CHAPTER - 5

A HUMAN RIGHTS PHILOSOPHY AND FEMINIST APPROACHES REGARDING THE PARAMETERS OF GENDER JUSTICE FOR THE PREVENTION OF DOMESTIC VIOLENCE

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5:1 Introduction

Human Rights speak for human dignity. It talks about the human dignity, not of a man and woman but of every human being. These rights are civil, political, economic, social and cultural covering all the facets of human life. All of us belong to one family, mankind. Every member of the family has the same fundamental and equal rights. Each of us is entitled to have these rights respected and each of us has a responsibility to protect these rights of all others. Differences of race, language and colour neither change these rights, nor do differences of property, social origin and political ideas or religious beliefs. Everyone, regardless who they are and what they do or think, is born with human rights. The foundation norms governing the concept of human rights is that of the respect for human personality and its absolute worth regardless of colour, race, sex, religion or other considerations. These rights are essential for the full development of the human personality and for human happiness. Human Rights philosophy rejects the concept of anarchy and monarchy and always accepts the supremacy of Dharma i.e. Law and Spirit. The Philosophy says the Dharma (Law) constituted the blue – print or master – plan for the all round development of the individual and different sections of the society.

Right to dignity is the most recognized Human Right. The significance of human dignity, as the foundation of Human Rights assumes importance because the other rights without a right to live with dignity can't be made enforceable. Recognizing this fact, the Preamble of the United Nations' Charter, while providing equal rights for both men and women, emphasizes on maintaining the dignity and worth of human being, as well as social progress and higher standard of living with greater
freedom. The Universal Declaration of Human Rights emphasizes the right to life with dignity.

The Indian Constitution while mentioning the term 'dignity' in its Preamble provides for its structure in its detail provisions of fundamental Rights and the Directive principles of state policy. The whole set of equality aim at providing dignity to human beings. The social handicaps, prejudices, biases on the basis of caste, creed, sex etc. have been constitutionally prohibited. The right of freedom also emphasizes the dignity of men and women. Dignity is a complex term and cannot be ensured only by providing legal and constitutional rights or by making welfare policies. The implementation of these rights is important. More important, of course, is a socio-economic framework in which these rights operate.

5:2 Human Rights –Women’s Viewpoint

From the women's perspective, right to equality is the basic human right which speaks of equal status to all, irrespective of sexes and leads towards 'Do's and 'Don’ts' parameters. Regarding the right to equality, a major development is that the women are entitled to get equal opportunity to be developed. The most important affirmative step in this direction is the Right to Education, which is added by the amendment in part III of the Constitution of India as a new Article 21-A, as a fundamental right. This right enables the women to attain literacy and empowers them to face the problems of their own.

Regarding the problem of domestic violence, from the women's viewpoint, the dignity is attached to the identity of a human being as a 'person', when a human being does not enjoy the right to be a person, dignity does
not exists at all. Regarding the protection of human rights within the family, the women are not optimistic, because the problem of violence against women is done within the four walls of home and hence a hidden crime. The victims often fear social stigma and in many cases they don't have any option. Domestic violence does not limit to wife battering, it includes torture for dowry, sexual perversion and the other forms which may range from minor burning to fractures, throwing acid and sometimes lead to murder also.

Though law provides number of shields and protections to women, the position of women has not been changed so far. Women always considered to be the 'object' to be enjoyed. They were seen as 'objects' and are seen as 'objects'. This concept is very common now a day in film music. The two recent film songs, 'Tu cheese Badi Hai Mast Mast' and 'Kya Cheeze Ho Tum, Tumko Bhi Maloom Nahi Hai' are especially mentioned here to explain how the very concept of woman as a 'Cheeze' (Object) is very easily taken for granted, accepted, and popularized. Thus, women became the soft targets and are made to face physical and psychological violence. The question of human rights of women becomes important because in many cases women are forced to live in such environment not conductive to their dignity. The domestic, the community, the civic and political life are still to recognize women as an equal independent human being.¹

5.3 Feminist Thought And Legal Theory

Feminist jurisprudence emerged less than 23 years ago. Its origin

can be explained in a number of ways. One sees it as an off-shoot of
critical legal studies. More generally it was developed from the women's
movement in the late 1960s and early 1970s with the writings of Simone
de Beauvoir (The Second Sex in 1963), Germaine Greek (The Female
Eunuch in 1971) and others Feminist theory represents a most modern
period of development in the analysis of law, concerned with the
treatment of women by the legal system and the problem perception, or
lack of perception; of women experiences and needs in legal provision. In
engaging with this agenda, feminist theories not only seek to justify and
counter a traditional oriented legal system but also question male-oriented
theories and ideologies. Part of the feminist thought emphasises rejection
of a search for objective 'truths' about law and in its place puts a
contextual understanding of law as a social construct, which is product of
variety of influences, some of which are unrecognized.

Feminist argue that the modern jurisprudence is 'masculine' As it
does not reflect the values, the dangers and Fundamental contradictions
that characterize women lives, at any level, whatsoever, in contracts, torts,
constitutional law or any other field of legal doctrine. The values that flow
from women's material potential for physical connection are not
recognized as 'value' by the Rule of law. The Rule of Law does not value
intimacy, its official value is autonomy.

Masculine jurisprudence is both, liberal and critical legal theory, is
about the relation between law and life, is about men not women. The
reason for this lack of parallelism is hardly benign neglect, rather, the
distinctive values hold, the distinctive dangers from which they suffer, and
the distinctive contradictions that characterize their inner lives, are not
reflected in legal theory because legal theory is about actual, real life,
enacted, legislated, adjudicated law and women have, from law's
inception, lacked the power to make law protect, value or seriously regard their experiences.

Feminist further argue that, jurisprudence is 'masculine', because jurisprudence is about the relationship between human beings and the laws, the women have, and the laws they actually have are 'masculine', both in terms of their intended beneficiary and in authorship. Women are absent from jurisprudence because women as 'human beings' are absent from the law's projection. Jurisprudence does not recognize women because law does not protect them. Women will not have ungendered jurisprudence until they have legal doctrine that takes women's lives as seriously as it takes men's. Women do not have such legal doctrine. Thus, the feminists argue for the virtual abolition of patriarchy for the creation of non-masculine feminist jurisprudence.

Feminist jurisprudence consists of two distinct projects. The first project is unmasking and critiquing of the patriarchy behind purportedly ungendered law and theory. The primary purpose of the critique of patriarchal jurisprudence is to show that jurisprudence and legal doctrine protect and define women, and secondly, to show how women fear separation, dreaded invasion and crave individuation have fared under the legal system which fails to value intimacy, fails to protect against separation, refuses to define invasion as a harm, and refuses to acknowledge the aspirations of women for individuation and physical privacy.²

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² Freeman M.D.A. And The Estate Of the Late Lord Lloyd Of Hampstead, 'LLOYD's introduction To Jurisprudence', 7th Edition, Published By SWEET And MAXWELL Ltd., Of 100 Avenue Road, Swiss Cottage, LONDON, NW 3,
Feminist critique has illuminated the 'male-dominated' nature of every social institution it has examined, including 'law'. A history of almost exclusive male occupations of dominant cultural discourse has left women with more than incompleteness and bias. It has also created a self-referencing system by which those things culturally identified as 'male' are more highly valued than those identified as 'female', even when they appear to have little or nothing to do with either biological sex.

By this process, 'to be a man', does not simply mean to possess biologically male traits but the social institutions within a male dominated culture can be identified as 'male' in the sense that they are constructed from the perspective of the male.

In legal analysis, courts routinely find women's 'difference', a sufficient justification for inequality, constructing at the same time a specious, 'sameness' when applying 'phallocentric' or 'maleness' standards 'equally to men and women, different reproductive biology or economic position to yield unequal results for women. 3

Hence to become pregnant is not sex-discrimination but a sex-difference. Sex equality, thus, becomes contraction in terms, something of an oxymoron, which may suggest the women are having such a different time getting it. The sex equality approach has dominated politics, law and social perception, equality is an equivalence sex is a distinction. The legal mandate of equal treatment becomes a matter of treating likes alike and unlikes unlike and the sexes are defined by their mutual unlikely-ness.

Feminists further argue that, it is a concealed substantive way in which man has become the measure of all things. Under the same-ness standard, women are measured according to their terms with men, their womanhood is judged by the distance from these measures. Gender neutrality is, thus, simply the male standard and a special protection rule is simply the female standard but masculinity, or maleness is the only referent for both. This is like the anatomy models in the medical college that, a male body is a 'human body' and those extra things women have are to be studied in Obstetrics and Gynecology. Sex questions are considered as different questions and equality questions are 'same-ness' questions which provide two ways for the law to hold women to a male standard and call that sex- equality. The double standard of these rules does not give women the dignity of the single standard. For women, difference means dominance, as it does with gender which affirms the qualities and characteristics of powerlessness.

Regarding the language of the law, throughout the history of Anglo-American jurisprudence, the primary linguists of law have exclusively been 'men'. Men have shaped law, they have defined it, they have interpreted it and given it meaning consistent with their understandings of the world and of the people other than 'women', making the legal language, a male language, because it is informed by men's experiences and because it derives from the powerful social situation of men. Hence, the 'law' is 'his law' and not 'her law'. Thus, the women have been the subjects or contemplated targets of many laws.

The legal definition of the word 'family' and the area of family law is the example of male-judicial perspective. The norm of 'family', the fundamental meaning of the term is embedded in it and shaped by law as
it is of a household headed by a man with a wife who is wholly or somewhat dependent on him. Other forms of family, especially those without a man are regarded as 'abnormal', and the purpose of the disciplining of the family law is to sanction the formation of ideal families and to control and limit the formation and existence of these families and thereby to control the status and lives of women.  

The women are disadvantaged even by legal structures which purportedly seek to take account of female needs and experiences but do so on the basis of analogy with irrelevant and sometimes outdated male experience. For example, the treatment of maternity leave as analogous to the sick leave of a male employee and also the assumption that the parenting is exclusively the female role. The issue of domestic violence and its treatment by criminal law and law enforcement analogous is an obvious era of concern, which is also characterized by the recognition by English Law in R Vs R  Of the possibility of rape within marriage.

Feminism and feminists thoughts has enhanced women's consciousness, dignity and they have heightened their sense of awareness. A considerable literature on Law and women began to emerge from the year 1980 in India. Legal reform throughout the world has come about through the organization and activism of women. In country after country, as well as in the international arena, feminists have come

5. R.V.R. in 1991. 4 All, ER, 481
together out necessity and hope to combat violence against women. Therefore, over the last fifteen years, a number of important, intellectual movements have begun to re-shape the approach of legal education which have been influential in the development of feminist legal thought.

5:4 Structural Implications - Construction And Deconstruction Of Women

The social ethoses are so designed to keep women under control under control under the garb of customary or cultural taboos. The atmosphere is created that the girl must marry and once married must stay married.

Women are the first targets of fundamentalist thought which seeks to impose restrictions on them in the name of traditions and culture. Marriage is considered to be every thing in a woman's life but she is not permitted to choose a companion of her own free will. Many girls are forced into marriages against their wishes. 6

The first site of domination lies in the male appropriation of women's pre-social natural sexuality, which constitutes women as an object of male desire. Thus, women's sexuality in society is structured into objectification of the male gaze rather than a consequence of natural or true forms on the basis of these structural implications the gender formations are based.

5:4:1 Construction Of Women

The total population is divided into two kinds of species, male and female. Sociologically it is termed as 'Gender' and biologically as 'Sex'. Further social growth developed some structural implications, which were made as a matter convenience to maintain the dominance of men over women. For the sake of convenience the social norms divided the two sexes into a 'man' and a 'woman'. The man and woman were divided on the basis of patterns of behaviour, man as masculine and powerful and that of woman, a weaker and subservient one. The girls, since their childhood are given 'dolls' and 'utensils' to play with, which fix their roles for 'child raring' and as 'kitchen queens', where as the boys are given 'bats and balls' or any others game. The girls are taught to tolerate dominant behavior of the male members of the family. Thus the practice of dominance of men over women has changed into 'concept', and the other dependent weaker member are made to follow the rules so created and the non following of the rules claimed by the dominant person is the deviant behavior.

Virtually the society is male-dominant. It does not provide equal treatment to both the sexes. When a child takes birth he remains completely raw. He learns whatever he observes or gets in the society and that constitute his personality. The boy identifies himself with his father. He imitates his reactions, aggressions and hostility shown towards his wife, while a girl learns to control and suppress her desire. She is taught to develop tolerance, sacrifices, cooperation and submission. She is forced to accept the dominace of males. Since from the childhood a male is encouraged to build his muscles and toughen his fists and a female is encouraged to value, soft skin and slender wrist. The family members and
the society decide her clothing, which hampers her from movement, and add vulnerability and fragile materials. Moreover, women are treated as 'Varnas' like 'Brahmin' or 'Shudra' with a variety of functions and practices, even the society decides what food to eat and when, with whom, which rituals and festivals to celebrate. They are treated as untouchables when they are under menstruation. Women are tough to tolerate them and perceive themselves inferior to men. Dependency on males makes them to feel lack of self-confidence and ability to recognize self-potentialities.

The social construction of woman result in unequal distribution of resources. When the food tools and supplies are short, woman do without while men do not. Pregnant and lacting women and adolescent girls are culturally assigned less food than their bodies need. Social construct of women makes women to carry a heavy work load responsible for the triple production loads of breeder, feeder and producer for the family unit. They are excluded from decision-making roles, both domestically and in public affairs. They are kept deprived of many things by the patriarch family structures. Under the garb of caretakers; they force women to remain behind 'Purdah'. Thus, such construction of women keeps them away from sharing in economic, cultural and political roles.

Since from the beginning of their lives the women are structured to be a good girls and good wives. Large numbers of families are sending their daughters to school and colleges. This is not with the view of making them self-reliant or self-confident but to enhance their grace and manners.

The parents do not permit their daughter to leave her husband if she is getting cruel treatment by her husband or in -Laws. The present system does not teach women to revolt against injustice and cruelty and to fight for a life of dignity. Since from the childhood the girl is taught that her mind
and perception is nothing, while male authority and traditions mean everything. They are taught to act out a role mapped out by males for them.

**5:4:2 Deconstruction Of Women**

Regarding the deconstruction of women, the credit goes to various feminist theories which have contributed for the deconstruction of women. New ideology has emerged out of further cultural growth that the demolished the concept of male domination over female. Deconstruction is the technique used to reveal the deep-rooted hierarchies of power hidden beneath the exterior of the law. For the purpose of deconstruction of woman, the feminist theory has gone through different phases.

According to liberal feminism, one phase has been the need 'to be like men'; to meet the challenges of the masculine world and to achieve equality on their terms. Sex equality is the first demand and goes to the extent, that women are also entitled to achieve every pleasure, including pleasure of sex, like men.

The first wave of deconstruction of women was started with the adoption of *The Declaration of Sentiments* in 1848, at Seneca Falls Convention. This famous document of 19th century in American provided the intellectual foundation for the feminism writers.

The process of deconstruction of women give emphasis on the right individualism of women. Recently Rawl’s Theory of Justice has been applied to the justice as the individual’s freedom to pursue his/her destiny. Thus whenever these are equality of freedoms or denial of the opportunities to women, it is unjust. In this contest, Richard in his book
The Skeptical Feminism in 1982 argued that Rawl’s original position and ‘veil of ignorance’ ought specifically to include ignorance of sex and the structure of household should be open to question.  

Similarly, in this context Okin (in 1990) argued for a society in which child rearing and domestic work are shared equally. Likewise in Roe v. Wade the Supreme Court of United States recognized a woman’s right to terminate her pregnancy.

Thus, most of the families / parents have adopted the basics of equality of sexes. This process helps the women and girls to strive for their rights in the home by refusing to accept the conditions of subordination deeply embedded in genders and cultural socialization.

This feeling of construction and deconstruction of women is often felt but misunderstood by individuals. Feminism is thus concerned with establishing proper recognition of ‘women’ in the society and law. It is a form of humanism and the uncovering of the infinite regress of truth’s being. It is not a denial of the task of enlightenment but a call to capture the truth to enable us to live in the spinet of truth.

In India, the Indian family, with its underlying basis of hierarchical structure and division of labour, is a unit where violence is used to maintain the structure of the family and ensure continuation of assigned sex roles. From childhood, a person is conditioned to use physical

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violence as a form of discipline. He or she grows up to believe that violence is necessary to ensure compliance and exercise authority. Throughout a girl's life, she does not have the authority to exert her powers and challenge dominant structures through aggression. Instead, through the milestones in life which endorse her womanhood (marriage and the birth of a son) she becomes a mother and a mother-in-law. Mothers-in-law gain status and the illusion of power in society by the marriage of their sons, by this they can control over household resources, and also over the behaviour of their daughters-in-law as well as amount of dowry. By this process women finally reach a position in their lives where they can control a domain of life. Daughters-in-law become the reason and object to which control is directed and violence is the medium.

Hence women are programmed from girlhood to accept the patriarchal patterns of dominance, intimidation and aggression as a form of expression. As children and young women, they are the objects of such processes, and as mothers-in-law, they are finally in a position to impose upon another what has been imposed on them.

As a result of these feminist efforts the Indian Constitution began to seek solutions for the protection of women. In India, the Constitution provides parameters for gender justice by making amendments in the Constitution from time to time.

5.5 Parameters Of Gender Justice: From Declaration To Present Day.

In the late 1980, women began to seek solutions to violence against women at International Level. In a few short years, these efforts changed the discourse on human rights, resulting in world and regional
declarations for discrimination against women. 9

The unequal status of women being offensive to human dignity and also violative of human rights has emerged as a fundamental crisis in human development all over the world. Human rights are derived from the dignity and worth inherent in the human being. Gender injustice taking the shape of crime against women has escalated all over the World and India is no exception to this. Despite the fact that the Indian mythology placed women on a very high pedestal. Deterioration in this glorious station suffered a socio-cultural setback resulting in loss of their freedom and decline in their personality.

Despite the social reform movement in the 19th century arousing considerable awakening Constitutional and Legal provisions aimed at preventing discrimination, positive judicial trends, welfare schemes and activism of voluntary sector, women continue to suffer from increasing tide of violence both in and outside home.

Realizing this inequality, the United Nations organs and agencies have endeavored to ensure to everyone adequate protection against torture and other forms of cruel, inhuman or degrading treatment. They have formulated universal standards applicable to everyone and passed various instruments with a focus on women's emancipation, maintaining and enhancing the dignity of women. The United Nations, from the very

9. Radhika Coomarswamy was appointed the special reporter on violence against women. She had authority to receive and investigate documented complaints to intervene where urgent action was necessary and to make annual reports to the UN Commission on Human Rights. In Willamette Law Review; 'Domestic Violence Symposium Issue' Vol. 33, No.4. Published by Willamette University College of Law, Oregon, 1997, P. 835
beginning are concerned with the plight of women. Apart from the charter provisions, more than fifty instruments on human rights churned out by the United Nations since its inception, many of them recognize the sex or gender as important premises of analysis when it comes to examine the enjoyment of human rights.  

It is worth while, in this context, to have a look into the chronology of the major developments relating to the women’s human rights issues. Prior to Convention on the Elimination of Discrimination Against Women (CEDAW), Declaration on the Elimination of Violence Against Women (DEVAW) was proposed by the United Nations and later adopted by the General Assembly. The DEVAW defines violence against women broadly within a cultural context and urges states to adopt measures to protect women and directs states to provide remedies. Significantly, the ‘DEVAW’ defines violence in the home as a human right violation and condemns the use of religion, custom, or tradition to support violence against women and attitudes of female inferiority.

The Convention on the Elimination of Discrimination Against Women (CEDAW) preceded DEVAW by nearly two decades. The CEDAW was approved by the United Nations in 1979 and has been ratified by approximately 105 member nations of the United Nations. The CEDAW does not directly address violence against women but set out substantive measures designed to achieve legal equality of women and men.

10. Women & Human Rights, A Journal No.4C-2 of Indian Institute of Human Rights, New Delhi, 2002, p. 120
The CEDAW binds states to seek to modify cultural patterns of behaviour and attitudes regarding the sexes and attempts to impose standards of equality and non-discrimination in private as well as public life. Moreover, the committee that oversees implementation of the CEDAW has put forward three recommendations, which specifically address State’s responsibilities with regard to violence against women.

*Recommendation - 12*, made in 1989, directed states, 'to take appropriate steps to protect women from any form of violence within the family, at the work – place or in any other area of social life'.

*Recommendation - 14*, made in 1990, urged the eradication of female genital mutilation.

*Recommendation-19, made in 1992*, provides the most detailed guidance for states parties to follow where all forms of violence against women are concerned. Importantly it links violence against women and gender discrimination, stating, 'violence against women is both, a consequence of systematic discrimination against women in public and private life, and a means by which constraints on women’s rights are re-enforced. Women are vulnerable because of disabilities imposed on them in social, economic, cultural, civil and political life and violence impairs the extent to which they are able to exercise ‘de jure right’.'

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Thus, the international instruments provide few concrete remedies against State’s total fail or refusal to protect women from violence in the home. These instrument are important for establishing the human right principle that women have right to live, free of gender based violence.

**World Conferences on Women**

The United Nations observed 1975 as International Women’s year and committed to carry out specific actions to end gender based violence. For this reasons-

- The First World Conference on Women was held in Mexico City in 1975;
- The Second World Conference on Women was held in Copenhagen in 1980;
- The Third World Conference on Women was held in Nairobi (Kenya) in 1985; and
- The fourth World Conference on Women was held in Beijing, China in September 1995.

In Beijing, the Countries all over the World reviewed the advancement of women in the light of the guidelines adopted at the Nairobi Conference. In this Conference the definition of ‘Family’ and a statement on ‘Lesbianism’ were the new wheels added to the women’s movement.

Thus, it is worthy here to mention that following these Conventions, nine Latin American Countries, Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, and Uruguay passed laws on domestic violence. Recently in India also the law protecting women from domestic violence has been passed.
Referring to Women’s human rights from the Vienna Declaration and Program of Action 1993, recognizes and affirms that all human rights are derived from the dignity and worth, inherent in the human person and that the human person is the central subject of human rights and fundamental freedoms. The principle of equality of man and woman and the prohibition of discrimination against women are clearly set out in both the International Covenants on Human Rights.

Rhonda Coupelon, a human rightist, has discussed about the application of the International torture Convention to situation of domestic violence. The Convention have formulated universal standards applicable to everyone including women.

The meet of the Women In China was the recent focus on the violence against dignity of women. India being a signatory of the Conventions and Declarations of United Nations, incorporated various provisions relating to equality and dignity of women in the Laws.

5:6 Necessity Of Fresh Approach

Women’s rights activism finally appears to have come of age in India. For years futile, indeed superficial, attempts have been made to liberate Indian woman.

13. Convention on Protection Against Torture And Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment
Sydney Brad, an English writer observed that in the west, statistically it is safer to be on the streets after dark with a stranger than at home with one's family; for its there that accident, murder and violence are likely to occur. Domestic hooliganism and violence against married women, better known as wife battering occurs the world over on a significant disturbing scale.

The position of women in India is no better. While she is held in high esteem, worshipped, considered as an embodiment of tolerance and virtue, she has also been the victim of untold miseries, hardships, atrocities caused and perpetrated by the male dominated society.

Wife battering continues despite abolition of the feudal rule that the husband has to beat or do anything with his wife despite the constitutional guarantee of equality of law and equal protection of the law. It is observed that there has been an alarming increase in the number of domestic violence cases.

After the adoption of CEDAW, 44 Countries have enacted separate laws on domestic violence. The report by the special reporters on violence against women has model legislation on domestic violence. It also recommends that the states should adopt the broadest possible definitions of acts of domestic violence and relationships within which domestic violence occurs, and the relationship which comes within the purview of the legislation must include wives, live-in partners, former wives or partners, girl friends, female relatives including but not restricted to sisters, daughters, mothers and also female household workers. The states are making efforts to enact comprehensive domestic violence legislation, integrating criminal and civil irregularities, rather than making marginal to existing penal and civil laws.
The issue of violence against women is fraught with peculiar problems. Violence against women has been hidden behind the walls of the home. In such matters, those within home do not wish to speak about it and those outside do not want to hear it. In a report recently published by Tata Institute of Social Sciences (TISS), it is observed that women in general, the victims of violence, the families, the communities, the courts, the police and the government all seem to keep it hidden. The state and its agencies and particularly the police are more prone to consider family violence as a private or domestic matter and refrain from taking action against the erring man.

The criminalisation of domestic violence has really not helped the cause of women. Ordinarily, a woman in distress is reluctant to approach the police. In the context of home, emotional ties and the tendency to revere family relationship have always-discouraged women generally from expressing any displeasure or unhappiness on what goes on. It is only after the violence becomes unbearable that she decides to register a formal complaint. Further it takes several years to come before the court for hearing. The conviction rate is thus abysmally low. The Criminal Law gives emphasis on detection and punishment and not on victim's support or treatment. Sometimes criminal courts are powerless to grant maintenance for the women or her children during the trial. They are equally powerless to protect the women from dispossession of the matrimonial home. The new law for the protection of women from domestic violence is of quasi-criminal nature. It provides for the shelter homes for evicted women and police are given more powers to help the women to register complaints. But it is necessary for all the law enforcement agencies to deal the cases of domestic violence against women with care and caution to preserve the institution of family with less friction among the members.
5:7 Appraisal

It is necessary to create social awareness among the people and to discourage domestic violence and harassment of women, and the most important factor is to acknowledge the identity of woman as 'a human being', keeping in mind that the domestic violence is a form of violence distinct from other forms of violence. It is desirable that the people should boycott socially the person and the families where the occurrence of domestic violence happens. This remedy shall act as strong treatments to the victimizing persons. Likewise, the women as well as children and other so called suppressed and dependant clan in the family should be strong enough to resist the violence against them. They should come out of their homes and speak aloud about the violence.

Taking into consideration the distinct characteristic of domestic violence, the legislature has enacted a special law on domestic violence. This law confers jurisdiction on the family courts and the civil courts to deal with the domestic violence cases in a more effective manner.

Now it is the need of an hour for the women to become strong internally enough to protect themselves and other women too. Moreover the women are required to reject those myths that have emphasized their role of dependency and abnegation.

Feminist deconstructed ancient texts and cultural myths to reveal their meaning and biases. Since from Droupadi, till today women continue to be dependant on the men as wives, mothers, sisters and daughters. Men have created a sense of dependency in women, which in turn has subjected women to the most unimaginable violence. It is their voicelessness that is articulated in the struggle for justice inside and outside the
courts. Therefore, it is a need of an hour for women to think over for protection of themselves by changing their attitude towards other female members in the family and also to know their rights and protections given by the law.