



सत्यमेव जयते

REPORT OF THE COMMITTEE ON  
**AMENDMENTS**  
**TO**  
**CRIMINAL LAW**

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# JUSTICE VERMA COMMITTEE

REPORT ON

# AMENDMENTS

TO

# CRIMINAL LAW

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## PRELUDE

*The funny part is that we call her Mother India.  
We grab her in feminine dignity and then we rape her in her colleges.  
We burn her in her villages  
We stalk her in her streets.  
We murder her in her apartments.  
We exploit her in her workplaces.  
And then we leave her to die a thousand deaths every moment she is alive.  
If she works, she is liberal.  
If she has a tongue, she is loose.  
That's how we perceive our women.  
Or rather, don't  
Women make nice subjects for symposiums.  
Neat commemorative dates.  
Flooring material over whom we walk every day.  
Women as an issue are on dialysis, Alive.*

(Women Power – Andhra Pradesh: The Indian Express, March 4, 2003)

A sad finale about the scenario of what happened in the brutal Delhi gang rape which woke up a nation's conscience to the horrors of rape, which infants, girls and women of India suffer daily and silently, Nirbhaya was a brave-hearted fighter and an inspirator as well as a catalyst for change.

The incident stings our conscience which is best expressed in the opening paragraph of Dickens:

“it was the best of times, it was the worst of times, it was the age of wisdom, it was the epoch of incredulity, it was the season of light, it was the season of darkness, it was the spring of hope, it was the nothing before us, we were all going direct to heaven, we were all going direct the other way”.

It would be apt to quote Lord Denning, when he said in 1980:

“A woman feels as keenly, thinks as clearly, as a man. She in her sphere does work as useful as man does in his. She has as much right to her freedom – to develop her personality to the full as a man. When she marries, she does not become the husband's servant but his equal partner. If his work is more important in life of the community, her's is more important of the family. Neither can do without the other. Neither is above the other or under the other. They are equals”.

(Lord Denning, *The Due Process of Law*, pp.194-195. (Butterworths, London) 1981.

Gender justice jurisprudence cannot proceed on the basis of assumed equality of male and female sections of Indian society. For centuries, the Indian woman has suffered economic deprivation and social subjugation. The Indian culture has been built on the concept of male superiority and the subordinate status of the woman. This has resulted in her complete extermination from the field of economic independence. (Hari Swarup J, For whom the Law is made, pp.221-22 (Veena Publishers) 1981.)

Almost all the national resources, means of production, industry, trade and business are owned and controlled by men, and even out of the gross national income only a nominal share goes to women. In effect, women comprise the largest deprived section of the society. To combat this ugly situation the Constitution has undertaken to declare India a socialist republic and Article 39, has provided for equitable utilization of the country's resources and means of production. It requires the state to abolish monopoly and redistribute, not amongst individuals but on the national scale, the available production resources for the benefit of the entire people. Economic democracy and economic justice for women depends on making available, to men and women alike, the entire wealth of the nation (Id).

There can be no equality amongst unequal. Women cannot obtain economic justice, or even social justice, which ultimately depends on economic justice, unless the male monopoly of the resources and means of production is broken and the entire people become their owner, controllers and masters. The income of women cannot increase so long as they remain in the deprived class of citizens and men continue to hold economic power.

It may be necessary to reorient the entire thinking and educational process in society to make women competent to obtain the better-paid traditional male jobs. In the present economic order, women are given the lower jobs meant for unskilled labour. (Id)

The constitution promises social and economic justice to women, but the law has not cared to redeem these promises. Women still remain economically weak and socially handicapped. Exceptions apart, the man is the bread-winner and the woman his dependent. Economic inequality and dependence of women make the promise of economic justice a farce and social justice a pretence. (Id)

Even after 65 years of our independence, women of India wear a pathetic look. All this period, a tale of promises broken – of hopes and aspirations suppressed – a tale of exploitation and oppression and we feel the growing struggle – and a strong urge to liberate them from the chains of bondage. All these long years, the Government has made laws which glitteringly boast of protecting women's right but the implementation merely reduces them to paper tags.

The General Assembly of United Nations recognized as back in 1967:

“Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity”.

(Article 1 of Declaration on the Elimination of Discrimination against women proclaimed by the General Assembly of the United Nations of November 7, 1967)

The United Nations proclaimed the year 1975 as International Women's year for the abolition of discrimination against women. The resolution endeavours:

“To strive for equality between men and women; to promote a higher role of women in economic, political, social and cultural life of countries to promote their active participation in the struggle for the development of friendship and co-operation between nations, for peace and social progress”.

((Women Law and Social Change, ed. S.Shams, p.X (Preface) (Ashish Publishing House, New Delhi), 1991.)

The Constitution of India guarantees equality of opportunity and status to men and women. It directs that women shall not only have equal rights and privileges with men but also that the State shall make provisions – both general and special for the welfare of women. Despite the above constitutional guarantee, women have been subjected to deprivation, brutality and extortion.

The Part-III of the Constitution of India on Fundamental Right, underwrite Equality, Dignity and minimum of human needs to every citizen of India, specially the women. But when we have a Synoptic view, Systemic view and Symptomatic view, we find repeating a story of failures from one place to another and we have not kept the promises we made in preamble, Republican India is betrayed by constantly denying justice to the women of India; Social, Economic and Political.

So far, India's revolution of August 15, 1947 has remained unaccomplished. The problem before us is how to redesign the institutions, sustain the operators and recondition the climate—through a new legal culture of Administrative Law, Parliamentary Process and Socially sensitive judicial process so that justice for millions of helpless women is actualised.

The big agenda before the Nation is:

- a) how to evolve a system which is responsive, accountable and is sensitive and not apathetic to women's demands sans gender justice. How to have a new Constitutional order where the operators are no more—“untroubled by the miseries of the women.”
- b) how to assure the women in the street that she is not alienated against the law since she is baffled with its buck. “Himalayan heaps” of legislation frighten away the common women, as the right of a person with grievance to seek its redress without paying a price in civilized jurisprudence is eagerly missing
- c) the real concern is painful absence of a theory of a human justice which will provide real freedom to the women of India.

The Constitution inscribes justice as the first promise of the Republic which means that state power will execute the pledge of Justice in favour of the millions of women who are the part of our Republic. Gender justice is peoples Justice where the tyranny of power is transformed into the democracy of social good. So the question is: How to inaugurate a humane tomorrow? (Krishna Iyer J.)

There is a strong need today as never before to make Indian women aware of their rights, they have to launch a relentless battle for their emancipation. And it is not their responsibility alone. Workers, youth and students in particular and the Indian people in general have to fight and win this battle. If half the population remains deprived, ignorant downtrodden and discriminated against the country cannot usher in an era of prosperity. It is high time for the rulers of independent India to respect the aspirations of crores of working women, so that they may live up to their role of nation building effectively. Here it is apt to quote Krishan Iyer, J.:

“The fight is not for woman's status but for human worth. The claim is not to end inequality of women but to restore universal justice. The bid is not for loaves and fishes for the forsaken gender but for cosmic harmony which never comes till woman comes”.

(Iyer V.K.R. Law and Life, Vikas Publishing House, New Delhi, 1979, p.31.)

So in the light of the above, let us fight the truth, that is:

Women's exploitation is a reality and Gender Justice a fragile myth, Women emancipation lies in their education and in their awareness about rights as co-equal human beings.

Justice J. S. Verma's Report on Amendments to Criminal Law, has done a commendable work by crafting a wonderful legal document for gender justice in a record time. The report should be a compulsory reading for every law student, legal professional and policy maker

as it raises vital questions of law, justice and good governance.

The initiative of National Law University, Delhi to publish this report is a modest effort so that there is a continuing discussion and dialogue for effective implementation of assembly lineage of legislation towards women. As a foot note to the report, the time has come to seriously discuss and debate the sentencing policy, specially pertaining to the offences against women. It seems that all theories of punishment have broken down somewhere and we are again searching for new principles of sentencing.

The time has come to bring an end to such offences with strong and effective sentencing policy. I for one feel that even in Nirbhaya's case, a series of multiple offences have been committed like; abduction, wrongful confinement, hurt, simple hurt with sharp weapon, grievous hurt, attempt to murder, molestation, murder, destruction of evidence, gang rape and murder.

When a series of offences are committed, why can't concurrent and accumulated punishment not be granted, which will confine the offender in jail till he dies. Death penalty is certainly not the answer as over 160 nations in the world are against death penalty and it is also against human rights.

And finally, Ambedkar and Gandhi being annually honoured for the August 15<sup>th</sup> revolution has lost its relevance and democracy has been reduced to a decorative word. And if – there is nothing to hope for them from the law, then there is something to fight for against the law. Should India not feel guilty by repeating Dr. Ambedkar's warning to the Constituent Assembly –

**“By independence we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody except ourselves.”**

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