

## CONSTITUTION'S DECORATIVE ORNAMENTS

*By*

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The Constitution of India with objects based upon the aspiration of the people is in reality decorated with ornamental words like Justice, Equality, and Fraternity. 'Liberty' of a citizen to exercise their Right Individual and collectively is the key note.

Analysing each ornamental word we have to knock our conscience judiciously to know the line of Limitation in exercising LIBERTY before throwing light on Justice, Equality and Fraternity. In fact Liberty is exercised in its stark naked form unchecked and unabated by a citizen who is in public life representing the people or a Criminal maintained by Political aspirants. Equally the line of Limitation is not seemingly visible to the State. In the opinion of the State Liberty and the line of limitation do not commensurate with each other. One who opts for criminality in every possible posture like Murder, Rape, Extortion *etc.* by an individual maintaining a band of vagabonds are all, invariably under the Political Patronage to cover all their acts of criminality. Equally so the Courts while adjudicating such offences yield more towards the technicalities and set them scot free which is resulting in making such criminals not only more furious and Fanatic Criminals because they have the canopy of protection from the people's Representative who have virtually castigated Police Administration to act not as a Force to dispense Protection but to act as eunuch to dance to the tune of People's Representative. It is not this type of Liberty which has been envisaged in the Constitution as a Fundamental Right. A Right of an individual ends where another man's tip of the Nose begins. Liberty in its finest form

reflects the dignity of the Citizen who exercise it within the Limitation of his own Conduct, calams, and norms. It is not to be treated as a handle to enforce "might is right". What is Liberty and how to exercise needs a clear-cut vision of all section of people to come out openly and expose how it is being exercised by few individuals claiming themselves to be over and above Law.

Equality and Fraternity are only Past words. What is equality and between whom and from what has to be looked by a vision of Fraternity so that we may Conscientiously adorn the rights of every individual Citizen in its proper Perspective. Equality between one and all irrespective of Cast, Creed and Religion with respect and dignity if achieved Fraternity will be its bridal gown to look at with grace and gratitude. This will be followed by enforcement of Justice in its true forms. Gender in equality is predominantly cast its shadow in all its respect. So also human dignity suffers for want of equality between self-styled upper class and a section of human beings terms as Scheduled Caste and Backward Class. But how long this classification in a democratic India has to go on while projecting their Constitution and Constitutional Right with Pleasure and Pride to the world ? What is the divine force or formula of division we have to look at two distinct human beings who are born alike but to different parents and different individuals. And then who is responsible for projecting one as rich human and another as poor — perhaps due to lack of needed environment and appropriate opportunities. Inequality in Gender is obviously one that has to be given serious consideration.

Women on their own are climbing the ladder of progress though slowly but surely and positively and steadily. But Men also are not far behind to curb their progress whenever they are vested with discretionary power. In the designation of Senior Advocates of well-established Law Practitioners very few in some High Court and in some High Courts none of the Lady Advocates were designated as Senior Advocates. Is it not

squarely a Gender Bias and Gender discrimination ?

To sum up the ornamental words used to decorate our Constitution it is time we looked into how to remove decoration of the words which are sheer ornamental and enforce Equality, Fraternity and Liberty with the accepted norms with full force by giving result oriental dressing to Equality, Fraternity and Liberty.

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### TOWARDS A FINAL COURT THAT IS TRULY SUPREME

By

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Sri Justice *Markandey Katju*, Judge, Supreme Court of India has recently expressed his concern at the wide range of the jurisdiction of the Supreme Court of India which is clogging its docket and also indirectly affecting the quality of the Court's output. Sri *K.K. Venugopal*, a doyen of the Bar has also expressed his grave concern and articulated the imperative need to curtail its wide jurisdiction and confine it to a set of core issues. Having been at the Bar for more than 50 years, and having been associated with the Bar Council of India for 15 long years and 4 years as its Chairman at various venues and different conferences, I have been espousing the need for having a fresh look at the extraordinary wide jurisdiction of the Supreme Court converting it into a Last Court of Appeal in a large variety of cases. I am happy that my concern expressed in various fora is being addressed by those that matter.

Before adverting to the Constitutional provisions under Chapter IV of the Constitution of India which confer perhaps the widest and largest jurisdiction to any final Court in any country; it is necessary to emphasize that the precious time of the Court

should not be spent on a variety of matters under various enactments that ultimately in their sojourn from the lowest Courts of the land culminate in a final challenge in the highest Court of the land. In most of the enactments, there are appeals and revisions, inter-Court appeals and intra-Court appeals and the Suitor/ Litigant has enough opportunity to get justice instead of knocking at the door of the Supreme Court in every kind of dispute. To justify the case for revisiting the jurisdiction of the Supreme Court, one has to examine how matters of no great consequence go right upto the Supreme Court for adjudication. Several States have rent and eviction control laws and land tenancy laws. Appeals are provided from the Court of institution to the Senior Civil Judge or a District Court or a Revenue Court and from there, a revision to the High Court and from there, the matters are carried to the Supreme Court. After all, in a landlord tenant case covered by the rent control legislation, the issues involved lie within a narrow compass. Often the case is whether the tenant has committed wilful default in the payment of rent or the owner requires the premises for personal occupation and