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Q4(b)

"The legal subordination of one sex to another is wrong in itself, and now one of the chief hindrances to human development." (J. S. Mill). Comment

UPSC Civil Services Mains 2023 · PSIR GS 1 · 15 marks · Political Theory

Political Theory: meaning and approaches.

Core demand of the question

- "The legal subordination of one sex to another is wrong in itself, and now one of the chief hindrances to human development." (J. S. Mill). Comment. (15 marks)

Revision summary

Mill held that legal subordination of women is unjust as a right and damaging to human development.

The liberty principle puts the burden on those who would legally confine a sex.

Indian [Articles 14, 15](#), and 16 reject sex as a caste of public law.

[Vishaka](#), [Shayara Bano](#), and [Joseph Shine](#) removed specific legal subordinations.

Personal law and household inequality show that development is still hindered where legal rank remains.

Introduction

J. S. Mill in *The Subjection of Women* (1869) argued that the legal inferiority of women is unjust as a matter of right and harmful as a matter of social progress. The comment must take both clauses: wrong in itself, and a hindrance to development.

Body

Wrong in itself

- **Mill applied the liberty principle of On Liberty:** the burden of proof lies on those who would restrict a person, not on the person who would act.
- Legal subordination in marriage, property, custody, and public office treated women as a class under men, which Mill said no custom could justify once the argument was opened.
- **The claim is deontological in force even though Mill is a utilitarian:** some legal relations are unjust before one counts national output.
- **Rawls** later required equal basic liberties for all persons; sex as a legal rank fails that test.
- **Ambedkar** and the Constituent Assembly wrote [Articles 14, 15](#), and 16 so that the state may not maintain sex as a caste of law, while [Article 15\(3\)](#) allows special provisions for women.

Hindrance to human development

- Mill's development is the unfolding of capacities through freedom of thought, occupation, and association.

- Half the population legally confined wastes talent and corrupts the men who hold the privilege, which is a utilitarian and a moral-psychological claim.
- Education, property, and the vote were the instruments he named; later labour law, equal pay under **Article 39(d)**, and political reservation in **Articles 243D and 243T** extend the same logic.
- **Joseph Shine v. Union of India** (2018) struck down the adultery offence as a denial of women's equal status; **Shayara Bano v. Union of India** (2017) set aside instant triple talaq as arbitrary.
- **Vishaka v. State of Rajasthan** (1997) treated workplace sexual harassment as a constitutional injury pending a statute, which is development as the removal of a legal and social bar.

Limits of Mill and of the comment

- Mill still wrote inside a household picture that later feminists, and **Carole Pateman**, showed was itself a political contract of male sex-right.
- Legal equality does not by itself end unpaid care or violence; **Sandel's** unencumbered self is not the whole of gendered life, yet Mill's legal point remains the first public step.
- Personal law pluralism under **Articles 25** to 30 continues to produce sex-unequal civil status in some domains, which is exactly the subordination Mill named.
- The 106th Amendment's future reservation for women in legislatures is a delayed institutional reply to the second clause, development through voice.

Flow diagram

Mill 1869 -> Wrong in itself
 Mill 1869 -> Hindrance to development
 Wrong in itself -> Arts 14 15 16
 Hindrance to development -> Vishaka Joseph Shine
 Hindrance to development -> Political voice

Conclusion

- **Mill's sentence stands:** legal sex-subordination is unjust in itself and it blocks the development of women and of society. **Articles 14** to 16, **Vishaka**, Shayara Bano, and **Joseph Shine** are the Indian legal working-out. Remaining personal-law and household inequalities show that the hindrance is not fully removed.

Facts & figures

The Subjection of Women, 1869

Mill's essay against coverture and political exclusion of women.

Articles 14, 15, 16

Equality, non-discrimination including sex, and equal opportunity in public employment, with 15(3) for special provisions.

Vishaka (1997)

Supreme Court guidelines on workplace sexual harassment, later given statutory form in 2013.

Joseph Shine (2018)

Struck down IPC **Section 497** as violating women's dignity and equality.

Articles 243D and 243T

Reservation of seats for women in panchayats and municipalities.

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