

CHAPTER - VIII
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The historical survey of literature as discussed exhibits that since the ancient age "Womenhood" has been respected as incarnation of mother power. In *Vedic* and, *Upanishadic* period, women occupied a position of honour and respect and were equalized at par with men in society. But in *Smriti* period i.e., since about 500 B.C., few new concepts gradually entered into and got established affecting the position of women adversely. In this age, women were equalized with lower caste of "Shudra" and were argued to be ineligible for the *Vedic* studies.

The glorious position of women thus gradually deteriorated due to entry of many social evil customs which continued in society with sanction of *Smritis*, *Puranas*, *Sutras* etc. The *Brahmanical* authors of later *Vedic* literature projected what was regarded as ideal for their own class and did not portrayed the actual state of things. The change in societal attitude and effect of frequent invasions of foreign powers again added to existing problems. The *puranic* literature preached the ascetic ideal and painted women in black colours to fulfil their purpose and to discourage men from marriage.

Due to the influence of religious injunction of later *Vedic* texts Child Marriage system continued. Girls remained uneducated and under *Purdah* system they were confined within the four corners of the husband's house. Remarriage of widow was discontinued. The evil customs of *Sati*, *Devadasi*, *Dowry* and female infanticide, etc. Continued in large scale. These evil customs in aggravated crime frame eventually affected the position of women and they were criminally exploited in all works of their lives.

The British period saw the period of Renaissance. The English people encouraged women to pursue academic pursuits of life, passed legislation for remarriage of widows, abolished *Sati Pratha*, restrained Child marriage and permitted them to come out of *Purdah* and share liberty with their counterparts. But picture remained as gloomy as it had been in the past social bias and religious injunctions proved to be more effective in blocking their emancipation. The movement lacked revolutionary charter. The women proved to be too shy and indifferent to the effort of the social reformer and indifferent to the British legislation. When one is not

interested in availing benefits showered on her, the legislation could do nothing and efforts of social reformers goes in vain. Therefore, one is constrained to remark that during the British period the gain to Hindu women remained minimal and improvement of their position negligible.

The Dowry Prohibition Act, 1961 has also been amended with an intent to make it more effective in curbing the practice of giving and harassment of women by their husbands and in-laws. Recognised welfare institutions or organizations have now been permitted to lodge complaints before the magistrate for the harassment of women in their matrimonial homes on account of dowry demand. The Constitution of India enjoins equality of sexes but unfortunately Indian society is still harsh to women in the same way as it was during the period of *Manu*.

In spite of discriminatory penal provisions for the protection of women and drastic amendments in the criminal laws, crimes against women are on the increase. Reduction of crime against women remains a wishful thinking. There is a constant increase in the criminal exploitation of the weaker sex. Indian wives continue to bear the brunt of physical and mental torture by their husbands. This is one of the most brutal and explicit expression of patriarchal domination.

Prostitution is social problem, having its roots in economic adversity, social suppression and biological position of the women. It is one of the most heinous offences against the dignity of women and a slur on the face of civilized society. The Constitution of India declares its faith in dignity and worth of human being by incorporating the cherished goal of humanity, and social justice, economic and political for all. It prohibits immoral traffic in human beings and declares to be an offence punishable under Article 23. To fulfill this there is the suppression of immoral traffic in women and Girls Act 1956. (Now the Prevention of Immoral Traffic Act, 1986). Under this Act, prostitution as such is put to an end but has it been checked? It has taken newer forms.

There are inherent flaws in the Act, for example, the externment order for the prostitutes is like depositing garbage at others doors. It is highly counter productive. The alarming dimensions of this exploitation are not unknown. The call girl culture has come into existence. Five star Hotels, Massage Parlors and Fashionable bars, all have call girls system and sale of flesh. The well advertised entertainment offered by bars, Hostels, Turkish bath and massage in big cities is often a thing in disguise for the actual prostitution market.

The abuse of power, economic, politics and administrative factors create such circumstances in which women employees are tempted and at times prepared to barter themselves and their families. This is a new term of prostitution which goes on unobserved by the society and law enforcement authorities because it does not fall in any category of offences connected with prostitution.

To deal with the problem of prostitution, it requires a more action oriented research in a new perspective. The socio-economic backwardness of lowest caste in Hindu society, the rising demand of available goods of comfort in urban and metropolitan cities, wide gap between the income and expenditure of the family, the carelessness of the parents, the club society of high-ups are new dimensions of sexual exploitation of women in present day society.

One comes across every morning in the newspapers sickly reports of 'dowry deaths and criminal cruelty to women', to realize that women in India are still treated as play thing and faithful servants of their male counter part. Since *Shastric* era Hindu women have been suffering in silence. They were only asked and urged to sacrifice their interests and happiness. Time and again there has been a hue and cry in the press and social pressure from voluntary organisations to prevent inhuman treatment of women in their matrimonial home especially on dowry demand and daughters birth. The Central Government in turn tries in vain to tighten the noose of laws relating to criminality on women in their in-laws homes.

During the 20th Century the freedom struggle provides opportunity to women community for unification and since then combinedly they started struggle for their emancipation. The Constitution of free India was formed with an aim to eradicate criminal exploitation of women. The apex world body, United Nations, has also from time to time by its resolutions inspired governments to protect the fair sex. Accordingly, many laws were passed and policies and programmes were launched for ending the criminal victimization of the weaker sex. Due to women-oriented programmes and policies, the literacy rate among women has increased. Women have entered in large numbers into blue and white collar jobs. The performance and contribution of women class, being encouraging in economic sphere, proves to be helpful for the economic progress of the country.

During the independence struggle, Mahatma Gandhi's Comment, that a nation cannot prosper without honouring and protecting its women was attempted to be translated into reality. For safety and progress of women, much healthy social

legislation were framed and programmes and policies were launched for the betterment of women community social controlling agencies like education system, religion, social pressure and family system have failed to explore the ways and means of controlling and preventing crime against women. The modern sub-culture of violence exhibited by electronic media like TV and Cinema and their evil effect further worsens the situation. This is only possible through a joint socio-legislative action. In modern age being attracted by the false glamour of westernized fashions, few women run madly in wrong direction against the traditions and culture of India. The westernized culture in India proves to be producing opposite reaction and has enhanced the crimes against women. It is also a matter of great concern that women voluntary organizations, social workers and our leaders are unable to present the continuing vicious circle of society, when many women are tortured by their own women class.

Since independence many new laws have been enacted and the Indian Penal Code, the Cr. PC. and Indian Evidence Act have been amended to protect women, but these have shown poor result: At present woman finds no security at home and she is ill-treated by her husband and in laws. At workplace, they are also vulnerable and fall prey to walk of her life she is threatened. She is teased and kidnapped as a girl, abducted and at times raped as young women, beaten and harassed as a house wife are distasted and discarded in her old age as a burden. Everyday hundreds of poor women either enter into profession of prostitution to earn their livelihood or commit suicide to end the miseries of their lives. In this modern age, women still continue to be the worst sufferer of the quaint traditions prevailing in many forms. Social section is against women in regard to the right to self determination. Independent recognition of women are still unconscious of their own rights. Besides political and economic revolutions, today we need a revolution which can affect the status and living conditions of whole women community of India and around. It is rightly said that the best way to judge the position of a nation is to find out the status of its women.

In the modern age, a considerable number of women have come out from the traditional home boundary to the outer world and joined the world force in organized and unorganized sectors, in private, government and also in public undertaking. Many women, trained as pilots, have entered into the defence services and many works as top bureaucrats, ministers, etc. But the pity is that still the criminal exploitation of women class continues. In the society the earning of women are appreciated and

encouraged but, on the other hand, the family and society have not changed their attitude and out level towards working women.

In 1950 the Constitution of India in its preamble provided ideals and aspirations of the people of India. The chief one of which was the quality of status and of opportunity. Article 14 of the Constitution partly incorporated the Dicey's principle of equality before the law and partly the American concept of equal protection of laws. The equality clause expressly prohibits discrimination on the basis of race, religion, caste, sex and place of birth and guarantees equality before the law and equal protection of laws irrespective of race, religion, caste, sex etc. Thus the Constitution has ensured equal status to all i.e. not only between men and women. This Constitutional spirit found a distinct place and recognition in Hindu law legislations passed in the year 1955 and 1956. In every sphere of domestic life the Hindu women was treated at par with man whether it was the case of matrimony or marital rights or right to adopt and be adopted or to exercise the rights of Guardianship over her minor children. The Hindu Succession Act, 1956 with the help of its sections 6,8,14 and 30 conferred a substantial and positive proprietary status on her and this showering of Constitution blessings could become a solid back ground for enriching her property rights. The legislative effort and judicial activism if carried on persistently and uninterruptedly in its right earnest, with desired enthusiasm and zeal; with boldness and courage and with dynamism the day would not far off to grant her emancipation in general the base has been laid down.

Article 14 of the Constitution ensures equality of status to all men and women. All men and women are equal before the law and are entitled without any discrimination equal protection of laws. Article 14 recognises women as a class. Article removes disability attached to women by passing the Hindu succession Act, 1956. This Act has declared unequivocal term the property of the women will belong to her as her absolute property. Further Sec. 8 of Hindu Succession Act has put female heirs at par with male heirs. The Hindu Adoption and Maintenance Act, 1956 allows illegitimate daughter to claim maintenance from those who take the estate in which she has a share and is not obtained by her. This preferential treatment is not violative of Article 14, as it puts daughter equal to son.

A number of cases have been decided by the Supreme Court of India in which the women have been saved from discriminatory treatment under Article 14 of the Constitution. Sec 354 of Indian Penal Code and Sec. 125 of Cr. P.C. too provide right

and protection to women. Article 15 provides that no discrimination can be made by the state in matters of rights, privileges and immunities on the basis of sex. It also provides the making of special laws in favour of women and children. Numerous laws have been enacted relating to prohibition of female infanticide, dowry, exposure of women, advertisements and films, female child marriage, atrocities and molestation, abduction and rape, maternity benefits, medical termination of pregnancy, prohibition of prostitution and trafficking in women, protection of employment etc.

Mr. Justice Krishna Iyer observed in *C.B.Muthrma v Union of India*,¹ that “we do not mean to Universalise or dogmatise that men and women are equal in all occupations and all situations and do not exclude the need to pragmatism where the requirements of peculiar employment, the sensitivities of sex or the handicaps of either sex may compel selectivity, but save where the difference is demonstrable the rule of equality must govern.”

Article 23 of the Constitution prohibits traffic in human being and forced labour. Similarly Article 24 prohibits employment of any child (which includes a female child) below the age of fourteen years to work in any factory to mine, or engage in any others hazardous employment. A brief analysis of these provisions reveals how much our founding fathers were concerned in not only protecting the interests of women but also to ameliorate the conditions of this lot in totality. Forced labour in any form including beggar and traffic in human beings is completely prohibited and any contravention of this provision has been declared an offence punishable in accordance with law.

In pursuance of the above provisions the state has enacted a number of Acts.² A remarkable feature of this Article is not only the protection of the interest of human but also to ameliorate her condition in all walks of life in totality. The Constitution is the savior of dignity as it saves her from indecent exposure. The Constitution has also taken care of health, and protection of female workers. It also provides safety against exploitation of young. It also provides safety against exploitation of young females

¹ AIR 1979 SC 1870

² Suppression of Immoral Traffic in Women and Girls Act 1956 announced as Prevention of Immoral Traffic in Women and Girls Act, 1986; Indecent Representation of Women (Prohibition) Act 1986; The Bihar Harizan (Removal of civil Disabilities) Act, 1949; The Payment of Wages Act, 1936; Bonded Labour System (Abolition) Act, 1976; Employment of Children Act, 1938.

below the age of 14 years in employment. A number of Acts have been passed to attain these objectives.³

Various protectional laws have been enacted and enforced, such as the commission of Sati Prevention Act, 1987, Indecent representation of women (Prohibition) Act 1986, Dowry Prohibition Act, 1961 Muslim Women's (Protection of Rights on Divorce) Act 1986. The Family Court Act, 1984, Protection of Human Rights Act, 1993, etc. The reservation of women in parliament and state legislation is in progress to be brought as a most important Act for safe guarding the rights of women. The Pre-natal Diagnostic Techniques (Regulation and prevention of misuse) Act, 1994 has been brought and enacted by the parliament to prevent the female foeticide and infanticide. The domestic violence Act, 2005 has been enacted to provide more effective protection of rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected there with.

The Directive Principles, under various Articles, provide special favour to women and direct the state to treat men and women equally. Article 38(2) direct the state to eliminate inequalities in status, facilities and opportunities. Article 39 provides that equally all men and women have the right to have an adequate means of livelihood and further, that there shall be equal pay for equal work for both men and women. To achieve this objective the equal remuneration Act, 1976. Article 42 provides that the labourer must be provided just and humane conditions of work and maternity relief. Article 43 provides that the state shall endeavor to secure a "living wage" and "decent standard of life" as a result of which the state has made suitable amendments in factories Act, Mines Act, Plantation Act, etc. However, in December, 1987, the parliament has amended the equal remuneration Act 1976, having in view the pathetic condition of the unorganized sector, in order to ensure equal wages to all including women. The state have been directed by the centre to enforce the provisions of the equal remuneration Act strictly.

National Police Commission speaks about the role of police in the enforcement of social legislations as under: "This group would cover laws which are meant for protecting and rehabilitating the handicapped and weaker sections of society.

³ The factories Act, 1948; The mines Act, 1952; Employment of Children Act, 1938; The Merchant Shipping Act, 1958; The Motor Transport Workers Act, 1951; The Beedi-Cigar Workers (Conditions of Employment) Act 1966; The Apprentices Act, 1961; The Plantation Labour Act, 1951.

and prevailing expectation of their economic weakness to otherwise distressed situation. Police should be fully involved in the enforcement of these laws. Protection of Civil Rights Act and Immoral Traffic (Prevention) Act are examples of laws under this group.⁴

The Parliament passed a comprehensive Criminal law Amendment Act in 1983 to strength on the hands of the executive and the judiciary to apprehend and punish the rapists with a firm hand. Seven years imprisonment was as the minimum sentence for rape. A legal presumption was also created against the accused in case of custodial rape if the women alleged that the act was without her consent.

Section 493 to 497 of the India Penal Code deals with offences relating to marriage, deceitful marriage, bigamy, adultery etc. The objective of these sections is to maintain the sanctity of marriage and punish acts and overtures that sap it yet such crimes, which are a bolt on the holy institution of marriage are committed with impunity. The physical, emotional and economic dependence of the wife on her husband and the force of social pressures make her acquiesce to her husband's extra-marital adventures or permitting him to have a second wife without complaining against it.

The 1983 Amendment in Criminal law introduced section 498-A IPC and added section 113-A to the evidence Act to arrest the increasing number of cases of bride burning and harassment of wives for bringing insufficient dowry. The Dowry Prohibition Act, 1961 was also amended. As a result of these changes the concept of dowry has become wider and cruelty by the husband or relatives of the husband has become a crime, both physical and mental cruelty invites penal action.

In February 1992 the Supreme Court, by its pragmatic interpretation. Section 498-A has added another dimension to the crime of cruelty, now the institution of vexatious proceedings in court with a view to harass the spouse is treated as mental cruelty. This crime is cognizable and non-bailable.

Immoral traffic among women and girls is prohibited by Section 366 of the Indian Penal Code. In 1956, Suppression of Immoral Traffic in women and girls Act (SITA) was passed to banish this evil. An Amendment in 1983 added sections 366-A and 366-B to IPC to make procreation of minor girls a crime. In 1986, SITA was rechristened as (PITA) Immoral Traffic (Prevention) Act, with more stringent

⁴ Quoted in James Vadackumchery and John Kattakayam, human behavior and Law Enforcement Ashish Publishing House, New Delhi, 1995.

provisions to combat new forms of criminal trafficking and to protect innocent girls from the unethical and antisocial elements in the society by awarding deterrent punishment, yet new dimensions have been added to this crime because of social, economic and technological reasons. The call girl culture has come to stay. The latest development in the shape of massage parlors on the beaches openly offer something 'extra' to aid prostitution.

There is still a well organized network of mafia selling girls from one part of the country to another and even in foreign countries Kashmir Marriage Racket of Minor girls in 1982 revealed the large scale transportation and trafficking of girls. The flesh traders sell the same girl to a number of customers making their lives hell. The flesh trade has assumed wide extra-territorial dimensions. Girls are turned on promises of jobs but sold to brothels. What is more shocking is that they are often sold by their own parents, guardians, relatives and friends. The law is weak and in most of the cases, flesh trade and sale of minor girls goes on with the connivance of the police. The culprits have devised methods to escape the dragnet law.

A new chapter, XX-A, was added to IPC in 1983 to deal with cruelty and clause 'A' was added to section 113 in the Evidence Act to cause a presumption against the husband or his relations regarding abetment to suicide committed by a married woman, within seven years of marriage if it could be proved that she was tortured or harassed before her death. Despite this amendment dowry deaths continued the alarming upward trend.

Sexual harassment is not only on the increase but it is assuming subtler forms every day. The reasons why men harass women range from the impact of the Bombay cinema and the satellite T.V. to the deep rooted male desire to humiliated women and to put them down. A perusal of the reported, case proves that it is very difficult to get the perpetrator punished. Male fraternity trivializes the whole incident and no one come forward to vouch for the victim. Then courts are also not favorably inclined to believe the allegation of the woman. They refuse to believe that a particular incident has occurred or if at all it did happen it must have been accidental or is so trivial that it does not warrant criminal action.

The legal provisions connected with rape were drastically amended and several new sections, viz. sections 376A, 376B, 376C and 376D were added to the Penal Code to stop sexual abuse of women in custody. A minimum punishment of

seven years imprisonment was prescribed for the offence of rape and ten years imprisonment was ordained for custodial rape.

It was expected that the incidents of rape will show a downward trend, with all these changes, and it will be easy to get the culprits punished. But the deductions show that the incidents of rape have not only increased but become more brutal. A new trend of rape on minors is clearly visible.

A critical examination of the decided case shows that the courts attitude towards the rapists is mostly very lenient. In very few cases is the statutory minimum sentence awarded. Most of the cases end up in few years of imprisonment; usually the culprit gets the benefit of doubt and come out unscathed.

In 1961 Dowry Prohibition Act was passed. Despite the Act and its subsequent amendments in 1983 and 1986 brides are still harassed, tortured and even burned to extract more dowry. According to the records of crimes (Women) cell, from 1983 to 1991, 43 cases of bride burning instituted by the cell, were tried by the courts; there were just 3 convictions, rest of the cases ended up in acquittals in the sessions court itself.

Social Compulsions and legal complexities combine to compel a woman to suffer indignities and torture till she has no other option but to put an end to her life. The greed for more money makes the husband or the in-laws resort to bride burning but the law has seldom been able to punish these offenders. Most of the cases get acquitted because of lack of proper proof or due to the ambivalent use of the dying declaration of the deceased women by the courts.

The present study indicates that the incidents of currently and wife beating have increased enormously over the past few decades. the insertion of section 498-A has not brought any decrease in the number of such incidents. The growing number of cases that come to women's cell and the rising number of distress calls from the harassed and tortured women, receive by the cell prove this but the hassles of providing legal proof and the aftermath of court battles discourages women from filing cases under section 498-A of the IPC. Most of the women, who come to the cell only want the husband to be pulled up and to be told firmly not to be cruel and unreasonable.

Extensive amendments, in procedural as well substantive laws and the evidence Act, should be made in the rape laws in order to make the protective laws more meaningful for women and to protect them from a deathless shame. In most of

the rape cases the official machinery is unsupportive so the victims have to face police harassment and the mortification of seeing the rapist walk free. The IPC should be amended to make the minimum punishment for rape on minors, gang rape and rape on women in custody ten years under all circumstances. There should be no provision to make the sentence lenient. Rules of evidence and procedural laws cases of child rape should not be the same as for other cases of rape. A summary trial for punishing the child rapist is a must. It is very embarrassing for the victim to comfort the accused if the latter is a member of the family.

In cases of Custodial rape fraudulent distinctions between custodial rape and rape in custody should be done away in order to prevent the culprits being let off with lenient sentences the report of the medical officer should be treated as proof. There should be summary time bound trial of such cases. The culprit must be given deterrent punishment and must be made to pay monetary compensation to the victim so that she can rehabilitate herself.

Section 114-A of the Evidence Act implicitly assumes that the moral character of a woman is not a relevant consideration yet the legislature has not rescinded clause 155(4) of the Evidence Act, this objectionable clause should be deleted without any delay. In rape cases the focus should be entirely on the conduct of the victim or the resistance offered by her. Section 155(4) of the Evidence Act is grossly misused to help the offender. Rape is a rape, it is forced sexual intercourse, the character of the victim should not be made the focus of an act which is in itself illegal. Section 114-A should be made applicable to all cases of rape, not only to custodial rape. The judges should ensure that section 146 of the evidence Act is not misused to cause humiliation to the victim during cross examination.

Marital rape or rape within marriage should be given legal recognition so that the husbands can not ill treated wives with impunity the exception to section 375 IPC should be deleted and explanation II should be added to section 375 providing "Sexual intercourse by a man with his own wife without her consent is marital rape" and the same punishment should be provided as in case of ordinary rape irrespective of the age of the wife.

The wife who is living separately from her husband because of his cruelty or other unreasonable demands should be protected, and 'sexual intercourse without her consent' should also be treated as marital rape and must be made a ground for divorce. The proviso in section 376(1) which gives discretion to the judges to impose

a sentence, 'Less than the prescribed minimum' it should be deleted without delay. This proviso has been the cause of gross injustice to the victims in many cases.

A new section should be inserted in the IPC declaring dowry deaths and bride burning as a crime against humanity and deterrent sentence should be awarded to the culprit.

The minimum sentence for bride burning and dowry death should be increased to ten years and in cases of exceptional brutality it should compulsorily be made imprisonment for life or even death sentence. While violence against women has continued unabated and child rape and suicides/dowry deaths have surfaced with regularity, the increase in the use of section 498A has been voiced in the court room. Alongside, the limiting of section 304B to cases where a demand for dowry is established, making other cases of marital cruelty beyond the purview of this provision, has prompted the court to ask for a review of this law.

The issue of sexual harassment hangs fire despite the pronouncement of the Supreme Court in *Appareal Export v A.K.Chopra*. Even as this judgment endorses and extends the *Vishaka* guidelines, the trade, even non implementation of the *Vishaka* guidelines is a cause for comment and concern.

The limited expansion of the right of the mother to assume the role of a natural guardian when the father is absent or otherwise incapacitated, is as much evidence of the difficulties besetting the achievement of Constitutional equality as it is instance of improve rights of women.

The institution of criminal justice has evolved not only to protect human rights of those endangered by anti-social elements but also to restore the human dignity of those who have gone out of the prescribed social order. The Apex Court of our country has fully established that a person who violates law does not become non-person and he continues to be entitled to all human rights within the limitation of legal provisions. Indeed, India is second to none in terms of thinking in this regard as manifested repeatedly by the Supreme Court but there still remains a wide gap, as identified in preceding paras, between 'expectations' and 'reality' which needs to be bridged at the earliest.

Obviously, any proposed mechanism for the preservation of human rights of persons who come in conflict with the law needs to look into their basic needs and to strive to revive human beings from within human beings in both police as well as judicial custody. Seen from this angle, it is distressing to note that all enlightened

thinking generated at various forums is yet to be translated into action. Various issues of the correctional justice system, warranting an urgent attention, are required to be formulated in a uniform central law dealing with police as well as prisons with suitable amendments in the relevant procedural laws. Such a legislative move would really go a long way in initiating meaningful human rights initiatives and in streamlining the entire administration of correctional justice in a uniform manner through the country.

There is now an increasing awareness all over the country that the objectives of reinstating human rights of the persons who come in conflict with law cannot be achieved without protecting the human rights of those who 'manage' them. Towards this, an action plan will have to be designed to update the status of the functionaries of law enforcement agencies within the ambit of human rights initiatives by addressing, among others, the needs to create an independent national cadre and to rationalize their service conditions and professional growth and development through quality training at various levels.

It need not be said that the enjoyment of human rights by prisoners, as they are legitimately entitled to, cannot be divorced from their duties towards the prison administration and society at large. From this point of view, prison programmes are in dire need for a thorough reorganization in all aspects concerning institutional treatment including attention, vocational training, self-improvement and the like. Education in prisons has yet to become an integral to be desired, as only a small portion of the prison population is really engaged in productive work of the caliber and quality which may entitle them to equal to prisoners employed on productive work has gained the status of a right rather than a privilege. The entire gamut of institutional programmes requires a careful scrutiny and review.

When a wife has been burnt the onus of proof should be on the culprit to prove his innocence. He should not be enlarged on bail till all investigations against him are completed; even after that, the bail should be granted in extreme cases on compassionate grounds.

Trails for dowry death should be inserted in the Dowry Act to make registration of the list of dowry articles compulsory. Any dowry given before or after marriage should be legally made the exclusive property of the wife, allowing the husband or the in-laws to hold it only as a trust.

The phenomena rise in cases of wife beating and Cruelty should share the legislators into action. Section 498-A IPC should be substantially amended to make wife beating a crime in its own right. The explanation (b) to section 498-A must be deleted and a new explanation be added to make it clear that cruelty to wife by the husband or his relatives 'for any reason', comes under this section. It is well unknown that women is harassed and tortured not only because the demands for dowry remain unfulfilled but also on suspicion of identity, jealousy, maladjustment, etc. The new explanation must define both, wife beating and criminal cruelty, more comprehensively. It should also include the daily incidents of wife beating and harassment. There is no end to human brutality so a full-stop must be put before. The crime becomes uncontrollable.

The procedural laws for reporting cases of cruelty must also be amended. The neighbors and friends of the victim should be authorized to make a complaint and to get an FIR registered, Women's Organizations should also be given locus standi so that they can help the victim and intervene on her behalf: Bail should be granted to the culprit only in cases of extreme hardship. The investigation of the crime should be started immediately and trial should be speedily completed within the stipulated time limit of 90 days.

Cruelty should be continued by forcing the husband who is legally essential to pay maintenance to her under Section, 125 Cr. Pc. If the husband of the Victim is a Government servant the law should be amended to enable his superior officer who after satisfying himself about the merits of the case on the application of the wife, to pay half his salary to the wife till the cases is finally decided by a competent court.

A new Section, consolidating and amending the scattered law on sexual harassment should be inserted in the IPC to make sexual harassment of a woman a full-fledged crime. Sexual harassment of women at work place should be made an aggravated form of this crime. Sexual harassment should be comprehensively defined to include all kinds of subtle and indescribable manifestations of this crime. A minimum punishment of three years imprisonment should be stipulated once this offence is proved, the maximum sentence should be ten years. It will act as a deterrent for the prospective offenders and arrest the growing number of incidents which are taken so lightly by the authorities at the cost of women victims.

The cases reviewed highlight the uphill task in enforcing and protecting Fundamental Rights of women to life, to equality, to dignity and above all justice.

Although social behavior and outlook has to change to bring about gender justice, there *is* the lurking possibility that law and the courts can *a* stereotyping of women and thwarting their quest for justice. The corrective hierarchical structure of courts is a definite check against this aberration. Reforms the linking up of the population control programme with the participation of women in governance is 'an unfortunate development. The two need to be delinked. In fact, the law needs to accommodate the health concerns of women generated by unsafe birth control measures repeatedly unleashed on them. Women men also need to be protected against coercive birth control measures.

There is no point denying the fact that human rights violations take place quite widely during the arrest and interrogation of suspects. The situation is worse in areas afflicted with terrorism, insurgency and organised crime. At the best of times the criminal justice system in India is very weak. Criminals with money and influence easily manage to escape from the clutches of law. The system virtually breaks down in areas afflicted with terrorism.

The problem is that once a compromise is made with the rule of law and once an illegality is justified, for whatever reasons, it is bound to lead to a situation in which the decision to commit illegal actions will pass out of the hands of those who may have the best public interest at heart. In any case, it is not always easy to define what is best in Public interest at heart. In any case, it is not always easy to define what is best in public interest. Unbridled powers to make arrests, use third degree methods of interrogation, fake encounters to bump off suspects can be misused by officers with lesser scruples. Crime will not come down and terrorism will not disappear if innocents are tortured and killed in the name of controlling crime and terrorism. The strategy can, in fact, be counter-productive. Public cooperation is the most essential ingredient of effective policing. The first victim of police excesses is police-public cooperation.

The justification of police excesses on ground of human rights of victims too is faulty. The police behavior cannot be equated with that of a terrorist or a criminal. Its legitimacy is its biggest strength. It will discover that the battle against crime and lawlessness becomes more difficult and not easy, once the police loses its legitimacy and its action become suspect like that of a criminal. Illegal police actions cannot be justified under any circumstances.

The solution to the dilemma lies in making the criminal law and procedures more realistic and less idealistic. The problem of violation of human rights cannot be solved if the ground situation is such that some of the laws and procedures remain only on paper. There is not much justification for passing laws that are impossible to enforce. The police and the criminal justice system as a whole lose their credibility, if they cannot protect life and property. Right to life is the most sacrosanct of all human rights. Intense sense of insecurity can persuade even law-abiding citizens to demand ruthless police action. We only have to see what is happening in our neighborhood in Karachi in Pakistan. The government has suspended the entire criminal justice system under intense pressure of public opinion. Protection of life of its citizens has to be the first -priority of any government. No government, least of all a democratic government can surrender its role to political and criminal mafias.

The solutions cannot be found by wishing away the problem. The solution lies in striking the right balance between the need for an effective criminal justice system with the ideals of a liberal democracy. Some compromise will have to be made, at least for some years till the ground situation improves, by amending some of our laws and procedures. It is easier to find safeguards against possible misuse of laws by the police, even the so called "draconian laws" like TADA, but it is almost impossible to check human rights abuses if knowingly police illegalities are ignored or the police is made totally ineffective. How can the enforcers of the rule of law be allowed themselves, to become the violators of law? There can never be justification for balancing police violations of human rights with the needs of security and order.

The police force, of course, must be made more professional through better training and equipment. Police reforms are overdue and must be undertaken without further delay. The living and working conditions of the police must be improved. Police performance cannot improve in isolation. It is an integral part of the criminal justice system and, therefore, its performance and effectiveness will very much depend on the performance of other components of the system. Reforms do not necessarily mean that the police be given more powers, but it does mean that we take a fresh look at the functioning of the criminal justice system and amend some of the laws and procedures to enable the police to perform its legitimate role more effectively. The trend of growing adversarial relationship between the police and other components of the criminal justice system must be reversed at the earliest if the rule of law is to be established in the country.

India inherited the British legal system in its form, at independence. In spite of constitutional guarantees and prevalent legislations, justice for women at the workplace, is still a mirage. It is found that at times, the legislation which are supposed to protect Women employees, work against their interests. Again, no legislation will be effective if the persons for whom they are made are not aware of it. Women workers should be made aware of their rights by legal literacy programmes. It is high time we realize that most of our laws are 'masculine' in terms of intended beneficiary and in authorship. It is imperative to rearrange our social, political and legal systems so that the feminine needs, aspirations and interests, find an expression. Women, at the same time have to realize their capabilities and their rights in the first instance and use them appropriately to establish their identity.

There is urgency to create the right environment and preset the opportunities for the benefit of women. Through a process of greater awareness, access and achievement, women have to help in the creation of the right environment along with men. The present social security legislation being applicable to an extremely limited class of agricultural workers, has failed to meet the needs. It is, therefore, desirable to have a comprehensive central legislation for agricultural labour.

Labour law has failed to bring about the desired results. Consequently, the villages remain isolated from the main stream of national life with no facilities for proper development of the rural masses. With increasing population and limited resources, the achievement of constitutional goals enshrined in articles 38 and 39, particularly those in clauses (b) and (c) of article 39, appears to be a far-fetched dream. Apart from inbuilt hurdles, lack of people's participation and total reliance on state machinery in the implementation process of legislation have been the prime factors behind the failure of these laws. There is, therefore, greater need for involvement of people both at the time of initiating legislation as well as in the process of implementation.

Further steps should be taken to evolve a proper and adequate enforcement machinery keeping in view the problem of the agricultural sector. A way should be found to involve village *panchayats* in the task of implementation of social security legislation. It is suggested that the block development officer be deemed to be the rural inspector and one or more assistant development officers of the block, depending upon the work-load, may also be associated.

The Workmen's Compensation Act does not provide for compensation to agricultural workers for injuries arising out of and in the course of employment, resulting in great hardship to them. Likewise the Employees' State Insurance Act covers only 0.42 out of 5.59 million employees in rural areas. In view of this it is suggested that both these Act be suitably modified not only to extend their coverage but also to suit the rural conditions and socio-economic needs of agricultural wage earners and workers of rural based 'seasonal industry.

The provident fund facilities under the Employees' Provident Funds Act are hardly available to agricultural workers. The Act should be amended to include the proposed Agricultural Workers Provident Fund Scheme.

The Maternity Benefit Act has an extremely limited application and rarely applied in the agricultural sector. Even though state governments are empowered under the Act to extend provisions to the agricultural sector, no step has yet been taken to do so. After studying a variety of crimes violating the dignity of woman, which is an integral part of human rights, let's now try to answer the question, why the crimes against woman increase day by day. Why do the atrocities on women continue despite the fact that many laws have been enacted and sea changes have been introduced in the Indian Penal Code, Criminal Procedure Code and Indian Evidence Act. The number of changes brought about include shift in the burden of proof, enhancement in the punishment and a wide discretion given to the courts. First and foremost reason for the rising of crime is that mere passing of laws cannot check the increase in violence against women. It has to be backed by sensitization of the implementing machinery and the society as a whole. Certain recommendations to prevent crimes against women are given below:

1. Establishment of special courts to deal with the cases of crimes against women.
2. Setting up A time limit for the disposal of cases. Protracted criminal trials are an impediment in securing justice and increase the trauma of the victim with each passing day.
3. All new Evidence code put together by the United Nations which says that prior sexual conduct or the victim shall not be admitted as evidence, should be strictly followed in India also.

4. Attempt should be made to prevent delay in investigation of crimes like rape, dowry deaths sexual harassment, incest etc. as delay dilutes the evidences.
5. Capital punishment should be awarded to persons committing the offence of rape. Marital rape should also be recognised.
6. Compensatory Board should be established on the lines suggested by the Supreme Court for the victims of rape to provide relief.
7. Demand of dowry should be a ground for obtaining divorce.
8. Legal literacy be given to women to make them aware of their
9. In case of offences of incest and pedophilia punishment should be capital and the potential abusers and victims should not be left alone.
10. The police should avoid seeking conciliation between assailants and victims.
11. Law relating to sexual harassment of women at work place should be enacted and redressal grievance cells should be established in all establishment be it private or public sector. The constitution of these cells has to be re-evaluated as too much faith has been imposed on the employer who may not be as gender sensitive as in required under the Supreme Court's guidelines.
12. Looking at the state of affairs today, it is absolutely important to spread legal awareness among the working women in the city. This could be done by ensuring that the contract of employment for each and every woman employee clearly enumerates the laws enacted in various statutes for the benefit of women.
13. There should be better access to free and low-cost legal services, including legal literacy, especially designed to reach women living and working in low-income group level.
14. More number of Legal Aid Cells dealing exclusively with working women should be set up all around the city.

15. Skills of self-employed women should be upgraded through technology and finance.
16. Better training facilities should be provided to women interested to learn them, coupled with the advertisement of institutions imparting such training.
17. The strategy of industrial development with its emphasis on labour saving, skill intensive technology has displaced women from traditional occupations, self employment, etc. With no access to alternative employment or training in new technology. There should be no displacement of women from traditional occupations without alternative employment or training.
18. The quality of education should be improved and made nondiscriminatory and gender sensitive to encourage a healthy environment for the next generation.
19. Leadership training and opportunities for all women to encourage them to take up leadership roles both as students and as adults in civil society should be provided.
20. Recruitment and career development programmes should be restructured to ensure that all women, especially young women, have equal access to managerial, entrepreneurial, technical and leadership training, including on-the-job training.
21. The Government should support research into all aspects of women and the media so as to define areas needing attention and action and review existing media policies with a view to integrating a gender perspective.
22. There should be cautious effort to promote the concept that the sexist stereotypes displayed in the media are gender discriminatory, degrading in nature and offensive.
23. Accountability should be rightly fixed on the callous enforcing authorities for improper implementation of the legislation. The law enforcement machinery should be pulled up to check proper implementation of laws.

24. Immediate steps must be taken up for cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to check the undue implementation of legal provisions.
25. Communication strategies to promote public debate on the new role of men and women in the society, and in family should be developed and followed up.
26. Last, but not the least, efforts should be made to infuse ethics and values to ensure that at all levels of the society, the behavior of the people is good. A value system should be perpetuated, the propagation of which would lead people to give the best of themselves to the society.