

Chapter VII

Research Findings

The Indian constitution has guaranteed, in the preamble itself, 'Justice', 'Social, economical and political, liberty of thought, expression, belief, faith and worship and also of equality of status and opportunity. Indian women are the beneficiaries of these rights in the same manner as men. In India, it is particularly the personal laws that principally govern the lives of women. Women professing any religion; Hindu, Muslim, Christianity, Parsis and Jews etc enjoy some rights which govern various aspects of their lives such as marriages, divorce, maintenance and inheritance etc. These are governed by the Personal laws of their respective religion. Women's legal status as affected by these laws therefore constitutes a key symbolic battleground over which conservatives and progressive forces are struggling to realize their vision for the future. A thorough study of the constitutional Laws and legal provisions relating to Hindus, Muslims, Christians, Parsis & Jews women including their Personal laws shows that much has been done to ameliorate the condition of women in India but much more needs to be done. The challenges facing women of our society is not just the legal framework that needs to be put in place with regards to 'Rights' of women among various religious and ethnic population but the 'Implementation' of the existing laws and the 'Attitude' of the respective societies towards their womenfolk and the law enforcing agencies. The Constitution of India enjoins equality of sexes but unfortunately Indian society is still harsh to women in the same way as it was during the period of Manu.

There is a crying need to sensitize the general population regarding the deprivation of the women and the retardation it brings about in the society as a result of these biased and unjust laws, customs and traditions. While it is true that world over the societies have evolved over a period of time on women's right and the biggest lever of change is education followed by economic freedom. It is therefore a no brainer that the improvement we see in the condition of women in western and developed countries in the last 40~50 years has been because of improvement in education, economic progress & financial independence of women, which in turn shaped the contours of the political, legal and social framework. The consciousness of having just and fair laws, uniform working conditions and access to justice for women has helped those societies grow economically, socially, morally and politically.

The “ideals” of ‘Indian womanhood’ is the passive, chaste, devoted and faithful wife like Sita rather than other strong independent women found in Hindu mythology. Traditional India had seen a woman only as a member of the family or a group – as daughters, wives and mothers and not as an individual with an identity or rights of her own. Also We have to move away from the ‘Patronizing’ mindset to ‘Rights’ based and move the legislative wheel to come out of the concept that women has to remain dependent on a male family member from cradle to grave. From being under the custody of father, brother, husband and son during the various stages of her life the women now needs to be treated on the principles of equality & partnership. The modern, emancipated and educated women is no longer willing to accept the status quo and the yearning for change has now turned into a very strong social & political force and it would be in the interest of our country and society to acknowledge the groundswell of support for change and shape the future.

With education and financial independence of the Indian women some things have changed for good, especially some attitudes but it also brings in new challenges which our traditional societies have to learn to live with and cope. The old formulations are challenged every day and newer situations evolve which comes with a certain social cost which we should be prepared to pay.

It is not my case to suggest that everything that women in developed countries have achieved has to be replicated. In fact we should learn from their mistakes and try to evolve a more gender neutral state without the extremes of those societies. The high crime rate against women, high divorce rates and other such issues are still a matter of concern even to those societies.

As regards the study of Personal Laws of India, it is heartening to note that in recent years, the Government of India, the Civil Society, Judiciary and other wings of our democratic structure have done a lot to bring about gender equality but cumulative bias and discrimination over centuries will take time to get to the desired level of acceptance and expectations. Some of the research findings are an eye opener for e.g.; Patriarchy is the basis of all personal laws, regardless of community and religion. In all personal laws, the one common feature is that they give unequal and lesser rights to women. These Personal laws ensure the secondary status of women within the family as well the continued social and economic dependence of the women upon the male members of the family; be they fathers, brothers, husband or sons. A society in which men decide the fate and fortune of all those who lived

under their authority could not be expected to grant women any kind of respectable position and the legal protection provided by various enactments has largely failed to ameliorate the position of women. She had to depend on males for her survival and for her existence.

Observations Regarding All Personal Laws:

Hindu Law: -

As per the study and understanding of the Hindu Law, the role of the women, in the two grand Hindu epics, Ramayana and Mahabharata is shown in a positive light while in other text such as Manu Smriti, the oldest text relating to religion and legal duty, women's rights are restricted. Manu Smriti advocates for more restricted rules & roles for women considering it as a kind of property. This period made her subordinate and dependent on the male. She was denied equal status. The subordinate position of women became an accepted cultural norm for the majority section of the population. How can a woman learn if she is not allowed to speak? How can a woman grow intellectually if she is obliged to be in a state of full submission, how can she broaden her horizon if her one and only source of information is her husband at home.

According to Anjani Kant in her book 'Women and the Law', it says "Yet in real sense, liberation of women is not merely a sum of legal enactments and constitutional sanctions. While not denying the importance of an effective legislative policy, it was not possible to bring about a change in the status of women through legislative action alone. One must acknowledge that there is a large gap between the law and social attitudes and beliefs which acts as barriers in the enforcement of laws for women's emancipation. The complex system of social institutions, norms of behaviour and religious prescriptions, come in the way of proper implementation of special protective legislations for women".

There is a long list of statutes to ameliorate the status of Hindu women, but they are not properly implemented. For example, on the issue of bigamy, though it is an offence punishable under law yet it is not a cognizable offence. Proceedings can be initiated at the stance of the 1st wife who is under severe pressure not to initiate such proceedings. Also, the punishment is too mild and therefore does not act a viable deterrent. This law needs a serious review which should also put a check on the misuse of religious conversion for the sake of hoodwinking the law in case of bigamy. In such cases, the husband converts himself to Islam for second marriage and reverts back after marriage. For

example, The Apex Court in Sarla Mudgal v. Union of India, (1995), has held that if a husband has converted to Islam only so that he can get married again, he will be guilty of bigamy in his second marriage itself. It means that if a man is already married under Hindu Personal Law and subsequently he converts to Islam for the purpose of marrying again, he will be committing domestic violence against his first wife, which amounts to be an offence punishable under section 495 of Indian Penal Code. There have been several others pleas by Hindu wives whose husbands converted to Islam only to get married again without divorcing the first wife. A Hindu wife who seeks divorce or demands maintenance on grounds that her husband has contracted a bigamous marriage must prove that he has married again. Since marriages under the Hindu Marriage Act, 1955 are not automatically registered, it is hard to prove. The law insists that offence of bigamy will be committed only when the second marriage is strictly proved. Anything short of second marriage will not amount to a bigamous marriage and accused is liable to be acquitted because the act does not punish mock marriages. This appears to be serious lacunae in H. M. Act, as only offence of bigamy has been made punishable in the Act read with sections 494 and 495 of Indian Penal Code. Similar provisions should have been made for mock marriages. The provision regarding registration of the marriage under Sec.8 of the Hindu Marriage Act should be made compulsory, so that the chances of fraud and mock marriages could be checked and detected.

The protection of women from Domestic Violence Act, 2005 provides for more effective protection of the rights of women guaranteed under the constitution of India, the reality is that the movement a woman complains of domestic violence, in most of the cases she is thrown out of her matrimonial house along with children. In India going to police station or to court is not taken in a good spirit. Most of the victims of violence at home are not familiar with the legal system. Women, who are victim of domestic violence, are unable to leave abusive situations due to several social and financial factors. There is lack of awareness in the public regarding this law. It is highly desirable that women in India should be taught and explained as to what remedial action would be appropriate in given situation.

Under the Hindu Succession Act, 1956 the properties of a Hindu male dying intestate devolves, in the first instance, equally on his sons, daughters, widow and include the specified heirs of predeceased sons or daughters. The provisions of Sec. 30 of the Act raises issues which are questionable in nature whereby the deceased husband, if he so desires, may write a will and exclude his wife. The will may bequeath of

all his properties and leave no means of support to the widow. The right to will away property was traditionally unknown to Hindus. Among Hindus, a daughter can claim inheritance only if the father dies intestate, otherwise she has no claim over the property. Under the Hindu Succession Act, Sec. 30 of the Act makes important changes with respect to the disposition of the property by will. It confesses absolute power on every Hindu, who is no minor, to dispose of his property by will.

The Hindu Succession Act, Sec.23 denied a married daughter the right to residence in the parental home unless widow, deserted or separated from her husband and further denying her right to demand her share in the house if occupied by the male family member. A daughter can only claim a right to residence in the ancestral home in times of distress.

The Provision under Sec.6 of H. S. Act also contains gender bias. The property of a male dying intestate devolves according to Section 8 of the H. S. Act. The principle of representation goes up to "Two" degrees in the male line of descent; but in the female line of descent it goes up to "One" degree. Daughter gets a share but a daughters-daughter's son and daughter's daughter daughter do not get anything.

The scope of marriage though enlarged in law, stands to be narrow in practice; it is very difficult to marry across the barriers of caste & community, where matching of horoscope still dominate arranged marriages. The incidents of honour killings still occur in 21st Century. The mere perception that a woman has behaved in a way that dishonours her family is sufficient to trigger an attack on her life. In some cultures, honour killings are considered less serious than other murders simply because they arise from long-standing cultural traditions. These killings are a serious legitimate concern of the human rights community.

The Dowry Prohibition Act, 1961 has signally failed to achieve its purpose. During the debate on the dowry bill, it has been claimed that awakening of the social conscience rather than legislation was necessary to solve this problem and that the evil will be reduced with increasing avenues of employment and other opportunities for women.

Muslim Personal Laws:

The basic teaching of the Qur'an focuses on efforts to improve the conditions and strengthen the weaker segments of society. In Pre-

Islamic Arabia, orphans, slaves, and the poor women were abused by the stronger elements in society. Therefore, Qur'anic verses aimed at ameliorating the plight of the downtrodden classes in general and women in particular, stand out prominently. The extent of reforms brought about by Islam fourteen hundred years ago in laying the foundations of an egalitarian society based on the principles of social justice. The Prophet Mohammed (PBUH) is reported to have said, "All people are equal, as equals the teeth of a comb. Only God fearing people merit a preference with God; thus men and women are equal".

According to the holy Qur'an, marriage is in fact a flexible arrangement, made through mutual consent; in which both the parties are equally important. The practice of triple talaq for divorcing a Muslim woman and the freedom extended to Muslim males to practice polygamy were in some quarters regarded as violations of dignity of Muslim women and also discriminatory. The triple divorce in one sitting for example, were not practiced during the Holy Prophet's time nor is it universally accepted by all the schools of Sunni Law. This form of divorce is causing suffering to many Muslim women and needs to be reformed. As it results in injustice to women it loses its Islamic character. As far as Islam is concerned justice is the core theme & central value; one cannot think of Islamic value system without justice. Talaq ul Bidat or pronouncement of Triple Talaq though not permissible in many Muslim countries, it remains an issue which has to be dealt by Scholars, Judiciary and Law makers. According to the reformist scholar Asghar Ali Engineer; triple divorce should be replaced by talaq-al-sunnah or Quranic form of talaq, both are quite fair to women. Even where divorce is inevitable, it has to be fair to women and Quran repeatedly exhorts men to either retain her (in marriage) in goodness or leave her (divorce her) in kindness (2:229). She cannot be thrown out arbitrarily as it is usually done through triple and oral divorce. Law must prevail and proper procedure must be followed as laid down in Qur'an and Sunnah. Triple divorce is not in keeping with either of the two.

The Quranic verses which appear radical in justification of the liberty given to Muslim males to take up to four wives, on a proper interpretation clearly states that males cannot do adequate justice to all four wives and, therefore, should marry just one woman. Qur'an clearly states in 4:3 and 4:129 that if justice is not done one should marry only one. In fact 4:129 is very very emphatic on justice, so much so that it says you cannot do justice even if you want to and do not leave wife suspended or neglected. Thus in Quran priority is not for number but for justice. However, the Muslim Personal Law in India has lost the spirit of justice and has been replaced by the number, which sad and

unfortunate. If a Muslim woman has contracted second marriage during subsistence of first marriage she is liable to be punished under Sec. 494 of the Indian Penal Code for the offence of Bigamy. The Madras High Court in Shahulameedu V. Zubaida Beevi has observed that it is distressing for a Court to discriminate against Muslim woman who have, for ages, been subject to several social disabilities imposed on them in the name of personal laws.

The National Consultation on codification has prepared a progressive draft which among other things bans triple talaq and restricts polygamy. The draft document also makes registration of all Muslim marriages with the state government mandatory. According to the reformist scholar Asghar Ali Engineer; the group is not bringing any new law but only reiterating the provisions which the Quran makes for Muslim men and women. Several countries though have put a check on bigamy by making the husband appear before the court and seek permission before taking another wife and the grounds for second marriage made stringent. The courts have to be convinced on the genuineness of the need. This can be a very effective tool to check on the misuse of law and will help the women from frivolous divorce.

According to Asghar Ali Engineer in his Essay - Why Codification of Muslim Personal Law?

"If we codify the present Muslim Personal Law, many short comings in the present law can be removed thus making it much more gender just than it is at present. In fact in its original spirit Islamic law in matters of marriage, divorce, inheritance etc. was most progressive and empowered women as no other law had done before. However, over period of time this original spirit was lost due to them prevailing social ethos and values and customary laws acquired greater importance over Quranic and prophet (PBUH) pronouncements. Codifications can remove these accretions over a period of time and restore original Quranic spirit."

Liberal Muslims have urged that Ijtihad, a form of critical thinking, be used to develop a more progressive form of Islam with respect to the status of women. In addition, Islamic feminist have advocated for women's rights, gender equality and social justice grounded in an Islamic framework. Women in Taliban controlled Afghanistan faced treatment condemned by the international community, women are forced to wear the burqa in public, not allowed to work, not allowed to be educated after the age of eight and faced public flogging and execution for violations of the Taliban's diktats. All these are happening

in the name of Islam. The Taliban's are treating women in the most primitive way & is hardly Islamic yet they do it in the very name of Islam.

The Muslim Women Protection of Right on Divorce Act, 1986, this Act in fact pulled divorced Muslim women out of the purview of Sec.125 Criminal Procedure Code, which was earlier applicable to women of all communities and communalised the issue. The provision of maintenance under Muslim Personal Law can apply for maintenance under Sec.125 of the Cr PC only if the husband agrees to invoke this provision instead of being governed by the Muslim Women's Act, 1986. Before proceeding under the Cr PC a joint Affidavit has to be filed that both agree to be governed by the Cr PC. In this context the following observations of Dr.K.R.Nuri in his preface should be read by all including the members of the board:

'Belief in Islam does not mean mere confessions of all existence of something. It really means the translation of the faith into action. Words without deed carry no meaning in Islam. Therefore, the term 'believe and do good' has been used like a phrase all over the Qu'r'an. Belief in something means that man should inculcate the qualities or carry out the promptings or guidance of that thing in his action. Belief in Allah means that besides acknowledge the existence of the author of the Universe; we are to show obedience to His commandments.'

The learned judge observed that the contrary argument does less than justice to the teaching of the Qu'r'an. This, it is submitted, is a view not only in consonance with the Qu'r'an but also with the concept of social justice enshrined in our constitution.

The traditional position under the Muslim law has been that the husband's duty to provide maintenance for the wife during the Iddat period and after that from the relatives or the State Wakf Board. The Amount which is given by Wakf Board is very less. When a 65 year old woman Shah Bano fought a lonely battle for maintenance, it took almost a decade and the Highest Court of the country to award her right to 180 rupees a month as alimony.

She is entitled to maintenance only for the period of iddat for three months following divorce. No man takes the responsibility of his children after divorce, although as per Islamic law the children are the responsibility of father. They generally do not get back their jahez (dowry), maintenance or mehr in spite of their persistent approach to Shariat Courts. It's a very tough battle for a divorced woman who is uneducated & un-employed.

But it would also be wrong to state that the entire Muslim population supported the fundamentalists. Women's group also carried out massive campaigns in support of the Shah Bano judgement as it was a vital issue for them that the Supreme Court had upheld a deserted and destitute divorced woman right to maintenance, whatever her religion. Fundamentalist leadership and other politicians have always used religion to promote their own vested interests and to preserve the status-quo.. Sachar Committee did a good job of highlighting the educational, economical and political backwardness of the Muslim community. It described how Muslims live in "Ghettos" in rank, poverty and with fear and insecurity. A sustained and multi-pronged strategy is required to empower Muslim women in India. One of the most important needs is a reform in personal law to give equal right to women as guaranteed by the Qur'an. Unfortunately in our country the Muslim Personal Law is not codified unlike several Islamic countries. As a result women continue to suffer in marriage related disputes.

According to Shariat Law a daughter is entitled to half of share of a son in her deceased father property. This is a right which she cannot be deprived of. But the fact is that hardly a few daughters get their share in the property after their marriage. Either they are made to forgo their right by persuasion or in some cases willingly or sometimes pressurised in the name of keeping the property intact. Similar is the case with widows. While they have a share in the property of their deceased husband but hardy few get their shares. Mostly they are deprived and only few can afford to go to court of law to vindicate their right. It is for the government of the country to devise some means so that the married daughters and widows get their fair share in their respective deceased father or deceased husband's property.

Empowerment of Muslim women is not possible until she overcomes all such restrictions imposed on her by the feudal society. Feudal culture put severe restrictions on women and confined her role to household affairs only. She must acquire modern skills in order to excel in all these fields. In fact, what Islam has already given her by way of rights is being given to her now by the modern society, she should overthrow her restrictive role and fight for her Islamic rights sand this struggle for Islamic rights will empower her.

Christian law:

The international conventions on women always focus on women's inheritance rights. The analysis of the inheritance rights of Hindu, Muslim and Christian women bring forth the reality that the Christian women alone are deprived of the right to inherit a share of the ancestral

property. However, neither the community nor the church would ever take step to plug the existing loopholes in the Indian Succession Act, 1925 because they are up in arm against women inheriting property. To make matter worse, Christian women are still being controlled by the church through its cannon laws which ensure women's subjugation and subordinate status.

The status of Christian women depended on which denomination she belongs to, because different denominations follow different customs. The Latin Catholics and Protestants followed the equal share concept where women could enjoy equal status. A daughter in customary law does not get a share and even the dowry amount is never equal to a son's share. A daughter to whom dowry had been paid by her father is considered to have received her share. The dowry amount is usually fixed at the time of marriage by their fathers.

A writ petition was filed by Mary Roy and others, the petition challenged the validity of sections 24, 28 and 29 of the Travancore Christian Act of 1916 on the ground that these provisions violate article 14 and 15(1) of the Indian Constitution. The Supreme Court hesitated to interfere with the personal law, however relying on technical grounds the Supreme Court could wipe out the discriminatory provisions which were volatile of the principles of equality enshrined in the constitution. Despite the court verdict in favour of Mary Roy; it could not bring about any substantial change in the status of Christian women. So long the influence of the church continues, the denial of property rights to Christian women will continue despite legislative efforts. The community is also reluctant to give property rights to women due to the influence of the patriarchal traditions.

Parsi Law:

Anjani kant in her book "Women and Law" observed that;

'Parsi women are discriminated against by laws which have no basis in the community's religious beliefs. We have seen how the ownership and inheritance rights of Hindu and Muslim women are affected by their respective laws. The Parsis, as a community with 90% literacy, a stronghold on the industrial and professional life of the country although they are one of its smallest minority communities, have among the most unjust inheritance laws in the country today. This, finally only goes to prove the discrimination and gender biases do not disappear with progressive education'.

Why an educated, out weirdly emancipated Parsi women tolerate such inequality is hard to comprehend?

Parsi women also share the fear of extinction of community and most of them have resisted changes in their personal law. Those who have not too preoccupied with the trauma of ‘expulsion’ from the community which is the fate of all those women who marry people of other religious denominations; the fear of expulsion from the community keeps them away from protests and agitations. Children of Parsi woman married to non-Parsi have no right under Parsi law, they are not considered Parsis. There is no satisfying explanation of such gross bias.

Jews law:

In India there is no statutory law on marriage and divorce for Jewish community. The Rabbis believed that to be a female was less desirable than to be male. The negative ways in which women were constructed as ‘other’ and as morally inferior to men in the foundation text of Rabbinic Judaism had a long-lasting impact on men’s perceptions of women and on women’s images of themselves. Orthodox Jewish men recite in their daily prayers: ‘Blessed be God King of the Universe that thou have not made me a woman’.

In Biblical law, a husband has the right to divorce his wife but a wife cannot initiate a divorce. One of the most agonising, and pressing issues facing the Jewish community arises when a husband refuses to grant his divorced wife a get, thus preventing her from marrying again in the future, such woman, called ‘agunot’ (literally chained woman). A child born to a Jewish woman whose previous marriage did not terminate with a get may be considered illegitimate.

The Rabbinic literature also indicates that marriage represents the transfer of control from the father to the husband. The Jewish tradition the husband role towards his wife stems from the conception that he owns her as he owns his slave. This conception has been responsible for denying the wife any control over her property or her earnings. As soon as Jewish woman got married she completely lost control over her property and earnings to her husband.

In order to gauge the level of awareness and understanding of Personal Laws the research scholar has conducted a sample survey of women among the three major religions viz .Hindus, Muslims & Christians. 45

women were chosen from each religious group with a mix of educated and uneducated.

The questionnaire was designed to get a very objective response on three basic issues pertaining to women's understanding of their respective Personal Laws i.e. Awareness, Effectiveness & Implementation. As per the survey done by the research scholar are explained as under:-

On Awareness: -

- Regarding the awareness of Personal Laws, the Hindu women were least aware at 16% as compared to 56% in Muslims and 82% in Christians.
- On awareness about Divorce Laws, the Hindu women were least aware at 38% compared to 67% in Muslims and a high of 84% among the Christians

On awareness regarding Maintenance & Inheritance Laws, the Hindu women were least aware at 33% & 49% respectively as compared to 69% and 60% among Muslims and 84% and 78% among Christians.

These awareness percentages are significantly higher among "Educated" women across all religious groups as compared to "Uneducated" women.

On Effectiveness: -

- On asked about the fairness & effectiveness of their respective Personal Laws, the results of the survey showed that 84% of Muslim and 73% of Christian women expressed that their personal Laws are effective while only 42% of Hindu women said they were effective which is in line with the response to awareness
- However, on the questions of Divorce and Maintenance, 80% the Muslim women expressed their opinion against the fairness and effectiveness while 56% of Hindu and only 33% Christian women expressed their dissatisfaction over Divorce laws. On Maintenance Laws 64% Hindu women expressed their dissatisfaction as compared to 49% among Christians.
- On the question of effectiveness and fairness over Inheritance Laws the opinion of women is quite uniform with 49% Hindu

women expressing satisfaction compared to 58% among Muslims & Christian.

On Implementation: -

- 53% of women among Hindus & Christian feel that the Personal Laws are fairly implemented while 60% women among Muslims feel the same.
- Personal law are a subject governed by social and cultural factors other than religious aspect. The impact of Personal Laws is more pronounced among the Muslims and Christian's community than the majority Hindu community resulting in higher awareness.

This could be possible explanations for the above results;

- I. The Personal Laws of Muslims & Christians are a matter of serious discussions among the community and often in the media and political discourse for various reasons thereby creating higher awareness among the followers and others.
- II. The impact of Personal Laws is more pronounced among the Muslims and Christians than the majority Hindu community resulting in higher awareness.
- III. Hindus and Christian are more hopeful of getting inheritance in some or other form through legal process if required. Muslim females were more apprehensive in getting their rights due to male domination and lack of education.

All religions of the world lead to self realisation and to God Almighty. Their ways may be different but the destination is same. The challenges of the modern times are huge and changes are fast and far reaching which needs to be kept pace with by the societies thru legislative innovations and adjusting the social order to ensure dignity, equality and justice to women across all regions and religions. The women of all religions are united in their discrimination, though the degree of discrimination may vary depending on the faith they profess. Grave violations of women's human rights continue to occur worldwide with terrifying regularity. Women throughout the world face systematic gender based discrimination and are regularly denied the right to life and security of person, education, health care, employment, inheritance and freedom of movement.

There is a need to social awareness and to educate people to change their attitude towards the concept of gender equality. Many

commissions for women's rights have been established yet the graph in the crime against women shows an upward trend. Statistics shows rape are on the increase every year, sexual harassment of women been increasing every year, dowry death have not decreased and things have come to such an extent that those persons who take care of law and order advise girls and women not to leave their homes late at night. They are not safe in their homes; a sense of insecurity is always there wherever they go just because they are women.

The ancient text promotes male dominance and it was hallowed by customs and traditions. The elements of patriarchy originated from religious scriptures still exist today. The Brahmanical texts advocated the supremacy of man; and woman was assigned a passive role as vehicle for the production of sons. Women were kept away from inheritance for fear of fragmentation of family properties. Hence the patriarchal ideology still dominates Indian society even today. The women's life continued to be confined to the family. The men are always insider's women are always outsiders as far as property rights are concerned. Female children are less desired, for religious and economic reasons. The oppressive social custom of dowry continues to affect all classes of women, including educated women with professional careers. Women in minority populations experience a double oppression; they are members of minority group oppressed by the majority, and they are oppressed within their own societies because they are women.

In many countries during peace time, a women's most dangerous environment is the home she lives in. There are enough and more examples of women getting beaten and even killed in the name of "Honour" for their behaviour, if it is suspected to have tainted their families. Parents giving their daughters in marriage while still a child or in exchange for money, to refuse her the right to chose a marriage partner or to sell her to a human trafficker or a flesh trader. These things are happening very commonly in the supposedly "safe" environment of her home. If a man marries her without her adult consent, confines her to the house, beats her for disobedience or mishap or divorces her unilaterally without support. She has to bear all this and they happen within the privacy of a family home. In fact, it is rather imposable to summarise the kinds of domestic violence faced by the women in India. Right from dowry death to abetment of suicide, cruelty, passing of abusive remarks, taunting, hurt, adultery, curtailment of basic needs such as food, clothing and medical assistance in case of sickness etc. are part and parcel of domestic violence though these acts or conduct are not judicially recognised. The protection of women from Domestic

Violence Act, 2005 provides for more effective protection of the rights of women guaranteed under the constitution of India, the reality is that the movement a woman complains of domestic violence, in most of the cases she is thrown out of her matrimonial house along with children. In India going to police station or to court is not taken in a good spirit. Most of the victims of violence at home are not familiar with the legal system. It is highly desirable that women in India should be taught and explained as to what remedial action would be appropriate in given situation.

"Acquire knowledge, it enables its possessor to distinguish right from wrong; it light the way to heaven", is a very famous saying.

Education is important for everyone, but it is especially significant for girls and women. This is true not only because education is an entry point to other opportunities, but also because the educational achievements of women can have ripple effect within the family and across generations. Education is the single most effective way to improve the lives of individual woman as well as for a gender-just society. By improving educational opportunities for girls and women helps them to make right decision and influence community changes in a positive direction. Illiteracy is one of the main obstacles in women empowerment in our country.

"As for illiteracy among women, its cause is not mere laziness and inertia as in the case of men. A more potent cause is the status of inferiority with which an immemorial tradition has, unjustly branded her. Man has converted her into a domestic drudge and an instrument of his pleasure, instead of regarding her as his helpmate and better half. The result is a semi-paralysis of our society. Woman has rightly called the mother of the race. We owe it to her and to ourselves to undo the great wrong that we have done her".

Mahatma Gandhi

The education of women in particular is seen to be essential and necessary for the construction of the new society. The imperative character of education for individual growth and social development is now accepted by everyone. Education is a fundamental means to bring any desired change in society, which is an accepted fact throughout world. This is the only toll which can change millions of lives. We do not want to be mainstreamed into a polluted stream. We call for deep and structural changes to existing global system of power, decision making and resources sharing. This includes enacting policies that recognizes

and redistributed the unequal and unfair burdens of women and girls in sustaining.

It is ironic that while all Indian women suffer from the same or similar discrimination at home or within their families, the family or personal laws applicable to them are different and subject them to varying degree of discrimination. All religions in some way or other have a negative bias in the context of women's rights and status. This bias has been ratified and perpetuated by the adoption of laws based on religious customs. The negative bias in Hindu Law is of minimal degree because of conferment of new status to Hindu women. Any custom which is a conflict of statutory law has lost its validity. In Muslim law customs still play a dominant role and but for this reason emancipation of Muslim women is still a difficult task. The Muslim law has to provide a better security in a positive form so that she could emerge with a new identity from the traditional based Islamic law. A very few acts have been passed to her benefit but one expects more for making her legally, socially and financially independent. As women are oppressed in all spheres of life, they need to be empowered in all walks of life. There cannot be a piecemeal approach to women's empowerment.

Suggestions and recommendations to make women empowered:

- Sensitising them to laws related to property, marriage, divorce, minimum wages, maternity leave benefit etc.
- Encourage them to believe in their own abilities and a sense of self-worth, self-respect and dignity among women.
- Through removing sex biases in our curriculum and by designing courses incorporating positive and dignified image of modern woman we can change the feudal mindsets of the society. In schools new books related to gender equality should be introduced. Education has to begin at birth in the home, in formal education, personal behaviour, and it has to continue lifelong.
- Women's organisations can play more crucial role to create legal awareness amongst the masses. The social, structural and prevalent patriarchal ideology is anti women and it needs to be changed at every level.
- Legal machinery can play a limited role in the social and economic emancipation of women. It is only social attitude and mindset of people towards women, through which equal rights for women are made a reality.
- the women's problems must ultimately, be the concern of all women. It is suggested that battle by women for their rights has to go on more fiercely than has been earlier.

- it has been suggested that the Special Marriage Act, 1954 be amended and made into an ideal secular non-sexist law. It could then be optional for people to be married within its preview. In other words it would be like an optional U.C.C. however some of us felt that the benefit of this Act would be limited to very few women and could leave the majority of women untouched.

According to Justice Verma Committee - it is not enough that women occupy a few symbolic political positions to evidence true empowerment of women in this country. In the view of this committee, the ethos of empowerment of women does not limit itself to political equality, but also extends, in equal terms, to social, educational and economic equality. If true empowerment of women were to mean anything, it is necessary that law, as well as public policy, must be capable of engaging substantially with women's rights, opportunities, acquisition of skills, the ability to generate self – confidence and insists on total equality in relationship, both with society and state.

In order for effective implementation of the laws that do exist and to create changes in the laws themselves, it is important for women to work in and through groups. It is a healthy trend that more and more women are seeking solutions to the common problems they face, collectively, and different groups whose work is concerned with assistance of individuals who need legal aid to affect their rights and /or the empowerment of women are already functioning. As people become more aware of their rights as individuals, as human beings they will seek to make these rights enforceable; organisation is the only way to make the needs of individuals recognised by what is obviously an exploitative system.

India has elaborate laws to protect the rights of women; women and children have figured prominently in the government agenda of social reforms and initiatives. The distinction between civil and criminal law is a basic part of the legal system. Civil laws deal with the rights and obligations of people and what is needed to protect them, while Criminal laws deal with offences and their punishment. Article 15 (3) of the constitution give power to the legislature to make special provisions for women and children. In exercise of this power, The Protection of Women from Domestic Violence Act was passed in 2005. According to this act, the term 'domestic violence' includes elaborately all forms of actual abuse or threat of abuse of physical, sexual, verbal, emotional and economic abuse covered under the Act. An Act to provide for more effective protection of the rights of women guaranteed under the

constitution that are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

Rights Guaranteed to women: (No.43 of 2005)

- Right to reside in a shared household: A court can pass a residence order to secure her right of residence in the household.
- Right to issuance of orders: She can get the following orders issued in her favour through the courts once the offence of domestic violence is *prima facie* established; Protection Orders, Residence Orders, Monetary Relief, Custody Relief, Compensation Orders, Interim and Experts Orders.
- Right to obtain assistance and protection: A women who is victimised by act of Domestic violence will have the right to obtain the services and assistance of Police officers, Protection Officers, Service Providers, Shelter Homes, and medical establishment and legal Aid as well as the right to file her own complaint under Sec. 498 A of the Indian Penal Code for matrimonial cruelty.
- Custody of children

Government may offer welfare schemes for women. They may launch projects for their uplift; they may enact legislation to safeguard women's rights. The Government policies can only facilitate the process, reduce the hurdles and create an atmosphere conducive to transformation. But it is the women who have to empower themselves. Unless they themselves become conscious of their oppression, show initiative and seize the opportunities, it would not be possible to change their status. In spite of discriminatory penal provisions for the protection of women and drastic amendments in the criminal laws, crimes against women are on the increase. Reduction of crime against women remains a wishful thinking. There is constant increase in the criminal exploitation of the weaker section. Indian wives continue to bear the brunt of physical and mental torture by their husbands. According to Anjani Kant, this is one of the most brutal and explicit expressions of patriarchal dominations. The imperative of freedom from torture and exploitation which the women suffer all over the world do demand the launching of vigorous campaign by women themselves against the social vices which have degraded them to the receiving end. If women realize their rights and determine to assert them, the result is fruitful and fortunate.