Prohibition Officer
 2. District Magistrate
 3. First Class Judicial Magistrate or Metropolitan Magistrate
 4. Police
 5. Family Courts
 6. Any person(s) called upon by the State Government to assist the Child Marriage Prohibition Officer(including respectable member of the locality with a record of social service, officer of the Gram Panchayat or Municipality, officer of the government or public sector undertaking, office bearer of any non-governmental organisation.)

Some relevant facts

- More than half of the women in India are married before the legal minimum age of 18. By contrast, men in the same age group get married at a median age of 23.4 years. Sixteen percent of men aged 20-49 are married by age 18 and 28 percent by age 20.

Source: Summary of Findings, NFHS-3

- Domestic violence is more common among women who had been married as children. India has the highest rate of domestic violence among women married by 18 with a rate of 67 per cent.

Source: UN Children's Fund (UNICEF). Early Marriage: A Harmful Traditional Practice, UNICEF: Florence (2005), p.22

Legal Obligation to Protect Children

- Both, **National Laws** and International Legal Instruments Ratified by India Clearly Spell out its Legal Obligation to Protect its Children and their Basic Human Rights
- The Constitution –F.Rts & DPSP
- The National Plan of Action for Children, 2005, Ministry of Women and Child Development aims to eliminate child marriages by 2010.
- **At the international level-** India is signatory to several international human rights instruments that protect children from all forms of abuse and exploitation and ensure them the right to dignity and childhood. These include
 - the UN Convention on the Rights of the Child (UNCRC)
 - The Convention on Elimination of Discrimination against Women (CEDAW) and
 - International Covenant on Economic Social Cultural Rights (ESCR).

The PCMA 2006-Judicial response

- Association for Social Justice & Research v. Union of India [Delhi H.C.-DB-13 May 2010]-Q. of validity of Girl's marriage (<18 years)-maintainability of crl. cases u/s 363 & 376, IPC; rel. to her custody-ref. to larger bench [<http://indiankanoon.org/doc/1652773>]
- Smt. Seema v. Ashwani Kumar [SC-transfer Petition (civil) 291 of 2005-per Arijit Pasayat & S.H. Kapadia JJ dated 14-02-2006]-held that marriages of all persons who are citizens of India belonging to various religions should be made compulsorily registrable in their respective States, where the marriage is solemnized-guidelines issued

T.Sivakumar V. Inspector of Police,
Thiruvallur & others [Madras HC (FB) - 03..10..2011]

Held: Unless there is a positive decree passed by the competent court annulling the child marriage, the marriage shall be subsisting.(The said marriage is not a valid marriage stricto sensu as per the classification but it is not invalid)

- An adult male who marries a female child in violation of section 3 of the Prohibition of Child Marriage Act shall not become the natural guardian of the female child.
- Unless these twin conditions namely, the consent of her parents and being in the custody already are satisfied, even the temporary custody of a female child cannot be entrusted to her husband

Contd..

- after the advent of the Prohibition of Child Marriage Act .. the male contracting party to a child marriage does not attain the full status of the husband until the child attains the eligible age
- a female child who is a victim of child marriage, if expresses her wish not to go with her parents, the court may direct such female child be kept in a separate home for children in need of care and protection established under the Juvenile Justice [Care and Protection Act] and not in a special home or observation home meant for juveniles in conflict with law.
- the minor girl who claims to have solemnized her marriage with another person would not be a juvenile in conflict with law

Dowry- in the Past and Present

- The expression '**dowry**' in ancient times applied to that which a wife brought her husband in marriage, goods given in marriage or the marriage portion. May be, **it was conceived of as a nest-egg or security for the wife in her matrimonial home, especially since, most of the systems regarded a married woman as an addition to her husband's family.** But in course of time, it assumed a different shape and degenerated into a subject of barter, acceptance of the woman as a wife depending on what her parents would pay as **dowry**, varying with the qualification and the status of the bridegroom's family. As felicitously put by Krishnaswami Aiyar, C.J. on behalf of the Full Bench in Sundaram Iyer v. Thandaveswara Iyer, 1946 Tra L.R. 224, **"But an abuse of the situation soon came into view when the bridegroom came to be marketed as a commodity for the value of his accomplishments and future promises and the high standards of the scriptural marriage which was a sacrament came to be contaminated by sordid considerations of immediate monetary gains at the sacrifice of the abiding purposes of the marriage union."** The position cannot be said to have improved since then...**IN RE: ENFORCEMENT AND IMPLEMENTATION OF DOWRY PROHIBITION ACT, 1961 [2005] INSC 295 (2 May 2005)**

Consideration of Marriage & Dowry Prohibition

- Evil of giving and taking dowry & prevalence in all communities of India
- Educated youth - grossly insensitive to the evil & and unashamedly contributes to its perpetuation
- Dowry – commercial aspect of a marriage & constituted *stridhan* in good old days
- Dowry system was something originally honorable in intention and provided for the independent wealth of the bride in a time when she was unlikely to work outside of the home
- Initial attempts in India to treat this problem as a social one and to equal property rights to women under the HSA, 1956
- "Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape."..."-Nehru

Consideration of Marriage & Dowry Prohibition

- DPA,1961- not a complete code
- Dowry-Any **property/valuable security** given, agreed to be given either directly/indirectly, by one party to marriage to other or by parents of one to other, either at/before/anytime after marriage, in connection with marriage (**as consideration for the marriage-omitted in 1984**)-Sec.2
- No application to certain gifts
- Dower given under Muslim law-not dowry
- **Penalty for demanding dowry-imprisonment up to 2 years and fine**
Penalty for taking dowry-imprisonment up to 5 years and fine up to rs.15,000/-
- Demand for dowry-amounts to cruelty **Shobha Rani v. Madhukar Reddy 1988,SC**
- Time for demanding dowry-at, before or after marriage [**S.Gopal Reddy v. State of AP(1996,SC)**]
- Ban on advertisements-attracts imprisonment between 6 months and 5 years

Consideration of Marriage & Dowry Prohibition

- Mere advt. punishable [S.4-A]
- Dowry agreements –void [S.5]
- Civil consequences of taking dowry-to transfer it to woman-dowry taker is only a trustee-failure to transfer-punishable (S.6)
- Burden of proof of innocence - on accused [S.8-A]
- Offences under DPA- non- bailable and non compoundable & Cognizable for certain purposes like investigation (S.8)

Dowry deaths and Dowry suicides

- Criminal Consequential IPC, 1860 Amendment, 1983-amendments of
- Dowry Death- Essential Conditions- S.304-B -Punishment not <7 years/fine
- Abetment of Suicide-S.306-up to 10 years/fine
- Dowry Death-not rarest of rare cases

Cruelty by Husband / Relatives of Husband

- S.498-A,IPC-punishable with imprisonment up to 3 years/fine
- Cruelty- a) any wilful conduct likely to drive woman to commit suicide/cause grave injury/danger to life,limb or health(mental/physical); b) harassment of w/m with a view to compel her to meet any unlawful demand for any property/valuable security.
- Mere demand for dowry - an offence
- misuse of provision- compoundability of offence in certain States
- **Sushil Kumar Sharma V.Union of India** [JT 2005 (6) SC 266 per Arijit Pasayat & H.K.Sema,JJ]- by misuse of the provision a new legal terrorism can be unleashed]
- **Saritha v.R.ramachandra** [APHC-BSA Swamy&G.Yethirajulu,JJ-9-7-2002 2002 (6)ALD 319:2002(4) ALT 592:I(2003)DMC 37]-It is for the Law Commission &Parliament either to continue the provision(Sec.498-A) in the same form or to make the offence a non-cognizable &bailable one so that ill educated women of this country and their parents do not misuse the provision..
- **Arnesh Kumar vs State Of Bihar & Anr** on 2 July, 2014(Supreme Court of India-Bench: Chandramauli Kr. Prasad, Pinaki Chandra Ghose) **No automatic arrest in dowry and other cases punishable with less than 7 years of imprisonment**

Presumptions of Dowry death

- As to abetment of suicide by married woman within seven years of her marriage- **S.113 A , IEA,1872**
- As to abetment of dowry death
- **S.113 B ,IEA,1872**
- “Undoubtedly, as discussed above, the menace of dowry death is increasing day by day. However, it is also observed that sometimes family members of the husband are roped in, even though they have no active role in commission of the offence and are residing at distant places. In these cases, the Court need to be cautious in its approach.”- **Satbir Singh vs The State Of Haryana [SC, 28 May, 2021]**

“Soon before “ u/Sec.304-B,IPC

- No straitjacket formulae can therefore be laid down by this Court to define what exacts the phrase “soon before” entails. In Kans Raj v. State of Punjab, (2000) 5 SCC 207, wherein the three Judge Bench held that:
- “15. ... “Soon before” is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time limit. ... In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.”
- A similar view was taken by this Court in Rajinder Singh v. State of Punjab, (2015) 6 SCC 477.

Mahr (Dower) under Islamic Law – Use and Misuse

- **Mahr** - amount to be paid by groom to bride, at marriage (Nikah) - a gift money which she can expend as per her wish
- A must condition of Marriage (Nikah), without which Nikah is incomplete
- Can be cash or kind - beginning of financial empowerment of a newlywed Muslim bride which gives her a sense of security and respect
- Should be given according to the social status of the bride & considerable to groom's financial condition
- Mahr has nothing to do with Talaq-It is a gift, not a penalty.

Mahr (Dower) under Islamic Law – Use and Misuse

- In the Qur'an it is called *sadaq*, [a token of friendship], *nihlah* [a nice gift or present] ./it also signifies a husband's commitment to take care of his wife's financial needs (*nafaqah*).
- Concerning the *mahr* (dower), Allah says, "And give women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer" (An-Nisaa': 4); "Those among them (i.e., your wives) whom you enjoy give them their dowers as determined. But there is no blame on you, if after a dower is determined, you mutually agree to vary it" (An-Nisaa': 24); "If you divorce them before consummation and you have fixed a dower for them then half of the dower is due to them, unless they forgive it or it is forgiven by him in whose hand is the marriage tie" (Al Baqarah: 237).

[Read more: <http://www.islamonline.net>]

Kinds of Dower

- **Proper Dower:** If the amount of dower is not fixed, the wife is entitled to "proper" dower (mahr-i-misl). In determining what "proper" dower is, regard is to be had to the amount of dower settled upon other female members of the bride's father's family such as her father's sisters. Status is to be considered in fixing dower where dower was not fixed at the time of marriage.
- **"Prompt" and "Deferred" Dower:** The amount of dower is usually divided into two parts, one called "prompt" which is payable on demand, and the other called "deferred" which is payable on dissolution of marriage by death or divorce. Wife may refuse to live with the husband if prompt dower is not paid. **The Prompt portion of the dower may be realized by the wife at any time before or after consummation.** Dower which is not paid at once described as the deferred dower, but if it is postponed until demanded by the wife, it is in law prompt dower. But "deferred" dower does not become "prompt" merely because the wife demands it.

Prohibition of Sati and Law

- Sati – traditional practice of Hindu widow killing herself along with the body of deceased husband
- Sati-means a virtuous woman & According to Hindu mythology, Sati ,the daughter of Daksha was so overcome at the demise of her husband that she immolated herself on his funeral pyre and burnt herself to ashes. Since then her name 'Sati' has come to be symptomatic of self-immolation by a widow.
- Roop Kanwar's Incident in 1987
- Sati Sahgamana (dying with the dead body of H) & Sati Anumarana (with something belonging to H after his news of death]
- Practice during Mughal period
- Measures during British Rule

Prohibition of Sati and Law

- Causes of sati - *pati parameswar* syndrome, filial love
- Protection of honour
- Economic factors
- Fear of ostracization
- Religious factors
- Lack of security
- Penal provisions under IPC
- S.306-Abetment to commit suicide –punishable with imprisonment up to 10 years
- S. 309 -Attempt to commit suicide- punishable with imprisonment up to 1 year

The Commission of Sati (Prevention) Act,1987

- Object- to provide for more effective prevention of the commission of sati and its glorification
- Scheme -21 Sections
- Sec.2(c) "sati" means the burning or burying alive of –
 - (i) any widow along with the body of her deceased husband or any other relative or with any article, object or thing associated with the husband or such relative; or
 - (ii) any woman along with the body of any of her relatives, irrespective of whether such burning or burying is claimed to be voluntary on the part of the widow or the women or other-wise;

The Commission of Sati (Prevention) Act,1987

- Sec.2(b) "glorification" in relation to sati, whether such sati, was committed before or after the commencement of this Act, includes, among other things.-
- (i) the observance of any ceremony or the taking out of a procession in connection with the commission of sati; or
- (ii) the supporting, justifying or propagating the practice of sati in any manner; or
- (iii) the arranging of any function to eulogise the person who has committed sati; or
- (iv) the creation of a trust, or the collection of funds, or the construction of temple or other structure or the carrying on of any form of worship or the performance of any ceremony thereat, with a view to perpetuate the honour of, or to preserve the memory of, a person who has committed sati;

Punishments under the Sati... Act, 1987

- **Attempt to commit Sati** – impr. Upto one year/ fine/or both
- **Sec.4: Abetment of sati committed** - death or imprisonment for life and shall also be liable to fine
- **Sec.4 :Abetment of sati attempted-Death Penalty-** imprisonment for life and shall also be liable to fine
- **Punishment for glorification of sati** -imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

Punishments under the Sati... Act, 1987

Sec.18. Person convicted of an offence under Sec. 4 to be disqualified from inheriting certain properties.- A person convicted of an offence under sub-section (1) of Sec. 4 in relation to the commission of sati shall be disqualified from inheriting the property of the person in respect of whom such sati has been committed or the property of any other person which he would have been entitled to inherit on the death of person in respect of whom such sati has been committed.

Offences against Marriage

- Dowry death
- Rape
- Mock marriages
- Matrimonial cruelty
- Bigamy
- Adultery

Bigamy in India

- Bigamy ,Polygamy & Polyandry – meaning
- Position under IPC,1860 – Sections 494 & 495
- Sec.494 - Marrying again during lifetime of husband or wife
:Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception- This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction ,nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

A.Subash Babu vs State Of A.P. (SC judgment dated 21 July, 2011)

- It is not a matter of long past that in India, hypergamy brought forth wholesale polygamy and along with it misery, plight and ignominy to woman having no parallel in the world.
- Section 494 is intended to achieve laudable object of monogamy. This object can be achieved only by expanding the meaning of the phrase "aggrieved person".
- For variety of reasons the first wife may not choose to file complaint against her husband e.g. when she is assured of re-union by her husband, when husband assures to snap the tie of second marriage etc. Non-filing of the complaint under Section 494 IPC by first wife does not mean that the offence is wiped out and monogamy sought to be achieved by means of Section 494 IPC merely remains in statute book. Having regard to the scope, purpose, context and object of enacting Section 494 IPC and also the prevailing practices in the society sought to be curbed by Section 494 IPC, there is no manner of doubt that the complainant should be an aggrieved person. Section 198(1)(c) of the Criminal Procedure Code, amongst other things, provides that where the person aggrieved by an offence under Section 494 or Section 495 IPC is the wife, complaint on her behalf may also be filed by her father, mother, sister, son, daughter etc. or with the leave of the Court, by any other person related to her by blood, marriage or adoption.

Sec.495,IPC

- Aggravated form of Bigamy
- Same offence with concealment of former marriage from person with whom subsequent marriage is contracted
- Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Position under the Hindu Marriage Act, 1955

- **Sec.5: Condition for a Hindu Marriage.-** A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely: (i) neither party has a spouse living at the time of the marriage;
- **Sec.17. Punishment of Bigamy.-** Any marriage between two Hindus solemnized after the commencement of this Act is void if at the date of such marriage either party had a husband or wife living; and the provisions of Sections 494 and 495 of the Indian Penal Code (45 of 1860) shall apply accordingly.

Position under the Special Marriage Act, 1954

- **Sec.4. Conditions relating to solemnization of special marriage.**-Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled namely:
 - (a) Neither party has a spouse living
- **Sec.24. Void marriages.**- (1) Any marriage solemnized under this Act shall be null and void (and may, on a petition presented by either party thereto against the other party, be so declared) by a decree of nullity if-
 - (i) any of the conditions specified in Cls.(a),(b), (c) and (d) of Sec. 4 has not been fulfilled

Position under the Special Marriage Act, 1954

- **Sec.43. Penalty on married person marrying again under this Act.**-- Save as otherwise provided in Chapter III, every person who, being at the time married procures a marriage of himself or herself to be solemnized under this Act shall be deemed to have committed an offence under Sec. 494 or Sec. 495 of the Indian Penal Code 1860 (45 of 1860), as the case may be, and the marriage so solemnized shall be void.
- **Sec,44. Punishment of bigamy.**-- Every person whose marriage is solemnized under this Act and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in Secs.494 and 495 of the Indian Penal Code, 1860 (45 of 1860) for the offence of marrying again during the lifetime of a husband of wife, and the marriage so contracted shall be void.

Bigamy- Position under the Muslim Law

- Like Judaism and Christianity, Islam does not provide an explicit prohibition of Polygamy
- The Verse that allows polygamy "was revealed after the battle of Uhud in which many Muslims were killed, leaving widows and orphans for whom due care was incumbent upon the Muslim survivors."
- The translation of the verse is as follows: "If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if you fear that you shall not be able to deal justly (with them), then (marry) only one..." (Qur'an 4:3)

Bigamy- Position under the Muslim Law

- That dealing justly with one's wives is an obligation. This applies to housing, food, clothing, kind treatment...etc., for which the husband is fully responsible. If one is not sure of being able to deal justly with them, the Qur'an says: "then (marry) only one." (Qur'an 4:3)
- This verse, when combined with another verse in the same chapter, shows some discouragement of such plural marriages. The other verse plainly states: "You are never able to be fair and just between women even if it is your ardent desire..." (Qur'an 4:129)
- The requirement of justice rules out the fantasy that man can "own as many as he pleases." It also rules out the concept of a "secondary wife", for all wives have exactly the same status and are entitled to identical rights and claims over their husband. It also implies, according to the Islamic Law, that should the husband fail to provide enough support for any of his wives, she can go to court and ask for a divorce.

Position under Christian Law

- INDIAN CHRISTIAN MARRIAGE ACT 1872
- Sec.60. On what conditions marriages of Indian Christians may be certified.-Every marriage between Indian Christians applying for a certificate, shall, be certified, if the following conditions be fulfilled, and not otherwise :-
 - (1) the age of the man intending to be married shall not be under twenty-one years, and the age of the woman intending to be married shall not be under eighteen years
 - (2) neither of the persons intending to be married shall have a wife or husband still living;

Uniform Civil Code & Indian Constitution

- Article 44 of the Indian Constitution requires the State to secure for its citizens a Uniform Civil Code throughout the territory of India
- UCC – Meaning, Necessity & Historical background etc [Ref.to Art.25 &26]
- Ms. Jordan Diengdeh vs S.S. Chopra [AIR 1985 SC 935]
- Mohammad Ahmed Khan v. Shah Bano Begum [AIR 1985 SC 945]
- Sarla Mudgal v. Union of India [AIR 1995 SC 153]
- **John Vallamattom v. *Union of India* AIR 2003 SC 2902**

Judicial Response to UCC

- **Ms. Jordan Diengdeh vs S.S. Chopra** [AIR 1985 SC 935]- Indian Divorce Act, 1869- Allegation of impotence of husband-Nullity of marriage or judicial separation sought-High Court rejecting prayer for nullity, but granting judicial separation on account of cruelty-Validity of order-Supreme Court holding irretrievable break-down of marriage
- **Held:** It is thus seen that the law relating to judicial separation, divorce and nullity of marriage is far, far from uniform. Surely the time has now come for a complete reform of the law of marriage and make a uniform law applicable to all people irrespective of religion or caste.

Judicial Response to UCC

- Mohammad Ahmed Khan v. Shahbano Begum [AIR 1985 SC 945]
- Facts of Case: H, advocate married respondent in 1932
-Three sons and two daughters -In 1975, H drove the W out of matrimonial home -In April 1978, W filed a petition against H u/s 125 of Cr.P.C, in Court of the Judicial Magistrate (First class) Indore, asking for maintenance at the rate of Rs. 500 per month, in view of the professional income of the appellant which was about Rs. 60,000 per annum

Mohammad Ahmed Khan v. Shah Bano Begum

- **November 1978**, the appellant divorced R by irrevocable "talaq" - took up defence that she ceased to be his wife by reason of the divorce granted by him- that he was, therefore, under no obligation to provide maintenance for her- that he had already paid maintenance for her at the rate of Rs. 200 per month for about two years, and that, he had deposited a sum of Rs. 3,000 in the court by way of "dower or Mahr" during the period of "iddat".
- **August 1979**, Magistrate directed appellant to pay a princely sum of Rs. 25 per month to the respondent by way of maintenance -In revisional application filed by R, High Court of Madhya Pradesh enhanced the amount of maintenance to Rs. 179.20 per month - Appeal before SC dismissed & MP HC judgment confirmed
- **Held:** It is also a matter of regret that Article 44 of our Constitution has remained a dead letter

Sarla Mudgal v. Union of India [AIR 1995 SC 153]

- **the question** -whether a Hindu husband, married under the Hindu law, by embracing Islam, can solemnise second marriage The Court held that a Hindu marriage solemnised under the Hindu law can only be dissolved on any of the grounds specified under the Hindu Marriage Act, 1955. Conversion to Islam and Marrying again would not, by itself, dissolve the Hindu marriage under the Act. And, thus, a **second marriage solemnised after converting to Islam would be an offence under Section 494 of the Indian Penal Code.**
- Held:a marriage celebrated under a particular personal law cannot be dissolved by the application of another personal law to which one of the spouses converts and the other refuses to do so.
“Article 44 has to be retrieved from the cold storage where it is lying since 1949”. &
“Where more than 80 percent of the citizens have already been brought under the codified personal law there is no justification whatsoever to keep in abeyance, any more, the introduction of the ‘uniform civil code’ for all the citizens in the territory of India”..Per Justice Kuldeep Singh

John Vallamattom v. Union of India AIR 2003 SC 2902

- Constitutional validity of Section 118 of the Indian Succession Act. The priest from Kerala, John Vallamatton filed a writ petition in the year 1997 stating that Section 118 of the said Act was discriminatory against the Christians as it imposes unreasonable restrictions on their donation of property for religious or charitable purpose by will.
- The bench comprising of Chief Justice of India V.N. Khare, Justice S.B. Sinha and Justice A.R. Lakshamanan **struck down the Section** declaring,

"We would like to State that Article 44 provides that the State shall endeavour to secure for all citizens a uniform civil code throughout the territory of India It is a matter of great regrets that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies."

Adultery

- **Black's legal dictionary** defines adultery as "voluntary sexual intercourse between a married person and a person other than the offender's spouse."
- **Adultery** (anglicised from Latin *adulterium*) is extramarital sex that is considered objectionable on social, religious, moral or legal grounds.
- **Offence against marriage u/s 497, IPC in India** but **only a tort in UK**
- **Sexual intercourse by a man with a married woman** with her consent **but without consent/connivance of the husband-** such intercourse should not amount to rape
- **Husband-the aggrieved party**
- **U/s 497 Only adulterer punishable and not the woman**

Section 497 ,IPC

- "Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor."
- Today, the section has become an instrument of oppression and blackmail in the hands of a revengeful husband just like the Protection of Women from Domestic Violence Act, 2005 has often been misused by women to blackmail their husbands.?????

Contd..

- **Soumitri Vishnu v. Union of India** (AIR 1985 SC 1618)-Though it is true that the erring spouses have no remedy against each other within the confines of section 497 of the Penal Code, that is to say, they cannot prosecute each other for adultery, each one has a remedy against the other under the civil law, for divorce on the ground of adultery. 'Adultery' under the civil law has a wider connotation than under the Penal Code.
- **Revathi v. Union of India** AIR 1988 SC 835 - Admittedly under the law, the aggrieved husband, whose wife has been disloyal to him, has no right under the law to prosecute his wife, inasmuch as by the very definition of the offence, only a man can commit adultery, not a woman. As between the husband and the wife social good will be promoted by permitting them to 'make up' or 'break up' the matrimonial tie rather than to drag each other to the criminal court. They can either condone the offence in a spirit of 'forgive and forget' and live together or separate by approaching a matrimonial court and snapping the matrimonial tie by securing divorce. They are not enabled to send each other to jail. Perhaps the children are saved from the trauma of one of their parents being jailed at the instance of the other parent. [77E-G]

Contd..

- 2. Section 497 does not confer any right on the wife to prosecute the husband who has committed adultery with another woman. Section 497 of the Indian Penal Code and section 198(1) read with section 198(2) of the Criminal Procedure Code go hand in hand and constitute a legislative packet to deal with the offence committed by an outsider to the matrimonial unit who invades the peace and privacy of the matrimonial unit and poisons the relationship between the two partners constituting the matrimonial unit. The community punishes the 'outsider' who breaks into the matrimonial home and occasions the violation of sanctity of the matrimonial tie by developing an illicit relationship with one of the spouses subject to the rider that the erring 'man' alone can be punished and not the erring woman.
-As between the husband and the wife social good will be promoted by permitting them to 'make up' or 'break up' the matrimonial tie rather than to drag each other to the criminal court. They can either condone the offence in a spirit of 'forgive and forget' and live together or separate by approaching a matrimonial court and snapping the matrimonial tie by securing divorce. They are not enabled to send each other to jail. Perhaps the children are saved from the trauma of one of their parents being jailed at the instance of the other parent. [77E-G]

Adultery

- Complaint by husband of woman essential under sec.198,cr.p.c.
- 42nd Report of LCI,1971 - recommended retention of Sec.497 in its present form with modification that even the wife committing adultery should be made punishable.
- **Adultery**-a ground for judicial separation and divorce under the HMa,1955,the Dissolution of Muslim Marriages Act,1939 &the IDA,1869
- Reasons for exempting w/m from punishment- child marriages, polygamy by husbands, view that she is the victim and not the author of crime, that she was viewed as property of the husband etc.
- **Joseph Shine vs Union Of India (SC-Dipak Misra,CJI, and A.M. Khanwilkar, D.Y.Chandrachud, & Indu Malhotra,JJ.- 27 September, 2018) – decriminalized Sec.497-** “The law on adultery, conceived in Victorian morality, considers a married woman the possession of her husband: a passive entity, bereft of agency to determine her course of life. The provision seeks to only redress perceived harm caused to the husband. This notion is grounded in stereotypes about permissible actions in a marriage and the passivity of women. Fidelity is only expected of the female spouse. This anachronistic conception of both, a woman who has entered into marriage as well as the institution of marriage itself, is antithetical to constitutional values of equality, dignity and autonomy”.

Rape

- Intercourse with a woman under six circumstances - viz., i) against her will ii) Without her consent iii) With her consent obtained by putting her in fear of death/hurt iv) With her consent given under misconception as to identity of H v) With her consent obtained under undue influence/unsound mind/intoxication etc vi) With /without her consent if she is under 18 years of age [Sec.375,IPC]
- Marital Rape – not recognized as an offence in all the cases
- Intercourse by H with his own W, if she is > 15 years of age – not rape [exception to s.375]
- Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine. [s.376-B]
- Presumption of Rape – Sec.114-A,IEA,1872
- Contentious issue – whether marital rape must be an offence? It any way constitutes cruelty under matrimonial law
- See Independent Thought v.Union of India (11th Oct.2017,SC)- Exception 2 to Sec.375,IPC relating to girl child < 18 years is liable to be struck down as it violates Art.14,15 and 21, and also is inconsistent with provisions of POCSO Act. .. Intercourse with wife <18years is Rape

Other offences against marriage

- Cohabitation with woman by deceitful means – s.493,IPC
 - max. 10 years imprisonment [See [State of Jharkhand vs Ram Chandr on 9 November, 2012](#) -living with complainant for nine years-producing two children-getting woman to sign on registration form-later denying that he married her-SC held him guilty indiankanoon.org/doc/134772984/]
- Mock marriages – sec.496,IPC - max. 7 years imprisonment
- Enticing/taking away a married w/m with criminal intention – sec.498 – up to 2 years or/and fine

Other common unfair practices in family relations

- Forced prostitution- by family members
- Kidnapping of own child - parental kidnapping - a game of tug-of-war over children?
- Forced abortion- MTP Act
- Unwanted pregnancy
- Female infanticide
- Sex determination tests
- Failure to maintain wife, children and aged parents

Forced abortion- MTP Act ,1971

- Sec.3. When Pregnancies may be terminated by registered medical practitioners.-
- (2)a pregnancy may be terminated by a registered medical practitioner,- (a) where the length of the pregnancy does not exceed twenty weeks if such medical practitioner is, or (b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty four weeks, if not less than two registered medical practitioners are of opinion, formed in good faith, that,-
- (i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury physical or mental health ; or
- (ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Contd..

- **Explanation 1.**-Where any, pregnancy is alleged by the pregnant woman to have been **caused by rape**, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.
- **Explanation 2.**-Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.
- (3) In determining whether the continuance of pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonable foreseeable environment.
- (4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian. (b) Save as otherwise provided in C1.(a), no pregnancy shall be terminated except with the consent of the pregnant woman.

Compoundability of offences

- **Compoundable offences** - offences where, the complainant (one who has filed the case, i.e. the victim), enters into a compromise, and agrees to have the charges dropped against the accused.
- All those offences, which are not mentioned in the list under **S.320 of Cr.P.C**, are non-compoundable offences.
- **Plea Bargaining:** chapter XXIA on 'Plea Bargaining', sections 265 A to 265 L which came into effect on 5th July, 2006 - introduced in Cr.P.C through the Criminal Law (Amendment) Act, 2005- it is applicable in respect of those offences for which punishment is up to a period of 7 years- it does not apply to cases where the offence committed is a socio-economic offence or where the offence is committed against a woman or a child below the age of 14 years. - once the court passes an order in the case of 'Plea Bargaining' no appeal shall lie to any court against that order.

The Protection of Women From Domestic Violence Act, 2005-Some facts about Domestic Violence

- ➡ Almost every family witnesses Domestic Violence
- ➡ Almost $\frac{1}{3}^{\text{rd}}$ of crimes against women registered annually are related to domestic violence or violence against women
- ➡ Crores of women suffer from violence in their homes but only about less than 5% report the same
- ➡ Less than 20% of accused are convicted U/s 498-A, IPC
- ➡ About 80% of families try to reconcile with husband & family

Laws rel . to Domestic Violence

- ➡ Laws are plenty
- ➡ Crl.Law- includes IPC, Cr.P.C., D.P.Act,1961, Commission of Sati Prevention Act.1987 & Pre-conception &Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act,1994 etc.
- ➡ Civil Law- includes Personal Laws of Hindus and Muslim etc, CPC, Law of Torts etc
- ➡ Special Law- Protection of Women From Domestic Violence Act,2005 (w.e.f.26-10-2006)

What is DV?

- Physical, sexual or psychological abuse directed towards one's spouse, partner, or other family member within household.
- Synonymous with Intimate partner violence(IPV)
- Occurs in all cultures, races, ethnicities & religions
- Popular emphasis is on woman as victim
- Includes dowry harassment, negligence to maintain and even marital rape

The Protection of Women From Domestic Violence Act, 2005

- Aims at more effective protection of rights of women who are victims of family violence
- Provides remedy under civil law intended to protect women from being victimized & to prevent occurrence of d.v. in society
- DV (S.3) - harm , injury, danger to health, safety , life , limb , well-being whether mental or physical of aggrieved person
- Includes causing physical, sexual, verbal, emotional & economic abuse

Important Definitions

- Aggrieved person - Any woman in domestic relationship [S.2(a)]
- Domestic Violence – [S.3]
- Domestic relationship – includes live-in relationship [S.2(f)]
- Respondent – includes a woman causing DV – [S.2(q)]
- Magistrate –JMFC/MM [S.2(i)]
- Protection officer – [S.2(n)]
- Service Provider – [S.10]

Procedure for obtaining relief

- Information to Police/P.O.- [R.4]
- DIR- [R.5]
- Application to Magistrate- [S.12]
- Service of notice- [S.13]
- Counseling- [S.14]
- Assistance of Welfare Expert- [S.15]
- Relief by magistrate- [Ss.17-22] etc

Relief Granted by magistrates

- ➡ Direction to undergo Counseling - S.14
- ➡ Protection order - S.18
- ➡ Residence order - S.19
- ➡ Monetary relief - S.20
- ➡ Custody order - S.21
- ➡ Compensation order - S.22
- ➡ Interim & ex-parte orders - S.23
- ➡ Alteration of orders - S.25

Role of Police

- ➡ Duty to inform complainant about right to obtain relief under Act, services of P.O.s & S.P.s, free legal aid, and file complaint u/s 498-A,IPC – S.5
- ➡ Duty to proceed as per law if info..received about commission of a cognizable offence- S.5 Proviso
- ➡ Action in case of emergency- R.9

Judicial Response to DV Act

- U/Sec.17(1) of the Act -wife is only entitled to claim a right to residence in a shared household
- 'shared household' would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member.
- The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of appellant No. 2, mother of Amit Batra (Mother-in-Law). Hence it cannot be called a 'shared household'.
[S.R. Batra vs Smt. Tarun Batra on 15 December, 2006 ,Supreme Court per S.B. Sinha & Markandey Katju JJ]
- See also SATISH CHANDER AHUJA v.Sneha Ahuja)3-judges Bench of SC dated 15th Oct.2020)
- Domestic relationship and domestic violence need to be considered so that this Act is not misused to settle property disputes.. Adil & Ors. vs State & Anr. on 20 September, 2010 (Delhi HC) See also Madras HC judgment in Rukmani vs Manonmani ... on 11 December, 2017

Judicial Response to the Act of 2005

- U/Sec. 2 (q) of the Act reads as under: "**Respondent**" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under the Act:
- Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner".
- ***"Respondent" as defined under Section 2(q) of the Act includes a female relative of the husband"***. [SOU. SANDHYA MANOJ WANKHADE v. MANOJ BHIMRAO WANKHADE [2011] INSC 113 (31 January 2011)]
- **Complaint of DV is maintainable against Woman also**

Domestic Relationship-Whether includes Live-in Relationship

- ➡ **D.Velusamy vs D.Patchaiammal** on 21 October, 2010, Supreme Court of India, Per M Katju, T Thakur JJ
- ➡ The SC held that a 'relationship in the nature of marriage' is akin to a common law marriage. Common law marriages require that although not being formally married :-
 - (a) The couple must hold themselves out to society as being akin to spouses.
 - (b) They must be of legal age to marry.
 - (c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.
 - (d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.
- ➡ 'relationship in the nature of marriage' under the 2005 Act must also fulfill the above requirements, and in addition the parties must have lived together in a 'shared household' as defined in Section 2(s) of the Act. Merely spending weekends together or a one night stand would not make it a 'domestic relationship'.
- ➡ See also **S. Khushboo vs. Kanniammal** (2010) 5 SCC 600

V.D.BHANOT v. SAVITA BHANOT [2012] INSC 100 (7 February 2012)

-in looking into a complaint under Section 12 of the PWD Act, 2005, the conduct of the parties even prior to the coming into force of the PWD Act, could be taken into consideration while passing an order U/Ss 18, 19 and 20 thereof.
-that even if a wife, who had shared a household in the past, but was no longer doing so when the Act came into force, would still be entitled to the protection of the PWD Act, 2005
- couple has no children. Incidentally, the Respondent wife is at present residing with her old parents, after she had to vacate the matrimonial home, which she had shared with the Petitioner at Mathura, being his official residence, while in service. After more than 31 years of marriage, the Respondent wife having no children, is faced with the prospect of living alone at the advanced age of 63 years, without any proper shelter or protection and without any means of sustenance except for a sum of Rs.6,000/-p.m. awarded by the Magistrate

Marital rape is offence in Certain cases

- Exception 2 to Section 375,IPC says that a husband can have non-consensual sex with her wife who is between 15 and 18 years of age.
- Since Child under POCSO Act 2012 denotes any child below 18 years, marital rape of wife between 15 and 18 years is an offence
- The minimum age for the consensual sex is 18 years.. Independent Thought v. Union of India (2017) 10 SCC 800

Domestic Violence Act prone to Misuse, says Madras HC

The Hindu, June 19, 2015

- ➡ Petitioner (wife) - lodged complaint against husband and in-laws who had countered it with another case lodged against her and her parents. Subsequently, she came to know that her father-in-law, a government schoolteacher, was about to be promoted as Headmaster.
- ➡ Hence, she made a representation to the Virudhunagar District Educational Officer to withhold the promotion since he was facing a criminal case and filed the writ petition seeking a direction to the officer to dispose of her representation within a stipulated time.
- ➡ Holding that the petitioner had no right to seek such a direction to the employer of her father-in-law, the judge imposed a cost of Rs.5,000 on her.
- ➡ The judge also said that a similar trend of misuse was observed in the case of Section 498A (a woman being subjected to cruelty by her husband or his relatives) of the Indian Penal Code. It forced the Supreme Court to term such misuse as 'legal terrorism.'

LCI Report No.257 On "Reforms In Guardianship And Custody Laws In India"

- Some women **misuse** the protections in Protection of Women from Domestic Violence Act, 2005 and Section 498A of the Indian Penal Code, to take children away from their fathers. However, in shared custody arrangements, parental **contact** would be withheld only for child abuse, neglect, or mental illness. Children should have **contact** with both parents regardless of whether the parents reconcile.
- **Gender-based stereotypes** - e.g., that a girl child should be raised by the mother and a boy child by the father--are outdated. Both parents have valuable contributions to make in the lives of children of either gender.

Impact of Law

- Difficult to assess
- If used judiciously, may keep family together
- Care should be taken ensure that normal wear and tear of family- not treated as DV
- Glaring lacuna- definition of aggrieved person
- Absolutely essential- sensibility & sensitivity on part of all players.

Conclusion

Thank You