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## STATUS OF WOMEN AND HUMAN RIGHTS : A GLOBAL SOCIO-LEGAL PERSPECTIVE

By

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### INTRODUCTION

When, in the last third of the 20<sup>th</sup> Century, people speak of “Human Rights”, “the rights of man”, or “*les droits del, homme*”, they really mean those rights drawing their formulation from the last decades of the 18<sup>th</sup> Century and the American and French Revolutions. But the idea of inalienable rights of human being is much older and, in fact, was known to poets, philosophers and politicians in antiquity and in the middle ages.

Throughout the Centuries there has been a close connection and interdependence between the idea of “natural law” and the idea of the natural rights of man. These ideas may be found in the works of the stoics, both Greek and Roman and in the teachings of early Christianity, St. *Thomas Aquinas*, and medieval English scholars of the law. They are encountered in the writings of Spanish theologian-lawyers of the 16<sup>th</sup> Century and the 17<sup>th</sup> Century in the works of the Dutch *Hugo Grotius*, founder of modern International law and of *John Milton* and *John Locke*, the ideological architects of the English revolution of that Century<sup>1</sup>.

The immortal Magna Carta (1215), Petition for Rights (1628), Bill of Rights (1689) and Act of Settlement (1700) and Bill of Rights (1789) in USA and Declaration of the Rights of Man (1791) in France contained these inalienable natural rights in substance, though not under the caption of Human Rights<sup>2</sup>.

### OBJECTIVES

The objective of the study is to examine the status of women across the world and in

India, with focus on violations of their rights. The study also throws light on gender discrimination faced by women all over the world and suggests some corrective measures.

The study examines the status of women in India with specific reference to violations of the right to live with dignity, right to privacy and right to reproduction, in light of constitutional provisions, statutes, legislations pertaining to women, and case law. In this context, the approach of the Judiciary to violation of women’s rights is analysed.

This study divides into two parts. Part One deals with the Global status of women. Part Two focuses on the status of Indian women.

### LIMITATIONS OF THE STUDY

The subject of study is vast and contentious. It is possible that some relevant aspects and case laws may not be covered or elaborated. Part I of the study focuses only on the global status of women with respect to violations of their rights and discrimination against them. It does not discuss legal matters. Part II of the study deals with the status of women in India. It also includes a detailed analysis of legal issues pertaining to Indian women.

### PART I

In theory, women have never been excluded from United Nation’s Concept of human rights. The Charter of United Nations Organisation affirms faith in the equal rights of men and women<sup>3</sup>. The Universal Declaration Of Human Rights, 1948, professes

the principle of non-discrimination and proclaims that all human beings are born free and equal in dignity and rights without any distinctions including that of gender. The 'International Covenant Of Economic, Social and Cultural Rights, 1966, a number of regional rights Charters, viz. "European Convention for the Protection of Human Rights and Freedoms, 1950", African Charter on Human and People's Rights, 1981, and American Convention on Human Rights, 1969, all include provisions for progressive protection and guarantees for women. Attention has also been focussed exclusively on gender issues by the United Nations and other organisations from time to time. Thus the United Nations General Assembly unanimously adopted a 'Declaration Of Elimination of Discrimination Against Women' in November 1967, resolving to abolish sex-discriminatory laws and practices, to grant women equal rights with men in matters of Civil Law including absolute interest in property and free choice and consent in marriage. The Second World Conference on Human Rights held at Vienna in June, 1993 called for full and equal participation of women in all aspects of public life. The 'Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1981' prohibited all distinctions, restrictions and exclusions imposing or nullifying the enjoyment and exercise by women of human rights and fundamental freedoms. The issue of women's right to health and to control their reproductive capacities was recognised in Cairo's 'International Conference on population and Development, 1994'. Gender equality was reaffirmed as fundamental prerequisite for social justice in the 'Fourth World Conference on Women' held in 1995 at Beijing<sup>4</sup>.

#### Women's Human Rights: Human Rights Developments

The year 2000 marked the fifth anniversary of the United Nation's Fourth World Conference on Women in Beijing, China, an event that heralded respect for Women's human rights as a central part of any and all efforts to improve women's status around the globe<sup>5</sup>.

One of the most striking developments in the past year-evident in June 2000 in the negotiations at the special sessions of the United Nations General Assembly for Beijing+5 Review to assess progress in improving women's status was how actively some Government were willing to work to thwart recent gains in protecting women's human's rights.

First, and perhaps most threatening, was the refusal of governments to accept that for women to truly enjoy their human rights, they must be treated with dignity in all aspects of their lives.<sup>6</sup> Certain Governments also acted to deny rights that might protect women's autonomy in their sexual and reproductive decision-making. In the negotiations at Beijing+5, some governments argued that women do not and should not enjoy rights in this fundamentally personal part of their lives, the right for example, to make decisions about whether and with whom to have intimate relations free from discrimination, coercion, and violence.

Many Governments in South Asia, the Middle East, and Africa, appeared content to leave unchallenged the assumption that men have the right to discipline their wives as they fit it.<sup>7</sup>

Despite obstacles, women's human rights activists set new international standards for how women should be treated and sometimes changed the situation in their local communities.<sup>8</sup>

#### Women's Status in Family

The family remained one of the most contested sites for progress on women's rights. Some governments did, in fact, change national legislation to guarantee women's equality in the family. According to a September 2000 United Nations Population Fund Report, both the Czech Republic and Cape Verde enacted a new family codes that guaranteed women equality. Countries like Morocco, Rwanda, Algeria, Israel, and Egypt maintained laws and practices that blatantly discriminated against women in marriage, access to divorce, child custody, and inheritance, among other issues. These laws and practices relegated

women to a subordinate status in the family and restricted their autonomy to make decisions about their lives.

#### Women-Labour Rights

Women contended with discriminatory laws and practices in the labour force in 2000 that obstructed and conditioned their participation and denied them their human rights.

In addition to statutory discrimination, women faced practical discrimination. Even as the International Labour Organisation (ILO) adopted a new International Convention on Maternity Protection in May 2000 and estimated that 50 percent of the labour force was female, in some countries women's participation in the workforce was determined by their reproductive status. Not only were women's reproductive functions perceived to be in the way at work, but their bodies were also at risk at work. Women workers faced sexual harassment and violence on the job, with little hope of redress. Employers often considered women's reproductive and productive roles to be incompatible, and governments did little to challenge them.<sup>9</sup>

#### Violence Against Women

In September 2000, the United Nations Population Fund (UNFPA) reported that across the world, one in three women had been physically assaulted or abused in some ways, typically by some one she knew, such as her husband or another male member of her family. In response, governments publicly condemned violence against women and committed to show political will and provide financial resources for its eradication, but their performance, in practice, failed miserably to meet women's needs. Whether in Peru or Jordan, the United States or South Africa, or other States, men who beat or female family members to restore "family honour" or sexually assaulted female raped women in their homes or in State custody, or who murdered students, all too often were able to do so with impunity. In Pakistan, successive civilian and military led Governments alike have treated violence against women as a low priority.<sup>10</sup>

At Beijing+5, Pakistan, along with several other obstructionist countries, lobbied successfully to delete language that identified customary laws and practices-such as early marriages, polygamy, female genital mutilation (F.G.M), and honour killings as violations of women's human rights from the final Conference document that outlined future initiatives and actions to implement the Beijing Declaration and the Platform for Action.

In 1999, Russian police reported that, as of 1997, they had registered over four million men as potential abusers of members of their families. Yet, Russia did not pass legislation specially criminalising domestic violence and did not provide federal funding for crisis centres to assist their work.

South African Women's rights activists reported that the country suffered from one of the highest levels of violence against women in the world. Human Rights Watch Research in April 2000 found that male students and teachers sexually assaulted female students on a regular basis, but abusers were seldom apprehended and punished.

In United States, a major Government study released in December 1999 found that the substantiation rate for allegations of sexual abuse and misconduct by corrections officers averaged about 18% in the federal prison system and in California and Texas State System. The same U.S. Government study reported that the number of women incarcerated in state and federal prisons had climbed up approximately 85,000 by the start of 1999, an increase of more than 500 per cent over 1980. Although a California Law went into effect in January 2000 that increased the criminal penalties for sexual misconduct against women in custody, California nevertheless failed to ensure that women could safely report these violations without risking retaliation. Retaliation by prison guards was perhaps the most critical factor in women's reluctance to report abuse.

#### Trafficking in Women

Trafficking did not occur in a vacuum. Violations of women's human rights in countries of origin-including State tolerated

sex discrimination, domestic violence, and rampant sexual violence –contributed to women’s vulnerability to abuse. Whether the women travelled voluntarily, found themselves tricked into migrating, or were sold into the sex industry or sweat shops, trafficking victims suffered horribly similar human rights violations. Stripped of their passports, often unable to speak the local language, sold as chattel, and terrified of local law enforcement authorities and their traffickers, many women and girls struggled to pay off the enormously inflated debts owed to traffickers; others attempted to escape. In the countries of destination, women encountered violence, state complicity, detention, and deportation.<sup>11</sup>

Soldiers, militia, and their sympathisers continued to sexually assault women with impunity in armed conflicts around the globe, including in Sierra Leone, Chechnya, East Timor, the Democratic Republic of Congo, Afghanistan, Indonesia, Kosovo, Bosnia, and Angola. Despite international recognition of rape and other sexual assault in armed conflict as crimes, governments and international community really responded vigorously to investigate and punish such violence. In addition, women faced rampant violence and discrimination in their countries of refuge, continued to be sexually and otherwise physically attacked by armed groups and civilians. Women returning to their communities post-conflict found negligible protection from domestic violence or state-tolerated sex discrimination.

#### The Role of the International Community

Although women’s human rights received much attention from the international community in the year 2000, states and intergovernmental organisations failed to take the substantive actions necessary to prevent and redress violations of human rights. Some states argued that they were responsible for redressing only gender-based violence, not gender based discrimination.

In June 2000, the United Nations General Assembly held a special session, “Women 2000: Gender Equality, Development and Peace in the 21<sup>st</sup> Century,” to review the Beijing Platform for Action. Delegates from

more than 180 states were charged with reviewing the progress made during the previous years in implementing the Beijing Platform, which was drafted and signed by 189 governments at the United Nations.

A small group of obstructionist governments, including Algeria, Nicaragua, Syria, Pakistan, and the Holy See, using Beijing+5 to attack the very principles of equality underlying the Platform Action. Unfortunately, for women, the majority of states, while not participating in the attack, failed to mount a vigorous defence of the commitments made in Beijing.

The strategies and arguments used by the obstructionist minority at Beijing +5 were familiar to those who had been involved in the Cairo+5 review in 1999 and the ongoing negotiations on the International Criminal Court (ICC). First some representatives claimed that states do not commit human rights abuses against women; they argued that the gender-specific and gender-based forms of violence against women are perpetuated solely by individuals, not by state actors.<sup>12</sup>

Another strategy used in the attack on the Platform for Action involved attempting to separate the issue of violence against women from other violations. Many countries were willing to condemn violence against women but were insistent that the violence was unconnected to violations of other rights. Many delegates spoke about the need to end domestic violence, but avoided agreeing to specific actions such as ensuring that their criminal codes prohibit violence by intimate partner; requiring that police, forensic medical personal, prosecutors and judges be trained to handle effectively domestic violence cases; and implementing effective protection for victims of domestic violence.

These states ignored how women’s vulnerability to violence is connected to wide range of violations of civil, cultural, economic, political and social rights. In particular, governments failed to recognise that in many countries women are denied access to public life, to paid work, to education, to credit, to custody of their children, and to inherit land and property. These human rights violations



make women particularly vulnerable to domestic violence by making it almost impossible for them to leave abusive relationships.

Numerous United Nations programmes and agencies related their own reports highlighting the pervasiveness of violence against women, the extent to which women suffer from discrimination in many contexts, and the correlation's between poverty and gender. The United Nations Development Fund for Women (UNIFEM) reported that 70 per cent of the world's 1.3 billion people living in poverty are women. The number of rural women living in absolute poverty, *i.e.*, life threatening poverty, has risen by 50 per cent over the last two decades as opposed to 30 percent for men. UNIFEM further reported that although women work two thirds of all hours worked, they earn one-tenth of all income and own less than one tenth of the world's property. In April, Secretary General Kofi Annan noted that two-thirds of the 110 million children who are not receiving education are girls.

The UNIFEM report and a UNICEF report on domestic violence reinforced the argument that human rights are indivisible and specifically that for women to truly enjoy the right to freedom from violence, they must be able to enjoy their rights in the other spheres as well. The UNICEF report addressed not only the pervasiveness of domestic violence against women and girls, but also the social, economic and health costs both to individuals who suffer the violence and the society. This correlation between gender and poverty is a problem for developed countries as well as developing countries.<sup>13</sup>

The U.N. commission adopted, for the first time, a resolution on "Women's Equal Ownership of, Access to and control over Land and the Equal Right to Own Property and to Adequate Housing". The commission also appointed a special rapporteur on the right to food and the right to housing, signifying increased attention by the commission to violations of economic structure. If the special rapporteur successfully integrates a gender based analysis into the work, this could be a substantial step towards

recognition of the relationship between gender-based discrimination and gender-based violence.

At General Assembly for the Beijing + 5 Review, the U. S failed to take leadership role and rally opposition when several governments sought to exempt violence to which women were exposed in the context of the family, or under the guise of religious or cultural practices, from being considered a human rights abuse. In a further failure to its purported leadership on women's rights at Beijing +5 the U. S vigorously opposed and had removed from the final document reference to the rights of incarcerated women, arguing that this subject was not in the 1995 Beijing Platform. Nonetheless, in 2000, the United States Senate passed landmark legislation to protect trafficked victims rights in the U. S, and abroad. The New Legislation, among other things, acknowledged that people are trafficked around the world for all types of work; dedicated resources to prosecuting and preventing trafficking in the U. S and elsewhere; and established a visa that allows trafficked victims to remain in the U. S to pursue civil or criminal claims against their traffickers.

Interestingly The European Union evidenced some commitment to women's human rights, launching a U. S \$29. 2 million community "Action Programme" to combat violence against women and children. The great programme, provided assistance to public institutions and NGO's fighting trafficking, domestic violence against minority groups and migrants.

## PART II

The constitution of India guarantees to all its citizens equality before law and equal protection of law.<sup>14</sup> Similarly the state shall not discriminate against any citizens on the grounds only of religion, race, caste, sex, place of birth or any of them.<sup>15</sup> At the same time proviso(3) of the same Article empowers the state to make special provision for women and children. The constitution also guarantees equality of opportunity in matters of public employment and says that on the ground only of religion, race, caste, sex, descent, place of

birth, residence or any of them there should not be any discrimination.<sup>16</sup> Subject to certain conditions, constitution guarantees to all persons freedom of conscience and the right freely to profess, practice and propagate religion.<sup>17</sup> No person shall be deprived of his life or personal liberty except according to procedure established by law<sup>18</sup>. Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law<sup>19</sup>. The state shall, in particular, direct its policy towards securing (a) that citizens, man and women equally, have the right to adequate means of livelihood; (d) that equal pay for equal work for both men and women (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength<sup>20</sup>. The state shall make provisions for securing and humane conditions of work and maternity relief<sup>21</sup>. The state shall endeavour to secure to the citizens a uniform civil code throughout the territory of India<sup>22</sup>. It shall be the duty of every citizen of India (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women<sup>23</sup>;

Thus our constitution makers made provisions for ensuring equality of citizens of India in general also to ensure equality between gender in particular. To give effect to the principle of gender equality and to give effect to directive principles of state policy many legislations have been enacted.<sup>24</sup> The Indian penal code, The criminal procedure code, and The Indian Evidence Act, contains certain provisions especially pertaining to women<sup>25</sup>. Hindu personal laws were codified in 1950's to give women right to inheritance, to adoption, to divorce, and to impose monogamy. Personal laws of other communities have generally remained untouched on the ground that demand of legislative intervention must come from them before the state intervenes<sup>26</sup>. Some legislations though are not gender specific also concern women<sup>27</sup>.

The Indian parliament has enacted the Protection of Human Rights Act 1993; Section 2(d) defines "human rights" to mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International Conventions and enforceable by Courts in India<sup>28</sup>.

This being the broad legal frame-work for the pertaining subject in India, we may now analyse how different statutes are interpreted by our Courts in protection of women, from a human rights perspective.

"The human rights of women and of the girl child are the inalienable, integral and indivisible part of human rights. The full and equal participation of women in political, civil, economic, social and cultural life at the national, regional and international levels and eradication of all forms of discrimination on grounds of sex are priority objectives of the international community," concluded the World Conference on Human Rights<sup>29</sup>. The subject of human rights being vast, the researcher attempts to analyse 'The Human Rights *vis-a-vis* interpretation of courts of provisions pertaining to women on the basis of three important themes, *i.e.*, (1) Right to live with dignity, (2) Right to privacy, (3) Right to reproduction. The three proposed themes of study are not mutually exclusive and some times the theme as well as case law pertaining to it may overlap.

#### Right to Live With Dignity

The term dignity is being defined as "the quality of being worthy or honourable"<sup>30</sup>. The researcher understands the term dignity as very broad, encompassing and dynamic. It includes among other things, right to equality, *i.e.*, equal treatment in gaining employment, service conditions, equal right to work, equal treatment at work place, equal pay for equal work, *etc.*

In the personal life, right to live with dignity include right to have equal property rights, equal marital status (social as well as legal), right to have adequate maintenance, right to have not to be discriminated on the grounds of religion or gender.

In *Air India vs. Nargesh Mirza*<sup>31</sup>, the Supreme Court struck down Air India Regulations relating to retirement and pregnancy bar on the services of air hostess as unconstitutional on the ground that the conditions laid down therein were entirely unreasonable and arbitrary. The apex Court held that “making pregnancy a bar to continuance in service of an air hostess, the corporation seems to have made an individualised approach to a women’s physical capacity to continue her employment even after pregnancy which undoubtedly is a most unreasonable approach. It is extremely detestable, abhorrent to the notion of a civilised society and grossly unethical in disregard of all human values. The termination of the services of an air-hostess under such circumstances is not only cruel and callous but an open insult to Indian womanhood.”

In *Muttamma vs. Union of India*<sup>32</sup>, the Supreme Court struck down Rule 18 of the Indian Foreign Service (Recruitment, cadre, seniority and promotion) Rules 1961, which provided that no married woman shall be entitled as of right to be appointed to the service. The apex Court also struck down the Rule 8(2) of the Indian Foreign Service (conduct and discipline) Rules 1961, which lays down that a woman member of the service was required to obtain permission of the Government in writing before her marriage was solemnised. At any time after the marriage, she could be required to resign if the Government was satisfied that her family and domestic commitments were likely to come in the way of the due and efficient discharge of her duties as a member of the service. The fact that such discrimination against women in respect of public employment continued nearly for three decades after coming into force of the constitution showed the contradiction between the normative law and law in action. Justice *Krishna Iyer* in this case observed:

That our founding faith enshrined in Articles 14 and 16 should have been tragically ignored *vis-a-vis* half of India’s humanity, *viz.*, our women, is a sad reflection on the distance between constitution in the book and law in action.

In a recent case, *Municipal Corporation of Delhi vs. Female Workers (Muster Roll)* and another<sup>33</sup>, the Supreme Court held that the provisions of Maternity Benefit Act, 1961 (Sections 2, 3(b), (c), (h), (o), &(n), 5 to 6, 8 to 12, 21, 23, and 27, Statement of Objects and Reasons) entail maternity leave even to women engaged on casual basis or on muster roll basis on the daily wages and not only those in regular employment. The apex Court also held that the provisions of the Act in this regard are wholly in consonance with the directive principles of state policy contained in Articles 39, 42 and 43.

It is been observed by the Supreme Court:

A just and social order can be achieved only when inequalities are obliterated and every one is provided what is legally due. Women constitute almost half of the segment of the society, have to be honoured and treated with dignity at places where they work to earn their livelihood ———what ever is needed to facilitate the birth of child to a woman who is in service, the employer has to be considerate and sympathetic towards her. ———. The Maternity Benefit Act, 1961 aims to provide all those facilities to a working woman in a dignified manner so that she may overcome the state of motherhood honourably, peacefully, undeterred by the fear of being victimised for forced absence during the pre-or –post natal period.

The Supreme Court also observed:

The Universal Declaration of Human Rights, adopted by the United Nations on 10-12-1948, set in motion the universal thinking that human rights are supreme and ought to be preserved at all costs. This was followed by a series of Conventions. On 18-12-1979, the United Nations adopted the “Convention on the Elimination of all Forms of Discrimination against Women.” The principles contained in Article 11 of this Convention have to be read into the contract of service between the Municipal Corporation of Delhi and the Women Employees (muster roll); and so read these employees immediately become entitled to all the benefits

conceived under the Maternity Benefit Act, 1961.

On a previous occasion also in a PIL (public interest litigation) case, *Bandhu Mukti Morcha vs. Union of India*<sup>34</sup>, the Supreme Court speaking through Bhagwathi, J., held: "The right to live with human dignity, free from exploitation, enshrined in Article 21 derives its life breath from the directive principles of state policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of health and strength of workers, men and women and children of the tender age against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. — The state Government of Haryana must therefore ensure that the mine leases or contractors, to whom it is giving its mines for stone quarrying operations, observe various social welfare and labour laws enacted for the benefit of the workmen.

In *Valsamma Paul vs. Cochin University and others*<sup>35</sup>, Supreme Court held that human rights are derived from the dignity and worth inherent in the human person. Human rights and fundamental freedoms have been reiterated in the Universal Declaration of Human Rights. Democracy, development, and respect for human rights and fundamental freedoms are interdependent and have mutual reinforcement. The human rights for women, including the girl child are, therefore, inalienable, integral and an indivisible part of universal human rights. The full development of personality and fundamental freedoms and equal participation by women in political, social, economic and cultural life are concomitants for national development, social and family stability and growth — cultural, social, and economic. All forms of discrimination on grounds of gender is violative of fundamental freedoms and human rights.

In a recent interesting case, *Vishaka vs. State of Rajasthan*<sup>36</sup>, the apex Court held that right to life means life with dignity. The immediate cause for the filing of the writ

petition was an incident of alleged brutal gang rape of a social worker in a village of Rajasthan.

The Supreme Court in the instant case held that each incident of sexual harassment of women at work place results in violation of fundamental rights of "Gender Equality" and the "Right to Life and Liberty." It is a clear violation of the rights under Articles 14, 15, and 21 of the constitution. One of the logical consequences of such an incident is also the violation of the victims fundamental right under Article 19(1) (g).

The Supreme Court also held "gender equality includes protection from sexual harassment and right to work with dignity, which is universally recognised human right —. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity —. Any international convention not inconsistent with fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and context thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and the enabling power of parliament to enact laws for implementing the international conventions and norms by virtue of Article 253 read with Entry 14 of the union list in seventh schedule of the constitution.

The obligation of the Supreme Court under Article 32 for the enforcement of the fundamental rights in the absence of legislation must be viewed along with the role of judiciary envisaged in the Beijing Statement of principles of Judiciary in the LAW ASIA region.

At the Fourth World Conference on Women in Beijing, the Government of India has also made an official commitment, *inter alia*, to, formulate and operationalize a national policy on women which will continuously guide and inform action at every level and in every sector; to set up a commission for women's rights to act as a public defender of



women's human rights; to institutionalise a national level mechanism to monitor the implementation of the Platform for Action. Therefore, reliance can be placed on the above for the purpose of construing the nature and ambit of constitutional guarantee of gender equality in our constitution.

In view of the above, and in the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplaces, guidelines and norms are hereby laid down for strict observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 for enforcement of the fundamental rights and it is further emphasised that this would be treated as the law declared by the Supreme Court under Article 141 of the constitution.

The guidelines so issued by the Supreme Court had regard to the definition of "human rights" in Section 2(d) of the Protection of Human Rights Act, 1993. It was observed by the Supreme Court that taking note of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time, it is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

In dealing with another case on workplace harassment, Apparel Export Promotion Council vs. A.K. Chopra<sup>37</sup>, the Supreme Court has relied on the principles held in Visakha's case. The apex Court has reiterated its stand by holding that in cases of violation human rights, the courts forever remain alive to the International Instruments and Conventions and apply the same to a given case when there is no inconsistency between the international norms and domestic laws occupying the field.

In Gaurav Jain vs. Union of India<sup>38</sup>, the Supreme Court held that children of prostitutes have right to equality of opportunity, dignity,

care, protection and rehabilitation so as to be part of the main stream of social life without any pre stigma attached on them. Children of prostitutes, including child prostitutes, should be treated as 'neglected juveniles' as defined in Juvenile Justice Act and no stigma should be attached to them.

As per K. Ramaswamy (Wadhwa, J., contra), Court can give relief in respect of matters which are not specifically stated in pleadings with a view to render socio-economic justice and empowerment to handicapped persons and to enforce their fundamental rights. The honourable judge held that counselling, cajoling, and coercion are necessary for effectively enforcing the provisions of Immoral Traffic Prevention Act and Juvenile Justice Act. Customary practices of devdasis, jogins, and venkatasins prevalent in States of A.P., Karnataka and Maharashtra being practice of prostitution, is held void punishable under Article 13. Even though pleadings related to rehabilitation of children of prostitutes, question of eradication of prostitution, *i.e.*, the very source of evil, can be gone into a PIL, with a view to do complete justice under Article 142. Even where there is difference of opinion between the judges of the present two Judge Bench, directions issued under Article 142 by one Judge to Union of India and State Government, to evolve, in a Ministerial-level Conference, procedure and principles regarding rescue rehabilitation of the prostitutes for efficacious enforcing of their fundamental rights and human rights.

The decision rendered by Honourable Justice K. Ramaswamy can be commented as liberal and bold in its approach to mitigate the distress of unfortunate women and children and to enable them to lead their life in dignity.

#### Women's Right to equality vis-à-vis Freedom of Religion

In Kerala, the Sabarimala temple is a temple of great antiquity. A public interest petition was filed in the Kerala High Court against allowing women to trek Sabari hills and offers prayers at the temple<sup>39</sup>.

In S. Mahendran vs. Secretary<sup>40</sup>, the Court observed:

Women are not by custom and usage allowed to enter a place of public worship. That amounts to a reasonable restriction and the entry in Sabarimala Temple is prohibited only in respect of women as a class.

The Court even then held that a religious practice which was discriminatory against women was unconstitutional. Freedom of religion guaranteed by Article 25 is "subject to other provisions of this part" which means that it has to be exercised subject to the other fundamental rights including the right to equality. The Court ought to have read the words "subject to other provisions of this part" in Article 26 also because freedom of religion given to the individual can not be any more restricted than the freedom given to the religious denominations to manage the affairs of religion.

#### Women's Right to Equality vis-à-vis Personal Laws

In the Indian context, the existence and applicability of different personal laws to persons belonging to different religions are creating two types of inequalities. The first type of inequality is gender inequality within each personal law in matters of marriage, divorce, inheritance, adoption *etc.*, by keeping men and women on unequal footing. The second type of inequality is evident when we compare principles governing personal law of one religion in matters like marriage, succession, adoption, divorce *etc.*, with corresponding principles governing the personal laws of other religions<sup>41</sup>.

When we focus our attention on grounds available for divorce with respect to different personal laws *i.e.*, The Hindu Marriage Act, 1955, Muslim Personal Law, Christian Marriage Act, 1872, Indian Divorce Act, 1936, Special Marriage Act 1954, we see lack of uniformity resulting in inequality between the persons following different religions as well as gender inequality amongst spouses adopting the same religion<sup>42</sup>.

With respect to property rights of Hindu women, the evolutionary legal process, though slow during past fifty years, in conferring larger property rights to Hindu female, has

witnessed radical changes, The Hindu Women's Property Rights Act (1937) introduced fundamental change in Hindu joint family system by recognising the widow's right to partition, and also recognised rights of three types of widows, who are entitled for right of partition. Section 14(1) of Hindu Succession Act enlarged the Hindu Women's Estate into absolute ownership with unrestricted power of alienation.

In interpreting the provisions of the various legislations to confer greater property rights on Hindu females, the Indian courts have done a very commendable job whenever there is a scope for conflict of provisions of Sections as in the case of Section 14 (1&2) of Hindu Succession Act. The section was harmoniously interpreted to bring out the spirit and object of the legislation.

In *Tulasamma vs. Sesha Reddy*<sup>43</sup>, the Supreme Court leaned in favour of Hindu women by clarifying the scope of Section 14(1) and (2) by holding Section 14(1) applies to properties granted to a female Hindu in virtue of a pre-existing right of maintenance and Section 14(2) applies when property is granted to a female Hindu for the first time without any pre-existing right of maintenance. The widow would be getting the property by virtue of her pre-existing right, the instrument giving the property being merely a document effectuating such pre-existing right and not making a grant of the property for the first time without any antecedent right to title.

In a subsequent case in *Bai Vija (Dead) by LRs vs. Thakur Bhai Chela Bhai And Others*<sup>44</sup>, the Supreme Court observed:

Prior to the commencement of the Act, succession of different kinds of stridhana did not follow a uniform pattern. Therefore, with a view to ensure uniformity in law relating to the nature of ownership of 'stridhana' and to achieve a social purpose by elevating the socio-economic status of women equal to that of men, the legislature enumerated specifically all kinds of stridhana in the explanation to sub-section (1) and declared that same would form 'property' within the meaning of that sub-section and therefore, would be held by

the owner thereof as a full owner and not as limited owner.

In *Masalamani Mudaliar And Others vs. Idol of Sri Swaminatha Swami, Swaminatha Swami Thirukoil And Others*<sup>45</sup>, the Supreme Court again speaking through a Full Bench, relied on the principle laid down in *Tulasamma*, observed:

Section 14 of Hindu Succession Act should be construed harmoniously consistent with the constitutional goal of removing gender based discrimination and effectuating economic empowerment of Hindu females.

Discussing the scope of Articles 15(3), 14, 21, 51-A(h) &(j) and 13 of Indian constitution *vis-a-vis* rights of women, the apex Court observed:

Women have right to elimination of gender based discrimination particularly in respect of property so as to attain economic empowerment. —. This forms part of universal human rights —They have a right to equality of status and opportunity which also forms part of the basic structure of the Indian constitution. Supreme Court is obliged to effectuate these rights of women and personal laws inconsistent with the constitutional mandate are void under Article 13.

The apex Court while relying on the principles laid down in *Valsamma Paul's* case observed:

The human rights for women, including girl child are therefore, inalienable, integral and indivisible part of universal human rights. ———. Law is an instrument of social change as well as defender for social change. Article 2 (e) of CEDAW enjoins the Supreme Court to breath life into dry bones of the constitution, international conventions, the Protection of Human Rights Act and the Hindu Succession Act to prevent gender –based discrimination and to effectuate right to life including empowerment of economic, social, cultural rights to women.

It is also important to know that the provisions of Hindu Succession Act, 1956, have been given a over riding effect to the

provisions of Hindu Widow Remarriage Act, 1856, and enabled the remarried women to take the benefit of the provisions of Hindu Succession Act.<sup>46&47</sup>

In *Madhu Kiswar vs. State of Bihar*<sup>48</sup>, the Supreme Court as per majority held that custom of tribal inhabitants of exclusion of female line of succession cannot be declared to be *ultra vires* of Articles 14, 15, 21.

But *K. Ramaswamy, J.*, has given a dissenting judgement by holding tribal women entitled to succeed the estate of the parent / brother /husband as heirs by intestate succession and to inherit the property in equal share with male heirs with absolute rights on the basis of general principles of Hindu Succession Act and Indian Succession Act, though these Acts do not apply to them, but their right to alienation would be subject to Bihar Schedule Areas Regulation Act.

*K. Ramaswamy, J.*, in this case observed:

Half of the Indian population too are women. Women have always been discriminated against and have suffered and are suffering discrimination in silence. Self –sacrifice and self denial are their nobility and fortitude and yet they have been subjected to all inequities, indignities, inequality and discrimination.

Legislative and executive actions must be conformable to, and effectuation of the fundamental rights guaranteed in Part III and the directive principles enshrined in Part IV and the preamble of the constitution which constitute the conscience of the constitution. Covenants of the United Nations add impetus and urgency to eliminate gender-based obstacles and discrimination. Legislative action should be devised suitably to constitute economic empowerment of women in socio-economic restructure for establishing egalitarian social order. Law is an instrument of social change as well as the defender of social change.

The Supreme Court also observed:

By operation of Article 2(f) and other related Articles of CEDAW, the state should by appropriate measures including

legislation, modify law and abolish gender-based discrimination in the existing laws, regulations, customs and practices which constitute discrimination against women.

Women are entitled to enjoy economic, social, cultural and political rights without discrimination and on footing of equality. Property is one of the important endowments or natural assets to accord opportunity, source to develop personality, to be independent, right to equal status and dignity of person. Therefore the state should create conditions and facilities conducive for women to realise the right to economic development including social and cultural rights.

The state of Andhra Pradesh has taken the lead by inserting Section 29 (A to C) to Hindu Succession Act <sup>49</sup>, which accorded coparcenary rights to Hindu female for the first time, included her right to get an equal share along with her co-male heirs, right to survivorship, right to seek partition.

Inspired by the legislation of State of A.P., State of Maharashtra and few other states also made necessary state amendments to confer coparcenary rights on Hindu females. It is much advisable that in order to advance socio-economic justice to women, a uniform central legislation be brought out, conferring coparcenary rights to Hindu women governed by mitakshara school all over the India.

When we compare laws relating inter-state-succession of male members of different religions, following facts are revealed.

Regarding inter-state succession of a male Hindu of Mitakshara under Hindu Succession Act, 1956, on his death wife is a first class heir. There are twelve recognised first class heirs of a male Hindu. The share given to wife of Hindu male dying intestate is not a fixed one, but a fluctuating one subject to division along with the other first class heirs.<sup>50</sup>

Under Indian Succession Act, XXXIX of 25 (other than Parsis) if the husband dies intestate, wife gets a 1/3<sup>rd</sup> share if there are lineal descendants, 1/2 share if there are no lineal descendants, and whole property if there are no lineal descendants as well as kindred to the deceased person. The husband also

under this Act has similar corresponding rights to that of his spouse in inheritance, if wife dies intestate<sup>51</sup>.

In Muslim Law, under major schools, wife gets 1/8<sup>th</sup> share in the properties of husband if he dies intestate and has lineal descendants and 1/4<sup>th</sup> share if he dies interstate and has no lineal descendants. But if a wife dies intestate a Muslim husband gets a double share, to that of wife, which she would have got by way of intestate succession from her husband.<sup>52</sup>

Under Parsi law, if a male Parsi dies intestate, his son and his wife get a double share to that of a daughter, and mother gets half share of the daughter. If a female Parsi dies intestate widower and children takes equal share.

The above legal position reveal that Indian Succession XXXIX of 1925 is more liberal and more progressive towards women when compared to Personal laws of other communities.

On the basis of the comparative study of different personal laws, the following proposals can be made to make suitable amendments to personal laws to raise the economic status of the women thereby enable them with dignity.

A widow of a Hindu male, (when he dies intestate) under Hindu Succession Act, 1956, should get a fixed share, and preferably 1/3<sup>rd</sup> share, leaving the remaining 2/3<sup>rd</sup> of corpus to be divided among other first class heirs equally. An amendment can be brought to the Section 8 of Hindu Succession Act, 1956 to that extent.<sup>53</sup>

In general, in intestate succession of either under Hindu or Muslim Law, agnates are given preference over cognates. It is suggested to make necessary amendments to different personal laws, to abrogate the distinction between agnates and cognates.

Next important area is related to maintenance provisions under different personal laws.

Under Section 25(3) of Hindu Marriage Act, 1955, permanent alimony and maintenance awarded in favour of a wife,



can be rescinded by the competent Court if the wife does not remain chaste. Corresponding provisions can be found in Section 37 of the Special Marriage Act, 1954 and Section 40 of the Parsi Marriage Divorce Act, 1936. It is been generally observed that provision relating to chastity under different personal laws in entailing maintenance to neglected wives, is grossly been misused by husbands to embarrass and harass wives. It is suggested that in order to preserve the dignity of women, the reference to chastity can be altogether dropped by way of amendments to relevant sections under different personal laws as well as under Cr.PC.

The applicability of provisions related to maintenance under Sections 125 to 128 of Cr.PC to divorced women has become a contesting legal issue in many cases. In the case of Mohd. Ahmed Khan vs. Shah Bano Begam<sup>54</sup>, pertaining to the liability of a Muslim husband to maintain his divorced wife beyond 'Iddat' period, who is not able to maintain herself, the Supreme Court held that Sec 125 of CRPC which imposes such obligation on all the husbands is secular in character and is applicable to all religions. In the present case the Supreme Court speaking through Chief Justice Y. V. Chadrachud held "It is also a matter of regret that Article 44 of our Constitution has remained a dead letter----- -A Common Civil Code will help the cause of National Integration by removing desperate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue. It is the state which charged with the duty of securing a Uniform Civil Code for the citizens of the country and unquestionably, it has the legislative competence to do so".

In Ms. Jordan Deigndeh vs. S.S. Chopra<sup>55</sup>, D. Chinnappa Reddy, J. speaking for the Court referred to the observations of Chandrachud, CJ., in Shah Bano Begam's case and re-iterated the immediate need to adopt a uniform Civil Code.

As per Muslim Women's (Protection of Rights on Divorce) Act, 1986, the applicability of provisions of Cr.PC Section 125 has been made optional to divorced Muslim women,

(though it continues to apply to Muslim married women, daughters and mothers). As per this Act the divorced Muslim women is entitled to be maintained by her husband only during the Iddat period or up to two years from the date of the birth of their children.

But in a recent case, Daniel Latifi and Another vs. Union of India<sup>56</sup>, while upholding the validity of the Act, the Supreme Court summed up its conclusions as follows:

- (1) A Muslim husband is liable to make reasonable and fair provision for the future of the divorced wife which obviously includes her maintenance as well. Such a reasonable and fair provision extending beyond Iddat period must be made by the husband with in the Iddat period in terms of Section 3(1) (a) of the Act.
- (2) Liability of Muslim husband to his divorced wife arising under Section 3(1)(a) of the Act to pay maintenance is not confined to Iddat period.
- (3) A divorced Muslim woman who has not remarried and who is not able to maintain herself after iddat period can proceed as provided under Section 4 of the Act against her relatives who are liable to maintain her in proportion to the properties which they inherit on her death according to Muslim law from such divorced woman including her children and parents. If any of the relatives being unable to pay maintenance, the Magistrate may direct the State Wakf Board established under the Act to pay such compensation.

In the above case Supreme Court observed:

In interpreting the provisions where the matrimonial relationship is involved, we have to consider the social conditions prevalent in our society. In our society whether they belong to majority or minority group, what is apparent is that there exists a great disparity in the matter of economic resourcefulness between a man and woman. Our society is male dominated both economically and socially and women are assigned, invariably, a dependent role,

irrespective of the class of society to which she belongs. A woman on her marriage very often, though highly educated, gives up all her avocations and entirely devotes herself to the welfare of the family, in particular she shares with her husband, her emotions, sentiments, mind and body, her investment in the marriage is her entire life –a sacramental sacrifice of her individual self and is far too enormous to be measured in terms of money. When a relationship of this nature breaks up, in what manner we could compensate her so far as emotional fracture or loss of investment is concerned, there can be no answer.

It is a small solace to say that a woman should be compensated in terms of money towards her livelihood and such a relief which partakes basic human rights to secure gender and social justice is universally recognised by persons belonging to all religions and it is difficult to perceive that Muslim Law intends to provide a different kind of responsibility by passing on the same to those unconnected with matrimonial life such as the heirs who were likely to inherit the property from her or the Wakf boards. Such an approach appears to us to be a kind of distortion of the social facts. Solutions to such societal problems of universal magnitude pertaining to horizons of basic human rights, culture, dignity and decency of life and dictates of necessity in the pursuit of social justice should be invariably left to be decided on considerations other than religion or religious faith or beliefs or national, sectarian, racial, or communal constraints. Bearing this aspect in mind, we have to interpret the provisions of the Act in question.

A review of the provisions relating to maintenance under different personal laws reveal inadequacy of maintenance provisions, non-applicability of provisions in a uniform way to persons belonging to different communities.

It may also be very relevant to suggest that an amendment may be made to Hindu Marriage Act, 1955, to ensure that the properties acquired by the husband after solemnisation of marriage be jointly owned

both by wife and husband to ensure unity of possession and community of property. This proposed amendment will recognise the services and sacrifices made by women during subsistence of marriage.

Apart from bringing the properties acquired after marriage under joint ownership, women may be permitted to retain her private property, acquired by her before marriage as an exclusive owner.<sup>57</sup>

In consultation with responsible elders of different communities, the principle of unity of possession and community of property may be extended to other communities. Similarly the right to women to hold her private property acquired before marriage as exclusive owner may be extended to other communities. This would one way mitigate the evil of optional applicability of provisions of Cr.PC to the divorced Muslim women.

The above discussion on women's rights under different personal laws brings out the need to introduce a uniform civil code as contemplated under Article 44 of the constitution to ensure uniform applicability of laws to women irrespective of their religion.

Next important aspect needs consideration is wife's equal right to custody of child and guardianship. If we look at Section 6(1) of Hindu Minority and Guardianship Act, 1956, we notice that both wife and husband do not have a equal status regarding the custody and guardianship of a child. In *Gita Hariharan vs. Reserve Bank of India*<sup>57\*</sup>, it is unfortunate that Supreme Court did not strike down the section as unconstitutional, as it is violative of Article 14. The apex Court only laid down that mother also can act as a guardian to child under certain circumstances.

Section 8 of Hindu Adoptions and Maintenance Act, 1956, enables a Hindu married woman to adopt a child only with the consent of husband, is violative of Article 14 of the Indian constitution. In this respect also a suitable amendment may be made to the Section to equalise rights of women to adopt a child on par with that of men.

Two important offences relating to marriage are Adultery and Bigamy. Adultery

is defined under Section 497 of IPC. As follows <sup>58</sup>. A close reading of this section indicate the following points. woman is treated as chattel or commodity of her husband and is been discriminated. A husband can punish adulterer of his wife but wife can not punish the adulteress of her husband.

In Abdul Aziz vs. State of Bombay <sup>59</sup>, and Sowmitri Vishnu vs. Union of India<sup>60</sup>, the constitutional validity of Sec 497 of IPC has been upheld. In Revathi vs. Union of India <sup>61</sup>, Sections 497 of IPC and 198(2) of Cr.PC are upheld. The summary of judicial view in all the above decisions is that man alone can be author of such crime and woman is only a victim, and when such offence is committed man's rights alone would be affected and woman having a husband living in adultery has no similar rights to prosecute either the husband or the person living in Adultery with him.<sup>62</sup>

In view of the above discussion, it is necessary to redefine the Section 497 of IPC, or dropping the obnoxious Section altogether from the penal code, to keep the man and woman on the equal footing of principle of equality before law and equal protection of law as contemplated under Article 14 of the Constitution.

As bigamy is not punishable under Muslim personal law, Hindu males who want to enter into second wedlock during the subsistence of first marriage are converting to Islam to circumvent provisions of Hindu Marriage Act, 1955. A serious note of this type of practices is seen taken by Supreme Court in case of Sarala Mudgal vs. Union of India <sup>63</sup>. In the instant case the Supreme Court held that the second marriage of a husband after conversion to Islam, with out having his first marriage dissolved under Hindu laws would be invalid. The second marriage would be void in terms of the provisions of Section 494 IPC.

In this case the Supreme Court speaking through Kuldeep Singh, J., observed:

Article 44 is based on the concept that there is no necessary connection between religion and personal law in a civilised society. Article 25 guarantees religious freedoms whereas Article 44 seek to divest

religion from social relations and personal law. Marriage, succession and like matters of a secular character cannot be brought within the guarantee enshrined under Articles 25, 26 and 27-----the Hindus along with Sikhs, Buddhists and Jains have forsaken their sentiments in the cause of national unity and integration, some other communities would not, though the constitution enjoins the establishment of a "Common Civil Code" for the whole of India. Bigamous Marriages have been punishable among Christians by Act XV of 1872, Parsis by Act III of 1936 and Hindus Buddhists, Sikhs and Jains by Act (XXV of 1955)".

He further observed:

The successive governments till date have wholly remiss in their duty of implementing the constitutional mandate under Article 44. The Government of India therefore requested through the prime minister to have a fresh look of the constitution of India and "endeavour" to secure for the citizens a uniform code through out the territory of India.

#### Married Women's Right to Employment: Hindu Marriage Act, 1955

The present economic conditions and the changed socio-economic scenario have seen many women coming out of their homes to take up their avocations outside<sup>64</sup>. This career orientation of women have often led to an inter-spousal conflict relating to their place of residence and also the control of the salary of the women. An accepted notion is, that a woman continues with her job with the permission of her husband and if he withdraws his permission or objects to her job coming in the way of her domestic obligations she should adopt house-wifing in preference to her job. The situation is further aggravated if her place of employment is away from the husband's residence.

The Indian Judiciary in a majority of cases, Surinder Kaur vs. Gurdev Singh<sup>65</sup>, P.V. Prasad Sharma vs. P. Seeta Mahalakshmi<sup>66</sup>, Deepa Sanyal vs. D.C. Sanyal<sup>67</sup>, Gaya Prasad vs. Smt. Bhagawathi<sup>68</sup>, have imposed a legal duty on such a wife to resign from her job, join the

husband and give him the conjugal company at his residence. That she will be financially dependent on her husband is of no consequence.

As per Section 9 of the Hindu Marriage Act, 1955, the 'withdrawal' by one spouse without reasonable excuse, enables the Court to order on a petition filed by the aggrieved party (the guilty party) to come back and give conjugal company to the aggrieved. "withdrawal" should be without reasonable excuse and a woman's service at a different place is not a "reasonable excuse" for her to stay apart, according to majority of our Judges. This way of interpretation of Section 9 of Hindu Marriage Act by Judiciary will further encourage husband's imposing restrictions on wife's right to employment. The approach of the Judiciary in this aspect may be modified, so that Hindu women can exercise their right to employment.

The analysis of the case law from Nargesh Mirza to Visakha reveals that there is a sea change in the attitude of Supreme Court. From striking down one or two regulations of Air India Corporation, Supreme Court has gone to the extent of declaring a law under Article 141, where there is a lack of proper legislation with respect to work place harassment.

In the matters pertaining to property laws, as in the cases of Tulasamma, Madhu Kiswar and Masalamani Mudaliar, Supreme Court has given a liberal interpretation to empower women economically. Supreme Court has adopted principles laid down in International Conventions and Covenants where there is no inconsistency with the domestic law, or there is no proper suitable domestic legislation, in promoting gender justice. Supreme Court also stressed the need for implementation of Article 44 of the Indian Constitution and adversely commented upon Union Government's inaction in not bringing out uniform Civil Code.

#### Right to Privacy

Right to privacy is an important human right for either gender. But in the case of women the probability of this valuable right being violated is high. In India due to prevalence of joint family system, dowry

system, we witness many heinous crimes are committed against women, with in the four corners of the house. Domestic violence, violation of right to privacy of women have become common societal features. In spite of inclusion of new penal provisions to safeguard the women, still we witness a lag between societal behaviour and legislations, and atrocities against women are being perpetuated.

Section 304-B of IPC read with 113-B of the Evidence Act deals with a married women's death within seven years of marriage due to burns, injuries, or in circumstances other than normal. These provisions lay down if soon before her death she was subjected to harassment for dowry by her husband or his relatives, such death shall be presumed to be dowry death and such person shall be deemed to have caused her death. Mandatory minimum imprisonment of seven years but which may extend to life has been prescribed for offence.

The assumptions under the section and its formulation are also far from being unproblematic. It assumes that a woman is harassed in marriage only for dowry or that harassment for dowry alone is worthy of legal protection. If she is found dead in the circumstances mentioned other than in Section 304-B, conviction of husband or his relatives for murder or abetment to commit suicide is almost impossible in the absence of enough proof. As the harassment and death occurs in the husband's house, proof of such harassment or how actually the death occurred, is not available to the prosecution. That is the reason why the prosecution of harassment was laid down in the case of dowry death.

In Kundala Bala Subramanyam & Another vs. State of Andhra Pradesh<sup>69</sup>, Supreme Court observed:

Of late there has been an alarming increase in cases relating to harassment, torture, abetted suicides and dowry deaths of young innocent brides. This growing cult of violence and exploitation of young brides, though keeps on sending shock waves to the civilised society whenever it happens,



continues unabated. There is a constant erosion of the basic human values of tolerance and the spirit of “live and let live”. Lack of education and economic dependence of women have encouraged the greedy perpetrators of the crime.

In the present case, the Supreme Court relying on *State (Delhi Administration) vs. Lakshman Kumar*,<sup>70</sup> also observed:

The role of courts, under the circumstances assumes greater importance and it is expected that the courts would deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural technicalities or insignificant lacunae in the evidence as otherwise the criminals would receive encouragement and the victims of crime would be totally discouraged by the crime going unpunished. The courts are expected to be sensitive in cases involving crime against women.

On the other hand in *S. Gopal Reddy vs. State of Andhra Pradesh*<sup>71</sup>, Supreme Court observed:

There is an alarming increase in cases relating to harassment, torture, abetted suicides and dowry deaths of young innocent brides. Awakening of the collective conscience is the need of the day. For this a wider social movement is necessary. The role of the courts, under the circumstances, assumes a great importance. The courts are expected to deal with such cases in a realistic manner so as to further the object of the legislation. However, the courts must not lose sight of the fact that the Act, though a piece of social legislation, is a penal statute. One of the cardinal rules of interpretation in such cases is that a penal statute must be strictly construed. The courts have, thus, to be watchful to see that emotions or sentiments are not allowed to influence their Judgement, one way or other and that they do not ignore the golden thread passing through criminal jurisprudence that an accused is presumed to be innocent till proved guilty and that the guilt of an accused must be established beyond a reasonable doubt.

Thus we can see that there is no uniformity in supreme court's approach in deciding cases under Dowry Prohibition Act, 1961.

Section 498-A of IPC makes a husband and his relatives liable to imprisonment up to three years if they subject the women to cruelty. Cruelty includes two kinds of actions – (a) any wilful conduct of a nature which is likely to drive a woman to commit suicide or cause grave mental or physical injury or danger to life, limb or health; and (b) harassment for meeting unlawful demand for property or valuable security or on account of failure to meet such demand<sup>72</sup>.

Section 198-A of CRPC requires that courts can take cognisance of this offence only on a police report or complaint by the woman, her closest relatives or with the leave of the Court by any other person related to her by blood, marriage or adoption. By this provision the state continues to show its hesitation to intervene in the realm of family and marriage even if it is likely to cost the woman's life<sup>73</sup>.

Section 498-A itself has further limitations on its scope and doesn't take cognizance of a women's day-to-day experience of violence in the house-hold. The Section takes cognisance of cruelty only by husbands and his relatives, precluding imposition of any liability if an unmarried, widowed or separated woman is subjected to cruelty by members of her natal family. Reports of brothers subjecting their sisters to cruelty to sign of their share in property are not unknown.

A major crime committed against women is rape. It is not only a violation of privacy of a woman, but also make her to go through traumatic experience and unbearable suffering and mental agony. Sections 375 & 376 of IPC deal with definition and punishment relating to this heinous crime.

In *Chairman, Railway Board And Others vs. Chandrima Das (Mrs) And others*<sup>74</sup>, Supreme Court while discussing the scope of Articles 21 and 51 of the Indian Constitution observed:

Right to 'life' includes right to live with human dignity. Rape violates this right

of women. Right to live is recognised as a basic human right. It has to be read in consonance with Universal Declaration of Human Rights, 1948, Preamble and Articles, 1, 2, 3, 5, 7, 9, Declaration on the Elimination Of Violence Against women, Articles 1, 2, 3 as also Declaration and Covenants of Civil and Political Rights and Covenants of Economic, Social and Cultural Rights to which India is a party.

The apex Court also observed:

H, who was not a citizen of this country but came here as a citizen of Bangladesh was, nevertheless, entitled to all the constitutional rights available to a citizen so far as "Right to life" was concerned. She was entitled to be treated with dignity and was also entitled to protection of her person as guaranteed under Article 21 of the Constitution. As a National of another country, she could not be subjected to physical violence at the hands of Government employees who outraged her modesty. The right available to her under Article 21 was thus violated. Consequently, the state was under a constitutional liability to pay compensation to her.

In *State of Punjab vs. Gurmit Singh*<sup>75</sup> while relying the principles laid down in its previous decision in *State of Maharashtra vs. Chandra Prakash Keval Chand Jain*<sup>76</sup>, observed:

Of late, crime against women in general and rape in particular is on increase. -----  
----- It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. A rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process.-----  
-----The Courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of cases with utmost caution and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not

of a fatal nature, to throw out otherwise, a reliable case. If the evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place its implicit reliance on her testimony, it may look for evidence which may lend assurances to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial Court must be alive to the responsibility and be sensitive while dealing with cases involving sexual molestation's.

In *Delhi Domestic Working Women's Forum vs. Union Of India And Others*<sup>77</sup>, the apex Court observed:

It is rather unfortunate that in recent times, there has been an increase in violence against women causing serious concern. Rape does indeed pose a series of problems for the criminal justice system. Rape is an experience which shakes the foundations of the lives of the victims, for many, its effect is a long-term one, impairing their capacity for personal relationships, altering their behaviour and values and generating endless fear. In addition to the trauma of the rape itself, victims have had to suffer further agony during legal proceedings.

It has further observed:

The defects in the present system are: Firstly, complaints are handled roughly and are not given such attention as is warranted. The victims, more often than not, are humiliated by the police. The victims have invariably found rape trials as traumatic experience. The experience of giving evidence in Court has been negative and destructive. The victims often say, they considered the ordeal to be even worse than the rape itself. Undoubtedly, the Court proceedings added to and prolonged the psychological stress they had to suffer as a result of the rape itself.

The Supreme Court indicated broad parameters in assisting the rape victims<sup>78</sup>. They

include provision of legal and medical assistance to victims, maintaining anonymity of rape victims in trials, to set up a Criminal Injuries Compensation Board to give effect to the Directive Principles contained under Article 38(1) of the Indian Constitution. Compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of the rape.

In *State of A. P vs. Bodem Sundara Rao*<sup>79</sup>, the apex Court observed:

In recent years crime against women are on rise. These crimes are an affront to the human dignity of the society. Imposition of grossly inadequate sentence and particularly against the mandate of the legislature not only is an injustice to the victim of the crime in particular and the society as a whole in general but also at times encourages criminal.----- The courts must not only keep in view of the rights of the criminal but also the rights of the victim of crime and society at large while considering imposition of the appropriate punishment.

In *Bodhisatva Gautam vs. Subhra Chakraborty (Ms)* 's<sup>80</sup> case, a complaint under Section 312/420/493/496/498-A I. P. C was filed by the respondent victim against appellant for developing sexual relationship with her on false assurance of marriage and later secretly marrying her before God by putting vermilion on her forehead but after having impregnated her twice, compelling her to undergo abortion on both the occasions and ultimately deserted her. The Supreme Court while dismissing the SLP (Special Leave Petition) preferred by the appellant, held that it has jurisdiction to pass order compelling the accused to pay maintenance to the victim during the pendency of the criminal case. The Supreme Court relied on the principles laid down in *Delhi Domestic Women's Forum* case.

The Supreme Court also observed:

A woman, in our country, belongs to a class or group of society who are in a disadvantaged position on account of several social barriers and impediments and have, therefore, been the victim of tyranny at the hands of men with whom they, under the constitution enjoy equal status. Women also have the right to be respected and treated as equal citizens. Their honour and dignity cannot be touched or violated.

The Court also observed:

Rape is thus not only a crime against the person of a woman (victim) , it is also a crime against the entire society. It destroys the entire psychology of a woman and pushes her into a deep emotional crisis.----- Rape is a crime against basic human rights and is also violative of the victim's most cherished of the fundamental rights, namely the right to live contained in Article 21. "Right to Life" does not merely mean animal existence but means something more, namely, the right to live with human dignity. Right to life, would, therefore, include all those aspects of life would go to make a life meaningful, complete and worth living.

In dealing with a rape case under Section 376 of IPC, in *T. K Gopal vs. State of Karnataka* <sup>81</sup>, Supreme Court held:

In the matters of punishment for offence committed by a person, there are many approaches to the problem. On the commission of crime, three types of reactions may generate: the traditional reaction of universal nature which is termed as punitive approach. It regards the criminal as a notoriously dangerous person who must be inflicted severe punishment to protect the society from his criminal assaults. The other approach is the therapeutic approach. It regards the criminal as a sick person requiring treatment, while the third is the preventive approach which seeks to eliminate those conditions from the society which were responsible for crime causation. ----- Recent trend is to prefer deterrent approach than therapeutic or reformatory approach.

In a recent case in State of Rajasthan vs. N. K. The Accused<sup>82</sup>, the Supreme Court, speaking through a Full Bench, held that in appreciating evidence in rape cases, testimony of prosecutrix should be appreciated on the basis of probabilities like testimony of any other witness and conviction can be based solely on such testimony.

In the instant case the Supreme Court held that having regard to the fact that the prosecutrix was a teenaged girl while the accused was an able bodied youth along with other facts, testimony of the prosecutrix that she was subjected to rape was credible.

The apex Court also observed:

It is true that the golden thread which runs throughout the cobweb of criminal jurisprudence as admitted in India is that nine guilty may escape but one innocent should not suffer. But at the same time no guilty should escape unpunished once the guilt has been proved to the hilt.-----  
An unmerited acquittal encourages wolves in the society being on the prowl for easy prey, more so when the victims of crime are helpless females. It is the spurt in number of unmerited acquittals recorded by criminal Courts which gives rise to the demand for death sentence to the rapists. The Courts have to display a greater sense of responsibility and to be more sensitive while dealing with charges of sexual assault on women<sup>83</sup>.

Analysis of the law reveal that in four important dimensions the feminist vision has helped in infusing human rights values into rape law<sup>84</sup>. Firstly, consent based on deception, promise of marriage and fake marital ritual were considered as no consent and rigours of earlier law on consent are avoided by a feminist perception in Bodhisatwa. Similarly, it was held, absence of bodily injury and the fact of submission do not imply consent<sup>85</sup>. Secondly, the requirement of corroborating the circumstantial evidence, a rule which was unjustifiably applied in this sphere for a long time, is dispensed by the judiciary<sup>86</sup>. Thirdly, in ultimately evolving a rule that the character, reputation or status of a rape victim is not a relevant factor for consideration by the Court

while awarding the sentence to a rapist, the Court was keeping in mind decency and dignity of womanhood<sup>87</sup>. Fourthly, award of compensation to the rape victim, which is a discretionary power of sentencing Judge in criminal cases in general is made obligatory by application of Article 21<sup>88</sup>.

Dealing with a case pertaining to custodial violence, the Supreme Court in D.K. Basu vs. State of West Bengal<sup>89</sup>, held that torture, rape, death in police custody or lockup infringes Article 21 as well as basic human rights and strikes a blow at rule of law.

Supreme Court also observed:

Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 is a remedy available in public law is not only civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved.

#### Work Place and Right to Privacy

In Neera Mathur vs. LIC<sup>90</sup>, the Court recognised that privacy was an important aspect of personal liberty. Neera was appointed by the Life Insurance Corporation without the knowledge that she was pregnant. After joining her post she applied for maternity leave. On coming back, she was served with a termination notice. The Supreme Court held that the questionnaire put by the Corporation amounted to invasion of privacy of a person and therefore could not be made out. The right to personal liberty guaranteed by Article 21 of the constitution included the right to privacy and here the women's right to privacy was recognised. Information about the health could be sought where the information was relevant for the purpose. For example, information about menstrual cycles or post pregnancies might have been relevant for selling insurance cover by the LIC but not for selecting a person for employment.

#### Right to Reproduction

Nature has ordained a primary role to women in procreation of children.<sup>91</sup> Logically speaking, women in consultation with their



spouses should have prime role in decision making regarding the child birth or abortion. In experience what we witness generally is that women being adversely influenced against her child bearing wishes in a joint family system. Some times, due to prior knowledge of gender of the child to be borne, by the use of sex determination tests, if the child to be born is a female child a pregnant mother is forced to go for abortion against her wishes. This problem /crime is intricately related with dowry problem as well as domestic violence against women.

Similarly if there is no male child in the family, many a times women is forced to undergo a pregnancy even after giving birth to three or four female children, with a speculation of having a boy baby, at the insistence of the elders in the family.

Women's health, wishes are seldom taken into consideration either in conception and continuation/abortion of a pregnancy. This reflects sad state of affairs, torture mental/physical undergo, being deprived of such important decision making power.

Sections 312 to 318 of IPC relate to miscarriage, injuries to unborn children exposure of infants concealment of births. Abortion (except for the purpose of saving the life of the woman), causing death of the woman in an attempt to abort, preventing a live birth or causing death of child after birth, causing death of quick unborn child, and exposure and abandonment of a child under twelve years of age are all offences under the IPC as the scheme of these sections indicates that those offences are considered as serious by the penal code. The gender neutral terms of IPC provisions making women equally liable for abortion or injury that women in India are socialised in the religious and cultural environment of 'son preference'.<sup>92</sup>

In *Chetana, Legal Advisory W. C. D Society vs. Union of India And Others*<sup>93</sup>, the Supreme Court observed that as the National Programme of Action for Eradication of Female Feticide and Infanticide of 1995 has been initiated by Department of Women and Child Development, Ministry of Human Resource Development, Government of India, and the

programme taken note of the role of NGO's concerned with this kind of work, it was not necessary to proceed with the matter at present.

The Parliament has realised the grave implications arising out of the misuse of the pre-natal diagnostic techniques and intended to regulate and to use the same only for certain medical purposes. The Government has realised that abuse of techniques for the determination of sex of the foetus leading to female feticide is discriminatory against the female sex and also affects the dignity and status of women. With the above objectives, the Parliament has passed the 'Pre Natal Diagnostic Techniques (Regulation And Prevention of Misuse Act, 1994; which came into force from 1-1-1996)<sup>94</sup>.

In spite of this legislation, it is a hard fact that many instances of female feticide do occur and these crimes go caught free.

### CONCLUSIONS

The above study in the Part I of the paper reveals that certain Governments adopted an obstructionist attitude at the special session of the U.N. General Assembly on "Women 2000: Gender Equality, Development and Peace in the 21<sup>st</sup> Century" and did not allow to pass proper resolutions to protect the rights of women and to eliminate all types of discrimination and violence against women. Though countries like Czech Republic and Cape Verde enacted a new family law code, that guaranteed women equality, other countries like Morocco, Rwanda, Algeria, Israel and Egypt, maintained laws and practices that blatantly discriminated against women in marriage, access to divorce, child custody and inheritance, among other things.

It is unfortunate to know that some states argued that they were responsible for redressing only gender-based violence and not gender based discrimination. Many countries were willing to condemn violence against women but were insistent that violence was unconnected to violation of other rights. The states ignored how women's vulnerability to violence is connected to a wide range of violations of civil, cultural, economic and political rights. In particular, Governments failed to recognise that in many countries

women are denied access to public life, to paid work, to education, to credit, to custody of their children and to inherit land and property. The human rights violations make women particularly vulnerable to domestic violence by making it almost impossible for them to leave abusive relationships.

It is shocking to know through United Nations Population Fund (UNFPA) Report that across the world, one in three women had been physically assaulted or abused in some way, typically by someone she knew, such as husband or another male member of the family. It is a matter of concern that the costs of domestic violence not only makes the victim to suffer but also makes the entire society pay for it.

The correlation between gender and poverty is a problem for both developed and developing countries. It is also a matter of concern to know that women living in absolute poverty, *i.e.*, life threatening poverty, has risen by 50% over the last two decades as opposed to 30% for men.

Though United Nations Senate passed a landmark legislation to protect trafficked victims' right in the U.S. and abroad, it could not take the lead in opposing some Governments who sought to exempt violence to which women were exposed to in the context of the family, or under the guise of religious or cultural practices, from being considered a human rights abuse.

The study thus reveals a need for change in the attitude of states (both developed as well as developing ) to gender issues and true commitment on their part to raise the status of women and to enable them to lead life with human dignity.

The study in Part II of the paper highlights several constitutional and legal provisions that guarantee the right to equality and other rights focussing on equality of gender. The study with respect to right to dignity, right to privacy and right to reproduction of women in light of case laws, relevant statutes and provisions of the Indian Constitution reveals the following:

The Apex Court, from striking down one or two regulations of Air India Corporation, as in the case of Nargesh Mirza, has come to

the extent of declaring a law under Article 141, where there is a lack of proper legislation with respect to workplace harassment, as in the case of Visakha.

The Supreme Court also while laying down law tried to adopt provisions of various International Conventions and/or covenants, as long as they are not inconsistent with municipal law and endeavoured to render gender justice as in Visakha, Apparel Export Promotion and several other cases.

While issuing guidelines in Vishakha's case, S. C. had regard to the definition of Human Rights Act, 1993.

In Valsamma Paul's and Masalamani Mudaliar's case, apex Court held that the human rights for women, including the girl child are, therefore, inalienable, integral and an indivisible part of universal human rights. The full development of personality and fundamental freedoms and equal participation by women in political, social, economic and cultural life are concomitants for national development, social and family status and growth – cultural, social and economic. All forms of discrimination on the grounds of gender are violative of fundamental freedoms and human rights.

In the matters of Women's Right to Property also Indian Courts have given a liberal interpretation of statutes and adopted provisions of various International Conventions and Covenants as in the cases of Madhu Kishwar and Masalamani Mudaliar. Right from Tulasamma's case, where there is possible conflict of interpretation between two provisions of section (Section 14(1) and (2) of Hindu Succession Act), the Honourable Supreme Court has tried to bring out the spirit of legislation by introducing an ingenious concept of pre-existing right.

In Masalamani Mudaliar's case, the Supreme Court held that women have right to elimination of gender based discrimination particularly in respect of property so as to attain economic empowerment.

Similarly, in Gaurav Jain's case, the Supreme Court has gone beyond the scope of the pleadings and inspite of difference of

opinion between the Judges of the two-Judge Bench, directions issued under Article 142 by one Judge to Union of India and State Governments to evolve, ministerial level conference, procedure and principles regarding rescue, rehabilitation of the prostitutes for efficacious enforcing of their fundamental and human rights.

Existence and applicability of different personal laws to persons belonging to different religions are creating two types of inequalities. The first type of inequality is gender inequality generated within each personal law in matters of marriage, divorce, inheritance, adoption *etc.*, by keeping men and women on unequal footing. The second type of inequality is evident when we compare principles governing persons of one religion like marriage, succession, adoption and divorce *etc.*, with the corresponding principles governing the personal laws and other religions.

There is a need to bring Uniform Civil Code and the executive inaction is been commented on by the Supreme Court in Sarala Mudgal and other cases.

The supreme court's approach in dealing with the cases under Section 497 IPC, as in Sowmitri Vishnu, Revathi and Abdul Aziz is not appreciable and it is preferable that Section 497 of IPC be amended or dropped altogether to uphold the dignity of women.

Rape is not only violation of women's right, but also of human right. The recent trend observed by Supreme Court in rape cases is to prefer a deterrent approach to a therapeutic or reformatory approach. In rape cases, balancing between unmerited acquittal and possibility of conviction of an innocent person is very difficult.

In Gurmit Singh's case, the Supreme Court held that courts should examine the broader probabilities of the case with utmost caution and not get swayed by minor contradictions or insignificant discrepancies in the statement of Prosecutrix.

In Delhi Domestic Working Women's Forum's case, the Supreme Court indicated broad parameters in assisting the rape victims. They include provision of legal and medical

assistance to victims, maintaining anonymity of rape victims in trials, to set up a Criminal Injuries Compensation Board to give effect to the Directive Principles contained under Article 38(1) of the Constitution of India. The Supreme Court took a correct view in Bodem Sundar Rao's case by observing crimes against women that are on rise are an affront to the human dignity of the society.

In Chandrima Das's case, while discussing the scope of Article 21, the Supreme Court observed: Right to 'life' includes the right to live with human dignity. Rape violates this right of women. Right to life is recognised as a basic human right. It has to be read in consonance with the Universal Declaration of Human Rights 1948. The S.C., in the instant case held that the state has constitutional liability to pay compensation for a non-citizen of India, if her modesty has been outraged in India.

In offences relating to dowry deaths and domestic violence, proof of offence is very difficult to obtain, as the offence is committed within four corners of the matrimonial house. In dealing with these offences, the approach of the Judiciary is not uniform. Sometimes, the Courts are liberal and sometimes, the Courts are strict. It is pertinent to observe that the lag between societal norms and legislation should be reduced in order to reduce offences relating to marriage.

With respect to restitution of conjugal rights, under the Hindu Law, the approach of the Judiciary is more in favour of men and discriminates against women. It is unfortunate that the judgement rendered by the A.P. High Court in Saritha vs. Venkata Subbaiah<sup>95</sup>, has been overruled by the Supreme Court.

With respect to women's right to reproduction, it is unfortunate that in the Indian context, many women are not able to exercise their right to reproduction. It is important to note that female infanticide and feticide is intricately related with the other offences *i.e.*, demanding dowry and domestic violence. A need for assertion on women's part is required to exercise her right in this respect. A change in the societal outlook should match the concerned legislation pertaining to women, for successful implementation of the same.

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- 3) Ibid., p. 25
- 4) The United Nations, 'Governments and the Human Rights of Women', *Legal News and Views*: June 1998, p. 11
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- 6) *E.g.* : Morocco did not bring any substantial reforms in family law. In Japan, Government Survey reveals that 15.4% of women polled had been physically assaulted at least once by their husbands and police remained reluctant to intervene in such cases.
- 7) In Pakistan, for example, women accused by their husbands of 'inappropriate' or 'immoral' behaviour could be assaulted, maimed, or killed with effective impunity in the name of family honour. Activists maintained that such violence – over eight hundred women died in 1999 in such attacks – would persist so long as the country's laws enshrine male superiority. Activists in India, where on average reportedly fourteen women are murdered each day by their husband's relatives, also called for a stronger Government response to violence against women in the family.
- 8) In Jordan, for example, local activists successfully pushed their Government to introduce legislation to improve women's rights. In Russia, crisis centres mounted a national campaign against domestic violence and helped women bring cases to Court. In Tanzania, the office of the UN High Commissioner for Refugees (UNHCR) implemented programmes to protect women from sexual and domestic violence. In two cases brought in U.S. Courts, fugitive former Bosnian Serb Leader Radovan Karadzic was ordered to pay billions of dollars for atrocities, including rape and other sexual violence, committed by his soldiers.
- 9) In Mexico, Guatemala, and South Africa, for example, Governments failed to enforce international and national laws to protect women from discrimination and violence during the hiring process and on the job.
- 10) In March 2000, Pakistan's Human Rights Commission reported that, on average, at least two women were burned every day in domestic violence incidents.
- 11) For *e.g.*, experiences of women in Nigeria, Israel, Bosnia, Herzengovia, Japan *etc.*, substantiate this line of argument.
- 12) This argument failed to take into account the experiences of women who face persecution by the state because they fail to conform to gender-based stereotypes, or in some cases, such as under the Taliban in Afghanistan, simply because they are women. Not only are women denied redress through the criminal justice system, but in some countries like Pakistan, women risk being attacked by the police if they dare to file a complaint.
- 13) For example, in the U. S. , women represent 57. 2 % of people living in poverty.
- 14) See Article 14 of the Indian Constitution.
- 15) See Article 15(1) of the Indian Constitution.
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- 23) See Article 51-A(e) of the Indian Constitution.
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- 26) Mangari Rajender, “The Protection of Human Rights and Relating Laws,” 1st Edition, 1999, pp 176-79.
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