

“BOASTING LAW AND BEFUDDLED JUSTICE” - WOMAN – A LION IN THE WHELP

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*“Who are you to solve women’s problems? Are you the Lord that you should rule over every
widow and every woman? Hands off! They will solve their own problems.”*

- Swami Vivekananda, Education for Character (III. 246)

ABSTRACT

Human culture deserves attestation only when ‘homo sapiens’ are freed from his animal ancestry; and is accredited when the full humanity of women becomes the culture of masculine world. Cultural relativism disapproves of universal rights of women (including the girls) across the globe. Religious moralists numb the feministic power with the opium of eulogy and philosophical gentry embalm the bruises of woman with soothing sermons. Gone are days of tricks and tantrums. Women today are running fast on land, flying high in the sky and moving to Mars and Venus and diving deep into the oceans of societal hysteria for rekindling obsolete, odd and weird piety of morality which are also measured by gender.

Right to be born is sermonized with religious rhetoric at the cost right to choose of victimized woman; despicable discrimination from cradle to the grave; denial of access to equality in education, nutrition and health; rubbing social need ruse for child marriages; exposure to sexual exploitation and demeaning by prostitution etc., have become the exclusive battle-field to bleed for justice with the association of impotent laws.

When culture becomes vultures for vivacious woman, the need of the hour is to break the megalomania of patriarchal philosophy – to begin with snatching exactly half of the legislative power, executive empire and judicial jade; not through elusive reservation but by a claim of

reparation. This article intends to highlight on the slow rectificatory tactics of governance in the application of 'equality before law' in all spheres of feminine life.

LAW FOR WOMEN OR WOMEN FOR LAW

An ordinary man having only common sense but nothing, having observed the cupidity of human race understandably states that 'Law deals with only two things – Woman and Wealth' and there is no need of law for any other thing. This may sound intriguingly hypothetical or conjectural but it is not far away from reality. Modern civilization revels in utopian process that woman is a thing and wealth is everything forgetting that both are gifts of God but not man-made. Human race is missing humane culture inviting weird and bizarre artificiality terming it as intelligence. Justice Krishna Iyer, an embodiment of "People's Justice" alerted that - 'The crescendo and diminuendo of cultural history, the ebbs and tides of civilization and the rise and fall of compassion and humanism, have their roots in the fluctuating evolution of 'homo sapiens' from his animal ancestry.'ⁱ

Close on the wheels of Krishna Iyer's kinetics, Chimamanda Ngozi Adichieⁱⁱ, asserted with audacity that - "Culture does not make people, People make Culture. If it is true that the full humanity of women is not our culture, then we can and must make it our culture."

She maintains that Gender matters everywhere in the world, but it is time for us to begin to dream about and plan for a different world - A fairer world - A world of happier men and happier women who are truer to themselves.

On the question of using the word 'feminist' instead of "a believer in human rights", she softly responded in the dignity and honesty of women, that no doubt feminism is part of human rights, which term is vague expression denying the specific and particular problem of gender; and it would be pretentious to say that women have not been excluded for centuries and that is a way of denying the problem of gender targeting women. She insists that the problem is not about being human, but specifically about being a female human. For centuries, the world divided human beings into two groups and then proceeded to exclude and oppress one group. It is only fair that the solution to the problem should acknowledge that.ⁱⁱⁱ

Human culture deserves attestation only when ‘homo sapiens’ are freed from his animal ancestry; and gets accredited when the full humanity of women becomes the culture of masculine world. Cultural relativism disapproves of universal rights of women (including the girls) across the globe. Religious moralists numb the feministic power with the opium of eulogy and philosophical gentry embalm the bruises of woman with soothing sermons. Gone are the days of tricks and tantrums. Women today are running fast on land, flying high in the sky and moving to Mars and Venus and diving deep into the oceans of societal hysteria for rekindling obsolete, odd and weird piety of morality which are also measured by gender.

‘The uplift of the women, the awakening of the masses must come first, and then only can any real good come about for the country, for India’ said Swami Vivekananda.

Referring to CEDAW provisions^{iv} Chief Justice Verma in Vishakha’s case^v explained that – “The international conventions and norms are to be read into (the fundamental rights guaranteed into the Constitution of India) in the absence of enacted domestic law occupying the field when there is no inconsistency between them. It is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic law.’

Considering General Recommendation 19 of CEDAW as a persuasive norm, our apex court applied a universal norm giving content and meaning to our constitutional principles, forging a path for other courts to follow the use of international norms as interpretative guides in giving substances to their own constitutional principles. Thus, the Court began a promising dialogue with other domestic courts and with international law.^{vi}

It is further observed that the Court’s initiative and vision give reason to think that other international norms could be similarly particularized in addressing other affronts to human dignity, such as the neglect of preventable causes of maternal death and illness, and of the conditions necessary for ensuring safe motherhood.^{vii}

It is ironical that the spirit of Vishaka’s decision of the apex court appears to be facing sick survival either due to the subsequent silence of judicial activity in the domain of women rights, or due to the poor memory of other stake holders like lawyers and women victims. Legislations

like The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 vindicate those laws stand for women, but the statistics of escalated criminality against women denote that woman and their issues contribute to a greater number of laws. Laws alone may not provide complete redressal to the women problems nor act as panacea for all social evils.

There are two propositions that are conceptually at odds with one another:

The first proposition is that law alone is a weak instrument for enhancing social conditions, and also has serious limits in eradicating social problems. As part of its social function, law outlines conditions, punishes crimes, and states needs which are embedded within individual rights, but legislation by itself does not provide any explanation for its existence, nor does educate to create awareness and change, in view of myriad cultures in our country which impact individual and group behavior, in this context law alone is sometimes an ineffective tool for development.

The second proposition is that law has a utilitarian function to provide and maintain equity and equality among people and genders. Without a unified code (such as an Equality or a Sex Discrimination Act) that allows each contender to claim the same quality of rights, it is practically impossible to guarantee and enforce equal treatment of both genders. Personal laws further complicate the issue.

On one hand, these laws are protected by the Indian Constitution to avoid a top-down legislative approach, which would not be recognized as legitimate by the general population. On the other hand, such varied cultural 'legislation' needs to be harmonized under a general equality law, in order to bring basic norms, rights, duties and obligations into play that would also cover and protect those parts of the population that currently do not have these protections, due to the operation of personal laws.

One of the reasons for the gap between theory and practice is the long and self-sustaining tradition of oppression of women in our society. It should be noted that human rights cannot be infused into the communities by force; first they must be educated to realize that human rights are part of their values and culture, and to take assistance of legal system whenever needed. For realizing desired results, both the social programs and law should proceed hand in hand with all strength and synergy for effective operation.^{viii}

"Human rights are women's rights and women's rights are human rights, once and for all." - Hillary Clinton. Unfortunately, many of the women do not know their [rights](#).

We live in a world where goddesses are worshiped and women get tamed, harassed, abused, raped, and kidnapped every single day.

Keeping a check on a number of women-related cases, the government of India provides crucial rights to Indian women like Right to Equal Pay, Right to Dignity and Decency, right against workplace harassment, right against Domestic Violence, right to keep their identity anonymous in case of sexual assaults, Right to Free Legal Aid, not to be arrested at Night, right to register virtual complaint, right against Indecent representation, right against stalking and Right to Zero FIR.

CONSENT CAPTIVATING AUTONOMY AND MARITAL PLEASURE

Consent at times becomes controversial both in civil and criminal law. Consent is held to be the guardian of autonomy and fundamental to create contractual obligations between persons. Touching other's body without consent results in offence of assault or battery whether it is in a doctor – patient relationship or between man and woman relationship. In marital relationships, consent is creating new interpretative dimensions. Woman's consent for entering into a matrimonial relationship is made too formal in Hindu law since marriage is a religious sacrament, which impliedly denies a right to say 'no' particularly to wife. But, now forced sex in marriage is an extreme form of domestic violence on the principal gender equality.

Sec. 375 of Indian Penal Code permits a license to husband to rape his wife above 15 years through forced sex under marriage law. There is a legal nuance in such situations. Marital rape occurs in all types of marriages regardless of age, social class, race or ethnicity. But the legal immunity of the husband for the said act demonstrates the outdated theory that wives are treated as property of their husbands; and endorses the husband's prerogative to have sex with his wife, which remained unchallenged for a long time^{ix}.

Recently, Justice NK Chandravanshi gave an appalling ruling reiterating that sex or any sexual act performed by a husband is not rape, even if it is done by force and against the wife's wishes. The Kerala High Court gave a contrary opinion and observed marital rape to be valid

grounds for seeking divorce. However, the fact that India is one of the only 36 countries to not criminalize marital rape yet, is a brazen reality hindering the criminal discourse of our country.^x

The Supreme Court in the landmark cases of *K.S. Puttaswamy v. Union of India*^{xi}(and *The State of Maharashtra v. Madhukar Narayan*^{xii} ruled that sexual privacy is a fundamental right of all citizens and forced sexual act would be a clear violation of this right. These preceding judgments make no distinction between the rights of married and unmarried women, and there is no contrary judgment establishing that marital relationship abridges an individual's right to privacy.

The concept of marital rape has been engaging the attention of the general public and different views are forged some hailing the proposition to consider forced sex in between wife and husband as marital rape with suitable penal sanctions, and some dissenting such legal intervention in the marital affairs.

Legislative amnesty to marital rape continues to survive in the statute book despite a gamut of decisions by the Supreme Court upholding the bodily integrity and privacy of women.

The right to bodily integrity was recognized in the context of privacy in *State of Maharashtra v. Madhukar Narayan Mardikar*^{xiii}. Here, the top court observed that no one has a right to violate the person of anyone else, including of an “unchaste woman”.

In *Suchita Srivastava v. Chandigarh Administration*^{xiv}, the top court backed a “woman's right to refuse participation in sexual activity or alternatively the insistence on use of contraceptive methods”. The court has held that “rape is not only a crime against the person of a woman, it is a crime against the entire society”.

In *State of Punjab v. Gurmit Singh*,^{xv} the court voiced the extent of trauma suffered by a rape survivor, saying “a murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female.”

Even though the Supreme Court, referring to the Justice Verma Committee's recommendation on marital rape, pointed out to enact a law on that, there is no positive response from the legislature. Moreover, there are contradictory and conflicting judicial opinions from various courts. Justice Verma in his report, referring to myriad case law of different countries, emphasized that that “a rapist remains a rapist and marriage with the

victim does not convert him into a non-rapist” and recommended for considering marital rape an offence. “A marital or other relationship between the perpetrator or victim is not a valid defense against the crimes of rape or sexual violation. The relationship between the accused and the complainant is not relevant to the inquiry into whether the complainant consented to the sexual activity. The fact that the accused and victim are married or in another intimate relationship may not be regarded as a mitigating factor justifying lower sentences for rape,” the committee had advised the government unsuccessfully^{xvi}.

Marital rape immunity has been withdrawn in many foreign jurisdictions;

“Marriage is in modern times regarded as a partnership of equals, and no longer one in which the wife must be the subservient chattel of the husband” said the House of Lords in England and Wales in 1991.

The European Commission of Human Rights in *C.R. v. UK*^{xvii} had concluded that “a rapist remains a rapist regardless of his relationship with the victim”. Canada had repealed provisions in the Criminal Code which denied criminal liability for marital rape in 1983. South Africa criminalized marital rape in 1993. In Australia, the common law ‘marital rape immunity’ was legislatively abolished in all jurisdictions. The judges found such protection to the husband “offensive to human dignity” and “incompatible with the legal status of a spouse”.

In *Eisenstadt v. Baird*^{xviii}, the U.S. Supreme Court had observed that a “marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional makeup.”

‘A rape that actually occurs cannot legislatively be simply wished away’ said Justice Verma Committee Report of 2013.

We are still hopeful that our lawmakers will be blessed with realization of the need to enact marital rape as an offence.

A learned and popular women activist Mythily Sivaraman observed that ‘Women’s oppression is integrally linked to capitalism’^{xix}

RIGHT TO AUTONOMY VS RIGHT TO BE BORN

Forbidding Fetus – Cruelty against Unborn

'Children are the priceless assets of any human society' the torch bearers of future civilization and creative development of human personality unfolding the cultural richness, social, ethical and aesthetic values. Human rights for children exist not only after entering into this mundane world but even while in embryonic form in the womb of mother. Some perverted couple entertain diabolic thought of nullifying the life of the child in womb itself, not allowing even to cry for birth which is an abominable aberration of so-called civilized humanity sans culture and compassion.

Fetal rights are the [moral rights](#) or [legal rights](#) of the human [fetus](#) under [natural](#) and [civil law](#). The term 'fetal rights' came into wide usage after the [landmark case Roe v. Wade](#)^{xx} that legalized [abortion](#) in the United States in 1973^{xxi}.

The concept of fetal rights has evolved to include the issues of maternal [substance use disorders](#), including [alcohol use disorder](#) and [opium use disorder](#).^{xxii}

The only international treaty specifically tackling fetal rights is the [American Convention on Human Rights](#) which envisages the [right to life](#) of the fetus. While international [human rights](#) instruments lack a universal inclusion of the [fetus as a person](#) for the purposes of human rights, the fetus is granted various rights in the [constitutions](#) and [civil codes](#) of several countries. Many legal experts believe there is an increasing need to settle the legal status of the fetus.^{xxiii}

As already explained in the earlier chapter-III about female feticide and infanticide, the issue has become an international concern and a national hotbed. The judiciary has been in the forefront to condemn such cruelty against the innocent unborn and delivered scorching instructions to the State to curb the menace and within its legal jurisdiction has been inflicting severe sanctions against the errant. Our apex court has stated that female feticide is the worst type of dehumanization of the human race^{xxiv}.

The complexity of our culture is exacerbated by the rival claims of the 'child to be born' and 'autonomy or choice of mother to hold pregnancy'. There emerged a direct conflict of interests between 'Right to Birth' of child in womb and 'Autonomy of Mother' to perpetuate the life or

not of baby. Human wisdom does not support the privilege of mother to exterminate the right to life of the child in womb except in cases of exceptional exigencies and within the due process of law. The Right to Conception, right to abortion and the right to birth are three conflicting and controversial issues emanating from and related to the same womb. There arise many questions of values on moral, ethical and sociological and legal grounds. For example, when a woman has liberty to conceive, it implies liberty to terminate the pregnancy if she dislikes to continue it which in turn breeds a new right to kill the fetus... or when right to birth (as part of right to life) is recognized, it implies absence of right to abortion which in turn impose a duty on woman to carry on unwilling child.^{xxv}

However, the present law solve the problem by enabling the pregnant woman with absolute discretion either to conceive or not and this discretion is limited by the relevant provisions of I.P.C. and the Medical Termination of Pregnancy Act, 1971 which allow abortion under exceptional circumstances. The unborn child in the present law may lose its life only when it possesses or causes a serious problem to self or mother and where chances to born alive are bleak. Thus, the right to abortion is regulated and the child birth is guaranteed.^{xxvi}

Law is not in favor of terminating pregnancy at the will of pregnant woman as stated by the High Court of Punjab & Haryana, and ruled that termination of pregnancy at the instance of wife without the consent of husband amounts to cruelty^{xxvii}.

In *Mrs. X vs. Union of India*, the Supreme Court allowed for the termination of a 22-week old pregnancy. This was done after a 7-member Medical Board opined that allowing the pregnancy to continue could gravely endanger the woman's physical and mental health. The Court held that "a woman's right to make reproductive choices is also a dimension of her 'personal liberty' under Article 21 of the Constitution" and that the right to bodily integrity allows her to terminate her pregnancy.

In *Tapasya Umesha Pisal vs. Union of India*^{xxviii}, the supreme court permitted termination of pregnancy of 24 weeks as the fetuses had various medical conditions and anomalies, resulting in a high risk to the fetus and the mother.

In *Meera Santosh Pal vs. Union of India*^{xxix}, the apex court allowed abortion of 23 weeks or pregnancy on the strength of the Medical Board Report.

In *Mamta Verma vs. Union of India*^{xxx}, 26 years woman petitioner with 25 weeks of pregnancy pleaded for termination of her pregnancy since the child is affected by ANENCEPHALY which is non-compatible with life and continuation of pregnancy shall pose severe mental injury to her, and the court granted the relief to her basing on the medical board report.

In *Murugan Nayakkar vs. Union of India & Ors.*^{xxxii}, the Apex Court allowed the termination of 32-week-old pregnancy of a 13-year-old rape victim holding, “Considering the age of the petitioner, the trauma she has suffered because of the sexual abuse and the agony she is going through at present and above all the report of the Medical Board constituted by this Court, we think it appropriate that termination of pregnancy should be allowed.”

However, in *Savita Sachin Patil vs. Union of India*^{xxxiii} the Court rejected termination of a 27-week pregnancy. The Medical Board gave a finding that there was no physical risk to the mother but the fetus had severe physical anomalies. The Court then did not permit termination on the ground, based on the Medical Board Report.^{xxxiii}

In May 2019, the Supreme Court Bench headed by Dipak Mishra J., declared that female child is entitled to enjoy equal rights that a male child is allowed to have, and passed a slew of directions including maintenance of an All-India data base of the new born babies to curb female feticide. The court stated that the menace of female feticide corrodes human values and decreased the sex ratio, which is a sign of colossal calamity that cannot be allowed to happen. The constitutional identity of a girl child “cannot be mortgaged to any kind of social or other concept that has developed or is thought of” said Justice Dipak Misra.

The bench passed 16 directions to ensure immediate and effective implementation of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act and the Rules framed there under.^{xxxiv}

"Nothing can be more sinister, immoral and anti-social act [than] allowing female foeticide" and that giving preference to male child is against Constitutional duty to renounce practices derogatory to women's dignity, the Supreme Court observed.^{xxxv}

But very shockingly, the Times of India – English daily newspaper dated 28th September 2021 reported that a man killed his wife for giving birth to twin daughters. Then can we think that girl child is safe in our society?

Regrettably, we have in India many foul practices relating to children, more wicked when it turns to the girl child. Female feticide is a vice notoriously prevalent in many parts of India, rural and urban. Children in primitive areas are offered as human sacrifices. We should inculcate and implement the sense that pre-natal child too has rights.^{xxxvi}

JUDICIAL MANOEUVERABILITY FOR WOMEN EQUITY

The plight of justice dispensation system in relation to matters of relationship, the corresponding rights and duties, privileges and immunities of man and woman as wife and husband has been creating perplexing issues, not for the parties to litigation, but to the lawyers and judges. Courts are expected to solve all problems of the family entity to the satisfaction of rival assumptions whether tenable or not under law. The judges and lawyers are burdened with the responsibility of exploring the law in theory and law in action, juxtapose morals and ethics with defined sovereign law and balance the interests of the individual and society consistent with need for a peaceful and harmonious society of heterogeneous faiths, traditions, customs and culture. The situation becomes grim in matters of women rights, equity and empowerment.

However, the judicial system in our country must be praised for its infinite patience and exquisite skills of administration of law in many issues particularly in the fast-changing Indian culture and society. We can find many judicial dicta which are heart-warming and satisfying the human conscience consistent with our ethos and public sentiments, and few illustrative cases are given hereunder: -

- a) In *Mahesha vs. State of Karnataka*^{xxxvii}, a Division Bench of Karnataka High Court confirmed the conviction of the accused sentenced to undergo life imprisonment for the accused threw acid on a girl as she refused to marry him. The accused was charged under Sec. 326-A, 326-B and 307 of IPC 1860. The Court quoted Swami Vivekananda and Bhagavadgita and observed that “The best thermometer to the progress of a nation is its treatment of its women.”

- b) The Supreme Court Division Bench (Madan B Lokur and Deepak Gupta, JJ). in an order stated that the scheme proposed by NALSA – National Legal Services Authority for compensating the victims of sexual assault, acid attack and other crimes require modification to ‘some extent.’ Earlier, the apex court in *Nipun Saxena vs. UOI (WP(C) no. 565 of 2012* opined that ‘it would be appropriated if NALSA sets up a committee of about 4 to 5 person who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks in consultation with the Amicus. The Committee submitted its report on 24-4-2018. The Supreme Court stated that slight modifications in the said scheme were required in order to embed ‘child victims’ under the scheme.
- c) Declaring November 26 as the ‘Dowry Prohibition Day’, the Kerala State Government issued a circular directing all male government employees to furnish a declaration to their head of departments within one month of their marriage that they have not taken any dowry.^{xxxviii}
- d) The Five Judge Constitution Bench of the Supreme Court has held that Sec. 497 IPC and Sec. 198(2) of Cr.P.C. to be unconstitutional and violative of Art. 14, 15 (1) and 21 of the Constitution. (Dated 27th Sept. 2018). Chief Justice Dipak Mishra and A.M. Khanwilkar J. observed that “the civility of a civilization earns warmth and respect when it respects more the individuality of a woman. The said concept gets a further accent when a woman is treated with the real spirit of equality with a man. Any system treating a woman with indignity, inequality and inequality or discrimination invites a wrath of the Constitution.” Sec-497 of IPC criminalizes adultery and Sec. 198(2) of Cr.P.C. provides for offences against marriages. Justice Dr. D.Y. Chandrachud stated that Sec. 497 IPC is destructive of and deprives a woman of her agency, autonomy and dignity.^{xxxix}
- e) In a case of termination of pregnancy of 16-year-old girl and gestation period crossing 24 weeks, the High Court of Telangana expressed that a woman has the right to make choice to carry pregnancy and at the same time it is her right not to carry the pregnancy, subject to conditions and restrictions enumerated under the Medical Termination of Pregnancy Act. In this case, the girl was impregnated by one of her extended family members who threatened the victim with dire consequences, and he was charged under Sec. 376 (2) and 506 of IPC and Sec. 6 read with 5 of the POCSO Act. 2012^{xl}.

- f) The Central Government notified Medical Termination of Pregnancy (Amendment) Rules, 2021 to amend M.T.P. Rules 2013, empowering Medical Board to allow or deny termination of pregnancy beyond 24 weeks of gestation only after due consideration and ensuring the safety of woman or fetal malformation has substantial risk of incompatibility with the life of woman or if the child might suffer from serious physical or mental abnormalities^{xli}.
- g) In *Lt.Col. Nitisha vs. UOI*^{xlii}, a high watermark judgment on gender equality, permitting women officers to serve the nation in armed forces, and permitting the Women Short Service Commission Officers to the cadre of Permanent Commission, the apex court observed that ‘the structure of our society has been created by males and for males. As a result, certain structures that may seem to be the ‘norm’ and may appear to be harmless, are a reflection of the insidious patriarchal system. The Court also referred to the case of *Secretary Ministry of Defence vs. Babita Puniya*^{xliii}

In India the National Commission for Women has proposed a Criminal Injuries Compensation Board for the payment of compensation to victims of rape. This proposal has been done on the Directives issued by the Supreme Court of India in the case **Delhi Domestic Working Women’s Forum Vs. Union of India and others**^{xliv} had directed the National Commission for Women to evolve a “scheme so as to wipe out the tears of unfortunate victims of rape” The Supreme Court observed that having regard to the Directive principles contained in the Article 38(1) of the Constitution, it was necessary to set up criminal Injuries compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment. The Court further directed that compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries compensation board whether or not a conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape.^{xlv}

‘Gender injustice’ continues to be immortal reality for the eulogistic concept of ‘piety’ is always projected as prized or privileged ‘tag’ of feminine world. This is a ‘fairy’ interpretation but not a fair exposition. But the alleged immunities for women protection, not for empowerment, supposedly laid by the legislations lead to either misconceived legality of

mismatched generality. The incessant brutality of rape, molestation, acid attacks and violence perpetrated against women, speak of the preventive and remedial silence of the social and state sensibilities. Weird proposals like persuading ‘rape victims’ for matrimonial ratification by the devil-rapists, and solacing the aggrieved wounded women through ‘compensation therapy’ add fuel to the fire and insult to the battered lives.

What is needed is not the peripheral insulation of problems of women, and sensitizing techniques to lull the pain of crying creatures; but annihilation of pesky social, political, economic, legal and cultural behaviorism and attitudinal aversions towards genuine and true women empowerment, but not a seeming show-case of publicity proliferation. Let us hope that the legislature concurs with the significance judicial expressions in articulating law, executive effectively and earnestly execute the legislative intendment consistent with the judicial dicta.

A Caveat of feminine frustration

Right to be born is sermonized with religious rhetoric at the cost of right to choose of victimized woman; despicable discrimination from cradle to the grave; denial of access to equality in education, nutrition and health; rubbing social need ruse for child marriages; exposure to sexual exploitation and demeaning by prostitution etc. have become the exclusive battle-field to bleed for justice with the association of impotent laws. When culture becomes vultures for vivacious woman, the need of the hour is to break the megalomania of patriarchal philosophy – to begin with snatching exactly half of the legislative power, executive empire and judicial jade; not through elusive reservation but by a claim of reparation.

ENDNOTES

- ⁱ Justice Krishna Iyer, *Humanitarian Jurisprudence within the Parameters of a Global Democratic Order*, in *Random Reflections*, Universal Law Publishing Co. (P) Ltd. (2008-Reprint) p.212.
- ⁱⁱ a popular feminist activist, and award-winning novelist who set out her dreams for a fairer world, in her talk at TEXAS, Huston on 'We Should be All Feminists' (2012)
- ⁱⁱⁱ Chimamanda Ngozi Adichie: 'I decided to call myself a Happy Feminist'
<https://www.theguardian.com/books/2014/oct/17/chimamanda-ngozi-adichie-extract-we-should-all-be-feminists>
- ^{iv} U.N. CEDAW, General Recommendation 19: violence Against Women, HRI/Gen/1/Rev.2. p.112-118;)
- ^v Vishakha vs. State of Rajasthan (AIR 1997 SC 3011)
- ^{vi} (See generally: Knop Karen, "Here and There: International Law in Domestic Courts" in 32(2) *New York University Journal of International Law*, pp.501-535 (2000)
- ^{vii} (Rebecca J Cook, *Celebrating Vishaka: Judicial Enforcement of Women's Human Rights, Liberty, Equality and Justice-Struggles for a New Social Order* (Edited by) S.P.Sathe & Sathya Narayan, ILS Law College Platinum Jubilee Commemoration Volume.(2003) EBC Publishing (P) Limited, Lucknow.)
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- ^{xi} decided on 26 September, 2018)
- ^{xii} AIR 1991 SC 207
- ^{xiii} AIR 1991 SC 207, (1991) 1 SCC 57
- ^{xiv} AIR 2010 SC 235(28 August, 2009)
- ^{xv} 1996 SCC (2) 384
- ^{xvi} Krishnadas Rajagopal, (14th August 2021) <https://www.thehindu.com/news/national/courts-continue-to-differ-in-views-on-marital-rape/article35909828.ece>
- ^{xvii} (1995) 21 EHRR 363
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- ^{xix} 'Women's oppression is integrally linked to capitalism': Mythily Sivaraman
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- ^{xxvi} *Ibid.* note supra.
- ^{xxvii} *Satya vs. Siri Ram – AIR 1983 P&H 252*
- ^{xxviii} *Writ Petition NO.635 OF 2017*
- ^{xxix} (2017) 3 SCC 462
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- ^{xxxv} <https://www.livelaw.in/top-stories/giving-preference-to-male-child-violation-of-constitutional-duty-144755>
- ^{xxxvi} See generally Justice Krishna Iyer, *A Code for Child Rights, Legally Speaking* (Reprint-2008) Universal Law Publishing Co. (P) Ltd. ND p.188

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