



CONCEPT OF GENDER JUSTICE IN INDIA: A CONSTITUTIONAL PERSPECTIVE

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ABSTRACT

This article evaluates those constitutional developments that ensure gender justice in India. The concept of 'gender justice' implies a comprehensive goal and scheme of protecting the class of 'subordinated gender from exploitation and denials inflicted by the dominant gender. In particular, it means that women must exercise full participation in the decision-making process in all walks of life, and fully participate along with men in finding equitable and practical solutions to issues in the family and society. The laws are already there in the constitution favouring equality yet, a woman is in a disadvantageous position even in the 21st century. Despite the broad horizon provided by the constitution, the interpretations of these provisions have echoed the patriarchal and conservative nature of Indian society. The interpretation of separate laws on the ground that the women are weak and are different from men creates an imbalance in society. Women are subjected to as subordinate to men, when they are put under the status of the weaker sex. The constitution has given the tag of weaker sex perhaps keeping in mind the past discrimination that a woman has gone through. The constitution nowhere mentions that women are weak in comparison to the men according to nature such patriarchal interpretations have been prevalent for a long time. The Preamble to the Constitution of India assures all citizens, Social, Economic and Political Justice and Equality of Opportunity and Status. The Preamble of the Constitution has been framed with great care and deliberation so that it reflects the high purpose and noble objectives of the Constitution makers. Thus, 'gender justice' has been embodied in the Constitution right from its incorporation.

Keywords: Gender justice, Constitution, Preamble, Equality, Women

A. Introduction

Women enjoy a unique position in every society and country of the world. Despite their contribution in all spheres of life, they suffer in silence and form a class which is in a disadvantaged position because of several barriers and impediments.

Historically, women had the unfortunate fate of bearing the brunt of discrimination in all walk of life. Access to good things of life like education, employment, property and opportunity to participate in social and political life on a footing equal to that of men was denied to them. Even now this “dismissal picture” continues in some spheres. Their responsibility is practically exclusive but in housekeeping, in child bearing caring and in the upkeep of family’s spirit and ethos. However, their biological characteristics, while essential for continuity of humankind, often are the factors that face male aggression.

The concept of gender justice implies a comprehensive goal and scheme for protecting this class of subordinated gender from the exploitations and denials inflicted by the dominant gender. The concept of gender justice is founded on the proposition that women are in no way inferior to men; more than that –they are also human. Women are entitled to enjoy economic, social, cultural and political rights without discrimination, on a footing of equality with men. The concept of gender justice guaranteed in the Constitution, the preamble to the Constitution, seeks to secure to its citizen including women-folk, justice social economic and political; liberties of thought, expression, belief, faith and worship; equality of status and opportunity to promote fraternity assuring dignity of the individual. The framers and founding fathers of the Constitution of India incorporated certain sacrosanct ideals in the form of comprehensive rights for women so as to metamorphose the abstract ideals into a concrete form, which would enable the upliftment of the status of women in an otherwise male- dominated chauvinistic society.

Inspite of special Constitutional guarantees and other legislations, crimes against women have not abated. The review of the disabilities and constraints on women, which stem from socio- cultural institutions, indicates that the majority of women are still very far from enjoying the rights and opportunities guaranteed to them by the Constitution.

B. Issues Pertaining to Gender Prevailing in India

As distinct from sex, which is a personal biological factor based on nature, the image of gender surpasses mere distinction between women and men and represents socio economic, cultural and psychological factors that make one class strong over the other. Gender stands for characteristics of men and women, which are socially determined rather than biologically determined. It determines the social role, access to opportunities, entitlement to resources for these two categories and builds cultural implications upon them. In practice it generates biases in

favour of men and against women in relation to work, sharing of benefits, enjoying of human rights and following of tradition¹.

The role of men and women in the development process has received much attention in the 21st century. Concerns with regard to women and their inclusion or exclusion in the development process have been increasingly examined.

The 20th century, probably, is one which has experienced the most difficult in defining the role of a person as male or female. Early Women' Studies Scholars tended to think of differences between men and women as being innate and immutable. The theory argues that a person's role was specified under patriarchal framework where scope of gender (masculine or feminine) was limited within the understanding of biological understanding of sex(male and female).

India, singly accounts for 15 percent of the world's women. Because of this huge share, any change and variation in women's status, affects a substantial number of the 'woman population' of the world. India, with its vast regional differences, has a variety of cultures which determine the differential status of women across the country. Nonetheless, social discrimination and economic deprivation on the basis of gender, is common to all irrespective of religion, caste, community or State².

India has its cultural roots, political perspectives, Constitutional pledges and trusts with destiny, which together constitute the nations founding faith of Social Justice with an egalitarian bias and participative accent. In this context, our legislatures, courts and governments must be judged by fundamental evaluation of their performance, dismissing the propagandized plans of development and social justice litigation as misleading flares.

There are new enemies of Social Justice Communalism and religious fanaticism are invasions on social justice, especially gender justice, because our gods are masculine as processed by fundamentalists of every faith. Wearing the holy visage if Manu and Muhammad, Jesus and Zoraster, these exploitative force use theology of human rights. The biggest minority in India is its womanhood subjected to generation of gender injustice. Even today, the situation leaves much to be desired³.

Issues related to gender deprivation and discrimination are omnipresent in contemporary development and other discourses on women in India in much the same way empowerment is and yet much of these discourses limit themselves to systematically establish gender inequalities in terms of access to productive as well as reproductive resources.

¹ B K Nagala, Sex and Gender: cognitive Analysis, in *MODERNITY, FEMINISM AND WOMEN EMPOWERMENT* (Abha Avasthi and A K Srivastava ed,2001) Jaipur, 131,New Delhi Rawat publications

² BHASWATI DAS AND VIMAL KHAWAS, *GENDER ISSUE IN DEVELOPMENT- CONCERNS FOR 21ST CENTURY*" 2-3(New Delh, Rawat Publication 2009)

³ V R KRISHNA IYER, *SOCIAL JUSTICE SUNSET OR DAUN*. pp 4 and 5 (Lalbagh,Lucknow Eastern Book Co. 1993)

C. Women's Empowerment in Social, Economic and Political Field for Ensuring Gender Justice

The empowerment process may be broken down into three dimensions economic, social and political (which reinforce each other). The Economic aspect would include increasing women's access and command over tangible and intangible resources such as wealth, property, employment, knowledge and information. Social aspect would include changing the existing discriminatory ideology and culture which determine the environment for women existence. Finally, Political process must increase women's presence and influence in the power structure. Political ability to bring about changes in women's legal status, to direct resources to women and to get access to positions of power is of crucial importance. Each component reinforces the other.⁴ Among the objectives stated in the preamble of the Constitution, the people of India resolve to constitute India into a sovereign republic and to secure social, economic, and political justice to all its citizens, thus reflecting the hopes and aspirations of all.

a. Political Empowerment of Women

Despite the fact that women participated equally in the freedom struggle and, under the Constitution and law, have equal rights as men, enabling them to take part effectively in the administration of the country, it has had little effect as they are negligibly represented in politics. Women and politics have become an area of great interest to students and scholars of all Social Sciences. As women and their organisations throughout the world have been agitating for their rightful place in the society, the attention of the scholars of various disciplines is rightly focused on various issues relating to women's position in different fields,⁵ for example their representation in the Lok Sabha is far below the expected numbers. This has led to the demand for reservation of 33percent seats for women in the Lok sabha and Vidhan sabha.

Political empowerment of women has been brought by the Constitution(73rd Amendment) Act,1992 and (74thAmendment)Act 1992, which reserve seats for women in Gram panchayats and Municipal bodies; however illiteracy, lack of political awareness, physical violence and economic dependence are a few reasons which restrain women from taking part in the political process of the nation.

b. Economic Empowerment of Women

Empowerment is a new goal to be achieved with much broader scope and perspective. Empowerment can embrace economic independence, social transformation and political authorization which can be continuous processes and end both. Since women constitute half the population of the world, all these attributes are necessary in women to maintain perfect social order.⁶ There has been a catena of legislation conferring equal

⁴ Jamil Ahmad, Gender Inequality and Women Empowerment, A Review, in A.K.Sinha(Ed), *NEW DIMENSIONS OF WOMEN EMPOWERMENT*, 130, (A.K.Sinha ed, 2008) (New Delhi; Deep and Deep Publications Pvt. Ltd.)

⁵ Arun Kumar, Political Empowerment of Women, in *WOMEN EMPOWERMENT CHALLENGES AND STRATEGIES* 214,(Lakshmi Raju ed, 2007),(New Delhi; Regal Publications)

⁶Kumkum Narain, Empowerment of Women through Economics Measures ,in .A.K.Sinha(Ed), *NEW DIMENSIONS OF WOMEN EMPOWERMENT* 179, (A.K.Sinha ed,2008) (New Delhi; Deep and Deep Publications Pvt. Ltd.)

rights on women and men. These legislations have been guided by the provisions of the Fundamental Rights and the Directive Principles of State policy. Here again, there is a total lack of awareness regarding economic rights among women. Laws to improve their condition in matters relating to wages, maternity benefits, equal remuneration and property or succession have been enacted to provide the necessary protection in these areas.⁷

c. Social Justice and Women Empowerment

Social justice is one of the basic principles for peaceful living. It is fundamental that all people should have equal access to wealth, justice, health, well-being and opportunity. India is one among the nations that upholds the principle of Social justice. In order to achieve social justice, the Indian people, need to address a myriad of problems that people face in this country, because of caste, gender, religion, culture, tradition and others⁸. Social Justice is an expression which has found its way in to the vocabulary of the Constitution and has become a part of the Constitutional terminology. The Constituent Assembly, even before it set out to fulfill its task of framing a Constitution for India, declared in the resolution passed by it that social justice is one of the goals to be achieved. It became vision of the people of India and a promise of the Constitution speaking through its preamble and some of the enacting provisions that there shall be secured to all the citizens, social justice⁹. The Supreme Court viewed that full development of personality and fundamental freedom of women and their equal participation in political, social, economic and cultural life are concomitants for national development, social and family stability and growth- culturally, socially and economically. All forms of discrimination on grounds of gender are violative of fundamental freedom and human rights.¹⁰

D. The Constitution of India and Gender Justice

The Constitution of India assures the dignity of individuals irrespective of sex, community or place of birth. This is clear from the Preamble of the Constitution and the provisions contained in 'Fundamental Rights and Directive Principle of State Policy'. With regard to women, the Constitution contains many negative and positive provisions which go a long way in securing 'Gender Justice'. This history of suppression of women in India is a very long one and possibly the same has been responsible for including certain general as well as specific provision for the upliftment of the status of the women. The Constitution aims at creating legal norms, social philosophy and economic values, which are to be effected by striking synthesis, harmony and fundamental adjustment between individual rights and social interest to achieve the desired community goals.

The Preamble contains the quit essence of the Constitution and reflects the ideals and aspirations of the people. The preamble contains the goal of equality of status and opportunity to all citizens. The framers of the

⁷ MAMATHA RAO, *LAW RELATING TO WOMEN AND CHILDREN* 68,(EBC Lucknow 2018)

⁸ <http://www.dianova.org>>News Visited on 21st october 2021

⁹ <http://www.ijtr.nic.in>art43> PDF vited on 22 october 2021

¹⁰ *Valasamma Paul v. Cochin University*, (1996) 3 SCC 545(India)

Constitution were not satisfied with mere territorial unity and integrity. If the unity is to be lasting, it should be based on social, economic and political justice, according to the father of the Constitution.

The policy of protection to women is evident in various parts of the Constitution. The growth of 'case law' has added to its strength in recent times. Some constitutional amendments have introduced new provisions for women's welfare and better public participation. The Preamble's reference to social justice and dignity of the individual as value goals of the policy has inspired judiciary to elaborate women's right to include the concept of dignified life. In fact, gender justice enables the flourish of right to be human on the part of woman. As Justice Dr.A.S. Anand has observed, "the process of gender justice, broadly speaking, covers the rights of women against exploitation and victimization. Unless we recognise her rights as her basic human rights gender justice would only be 'lip service' with no tangible result."¹¹ Justice V.R.Krishna Iyer has put it emphatically, "the fight is not for woman's status but for human worth. The claim 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 forsaken gender but for cosmic harmony which never comes till woman comes."¹²

a. Right to equality

The United States developed affirmative action to fight discrimination against minority groups and women. India created affirmative action to remedy its history of discrimination against groups, such as untouchables (who occupy the lowest rung in the Hindu caste system), covers other backward classes, minorities and women. The safeguard contained in 'the fundamental rights section of the Indian Constitution closely resembles affirmative action programs in the United States. Article 14 of the Indian Constitution establishes the general right of equality. Article 14 of the Constitution further provides that the State shall not deny to any person equality before law and equal protection of laws within the territory of India.¹³ The concept of equality under Article 14 espouses the principle that similarly situated person will be treated alike. The law, therefore, need not apply identically to each and every person. The legislature is required to deal with diverse problems arising out of an infinite variety of human relations. It must, therefore, necessarily have the power of making laws to attain particular objects and, for that purpose, of distinguishing, selecting and classifying persons and things upon which its laws are to operate.

Article 15(1) and (2) prevent the State from making any discriminatory law on the ground of gender alone. The Constitution is thus characterised by gender equality. The Constitution insists on equality of Status and it negates gender bias. Article 15(3) constitutes exception to Article 15(1) and (2). Article 15(3) recognise the fact that the women in India have been socially and economically handicapped for centuries and as a result thereof, they cannot fully participate in the socio-economic activities of the nation on a footing of equality. The purpose of article 15(3) is to eliminate this socio-economic backwardness of women and to empower them in

¹¹ A.S.ANAND, *JUSTICE FOR WOMEN* 69,(New Delhi: Universal Law Publishers 2002)

¹² V.R KRISHNA IYER, *LAW AND LIFE*, 31, (New Delhi: Vikas publishing House 1979)

¹³ P.M. BAKSHI, *CONSTITUTION OF INDIA*. 16,(Universal Law Publishing Co. Pvt. Ltd. Eighth Edition 2008)

such a manner as to bring about effective equality between men and women. Article 15(3) allows State to make special provisions for women and children. This calls for operation of the substantive equality mechanism for their well-being.¹⁴ The explicit objective of this provision is elimination of substantive inequality of the disadvantaged group in the society by positive measures. In interpreting Art15(3) it is regarded that the special provisions can be only facilitative, protective and corrective for women but not discriminatory against them¹⁵.

The operation of Article.15(3) can be illustrated by the judiciary in a few cases. Under section 497 of the Indian Penal Code, the offence of adultery can be committed only by a male and not by a female who cannot even be punished as an abettor. As this provision makes a special provision for women, it is saved by Article.15 (3). The apex Court has observed that “sex is a sound classification and although there can be no discrimination in general on that ground the Constitution itself provides for special provisions in the case of women and children by clause(3) of Article.15. Article 14 and 15 thus read together validate the last sentence of section 497 of I.P.C., which prohibits women from being punished as an abettor of the offence of adultery.”¹⁶ Upholding section 497, the Bombay High Court had said in an earlier case that the discrimination made by section 497 is based not on the fact that of men, but “women in this country were so situated that special legislation was required in order to protect them”.

The validity of section 497, Indian Penal Code 1860(IPC), which punishes only a male participant in the offence of adultery and exempts the woman from punishment, was challenged as violative of Article 14 and 15(1) of the Constitution. The petitioner contended that even though the woman may be equally guilty as an abettor, only the man was punished, which violates the right to equality on the ground of sex. The Supreme court upheld the validity of the provision on the ground that the classification was not based on sex alone. The Court obviously relied upon the mandate of Article15(3) to uphold this provision.¹⁷

The Constitutional validity of section 497 IPC was again challenged before the Supreme Court in the Sowmithri Vishnu case; the petitioner contended that the section of adultery punished the man who had illicit relations with another person's wife, but did not punish the woman who was a party to adultery. The section enabled the husband to prosecute the paramour of his wife, but did not allow him to prosecute the woman who had an adulterous relationship with her husband and therefore violated article 15(2) of the Constitution, which forbade discrimination on the ground of sex. Negating the contentions, the court observed that it is commonly accepted that it is the man who is the seducer and not the woman. Women were not punishable for adultery

¹⁴ Ratna Kapur and Brenda Cossman, On Women, Equality and the Constitution: through the looking Glass of Feminism in NLSJ 1 FOR A CRITIQUE ABOUT FORMALISTIC AND SUBSTANTIVE GENDER EQUALITY APPROACHES(1993)1

¹⁵ Mahadeb Jiew v. B.B.Sen, AIR 1951 Cal 563(India)

¹⁶ Yusuf Abdul Aziz v. State of Bombay, AIR 1954 SC 321 (India); Sowmithri Vishnu v. Union of India, (1985) SCC(Cri) 325 (India)

¹⁷ Ibid

because they were less likely to indulge in it. The Supreme Court refused to intervene and upheld the validity of the section holding that the wife is a victim and not the author of crime¹⁸.

In *Dattatreya* the Bombay High Court looked to the social, historic and economic inequality of women and upheld the reservation of seats for women in municipalities as a special provision “to raise the position of women to that of men”. The corrective approach to gender for overcoming the subordinations and past denials is explicit here.¹⁹ Andhra Pradesh State Service Rules which prescribed a minimum preference of 30 per cent of the posts in each reservation category, was upheld by the apex court on the ground that making special provisions for women in respect of employment or posts under the State is an integral part of Art. 15(3), which could not be whittled down in any manner by Art.16.²⁰ The court regarded that creating job opportunities for women was an important limb of gender equality. The Court looked to the interrelations between Articles 15 and 16 and viewed that Art.15 is more general provisions and the latter, a more specific one. Since Art.16 does not touch upon any special provision for women, it cannot in any manner derogate from the power conferred upon the State in this connection under Art. 15(3). The judgement makes a progressive development in the sphere of gender justice.²¹

b. Right to Dignified life

Gender equality becomes elusive in the absence of the right to live with dignity. In the light of the proposition in *Maneka Gandhi v. Union of India*²² that the procedure established by law applied for deprivation of right to life or personal liberty shall be just, fair and reasonable, the judiciary began to probe into the constitutionality of law and procedure on both substantive and procedural grounds. This gave a sound footing for developing feminist perspective like dignity of womanhood and preciousness of right to privacy of woman as the essential components of ‘due process culture’. The Supreme Court recognised that privacy was an important aspect of personal liberty. The Apex Court was shocked to learn that an Life Insurance Corporation questionnaire sought information about the date of menstrual periods and past pregnancies, and the petitioner was terminated for not providing correct information to the LIC. The Supreme Court held that the questionnaire amounted to invasion of privacy and that, therefore, such a probe could not be made.²³

The right to personal liberty, guaranteed under Article 21 included the right to privacy. Information about health could be sought where such information was relevant for selling insurance cover, but not for the person seeking employment. In the context of legal protection of women, the above approach contemplates at least the following things: first, when the basic essentials that make up the dignified life of women are deprived by state inaction, legal vacuums, and mute tolerance of hegemonic private actions which impact upon women adversely, the positive right of sustenance, shelter and protection shall be recognised and secured by judiciary under Art.

¹⁸ Ibid

¹⁹ *Dattatreya Motiram More v. State of Bombay*, AIR 1953 Bom. 311. (India)

²⁰ *Government of Andhra Pradesh v. Vijaya Kumar*, AIR 1995 SC 1648 (India)

²¹ P.NAGABOOSHANAM, *SOCIAL JUSTICE AND WEAKER SECTIONS*. 154-5, (Chennai: C.Sitaraman & Co., 2000)

²² AIR 1978 SC 597 (India)

²³ *Neera Mathur V. LIC*, (1992)1 SCC 286 (India)

21. Suitable legislative and administrative follow up actions shall be taken in support of such rights. Going beyond the dichotomy of procedural and substantive due process, the substance and outcome of the law should internalize the protection perspective of Art. 21. Second, an activist application of constitutional remedies like writ of habeas corpus and monetary compensation and heightened scrutiny of privacy invasions add to the worth of dignified life of women. The rehabilitative side of protection against immoral trafficking is a component of this strategy. Thirdly, it contemplates strict implementation of laws relating to dowry prohibition, sati, rape and other sexual offences, prevention of immoral traffic, prohibition of indecent representation of women, and guarantee of right to maintenance and maternity benefit.

In *Zahida Begum v. Mushtaque Ahamed*²⁴, a suit was filed by the wife for dissolution of marriage on the ground of impotency of the husband, who was unable to perform marital obligations. On the contrary the respondent husband requested the court that his wife be directed to undergo medical check up so as to ascertain her virginity. The High Court of Karnataka held that the direction of the trial court to the wife to undergo medical virginity test was improper and invaded privacy of the plaintiff wife, which was violative of Article 21 of the Constitution.

The Apex Court ruled that “rape was not only an offence under the Indian Penal Code, but was violation of a woman’s right to live with dignity and personal freedom”²⁵. It is a crime against basic human rights and is also violative of the victim’s most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21. Many feminists emphasized that rape is less sexual offence than an act of aggression aimed at degrading and humiliating women. The Supreme Court further said with reference to rape that unchastity of women does not make her “open to any and every person to violate her person as and when he wishes”. Even a prostitute has a right to privacy under Article 21, and no person can rape her just because she is a woman of easy virtue²⁶.

c. Right to maintenance

The judicial approach about right to maintenance is influenced by its consideration of ‘dignified life’. As held in *Salapa Devi case*²⁷, the law of maintenance is aimed at prevention of vagrancy, and securing of the right to food, clothing and shelter to the deserted wife and children. According to Krishna Iyer J. it contains a social purpose that the ill-used wives and desperate divorces shall not be driven to moral and material dereliction to seek sanctuary in the streets. In various cases the Supreme Court applied Section. 125 of the Criminal Procedure Code irrespective of the claims of the Muslim personal law that the Muslim husband’s obligation to pay

²⁴ AIR 2006 Kar 10(India)

²⁵ *Bodhisattwa Gautam v. Subhra chakkraborty*, (1996) 1 SCC 490(India)

²⁶ *State of Maharashtra v. Madhukar Narayan Gardikar*, (1991) 1 SCC 57(India)

²⁷ *Naurang Sing v. Salapa Devi*, AIR 1968 All 412(India)

maintenance to his divorced wife is confined to iddat period²⁸. A statute enacted to override section.125 and to uphold personal law was interpreted in *Danial Latifi*²⁹ as not defeating the obligation of the Muslim husband to pay maintenance even beyond the iddat period.

d. Procedural due process

Concerning protection of physical privacy of women vis-a-vi investigative agency, it is laid down in the *Nandini Satpathi case*³⁰ that the arrest of a woman shall be done as far as possible by a woman police officer and investigation of woman detainee shall be done only in the presence of her lawyer without using third degree methods. In another case for redressing the grievances of custodial violence against women in police lock-ups, the Supreme Court directed for establishment of the exclusively female lock-up, separation of female arrestees from the male arrestees, investigation by female police constable and surprise visit to police lockups by Session Judge for inspection³¹.

D. Directive Principle of State Policy and Gender Justice

The elevation of the position of the Directive Principles in Constitutional jurisprudence from relative insignificance to that of important set of inevitable values in recent decades could wield its own influence upon the protection of interests of women. Some of the provisions touching the interest of women can be looked to for appreciating the Constitutional concern. The Directive Principles of State Policy go to strengthen the objectives of the preamble. As if the promotion of welfare provided in article 38(1) is inadequate, the Constitution (Fourth Amendment) Act, 1978 reiterated the importance of minimizing the inequalities in income and endeavor to eliminate inequalities of status, facilities and opportunities. More specifically, article 39(a) imposes an obligation on the State to secure the right to adequate means of livelihood for both men and women equally. Equal pay for equal work for both men and women under article 39(d) has the judicial stamp of approval. Article 39(e) obligates the State to ensure that the health and strength of workers, men and women, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 42 mandates the State to make provisions for securing just and human conditions of work and for maternity relief.

E. Fundamental Duties and Gender Justice

The technique of building a harmonious and happy society through imposition of fundamental duties in a citizens' conduct, is employed under Article 51.A with a belief that universal performance of duties towards all, protects rights better. Art. 51. A(e) imposes duty to renounces derogatory to the dignity of women. The duty to cherish and follow the noble ideals, which inspired our national struggle for freedom in Art.51.A(b), also hints

²⁸ *Bai Tahira v. Ali Husain*, AIR 1979 SC 352(India); *Fazlunbi v. Khader*, AIR 1980 SC 1730(India); *Mohammed Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 946(India)

²⁹ *Danial Latifi v. Union of India*, AIR 2001 SC 3958(India)

³⁰ *Nandini Satpathi v. P.L.Dani*, AIR 1978 SC 1025(India)

³¹ *Sheela Barse v. State of Maharastra*, AIR 1983 SC 378(India)

about treating women as equal as equal partners in all spheres of life. It is clear beyond all doubts that women's emancipation was regarded by freedom fighters as one of the paramount objectives. There is also duty to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement (Art.51A (f)). Since women constitute almost half of the population of the country, excellence in individual and collective activity would require determined effort to uphold the status of women. Without that, the nation cannot rise to higher levels of attainment.

F. Conclusion

The Constitution of India has clearly spelt out the policy in respect of women and children against the backdrop of the then existing socio, economic and political considerations. Gender justice is a revolutionary concept of multidimensional strategy and impact. As a part of the scheme of justice its roots in human rights and welfare policies are well- established. The framers of the Indian Constitution harmoniously mixed the fundamental rights with the Directive Principles of State Policy with a view to protect the rights and dignity of women, from all walks of life. Diverse provisions of the Constitution seek to accomplish these objectives. In the pathetic social realities about gender injustices, the Constitution set a visible trend for women's development. The guidance to and monitoring of the legal system are well tuned. Legislation also supports the gender justice goal either through special statutes or general ones. The overall judicial contribution also supplements the constitutional objectives.

