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February-2019 Special Issue – 132

**'Women Empowerment and  
Sustainable Development : A Perspective'**

**Guest Editor :**

**Dr. Udaysingh Manepatil**

Shikshanmaharshi Dr. Bapuji Salunkhe College,  
Miraj Dist. Satara [M.S.] INDIA

**Executive Editor of the issue:**

**Dr. Kavita Tiwade**

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**Chief Editor :**

**Dr. Dhanraj Dhangar**



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## INDEX

No.	Title of the Paper	Author's Name	Page No.
1	Marriage Vis-A-Vis Live in Relations: Legal Ramifications and Responses	<b>Prof. Sanjay Jayram Aher</b>	08
2	Women Empowerment?-"They Already Are Empowered!!!"	<b>Mrs. Shailaja Changundi</b>	13
3	Legal Reforms and Women Empowerment	<b>Mr. Samir Chavan</b>	19
4	The Emergence of New Women in Indian Novels	<b>Dalvi S.</b>	23
5	Role of Hindi Daily Soaps in Women Empowerment	<b>Pallavi Ilkal</b>	28
6	Awareness of Health in College Girls	<b>Alka Inamdar</b>	31
7	Woman Empowerment in India: Issues and Challenges	<b>Meenakshi Jadhav</b>	35
8	Contribution of Indian English Women Novelists In Indian Writings in English	<b>Dr. Vaishali Joshi</b>	38
9	Women Empowerment & Financial Inclusion of Rural Poor Women in Satara District	<b>Rohini Kale</b>	41
10	Women Empowerment Holistic Need	<b>Dr. Sunil Kamble</b>	44
11	Still I Rise: A Representation of Suppression	<b>Dr. Utkarsh Kitekar</b>	47
12	Economic Growth and Gender Equality in India	<b>Prakash Kumar</b>	48
13	Tracing Patriarchy – Through the Ages and Its Place in the Modern Society	<b>Dhara H. Moray</b>	54
14	Education and Women Empowerment: A Study with Reference to Legislative and Judicial Efforts	<b>Dr. Pooja Narwadkar &amp; Mr. Vikram Irale</b>	59
15	Women's Empowerment and Sustainable Development in India	<b>Miss. Nilakhe Amruta Shital</b>	65
16	Recent Judgement: A Boon for Changing Gender Stereotypes	<b>Mrs. Komal R. Oswal &amp; Mr. Ashish A. Bhasme</b>	70
17	Women Workforce In BPO: A Sociological Analysis	<b>Dr. Amol Patil</b>	74
18	The Role of ICT in Gender Equality and Development	<b>Dr. Pushpa Patil</b>	79
19	Role of Women in Indian Politics	<b>Swapnil D. Pawar</b>	83
20	Participation of Women in Panchayat Raj System: Status and Challenges	<b>Mr. Arun Pentawar</b>	89
21	The Role of Women in Sustainable Development and Management of Water	<b>Mrs. Asha V. Potalwad</b>	93
22	Empowering Rural Women's Through Agrobased Industrial Development For Sustanibale Life	<b>S. S. Sathe, P. B. Kale, A. T. Birajdar &amp; N. M. Kumbhare</b>	97
23	Role of Dairy Farming In Empowerment of Rural Women: A Case Study of Sangavi Village of Phaltan Tehsil in Satara District (Mh)	<b>Mr. Popat Shende &amp; Mr. Rajaram Kadam &amp; Dr. Ashish Jadhav</b>	102
24	Role of Government Schemes in Empowerment of Women in India	<b>Mrs. Geeta Shete</b>	110
25	The Depiction of Women Characters in Sudhir Kakar's Novel the Ascetic of Desire	<b>Mr. Amol D. Shinde</b>	114
26	Empowerment of Woman Through Legislation	<b>Adv. Kirti Shinde</b>	118
27	Empowerment A Myth for Women And Adolescent Girls with Disabilities	<b>Poorva Shinde</b>	124

## Recent Judgement: A Boon for Changing Gender Stereotypes

**Mrs. Komal R. Oswal**

Research Student,  
Department of Sociology,  
Shivaji University, Kolhapur.  
Mob. 9527574933

**Mr. Ashish A. Bhasme**

Asst. Professor,  
Department of BBA  
Vivekanand College, Kolhapur.  
Mob. 8208026246

### Abstract

*Gender stereotypes and present in every society. They are all learnt at an early age. The researchers attempt to study the recent judgements of the Supreme Court which favor gender equality. The landmark judgement of triple Talaq, adultery and Sabrimala Temple has been discussed in the paper. The researchers have used secondary sources of data and the study is descriptive in nature. Finally the researchers conclude that though there are a few judgements made by Supreme Court; one has to start from himself and his family. Being rational and judgement free in attitude is of prime importance if one wants to change the gender stereotypes in society.*

### Introduction:

In every society there are rules for gender roles. Even in ethnic groups and cultures people have gender role expectations, but they can be very different from group to group. Gender roles means how one is expected to behave, dress up, speak and present themselves based upon their gender or sex, for example quite universally found trait is women are expected to dress up in feminine ways and be polite, nurturing, adjusting on the other hand men are expected to be strong built, bold and aggressive. These gender roles change in the same society with the passage of time.

A stereotype is nothing but a widely accepted judgement or bias about a person or group though it is inaccurate or exaggerated. Specifically speaking, gender stereotype can cause unjust and unfair treatment because of a person's gender. This is also known as sexism. There are basically four kinds of gender stereotypes. They are personality traits, domestic behaviours, occupations, physical appearance. The exaggerated gender stereotypes can make relationships between people difficult extreme gender stereotype are harmful because don't allow people to fully express themselves and their emotion.

In recent years, due to the advancement in society there is equality between the sexes. Recently, society reflects fewer attitudes that support discrimination and inequality between men & women. Though, today we are liberated in our beliefs, attitude, behavior but many of occupations are still influenced by gender stereotyping. Gender stereotypes are learnt at an early age in the families. Secondly, media is also responsible for exaggerating gender stereotypes to commercialize their product for example an advertisement of washing powder is always depicting a woman where as advertisement of car or bike for man.

Nowadays, though today there is not such gender sensitization in India. Over the decades the focus has shifted across several evils in Indian history such as *Sati*, dowry, inheritance laws equal pay for equal work etc. but now we are negotiating gender biased free workplace, laws for sexual harassment etc. this shift was possible with strict implementation of laws and mindset of

people. But even in the progressive families, daughters are still and entitle to some places lesser than son, from education to choosing life partner.

Breaking gender stereotype is now a need of an hour this will happen not only when women laws are implemented but when both men and women enter into each other space. Today we find women in all the profession which were earlier labeled as male profession like rickshaw drivers, conductors, Pilots, Architects, chief justice of Supreme Court and even till Prime Minister of India. Women are breaking stereotypes and in the recent times of few judgements are passed by the Supreme Court which acts as a boon for breaking gender stereotypes.

### **Objectives of the study:**

- 1) To study the recent judgements of the Supreme Court which favours gender equality.
- 2) To familiarise with the change in gender stereotypes.

### **Methodology:**

The study is based on secondary sources and is descriptive in nature. The researchers have used law references books, e-journals, newspapers and magazine articles to make the conceptual understanding more clear. The study takes into considerations the recent judgements of triple talaq, adultery and Sabrimala entry.

### **Judgement of the triple talaq-**

Triple Talaq or instant Talaq is an Islamic practice that allows men to divorce their wives immediately by uttering the word “Talaq” thrice. This pronouncement can be oral or written it can also be delivered by electronic means like telephone, SMS, email or any social media.

As per the Shariat Act 1937, there are three ways in which a husband can divorce his wife Talaq-e-Ahsan, Talaq-e-Hasan and Talaq-e-biddat. Both the Talaq-e-Ahsan and Talaq-e-Hasan are claimed to be recognized by the Holy Quran but the last one Talaq-e-biddat is a creation of Umayyad kings for their ill intentions.

Talaq-e-biddat or Talaq-ul-Bain is irrevocable divorce is instant Talaq and is effective as soon as that pronouncement is made thrice. Only this form of Talaq three pronouncements can be made by saying “I divorce you” thrice at the same time i.e. there is no waiting period( iddat period) between two successive pronouncements. Iddat period is for a woman who is divorced or after the death of husband is usually three menstrual cycles. During iddat, a woman cannot marry another man and if the husband resumes living again with her or if you pronounce this “I have retained you” the divorce is dissolved.

### **Landmark judgement by Honorable Supreme Court**

The Honorable Supreme Court of India in its recent landmark judgement of Sayara Bano vs Union of India (UoI) pronounced on August 22, 2017 has dismissed the practice of triple talaq with majority of 3:2. The constitutional bench of supreme court was comprising of five judges from different religions- Justice Korean Joseph a catholic, Justice U. U. Lalit a hindu, Justice R. F. Nariman, a Parsi, chief justice Khehar a sikh and justice Abdul Nasir, Muslim. Majority of views of justice R. F. Nariman the practice of Triple Talaq is arbitrary in nature. It observed this kind of talaq can be contracted by Muslim man intentionally without any attempt at reconciliation to solve it. This Talaq violates 393 fundamental right contained under article 14 of the Constitution of India.



Taking into consideration, the views of Supreme Court, Honorable Law Minister Shri Ravi Shankar Prasad has taken initiative to present the Triple Talaq bill in the Lok Sabha which was passed by majority on 28 December 2017. The bill reads "to protect the rights of the Muslim married women and prohibit divorce by pronouncing Talaq by their husbands and provide for matters connected therewith or incidental thereto". The bill criminalizes the practice of Triple Talaq. Section 3 states it as 'void' and 'illegal' and section 4, thereof stating whoever pronounces Talaq-e-biddat shall be punished with imprisonment which may extend to 3 years and a fine lastly section 7 of the act makes the offence cognizable and non bailable offence.

### **Judgement of adultery law-**

In the previous context of adultery law, it is defined in section 497 of Indian penal code 1860 in simple terms stated that a woman is not going to be regarded as an abettor of an offence in this at women are not responsible for the act of adultery or they are not liable for this act, only the men will be held liable in criminal sense. As with the wish of husband, wife can be subjected to someone else's desire. The woman is not allowed to say here. It does not permit women to prosecute her husband if he is adulterous. The act was gender biased.

The judgement by a five judge Supreme Court bench headed by chief justice Dipak Mishra which declares section 497 unconstitutional on 27th September 2018. Adultery is no more of criminal offence, it is a civil offence. Justice D. Y. Chandrachud suggested that there was nothing wrong if "women seek solace and comfort outside marriage". Women have full autonomy over their bodies. The bench clarified that it was in favor of making offence gender neutral.

### **Judgement of Sabarimala temple-**

Sabarimala temple situated in Kerala a class of women belonging to age 10 to 50 excluded from the entry in temple on the basis of ancient custom, which was sanctioned by rules 3(b). It is a temple of lord Ayyappa. It is argued that all women are not prohibited from entering the temple. The women between the ages of 10 to 50 are barred from entering the temples on the biological ground of menstruation. Rule 3(b) framed by the government under the authority of the 1965 Kerala Hindu places of worship (authorization of entry act) provided for the exclusion.

A constitutional bench of the Supreme Court on 3rd October 2018 held by a 4:1 majority, that the Sabarimala's temple practice of barring entry to women between the age was unconstitutional. Chief justice Mishra and Justice Khanwilkar, stated that women have an enforceable right to entry under article 25(1). Again, it has no scriptural or textual evidence that has been a backup to the practice. Section 3 of 1965 act prohibits discrimination against any class of Hindus and the temple is not a denominational temple. It again violates Article 14 and 15 prohibits equality and promotes discrimination. Having an overview of the judgement of Sabarimala was passed.

### **Analysis:**

All the following three Landmark judgements passed by the Supreme Court are essential for breaking Gender stereotypes. It leads to women empowerment. It gives women the prime importance and give her complete freedom and tries to bring equality. Such type of judgements are necessary in our society to progress.



**Limitations of the study:**

- 1) The study covers only three Landmark judgements but apart from these Maternity benefits act is amended, judgement of LGBT is passed, live in relationship judgement is passed ,etc.
- 2) The study solely focuses on judgements passed in the year 2017 and 2018 there are many judgements that have been responsible for bringing a change in gender roles.

**Conclusion:**

It is not only government which can help to change the stereotypes, we at our home, our work place, our neighborhood, need to strive to achieve the goal. Socialization of children should not be gender biased. Educated parents are seen buying stuff as per gender labeled colour pink for girls and blue for boys. There is no typical colour for any gender. Trying to be rational and giving women her dignity, self respect and same opportunities will help to bring a positive change in society.

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