

Gender Justice Ideology and the Indian Constitution: *Analysing Equality Rights*

Narender Nagarwal¹

I. Introduction:

India has been known as one of the most unequal and gender insensitive nation in the world since long. Gender impacts the lives of the women most intensely, it relegates them to a subordinate the status and makes them vulnerable to a large number of social ills like infanticide, foeticide, child marriage and gender biases in the rights of coparcenery property etc. It is most unfortunate that even in this enlightened 21st century when the whole world is awakening to the call of enlightened feminism but our country has not been able to free itself from the stranglehold of obsolete social customs and traditions. India is still the most important part of the patriarchal belt of the globe where women are subordinate to men in a kin-ordered social structure. The framers of the constitution believed that Indian women must be treated equally and their rights in the property must be ensure by the state.

The Constitution of India has given new dimensions of Indian society in certain sphere. The Constitution does not use the word 'Gender'. It uses the word 'sex' in articles 15(1), 16 (2) and 325 which prohibits discrimination on the grounds of sex. Although the word 'sex' has a narrower meaning than the word 'gender' and the above provisions merely guard against discrimination on the basis of 'sex' and the 'gender justice' which aims at much more than mere absence of discrimination. The distinction and discrimination on the basis of sex, color, creed, caste, race religion etc have been done away with, and according to fundamental rights have been declared void. In the same strain, Article 14 of the Constitution guarantee equality before the law, Article 15 and 16 remove prohibition or discrimination on the ground of religion, race, caste, sex or place of birth etc and also gives a direction to the state to make provisions for women and children. Interestingly, our constitution authorizes the state to make special provisions for the protection and development of women and children. A large number of laws have also been enacted from time to time for empowering them and raising their status. The government has amended a

¹ Assistant Professor (Law), Department of Law, University of North Bengal, Darjeeling (West Bengal), the author can be contacted at narender.nagarwal@gmail.com

number of laws that affected women adversely including laws related to dowry, rape, cruelty, maintenance, marriage, domestic violence, prostitution and obscenity etc. The apex court of India has passed several progressive judgments favouring women. Various welfare and development schemes have been introduced to improve the living conditions of women and to increase their access to and control of material and social resources. Further, various special steps have been taken to remove legal, social and other constraints and disparities to enable them to make use of the rights and opportunities made available to them yet there are many outdated social customs and traditions which are still followed, they wield more power and authority than the statutory enactments and undo, most of the gains of these pragmatic programmes resulting in inequitable distribution of the fruits of progress and development.

Despite all these legislative measures and progressive laws, the women still considered as symbol of honour and have been treated as property by their male family members. The concept of equality and gender justice hardly matters for women at large if we examine the practical scenario, as women hardly enjoy any liberty in our so called democratic society. The rampant of incidents of Horror Killing (killing daughter in the name of family honour if they decided to get married with her own wish) in various parts of the country exhibit the ugly face of gender based discrimination can be seen not only in rural area but anywhere in our society.²

II. Gender Justice--- Protectionist Approach:

The debate over the meaning of equality is further complicated in the context of women and gender equality. There have been a section of Indian society who believe that men and women can't be remain as same. The woman need protection because she is different from men-women are understood as weaker due to various reasons including some biological factors that put her identity subordinated thus she need of protection. The followers of protectionist approach considered that any rule or practice that treats women differently than men can be justified on the basis that women and men are different, and that women need to be protected. This protectionist approach simply accepts traditional and patriarchal discourses that construct women as weak, biologically inferior, modest and so on. These are the so called feminine of characteristics are as natural and thus, as appropriate starting place for regulation. In order to recognise their approach the protectionists even clothed their argument with glorious Hindu tradition, the sacred role of women as mother, wife and an obedient daughter. The protectionists further assertion that a woman's position as wife has been

² J P Attray, *Crime against Women*, Vikas Pub. House, New Delhi, 1988.

given the highest place over all other roles which she required to play because it is here that she is required to perform the most strenuous of duties and the most difficult of responsibilities. As a wife, she is beyond everything else and sits on pedestal as high and as glorious as the imagination can reach.³ The women role as mothers are similarly celebrated and naturalised as an inevitable consequence of the biological difference between men and women. This approach tends to essentialise difference and arguably justified the differentiate treatment to the women as natural and inevitable. But amazingly there is no interrogation of the basis of the difference, nor paid any consideration of the impact of the differential treatment on women. In the name of protecting women, this approach often serves to reinforce their subordinate status. For example law that deny women basic civil and political rights such as right to vote or right to own property could be, and in the past were justified on the basis that women were different, and need protection.

III. Gender Justice--- Equality Approach:

Gender equality, as an ideal, has always eluded the constitutional provisions of equality before the law or the equal protection before the law. This is because equality is always supposed to be between equals and since the judges did not concede that men and women were equal, gender equality did not seem to them to be a legally forbidden inequality.⁴ In *Bradwell v. State of Illinois*⁵, Justice Bradley of the US Supreme Court said, “The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The permanent destiny of and mission of a women are to fulfil the noble and benign office of wife and mother. This is the law of the creator.”

It is also worthwhile to mention the words of an eminent American Judge who after tracking the historical background, explained the need for special provisions being made for women. Thus in *Muller v. Oregon*,⁶ it was stated “That women’s physical structure and the performance of maternal functions places her at a disadvantage for subsistence is obvious. History discloses the fact that woman has always dependent upon man. He established her control in various forms, with diminishing intensity, has continued to the present.”

³ V L Deshpande, *Women and the New Law*, Punjab University Publication, Chandigarh, 1984

⁴ S P Sathe, “Gender, Constitution and the Courts”- Endangering Law-Essay in Honour of Latika Sarkar, Eastern Book Co., Lucknow 1999

⁵ *Bradwell v. State of Illinois*, 83 US 130 (1973)

⁶ *Muller v. Oregon*, 208 US 412

Gender based equality is just elusive concept in the absence of right to live with dignity. In *Neera Mathur v. LIC*⁷, the court recognised that privacy was an important aspect of personal liberty. In the instant case the Supreme Court shocked to learn that an LIC questionnaire sought information about the dates of menstrual cycle and details of past pregnancies, and the petitioner was terminated for not providing correct information to the LIC. The apex court held that such questionnaire is a direct invasion to privacy and violation of right to life as enshrined under Article 21 of the Constitution. In another case *Zahida Begum v. Mushtyaq*⁸ Ahmed, the judiciary uphold the right of dignity and privacy of women. In this case the a suit was filed by the wife for dissolution of marriage on the ground of impotency of husband as the he was unable to perform marital obligation. The husband denied that he is impotent, on the contrary he requested to the court that wife be directed to undergo medical check up so as to ascertain her virginity. Karnataka High Court held that the direction of the trail court to the wife to undergo virginity test was improper and invaded privacy of the women petitioner, which was violation of Article 21 of the Constitution.

The equality approach asserted that relationship between men and women is seen as one of the promoting equality. The advocates of this approach believe that there should be a gender neutral law which should not discriminate on the basis of sex. In this approach, women are understood to be same as men and should be treated as men. Any legislation or customary practice that treats women differently than men is seen to violate the equality principle. This sameness approach has been used to strike down provisions that treat women and men differently.

Some feminist legal scholars have endorsed this conception of equality according to which gender difference ought to be irrelevant, and women ought to be treated exactly the same as men. These feminist argue that any recognition of gender difference in the past has simply been a justification for discriminating against women. Advocates of this approach argue that so called “special treatment” has historically been a double edged sword, that is, under the guise of protection, it has been used to discriminate against women. Any recognition of difference between men and women, and any attempt to accommodate those differences is seen to provide a justification for continued unequal and discriminatory treatment.⁹ They point to the use of gender difference in the past in prohibiting women the right to vote, to be elected to the government, to be admitted to the legal profession,

⁷ (1992) 3 SCC 418

⁸ AIR 2006 Kant 10

⁹ In the American feminist jurisprudence, Equality approach towards gender is associated with the work of Wendy Williams, “The Crisis in Equality Theory and Maternity, Sexuality and Women” 1982

and other such participation in the economic, political and cultural dimensions of the society.¹⁰

The framers of the Indian Constitution took note of the adverse and discriminatory position of women in society and took special care to ensure that the State took positive steps to give her equal status. Articles 14, 15(2) and (3) and 16 of the Constitution of India, thus not only inhibit discrimination against women but in appropriate circumstances provide a free hand to the State to provide protective discrimination in favour of women. These provisions are part of the Fundamental Rights guaranteed by the Indian Constitution.¹¹ The preamble of Indian constitution inter alia, assure justice-social, economic and political; equality of status and opportunity and dignity of the individual. The fundamental rights guarantee gender equality under law, Article 14 and 15 prohibits discrimination on the basis of sex by the state; Article 15(3) provides that nothing in this Article shall prevent the state from making any special provisions for women and children. Article 16 (1) guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state and Article 16 (2) forbid discrimination in respect of any employment or office under the state on ground only of religion, race, caste, sex etc. Article 23 provides right to equality, special provisions, right against discrimination on ground of religion, race, sex etc. and right against exploitations.¹²

Part IV of the Indian Constitution contains the Directive Principles which are no less fundamental in the governance of the State and inter alia also provide that the State shall endeavour to ensure equality between man and woman. Notwithstanding these constitutional mandates/directives given more than fifty years ago, a woman is still neglected in her own natal family as well as in the family she marries into because of blatant disregard and unjustified violation of these provisions by some of the personal laws. Pandit Jawaharlal Nehru, the then Prime Minister of India expressed his unequivocal commitment to carry out reforms to remove the disparities and disabilities suffered by Hindu women. As a consequence, despite the resistance of the orthodox section of the Hindus fundamentalists, the Hindu Succession Act, 1956 was enacted and came into force on 17th June, 1956. It applies to all the Hindus including Buddhists, Jains and Sikhs. It lays down a uniform and comprehensive system of inheritance and applies to those governed both by the Mitakshara and the Dayabahaga Schools and also to those in South India governed by the Murumakkattayam, Aliyasantana, Nambudri and other systems of Hindu Law.¹³ The Hindu Succession Act

¹⁰ Ibid

¹¹ P M Bakshi, "The Constitution of India" Universal Law Publishing, New Delhi-2010

¹² J N Pandey, "Constitutional Law of India" Published by CLA, 2008

¹³ Paras Dewan, Family Law, 2008

1956 is the direct outcome of the independent struggle and also an attempt for the practical application of Constitutional ethos. Hindu women had no right of inheritance to the property of her father. There were many enactments like Hindu Women's Right to Property Act, 1937. Hindu Law of Inheritance (Amendment) Act, 1929 but none of them ensured right of inheritance to the impartible property in equal footing with other male.¹⁴

IV. Gender Justice--- Historical approach:

The famous Hindi poet Tulsidas had equated the status of women like animals in these words, "*dhora, ganwar, shudra aur nari, ye sab taadan ke adhikari*". It means animals, illiterates, untouchables and women deserve to be punished. The famous quote of Tulsidas had exhibited the glaring picture of worse form of human rights violation against certain deprived categories during that period¹⁵. The position of women was also not okayed during the Mahabharata as it becomes a debatable issue whether woman had an existence as a human being or mere a chattel. Even during the Vedic age the status of women was not so better than in the subsequent period. In those days a woman was held in great respect and enjoyed considerable rights and privileges but her status had been remained as inferior from her counterpart. She was considered a goddess and was adored. Generally, although the birth of a girl was not a cause of rejoicing, she did not suffer on that count. After marriage she was regarded as a part of her husband and her presence was inevitable in every religious functions. She shared equal rights and responsibilities with her husband in the family. The only disability from which she suffered in those days was that she did not, in general, have the right of inheritance. The women are understood as historically disadvantaged group in this approach, and as such, in need of compensatory or corrective treatment. Within this approach the gender based discrimination is often seen as relevant, and as requiring recognition in law.¹⁶

The Vedic literature prescribed inheritance to the unmarried daughter and to a brotherless married daughter. The daughters with brothers however, were excluded from the rights of inheritances. The general opinion of Hindu society at that time was that sisters got no share in the patrimony if they had brothers. The husband and wife are treated in the vedic age as joint owners of the household and in that way, of its property. This theory of joint ownership helped the wife only in securing a number of minor rights and

¹⁴ Bikash Ranjan Bhattacharya, "Gender Inequality in Right of Inheritance", "Gender Justice" Calcutta University, R. Cambray Pub. Co. 2006

¹⁵ Sukhdeo Thorat, "Hindu Social System and Human Rights of Dalits" Critical Quest Pub.2004

¹⁶ B R Ambedkar, "The Hindu Social Order-Its Unique Features" Vol-3, Deptt. Of Education, Govt. of Maharashtra

privileges, such as enjoying wealth together and having proper provision for maintenance. However, it did not secure for her an absolute equality with the husband in the ownership of the property. Thus the wife in the vedic age was devoid of property rights. However, the vedic age literature recognized her right to own *stridhana*. During Vedic times, the widow was not given any right of inheritances in her husband's property. But a childless widow was entitled to succeed to her husband's estate. At that time the customs of *niyoga* was very common and consequently widow without sons were very few. With the evolution of the concept of private property, the woman gradually lost her status. Her physical weakness and other incompetency such as with regard to performance of religious rites and ceremonies gave an excuse for the assignment of an inferior status to her.¹⁷

Baudhyana, the reputed founder of *Yajurveda* excluded a Hindu Woman from inheritance. He based his theory of exclusion of woman from inheritance on the authority of the Sruti text. "Women are considered to be destitute of strength and of a portion" Saying that devoid of prowess and incompetent of inherit women are useless, he propounded that Vedas declared no inheritance to a women.¹⁸ The interpretations of the Vedic text as given by the Boudhyana become subject of controversy among eminent scholars. However, the Boudhayana never thought that a woman to be capable of independent status. According to Prof. Gangotri Chakraborty a father protects a woman in her childhood, the husband protect during her youth, and the son in her old age. "Manu says that a women is not entitled to independence in any period of her life", observed Prof. Chakraborty.¹⁹ This led her towards further subordination and helplessness and she continued to fall lower so as to remain always under the protection of father, husband and sons as the case may be.²⁰ The historical approach suggests that women's position in all respects continued to be subordinate –economically, politically and socially-to men. In Hindu society, which was the majority community, the practice of child marriage prevailed. Some of these child brides become widow at an early age and were forced to live ascetic life ever since. A man could marry as many wives as he liked but a widow could not re-marry. The plight of the women especially the widows was most pathetic. They were exploited by male relatives not only at home but outside the home.

¹⁷ Bikash Ranjan Bhattacharya, "Gender Inequality in Right of Inheritance", Gender Justice, Calcutta University, R. Cambray Pub. Calcutta, 2006

¹⁸ Mamta Rao, "Law Relating to Women and Children" Eastern Book Co. Lucknow 2008

¹⁹ Prof. (Dr.) Gangotri Chakraborty, Head, Department of Law, North Bengal University in "Gender Justice" by Calcutta University, R. Cambray Pub. Calcutta 2006

²⁰ Ibid

V. Gender Justice--- Position of Women under Joint Hindu Family:

The position of a woman in the joint Hindu family was even worse. She was regarded as having a fair inferior position in the joint family. In the matter of succession a woman be she a wife, widow, mother, daughter or sister could not be succeed to the Mitakshara joint family property. She was entitled to maintenance. Undivided brothers and their sons excluded the widow and daughter of a deceased brother and they had only a right of maintenance and were at the mercy of the surviving brothers. In their helpless state, they were rarely in a position to enforce even their rights of maintenance against recalcitrant brothers.²¹

Males in the joint Hindu family in contrary enjoyed a far superior position as they formed an inner circle known as the joint hindu family. Joint ownership being the privileges of the male members in the family, females were precluded from acquiring any interests in the coparcenary property. Thus very restricted rights were conferred upon the females with regard to succession, partition and interest in joint family property. In short in ancient times there was gender discrimination under Hindu law and a male alone could be hold and enjoy proprietary rights as he pleased. These differences between men and women in Hindu law were attacked by a section of Hindus. The champions of the cause of the Hindu woman had their say and gained their first victory when the Hindu Women's Right to Property Act, 1937 was enacted. The avowed object of the Act, as exhibited by its title was to confer fresh rights on Hindu women, but it covered only the widows and not all Hindu women. Prior to the commencement of this Act, a widow in respect of the separate property left by her husband had, both in the Mitakshara and Dayabhaga schools, no right of inheritance when the deceased husband left a son, a grandson or great grandson.²²

VI. Reformative Phase towards Equality Rights:

It is well established fact that codification of the Hindu Personal Law was on the top priority during the colonial period by the Hindu Law Committee which was appointed on 25 January 1941. The said committee was formed to advise the Government of India on the best methods of dealing with anomalies and uncertainties resulting from the Hindu Women Right to Property Act 1937. The committee expressed itself in favour of codification of Hindu Law in stages but reforms were opposed by Hindu conservatives within the Congress Party. The Provisional Parliament which the Constituent Assembly took up this work in Independent India and Dr. B

²¹ See Constitutional Debates on Hindu Code Bill

²² Views expressed by Dr. Poonam Pradhan Saxena, Professor, Faculty of Law, Delhi University

R Ambedkar improved some of the draft Bills of Hindu Laws²³. After winning the election in 1952, which was the first general election on adult franchise in India, Nehru brought forward the codification of the Hindu Personal Law in four legislations, namely the Hindu Marriage Act 1955, Hindu Adoption and Maintenance Act 1956, Hindu Minority and Guardianship Act 1956, Hindu Succession Act 1956. The first major reform amongst of the above was declaring the Hindu marriage monogamous that a marriage contracted by a Hindu whose spouse was living as void.²⁴ The Act provided the divorce on certain grounds.²⁵

To give better right to Hindu woman Parliament in 1956 enacted the Hindu Succession Act 1956, as the various schools of Hindu law laid down different orders of succession with regard to the Hindu women's position in the Mitakshara and her rights therein, in order of succession and the share to be allotted to her strong divergent views prevailed. The act was enacted to provide a just and proper solution to these and other problem. It did not merely codify the existing Hindu law of succession, but in reformative spirit made fundamental changes therein. The Act may be justly called Hindu female's *Magnacarta* of property rights. The following reforms have been introduced:

VI. I. To remove the distinction of Mitakshara and dayabhaga rules of inheritances and introduced a uniform rules of inheritance and comprehensive system of inheritances applies *inter alia*.

VI. II. To remove the divergent categories of stridhana and rules relating to its succession.

VI. III. It removes the distinction between the son and the daughter in the matter of right to inherit the property the share to be allotted to them and the nature of the property they obtain.

VI. IV. The Act makes the widow entitled to succeed not only to the intestate's separate property. Further, she is ranked at par with the son.²⁶

²³ Ganvir, Ratnakar in "Dr. Ambedkar and Hindu Code Bill", Ratna Mitra Prakashan, Nagpur, 1987

²⁴ See Section 11 read with 5(1) of the Hindu Marriage Act, 1956

²⁵ See Section 13 of Hindu Marriage Act 1956

²⁶ Professor Dr. Poonam Pradhan Saxena's, Faculty of Law, Delhi University, "Family Law Lectures", LexLocis Pub. 2008

VII. Landmark Steps toward Gender Justice and Women's Right:

The Dowry Prohibition Act 1961 was first women oriented legislation which was enacted to curb the dowry menace. The post marriage demands for dowry were not covered by the definitional aspect provided in the Act. The definition was therefore amended in 1984 and post marriage demands were also included in the definition of dowry as per the Act. Section 6 of the Act has significant weightage as it deals with the recovery of dowry. It provides that if any person other than the woman in connection with whose marriage it is given receives the dowry, he shall return it to the woman within a specified period and until so returned he shall retain it in trust for her benefit. If he fail to deliver the said dowry articles to the woman, he is liable to punishment provided under the Act²⁷. In *Pratiba Rani v. Suraj Kumar*, the Supreme Court had held that a Hindu married woman was the absolute owner of her streedhan property and the husband who ill treated her and turned her out from the matrimonial home without returning her dowry was guilty of the offence criminal breach of trust as defined under section 406 of the IPC.²⁸ The Dowry Prohibition Act is a secular legislation and applies to all communities. Increase number of dowry deaths prompted the parliament to make several changes and add several provisions to the IPC, the Cr.P.C and the Indian Evidence Act. Two provisions were made in the IPC against domestic violence i.e. sec. 498A which makes cruelty to a married woman by her husband or her in-laws punishable with 3 years imprisonment. Again the significant amendment incorporated in Cr.P.C by inserting section 198A which saying that cognizance of an offence of cruel treatment under section 498A must be taken on the police report or upon a complaint made by the aggrieved person or by her father or mother or brother or sister with the permission of the court.²⁹

Section 304-B was added to the IPC by the Criminal Law Amendment Act passed in 1986. This section starts with the title 'dowry death'. This section provides that where the death of a woman caused by any burns or bodily injury or occurs otherwise than normal circumstances within seven years of her marriage be called dowry death and such husband or relatives shall be deemed to have caused her death. These provisions impose burden of proof on the accused which earlier lay on the prosecution. Section 174 of the Cr.P.C was amended to provide that in case of woman dies or commit suicide within seven years of her marriage, a post mortem report and other investigation must be made. Thus we have three provisions dealing with the problem of domestic violence and no doubt these provisions have

²⁷ See Sec. 2 and Sec. 6 of Dowry Prohibition Act 1961

²⁸ *Pratiba Rani v. Suraj Kumar*, (1985) 2 SCC 370

²⁹ See Sec. 498A of Indian Penal Code 1860 and Sec 198A of Cr.P.C for detailed definition

significantly provides a sense of security and protection of all kind of gender based atrocities and cruelties.

The Hindu Succession (Amendments) Act 2005 is another land mark legislation which provides property rights to woman. After 50 years the government finally address some persisting gender inequalities in the 1956 Hindi Succession Act which itself was path breaking. The 2005 Act covers inequalities on several fronts; agricultural land, Mitakshara joint family property, parental dwelling house and certain widow's right. Some anomalies persist, but first consider the achievements.³⁰

The 2005 Act brings all agricultural land on par with other property and makes Hindu women's inheritance rights in land legally equal to men's across states, overriding any inconsistent state laws. This can benefit million of women dependent on agriculture for survival. The 1956 Hindu Succession Act distinguished between separate property and joint family property of a (non matrilineal) Hindu male dying intestate (without leaving a will) devolves, in the first instance equally on his class I heirs namely son, daughter, widow and mother (plus specifies heirs of predeceased children). If previously governed by Dayabhaga, this rule applied also to joint family property. But if previously governed by Mitakshara (which cover most of India) a different rule applied. In the deceased man's notional share in Mitakshara joint family property, the class I heirs were entitled to equal shares. But sons as coparceners in the joint family property additionally had a direct birth right to an independent share; while female heirs (e.g. daughter, widow, mother) had claims only in the deceased's notional portion. Also, sons could demand partition, daughters could not.³¹

The 2005 Act does not touch separate property (except broadening the class I heirs). But it includes daughters as coparceners in the Mitakshara joint family property, with the same birthright as sons to shares to claim partition and (by presumption) to become Karta (Manager), while also sharing the liabilities. In addition, the Act makes the heirs of predeceased sons and daughters more equal, by including as class I heirs two generations of children of predeceased daughters as was already the case for sons. Dwelling house, widows claim, third the Act deletes section 23 of the 1956 Hindu Succession Act thereby giving all daughters (married or not) the same rights as sons to reside in or seek partition of the family dwelling house. Section 23 did not allow married daughters (unless separated, deserted or widowed) even residence rights in the parental home. Unmarried daughters had residence rights but could not demand partition. Fourth the Act deletes Section 24 of the 1956 Hindu Succession Act which barred certain widows

³⁰ Professor Dr. Poonam Pradhan Saxena's, Faculty of Law, Delhi University, "Family Law Lectures", LexLocI Pub. 2008

³¹ Ibid

such as those of the predeceased sons, from the inheriting the deceased's property if they had remarried. Now they can so inherit.

The deplorable situation of women has also attracted the human rights approach. In addition to 23 main human rights conventions of general in nature, UN has adopted five conventions exclusively dealing with women. These are; UN Convention on Elimination of All Forms of Discrimination against Women; Convention on Political Rights of Women; Convention on Consent of Marriage, Minimum Age of Marriage and Registration of Marriage; Convention on Nationality of Women and Convention on the Recovery Board of Maintenance. Keeping in view injustices to women, there is emergence of feminist jurisprudence and gender justice. The Courts are taking a front seat in the journey of restoration of dignity of women and protection their human rights. Indian judiciary has played a pivotal role in establishing the gender equal society.

VIII. Concluding Remarks:

India is land of laws there are many laws which regulates every sphere of human life. Still, we could not stopped some of the evils of our society mainly the gender based atrocities and cruelties against women. The rampant of violations of women's rights takes many forms and shapes, most importantly the rising graph of sexual and physical violence and harassments against women, female foeticide another matter of great concern and there is no solution of this gigantic problem as sex ratio decimated rapidly. Rampant of dowry deaths still prevailed horribly in our society, sati and denial of her autonomy to get marry (killing girls if they get married against the wishes of her parents) according to her own wish are worst form of gender based violence. All these pose a serious question mark on existing legislative provisions which have been enacted to ameliorate the deplorable condition of women.

Despite the fact that women participated equally in the freedom struggle and under the Constitution and law, have equal political rights as men enabling them to take part effectively in the administration of the country has had little effect as they are negligibly represented in politics. Their representation in the parliament and state legislatures are far below the expected numbers. This has led to the demand of 33% reservation for women in the Parliament and state legislatures. Under Article 40 of the Directive principles of Indian Constitution state that "State shall take steps to organise village Panchayats and endow them such powers and authority as may be necessary to enable them to functions as units of self government." The 73rd and 74th Amendment of the Indian Constitution effected in 1992 provide for reservation of seats for women in Elections to Panchayats and Municipalities. Reservation seats for women in Panchayats and

Municipalities have been provided in Article 243D and 243T.³² The women position has always been degraded one, it is an indisputable reality that women has been considered a human being of second order who has to merge her individuality and persona with man after the marriage. The equal rights and equal opportunities are provided to women but the reality is somewhat else. Why don't people realise that women are in no case less than man and they can by their vigour and valour show that nobody should underestimated them. The main task of those who are crusading for gender justice will be educated both men and women about it. The movement for change public opinion and societal attitude and values can at the most catalysed by the law. Such changes in people mindset cannot come merely through legislation and legal prescriptions. India needs a new movement for change that should aim at promoting humanism and respect for individual dignity and liberty.

³² See P. M. Bakshi, *The Constitution of India*, Universal Law Pub. New Delhi 2010