



**FACULTY OF JURIDICAL SCIENCES**

**COURSE: LLM TWO YEARS Constitutional & Administrative Group /Criminal group/ corporate & business group**

**Semester-II**

**SUBJECT: Law and social transformation in India**

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**NAME OF FACULTY: DR. SHIV KUMAR TRIPATHI**

# Lecture-11



## Initiatives by the Judiciary for Gender Justice

Article 51 of the Constitution imposes an obligation on the State to foster respect for international law and treaty. However, the treaty provisions cannot be invoked without the same being incorporated through enabling legislation.

The judiciary through its proactive role has applied the principles of the treaty in many judgments.

The judiciary in a number of decisions has struck down the discriminatory provisions of law and rules, such as, in *C. B. Muthamma v. Union of India*<sup>5</sup> wherein the service rules requiring a female employee to obtain permission of the Government in writing before her marriage and denying her right to be appointed on the ground that the candidate is a married woman was held to be discriminatory against women. In *Air India*

*v. Nargeesh Meerza*<sup>6</sup> the service condition that terminated the services of an Airhostess on becoming pregnant was struck down as being discriminatory. In *Vasantha v. Union of India*<sup>7</sup> Section 66 of the Factories Act which prohibited night shift work for women held to be discriminatory.

In *MadhuKishwar v. Union of India*<sup>8</sup> and in *C. MasilamaniMudliar and others v. The idol of SwaminathaswamiThirukoil and others*<sup>9</sup> property rights for women were upheld. In *M/s Mackinnon and Co Ltd v. Audrey D 'Cost*<sup>10</sup> provided for equal wages. *Delhi Domestic Working Women's Forum v. Union of India*<sup>11</sup> and *BodhiSattwaGautam v. Subhra Chakroborthy*<sup>12</sup> and *Chairman Railway Board v. Chandrima Das*<sup>13</sup> provided for compensation in rape cases.

*Municipal Corporation of Delhi v. female workers (Muster Roll case)*<sup>11</sup> ensured maternity benefit for contract workers. And in *Gita Haiharan*<sup>15</sup> case regarding guardianship rights interpreted the provisions in favour of women dealing with the rights of woman to be a guardian for the minor child, the principles of the Convention have been applied to hold the provisions of the Hindu Guardianship and Minority Act, 1956, as being discriminatory. The *Daniel Latiffs*<sup>16</sup> case enabled Muslim woman to seek maintenance from divorced husband.