

INTERNATIONAL OBLIGATIONS TOWARDS GENDER JUSTICE: JUDICIAL GAVELS FOR INDIAN DILEMMAS

Madhuri Sharma

UILS, Punjab University, Chandigarh, India.
Corresponding author: madhuri.uils@gmail.com

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Abstract: Equipped with time tested scriptural guidelines and constitutional provisions, India has abundant strength to deal with the issues of gender justice. That is why India is always on the forefront to be a part of international movement to convert the fragile myth of gender justice into a palpable reality. Well in keeping with the spirit of our constitutional provisions as enshrined in the Preamble, Article 14, Article 15(1), Article 15(3) and Article 21, India has committed itself to almost all international obligations by acceding to the Universal Declaration of Human Rights 1948, International Covenant of Civil and Political Rights 1966, International Covenant on Economic, Social and Cultural Rights 1966, Beijing Principles of Independence of the Judiciary, 1995, International Convention on Political Rights of Women 1954, the Declaration of Elimination of Violence against Women 1993 and Convention on Elimination of All Forms of Discrimination Against Women.

But the real and practical challenges come from archaic customs, superstitions, illiteracy, patriarchal social ethos, cultural pluralism, compulsions of caste, creed or religion, the traditional domestic roles in the four walls of the house and coalitional compulsions of present day politics. As and when attempts are made to overcome these challenges, pressures of deep seated cultural traditions and pulls of our international obligations appear to clash with each other throwing us in the domain of dilemmas. Therefore, at times, India has to take many steps backward while acceding, ratifying or cosponsoring international conventions or protocols. For instance, in October 2013, India refused to co-sponsor the first ever Global Resolution for Elimination and Prevention of Child, Forced and Early Marriages at the United Nations General Assembly despite the fact that India has passed Prohibition of Child Marriage Act 2006. Perhaps, this refusal has been made in the view of the pressure of Khap Panchayats and Muslim organizations which use child marriage as a preventive step towards rape or oppose the law

banning the child marriage on grounds of Personal Law.

Not with standing such dilemmas, the silver linings come from gavels of judicial pronouncements aiming at sustainable, social and human development through gender justice. Some of the pronouncements date back to pre- independence era of the custom ridden society, when gender justice laws were virtually non existent. Our enlightened Judiciary granted coparcenary rights to Devdasis as early as in 1864 (*Chalakonda Alasani vs. Chalakonda Ratnachalam*, 1864), upheld the dignity of a dancing girl by granting legitimacy to her son (*Ramnath Zamindar and Anr vs. Doraiswami*, 1882), divested Indian husbands from their traditionally self proclaimed right of wife beating in 1936 (*Emperor vs. Subbaiah Goundan*, 1936), ruled that the prosecutrix in rape case cannot be treated as if she were an accomplice so far as her credibility is concerned (*re Boya Chinnappa*), reiterated the modesty of a prostitute upholding her entitlement to equal protection (*re Ratnamala and Another*, 1962), upheld pre- nuptial settlement claims of a woman (*Srinivasa Padayachi v. Parvathiammal*, 1969), declared uninterrupted maintenance to wife and children a statutory obligation in the face of personal law, (*Amanullah vs Pedikkaru Mariam Beevi*, 1985) scrapped the law as asking a woman to produce no objection certificate from her husband for getting a job, as being obnoxious and arbitrary, (*Rukmani vs. The Divisional Manager, Marapalam Tea Division*) and upheld a girl's right over her body without being trapped by extraneous questions, (*V. Krishnan vs G. Rajan @ Madipu*) and so on. Similarly our Judiciary has thrown open a lot many gender justice opportunities through their rulings in cases like . *Vasantha R. vs. Union of India and Ors*, 2000 , *Vishaka and Others Vs. State of Rajasthan and Others* and *The Criminal Law (Amendment) Act, 2013* and invocation of various clauses from international law.

Of late, our judiciary taken big leaps towards development of human rights jurisprudence by harmonizing Fundamental rights with directive principles as enshrined in our Constitution. The most seminal and path breaking Judicial contribution towards social and human development is seen, felt and realized through innovative expansion of the role of judiciary through the instruments of public interest litigation, epistolary jurisdiction and alternative dispute resolution through Lok Adalats. Coupled with legal literacy campaigns, these instruments have converted the adversarial Court procedure into collaborative one and knocked down the barriers of locus standi doctrine through services of amicus curiae etc. It is through these innovative gavels that India looks forward to meet its international commitments and obligations towards gender justice.

Keywords: Constitutional Provisions; Gender Justice; Human Rights; Jurisprudence; International Conventions; Judicial Gavels.

INTRODUCTION

Universal Declaration of Human Rights, 1948 (Udhr)

To begin with, our international obligations towards gender justice spring from its Preamble and Article 16 of Universal Declaration of Human Rights, 1948 (UDHR) specifically. India's concern for issues of Gender Justice stands singled out in view of the fact that India was one of the first forty eight Countries which voted in favour of the adoption of this declaration.

The Preamble of the UDHR reads as under: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,"

Similarly, Article 16 of the UDHR binds us morally to take up all types of necessary steps for enjoyment of equal rights by men and women to marry and found a family without any fear or restriction. It reads as under: "Article 16: (a) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (b) Marriage shall be entered into only with the free and full consent of the intending spouses. (c) The family

is the natural and fundamental group unit of society and is entitled to protection by society and the State."

International Covenant on Civil And Political Rights (ICCPR)

Secondly, India stands morally obligated to the highest ideals of civil and political rights like freedom from fear and want in view of the fact that it acceded to the International Covenant on Civil and Political Rights on April 10, 1979 (ICCPR). Its Preamble focuses upon our responsibility, inter alia, for creation of conducive conditions for enjoyment of our Civil and Political Rights.

Article 3 of the ICCPR which places an obligation on us to: "...undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."

Article 23 of ICCPR which highlights the inherent rights of the family reads as under: "Article 23: (a) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. (b) The right of men and women of marriageable age to marry and to found a family shall be recognized. (c) No marriage shall be entered into without the free and full consent of the intending spouses.

States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children."

International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)

Thirdly, we are obligated to create conditions where by everyone enjoys economic, social, cultural and political rights in view of the fact that India acceded to International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) on April,10,1979. The Preamble and Article 7 of ICESCR need a special mention in respect of our commitments to Gender Justice Issues.

Article 7 of ICESCR wants us to: "recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: (a) Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; (a) Safe and healthy working conditions;

(b) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; (c) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays"

Beijing Principles of Independence of Judiciary

Fourthly, Indian judiciary is equally obligated to uphold the rule of law not only in view of its Constitutional mandate but also in view of the fact that India is a party to the Beijing Principles of independence of judiciary which were drawn up and agreed to in 1995. The three core objectives and functions of judiciary have been enumerated as under: (a) To ensure that all persons are able to live securely under the Rule of Law; (b) To promote, within the proper limits of the judicial function, the observance and the attainment of human rights; and (c) To administer the law impartially among persons and between persons and the State."

CONVENTION ON THE POLITICAL RIGHTS OF WOMEN, 1954

Fifthly, our international obligations flow from our signing and ratification of the Convention on the Political Rights of Women, 1954. This convention obligates us to ensure the under mentioned Political rights of women:- (a) Women shall be entitled to vote in all elections on equal terms with men, without any discrimination; (b) Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination; and (c) Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.

DECLARATION ON ELIMINATION OF VIOLENCE AGAINST WOMEN

Sixthly, the ratification of the CEDAW by India places upon us an onerous obligation to eliminate all forms of discrimination against women. India was in full agreement with Article 14 of the DEVW which provided that :-

".....State should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end should: (d) develop penal, civil, labour and administrative sanction and domestic legislation to punish and redress wrongs caused to women; women who are subjected to violence should be provided with access to the mechanism of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; State also informed women of their rights in seeking redress through such

mechanisms."

It is in continuation of our above mentioned commitments that India ratified the Convention on Elimination of all forms of Discrimination against women (CEDAW). Therefore Article 11(1) of CEDAW enjoins upon States parties to:-

".....take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on the basis of equality of men and women, the same rights in particular (a) the right to work as an inalienable right of all human beings; (b) the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."

Besides, Article 22 of CEDAW inspires us to put an end to gender specific violence and Article 24 of CEDAW obligates us to take all necessary measures to protect women from sexual harassment and other forms of coercion in the work place.

It must be emphasized here that in the sphere of International Law, it is CEDAW that accorded primacy and supremacy to women's Human Rights. That is why definition of discrimination against women under Article 1 of CEDAW was clarified as inclusive of Gender based violence in the following words:-

"The definition of discrimination includes gender based violence, i.e., violence that is directed against woman because she is a woman or that affects woman disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence may breach specific provisions of the Convention regardless of whether those provisions expressly mention violence....."

TWO-PRONGED STRATEGY

A perusal of our above stated international obligations towards gender justice leads us to conclude that all our commitments aim at preservation of basic human dignity for womankind in all respects. This ideal spurs us to create such conditions as are conducive to women for full flowering of their lives through utilization of their full potential. This means we are obligated to uphold equality among men and women by providing them with equal opportunities for employment, work and professional growth without any discrimination. We have to provide women security, safety and shelter by putting an end to all types of gender related violence. We have to recognize their right to life exactly as that of men and therefore, our two-pronged strategy is based on constitutional provisions and legal enactments.

CONSTITUTIONAL PROVISIONS

In order to fulfill these commitments towards womankind, our Constitution makers provided us with the essential Constitutional framework in the form of various Articles like Article 14, Article 15, Article 16, Article 39, Article 42, Article 46, Article 47, Article 51, Article 243 and above all Article 21. In this regard, Article 14, Article 15, Article 16 and Article 21 need special mention.

Article 14 states that: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 15 states that: (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (2) No citizen shall, on grounds only of religion, race, caste, **sex**, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and palaces of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public (3) Nothing in this article shall prevent the State from making any special provision for **women** and children (4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

Article 16 states that: (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (2) No citizen shall, on grounds only of religion, race, caste, **sex**, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State. (3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment. (4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. (5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the

governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

And Article 21 states that: No person shall be deprived of his life or personal liberty except according to procedure established by law.

LEGAL ENACTMENTS

Drawing strength from these Articles, our Parliament has enacted number of laws and Acts which provide protective umbrella to woman kind. Some of the Acts are enumerated as: The Employees State Insurance Act, 1948, The Plantation Labour Act, 1951, The Family Courts Act, 1954, The Special Marriage Act, 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956 with amendment in 2005, Immoral Traffic(Prevention) Act, 1956, The Maternity Benefit Act, 1961(Amended in 1995), Dowry Prohibition Act, 1961, The Medical Termination of Pregnancy Act, 1971, The Contract Labour (Regulation and Abolition) Act, 1976, The Equal Remuneration Act, 1976, The Prohibition Of Child Marriage Act, 2006, The Criminal Law(Amendment) Act, 1983, The Factories(Amendment) Act, 1987, Indecent Representation of Women(Prohibition) Act, 1986, Commission of Sati(Prevention) Act, 1987, The Protection of Women from Domestic Violence Act, 2005 etc.

Over the years, we have developed a Justice Dispensation System which contains a huge number of preventive, penal and protective legal provisions to offer support services to women. For example, Indian Penal Code deals with Rape under Section 376, Kidnapping and Abduction for different purposes under section 363 to 373, Homicide for dowry, dowry deaths or their attempts under section 302/304-B IPC, Torture, both mental and physical under Section 498-A, Molestation under section 354, Sexual Harassment under Section 509 and Importation of Girls upto 21 years of age under section 366 B.

The implementation of these laws in Indian context is in consonance with the provisions and procedures as contained in the Indian Evidence Act, Indian Penal Code and the Criminal Procedure Code. To cope with the exigencies of changing times and imperatives of globalization, a number of amendments both in our Constitution as well as in our laws have been made from time to time. Indian Judiciary has played and continues to play a leading role in respect of gender justice. Lest our understanding of Article 14, Article 15, Article 16 and Article 21 should remain shrunken or static, Indian judiciary is always up on toes with interpretive judicial gavels in their hands.

For instance, in one of the significant rulings, the Supreme Court of India expanded the scope of

Article 14 as: Article 14 must not to be subjected to narrow pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning, for to do so would violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits¹.

Besides this observation, the Supreme Court has ruled under Article 14 that equals have to be treated equally and unequals out not to be treated equally². Even the issue of gender equality i.e working women have the right to work with dignity and safe from sexual harassment has been read into Article 14.³ So much so that the Supreme Court has ruled that there is no discrimination where State provides for a particular group a scheme for maintenance of reservations by way of affirmative actions.

Similarly Article 15(1), (2), (3) has been interpreted to promote gender justice. In *Masila Mani*⁴, the Supreme Court has held that women have right to elimination of discrimination particularly in respect of property. In a landmark judgment⁵, the Supreme Court quashed the categorization of women doing house hold duties as non workers clubbing them with beggars, prostitutes and prisoners because such a discrimination betrays a totally insensitive and callous approach towards the dignity of labour of women. Viewing the definition of work in Census as reflecting gender discrimination, the Supreme Court held that the time has come to scientifically assess the value of unpaid home workers both in accidents claim and in matters of distribution of matrimonial properties. The Supreme Court desired the Parliament to make suitable amendments in Motor vehicles Act and matrimonial laws to give effect to the mandate of Article 15(1) in the Constitution. It is in the light of Article 15(3), that the Constitution of India was amended in 1992 to give 33% of seats to women in Panchayats⁶ and Municipalities.⁷ The insertion of Article 15 A (e) in the Constitution by 42nd

amendment, 1976 casts a duty on every citizen to renounce the practices derogatory to the dignity of women. The State cannot discriminate against any citizen on grounds of religion, race, caste, **sex**, place of birth or any of them under Article 15(1). Further more, article 15(3) says that nothing shall stop the State to make any special provision in favour of **women** and children. Similarly Supreme Court of India has given affirmative interpretations to Article 16 where by equality of opportunity for all citizens including women has been granted in matters of employment or appointment to any other office under the State.

Coming to Article 21, it needs to be highlighted that a huge edifice of Human Rights Jurisprudence has been erected on the strength of these articles. Among other things, the Supreme Court of India has stated a number of times that women's rights are human rights too and therefore, the contours of Article 21 are continuously expanding to promote gender justice issues. In a number of rulings, our Supreme Court has stated that the right to life, "does not connote mere animal existence or continued drudgery but it rather implies a right to live with human dignity" and "all that goes along with it"⁸. It is the considered opinion of the Court that Article 21 encompasses all types of socio economic rights which must be protected so that every individual can realize full flowering of his/her potential. It is through this Article that our governments have been made to grant us the Right to education, the Right to work, the Right to shelter, the Right to medical care, the Right to food, the Right to clean water and the Right to an unpolluted environment⁹. It is in this ever expanding scope of Article 21 that judiciary has taken many big leaps by harmonizing the fundamental rights with the directive principles.

Through a number of rulings, judiciary has made it clear it is the Constitutional obligations of the State to incorporate directive principles into its policies for elimination of inequalities in status, facilities and opportunities so that our legal system is able to promote justice on the basis of equal opportunities and humane conditions for work. In *Fateh Chand*

¹ *Maneka Gandhi v. Union of India*, (1978) 2 S.C.R. 621.

² *Motor General Traders V. State of A.P.*, (1984) SCC 22, 229-230

³ *Vishaka V. State of Rajasthan*, (1997) 6 SCC 241.

⁴ *Masila Mani Mudaliar V. Idon of Sri Swaminathaswami Swaminathaswami Thirukoil*, (1996) 8 SCC 525.

⁵ *Arun Kumar Agrawal V. National Insurance co. Ltd.*, (2010) 9 SCC 218.

⁶ Article 243D- I nserted by the Constitution (Seventy-third Amendment) Act., 1992.

⁷ Article 243T - inserted by the Constitution (Seventy-fourth Amendment) Act., 1992.

⁸ *Consumer Educ. and Research Ctr. v. Union of India*, (1995) 1

⁹ Infact the Apex judiciary is developing Human Rights Jurisprudence by exploring the full potential

of the concept whereby life and liberty of the people is to be protected by the Constitution. In fact a

number of schemes have been launched by the Government like MANREGA, Mid-day meals in schools etc.

Himmatvala verses State of Maharashtra, Supreme Court has commented on the directive principles as being, “not idle print but command to action¹⁰.” It is here that the Supreme Court of India has directed the Govt. to act proactively in the light of Article 39, 42, 46, 47 and 51. The Supreme Court has transcended the myth of nonjusticiability of directive principles to indirect enforceability by ruling as under:-

Of course, the task of restructuring the social and economic order so that the social and economic rights become a meaningful reality and lowly [sic] sections of the community is one which legitimately belongs to the legislature and the executive, but mere initiations of social and economic rescue programmes by the executive and legislature would not be enough and it is only through multi dimensional strategies including public interest litigations that these social and economic rescue programmes can be made effective¹¹.

All these judicial gavels have been used to promote gender justice especially in the realm of gender related violence. It is in this context that Justice Verma, former Chief Justice of India has observed:

We are of the opinion that any form of violence or assaults, sexual or otherwise, on women is a violation of the fundamental right to live with dignity. We also are in agreement with the view expressed that substantive due process in State action is mandatory to ensure the right to live with dignity. However, the issue before us is not simply the redrafting of existing laws but also the need to reassert and reaffirm that the State has primary obligations under the constitution to secure fundamental rights of its citizens. The fundamental rights of women include safety and bodily integrity. The said rights, in turn, include secure spaces where they can exercise autonomy and freewill.¹²

He goes on to state that : We are further of the opinion that if constitutional obligations towards women are not fulfilled there would be a declaration against the State that right to equality and dignity have been denied. We must note that in the context of women, and in the context of persons with disabilities, the role of the State as a guarantor of fundamental rights in respect of the latter, the role of the State as *parens patriae* is fundamental to the Constitution.¹³

¹⁰ (1977) 2 SCR 828

¹¹ People’s Union for Democratic Rights (PUDR) v. Union of India (1983) 1 ,S.C.R. 456.

¹² Justice Verma’s Report of the Committee On Amendments To Criminal Law, 2013 P. 65.

¹³ Ibid. PP. 65-66.

That way, our Constitution and interpretations of various clauses work in tandem to promote gender justice to build upon new structures to strengthen the edifice of Human Rights Jurisprudence. The Supreme Court has started expanding its jurisdictions through the mechanism of ‘Public Interest Litigations’ (PILs), ‘Suomotto’ and ‘Epistolary Jurisdictions’. This is not say that it is only in the recent years that judicial gavels have started knocking down the patriarchal impediments in the way of Gender Justice. Instead, if we delve deeper into the pre independence era, we have a number of rulings which fore shadow the current concerns of the judiciary in matters of gender justice. Some of the pronouncements date back to pre- independence era of the custom ridden society, when gender justice laws were virtually non existent. Our enlightened Judiciary granted coparcenary rights to Devdasis as early as in 1864 (Chalakonda Alasani vs. Chalakonda Ratnachalam, 1864), upheld the dignity of a dancing girl by granting legitimacy to her son (Ramnath Zamindar and Anr vs. Doraiswami,1882), divested Indian husbands from their traditionally self proclaimed right of wife beating in 1936 (Emperor vs. Subbaiah Goundan, 1936), ruled that the prosecutrix in rape case cannot be treated as if she were an accomplice so far as her credibility is concerned (re Boya Chinnappa), reiterated the modesty of a prostitute upholding her entitlement to equal protection (re Ratnamala and Another, 1962), upheld pre- nuptial settlement claims of a woman (Srinivasa Padayachi v. Parvathiammal, 1969), declared uninterrupted maintenance to wife and children a statutory obligation in the face of personal law, (Amanullah vs Pedikkaru Mariam Beevi, 1985) scrapped the law as asking a woman to produce no objection certificate from her husband for getting a job, as being obnoxious and arbitrary, (Rukmani vs. The Divisional Manager, Marapalam Tea Division) and upheld a girl’s right over her body without being trapped by extraneous questions, (V. Krishnan vs G. Rajan @ Madipu) and so on. Similarly our Judiciary has thrown open a lot many gender justice opportunities through their rulings in cases like. Vasantha R. vs. Union of India and Ors,2000 , Vishaka and Others Vs. State of Rajasthan and Others and The Criminal Law (Amendment) Act, 2013 and invocation of various clauses from international law.

GROUND REALITIES

A cursory look at the above mentioned International commitments and judicial pronouncements on the basis of constitutional provisions tends to create a feeling of euphoria among us over gender justice scenario in India. But when we view the impact of judicial gavels on the actual working of our social, economic and political institutions, a huge gap stares at the petty done and vast undone towards gender

justice. At the social level, Indian society continues to stay patriarchal as is evident from 'talibanic diktats' of Khap Panchayats in Haryana and Rajasthan. Only last month, i.e October 2013, two prominent Khap Panchayats in Haryana have announced a dress code for girls above 10 years of age. In their opinion, girls who wear jeans, go on for drives with male friends, talk on mobile phones and walk bare-headed are the agents who pollute society and bring bad name to the community. It must be highlighted here that these Khap Panchayats are self-styled extra-constitutional authorities as they continue to support 'honour killings', making a mockery of our national and International commitments towards gender justice. The recent public hacking to death of a young couple for marrying in defiance of Jatt community kinship taboos is a self-speaking commentary on the impact of our governmental and judicial justice dispensation. Furthermore, it is an acknowledged fact that despite the passage of Hindu succession (amendment) Act 2005, the right of women to ancestral inheritance is a far cry. The patriarchal social tradition, do not permit prominent community in India to transfer the legitimate rights of property in favour of daughters or daughter-in-law. In order to scuttle the implementations of Hindu Succession (Amendment) Act 2005, Khap Panchayats are supporting the illegality of compelling the daughters to sign irrevocable power of Attorney bonds in favour of their brothers or other male members surrendering their property rights. If some enlightened female does not yield to the patriarchal pressure, she has to suffer endlessly by way of ostracization from family or society. Such a woman is considered to be a slur and her basic human dignity becomes the first causality. Another related social issue is the ill-treatment meted out to the victims raises very disturbing questions about modern day domestic slavery. It goes beyond proof that every year thousands of women and young girls are trafficked from states like Jharkhand, Chhattisgarh and West Bengal primarily for sexual exploitation and for domestic work drudgery. It is a matter of record that nearly 70,000 girls go missing every year in India. The concept of bride buying and selling especially in States where sex ratio is highly skewed as in Haryana, Punjab, Delhi and Maharashtra etc. speaks volumes about our concerns for gender justice especially when we view it in the larger dismal scenario of bride burnings, female foeticide, dowry deaths, and child labor and so on. Not even a single day passes without reporting about rapes, gang rapes and rapes by men in authority. The boiling sea of humanity which entire mankind witnessed after the gruesome rape of 23 years old Physiotherapist girl named Damini and consequent report of Justice J.S Verma Commission did produce

silver linings in the realm of gender justice efforts but the statistics of rape incidents in the consequent months reveal that all our efforts seem to have gone awry. To acquaint ourselves with the existing mismatch between our international commitments and their actual implementations, 'The Hindustan Times' newspaper dated 22nd November, 2013 has brought out a shocking study report made by the institute of Development and Communication. A survey on woman safety was conducted sampling 350 residents aged between 15 to 65, out of which 260 females and 90 males were interviewed and 12 group discussions were undertaken at public sites where 180 college students shared their experiences. The survey was conducted from October 18 to October 24, 2013 in the tricity comprising Chandigarh, S.A.S Nagar and Panchkula. Needless to mention that this belt is considered to be inhabited by civilized government officials and disciplined work force in beautifully planned architectural network. The shocking part of the report is that 95%, 92% and 99% females who were surveyed in Chandigarh, S.A.S Nagar and Panchkula respectively stated that they faced sexual harassment in one form or the other during the last year.

Table 1 reveals whether their harassment was on daily basis, weekly basis, monthly basis or occasion basis. To go further, the following table reveals whether their sexual harassment stemmed from suggestive remarks, brushing in public, groping, stalking, cat calls, or usage of public transport etc.

While this survey leads us to believe that the question of gender justice belongs to the realm of mythology, a close look at the working of our economic and political institutions also moves towards similar perception. Our Constitution does provide us with the guarantee to equal pay for equal work irrespective of caste, creed, religion or sex yet each one of us is fully acquainted with the wages we pay to the female domestic workers at our homes, to the stone breaking women working for construction of roads, females assisting in the construction of buildings and above all women belonging to the Dalits and other marginalized sections of society. It is almost impossible for them to enjoy the benefits of equality under the weight of economic, social, psychological compulsions. On the political front, we may have reserved special seats for women by way of Constitutional amendments but can we ignore the reality that in the first Lok Sabha we had only 23 female MPs, in 13th Lok Sabha, 49 female MPs, in 14th Lok Sabha 43 female MPs and in the 15th Lok Sabha, 61 female MPs out of 550 MPs approximately.

Table 1: How often we faced sexual harassment in the last one year

	Chandigarh	S.A.S Nagar	Panchkula
Daily	7%	5%	8%
Once a week	25%	20%	21%
Once a month	16%	15%	13%
Occasionally	47%	52%	57%
Never	5%	8%	1%

Table 2: What we suffered

	Chandigarh	S.A.S Nagar	Panchkula
Suggestive Remarks	37%	39%	29%
Brushing in Public	24%	13%	18%
Groping	8%	10%	3%
Being followed	29%	44%	47%
Cat calls	24%	16%	20%
Other/Public Transport	8%	10%	4%

What is more, in the current Delhi Vidhan Sabha Elections, the two main political parties namely the Congress and the BJP have offered only 17 and 5 assembly seats to women out of 70 against their obligations to reserve 50% quota for women. If we have look at the population of women as per 2011 Census, it is 48.37% which is represented by only 12% in the current Lok Sabha members. Still further, if we consider 51lakh women voters out of the total 1.23 crore voters for Delhi Vidhan Sabha elections the leading political parties have settled down for only 24% and 5% seats to women respectively. This meager presence of women in our law making temple is enough to highlight the mismatch between our International Commitments and actual implementations. Kindly permit me to state that I am an eye witness to number of meetings held by Panchayats, Block Samitis and such like local bodies where in elected female members are made to stay at home while their husbands or other male

members represent them in the political or official meetings.

CONCLUSIVE STATEMENT

But this does not mean that the whole scenario is dull, dark and dreary. Instead, when we look at the ever increasing wielding of judicial gavels in the field of gender justice dispensation, we can not deny that Parliamentary inertia has been shown the door. That is a different matter that for hours and hours and for days and days, ruckus in the parliament smoothens the task of the ruling parties to pass the bills. No doubt, Vishakha guidelines did take more than fifteen years to become an Act, yet the new provisions added by the Parliament contribute significantly towards gender justice. The day is not far when we, the daughters, the sisters and the mothers will take up cudgels to break the patriarchal mind sets into smithereens. Already, institutions like National Commission for women have come to the fore front.

Already government has initiated a plethora of affirmative schemes for women in the field of health and education. Already judicial activism has started awakening the legislature from its slumber. Already enlightened young girls have started catching the bulls by their horns and already the trend of exposing high powered human ogres is making waves in the domain of existing gender justice dispensation

system. It is my firm belief that this trend is irreversible. Kindly permit me to take my seat with the statement: **Change is mandatory. Survival is an option. Choice is yours.** Therefore, let us all join our heads, hearts and hands together for transporting gender justice from the domain of mythology to the grounds of reality.

