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Introduction
CHAPTER I

INTRODUCTION

"The militant claim is the women's right to be oneself, not a doll to please, nor an inmate of a workhouse. She has the human right to be woman. The personality of one's sister cannot be warped to suit the masculine ethos nor shaped to confer pseudo-freedom, keeping subordination as an unwritten code of the suppressed tribe."

- Justice Krishna Iyer. V.R.

1.1 GENERAL

Birth of man or woman is a sheer biological accident of genetic engineering. Depiction of women as weaker sex is itself a horrendous sin. It is a serious error of judgment in the history of mankind that the responsibility of governing women's destiny has been placed by inscrutable degree of providence upon the shoulders of men. Women are dubbed as feeble and fragile creatures as prejudice is the reason of fools. The insults and indignities heaped on the 'weaker sex' cannot be dismissed as semantic nonsense. Man cannot take undue advantage, simply because he is born as a man and a woman need not be subject to all adversities and indignities of life on account of her being born as 'woman'. The callous nature of man has cost the women very dearly. Men tend to ride rough shod over women as a matter of organic superiority complex governed by traditional prerogative and on the contrary woman invariably submits herself religiously to such obnoxious treatment meted out to her. Degrading the dignity of women is a crime against humanity and the most flagrant violation of basic human dignity. Exploitation in terms of gender difference has been raising its ugly head in different forms, affecting the inherent dignity of womanhood.

It is illogical to argue that women are inferior creatures and the inexorable logic behind the theory that women are subservient sounds sardonic. "A woman is a human without rights. To-day, held in thralldom by homicidal custom, womanhood dies in flames for her gender crime". Woman is treated as unequal by society for the genetic sin of her discriminated sex. She suffers from gender devaluation at home, at work, in literacy, in matrimony, in inheritance and allied rights, in economic opportunity, in public life and in power process. Slavery of women is a social scourge. Woman is subject to harassment at many points in her life and she is a docile scapegoat in the sordid game of crucifixion. One can offer any number of explanations but none can explain it away. It is impolite, uncharitable and indecorous to depict graceful proportions of women’s body for promotion of business interests. It is unfortunate that the ultra modern biz world indulges in large-scale advertisements by adopting Western social graces and preposterously exaggerating feminine beauty. This shady and shoddy strategy of commercial advertisement is alien to Indian culture and does not suit Indian ethos. The root cause of exploitation is the mind set which has its moorings in the semi-feudal culture ruling the roost still in India.

Dignity is natural, inherent and inalienable component of human life. Right to dignity is sine qua non for meaningful existence and survival. Life of women bereft of dignity is a human graveyard on earth signifying nothing. The dignity of women is a sensitive area of human life, which covers not only the physical torture but also mental agony. Although several rights have been guaranteed equally to men and women, there are several ways in which the structure of the family and the existence of several social customs and practices deprive women of their rights.

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3 Ibid
Foetus killing after sex determination before birth is the starting point of her discrimination. ‘Son-preference’ is one of the key aspects underlining social values that view girls as a ‘burden’. The specific ritual, “puthra kameshi yaga” is a prayer to god to grant a son, who would be a source of redemption from hell and who paves the way to heaven to parents. Even now the nomadic tribes offer their girl child as human sacrifice to the traditional deities (Khsudra devathas) and thus women’s life is at stake. Girl child marriages are not uncommon and they are married to old people, which render their lives miserable, consequent on early widowhood and social parasitism. Women are viewed as dependants within the family and face severe restrictions on their mobility, which further impedes their ability to enjoy their rights. It is a cultural invasion that has eroded the very vitals of the society and stratified human family on the basis of gender discrimination. Freedom of speech and expression is often denied to women within the family, and women are kept out of decision-making processes even within the community and state institutions. She should not be vocal and expressive about her feelings nor should she register any protest. Her voice is gagged and trussed and she should remain calm and composed even at the prospect of being lynched to death. Formal equality for women is explicitly enshrined in the Indian law. Notwithstanding formal guarantees of equality, Indian women's lives continue to be characterised by pervasive discrimination and substantive inequality. The understanding of equality that has dominated Western thought since the time of Aristotle has been one of formal equality. Equality has been interpreted as 'treating likes alike', its Constitutional expression in American and subsequently Indian equal protection doctrine, as the requirement that those who are similarly situated be treated similarly. Within this prevailing conception, equality is equated with sameness. Indeed, sameness is the entitling criteria for equality. The

5 Tusman, Joseph and Jacobus Tenbroek, 'The Equal Protection of the Laws' 37 Calif.L.Rev 341 (1949); Haragopal Reddy, 'Equality Doctrine and the Indian Constitution' 45 Andhra Law Times 57, 58 (1982) (All persons are to be treated alike except where circumstances require different treatment)
same are entitled to be treated equally. Further, within this equal treatment approach any difference in treatment between similarly situated individuals constitutes discrimination. According to Maureen Maloney the focus of a substantive equality approach is not simply on equal treatment under the law, but rather on the actual impact of the law. Indeed, differences are not seen to preclude an entitlement to equality, but rather, are embraced within the concept of equality. Within this model of equality, differential treatment may be required not to perpetuate the existing inequalities, but to achieve and maintain a real state of effective equality. As such, the failure of a rule or practice to take into account the particular needs of disabled persons, and thus perpetuate the historic disadvantage of this group, would constitute discrimination and violate their equality rights.

Discrimination based on caste is a human rights violation. Indian caste system in social hierarchy has been practiced since times immemorial. Casteism is a root cause of social disharmony and inequalities where and it is a major source of exploitation. Caste based corridors of power, perpetuate the absurdities which in the ultimate analysis affects human dignity and more so the dignity of women. They are blind to the hostilities confronted by not only low caste women but also so-called higher caste women, as it is evident from the Rupan Bajaj's case. All the difference is of the degree but not nature of the crime. The system of social dichotomy as higher and lower classes is unique in India and it is blatant denial of equal opportunities in practice irrespective of gender. The top three varnas-the

Parmanand Singh notes 'Equal Opportunity and Compensatory Discrimination: Constitutional Policy and Judicial Control', 18;2 Journal of the Indian Law Institute 300,301 (1976)'...legal equality requires the absence of any discrimination in the words of the law'; Right to Equality and the Supreme Court 11 (1990), who defines equality as Signifying that among equals law should be equal and equally administered.

dvijas have concerned the benefits while the shudras have borne the ill effects of the system for centuries. Reports are galore about atrocities of an uncivilised kind being heaped upon SCs & STs (Lower castes).

Plurality of laws and customs and non-state legal structure were the essential characteristics of the ancient Indian communities. The original texts were of Aryan origin but the assimilation between Aryan and non-Aryan tribes led to diverse customs and practices. The smritis and commentaries, with their roots in a feudal society of agrarian landholdings, prescribed a patriarchal family structure, within which women's right to property was constrained. Under the Mithakshara law, the property of a Hindu male devolved through survivorship jointly upon four generations of male heirs. The ownership was by birth and not by succession. Upon his birth, the male member acquired the right to property. The head of the family or karta for the benefit of the entire family including its female members managed the property. So, in effect, until the property was partitioned, the right of male members was essentially the right of maintenance. Even after partition, the property in the hands of each of the coparceners, continued to be joint property, held in trust alone with his male progeny for the benefit of the next line of descendants. Since women did not from part of the coparcenary, they did not have even the notional right of joint ownership, hence they could not demand partition.

There is lack of effort to secure basic economic rights for women in the family, in relation to property, income and shelter, which are the prerequisites of women's right to dignity and a measure of autonomy. Assets that have been created out of public resources for poor households have been largely granted to male heads, while the responsibility for social costs of child care, household maintenance and survival oriented productive tasks are laid on women's shoulders. "Pita rakshati kaumare bharta rakshati
A woman is protected during her childhood by her father, during her youth by her husband and during her old age by her son. Man has congenital weakness to believe that he should not work and she must not only work for him but worship him too. Women have to work from wee hours like an unpaid bonded labourer, destined to bear with the monotony of domestic drudgery silently. Women's work carries no economic value. Such work may be essential but banish the thought that it should ever enter national income accounts or even surface in separate satellite accounts. What a successful conspiracy to reduce women to economic non-entities. “The cruel fact is that women not only work long hours, but many of them are not even considered to be working at all. A large part of the work that women do in rural areas in non-market work, including extremely time-intensive tasks such as cutting fodder, and fetching wood and water. Apart from domestic duties, women engaged in agricultural operations work on an average 12 hours a day doing farm work and taking care of cattle. Wife is bound to reconcile herself with man's sexual proclivities with a sense of submission. The cupboard love displayed by mothers-in-law, and sisters-in-law is only cosmetic pretence for bridal dowry and gifts.

Women have been segregated, discriminated against and confined to homes in India. The idea that marriage is the sumnum bonum of a woman’s life and that her primary duty is to bear and rear children is inculcated in the minds of the Indian women for generations. Naturally the family has become her main concern. She is told that it is her obligation to the family that should prevail always in all circumstances. She has been given an euphemistic title 'Griha Lakshmi' which means 'Home goddess of prosperity' ruling over the family. The role of woman is epitomised in Sanskrit Sloka

10 Manu Dharma Sastra 9-3
11 *Human Development in South Asia 2000*, Mahbub ul Haq Human Development Centre, OXFORD, 2000 p. 51
12 ibid
"Karyeshu Dasi, Karanesu Manthri, Bhojeshu Matha, Sayaneshu Ramba" and this is a lucid picture of the woman where she should act as a minister in husband's official dealings, as maid in domestic front, as mother to feed him well and as a celestial bed-mate to satisfy his carnal appetite and sensual pleasures. This is the very definition of multidimensional exploitation of woman, which has become part of Indian cultural ethos. This has a terrible impact on the social structure in general and on the growing children in Indian family life in particular, as it is evident that the father in the family is away from domestic chores while the mother looks after all the household activities and all the other inmates expect services from the lady of the house. It is quite fantastic that this situation is reflected and depicted even in the primary school text books where the father is sitting in an easy-chair in his drawing room reading a newspaper and chatting with visitors, the mother is shown being confined to the kitchen, the girl child doing all and sundry works and the boys playing. This dismal picture of Indian family life leaves an indelible impression on the minds of young ones that women are subservient and second-rate citizens at home. This is nothing short of cultural erosion of social values, which has a great bearing on the dignity of women degrading it. This invariably brainwashes the basic thoughts and actions of society through family.

Matriarchal hegemony is blatant hypocrisy in the garb of religiosity. The truth is, she is cribbed and confined to 'the happy home' with imposing restrictions on her life and personal liberty without dignity. The bride is conditioned to maintain stoic silence even if she is consigned to burning flames. Even otherwise it is a general practice that women in India tend to self-immolation. It is an exclusive feature of Indian women, which is rarely found elsewhere on the face of the earth. Women are candles burning at both ends and they are doomed to perish like flies. Dishing out a few privileges, as doles to women do not offer any solution. It is a ludicrous circus that men talk tall about women's dignity while behaving like tyrants at
their homes. Certain principles governing women's activities are held sacrosanct in the veneer of sacred rituals of religion. Women have been languishing in their so-called happy homes, which are nothing, short of veritable jails. Even now, in spite of the fresh breeze of modernity, majority of the women folk in India continue to cherish these antiquated misconceptions and ideas. It is a preposterous falsehood and blatant lie to distort the demands of women, which is described as a truce between hawks and doves. Emancipation of women cannot be expected in short run, because sinister conspiracy of vested interests where men keep women prisoners of conventional wisdom.

Every religion proclaimed that woman is intended to serve man. Woman is expected to lead an undignified life with total submission throughout her life. All religions have suppressed women without upholding the dignity and worthy life. No religion had taught at any time that woman is also a human being entitled to dignity, freedom and individuality. 'Treating woman as appendage to men and placing limitations on her rights was a common tradition of all religions like Hindus, Buddhists, Jain, Islamic and the Christian thought.'

"What is demanded is not charity nor grace nor legal aid to a weaker sex. The militant claim is the woman's right to be oneself, not a doll to please, nor an inmate of a workhouse. She has the human right to be a woman. The personality of one's sister cannot be warped to suit the masculine ethos nor shaped to confer pseudo-freedom, keeping subordination as an unwritten code of the suppressed tribe." "Women are the orphans of our Corpus Juris, the still-born of our statute book".
and value systems are important determinants of women's dignity, roles and their position in society. They influence social expectations regarding behaviour of the two sexes, both as individuals and in relation to each other. There is a gap between the theoretical probabilities and their actual realisation in respect of the status that is accorded to women by law and by the constitution.

Indian womanhood is yet to be explored, experienced and understood in all its vicissitudes, multiplicities, contradictions and complexities. As a woman begins her journey at birth and proceeds through different stages, she experiences herself and is, in turn, experienced by others in several forms. Yet she remains an enigma. Much of her life is shrouded in unfathomable dusk or twilight on account of her passive nature to reconcile to all the untold miseries inflicted on her to fatalism and accidental birth as woman. All the enactments protecting her life and dignity are of no avail as there is a great deal of resistance to rebel and register her protest against offenders. Social inhibitions, insecurity of livelihood, future of children and religious sentiments preclude her from waging a battle against atrocities. Thus she becomes a prisoner of social chains and feels undone as if she is doomed to face the unwarranted hard realities, which in fact are hallucinations of her mind set. This is not the end of the whole story and the end of the story is the beginning of instructing her girl children to be submissive against preponderance of male chauvinism. Generation after generation imbibes this hopeless philosophy that women should be meek and submissive to build a happy home. Those institutional packages doctored from time to time in the women's long journey for liberation are nothing short of hypocrisy. Women began to be considered as equal human beings after the declaration of rights of human beings in the American, French and Russian Revolutions. Women have to be stirring themselves to strive to solve the problems of the society. Women are confused and confounded because of their wrong belief that their problems are not part
and parcel of the social problems. The other side of the coin that sometimes women assume the role of a mother-in-law, sister-in-law is an aggressively dominating virago creating explosive situation. The heroic women who defied the tradition had left their imprints on the sands of time are only exceptions and do not reflect the hard realities of womanhood. It is no badge of distinction that few women have occupied elevated stations in like Indira Gandhi, Sarojini Naidu, Vijayalakshmi Pandit, Jhansi Lakshmi Bai, Rani Chennamma, Rudrama Devi and, Raziya Sultana. Women who had impressive innings in their lives had also reconciled with the social norms prescribed by male chauvinism. The international conventions of Women have created profound stir in the policy formulations of the Indian government, as a result of which it started to think over afresh the real position and condition of Indian women. The existing legislations are skin-deep but not soul-deep. There is no security of life at all. It is a preposterous falsehood and blatant lie to say that women have been liberated from the bondage. The cult of violence is let lose. The challenges are more daunting as ever before as the problem is studied in human rights perspective as against conventional wisdom.

The literal meaning of the term ‘dignity’ implies worth, honour, title, distinction of honour, reputation, authority, high position, rank, high regard, elevation, proper pride, and respect. They are only different shades of the connotation of dignity in the broad sense. It does not cover socio-legal dimensions of dignity. An earnest attempt is made to expand the meaning and the scope of the term ‘dignity’ in the light of identified current trends such as the changing socio-cultural milieu, traditions, superstitions, customs, practices, usages, vulgarity in language, literature and obscene architecture on temples, developments in science and technology, erosion of ethical values, violations of human rights, judicial inertia, legislative inadequacies, ineffective executive machinery, baneful effects of globalisation, liberalisation and privatisation, misuse of mass media, information technology and the
related networks, impending catastrophe of HIV/AIDS, lack of awareness of human rights, obstinate nature of women’s mindset for change, male-centric legislations and implementations, biased interpretation of gender cases by judiciary, limitations and narrow scope of dignity, inadequate definitions of dignity in human rights perspective, factors degrading the dignity, unfavourable judicial precedents of women’s issues and the personal laws in India.

It is a rewarding exercise to examine the literal meanings of the term ‘dignity’ by consulting certain Standard English dictionaries to have a comprehensive idea of it.

*Webster’s Third New International Dictionary of English Language, 1768* ‘dignity’ means to give distinction to, exalt, ennoble, intrinsic worth, excellence, degree of esteem, the quality or state of being worthy. *The Oxford English Dictionary on Historical Principles, 1933* says that ‘dignity’ is to be self-sustained and no man’s dignity can be asserted without being impaired. The real dignity of a man lies not in what he has, but in what he is. *Webster’s New World Dictionary, Second College Edition, 1953* ‘dignity’ means worth, merit, the quality of being worthy of esteem or honour, repute, or honour of a high position rank or title, loftiness of appearance or manner, stateliness, proper pride and self respect. *Britannica World Language Dictionary, 1961* defines ‘dignity’ as grave or stately bearing, stateliness, high rank, title, office, or position, distinction, the state or quality of being excellent, worthy or honourable, grade of elevation. *Stroud’s Judicial Dictionary of Words and Phrases, 1972* ‘dignity’ is honour and authority, and reputation. *The Shorter Oxford English Dictionary, 1973* ‘dignity’ means honourable or high estate, position or estimation, and honour or rank. *Black’s Law Dictionary, 1979* ‘dignity’ in English law, is an honour, a title, station or distinction of honour. *The Oxford Companion to Law, 1980* ‘dignity’ means the right to bear a title of honour or of nobility. All said and done
dignity is such a sensitive area of human life and especially women's life that calls for revolutionary changes not only in socio-economic fabric but also total change in the masculine mindset. The Holy Bible says that man is guilty of fornication even the moment he entertains the faintest idea of sensuality by looking at the woman.

Dialectical insights into the status of women in Indian society make sad reading and summon angry action. It is relevant to recapitulate the views of Mahatma Gandhi in the context of dignity being held high. Mahatma Gandhi referred woman as a nobler sex. According to him, if she is weak in striking, she is strong in suffering. A woman in India who is worshipped as Lakshmi (Goddess of Wealth), Saraswati (Goddess of Learning), Kali and Durga (Goddess of Power and Strength) is also subjected to different kinds of cruelties. She is subjected to criminal assault every 54 minutes, molestation takes place every 26 minutes, a dowry related death every 102 minutes, kidnapping and abduction every 43 minutes and an act of eve teasing every 51 minutes. Official figures show that crime against women in 1996 has increased by 5.9 per cent and 7.5 percent over the last two years. The National Crimes Record Bureau has indicated that incidence of rape cases and dowry-death cases reported during 1996 and 1995 reported an increase of 7.9 per cent and 6.3 per cent respectively.

"Frailty thy name is woman,"17 said Shakespeare. The great philosopher, Virgil said that 'woman is always facile and changing'. St. Augustine declared that 'woman is a creature, neither decisive nor constant. Aristotle said 'the female is a female by virtue of a certain lack of qualities, she is naturally defective'. Plato thanks God that he had been created free, without slavery. Alfred Tennyson went a step further and said 'women for the hearth, man to command and women to obey'. There is another fantastic observation about woman "God created the universe and rested.

17 Shakespeare, Hamlet-1,2,146
He then created man, and rested again in a subsequent manifestation, he created woman, and since then neither God nor man has rested. 

Gender discrimination reveals hypocrisy of masculine chauvinism. Female *dependentia syndrome* is ruling the roost and the girl child is a scapegoat of cultural and social invasions. The parent’s indifferent acceptance of her makes the female child realise that her status is secondary to that of the male child. She experiences no space for herself and learns to be invisible, obedient, conforming, and careful about creating no stress. She learns to accept herself as unwanted, or as a transient to be cared for, but never to belong. She also acquires doubts about her value as a person. The female child is prevented from applying her intelligence to the living processes of society. Dogged by superstitions, parents of 4-year old *Anju* recently married her off to a dog to ward off evil eye.

The Indian social system reinforces its negative attitude towards females in multiple ways. It emphasises such qualities as being obedient, self-sacrificing, a responsible homemaker and an asset to both her parental and husband’s families. It stresses that she be tolerant, patient, nurturing and fostering a calm, quiet, resilient force, which is not visible but always present. If she does not display these qualities, the woman ends up being called a shrew, a witch, a ‘dayan, a chuddai’, and other such derogatory names. Thus, the female child experiences herself as being a liability and a burden. The parents rarely allow a girl to feel that she belongs to them. The dominant refrain is: ‘you are always in somebody else’s space. There is no space, which you can call your own. The only way to gain acceptance is through conformity, sacrifice, and obedience’.

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20 *Rashtra Mahila*, published by National Commission for Women, August 2000 p.4
The advent of ultra modern sophisticated scanning gadgets of sex determination has degraded the mind set and misused to the extent of foeticide of female child. It has deprived her control over her own body. Loss of rights over her own body is detrimental to the very survival and existence of woman. Many Hindus in India killed their daughters immediately after birth.\footnote{Rev. J. Cormackam, \textit{Accounts of Abolition of Female Infanticide in India}, reprint, London, 1915.} "An infant girl was killed either by drugging or by mixing poison in her milk. Sometimes a layer of poison was also applied on the mother’s breast so that the baby died when she suckled"\footnote{Daniel Charles Ibbestson, \textit{Punjab Castes}, Sh. Mubarak Ali, Lahore, 1974, p.252} A survey made by Women’s Centre has revealed that out of 8000 abortions checked, 7999 were in respect of females.\footnote{Tripathy, "Child Birth-Paying Head, Ban on Sex-Determination", \textit{India Today}, January 31, 1988 p.55} "Pre-sex determination is wrong. Medical Termination of Pregnancy Act cannot be used for adverse uses."\footnote{Hemalatha Devi, V. Dr. S.C.J 1990 p.53}

Childhood of a girl child is subservient to childhood of male child even though she survives from the heinous activities of foeticide and infanticide. By and large a girl child is ill fed, ill clothed and very often subject to drudgery of the kitchen and confined to all and sundry works of the family. Her mind is conditioned to be docile, obedient, and unpaid child labour at home. This is quite disparaging that girl children suffer from stunted growth and mental aberration. A motherless girl child and a girl child under the care of stepmother faces hell on earth where the girl’s father endorses the undue punishment inflicted on her. Her right to proper education is hindered on account of less attention on her studies, health and more indents on her time and resources. She lags behind in education, health and loses opportunities, which the male child enjoys. The picture of rural India is worse than their counterparts in urban settings as girl children are engaged as baby sitters, cooks at home and cattle care takers in the field. All this is
done as a matter of tradition unmindful of the fact that a girl child also has all
the rights on par with a male child.

It is shocking to note that certain women become mothers without
being married. The children are abandoned and left to fend for themselves
or forced to confine them ruthlessly in the destitute homes. A social stigma
attached to the unmarried mothers is another angle of misery in the Indian
society and they are necked out of the homes ruthlessly without any
protection or security. They are pushed into brothel homes and become
permanent sex workers to eke out their livelihood. While some of these
illegitimate pregnancies may be due to rape, others are due to unhappy or
broken homes, sexual maladjustment or even ignorance. A large number of
women who are dragged into prostitution or abetting them to commit suicide.
All this is because the very concept of unmarried motherhood is not an
acceptable social norm in India. The Indian custom of early marriage had its
beginning in medieval India. Right to choose a husband is a human right.
This is denied to the girl spouse at the innocent tender age when she does
not know the purpose for which the marriage is performed. It was performed
at the tender age of three or four.\(^{25}\) Hence no minimum age for marriage
was fixed and a girl was married when she should have been playing with
her dolls. She was asked to look after her husband when she did not
understand the difference in relationship with a husband and a brother. This
also resulted in the deaths of a large number of child wives.\(^{26}\) Early
marriage, however, remained unchecked.\(^{27}\)

The institution of dowry crept into the social fabric like a cankerous
gangrene, causing devastating effects in the married life and avaricious

Aggarwal, Agra, 1969, p.91

\(^{26}\) Ram Sharma, Mahatma Hansraj: *Maker of the Modern Punjab*, Arya Pradeshi
Pratinidh Sabha, Lahore, 1941

\(^{27}\) Most reformers who fought against this evil were themselves married at a very young
age. For example, Dadabhai Naoroji was married at the age of 11, Gandhi at 13, Gulbai
at 7, Rajendra Prasad was married in 1898 at the age of 13, Darmpati Panday, the Arya
Samaj and Indian Nationalism, 1875-1920, S. Chand and Co., New Delhi, 1972, p.91
husband, mother-in-law, father-in-law and sisters-in-law in the nexus of conspiracy guillotine particularly women's interests. Bridal dowry many a time brings down the economy of the family to shambles. Economic exploitation through the institutionalized dowry system is gross violation of human rights and dignity of women. Dowry deaths are not uncommon in India, which begins as domestic violence but slowly and steadily reaches the climax of lynching her to all conceivable methods of violence. Women are subject to physical and psychological harassment in the process of extracting money failing which she is doomed to die. This game of do or die in the name of dowry is on the increase at an exponential rate despite Dowry Prohibition Act precluding the serious consequences of dowry. The giver and the receiver of dowry are both punishable under the provisions of law, but it has become a rigid tradition. Alas! The laws and rules, which do not change the attitude of men and women, are nothing but paper tigers. It's a misnomer that a male child is an asset in positive terms of bagging dowry and a girl child is a liability in negative terms of giving away huge fortunes.

Preponderance of male domination is another dimension of atrocities against women. Man has congenital weakness to believe that he is the lord of the house and spouse and that it is his natural prerogative to beat his wife indiscriminately. The wife is the silent sufferer and must bear with the beatings with stoic silence. If this is reported are blurted out she will be inviting additional doses of beatings which is an unfortunate cult of violence inflicted on women for no other valid reason except the fact that she is a woman. This is an unpardonable bestial tendency by any standards of judgment. The ruthless and unruly behaviour of men especially husbands in drunken state is barbarous violation of human rights. They think that it is the prerogative of husbands to beat their wives. Police instead of taking action against the husbands, the complaining women and do not choose to register the case. Many cases of wife beating go unreported. Cruelty is manifested in verbal, mental and physical forms. Sadists indulge in sardonic acts of
cutting cruel jokes at the expense of women which many times results in wounding the feelings and consequently leading to their suicide. If the wife has committed suicide within a period of seven years from the date of her marriage and her husband has subjected her to cruelty or harassment, the court may presume that her husband or such a relative of her husband has abetted such suicide.28 Section 113-B call upon the court to presume that the husband has caused the dowry death of his wife if it is shown that before her death the husband has subjected her to cruelty or harassment. Any willful conduct of such a nature as to deprive life, limb or health, mental or physical of the woman is cruelty. Similarly harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or on account of failure by her or any person related to her to meet such demand is cruelty. Section 304 B of IPC states that where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and is shown that soon before her death she is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with any demand for dowry such death shall be called dowry death and such husband or relative shall be deemed to have caused her death. “It is the grown-ups who see the atrocities...for the child it's all a game.”29

The stigma attached to a rape victim is significant factor where dignity of women is in jeopardy. “Rape is an offence against the dignity and modesty of the women. After victimisation the woman leaves a life-long stigma on her. Her life becomes miserable and chances of marriage are ruined. She is treated as an outcaste. For a married woman, the love of her husband and her restoration to the family is jeopardised.”30 The Supreme Court of India commented that, “the Complaints are handled very roughly

28 Section 113-A, Indian Penal Code
29 The Hindu, July 13, 2001 Of women, dignity and life itself, F.R1
30 Punia, Social Defence Vol. X. No. 81(1985)
and are not given such attention as is warranted. The victims have invariably found rape trials a traumatic experience. The experience of giving evidence in court has been negative and destructive. The victims often say, they considered the ordeal to be even worse than the rape itself. Undoubtedly, the court proceeding added to a prolonged psychological stress they had to suffer as a result of the rape itself.\textsuperscript{31} While sex is a natural concomitant of marriage, use of violence or force in sexual intercourse is an affront to the dignity of a woman’s body and emotions, whether it is in the marriage or cut side the marriage. The problem of battered women remains a hidden crime because most of the cases go unreported as the crime is done within the four walls of home. "Rape is viewed first and foremost as an offence against the honour of the male members of the family, and only secondarily as an offence against the dignity of the woman. Rape is commonly perceived as the fault of the victim, because of her provocative behaviour or dress. In reality, many rapes are committed in women’s own homes, often by people known to them, including their own husbands i.e., marital rape. Rape has been described as the primary instrument of control in the patriarchal society and…. Often used as a mechanism of revenge or punishment (RCIW 1997). A rape victim will often attempt to remove all traces of the crime from her person, unknowingly losing all evidence of the crime. If no evidence is found and there is no corroboration, there is very little chance of a conviction even if the case goes to court."\textsuperscript{32}

A murderer destroys the physical body of his victim, but a rapist degrades the soul of the helpless victims. "The dignity and freedom of a woman over her body must be honoured. A marriage licence should not be viewed as a licence for a husband to forcibly rape his wife with impunity. Obviously, marriage does not mean a woman’s consent to be raped by her

\textsuperscript{31} (1995) 1 SCC 14 (19)
\textsuperscript{32} Human Development in South Asia 2000, Mahbub ul Haq Human Development Centre, OXFORD 2000 pp 94-95
husband ignoring her physical and emotional state." The Supreme Court in *Bodhisatfva Gautami's case* considered rape to be a crime not only against the person of the woman (victim) but a crime against the entire society, and violative of the right to life, under Article 21 of the Constitution.

Eve teasing is a very common crime and is not taken very seriously. But how disgusting and insulting for a woman it is to listen to comments on her physical attributes. It is not flattering to be commented upon. Men have congenital weakness for smiling at women like asses, the street corner Romeos laugh like horses as part of eve-teasing, because they cannot see anything beyond their noses, forgetting the hard reality that the women are in their houses also. This tendency to comment on physical attributes of woman reduces her to an object only which is to be possessed. Woman remains a symbol of sex object. This concept is very common now a days in film music. The recent-film songs, 'Tu cheese badi hai mast mast, Kya cheese ho tum tumko bhi maolom nai hai and Choli ke peeche kya hai? Chuner ke neech kya hai?' are specially mentioned here to explain how the very concept of women as a 'cheeze', which means 'an object', is very easily taken for granted, accepted and popularised. Women remain to be a 'cheeze' in other words, an object to be possessed and to be enjoyed. The apex court in Gurmeet's case was disturbed at the growing rate of crime against women and observed: "it is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violations of human dignity of the victims of sex crimes."  

Women's right to dignity affected by vulgarity and obscenity in different forms and dimensions is a major area of violation. Print and

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33 Kusum, 'Minor Brides and Marital Rape, Women-March Towards Dignity, Social and Legal Perspectives', Regency Publications, New Delhi, 1993, p. 139
34 *Bodhisatfva Gautam v. MS Subra Chakraborty (1996) 1 S.C.J p. 338*
electronic media are potent sources of communication where sex is the principal source of temptation. The celluloid screen is another powerful communicator to brainwash masses and of course elite are no exception. These powerful media of communication are very handy to make a fast buck where graceful proportions of women in half nakedness are displayed to allure ultramodern beaux and belles. Nudity is another component of seduction in all media where private organs of the body are preposterously exaggerated for commercial transaction. This affects the right to privacy, decency, morality of women, who are forced to oblige to undertake this horrible dens of exploitation for the sake of quick-money. It is unfortunate that indecency of sexual proclivities associated with double-edged meaning on the celluloid screens, and television is detestable to the point of adnAusium that these visible representations of obscenity cannot be viewed with all the members of the family. Pornography in print and electronic media is another bane of present day world of galloping changes in information technology. Children, adolescents, and adults have developed craze for browsing Internet pornography, on-line chat and concomitant sex abuses. All this has a telling effect upon cultural norms and ethical standards. This is one of the reasons for youth of the 21St century who are torn asunder between objective tensions and subjective confusions and get lost in the labyrinth of despondency consequent on increasing the rate of offences against women. At this juncture, woman is the principal target of exploitation because promiscuity, incest, extramarital games of love, pre-marital pregnancies, sexual perversions and the like which are rampant.

"Victimisation of women may be the end result if MNCs with sexy publicity capture our markets. Beware!"36 The concept of beauty is a natural phenomenon. Ancient Indian mythology considers beauty as an attribute of divinity. Sathyam, sivam, sundaram and all the Indian mythology veers

round the beauty of celestial spheres, whereas aesthetic poets see beauty in nature as both oriental and occidental writers have practiced it. The meaning of beauty bordering on vulgarity of women's graceful proportions has undergone metamorphosis resulting in the ugly manifestations of fashion technology and beauty contests. The dictum that a thing of beauty is a joy forever is a nebulous fad and a fiction. Vulgarity punctuated by preposterously exaggerating physical features of woman is the order of the day. Women are becoming much more vulnerable because of growing assertion of consumerist ideology. For an 'alienated potential individual' in a market society women become a soft target. A significant feature of consumerist society is the lust for material gains marked by cut-throat-competition for the same. Consumerism has reduced woman to an almost 'use and throw' status. She is no more a 'human being' but merely a 'commodity'. The result is commercialisation and commoditisation of feminine graces, which is taking place, and thereby human dignity is degraded to carnal desires only to whet the jaded appetites of masculinity. It is a pity that pictures of women in indecent postures are the principle sources of commercial ads as it is evident from several advertisements to promote their trade. Irrelevant exposure of women in all trade transactions is nothing but a biz world strategy to entice men who have natural weakness for women's beauty. This reflects the moral decadence of Indian social structure perhaps influenced thoroughly by Western changing values. Right thinking people have registered strong protest against the degraded values of beauty contests. The Indian Penal Code Sections from 292 to 295 and 354 prohibits any act that damages the dignity of woman. The Indecent Representation of Women (Prohibition) Act, 1986 forbids indecent pictures of women in commercial advertisements. The winners of beauty contests at any level are the principle sources of advertisements through the powerful electronic and print media. The winners of beauty contests are offered handsome amounts of money for making use of their images in their shady trade practices. Their indecent exposure affects the dignity. The mafia
gangs in the filmdom adopt devious methods to import actresses into the
commercial movies with a view to earn fast buck. They are threatened to act
in the films irrespective of their free consent at the point of gun.

Motherhood is deified and glorified in Indian tradition. This is the only
cosmetic nature of the privilege a woman apparently enjoys but the woes of
motherhood are unlimited as the mother's dignity is at stake. Affection and
fine sentiments of mother shown towards her children are taken for granted
as her weaknesses and children deliberately exploit them to the point of
incarceration physical assault, matricide, bitter humiliations, expulsion,
neglect of health, robbing her economic resources, and insults. While the
mothers with all their abundance of love for their children pamper their pride
and render all services, and at the same time bearing the cross. The
process of procreation is an onerous and risky task. Entry of woman into
wedlock is the beginning of her identity crisis. She is identified as the wife of
her husband. She loses her individuality. She takes the surname of her
husband after marriage as part of Indian cultural heritage. The concept of
'Pativrata Dharma' was inculcated by men as a safety measure. This
enjoined wife to consider her husband as her god, even if he was a
profligate, vile; or otherwise a socially abominable figure. The wife was
hoodwinked into the ancient Hindu belief that through unflinching devotion to
her husband, she could not only improve her own and her husband's lot in
this life but in the next birth also. The wife keeps 'Vratas' (fasts) for her
husband's life. There is 'Vara Lakshmi Puja' in South India, which is famous
for the longevity of life of her husband. But no corresponding fast is
prescribed for or observed by the husbands for the longevity of their wives.
The age-old custom of addressing women in sub-human and substandard
jargon is a common phenomenon as it is evident from the fact that woman is
treated as a beast and she is called as in the vilest terms of abuse. In
Telugu she is referred to such as Adi,(that), idi (this), Vossai (filthy creature),
Eme (what's the matter woman?) Raave (come),Po Ve(go), Omai (idiot),
Adadi (women belonging to others), Dhanini (that woman), Dheenini (this woman). This sonorous jargon reflecting as it does in almost all Indian families, devalues the dignity of woman in the very beginning impolite addressing of woman. Women think that their masculine masters are perfectly justified at the slighting address as part of feminine pativrata Dharma but on the contrary she is conditioned to address man in respectable terms like Meeru (respected you), Ayyagaru (respected master) Randi (please come) Poyi Randi (please go and come), Bagunnara? (how do you do sir?). Man always expects respectable and polite way of addressing from women and on contrary men display impolite terms of addressing. "The mother-child relationship is the basic nexus and ultimate paradigm of human social relationships in India. It is the motherhood that the traditional family values and respects; wifehood and daughterhood are devalued and debased."37

Blessed is the woman who doesn’t have a mother-in-law, 'Atha leni kodalu uthamuralu' is the popular Indian folklore reflecting the peaceful atmosphere in the family for the daughter-in-law in the absence of mother-in-law at home. The moment a woman is married she goes to husband’s house where the daughter becomes daughter-in-law. This transition of roles creates all the havoc. Mother-in-law is the first enemy to encounter with. This has been an age-old battle between the mother-in-law and the daughter-in-law, each trying to dominate the other. This battle ends up in silent suffering, breaking of family, dowry deaths, exploitation, maltreatment and propaganda, expulsion, beating and battering, verbal battles, physical and mental assaults are perennial scenes of every day domestic life. The son is on the horns of dilemma whether to support mother or wife. The father-in-law is mute spectator sometimes and catalyst to aggravate the situation. Many families have been broken on account of extraterritorial

transgression of mother-in-law and vice-versa. It is not only the mother-in-law to confront with but also the sisters-in-law who participate in the ugly game of domestic skirmishes. They add fuel to the fire and the plight of bride is nothing short of agony from frying pan to fire. This is a notoriously special feature of Indian family life. Brothers-in-law and grand parents also have their share in this sordid game of family torture. The son's dilemma is how to respond to the mother's anxiety about losing him and her consequent possessiveness on the one hand and, on the other, how to handle and anxieties, insecurities and meaninglessness of his wife's existence in the new family. Invariably, he is unable to provide the love and tender care that his wife needs. Confronted with the traumatic reality of marriage, most women initially find that they have no other alternative but to surrender and cope, to give and not demand, to withhold and disown themselves and not compromise with the family's status. Violation takes many forms from the physical to the psychological. Barring a few exceptions there is great deal of unrest in most of the families concealed for social reasons in some cases and ending in street fights in some other cases. This ugly situation is rampant in joint families.

Dignity of woman is first the casualty when woman becomes a widow. It is the beginning of all untold miseries and unimaginable tribulations a widow has to confront during the rest of her life. She is cursed and isolated in all spheres of family life. Early widowhood is not uncommon in India as women are married early and many a time to the elderly men as a traditional and customary practice. Young widows have to lead a miserable life on account of certain social taboos. Widowhood is a bad omen in Indian cultural ethos. She should keep herself away from the mainstream of family life. Members of the same family keep her at arms length while performing family functions and rituals as her presence is inauspicious where the very presence of Muthaidhuvas 38 is a good augury in all periodical rituals and

38 Muthaiduva means 'a married woman living with husband and children'
ceremonies. This is an inexorable logic of segregation and it is an
unfortunate tyranny against dignity forgetting for the moment, that the
cardinal principle of equality that 'woman is a woman whether widow or
muthaidhua (Married woman), where she has every right to be a woman.
Any deviation from the doctrine of equity is a blatant violation of human
rights, which affects the core of dignity. "Despite the traditional variations,
customs and belief, systems of the society determine the necessity of
ornamentation for women irrespective of the class or status. It is a common
belief among women that wearing jewellery and decorating the hair with
flowers cause longevity of married life". Mangal sutra (the token of
marriage which is a chain made usually of gold with two discs of gold and
black beads etc., attached to it), Mattelu (toe-rings made of silver) and
Gajulu (colourful bangles) are considered to be auspicious. These are
supposed to be worn by married and un-widowed women alone. Widowed
women are not provided with the opportunity of wearing these.40 It is quite
paradoxical that widowers in India are not looked down upon as widows.
Chances of widow remarriage are bleak. She is treated as a maidservant
and required to perform all household duties like cooking, sweeping and
washing floors, cleaning utensils and looking after the children in the family.
Joint family of which a widow happens to be a member rarely provides for
her maintenance and her life is insecure after her widowhood.

While the institution of marriage is sacro sanct divorce on frivolous
grounds and monitory consideration is a blatant area of violation of women's
life and dignity. Right to marriage is an established human right and no body
has a right to dissolve or dilute on greed-based grounds of masculine
domination. The chance of remarriage of a divorcee is very bleak. Even if
maintenance is granted by the court of law the paltry sum upon which she

39 Manasa Chennappa, Prachina Kavyallo Gramina Jana Jivana Chitrana, Hyderabad,
1991 p. 240
40 Andhra Mahabharatamu, Adiparvamu, 4th Canto, Verse 230
41 Section 125, Criminal Procedure Code
cannot subsist. The entire family is forced to live subhuman life suffering at the same time the miseries of sickness, malnutrition and neglect of children. More often than not the children are sent as child labourers to make both ends meet. Society looks down upon a woman who seeks divorce with dismay or disgust. The abhorrence towards divorced woman bordering on inhuman treatment is another area of violation of women's dignity. She is compared to a broken pot. But the same attitude is not shown towards a man where he is considered to be free from social stigmas and can remarry, and beget children. If the woman is barren efforts will be afoot to get the husband remarry. But then, a woman who seeks divorce on the ground of the impotency of her husband and who longs for motherhood becomes an outcaste in any society. The incidence of divorce in India is much below than that of the Western countries. Under the provisions of family laws on divorce and separation a woman can end an abusive marriage. The mischievous pranks played against her by adulterous men and many a time targeting her as an object of seduction, rape and molestation is another side of the coin where she succumbs to these adversities. Her life is a tempest of tragedy.

Divorced, deserted, neglected women become maids as an alternative occupation for livelihood. Ignoring the domestic drudgery, a maid is subject to maltreatment and insults, which is unbecoming of a human being. She is served with leftover food and the cruel treatment meted out to her is worse than that of animals. The pet dogs are held in high esteem but not the maids. She loses her dignity and becomes an object of exploitation. Maids are suspected when any article is missing at home or office. She is harassed even when she is not a culprit. She is undone and at times she loses even that menial job upon which she is subsisting. By and large workplace is the most vulnerable point for exploitation of women. To begin with wage discrimination is a retrograde step against women in male dominated unorganised sector of employment. Comparisons of the work
hours of men and women across geographical regions, show that women work longer hours than men in both market and non-market activities, and that this is especially true of the rural areas. Returning home late in the odd hours from the workplace adversely affects children at home besides the sad commentaries of mischief mongering neighbourhood. The possibility of being chased by miscreants and hooligans like a wild goose in the late hours in the evening cannot be ruled out lock stock and barrel in the context of increasing criminal tendency of offenders. Fellow workers play dastardly dangerous roles of concocting stories against working women who may not be always in a position to defend her innocence. Thus the inherent right to dignity of working women is robbed away by unscrupulous methods employed by offenders and the devious methods of exploitation are seldom taken cognisance by the authorities that are expected to protect her dignity.

Any act or gesture whether directly or by implication, aim at or has a tendency to outrage the modesty of a female employee must fall under the general concept of the definition of sexual harassment. The latest definition of sexual harassment has been suggested by Hon'ble Mr. Justice A.S. Verma in Vishka v. State of Rajasthan. Sexual harassment includes such un-welcome sexually determined behaviour directly or by implication as:

a) physical contact and advances
b) a demand or request for sexual favours
c) sexually coloured remarks
d) showing pornography
e) any other un-welcome, physical, verbal or non-verbal conduct of sexual nature where any of these is committed in circumstances where under the victim of such conduct has reasonable apprehension that in relation to the victims

42 Romi Borooah, Kathleen Cloud, etc. Capturing Complexity, Sage Publications, New Delhi, 1994, p 253
43 AIR 1997 (6) SCC 241
employment or work whether she is drawing salary or honorarium or voluntary or whether in Government, Public or Private enterprises, such conduct can be humiliating and may constitute a health and safety problems. It is discriminatory for instance when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raise any objection thereto.

On the analysis of the above definition, sexual harassment is a form of sex discrimination projected through un-welcome sexual advances. Placing indent for sexual favour by way of verbal or physical conduct of sex crimes either directly or indirectly and creating a hostile working environment for her. The judiciary has taken cognizance of this offensive behaviour and landmark judgments have been pronounced from time to time keeping in view the vulnerability of victims of sexual harassment.

Two nurses of Bara Hindu Rao Hospital were molested and harassed by the senior doctor of the hospital in March, 1992, there was an agitation by the nurses demanding justice. But like many other cases of harassment this case died a natural death. Another case which generated much controversy was in October 1989 when Mukti Dutta, Secretary to Jan Jagran Samiti was harassed by the then Union Minister of Environment and forest Z.R. Ansari in his private office in Paryavaran Bhavan. Ansari was arrested but later released on bail. On August 8, 1989, the speaker of Goa Assembly Dayanand Nargvedkar sexually harassed a 19 years old

44 The Hindustan Times, March 20, 1992
45 Times of India, October 21, 1989
employee Sunita in his chamber. Rupan Deol Bajaj, a senior officer in Indian Administrative Service, accused the then Director General of Police K.P.S. Gill of sexually abusing her at an official dinner party. This case made the headlines. Mrs. Bajaj also said that silence only help the culprit to continue with the same kind of behaviour.

In Apparel Export Promotion Council v. A.K Chopra case the definition of sexual harassment given in Vishaka Case was applied. The respondent tried to sit close to clerk-cum-typist and touch her. In this case it was held that physical contact with the female is not an essential ingredient to constitute a charge of sexual harassment. Any action or gesture whether directly or by implication, aims at or has the tendency to outrage the modesty of a female employee falls under the general concept of sexual harassment. The court opined that the contents of fundamental rights guaranteed under the Constitution are of sufficient amplitude as to encompass all facets of gender equality, including prevention of sexual harassment and abuse and the courts under the Constitutional obligation protect and preserve the rights. The court further added that the International Covenant on Economic Social and Cultural Rights contains several provisions, particularly important for women. Article 7 recognises her right to fair conditions of work and reflects that women shall not be subjected to sexual harassment at the place of work, which may vitiate the working environments. Therefore courts are under an obligation to see that the message of the international instruments is not allowed to be drowned. In cases involving violation of Human Rights, the courts must forever remain alive to the international instruments and conventions and apply the same to a given case. While dealing with the feasibility of the international conventions, it has been pointed out by the court that unless and until it is accepted by legislature through parliamentary pronouncements. The judiciary in general is not bestowing much attention

\[46\] Indian Express, September 2, 1989
\[47\] Times of India July 20, 1998
\[48\] AIR 1999, SC.1
on and treating women’s provinces as a separate one. There by in whatever way it is tried, its attempt was purely half-hearted. There by the attitude of judiciary looks as if protecting in Constitutional matters but supporting patriarchal attitude and other matters. Tasneem Sheikh Suhail, lecturer, complained that her Vice-Principal and Head of the Department has kissed her. After making this complaint she had to battle with memos demotion and deprivation of examination work and inconvenient timetable.49

Sexual harassment50 in a work place is a serious and widespread problem. Millions of women are confronting several inexplicable miseries at working environment, which is polluted by sexual misconduct. Such a conduct interferes with their job performance and their working relationship with fellow workers. Their dignity, safety and health are at stake. There is no doubt that sexual harassment undermines the dignity of women; it also implies that their working environment is less favourable than that of men. This immoral and illegal interference would have detrimental long-lasting adverse effects on the victims of sexual harassment. Sexual harassment includes all forms of conduct designed to sex, annoy, or bother another person by means that fall short of serious physical injury or threat thereof.

Sexual harassment has recently come into focus as a cause for concern throughout European Union, which led the European Economic Community to adopt a series of instruments relating to sexual harassment at work.51 In United Kingdom, Sex Determination Act, 1975 prohibits discrimination on the ground of sex Stratchlyde Regional Council v. Parcelli52 is a landmark case in the British law on sexual harassment. In this case, a

49 Roma Mukherjee Dr. In her article entitled “Statutory protection to women in India” Indian Bar Review Vol.25 (2)1998 p.74
50 Janet Dine and Bob watt, ‘Sexual Harassment: Moving away from Discrimination’, 58 Mod L. Rev, 1995 p. 343-63
52 1986 ILR 134
female employee was sexually harassed as a part of campaign to drive her to leave the school. She was subjected to suggestive remarks and deliberate physical contact but no sexual favour was sought. Mrs. Porcelli opted for transfer to another workplace and also filed a claim that she had been discriminated against contrary to the provisions of the Sex Discrimination Act, 1975 and that the employers were vicariously liable. The Industrial Tribunal rejected her claim by accepting defense that the behaviour was non-sexual in nature; women would have harassed a man in the same manner to make him leave the job. Appeal filed against the judgment was allowed. It was held that the campaign was based on sex of the victim, which could not have been used against an equally disliked man. Thus there is sexual harassment if the victim is harassed and the sex of the victim is a factor in it, it is not necessary that the harassment itself is sexual in nature.  

Sexual harassment of workingwomen is generally argued to be employment discrimination based on gender. Sexual harassment is one element of the systematic discrimination faced by women who seek to enter into and maintain paid employment, job segregation, poor pay and working conditions are some of the disincentives for women to participate fully in the labour market. In order to establish that harassment created an abusive working environment, the harassment must be sufficient ‘to interfere with plaintiff’s ability to perform her work or significantly affect her psychological well-being. In India the development of law on sexual harassment is of very recent origin. The cases such as Vishaka & others v. State of Rajasthan and the subsequent case Apparel Export Promotion Council v. A.K. Chopra deals with sexual harassment. The latter case has followed

54 Catherine A. Mackinnon, ‘Sexual Harassment of Working Women’, Yale, New Haven Connection 174, 1979
56 Poroline v. UNISYS Corp (4th Cir, 1989) 897 F 2nd p.100
57 SCC 1997 (6) p.241
58 SCC 1999 (1) p.759
Vishaka in which a three Judge bench of the Supreme Court, by a rather innovative judicial law making process issued certain guidelines. The Court has stepped in where both the Executive and Legislative actions were lacking. The anxiety of the Court to develop the guidelines on sexual harassment can be seen from the fact that though Vishaka was a case of gang rape of a social worker in a village of Rajasthan, a case of brutal crime and not strictly the case of sexual harassment, the court still availed the opportunity to develop law on the subject.

The scourge of HIV/AIDS is fast spreading its baneful tentacles at alarming rate. Women become the sacrificial goats at the altar of this monstrous malady for no fault of theirs, because this HIV/AIDS syndrome is not self-acquired but it is the result of extramarital life and sexual proclivities of her husband. She loses her basic right to life and dignity. Her progeny is subject to irrevocable health hazard which is unwarranted by any standards of human judgment. She is segregated, humiliated, tortured in all possible ways rendering her life to live without dignity. Man's disloyalty inspite of women's loyalty is the root cause devastation associated with HIV/AIDS syndrome. She is treated as an outcast and is condemned her to life long suffering. "Due to defective technology or negligence on the part of the doctors, a mere STD may be suspected as HIV. This leads to many social, psychological and other consequences. Isolation may amount to discrimination also followed by the loss of employment."59 "Women are blamed as carriers and instrumental in spreading the disease. Though some of the legal problems are being observed in connection with the latest techniques of identifying the causative virus, a forecast of other legal implications is necessary for an effective handling of the unwanted situation."60

59 Hemalatha Devi, V, Dr. "Legal Implication forecast Vis-à-vis AIDS" AIR Aug 1996
60 Supra 54 P.178
Women in India get lost in the labyrinth of cruel manifestations of masculine atrocities. Every area of violation affecting the dignity of women besides physical threat to life poses grave concern to womanhood itself. It is unfortunate that the sisters and the mothers are not safe even in the broad daylight not to speak of going about in the streets at midnight. This is the bleak picture of violations against women, which has been studied from different angles to explore causes and consequences of the problem.

1.2 SIGNIFICANCE OF THE PROBLEM

Dignity of women is one of the veritable challenges of 21st century in the realm of Human Rights. More than five decades ago the Indian Constitution guaranteed social, economic and political justice, liberty, equality and fraternity assuring dignity for all men and women. The institutions with a plethora of laws governing women's status have been fighting tooth and nail. But they proved ineffective in their implementation. Dignity of women remained a mirage and still women are living in subjugation, silently suffering the indignities heaped on them. "In a masculine legal system men have human rights but women have them writ in water. The police are men too! Their investigation bears gender bias, their custodial process betrays criminal manifestations. Even the prison keeps women insecure. For them, the constitution is counterfeit until gender justice turns militant, strident and honest61. Constitutional provisions, judicial pronouncements, conventions and conferences have been focusing women's issues both at national and international levels, emphasizing the need to give them their due place in society and family. However concrete results have not been achieved. There is a great deal of scholarly concern about the status of women, but tangible research work in terms of dignity of women is deplorably limited. It is high time that the researcher has taken up this neglected area for in-depth socio-legal analysis. There is an immense

61 Supra
need for the study of 'dignity of women' by focusing the problem in 'human rights perspective' and expand its scope. The bottlenecks in the implementation of the laws and the incorrigible attitudes are significant factors, which have been eroding the dignity of women. And it is at this juncture thorough research is quite significant and indispensable to revamp the entire system. There is necessity for an exclusive study of dignity of women in India in view of diversified socio-economic, political and cultural spectrum where women in India are targets of vilification and victimization. Therefore, this study makes all the difference and the innovative idea of dealing dignity of women in human rights perspective is in itself is a rewarding experience because it is trying to explore the vortex of the problem. Bridging the gulf between promise and performance in relation to the role of judiciary as fiduciary is crying need of the day, taking in to account the stark ground realities and innate antagonism against women.

1.3 OBJECTIVES OF THE STUDY

Time past and time present are both present in time future. The indignities heaped upon women either in the distant past or in the present have been noticed from time to time but tangible action has not been initiated in socio-economic fabric through the mandate of Statues and through implementation machinery. There was no institution worth its name to mitigate, minimise inhuman behaviour in the male dominated society in India. Discrimination and exploitation in any form shall not exist in a just and the civilized society in conformity with the canons of the rule of law. The United Nations affirmed its faith in the preamble, "the dignity and worth of the human person as well as in the equal rights of men and women." The researcher with all the gushing concern for tragic plight of women tries to see the darkest corners where women suffer in silence and the miserable plight from which she is unable to extricate herself out from the slough of despond. The atrocities perpetrated by society on women have been increasing at
alarming rate and women have reconciled to indignities even at the cost of their life.

Therefore the researcher has taken up the study to analyse and examine the direct and indirect socio-legal facets of women's dignity by expanding the scope of the problem covering in its ambit the entire gamut of socio-economic exploitation and 'commoditisation of women' in the context of current trends of socio-economic and legal framework. Accent is laid on different aspects of women's life in the backdrop of diversified cultural, traditional, conservatively rigid linguistic, literary, and religious practices in India. Therefore the researcher tries to carry his mission by the analytical study of human rights of women based on historical perspective, theoretical issues, conceptual analysis, case analysis, Constitutional, legal and such other statutes. Therefore the principal objectives of the present study are:

- To analyse the indignities heaped on women as a multidimensional problem
- To examine the status of women both in and outside the family life
- To analyse the dignity of women in the Human Rights perspective
- To review the various aspects of dignity of women in the light of international conventions, conferences, declarations, treaties in general and Indian Constitution in particular
- To examine and identify the inadequacies in the existing legal and statutory framework both at national and international plane
- To evaluate the implementation of statutes and functioning of institutions pertaining to the protection and promotion of women's status
- To study the judicial precedents, opinions, statements, reviews and adjudication reports of quasi-judicial and administrative bodies for the dynamic understanding of the status of women in the changing social order
To expand the scope of the dignity of women and to redefine the term 'dignity' in the context of current socio-legal trends.

To suggest remedial measures for socio-legal deficiencies to uphold the dignity of women and to substitute panacea in the place of ad hoc palliatives.

This study is an earnest attempt to examine whether, within the constrained sphere of patriarchal domination, there are any spaces within personal laws and customary practices of Hindu religion, which women could negotiate to protect their human rights. A close examination of Indian history, culture, tradition, usages, customs, religious practices, Vedic laws, superstitions juxtaposing them to the ancient, medieval and modern trends of rights to arrive at the reasons for pitiable plight of women in India in general and their right to dignity in particular. After identifying the stumbling blocks in the long march towards the dignity of women an attempt has been made, how status of women can be improved in the context of current trends noticeably recognised as standards propounded and promoted by international human rights agencies. This study is an attempt to offer solutions for improvement of the conditions of women and augment their status.

1.4 SCOPE AND LIMITATIONS OF THE STUDY

The present study is a socio-legal analysis to redefine the status of women in general and dignity in particular. This is an attempt the first of its kind in the dynamics of women’s human rights. This goes a long way for extricating women in India from the rut of violence, and thereby upholding the dignity of women. This humane approach will not only widen the scope of dignity of women but also brings manifold blessings to the aggrieved women of India as the connotative contours are redefined in her favour. Multifarious problems confronted by women and their rights are vast areas of
study and research. Of all the rights for which women have been fighting, 'right to life' is vital. Right to life implies right to live with human dignity. The beaten track of empowerment of women in terms of social, political and economic development does not assure dignity. Incorporeal right to dignity is the nucleus of right to life and liberty of women. Therefore an earnest attempt is made to limit the scope of the study to the 'dignity of women in human rights perspective'. The meaning and the scope of the term 'dignity' of women is studied with special reference to India in the context of kaleidoscopic mosaic of cultural, traditional, historical, religious, customary, attitudinal, behavioural, linguistic, literary, latest science and technological traits. It is an exclusively, socio-legal analysis. This study tries to explore not only the shortcomings of patriarchy as against matriarchy but also the perennial cold wars and domestic violence in almost all the family units in India between matriarchy and matriarchy. The study is confined to India.

1.5 METHODOLOGY

The problem is selected keeping in mind the significance and impelling need to explain the status in general and expand the scope of dignity of women in particular in the present day context. In the legal research the most suitable method is the hypothetico-deductive method. The nature of the problem being a socio-legal, it is not possible to study it by purely experimental method. The analysis of legal texts is undertaken within the framework of feminist jurisprudence. Although the study is primarily a legal exploration, the legal discourse is located within historical developments and contemporary political events and therefore acquires an interdisciplinary flavour. Hence doctrinaire method is used for the study because law is a social science, and the problem at hand deals with the socio-legal dimension of dignity of women in India.
The relevant material is collected from the primary and secondary sources. Material and information is collected from both vertical and horizontal sources i.e., both legal and non-legal sources, like law books, journals original judgments of the Supreme Courts, High Courts, Reports of women’s Commission, Law Commission, Committee on the status of Women, National women’s Commission and National Human Rights Commission. Recommendations of statutory agencies, documents, other periodicals, reports and relevant matter published in news papers, material from different books, reports, journals, statistical data and the other required information from different related disciplines like economics, sociology, and political science. A suitable model for effective implementation of the statues is developed using the material collected and analysed.

1.6 HYPOTHESIS

- Impact of culture, tradition, religion, language, and commercial practices has been the main reason for degradation of the dignity of women.
- Erosion of ethical norms and human values, which has an impact on human behaviour and attitudes, affects the dignity of women.
- Half-hearted legislations and biased governmental policies failed to uphold the dignity of women
- Limitations of the judiciary in its liberal interpretation of legal issues of women leads to degradation of women’s dignity
- Improper and ineffective implementation of laws by the executive is a hurdle for maintaining the dignity of women
- Dignity of women is a major casualty in the context patriarchal domination.
A detailed review of literature has been done on the research problem with the help of authenticated published works, classical religious books, statutes, reports, periodicals, journals, text books, news papers and websites relating to Human Rights and the problem of dignity of women. The review is done on the status of women in general and the dignity of women in particular so as to redefine the term 'dignity' in its expanded scope.

Justice V.R. Krishna Iyer in his book entitled Human Rights and the Law (1984) with refreshing fearlessness and passion for socio-spiritual betterment explores men and matters, issues and themes, displaying a deep commitment to humanity. The author has rightly examined the inter-action of law and social change in the context of Indian legal system. He has gone beyond and written with zeal and amazing originality on a panorama of subjects. This work is a combination of stimulating scholasticism and sparkling style.

R.C. Hingorani's work Human Rights in India (1985) shows how for international human rights are observed in the Indian context. This book classifies rights and examines the Constitution of India to assess the availability of these rights to Indians. It is observed that the author did not emphasize the judicial activism in this field. It only presents an overview of rights guaranteed to Indians.

Report of the Core Group set up by the Department of Women & Child Development's work, National Perspective Plan for Women 1988-2000 discussed the important events, and the aspect which influenced the status of women in India. It is proposed to provide a long term overall policy for Indian women, guided by those constitutional principles and directives relevant to the development process. The plan views women not as the
weaker segment of society or passive beneficiaries of the development process, but as a source of unique strength for reaching national goals.

H.O Agarwal in his work, Implementation of Human Rights Covenants (1983), examines international standard for the protection of human rights and then compares them with that of Indian standards. In this regard, it throws light upon how there is a difference of theme reality. It enumerates those Fundamental Rights, which have been enshrined in Part III of the Indian constitution. Besides this, it also enlists those rights which are available to the citizens of India by liberal interpretation of Article 21, which otherwise are not specifically mentioned in the Constitution. This material is quite useful for expanding the scope of the dignity of women.

Haleh Afshar & Fatima Alikhan, Empowering women for development (ed. 1997) gives an overview of the success of women’s movement over the past twenty years and discusses the reasons for the failure of such an extensive period of action to effectively stem the tide of women’s subordination. It discussed the attitudes of planners and politicians, who are overwhelmingly male, still perceive women as weak, undisciplined and eternally bound by motherhood. The work revealed that although the level of women’s economic activities has raised, women’s full participation in the development process and real empowerment is yet to come.

Tom Campbell, David Goldberg, Sheila Mc Lean and Tom Mullen (eds.) in their book, Human Rights: From Rhetoric to Reality (1986), explore ways in which the simple and uncompromising moral imperatives, which are expressed in rhetoric of human rights, may be applied to actual social circumstances in a manner, which can be accurately monitored and adjudicated in courts of law. Whilst the contributors have their own particular views on the analysis and significance of human rights discourse, the extended discussions have given substance to the view that, whatever
institutional arrangements are adopted to protect and further human rights, these cannot operate satisfactorily without some agreement as to the essential purpose of each right.

A.R. Desai (ed), *Violation of Democratic Rights in India* (1986), adequately discusses how far the fundamental rights guaranteed by Indian constitution, the people of India enjoy. A systematic attempt has been made in this book to record the literature, which exposes violation of the legitimate rights of the people against the backdrop of the rights given in the Constitution of India and in the Universal Declaration of Human Rights. The volume also contains the reports of Amnesty International exposing the harsh treatment meted out to the citizens of India by the State. It gives a detailed account of the attacks by the guardians of law by way of police atrocities, encounter deaths, deliberate murders and torture inflicted on the people hailing from different part of the country. This book provides useful data relating to the violations of the right to life in India.

National Human Rights Commission in its *Annual Report 1996-97* reviewed the Human Rights situation after fifty years of Independence and gave a clear report between 1st April 1996 and 31st March 1997. It also covered the issues relating to civil liberties, review of laws, implementation of treaties and other international instruments of human rights, rights of the vulnerable, complaints before the commission and so on which helped the researcher for the clear analysis.


_S.N. Sharma_ in, *Personal Liberty under Indian Constitution* (1990), provides an empirical and analytical study of social perception of the context
and extent of personal liberty in the light of recent judicial policy of liberal interpretation. It also provides a systematic analysis of the correlation between the personal liberty decisions and maintenance of law and order. This book helped the researcher to formulate new dimensions of right to life and personal liberty in the present research.

Theodore Meron's work, Human Rights in International Law: Legal and Policy Issues (1985), is very useful to understand the problem of protection of human rights. It dealt the areas like civil rights, constitutional law, international organizations, international relations etc.

Granville Austin's study, The Indian Constitution: Cornerstone of nation (1966), has very effectively explained the sequence of events during the freedom struggle and how an agreement on the need for having fundamental rights for the Indian people was arrived at.

A.V. Dicey in his famous work, The Law of England (1961), attributes narrow meaning to the concept of 'Personal Liberty'. Besides this he also explains the implications of 'Rule of Law' as applied in U.K.


M.P. Jain in his book, Indian Constitution (1978), has devoted his energies to explain the legal interpretation of various provisions of the Indian Constitution. It also helped the researcher to systematize the judicial decisions on this subject.
H.M. Seervai, in his treatise, *Constitutional Law of India* (1975-79), deals with the subject of personal liberty in full detail. However, it is devoted to legal interpretation purely from the legal point of view.

*Upendra Baxi, The Crisis of the Indian Legal System* (1982), explains that Indian legal system is ineffective and insufficient taking into account the courts, the police system, the prison system etc.

*Warwick Mc Kean’s* book, *Equality and Discrimination under International Law* (1983), is a history of the development of the principles of equality and non-discrimination since the end of First World War. It addresses itself particularly to questions of discrimination on the grounds of race, sex, language and religion.

*G.S. Bhajwa*, in his work, *Human Rights in India, Implementation and Violations* (1997) gave very detailed account of implementation and violations of human rights in India. This book objectively evaluates the constitutional measures adopted by India for implementation of Human Rights choosing the Universal Declaration of Human Rights and the International Covenants in human Rights as the principal yardstick of compliance. It also evaluates the role of judiciary for implementation of Human Rights in India.

*Kusum*, in her work *Women, March towards Dignity: Socio-legal perspectives (ed)* (1993) explained the various factors, which affect the dignity of women in the country from different perspectives. The editor has also included important areas of socio-legal aspects.

Emphasis was laid down on the gender discrimination and the principle of equality of status and opportunity.

B. Suguna, in her book *Working Women and Religion* (1994), analysed the Constitutional safeguards and social legislations passed to improve the status of women, and it is said that women in India cannot be regarded as being emancipated from the old traditions and customs detrimental to the flowering of their personalities. The impact of religion, socio-economic conditions on the status of women was discussed.

*Malladi Subbamma*, in her book *Status of Indian Women* (1994) explained the social, legal, political and economic status of women. She has also thrown light on women in religious culture, and discussed various problems relating to women including the Human Rights of women.

*Janet Saltzman Chafetz*, in his book *Gender Equity: an Integrated Theory of Stability and Change* (1990) dealt the problem of female disadvantage i.e., gender stratification. The status of women in the recent decades was thoroughly discussed.

A.S. Altekar, in his work *Position of Women in Hindu Civilisation (From Prehistoric to Modern Times)*. (1962) points out, "to understand any given civilization in its fullest sense and to realize its limitations and excellencies, it is essential to study the position of women and their status in it". The study gave a comprehensive idea about the historical aspects of women in Hindu Civilisation.

P. Sudhir, in his work *Reconstructing Women's history: Problems and Paradigms* gave a detailed account of oppression and gender inequalities and suggested to construct a more human and humane society. The question of subordination of women, social inequalities between men and
women, oppression and patriarchy are shown as natural factors. It was argued for placing women back in history and giving them their lost place and identity.

*Indira J. Parikh*, in her book *Indian Women: An Inner Dialogue* (1989) attempts to articulate the feelings that women often hold within. It attempts to capture their inner lives and experiences. This book speaks of women from all walks of Indian life.

*Muniza Rafiq Khan*'s *Socio-legal status of Muslim Women* (1993) discusses the status of Women in Islam. The book covers in its ambit the matrimonial relations, social position, legal status and rights and privileges in economic matters. It also covered the provisions relating to divorce and so on.

*P.Nirmala Bhai* in her work *Harijan Women in Independent India* (1986) discussed the concept of Status, status indicators, and education vis-à-vis status, occupational status that made the researcher understand the status in various domains of women's life in general and Harijan women in particular.

*Kiran Devendra* in his work *Status and Position of Women in India with special reference to women in contemporary India* (1990) illustrated the position and status of middle classes. Chapter III of his book lays stress on the position of women in workplace and circumstances of destitution. It also states that the politico-legal framework of a society indicates the scope of rights and obligations of its members. It covers the data relating to the workingwomen in Indian industries.

*Prabhati Mukharjee*, in her work, *Hindu Women: Normative Models*, (1978) is a commendable work, which focused on the theory on ideal
Womanhood. It studies the nature of women in detail and gives an overall picture about the ideal womanhood.

K.D. Gaur in his article published in Indian Bar Review *The poor Women: Victim of dowry, Bride Burning and Sati: a Socio-Economic Malady: Need for Change of Attitude* (1995) briefly discusses one of the most unfortunate social maladies prevailing in Indian society leading to dowry murders, suicides, bride burning and sati which gave the researcher an understanding of how the poor women are being subjected to the violation of their basic human rights to life and personal liberty.

Naoren Sanajaoba in Chapter 6 of his book *Human Rights Principles, Practice and Abuses* explained how cultural tradition; and history violated woman's human rights. It discussed various rights enshrined in the Indian Constitution. It gives an account of medical tests v. women's rights, violation of women's rights in a world-wide perspective, house wives and torture, police torture and woman and so on.


B.P. Singh in his work *Human Rights in India: Problems and Perspectives (ed)* (1999) gave various explanations by different personalities and Shastras on women, explaining the importance of women.

Alnasir M.A in his work *Human Rights in India: Problems and perspectives (ed)* (1999) dealt the human rights and female foeticide, abortion and also discussed the status of unborn child. He condemned sex determination, which leads to female foeticide and also threw light on trading
business in abortion. The work suggested the need of social revolution and mass movement that completely changes the attitude.

B.R. Nanda (ed), *Indian Women from Purdah to Modernity*, (1990) discussed the status of Muslim women and social change and examined the status of Muslim women in India, neither in relation to Hindu women prior to the enactment of the Hindu code Bill, nor in relation to the status of the women in Arabia with the advent of Islam, but in the context of the ideals of equality and social justice, the ideals to which the International Women's Year has been dedicated.

Sakuntala Narasimham, in her book *Empowering women: An Alternative Strategy from Rural India* (1999) provides an empirical and analytical study in terms of every set of indices of development and socio-economic status, that women have fared worse than men, in all regions and in all strata of the population. It also shows that in work, employment, earnings, education, health status and decision-making powers, there is the clear difference between male and female entitlements.

Neera Desai *Women in Modern India*, Vora & Company, Bombay, 1957 in her work on women in a more descriptive fashion covers the entire life of women during the period immediately preceding and succeeding the British rule.

C.A. Hate, *Changing status of Women*, allied Publishers Private Ltd.; Bombay 1969 too applied a kind of synthetic approach in her work in the changing status of Indian women in a more general manner through a multipurpose survey.
1.8 SCHEME OF THE STUDY

The present study is an exclusive analysis of women's rights in human rights perspective, encompassing different facets of the dignity of women in India. The study is divided into six chapters to give a comprehensive profile of the dignity of women in India.

First Chapter narrates the conditions of women in Indian society and human rights issues. This chapter covers introduction, significance of the problem, objectives, scope, limitations of the study, methodology adopted, hypothesis framed, review of literature and schematic presentation of the study.

The Second Chapter examines the status of women in historical perspective in ancient, medieval and modern periods with a detailed account of human rights issues entailed to gauge and assess the plight of women in India. The impact of tradition, culture, religion, language, literature, attitudes, and concomitant areas of suppression are thoroughly discussed in the historical background.

The Third Chapter deals with conceptual framework and theoretical perspective. It covers the concept of human rights, the nature of human rights, universality and their indispensability for human flourishing. It also covers, human rights and gender ideology, the other human rights of women, recognised and unrecognised in the political Constitutions of different democratic societies. Women's human rights are examined in general and the right to dignity in particular in the light of UN, international institutions and instruments championing the cause of human rights.
The Fourth Chapter deals with an analysis of the theoretical perspectives and examines the adequacy of the Constitutional provisions, other political and social institutions in protecting the rights of women.

The Fifth Chapter is an analytical study of the role of legislature, executive, and judiciary in protecting the rights of women emphasising the role played by the judiciary as it bears the responsibility of enforcing the Constitution, on behalf of the citizen, against the executive and legislative branches. The role of commissions, tribunals, media, women's organization and other agencies has been examined to evaluate the interpretation of dignity of women in its expanded scope.

The Sixth Chapter brings out the "Conclusions and Recommendations" deriving from the analysis advanced in the preceding chapters with a fervent hope that they may be useful to the legislature to make stringent laws, executive to implement the laws effectively and judiciary to interpret the true intentions of the legislature in upholding the dignity of women.